

**Date: June 14, 2012**

*Date Minutes Approved: June 25, 2012*

## **BOARD OF SELECTMEN MINUTES**

**Present: Theodore J. Flynn, Chair; Shawn Dahlen, Vice Chair; and David J. Madigan, Clerk.**

**Absent: None**

**Staff: C. Anne Murray, Administrative Assistant; and Susan Kelley, Executive Assistant (arrived shortly after the start).**

### **CONVENED IN OPEN SESSION**

The meeting was called to order at 8:00 AM in Old Town Hall, in the Town Manager's/ Selectmen's Office.

#### **FORMATION OF LEGAL COUNSEL SEARCH COMMITTEE**

Mr. Flynn began the discussion by indicating that he had given some thought to the formation of a Town Counsel Search Committee, and he was prepared to begin by putting forth some names for his colleagues' consideration. As there were no objections he proceeded to name some individuals and made a brief statement about each. Mr. Flynn suggested the following individuals be named to the committee:

Phil Tortorella: Mr. Flynn said that Mr. Tortorella was a retired ATF agent with a background in law enforcement. He mentioned that Phil had served on the Police Chief Search Committee.

Susan Curtis: Mr. Flynn noted Ms. Curtis has been an active community member; most notably for her involvement with the Duxbury Animal Shelter.

Will Zachmann: Mr. Flynn mentioned that Mr. Zachmann is a journalist, editorialist and a "techie".

Marty Desmery: Mr. Flynn indicated that Marty Desmery is a litigator (Attorney) and currently serves as the clerk of the Zoning Bylaw Review Committee.

Mr. Dahlen then indicated several people he would suggest being appointed to the committee and like Mr. Flynn made a brief comment about each. Mr. Dahlen suggested the following individuals be named to the committee:

Kathy Muncey: Mr. Dahlen mentioned Ms. Muncey is a local attorney, and opined that she would have good insight into what to look for when hiring a Town Counsel. He also mentioned that she had been active in the Duxbury Education Foundation (DEF).

Frank Mangione: Mr. Dahlen referred to Mr. Mangione as a "fixture in Town government" as he has served on numerous boards and committees (including his current service on the Fiscal Advisory Committee and as the Chair of the Town Building Committee).

Andre Martecchini: Mr. Dahlen mentioned that Mr. Martecchini served for 12 years as a Selectmen and Planning Board member, and is currently the Chair of the Public Safety Building Feasibility Study Committee. Given that tenure, he felt that Mr. Martecchini would have a lot of experience in the types of issues a Town Counsel handles.

Mr. Madigan was asked if he had any individuals to suggest. At this time he did not, but had no objections to those named.

The Board briefly discussed that they felt it would be up to the Committee to determine how they would go about the search and the drafting of any proposals or invitations to individuals or firms. It was mentioned that they expect the Committee to conduct the search to ultimately recommend to the Selectmen 2 -3 candidates for the Selectmen's consideration.

There was a brief discussion among the members about the pros and cons of an individual attorney or small firm versus a larger firm with many attorneys. In its past practice Duxbury used a smaller firm and when necessary hired other more specialized counsel to handle more specific matters. Mr. Madigan indicated he thought it should be left up to the Committee to have that discussion and to make a decision about it.

Mr. Madigan also noted that Anderson & Kreiger, LLP should not be considered for the position as they were originally hired on an interim basis only. Mr. Flynn agreed.

The Board also briefly discussed the "parameters" they would want a Town Counsel to have. Of primary importance seemed to be knowledge of 30B (bidding laws) and 40B (affordable housing development laws). It was also suggested knowledge of personnel (labor) laws and in general zoning / planning laws would be needed as.

Ms. Murray asked for some guidance for the staff as far as the handling and distribution of any materials that might be received. The Selectmen responded by indicating their preferences for how materials were delivered, but it was also felt those were questions that might be discussed with the Committee. There was, however, a general sense given that the Board would like to receive copies of documents received from prospective candidates.

In discussing who would be responsible for drawing up the "request for proposals" the general consensus was that this should be a task of the Committee as they have individuals with greater expertise in these matters.

Mr. Madigan moved that the following individuals be named to the Town Counsel Search Committee: Phil Tortorella, Susan Curtis, Will Zachmann, Marty Desmery, Kathy Muncey, Frank Mangione, and Andre Martecchini. VOTE: 3:0:0.

Mr. Flynn further suggested the Rev. Catherine Cullen be added as a "reserve" member in case one of the named could not serve. He mentioned that she, in addition to her ministry, formerly worked as an attorney, and also served on the Police Chief Search Committee. Mr. Dahlen and Mr. Madigan had no objection to Rev. Cullen serving, but felt that her appointment could be made at a later time, if needed.

Mr. Flynn also suggested that Marty Desmery be the pro tem. Chair to call the first meeting of the Committee and preside until a Chair was elected by the Committee. This was acceptable to the other Selectmen.

Mr. Flynn asked if members of the public or press who were present had any questions.

Mr. Will Zachmann inquired about the timeframe for this process. There was a brief discussion about that with no definitive answer. It was noted that there is no great urgency and realistically it will take some time for the Committee to solicit prospective candidates and screen the candidates. Ultimately while the task might take less time it was suggested that the Committee be given a term of one year.

*[Editorial note: To be consistent with the terms of other boards and committees this Committee's term will expire as of June 30, 2013.]*

Mr. Zachmann suggested or raised the following points:

- It would be helpful to have a document prepared for the initial meeting, which provides some foundation on the retaining of legal counsel.
- He also suggested that the Committee members should be informed of the Open Meeting Laws.  
*[Editorial Note: New Committee members are informed of Open Meeting Laws by the Town Clerk when they are sworn in.]*
- some questions about the need to have Town Counsel named a "special municipal employee".

With regard to the first and last points the Chair instructed the Selectmen's staff to bring these issues / questions to the attention of the Town Manager so that he could ask Atty. Kreiger for clarification and the legalese on hiring a Town Counsel.

On an unrelated matter Mr. Zachmann informed the Board and others present that all or nearly all of the documents relating to the North Hill Country Club case are now in one file accessible through Scribid. He suggested this might be of use to the Town for the posting of the documents.

## **BUSINESS**

### **One-Day Liquor License Request**

*[For Event Permits and One-Day Liquor Licenses, departmental reviews of the requests were done. There were no objections and departmental feedback was incorporated into the conditions listed on the permit or license.]*

### ***American Legion Duxbury Post 223 – June 16, 2012***

Ms. Kelley explained that although the American Legion does hold a liquor license because they were looking to serve liquor in a different location at the club it was necessary for them to file for a one-day liquor license.

Mr. Madigan moved that the Board of Selectmen grant to Ms. Sara Lansing, as a representative of the Duxbury American Legion Post 223, a One-Day Wine and Malt License for an event on Saturday, June 16th, 2012 to be held at the American Legion on 5 West Street on the grounds behind the building from 2 PM – 9 PM subject to the conditions on the license. Second by Mr. Dahlen. VOTE: 3:0:0.

Ms. Kelley explained that there are strict Alcohol Beverage Control Commission guidelines regarding the delivery, storage, and removal of liquor. Since this event involves liquor being used in a different location on their premises it was also necessary to address the delivery, storage and removal of the liquor. She explained that do this she was asking the Board to vote an Extension to the One-Day Liquor License, to allow for delivery and removal of alcohol under the special license.

Mr. Madigan moved that the Board of Selectmen grant to Ms. Sara Lansing, as a representative of the Duxbury American Legion Post 223, an Extension of the One-Day Wine and Malt License to allow for delivery and removal of alcohol for an event on Saturday, June 16th, 2012 to be held at the American Legion on 5 West Street, subject to the conditions listed on the Extension to the One-Day Liquor License. Second by Mr. Dahlen. VOTE: 3:0:0.

#### **ADJOURNMENT**

At 8:25 AM, Mr. Dahlen moved that the Board adjourn the meeting. Second by Mr. Madigan. VOTE: 3:0:0.

#### **LIST OF DOCUMENTS FOR OPEN SESSION MEETING**

- 1. Agenda*
- 2. American Legion Pig Roast on June 16, 2012 – Dept. Feedback Form and draft of One-Day Liquor License and draft of extension to One-Day Liquor License*