

BOARD OF SELECTMEN
Executive Session Minutes of Tuesday, January 12, 2021
Zoom Remote Meeting

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TOWN CLERK BOURNE

Selectmen

Judy Froman, Chair
George Slade, Clerk
Jared MacDonald
Peter Meier
Jim Potter (excused)

Town Administrator, Anthony Schiavi

Assistant Town Administrator, Glenn Cannon

Town Counsel, Robert Troy

All items within the meeting agenda are subject to deliberation and vote(s): by the Board of Selectmen.

Meeting called to Order.

Chairman Froman convened the meeting in open session at 6:06 p.m.

Motion to enter into Executive Session relative to contract negotiations for non-union personnel. The Chair has declared that an open meeting may have a detrimental effect on the negotiating position of the public body with respect to the negotiations.

The Motion was made by Jared MacDonald and seconded by George Slade.

The Motion was voted: Froman – YES, Slade – YES, Meier – YES, MacDonald - YES

Town Counsel

Chairman Froman introduces the topic of negotiations with Town Counsel. Chair states that the Town will send out an RFP for Town Counsel services. Chair then opens the floor to the Selectmen for discussion.

Jared: Town Counsel services are very diverse now. Many lawyers are very specialized these days and we may need a law firm that can provide different services.

George: We need to look at the area of expertise that Town Counsel can provide. The BoS has a due diligence to look at all the legal cases. George notes different types of cases, HR cases, PTSD cases and Local 1717 was testing the Town and Town Counsel.

Judy: Society is litigious. We have a lot of HR questions and labor counsel questions.

Tony: HR, contracts, procurement, town meeting questions are all very complex. Town Counsel is needed to assist with all of these topics.

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Peter: Institutional knowledge is very important.

Judy: Institutional knowledge is important to the Town and[Judy reads a message from Jim Potter (following.)]

Subject: RE: E-session Tuesday

Judy,

I have the other School meeting that I will be zoom-attending at 6PM, and am so sorry to miss this executive session. I'm not sure how the discussion will proceed or if there will be any motions or votes, but I wanted to offer my thoughts on Town Counsel and the expiring contract:

Attorney Troy has been a mainstay of good and consistent legal counsel for the Town of Bourne for decades - that speaks volumes. In my brief time on the Board, he has been highly professional and thorough.

We have had our share of challenges as a Board in the last few years, and those challenges have brought some great complexity to them - including topics such as the Buzzards Bay Park, the Savary Ave community Septic, the Haven Center legal challenge, among several others. In this ever-complex world, there is always a need for specialized counsel, and we have hired for that at times. We have a lot of rules, regulations and policies that are in-process of codification, or on the horizon. We have some challenging environmental review decisions and paths to decide with the Comprehensive Wastewater Plan, a new Wastewater Facility, the Upper Bay Project, and Coastal Resiliency. The future bridges and roadwork could present legal challenges.

There is no specific roadmap to choosing a Town Counsel, however, I do believe we have an obligation to the voters/taxpayers to ensure that they are receiving the highest quality and performance for their tax dollars. I am not suggesting that we have not received this from Troy and Associates, and this is not a reflection of their dedication to Bourne. What I am suggesting is that we issue a Request for Proposal (RFP) for Town Counsel services, now that the 5 year contract with Troy Associates will be expiring, and we determine/appoint Town Counsel after that fair process. This will allow the Board and Town to understand what they are receiving in services for costs and make equal comparisons. I'm not sure if this has been done in the past, in Bourne, but I believe this reveals transparency in the process, and ultimately, decision-making. I would envision that Troy and Associates would answer the RFP, the Board would review any other counsel proposals, and then make an appointment. I hope this satisfies our Board's desire to be transparent in our endeavors, while also remaining fair to Troy and Associates for their long history with the Town.

We could continue a discussion about what would be part of the RFP language, with help from our Town Administrator, if that is what the Board decides to do.

Again, I'm sorry that I couldn't be present, but wanted to relay my thoughts on this important topic.

Thanks,
Jim Potter

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Vice Chairman, Bourne Board of Selectmen Chairman, Bourne Sewer Commissioners

Bob Troy: Town Counsel and the Board will work for the best interest of the Town. [Troy states the achievements of Troy Wall Associates. Bob will work with whoever the BoS chooses.]

Judy talks about being proactive vs. being reactive. Judy wants to work on the language in the RFP.

Peter: How many present cases does the Town actively have open?

Bob: We have 20 active cases and 5 critical cases.

Judy, George and Bob Troy talk about the Charter Review Committee and BoS participating in the Charter Review Committee.

Judy calls for adjournment.

Adjourn

Motion was made by Peter Meier, seconded by George Slade to adjourn the Executive Session and to reconvene in Open Session. The Motion was voted: Froman – YES, Slade – YES, MacDonald – Yes, Meier - YES.

Respectfully submitted – Glenn Cannon, Assistant Town Administrator