



STEPHEN CRANE  
ACTING TOWN MANAGER  
TEL. (508) 358-3620  
www.wayland.ma.us

# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN  
THOMAS J. FAY  
ADAM G. GUTBEZAH  
CHERRY C. KARLSON  
CAROL B. MARTIN  
DAVID V. WATKINS

**SELECT BOARD**  
**Meeting Minutes**  
**Executive Session**  
**September 28, 2022**  
**8:15 p.m.**  
**ALL REMOTE**  
**41 Cochituate Road, Wayland, MA**

**Attendance:** Tom Fay, Cherry Karlson, Carol Martin, Adam Gutbezah, Dave Watkins

**Absent:** none.

**Also Present:** Stephen Crane, Acting Town Manager; John Bugbee, Assistant Town Manager; Kate Ryan, Human Resource Manager; Brian Maser, Town Counsel/KPLaw; Sean Gibbons, Chief of Police; Erin Gibbons; Austin Joyce, counsel for Chief Gibbons.

**Purpose:** At 8:26 p.m. C. Karlson called the session to order by unanimous roll call vote of the Board (YEA: D. Watkins, C. Martin, A. Gutbezah, T. Fay, C. Karlson. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0-0.) in open session pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (1) to hear complaints or charges brought against a public employee; and pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (7) to review and approve the executive session minutes of August 29, 2022 with the intent to hold said minutes.

C. Karlson confirmed that all members and attendees participated remotely. B. Maser confirmed each attendee could discuss confidential matters in private. The meeting was not recorded.

C. Karlson asked two procedural clarifying questions of B. Maser. Attendance by E. Gibbons was not anticipated and had not been stated in the open session motion. B. Maser stated that it was common to allow the spouse of the accused to attend at the Board's discretion. Similarly, the Open Meeting Law allows the accused to bring one person to the executive session and Chief Gibbons had two attendees. B. Maser reiterated that the Board had the discretion to allow attendance by more than one advisor. Each Board member acquiesced on both accounts.

A. Gutbezah asked Attorney Joyce to confirm that only the three people visible on screen were present and attending the session. Attorney Joyce confirmed that only the three people visible on screen were present at the session.

**Chief of Police Gibbons:** B. Maser outlined the reason for this meeting and the notice provided to Chief Gibbons.

B. Maser noted that Board members received the report of the investigation of complaint from Attorney Jamie Kenney that detailed the findings of fact and conclusions. He noted the purpose of this discussion was for the Board to provide their subjective impression of the report and deliberate on next steps. He noted that the Chief can address the Board before they make any decisions on next steps.

S. Crane reported that the complaints against Chief Gibbons were brought to the Town's attention and Attorney Kenney was retained to investigate. He noted the investigation process was thorough, including numerous interviews, and that findings in the report are clear and understandable and welcomed Board discussion and input.

C. Karlson noted for the record that the only other document in their Board packet for this session was the employment contract between the Town of Wayland and Chief Sean Gibbons. She opened the discussion to the Board and asked for their subjective impressions on the report.

D. Watkins asked to discuss process before discussing the report. He noted there are multiple potential outcomes and the Board may need more information to determine what is in the best interest of the Town. He asked that the Board determine the objective for this session and subsequent meetings. D. Watkins clarified that he wanted to understand the Board's role and what, if any, limits there are for the Board's decision making.

S. Crane stated that this came to the Board because the investigation was complete and findings show potential policy violations. Chief Gibbons has an employment contract with the Town of Wayland and per his contract, the Board is the body that determines whether discipline or termination is appropriate based on the findings.

B. Maser noted the purpose of this session is for the Board is to discuss the findings of the report and whether to hold a disciplinary hearing and/or determine next steps. If the board wants to move forward with adverse discipline that would need to be done in a future meeting.

D. Watkins asked if this session was the forum to have legal discussions and if all discussions regarding this matter going forward would include legal counsel and with Chief Gibbons. B. Maser stated that Chief Gibbons must be allowed to be present during discussions regarding this report, findings and any potential next steps.

D. Watkins asked counsel if this was the forum for the Board to ask questions about the report? B. Maser confirmed this is the forum to ask questions and he would advise the Board if specific questions were appropriate.

S. Crane provided background on the investigation, noting it was initiated when [REDACTED] came forward to convey a complaint of sexual harassment against Chief Gibbons. S. Crane consulted with counsel who advised us to place the Chief on paid administrative leave while an investigation took place. The investigator was given broad authority to review all topics related to the complaint and any other issues they came to light during their investigation. He noted the broad authority is why the investigation took so much time and also noted he was not aware of any complaints or findings outside of this report.

T. Fay stated that this discussion and recommendations need to be based on this report only, excluding any rumors. He believed the Chief exercised poor judgement and noted that when these relationships occurred the Chief was in a place of influence and power. T. Fay noted that the professions of the Chief and others involved could be damaged which puts a great responsibility on

the Board. He raised a concern about the timing of the complaints and noted he was one of several people that interviewed the Chief for this position and was not aware of any complaints against him. He noted that these individuals did not come forward before he was appointed Chief, nor during any promotion steps Chief Gibbons received in the past. T. Fay noted that some punishment was appropriate given the Chief's conduct even though it occurred several years ago.

D. Watkins expressed his disappointment at the report findings and noted the difficulty in ensuring the Board did what was best for the Town. He noted the Town needs an efficient well run department but the report findings indicate that some employees were not treated fairly. He stated that the detailed findings in the report show many poor choices over a period of time and took the report at face value and assumed it was accurate. He noted concern regarding the operations of the Department and for encouraging hiring and diversity, equity and inclusion moving forward given the poor decisions made by the Chief.

A. Gutbezahl asked B. Maser and S. Crane whether the Sexual Harassment Policy 4.02 as listed in the report is what was in place in 2003 and if that language would apply to incidents from 2003, or if it had changed? A. Gutbezahl noted the policy was cited on Page 4 of the report under Relevant Police Department Policies & Procedures and applied again on Page 29. B. Maser stated he couldn't speak to whether the policy in the report was a promulgated policy in 2003. He noted that this was a fairly standard sexual harassment policy for both private and public practice and that employers are required to promulgate these policies. A. Gutbezahl asked if M.G.L. Chapter 151 was in place in 2003 and B. Maser confirmed that it was.

A. Gutbezahl asked who Mr. Maccini was and how he knew about the ongoing investigation? S. Crane deferred to the chief on how Mr. Maccini knew of the investigation. S. Crane noted that Mr. Maccini reached out to him directly stating that he had information regarding a specific event and the investigation. A. Gutbezahl noted that Mr. Maccini's knowledge of the investigation was troublesome and was concerned the investigation was being discussed in the community. He noted the report showed questionable judgement on the part of the Chief and concern that Police Dept. employees may feel not safe.

C. Martin noted the report finding found violations of Policy 4.02 and the Professional Conduct Policy, but expressed concern about the remoteness of these findings. She also noted concern that 4.01 was violated in 12/2021 and noted the policies were in place at that time and given the findings sanctions could include counseling or discipline.

C. Karlson agreed with other Board members' statements and that the Board should take into consideration the distance in time of some of the incidents. However, she noted that these incidents show a pattern of behavior with respect to [REDACTED] whether by rank or tenure over 20 years. She noted A. Gutbezahl's comment about existence of policies at the time of the incidents, but also noted that those policies were in place and that Police officers are required to uphold the By-Laws of the Town. She noted that Chief Gibbons has been before the Board on several occasions for promotions but this had never come to light in the past. C. Karlson went on to state that the number of issues found that had sufficient credible evidence, such as inappropriate sexual relationships, the Chief acknowledging a DUI and harassment by word choice, and while this happened in the past the Board needs to discuss these incidents in the current context. She stated that she is not certain, given the events outlined in the report, that the Chief could continue in this role effectively.

T. Fay asked S. Crane if he had any concern regarding the timing of all of the complaints and why this wasn't brought to the prior Town Administrator before he (Gibbons) was appointed Chief? S.

Crane did express concern about why the complaints came out now, but noted that the findings make it clear that no matter when the conduct was reported, these incidents rise to the level that constitute policy violations. S. Crane noted that one violation occurred in 2021, and the credible disparate treatment of [REDACTED] was troubling. S. Crane also stated he did not know how Mr. Maccini became involved, but he felt it was fairest to Chief to allow Mr. Maccini an opportunity to speak to the investigator.

A. Gutbezahl noted the report suggests the timing of the complaints was due to an alleged statement by the Chief in December 2021. He asked whether that statement was made under false pretenses. B. Maser noted that the investigator found that statement by Mr. Maccini was not credible. A. Gutbezahl noted that the complaints were made 10 months after the incident in 2021. C. Karlson noted that Page 30 of the report states there is sufficient credible evidence that a comment was made and cautioned against questioning why someone would wait to report an unwanted sexual advance. S. Crane believed that the statement was not made under false pretense give the complaints' comments about 'Badge Bunnies', relationships between male and female officers, and noted the investigator connected those two points.

D. Watkins asked whether the Chief was professionally vetted prior to his appointment and if the Town knew about these incidents prior to the appointment? T. Fay noted he was one of 5 people involved in the interview process for the Chief and it was never brought up. D. Watkins asked whether there were background checks done prior to his appointment and if so, why was this not discovered then? B. Maser noted that this conduct was known prior to investigation. S. Crane noted, as discussed in the report, that there were other legal processes regarding [REDACTED] in the past and this did not come to light during those processes and the prior Town Administrator was interviewed and did not indicate any prior knowledge.

D. Watkins and C. Karlson inquired whether the Chief was involved in the investigation. B. Maser noted the Chief was interviewed by the investigator. B. Maser noted that in the report the Chief denied that he made the alleged comment at the swearing in ceremony reception.

C. Martin noted the incident in February where the Chief yelled at [REDACTED] may have prompted the complaints to come forward when they did.

C. Karlson offered Chief Gibbons an opportunity to add to the discussion.

Attorney Joyce requested a break to confer with Chief Gibbons. Attorney Joyce muted video and audio at 9:25pm and return to the meeting at 9:32pm

C. Karlson asked the Chief if he wanted to make a comment.

Attorney Joyce requested to make a few comments. He noted that the Chief denied saying the alleged comment from the December 2021 incident at swearing-in reception. He questioned the competency of the investigator because they did not interview other attendees at the reception to corroborate the comment. He noted the investigator only spoke with Mr. Maccini and did not speak to other witnesses. Attorney Joyce doubted the accuracy and completeness of report. He also noted the timing of the complaint given the comment was supposedly made in December 2021, but [REDACTED] did not come forward until March. He noted the complaint was made shortly after the Lieutenant's position was filled and felt it cast doubt on [REDACTED]  
[REDACTED]

Attorney Joyce noted that the Chief had alcohol and marital problems in the past but has turned his life around, noting his performance at the Wayland Police Department and asking that be taken into account.

C. Karlson thanked Attorney Joyce for his comment and extended the invitation to Chief Gibbons to provide a comment while he had the opportunity.

S. Gibbons stated he asked his attorney to speak on his behalf because it was an emotional night for him. He stated his actions of 10 and 20 years ago were disappointing because he has become a better person and honorably leading the Dept. for the last 5 years. S. Gibbons noted the report saying he yelled at people, and he acknowledged that he did yell at employees. He stated that he takes his job seriously and that he does yell at someone if they are not doing their job. S. Gibbons stated he did not agree with the findings of the report which is why he asked his attorney to speak on his behalf.

C. Karlson asked B. Maser to summarize the options of the Board. She noted some possible options range from taking no action, following the process for discipline or discharge outlined in the contract, or to continue the discussion. B. Maser confirmed the Board could continue the discussion as this was the first time it convened as a public body to discuss the report for first impressions. He noted this may need additional consideration and the Board could schedule another discussion. He also noted other options would be to close the investigation and take no actions on findings/conclusions. He also noted the Board could decide tonight it has had enough discussion and could decide to proceed with a more formal process under the Open Meeting Law and the Chief's contract.

C. Karlson asked if the investigation was over? B. Maser confirmed that fact finding is concluded and findings have been rendered.

C. Karlson noted the report was distributed for the purposes of this meeting and asked if it was a public document or if it will become a public document. B. Maser stated it is public record, but pending this matter there are assertions the town could uphold for withholding the document.

D. Watkins asked how the Board could reconcile the report with the Chief's perspective that it is an inaccurate report? B. Maser noted the Board would need to have another interactive process with the Chief under the open meeting law to discuss the Board's decision. He noted this process is similar to a criminal process where Police Officers investigate, present findings to the DA and eventually to a jury where they decide credibility of witnesses. He noted the Board could undergo a similar process, where they would be judge and jury and would come to a conclusion.

A. Gutbezahl noted the Chief has come before the Board in the past to provide information on law, recommendations and determinations on whether a policy was violated. He asked the Chief, based on this report, if he believed there should be repercussions. C. Karlson asked if he was drawing a parallel to the Chief reviewing a violation of a liquor license for example? A. Gutbezahl confirmed the parallel.

Attorney Joyce asked for a moment to speak with his client.

S. Gibbons confirmed that he looks to discipline the person and would take their career into consideration and all the individual had done. He stated he would also take into consideration that it had been 12 and 19 years since those incidents and he would not look to terminate but to discipline and educate.

T. Fay expressed concerned with the timing of the process as it has been 6 months since the allegations came forward. He noted that a quicker resolution from this Board is better for the town, but is willing to consider a second meeting to discussion. T. Fay felt that some discipline was appropriate, but also stated that termination is too extreme a punishment for the findings.

C. Karlson discussed the process for a disciplinary hearing. D. Watkins asked if the next step is a disciplinary hearing and noted he needed more information to make a decision. C. Karlson asked what information was needed, specifically if the Board needed additional work to move forward. D. Watkins noted potential legal ramifications of any Board decision and would like to understand potential impacts. He questioned the operation of the Police Dept. and how to keep it moving forward and diverse given the report findings, especially if the information becomes public.

T. Fay asked if the Board were to hold a disciplinary hearing, would the Chief be able to make it public or in executive session? B. Maser confirmed the Chief could chose to make it a public meeting. He stated that the meeting notice would need to be specific and set forth what the hearing will concern, what the charges are and the potential outcome.

S. Crane commended the Chief on his service and comment regarding discipline. He noted however, that D. Watkin's comments about the Dept. operations and the Board's decision. He noted there were other communications received outside of the investigation from the Union and Dispatchers which could have an impact.

B. Maser noted the Board discussion needed to focus on the report findings and not bring in other topics.

D. Watkins noted he was in favor of moving forward with a disciplinary procedure.

C. Karlson asked if there was a third option outside of the process outlined in the contract and disciplinary hearing, such as a settlement agreement. B. Maser confirmed that a settlement was always a possibility if the Board directs him to confer with Attorney Joyce outside of this forum.

T. Fay agreed that next step is a disciplinary hearing and request the hearing occur no later than end of October.

C. Martin agreed with both options the settlement and disciplinary hearing. She asked if the Chief wanted to return to his role.

S. Gibbons stated he wanted to return to his job. He stated this is something he's wanted and believes he could lead the Dept. He noted that over the last year and a half he had not had the opportunity to separate himself from the line workers. He noted he was in an acting capacity for most of that time and was never in the position to lead the Dept.

A. Gutbezahl noted the Chief has been accused of establishing a hostile work environment and asked how he would correct that if he returned. S. Gibbons stated that the Lieutenant would operate as a buffer. He noted that as Chief he had to go to roll call and cover shifts due to understaffing, which he noted is not the role of a Chief.

A. Gutbezahl expressed concern about the messages the Board decision could send to the larger community, to the Chief, and to the rank-and-file employees, as there is not a way to send a unified message to all.

C. Karlson asked if the Board were to hold a disciplinary hearing does the agenda need to be specific in the hearing notice regarding charges. B. Maser noted the standard language can be used, which is, discipline up to and including termination and he stated he could draft the hearing notice language.

S. Crane recommended the Board hire an independent hearing officer to prepare a report of findings and a review of the investigation. He noted that a hearing officer would manage the hearing and allow the Board to fully listen and take part. C. Karlson asked if it was possible to hold the hearing while S. Crane was still Acting Town Manager. S. Crane noted it was possible to hold the hearing but probably not receive a report in that time.

T. Fay asked if the Board needed to vote to pursue discipline or a hearing. B. Maser noted that based on comments from the Board expressing interest in a disciplinary hearing, the Board would need to make a motion to move forward.

C. Karlson asked who would attend a disciplinary hearing. B. Maser stated the same individuals at this meeting would attend. He stated that if the Chief asserted to have an open session then any one can attend but could not participate. He noted that if the Board chose to hire a hearing officer, there would be witnesses called to testify and cross examination of witnesses and it would be a quasi-trial.

A. Gutbezahl asked who would direct the cross examination on behalf of the Town? B. Maser stated the individual Board members could ask questions and Town counsel would do cross examination.

Board members discussed logistics of the disciplinary hearing such as days to schedule, length of the hearing. B. Maser noted that the length of the hearing was dependent upon the depth and breadth of testimony and could take more than one meeting.

T. Fay asked what the process should be if the Board arrived at consensus on either termination or discipline prior to the hearing? B. Maser noted the matter of issue on the notice tonight is just to discuss charges and if the Board wants to hold a disciplinary process, you will need a different meeting ensuring the Board complies with timelines as set out in contract.

B. Maser noted that Section 11.1 of the Chief's contract is typical language. He noted that he could continue a settlement conversation with Attorney Joyce using parameters from the Chief and the Board which could be executed in an executive session.

T. Fay moved, seconded by D. Watkins, to proceed with a disciplinary or discharge hearing pursuant to Section 11.1 of the Employment Contract between the Town of Wayland and Chief Sean Gibbons and to authorize Town Counsel and the Acting Town Manager to prepare for that hearing and hire a hearing officer to act on behalf of the Select Board. Roll Call Vote: YEA: T. Fay, A. Gutbezahl, C. Martin, D. Watkins, C. Karlson. NAY: None. ABSENT: None. ABSTAIN: None. Adopted 5-0.

A. Gutbezahl moved, seconded by D. Watkins, to authorize the Acting Town Manager and Town Counsel to enter into settlement negotiations with Chief Gibbons to take place concurrently to preparation for the hearing process. Roll Call Vote: YEA: D. Watkins, T. Fay, C. Martin, A. Gutbezahl, C. Karlson, NAY: None. ABSENT: None. ABSTAIN: None. Adopted 5-0.

S. Crane noted that investigative report findings and the Board's disciplinary hearing on those findings is a separate question from whether the Chief can come back and effectively lead the

Department. S. Crane stated that he did not believe the Chief could return and be an effective leader in the Wayland Police Department.

C. Karlson thanked Attorney Maser for joining the meeting.

At 10:26 pm, B. Maser, K. Ryan, S. Gibbons, E. Gibbons and A. Joyce left the executive session.

**Minutes:** The Board reviewed the draft executive session minutes of August 29, 2022. C. Martin moved, seconded by A. Gutbezah, to approve the executive session minutes of August 29, 2022 as amended. Roll call vote of the Board: YEA: D. Watkins, A. Gutbezah, T. Fay, C. Martin, C. Karlson. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

**Exit Executive Session:** At 10:29 p.m., C. Martin moved, seconded by A. Gutbezah, to exit Executive Session and adjourn the meeting. Roll call vote of the Board: YEA: T. Fay, D. Watkins, A. Gutbezah, C. Martin, C. Karlson. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

**Documents provided:**

1. [REDACTED]
2. Employment Contract Between the Town of Wayland and Chief Sean Gibbons, dated January 21, 2022
3. [REDACTED]