

Town of Williamstown  
Select board Meeting

October 17, 2011  
Williamstown Middle-High School Library

Members: Francis Covey, Bill Ashe, Larry Hebert and Rodney Graham

Visitors: Irving Stevenson, Tim Emmons, Sarah Emmons, Mark Siner, William Graham, Chris Eaton, Ed Eaton, Paul Gilles, Horace Duke, Russell Ashe, Barbara Graham, Theodore Nykel, Robert Erickson, Earl Everhart, Michael Sprano, Chris Peloquin, Al Day, Kamela Chouinard, Alan Chouinard, Mike Mackaskill, Jeremy Chouinard, Kathleen Lott and Charles Sandlin

PUBLIC HEARING - 7:00 p.m.

Jeremy Chouinard vs. Williamstown Fire Department

Witnesses for the Williamstown Fire Department gave testimony and provided evidence on the reason for Chouinard dismissal from the Williamstown Fire Department. James LaMonda refused to allow Jeremy Chouinard to testify and be cross examined.

Public Hearing closed 9:00 p.m.

**WATER/SEWER COMMISSIONERS –**

Tabled Sharon White abatement request until next Selectboard Meeting.

**SELECTBOARD MEETING – 9:05 p.m.**

**ANNOUNCEMENTS –**

None

**UNFINISHED BUSINESS:**

Graham made motion to appoint Charles Sandlin to the Central Vermont Solid Waste Management District as the town of Williamstown's representative. Covey seconded the motion. So moved.

**REVIEW & APPROVAL –**

Ashe made motion to approve Warrant SB121, payroll for 6/27/11-10/2/11 and 9/25/11-10/8/11. Graham seconded. So moved.

**TOWN MANAGER'S REPORT -**

1. Hydraulic Engineer inspected – Winchester, Gilbert and Flint culverts. Attending Hazard Mitigation Grant meeting October 26, 2011.

2. Met with Charlie Carrier and his attorney is writing up draft of ROW.
3. Jingle Bell Fun Run permission for December 10, 2011 to go up from Middle School/High School toward interstate and back 5K and 1K.
4. Pumpkin Contest – Garden Street October 28 and 29 6:00 to 9:00 p.m.

#### **HIGHWAY –**

##### **Work completed in past two weeks.**

Grading – Tower, Pleasant, McCarthy Road

Ditching - Ferno Road and Malony

Truck maintenance

Elm Street fixed

500 yards of sand put up (500 more to go)

Line stripping

##### **Work Scheduled for next two weeks.**

Finish sand pile.

Grading – McCarthy Road, Hebert Road, Flint Road

Young Road top coat and 3 culverts to replace at intersection of Gilbert and Young.

Ferno Road catch basin clean out and tree cutting.

Winter truck maintenance.

Industrial Lane – replace culverts ditching

Gilbert Road repair (intersection of Graniteville Road)

Ditching Falls Bridge Road (intersection of Rte 14 up to the first house on the left)

Graham asked that culvert between 2277 and 2411 South Hill Road be cleaned out as it is plugged.

Selectboard approved the Jingle Bell Fun Run 12/10/11 and the First Annual Pumpkin Contest Show October 28 and 29<sup>th</sup>.

#### **NEW BUSINESS –**

Ashe made motion to approve Lister's request to make the following changes to the 2011-2012 grand list:

Coolidge, Peggy, et-al – Parcel ID 004/012.00 – Increase to grand list \$9800.00

Graham, Rodney and Barbara – Parcel ID 013/011.00 – Reduction to grand list \$8000.00

Marlin Leasing Corp – Parcel ID 900/378.00 – Reduction to grand list \$3600.00

Covey seconded. Graham recused himself from vote. So moved.

#### **VISITOR'S COMMENTS –**

Peloquin asked if the Public Hearing is appealed will it be the same format or go to court.

Graham stated that the Public Hearing process has been completed and would go to court for next level if appealed.

Sprano asked about open meeting forums being held by the Secretary of State. Higgins will get him the schedule.

**AROUND THE TABLE –**

Bill Ashe would like the Selectboard minutes to reflect the Town's appreciation of all the years of public service the recently deceased Town Clerk Debra Palmer gave to the Town of Williamstown.

Graham made motion to adjourn the Selectboard meeting at 9:40 p.m. and to continue with the deliberation of the Public Hearing. Covey seconded. So moved.

Deliberation completed 10:20 p.m. Graham made motion to adjourn 10:25 p.m. Covey seconded. So moved.

Respectfully Submitted,

Jackie Higgins

**TOWN OF WILLIAMSTOWN  
BOARD OF SELECTMEN MEETING  
BOARD OF WATER/SEWER COMMISSIONERS**

**Williamstown Middle/High School Library  
WEDNESDAY, OCTOBER 17, 2011 7:00 P.M.**

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Larry Hebert

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Bill Ashe

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Rodney Graham

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Francis Covey

TOWN OF WILLIAMSTOWN  
SELECTBOARD

The Williamstown Selectboard held a hearing on an appeal brought by Jeremy Chouinard, who has challenged his dismissal from the Williamstown Fire Department. The hearing was held on Monday, October 17, 2011, at the library of the Williamstown Middle High School. On the basis of the evidence offered at the hearing, the Selectboard makes the following

Findings of Fact

1. Jeremy Chouinard was a member of the Williamstown Fire Department for several years, and obtained his Class I Firefighters certificate in May of 2011.
2. The Williamstown Fire Department Chief Engineer Ed Eaton adopted General Operating Procedures #1, relating to Self-Contained Breathing Apparatus (SCBA) use in the Department on February 21, 2011. Exhibit G. Among its provisions is Paragraph 11, which provides, "No member will have facial hair that interferes with the seal of a face piece. Beards are not allowed."
3. The Williamstown Selectboard adopted the Williamstown Fire Department Policy, effective February 7, 2011. Among its provisions is Section III, which includes a section on dismissal by the Chief Engineer for cause. Among the grounds for dismissal is insubordination. Exhibit H, Section III(D)(2)(d).
4. Chief Engineer Eaton dismissed Jeremy Chouinard from the Department by letter dated June 23, 2011. Exhibit J. In that letter, the Chief Engineer explains that it is based on "incident reports, and several attempts to encourage [Mr. Chouinard] to appear clean-shaven on calls," which the Chief states "create a safety hazard for yourself, your fellow fire fighters, and the public, and this cannot be tolerated."
5. By letter dated June 28, 2011, Mr. Chouinard, acting through his counsel James LaMonda, Esq., appealed the Chief's decision to the Williamstown Selectboard. In that letter, Mr. LaMonda explained that he was appealing the decision to the Selectboard, pursuant to 24 V.S.A. § 1954, and "not the Town manager as dictated in the Williamstown Fire Department Policy manual. . . ."
6. Mr. Chouinard was told repeatedly by various members of the Department, including the Chief, Mark Siner, and Ted Nykel that he needed to shave to ensure that the mask sealed properly on his face. William Graham and Chris Eaton were present when Mr. Chouinard was told the same.
7. Mr. Chouinard's conduct was also the subject of six Incident Reports, the earliest dated March 21, 2011, the last June 6, 2011, which describe Chouinard's failure to abide by the SCBA policy. Exhibits A-F.

8. Mr. Chouinard was bound to follow the SCBA policy, and he was, or should have been, aware that the policy had been adopted after February of 2011.

9. Some firefighters and officers have facial hair, but not on those places on their faces where the mask should be sealed to prevent leakage and smoke inhalation, particularly around the chin.

10. During the hearing, Mr. Chouinard's attorney offered no evidence contradicting these facts, and chose not to proceed with any evidence on a theme he used in cross examination of the Department's witnesses—that this dismissal was not justified by any problem with facial hair, but with the reaction of some Department members to Mr. Chouinard's conduct at a fire on Chelsea Road, Williamstown in the December of 2010, which required his hospitalization. The Selectboard finds this matter irrelevant to the charges and order of dismissal, for lack of evidence.

Based on these findings of fact, the Selectboard makes the following

#### Conclusions of Law

A. This matter is ruled by four sources of law—the SBCA policy, the Williamstown Fire Department Policy, the Town of Williamstown Personnel Policy, and 24 V.S.A. Chapter 57. The Town Personnel Policy describes disciplinary action in Section 14, and in Section 15 provides that the appeal shall be heard and decided by the Town Manager, whose decision “shall be final.” The Fire Department Policy sets up an appeal to be heard by the Chief Engineer, Town Manager, and Selectboard. Exhibit H, Section III(D)(3). State law states that the appeal is to the Selectboard only. 24 V.S.A. § 1953. State law also authorizes the enactment of personnel rules by the Selectboard, governing the Department. The Chouinard hearing was held before the Selectboard, with the Chief Engineer leading the Department's prosecution of the dismissal. The Town Manager was present, but played no part in the hearing. For purposes of this hearing, the Selectboard will treat the law of this hearing as governed by the Williamstown Fire Department Policy, and the SCBA policy, in conjunction with state law. To the extent that the Williamstown Personnel Policy and the Fire Department Policy are inconsistent, the latter shall prevail.

B. The Town Personnel Policy lists the following as grounds for disciplinary action—(1) “any violation of any employee duties as set forth in this policy, or a violation of any other duties or work rules, whether or not specified herein”; (2) insubordination; and (3) failure to comply with safety regulations. Insubordination is listed on the Williamstown Fire Department Policy as a ground for dismissal. Neither the SCBA policy nor the state law describe any specific grounds for that action.

C. The evidence presented at the hearing clearly demonstrates that Jeremy Chouinard was bound by and aware of the SCBA policy. There was no evidence presented of any improper motives on the part of the Chief Engineer or the Department, and no finding can be made on the defense theory about retaliation for an earlier incident the previous year.

D. Mr. Chouinard obtained his Class 1 Fight fighters certificate in May. To the extent that he argued that he was not required or authorized to use a face mask prior that time, his subsequent behavior and incident reports reflect that he knew about the policy and acted in defiance of it nonetheless. But the Selectboard finds that Mr. Chouinard was bound by the SCBA Policy from February of that year as well.

E. The Selectboard concludes that Jeremy Chouinard acted with insubordination toward the Chief Engineer and the Department.

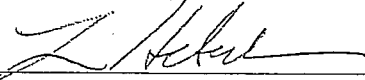
Decision

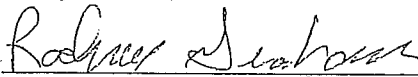
The dismissal of Jeremy Chouinard for failing to respect the Department's SCBA Policy is affirmed.

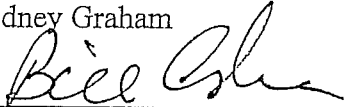
Appeal

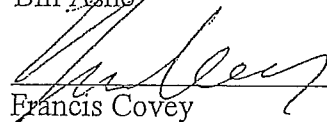
Neither State law nor the various policies relating to personnel in the Williamstown Fire Department provide for a right to appeal the decision of the Selectboard. Consequently, any appeal should be brought under V.R.C.P. 75, within 30 days of the date of this decision.

Dated this 24<sup>th</sup> day of October, 2011, at Williamstown, Vermont.

  
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Larry Hebert, Chair

  
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Rodney Graham

  
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Bill Ashe

  
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Francis Covey