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INVESTIGATION OF COMPLAINT

FINDING OF FACT, CONCLUSIONS AND RECOMMENDATIONS

I. INTRODUCTION

This report is the result of an investigation into cross complaints made by Board of Assessors's member, Jeanne Russo ("Ms. Russo"), and Treasurer/Collector and member of the Board of Selectmen, Wendy Cochrane (Ms. Cochrane"). Specifically, Ms. Russo asserts allegations of harassment by Ms. Cochrane based upon Ms. Cochrane's complaint to the Board of Assessors followed up by an Open Meeting Law complaint and a Public Records Request for Council on Aging records, and Ms. Cochrane asserts allegations of belittling by Ms. Russo, including calling her stupid for initially failing her exam and other negative statements that have been attributed to Ms. Russo.

This investigator has been charged with investigating the allegations made by Ms. Russo and Ms. Cochrane, to determine if either party has violated any laws or any policies of the Town of Berkley.

II. WITNESSES INTERVIEWED

1. Jeanne Russo, Elected Member, Berkley Board of Assessors
2. Wendy Cochrane. Treasurer/Collector and Elected Member, Berkley Select Board.

III. DOCUMENTS REVIEWED

1. Email from Heather Martin re: Town Hall Employee Meeting, May 11, 2022 (**Exhibit A**)
2. Board of Assessors Meeting Minutes, March 21, 2023 (**Exhibit B**)
3. Board of Assessors Meeting Notice March 28, 2023 (**Exhibit C**)
4. Open Meeting Law complaint of Wendy Cochrane and subsequent communications between Ms. Cochrane and Natlie Arellano of the Attorney General's Office, March 23, 2023 through April 18, 2023 (**Exhibit D**)
5. Public Records Request to Council on Aging, March 28, 2023 (**Exhibit E**)
6. Email from Jeanne Russo to Attorney General's Office, April 2, 2023 (**Exhibit F**)
7. Email from Wendy Cochrane to Jeanne Russo, June 9, 2023 (**Exhibit G**)
8. Complaint of Jeanne Russo, with Addendum, June 27, 2023 (**Exhibit H**)

IV. TOWN OF BERKLEY RELEVANT POLICIES

1. Town of Berkley Code of Conduct Policy for Elected and Appointed Officials
(Exhibit I)

2. Town of Berkley EEO Discrimination Sexual Harassment and Workplace Violence Policy (Exhibit J)

V. SUMMARY OF ALLEGATIONS AND SCOPE OF INVESTIGATION

Interview of Ms. Russo:

On July 24, 2023, this Investigator interviewed Ms. Russo to determine if there is evidence of any violations of Town policy. Her allegations are as follows:

Ten years ago, Ms. Russo was elected to Board of Assessors, after Ms. Cochrane began working for the Town.

On Wednesday, May 11, 2022, Ms. Cochrane scheduled a mandatory meeting in Town Hall, that included elected officials. Everyone was invited, and the discussion was about Ms. Russo. Ms. Russo was not invited to the meeting that was called by the Town Administrator on behalf of Ms. Cochrane. Ms. Russo was not made aware of the meeting. Ms. Cochrane told the staff that Jeanne declined to attend. After this meeting, Ms. Russo hired an attorney so that the negative interactions would stop. She felt if she didn't do something things would escalate.

On March 21, 2023, Ms. Cochrane came to the Board of Assessors' meeting. According to Ms. Russo, Ms. Cochrane was scattered and indicated that Ms. Russo had a private meeting with two women in her office (Nancy Townley and Nan Thompson). According to Ms. Russo, the three women, none of whom serve on a board together, discussed "COA stuff" and "girl talk". She contends the conversation was not about Ms. Cochrane, but she acknowledged Ms. Cochrane was intimidated by it. During the March 21, 2023 meeting, Ms. Russo responded to Ms. Cochrane's complaints by indicating that she would not meet with those woman again in the Assessor's Office about business unrelated to the Board of Assessor. Ms. Russo included her statement in the minutes because she felt uncomfortable. Ms. Cochrane filed an Open Meeting Law complaint alleging that Ms. Russo had an unposted meeting (notably, Ms. Russo is not on a Board with Ms. Townley or Ms. Thomson). In that Open Meeting Law Complaint, Ms. Cochrane states that the group was discussing that the Council on Aging Director should be fired. The Council on Aging Director quit on November 21, 2022.

Ms. Russo contends that Ms. Cochrane is fabricating her claims. Ms. Russo states that on March 22, 2023, Ms. Cochrane called Ed Duggan and wanted him to destroy a portion of a video which recorded a meeting. Mr. Dugan told Mr. Russo and Ms. Russo went to Mr. Dugan and obtained a commitment from him that he would not destroy the video. Just in case, Ms. Dugan purchased a copy of the video. Mr. Dugan has recently passed away. To the best of Ms. Russo's knowledge, the video has not been altered.

Ms. Cochrane's husband (Sean) filed a public records request for emails with the Council on Aging. There were no emails involving Ms. Russo.

On May 31, 2022, Ms. Cochrane wrote to her attorney regarding the request and petition of Nancy Townley to have the Treasurer/Collector position appointed. Ms. Cochrane blamed Ms. Russo for the petition, even though Ms. Russo contends she didn't have anything to do with it. She met with Ms. Cochrane and told her she was a great Treasurer/Collector. Ms. Russo told Ms. Cochrane to speak with her life coach. Mr. Cochrane asked Ms. Russo to call off her friends. Ms. Cochrane filed a police report regarding the petition, which resulted in Sgt. Newhook appearing at Ms. Townley's house.

Ms. Russo asked Ms. Cochrane to resign from the Council on Aging and the Select Board. Ms. Russo contends that she said this to Ms. Cochrane because she is obviously not happy. According to Ms. Russo, her statement

was not a directive, it was just a suggestion. Ms. Russo questions who can do all of those jobs. According to Ms. Russo, she was holding Ms. Cochrane's hand at the time she made the suggestion, out of friendship.

According to Ms. Russo, the relationship between Ms. Russo and Ms. Cochrane has always been strained because of ex-employees maintaining grudges against Ms. Cochrane; Ms. Cochrane just makes life miserable for people. By way of example, certain employees feel that they are not permitted to say hello back to Ms. Russo because Ms. Cochrane will be upset about such an exchange.

She further states that Ms. Cochrane mistakenly believes that she recently filed a complaint with the Ethics Commission about Ms. Cochrane. She indicates that this mistaken belief is based on someone overhearing her speaking with the Ethics Commission which involved a separate issue. Ms. Russo affirmatively stated that she never called the Ethics Commission to complain about Ms. Cochrane.

As to the interactions between Mr. Russo and Ms. Cochrane, Ms. Russo said that an outside observer would never know interpersonal issues exist at Town Hall. According to Ms. Russo, Ms. Russo and Ms. Cochrane are polite to each other, there have been no open confrontations and no arguments in the hallway.

Ms. Russo understands that Ms. Cochrane can file Open Meeting Law complaints and Public Records requests, but she appears offended by that, indicating that Ms. Cochrane could instead speak to her about issues directly. Ms. Russo felt it was disrespectful or unnecessary because Ms. Russo would have given her the information freely.

Ms. Russo relies on Town Policy in support of her complaint. She pointed to the portion of the policy which requires that employees treat people, including other employees, with dignity and respect. Drawing on this aspect of the policy, she acknowledged that the communication at Town Hall between Ms. Cochrane and her meets the requirement, but she questions why Ms. Cochrane would take official actions, such as filing Open Meeting Law complaints and Public Records requests without speaking directly with her instead. Ms. Russo feels that Ms. Cochrane's husband, who also files such requests, adds to the harassment she endures. Ms. Russo finally complained about Ms. Cochrane's words attributed to her in correspondence and discussion, saying there is no "army" of people against Ms. Cochrane; she is not part of a "posse" or "gang"; she contends these terms violate Town Policy. Ms. Russo states Ms. Cochrane will make life miserable for everyone in her path. Ms. Russo's goal is to make sure this doesn't happen to anyone else.

When asked directly, Ms. Russo acknowledges that her complaints do not implicate age, heritage, gender discrimination and, she raised no allegations of sexual harassment by Ms. Cochrane. Ms. Russo confirmed "we both act like professionals" in the office.

When asked about safety and specifically the allegations regarding Ms. Cochrane's statement that they would agree to a "cease fire," Ms. Russo said she is not afraid that Ms. Cochrane will be physically violent with her. Instead, Ms. Russo was concerned that Ms. Cochrane misstated their conversation; she contends she never stated that she would agree to a cease fire or anything similar.

Interview of Ms. Cochrane:

On July 24, 2023, this Investigator interviewed Ms. Cochrane to determine if there have been any violations of Town policy. Ms. Cochrane's allegations are as follows:

Ms. Cochrane has served since 2001 as Tax Collector, 2014 as Selectmen and 2015 as Treasurer.

Ms. Cochrane said the fact that this investigation is being undertaken and a complaint has been filed is embarrassing and belittling. She contends Ms. Russo has told many people that she (Ms. Cochrane) is horrible;

these people include Nan Thompson, Nancy Townley, Joan Blake and Cherise Hoak. She contends that Ms. Russo and the other women mentioned are the "mean girls".

Ms. Cochrane believes that the genesis of the interpersonal conflict began in 2014 when Ms. Russo asked Ms. Cochrane to run for selectmen. At that time, Ms. Russo was running against Ms. Cochrane's friend, whom Ms. Cochrane continued to support. Ms. Cochrane believes Ms. Russo's treatment of her is retaliation because of her support of this candidate. Their relationship further deteriorated because Ms. Cochrane and Ms. Russo disagreed about how to respond to a certain tax abatement. Similarly, Ms. Russo and Ms. Cochrane supported different candidates for the Board of Registrars, which created further strife.

Ms. Cochrane contends that Ms. Russo would intentionally exclude her from lunches and dinners, refusing to invite her when she invited other employees. She contends that Ms. Russo and others would refuse to greet Ms. Cochrane. Ms. Cochrane cites further microaggressions, including that Ms. Russo said she was stupid since Ms. Cochrane could not pass her Treasurer's exam. Ms. Cochrane has since become certified. She has been called other names including "the preschooler, the kindergartener, and crybaby". According to Ms. Cochrane, these microaggressions create a "hostile work environment" though Ms. Cochrane confirmed that she does not believe these actions were not based on any protected status.

Like Ms. Russo, Ms. Cochrane was offended by certain actions taken by Ms. Russo, including the filing of Open Meeting Law complaints. Ms. Cochrane defended her filing of an Open Meeting Law complaint, indicating that it was a complaint about a discussion about a topic which was not properly posted, not the internal meeting between Ms. Russo and two other women. That said, Ms. Cochrane contends that the meeting which occurred with Ms. Russo and two other women as a meeting to discuss how to destroy Ms. Cochrane's election.

Ms. Cochrane contends that Ms. Russo tried to file a criminal complaint for the "cease fire" language. She further contends that Ms. Russo asked the police department if she (Ms. Cochrane) has a License to Carry.

Ms. Cochrane cited several examples which she believes show that she (Ms. Cochrane) is a nice person.

Ms. Cochrane confirms that there have been no aggressive interactions in the office, they just don't speak to each other. She confirmed that Ms. Cochrane and Ms. Russo work together in a professional manner.

VI. FINDINGS OF FACT

Based on the interviews of the listed witnesses, as well as review of the above-referenced documents and policies, this Investigator makes the following findings of fact by a preponderance of the evidence:

1. Neither Ms. Russo nor Ms. Cochrane allege that they have been discriminated against because they are members of a protected class.
2. Neither Ms. Russo nor Ms. Cochrane allege that the other makes them fear for their physical safety.
3. Both Ms. Russo and Ms. Cochrane state that they interact in a professional manner in Town Hall.
4. Ms. Russo said she felt disrespected when Ms. Cochrane filed the Public Records Request and Open Meeting Law complaints against her. Ms. Cochrane said she felt embarrassed and belittled by things Ms. Russo has said about her to others.
5. Both complainants have the legal right to file Open Meeting Law complaints and Public Records requests; likewise, both complainants have the right to seek the assistance of the police department if

they believe they so require; the police department has the obligation to evaluate each interaction to determine if intervention is required.

Since there were no allegations, by either party, of discrimination based on a protected class, based on the evidence, including the interviews of Ms. Russo and Ms. Cochrane, I find insufficient credible evidence that either party violated the Town of Berkley EEO Discrimination Sexual Harassment and Workplace Violence Policy.

With respect to the Town of Berkley Code of Conduct Policy for Town Elected and Appointed Officials, the Purpose section of the policy provides:

The Town recognizes that all individuals elected and/or appointed by the Town must maintain and enforce respectful discourse with their fellow elected and/or appointed members, with those who work for the Town, those who volunteer their time and services on behalf of the Town and members of the public by striving at every meeting, forum or other official interaction to treat every person fairly and with respect regardless of any differences of opinion...

While this Investigator finds some evidence that Ms. Russo and Ms. Cochrane have each used words which are discourteous, each appear to do so in attempts to challenge the other's electability. Further, this investigator finds no credible evidence that these exchanges have occurred in the course of their employment with the Town as each acknowledges that they interact professionally while at work. Thus, this investigator finds that neither have violated the Town of Berkley Code of Conduct Policy for Town Elected and Appointed Officials. That said, it is important that appointed and elected officials be mindful of this policy, even in the course of election advocacy. Since both Ms. Russo and Ms. Cochrane appear committed to the betterment of their community it is hopeful that they will continue to work towards maintaining a respectful working relationship.

VII. RECOMMENDATIONS

Having found no violations of Town policy, this Investigator suggests that Ms. Russo and Ms. Cochrane may benefit from the services of a mediator to assist them in resolving their differences and working cooperatively for the benefit of the Town.

Respectfully submitted,

/s/ Katherine McNamara Feodoroff

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