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Minutes of the Special Meeting of the Town Board of the Town of Durham held February 25, 2020 at the Town Hall commencing at 6:30 p.m.

Present: Shawn Marriott, Supervisor
Joan Breslin, Deputy Supervisor
Linda Sutton, Council Member
George Deckers, Council Member
Scott Hulbert, Council Member

Recording Secretary: Janet Partridge-Town Clerk

Others Present: Chrissy Kohrs, Court Clerk
David Cunningham, Building Inspector
Karen Tirpak, Bookkeeper/Judge
Patti Fetty, Deputy Clerk
Tom Sutton, Police
Joe van Holsteyn, Highway Superintendent
Paul Capulli, Deputy Highway Superintendent
Ray Armstrong, Highway
Justin Lounsbury, Highway
Matt Mattice, Highway

Supervisor Marriott called the meeting to order at 6:40 p.m. with the Pledge to the Flag.

Councilmember Deckers questioned how we define full-time and part-time employees. Councilmember Breslin and Councilmember Hulbert felt they hadn't come up a definitive answer or actually said a number. Marriott said he is looking for a number to differentiate between part-time and full-time and yes they were in agreement that full time is 40+hrs/week and part-time is considered 39hr or less/week. He stated again, yes, they had defined what that was.

Breslin said at the last meeting Deckers came up with a good point, sometimes they forget what is stated at the past meetings. They should make a motion so they know what was said and agreed on.

Deckers read section 807 of the employee handbook, Medical/Dental Insurance for Retired Employees

"Coverage - The Town will make available medical insurance coverage to all eligible full-time employees and their eligible family members and full time Superintendent of Highways and part-time employees who retire from the Town under the eligibility conditions set forth at the employee's date of retirement.

Eligibility - To be eligible for coverage, the retiree must be age fifty-five or older at the time he or she retires with the following conditions:

Employees hired prior to January 1, 1997, will receive full benefits after 15 years of credited full time service for the Town.

Employees hired after January 1, 1997, will receive full benefits after 20 years of credited full time service for the Town."

Deckers stated full time service does not mean you work full time it means you come in and you maintain a continuing service. After he talked with Attorney Rappleyea at length, he concurred that full-time service does not mean full-time employment.

Deckers would like to change in that section of the handbook from full time service for the Town to continuous service to the Town.

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Breslin disagrees. She stated that in the first paragraph reads "*and part-time employees who retire from the Town under the eligibility conditions set forth*" and it says the eligibility conditions set below says 15 years of credited full time service to the town and underneath it says "*In addition, the employee must have applied for and been granted a bona-fide retirement benefit from the New York State Employees' Retirement System.*" A credited year is parts of a year if you work part-time and not full-time, therefore you can't accrue a full year if you have 10 hrs a week of service. Deckers said that is not how he is looking at that statement; he is looking at it as continuous service for 20 years no matter the hours.

Marriott directed a question to Patti Fetty. He asked if she just retired. Breslin didn't want to mention specific employees, but Marriott wanted to ask her a specific question as to whether she applied for and was granted a bona-fide retirement plan. He said she has gone to the state and has a retirement that was set up as a part-time worker. She has a benefit that has been set up. Breslin asked if it was 15 years from the state, it doesn't say it is 15 years. She spoke with the people from the state and when you put in your hours you are credited partial days per month and year, not full-time for the month and year, therefore after 15 years of service you won't have 15 years of credited service in retirement. Marriott said he agrees with that, but the retirement plan and full-time service statements don't relate. He is interpreting the wording differently.

Deckers would like to make a motion to change the wording to read continuous full time service to the town. He feels it would take away the ambiguity of what service is. Breslin feels he is adding hundreds of thousands of dollars to the town budget every year and in addition it is a slap in the face to the highway workers who have to work 40hrs/week, 50/hours per week or 60hrs/week to get the same benefit and for 20 years. Deckers said they are covered by the benefit already so it shouldn't bother them. Marriott said they also get sick leave, vacation, and personal time. Breslin said yes but that is because they are full-time. Marriott said they also get paid overtime which is more money. Breslin said yes but it is also more taxes. Marriott said they are working full-time which are more hours a week so they are getting paid more and that is their decision. Breslin said why not prorate the full-time employees. Deckers said no, there is already a policy in effect for them and they should stick with that. Breslin said he is suggesting changing it so why not change it across the board. Deckers feels his motion will make sure everyone gets treated fairly, everyone is getting the same benefits. Breslin said that is not true. Our animal control officer, John VanTassel is not offered health insurance. Why isn't he allowed health insurance if we are trying to be fair across the board?

Breslin mentioned she and Hulbert went to a workplace harassment law training seminar in NYS the week before and they told them the next big harassment claims are going to be for equal pay. If the town gives health insurance to one part-time employee, they need to give it to all part-time employees. Deckers said not following through with his motion she would be discriminating. Breslin said they have given some people a pay raise every year so that employee could keep her insurance because that person was not making the minimum salary to be allowed by the insurance company. Some years it was actually a 12% pay raise just so they could keep their health insurance and everyone else only got 3%. The state laws say we have to offer equal pay. Deckers asked why we are doing this now. Breslin said if we continue to do this for one person we will have to do it for everyone.

Deckers feels changing the retirement health benefits would be equal for everyone. Breslin stated that is not what it says right now. It says 15 years of credited full time service and farther down it states in state retirement. She asked Fetty if she wants to say if she has 15 years of credited service to the town. Fetty said she doesn't probably, but she has been here for 23 years.

Court Clerk Kohrs said Breslin was looking at it wrong. It should be read as three separate sentences. Breslin asked then how do we know if someone has 15 years of credited full-time service to the town.

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Kohrs said she agrees with Deckers, let's look at changing that verbiage.

Deckers made a motion to change full time to continuous service in both categories for employees hired before January 1st and employees hired after January 1st and yes I feel that those people who have worked for 20 some years are entitled to the insurance at the cost to the town's expense. Breslin asked even if they only worked 5 hrs or 10 hrs a week or a year? Deckers said yes because that is how he feels and not doing that would be a slap in the face. Breslin asked even if they work 2 hrs a week or 3 hrs a week and Deckers said that is correct.

Councilmember Sutton asked Deckers who is crediting the continuous service, is it the state or the town. Deckers said no the state is a separate entity. Breslin asked if Deckers was striking out the retirement statement. Deckers said he was not.

Marriott asked to go back to the first paragraph where it says:

The Town will make available medical insurance coverage to all eligible full-time employees and their eligible family members and full time Superintendent of Highways and part-time employees who retire from the Town under the eligibility conditions set forth at the employee's date of retirement.

Then go to Section 807:

Medical/Dental Insurance For Active Employees

Eligibility - The Town will make available medical insurance coverage to each full-time employee, the Superintendent of Highways, part time employees who work a schedule 20 hours a week or draw a salary based on 20 hours at the current minimum wage rate and their eligible family members.

Marriott feels they are not talking about employees who are not 20 hrs a week or draw a salary based on 20 hours at the current minimum wage rate. We are not talking about every part-time employee for this rule. Breslin stated in a legal board meeting the bookkeeper came out and said to them we need to give one employee a substantial raise to make it look like she is working 20 hrs a week. If we make it look like she is working 20 hrs a week the insurance company will not come in and audit to see if they are working that. That is what the board did. They did it for one particular employee to keep their health insurance. The board did not do that for any other employee. They never offered them the option. Kohrs said she sees there are sour grapes for something that didn't happen with a prior administration and we want to burn those who wronged before. Breslin said that's not burning that is legally opening a great big can of worms. This needs to be fixed so that it doesn't happen again and we need to fix this. Now we need to pull back and make it fair. Is it fair that someone working 10 hrs a week gets the same benefits as someone working 40 hrs a week? Is it fair that that years is credited the same. If you work 40+ hrs a week for 20 years for a benefit that some else only has to work 10 hrs a week to get; that is not equitable. Kohrs said here's the thing, it is a rare occurrence that someone stays with a part-time job for over 20 years, because usually part-time is usually moving on to something else. Breslin said having insurance while working very few hours a week is a huge benefit. When your health insurance is over \$17,000 a year and the employer is covering \$13,000 that is an incentive to stay. When you are working part-time and you put that \$13,000 on top of a salary, they are making a lot per hour compared to a full time employee receiving less per hour.

Breslin has a hard time believing the intentions of the people who wrote the employee handbook was that someone would work 15 years at 2 hours a week and get the same benefits as someone who works full time. Marriott stated that is not the case unless they meet the criteria for what it shows they are making per hour. Breslin differed because some were increased to make it look like they met the criteria. Marriott said that is over and we are moving forward. He just wants clarification for what the board is doing for those people now. He said as a board we need to decide if we are willing to take the chance that someone

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who does not meet the threshold to get that retirement benefit, will they sue the board for that. Maybe, but Marriott is willing to take the chance.

Deckers wants to be done discussing this issue and pass his motion. Breslin said he is looking at adding an expense that was non-existent in the handbook and she doesn't agree. Deckers said it did exist but Breslin wants to make the verbiage of credited full time service not apply to part-time. She stated again there has to be proof of how many hours the employee has worked, not just 20 years no matter how many hours you have in, but if Deckers wants to make a motion he can.

A motion was made by Deckers to remove credited full time from both instances under January 1st, 1997 and replace it with continuous, seconded by Hulbert, voting as follows:

Marriott – Aye

Breslin – Nay

Sutton – Nay

Deckers – Aye

Hulbert – Aye

3 Ayes and 2 Nays, the motion has passed.

Marriott mentioned they had discussed increasing the retirement age of newly hired full time employees to receive health benefits to 60 years of age at a previous meeting. Breslin was not in agreement on that anymore, she would like to keep it at 55 years. Van Holsteyn expressed his concern with increasing the retirement age. For any young guys hired, they would have to work up to 35 years before they could have a change to retire. He would like the board to keep it at 55 years of age.

For new hires who are part time the board discussed 30 hours a week or more would get a different retirement option than those part-time employees who work 29 hours a week or less. Previously they had discussed 29 or less no health care coverage and 55 and over of 20 years continuous service to the town, 30 hours or more a week will get 50% coverage. Marriott stated some of you didn't feel it would be fair for someone working 30hrs to get the same benefit as 40hrs per week. Marriott asked if they want to give them 75% coverage for a single plan. Breslin mentioned that is what Hulbert's proposal said for current employees. Hulbert felt that was behind them but they can still work off of that. Partridge said it would be good to get this laid out since she will be looking to hire a new deputy clerk.

Partridge mentioned she believed the board changed the working to include 100% health coverage for retirees and 100% for their families for part-time workers. Deckers said no, it would be 100% coverage for retirees and 50% coverage for their families if they are part time. The only thing they changed was credited to continuous. They changed nothing else. Partridge tried to explain that it was an extra payment to take into consideration.

Marriott explained they are currently talking about new hires. We have 55 years or older, 20 years of continuous service, minimal of 4,680 hrs for the 3 years prior to retirement which is a 30 hr work week. Breslin said she disliked this. This idea was for our current employees so that we could make sure that certain people got insurance if they did three years in a 30 hr per week job. I don't think we better do that with future employees, it is a problem waiting to happen. Marriott said do we want to say 20 continuous calendar years of service and have worked 30 hrs or more per week for the town will receive 75% of health coverage for a single plan not a family plan. Marriott read a part time employee hired after January 1, 2020, must be age 55 or older and have worked 30 hours or more per week for 20 consecutive years of continuous service to the town will be eligible for the benefit of 75% coverage of a single plan, 0% of a family plan. Hulbert would say yes. Marriott is that what we are looking for? For clarification we are

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talking about newly hired employees from January 1st on or from when this employee handbook goes into effect. Employees working 29 hrs or less will not receive health insurance coverage. To get rid of the ambiguity they will not receive health insurance coverage when they retire.

Breslin asked are they getting health insurance when they are hired. Van Holsteyn asked the same thing. Marriott and Hulbert said yes, if they meet the 20 hours a week threshold, they will be eligible, but when they retire they will not get it. Breslin asked then we are going to offer it to a 20 hrs a week employee is going to get 100% of their medical insurance paid and 50% for their family. Hulbert said we don't have to. We are talking about two different things here, Marriott said.

A motion was made by Hulbert that a part time employee hired after 1-1-2020, must be age 55 or older and have worked 30 hours or more per week for 20 consecutive years of continuous service to the town will be eligible for health coverage benefit of 75% coverage of a single plan, 0% of a family plan, seconded by Deckers, all in favor, motion carried.

Marriott asked as far as receiving health coverage while working for an employee working 20 hrs or salary equivalents to minimum wage of 20 hrs a week for the year, what are we offering them. Breslin asked if anyone knows of a town that offers health insurance coverage for part timers. No one knows of a specific town. Van Holsteyn said he would like to put his two cents in. He believes you will not have your continuous employee because there will not be that goal ahead and you are not going to get your 20 year employee who will be steady. He is just suggesting looking at both sides of the coin.

Marriott asked if for active employees hired after 1-1-2020 the town will not offer health insurance if they work 29 hours or less per week. Marriott said they would need to change active employees who work a scheduled 29 hours per week or draw a salary of 30 hrs at the current minimum wage. Breslin suggested not use the wording draw a salary. Marriott said they can use whatever they want, if they want to just use hours worked that is fine. He said they can make a motion anybody hired from this day forward who does not work 30 hours or more will not receive health care benefits. Breslin feels yes, if we are talking about trying to balance the budget and we are paying for all the retirement benefits, we are not going to be able to pay for current employees.

A motion was made by Breslin, a part time employee hired after 1-1-2020 working 29 hours or less per week will not be eligible for health care coverage, seconded by Hulbert, voting as follows:

Marriott – Aye

Breslin – Aye

Sutton – Aye

Deckers – Nay

Hulbert – Aye

4 Ayes and 1 Nay, the motion has passed.

Marriott asked if then part timers 30 hrs or more, do we keep it the same that they receive the 75% coverage on a single plan, are we keeping that the same everyone hired prior and afterwards are we keeping that the same or having it different. Hulbert said it is still a pretty good deal. Marriott asked if Hulbert is making that motion, Hulbert said sure. Breslin confirmed we are not talking about current employees; it is the employees we hire from this point forward. As they are actively working we are talking 30-39 hours. Marriott said yes we consider them still part time employees. Breslin said she feels that is strange, because you are talking about a 30-39 hour employee 75% of just a single plan because they are really full time. Breslin confirmed they are talking about future hires not current employees. Marriott asked if they could decide to do 75% of the employee and 50% of the family. Breslin asked if it

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could be tabled, January 1 2020 and on, 30-39 hr a week active employee to have at 75% single plan and 50% family.

Partridge asked eligibility for current employees are going to stay the same. Hulbert said yes. She confirmed hired prior to January 1-1-2020. She asked if everything that is in the handbook for active employees would stay the same. Marriott said yes that all stays the same.

Marriott stated the handbook section on medical/dental insurance for Active Employees will have to be changed to:

Eligibility - *The Town will make available medical insurance coverage to each full-time employee, the Superintendent of Highways, part time employees who work a schedule 30 hours a week or draw a salary based on 30 hours at the current minimum wage rate and their eligible family members.*

Deckers stated a new line will have to be created on employees hired after 1-1-2020 and under 29 hours a week and the statement above will have to say prior to 1-1-2020.

Marriott asked if we want to leave the draw a salary based on 30 hours in there. Breslin feels it is the root of all the problems. If you want to make an exception for someone it gives you that option and it opens things up for abuse. When we hire someone it is for x amount of hours. Partridge reminded them the elected officials are a little different. It would be different how much hours you can designate to a position to do. Marriott said he remembered talking about this before. The town clerk is 30 hrs. For Tirpak, she is Marriott's clerk, Highway clerk and Judge, so she is 30 hours. If someone comes in and the positions are separated, therefore they should do it hourly.

A motion was made by Breslin that the board in the future disregard salary and use hours to decide if a part time employee is eligible for benefits, seconded by Hulbert, all in favor, motion carried.

Moving forward, Marriott asked if the board is in agreeance with:

Employees hired prior to 1-1-2020 - *The Town will make available medical insurance coverage to each full-time employee, the Superintendent of Highways, part time employees who work a schedule 20 hours a week.*

Breslin said they had been making an exception for one employee and this leaves everyone else in the dust. Breslin stated they made two resolutions to grandfather in an employee. Breslin asked if they could have a copy of the resolutions they made last fall.

The Board talked about another meeting. They are looking at March 10th at 7pm. Breslin asked if Marriott would be available. He said he is always on call and in an emergency he would have to go in, but right now he is available on the 10th.

Partridge gave Marriott the resolution:

This standard shall not apply to the current town employees who do not receive health benefits, for such employees the prior standard of eligibility, 20 hours per week at a level equal to minimum wage or an annual salary equivalent to that amount shall apply.

Breslin asked for the first resolution to be read. She remembers the original resolution was to get rid of the minimum wage requirement which gave any employee the chance to have the health benefit.

Marriott read the first resolution:

To discontinue the current department of labor standard for minimum wage for health benefits.

Marriott asked if the board can dissolve a resolution. He would like to look at the option to dissolve the resolution. Marriott stated in past practice that during the budget process the board did not give everyone a 3% raise; one particular employee would get an 8-10-12% increase in wages. The resolution was passed so that a wage increase would not be needed and the person could still be eligible for their health

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benefits. Van Holsteyn suggested tabling the thought until the attorney can be asked for the correct wording.

Marriott read the original resolution passed in 2012:

WHEREAS, due to the rising cost of health insurance the Durham Town board has evaluated the current health insurance eligibility requirements and,

WHEREAS, the Durham Town Board has determined that the time has come to adjust the eligibility requirements for health insurance

BE IT RESOLVED, effective June 1, 2012 the Town of Durham will set forth the following eligibility requirements,

Full time employees who work a scheduled 40 hour work week will receive 100% premium health insurance coverage for themselves and their family based on the lowest plan coverage being offered by the Town of Durham.

BE IT FURTHER RESOLVED,

Part time employees who work a scheduled 20 hour work week or a salary based on the current minimum wage hourly rate on a 20 hour work week will received 100% individual premium coverage and 50% family premium coverage based on the lowest plan coverage being offered by the Town of Durham.

Marriott said they are reading into the resolution of Department of Labor standard. He explained that to Breslin. She asked so we got rid of that requirement of salary based on the current minimum wage but only for the employees who currently have the benefit. Marriott asked do we leave this eligibility in the handbook for those hired prior to the revision. Partridge said as an employee who signed the handbook under those standards, it wouldn't be right to change it. Breslin said she understands but keeping it opens up for unequal treatment. Marriott said they can table it for the next meeting on March 10th.

Deckers asked if Partridge was close to hiring a deputy clerk. Partridge said no. He said the association of towns when he went for training it said that in order to safe guard and have no ambiguity that the clerk will have her drawer and the deputy clerk will have a separate drawer. He would like to have that in place in our town so that there is no way of having any kind of, you know, you make a mistake, I made a mistake, it is highly recommended that we as a town...Partridge interrupted and replied: There are a lot things that are highly recommended that we don't do and I will take that into consideration and I thank you for giving me that idea so when I hire my clerk I will definitely consider that as a good thing to do.

Deckers stated it is town monies that the town clerk handles so it is up to the board to set the guidelines. Partridge asked why he is setting guidelines for her office and no other offices. Partridge asked if he would want the court office to follow the same guidelines. Deckers asked if each Judge had their own cash drawer. It was stated that the court clerk along with Judge Tirpak both collect fine monies. Tirpak was asked how they handle it. She said they have two separate accounts. Partridge asked don't you and Kohrs both collect monies? She said she does if she is here and she has to. Partridge asked if they have two separate cash drawers then. She said they don't use a cash drawer. So you guys put it together? Tirpak said we don't have petty cash everything is paid separate. If a fine gets taken for me it goes into a deposit for me if a fine gets taken for Ray it goes into a deposit for Ray. Partridge asked does Kohrs collect for you and you collect for you at times, different times? Tirpak stated, if someone comes in during the day and Chris isn't here, yes. Partridge asked Deckers if he would suggest this practice for the court office as well then. He said no they only advised it for the town clerk's office. Partridge again thanked Deckers for his suggestion. Deckers stated I didn't know if we had to make a motion on that, but if you are saying that we don't have oversight. Partridge said no you do, you audit me, and you audit the court.

Marriott asked Deckers to do more homework on that, so if we need to discuss something more down the road, or there is something we need to do in other departments and we need to make changes we will make changes.

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Sutton said she was asked by some of the resort owners if the town would be willing to cover insurance so there can be a shuttle bus to the Irish Cultural Center and all the resorts during Irish Festival Weekend in May. She felt they would pay for it under our insurance. Breslin said she has heard it both ways. Sutton felt they would get the bus and driver and we would just cover the insurance for them. Marriott said there should be clarification on whether the town would pay for the insurance or the resorts. Breslin mentioned we did this for the fire companies at the 2017 convention. Sutton didn't think that is what the resort was looking for. They are not looking for school buses. Marriott asked for clarification.

Council member Hulbert motioned to adjourn at 8:36 p.m. seconded by Council member Deckers.

Respectfully submitted,

Janet Partridge,
Clerk/Collector