

**Town of St. Albans
Selectboard Special Meeting Minutes
Monday, March 28th, 2022
5:00 p.m.**

On Monday, March 28th, 2022 at 5:00 p.m., the Town of St. Albans Selectboard met at the Town Hall for a special meeting.

Officials and staff present: Chair Jonathan Giroux, Vice Chair Bryan DesLauriers, Jack Brigham, Jeff Sanders, Director of Public Works Alan Mashtare, DPW employees Jeff King and Jeff Roby, and Town Manager Carrie Johnson. Brendan Deso attended via Zoom.

Public in attendance: Kerin Stackpole with Paul, Frank, and Collins P.C. (via Zoom), John Klesch with Stitzel, Page, and Fletcher P.C., Richard Carroll with Phillips, Dunn, Shriver, and Carroll P.C., St. Albans Messenger Josh Ellerbrock, Stan Dukas, Alexander McWilliams, David McWilliams, Lee Spaulding, and another resident whose identity was unknown and whose signature is illegible.

Chair J. Giroux called the meeting to order at 5:00 p.m. The purpose of the special meeting was to conduct an executive session to discuss a personnel matter. J. Giroux asked A. Mashtare and his legal representation, R. Carroll if they wanted to hold the meeting in open session or executive session. Both agreed to hold the meeting in open session.

MOTION: J. Brigham made a motion to appoint appeal hearing officer designee John Klesch. Seconded by Jeff Sanders. All in favor, none opposed, motion carried.

Procedure of Personnel Hearing

Selectboard Attorney John Klesch addressed the Board. This meeting is for an appeal for discipline that's been given from the Town Manager (C. Johnson), represented by Kerin Stackpole, to the Director of Public Works (A. Mashtare), represented by R. Carroll. J. Klesch explained the process by saying both parties can have a chance to make an opening statement through their attorneys. The Town Manager, with assistance from counsel will put on evidence about the matter that led to the disciplinary action. The employee's representative, R. Carroll will get a chance to cross examine. Anyone who will testify will be sworn in. K. Stackpole will have a chance to cross examine. The Selectboard may ask questions. The employee may make a statement as well. After all testimony is complete, the hearing will be closed and because this hearing is the only thing on the agenda, the Selectboard meeting will be adjourned. The Selectboard will deliberate and think about what decision it will make outside of the Open Meeting Law process because it's a quasi-judicial proceeding. The Board can get together, but it is not a meeting under the statute.

K. Stackpole stated that she didn't think there was anything in the Town policies that suggested that this is a situation where the Town has the burden of proof. This is not a situation where you have a bargaining unit agreement. This is a situation where you have a policy manual where the Town has the ability and sole discretion to discipline employees based on certain behaviors. Insubordination is certainly one of the issues as is lack of candor. K. Stackpole suggested that the burden of proof be on the employee and not on the Town because the Town has the discretion to manage its employees and there is nothing in the policies that suggest that the Town had the burden of proving.

R. Carroll responded by saying that assuming A. Mashtare has appeal rights to the Selectboard, R. Carroll would leave the decision (of burden of proof) up to the Selectboard. Should this be a no vote on the appeal, in which case the Town would have the burden to establish that A. Mashtare's conduct was so contrary to the disciplinary rules and Town procedures that it merits some kind of disciplinary action.

J. Klesch read a section from the Town's Personnel Policy, Section 28 "Suspension and Termination Appeal Procedure": *"At the post-termination hearing, the employee will be afforded the opportunity to address the basis for termination by hearing and examining the evidence presented against the employee, cross-examining witnesses and presenting evidence on his/her behalf"*. J. Klesch said that procedurally, the case in favor for discipline from management's perspective ought to be put on first, regardless of whether there actually is or is not a burden of proof. K. Stackpole clarified stating that this is not a termination, but a suspension, a one week suspension was provided to the employee, but there could have been a choice of termination. There was not, only unpaid suspension.

Statement from Kerin Stackpole, legal representation for Carrie Johnson

K. Stackpole began by thanking the Selectboard for hearing this appeal. She went on to explain that the employee (A. Mashtare) is a long time employee who has generally received good evaluations through the course of his employment. There have been situations in the last year or so where this individual has not followed the direction as given by the Town Manager. There have been very specific directions provided to the employee as to functions of his work. This employee was instructed not to take donations any longer, because they were creating some problems in terms of storage, liability, etc. After that instruction was given, exercise equipment was donated and accepted by this employee, then installed near one of the garage bays for use by employees. This created a liability issue. In explaining away some of the problems that had been addressed with the employee, have lacked candor. K. Stackpole continued by saying that we believe that the process was well followed here as the Town Manager was considering serious discipline. The Town Manager was very measured in how she approached that. She considered all forms of discipline. She did consider termination and yet was very specific about a one-week suspension. She did provide an opportunity for the employee to have notice of what the issues were, she issued a letter, which will be entered into as evidence, she met with him and heard what the employee had to say, she received evidence from the employee and considered it carefully and determined the one week of suspension was the appropriate level of discipline for the employee's action. K. Stackpole finished by saying we request that the Town Manager's actions be sustained, because we think they are reasonable and well within her authority.

Statement from Richard Carroll, legal representation for Alan Mashtare

R. Carroll made a brief statement. He explained that A. Mashtare is guilty, which he would admit, of excessive enthusiasm in trying to carrying out the responsibilities and job duties, but has been receptive to feedback both from the Board in the past and from his direct supervisor. But the suggestion that his conduct involved a lack of candor or insubordination is not substantiated. A. Mashtare is going to testify about the three different events that he was written up for and to give his explanation and timeframe for each of those events.

J. Klesch swore is C. Johnson. Exhibits were numbered with Bates numbers beginning with TOWN.

Personnel Hearing – Alan Mashtare Director of Public Works

K. Stackpole asked C. Johnson to state her full name and the position she holds with the Town. K. Stackpole asked C. Johnson if she supervises A. Mashtare, if he directly reports to her and if she provides A. Mashtare performance evaluations and how often. C. Johnson said I do to all questions and performance evaluations are performed annually.

All K. Stackpole's questions were directed to C. Johnson unless otherwise noted.

K. Stackpole provided a performance evaluation from June, 2021 that C. Johnson did for A. Mashtare. K. Stackpole asked if the average rate on the evaluation is "3"? C. Johnson stated that was correct. K. Stackpole confirmed that in several situations C. Johnson gave him (A. Mashtare) an above average grade. C. Johnson stated that was correct. K. Stackpole asked why she gave him "Average" in "Cooperation"? C. Johnson explained that she was concerned that he was putting too much on his plate as well as some of the other employees and she didn't want any new programs or activities or installations in any of our facilities, no new programs, and he was asked to handle what we have.

K. Stackpole asked why she gave him an "Average" rating under "Job Performance"? C. Johnson explained similar reasons. She wanted to curb some of the enthusiasm regarding new projects that had been installed without permits, and without thoroughly going over a budget. K. Stackpole asked if there was something specific that went on in terms of a project that went over budget or didn't have permits? C. Johnson explained in the summer of 2021, she was concerned a donation of a greenhouse and a couple other things had happened that she didn't know about it and was not sure if she and the Selectboard would have supported it had they been asked first, but we already had it, we spent Town staff time getting it (greenhouse). Not sure if it was overtime. It was a project that she had heard enough displeasure about that she wanted to stop it. C. Johnson went on to say that she said to him let's just focus on what we're doing and doing well, not adding to anything right now, and we don't need to start our own greenhouse at the Department of Public Works (DPW). At that time, C. Johnson put it in his evaluation not to add any new activities. K. Stackpole asked if she puts something like that in an evaluating that she expects from someone who reports to her to follow it? C. Johnson said yes. K. Stackpole asked if she believed he understood the direction she gave to him? C. Johnson said yes. K. Stackpole asked if he asked her any questions about her evaluation indicating that he did not understand the directions you were giving him? C. Johnson stated not that she recalled right now. K. Stackpole asked if there was any writing given to her in follow

up to her evaluation of him dated July 8th, 2021? C. Johnson stated that she did not get anything in writing or verbally.

K. Stackpole asked C. Johnson that after the summer of 2021, if she had learned in the fall of 2021 that he had not followed her directives with regard to new projects or accepting donations? C. Johnson stated yes and explained that in October a couple of people had come to her with concerns that there was a gym installed at the new DPW, a workout facility, next to the mechanic's bay. She had not seen it at that time. With COVID, she was making less frequent visits to each department. K. Stackpole asked if she had investigated to see if that was true? C. Johnson said she did and saw it was installed, but more importantly she was concerned with the liability. She asked her assistant, Jenn to find out if our insurance company, liability carrier, was comfortable with it. K. Stackpole asked if they were? C. Johnson stated they were not and listed 5 bullet points about why they weren't comfortable with it and asked that it be removed. K. Stackpole asked what she did next? C. Johnson explained that it was one of the reasons why she considered discipline and met with him at that time. She couldn't recall the exact date. She had asked him a couple of other questions and also stated that the gym was not allowed and it needed to be removed. K. Stackpole asked if this was prior to her giving him any discipline, this was when you were just checking it out? C. Johnson said that was correct. K. Stackpole asked what he told her why he accepted it? C. Johnson explained that at that time, he said it was free, that he accepted it before she had officially told him not to. He countered with, "a lot of companies have gyms at their facilities". She went on to say that our insurance company doesn't want us to have it. They said we can't have it there. We have to get rid of it. K. Stackpole stated for clarification that he had not spoken to her before he had accepted the materials. C. Johnson stated that was correct and regardless of when it happened, she didn't recall ever approving it.

K. Stackpole asked if the gym equipment was a donation to the Town? C. Johnson said that it was. K. Stackpole stated that he accepted that donation in violation of what you had told him. C. Johnson stated that she had told him in the summer time was not to expand services or activities. K. Stackpole asked when she had asked him to stop accepting donations? C. Johnson explained that she thought she made it clear in the summer, but I reiterated it in October. K. Stackpole stated that she had indicated that in her evaluation of him that he should refrain from making changes and no additional activities or things like that in the park. C. Johnson stated that was correct, that was from June. K. Stackpole asked was it around that time that you spoke to him about accepting things? C. Johnson said yes, including the greenhouse and other things. K. Stackpole stated that by the time he had accepted the equipment, he had already received that direction from you? C. Johnson stated that was correct. What also concerned her, that she found out later, when she said not to accept anything he was not forthright with the information that he had already done that, that there was already gym equipment in the DPW building. That's the kind of open communication she hoped for.

Regarding the October memo, K. Stackpole asked her if she had disciplined him at that time? C. Johnson stated that was correct. K. Stackpole stated that she had provided a clear directive. C. Johnson stated she did. K. Stackpole asked that subsequent to that time, what issues came to her attention that concerned her about Mr. Mashtare's activities? C. Johnson explained that getting numerous phone calls about an installation about road delineators on one of our roads, and getting calls from taxpayers and Selectboard members that something seemed unsafe and that there had been a comment from Jim Cota, our local VTrans engineer that this was an unsafe situation. Unfortunately, that morning, Mr. Mashtare was on vacation, so she took the lead on the complaints. Mr. Cota put on social media that he considered it a liability, so she felt like he had called us (the Town) out on it and if she didn't take action on it and someone got hurt, we would have been liable for any accidents. She then asked the DPW crew to remove that installation that morning. At that time, she didn't know that it (road delineators) had been installed that day. Had she known, she would have been warned ahead of time that people might be unhappy about it. She hadn't been informed, so she couldn't inform the Selectboard. K. Stackpole asked her if she had brought that particular situation to Mr. Mashtare's attention? C. Johnson stated that she had and after talking to him about it, put a memo in his personnel file. K. Stackpole asked what was the next action that caused you to have concern? C. Johnson explained, in February, 2022 she was asked to answer questions about situation she had no knowledge of, like the salt barter agreement. Two different people asked her why we were in the business of selling salt. She didn't know about the Ryan Jordan arrangement. She had asked Mr. Mashtare if we sell salt and his answer was no and then he left.

K. Stackpole directed everyone to TOWN 00024, TOWN 00025, and TOWN 00026. K. Stackpole asked C. Johnson what TOWN 00024 was. C. Johnson explained it was a document where she had put in writing that she had some questions about a number of things and she documented the 5 things she was concerned about, summarized in a memo to Alan. K.

Stackpole confirmed with C. Johnson that these were things that had come up between October and February. C. Johnson stated correct. K. Stackpole read the last bullet point in the memo from C. Johnson to A. Mashtare, "you have not been candid with me about some of the above actions and you're expected to be trustworthy and act in the best interest of the Town". K. Stackpole then asked C. Johnson what prompted her to write that particular part of the memo? C. Johnson explained that there is a couple, but the most prominent is the salt barter issue. She went on to say that conversation was as succinct as she recalled. A couple of weeks later, she told Alan she was going to call Ryan Jordan. She said that she didn't understand why these rumors persist, somebody keeps asking her about them. She asked Alan if she were to call Ryan Jordan, what will he say? Alan said that he gave him (Ryan) a bucket of salt in return for work at the Bay Park. C. Johnson went on to say that what she meant by the lack of candor, when your supervisor asks you to explain a situation, like are we selling salt, she would have appreciated knowing that at that first conversation. She felt that the secondary conversation, was, maybe not fabricated, but she didn't understand why she didn't get it the first time she asked the question. It seemed as if there was something there that wasn't truthful.

K. Stackpole asked C. Johnson to explained what happened with the salt barter situation. C. Johnson explained that her understanding now was that Ryan Jordan couldn't find salt anywhere and had asked Alan if he could get a bucket and then in return Alan said if I do that for you then you're going to perform some services for the Town that we will need that are valued at least equal to the value of the salt. Those services have not been done yet. K. Stackpole asked if that was a kind of barter arrangement that he agreed to consistent with your prior directions to him, about accepting things, not taking on new work? C. Johnson explained she does not think she was extremely clear on that day, "you shall not barter or at any time in the future", not in February when she spoke to him. We have subsequently created a policy that prohibits bartering.

K. Stackpole referred to the first and second bullet points on the TOWN 00024 document, where C. Johnson talks about the fact that he (Alan) went against a clear direction of hers and that relates to the gym equipment. Is that correct? C. Johnson said yes.

K. Stackpole asked C. Johnson what documents TOWN 00025 and TOWN 00026 were. C. Johnson explained that she had asked Alan to respond to a few questions and asked for it to be in writing. This (TOWN 00025) is Alan's response to her questions. K. Stackpole asked if this was a part of her investigation? C. Johnson said yes. K. Stackpole asked if she had independently verified any of the facts that he wrote in here? C. Johnson stated that she had. K. Stackpole asked if any of the facts he inserted not accurate? C. Johnson explained she believed the handling sale of the truck is a little different than is indicated here (TOWN 00025). She went on to say that when she asked the initial question, the answer was, "I did it the same as I did it before, and Jenn (C. Johnson's assistant) helped". What she had done first was, in hopes of finding confirmation, the truck sale that was done in 2020 for also a plow truck, hadn't been done the same. That ad from 2020 includes a plow, the type of plow. Once the bidding was done, she received a formal summary of bids that told me who bid what. She was concerned that it wasn't done the same way. Someone complained that we didn't include the type of engine, whether it was gas or diesel. That had not been mentioned in 2020, nor had it been mentioned in 2021. Her concern was that we were selling a plow truck and the plow alone would be worth more than the price paid for the rest of the truck. That caused her to continue the investigation. K. Stackpole asked if her concern was that the Town wasn't receiving enough value for the Town equipment that was being sold? C. Johnson stated yes and that is basically the complaint she had received from a number of different people. K. Stackpole asked if she then determined that that complaint was founded? C. Johnson said yes. She thought we could have gotten more should the words "plow truck" and a description of the plow truck been included. We may have gotten more bids than just one bid. She went on to say that subsequently we created a new policy for that as well so there is no appearance of any improprieties that we're going to have someone else open the bids.

K. Stackpole asked C. Johnson if she was correct that she considered the information that was provided and the other information that was provided by Mr. Mashtare was on documents TOWN00033 thru TOWN00045? After some confusion regarding the Bates numbered documents, C. Johnson went through the packet of documents that were submitted by Mr. Mashtare starting with the Bates number TOWN00031 and going through TOWN00069 to make sure everyone had the same documentation.

K. Stackpole explained that in C. Johnson's testimony, that Mr. Mashtare took care of the most recent truck the same way he took care the last one, but TOWN00040 shows a different process than what was done here. Is that correct? C. Johnson said yes. K. Stackpole asked if she had taken into consideration the documents that were provided to you by Mr. Mashtare in connection with your notice to him that you were considering discipline? C. Johnson said she

did. K. Stackpole asked that you did meet with him and he had an opportunity to speak with you? C. Johnson said yes. K. Stackpole asked in that meeting, what rationale did he give you for not following your directives? C. Johnson explained for the plow truck he said it was done in the same manner. For the gym, I told him he couldn't accept anything after. He had already accepted it. For the salt barter issue C. Johnson explained that he said, "I didn't know you were talking about that. We don't actually sell salt, I bartered it". K. Stackpole asked if she considered that those excuses, he gave to you and any information he provided you? C. Johnson said yes. K. Stackpole asked you considered that, what decision did you make? C. Johnson explained that she felt she had three options; a Performance Improvement Plan, suspension, or termination. Based on the average or above average previous evaluations, she felt that at this point, the best step forward would be to, she wanted to punctuate some of these things in an effort to stop them and she thought a suspension of one week without pay would be her recommendation. That's what she put in the letter.

Looking at TOWN00046, K. Stackpole asked if that was the letter, in which C. Johnson informed Mr. Mashtare that you had chosen suspension? C. Johnson stated that was correct, in the March 11th, 2022 letter, which has been paused because of this appeal.

K. Stackpole asked C. Johnson to go through and explained what the documents are that go from TOWN00047 thru TOWN00069. C. Johnson explained that TOWN00047 was Alan's response to her regarding the March 11th letter. K. Stackpole asked if the rest of the documents are attachments that he provided to her with his letter? C. Johnson stated that they were. K. Stackpole asked, with regard to any of the arguments in his letter, if she felt that her decision was justified? C. Johnson said yes and explained that on many occasions there were verbal warnings, such as let's not expand anything, let's just do what we're currently doing. A lot of people are watching us and she didn't want him to get in trouble. And yet, she's hearing that something is being done. C. Johnson explained that we are following procedure. There's a question of that in his letter. She went on to say that she feels we are following proper protocol, she has been measured and deliberate in every action to afford the employee the opportunity. Even given time and this much pressure and scrutiny she'd do the same thing. K. Stackpole concluded her questions at this time.

R. Carroll asked C. Johnson, regarding the June, 2021 performance evaluation, Town's exhibit TOWN00021 if she prepared that? C. Johnson said she did. R. Carroll asked that he (A. Mashtare) received four #4 ratings and two #3 ratings and that his overall rating was a 4? C. Johnson said yes. R. Carroll asked if her general comment was, "Thank you for your hard work" and recommended a 3% rate increase? C. Johnson said yes. R. Carroll read from #2 on the Job Performance section, "Please avoid rushing or pushing schedules to the point that thoroughness suffers. Getting approval, the correct way for projects is required, please avoid initiating projects without permits". R. Carroll asked was there no discussion in that #2 about bartering arrangements? C. Johnson said no. R. Carroll asked was there no discussion in that #2 about donations? C. Johnson said no. R. Carroll asked how many annual evaluations have you done for Alan. C. Johnson said probably five, there is one every year and an initial 90 day one. R. Carroll asked in any of those evaluations, was she aware if she ever instructed Alan with respect to bartering arrangements or donations? C. Johnson said not during the evaluation process, no. R. Carroll asked if she was aware, particularly with respect to the Bay Park that the Town had received considerable donations and sponsorships under Alan's guidance as the head of the Department of Public Works? C. Johnson said yes. R. Carroll asked if she ever had an issue with those donations or bring it to the attention of the Selectboard? C. Johnson said no, then she said she did have somewhat of an issue in that she wasn't aware of the sponsorship program before it was initiated and funds had already started coming in. She continued by saying that she stated verbally that she would very much like to have prior approval before we go out and collect sponsorships, so we did that this year. During the evaluation, no. R. Carroll asked have those projects Alan has started brought money into the Town or have they cost anything to the Town? C. Johnson stated that they have brought money into the Town. R. Carroll stated that most of those initiatives at the Bay Park, have they paid for themselves? C. Johnson said most of them had paid for themselves. R. Carroll asked have any of them, to your knowledge added to the Department of Public Works budget? C. Johnson said that some might, but she wasn't sure. She couldn't say that they are cost neutral because we fund and staff them, but they are not costing us too much money in materials. R. Carroll asked who would be the person who would if those were costing the Town money? C. Johnson explained that when they started, we didn't require a budget, an event approval or event budget. Alan and C. Johnson would be responsible for that and ultimately, she would be responsible that, which is why the new policy requires prior event approval. We keep track of those things. R. Carroll asked if Alan's handling of those events and initiating new events for the benefit of the Town is not a basis for your recommended disciplinary action right now, is it? C. Johnson said no.

R. Carroll asked that in the #2 Job Performance, "please avoid initiating projects without permits", can you give us some details on what projects Alan has initiated without permits since this evaluation? C. Johnson explained the reason she put that comment in Alan's evaluation was because, albeit the intent was good, we put a ramp through our historic sea wall at the Bay Park and then Historic Preservation ran it up the pole and she got a letter from the State Attorney General saying they were going to send it Washington because we did it without permission. She went on to say that she took that very seriously, attorneys make her very nervous for a number of reasons. It's great to put in a handicap ramp, but we violated some polices by not getting a permit ahead of time and someone called the State on us, I don't know who.

R. Carroll clarified his question asking since that time, what projects has Alan initiated without getting proper permits? C. Johnson stated that she couldn't recall any at this time. R. Carroll said so at least under your direction under #2, Alan has complied with that, would you agree? C. Johnson said yes.

R. Carroll asked that the gym equipment came to your attention in October? C. Johnson said yes. R. Carroll asked after that you did some investigating? C. Johnson said yes. R. Carroll asked it was then that you issued a memo in October, is that correct? October 20th, it's TOWN00023. C. Johnson said yes. R. Carroll asked that was in response to in part for the gym equipment? C. Johnson explained that she thought it was initiated over the road delineation. R. Carroll asked you initiated the memo after Alan had accepted the gym equipment? C. Johnson said she did. This memo and she had a conversation at that time that included the greenhouse, the installation of the road traffic things. R. Carroll asked so the time you issued this, you told him no more donations, correct? C. Johnson said correct. R. Carroll asked and you indicated in the last paragraph of this memo that a copy would be placed in Alan's personnel file, that "this isn't disciplinary, it is intended to clarify our conversation", is that correct? C. Johnson said correct. R. Carroll asked so at that point, you weren't taking any disciplinary action or considering any disciplinary action with the gym equipment issue? C. Johnson said yes. R. Carroll asked if she told Alan, in no uncertain terms to get rid of the gym equipment? C. Johnson stated that she did. R. Carroll asked how soon after your direction did the Town get rid of the equipment? C. Johnson explained that she wasn't certain when, but that she had gone to the garage on the 11th of March and it was gone from inside the building. When she went back on the 24th of March, she saw a treadmill out by the salt shed under the roof.

R. Carroll asked how many times had you visited the Town garage building between the date of your October 20th memo and that visit in March? C. Johnson explained not very many, she didn't recall, it was very few and often she would just go into Alan or John's offices. R. Carroll asked so do you have any idea of how quickly after words Alan removed the equipment from the garage? C. Johnson stated she imagined pretty quickly, but she didn't know. She just knew that she said to do it as quickly as he could, she would like it out in a week. She did not check during the week she had given him to be fair. It was gone on the 11th.

R. Carroll said in your letter of March 4th, TOWN00024, you said it went against your clear directive. In the first memo you said, "in direct defiance of this directive, it's come to your attention you recently adopted a donation of gym equipment", correct? C. Johnson said yes. R. Carroll stated that issue was dealt with back in October. Why were you... C. Johnson stated that she misspoke earlier. The greenhouse issue and other issues were from the summer. The gym equipment, she wasn't aware of until not that long ago. R. Carroll asked when she became aware of it? C. Johnson said she was asked to go through the Department of Public Works to look at the water supply for the fire truck fill station. She went through with an inspector. She stated that she could get that date for Mr. Carroll, but was unable to say at this time when that was. R. Carroll stated that is being used for your bases for your proposed one week suspension of Alan. Don't you think in all fairness to Alan that is a fact that you'd want to have in mind before you made that decision? C. Johnson explained that when she saw the gym there and when she talked to him immediately after seeing the gym there, or soon after, she told him she was going to ask the insurance company to weigh in on this. It was a good month and a half before I got that. As soon as she got the response from the insurance company, she acted on it. The date she discovered it she thought was less critical than getting the gym out of there.

R. Carroll asked you had your assistant, Jennifer check with the insurance company? C. Johnson said yes. R. Carroll asked you reviewed the response received from Vermont League of Cities and Towns? C. Johnson stated that was correct. R. Carroll asked is that the insurance carrier for the Town? C. Johnson said it is. Property and Casualty insurance. R. Carroll asked, so the Town is a member of VLCT? C. Johnson said yes. R. Carroll asked, so you get advice from them? C. Johnson said yes. R. Carroll asked, so the email from Susan Benoit at the

Vermont League of Cities and Towns, dated February 9th, 2022, that talks about potential issues, is that correct? C. Johnson said yes. R. Carroll asked anywhere in that letter saying you had to get rid of that equipment immediately? C. Johnson explained that she didn't think she used the word immediately, but certainly took that to mean her bullets regarding liability and liability adverse from the Town that we needed to get rid of it.

R. Carroll asked did you ever ask Alan when that gym equipment was put into the facility? C. Johnson stated that she didn't recall asking him when it was put in there. We discussed it when we were discussing these things. R. Carroll asked did Alan tell you it was put in before your memo of October 12th? C. Johnson said that he did response that it was put in before I told him not to do it. Her concern was that he didn't share with her at that time that it was already in. R. Carroll asked when you asked him to remove that equipment, he removed it immediately? C. Johnson said correct. R. Carroll asked did you ever, as part of your investigation before writing in your March 4th letter or making your final decision in your March 11th letter check with anyone other than Alan to see, if in fact he had that equipment in there before your memo? C. Johnson said no. R. Carroll asked so there was no independent investigation to determine if he acted, in your words, "in defiance"? C. Johnson explained that even if he had put it in at the beginning of October, I had asked and stated in the review and verbally a number of times no new programs, no new additions, do not accept any new things, in the summer of 2021, well before the October timeframe. R. Carroll asked that wasn't in the performance evaluation, was it? C. Johnson explained it was certainly implied in #2, in my mind, don't add any new programs. It didn't specifically say no new gym equipment.

R. Carroll asked when Attorney Stackpole was asking you questions, you said you had given Alan several verbal warnings over the course of the last year? C. Johnson said yes. R. Carroll asked did you document those verbal warnings by putting a notice of those in his personnel file? C. Johnson said no she did not. A verbal warning, in her mind is the first level of discipline and then, if adhered to, doesn't usually need to go any further. As she stated earlier, he's been a good employee some of the time doesn't negate some of these other things. That's why she did the verbal initially each time.

Regarding the salt barter issue, R. Carroll asked at that time was there a written Town policy on bartering? C. Johnson said no. R. Carroll asked is there now? C. Johnson said yes. R. Carroll asked to your knowledge, prior to the barter policy being adopted, had the Town engaged in bartering in the past? C. Johnson said yes. R. Carroll asked did this bartering arrangement, in various forms, save the Town money or save the Town expenses? C. Johnson stated that in many ways it did. R. Carroll asked, in fact, when Alan entered into this barter arrangement, it wasn't a secret arrangement, he put it in writing, correct? C. Johnson explained that after the second time she asked him about it, she recently got a copy of that, but yes, that is what he stated. R. Carroll asked how recently did you get a copy? C. Johnson said it was in response to one of her questions, February or March, it was pretty recent. R. Carroll asked you don't recall Alan giving you a copy of this in your office shortly after December 30th? C. Johnson said she did not. Attorney Stackpole asked R. Carroll what he was referring to when he said "this". R. Carroll explained it is the salt agreement between the Town and Ryan Jordan. C. Johnson explained that during that time between Christmas and New Year's she was moving, so she wasn't in the office that week. She stated she did not recall seeing it. R. Carroll said that in his documentation of that arrangement, he indicates that Mr. Jordan is going to provide work to the Town, presumably this spring to fuse a reducer to a new water line, is that correct? C. Johnson stated yes, that's what it says. R. Carroll asked Mr. Jordan is someone who has done work in the past for the Town? C. Johnson said yes. R. Carroll asked he is well regarded by the Town in regards to a contractor who the Town looks to hire when that work is needed? C. Johnson said yes. R. Carroll asked the value of the work we was going to do in exchange for the \$65 worth of salt was \$150? C. Johnson said yes, that is what that memo says.

R. Carroll asked does the Town have a bid policy, if it's going to hire someone to do work for the Town, does the bid policy require that the Town get bids for jobs that are under \$5,000? C. Johnson said no, she didn't believe it requires that. R. Carroll asked so, Alan did not violate the Town's bid policy by doing this barter arrangement with this gentleman, did he? C. Johnson said no. R. Carroll said and he presumably saved the Town \$90 or so. C. Johnson agreed saying yes. R. Carroll asked if there was any reason to believe that Mr. Jordan is not going to follow through on the contract? C. Johnson said no, there's no reason to believe that.

Regarding the truck that was sold, R. Carroll asked that this wasn't the first truck that was sold by the Department of Public Works? C. Johnson said correct. R. Carroll stated the previous one was sold in 2020. Is there a written bid process that the Town has? C. Johnson said there is. R. Carroll asked, with respect to the Department of Public Works vehicles, what is that bid process? C. Johnson explained she would have to refer to the policy and go through it section by section. We ask to put it out into a newspaper, give a certain amount of time. She didn't

remember if there was a certain amount of time in the policy, and wait for the bids to come in. R. Carroll asked who published or advertised the sale? C. Johnson explained her assistant Jenn after getting a description from Alan. R. Carroll asked what information did she ask of Alan to provide so she could publish the advertisement? C. Johnson stated she didn't know; he would have to ask her. She (Jenn) said she worked with Alan to place the bid. C. Johnson didn't ask what information she (Jenn) used in placing the bid. R. Carroll asked do you know if it's the same information that Alan had provided to her in the past for the 2020 vehicle? C. Johnson stated that she knew it was not the same because the ad from 2020 said the ad was very specific about the kind of plow that we had and the box that was on the plow truck from 2020. The one from 2021 doesn't mention a plow. R. Carroll asked so the 2020 advertisement advertised a plow truck? C. Johnson said yes. R. Carroll asked the F-350 that was sold, this most recent sale was not a plow truck, was it? C. Johnson said yes it was. R. Carroll asked it had a plow on it? C. Johnson said it came with a plow. R. Carroll asked so the high bidder received a truck and a plow? C. Johnson said yes. R. Carroll said it was his understanding that there was one bid submitted, is that correct? C. Johnson said yes. R. Carroll asked that was after a two week period of advertising? C. Johnson said sounds like, yes. R. Carroll asked then all of the bids, in this case, the one bid, went into Alan's mailbox at the Town, would that be correct? C. Johnson said yes. R. Carroll asked did Alan open that bid? C. Johnson said yes. R. Carroll stated then Alan awarded the bid to the sole bidder. In what part of that process that Alan went through is in violation of the Town's bid process? C. Johnson explained that the only part of it that bothered her was the lack of information about the plow. We live in Vermont and a lot of people would have probably bid on the plow had that information been included and it was included in 2020. R. Carroll stated that it didn't mention a plow is your concern. He then asked, how did this come to your attention? C. Johnson explained at least one employee had stated their concern with me and one Selectboard member, can't remember at this point, but said they were concerned about that and would have liked to have bid on it. R. Carroll asked was this advertised in the Messenger? C. Johnson said it was. R. Carroll asked if it was posted at the Town office? C. Johnson said she believed so. R. Carroll asked so any employee who came in and looked or read the newspaper would have had an opportunity to inspect the truck and bid on it? C. Johnson said essentially yes, that's the idea of requiring it to go in the paper.

R. Carroll asked after these people raised their concerns with you, before you wrote the March 4th letter to Alan advising you were contemplating disciplinary action, did you do any further investigation to see what the value of that truck was or whether the Town ended up not getting fair value for that truck? C. Johnson explained she didn't do any investigation for the value, but she did ask for a copy of the 2020 ad. R. Carroll asked do you have any idea as far as this truck we're talking about, whether or not it was worth the \$800 that it sold for, worth more or less than that? C. Johnson explained she didn't know how much the truck itself would be worth, but she knows from personal experience, a friend just sold a truck with 300,000 miles on it with a plow for \$8,000. She went on to say that she knew it was probably worth more than \$800. R. Carroll asked you were aware, prior to this sale, that Jeff King was one of the people interested in bidding on this truck is that correct? C. Johnson said yes. R. Carroll asked, you knew that because you had a personal conversation with him, is that correct? C. Johnson said she did with Jeff and with Alan. He asked if he could just let employees bid on it and we discussed that we could not do that. R. Carroll asked and he abided by that direction? C. Johnson said yes, he put it out to bid. She went on to say that the conversation she had with Jeff King was very straight forward because he heard that she was trying to sell a truck, but she had already sold it.

Subsequent to the March 4th letter, R. Carroll said Alan had provided you information and then you issued a letter dated March 11th. C. Johnson said yes., TOWN00046. R. Carroll said in addition to the three issues you raised in your March 4th letter; gym equipment, the salt barter, and the sale of the Town truck, you mentioned in the third paragraph that Alan is not thinking things through and offering information without thinking it through and you give, as an example a suggesting that he made about dumping certain wastewater down the drain at the Town garage. Did that conduct factor into your decision to issue Alan a one week, unpaid suspension? C. Johnson said that it was part of her decision. It was a very minor part; I understand the context. We were throwing ideas out, but after getting in trouble at multiple different levels for not having permits, any suggestion of that is unacceptable. We can't do anything without a permit.

R. Carroll asked you and Alan are both on the committee that is dealing with the construction of the new Town Hall, is that correct? C. Johnson said correct. R. Carroll asked there was a meeting to discuss the issue of that there is too much salt in the well water? C. Johnson said that's correct. R. Carroll asked and the Town is looking for a solution to get rid of the salinity or bring it down to acceptable levels? C. Johnson said that was correct. R. Carroll asked that Alan made a suggested about a possible option, is that correct? C. Johnson said he did. R. Carroll asked and that's the suggestion you're saying was not thought through? C. Johnson said that was one of a number of them, it's minor, but it was one of them.

R. Carroll asked are you familiar with Alan's job description? C. Johnson said yes. R. Carroll asked had you read through it recently? C. Johnson said she read through it this afternoon, but hadn't read through it since his evaluation. R. Carroll asked would you agree that, in that job description, under the "Competencies", which and individual should demonstrate, those include problem solving and innovation, displaying original thinking and creativity? C. Johnson said yes. R. Carroll said that meeting that was held with the committee on the new Town Hall, that was a problem solving issue. C. Johnson said we were brainstorming, yes. R. Carroll asked is it your position that the Director of Public Works should not be joining in on the brainstorming session without first passing by his ideas past you? C. Johnson said no, that's not what she meant to imply at all. What she meant to imply was she had been digging out of some problems that involve lack of permits and she is getting weary of trying to dig out an apologizing for not having permits when we should have permits. That was the gist of what she was getting across in that letter. R. Carroll asked subsequent to that meeting, had the engineers working on that project or the committee look further at Alan's suggestion? C. Johnson explained that it wasn't in the forefront. She had a meeting last Friday, we talked for two hours about the salinity of the water with engineers and that was not mentioned as one of the top four ideas. We knew it was an option, to still put the waste from the Reverse Osmosis (RO) system to a holding tank and then taking it to the sewer plant. C. Johnson continued saying that Alan did find out there is a fee for that, a small fee per gallon. R. Carroll asked and the engineers working on that said it was a feasible solution? Attorney Stackpole said she was going to object to questions that relate to matters outside the scope the disciplinary timeframe. These are questions about activities that have happened after she issued the discipline, as I can tell from the conversation. R. Carroll said Alan made a suggestion, she's indicated it shows a lack of judgement. Just curious to see whether or not the people on the committee who were involved in that project that found it to be an irrational idea. J. Klesch said we'll allow the answer, but let's try to move along. R. Carroll said sure. C. Johnson said the committee certainly considered taking the waste from the RO to the sewer plant, but not the original comment, "I have a drain in the wash bay and we can just bring it there", which was the comment. She went on to say she understood they were brainstorming, but even the slightest implication that we are going to take, what is considered waste, and dump it into the drain in our wash bay, she didn't find acceptable. R. Carroll asked you'd agree, ultimately, everyone on that committee knew it was going to be up to the engineers what the proper way... C. Johnson said yes, she would agree with that. R. Carroll didn't have any more questions at this time. J. Klesch asked Attorney Stackpole if she wished to redirect. K. Stackpole said no. J. Klesch asked if the Selectboard had any questions for C. Johnson.

Selectboard member Jeff Sanders asked, was the request not to accept donations in October, was that before or after the gym had arrived? He then stated that he didn't think they had hammered out. He then asked do you know if that was the case? C. Johnson said she did not.

J. Klesch stated that we have TOWN00034 which is the email from Jenn Gray to VLCT asking about gym equipment and that's dated February 9th, 2022. C. Johnson said yes. J. Klesch asked does working off that date give you a better recollection of when you recall the gym equipment first coming to your attention? When you first became aware of it? C. Johnson said it was likely that week, but she was concentrating on the water supply issue for the garage bay, but it was at that time that she went through, it was on a Wednesday, so it might have been that same day, very likely that same day, but she couldn't be sure until she checked the date of the inspection. J. Klesch asked is there any possibility you became aware of the gym equipment prior to the October, 2021 memo that mentions the greenhouse? C. Johnson said she didn't recall that at that time. She didn't recall hearing that we were getting that donation. She said she's pretty risk adverse, she felt that she would remember that, maybe not the date, but remember talking about it. She said she didn't recall that we were going to start a gym in the Public Works Department.

J. Sanders asked, with regard to the bartering of the salt, would the Town Manager be notified regardless of and bartering agreement, like does that go through the Town Manager or is it delegated to somebody else, Alan, to just take care of that and would that be a reason why that you wouldn't be made aware of it, or should you have been made aware of it? C. Johnson explained that she's not involved with every barter and hadn't been before we put that policy in place. We were reacting to that situation and realized we needed to put more guardrails up, so at least she or Corey (Parent), or someone else would be a part of that conversation, so we wouldn't be surprised if it happened and someone objected.

J. Klesch asked both attorneys if they had any more questions for Carrie at this time. There were no more questions.

J. Klesch swore in Jeff King.

R. Carroll asked for the record your name is Jeff King. J. King said correct. R. Carroll asked are you employed by the Town for the Department of Public Works? J. King said correct. R. Carroll asked how long have you worked there? J. King said since the end of May, 2021. R. Carroll asked what is it that you do day to day? J. King said a mechanic. R. Carroll asked do you have training as a mechanic? J. King said yes, he did. R. Carroll said that one of the issues we talked about is the sale, the bidding, and purchasing by you of a Ford F-350. J. King said correct. R. Carroll asked what year was the truck? J. King said 2011. R. Carroll asked when you received the Bill of Sale for that, how many miles did it have on it? J. King said around 120,000. R. Carroll asked and that included a plow? J. King said it did. R. Carroll asked what kind of a plow was it? J. King said it was a Snow Wing. R. Carroll asked at some point it came to your attention that truck was going to be put out for bid by the Town? J. King said correct. R. Carroll asked do you recall how that came to your attention? J. King said he was talking with Alan about looking for a truck. Alan had mentioned that Carrie had one. He went to see her and knew that this one (F-350) was coming up for bid. He said he asked if he could bid on it and he did. R. Carroll asked you had permission to bid on it, but it was also open to the general public? J. King said correct. R. Carroll asked prior to the you submitting a bid, did you have a chance to actually look at the truck. J. King said he did. R. Carroll asked as the mechanic for the department, were you familiar with that truck? J. King said yes and asked if he could look at the truck on his own time. R. Carroll asked was the truck, at the time you looked at it, was it in a condition that it would have passed inspection? J. King said no. As a matter of fact, it had been two years since the last inspection. R. Carroll asked what was the condition of the truck, generally? J. King said considering the body was rotted out, the fenders were completely gone, the front fenders were completely gone, truck didn't run, batteries were no good, it had 4 out of the 8 (inaudible) leaking, it needed all new brakes, all new tires, it needed some front end work, also the plow didn't work. R. Carroll asked so there were some issues with it? J. King said quite a few issues and that's why he bid what he bid. R. Carroll asked and that's why you bid \$800? J. King said yes. R. Carroll asked did you have any inside information from Alan or anyone else in the Town about how many bids had been received? J. King said no and that it wasn't any of his concern. If he won, I would be approached with it. R. Carroll asked did you prepare the bid to submit? J. King said no, he asked his wife to put it in writing. R. Carroll asked and it was put in writing and mailed to the Town? J. King said yes. R. Carroll asked as the advertisement said you should do? J. King said yes, but couldn't remember what the ad said. R. Carroll asked at the end of the bidding process, however long that was, did Alan notify you that you were the successful bidder? J. King said it was actually quite a while after and he asked him (Alan), "what was going on with it". J. King continued saying Alan said at this point he was the only bidder. R. Carroll asked then he gave you a Bill of Sale and you paid the Town \$800? J. King said yes, just a few days after.

R. Carroll asked you have some mechanic skills as the Town mechanic? J. King said yes. R. Carroll asked did you spend a fair amount of time on that truck after words in order to run? J. King said probably got roughly 100 hours on the truck and he's still not done. R. Carroll asked in terms of, aside from your hours, about parts and materials? J. King said if he probably added up slips, he's probably got over \$10,000 into it. R. Carroll asked have you been able to have it inspected, is it inspectable now? J. King said it is inspectable now. R. King asked had you used it? J. King said he used it a couple of time, but it still has some issues that need to be addressed. R. Carroll asked have you used it for plowing other people's property and making money with it? J. King said no because when he originally bought it, when he went to hook up the plow, the plow didn't work. He has put nearly \$1,300 into the plow. R. Carroll was done with his questions.

K. Stackpole asked are you someone who is certified to actually appraise cars at all? J. King said he was not certified to appraise cars. He said he's bought his share in the past and he's bought cars from auction. He said he knows the value of things and what to spend and what not to spend. K. Stackpole asked, but you don't have any specific appraisal license or certification? J. King said no. K. Stackpole asked did you have that truck looked at and appraised by anyone who does do that for a living before you purchased it? J. King said no. K. Stackpole was done with her questions. J. Klesch asked if the Selectboard had questions. J. Sanders asked when you say that Carrie had a truck, was it this truck or some other truck that Carrie had? J. King said it was a truck of hers, a separate truck. He was looking for a vehicle. Where he previously worked, he was given a company truck. And now he was looking for a truck to, I need the use of one. He's not the type of person that likes to borrow from someone. He wanted a vehicle, something inexpensive to get him back and forth and to do what he needed to do.

J. Sanders asked you had said that Alan waited to let you know? J. King said he hadn't heard anything. If he didn't win the bid, he was going to have to go a different route. There were no more questions for Mr. King.

J. Klesch swore in Alan Mashtare.

R. Carroll asked A. Mashtare how long had he been the head of the Department of Public Works? A. Mashtare said I'm in my 6th year. R. Carroll asked and prior to this, series of events, had you ever received and prior disciplinary actions by your supervisor? A. Mashtare said no. R. Carroll asked had you received any commendations or thanks from either the Town Manager or the Town in general? A. Mashtare said yes. R. Carroll asked what are your responsibilities as the head of the Department of Public Works? A. Mashtare explained he oversees road maintenance; everything from ditch cleaning, road paving, plowing, tree removal, oversee our parks, our diversion canals, and two municipal sewer pump stations. R. Carroll asked how many people work for you in the department? A. Mashtare said he has 6 full-time employees in Public Works, a Parks Manager who works under him, and then various part-timers during the summer that work in the parks. R. Carroll asked do you have regular hours that you work? A. Mashtare said his scheduled hours are 6am to 2:30 p.m. A lot of times he works over. He is constantly getting phone calls at night and on the weekends. The alarms from the sewer plant goes off whenever. R. Carroll asked are you responsible for being on call or being accessible 24/7? A. Mashtare said no. R. Carroll asked you're not on call, but people call you anyway? A. Mashtare said yes. R. Carroll asked since you started in the Department of Public Works, have you started initiative or programs that you thought would benefit the Town? A. Mashtare said yes. R. Carroll asked and in particular, in the Bay Park, have you started programs or initiatives in the park that have benefited the Town? A. Mashtare said yes. R. Carroll asked can you describe briefly those initiatives or programs that you brought to the Town? A. Mashtare explained he started with the Farmers Market, he thought bringing healthy choices to the community was good. The Car Show was next, which has turned out to be a huge event and profitable for the Town. Since then, it's been various other ones. We brought the Brewfest, Thursday Night Concert Series, Holly Jolly Jamboree that we just started this past year. I had been postponed the year before because of COVID. We have a Fall Festival. We have recently taken over the Great Race from the Chamber of Commerce. All of these events are profitable and funds are put towards the parks. R. Carroll asked other than the Great Race, are all of these programs new since you started? A. Mashtare said yes.

R. Carroll asked what type of work did it take by you to put the park in the condition where people would actually want to come it and participate in these events? A. Mashtare stated that it took a lot of work. When he came on, the walking path wasn't completed. He started with completing that, so people can walk. We keep it plowed and salted during the winter, so people are walking constantly whether it's 20 degrees out or if it's 100 degrees. We've cleaned the park up. He's tried keeping staff there because when he first started, there were people doing drugs in cars. You don't see that anymore. By bringing activities and making the community better, you have a lot more people down there. R. Carroll asked have these initiatives you've put in place, in your mind, required some creative thinking and resourcefulness? A. Mashtare said yes. R. Carroll asked have you managed to do all of these things within your Department of Public Works budget? A. Mashtare said yes. R. Carroll asked as part of the work you've done and the programs you brought, has the Town received donations from Town's people or businesses that support these initiatives? A. Mashtare said yes. R. Carroll asked can you describe, generally, what types of donations and support the Town has received. A. Mashtare said as far as sponsorship, last year we brought in between \$50,000 and \$60,000 towards are events. The most important one is the volunteers. Since he started these events, he's gotten between 25-30 volunteers that work at the Car Show. The same amount for the Great Race and the same with a lot of our other events. The community is getting involved in volunteering and he thinks that's the most important thing about these events. We can make money, but making our community better is what it's all about. R. Carroll asked have these programs paid for themselves through the revenue and the sponsorships that have been brought in? A. Mashtare said yes. R. Carroll asked has there been a surplus? A. Mashtare said yes. R. Carroll asked where did that money go? A. Mashtare to the Stone House Account. R. Carroll asked and that's a Town account? A. Mashtare said yes. R. Carroll asked so the Town has that money and the idea is, subject to Selectboard approval, use that money to renovate the Stone House at the park? A. Mashtare said correct.

A. Mashtare explained that when he took this job, he made it his mission to make things better in the Town by starting these events and doing stuff in the parks. His goal is that the park would be sustainable with money that comes in from these events and activities. That it is less stress of taxes upon our Town's people. R. Carroll asked has Carrie taken that sponsorship idea and implemented some new rules working with the Selectboard that's going to be placed going forward? A. Mashtare said yes.

R. Carroll asked what about donation of specific items received? A donation of concrete blocks? A. Mashtare said yes. R. Carroll asked can you describe who that came from and what the purpose was? A. Mashtare explained that we got a donation of concrete blocks, twice, both

from Harrison Concrete. The first time was at our salt shed. They are the waste blocks, they (Harrison) used them for bracing on the trusses when the salt shed was being built because the trusses were so big. They asked if the Town could use them and he said yes. It was cheaper for them to donate them to the Town than to manpower them to truck them out. Those (blocks) became useful for making gravel bins to hold gravel for emergency situations.

A. Mashtare explained the second time was at the new Town Hall. They (Harrison) used them (blocks) once again for bracing. They were the interlocking blocks. There was 30 of them. It's about \$7,500 worth of interlocking blocks. They had to be out on a specific day and they were so busy they didn't have time and asked use them and get them out. He said yes. Since then, he has used them for retaining walls, holding down a tent at the park for events, and various other things. They have saved the money for the Town from buying blocks. R. Carroll asked was Carrie aware of that donation of concrete blocks from Harrison Concrete? A. Mashtare said yes. R. Carroll asked and did she sent Harrison a thank you letter, to your knowledge, thanking them for the donation to the Town. A. Mashtare said she did. R. Carroll asked prior to October of this past year, was there a Town policy in place regarding donations to the Town or sponsorships? A. Mashtare said not that he knew of. R. Carroll asked that in some point in the summer you talked to someone about receiving gym equipment? A. Mashtare said correct. R. Carroll asked who was that? A. Mashtare said Tim Viens at the Collins Perley Complex. R. Carroll asked how did that discussion come up? A. Mashtare explained that he was trying to get an initiative that our employees would stay a little healthier. Tim Viens reached out to him saying that they were updating some of the weight equipment at the complex and if the Town would like it, he was willing to donate some of it to us. R. Carroll asked was getting gym equipment in Town Garage consistent with Town policy, in your mind? A. Mashtare said yes, for the simple reason the Town has a policy of giving \$200 stipend to employees for healthiness. Be it sneakers, or a health fitness program or whatever. R. Carroll asked had you brought up the idea in the past to the Department of Public Works employees pooling that \$200 stipend to get equipment as a group? A. Mashtare said he did at one Selectboard meeting, someone was getting reimbursed the \$200 on the warrant and he brought it up briefly and said that we had talked about pooling our money to put either a treadmill or a rowing machine in the garage that the employees could use and it would be an asset of the Town. Instead of wasting money on a gym membership, this equipment would always be there for employees to use.

R. Carroll asked you've seen Carrie's memo of October 20th, 2021 about not accepting donations? A. Mashtare said yes. R. Carroll asked this equipment was picked up by you and set up in the garage prior that memo being issued? A. Mashtare said it had. R. Carroll asked do you recall specifically when that was picked up by you and put in there? A. Mashtare said it was the first week of October. He (Tim Viens) had offered it earlier in the summer, but because of the equipment transporting slow, it hadn't shown up. R. Carroll asked and at that point, when you picked it up and brought it to the garage, did you have any reason to believe that you were in violation of a Town policy or exposing the Town to some sort of liability? A. Mashtare said he did not at that time.

R. Carroll asked are the jobs of the people who work for you in the Department of Public Works, are they physical jobs where good health and fitness would be helpful? A. Mashtare said yes. R. Carroll asked at some point, did they use the equipment while it was there? A. Mashtare said that a couple guys had. Our local Sheriff's department had come in during the day and used it. The Sheriff's Department has a contract with the Town and they had noticed that we had it and asked if they could come in and use it. R. Carroll asked do you recall when Carrie told you to get rid of it? A. Mashtare said yup, it was in February. He went on vacation from February 14th through February 21st and she had done her walk through of the garage with the City of St. Albans over the water issue. She had talked to him that week and within 3 days had the equipment out of the building except for the light press that was out underneath the salt shed, which is gone now. It was a heavy piece of equipment and the individual who was taking it needed to get a trailer to get it out of there. R. Carroll asked, but it was out of the garage and not being used by your people within 3 days? A. Mashtare said correct.

R. Carroll asked how did the arrangement with the salt barter come about? A. Mashtare explained that Ryan Jordan gave him a call right after a storm and he was desperate and needed one yard of salt to finish the project he was on and asked if we were selling salt. A. Mashtare told him we were not selling salt. Mr. Jordan had told A. Mashtare he needed to go to Burlington and he was looking to buy salt. At that time A. Mashtare told Mr. Jordan he can't sell salt. He realized he was going to need some fusing done and Mr. Jordan is the only one in the area that's got a fuser. A. Mashtare offered Mr. Jordan a one-time deal of a yard of salt and in return he would fuse a pipe. A. Mashtare continued by explaining that the confusion with the selling of the salt, we've dealt with the State salt contract ever year he's been with the Town. It's like a black market to buy salt for all the Towns. He does not do the salt contract. He gets the salt through Canada. He's paying \$10/ton less instead of doing the State contract. He went

on to say that his goal, and he's said this to Carrie and previous Selectboards is he'd love to have a spur off the railroad (near the DPW garage) and sell salt. He said he had talked to VLCT about this and they said we could co-op it offset the cost of the salt that the Town uses and the equipment it takes to do it. He went on saying when Carrie asked him about selling salt...if she had just come out and asked, "did Ryan Jordan get salt"? A. Mashtare would have said, "yes", didn't think nothing of it. Because he had been on vacation and she's been on vacation, our paths don't cross all the time. We're busy. I wasn't selling salt to the Towns.

R. Carroll asked you put this agreement in writing? A. Mashtare said yes. J. Klesch asked R. Carroll to describe the document. R. Carroll explained it is a document called "Salt Agreement Between the Town and Ryan Jordan". R. Carroll asked did you prepare this? A. Mashtare said yes. R. Carroll asked did both you and Ryan sign this? A. Mashtare said yes. R. Carroll asked and it was dated December 30th, 2021? A. Mashtare said yes. R. Carroll asked after you signed this, how long was it before you brought a copy to Carrie's office? A. Mashtare said it might have been 3 weeks. R. Carroll asked were you familiar with Ryan Jordan as a contractor who did work for the Town in the past? A. Mashtare said yes. R. Carroll asked is he a competent person in your mind to do this fuse reducer coupler? A. Mashtare said yes, he did all the fuse reducer on the municipal sewer at the garage. R. Carroll asked and this arrangement would save a little bit of money for the Town? A. Mashtare yes. R. Carroll asked and help out a contractor as well? A. Mashtare said yes. R. Carroll asked in this work for \$150 is not the type of work you would have to put out to bid? A. Mashtare said no. R. Carroll asked so you think it was worth it if the Department of Public Works had to go out and hire somebody, you'd be free to go out and hire whoever you wanted to do this work? A. Mashtare said correct.

R. Carroll asked to your knowledge, had the Town down various types of barter arrangements in the past? A. Mashtare said yes, ever since he's been with the Town. R. Carroll asked A. Mashtare to give an example. A. Mashtare explained that since he came on board 5 years ago, the City and the Town share the responsibility of the diversion canal that's out behind the Jolley maintenance building. That gets engineered by the State every year and there is work to be done every single year. In return for the Town of St. Albans doing the work, the City does are street sweeping that he has them do through the industrial park to meet our stormwater permits. The City also used their vac-con truck to clean out catch basin. R. Carroll asked does that barter arrangement save the Town money? A. Mashtare said yes. R. Carroll asked does the Town have the equipment to do its own street sweeping to comply with the stormwater permit? A. Mashtare said no. R. Carroll asked does the Town have the other equipment needed to do the second job? A. Mashtare said no. R. Carroll asked do you have any idea how much that equipment would cost the Town if it had to go out and purchase it? A. Mashtare said a street sweeper for a small model is going to start out at \$150,000 - \$200,000 and a vac-con truck is a half million dollars and up. R. Carroll asked so in that context you entered into the salt agreement did you think you were doing anything that was contrary to a Town policy? A. Mashtare said no.

R. Carroll asked what was your understanding when this truck was going to go up for bidding about what the bidding process was? A. Mashtare explained that he would give a description to Carrie's assistant, she advertises it, the advertisement says what the description is, and that his name and phone number are in the ad if someone wants to come and look at the truck, they would make an appointment with him to see it. After that, he collects all bids, opens them, and then award it to winning bidder. R. Carroll asked how long had you been involved in that bid process. A. Mashtare explained that he had done various bids for the Town since he started working for the Town. R. Carroll asked how many bids do you recall going through that involve the Department of Public Works vehicles? A. Mashtare said twice. R. Carroll asked and there was no mention of a plow on this one? A. Mashtare said correct. R. Carroll asked was that an intentional oversight or was that a crucial part of the bid in your mind? A. Mashtare said it was an oversight on my part, it wasn't a deliberate oversight. He was just under the assumption the plow was going with the truck because the frame is already attached to the truck. R. Carroll asked who did you provide the information to for the ad to run in the paper? A. Mashtare said Jenn Gray. R. Carroll asked did Jenn ask for any additional information? A. Mashtare said no. R. Carroll other than the fact that there was a plow involved, was it all the same information you had provided previously? A. Mashtare said yes. R. Carroll asked was Carrie aware that this truck was being sent out to bid? A. Mashtare said yes. R. Carroll asked and she knew that Jeff was interested? A. Mashtare said yes. R. Carroll asked had you talked to her in the past about the possibility of allowing employees to bid on Town equipment first? A. Mashtare stated that he had. R. Carroll asked what was your thinking in doing that? A. Mashtare explained with pay rates going up around the country and our associates not making a lot of money, he went to Carrie and asked if we could possibly, when there are assets from the Town being put out to bid, could we do it in-house; it could be Town Hall, Fire Department, Public Works, anyone who works for the Town, allow them to bid first as a benefit to the Town employees. He went on to explain that Carrie said she would talk to the Selectboard and within a couple of days, she came

back and said the Selectboard said no, but the employees can bid with the public. R. Carroll asked was that series of conversations prior to this truck going out to bid? A. Mashtare said yes. R. Carroll asked did you follow the bidding process for this particular truck? A. Mashtare said he followed it the same way he did the last truck in 2020. R. Carroll asked what was the time period that the truck was advertised? A. Mashtare said two weeks. R. Carroll asked during those two weeks, did anyone call you to ask to inspect the truck? A. Mashtare said no. R. Carroll asked was Jeff's bid the only bid that was received? A. Mashtare said yes. R. Carroll asked how was that information provide to Carrie or to her office? A. Mashtare explained that usually after a bid, he turns everything into Anna (Town Clerk) and he believed that she shares it with Jenn. But, usually after a bid, at least with the last truck, he brought the bid in, the check, Bill of Sale, and then Anna digs out the title and registration which is kept in the vault, and it all gets signed over to whoever wins the bid. R. Carroll asked where does the check go? A. Mashtare stated that it goes to the Town Clerk (Anna), made out to the Town of St. Albans. R. Carroll asked do you know how soon into the two week process Jeff's bid was received? A. Mashtare explained that he had put a bid in within the first week. R. Carroll asked and that was the only bid that was received? A. Mashtare said yes. R. Carroll asked did you open it at the end of the two weeks? A. Mashtare said he opened it after the two weeks. R. Carroll stated that when he talked about it taking a couple of weeks to get information. A. Mashtare said it wasn't top priority. He knew the truck had to get out of there before winter, but it wasn't his top priority. He had salt coming in, finishing up projects, getting ready for winter, getting the plows on the trucks. Releasing a truck wasn't a top priority. R. Carroll asked you notified him, signed over the Bill of Sale, and he paid the Town for that? A. Mashtare said yes.

R. Carroll asked how did the issue of the dumping of the salt water, as part of the Town Hall project that was raised in Carrie's letter of March 11th come up, in what context? A. Mashtare explained that it was a committee meeting with the new Town Hall and we were coming up with solutions. He prefaced it as a spitball idea that we could put a holding tank in. He had asked the well driller roughly how much saline would be given off daily. He went on to say he suggested possibly putting in a 1,000 gallon tank in the ground, collect this water, use the brine tank on a trailer, pump it once or twice a week, whenever we needed to, and dump it down our drain at the garage. Meaning, that our draining goes to municipal sewer, it wouldn't have an environmental impact. The comment came up right after his suggestion that we would have to talk to the City. He said of course because it is more waste going to the City, we would have to know how much it costs. R. Carroll asked what was the issue you were trying to get a resolution for? A. Mashtare explained that the well has a high content of salt and we need an osmosis system. For every gallon of fresh water, you're going to get a gallon of salt water and you can't put that into a septic system, so we need to dispose of it in a proper way and we're so close to the lake. R. Carroll asked is the committee still looking at that as one feasible solution? A. Mashtare said he believed it's one of two solutions after the meeting he attended on Friday (April 1st) with Carrie. DEW is looking towards purchasing a tank. R. Carroll asked do you believe your efforts to come up with a solution is consistent with your job description? A. Mashtare said yes. R. Carroll asked why did you understand that you were on that committee for the new Town Hall? A. Mashtare said that Carrie had invited him onto the committee because of the instruction and past projects. He problem solved a lot of projects in the Town and he figured that's what he was on the committee.

R. Carroll said let me ask you about the suggestions of lack of candor or insubordination. Do you want to address those? A. Mashtare stated he believes he is upfront with Carrie all the time. We have a weekly meeting. Sometimes he will stop in her office and say hey what's going, this is going on. He's always been up front. She knows that I wear my job on my sleeve, that he's very transparent. So, when he hears those, he felt like he was being slapped in the face. He gives his heart and soul to this town and the job that he does. He feels that he's very transparent. R. Carroll asked were there any suggestions in your annual reviews that you needed to work on candor or transparency? A. Mashtare said no. R. Carroll asked to your knowledge, have any of your decisions cost the Town money. A. Mashtare said no, I've saved the Town money. R. Carroll asked have any of these examples cost the Town money in your mind? A. Mashtare said no. R. Carroll finished his questioning.

K. Stackpole requested that TOWN00021 and TOWN0002 be put in front of the witness. It was the evaluation July, 2021. K. Stackpole directed A. Mashtare's attention to number 5. In number 5 for the comments it says, "Alan works well with all Town employees and the public. Please refrain from making program changes, without prior authorization. No additional activities, statues, equipment should be added to parks". Do you see that? A. Mashtare said he did. K. Stackpole asked in terms of your testimony, you mentioned that you were working on a new initiative about employees staying health, did I hear you correctly? A. Mashtare said yes. K. Stackpole asked is that a new initiative that you started after the date you had received this directive? A. Mashtare said not really. The Town initiates the \$200 towards healthiness since I've been here. He was feeding off what the town already does. K. Stackpole asked, but you

thought of that initiative after this particular date of 7/8/22, is that right? A. Mashtare said he thought of it, it was something that was already implemented. He was just feeding into it. K. Stackpole stated there had not been an initiative prior to you speaking to Tim Viens about equipment. There hadn't been any initiative to bring any athletic equipment onto the Town office areas or to the Town properties, is that correct? A. Mashtare said correct. K. Stackpole asked if you were embarking on a new initiative, as you testified, to get people healthier, isn't that something you should have gone to Carrie about and gotten some permission before you accepted the equipment? A. Mashtare said yes, but he did believe that in one of their weekly meetings, he had mentioned about gym equipment and like he also said he brought up putting the equipment at the garage at a Selectboard meeting and nothing had arisen or was said then. K. Stackpole asked you never did receive permission from Carrie or the Selectboard to ever accept the exercise equipment from any outside source, is that correct? A. Mashtare said yes. K. Stackpole asked as part of your initiative, to think about getting people healthier, you didn't check with the Town or anybody else if there would be potential liability associated with you bringing any sort of exercise equipment into Town offices, is that correct? A. Mashtare said correct. K. Stackpole asked and yet you accepted that donation and you brought it onto the Town and it started to get used by employees, is that correct? A. Mashtare said correct. K. Stackpole asked without any permission or information that you received about any sort of potential liability or insurance issues, is that right? A. Mashtare said yes.

K. Stackpole said that with regards to the Sheriff's Department, you mentioned something about the Sheriff's Department checking insurance coverage. Is that something you actually checked into with regard to that equipment? A. Mashtare stated he didn't remember saying anything about checking insurance with the Sheriff's Department. K. Stackpole apologized and said she may have misunderstood him. J. Klesch said to K. Stackpole that Carrie would like to speak to her about that line of questioning after. K. Stackpole agreed.

K. Stackpole asked in terms of any sort of program that related to health and fitness and bringing health and fitness equipment or trainers or anything like that onto the premises, you never got permission from Carrie to do that, is that right? A. Mashtare said right.

K. Stackpole asked in terms of the salt barter, the timing of the salt barter, that was in December of 2021, is that correct? A. Mashtare said correct. K. Stackpole asked and that salt barter was also after you received the directive in your July, 2021 evaluation, not to engage in any new initiatives, is that right? A. Mashtare said he didn't consider bartering an initiative. K. Stackpole asked if bartering is a practice that the Town, in terms of the salt bartering, I believe your testimony was that you did not have a salt barter program, is that correct? A. Mashtare said we don't have a barter program period. K. Stackpole stated that in this particular situation, you created a written agreement with this particular person about a salt barter program, a salt barter transaction. Is that correct? A. Mashtare said he did. K. Stackpole asked you went through the trouble of writing an official contract about the barter, but you didn't think it was important to actually check with Carrie before you entered into a legally binding agreement about that kind of a barter system? A. Mashtare said he guessed not.

K. Stackpole asked the bid for the truck, the truck did come with a plow, is that correct? A. Mashtare said yes. K. Stackpole asked in the description you provided to the Town for advertising, you did not indicate that there was a plow, was that correct? A. Mashtare said he believed it was not in the description, yes. K. Stackpole asked you would agree with me would you not that somebody would be more likely to bid on something, like a truck like that if they knew it actually came with a plow? A. Mashtare said possibly. K. Stackpole asked you actually could have gotten more money for that truck if you'd actually advertised it as having a plow, probably? A. Mashtare said possibly. K. Stackpole asked did you talk to Carrie specifically before you advertised that particular truck? A. Mashtare said that he did not. K. Stackpole finished with her questioning.

R. Carroll redirected by asking A. Mashtare to view the performance evaluation from 2021, number 2, TOWN00021. R. Carroll read from the evaluation, "please avoid initiating projects without permits". Would you consider accepting a donation of exercise equipment to be a new initiative or a project? A. Mashtare said no. R. Carroll asked did any part of that acquire of equipment require you or the Town to obtain a permit? A. Mashtare said no. R. Carroll asked did you consider that one time barter arrangement to be a new Town initiative or project? A. Mashtare said no. R. Carroll asked to your knowledge did you have to get a permit or did the Town have to get a permit for that? A. Mashtare said no. R. Carroll asked and your reason for putting this in writing was what? A. Mashtare explained, it's a legal contract. He did a service for him (Ryan Jordan) and he wanted it in writing that he was doing a service for the Town. R. Carroll asked and in your mind that written agreement was to protect and benefit the Town? A. Mashtare said yes. R. Carroll finished with his redirect questioning. K. Stackpole was done as well. J. Klesch asked the Selectboard if they had any further questions for Mr. Mashtare. J.

Brigham asked where did the gym equipment go? A. Mashtare stated various places. He explained that he had asked Carrie what he should do with it. She informed him she didn't care as long as it was gone. He reached out to the Sheriff's Department and he believed some of the deputies took some (of the equipment). Some of the employees took some home. It's all gone.

J. Sanders asked did Jeff King know that truck came with a plow before he bid? A. Mashtare said he believed he did know that it had a plow, yes.

J. Giroux asked was Jeff's bid before it was advertised or after? A. Mashtare said after.

J. Klesch asked you mentioned in your testimony about the idea of changing from a stipend for employees to pooling money together to put some kind of exercise facilities in the Town? A. Mashtare said yes. J. Klesch stated you said it was brought up at a prior Selectboard meeting. Do you know roughly when that was brought up at a prior Selectboard meeting? A. Mashtare explained it was before this (current) board. He believed Jessica (Frost) and Erin (Creley) were still on the Board. It was in our general warrant; something came up about what was the \$200 for in the warrant and it was explained it was for the health reimbursement. He continued by explained the guys (DPW crew) were talking about pooling money to put towards either a rowing machine or a treadmill in the garage and is that something doable. J. Klesch asked do you roughly know what year that was? A. Mashtare within the last year, year and a half. J. Klesch finished his questioning.

J. Klesch explained that as long as he's clear that both parties agree that all the documents that were submitted earlier today through emails, including Mr. Mashtare's set that went to the Selectboard Chair and then the Town Manager's set that went from Kerin Stackpole to his office, he didn't feel they needed to spend time going through and cataloging those, as long as everyone agrees that it's the proper universe of records and we can make a list of them after there hearing. He asked if both attorneys were fine with that. K. Stackpole stated she had not received Mr. Mashtare's documents yet. J. Klesch said he would get them to K. Stackpole.

J. Klesch asked that the Town's personnel policy document was one of the exhibits, is that correct? K. Stackpole and C. Johnson said that was correct. Everyone agreed that the proper personnel policy was the one dated May 21st, 2018.

J. Klesch asked if the parties wanted to make closing statements? K. Stackpole explained that she thought they had provided testimony that does support the notion that the discipline here was proper and appropriate. There were certainly discussions and directions that were given by the Town Manager that we believe were not followed. Maybe they weren't intentional, maybe they weren't things that were purposefully done in flagrant violation of what the Town Manager said, but there certainly was a disregard for her directives and, specifically with regard to initiatives that he put together, the last two we just talked about if her final cross, those were done very specifically after he was already well on notice that he wasn't supposed to do anything like that without talking to Carrie. The fact that policies have subsequently had to be put in place, reinforces that. We do believe the discipline should be sustained. K. Stackpole was finished with her statement.

R. Carroll stated that he would disagree very strongly. There are three instances that were referenced in Carrie's letter of March 4th that formed a bases for her determination for this disciplinary action. If the Selectboard looks at the 2021 performance evaluation, none of those spelled out as anything that Alan needs to stop doing. It is "please avoid initiating new projects without permits, i.e., the Bay Park". Getting a donation of free exercise equipment is not a violation of that directive. It's not an initiative, it's not a Town program, it's not something that Alan is putting in place that requires a permit, or doesn't require a permit. It is an effort on his part to get something for the Town employees that's going to benefit them. In hindsight, when she told him she didn't want that in place, he had it was gone in 3 days. It is not anything that has cost the Town money. R. Carroll understood, in hindsight after she got an opinion from the Vermont League of Cities and Towns that they expressed concern over possible issues, but it's nothing that was spelled out to Alan prior to him taking that equipment. It was done to benefit the Town employees. It was not in violation of her expectations that were set out in the June, 2021 Performance Evaluation. Same thing with the salt barter. That was a one time deal. That wasn't an initiative that Alan was putting in place for the Town. It wasn't a program he was starting to benefit the Department of Public Works or somehow put into place an ongoing barter process. It was a one time deal. Alan knew that this gentleman was a person who could do specific work that the Town was going to need in the spring, in exchange, Alan gave him a certain amount of salt. Bottom line for that arrangement is the Town benefited. It wasn't a huge benefit to the Town, but it was a benefit of \$90 to the Town. Did Alan have notice that barter arrangements should not be entered into? He did not. In fact, he has, since he's been here, he

has entered into barter arrangements that the Town has been aware of for the Town's benefit. The barter arrangements with the City of St. Albans, so that the Town can get its street sweeping done so the Town can get its water systems cleared out have benefited the Town and has saved the Town a lot of money. Everyone was aware of those arrangements as an ongoing situation. Alan had no expectation that he was doing anything that was going to jeopardize the Town when he entered into this arrangement. It was a benefit for the Town. It wasn't anything that exposed the Town to liability. Should he have given Carrie a copy of this agreement sooner than three weeks after words? Perhaps. Alan is not sitting here today saying he couldn't improve his communication; they couldn't improve their communication together. But he's saying his conduct is not showing lack of candor or any type of insubordination as far as the Town bid process, where the truck was sold to Jeff. Alan followed the bid process that the Town has used in the past. The one thing he left out was the inclusion of the plow. Maybe that would have resulted in a higher bid for the Town, maybe not. You heard Jeff's testimony about the condition of that truck. R. Carroll suspected that the fact that the truck was with or without a plow was not going to drive the price of that truck a lot higher had it been advertised as coming with a plow.

R. Carroll continued by saying the Town's disciplinary policy speaks to a progressive discipline process. There is a verbal warning process. There is a written warning process. There is a suspension. There is a termination. He stated that he understood that there is also language in there that says we're not stuck having to follow that specifically. But, in this case, Alan has not had a single disciplinary action against him. Yet there is nothing in his file to reflect that Alan has been warned in the past about this conduct or any other conduct. So, the idea that a week's suspension without pay is an appropriate disciplinary action for this conduct, which Board can certainly look at and say that Alan did nothing wrong. R. Carroll thought that that type of discipline is extreme and it goes beyond what's contemplated in the Town's policies.

Adjournment

MOTION: J. Brigham made a motion to adjourn the Selectboard meeting at 7:25 p.m. Seconded by J. Sanders. All in favor, none opposed, motion carried.