

Date: April 25, 2016

EXECUTIVE SESSION

TOWN CLERK

Date Minutes Approved: May 23, 2016, minutes to remain unavailable until the need has passed.

Date Minutes Released: September 12, 2016

2016 SEP 13 AM 9:43

BOARD OF SELECTMEN

DUXBURY, MASS.

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

Absent: None

Staff: René J. Read, Town Manager; Nancy O'Connor, Executive Assistant; and John Madden, Finance Director

Others in Attendance: Art Kreiger, Esq., Anderson & Kreiger

CONVENED IN OPEN SESSION –

I. CALL TO ORDER - The meeting was called to order at 6:00pm in the Mural Room.

II. 6:00PM EXECUTIVE SESSION

VOTE TO ENTER EXECUTIVE SESSION

Mr. Dahlen moved that the Board of Selectmen enter into an Executive Session for the purpose of discussing strategy with respect to pending litigation since an open meeting may have a detrimental effect on the litigating position of the Town, if the Chair so declares, in accordance with Mass. General Laws Chapter 30A, Section 21. This Executive Session will adjourn when completed and the Board will reconvene in Open Session on or about 7:00 PM. Seconded by Mr. Flynn.

As Chair, Mr. Madigan declared the need to enter executive session is due to the confidential nature of discussions pertaining to litigation.

ROLL CALL VOTE: Mr. Flynn -aye; Mr. Dahlen-aye; and Mr. Madigan-aye.

Attorney Art Kreiger was present to provide a status update to the Selectmen regarding the settlement of matters involving Johnson Golf Management and Attorney Robert Troy. {REDACTED}

{REDACTED}

Attorney Kreiger continued his review of the proposed Settlement Agreement between the Town of Duxbury and Attorney Robert S. Troy as follows:

1. Agreement for Judgment - The judgment would be in favor of Troy in the form attached as Exhibit A.
2. {REDACTED}
3. Confidentiality Statement – Attorney Troy would like to keep this settlement confidential. Parties involved will receive a copy of Exhibit B.
4. {REDACTED}

{REDACTED}

The total settlement payment amounts are as follows:

\$435,000	Town of Duxbury
\$160,000	MIIA for the Town of Duxbury

<u>\$100,000</u>	Attorney Troy through his malpractice insurance carrier
\$695,000	Total Settlement to Johnson Golf

{REDACTED} He then stated that Johnson Golf has agreed to the current total settlement amount of \$695,000, but if they have to wait until a fall Special Town Meeting, the total amount increases to \$750,000. Attorney Kreiger mentioned that the next steps would be to determine if the Town should wait until Special Town Meeting and how to pay this.

Mr. Madden discussed options for financing the settlement. He stated that we can pay now, which would create an appropriation deficit prior to setting the tax rate. Mr. Madden further stated that he has already contacted the DOR and is awaiting their response. The Selectmen all agreed that they prefer to save the community money and pay this now instead of waiting for a Special Town Meeting and pay an extra \$55,000. Mr. Dahlen stated that there should be a public announcement and press release of this settlement including the reason for paying this now. Mr. Read asked what the voters would be voting on at the Special Town Meeting. Attorney Kreiger stated that they would be voting on the source of funding. Mr. Dahlen asked what would happen if the Town voted no to the funding. Mr. Madden replied that the funding would be built into the tax rate process as a one-time hit. Mr. Madigan reiterated that in any event, this has to be paid and would rather pay it now to get it over with and to save money. Attorney Kreiger also said that the Board of Selectmen has the authority to settle lawsuits in the best interest of the Town, and this is being settled for approximately 1/3 of the judgment plus interest.

Mr. Dahlen moved that the Board of Selectmen settle the Johnson Golf Management, Inc. v. The Town of Duxbury case in the total settlement amount of \$435,000. Seconded by Mr. Flynn. Vote: 3:0:0

ADJOURNED EXECUTIVE SESSION & RE-CONVENED IN OPEN SESSION

Having completed the Executive Session business at approximately 6:59 p.m., Mr. Dahlen moved that the Board of Selectmen adjourn the Executive Session and re-convene in Open Session. Seconded by Mr. Flynn. Vote: 3:0:0

Minutes submitted by Nancy O'Connor

Executive Session documents kept in confidential file until such time they are released.

- 1) *Agenda – Board of Selectmen*
- 2) *Draft Settlement Agreement between the Town of Duxbury and Attorney Robert S. Troy*