

**Westborough Board of Selectmen
Meeting Minutes
May 26, 2015**

6:30 p.m. – 9:05 p.m.

Present: Chairman Barrette, Selectmen Dodd (participated remotely), Goldblatt and Johnson

Also Present: Jim Malloy, Town Manager, Kristi Williams, Assistant Town Manager/HR Director

Open Forum

Ken Ferrera came before the Board, thanked all the Town Departments and members of the community for their participation and support of the Memorial Day Parade. He also thanked the Community Advocate for their coverage and expressed disappointment that the Westborough News included the Hopkinton parade in their lead column and not Westborough.

Karen Henderson, General Manager of Westborough TV, came before the Board and reviewed the new features for watching elected official meetings. She noted that there will be an open house at the studio on Sunday, May 31, 2015 from 3:30 to 5:30 p.m.

Consent Agenda

- Approval of May 19, 2015 Meeting Minutes

Selectman Goldblatt's motion to approve the consent agenda with the change to the minutes to remove "Selectman Drewry participated remotely" was seconded by Selectman Johnson. Vote: 3-0

Interview/Appointment to the 300th Anniversary Committee / Phyllis Jaffee

Ms. Jaffee came before the Board. Reviewed her reasons for interest and what she could contribute to the Committee.

Selectman Johnson's motion to appoint Phyllis Jaffee as a voting member of the 300th Anniversary Committee for an indefinite term was seconded by Selectman Goldblatt. Vote: 3-0

Town Counsel Interviews:

Murphy Hesse Toomey & Lehane

Kevin Bresnahan, Michael Maccaro, Brandon Moss

1. The firm takes the time to learn about the Town and provides 10 hours at no cost to meet with whoever the Town chooses in order to become familiar with and have a full understanding of the issues and any pending litigation. It can be reevaluated if it should take more than 10 hours. Mr. Moss experienced the transition process as new counsel in Longmeadow while they were dealing with the casino issue. They have begun to familiarize themselves with Westborough and found that there are similarities with other towns that are clients and they performed due diligence even before the application process. They were involved when Holbrook hired them as town counsel five years ago taking over several litigation cases, collective bargaining, and a transfer station project. As part of the transition they focus preventative work through training sessions to new clients free of charge.

2. Regarding labor negotiations they noted that it depends on the situation and context and every town is different and has different issues. They would work with the Board ahead of time reviewing the contract if requested, making recommendations and assist with drafting proposals in order to address any concerns. They work extensively in labor negotiations with schools and municipal and other public entities. There is a lot of institutional knowledge in the firm, they regularly share information with each other and keep abreast of the patterns in other communities. Mr. Maccaro and Mr. Bresnahan speak frequently at the MMA on labor matters and Mr. Maccaro is on the Executive Board of Labor Employment Relations Advisory Committee which they use as a resource for contacts and information. Their firm's practice is statewide and they have the ability to view the patterns in surrounding communities. They regularly send clients updates and advisory notices.
3. Mr. Moss reviewed his experience with Mendon's controversial topic regarding the spillover from a proposed adult use facility in Milford. It is being handled from a zoning and alcohol regulations standpoint and the Selectmen did require their involvement as the applicant was pushing for a lawsuit. They worked with the Selectmen's approval and direction on the Articles to ensure that any litigation was defensible. They do not allow residents to contact their office directly and would be a resource for Town Meeting. Mr. Maccaro reviewed the issue in the Hyannis Fire District with a resident who was creating a controversy regarding a new fire station, took the district to court and Mr. Moss has been successful counseling the client and handling the litigation. They would be the main contacts for the Town and any one of them is available to attend Town meeting or Selectmen's meetings.
4. Mr. Moss noted that they have extensive experience with all land use issues. He reviewed the litigation issue in Scituate regarding a flood plain zoning bylaw, where they prevailed and he recently provided an opinion in the historic town of Bedford where the older homes are being torn down and much larger homes are being built on undersized lots. Mr. Moss provided advice to the town planner and zoning board on how to handle the issue according to State law. He has also worked with towns regarding the medical marijuana law and the facilities, as well as easement and real estate issues with DCAM and the Community Preservation Act.
5. They discussed office hours, which they agreed to conduct as it can be an efficient and productive use of time to meet with specific Town officials with the approval of the Board or the Town Manager. It is important to them to know what the expectations are and what the Board's preference is for a point of contact on a daily basis. Depending on the Board's preference, the Town Manager and/or the Chair of the Board would be copied on every issue they have addressed and the advice given. If needed they will provide assistance in deciding which model works best for the Town.
6. The billing process is on an hourly basis and the Town can be billed monthly or bi-monthly. They will work with the Town as to what the preference is and what kind of detail will be required on the bill. One of their strengths is that they have practice group meetings regularly where they brainstorm and discuss issues, some that are common among municipal clients, such as the Quinn Bill. They have a document management system which saves time and is more efficient. Mr. Moss noted that they will be cognizant of the FY16 budget, are able to work within it or help to plan the budget. They make a concerted effort to keep legal fees to a minimum and would provide estimates for specific matters or litigation. Selectman Johnson asked if there had ever been an incorrect billing issue, and Mr. Bresnahan noted that they take a proactive approach by reviewing all invoices before they are sent out insuring that the hours are correct. They will bill a third party, such as a developer, if the situation warrants it. Mr. Malloy asked

if the firm handles private clients, what percentage of the overall billing is private clients and whether or not they only do non-criminal private work or criminal defense work as well and how that would mesh with the Town. Mr. Maccaro explained that the firm does do a fair amount of the private work however the public sector is their bread and butter. They are a leader in the private sector with regard to labor negotiations. There has never been a conflict, they screen new clients and would decline representation if there was an issue.

Final comments from the representatives were that they would be honored to work with the Town, they view themselves as an extension of the Board and would provide them with the tools to make the Town the best that it can be. They do not apply for every position that becomes available in the State as they are selective as to the communities that they want to work in.

Kopelman & Paige

Joseph Fair, Lauren Goldberg, Thomas McEnaney, Joel Bard

1. Mr. Bard noted that they engage in a transition process at no charge. They have looked at the website and would look in depth at key Town documents and become oriented by working with the Town Manager and getting to know the department heads as quickly as possible. Mr. Fair added that his primary focus is labor and employment and he would reach out to the Town Manager to determine what issues are active, such as contracts or disciplinary matters. Mr. McEnaney focuses on construction contracts, procurement issues, and Appellate Tax Board work and first he would talk to the Town Manager regarding any pending or upcoming projects or procurements and claims litigation relating to construction or procurement issues. He would also meet with the Assessor relatively quickly. Ms. Goldberg explained that they would review status reports from existing Town Counsel, meet with the Board and Town Manager regarding any pending litigation, addressing any notices of appeal that may need to be filed and any active litigation. They would also work with any boards or committees that may need some attention. Their intent is to establish a relationship immediately. Mr. Bard noted that the transition period may be a couple of weeks but they do not put any limitations on it; they would coordinate it with the Town Manager.
2. Mr. Fair noted that the Town would determine the process as collective bargaining agreements are different in each community. He reviewed different scenarios where the Town Manager meets with the Board, gets parameters for negotiations in which Mr. Fair would participate; or he would meet periodically with the Board and Town Manager together to update the Board providing a sense of the direction taken and determining how they want to proceed. Mr. Fair would determine what the Town's desired approach is and then strive for a cooperative relationship with the Town Manager, Board and unions. The firm has a solid idea of the trends in labor negotiations, which helps them to assist the Town to develop priorities.
3. Mr. Bard explained that the firm takes their cue from the Board regarding how frequently they would want them to attend meetings. They will always defer to the Board before answering questions or responding to a resident. They are comfortable speaking at meetings. The firm works through the Board and Town Manager and all questions must come from a Town authority, they will not respond to a resident that calls them directly. Regarding a challenged legal opinion at Town Meeting, Mr. Bard explained how he handled a resident at a Town Meeting that challenged his opinion on a controversial issue responding to his questions by respectfully explaining the answer in steps until he understood.

4. Mr. Bard noted that their land use practice is the busiest and he chairs a land use group. The land use group and real estate group often meet together and the real estate group is responsible for writing and securing easements and writing zoning bylaws. The land use group and real estate group spend 50% of their time writing those documents. Mr. Bard reviewed the process for writing bylaws. He noted that they always read the bylaws and look for oversights and items that require attention. The firm has extensive experience with the State and interacts with DCAM on a routine basis and he reviewed a situation in another town where the State was interested in buying the town forest area as it was surrounded by State land. Mr. McEnaney, in his practice, has challenged state owned values, which is somewhat rare. Ms. Goldberg pointed out that they have well developed working relationships with many State agencies as well as with the new administration in the Governor's office. They are very familiar with language required for Warrant Articles.
5. Mr. Bard noted that scheduling any office hours would be determined by the Board and they would be happy to spend time in Town if needed. They do not have office hours in any town currently and they do not see their role as answering individual citizens' questions. They discussed taking calls from Town Boards/Commissions, how to manage the process for questions, and how they are careful with the opinions they give. Mr. Bard noted the importance to have internal controls in place, track how the budget is being spent and whether it is appropriate for one member of a Board to contact them for an opinion. Mr. McEnaney does attend Department Head meetings, which is a good place for Department Heads to get to know the firm and get questions answered.
6. Mr. Bard explained that if there is a dispute with a bill they will defer to the client, explain to them why it was billed that way, and if they are still not satisfied they would not have to pay. They have several models for bills and Mr. Bard reviewed what their bills include and that their billing attorney reviews each attorney's time if more than one works on the same issue. Any adjustments would be made before it is sent out. Ms. Goldberg reviews all the firm's bills as well if there is an upcoming issue that is somewhat complicated they would speak to the Town Manager first about what it is going to cost so that it is not a surprise. They do not have billing issues.

Their final comments included that the Town would essentially be hiring two firms, the representatives in attendance are the main contacts and there is the benefit of getting a larger firm with 45 different lawyers to address special issues. They have deep expertise in every issue, over 90% of their work is with municipalities and they do not represent private clients against public entities. The firm is internally organized to provide the best service, is conscious of the budget, and would monitor it with the Town Manager. Labor issues are a large part of the budget and Mr. Fair has spent a lot of time on the union side.

Mirick O'Connell

Stephen Madaus, D. M. Moschos, Nicholas Anastasopoulos, Brian Falk, Corey Higgins

1. Mr. Madaus, head of the Municipal Law Group and Labor Attorneys, noted that he is very familiar with Westborough due to his previous experience as interim Town Counsel and does not anticipate a transition period. They are located in Westborough and Worcester and are familiar with the issues in Central Mass. as well as the State Hospital acquisition, which Mr. Madaus has followed in the news. There are some matters that he has been dealing with as interim Town Counsel that have been held aside as there is quite a bit of legal work involved and will be addressed once the Board decides on new Counsel.

2. Mr. Moschos informed the Board that the firm takes pride in the way that they keep current with labor laws, attending seminars, and providing letters to the towns with law changes. They are well known in the State for their knowledge of labor issues.
3. Mr. Madaus would take his cue from the Board or Town Manager when attending meetings if they wanted him to respond. He noted that sometimes residents' anger or complaints are misplaced against the Town and the answer will explain why the Town cannot do what they want or are demanding, which benefits both parties. He reviewed an incident in another town regarding issues with a subdivision developer who failed to complete the roadways. They worked with town and met with the residents to resolve the issues that were the town's responsibility, and to explain what the subdivision control process is and the town and firm's role in it. Mr. Madaus noted that some towns require participation at all Selectmen's meetings but he is not sure if that is always necessary. They are willing to attend as many meetings that the Board requires.
4. Mr. Madaus has a great deal of experience in land use, which includes advising Planning Boards, Boards of Appeals, Town Planners on zoning, reviewing and drafting by laws, their relationship with the Attorney General's office, town real estate transactions and orders of taking. He reviewed the issue where they acted as Special Town Counsel for Hudson concerning a Mass. Highway project because part of the site was highly contaminated and the town was acquiring the property as Mass. Highway did not want to deal with it. They worked on the easement takings and negotiated the purchase. There is a real estate group in the firm. They have experience with State agencies and locating the right person to get a response.
5. Mr. Madaus noted that they would be counsel to the Town as a corporation and they would address residents' issues in a polite way but through a process as determined by the Board. Mr. Madaus held office hours previously for the Town and met with department heads through a written request. It would be up to the Town how they want to manage office hours or have them at all. Mr. Anastasopoulos noted that expectations would be set with the department heads so there will not be any surprises in the billing. Westborough is more typical as most emails come from the Town Manager and the department head is copied. There are urgent items that they may need to field directly without going through the process, but there should be one in place.
6. Mr. Anastasopoulos noted that due to technology email or a phone call often takes the place of a formal advice letter, which is more expensive to generate, but there are certain legal issues that do require it. He reviews the bills to ensure that the client is getting the value they are paying for. The firm brings efficiency to the table from a commonality of issues with other towns.

Their final comments were that they have 25 years experience as labor counsel for the Town, they have served as interim town counsel 3 times, are Westborough based which saves on travel expenses, and there are over 60 lawyers with a wide range of expertise. They are proud to be located in Westborough for 14 years and would like to continue the relationship. The Town would benefit from their practice in local courts, and their contacts with the local regions' State offices. The firm has a good established relationship with the Town, and they bring the right experience and support. The Town has always been and will be a priority client and they care about what they do as a law firm in Westborough. The firm does not apply to all RFP's.

Selectman Barrette explained to all three candidates that the Board will consider the candidates and will make a decision at the June 9, 2015 meeting.

Town Manager Report

Mr. Malloy suggested that the Board tour the Town Hall on June 9th at 6:00 and the Board agreed. The meeting will be posted for 6:00 and then convened at 6:30 in Room 23.

Issues and Correspondence of the Selectmen

Selectman Goldblatt noted that there was a great turnout for the Memorial Day Parade with good representation from all areas of Town. Selectman Drewry will hopefully be back soon and she asked that all the men and women far from home be remembered.

Selectman Johnson echoed Selectman Goldblatt's comments and thanked all the organizations, legislators, and residents that supported the parade and the Veterans' Services and Advisory Board for their dedication and organizing the day's events. He asked if there had been any updates on the Senior Center report, expressed disappointment in the comments that have been made questioning the Board's support of the seniors in Town. Selectman Johnson noted that the Board does support the seniors and the report asks legitimate and logical questions in order to provide the Board with information to decide what is best for the Town and the seniors. Mr. Malloy and Selectman Barrette have not seen an updated report as of yet and will meet to discuss the issue.

Selectman Barrette noted that 48 out of 351 towns in the State hold parades and how proud he was that Westborough was one of the 48. He informed the Board that as his Eagle Scout Project, Tim Sherman is locating and marking the unmarked graves in Pine Grove Cemetery of patients who died in the State Hospital. He is through with his portion and one, maybe two Eagle Scout Projects will be needed to take over as there are at least 600 graves. He thanked Dave Rowe for producing the meeting.

Adjournment

Selectman Johnson's motion to adjourn at 9:05 p.m. was seconded by Selectman Goldblatt.

Vote: 3-0

Submitted by Paula M. Covino

Chairman Barrette

Vice Chairman Drewry

Selectman Goldblatt

Selectman Drewry

Selectman Dodd