

**MINUTES**  
**TOWN OF QUARTZSITE**  
**SPECIAL ORGANIZATIONAL MEETING OF THE**  
**PERSONNEL ADVISORY BOARD**  
**WEDNESDAY, MAY 11, 2016, 1:00 PM**

**CALL TO ORDER:** Meeting called to order by Philip D. Cushman at 1:15 p.m.

**ROLL CALL OF THE BOARD:**

Philip D. Cushman, present;  
Beverly A. Cunningham, present;  
Jennifer M. Jones, attended by phone

**Staff in Attendance:** Burr Shields, Special Legal Advisor, attended by phone; and Tina Abriani, Town Clerk

**BUSINESS:**

**1. Appointment of Board Chairperson.**

Board Member Cunningham Cushman moved to appoint Phil Cushman as the Chairperson, and Board Member Jones seconded the motion. The vote was unanimous. Motion carried.

**2. Review and discussion regarding the purpose of the Personnel Advisory Board per Town Code Section 3-3-5 and conference call with special legal advisor.**

Chairperson Cushman moved Agenda Item 2 to an executive session of the Board.

**3. Setting date and time for Personnel Appeal Hearing in the appeal of Quartzsite Police Officer Ruben Villafana's termination.**

Mr. Shields, special legal advisor, stated the rule regarding the appeal hearing that the Board Chair shall set within ten calendar days from the date of notification a hearing date. Mr. Shields explained that the rule regarding the appeal hearing is vague and could be interpreted to mean that the hearing must occur within ten days. Mr. Shields said he had spoken with Town Attorney Trish Stuhan, who spoke with the Officer's attorney, and they agreed that they want to set the hearing no earlier than thirty days from May 11, 2016. Mr. Shields said the rule is being followed because the attorneys have agreed.

The Board and Mr. Shields settled on June 14, 2016 for the appeal hearing, and June 16, 2016 as a contingency date.

Board Member Jones moved to set the hearing for June 14, 2016 with June 16, 2016 as a contingency. Board Member Cunningham seconded the motion. The vote was unanimously in favor. Motion carried.

Chairman Cushman moved to adjourn to executive session. Board Member Jones seconded the motion.

Mr. Shields and the Board discussed the members of the Board.

Mr. Shields explained that the Board's role is described in Section 16-03 of the Personnel Rules. He said that should be the Board's guideline. He stated that the Board's decision is advisory because the final decision is that of Town Manager Miller. Mr. Shields said the Board must render a decision in writing within ten calendar days from the completion of the hearing, and it should be in writing.

Mr. Shields advised that the rules of evidence are loose, and any objections should be addressed by Chairman Cushman because he has discretion as to what he considers relevant. If in doubt, the Chairman should allow the evidence to come in so that the Officer does not contend that he was deprived of the opportunity to present his side of the story, in other words, due process.

Mr. Shields advised that if the Board has any questions during the hearing itself, as to how to handle a particular dispute, the Board may call Mr. Shields at the number that was called for the current meeting.

Mr. Shields stated that he is the Board's legal counsel and that whatever the Board needs regarding legal advice, the Board is to call him. He explained that evidence consists of documents and testimony, and is a preponderance of evidence standard. He instructed the Board to make the decision as to whether or not they believe ... (here Mr. Shields was interrupted and did not complete his sentence.)

Board Member Cunningham asked if the Board would be provided with the evidence before the hearing or at the time of the hearing for purposes of review.

Mr. Shields replied there is nothing in the rule that requires disclosure to the Board before the hearing. He said it was typical for the attorneys to agree, among themselves, to provide the Board with a pre-hearing memo.

Chairman Cushman asked Mr. Shields what the law states regarding due process.

Mr. Shields said that before the hearing he would send an email to Chairman Cushman regarding specific requirements from the applicable Arizona statutes. Chairman Cushman provided his email address to the attorney, Mr. Shields. Mr. Shields instructed Chairman Cushman to give the information in the email to Board Members Cunningham and Jones.

Mr. Shields asked the Board how they would transmit the notice of the hearing.

The Town Clerk taking minutes asked if the Board was in executive session. Chairman Cushman answered that the Board was not yet in executive session.

Board Member Jones stated the Town has a protocol for posting public meeting notices.

Mr. Shields requested Chairman Cushman send the notice in an email to Mr. Shields in addition to the Town's posting protocol. Mr. Shields said he would transmit the notice to both attorneys to have confirmation that adequate notice was given which is a due process requirement. Chairperson Cushman said he would do that.

Board Member Jones offered to post a notice of the meeting in the online version of her publicly distributed newspaper.

Mr. Shields stated his email address for Chairman Cushman to use.

Board Member Jones said there was a motion on the floor to adjourn to executive session. She asked if she should second that motion. Board Member Jones next said that she moved to second the Chairman's motion to adjourn to executive session pursuant to Arizona Revised Statutes.

At this point, the Town Clerk taking minutes stated that Board Member Cunningham had already seconded the motion to adjourn to executive session (this transpired at 1:00 p.m.)

The vote to adjourn to executive session was unanimous. Motion carried.

**ADJOURNMENT:** 1:30 p.m.

**CERTIFICATION:**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the meeting of May 11, 2016, of the Personnel Advisory Board of the Town of Quartzsite, Arizona, held on May 11, 2016.

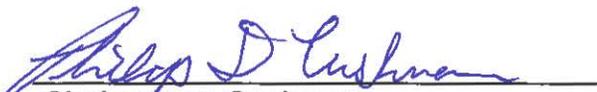
I further certify that the meeting was duly called and held and that a quorum was present.

DATED this 01 day of JULY 2016.

  
Tina M. Abriani, Town Clerk

On behalf of the Board,

Approved:

  
Chairperson Cushman

Immediately after adjournment at 1:30 p.m., Mr. Shields asked what the Board was adjourning to because he thought the Board was already in executive session.