

Peter N. Masuzzo  
PO Box 247  
Brookfield, MA 01506

**RECEIVED**

NOV 06 2007

**BOARD OF SELECTMEN**

November 4, 2007

Board of Selectmen  
Town of Brookfield  
6 Central Street  
Brookfield, MA 01506

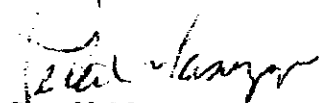
Dear Board Members:

I am in receipt of your letter dated October 5, 2007 regarding my complaints against Officers Richard Banach, Christopher Welsh, and Chief Ackerman as their Supervisor. Although I do not agree with your findings or the outcome, I do appreciate your looking into the matter and your response.

I do want to point out to you however, that from the start we have maintained that the officers and the Chief have miss represented the true facts, and have made untrue statements. Yet another instance of this is evident in your recent letter of response. In regards to our complaint that Officer Banach failed to appear in court, you state that, "we were told he was no longer a member of the department when the summons was issued." If you will investigate on your own (just as I did) when Officer Banach was employed by the town of Brookfield, you will find that it was from February 2005 through February 2007. Nick was arrested by him on November 26, 2005, the summonses for the trial court appearances were delivered on 7/6/06, for a court date of 7/25/06.

First we are told by Chief Ackerman that they never received summonses, and then their attorney states that one officer was in training, while the other did not receive a summons. I provided you with signed proofs of delivery that the summonses were indeed served, and now I am told that the arresting officer was no longer a member of the department when the summons was issued? This is untrue. Just which statement should I believe now?

Sincerely,



Peter N. Masuzzo

**Donna Neylon**

**From:** Donna Neylon [dneylon@brookfieldma.us]  
**Sent:** Tuesday, November 06, 2007 11:33 AM  
**To:** James Allen; Ronald Dackson; Rudy Heller  
**Subject:** CONFIDENTIAL - FOLLOW-UP TO AN EXECUTIVE SESSION

A letter was received today from Peter Masuzzo I response to your letter of October 5<sup>th</sup>. This letter is in the mail folder for your review.

Donna L. Neylon, Administrative Assistant to the  
Board of Selectmen  
Brookfield, MA 01506  
Tel: 508-867-2930 x 10  
Fax: 508-867-5091  
[dneylon@brookfieldma.us](mailto:dneylon@brookfieldma.us)

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11/6/2007

**Donna Neylon**

**From:** Donna Neylon [dneylon@brookfieldma.us]  
**Sent:** Monday, November 05, 2007 3:55 PM  
**To:** James Allen; Ronald Dackson; Rudy Heller  
**Subject:** CONFIDENTIAL — FOLLOW-UP TO AN EXECUTIVE SESSION

Please be advised today that Donna Lafleur, EMS Chief, stopped by to leave the following message for you regarding the sexual harassment charges filed against one of Brookfield EMT's by a co-EMT: The complainant filed the charge with with the State Police who in turn investigated and handed the case over to the District Attorney. It has taken the DA's office about eight months to process the charges but, upon learning from the complainant of the charges held by Brookfield's EMS Chief/Sexual Harassment Officer, they (the DA's) office have dropped all charges.

Donna L. Neylon, Administrative Assistant to the  
Board of Selectmen  
Brookfield, MA 01506  
Tel: 508-867-2930 x 10  
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11/5/2007

Both Mr. Allen and Mr. Heller said that this should not happen again, to park on our own property when it is available.

Mr. Heller said that he had received a letter from former Officer Fernstrom and he had met with him at the request of the Board after his termination. He presented a report of his conversation which he will make copies of for each Selectman. The letter was not distributed at this time.

Mr. Dackson said he would look at the letter when it was presented but he felt that Mr. Fernstrom had already had his due process and the information should not be made public.

There was no further discussion on this matter after Attorney Vigliotti protested that the Executive Session had been called to discuss one matter only.

#### **ADJOURNMENT:**

As there was no further business before the Board, Mr. Dackson moved adjourn the meeting at 11:40 a.m.; Mr. Heller seconded; Mr. Allen voted aye; Mr. Dackson voted aye; Mr. Heller voted aye; so voted.

Respectfully submitted,

Donna L. Neylon, Administrative Assistant

Date approved by Board: 10/16/07

*Released 11/27/2012*

Nicholas Masuzzo's being the last one issued, at 1:10 am". The tickets were issued because there is a parking ban for snow plowing in this area.

Regarding the "abuse" charge when it was alleged that N. Masuzzo was forced to stand in the cold for a long time without a coat; Chief Ackerman said that giving the defendant a coat was "a liability and safety issue". The Chief felt that the situation was handled correctly.

In response to the Police Department being accused of "harassment", Chief Ackerman said that there was no harassment and the surveillance in the area was not harassment but "based on information the department received".

Chairman Allen asked the Chief what were Mr. Masuzzo's options. He was told that the case could be re-opened but the Masuzzo's had chosen not to do this.

Mr. Dackson moved to have Chairman Allen write a final letter of response to be reviewed by each Selectman and then the Police Chief before it is mailed to Mr. Masuzzo; Mr. Heller seconded; Mr. Allen voted aye; Mr. Dackson voted aye; Mr. Heller voted aye; so voted.

At this time, Mr. Heller presented two photographs that he had taken at 5:30 pm on Thursday, September 20, 2007. He said the photographs show "town vehicles being used for private purposes" and since the Fire Chief "had been taken to task" publicly for a similar problem, he felt the matter should be presented to the Police Chief.

Mr. Heller asked the Chief why the vehicle was parked where it was. Chief Ackerman replied that the owner of the property told the Police Department that there was no locking mechanism on the trailer and asked to have the cruiser there to protect the trailer. He said that this property is also used for "overflow" parking for the Police Station and this has been allowed by the landlord who is also the owner of the abutting property where the trailer was parked.

When it was stated that the Chief should be careful about using the town vehicles for private purposes, he said that he had used the cruiser to pick up medicine for an elderly resident recently. Mr. Allen said that this type of use (as in the photographs) didn't look good. Mr. Dackson said it could be looked at in other ways. Mr. Allen said we need to be particularly careful of appearances because we rent the police station from the owner of the trailer and abutting gun business.

Mr. Heller said that after he took the photographs, he received a telephone call from the Police Chief and he felt threatened from the conversation so he knew how Mr. Masuzzo felt. Chief Ackerman said that the property owner called him and he was concerned that someone was entering his property to take pictures.

Mr. Allen said the Town needs definitive paperwork indicating that the property next door is "overflow parking" for the police station; we need to be careful with appearances. He then asked the Chief if, at the time this cruiser was parked in front of the trailer, was there parking available on the police station site; the Chief responded in the affirmative.

**TOWN OF BROOKFIELD**  
**SELECTMEN'S MINUTES**  
**TOWN HALL, BANQUET ROOM**

**MINUTES OF October 3, 2007**

**EXECUTIVE SESSION**

Chairman James W. Allen called the Executive Session to order at 10:30 a.m. in the Selectmen's office of the Town Hall. Other members present: Ronald J. Dackson and Rudy Heller.

Present: Police Chief Ross Ackerman, Attorney John Vigliotti.

"To discuss the reputation, character, physical condition or mental health – rather than the professional competence – of an individual."

Chairman Allen explained that the Board needs to respond to Mr. Masuzzo's most recent letter regarding the incident between the Brookfield Police and Mr. Masuzzo's son Nicholas and that the letter should state that this is our final position. He then briefly reviewed the steps that had already been taken:

- 1) Selectmen referred Mr. Masuzzo's complaint to the Police Chief.
- 2) Chief investigated and responded.
- 3) Complainant was not prosecuted; his son was.
- 4) Son then wrote a letter to the Chief. (Mr. Allen said he believed the letter did not have explicit charges and there was nothing new for the Selectmen to address – N. Masuzzo's case was dismissed without prejudice)
- 5) Police Chief was not involved in the original case.
- 6) Selectmen told Chief to address the "non-appearance at court" and the "inappropriateness" charges – new policies put into affect at the court and at the Brookfield Police Department.

Next the Selectmen discussed with the Police Chief and his attorney the effects of these charges against the person's record, life and the charges in Mr. Masuzzo's August 24, 2007 letter against Officers Banach and Welsh:

Officer Banach was accused of harassment, poor judgment, minimally supervised. Chief Ackerman felt Ofc. Banach's judgment was appropriate for the facts he submitted in the court document; that he was appropriately trained. According to Chief Ackerman, there have been no prior complaints regarding either officer.

Officer Welsh was accused of giving incorrect information regarding the breathalyzer test (which was taken at the State Police Barracks). Chief Ackerman said that Nicholas Masuzzo was given the correct information by both Officer Welsh at the field site and by the State Police Officers at their barracks. Officer Welsh's report was given under oath. Chief Ackerman said there was no reason to dispute the police report of the evening of the incident. He said that "twelve or thirteen parking tickets were issued at this time;



## ***Brookfield Board of Selectmen***

October 5, 2007

Mr. Peter Masuzzo  
15 River Street  
Brookfield, MA 01506

Dear Sir:

Please refer to your letters of July 16, 2007, July 18, 2007 and our letter of July 24, 2007. We consider these serious charges and have acted accordingly. Consequently, two investigations have been conducted: one by the Police Chief and two by this office. In addition, an attempt was made for you and the Police Department to reconcile the matter. Also, it is our understanding the Police Department was willing to re-file the case but you chose not to accept that option.

An attempt is herein made to address points within your letter and our response.

Nicholas' July 16 letter, in our opinion, made two points: the officer(s) acted inappropriately and the officers ignored a summons. On the former, although the DUI charge was not effected at the time of the alleged violation, it was brought about after the officer was addressing problems with illegally parked cars. It is our opinion that this is an issue that would have been resolved in court. We find no documents to confirm wrongdoing on the part of the Brookfield Police Department.

With respect to the second matter (not appearing in court), Patrolman Christopher Welsh was enrolled at the Police Academy at the time of the court appearance and was not allowed to miss classes. Patrolman Richard Banach, as a part-time officer, was being interviewed for full-time employment elsewhere. As is practice, Chief Ackerman said a call was made to the Assistant District Attorney to make that office aware of the conflicts. Usually, this is sufficient. Nevertheless, there was no follow-up by the BPD to confirm postponement (a misstep). We have been assured that a new policy is in place so that this won't happen again.

There were several charges in the letter of 7/18/07. We will address those by references to specific individuals.

You have stated that Officer Banach harassed, demonstrated poor judgment, was poorly supervised, and failed to appear in court. Taking the last point first, we were told he was no longer a member of our department when the summons was issued. Although, harassment may have been an issue, from our perspective, it is now difficult to determine if there was harassment.

In our opinion, "poor judgment" is another grey area that is difficult to pin down. This officer was hired on 6/6/06 after some experience with the Spencer Police Department. Again, to suggest this officer was minimally trained may be accurate in one sense but it is probably typical for a part-time officer; however, his training at other departments was more than minimal. We have no record of other complaints concerning this officer. "Poorly supervised", unfortunately, is another vague description and, in our opinion, is not sufficient for disciplinary action on our part. We have been told, however, that the first officer on the scene of any incident is automatically designated "officer in charge", regardless of rank.

The charge that Officer (now Sgt.) Welsh misled Nicholas with respect to the consequences of DUI and the use of a breathalyzer became a moot point, in our opinion, when the test was administered at the State Police Barracks. It is our understanding that the various consequences of decisions made before the test was administered were clearly spelled out by the State Police to ensure the procedure was appropriate.

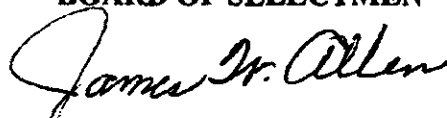
Further, with respect to you being stopped for crossing the yellow line and the motivation behind it leaves too much doubt to prompt disciplinary action by our Board. This and the earlier charges do appear to be more than a coincidence but doesn't hold up under the "shadow of a doubt" microscope.

Mr. Masuzzo, we want you to know that your comments have reminded us of our responsibility as the Board of Selectmen to ensure procedures and policies for all departments and personnel are of the highest standard. With this in mind, we are working diligently to review all policies and procedures to ensure that these are made clear to all town employees (regardless of whether they are full or part-time), and to make sure that they meet with the needs and wants of the citizens of Brookfield.

We are sorry about the incidents that took place; we are sorry that you had to incur great expense as a result. And, please understand that we have met many times with Chief Ackerman to discuss these. From our perspective, it has been a constructive process.

Sincerely yours,

BOARD OF SELECTMEN



James W. Allen, Chairman