

SELECT BOARD MINUTES September 29, 2009

Present: Tom Ulrich and Dave DeHerd

Town Counsel Donna MacNicol

Attorney Ed McNelly

John Svoboda

Town Administrator Maryellen Cranston

More than 150 residents

Hearing called to order 6:05 p.m.

The hearing was called to consider allegations that John Svoboda mishandled a firearm and abused his power.

The first witness called and sworn in was former Ashfield Police Officer, Mike Kelly. He testified that while he does not remember the exact meeting in question, he does not remember John Svoboda ever pointing a gun at anyone. No one ever mentioned the alleged incident happening.

The second witness called and sworn in was current Ashfield Police Officer, Mike Curtis. He testified regarding details of the incident where John Svoboda pointed a gun at him with a laser sighting device. He did not discuss this with anyone else because he was new to the department. It had been made clear to him that he was not to question senior officers. He further said that he needed the income and was concerned about retaliation.

The third witness called and sworn in was former Ashfield Police Officer, Eben LaBelle. He testified that he never saw John unholster his gun. He testified that John always ran professional meetings. He never felt unsafe. He testified that he was never disciplined by the Chief or Kristina Nunez. Regarding a separate complaint, Eben testified that prior to the July 1 executive session, he asked John to talk to his mother, Bev LaBelle. He knew that she was mentioned in the allegations and that John would never use the words that were alleged. He knew that John would never say anything bad about anyone.

The fourth witness called and sworn in was current Ashfield Police Sergeant, Kristina Nunez. Kristina testified to the details of the gun incident. She stated that she came back into the room after dealing with a female person who had been arrested. She saw a laser dot on Mike Curtis's forehead and John's firearm unholstered. The entire incident lasted a few seconds. She did not report the incident because she was concerned about the impact on her career.

The fifth witness called and sworn in was current Ashfield Police Reserve Officer, Betty Lesure.

Betty testified that she does not remember a meeting in April 2006. If she was in the room at the time, she would have remembered an unholstered gun. She does not talk to the officers on a regular basis.

The hearing took a break at 8:25 pm

The hearing reconvened at 8:33 pm.

Tom Ulrich presented a letter from current Ashfield Police Officer, Sean Skalski, with his recollections of the gun incident.

Attorney Ed McNelly presented a notarized affidavit from former Ashfield Police Officer, Allison Page stating that she never saw the incident and it never happened. Ed also presented an email from former Ashfield Police Officer, Nathan Justus, that he has no memory of an inappropriate use of a firearm.

John Svoboda was sworn in and testified next that the incident never happened. Nothing even vaguely similar to it happened.

The sixth witness called and sworn in was resident, Sandy Lilly. She testified that she felt uncomfortable when John questioned her as to why she attended a Select Board meeting. He also was at her house looking for her and she was never told the reason why. She also testified that John called Maryellen Cranston a "backstabber" at the preschool. He also gave her information on a sex offender who moved in to town without her asking for it.

The seventh witness called and sworn in was resident, Bev LaBelle. She testified that John came to her house unwanted and uninvited and proceeded to read from the complaints prior to the executive session on July 1. She testified that he would have been escorted to the door if he had not been the police chief. John also stopped her in the cruiser. She testified at first that it was after the July 1 executive session, but she stated later that she did not remember the exact date.

The final witness called and sworn in was resident, Mike Skalski. He testified that John came to him looking for a letter of support. Mike told him that he did not want to be involved. John came back a second time. Mike testified that he does not want to be involved due to the possibilities for retaliation.

The hearing took a break at 10:05 pm.

The hearing reconvened at 10:15 pm.

John Svoboda testified that he stopped at Sandy Lilly's house to talk about fall festival. He denied asking her why she was at the select board meeting. The conversation at the preschool was just general chit-chat. He told her how to look up sex offender information. John stated that

she made up everything she testified about.

John testified that he went to Bev LaBelle's house because her son asked him to go. He testified that he felt that she already knew about the allegations that related to her before he arrived. John stated that she made everything up that she testified about.

Ed McNelly presented closing arguments. He stated that in a divided town people have gotten together to get John removed as police chief. The gun incident did not happen. The evidence presented did not rise to the level of abuse of power. He asked the Board to find in favor of the police chief.

Tom Ulrich felt that three people witnessed the gun incident and were afraid to say anything. He felt that Sandy Lilly and Bev LaBelle felt intimidated. He felt that John is lying. He felt that we have reached the end of the line and John needs to be terminated.

Dave looked at the plausibility, credibility and weight of the evidence. He felt that Mike Kelly, Nathan Justus and Allison Page are credible. Mike Curtis, Sean Skalski and Kristina Nunez are not. Dave does not believe that the chief pointed a gun. Dave did not feel that the complaints of Sandy Lilly and Bev LaBelle rose to the level of abuse of power.

Tom made a motion to terminate John Svoboda as the Ashfield Police Chief. Dave did not second the motion.

Dave made a motion that the complaints did not rise to the level of a cause of action. Tom did not second that motion.

No action was taken on the complaints.

Meeting adjourned at 11:25 pm.

Respectfully submitted,

Town Administrator