

**Town Counsel Search Committee Minutes**

**Monday, January 13, 2014**

**7:30 p.m.**

**Thompson Room, Flynn Building, 278 Old Sudbury Road**

In attendance: Len Simon, Liam Vesely, Myron Fox, Scott Nix, Maryanne Bilodeau, Jim Kelly, Jody Kablack, John Drobinski, Andrea Terkelsen

The meeting started at 7:30 p.m. with a quorum being present.

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**Interviews**

**Petrini & Associates (Search Committee Interview #3)**

Chris Petrini and Barbara Saint Andre were in attendance

Chris Petrini, longtime resident of Framingham. Public construction and procurement is specialty, as well as labor and employment law. He has formerly been a member of Framingham School Committee and Board of Selectmen, and has been Framingham's Town Counsel since 1991. Started firm in 2004. Five attorneys, soon to hire 6<sup>th</sup>. They are full Town Counsel for Framingham, Sherborn, Medway, and Westfield. Proximity to Sudbury is a benefit, accessibility.

Barbara St. Andre was first elected as a Town Meeting member in Quincy when she was 18. She has served on the Braintree Housing Authority, Braintree Finance Committee, Braintree Town Counsel and the Canton Finance Committee. She left Kopelman & Paige in order to give more/better service to clients. She has land use expertise, and general municipal law. Represents towns as general town counsel - town meeting, election, finance, public meeting law, and taxes are her specialties. Gives advice up front in order to avoid costly litigation. Attends board meetings. Happy to provide office hours - can schedule meeting times or have drop in. Can provide 6 hours per week. She represents municipalities in many different courts - Land, District, Federal District, Appeals, Housing Appeals Committee, etc. - mostly defending towns and enforcement orders. She is a member of the Abstract Club - a land acquisition group. Will work with Town to control costs. Send out client advisories, give seminars (at no charge).

**Questions from the Committee:**

Are you familiar with how Sudbury uses Town Counsel and how he delivers service? Yes, also knows we have special counsel for labor and conservation.

What would be challenges to transition or delivery of services differently?

Has transitioned other towns. Will meet with boards and Town Counsel in advance at no cost to get up to speed.

Will lengthy trials impact service to the Town? Long trials didn't proceed continuously - 2 days at a time. Other attorneys will step in.

What is your typical response time? Emails and phone calls are responded to daily. Complicated matters may take longer.

Community Preservation Act experience? Yes, in Medway. Also work with Housing Trusts.

What is your relationship with MA Dept. of Environmental Protection (DEP)? Quite a bit of experience, successful negotiator (typically). Sewer, water withdrawal permits. Also keeps in mind watershed association concerns so that decisions are agreeable to all parties.

What is not included in basic services of retainer? How will MA School Building Authority (MSBA) contracts be impacted? Long and involved processes must be evaluated to make sure they don't use up entire retainer. Usual, routine advice would be covered. Exclusion for Permanent Building Committee is for disputes, attending multiple meetings when there are contract disputes

Is there a limit to the # of hours in the retainer? No Most towns receive significant discounts. Hourly rates charged for litigation, unusually difficult issues, and large real estate transactions. Small real estate - easements, restrictions, covenants - all within retainer.

What towns is Barbara a primary Town Counsel - Medway, West Brookfield, and Sherborn. Chris is primary for Framingham, special counsel to others. Don't represent developers, don't sue towns, 99% of firm is representing municipalities.

How would they handle a conflict between Sudbury and Framingham? Has never happened with Sudbury in his tenure. Mostly towns are on same side. Full disclosure. If they feel they can handle both, they will, but it is up to town.

Would office hours be part of retainer? Yes

Sudbury is larger than West Brookfield and Sherborn - will this impact your workload and can you deliver services? Yes, there is capacity. When she was with Kopelman & Paige she had 7 towns. Other lawyers in the firm will be assisting. Does not provide office hours for other towns currently.

Appellate Tax Board experience? Has handled cases all the way through trial, many towns have special counsel so experience is less than land use.

If there was a conflict and they had to withdraw, how would they assist in finding outside counsel, or would they be hands off? Depending on what the Town wants, could recommend other attorneys.

What is firm's intent for expansion? Are you still looking for other clients?  
Try to be selective. Sudbury is a good fit.

Any areas that you have less experience in (other than Appellate Tax Board issues) - tax title, would use special counsel.

Have you transitioned another town before?

Medway. Long time town counsel retired. Interviewed, asked questions, met with Town Manager, dept. heads, boards, reviewed files. Sherborn - firm that was not reappointed.

Town Meeting is first week of May. Any scheduling conflicts? March is busy for us (election issues), April is motions - dates don't conflict with other towns. Much Town Meeting experience. Knows that Town Meeting is very important and takes precedence over other issues. Depends on what Sudbury wants for preparation and attendance at Town Meeting.

Special Act experience? Yes, have done this in Sherborn and Medway. Chris has done it in Framingham. Knows some of the state house personnel.

What % of weekly work is litigation vs. office work? 75-80% is general work, depends on if a trial is pending. Much litigation is settled.

Any particular issue that rises to the top of municipal law? Enjoy Town Meetings and land use and zoning. Drafting bylaws.

Have you been successful in mediating zoning disputes? Yes, but not as easy as some issues. Can negotiate over conditions. Most construction disputes are settled over mediation.

What is good allocation of personnel vs. the number of towns you can represent? They are close to what they have now. Could probably accommodate another 2 employees and 2 more towns. 4-5 per primary attorney is maximum. Other attorneys back up both Barbara and Chris.

Retainer vs. hourly rate? They consider retainer to be more beneficial - cost certainty. It works for them. Hourly rate is competitive.

How is retainer fee calculated? Based on historical spending over 8-10 years. Population. Similar to Medway. Sudbury is slightly larger. Retainer is same for first 2 years, with small increase at 3rd year.

Wrap up - encouraged us to check references.

Tim Coyne and Peg Whittemore were in attendance. Tim currently supervises Boston School of Engineering students at Melone gravel pit, and is interested in knowing if there will be a presence in Town Counsel's office if we switch attorneys? The RFP contemplated office hours, so there is an intention to have a presence at the Flynn Building going forward. There may or may not be a change in personnel, but that will be up to the Selectmen. He gave the committee a moral recommendation for Mr. Petrini.

#### **Pros and Cons:**

Retainer is too low - compared to Medway (12,500 pop) and Sherborn (4000 pop).

Proximity to Sudbury is beneficial.

More personable than other interviewees.

Concern for retainer price – expect significant increase.

A majority of the Committee ranked them #1 of the 3 firms interviewed.

Barbara seems approachable and sincere, confident, honest in her assessment of her legal skills and ability. Sudbury would be a good catch for them. May be why their price is low. Want to get in the game. Price could increase significantly in future years.

Not a big concern for having too much work, seems to understand work load. May decrease special counsel work.

Barbara has great municipal experience from Kopelman & Paige and volunteer work. Chris and Barbara complimented each other.

On paper, they were at the bottom. But interviewed well.

May have been favorable to be last team interviewed. Committee has honed its skills.

Town Counsel will be the face of the town. Who fits this bill the best?

Why did Barbara leave K&P?

Similar budgeting to K&P.

\$60,000 isn't enough for Sudbury.

Bothersome about counsel if we have an issue with Framingham.

### **Committee Discussion**

It was reported that Labor Counsel, Kevin Feeley, has opined that the search committee can make a recommendation to the Board of Selectmen.

The committee pondered the following questions: What is the benefit to Sudbury to change Town Counsel? What is out there compared to existing legal services? Did we see something really good? Do we want to keep the existing model, or change it?

It was agreed that the committee would like to recommend 3 candidates to the Board of Selectmen, including a ranking or recommendations (pros and cons). Preliminary votes indicate Paul Kenny, Petrini & Associates, and Kopelman & Paige (in that order) will be recommended. A letter to the Selectmen will be sent including a description of review process and recommendations, including monetary considerations.

**DRAFT MOTION:** The Town Counsel Search Committee has interviewed a number of candidates and has narrowed field down to 3 candidates we can recommend to the Board of Selectmen - 1st is Paul Kenny and the final memo will articulate the reasons why. If the Selectmen chooses not to follow this recommendation, our order of preference for the firms interviewed is Petrini & Associates first, and Kopelman & Paige second. However, the Committee recommends continuing provision of services under the existing model.

The Draft Motion will be voted on at next meeting, subject to checking references.

Ms. Bilodeau will compose and send out to all Committee members a memo to the Board of Selectmen as to the Committee's recommendations. We will review that memo at our next meeting on February 3<sup>rd</sup> and make edits based on feedback received at the meeting. There may be a conflict with Finance Committee meeting that evening so our meeting may need to start earlier.

Minutes of 12/16/13 will be reviewed at the next meeting.

Adjourned 10:20 pm