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*Please Respond to Quincy*

January 8, 2008

Williard Krasnow, Chair  
 Town of Norwood  
 Personnel Board  
 566 Washington Street  
 Norwood, MA 02062

**Re: *Personnel Board  
 Legal Opinion Request***

Dear Mr. Krasnow:

Please accept my apologies to you and to the other members of the Norwood Personnel Board for the delay in responding to your inquiry. Unfortunately, your letter was mis-filed and did not come to my attention upon its receipt here.

Your letter specifically references the "Norwood Personnel Bylaw", chapter XXXIX of the Norwood General Bylaws and chapter 41, section 108C of the general laws. For convenience, I've attached a copy of both, as well as a copy of your letter and c.150E, section 7.

Essentially, you've inquired about the role (if any) of Town Meeting in reviewing Personnel Board decisions.

First, it should be noted that Town Meeting is the legislative body of the Town. As a general proposition, the functions of the legislative body are to adopt laws and to make appropriations. Because municipalities are political subdivisions of the Commonwealth, those powers are constrained by the general laws. For example, both general by-laws, and zoning



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bylaws must be consistent with the Massachusetts general laws, and are subject to review and approval by the Attorney General. Likewise, appropriations of money must be within the general municipal authority and consistent with state guidelines.

In addition, to legislation and appropriations, there are other specific duties and powers vested in Town Meeting, such as the acceptance of certain "local option" provisions of the general laws.

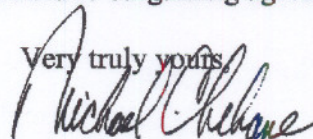
Chapter XXXIX was adopted by a Special Town Meeting on May 13, 2002 and subsequently approved by the Attorney General. Thus, it enjoys a presumption of validity which will continue unless and until a court of competent jurisdiction declares it invalid (an eventuality which I consider extremely unlikely) or until the Town Meeting chooses to amend or repeal it.

The Personnel Board is charged by chapter XXXIX with developing personnel policies (in consultation with the Human Resources Director) and shall include a classification and compensation plan, which shall "be continuously reviewed", to insure that it remains current. Because c.150E section 7 (a) says that a collective bargaining agreement shall prevail over any inconsistent provision in a municipal personnel bylaw or policy, it is important that any policies and classification plan either:

- 1) are updated to be consistent with any relevant bargaining agreement or
- 2) that the primacy of the bargaining agreement be recognized.

As to reclassification issues, it is clear that any decision by the Personnel Board is final, subject only to funding by Town Meeting. Thus, as long as chapter XXXIX remains in its present form, the Personnel Board's decision on reclassifications are final, subject only to appropriation of funds by Town Meeting necessary to implement those reclassification decisions. This is so because the final paragraph of chapter XXXIX specifically makes reclassification decisions of the Board final, subject only to funding. Please keep in mind, though, the overarching prevalence of any conflicting provision in a collective bargaining agreement.

MCL/emw

Very truly yours  
  
Michael C. Lehane  
Town Counsel