

# Deborah Holtzer Potter

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May 24, 2022

Ryan Ruley, Chair  
Oak Bluffs Select Board  
Via: Hand Delivery

Dear Chair Ruley,

I regret the need for a formal complaint; however, in my opinion the underlying harassing tone, continuing hostile work environment, and the impugning of my character, reputation, and professionalism (as well as that of the Board's) leaves me no choice.

I wish to file this formal complaint and request an executive session under MGL Ch 30A §21(a)(1) to discuss the reputation, character, physical condition, or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body and least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:

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

Specifically, the complaint concerns the actions and comments of Sherry Countryman, Chair of the FinComm and Richard Weiss, Vice Chair of the FinComm; and Gail Barmakian, Vice Chair of the Select Board. More specifically:

**Complaint against Ms. Countryman:** At the meeting of the FinComm on May 19<sup>th</sup>, 2022, Ms. Countryman identified herself as a lawyer to the rest of the FinComm and proceeded to "advise" them that my contract to perform two roles for the Town, Town Administrator and Town Accountant, was not allowed based on a conversation "her friend" had with the on-call lawyer. This contradicts the legal discussions Town Counsel had with DOR and Ethics Commission PRIOR to my contract being executed. Furthermore, she claims that MGL c41 §55 states the Town Accountant can not hold more than one position in the Town. This is again incorrect as the law states the Town Accountant shall hold no other office involving the RECEIPT OR DISBURSEMENT OF MONEY. In both my Town Accountant role and Town Administrator role I HAVE NO activities in the receipt or disbursement of money. Additionally, the precedence for dual roles is identified in the MGL as the Town Clerk may be appointed Town Accountant if they hold no other office that receives or disburses funds. Furthermore, several towns have dual role executives: Eastham has an Assistant Town Administrator/Finance Director; Belmont has the same; Arlington has a Deputy Town Manager/Finance Director; Hingham has a Town Administrator/Finance Director; and Burlington has a Town Accountant/Assistant Town Administrator.

In fact, the only restriction to this dual role is that as Town Administrator, in accordance with the provisions of MGL Ch 41 §23A, she shall "hold no ELECTIVE town office, but he may be appointed by the selectmen or, with their approval, ... TO ANY OTHER TOWN OFFICE OR POSITION consistent with his office". This is why upon my selection and acceptance of the TA position I resigned from the FinComm as an elected member.

Ms. Countryman's representations at this meeting would unduly influence the new Board members who would be relying on her role as a "lawyer" to not misrepresent the issue or present it in an unfair or biased manner which was not what occurred. She also commented on how "there was a lot of politics going on" to which one FinComm member replied sorry you have to deal with that when in fact the issue originated with Ms. Countryman.

**Complaint against Mr. Weiss:** Mr. Weiss at multiple times during the meeting said that the issue was in “black and white,” and the dual role was not allowed which is factually incorrect. Furthermore, he alluded several times that the Board was trying to fix the problem by appointing Ms. Carrie Blair as Acting Accountant to “get around the issue.” This is a specific, intentional, and deliberate attempt to impugn not only my character, reputation, and professionalism, but that of the ENTIRE SELLECT BOARD as well. This sentiment was echoed by Ms. Countryman as well and in doing so conspired with Mr. Weiss to again, undermine my character and reputation by providing false and misleading information. The succession plan for Ms. Blair has been well discussed SEVERAL times since last July: at my interview, in my contract discussions, it is detailed in my contract, it has been discussed with the Personnel Board, it was discussed this entire time with Ms. Blair and Wendy Brough as ATA/Human Resources, and even more importantly at the BUDGET meetings where the differences in the line items between Accounting and Select Board salaries were discussed.

If Ms. Countryman and Mr. Weiss were so concerned about this combination of roles, then why was an objection not made in JULY when it was being discussed and considered by the Board.

This is just an overview of the issue, and I would suggest that the whole board view the FinComm meeting of May 19<sup>th</sup>, 2022, to determine for themselves if this is how the Select Board expects a Board, whose purpose is to provide ADVICE to the Select Boards, to function and perform on their behalf.

As I am the complainant, I will consider this to be my notification regarding the executive session. To avoid the appearance of conflict, Wendy Brough as ATA, should send out any notifications, if so deemed appropriate, to the parties in question. I will be providing her a copy of this I would also recommend that you consult with counsel to ensure that everyone’s rights are protected. I look forward to, hopefully, finding a workable solution moving forward.

Thank you for your consideration

Deborah Potter

Cc: Wendy Brough, ATA/HR for personnel file

