



529 Main St. Ste. 200
 Charlestown, MA 02129
 617-396-4600

INVOICE

DATE:

December - January 2022

BILL TO:
 Town of Monterey - investigation
steve@montereyma.gov

DESCRIPTION	HOURS	RATE	AMOUNT
Michele Walsh			
Initial review Complaints	1.5	\$ 250.00	\$ 375.00
Prepare for Interview with SB Members Weingold and Makuc; Interview SB Member Weingold; Interview SB Member Makuc	3.4	\$ 250.00	\$ 850.00
Interview Ms. Tomasovich	0.9	\$ 250.00	\$ 225.00
Receipt and review of additional documents provided by SB Makuc	0.8	\$ 250.00	\$ 200.00
Prepare for Interview with SB Member Weisz, including review of documents he presented for investigation and continued review of documents provided by SB Makuc	1.8	\$ 250.00	\$ 450.00
Interview SB Member Weisz	2.2	\$ 250.00	\$ 550.00
Prepare for Interview with Town Clerk	0.8	\$ 250.00	\$ 200.00
Interview Town Clerk	1.5	\$ 250.00	\$ 375.00
Prepare for Interview with Town Administrator; Interview Town Administrator	4.6	\$ 250.00	\$ 1,150.00
Interview Con Comm member Jeremy Ravitz	1	\$ 250.00	\$ 250.00
Receipt and review of additional documents provided by Terry Walker, including Colburn threats	0.5	\$ 250.00	\$ 125.00
Interview of Caleb Williams; Interview of Gary Shaw, including receipt and review of additional email correspondence from Mr. Shaw re newspaper correspondence	2	\$ 250.00	\$ 500.00
Interview of Pauline Banducci; receipt and review of email correspondence from Ms. Banducci re communications with Town Admin and others; follow up email to Ms. Banducci re communications with Atty Macuk	1.4	\$ 250.00	\$ 350.00
Corinne Greene			
1/4 prepare for and attend interview with S.Weitz	2.5	\$ 350.00	\$ 875.00
1/5 correspondance with M. Noe re: schedule interview; discussions with M. Walsh	1	\$ 350.00	\$ 350.00
1/6 prepare for and attend interview with T. Walker	2	\$ 350.00	\$ 700.00
1/10 attend interview with M. Noe	4	\$ 350.00	\$ 1,400.00
1/11 interview with Jeremy Rawitz	1	\$ 350.00	\$ 350.00
1/19 interviews with Caleb and Gary Shaw	2	\$ 350.00	\$ 700.00
12/10 review complaint summary from M. Walsh	0.4	\$ 350.00	\$ 140.00
12/12 review complaints; draft email to town requesting contact information	0.5	\$ 350.00	\$ 175.00
12/20 prepare summary of individual complaints; email individuals to schedule interviews	1.8	\$ 350.00	\$ 630.00
12/21 interview with Nancy Tomasovich	1.2	\$ 350.00	\$ 420.00
12/22 interview with J. Weingold and J. Mazuk	2.5	\$ 350.00	\$ 875.00
TOTAL AMOUNT DUE	41.3		\$ 12,215.00



INVOICE

529 Main St. Ste. 129
 Charlestown, MA 02129
 617-396-4600

DATE:
 February- March 2022

BILL TO:
 Town of Monterey
 Re: Investigation

DESCRIPTION	HOURS	RATE	AMOUNT
ATTORNEY MICHELE WALSH			
2/2/2022 Select Board Meeting	0.5	\$ 250.00	\$ 125.00
2/5/2022 Receipt and review of email correspondence from Town Clerk; Receipt and review of email correspondence from Don Coburn	0.2	\$ 250.00	\$ 50.00
2/7/2022 Email correspondence with Town Clerk re request for Facebook evidence	0.1	\$ 250.00	\$ 25.00
2/22/2022 Draft Investigative report, including review and inclusion of Town employment policies	3.6	\$ 250.00	\$ 900.00
2/24/2022 Draft Investigative report, including review and inclusion, as relevant, of Town Bylaws and research re appointing authority for relevant boards/commissions	3.7	\$ 250.00	\$ 925.00
2/27/2022 Receipt and review of email correspondence with Town Clerk re her email correspondence from Don Coburn, including review of same	0.3	\$ 250.00	\$ 75.00
3/1/2022 Receipt and review of email correspondence with John Wiengold re investigation, including review of provided documents; Continue draft investigation report	4.5	\$ 250.00	\$ 1,125.00
3/3/2022 Receipt and review of multiple email correspondences from John Wiengold; Continue draft investigative report re investigative procedures and events	3.1	\$ 250.00	\$ 775.00
3/4-5/2005 Receipt and review of multiple email correspondences from Town Clerk re allegations of continued harassment and review of provided documents	0.4	\$ 250.00	\$ 100.00
3/6/2022 Receipt and review of email correspondence from Town Clerk re SB minutes, including review of same	0.2	\$ 250.00	\$ 50.00
3/7/2022 Receipt and review of email Correspondence from Town Clerk re public record requests	0.1	\$ 250.00	\$ 25.00
3/8/2022 Continue draft investigative report re deliniated findings	3.3	\$ 250.00	\$ 825.00
3/9/2022 Receipt and review of email correspondence with John Weingold re Weisz documents	0.1	\$ 250.00	\$ 25.00
3/10/2022 Receipt and review of email correspondence with Jon Sylbert re requested documentation of emails reference in interview, including review of same relative to his pending complaint	0.6	\$ 250.00	\$ 150.00
3/11/2022 Receipt and review of email correspondence from Town Administrator re complaints relative to Makuc; Continue draft investigative report re findings	4.1	\$ 250.00	\$ 1,025.00
3/14/2022 Continue draft investigative report, re conclusions	4.4	\$ 250.00	\$ 1,100.00
ATTORNEY CORINNE HOOD GREENE			
attend select board meeting	0.5	\$ 350.00	\$ 175.00
review and edit investigative draft report	4	\$ 350.00	\$ 1,400.00
TOTAL	33.9		\$ 8,925.00

Proposed

FINAL WRITTEN WARNING

TO: Melissa Noe, Town Administrator
FROM: Monterey Select Board
DATE: April 27, 2022
RE: Conduct and Behavior as Town Administrator

Investigation and Report

On December 9, 2021, the Monterey Select Board (“SB”) engaged Greene & Hafer of Charlestown, Massachusetts, a law firm specializing in employment law, to act as an independent third party to investigate complaints concerning Monterey Town employees that were filed with the SB by citizens, members of the SB, and employees of Monterey during the period July – November 2021. By written report, dated March 17, 2022 (“Report”), Corinne Hood Greene, a partner in Greene & Hafer, submitted the firm’s investigation findings to the SB. As expressly stated by Greene & Hafer in its Report, the law firm acted independently in conducting its investigation; it said it knew none of the persons involved in the investigation, had no interest in the outcome of the investigation, and had not previously worked for the Town. Greene & Hafer’s findings in its Report were accepted by the SB at an Executive Session meeting on March 23, 2022.

The Report states that Greene & Hafer reached its findings by reviewing each written complaint and its claims, interviewing witnesses, reviewing additional documents and assessing the information obtained from this evidence as well as relevant background information. Greene & Hafer made credibility findings and judged the weight to be given to each employee’s statements.

Among the documents reviewed by Greene & Hafer was the Town’s Employee Manual. The Town policies in the Manual include a specific policy on behavior and conduct in the workplace. This policy, par. Q “Harassment”, of the section of the Manual titled “Employment Policies,” states in relevant part:

“It is essential the Town of Monterey provide a work environment that is comfortable and free from intimidation, hostility or other offenses that might interfere with work performance. Harassment of any sort – spoken, written, physical, visual – will not be tolerated. Harassment can take many forms. It may be, but is not limited to: words, signs, jokes, pranks, intimidation, physical contact or violence. Harassment is not necessarily sexual in nature. Any, action which is verbally or physically threatening, coercive or creates a hostile work environment, will be viewed as harassment.” (Employee Manual for the Town of Monterey, page 14)

Complaints against Melissa Noe, Town Administrator

Several of the complaints investigated by Greene & Hafer were filed against you (“you” or “Noe”), as Monterey’s Town Administrator, for alleged violation of the Town’s Policies, as embodied in its Employee Handbook, and statutory law. Of these, Greene & Hafer’s findings on the following four (4) complaints are the subject of this Final Written Warning.

Justin Makuc First Complaint against Noe dated September 19, 2021

This Complaint alleged that Noe reached out, in writing, to a single member of the SB, Justin Makuc (“Makuc”), to attempt to dissuade him from pursuing an investigation of claims made by the Town Clerk, Terry Walker (“Walker”), who directly reports to Noe. In its Report, Greene & Hafer found that “Noe proceeds to urge him (Makuc) and SB to dismiss Walker’s Complaints” concerning the July incident between the two of them (Noe and Walker) (and (Shawn) Tryon).” In assessing the September 19, 2021 Complaint by Makuc, which was followed by another Complaint by Walker against Noe on September 22, 2021, (see below) Greene & Hafer addressed Noe’s authority as Town Administrator, her intent to retaliate, intimidate and coerce Walker, and a pattern in Noe’s conduct.

Greene and Hafer found:

“As set forth above (with regard to the Makuc email) and below (in the context of other complaints), we find that Noe has undertaken several actions intended to retaliate, intimidate or otherwise coerce Walker. Moreover, based on the findings concerning our investigations of [other] complaints, we find there is a pattern of behavior whereby Noe has taken action against employees or individuals whom, in her estimation, have undermined her authority or otherwise challenged her.”
(page 9)

In connection with this attempt by Noe to “retaliate, intimidate or otherwise coerce” Walker, Greene & Hafer found that “Noe has also personally urged Walker to drop her claims” in concert with others who threatened Walker’s livelihood and reputation if Walker did not withdraw her claims. In particular, Greene and Hafer cited “(t)he most egregious example of conduct undertaken by a current or former SB member” to make Walker withdraw her complaints was a direct threat to Walker in a November 24, 2021 email from Don Coburn (a former SB member) to Walker titled “Perhaps it’s time to apologize and pray.” That email, as quoted in the Report states, in relevant part:

“Remember when I alerted you to the risks of precipitating an investigation ... [B]efore acting to bring your work history to the public’s attention, I thought I’d give you one last chance to publicly apologize for all the complaints you’ve filed against Melissa, Shawn, Steve, Ellen and me, and to formally withdraw them permanently. Perhaps then the Select Board will allow you to continue to work until your planned retirement. ... If you apologize and permanently withdraw your complaints BEFORE the end of TODAY’S SELECT BOARD MEETING, the information I have will be kept private.” (page 11)

Walker Complaint Against Noe dated September 22, 2021

This Complaint alleged that Noe's behavior towards Walker in the hallway of Town Hall immediately following a SB meeting placed Walker in fear for her personal safety, as similar behavior had on July 21, 2021, when she raised this fear in her Complaint of that date. With regard to the September 22 incident, Greene & Hafer found "Noe admits that she yelled at Walker" after the SB meeting and "given Noe's admission" and the fact that both SB Member, Steve Weisz and Gary Shaw, former Assistant Town Clerk, were compelled to intervene, "we credit his (Shaw's) description" of the incident.

Greene & Hafer found:

"Gary Shaw, former Assistant Town Clerk and assistant to Walker, witnessed the conduct at the meeting and after, describing Noe's behavior as belligerent toward both Walker and the SB members. We credit his description, given Noe's admission." (page 10)

Greene & Hafer further found:

"[I]f Weisz and Shaw were both compelled to intervene, Walker's fear [for her safety] was reasonable. ... [A]cts of violence is noted in the employee manual as one of the egregious behaviors that may warrant immediate dismissal. Where this was the second such incident admitted by Noe, we find disciplinary action was warranted ... By the time this incident occurred, the SB was on notice of Walker's first complaint in which she made specific allegations, including fear of physical violence." (page 10)

Makuc Third Complaint against Noe dated October 16, 2021

This complaint alleged that Noe engaged in intimidation and retaliation against Walker. Green & Hafer found that Noe took actions "to discourage, intimidate or otherwise dissuade Walker from pursuing her claims." Moreover, the Report states that Noe shared with Greene & Hafer documentation she personally obtained "in an effort to discredit Walker," and that "the same information was the subject of threats (made by [Don Coburn]) directly to Walker demanding that she stop pursuing her complaints or have this information (which he intended to be damaging to her reputation) exposed."

Greene & Hafer found:

"The actions [Noe] has taken, highlighted in this Makuc complaint, may be considered retaliatory if they amount to an adverse employment action against Walker. ... [and] the SB is publicly considering what the impact of some of the information from her past should have on her current employment. Any adverse employment action which can be directly related to her complaints may expose the Town to liability." (page 13)

Greene and Hafer found:

“Our investigation revealed a significant number of potentially actionable retaliation claims, some of which may be adjudged serious and ongoing. ... [T]he actions of the SB and Noe are likely imputable to the Town and therefore may subject the Town to liability. Immediate action must be taken to address retaliatory conduct, including assuring employees who have initiated complaints that they have the right to be free from retaliation and providing a conduit through which any such conduct can be reported.” (page 19)

Walker Complaint Against Noe dated September 9, 2021/Corresponding Complaint of Noe Against Walker in Response dated September 13, 2021

This Complaint by Walker, and the corresponding Complaint of Noe, each alleged false statements by the other individual. Greene & Hafer deemed the “underlying veracity of each allegation and counter immaterial,” but found these complaints “actionable to the extent that they shed light on the underlying issue of retaliation by Noe.”

Greene and Hafer found:

“Noe’s control over the agenda provides an avenue for her to raise alleged performance issues in a public forum in an attempt to disparage, whereas such issues should be addressed in the workplace between a supervisor and employee.” (page 9)

Greene and Hafer further found:

“[T]wo members of the SB provided credible evidence of instances in which they allege Noe manipulated agenda items for SB meetings.” (page 14)

Disciplinary Action

In view of the seriousness of the allegations against you which were made in the above Complaints, the Town’s explicit policy in its Employee manual against harassment, and the findings of Greene & Hafer that you have “undertaken several actions intended to retaliate, intimidate or otherwise coerce Walker” and that “there is a pattern of behavior whereby [you] ha[ve] taken action against employees or individuals whom, in [your] estimation, have undermined [your] authority or otherwise challenged [you],” we are issuing you a Final Written Warning on your behavior and conduct as Town Administrator.

In doing so, we have considered both the Report’s finding and our own efforts to conduct yourself to behave appropriately with SB members and Town employees, and the fact that your behavior toward Town employees has exposed the Town to potential liability.

We, as members of the SB, will immediately address your retaliatory conduct with our Town’s employees and assure all Town employees, including those employees who have initiated complaints, that they have the right to be free from retaliation and should report all complaints of retaliation, intimidation and coercion directly to the Select Board.

In conjunction with this Final Written Warning, we admonish you that if you, directly or indirectly, whether acting on your own or through others, engage at any time in retaliatory, intimidating or coercive behavior or commit any other violation of Town Policy or law, you will be further disciplined up to and including termination of employment.

Steve Weisz: _____ Date: _____

John Weingold: _____ Date: _____

Justin Makuc:  _____ Date: 4/27/22

The Monterey Select Board