

TOWN OF BROOKFIELD
BOARD OF HEALTH

RICHARD HOPE, CHAIRMAN
DAVID CARON, MEMBER
RONALD NICOLL, MEMBER
SANDRA GUYETTE, CLERK

- * Members present: Richard Hope, David Caron and Sandra Guyette.
- * Also present: Karen Trainor of the Worcester Telegram & Gazette

The meeting was held at the Town Hall on Thursday, December 15, 1994 at 7:00 p.m.

First on the Agenda, Richard Hope called the meeting to Order. Richard Hope started the meeting by indicating at that time that Ronald Nicoll was not present as was currently in the hospital. He then indicated that he would first like to address Mr. Juda's grievance, as per Mr. Juda's letter to the Board (copy attached), which states:

"I am requesting a hearing in regards to notice of suspension, in that I was not given an opportunity to present my side. And I was not notified that I was to be discussed at the board's monthly meeting.

I am also requesting this grievance to encompass all disciplinary hearings and findings and actions taken by the board. For I now feel they are and were taken on a personal nature by a member or members of this and other boards."

Mr. Juda then indicated his reasons for requesting this hearing by reading a typewritten statement (copy attached), as follows:

"Mr. Chairman and Honorable Board Members,

I have requested this hearing because I feel that my suspension and other disciplinary actions taken against me were of a personal nature. All this was done after I requested a station to relieve myself and a raise in pay. In regards to the raise, I told you my motives were to get answers. As for the station to relieve myself, I would bring your attention to M.G.L. c.149, §133, "Rules and Regulations for Toilets", §§1, 2 and 3 and the note I received from the Industrial Hygienist. I would also like to bring your attention to the job description Landfill/Recycling Monitor dated October 30, 1994 and the original description voted on in July 1993, and in my response to the Board on October 30, 1994, I said, "I will not attend recycling meetings without pay, I do not volunteer my time." I now would like to bring your attention to M.G.L. c.149, §158A, "Work Without Compensation." Now Mr. Chairman, in regards to these laws, did you know of them, and felt you did not have to obey them, or is your claim of ignorance? Ignorance is no defense for not obeying the law.

I would like to go to my suspension:

1. Failure to keep financial records up to date.

I would like to note I was asked if I would mind keeping some sort of log, and I believe my response was, as long as I had the time I would. Otherwise I would like to see where it was voted on that it would be another part of the job description.

2. Failure to maintain office in a clean and orderly manner.

I probably could do a better job of keeping it a neater cleaner office if proper supplies are readily available, or would the board like to approve the time and mileage that would be needed to secure them.

3. Failure to comply with terms of job description dated October 30, 1994 and comment.

I now charge this is a violation of M.G.L. c.149, §158A, and as such should be removed from the job description or the board should vote to pay for the hours spent at these meetings. I would also urge the board to reimburse me for all the times I came before this board for matters of the landfill and time wasted chasing down payroll signatures and missing pays.

Now Mr. Chairman I would like to discuss the letter you received from the Chairman of the Advisory Board in which your wife is a member. In this letter he complains about the pile of tires. It seems you neglected to tell him about the discussion that you, myself and the Water Superintendent had. I believe you said that you would make the arrangements to have his and the landfill tires picked up. As to his complaint to the general condition of the landfill as an official of the advisory board in which your wife is a member could be taken as a conflict of interest. His one letter seem to carry more weight than all the letters of support that the board has on record in my favor. I would now ask the board to reinstate me with back pay for time lost and all hours forced to donate to remove recyclables. I would also request the board to remove all disciplinary actions taken against me. As I now feel that they were of a dilatory nature and should be stricken from all records."

Richard Hope responded by stating there was not a landfill within the community with a bathroom facility. David Caron then stated that Mr. Juda could use the bathroom at the Town Hall or the Highway Department. Mr. Juda then indicated he never left the landfill during work hours. David Caron then asked Mr. Juda whether or not he felt it was the Town's responsibility to install a bathroom facility at the landfill. Mr. Juda responded by stating that it was the Board's duty to uphold the law.

Next the issue of the financial records was discussed, at which

time Mr. Juda indicated that he was originally asked to maintain some type of log, and that maintaining the financial records was not part of his job description. Richard Hope then responded to Mr. Juda by indicating that the original job description (copy attached) states that the landfill and recycling monitor will perform all extra duties assigned by the Board of Health and that keeping financial records was not part of another job.

Next the issue of maintaining the trailer in a clean and orderly manner was addressed. Mr. Juda indicated that he could keep it cleaner if supplies were available. Richard Hope responded by stating that he had indicated to Mr. Juda previously that if he asked for supplies, the supplies would be made available to him.

Next the issue of the letter from Advisory Board Member Phil Peirce was addressed. Mr. Juda started the conversation by indicating that he felt the letter was a conflict of interest and further that he wanted to be reinstated with pay. Richard Hope responded to Mr. Juda by stating that the tire pile had nothing to do with the letter from the Advisory Board and he then read a portion of the Advisory Board Chairman's Memo dated December 12, 1994 (copy attached), as follows:

"The current shortage in the Recycling Account is caused by a combination of problems: 1. Accurate accounting of the fund balance was not available at the start of the Fiscal year. 2. A "tire drive" done by a previous committee left a considerable mountain of tires to be dispensed with. (The tire drive had secured the services of a company that would pick up, shred and return the tires as DEP approved cover material; however, the company went bankrupt after the drive was over, but before taking the tires.)."

Richard Hope then indicated to Mr. Juda that the letter from Mr. Peirce had a lot to do with the way the Recycling Area turned out. Mr. Juda then inquired whether or not it was his job to climb trees. Richard Hope responded, "No.", but that it was his job to keep the area neat and orderly. Richard Hope then indicated that he did the job at the landfill himself during Mr. Juda's suspension. Mr. Juda then asked, "By yourself?" Mr. Hope then indicated that Phil Peirce assisted one morning with Dave, but that he took over at 11:00 a.m. and further that he worked Tuesday by himself. There was debate for a few minutes between Richard Hope and Ed Juda as to whether or not Mr. Hope did, in fact, work at the landfill by himself during the two week period. Mr. Juda then asked Mr. Hope if he assisted anyone while he was working. Mr. Hope responded that it was not necessary to assist anyone and that it was not part of Mr. Juda's job to take trash out of people's cars or to unload cars. Mr. Juda indicated that he took his time with the elderly and handicapped people. Richard Hope indicated that he had no problem with Mr. Juda assisting elderly and handicapped individuals. Mr. Hope went on to say that many individuals stated to him while working that the landfill looked nice and neat. He further indicated that no two people work the same and that even if it took him one hour and Mr. Juda two hours, there was still time to be accounted for. Mr. Juda then asked, "What happens if the dumpster is full? What do I do with it?"

David Caron and Richard Hope agreed. Richard Hope further stated that it was a slow process to pick up tin cans also and that it was not just that one area, but that there was a large amount of debris around the trailer, shelter and white mobile home as well. He stated further that he did not want trash there. Richard Hope indicated that if less socializing and more work occurred, there would be no problem keeping the area clean. Mr. Juda agreed.

Next the issue of M.G.L. c.149, §48(A) (work without pay) was addressed. Mr. Hope indicated that Mr. Juda would be paid for meetings which he attended outside of Brookfield, as long as reported back to the Board what happened during said meetings. Mr. Juda then inquired what part of his job description he failed to comply with. Mr. Hope responded by stating that it had nothing to do with meetings, it had to do with the appearance of the landfill (the whole area). Richard Hope went on to say that the Board was now making efforts to improve things and make the job easier for Mr. Juda. He further indicated that Mr. Juda would not be paid to attend Brookfield Board of Health meetings and that as far as the financial books went, Mr. Juda could drop them off at his home if he did not want to attend the meetings. Mr. Hope then went on to say that he knew the reason for Mr. Juda's not keeping the financial records; in March, Mr. Juda went to the Selectmen's Office to get the books to prove what he had taken in. Mr. Hope then asked Mr. Juda why in June, July and August he failed to keep financial books and wrote in them "too busy"? Mr. Juda stated, "I was!". David Caron then inquired how much money Mr. Juda turned in and Mr. Juda indicated that he did not know, but that it was a lot on a day-to-day basis. Richard Hope indicated to Mr. Juda that no one was alleging that Mr. Juda took any money, but that it did not look good for the Board to attend Advisory Meetings unprepared and that Mr. Juda should have told him he had not kept the financial records prior to the meeting. Mr. Juda indicated that he did not inform the Board because he was too busy to do so. Mr. Hope responded to Mr. Juda by stating that there were many occasions prior to the meeting in which Mr. Juda had the opportunity to advise him that the books were not being kept. He further stated that if he had forewarned, he would have been in a position to go to Diane Martel to obtain financial records in preparation for the meeting with the Advisory Board. Mr. Hope indicated to Mr. Juda that was what prompted his advising the Advisory Board that Mr. Juda was too busy to keep records and what prompted Mr. Peirce's subsequent letter to the Board. He then indicated that the fact that his wife sat on the Advisory Board with Mr. Peirce had nothing to do with the letter sent and as such was not a conflict. Mr. Hope also stated to Ed Juda that Ronald Nicoll had informed Mr. Juda verbally of the suspension and that Mr. Juda understood and agreed with the reasons for it. Mr. Juda replied by stating that Ronald Nicoll indicated that the suspension was for 3 days and further that he did not provide him with a reasons for the suspension. Hope indicated that he had been advised that Mr. Juda alleged that he did not keep financial records because the squares were too small and that if that was, in fact, his reasons for failing to keep said records that he could take two or three squares, but that the tax payers of the Town had a right to know what the landfill took in. Mr. Juda then indicated that he had not received the information for the glass from the Board of Health. Mr. Hope stated that the information was supplied

to Mr. Juda. Mr. Juda then alleged that he received only 2 of 3. Hope then went on to say that he thought Mr. Juda took pride in his work. Mr. Juda responded by stating that the job required a larger time commitment than he bargained for.

The next issue discussed was Mr. Juda's pay. Mr. Hope asked Mr. Juda when he submitted his pay. Mr. Juda stated either on Thursday, Friday or Saturday. Mr. Hope indicated that he generally received Mr. Juda's hours on a Saturday and that he would give them back to Mr. Juda on a Saturday afternoon. He also indicated that Mr. Juda used to go to Mr. Hope's home and that a pay voucher would be made out at that time, and that if he did not have a pay voucher readily available that he would give Mr. Juda the keys to the Town Hall for purposes of obtaining same. Mr. Hope agreed, however, that Mr. Juda should not have to go through such a procedure to obtain his pay. Mr. Juda indicated that he also worked for the Highway Department and that he did not have to go through such a procedure there. Mr. Hope then indicated to Mr. Juda that the Board of Health was a part-time Board and that it did not have the access the Highway Department did, but that arrangements to accommodate Mr. Juda would be made. Mr. Juda then inquired about the ten hours which he had not been paid for. David Caron indicated that the cause for non-payment was that the dates were wrong and that the Board received a letter from a letter from Carol Plumb. Mr. Juda then indicated that on a couple of occasions he had to wait a month to get paid and that the Board was not doing it's job. Mr. Caron indicated that the situation would be taken care of immediately.

Mr. Juda then went on to discuss his not being paid to attend Board Meetings and informed the Board that there was nothing in the General Laws stating that he should not be paid for that time. Richard Hope then indicated that he was uncertain whether or not Mr. Juda could be paid for attending Board of Health meetings. David Caron indicated that Mr. Juda was his own boss, that he represented the Board and that the Board members did not get paid to discuss the landfill goings on with Mr. Juda. Mr. Caron then asked Mr. Juda if he felt it was wrong of the members of the Board to ask him to attend a meeting and, further, if it was wrong not to pay him. He then inquired whether or not the taxpayer should be required to pay Mr. Juda for attending Board of Health meetings. Mr. Hope indicated that the Board would bring up Mr. Juda's attendance at Board of Health meetings at the next Special Town Meeting and that he would let the citizens of the Town decide whether or not Mr. Juda should be paid. Mr. Juda then inquired as to how the time for attending Board of Health meetings should be presented. Mr. Hope indicated to Mr. Juda that it should be done in the same manner as his regular hours (mileage and time). He also indicated that he would like a notation made with respect to the topic of the meeting and a summary of the goings on. Mr. Caron further stated that Mr. Juda would be provided with some type of documentation from the Board if, in fact, the Board was going to have Mr. Juda attend a meeting of the Board's behalf.

Richard Hope then indicated to Mr. Juda that he was owed 10 hours plus 4 hours on Tuesday. After some discussion, it was determined that Mr. Juda was only owed 10 hours. Mr. Juda then inquired as to the time lost for standing at the dump, as he had not been

formally served with his suspension and that all he had was a man's good word. David Caron made a Motion which was Seconded by Richard Hope and it was UNANIMOUSLY VOTED to pay Mr. Juda for the 10 hours he was previously owed plus for 2 hours on Saturday, December 3, 1994.

Mr. Juda then indicated that the Board was not doing its job and that the Grievance Hearing should have been conducted sooner as it was to be conducted within 48 hours. Mr. Hope responded by stating that the Board of Health was a part-time Board, with a part-time Clerk. He also indicated that Mr. Caron had just been discharged from the hospital and that Ronald Nicoll was presently in the hospital. He also indicated that Mr. Caron had informed Mr. Juda about the meeting. Mr. Hope also indicated that he was uncertain whether or not a meeting could be conducted without a majority of the Board present and that he picked up the grievance on a Sunday night. At that time, he again indicated to Mr. Juda that the Board of Health was a part-time Board and normally met twice a month.

Mr. Hope then asked Mr. Juda why it was Mr. Juda's contention that Mr. Hope had a "vendetta" against him. Mr. Juda indicated that he had worked for the town for 3 years and had never had a problem until recently. Mr. Hope stated that the Board had a job to do and that if he thought the action taken against him was personal that he was wrong. He also indicated that the action was not taken because of the financial records. Mr. Juda responded by stating that it all started with the first letter. Mr. Hope indicated that the first letter was given to him because he had someone cover for him without advising the Board. Mr. Juda then went on to say that he next received his job description. Mr. Hope responded by stating that Mr. Juda had previously requested a job description. Mr. Juda then stated that he felt that he was not going to get anywhere with the Board of Health at this time. Mr. Hope indicated to Mr. Juda that he was not terminated and that he could come back to work. Mr. Juda then indicated that he would like to come back to work prior to the 18th. Mr. Caron indicated that he had no problem with Mr. Juda coming back before December 18, 1994. Mr. Juda indicated that he did agree that there was a problem with the books. Mr. Juda then inquired whether or not there had been any previous discussion about metal prior to this? Both Dave Caron and Richard Hope indicated the "metal" was not the whole issue. Mr. Hope indicated that there was junk around the trailer. David Caron indicated that if Mr. Juda was ready to do the job that he would be in favor of him returning to work before the 18th. Mr. Caron further indicated to Mr. Juda that the books were a direct reflection on the Board. Mr. Juda responded by stating that the books were not his area of skill. Mr. Juda then stated that he would like a request made that citizens do not deal in cash at the landfill. Richard Hope indicated that efforts could be made, but that he could not guarantee that everyone would go along with it. Mr. Juda indicated that he was not licensed to carry large amounts of cash on himself and that he did not want that type of responsibility. Mr. Caron stated that when dump stickers were being sold at the landfill either himself or the Chairman would pick up the money at 4:00 p.m. David Caron then made a Motion to lift Mr. Juda's suspension and allow him to return to work on Saturday, December 17, 1994. Mr. Hope stated that in order to Vote that he first needed to ascertain that Mr. Juda understood that he

would face termination if he did not do his job. Mr. Hope also stated that it would be necessary to ascertain that Mr. Juda did, in fact, understand the reasons why he was suspended. Mr. Juda responded that he did not understand the suspension, at which time Mr. Hope then read the Suspension Notice to Mr. Juda. Mr. Juda stated that the job description which contained his notation "I do not attend recycling meetings without pay. I do not volunteer my time!!!", had been attached to the Suspension Notice and that he inferred it to mean that the reason for his suspension was that he would not attend recycling meetings. Richard Hope then stated that the landfill was presently clean and that was the way in which he wanted it to stay. Mr. Juda responded by stating that he could keep it clean, but that if it rained or snowed that the Board should not expect it to look like a model. Mr. Caron then stated to Mr. Juda that the Board of Health was mandated by the Department of Environmental Protection. Mr. Juda then inquired whether or not he was responsible for barrels being knocked over on a windy day or during times when he was not working at the landfill, to which Mr. Hope replied, "No."

Mr. Caron then asked Mr. Juda if he felt he could do the job in a manner in which would please the Board of Health, Town and Department of Environmental Protection, to which Mr. Juda replied, "Yes...". Mr. Hope then indicated to Mr. Juda that he wanted the area kept clean. Mr. Hope also indicated that it was the Board's intent to put tire fencing in and that if it required more time that the members of the Board would assist Mr. Juda. Mr. Hope further stated that he believed there was a problem and that he was uncertain what it was. David Caron stated that the members of the Board would help Mr. Juda at any time. Mr. Hope then asked Mr. Juda whether or not he believed Mr. Hope would help him. Mr. Juda responded by stating that prior to November he believed Mr. Hope would help him. Mr. Caron again asked Mr. Juda whether he thought he could handle the job as described. Mr. Juda responded, "Yes", but then inquired as to who's fault it was if vendors did not show up when called. David Caron responded by stating that both Mr. Juda and the members of the Board knew it was not Mr. Juda's fault. David Caron then made a Motion which was Seconded by Richard Hope and it was UNANIMOUSLY VOTED to allow Mr. Juda to return to work on Saturday, December 17, 1994, with acknowledgement from Mr. Juda that he knew why he was suspended and what was expected of him.

Mr. Juda's wife then stepped into the room and inquired as to whether or not Mr. Juda would receive pay for the time in which he was suspended. Mr. Hope responded by stating that he could not pay Mr. Juda as he had a responsibility to the town.

---end of grievance hearing-----

Richard Hope then advised Ed Juda and the other members of the Board that Channel 8 would be at the landfill on Saturday, December 17, 1994 for purposes of explaining the process and how to do it. He also indicated to Mr. Juda that he was welcome to participate if he wanted to. Mr. Hope also indicated to Mr. Juda that he had a future with the Town and that Brookfield had to recycle regardless of whether it went with a transfer station or to curbside pickup. Mr. Hope also indicated to Mr. Juda that he acknowledged his concern with respect to demolition and where the

money goes and that the issue would be addressed at the next Town Meeting.

Richard Hope then went on to discuss a memorandum received from Carol Plumb concerning a prospective aluminum can vendor. Ed Juda requested that the matter be tabled for a later time and left the room a few moments later.

All matters having been addressed, Richard Hope made a Motion which was Seconded by David Caron, and it was UNANIMOUSLY VOTED to adjourn the meeting at 8:50 p.m.

Minutes prepared by Sandra Guyette, Clerk.

Minutes Approved:

Date: JAN - 4 - 95

Richard Hope (by)
Richard Hope, Chairman

David Caron
David Caron

Sandra Guyette
Sandra Guyette, Clerk