

## BOARD OF SELECTMEN MEETING

Tuesday, June 12, 2018

Chairman Kevin A. Caira called the meeting to order at 6:05 p.m. in Room 9 of the Town Hall. Present were Selectmen Gregory B. Bendel, Jonathan R. Eaton, Edward P. Loud, Sr. and Michael V. McCoy. Also present was Town Manager Jeffrey M. Hull.

Chairman Caira advised that the purpose of the meeting was to interview firms for Town Counsel.

Chairman Caira asked those present to rise and he led the pledge of allegiance.

### **COLLINS, LOUGHRAN & PELOQUIN**

Chairman Caira introduced members of the Board of Selectmen. Mr. Leo Peloquin thanked members of the Board of Selectmen for the opportunity to be before them and for the members to consider having a separate labor and employment law firm, recognizing that Wilmington is not accustomed to that model of representation. Mr. Peloquin stated that Collins, Loughran & Peloquin is a law firm that is completely invested in labor and employment law. He noted that they do not represent employees, they represent municipalities and school committees. Mr. Peloquin stated that he has been practicing this type of law for 32 years. He stated that Melissa Murray, who was present with Mr. Peloquin, started working at the firm as a law student 10 years ago, she was admitted to the bar 8 years ago.

Mr. Peloquin stated that the firm works well with Town Counsels and reviewed how they participate in different scenarios.

Mr. Peloquin introduced Melissa Murray to the Board. Ms. Murray stated that she started as a law clerk and that she splits her time between school and city/town representation. She enjoys labor and employment law and that it is a specialty and it is beneficial to employ labor and employment counsel. Ms. Murray reviewed examples of services provided to communities.

Mr. Peloquin spoke of comparable data, required during collective bargaining, and Ms. Murray's ability to analyze the data and to determine where the Town is vulnerable.

Selectman Eaton advised that he and Attorney Murray graduated from the same class of the same law school. He did note that they did not know each other on a personal level but wanted his colleagues and residents to be aware.

Members of the Board acknowledged that questions asked of previous firms are not relevant to the law firm of Collins, Loughran & Peloquin. The Board asked questions relative to experience with the Joint Labor Management Commission (JLMC), relationships with various communities and length of time representing those communities, representation of private employers, number of billable hours, explanation of effort hours, training and procedures for inter-municipal agreements and regional school districts.

Chairman Caira offered an opportunity for closing remarks. Mr. Peloquin stated that they appreciate the Board's willingness to be open minded about having a separate labor counsel.

### **BROOKS & DERENSIS**

Chairman Caira introduced members of the Board of Selectmen. Mr. DeRensis spoke of his statewide appointments and activities over the past nine years while John Foskett served as lead counsel. He stated that he likened his position to the guy who makes the pizza and the other law firms interviewed by the Board of Selectmen are on the other side of the counter, "the stuff that we're doing, they have no idea." Mr. DeRensis remarked that when Representative James Miceli passed away, he was at the funeral home to pay his respects to the family and no member of the other law firms were there. He stated that they have represented Wilmington for the past fifteen

(15) years and during that time they have been successful and they want to renew the relationship and he believes they have offered the lowest price.

Mr. DeRensis stated that there are twelve (12) lawyers at Brooks and DeRensis representing five (5) towns. He compared the firm to another firm that has 43 lawyers representing 125 communities. Mr. DeRensis introduced members of his firm that were present including Lou Ross, Dan Deutsch, Peter Berry and Kim Saillant. Also present was Leonard Kopelman, the founder of Kopelman and Page.

Mr. Ross thanked members of the Board for the opportunity to be before them. He stated that the firm has many attorneys who are dedicated public servants providing municipalities with good and practical legal advice. He stated that he is confident with the team and noted that they work well together. Mr. Ross stated that his practice focuses on land use matters and he has been responsible for providing the Town with direct legal advice to different departments and believes he works well with them and he enjoys working with the various departments.

Regarding his comment about public service, Mr. Ross noted that while Mr. DeRensis has served as a member of the Sherborn Board of Selectmen for many terms in addition to various state activities, Mr. Ross is a member of the Finance Committee in his community. Mr. Berry serves his community as a member of the Board of Selectmen and Mr. Kopelman has also served his community for many years.

Mr. Deutsch stated that the firm relishes the opportunity to serve the Town and over the past fifteen years the attorneys developed an intimate knowledge and understanding of the Town. He believes there is value in having the group of people advising and representing the Town bring the efficiency of a close knit group of attorneys allowing them to be responsive.

Mr. Deutsch stated that he has been litigating cases in state and federal courts for over thirty years. He stated that Wilmington has a complex set of matters including Olin, New England Transrail and Wilmington High School construction issues and deserve the attention of someone who has been steeped in the matters and whose experience is relevant.

Mr. Berry stated that his expertise is in labor and employment law. He reviewed his experience and advised he has worked with the firm for the past 25 years. Mr. Berry reviewed other activities and panels he has been involved with. Mr. Berry is a Marine Corp Combat Veteran and served his community in many ways including serving on the Housing Authority, Community Housing Corporation, Zoning Board of Appeals, Conservation Commission, Community Preservation Committee and currently serves as a member of the Board of Selectmen.

Ms. Saillant stated that she began her career in 1986, working in New England's largest insurance defense firm and became known as the "Summary Judgement Queen". She joined the law firm of Deutsch Williams Brooks Holland & DeRensis in 1997. Ms. Saillant reviewed her experience.

She stated that of 36 matters handled through trial, she has won every single one and secured judgement or stipulation of dismissal in other matters. Ms. Saillant reviewed other types of cases that she has been involved with. She commented that she has seen some of the firms interviewed and she has no doubt that the lawyers have never beaten her and they will not beat her in the future. She stated that she sees this as an opportunity to reaffirm the relationship and for the Town to have top-notch counsel.

Mr. Kopelman stated he was present because he was a managing partner of Kopelman and Page. He stated that he made mistakes and after his partner Don Page passed away it got to the point where he wanted to get a new management committee. Mr. Kopelman removed himself from the management committee and stayed on to work with the towns. He related incidents that

concerned him and though he attempted to address the concerns with the new managing partner, issues were not resolved. He opined that the firm did not have appropriate staffing and because a higher hourly rate is charged, special counsel projects were addressed before the needs of the communities.

The Board asked questions relative to the dissolution of Deutsch, Williams, Brooks, Holland & DeRensis; number of labor and employment attorneys, whether Deutsch Williams tracked otherwise billable hours even though it was on a flat fee arrangement. Mr. DeRensis stated that he does not have access to those records but provided information for services provided by Brooks & DeRensis for the month of May.

Mr. Loud expressed concern that the firm Brooks & DeRensis may put Wilmington in the same position it is in now.

Additional questions asked were relative to compensable data; renewable energy initiatives and whether attorneys were working on any programs for the Town of Wilmington; land use and who would be involved in issues; length of time working with the four additional communities they represent and whether they want to take on additional communities and length of time to transition another counsel on the Olin environmental issues and New England Transrail issue.

Attorney Deutsch provided a brief history regarding Olin and New England Transrail. He stated that the New England Transrail issue is unique and complicated. He advised that he has been special counsel to the Town of Randolph since 2010 and emphasized the project another town counsel candidate referenced in the Town of Holbrook, on the Randolph town line, is very different because the railroad is not integral to the project.

Selectmen Loud, Bendel and Chairman Caira expressed disappointment in Mr. DeRensis' introductory comments and the negative comments made regarding another law firm.

Discussion took place regarding the attendance at various board and committee meetings; review of the Town Meeting Warrant, development of by-laws; training, level of detail on the invoice and ways to reduce cost. Mr. DeRensis stated that he was told that, for reasons relating to pretrial discovery and public records, not to provide the information as the Town did not want it provided to the public.

Town Manager Hull asked the status of Attorney Rod Hoffman and was advised that he is working for Brooks & DeRensis.

Chairman Caira asked why Mr. DeRensis was removed as Wilmington's Town Counsel. Mr. DeRensis disagreed that he was removed and stated that he took on the Town of Canton at the same time he took on Wilmington and found himself stretched too thin and felt the Town needed someone more anchored to the office.

Selectman Loud noted that Mr. DeRensis repeatedly stated that he proposes a flat fee arrangement however charges are also listed for scanning, copies, color copies, faxes, telecommunications, postage, mileage, etc. Mr. DeRensis stated that he has not received or sent a fax in a very long time. Selectman Loud acknowledged that technology has changed but that does not change the fee. The proposal is a flat rate plus expenses and the other firms the Board has met with do not bill separately for expenses.

Chairman Caira offered an opportunity for closing remarks. Mr. DeRensis stated that they care about Wilmington and have cared for 15 years, been loyal and done what they have been asked to do, worked collaboratively, protected and taken care of every situation they have been asked to. Mr. DeRensis stated that the comment regarding making the pizza, is the truth and that he lives it every day. He stated that the town is well served and has a wide range of resources.

### PUBLIC COMMENTS

Suzanne Sullivan, 60 Lawrence Street, stated that when the Olin site was turned over to the EPA it took Mr. DiLorenzo years to learn about the site. She stated that New England Transrail is an issue for this community and needs a good law firm. Ms. Sullivan stated that she recently heard there is a proposal for a trash transfer at the Whitney Barrel location. She opined that Olin does not want to clean the site and is looking for a waiver so that they do not have to clean the site. She believes it was a good exercise to interview firms including Deutsch Williams (SIC) but is worried that the Board could hurt the Town by choosing another law firm.

Kevin MacDonald, who identified himself as a Wilmington resident, stated that he is concerned that the message from the Town Manager on the website infers that the Town Manager directs the Board of Selectmen and he would like that corrected. He would like the Board to direct the Town Manager to have a representative of the Town at the monitoring sites to collect its own samples and that the samples be tested by the Town employee responsible for Town wells. Mr. MacDonald requested that Town Manager Hull respond as to the expertise of the Water Department.

Mr. MacDonald stated that he became aware of a 365 unit, 40R project proposed abutting the railroad tracks on the opposite side of the proposed detox center. He asked whether the 365 units would alleviate the 10% requirement for affordable housing. He asked if there will be impacts to storm water management, soil conditions, etc.

Mr. MacDonald stated that he was surprised that the Board of Selectmen has never seen the billable hours for legal services when they vote on the warrants.

Town Manager Hull stated that he will review the Town website, it has never been his expectation that he directs the Board of Selectmen. If the website is inaccurate, then it will be corrected. Relative to the Town piggybacking to conduct our own testing when Olin's consultant draws water samples, Town Manager Hull advised that there is a protocol the consultant must follow and does not believe it to be necessary to have Town personnel monitor the sampling. The Town Manager stated he became aware of the prospect of a 40R development on the north side of the railroad tracks. At present, the Town does not have specifics as the information has been part of an advertising campaign.

Town Manager Hull stated that the water is tested for a number of chemicals and an annual report of the Town's water quality is provided to residents.

Chairman Cairra thanked Mr. MacDonald for his comments.

### NEW BUSINESS

Selectman Eaton stated that at last night's meeting he requested that an unfunded liability policy and stated that the Town Manager's office provided a contingent liability policy. Selectman Eaton stated that his request has been responded to and he is satisfied with the response.

Chairman Cairra stated that the Board should take the opportunity to speak to department heads, contact references that were provided.

Town Manager Hull clarified that on June 25 the Board intends to make a vote to appoint Town Counsel.

Selectman Loud expressed concern that appointing a firm on June 25 will only allow four days for the Town Manager to negotiate a contract and for the Board to sign a contract. Chairman Cairra stated that he has confidence each of the firms will be able to pick up on the town's issues. He stated that the biggest issue is if Brooks & DeRensis is not selected, the transition will overlap.

Town Manager Hull clarified whether the Board will be contacting references independently or whether the Board is looking for him, and those participating in screening process, to contact references. Chairman Cairra stated that the Board will contact references but believes one or two recommendations from the Town Manager or one or two members of the screening committee will be beneficial.

#### IMPORTANT DATES

Town Manager Hull reviewed important dates including:

- Sundays Through
- September 30 – Farmer’s Market – Town Common Parking Lot – 10:00 a.m. to 1:00 p.m.
  - June 14 – Flag Retirement Ceremony – Minuteman Headquarters – 7:00 p.m.
  - June 15- – Wilmington Relay for Life – Wilmington High School
  - June 16 – Friday afternoon, June 15 to Saturday morning, June 16
  - June 25 – Board of Selectmen – Town Hall – Room 9 – 7:00 p.m.
  - June 29- – Fourth of July Festivities – 978-657-8081 ([funonthe-fourth.com](http://funonthe-fourth.com)) – Town Common
  - July 2 – Spectacular Fireworks – July 2
  - June 30 – Family Day – Town Common
  - June 30 – Wilmington Fire Department vs. Wilmington Police Department  
Charity Softball Game – Wilmington High School Softball Field – 4:00 p.m.
  - July 7 – Library Closed Saturdays for Summer
  - July 9 – Board of Selectmen – Town Hall – Room 9 – 7:00 p.m.
  - July 11 – Concert on the Common – “Jimmy & the Jesters” – 6:30 p.m. to 8:00 p.m.
  - July 11 – Brush Drop-Off – Old Main Street – 8:00 a.m. to 2:00 p.m.
  - July 12 – Commission on Disabilities – Emergency Preparedness  
Town Hall Auditorium – 10:30 a.m. to 12:00 p.m.
  - July 14 – Brush Drop-Off – Old Main Street – 9:00 a.m. to 4:00 p.m.
  - July 18 – Concert on the Common – “Peking and the Mystics” – 6:30 p.m. to 8:00 p.m.
  - July 25 – Concert on the Common – “Perfect Crime” – 6:30 p.m. to 8:00 p.m.
  - July 26-  
July 29 – The Moving Wall – Town Common

A motion was made by Selectman Loud, seconded by Selectman Bendel and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen adjourn.

Meeting adjourned at 9:51 p.m.

Respectfully submitted,

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Recording Secretary