

HALIFAX BOARD OF SELECTMEN
SELECTMEN MEETING
MONDAY, OCTOBER 23, 2017 – 10:00 A.M.
SELECTMEN MEETING ROOM

Meeting came to order at 10:00 a.m. with Selectmen Thomas Millias, Kim R. Roy and Troy E. Garron present.

The following business was discussed:

SCHEDULED APPOINTMENTS

Miyares & Harrington LLP - Christopher Heep - interview / Land Use Counsel

Millias said that his experience over the years when dealing with land counsel is that there seemed to be a gray area when looking for direction from counsel. The Town is looking for someone to say “I think this is the direction you should take.”

Heep said what the firm does is lay out what the law is, draft a letter then takes the drafted letter to Mead to see if it works for the client. The Board of Selectmen then needs to know what to do with it. They will try to do all ways and not just field the question in the abstract. The correspondence will then come in through email.

Millias stated that corresponding through email is not perceived the same and Heep said they are mindful of that. Millias then asked if they are litigators and he said yes and added that all nine attorneys do municipal law as well as labor.

Millias asked if Land Use is the bulk and Heep said that they do Land Use for seven towns as well as zoning, sub-division work and Chapter 40B.

Roy asked what other associates do land and Heep said that he is the point of contact and will be doing most of the work. He would add Rebekah Lacey to do conservation/wetlands as that is her specialty.

Roy asked his thought on marijuana facilities and Heep said that he counseled the Town of Littleton (medical only). The developer needed a letter of support from Town so a public hearing was held to test the Town’s feelings. In pursuit to the host community agreement the developer agreed to pay the Town a substantial amount of money as mitigation for development projects that the developer was to construct. Now the Town has a new business and everyone is happy. It is located in an industrial site with a security system (required by the State) and everything is working out great.

Garron asked what the requirements were for the marijuana facility and Heep said they choose the area where the use was permitted with a Special Permit. The Special Permit did have lots of stipulations and was permitted a year ago but has only been up and running for a couple of month. The Building Inspector, Rob Piccirilli, asked if you had to go through residential roads to get to the facility and Heep said you have to go through main roads to get to facility.

Roy then asked why Land Use interested him and Heep said he always has been interested in this aspect of the law. When he went to law school he wanted environmental but land use became his interest and now he loves it. Roy also verified that he would be the person representing the town.

In closing Heep said that Halifax is a great beautiful town and it would be an honor to work with the BOS. He thanked the Board for giving him the opportunity to speak with them.

Kopelmen & Paige –Ilana Quirk & Amy Kwesell - interview / Land Use Counsel

Millias began by saying that the Town is looking for new representation for land use counsel as they have had some issues in the past getting direction from present land counsel and would like clear answers when the town has questions.

Quirk said that the firm works to build a relationship so whoever asks the question the firm will call that person directly. For them to help drive the question to answer the question they have a formula that is followed, then the facts, then their opinion and then they go into detail what the law is and what the Town's option is. If it is complicated, they see what way the Town wants to lean and explains what the outcome might be. There is always going to be a winner and a loser but no matter one can always appeal. In the end you may want to consider shaping your by-laws in the direction the town may want to go. She stated that the laws have changed but the by-laws have not caught up.

Kwesell said that you need to prioritize and pick what you want to change. Quirk said if there is a constant clarification of a certain by-law then that would be the one you would do first. Roy asked if they have worked with communities who have asked them to look at their by-laws and prioritize and they said yes and they understand it has to go through Town Meeting.

Millias asked who would do litigations and Quirk said either one of them but if it was for something else they have others in the office who are experts in that area. Quirk said they try to stay away from litigation and remand it back to the Board to settle it among everyone involved. She added that the other way to save money is to offer a passive defense, then motion to the Court.

Kwesell said if anything changes in the law, e-blasts are sent; they have fact sheets for new Board members; Open Meeting Law, etc. as they try to keep everyone in the loop. She continued to say that they find that the applicants and developers wait for the deadline to pass but the firm is aware of those deadlines and informs the Boards of them. They have so much in their back pocket such as a database where questions are asked are logged with opinions and they use that database to find facts that pertain to the case at hand.

Millias asked if they had the capacity to take on the Town and Quirk said yes they do and are interested in doing so.

Roy asked who will represent them and Quirk said she would be zoning and building and Kwesell would do wetlands.

Garron asked how long have they been practicing and Quirk said she has been practicing for over thirty years. She represented developers at first, but her true heart was on the other side. The billable rate they charge is roughly half of what other firms charge.

Kwesell said she has been practicing for seventeen years and always enjoyed the municipal side of it. She started with K&P as a law clerk and has recently returned after several years working as a partner at a firm in Boston. She added that she is very active in her town serving on numerous committees. Kwesell asked if the Boards need counsel who would they go through and Millias said it would be Seelig.

In closing Quirk said that it has been a pleasure to working with the town.

Deutsch Williams – Paul DeRensis & Richard Hucksam - interview / Land Use Counsel

Millias began by saying that the Board is looking to re-explore their legal options as they are concern of the lack of direction they have gotten in the past. The BOS wants more of a “this is what you should do”. He was not happy that the town was not told to clean up our by-laws (relative to a recent sub-division issue) and wished that was something that had been put before them.

DeRensis said that they have been working with Halifax for nineteen years and he is here today to figure out what they can do to make it better. If Hucksam needs more support and direction he can make sure he gets it and that the BOS is satisfied with him. If Hucksam is busy there are others in the office that can help out and as for the by-laws they can re-work them as they have done that with other towns.

Roy said over the years she felt that Land Use Counsel was gray and that Deutsch Williams has not given them direction and added that in the past she has received feedback from Building Commissioners as well as various board members that had expressed that sentiment. After hearing

enough times, she suggested that if so many people felt that way, why were we not looking at changing Land Use Counsel.

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Hucksam did not think he should tell the Board what to do but inform them what the options are but he can do that if that is what they want. Roy said they need someone to give them a clear direction, not necessary tell them what to do, but advice on what he would do would be helpful because they (the Boards) are not the professionals but are volunteers and Land Use Counsel knows the law and the outcome of each of the choices.

Garron said that lawyers give their opinion on the laws and that he should explain it better to those who do not have the knowledge that he has.

Roy pointed out that the volunteers on these Boards change a lot but the decisions they make stay so you as Town Counsel are there to give the Boards direction.

Hucksam said that he did give clear advice regarding Amanda Estates but it was not followed by the Board. Roy said they are not here because of Amanda's Estates but because it has been years of not being comfortable with the firm and Millias added that he started feeling uncomfortable with the firm years ago.

DeRensis said this is the first time him hearing this and is happy that the BOS has brought this up because he can fix it. He continued to say that if Hucksam has improvements to be made he can make them happen and has other lawyers at the firm to help. Roy said she thinks they needed this tough discussion because maybe it can be fixed.

Gordon Andrews (member of the Planning Board) wanted to say that whenever Planning Board has asked for an opinion the firm has given it to them. Roy said that she thinks it needs to be a little clearer.

Hucksam said that it has always been his goal to provide clear advice to his clients and is capable of doing it and apologizes if he has not done that. Garron stated that how it is presented could have an effect on how it is interpreted and DeRensis suggested that maybe he should look at it first.

Millias said that they are looking for recommendations and that was lacking. Garron said when Boards come to you for answers you are there to give them an informative decision. Hucksam said that he respects them for voicing their concerns and said the last opinion he gave to Charlie was a summary.

Roy asked Hucksam if he has had conversations before giving a summary because maybe that would help form a relationship/partnership and he said he could do that and it was a great suggestion. Millias said that conversation is good because emails and texts are interpreted in all different ways and added that they had never had a problem with litigation as there was always a great outcome with Kim.

Hucksam said that he works with the Boards and Kim is the litigator and agrees that having a relationship is important and strives for that.

Building Inspector, Rob Piccirilli, said that Hucksam has always gotten back to him but there has been some gray areas. He continued to say that you need to hear both sides – “why and why not” because in the end he has to make the decision, which could ultimately hurt someone.

DeRensis asked what is the Town trying to accomplish and Piccirilli said the by-laws do need to be changed and Garron added that communication is very important, which Hucksam agreed with. Garron is happy to hear that Hucksam is willing to work on the issues the BOS has pointed out.

DeRensis said that he is willing to help Hucksam along at no cost to the Town.

Regarding the by-laws, Millias said some have been placed because at one time something might have tried to go through so the by-law was changed but then it affected another section and so on. So for that reason and because State law has changed they need to be cleaned up.

Millias asked if he ever point-blank said, “this needs to change” and Hucksam said no. Roy then asked if he could he do that because this is not their (the Boards) expertise and they would respect him for taking the initiative.

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Andrews said that the Planning Board has not had a conflict with Land Use Counsel in the past and that the Town should give Counsel the direction when we ask for an opinion.

Roy said if the same issues keep coming up, and volunteers keep changing, then we look at the professionals about what direction the town should go.

Andrews suggested that maybe when the BOS appoints volunteers that they ask them to get some training. Roy agreed with that but, it is very difficult to find volunteers for the various boards. Some come with some knowledge and others with none and we offer classes, but some do not take advantage of that. They are volunteers and some do it for their own ulterior motives and Garron agreed with her.

Piccirilli agrees that the by-laws need to be looked at but as stated by Millias when a by-law is changed it affects another by-law in another area which then causes a problem. Hucksam said in other towns they make small changes.

Hucksam said that when lack of clarity has come up he has said this is not clear but has never said this is what you should do and DeRensis suggested that the firm say hey this area is lacking clarity and suggest x, y or z.

Millias asked if they had any questions and DeRensis said that he wants to make the relationship work as he has work with the town for nineteen years and Hucksam added that he has enjoyed working with Halifax and would like to improve his relationship with the Town’s Boards.

Garron suggested that the BOS meet with their firm once a year to update the relationship and DeRensis recommended that the BOS share with the firm what may be on the Town Meeting warrant so they can review it and give the town advice as to whether it is good or bad.

DeRensis thanked the Board for the opportunity to talk with them.

Paul DeRensis & Richard Hucksam left

Roy said that if the conversation went badly then she would not go with Deutsch Williams but seeing as it didn’t she asked Millias and Garron if they should give them a chance. She said that Hucksam acknowledged that he did not give direction and that he was happy to change course. Both Millias and Garron liked K&P Law.

Seelig pointed out that the BOS has lost the confidence they had with them but did think they had good points such as letting them know if there is a problem. Roy then said she felt that the Board should talk with Zoning and Planning if they were going to change firms. Although for years she has heard about the lack of confidence in Hucksam and everyone needs to feel comfortable with our Land Use Counsel choice. Seelig said they could simply say to ZBA, Conservation, and Planning that they are considering changing firms.

COA Project

John Campbell was going back to the architect regarding the price of the project. Roy had made it clear that the Town was not paying more than what was presented in the contract.

MEETING ADJOURNED

There being no further business, moved by Roy and seconded by Garron, the Board unanimously voted to adjourn at 12:45 P.M.

Troy E. Garron

Clerk

/pjm