

**Village of Pawnee  
Board of Trustees  
Employee Post-Suspension/Pre-Discharge Hearing  
Minutes of November 3, 2005**

**Call to Order**

- President Manning called the meeting to order at 7:00 p.m.

**Roll Call**

- Village Clerk, Cynthia Kramer, called roll.
- Trustees in attendance: Steve Gudgel, Tom Bowen, Phillip Thompson, Jeff Thomas and Bill Miller
- Trustee/s absent: Joette Manning
- Also in attendance: Village Attorney John Myers, Police Chief Jan Bowsher, Employee Donna Alexander and (husband) Larry Alexander
- Pledge of Allegiance
- Following roll call Village President Kenton Manning turned the meeting over to Attorney John Myers for the purpose of conducting a Post-Suspension/Pre-Discharge Hearing as requested by Village employee, Dispatcher Donna Alexander

**Issue**

- Employee tampered with July 14, 2005 random drug test.
- Employee failed to complete a second random drug test on October 14, 2005, by time specified by her supervisor, Police Chief Bowsher

**Hearing Format**

- Chief Bowsher and Donna Alexander will be sworn in for testimony, as well as any other corroborating witnesses by Village attorney John Myers
- Chief Bowsher will give her opening statement and testimony first. Attorney Myers will ask questions. Board members and Donna Alexander will have the opportunity to ask questions as well.
- Donna Alexander will give her opening statement and testimony following that of Chief Bowsher. Board members and Chief Bowsher will have the opportunity to ask questions as well.
- Both Chief Bowsher and Donna Alexander will be given the opportunity for closing statements.
- Board deliberation and conclusion

**Bowsher Testimony**

- Donna Alexander was sent for a drug test on July 14, and she did not return until five and a half hours later. Upon her return she told me she had tampered with the drug test. She said her husband smoked pot at home and she was concerned she would test positive.

*Myers:* This is a random drug test?

*Chief Bowsher:* Yes

*Myers:* How does this work?

*Chief Bowsher:* Joette (Trustee Manning) is notified and she in turn calls the randomly selected employee/s that morning to inform them the test is to be taken that day. The employee/s have until 5 p.m. to take the test at MOHA (Midwest Occupational Health Associates), they go in and take the test on their own.

*Myers:* Donna confessed this? (Tampering with the test)

*Chief Bowsher:* Yes

*Myers:* Donna used a urine sample from her son, concealed it, and substituted it for her own urine during the test. However, MOHA rejected that sample as not enough to test. She then had to retake the test providing a sample of her own urine.

*Myers:* Were there any witnesses to this conversation?

*Chief Bowsher:* No

*Chief Bowsher:* At that time I went to Trustee Manning, she is the trustee that handles the employee drug testing program, and told her what Donna had told me. The matter was discussed and it was determined that action would not be taken until the village received the result of the test. The test result came back negative however; a letter describing the incident was placed into the file.

*Chief Bowsher:* Donna Alexander was again randomly selected for drug testing three (3) months later, October, 14, 2005. I was notified by Trustee Manning she had been selected and that the test had to be completed by 12:00 p.m. on that day. I sent Officer Shawn Burnley to inform Donna she had been selected for testing with the order the test be completed by noon. According to Officer Burnley, Donna told him she may need a ride to the testing facility, but thought her niece could take her. The test was taken at 1:54 p.m. two (2) hours past the clearly specified time of completion, 12:00 p.m.

*Chief Bowsher:* I thought there was a possibility Donna Alexander was trying to flush her system by drinking large amounts of water.

*Myers:* How do you know about the flushing method?

*Chief Bowsher:* Police training.

*Chief Bowsher:* I asked Donna Alexander why the test was completed two hours late and she replied she needed a ride. It is not a big deal to give her a ride up there, other employees were going, and Officer Derek Galloway was to take the test the same day.

*Chief Bowsher:* Her niece came in about 11:20 a.m. on October 14 to pick up the form Donna needed to take with her to MOHA.

*Myers:* Why is it important that people follow urinalysis to the letter?

*Chief Bowsher:* It is important to follow through with drug testing, working for the police department you are held to higher standards.

*Donna Alexander:* Why did the Chief wait three months to do this?

*Chief Bowsher:* I didn't

*Donna Alexander:* What about another village employee, police officer David Bentley and drug testing?

*Chief Bowsher:* The incident Donna is referring to happened a number of years ago, while there was drug testing, up until about five to five and a half years ago, it was not included in the Personnel Policy. At the time Bentley was on medical leave due to a massive heart attack when he was selected for drug testing. When informed he offered to resign. The board spoke with him and after taking the medical condition and aftermath, both physical and mental, into consideration opted to give Bentley one month to think things through and to decide what he really wanted to do. I thought a reprimand was due, but that was not my decision to make, it was a board decision.

*Myers:* Any time the Personnel Policy is revised, are copies given to the employees?

*Chief Bowsher:* Yes

*Trustees:* All present answer yes

*Myers:* We know Donna passed the first test, it came back negative. I have the results of the two recent tests, just received and still sealed in the envelope which he opens. The result of the October 14, 2005 test is negative. The result of the October 18, 2005 (Police Committee) supervised test is also negative.

*Chief Bowsher:* This is random testing, nine years of employment; July was the first time Donna's name ever came up for drug testing. The Police Department has received complaints, allegations that drugs are being used at the Alexander residence.

### Alexander Testimony

- Donna Alexander begins testimony at 7:20 p.m.

*Donna Alexander:* Officer Burnley did come by and told me I needed to be tested today (October 14, 2005) and the test had to be completed by 12:00 p.m. My niece was not able to take me, but my sister-in-law, Jan Alexander was. My niece did pick up the form I think around 11:35 a.m. The distance to MOHA is 16.5 miles, 24 minutes travel time. I thought I would make the noon deadline. The vehicle ran out of gas just west of Comanche Village Road. An Illinois State Trooper blew past us, but did not stop. Don Alvies (uncle to husband) did stop shortly thereafter and took my niece to work at Subway. A second Illinois State Trooper, notified by the first, did stop and asked if we needed help and he was told help was on the way and he left. Don Alvies returned with gas and we continued to the service center for fuel. While there I did use the phone and called MOHA to inform them I would not be there by noon to take the test. The woman on the phone told me I had until 5 p.m. to take the test.

*Trustee Phillip Thompson:* At this time did you call the Pawnee Police Department or Chief Bowsher to let her know?

*Donna Alexander:* No

*Trustee Phillip Thompson:* But you called MOHA from the truck stop....service center!

*Donna Alexander:* None of us had cell phones, I had to call from the service center, don't know why I did not call Pawnee.

*Chief Bowsher:* It took 5 and ½ hours to get the first drug test which should have only taken an hour and ½. We had a sub in and I think his time sheet shows 5 and ½ hours, and employees are paid for the test time.

*Donna Alexander:* At MOHA, I was there for may be 2 ½ hours, stopped at Subway for lunch, then came in.

*Myers:* You deny telling Chief Bowsher about tampering with the drug test?

*Donna Alexander:* Yes I do!

*Myers:* If that is not true, why would Chief Bowsher bring these charges?

*Donna Alexander:* The Chief and I have locked horns a number of times, and it has gotten worse the last two years. I believe she wants to fire me.

*Larry Alexander:* I believe I am to blame for this, the Chief and I have had words over village ordinances.

*Trustee Bowen:* Donna, the day of the car trouble, you knew you could get a ride?

*Donna Alexander:* I've gotten rides, to and from work only.

### **Recess**

- The hearing is recessed at 7:34 p.m. and reconvenes at 7:45 p.m. after employee Glenn Smith arrives to unlock files as Chief Bowsher and trustees requested documents including times sheets and Alexander's Personnel File.

*Chief Bowsher:* I must apologize, the time sheet shows Donna was gone 4 hours, not 5 and ½ as previously stated. The time is still excessive. The MOHA receipt for October 14 shows test completed at 1:51 p.m., almost two hours later than time specified. Officer Derek Galloway to me he saw Donna at Subway at 12:30 p.m.

*Donna Alexander:* Thought I saw Galloway after I came back (but could not explain time differential when asked about it). Would you (trustees) check the time I signed in to MOHA?

### **Closing Statements**

*Chief Bowsher:* Two times, two times it became a big issue for her to take the test.

*Donna Alexander:* I have never refused to take a test. I have always went and taken the test. All three (3) test results were negative.

Attorney John Myers instructs trustees according to the Village of Pawnee Personnel Code Donna Alexander can be fired only for "cause" and he defines "cause" per the Supreme Court, not once, but twice for trustees.

*Myers:* Donna Alexander did not flunk drug tests, but you must decide the following:

1. Did she tamper with the drug test? What you have here is diametrically opposed.....she said/she said. Chief Bowsher said yes, she told me she tampered with the drug test and Donna Alexander denies she told Chief Bowsher she tampered with the drug test. Who do you believe to be telling the truth?
2. Did she violate an order from Chief Bowsher to have the test completed no later than 12:00 p.m. on Tuesday, October 14, 2005?

The board can fire or discipline. Chief is asking that Donna be terminated. She has been on suspension and the suspension ends today.

### **Executive Session**

- Motion made by Trustee Bowen to enter executive session to discuss personnel issues regarding pending charges and disciplinary action.

Second by Trustee Thompson

Roll Call Vote Taken: Gudgeon-yes, Bowen-yes, Thompson-yes, Thomas-yes and Miller-yes

Motion Carried (5-0)

Chief Bowsher, Donna Alexander and Larry Alexander are asked to wait in the ESDA office.

Trustees enter executive session at 8:10 p.m.

Trustees re-enter regular session at 8:41 p.m.

## Conclusion

- Upon re-entering regular session trustees discussed the option of offering Donna Alexander the opportunity to resign. Trustee requested attorney Myers to speak to Donna Alexander regarding resignation. Upon his return to the board room Myers informed trustees that Donna Alexander stated she was not interested in resigning.
- Chief Bowsher, Donna Alexander, and Larry Alexander return to board room

Motion made by Trustee Bill Miller the board find that Donna Alexander did tamper with the July 14, 2005 drug test.

Second by Trustee Thomas

Roll Call Vote Taken: Gudgel-yes, Bowen-no (citing lack of corroboration and incomplete documentation), Thompson-no (citing lack of corroboration), Thomas-yes and Miller-yes

Motion Carried (3-2)

Motion made by Trustee Gudgel the board find that Donna Alexander failed to follow an order from Chief Bowsher to complete the a drug test no later than 12:00 p.m. on October 14, 2005.

Second by Trustee Thompson

Roll Call Vote Taken: Guegel-yes, Bowen-yes, Thompson-yes, Thomas-yes and Miller-yes

Motion Carried (5-0)

Motion made by Trustee by Trustee Thomas to terminate employment of Donna Alexander due to Charges 1 and 2.

Second by Trustee Thompson

Roll Call Vote Taken: Gudgel-yes, Bowen-no (citing lack of corroboration-incomplete documentation), Thompson-yes, Thomas-yes and Miller-yes

Motion Carried (4-1)

Motion made by Trustee Gudgel that Donna Alexander not be paid for the period of time she has been suspended without pay.

Second by Trustee Thompson

Roll Call Vote Taken: Gudgel-yes, Bowen-yes, Thompson-yes, Thomas-yes and Miller-yes

Motion Carried (5-0)

Trustee Gudgel notes that termination is effective immediately.

Trustee Bowen states that Donna Alexander does have vacation (three weeks) and several sick dues due her. He also informs Donna Alexander that employee insurance will cease at the end of the month.

- Donna Alexander stated she feels that she is a good employee but admitted she did have a problem with tardiness. She stated she would have to get another job and asked trustees about recommendation.
- Attorney Myers replied, that is passed, and the Village could state you were terminated with cause.
- Trustee Tom Bowen asked if he could ask a question. Attorney Myers cautioned him as well as other trustees that the purpose of the hearing-meeting was to discuss charges stated and course of discipline only. No other business is to be discussed and suggested trustees adjourn the meeting.
- Chief Bowsher stated she was not out to fire Donna Alexander, but expected a strong reprimand. Termination is not from me, not my decision.

**Adjournment**

Motion made by Trustee Thompson to adjourn.

Second by Trustee Gudgel

Voice Vote Taken: Aye-5 Nay-0

Motion Carried (5-0)

The hearing adjourned at 8:54 p.m. Thursday, November 3, 2005

The next scheduled meeting of the Village Board of Trustees is Monday, November 14, at 7:00 p.m. at the Village Hall.

Submitted by

Cynthia Kramer  
Village Clerk