



TOWN OF MONTEREY

435 Main Rd. P.O. Box 308
Monterey, MA 01245

September 15, 2022

BY HAND

Dear Ms. Walker:

On behalf of the Select Board, you are hereby notified that a hearing will be held before the Select Board on Wednesday, September 21, 2022 at 5:30 pm in the Town Hall Meeting Room. The purpose of this hearing is to discuss: 1) your failure to appear for work at the hours set by the Select Board; 2) failure to appear before the board in a timely manner to discuss work-related issues; 3) incorrect advice regarding schedule for special election and financial accounting of election; 4) error-ridden list of current board and committee members; 5) issues concerning back up of critical data and IT provider; 6) failure to submit to Division of Local Services "as soon as possible" the May Town Meeting vote on establishment of OPEB Trust Fund. The Board will discuss whether discipline, up to and including termination, is warranted based on the information provided at the hearing.

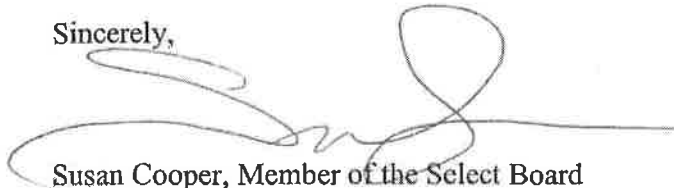
The hearing will be conducted in executive session pursuant to G.L. c. 30A, § 21(a)(1), unless you request that the meeting be held in open session. Under this same statute, you have the following rights:

- i. to be present at such executive session during deliberations which involve you;
- ii. to have counsel or a representative of your choosing present and attending for the purpose of advising you and not for the purpose of active participation in the executive session;
- iii. to speak on your own behalf; and
- iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at your expense.

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

Please contact me if you would like to elect for the hearing to be held in open session.

Sincerely,



Susan Cooper, Member of the Select Board

Town Administrator

Subject: FW: IT email chain

From: clerk montereyma.gov <clerk@montereyma.gov>
Sent: Friday, September 2, 2022 4:03 PM
To: susan montereyma.gov <susan@montereyma.gov>; justin montereyma.gov <justin@montereyma.gov>; scott jenssen <scottjenssen9@gmail.com>; hr montereyma.gov <hr@montereyma.gov>
Subject: RE: IT issues

I received this email I chose not to discuss at this time.

Terry Walker

----- Original Message -----

Subject: IT issues
From: <susan@montereyma.gov>
Date: Fri, September 02, 2022 7:11 am
To: "clerk@montereyma.gov" <clerk@montereyma.gov>, "Justin Makuc" <justin@montereyma.gov>, "scott jenssen" <scottjenssen9@gmail.com>, "hr@montereyma.gov" <hr@montereyma.gov>

Hi Terry,

I did not include that issue in my response as I wished to discuss the issue with the other Select Board members at open meeting. Justin felt that it was not properly on the agenda, so that discussion has been postponed until a future meeting. I have asked that it be on next week's agenda, and further that both you and the HR director be present so that all of the discussion regarding IT can be completed in one meeting rather than being drawn out over a long series of emails. I hope that Justin passed on our request that you be physically present at the Board meeting on September 9th, and that this time you will be present.

I will however note that there was a substantive error in your email regarding this topic. Firstly, there are currently only two IT businesses serving the town. One serves the police department. The Police Department uses a different server, one that is used by many local and state police departments. Their IT company also serves many of the local Police Departments and is familiar with the needs, security and other issues specific to law enforcement. The second serves the entire rest of the town. That business employs several different individuals, so some of your confusion may be that you did not realize that the our IT business has more than one employee. The Board as a whole should discuss whether it is prudent to have more than one IT company handling our server.

Furthermore, as I understand it, Mr. Roy himself was not the individual working with you at the time of the data deletion some years ago, but rather his employee. The Town Administrator informed me that Mr. Roy was now taking responsibility for the Clerk's office himself to address precisely that concern.

A central topic you raise is the question of adequate back-up for the critical information stored by the Clerk's office. Hopefully, with your presence at our meeting, the Select Board will be able to get accurate information concerning how those systems are currently backed up. Your message implies that in addition to your thumb drive, the town's information is currently stored off-site by another third party, presumably LL Data. Is this cloud storage or physical storage? What are the

protections on that system and is that system secure? Proper back-up of data would have prevented the very difficulty you have said arose some years ago.

I am certain we all agree that reliable and competent IT service is vital, and further that all town data should be adequately and securely stored and backed up. What remains to be discussed is how those goals should be achieved, and what impediments have caused such a lengthy delay in this matter being sensibly resolved.

I look forward to meeting with you next week to resolve this matter,

Susan Cooper
Monterey Select Board

413/429-7099
susan@montereyma.gov

----- Original Message -----

Subject: [FWD: RE: meeting follow up]
From: <clerk@montereyma.gov>
Date: Thu, September 01, 2022 8:00 pm
To: "susan@montereyma.gov" <susan@montereyma.gov>, "Justin Makuc" <justin@montereyma.gov>, "scott jenssen" <scottjenssen9@gmail.com>, "hr@montereyma.gov" <hr@montereyma.gov>

Hi Susan,

IT Tom Roy issue:

In your email response of August, 31, 2022, you neglected to response to my issues concerning Tom Roy. In my previous response, I stated that Justin Makuc, mentioned to me Tom Roy, Melissa Noe's IT guy was at town hall on August 30th trying to access my computer but couldn't gain access.

Gary Shaw attended a ZBA meeting on August 30th and Tom Roy was still at town hall. TA Melissa Noe approached Gary Shaw, and Susan, you were present during this discussion, Gary was asked if he knew the password to my computer or Megan Duffy, a former town clerk assistant's password. TA Melissa Noe wanted Tom Roy to access the Town Clerk's computer. Gary Shaw said he did not have the passwords. TA Melissa Noe said you can just enter the password so we can gain access to the Town Clerk computer and I won't even be in the room. Gary Shaw again stated that he didn't know the password.

I don't know why other departments have IT professionals that they choose and I am denied IT services that I trust. Given the last time Tom Roy updated files in my computer, he deleted over 10 years of data, so even if I were in my office, I wouldn't want Tom Roy to update my computer.

I have a problem with other individuals accessing my computer when I am not in the building. All my information is very confidential.

Terry Walker
Monterey Town Clerk

----- Original Message -----

Subject: RE: meeting follow up

From: <susan@montereyma.gov>

Date: Wed, August 31, 2022 6:50 am

To: "clerk@montereyma.gov" <clerk@montereyma.gov>

Hi Terry,

Rest assured your questions will be discussed at the Select Board meeting. Hopefully your new hours will allow such discussions to be conversations at our meeting so that you can be part of that process. All of these matters are regrettably drawn out when questions and answers must take place over weeks.

I apologize for my previous incorrect statement regarding the timeline for employee responses to Select Board questions. Justin pointed out that our adopted policy actually says within 3 business days or the next day that an employee is regularly scheduled to work. My frustration stemmed from asking questions regarding your missives and repeatedly not getting answers before our next scheduled Select Board meeting at which the topic would be discussed, notably when you had been clear that urgent action was needed. I will further note that several times my email was sent on a Monday or Tuesday and your response was dated the following Sunday, even though you had regular posted hours in the intervening Thursday, Friday and Saturday. You have been much prompter in your recent responses, for which I thank you.

As you are no doubt already aware, the new time clock system is planned to be town wide. It is being phased in to allow for modifications that may be necessary for each department. You were not the first department to be transitioned to the new system, nor will you be the last. Change is sometimes uncomfortable, but it is also a normal and predictable part of life.

Thank you for getting back to us about Special Town Meeting availability times.

Susan Cooper
Monterey Select Board

413/429-7099
susan@montereyma.gov

----- Original Message -----

_Subject: _RE:_meeting_follow_up

_From: _<clerk@montereyma.gov>

Date: Tue, August 30, 2022 8:48 pm

To: "Justin Makuc" <justin@montereyma.gov> ,

"susan@montereyma.gov"

<susan@montereyma.gov> , "scott jensen"

<scottjenssen9@gmail.com> ,

"hr@montereyma.gov" <hr@montereyma.gov>

Hi Justin,

I wanted to have these questions answered before tomorrow evening.

Direct Report: Thank you. I do not want any communications with the Town Administrator, Melissa Noe, ever again. This is not a healthy situation.

Time Clock web software: As you know, the training did not go well. First of all I was locked out of the system. By the time it was unlocked, you had to leave. The instructions were very vague and today is August 30th and I still do not have training. You said Town Administrator gave you instructions that weren't for employees only supervisors. Also, why aren't the Assessors and Building Inspector not being mandated to use the time clock? Select person Cooper said there is a policy for me to respond to her emails within 24 hours. This means I need to work from home as I have done in the past answering emails and phone calls. I have an email from TA Noe telling me that I should be using town hall computers to do my job. I have been answering emails and phone calls from home for the last 6 years.

IT Tom Roy: I am not only uncomfortable using the Town Administrator's IT person but I refuse to allow him to do anything with my computer. After Tom Roy lost 4 modules, dog licenses, boards and commissions, marriages and Doing Business As (DBA), I utilized the IT person from LL Data Design (Lisa) and she worked with Tom Roy for weeks trying to retrieve the information. Everything was lost and all this information had to be reentered manually. the Board and commissions took the longest because there was 10+ years of data to enter. So now I back up to a thumb drive and LLData Design now in Delaware backs up all data as well. I knew I needed an IT company and had one in Pittsfield, TA Melissa Noe told me I could never get them back and she basically said she never wanted to see them again. They had told her it was not a good idea for one person to control the website and server. The IT guy told me Melissa gave him a hard time and he wouldn't come back to help me. My question is why do the Selectmen allow the police, Assessors and Town Administrator to have 3 different IT people and I can not hire an IT guy that is capable of helping me? Melissa Noe knows the problem I had with Tom Roy but asked you, Justin, to have me leave my computer on so Tom Roy could update when I wasn't in the building. That is just absurd. Today, August 30th, Justin you told me Tom Roy was here and tried to access my computer but couldn't gain access. Just continued harassment, retaliation and Melissa Noe doing things out of spite.

Special Town Meeting Availability:

The only day I am available is Saturday, 10/8/2022 at 3:00 p.m. or Saturday 10/15/2022 anytime

Terry Walker

----- Original Message -----

Subject: meeting follow up

From: "Justin Makuc" <justin@montereyma.gov>

Date: Thu, August 25, 2022 4:25 pm

To: "clerk@montereyma.gov" <clerk@montereyma.gov>

Hi Terry,

Thank you for meeting with me this evening. I just wanted to follow up on what we talked about:

Direct Report. I will be serving as your temporary direct report. All communication that you would typically have with your supervisor should go to me, and all communication that would typically come from your supervisor will come from me. I will be communicating with the Town Administrator about any items that she needs me to relay to you, and you should communicate any items that you need to relay to the Town Administrator through me. There should not be any direct communications related to your supervision between you and the Town Administrator. I will have a weekly meeting with you to check in and discuss any items that arise during the week if they cannot be resolved over email.

Timeclock web software. I am coming in tomorrow to train you on the new timeclock web software – tentatively we agreed on 4pm, but definitely sometime between 12pm and 8pm. Please use the new web software starting this Sunday, to record your hours worked for the week of 8/28-9/3. For the week of 8/21-8/27, since you are not set up with the new web software, please email me your days and hours worked (example: Thursday 8/25, 4:30pm-8:30pm) which will be added to the new web software on the back end. You do not need to submit hours to payroll@montereyma.gov. Please also email me any days and hours that are to be paid out of elections rather than Town Clerk. Please check with me as your direct report if an emergency requires that you work more than 19.75 hours in a week. The Board/Town still needs to determine if time can be clocked in outside of Town Hall, this has not been dealt with yet.

IT Tom Roy. You let me know that you are uncomfortable with having Tom Roy access your Town computer to confirm if it is properly backing up to the Town server, due to the prior incident where he accidentally deleted your data. You informed me that your data is backed up on a flash drive and on the cloud with a company in Rhode Island. We will have to determine if this is satisfactory or if we can work towards a solution to ensure that all the data is sufficiently backed up.

Special Town Meeting availability. Please let me know as soon as you can which of the following dates you would be available for a STM:

9/17/22 Saturday – 1:00pm or later

9/29/22 Thursday – 6:00pm or later

10/8/22 Saturday – 1:00pm or later

10/13/22 Thursday – 6:00pm or later

Please let me know if you have any questions.

Best,
Justin

Town Administrator

Subject: FW: ATM DLS email chain

From: susan montereyma.gov <susan@montereyma.gov>
Sent: Friday, August 12, 2022 10:43 AM
To: clerk montereyma.gov <clerk@montereyma.gov>
Subject: RE: Two unanswered requests from the Town Administrator

Terry,

I cannot speak to previous conversations between you and Melissa. However, I can say that my experience in the professional world is that people usually expect a prompt acknowledgement of their requests, even if that acknowledgement states that their request may take a bit of time to address. Without that acknowledgement the sender does not know if their communication has been lost, is being ignored or will simply take a while to fulfill. This does not tend to foster good communication.

Some things do take time and we all have periods at work where there are priority matters, like elections, that take precedence. I will note that our town election was at the beginning of May and thus item 1 should have been dealt with some time ago.

I hope the rest of the election preparation goes smoothly.

Susan Cooper
Monterey Select Board

413/429-7099
susan@montereyma.gov

----- Original Message -----

Subject: RE: Two unanswered requests from the Town Administrator
From: <clerk@montereyma.gov>
Date: Thu, August 11, 2022 4:13 pm
To: "susan@montereyma.gov" <susan@montereyma.gov>

Susan,
Melissa always told me that I had 10 days to respond. I am very very busy and the 10 days have not elapsed.

Like I said I am working on both issues, but it will take me at least a week.

Terry Walker
Town Clerk

----- Original Message -----

Subject: RE: Two unanswered requests from the Town Administrator
From: <clerk@montereyma.gov>
Date: Thu, August 11, 2022 3:49 pm
To: "susan@montereyma.gov" <susan@montereyma.gov>

Im working on both

I have hundreds of ballots to mail by tomorrow and record in the state computer

I will let you know in a in a week. I honestly did not see Item #2 request. must have been an oversight with hundreds of emails daily.

Terry Walker
Monterey Town clerk

----- Original Message -----

Subject: Two unanswered requests from the Town Administrator
From: <susan@montereyma.gov>
Date: Thu, August 11, 2022 3:35 pm
To: "clerk@montereyma.gov" <clerk@montereyma.gov>

Hi Terry,

It has come to my attention that the Town Administrator has not gotten a timely response from you concerning two issues listed below. I know that you have been busy with upcoming election matters, but it is important that you do respond to legitimate requests from the TA. As you know there are many matters of import that flow through the Clerk's office and prompt response to communication from other members of the staff is vital to the proper operation of the town.

Item #1:

On August 4th, 2022 the Town Administrator asked you to confirm that you had properly notified the Department of Local Services, Data Analytics and Resources Bureau, of the Town's adoption of of Article 19 on the 2022 Annual Town Meeting Warrant regarding the Post-Employment Benefit Fund as is required by the state.

Here is the link to the DLS page for said notification:

<https://www.mass.gov/service-details/notification-of-acceptance-of-local-option-statutes>

Scroll down the page to: "Other Post-Employment Benefits Liability Trust Fund."

<https://www.mass.gov/service-details/notification-of-acceptance-of-local-option-statutes>

Please confirm that this has been done, along with the date of filing.

Item #2:

On August 3rd, the Town Administrator requested copies of the Board of Health Minutes from your files in the archives from Jan – June of 2004. Due to some legal issues, a resident needs verification that something occurred during one of those meetings. Melissa is being asked to certify a legal document which she cannot do without documentation and an accurate date concerning when the Board of Health acted. These minutes occurred before she was employed with the town and she therefore does not have them in her files. This is a legitimate request, not unduly burdensome, and the resident deserves a timely response. Please either promptly provide the requested documents or explain why you cannot.

Thank you for your prompt and professional attention to these matters.



Susan Cooper
Monterey Select Board

413/429-7099
susan@montereyma.gov

RE: Office hour proposal

justin montereyma.gov <justin@montereyma.gov>

Wed 9/14/2022 9:38 PM

To: clerk montereyma.gov <clerk@montereyma.gov>

Cc: hr montereyma.gov <hr@montereyma.gov>

Hi Terry,

In response to your proposal, the Select Board voted at its meeting tonight (9/14) to set the following hours as your regularly scheduled office hours:

- **Wednesday 10 am to 7 pm** **9.00 hours**
- **Friday 11 am to 7:45 pm** **8.75 hours**
- **2 discretionary hours** **2.00 hours**

- TOTAL/week 19.75 hours

These new hours are **in effect starting this next pay period Sunday September 18th**, with your first regular shift with the revised schedule starting Wednesday September 21st - 10am to 7pm.

Thank you,

Justin

----- Original Message -----

Subject: RE: Office hour proposal

From: <clerk@montereyma.gov>

Date: Thu, September 08, 2022 6:10 pm

To: "Justin Makuc" <justin@montereyma.gov>, "hr@montereyma.gov" <hr@montereyma.gov>, "susan@montereyma.gov" <susan@montereyma.gov>, "scott jenssen" <scottjenssen9@gmail.com>

Hi Justin,

Again thanks for the BOS proposal for my new hours. As originally requested by the BOS, my proposal is for working two non consecutive work days and eliminating discretionary hours. Please contact my attorney if you have any questions or concerns.

My proposal is:

| | |
|------------------------------------|-------------|
| Wednesday 10 am to 7 pm | 9.00 hours |
| Friday 9 am to 7:45 pm | 10.75 hours |
| NO discretionary hours | |
| Saturday hours by appointment only | |

I can not attend a BOS meeting until October 12th. I am trying to cooperate and meet the needs of the Monterey residents.

Thank you,

Terry Walker
Monterey town clerk

----- Original Message -----

Subject: RE: Office hour proposal

From: "Justin Makuc" <justin@montereyma.gov>

Date: Wed, September 07, 2022 12:56 pm

To: "clerk@montereyma.gov" <clerk@montereyma.gov>

Hi Terry,

Please let me know of your availability to meet with the Select Board next week (9/12-9/16) to discuss your Town Clerk schedule. Please let me know of a couple available times in that window by Friday 9/9 at 5:00pm latest.

If you provide available times on Friday, please limit your available dates and times Wednesday 9/14 to Friday 9/16 so that we can post the meeting 48 hours in advance.

Thank you,

Justin

----- Original Message -----

Subject: RE: Office hour proposal

From: "Justin Makuc" <justin@montereyma.gov>

Date: Mon, September 05, 2022 9:28 pm

To: "clerk@montereyma.gov" <clerk@montereyma.gov>

Hi Terry, just wanted to follow up about your availability for meeting with the board on Thursday the eighth or Friday the ninth. If you are unable to meet with the Board on one of those two days, please let me know days and times that work for you the following week so that we can coordinate a meeting.

Thank you,

Justin

----- Original Message -----

Subject: Re: Office hour proposal

From: Justin Makuc <justin@montereyma.gov>

Date: Fri, September 02, 2022 1:44 pm

To: clerk@montereyma.gov

Hi Terry, thanks for getting back to me. Do you have any availability for meeting with the board on Thursday the eighth or Friday the ninth?

Justin

On Fri, Sep 2, 2022 at 12:16 PM <clerk@montereyma.gov> wrote:

Hi Justin,

I am not available on Wednesday 9/7 at 1:00 besides I have to make sure my attorney can be present at the meeting.

Terry

----- Original Message -----

Subject: RE: Office hour proposal

From: "Justin Makuc" <justin@montereyma.gov>

Date: Thu, September 01, 2022 7:51 pm

To: "clerk@montereyma.gov" <clerk@montereyma.gov>

Hi Terry,

Are you available next Wednesday 9/7 at 1:00pm to discuss this?

Justin

----- Original Message -----

Subject: RE: Office hour proposal
From: <clerk@montereyma.gov>
Date: Thu, September 01, 2022 9:05 pm
To: "Justin Makuc" <justin@montereyma.gov>, "susan@montereyma.gov" <susan@montereyma.gov>, "scott jenssen" <scottjenssen9@gmail.com>, "hr@montereyma.gov" <hr@montereyma.gov>

Thanks for the your proposal for new office hours and hopefully we will have a discussion when I am present. I have forwarded to my attorney for review.

Terry Walker
Monterey Town Clerk

----- Original Message -----

Subject: Office hour proposal
From: "Justin Makuc" <justin@montereyma.gov>
Date: Thu, September 01, 2022 2:11 am
To: "clerk@montereyma.gov" <clerk@montereyma.gov>

Hi Terry,

Please see attached letter from the Select Board regarding your proposal for office hours.

Thank you,

Justin