

MEMORANDUM

**TO: CHRISTOPHER J. BIELIK,
FIRST SELECTMAN TOWN OF BEACON FALLS**

FROM: CHRISTOPHER J. SUGAR, ESQ.

RE INVESTIGATIVE REPORT OF JAMES TUCCIARONE

DATE: October 3, 2016

I. SUMMARY

This investigation was conducted at the behest of the Town of Beacon Falls (“Town”) First Selectman Christopher J. Bielik. The purpose was to ascertain if an employee of the Town, James Tucciarone (“Tucciarone”) had engaged in fraudulent behavior by receiving compensation for time worked that was not earned. Mr. Tucciarone’s time sheets for his part-time positions as Building Official and as interim Zoning Enforcement Officer (“ZEO”) showed an overlap of hours for which Mr. Tucciarone was receiving compensation, in effect, double billing for his time worked.

Specifically, Mr. Tucciarone was hired as the Building Official in December, 2013. His letter of hire states he will be paid \$27 an hour for a total of twenty hours per week. (Exhibit 1, Letter of Hire). These hours are flexible.

Moreover, First Selectman, Christopher J. Bielik (“Bielik”) informed Mr. Tucciarone in June, 2015 that the Town would agree to hire him to serve as interim ZEO and that he would be paid for up to twenty (20) hours maximum per week. The hourly rate as ZEO was \$28.97 effective July 1, 2016.

As part of this investigation the time sheets of the employee (Exhibit 2), the employee's log (Exhibit 3), the job descriptions for the Building Official and ZEO (Exhibit 4), minutes of the Town Planning and Zoning Board (Exhibit 5), and Zoning Board of Appeals (Exhibit 6) were reviewed. In addition, town employees and officials who have knowledge were interviewed concerning their involvement with this matter as was the employee implicated in the matter.

II. BUILDING OFFICIAL AND ZONING ENFORCEMENT OFFICER JOB DESCRIPTIONS

A brief description of the essential duties of the two jobs (both attached as Exhibit 4) Mr. Tucciarone worked for the Town is described below:

Duties of the Building Official

The most current job description

- Review building and site plans;
- Issue building, electrical, HVAC and driveway permits;
- Perform inspections based upon State Building Code
- Coordinate permit application with all applicable Boards as required.
- Serve as the Town blight officer;

Duties of the Zoning Enforcement Officer

The most current job description for the Zoning Enforcement Officer (2015) is as follows:

- Enforces federal, state and local zoning laws;
- Investigates zoning violations;
- Reviews applications concerning zoning;
- Maintain zoning files as well as regular office hours
- Provides a monthly report at the planning and zoning monthly meetings;

With respect to both positions, they were part-time (twenty hours per position, per week) and were not eligible for overtime. Both are hourly positions meaning the employee is required to work twenty (20) hours in each in order to be paid for twenty (20) hours.

III. TIME SHEETS

Mr. Tucciarone's time sheets (Exhibit 2) from June 16, 2015 through February 19, 2016, reflect that he worked 6:30 a.m. to 8:30 a.m., then 11:30 to 2:30 p.m., as ZEO, for a total of 5 hours per day times 4 days a week; and from 7 a.m. to 12 p.m. as the Building Official for a total of 5 hours per day times 4 days a week. The total is 40 hours worked and he was paid for 40 hours. However, the work times overlap between the two jobs from 7 a.m. to 8:30 a.m., and from 11:30 to noon, for a total of 2 hours overlap each day, meaning that he was paid an extra two hours per day for four days, for a total of 8 hours, each week during this time period.

From February 23, 2016 to September 2, 2016, his time sheets reflect 6 a.m. to 8 a.m. and 10 a.m. to 12 p.m. as ZEO (4 hours times 4 days per week) and 7 a.m. to 12 p.m. as the Building Official, 5 hours times 4 days per week. The total is 32 hours worked and he was paid for 40 hours. The hours that overlap are 7 a.m. to 8 a.m., and 10 a.m. to 12 p.m.

Mr. Tucciarone's log (Exhibit 3) does not reflect time worked.

IV. INTERVIEWS

As part of this investigation, individuals with knowledge were interviewed to provide any and all information they could to explain the issue concerning the concurrent employment of Mr. Tucciarone.

Thomas Broesler, CPA

Thomas Broesler ("Broesler") is the Director of Finance for the Town. He has been in that position for two years. He is a certified public accountant and has various experiences in other municipalities.

Mr. Broesler indicated that he never saw or reviewed Mr. Tucciarone's weekly time sheets until the issue concerning the concurrent time was brought to his attention. According to Mr. Broesler, his position required him to merely review the weekly totals on the payroll register. He stated that most people for the Town work the same hours week-in, and week out. Mr. Broesler understood that Mr. Tucciarone would be working as the ZEO and the Building Official at the same time based on the working arraignment the Town had setup. Because Mr. Tucciarone's combined positions were for a total of 40 hours, it never occurred to him that Mr. Tucciarone was working the positions concurrently. Mr. Broesler indicated that he would have only observed a problem if Mr. Tucciarone received overtime because neither position was authorized for overtime. Mr. Broesler also indicated that he never would have signed off on Mr. Tucciarone's time sheets because he did not supervise Mr. Tucciarone; nor would Mr. Broesler have talked to Mr. Tucciarone concerning documenting his time sheets since he never would have saw the time sheets and was not in a position to dictate Mr. Tucciarone's hours of work.

After reviewing the time sheets, it is Mr. Broesler's estimation that the Town overpaid Mr. Tucciarone by \$17,699.52.

Erin Schwarz

Erin Schwarz ("Schwarz") is an administrative assistant with the Town and is responsible for inputting the time sheets into the system in order to provide the necessary information for payroll.

Ms. Schwarz explained that when Mr. Tucciarone began in the Zoning Enforcement position that issues with his time sheets being near identical came up. She stated that she brought it up to Tom Broesler but he told her to speak with Mr. Tucciarone about the issue. When Ms. Schwarz brought the issue to Mr. Tucciarone he stated that he was to be paid 20 hours for both positions for a total of 40 hours a week. According to Ms. Schwarz, she believed that Mr.

Tucciarone was having difficulties doing the time sheets because he could not separate the roles. However this opinion was something she shared with no other individual due to her previously bringing the issue to Mr. Broesler and speaking with Mr. Tucciarone.

Ms. Schwarz would have been the only individual who would have reviewed the time sheets since, if the employee does not have a supervisor, there is no one to sign off on the time sheets. Ms. Schwarz indicated that she continued to do her job of inputting the time until it was brought to her attention by the First Selectman that Mr. Tucciarone should not have been paid for concurrent time.

Joseph Rodorigo

Mr. Rodorigo is the Chair of the Board of Finance and has been a member of the Board of Finance since 2012-2013. His role is to oversee the Finance department though he does not review payroll, timesheets or other documents associated with the day-to-day operations of the T Finance Department.

It was Mr. Rodorigo understanding that the interim ZEO was to work 20 hours a week and that, because Mr. Tucciarone's position as Building Official was also for 20 hours a week, there was no reason to suspect that he was not working the hours he claimed on his time sheets. However, after receiving a complaint concerning the building department, he asked to see the time sheets and payroll records. This is when it was learned that all the time for the two positions ended at 1 p.m. The concern was that it totaled 40 hours a week. This resulted in Mr. Rodorigo going to the First Selectman and having an audit of the payroll timesheets conducted. It was thus learned that Mr. Tucciarone appeared to be working the same schedule for both positions but was getting paid as though he was really working 40 hours in a week.

James Tucciarone

James Tucciarone (“Tucciarone”) is the current Building inspector and was the interim zoning officer for the Town. He has been the part-time Building Official since December of 2013 (Exhibit 1). He was appointed the interim zoning officer in June of 2015 due to the April 30, 2015 resignation of Brian Herb.

Mr. Tucciarone indicated that his typical day began at 5:45 or 6 a.m. when he would go to the office and work as the ZEO answering calls and fielding questions. His time sheet indicated he started at 6 a.m. or 6:30 a.m. as to when he would clock in for work as the ZEO. After one or two hours of handling zoning matters, Mr. Tucciarone indicated that he would begin his work as Building Official. The time sheet for the Building Official indicated that approximately one hour after his clocking in as zoning official, he would clock in as Building Official at 7 a.m.. However, at no point upon starting work as the Building Official did Mr. Tucciarone sign out as the ZEO. Indeed, based upon a majority of the time sheets reviewed, Mr. Tucciarone’s timesheets reflect that he worked the positions concurrently for certain hours.

Of note during this interview was the fact that Mr. Tucciarone never indicated that the previous ZEO would work collaboratively with the Building Official. In other words, there was no indication that the duties of both positions were intertwined and that the performance of both jobs could be done concurrently especially in light of the fact that the duties of the ZEO are dictated by statutory fiat *See Conn. Gen. Stat. 8-1 et seq.*

Additionally, Mr. Tucciarone explained that on numerous occasions he would clock out for several hours as zoning officer in order to execute duties associated with the Building Official. However, on these times sheets, it was noted that the time for Building Official did not reflect this clocking in nor did it show a clocking out. In other words, the time for building inspector continued to run concurrently with the zoning officer. This again, was explained by Mr. Tucciarone that he

was to be paid 20 hours a week for zoning work and 20 hours a week for building working for a total of 40 hours per week. Moreover, he stated that Mr. Bielik, never put into writing the terms and conditions concerning his pay or work schedule; rather, he went to Ms. Schwarz for these issues.

Furthermore Mr. Tucciarone indicated that he would attend the monthly planning and zoning meetings. He stated that, unlike the previous zoning official who did not work in the morning on the day of a nightly meeting, that he would work the morning then attend the nightly meeting and that this contributed to the total hours that he worked for the week. He stated that this was at the behest of Kevin McDuffie, the Chairman of the Town Planning and Zoning Board. Though this additional time was not noted on the time sheets, Mr. Tucciarone indicated that he kept a log book of this time and that this would reveal that he worked all the time he listed on his time sheets. A review of Mr. Tucciarone's log book (Exhibit 3) revealed that he did record projects; however, no start or stop times were recorded and it is unclear exactly how much time Mr. Tucciarone spent at these various projects.

Further, as an additional component of the investigation, a review of the minutes was conducted and it indicated that with the exception of one (1) meeting (February 18, 2016), Mr. Tucciarone was not present at the Planning and Zoning Board meetings. (Exhibit 5). Further there was no indication that Mr. Tucciarone attended the monthly Zoning Board of Appeals meetings. (Exhibit 6). According to Mr. Tucciarone, the additional hours (fielding calls at night, site inspections etc.) on the time sheets was tantamount to "a wash" from all the hours he worked beyond his normal workday and that he merely did not keep complete records. Again, he stated this would be in his log book but no evidence corroborating these statements was found in the log book; in fact, an August 18th entry indicates that a Zoning Board of Appeals meeting was to take

place from 6 to 8 pm but the minutes of that meeting indicate that Mr. Tucciarone was not present and no report was given to the committee. Again, the hours worked by Mr. Tucciarone are not reflected in his log book.

Moreover, when asked about why time was noted on days the office was closed (Christmas and Thanksgiving for example) Mr. Tucciarone stated this was because Ms. Schwarz informed he was to be paid for 20 hours for both positions for a total of 40 hours per week. Therefore, he put the time in as he customarily did for regular work weeks and no one on the Town's end changed the hours to reflect these closures.

Christopher Bielik

Mr. Bielik is the First Selectman of the Town and has been in that position since 2013. Mr. Bielik indicated that the position of ZEO was an interim appointment only. He stated that the intention of the Town was to have Mr. Tucciarone work the position in addition to his normal hours as Building Official. Mr. Bielik told Mr. Tucciarone in June, 2015 that he would be paid up to twenty (20) hours per week maximum. He stated that he was unaware that Mr. Tucciarone was working the positions concurrently since he believed that the positions were wholly separate and distinct. He stated he expected Mr. Tucciarone to keep accurate time records of his actual time worked. Moreover, he stated that it would be impossible for an individual to work two positions at the same time and that this oversight necessitated this current investigation. In addition, because Mr. Tucciarone was only to hold the Zoning Enforcement position on an interim basis, it was Mr. Bielik's decision to remove Mr. Tucciarone from that position.

V. CONCLUSIONS

Based upon this investigation the following facts are undisputed:

- Mr. Tucciarone worked as the Building Official and ZEO concurrently from June 2015 until the present;
- Mr. Tucciarone received compensation for 20 hours of work as a building inspector and compensation for 20 hours of work as a ZEO for a total of 40 hours per week even though 1) his hours overlapped by 2 hours each work day from June 16, 2015 to February 19, 2016, so his time sheets should reflect only 32 hours worked (4 work days times 2 hours); and 2) his time sheets only show 32 hours worked from February 22, 2016 to September 2, 2016 and overlap between 7 a.m. to 8 a.m. and 10 a.m. to 12 p.m.;
- Mr. Tucciarone's log book does not show time worked;
- Mr. Tucciarone did not speak with the First Selectman or with any other official concerning his time sheets and did not seek clarification from any person with authority to effectuate that change.