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# **PERSONNEL COMPENSATION REVIEW COMMITTEE**

## **AGENDA**

**16 SEPTEMBER 2013 – 4:00 PM**

**PUBLIC SAFETY FACILITY TRAINING ROOM**

**4 FAIRGROUNDS ROAD**

**NANTUCKET, MA 02554**

- I. ACCEPTANCE OF AGENDA
- II. OPEN SESSION
- III. PUBLIC COMMENT
- IV. APPROVAL OF MINUTES OF 14 AUGUST 2013
- V. EXECUTIVE SESSION
  1. Exemption 3: To Discuss Strategy with Respect to Collective Bargaining, Where an Open Meeting May Have a Detrimental Effect on the Bargaining Position of the Board of Selectmen/County Commissioners.
- VI. ADJOURNMENT



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## PERSONNEL COMPENSATION REVIEW COMMITTEE

### Meeting Minutes

(Online at [www.nantucket-ma.gov/Pages/NantucketMA\\_webdocs/videoarchive](http://www.nantucket-ma.gov/Pages/NantucketMA_webdocs/videoarchive))

**Date:** August 14, 2013  
**Time:** 4:00 – 6:00 pm  
**Location:** Training Room, Public Safety Facility, 4 Fairgrounds Road

**Committee in attendance:** Matt Fee, Robin Harvey, Nonie Slavitz, Craig Spery, John Tiffany, Jeanette Topham

**Committee absent.:** Bruce Miller

**Staff in attendance:** Libby Gibson, Gregg Tivnan, Pat Perris, Chief Pittman, Kara Buzanoski

**Public in attendance:** Rick Miller, Tobiss Glidden, Carol Dunton, Robert Bates, Daniel Mack, Michael O'Neil, Brett Morneau, Clifford Williams

### **Agenda**

1. Call to order: 4:02 pm

In absence of a Chair, Ms. Gibson gives overview of why Committee is established. Ms. Slavitz requests a list of the members, which is provided by Ms. Gibson.

2. Election of officers

Mr Tiffany makes motion for Matt Fee as Chairman. Ms. Topham seconds. Mr. Fee declines but with no other nominations Mr. Fee accepts nomination. Ms. Slavitz suggests that after six months of working together the Committee review how things are working and have another election if they desire. Voted unanimously.

Mr. Fee nominates Mr. Spery for Vice Chair. Ms. Topham seconds. Voted unanimously.

3. Public comment

No Public comment.



4. Review of mission

Chairman Fee reads the mission statement. No changes to the mission suggested. Ms. Slavitz asks who/how are they to compare to other communities? Chairman Fee explains that the Wage Study RFP (contained in the agenda packet) will do this, with assistance of the Administration.

Mr. Tiffany asks what last sentence of the mission implies and asks for clarification. The sentence states "The data and analyses conducted by the Committee are meant to provide the Board of Selectmen with information needed to consider personnel policy issues going forward". Ms. Gibson clarifies that this Committee is to make policy recommendations to the Board of Selectmen on an ongoing basis and that this Committee is not creating policy itself.

5. Discussion of potential projects and goals

Chairman Fee asks for suggestions for projects or how to approach them as a committee.

Ms. Slavitz asks for copies of the union contracts and for the link to Town website where they are located. Ms. Topham requests hard copy of contracts. Ms. Slavitz asks for hard copy, too. Mr. Sperry asks for clarification about the RFP and how other communities would be reviewed and can the scope be expanded to beyond Massachusetts. Chairman Fee says that will be discussed under the next agenda item.

Ms. Slavitz asked if Ms. Perris has done a comparison of communities previously? Ms. Perris explains what the Town has already done however the RFP is broader in scope than what has been done already. There are unique characteristics of Nantucket that must be considered that have not been previously.

Ms. Topham asks if some of the communities already reviewed are seasonal like Nantucket. Ms. Perris confirms that there are. Chairman Fee asks for the results to be distributed to the Committee prior to next meeting.

6. Review of DRAFT Wage and Compensation RFP scope of services

Ms. Topham notices the discrepancy in population figures; is it 12,000 or 15,000? Mr. Tivnan confirms that one is a typo and that 15,000 is the number being used.

Mr. Tiffany asks if there is a policy regarding negotiations. Ms. Gibson only knows of a policy document adopted by the BOS several years ago, giving authority to the Town Manager to handle collective bargaining negotiations with policy guidance and direction from the Board; nothing else in writing. Ms. Gibson explains the current process that involves a Town Administration negotiations team as well as the BOS in strategy discussions and approvals of negotiated items. Mr. Tiffany clarifies that he is looking for more detail on procedures and protocols at the actual negotiations. Ms. Gibson explains that meetings are called with unions to negotiate prior to contract expiration. There are ground rules that are introduced at first meeting which sets the parameters of the negotiations.

Mr. Sperry asks if outside negotiators have been used. Ms. Gibson explains that Labor Counsel is at the table for some of the negotiations.



Mr. Tiffany asked who does negotiations for the Town. Ms. Gibson explains that she and Mr. Tivnan do it, with the assistance of the negotiations team.

Ms. Harvey asks how the union representation is presented. Ms. Gibson explains that usually each union President and Vice President sit at the table, but it varies and is decided internally by each union. Ms. Harvey asks about conflicts of interest and how they are handled and explains one of her own. Ms. Gibson explains that such conflicts are handled as they occur and explains that her conflict with Police negotiations is the only one of which she knows.

In response to Mr. Spery's suggest that the scope of the RFP be broadened, Ms. Gibson offers a correction to page 3 of the Scope of Services to expand the scope to national instead of just Massachusetts and northeast. Chair Fee warns about just "picking the low hanging fruit" and making sure communities are comparable.

Ms. Topham asks if private sector is being reviewed. Ms. Gibson says yes and cites Item B in the RFP.

Ms. Topham would like to look at housing issues and if off island communities assist with housing. Chair Fee asks Ms. Perris if she is aware of any communities that do this; Ms. Perris says it needs to be looked at and does not know off hand. Chairman Fee asks how schools deal with it. Ms. Harvey explains the Nantucket Educational Trust and its school housing process. Chair Fee asks if any other departments offer housing or have same issues. Certain DPW staff and Police summer Community Service Officers and lifeguards are offered limited housing options when available. There is a brief discussion of housing needs and concerns.

Chair Fee explains his concerns about offering stipends for housing for off-island employees and that such stipends will eventually be considered compensation and will contribute to the growth rate. There needs to be a break in this cycle; his business is in the same housing situation.

Ms. Slavitz asks if we can get recommendations from other communities. Ms. Topham explains that other communities have employees who can drive to other towns which makes a difference.

Mr. Spery asks Ms. Perris how many commute from off island? Ms. Perris does not know that off hand.

Fire Superintendent Bates explains that no firefighters are paid housing stipends and there is currently one firefighter who cannot find housing. Chief Pittman states that while seasonal and new police officers may find temporary housing, it is not the type of housing suitable for long term commitment and that contributes to staff turnover.

Chair Fee suggests Aspen, CO as a city to review as they have had similar housing issues in the past; Nantucket is dealing with them now so perhaps we can learn something.

Mr. Spery suggests an edit to Item F of the Scope of Services to add a review of other community's unfunded liabilities. Ms. Gibson suggests that the Town can get that to avoid adding to the scope. Ms. Slavitz asks for Nantucket's unfunded liability, too.

Ms. Slavitz asks if this group's compensation review is to be done before June? Ms. Gibson says that it would really need to be done before March for ATM. Ms. Slavitz is concerned about not



getting the study results in time so asks if they are working for FY15? Ms. Gibson explains that if the negotiations result in 3 year contracts, then the work of the Committee will not be relevant until the next round of negotiations. Ms. Topham asks if contracts can be one year duration? Ms. Gibson said one year contracts are possible but it is not known if it is possible until negotiations start. The outcome of the study will be valuable for 3-5 years regardless.

Mr. Tiffany asks if there is a list of objectives or guidelines for negotiations? Ms. Gibson explains that the BOS has given them guidelines within the past 3 weeks. Mr. Tiffany would like that document. Ms. Gibson says it is not a public document and would need to be discussed in executive session. Ms. Slavitz suggests an executive session for the next meeting.

Mr. Sperry asks if a report to BOS is still expected at the end of calendar year? Ms. Gibson does not think there is a specific report, but rather ongoing recommendations.

Sperry makes motion to approve RFP with edits as discussed. Ms. Slavitz seconds. All approve.

Chairman Fee offers future topics:

- Housing
- Unfunded liabilities and pensions but require more information

Mr. Tiffany concerned about where to start and suggests an executive session to get a feel for where the Town is with negotiations. Chairman Fee says the RFP is first priority.

Mr. Fee suggests getting a 15-year history of compensation. Has concerns about rate of wage growth and believes it has crowded out other projects and believes these need to be reviewed concurrently to determine how to move forward in future. Pensions and other benefits must be considered, too. Mr. Sperry asks if such a history exists for other communities or if it will be part of the RFP? Ms. Gibson says no.

Ms. Perris says study will only inform us if there is a structural glitch, but we need to figure it out.

Ms. Topham asks how new employees are addressed with regard to whether or not they are in a union? Ms. Perris explains that most positions are in a union. Ms. Topham asks if that can be changed? Chief Pittman explains that unions “own” certain positions and it is not up to the employee, or the Town necessarily. Town has been working on this where possible through negotiations, but it is not the final solution.

Mr. Tiffany believes it is not too difficult to do analysis based on current data and assumptions to see if the current rates are sustainable and then create models to address it. Ms Gibson states that the Town has started looking at similar data and started to make changes four years ago and the recent consolidations resulted. Chairman Fee acknowledges there has been improvement through these efforts but it still needs work and agrees that structural problems need to be addressed and changed and this is a good goal of the Committee.

Mr. Tiffany asks for projections and analysis that have been done by Town to date.

Ms. Harvey explains the School’s new evaluation and monitoring system that they are trying to employ and asks if other unions have it. Ms. Gibson said no.



Ms. Topham asks how involved Ms. Perris is with negotiations. Ms. Perris explains that she is at the table for all Town negotiations. Ms. Topham asks if she tries to keep unions consistent with each other? Chairman Fee suggest that Town is doing this already. Ms. Gibson agrees and gives example of meeting with School and Enterprise Fund leadership yesterday and that again this is a team approach which also requires the discipline of the other Committees and Commissions who negotiate their own union contracts (Water, Airport, School). Also explains that specific items like health insurance need to be agreed upon by all unions, therefore any changes require consistency in negotiations.

7. Set next meeting

All agree that Mondays at 4:00 pm seem best.

Monday, September 16, 2013 at 4:00 (location to be determined) for next meeting.

Information required for next meeting:

- Hard copies of all contracts for Ms. Slavitz, Ms. Topham and Mr. Tiffany.
- Prior wage comparison study done by Town.
- Historical wage information.
- Mr. Tiffany suggests Ms Gibson looks at what Town has and made suggestions to Committee about what to review
- Mr. Tiffany would like budget projections.

Ms. Gibson will compile the contracts and have available for pick up at Town Building

Carol Dunton suggests library has all Town Reports going back for years. Ms. Topham concerned that there is too much information in a Town Report unless a specific area is to be reviewed.

Ms. Topham asks for Airport union rep to be on email list for notices from Town Administration.

Superintendent Bates expresses concerns about no union representation on the Committee. He believes that the Committee is too management-focused. Unions often have much of the information that is being requested in RFP. Chair says that all meetings will be open so welcome to participate. Mr. Sperry agrees that more data is helpful. Ms. Topham concerned about too many unions so Committee gets too big. Mr. Tiffany doesn't think union representation is appropriate.

8. Adjournment:

Ms. Topham makes motion to adjourn. Ms. Slavitz seconds.

Adjourned at 5:11pm

**Minute Taker:** Gregg Tivnan



# **Public Sector Collective Bargaining in Massachusetts**

**Presented to the Nantucket Personnel Advisory Committee**

**September 16, 2013**

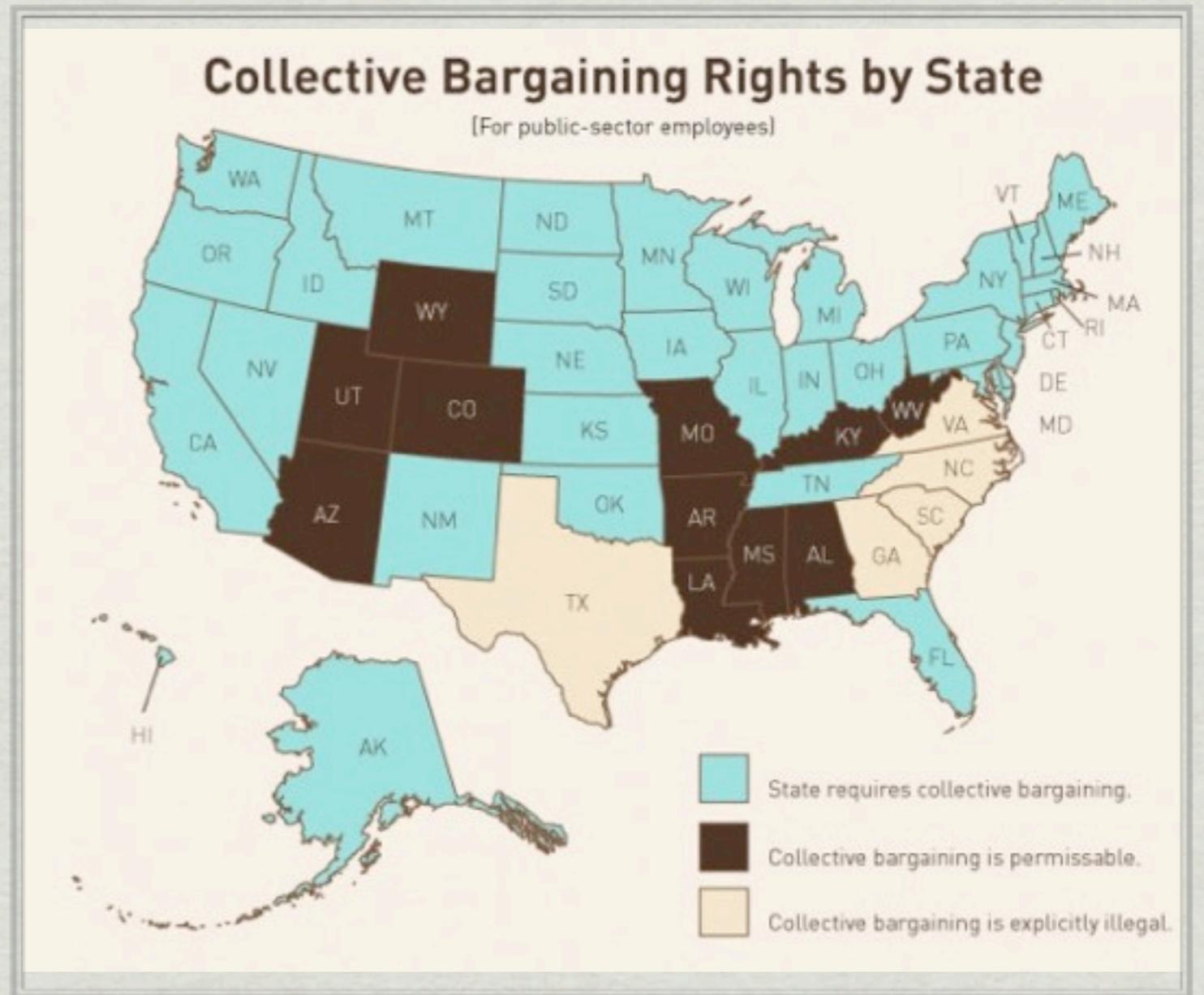
**Jack Dolan, Esq., Kopelman and Paige, PC**

# Background

- ✱ National Labor Relations Act:
  - ✱ Adopted in 1935
  - ✱ Gave private sector workers the right to bargain collectively
  - ✱ Excluded public sector workers
- ✱ First public sector bargaining law: Wisconsin 1959
- ✱ MA statute (G.L. c.150E) effective July 1, 1974

# Current status nationally

- Public sector bargaining mandated or permitted in most states



# Important distinctions between private and public sector collective bargaining

- \* Market discipline less operable in the public sector
  - \* In the private sector, higher labor costs often leads to higher prices, lower consumption of goods, decreased productivity and layoffs
  - \* Public sector is monopolistic and largely price-inelastic
- \* Less managerial cohesion in the public sector
  - \* Multiple departments, elected and appointed officials, need for Town Meeting approval of budget
- \* Politics - voters consist of 3 overlapping groups:
  - \* Taxpayers, users of governmental services, and the public sector employees themselves

(as discussed in the 1977 U.S. Supreme Court case of [Aboud v. Detroit Board of Education](#))

# Basic Rights of MA Public Sector Employees under c.150E\*

- ✱ To form, join, or participate in unions
- ✱ To bargain collectively over terms and conditions of employment
- ✱ To engage in other concerted activities for mutual aid and protection
- ✱ To refrain from participating in any or all of these activities

**\*NOTE:** Municipalities now have an alternative to traditional c. 150E bargaining for making changes to health plan designs (c. 32B, Sections 21-23)

# Basic collective bargaining obligations of parties

- \* Meet at reasonable times
- \* Negotiate in good faith re:
  - \* Wages and hours
  - \* Standards of performance and productivity
  - \* Any other terms and conditions of employment
- \* These obligations do not require either party to agree to a proposal or make a concession

# Key practices for public employers to avoid

- \* Refusing to negotiate (outright or “fait accompli”, “take it or leave it”, etc.)
- \* Direct dealing with employees
- \* Conditioning bargaining on some other outcome
- \* Failing to support an agreement
- \* Failing or delaying to furnish requested information
- \* Making unilateral changes
- \* Bargaining regressively

# Consequences of not reaching agreement

- \* No strikes and no unilateral changes in terms and conditions of employment
- \* Personnel other than police and fire:
  - \* Mediation, fact-finding, arbitration (potentially, if the parties agree)
  - \* Living without a new collective bargaining agreement
- \* Police and fire personnel:
  - \* Interest arbitration through Joint Labor Management Committee (JLMC)

# Guidelines for JLMC in interest arbitration (useful in bargaining generally)

- \* Pursuant to Chapter 589 of the Acts of 1987, the JLMC considers the following in police/fire interest arbitrations:
  - \* Consistency with Prop. 2 1/2
  - \* Town's financial ability to meet costs ("**ability to pay**")
  - \* Interests and welfare of the public
  - \* Hazards of employment; physical, educational and mental qualifications; job training and skills involved
  - \* "**Internal comparables**" and "**external comparables**"
  - \* Decisions and recommendations of the factfinder, if any
  - \* Cost of living
  - \* Overall present compensation, including wages and fringe benefits
  - \* **Changes in any of these during the pendency of the dispute**
  - \* Other relevant factors and the stipulation of the parties

# Overview of the bargaining process from a Town's perspective

- \* Prior to start of process, meet with financial team to assess financial parameters (Town's ability to pay, sustainability, etc.)
- \* Develop overall strategy (financial targets/limits, duration of agreement, principal goals, secondary goals, housekeeping changes desired, etc.)
- \* Initial bargaining session (set ground rules; may exchange initial proposals)
- \* Exchange proposals (ground rules usually set deadline for new proposals, e.g., no new proposals after the 3rd bargaining session) and respond to requests for information
- \* Consider all proposals and attempt to find common ground where appropriate
- \* Reach tentative agreement
- \* Selectmen ratify tentative agreement and present/support cost items at Town Meeting

Any questions?

# Useful links

<http://www.mass.gov/lwd/labor-relations/>

<http://archives.lib.state.ma.us/actsResolves/1987/1987acts0589.pdf>

