



TOWN OF MONTEREY

October 5, 2021

BY HAND DELIVERY

Ms. Melissa Noe
Town Administrator
Monterey Town Hall
435 Main Road
Monterey, MA 01245

RE: Notice of Administrative Leave

Dear Ms. Noe:

Please accept this letter as written confirmation that the Monterey Select Board placed you on a paid administrative leave status from your position as Town Administrator, effective October 4, 2021, pending the completion of an investigation to be conducted by an independent investigator. Your being placed on paid leave and your receipt of this document do not constitute discipline.


While on administrative leave, you are ordered not to report to duty, perform any duties of your office on behalf of the Town, or enter upon Town property or contact Town personnel, without the Board's expressed and written authorization and approval. You are directed to be available during your normal working hours to answer questions and respond to requests from the Town relative to Town business. To the extent you have not already done so, you shall arrange with the Police Chief for the return of any Town-owned equipment in your possession, including, but not limited to keys, Town documents/files, Town-owned electronic devices, including computers, tablets, or cell phones, and any and all passwords, currently in your possession.


Your failure to follow any of the orders listed above will result in the issuance of discipline.

A copy of this letter will be placed in your permanent personnel file.

This leave will continue until you are notified otherwise.

Sincerely yours,


Justin Makuc
Town of Monterey
Select Board


John Weingold
Town of Monterey
Select Board

COHEN | KINNE | VALICENTI | COOK

Christopher M. Hennessey
Admitted in MA, CT & NY

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October 6, 2021

VIA FIRST CLASS MAIL AND EMAIL:

steve@montereyma.gov; johnw@montereyma.gov; justin@montereyma.gov

Steven Weisz, Chair
John Weingold, Member
Justin Makuc, Member
Members of the Town of Monterey Select Board
435 Main Rd
P.O. Box 308
Monterey, MA 01245

Re: Melissa Noe, Town Administrator

Dear Members of the Town of Monterey Select Board:

This firm represents Melissa Noe, Town Administrator of the Town of Monterey, in connection with the purported Notice of Administrative Leave dated October 5, 2021 ("Notice") sent by the Town of Monterey Select Board ("Select Board"), placing Ms. Noe on paid leave. The Select Board's actions constitute violations of Ms. Noe's rights under state and federal law and constitute a clear breach of contract. This is a formal demand that you reinstate Ms. Noe effective immediately.

We are still investigating this matter. At this time, it appears, among other things, that the Executive Session that occurred on October 4, 2021, during which you voted to suspend Ms. Noe, was improper and constitutes a violation of Ms. Noe's contract, the Open Meeting Law and a violation of due process. There was no notice of the Select Board's intent to suspend Ms. Noe prior to the hearing and the Select Board ignored the concerns raised by Ms. Noe upon her receipt of the September 22 Executive Session notice. Ms. Noe had no meaningful opportunity to hold the meeting in open session. As the Open Meeting Law guidelines clearly state:

The individual who is the subject of the discussion may also choose to have the discussion in an open meeting, and *that choice takes precedence over the right of the public body to go into executive session.* (Emphasis supplied.)

The complaint that formed the basis of the suspension contains false and defamatory allegations. Ms. Noe had no meaningful opportunity to present evidence or information prior to the Select Board's vote and was expressly prohibited from presenting evidence. Moreover, the Notice contains restrictions that were not discussed or acted upon at the Executive Session. The Notice is also replete with overreaches (e.g., that Ms. Noe is prohibited from "enter[ing] on Town property or contact[ing] Town personnel"), which violate Ms. Noe's civil and constitutional rights.

COHEN | KINNE | VALICENTI | COOK LLP *Attorneys*
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RESPOND TO MAIN OFFICE:
28 North Street, 3rd Floor
Pittsfield, MA 01201

244 Main Street
Great Barrington, MA

October 6, 2021

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This letter constitutes notice of violation of law. Please further accept this letter as formal notice of Ms. Noe's request for a public hearing on the suspension. Be advised that we are authorized to take action to vindicate Ms. Noe's rights if you fail to immediately reinstate her.

Sincerely,

COHEN KINNE VALICENTI & COOK LLP

A handwritten signature in black ink, appearing to read "CH", with a long horizontal stroke extending to the right.

Christopher Hennessey

255726/3466-001

10-6-21

To Whom it may concern:

Due to the negative actions of a select group of people and in the best interest of my mental and physical health I hereby resign my position of highway department foreman. My last day of employment by the town will be October 22, 2021 after the customary two weeks notice. Thank you for the opportunity to serve the town and its residents it has been an honor and a privilege.

Sincerely,



Kevin Fitzpatrick