

Executive Session
Select Board Meeting
November 24, 2021

REMOTE PARTICIPATION ONLY

Present: Chair Brian Packish, Select Members Jason Balboni, Gail Barmakian, Emma Green-Beach, Ryan Ruley.
Also present: Town Administrator Deborah Potter, Executive Assistant Alice Ryan Butler, Labor Attorney Jack Collins.

Meeting called to order at 5:01p.m.

Executive Session

Select Member Ruley motioned to enter into Executive Session to discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. Invited attendees: Town Administrator Deborah Potter, Labor Attorney Jack Collins, Executive Assistant Alice Ryan Butler. Not to return to open session. Vote was:

***Chair Packish Aye
Member Balboni Aye
Member Barmakian Aye
Member Green-Beach Aye
Member Ruley Aye***

Attorney Collins outlined the reasons for the Executive Session. A firearm is missing from the Police Department. Sergeant Michael Marchand was put on Administrative Leave. Sergeant Marchand forwarded a written communication waiving his right to be present at this meeting.

A discussion was held regarding the facts of the incident including the fact that there is no specific punishment for an Officer losing a firearm. The discussion also included establishing a possible punishment.

A list of Charges will be prepared.

Member Balboni motioned to adjourn at 6:21p.m., seconded by Member Ruley. Vote was:

***Chair Packish Aye
Member Balboni Aye
Member Barmakian Aye
Member Green-Beach Aye
Member Ruley Aye***

Respectfully submitted,

Alice Ryan Butler
Executive Assistant

Approved Select Board Meeting 02/08/2022

Executive Session
Select Board Meeting
December 3.2021

REMOTE PARTICIPATION ONLY

Present: Chair Brian Packish, Select Board Members: Jason Balboni, Gail Barmakian, Emma Green-Beach, Ryan Ruley. Also present: Labor Attorney Jack Collins, Town Administrator Deborah Potter, Assistant Town Administrator Wendy Brough, Executive Assistant Alice Ryan Butler.

Meeting called to order at 5:02 p.m.

Select Person Ruley motioned to enter into Executive Session to discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. Invited attendees: Town Administrator Deborah Potter, Labor Attorney Jack Collins, Executive Assistant Alice Ryan Butler. Not to return to open session. Vote was:

Chair Packish Aye

Select Board Member Balboni Aye

Select Board Member Barmakian Aye

Select Board Member Green-Beach Aye

Select Board Member Ruley Aye

Attorney Collins reported that neither Sergeant Marchand nor his Attorney wish to be present at this meeting.

The Select Board discussed possible punishments relative to the offense. The consensus was to consider a "modified probation".

By consensus, the Select Board agreed to continue the Executive Session and adjourn at 6:08 p.m.

Respectfully submitted,

Alice Ryan Butler
Executive Assistant
Approved at Select Board Meeting 02/08/2022

Executive Session

Select Board Meeting

REMOTE PARTICIPATION ONLY

December 14, 2021

Present: Chair Brian Packish, Select Persons Jason Balboni, Gail Barmakian, Emma Green-Beach, Ryan Ruley. Also present: Town Administrator Deborah Potter, Assistant Administrator Wendy Brough, Labor Attorney Jack Collins, Attorney John Becker, Chief Erik Blake, Sergeant Michael Marchand, Executive Assistant Alice Ryan Butler.

Select Person Balboni motioned to enter into Executive Session in accordance with MGL c.30A, section 21 (a)(1). To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual and not to reconvene in open session, seconded by Select Person Ruley.

Chair Packish Aye

Select Person Balboni Aye

Select Person Barmakian Aye

Select Person Green-Beach Aye

Select Person Ruley Aye

Attorney Collins reported that two previous meetings went well. The negotiations with Attorney Becker were productive.

There will be a mutual release, no litigation. He will use his earned leave by February 2, 2022, and provide a letter of resignation, with a non-disparagement clause. Since he is beyond the age of 40, he has seven days to change his mind.

Attorney Becker addressed the difficulty of the process for Sergeant Marchand. He also thanked the Select Board for being forthright and open.

Select Person Balboni motioned to accept the Mutual Separation Agreement and requested that Chair Packish sign it on behalf of the Select Board, seconded by Select Person Green-Beach. Vote was:

Chair Packish Aye

Select Person Balboni Aye

Select Person Barmakian Aye

Select Person Green-Beach Aye

Select Person Ruley Aye

Select Person Ruley motioned to adjourn at 8:25 p.m. seconded by Select Person Balboni.

Vote was:

***Chair Packish Aye
Select Person Balboni Aye
Select Person Barmakian Aye
Select Person Green-Beach Aye
Select Person Ruley Aye***

Respectfully submitted,

Alice Ryan Butler
Executive Assistant

Approved at Select Board Meeting 02/08/2022

Executive Session

Select Board Meeting

REMOTE PARTICIPATION ONLY

December 28, 2021

Present: Chair Brian Packish, Select Board Members: Jason Balboni, Gail Barmakian, Emma Green-Beach, Ryan Ruley. Also present: Labor Attorney Jack Collins, Town Administrator Deborah Potter, Police Chief Erik Blake, Attorney Timothy Burke (personal representative for Sergeant Michael Marchand) Attorney John Becker, Union Attorney.

Select Board member Balboni motioned to enter into Executive Session to discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. Not to return to open session, seconded by Select Board Member Ryan Ruley. Vote was:

Chair Packish Aye

Select Board Member Balboni Aye

Select Board Member Barmakian Aye

Select Board Member Green-Beach Aye

Select Board Member Ruley Aye

Attorney Burke said that Sergeant Marchand is a “whistleblower” who is now being punished and should be back to work by now. He is owed “emotional distress” pay.

Attorney Becker reported that the Investigator has been re-engaged. It is likely that the weapon in question was given to a new officer to use at the Academy.

The Select Board discussed the suggestion that the Sergeant was a “whistleblower” and other questions surrounding the missing weapon. It was decided that it is necessary to hold a Hearing.

By consensus, the Select Board agreed to hold a Hearing including all of the original findings plus the addition of the charge of lying.

Chair Packish Aye

Select Board Member Balboni Aye

Select Board Member Barmakian Aye

Select Board Member Green-Beach Aye

Select Board Member Ruley Aye

The previous Agreement will be honored.
The Hearing Date will be a date certain in mid-January.

Select Board Member Balboni motioned to adjourn at 8:34 p.m., seconded by Select Board Member Ruley. Vote was:

***Chair Packish Aye
Select Board Member Balboni Aye
Select Board Member Barmakian Aye
Select Board Member Green Beach Aye
Select Board Member Ruley Aye***

Respectfully submitted,

Alice Ryan Butler
Executive Assistant

Approved at Select Board Meeting 02/08/2022

Town of Oak Bluffs – Select Board Executive Session Minutes
Tuesday, January 11, 2022 4:30 pm

Present: Chair Brian Packish, Select Persons Jason Balboni, Gail Barmakian, Emma Green-Beach, Ryan Ruley. Also present: Labor Attorney Jack Collins, Police Chief Erik Blake, Town Administrator Deborah Potter, Assistant Town Administrator Wendy Brough, and Executive Assistant Alice Ryan Butler.

Select Board member Balboni motioned to enter into Executive Session to discuss strategy re pending or threatened litigation under MGL c. 30A, s 21 3. To discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares. Not to return to open session, seconded by Select Person Green-Beach.

Select Person Balboni – Aye, Select Person Green-Beach – Aye, Select Person Ruley – Aye,

With the resurfacing of the missing weapon in December, Sgt. Marchand rescinded his retirement and solicited additional counsel. The Board reviewed the process to date:

The original issues surrounding the missing weapon still existed. Sgt. Marchand failed to follow multiple prescribed General Orders for which he was aware of and responsible for adhering to. Whistleblower status was not applicable as the issues were never reported and Sgt. Marchand, who had the ability to effect change of such conditions, failed to do so and was an active participant in such violations and failures of the general orders and written procedures.

- The Board discussed multiple options of discipline, if after a hearing the facts justified it, with a consensus that a demotion and a suspension was appropriate.
- Sgt. Marchand and his counsel initiated the request for retirement which the Board was open to accepting.

With the withdrawal of the Retirement offer and a subsequent additional investigation, the board discussed various options and decided upon the following course of action.

- The original violations of various general orders and procedures was still a significant issue. Inconsistencies in Sgt. Marchand’s positions, reports, conduct and attitude during the investigation, and public comments as well as issues with accreditation submissions led the Board to have concerns with Sgt. Marchand’s credibility.
- The original offer of demotion and suspension with a February 2 retirement date stands and is valid for 24 hrs. Otherwise a hearing will be set to address the multiple violations.
- Sgt. Marchand will retract any claim to Whistleblower status.

If Sgt. Marchand and his attorneys agree, then Board counsel (Collins) is authorized to craft the separation documents for execution. Attorney Collins will keep the Board apprised of the status of any agreement.

At 7:27 pm Jason Balboni moved to adjourn the meeting, seconded by Emma Green-Beach, and so voted by roll call vote:

Select Person Balboni – Aye, Select Person Green-Beach – Aye, Select Person Ruley – Aye, Select Person Barmakian- Aye, Chair Brian Packish – Aye. (5- Aye)

Respectfully submitted

Debra Alley – Office Administrator

Approved at Select Board Meeting 02/08/2022

Town of Oak Bluffs – Select Board Executive Session Minutes
Tuesday, January 25, 2022 4:30 pm

Present: Chair Brian Packish, Select Persons Jason Balboni, Gail Barmakian, Emma Green-Beach, Ryan Ruley. Also present: Police Chief Erik Blake, Town Administrator Deborah Potter, Assistant Town Administrator Wendy Brough, and Office Administrator Debra Alley.

Executive Session

Select Person Balboni motion to enter Executive Session for the purpose of

1. Review and possible vote on Executive Session Minutes of January 11, 2022
2. In accordance with M.G.L Ch 30A Sect 21(a)(2) to conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel and
3. In accordance with M.G.L Ch 30A Sect 21(a)(4) to discuss the deployment of security personnel or devices or strategies with respect thereto

and to not reconvene in open session.

Seconded by Select Person Barmakian

Roll-Call Vote: Select Person Balboni-Aye, Select Person Barmakian – Aye, Select Person Green-Beach- Aye, Select Person Ruley- Aye, Chair Person Packish- Aye. **(5-Aye)**

Review, discuss and approve to release for public records executive sessions minutes of January 11, 2022.

Roll Call Vote: Select Person Balboni – Aye, Select Person Barmakian - Aye, Select Person Green-Beach – Aye, Select Person Ruley – Aye, Chair Person Packish – Aye. **(5- Aye)**

Chief Blake notified the Select Board his intention to resign as Police Chief in Oak Bluffs effective June 30, 2022.

The Board discussed the process of advertising the vacancy; the timeline involved with internal and external candidates as the Town approaches the busy time of year.

The next course of action will be Chief Blake and Deborah Potter will craft a joint press release. Chief Blake will provide an updated job description to Human Resources for review. Deborah Potter will review the Police Department's financial position to ascertain the viability of potential promotions.

An Executive Session will be held before the next Select Board meeting on February 8, 2022 to review press release and will reconvene in public session.

At 7:47 pm Select Person Balboni moved to adjourn the meeting, seconded by Select Person Ruley.

Roll Call Vote: Select Person Balboni – Aye, Select Person Barmakian - Aye, Select Person Green-Beach – Aye, Select Person Ruley – Aye, Chair Person Packish – Aye. **(5- Aye)**

Adjourn

Respectfully submitted

Debra Alley – Office Administrator

Approved at Select Board Meeting 02/08/2022