

APPROVED

**CHITTENDEN SOLID WASTE DISTRICT
EXECUTIVE BOARD MINUTES
Wednesday, July 15, 2020 5:00 p.m. via Zoom**

EXECUTIVE BOARD PRESENT: Bryn Oakleaf, Leslie Nulty, Alan Nye
OTHER BOARD PRESENT: N/A
CSWD STAFF PRESENT: Sarah Reeves, Jon Dorwart, Josh Tyler, Amy Jewell, Shane Morris, Bill Burgess
Others Present: Robert Magee, Attorney Steve Ellis, Attorney Sue Gilfillan

AGENDA ITEMS:

1. **Agenda**
2. **Public Comment Period**
3. **Hearing – Personnel – Termination Appeal**
4. **Executive Session – possible ongoing pending litigation discussion**

Agenda #1. Agenda – No Changes

Agenda #2. No public comment

Agenda #6. Executive Session – personnel discussion

Motion by Leslie Nulty, Second by Alan Nye, to move that the Board of Commissioners of the Chittenden Solid Waste District go into Executive Session to consult with legal counsel, where premature general public knowledge would clearly place the District, its member municipalities, and other public bodies or persons involved at a substantial disadvantage and to permit staff and the Solid Waste District attorneys to be present for this session. MOTION CARRIED. All ayes. The Board entered Executive Session at 5:03 p.m.

Motion by Leslie Nulty, Second by Alan Nye, to adjourn executive session and reconvene the meeting. MOTION CARRIED. All Ayes. The Board adjourned executive session at 5:15 p.m.

Agenda #5. Hearing – Personnel – Termination Appeal

Chair B. Oakleaf reviewed the purpose of this meeting is to conduct a hearing on the appeal of Robert Magee, who is contesting the Executive Director’s decision to terminate his employment on June 8,

2020. The issue to be decided is whether the Executive Director had just cause to terminate Robert Magee's employment. At the request of Robert Magee, this meeting is being held in open session.

CSWD's Personnel Attorney Sue Gilfillan from McNeil, Leddy & Sheahan said that regarding the appropriateness of the termination she believes there are three questions for the committee to answer:

- 1) Did Bob Magee engage in the alleged conduct on April 30, 2020?
- 2) Was the asserted conduct a Safety Violation, which is a Second Level offense under the District's policies?
- 3) Was the decision by Sarah Reeves to terminate Robert Magee consistent with CSWD's Disciplinary Procedures, which is a second Level Two Offense, which can result in termination, and that Bob's conduct on April 30th was sufficiently severe to justify termination?

Attorney Sue Gilfillan summarized that Bob admitted standing in the bucket of a bucket loader to work on a sign over a compactor. CSWD will show that safety trainings do not allow standing in a bucket loader to perform work and Bob admits that he knew this and should not have done it. Bob directed one of his employees to participate in this activity. Sarah Reeves reviewed the District's Personnel Rules and CSWD's Safety & Health Plan, his record of past discipline, and the information presented that led to his termination. She made this decision based on this information and that he intentionally and knowingly violated a safety violation and endangered his staff to participate in this activity. She lost all confidence in his judgment and trust in Bob as a supervisor. Attorney Gilfillan reviewed the contents of the notebook that was sent to all parties. She questioned Josh Tyler, Sarah Reeves, and Bill Burgess on the contents in that notebook.

Bob Magee provided his testimony. He said that he openly admitted to what happened that day but he was no more than 48" inches above the railing in the bucket and wanted to clarify that he did not ask his employee to drive him in the bucket and did not endanger his staff.

Bob said that he was in the Army & Air National Guard and in the past 40 years has dealt with various staff and has a background in equipment purchase and was 22 years on the Select Board Chair for the Town of Duxbury and was on the school board and library board and is aware of policies and integrity. Bob has been employed by CSWD since November 2014 and has shared many concerns with the past administration including the Operations Manager and Operations Engineer regarding many safety concerns. He reviewed the District's Safety Policy and listed numerous issues that he felt violated the policy. He summarized that on numerous occasions he expressed concern for those safety issues, but nothing was done. He asked why nothing was done to those people for not following safety practices. He then addressed the first Level One violation in December 2018 from Brian Wright and explained that he was in a work situation that made him hang up on the call. B. Magee asked Shane Morris questions about other safety issues that he had brought up. B. Magee asked S. Morris if he endangered or harmed him on April 30, 2020. S. Morris responded that he did not endanger him, but put him in a bad spot, as far as ordering him to lift the bucket over the railing to work on the compactor. S. Gilfillan asked S. Morris about the height that Bob provided in testimony that he was above the ground no more than 48". Shane Morris responded that in his assessment, over the top of compactor, from the bucket to the bottom of the hopper, he estimated the distance to be approximately 15 to 20 feet.

Closing statements were provided.

S. Gilfillan said that the three questions the committee needed to answer were clearly demonstrated; Bob Magee was in a bucket loader as high as 20 feet and another employee was instructed to operate the bucket loader. He knew it was a safety violation. This was his second Level Two Offense, where he was told if there was another Level Two Offense he would be terminated. Sarah Reeves has lost confidence in his ability as a supervisor and that although Bob Magee provided testimony on unrelated safety violations it does not relate to this issue and others conduct does not lessen the severity of this issue. She stated that we believe the committee should uphold the decision of the Executive Director for termination.

B. Magee summarized during his tenure with CSWD he did what the policy said to do by verbally letting managers know of violations and nothing was done, and he alleged this is still going on. He still questions the issue of the first Level One violation. He said he talked to S. Reeves about the violation at that time. He noted he has a lot of knowledge and has received no acknowledgements for work that has done. He noted he would not go back to work at CSWD. He wanted to change the termination to a resignation and said that he would sign a letter of resignation. He said he would not let this go because he has done a good job and has done it well.

Agenda #6. Executive Session – personnel discussion

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Motion by Alan Nye, Second by Leslie, to adjourn executive session and reconvene the meeting. MOTION CARRIED. All Ayes. The Board adjourned executive session at 6:45 p.m.

Motion by Alan Nye, Second by Leslie Nulty, to end the hearing. VOTING: MOTION CARRIED.

B. Oakleaf noted that the Committee will reconvene at a publicly noticed meeting on Monday, July 20, 2020 at 4:00 p.m.

All ayes Motion by A. Nye, SECOND L. Nulty by to adjourn the meeting. VOTING: unanimous; motion carried.

The meeting was adjourned at 6:45 p.m.



Amy Jewell, Recording Secretary

I agree that this is an original copy of minutes and they have been approved by the Executive Board at the 8/17/20 meeting held in Williston.

Amy Jewell

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