

VOLUME: 1  
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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss. SUPERIOR COURT DOCKET  
NO. 08-04641-B

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JOHNSON GOLF MANAGEMENT, INC.,

Plaintiff,

vs

TOWN OF DUXBURY, and  
North Hill Advisory Committee,  
CONSISTING OF MICHAEL DOOLIN, CHAIRMAN,  
SCOTT WHITCOMB, ROBERT M. MUSTARD, JR.,  
MICHAEL MARLBOROUGH, ANTHONY  
FLOREANO, MICHAEL T. RUFO, THOMAS K.  
GARRITY, RICHARD MANNING, W. JAMES FORD,  
and GORDON CUSHING (EX OFFICIO)  
and CALM GOLF, INC., and  
CHARLES LANZETTA,

Defendants  
-----X

DEPOSITION OF ELIZABETH SULLIVAN, taken  
on behalf of the Plaintiff, pursuant to the  
applicable provisions of the Massachusetts Rules  
of Civil Procedure, before Jessica F. Story,  
Certified Shorthand Reporter and Notary Public  
in and for the Commonwealth of Massachusetts, at  
the offices of Brody, Hardoon, Perkins & Kesten,  
One Exeter Plaza, Boston, Massachusetts, on  
Friday, April 20, 2012, commencing at 10:14 a.m.

-----X  
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Town of Duxbury and North Hill Advisory

Committee, Consisting of Michael Doolin,

Chairman, Scott Whitcomb, Robert M. Mustard,

Jr., Michael Marlborough, Anthony Floreano,

Michael T. Rufo, Thomas K. Garrity, Richard

Manning, W. James Ford, and Gordon Cushing (Ex  
officio)

ALSO PRESENT:

Douglas Johnson

Jason Laramie

Judge Paul Chernoff

Gregory J. Aceto, Esq.

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## PROCEEDINGS

(Exhibits No. 1-18 ID pre-marked.)

MR. KESTEN: All objections except for form and motions to strike reserved until the time of trial.

ELIZABETH SULLIVAN, a witness called on behalf of the Plaintiff, first having been satisfactorily identified by her United States Passport, then duly sworn, on oath deposes and says as follows:

EXAMINATION BY MR. FOLLANSBEE:

Q. Good morning. By way of background, could you identify yourself for the record and give us your educational background, please.

A. **My name is Elizabeth Sullivan, and I graduated from Boston College. Is the year necessary?**

Q. Yes, it is.

A. **Tragic. That would be 1976. '75. Sorry.**

Q. Subsequent to graduating from Boston College in

6

1975, did you have any further educational experiences?

A. **Not in the degree capacity.**

Q. How about in the non-degree capacity?

A. **I've taken classes that are germane to my business.**

Q. What is your business?

A. **I am a banker.**

Q. And where do you currently work?

A. **First Republic Bank.**

Q. Where is that located?

A. **165 Federal Street.**

Q. And how long have you been there?

A. **Since last May.**

Q. And prior to that, did you work in the banking field?

A. **Yes.**

Q. Where most recently before First Republic Bank?

A. **Boston Private Bank.**

Q. Where is Boston Private Bank located?

A. **Post Office Square.**

Q. How long did you work at Boston Private Bank?

A. **Over seven years.**

Q. And for a period of time am I correct that you

were the -- you were one of the members of the board of selectmen in Duxbury?

A. **Yes.**

Q. What years did you serve in that capacity?

A. **I was just trying to figure out the exact dates. I apologize. 2001 to 2009, I think. Three terms.**

Q. 2009 you were --

A. **'10, actually, I got off. It was after the turn of the year, so it would be March of 2010 that I -- my term ended.**

Q. March of 2010?

A. **Yes. I didn't stand for election in 2011 so maybe then I got off. I'm sorry. It's --**

Q. In March of 2011 you did not run for reelection, correct?

A. **Yes. And I had served three terms prior to that, so we'll do the math.**

Q. So all of calendar year 2010 you were on the board of selectmen?

A. **Yes.**

Q. And up until the last week of March, March of 2011, up until the last week of March 2011 you would have been on the board, correct?

8

A. **No. My term would end as of the election, which is the third Saturday in March.**

Q. And once there is an election, do they swear that person in immediately?

A. **Monday, the following Monday.**

Q. Directing your attention to Exhibit Number 1, that's a notice of deposition that was originally scheduled for November 29th of 2010. Do you recall being notified that you were going to be deposed back in November of 2010?

A. **Not specifically, but I believe based on this that it must be true.**

Q. Well --

A. **I'm sorry. I'm not trying to be difficult. It's just awhile ago.**

Q. I understand. Did you ever discuss being deposed with town counsel, Robert Troy?

A. **If indeed I was -- if I received this, then I'm sure it was discussed.**

MR. KESTEN: He's asking whether you actually remember, not whether it happened. Do you remember, actually remember talking about scheduling anything with Robert?

THE WITNESS: Vaguely. I'm sorry.

- 1 Q. What do you remember Attorney Troy telling you  
2 as far as your deposition was concerned?
- 3 A. **It was on and it was off. I didn't have to go.**
- 4 Q. And subsequent to that, have you had any  
5 discussions with Robert Troy about your  
6 potential deposition?
- 7 A. **As I've been told over a period of time that  
8 this was coming up.**
- 9 Q. When was the last time you talked to Attorney  
10 Troy about this deposition?
- 11 A. **About today?**
- 12 Q. About the deposition in this case.
- 13 A. **He had called me within the last couple of weeks  
14 to make sure I knew where I was supposed to be  
15 going and what I was, you know, I was going to  
16 show up and what time.**
- 17 Q. Other than that, did he discuss anything about  
18 the deposition or the lawsuit with you in the  
19 last couple of weeks?
- 20 A. **To the -- specifically, you know, that we were  
21 coming to a deposition and that there had been,  
22 you know, concerns about what had been going on.**
- 23 Q. What did he say?
- 24 A. **I didn't take notes, particularly.**

1 MR. KESTEN: Can I have one minute?

2  
3 (Recess taken.)  
4

- 5 Q. Having had a chance to speak with Attorney  
6 Kesten, what was the discussion you had about  
7 the concerns that Attorney Troy was addressing  
8 in the last few weeks?
- 9 A. **It's specifically just, he had given me some  
10 information to -- copies of notes or e-mails  
11 from the -- or details from the -- what went on  
12 with the contracts, and to refresh my memory as  
13 to the case.**
- 14 Q. When did he give you those?
- 15 A. **He came to Boston and gave them to me. May I  
16 reference my --**
- 17 Q. Reference anything you need to reference.
- 18 A. **Sorry. Just so that I can tell you the real  
19 date. It wasn't last week. It was the week  
20 before. The 5th, maybe. I could find out but  
21 I'm -- the week before. I was in class all last  
22 week so I wasn't in my office at all this week  
23 so I know it was last --**
- 24 Q. When you're saying the 5th, you're referring to

- 1 the 5th of April this year?
- 2 A. **Right.**
- 3 Q. And how long did you meet with Attorney Troy  
4 when he gave you these records?
- 5 A. **Half hour.**
- 6 Q. And in the course of that half hour, what else  
7 did he have to say?
- 8 A. **Talked about, you know, family. Talked about,  
9 you know, that type of thing, you know, how have  
10 you been and just here are the records. And,  
11 you know, that the situation had become  
12 difficult.**
- 13 **But, you know, specifically not -- there  
14 was no direction as to what, you know, what I  
15 was to repeat or say. He was just, here,  
16 there's the information.**
- 17 Q. Did he -- when you say the situation became  
18 difficult, did you understand what he was  
19 talking about?
- 20 A. **The situation has always been difficult.**
- 21 Q. What particularly made it difficult in your  
22 estimation?
- 23 A. **Previously or at this point in time?**
- 24 Q. At this point in time.

- 1 A. **That there seems to be a lot of controversy over  
2 language changes in the contract and how they  
3 took place.**
- 4 Q. And were you aware prior -- well, strike that.  
5 That's a bad question.
- 6 What was difficult in the past different  
7 than that?
- 8 A. **What was difficult in the past?**
- 9 Q. Well, you said the case had always been  
10 difficult. What was difficult about it in 2008  
11 when it was first filed?
- 12 A. **Oh. That it existed. I mean, that the bid had  
13 not gone out, been answered and executed and  
14 gone on.**
- 15 Q. Now, if you look at Exhibit Number 2 in your  
16 looseleaf, if you just turn the page.
- 17 A. **Sure.**
- 18 Q. That's a subpoena that was -- you received that  
19 approximately a week ago; is that correct?
- 20 A. **Oddly enough, with a check for \$13 for some man  
21 I don't know.**
- 22 Q. You're welcome. You can have lunch. The check  
23 came from me.
- 24 A. **I didn't understand it. I was confused by it.**

1 MR. KESTEN: It's a witness fee.

2 Q. You get the witness fee. That's lunch.

3 MR. KESTEN: I just got subpoenaed. I  
got \$50.

5 MR. FOLLANSBEE: Where are you going  
6 from?

7 MR. KESTEN: Wellesley to Boston.

8 MR. FOLLANSBEE: That's too much.

9 A. **It was just left at my door and I found the  
10 envelope. Yes, I'm here.**

11 Q. Did you bring any documents with you?

12 A. **No, I did not.**

13 Q. Do you have any documents pertaining to the  
14 North Hill Country Club at all?

15 A. **I really don't.**

16 Q. What did you do with documents that you may have  
17 received over the years pertaining to the North  
18 Hill Country Club as a person on the board of  
19 selectmen?

20 A. **Either I left them after the meeting if -- there  
21 was always volumes on many -- as you can imagine  
22 over the course of nine years there were many  
23 piles of paper that went with different issues.  
They were always kept at Town Hall if I needed**

1 **them, and I learned very quickly if I started  
2 taking everything home and keeping it, that I  
3 would have to add a room to my house.**

4 Q. So you would leave everything at Town Hall?

5 A. **I would sometimes leave everything at Town Hall.  
6 It would -- or the packet would come home with  
7 me and I would throw it away. And after I left  
8 the board I had occasion to clean out my office  
9 and got rid of everything.**

10 Q. Where you say you throw it away -- so let me  
11 understand this.

12 A. **To the dumpster.**

13 Q. If correspondence was directed to you as a  
14 member of the board of selectmen?

15 A. **Right.**

16 Q. Would you throw that away?

17 A. **Yeah. There was many pieces of correspondence.  
18 If it was something that needed to be referenced  
19 later, there was a copy kept at Town Hall.**

20 Q. How did you determine what you threw away and  
21 what you kept?

22 A. **I threw away most of all of it. I mean,  
23 personal memorabilia I kept.**

24 Q. Well, I'm not interested in personal

1 memorabilia.

2 A. **You're asking.**

3 Q. If a letter was directed to you as a member of  
4 the board of selectmen?

5 A. **Yep.**

6 Q. You would take that home on occasion and throw  
7 it away?

8 A. **A-huh.**

9 Q. You have to answer.

10 A. **Yes.**

11 Q. Did anyone ever explain to you that the  
12 correspondence that you received as a member of  
13 the board of selectmen is a public record under  
14 the Massachusetts Public Records Law?

15 A. **Sure.**

16 Q. And you thought it was okay to throw public  
17 records away?

18 A. **I knew that there was a copy of these  
19 correspondence kept at Town Hall, which seemed  
20 much better.**

21 Q. Who keeps the correspondence at Town Hall?

22 A. **Well, if it was part of a meeting, then it would  
23 have been kept with the meeting minutes as an  
24 attachment. If it was something that was**

1 **separate through Town Hall in the selectmen's  
2 office, they would keep it in the files  
3 according to the subject matter.**

4 Q. What about, did you have a method of preserving  
5 e-mail correspondence to you as a member of the  
6 board of selectmen?

7 A. **As a segregated form, no. I did a search of my  
8 e-mail account and didn't have anything to do  
9 with North Hill in there, but there was a lot of  
10 e-mail correspondence that wasn't in this  
11 regard.**

12 Q. Your function as a member of the board of  
13 selectmen is to represent the tax payers of the  
14 town, correct?

15 A. **I think you know that. Yes.**

16 Q. Effectively, the board of selectmen is selected  
17 as essentially the chief executive officers of  
18 the town, correct?

19 A. **Yes.**

20 Q. And that's how you understood your role in  
21 Duxbury; isn't that true?

22 A. **Yes.**

23 Q. Directing your attention to Exhibit Number 3,  
24 these are excerpts from the bylaws of the Town

1 of Duxbury. You're familiar with those,  
2 correct?  
3 **A. Yes.**  
4 **Q.** And one of the roles -- at the very bottom of  
5 the page in very small print you'll see numbers  
6 on some of these. I'm referring to now Page 5  
7 at the very bottom, very, very bottom of the  
8 page. It says Sullivan DEP 5.

9 **A. Yes.**

10 **Q.** We're on the same page then.

11 MR. KESTEN: That's deposition.

12 **Q.** You understand that one of the roles that the  
13 town empowered the board of selectmen with was  
14 the right to hire counsel on particular cases,  
15 correct?

16 **A. Yes.**

17 **Q.** And it required a consent of the board which  
18 would be two out of three, correct?

19 **A. Yes.**

20 **Q.** Now, in this particular case, the case of  
21 Johnson Golf Management versus the Town of  
22 Duxbury, when did you make a decision as a board  
23 of selectmen to assign this case to Attorney  
24 Troy?

1 **A. Attorney Troy handled and has handled for a**  
2 **number of years all of the cases, so in**  
3 **particular, no decision was made that -- to**  
4 **handle this case. He, as a matter of course,**  
5 **handles the legal matters for the town.**

6 **Q.** But directing your attention to paragraph 3.1.5  
7 on Exhibit 3, Page 5, it indicates that, "No  
8 department or official can request the services  
9 of town counsel without first obtaining the  
10 consent and approval of the board of selectmen."

11 Is it your testimony that that wasn't  
12 done in this particular case?

13 **A. No. It's my testimony that that language was**  
14 **designed so that people could not independently**  
15 **go to town counsel and run up a lot of legal**  
16 **fees. I don't believe -- we did not -- in the**  
17 **course of town business there are many legal**  
18 **matters that come before the town, and we did**  
19 **not appoint counsel for each of these**  
20 **individually.**

21 **Q.** At some point the town turned this matter over  
22 to Attorney Kesten's office, and Attorney Kesten  
23 -- and am I correct that Attorney Kesten's  
24 office is being paid by the town's insurer, not

1 the town; is that correct?

2 **A. That is my understanding, yes.**

3 **Q.** And as one of the chief executive officers of  
4 the town, it's always a concern on how much  
5 money you're spending for all kinds of services,  
6 isn't it?

7 **A. Is that a question that has an answer? Yes, of**  
8 **course.**

9 **Q.** Okay. So one of the calculations that you would  
10 make as a chief executive officer is what's in  
11 the best interest of the town financially as far  
12 as the representation of the town from legal  
13 counsel, correct?

14 **A. Yes.**

15 **Q.** Now, up until the time -- from December of 2008  
16 when this litigation began up until the time you  
17 left the board of selectmen which I peg around  
18 March 28th, according to your testimony, of  
19 2011?

20 **A. No. No. Yeah. I'm sorry. Yes, of course.**  
21 **I'm sorry. Why am I so dense on that date.**  
22 **Yes.**

23 **Q.** So up until that timeframe, roughly how much  
24 money did the town spend on Attorney Troy's

1 office in defending this litigation?

2 **A. I do not know.**

3 **Q.** Do you have any ballpark figure?

4 **A. I do not.**

5 MR. KESTEN: That will be made public on  
6 Monday.

7 MR. FOLLANSBEE: Thank you, Lenny. I  
8 appreciate that.

9 **Q.** Was that ever a concern of yours, how much was  
10 being spent on the defense of the case while you  
11 were a selectwoman?

12 **A. This case in particular?**

13 **Q.** Yes.

14 **A. A concern. Concern is a difficult word. I was**  
15 **concerned about all expenditures of the town.**  
16 **This case in particular was not -- I was not**  
17 **concerned that we were being overcharged, if**  
18 **you're meaning --**

19 **Q.** How much -- do you know how much you were paying  
20 per hour?

21 **A. I do not recall the last hourly rate for**  
22 **Attorney Troy's office. I'm sorry.**

23 **Q.** Do you recall any hourly rate that you ever paid  
24 him?

1 **A. Specifically, no. I don't remember the exact**  
2 **number.**

3 **Q.** Would you be surprised if the disclosure that  
4 Attorney Kesten refers is coming forward next  
5 Monday, would you be surprised if it indicates  
6 that Attorney Troy has billed the Town of  
7 Duxbury in excess of \$200,000 for this case?

8 **A. Would I be surprised? For how many years?**

9 **Q.** Since its -- since December of 2008.

10 **A. I know legal fees are very high.**

11 **Q.** So that --

12 **MR. KESTEN:** Not high enough.

13 **Q.** You would not be surprised? Is that it?

14 **A. Since I don't know that number to be true, I**  
15 **don't know.**

16 **Q.** Well, let's assume the number I'm putting out  
17 there, \$200,000. Would that number surprise  
18 you?

19 **A. For one, two, three and a half years, no.**

20 **Q.** With regard to the role of the selectmen as  
21 opposed to the role of the town manager in  
22 Duxbury, as far as signing contracts, that's  
23 reserved to the board of selectmen, isn't it?

24 **A. Not always.**

1 **Q.** Okay. Can you give me an example where it's not  
2 reserved to the board of selectmen to sign  
3 contracts?

4 **A. In most cases it would be the town manager that**  
5 **would sign. Sometimes we did countersign. I**  
6 **think we would sign union contracts, but most**  
7 **other contracts the town manager would sign.**

8 **Q.** You had occasion to review the contracts that  
9 Johnson Golf Management had for the 13 years  
10 that were from 2000 up through 2010, didn't you?

11 **MR. KESTEN:** You mean the contracts,  
12 multiple?

13 **MR. FOLLANSBEE:** That's right. There  
14 were several contracts.

15 **Q.** The most recent contract, you reviewed the  
16 ten-year contract that Johnson had from 1999 to  
17 2008; Isn't that right?

18 **A. I had access to it. But did I go through it**  
19 **specifically? No, not really. I would rely on**  
20 **information given to me, too. I'm not a lawyer.**

21 **Q.** If I could direct you to Exhibit Number 4 and  
22 it's, the very bottom of the page, Page 10.

23 **A. Ten is this number here or -- okay.**

24 **Q.** Might be Page 83, also.

1 **A. Sure.**

2 **Q.** The other designation.

3 In paragraph 13, the little mark next to  
4 it, this is the Town Manager Act that's been  
5 adopted by Duxbury, and this says that the town  
6 manager is responsible to negotiate the contract  
7 and they're to be executed by the board of  
8 selectmen.

9 Is it your understanding that that only  
10 applies to some contracts, not all contracts?

11 **A. My experience was that we did not sign all**  
12 **contracts, that there were any number of**  
13 **contracts that were executed by the town**  
14 **manager.**

15 **Q.** And I may have asked this previously. If I  
16 have, forgive me. Can you give me an example of  
17 some contracts that the town manager signs and  
18 the board of selectmen does not sign?

19 **A. Vendor contracts or contracts with people that**  
20 **were doing services for the town.**

21 **Q.** So a vendor contract would be similar to the  
22 contract for Johnson Golf Management or any  
23 other company that ran the golf course, correct?

24 **A. I'm not sure. I mean, you're asking me what he**

1 **signed that I didn't which would mean I didn't**  
2 **see it, so. I'm not trying to be difficult but**  
3 **I just don't -- if I didn't sign it, then. It**  
4 **was not a matter of regular course of business**  
5 **to sign any and all contracts or agreements for**  
6 **service.**

7 **Q.** Could you look at Exhibit 23.

8 **A. Is there a page?**

9 **Q.** Well, let's first identify it. Exhibit 23 is  
10 the contract between my client, Johnson Turf &  
11 Golf Management, and the Town of Duxbury to run  
12 the North Hill Golf Course. It was a ten-year  
13 contract. You're familiar with this contract,  
14 right?

15 **A. Yep.**

16 **Q.** And if we look at the very bottom of the page,  
17 number 114 in the small numbers at the bottom.

18 **A. Okay.**

19 **Q.** This contract was signed by the board of  
20 selectmen, the town manager and town counsel on  
21 behalf of the town, and Mr. Johnson on behalf of  
22 Johnson Golf Management, correct?

23 **A. Okay. I was not a sitting member of the board**  
24 **at the time.**

1 Q. I understand, but when the property, when North  
2 Hill was put out to bid again in 2008, 2009 and  
3 most recently in 2011, and if you look at -- I'm  
4 not sure which exhibit this is. But look at  
5 Page 185.

6 MR. KESTEN: Of what?

7 MR. FOLLANSBEE: At the bottom. I'm  
8 sorry. I need the exhibit number, right?

9 MR. KESTEN: Well --

10 A. **What section?**

11 MR. KESTEN: Looks like Number 27.

12 MR. FOLLANSBEE: Yeah. I think 27 is  
13 correct. Well done, Lenny.

14 MR. KESTEN: Kudos.

15 A. **Okay.**

16 Q. And this particular document is the contract to  
17 be executed for the management of the golf  
18 course in 2011, correct?

19 A. **Okay.**

20 MR. KESTEN: Well --

21 Q. Are you familiar with it?

22 A. **I don't believe I've read it before. It doesn't**  
23 **mean that I didn't have access to it.**

24 Q. But it did -- the document that was put forth in

1 the bidding package, it begins on Page 159  
2 and --

3 A. **Okay.**

4 Q. -- it indicates that you would be one of the  
5 signatories to the contract, correct?

6 A. **Okay.**

7 Q. And --

8 A. **My name is there, yes.**

9 Q. And --

10 A. **My name is indicated there, not signed.**

11 Q. It's not signed. I acknowledge that.

12 And this was part of the bid package, so  
13 the bidders were told there would be people  
14 signing the contract, correct?

15 A. **Okay.**

16 Q. That's consistent with what the Town Manager Act  
17 and bylaws of Duxbury says, that the selectmen  
18 sign the contracts, correct?

19 A. **Not all contracts, but obviously this contract.**

20 Q. So this contract was to be signed by the board  
21 of selectmen, not simply by the town manager,  
22 correct?

23 A. **Okay. Yes.**

24 Q. And there's no authorization by the Duxbury

1 board of selectmen to waive that formality, is  
2 there?

3 MR. KESTEN: What do you mean? What does  
4 that mean? Did they authorize that in this?

5 MR. FOLLANSBEE: Yes.

6 MR. KESTEN: Did the selectmen, in regard  
7 to the 2011 contract?

8 Q. Did the --

9 A. **No.**

10 Q. Did the selectmen authorize a waiver so they  
11 would not sign the contract and it could be  
12 signed by the town manager?

13 A. **No. Not to my memory, no.**

14 Q. Certainly in early March when this was published  
15 you were still on the board of selectmen,  
16 correct?

17 A. **Yes.**

18 Q. And you were familiar with what was going on at  
19 North Hill Country Club at that time, weren't  
20 you?

21 A. **Yes.**

22 Q. And you knew it was being bid again for now the  
23 third time in four years, correct?

24 A. **Yes.**

1 Q. Now, if we could go back to Exhibit Number 5.

2 A. **Which section?**

3 Q. Tab number 5.

4 A. **Sorry. Yep.**

5 Q. Now, Exhibit Number 5 was a letter. Actually,  
6 there are two letters, one to the board of  
7 selectmen and one is a letter to the editor that  
8 was also received by the Duxbury Recreation  
9 Department.

10 But directing your attention to the first  
11 page, the letter to the board of selectmen.

12 A. **12 on the bottom?**

13 Q. 12 on the bottom.

14 A. **Okay.**

15 Q. If you could just take a minute to review that  
16 letter and then I'll ask you a few questions  
17 about it.

18 A. **Sure.**

19 (Witness complies.)

20 Q. Just going to the first two pages, have you had  
21 a chance to look at those?

22 A. **Not memorized, but I --**

23 Q. I'm not asking that. It's not a memorization  
24 test.

- 1 **A. Thank God.**  
 2 **Q.** Having taken a look at this, does this refresh  
 3 your memory as to what the concerns were at  
 4 least of Mr. Doolin back in 2004 with Johnson  
 5 Golf Management at the country club?  
 6 **A. Yes. I just glanced over it but --**  
 7 MR. KESTEN: The question is did you  
 8 remember this letter.  
 9 THE WITNESS: Do I remember this letter?  
 10 Yeah. I mean, vaguely I do, yeah.  
 11 **Q.** And am I correct that what you remember is that  
 12 there were definitely some unhappy people up  
 13 there, town residents who were unhappy with  
 14 Johnson's policies?  
 15 **A. The letter would indicate as such, but it**  
 16 **doesn't stand out in my memory as there are many**  
 17 **instances where you're interacting with the**  
 18 **public.**  
 19 **Q.** And sometimes --  
 20 **A. There are people that are more or less happy or**  
 21 **disgruntled, and in the course of the nine years**  
 22 **I was a selectman there were a significant**  
 23 **number of 'atta boys and a significant number of**  
 24 **you blew its, so.**

- 1 **Q.** Would you categorize this kind of letter as one  
 2 of the you blew it letters?  
 3 **A. Obviously this gentleman had some concerns.**  
 4 **Q.** And in looking at his concerns, it seems,  
 5 correct me if I'm wrong, did you understand them  
 6 and do you understand now that the gist of his  
 7 complaint was that he couldn't get an 18 hole  
 8 tee time on weekends?  
 9 **A. It would appear that way.**  
 10 **Q.** And as a selectwoman, did that cross your radar?  
 11 Did you care about that issue?  
 12 **A. Not really.**  
 13 **Q.** I should have asked this before. Are you a  
 14 golfer yourself?  
 15 **A. I have played golf but I don't think by any**  
 16 **stretch of the imagination anyone would call me**  
 17 **a golfer.**  
 18 **Q.** Do you belong to any golf clubs or anything like  
 19 that?  
 20 **A. Yes, I do.**  
 21 **Q.** What golf course do you belong to?  
 22 **A. The Duxbury Yacht Club.**  
 23 **Q.** That's an 18 hole course?  
 24 **A. Yes, it is.**

- 1 **Q.** And what does an annual membership cost at the  
 2 Duxbury Yacht Club?  
 3 **A. Are you thinking of joining?**  
 4 **Q.** I don't have that kind of money. I know I don't  
 5 have that kind of money.  
 6 MR. KESTEN: Not yet.  
 7 MR. FOLLANSBEE: It's coming.  
 8 **A. You want to know what the dues are for the year?**  
 9 **Q.** Yes.  
 10 **A. As of this year, about \$5,000.**  
 11 (Discussion off the record.)  
 12 **Q.** But were you a member of the Duxbury Yacht Club  
 13 back in 2004 --  
 14 **A. Yes.**  
 15 **Q.** -- when you received this? So at least as a  
 16 member of a club that includes an 18 hole golf  
 17 course, you had some understanding of tee times?  
 18 **A. Yes.**  
 19 **Q.** The pluses and minuses of weekend tee times?  
 20 **A. Well, yes, of course. I mean, I was also a**  
 21 **selectman of a town that has a golf course, so**  
 22 **yes.**  
 23 **Q.** So you know that those are the premium times of  
 24 the week? Weekend morning tee times are

- 1 whatever everybody craves; is that correct?  
 2 **A. Yes.**  
 3 **Q.** Certainly Mr. Doolin was craving them more than  
 4 the average golfer?  
 5 MR. KESTEN: Craving?  
 6 MR. FOLLANSBEE: I'm telling you.  
 7 MR. KESTEN: Lusting?  
 8 **A. It would appear that he was concerned that was**  
 9 **going to be a problem.**  
 10 MR. KESTEN: Yearning?  
 11 THE WITNESS: Yearning's a good word.  
 12 **Q.** The difference between the Duxbury Yacht Club,  
 13 which is totally private as I understand it,  
 14 correct?  
 15 **A. Okay.**  
 16 **Q.** That's private?  
 17 **A. It is a private course, yes.**  
 18 **Q.** And North Hill is just the opposite. It's  
 19 totally public, correct?  
 20 **A. Yes.**  
 21 **Q.** So anybody who has the \$22 can play at North  
 22 Hill Country Club provided tee times were  
 23 available, correct?  
 24 **A. Yes.**



1 Q. The other difference is one is 9 holes and one  
2 is 18 holes; is that correct? That's your  
3 understanding?

4 A. Yes.

5 Q. Now, when Doolin wrote this letter back in 2004,  
6 did the board of selectmen have Doolin and his  
7 buddies come and address the board about what  
8 their gripes were with Johnson? Did you have a  
9 meeting about it?

10 A. **Not specifically. He might have come to open**  
11 **session. I don't remember. I'm sorry.**

12 Q. You don't remember bringing the people from  
13 Johnson in and bringing Doolin and his people in  
14 and kind of hashing things out at the board of  
15 selectmen meeting?

16 A. **It might have happened. I'm sorry. I don't**  
17 **remember.**

18 Q. To refresh your memory, if we looked at minutes  
19 of the board of selectmen, would that be helpful  
20 to you?

21 A. **Certainly, yes. That would be very helpful.**  
22 **Thank you.**

23 Q. Okay. Don't say thank you yet.

24 If you look at Exhibit Number 6, and that

1 first page, 16, these would be if you go on the  
2 Duxbury award winning website.

3 A. **It is award winning, yes.**

4 Q. If you go to the website you can pull down the  
5 minutes of any of these minutes, correct? By  
6 clicking the little logo there?

7 A. Yes.

8 Q. And you're familiar with the website and how  
9 that works, aren't you?

10 A. Yes.

11 Q. So anybody that wants to get minutes of the  
12 Duxbury selectmen, you click on any one of these  
13 links on the computer, the minutes will come up  
14 and you'll be able to read them, correct?

15 A. **That's my understanding, yes.**

16 Q. These pages, 16 and 17, indicate all the minutes  
17 that are available. If you look at the bottom  
18 of 17 there's a place where you can click the  
19 next 20 items and it looks like there are three  
pages totaling 42 items?

20 A. Okay.

21 Q. And that would indicate that there were 42  
22 different meetings of the selectmen that had  
23 minutes, correct?  
24

1 MR. KESTEN: You're asking her to  
2 interpret this document?

3 MR. FOLLANSBEE: Well, why don't I ask --

4 MR. KESTEN: The document speaks for  
5 itself.

6 Q. You met every week, correct? Is that correct,  
7 on the board of selectmen?

8 A. **Not every week, but most weeks, yes.**

9 Q. Most weeks. So to have 42 sets of minutes in a  
10 year would not be unusual, would it?

11 A. No.

12 Q. Now, if you look at page -- it's the unnumbered  
13 page and this one's in color and these are the  
14 2004 selectmen meeting minutes, and this is the  
15 unnumbered two pages between 17 and 18. There  
16 are no minutes there at all.

17 Did you have anything to do with a  
18 decision by the Duxbury selectmen to take the  
19 2004 selectmen minutes off the internet?

20 A. No.

21 Q. Did anyone ever discuss that with you?

22 A. No.

23 Q. Are you surprised that they're not on the  
24 internet?

1 A. No.

2 Q. You're not surprised?

3 A. **There is one woman that is not full-time that**  
4 **handles the IT for the Town Hall, and I think**  
5 **that they do a wonderful job in trying to keep**  
6 **it as complete as possible.**

7 **But the fact that the minutes that were**  
8 **from nearly ten years ago are not posted, no.**  
9 **They're available certainly in hard copy, but if**  
10 **they're not posted, no, I'm not surprised. It's**  
11 **just a matter of labor hours available to do the**  
12 **task.**

13 Q. So you don't think it's odd that the 2003  
14 selectmen minutes are available, the 2005  
15 selectmen minutes are available but the 2004 are  
16 missing? You don't think that's odd?

17 A. No.

18 Q. Let's go back to Exhibit Number 4. I'm sorry.  
19 Exhibit Number 5, I guess. After --

20 A. **Mr. Doolin's letter.**

21 Q. After Mr. Doolin wrote this letter to you in  
22 2004, well, bad question.

23 Before this, did you know Mr. Doolin?

24 A. **I don't know Mr. Doolin. I might have met**

1 **Mr. Doolin. In the course of being a selectman**  
 2 **I've met many people. I can't picture him in my**  
 3 **mind.**

4 **Q.** He's not like a personal friend or anything?

5 **A. No.**

6 **Q.** After Mr. Doolin wrote this letter you appointed  
 7 him to the North Hill Management Committee. Do  
 8 you remember that?

9 **A. I don't remember the specific appointment but --**  
 10 **and I don't know who the liaison was to the**  
 11 **North Hill Advisory Committee at that point in**  
 12 **time.**

13 **Q.** Were you ever the liaison between the selectmen  
 14 and the North Hill Advisory Committee?

15 **A. No, I don't believe so.**

16 **Q.** Did you ever appoint anybody to the committee  
 17 yourself? Or recommend anybody?

18 **A. We -- I might have recommended one woman that I**  
 19 **knew that was a golfer that had been on other**  
 20 **financial committees, but other than that, no.**

21 **Q.** Who was the one woman?

22 **A. Jean Jackson. I don't know if she took the**  
 23 **appointment or not.**

24 **Q.** Did you ever recommend Mr. Doolin, to your

1 memory?

2 **A. No. I don't remember recommending Mr. Doolin.**

3 **Q.** Did you ever recommend Mr. Anthony Floreano?

4 **A. No, I did not.**

5 **Q.** Do you know Mr. Floreano?

6 **A. As I said before, I might have met him at some**  
 7 **point in time, but I can't picture him.**

8 **Q.** Do you know Mr. Marlborough?

9 **A. No. I do not know Mr. Marlborough.**

10 **Q.** Is there anybody on the North Hill Advisory  
 11 Committee that you did know? I'll just run  
 12 through them. Did you know Scott Whitcomb?

13 **A. Yes. I did know Scott Whitcomb.**

14 **Q.** And how about Robert Mustard?

15 **A. Yes. I do know Mr. Mustard.**

16 **Q.** And do you know Michael Rufo?

17 **A. I can't picture him.**

18 **Q.** Do you know Thomas Garrity?

19 **A. I can't picture him.**

20 **Q.** Do you know Richard Manning?

21 **A. If it is the -- I know a Manning in town. I**  
 22 **don't know if that's the same guy.**

23 **Q.** Do you know James Ford?

24 **A. No.**

1 **Q.** You do know Gordon Cushing? He's the recreation  
 2 director?

3 **A. Of course.**

4 **Q.** Did you read *The Duxbury Clipper* this week?

5 **A. I looked at the front page.**

6 **Q.** So you didn't read the article about the North  
 7 Hill Country Club?

8 **A. I read the front page. Whatever was on the**  
 9 **front page I read. I have -- I work full-time,**  
 10 **I'm in the middle of studying for my Series 7**  
 11 **exam, I have four kids, two grandkids, a**  
 12 **pregnant daughter, a husband, and so my**  
 13 **newspaper reading time has been limited this**  
 14 **week.**

15 **Q.** Are you still active in Duxbury town politics at  
 16 all?

17 **A. I've been on the finance committee.**

18 **Q.** Are you still on the finance committee?

19 **A. A-huh. We haven't met since town meeting, but**  
 20 **yes.**

21 **Q.** Now, when Mr. Doolin wrote the letter to your  
 22 board back in 2004, did you understand that what  
 23 he wanted were basically special privileges as  
 24 far as his tee times were concerned?

1 **A. Individually?**

2 **Q.** Yes.

3 **A. Or for the group that he was discussing?**

4 **Q.** Well, let's talk individually first and then  
 5 we'll talk about their group.

6 **A. No. I didn't particularly perceive it as him**  
 7 **wanting something for himself exclusively.**

8 **Q.** Did you perceive it as him wanting something for  
 9 his group that was a little bit better than the  
 10 general public?

11 **A. Yes. I think that that would probably be the**  
 12 **upshot of his request.**

13 **Q.** And did you think that at a public golf course  
 14 it was appropriate that he should have any kind  
 15 of special treatment, and his group?

16 **A. By his group you mean member residents?**  
 17 **Resident members?**

18 **Q.** Well, whatever. Who did you think his group  
 19 was?

20 **A. Members that were members, I guess not**  
 21 **residents, because you could be a member --**  
 22 **Mr. Johnson might be able to clarify this.**

23 **Q.** I don't want Mr. Johnson to clarify anything.

24 **A. I'm just saying you can clarify this.**

MR. KESTEN: So stipulated.

Q. I'll do my best to clarify.

You referred to --

**A. I'm drawing a blank right now, whether there's a differentiation between resident members or just members.**

Q. Are you familiar with a group called the North Hill Men's Association?

**A. I've heard it, but I don't know particularly their bylaws, but we have a number of groups in town.**

Q. Aside from bylaws, did you understand that the North Hill Men's Association was a group of men who all played golf at North Hill?

**A. Yeah.**

Q. And now, of members at -- because that's how Page 15, if you look at the signature line, that has multiple people there. It says sincerely, then it says members and regular players at North Hill Country Club, then a bunch of people.

**A. From out of Duxbury and in town.**

Q. Both ways, out of Duxbury and in town.

Now, is that what you understood, there were some people out of North Hill Country Club

who were members?

**A. Well, of course there were members. There's memberships that were sold.**

Q. What the members -- what that really means is that they prepaid their greens fees for the year, correct?

**A. Whatever membership -- whatever the membership rules require. I don't know what the -- I really don't know what the membership fee encompassed. I'm sorry.**

Q. As a public facility --

**A. Right.**

Q. -- you understood and you understand now that there can be no discrimination against anybody at North Hill Country Club, correct?

**A. Of course not.**

Q. So you can't say to the general public you can't play until noontime on Saturday and Sunday because that's reserved for "members," can you?

**A. I wouldn't assume so, no.**

Q. Nor could you say that to any class? You couldn't say that men can play in the morning and women have to play in the afternoon at a public facility, could you?

**A. Not and live.**

MR. KESTEN: You can.

**A. You can now.**

Q. That's a good point. You can do it but it would be illegal, wouldn't it?

**A. They certainly do it at Augusta, don't they?**

Q. They do. And it's a private club, as a distinction. And at the public facility such as the one your town owns, you'd be breaking the law if you did that and said women can't play until after noontime, correct?

**A. I believe so, yes.**

Q. So what was your impression that these, and I think you described them as disgruntled, that these disgruntled golfers wanted special privileges up at North Hill, how did you feel about that?

**A. I felt it was something that should be handled by Mr. Johnson and Gordon Cushing and that they should abide by the rules set forth, and that was what should happen.**

Q. That's what did happen, correct?

**A. To the best of my knowledge, yes.**

Q. And Gordon ended up getting the opinion from

town counsel, Robert Troy, that the policies that Johnson Golf had implemented were all within the bounds of the contract, correct?

**A. To the best of my knowledge, yes.**

Q. And yet these folks, and I mean Doolin and Marlborough and the signatories on this letter on Page 15, Exhibit Number 5, these folks remained disgruntled for the next few years because they weren't getting what they wanted, correct?

**A. I have no knowledge of how they felt.**

Q. Did they ever come to any board of selectmen meetings complaining to you about what was going on at North Hill?

**A. Perhaps. I really do not recall a specific event.**

Q. Well, aside from any specific events, do you recall a general attitude that Doolin and the members of the North Hill Advisory Committee were unhappy with the contract that was in existence between Johnson Golf and the town?

**A. Would you repeat that question. I'm sorry. It sounds like a Series 7 question, all of these are true except.**

- 1 Q. Aside from any specific issue, is it your memory  
2 that there was a general unhappiness with this  
3 group as far as the policies that had been  
4 implemented regarding their tee times?  
5 A. **I have no knowledge of that.**  
6 Q. Now, Doolin, Marlborough, Floreano, they were  
7 all on the North Hill Advisory Committee. Did  
8 you know they all worked together?  
9 A. **No.**  
10 Q. In the same business?  
11 A. **No.**  
12 Q. Do you know why the -- after this letter from  
13 Mr. Doolin, do you know why he was appointed to  
14 the North Hill Advisory Committee?  
15 A. **Because he volunteered and had an interest in**  
16 **the committee. I'm not sure of the number of**  
17 **volunteers on all of the committees, but they**  
18 **are -- it is a very large number.**  
19 Q. Are the committees given any instruction about  
20 maintaining minutes and records?  
21 A. **They certainly have been since the open meeting**  
22 **laws have been a point of discussion, I think**  
23 **back in 2004. Other than general instruction, I**  
24 **do not know. Not specifically by me.**

- 1 Q. Do you know if anyone in town government would  
2 give instructions to committee members about  
3 maintenance of minutes and records?  
4 A. **I would assume so.**  
5 Q. And who would that be; do you know?  
6 A. **No. I'm sorry. I don't know.**  
7 Q. Now, when we -- at the end of or in 2008 when  
8 the contract with Johnson Golf was due to expire  
9 on December 31st, were you at all involved in  
10 the creation of a new request for proposals to  
11 obtain services of a golf course manager?  
12 A. **Could you ask -- could you be specific as to at**  
13 **all involved. I'm sorry.**  
14 Q. Answer that to the best of your ability, then  
15 I'll get specific.  
16 A. **Okay. I did not craft any of the language for**  
17 **the request.**  
18 Q. Did you review it?  
19 A. **Honestly, I do not remember any detailed review.**  
20 **I'm sorry. I don't remember whether I did a**  
21 **detailed review. I reviewed it before.**  
22 Q. Do you remember reviewing an RFP in calendar  
23 year 2008 that included the construction of a  
24 golf driving range and practice facility at

- 1 North Hill Country Club?  
2 A. **I remember discussions that I had suggested that**  
3 **that would be something that would be**  
4 **advantageous to the town to include.**  
5 Q. And who did you have those discussions with --  
6 A. **It would be in a general meeting.**  
7 Q. -- do you remember?  
8 A. **The other selectmen. Perhaps Gordon, Richard.**  
9 **Whoever was at the meeting.**  
10 Q. So this would have been at the board of  
11 selectmen meeting?  
12 A. **Yes.**  
13 Q. The chief procurement officer in the Town of  
14 Duxbury, at least during 2008, was  
15 Mr. MacDonald, the town manager, correct?  
16 A. **Yes.**  
17 Q. And he was a town manager that you were  
18 instrumental in appointing to that position; is  
19 that right?  
20 A. **I was there when he was appointed, yes.**  
21 Q. You were on the board of selectmen that  
22 appointed him, correct?  
23 A. **Yes.**  
24 Q. And you interviewed a bunch of different people?

- 1 You had a bunch of different candidates before  
2 you selected him; is that right?  
3 A. **I wasn't alone, but yes, I was part of the**  
4 **group.**  
5 Q. No. The board?  
6 A. **Yes.**  
7 Q. What role had he served prior to you -- prior to  
8 the board of selectmen appointing him as the  
9 town manager?  
10 A. **Building inspector.**  
11 Q. Building inspector in Duxbury?  
12 A. **Yes.**  
13 Q. And did he have any experience in ever being a  
14 town manager anywhere else?  
15 A. **No.**  
16 Q. Did he have any business degrees?  
17 A. **He was a college graduate. I'm not sure of what**  
18 **his degree is in.**  
19 Q. And what was your understanding of his  
20 professional background other than being the  
21 building inspector?  
22 A. **Professional background, that he had been**  
23 **involved in city and town government for a**  
24 **number of years, and I'm at a loss as to where**

- 1 **you're going with this.**
- 2 Q. You're supposed to be.
- 3 A. **Okay. Good. I'm doing well then.**
- 4 Q. His background in city and town government,
- 5 other than his background as the building
- 6 inspector in Duxbury, were you familiar with
- 7 that?
- 8 A. **Sure. At the time I had a resume, but I can't**
- 9 **recall it at this moment.**
- 10 Q. Now, if you turn to Exhibit Number 7, I think
- 11 that is two pages. Why don't you take an
- 12 opportunity to grab a look at that, then I'll
- 13 ask you a few questions about it.
- 14 (Witness complies.)
- 15 A. **Okay.**
- 16 Q. Now, again, it's not a memory test but --
- 17 A. **Thank God.**
- 18 Q. -- seeing Exhibit Number 7, which was the
- 19 memorandum to the board of selectmen and
- 20 Mr. MacDonald from the advisory committee --
- 21 A. **Sure.**
- 22 Q. -- over at North Hill in May of 2008 for the
- 23 upcoming RFP, did you get a sense that they were
- 24 still pretty aggravated with the current

- 1 manager?
- 2 A. **No.**
- 3 Q. Well, when they say that, "on a number of
- 4 occasions when a dispute has arisen between the
- 5 course manager and the town or the customers of
- 6 the golf course, the opinion of town counsel has
- 7 been in most cases that the manager was in their
- 8 legal right, even though it may conflict with
- 9 the obvious intent as stated in the management
- 10 agreement," wouldn't the agreement be
- 11 controlling, the management agreement as opposed
- 12 to obvious intent?
- 13 A. **That would be the case, yes.**
- 14 Q. And did you have a sense in 2008 that the North
- 15 Hill Advisory Committee didn't want Johnson Golf
- 16 there?
- 17 A. **No. In regard to this memo or in regard to**
- 18 **anything?**
- 19 Q. In regard to anything.
- 20 A. **No.**
- 21 Q. It didn't occur to you that they were unhappy
- 22 with Johnson Golf?
- 23 A. **I think they -- that this would indicate that**
- 24 **they were unhappy with the agreement and wanted**

- 1 **stronger language for management rights.**
- 2 Q. Well, they would want stronger management for
- 3 the golf course, right, rather than management
- 4 rights?
- 5 A. **Management in my mind was the town.**
- 6 Q. Okay. I get it. Okay.
- 7 Did you share that feeling? Did you
- 8 think the agreement was flawed in some fashion
- 9 that the town didn't have enough control?
- 10 A. **My job was to represent the best interest of the**
- 11 **town, and any enhancement of the rights of the**
- 12 **town would always be in its best interest.**
- 13 Q. Well, let's talk about the best interest of the
- 14 town. In the previous 13 years that Johnson
- 15 Golf had been running things at North Hill --
- 16 A. **Sure.**
- 17 Q. -- they built a new clubhouse, correct?
- 18 A. **They did.**
- 19 Q. And they improved the condition of the golf
- 20 course tremendously, didn't they?
- 21 A. **They did.**
- 22 Q. They did not discriminate against anybody as far
- 23 as everybody has open, equal access to the golf
- 24 course, did they?

- 1 A. **If that's what you say. I have no knowledge**
- 2 **that they did.**
- 3 Q. You never got any complaints about that? The
- 4 only complaints you ever got about Johnson Golf
- 5 at the golf course were in the nature of
- 6 Mr. Doolin's complaints about the tee time
- 7 policy, correct?
- 8 A. **No. I would not agree.**
- 9 Q. What other complaints did you receive about it?
- 10 A. **I don't remember anything in particular, but we**
- 11 **received complaints about everything on as,**
- 12 **again, you have facilities, you've got a beach,**
- 13 **you've got a golf course, you've got a dump,**
- 14 **you've got police, you've got fire that are all**
- 15 **dealing with the public.**
- 16 **So that to say over the course of time**
- 17 **there was only this complaint, I would not**
- 18 **believe that to be true.**
- 19 Q. But you don't know of any other complaints, is
- 20 that correct, as you sit here today?
- 21 A. **That I would be able to repeat to you in detail,**
- 22 **no.**
- 23 Q. Do you even have a sense of any kind of a
- 24 general complaint without details?

1 **A. A general complaint about Mr. Johnson or general**  
2 **complaint --**

3 **Q.** About Mr. Johnson or his company at North Hill.

4 **A. I believe there was conversations that were had**  
5 **that his, perhaps disposition was not as**  
6 **hospitable as one would hope on occasion.**

7 MR. KESTEN: So stipulated.

8 MR. JOHNSON: That's a tough one. I'm a  
9 tough guy. What does that mean?

10 MR. FOLLANSBEE: That's my question.

11 MR. KESTEN: It's that.

12 **Q.** What did you understand what was wrong with his  
13 disposition?

14 **A. I have never dealt with Mr. Johnson so that**  
15 **would be --**

16 **Q.** What did you hear that would make you come to an  
17 opinion, not an opinion but repeat that people  
18 felt that his disposition was lacking somehow?  
19 What did you hear?

20 **A. I'm not quoting because I don't remember**  
21 **precisely, but a sense that his disposition was**  
22 **less than hospitable.**

23 **Q.** With the exception of today, how many times in  
your life do you remember even seeing

1 Mr. Johnson?

2 **A. You would probably know better than I. Whenever**  
3 **he would come to a selectmen's meeting.**

4 **Q.** Other than at a selectmen's meeting, you never  
5 saw him at the golf course, did you?

6 **A. No.**

7 **Q.** Did you ever play up there yourself?

8 **A. No.**

9 **Q.** Did you ever go up there for any reason?

10 **A. I would be up there to pick up a child perhaps.**

11 **Q.** Did your children play golf up there?

12 **A. They had met friends and played up there, yeah.**

13 **Q.** Did they take any lessons up there?

14 **A. No, they did not, not to my knowledge. My**  
15 **children have taken golf lessons from a host and**  
16 **they also played for -- one child played for the**  
17 **high school, so.**

18 **Q.** The golf team?

19 **A. So on occasion they might have been there.**

20 **Q.** The concept of Mr. Johnson having a -- that his  
21 disposition was less than hospitable, that  
22 didn't come from any of your children, did it?

23 **A. No.**

24 **Q.** We'll keep them out of it then.

1 MR. KESTEN: They were just afraid.

2 **Q.** At the selectmen's meetings --

3 **A. I am their mother, after all.**

4 **Q.** At the selectmen's meetings when Mr. Johnson has  
5 been present, has he ever exhibited anything  
6 other than a professional demeanor?

7 **A. Other than a professional. There have been**  
8 **times that I've felt that he was feeling a bit**  
9 **heated.**

10 **Q.** And what was that? When was that?

11 **A. I don't recall the specific date.**

12 **Q.** Do you recall the context?

13 **A. Whenever he was there.**

14 **Q.** Well, he was there once to get a liquor license?

15 **A. A-huh.**

16 **Q.** Was he heated applying for a liquor license?

17 **A. Mr. Johnson does --**

18 **THE WITNESS: And I don't mean to be**  
19 **insulting. I'm sorry if you take this --**

20 MR. JOHNSON. You don't even know me so  
21 you don't even know what you're talking about.

22 MR. KESTEN: See? See? See?

23 **A. I believe we've just illustrated his demeanor.**

24 **MR. JOHNSON: No, you haven't. You need**

1 **to tell what it is. You need to prove it.**

2 MR. FOLLANSBEE: Let me ask the question.

3 **Q.** Go ahead. Go ahead.

4 **A. I think we've just covered it.**

5 **Q.** No. I need to know what happened at the  
6 selectmen's meeting that made you think he was  
7 less than hospitable.

8 **A. Whenever he was at the meeting he would appear**  
9 **as he has today, that he was adversarial in**  
10 **nature.**

11 MR. KESTEN: You are.

12 **Q.** And you had never met Mr. Johnson prior to this  
13 lawsuit being filed; is that correct?

14 **A. Well, of course if he had been at our meetings I**  
15 **would have seen him there.**

16 **Q.** But you don't have any memory of him ever being  
17 at a meeting, do you?

18 **A. He has been at meetings, I'm sure, over the**  
19 **course of time. I would assume he had been**  
20 **there. But if you say meet as in, Betsy this is**  
21 **Doug, Doug this Betsy, no. In front of our**  
22 **board --**

23 **Q.** Meetings meaning appearing in front of your  
24 board.

1 **A. You'd have to research that. I would assume**  
 2 **that he had been there over the course of nine**  
 3 **years. I would think that he would have been**  
 4 **there.**

5 **Q.** Would you be surprised to know he wasn't?

6 **A. Yeah, actually. Probably. Before when?**

7 **Q.** Before December of 2008.

8 **A. There you go.**

9 **Q.** You didn't -- you have no independent memory of  
 10 him ever appearing before you prior to December  
 11 of 2008; is that correct?

12 **A. Yeah. I don't. I don't recall one way or the**  
 13 **other.**

14 **Q.** So any personal viewpoint that you have that he  
 15 has been less than hospitable or adversarial  
 16 coming from other sources are from meetings  
 17 before the board of selectmen from 2008 up till  
 18 March of 2011, correct?

19 **A. I would say that's a safe statement, sure.**

20 **Q.** So, let's talk about, why don't we talk about  
 21 the lawsuit.

22 MR. KESTEN: All right.

23 **A. There you go. I figured it would come up**  
 24 **eventually.**

1 **Q.** If you look at Exhibit Number 8, and this goes  
 2 from Page 23 to Page 32.

3 MR. KESTEN: Should we take a minute?

4 **A. Would you like me to review it?**

5 **Q.** Yes. Take a minute to review those. They're  
 6 fairly short e-mails, and I'll have some  
 7 questions about those.

8 (Discussion off the record.)

9 **A. I've glanced at it. I might have to refer back**  
 10 **to it as you ask questions if that's all right.**

11 **Q.** Having glanced at Exhibit Number 8, there were a  
 12 series of e-mails pertaining to the RFP process  
 13 in 2008 circulating drafts of the RFP. Do you  
 14 remember receiving these drafts yourself?

15 **A. The drafts?**

16 **Q.** Yes.

17 **A. No, not really.**

18 **Q.** Well --

19 **A. I'm not disputing it, but I don't particularly**  
 20 **recall them.**

21 **Q.** If an e-mail is directed to BSullivan at  
 22 BostonPrivateBank dot com, that's you?

23 **A. Yes.**

24 **Q.** And other times the e-mail just says Betsy

1 Sullivan. Does that indicate that you got it?

2 **A. It would indicate that it was sent to me, yeah.**

3 **Q.** If you got an e-mail having to do with the RFP  
 4 process, you'd read the e-mail and the  
 5 attachments, correct?

6 **A. Not necessarily review the attachments.**

7 **Q.** You wouldn't review them?

8 **A. Not always, no.**

9 **Q.** Well, let's look at Page 24 towards the bottom  
 10 of the page. And this appears to be an e-mail  
 11 from Gordon Cushing, September 26, 2008.

12 **A. The bottom one?**

13 **Q.** Bottom one.

14 **A. Okay doke.**

15 **Q.** And he talks about some tweaking and some review  
 16 by town counsel?

17 **A. Right.**

18 **Q.** And he talks about the document going out today.  
 19 You understood that to be the "RFP," request for  
 20 proposals, right?

21 **A. Yes.**

22 **Q.** And then he says to all the recipients of the  
 23 e-mail, thanks to all for your hard work and  
 24 help, blah blah blah. It's a tremendous number

1 of hours of work.

2 **A. Right.**

3 **Q.** And your understanding was that they finally,  
 4 with the input of all these people, they finally  
 5 had a product that they were ready to publish,  
 6 correct?

7 **A. I understood him to thank everybody for the**  
 8 **work.**

9 **Q.** Okay. And you had actually been an advocate to  
 10 include in that RFP process a golf practice  
 11 facility as an enhancement to the whole North  
 12 Hill experience, correct?

13 **A. I thought that was a good idea.**

14 **Q.** And you let them know you thought it was a good  
 15 idea, didn't you?

16 **A. At the meeting I remember we discussed it. I**  
 17 **can't remember specifically. But yes, I**  
 18 **remember voicing it as an opinion.**

19 **Q.** On the next page, Page 25, that is a -- you'll  
 20 note these are some of the changes that Gordon  
 21 said he was making from the previous contracts.

22 MR. KESTEN: 1 through 14?

23 MR. FOLLANSBEE: 1 through 14 at the top.

24 **Q.** And for instance, item number 3, the tee time

- 1 policy was changing?
- 2 **A. Okay.**
- 3 **Q.** Had you reviewed that and did you understand that?
- 5 **A. Not particularly.**
- 6 **Q.** No one said to you, Betsy, I'm -- may I call you
- 7 Betsy?
- 8 **A. Please do.**
- 9 **Q.** Nobody said to you, Betsy, one of the things
- 10 we're changing, we're going to make it okay for
- 11 everybody to make 18 hole tee times?
- 12 **A. If they did, I don't recall it.**
- 13 **Q.** Did anybody talk to you about number 11 where it
- 14 says comparable business language? Was that
- 15 ever discussed with you?
- 16 **A. Not -- I don't recall.**
- 17 **Q.** Do you have any idea what comparable business
- 18 language even means?
- 19 **A. It wouldn't appear to be self-evident.**
- 20 **Q.** So you don't -- you didn't have an understanding
- 21 what that meant just from reading it?
- 22 **A. No. Doesn't stand out.**
- 23 **Q.** When you read that, you don't even know what
- 24 that -- none of -- well, not none of us.

- 1 When you read that, that doesn't strike a
- 2 cord with you that that was something that was
- 3 focused on at the time?
- 4 **A. I'm not sure where it played into the contract.**
- 5 **Q.** Okay. If we look at 27, Page 27.
- 6 **A. Sorry.**
- 7 **Q.** And about a third of the way down the page
- 8 underneath the number 4, the next one down, it
- 9 says, "Mr. Troy could review the changes I've
- 10 made per your instruction. They should all be
- 11 there. I paid close attention to the
- 12 'comparable business enterprise.'"
- 13 **A. Okay.**
- 14 **Q.** Did anybody ever talk to you about the
- 15 expression comparable business enterprise?
- 16 **A. In my subsequent understanding of what -- well,**
- 17 **may I ask you a question, too?**
- 18 **Q.** Yes.
- 19 **A. What do you mean by comparable business**
- 20 **enterprise?**
- 21 **Q.** I mean that that clause might someday get me the
- 22 \$5,000 so I can join the private golf course.
- 23 But I have a different view of comparable
- 24 business enterprise than most people.

- 1 **MR. KESTEN:** Well, what are you asking?
- 2 **Q.** I'm going to go back to 2008. Was the
- 3 expression comparable business enterprise
- 4 discussed with you as a component to put in the
- 5 RFP?
- 6 **A. I have no idea.**
- 7 **Q.** And do you recall anybody saying to you at the
- 8 time, listen, in order to get more competition
- 9 we're going to open this up, we're -- in
- 10 addition to golf course companies bidding, we're
- 11 going to try to get comparable business
- 12 enterprises to bid?
- 13 **A. There were conversations that were had over time**
- 14 **that in regard to what is the best -- what is**
- 15 **going to get the best result for the town, and**
- 16 **was it -- was the focus too narrow, were there**
- 17 **other types of vendors that would provide the**
- 18 **services. It was all about what was going to be**
- 19 **in the best interest of the town.**
- 20 **Q.** From your point of view as a selectwoman who's
- 21 looking out for the best interest of the town --
- 22 **A. Sure.**
- 23 **Q.** -- what you were interested in was the best
- 24 management company and the best financial

- 1 return, correct?
- 2 **A. Looking for the best in regard to the final**
- 3 **person or the bid?**
- 4 **Q.** Well, the hope would be as a selectwoman that
- 5 when you put the bid out there, the responses
- 6 you get, you're going to have someone who gives
- 7 the town a solid financial return, good
- 8 management at the club and stability. Is that
- 9 all fair to say?
- 10 **A. Of course.**
- 11 **Q.** And one of the things you'd need is experience
- 12 in managing a 9 hole golf course and the
- 13 facilities that go with it, correct?
- 14 **A. I don't think that that would be unfair to say,**
- 15 **but I don't think that, in isolation, that would**
- 16 **be entire criteria.**
- 17 **Q.** I'm not suggesting -- I'm suggesting minimum
- 18 criteria. The very least you'd want is someone
- 19 who has managed at least a 9 hole course in the
- 20 past, wouldn't you?
- 21 **A. I think that was the conversation.**
- 22 **Q.** And if you were going to hire a principal for
- 23 the high school, you wouldn't say, you could
- 24 have been a principal at a high school without



1 an education or you could be in a comparable  
2 business, would you?

3 **A. We're not talking about the high school. No.**

4 **Q.** I know we're not. If you were doing that,  
5 that's the focus. You want someone who's done  
6 that before, wouldn't you?

7 **A. We're not talking about the high school. I**  
8 **don't know.**

9 **Q.** Ma'am, I'm talking about the high school now.  
10 If you're going out to hire a high school  
11 principal, wouldn't you want someone who had  
12 experience?

13 **A. Not necessarily. We've hired principals that**  
14 **were teachers.**

15 **Q.** So they had experience in education, correct?

16 **A. Okay. Yes.**

17 **Q.** Now, was it your understanding that when this  
18 RFP was finally delivered and ready to be  
19 published, that what the town was looking for  
20 was something other than an entity that had run  
21 a municipal golf course?

22 **A. Not exclusively, but not -- I think the**  
23 **conversation revolved around whether that was**  
24 **the limited pool that you needed to stick to or**

1 **whether there would be other people with**  
2 **compatible experiences that might provide good**  
3 **service to the town.**

4 **Q.** And can you tell me what a comparable business  
5 enterprise would be visa vie running a 9 hole  
6 municipal golf course with a clubhouse and a  
7 small restaurant?

8 **A. I'm not clear. Are you asking me to list**  
9 **various people that could possibly fill that**  
10 **role?**

11 **Q.** I'm asking you to say what you think a  
12 comparable business enterprise would be.

13 **A. In my mind the largest asset that is attached to**  
14 **that golf course is the greens. Not**  
15 **specifically the greens as where you putt, but**  
16 **the turf.**

17 **So someone that had turf management**  
18 **background and could have an associate that was**  
19 **a, you know, involved in golf or education of a**  
20 **golf course. That could be one scenario. The**  
21 **primary protection was the asset in my mind and**  
22 **the asset is the turf.**

23 **Q.** And --

24 **A. By turf I -- you know what I mean by turf?**

1 **Q.** I do. I do. I might be the only one in the  
2 room other than Mr. Johnson who does. Maybe.  
3 Well, I don't think they do. Jason doesn't. I  
4 do.

5 **A. Well, that's where --**

6 **Q.** By turf you mean the golf course itself? You  
7 mean the fairways? The greens?

8 **A. Yes.**

9 **Q.** The rough?

10 **A. Yes. Because that's where you could lose your**  
11 **most money if those become damaged.**

12 **Q.** If those fail, you're in big trouble?

13 **A. If those fail, that's where your biggest**  
14 **exposure is. So in my mind that is certainly a**  
15 **huge factor.**

16 **Q.** And were you comfortable with the RFP that  
17 actually was finally published and sent out to  
18 potential vendors in the fall of 2008?

19 **A. My understanding of it, my expertise, if you**  
20 **will, on the board was more financial in nature,**  
21 **and I'm not an attorney. I do not write RFPs**  
22 **for a living, and therefore relied on the folks**  
23 **that were responsible for that to do it.**

24 **So I would tell you that I did not go**

1 **over that RFP with a fine comb. It was -- so it**  
2 **was presented that it was -- that it was what we**  
3 **wanted and I took them at their word.**

4 **Q.** And when you say you took them at their word,  
5 who are you referring to?

6 **A. Well, the town issued it so, you know, the**  
7 **selectmen's office, the manager, the -- Gordon**  
8 **issued the bid. It was -- went out and I**  
9 **assumed it was correct.**

10 **Q.** And in the period of time in 2008 when all this  
11 was happening, the board of selectmen were still  
12 getting complaints from some of the golfers  
13 about the management company, correct? Johnson  
14 Golf?

15 **A. If you say so. I don't know.**

16 **MR. KESTEN:** No. The question is whether  
17 you remember.

18 **Q.** Do you remember?

19 **A. I don't. I don't particularly recall any.**

20 **Q.** If you could turn to Exhibit 9 and if you fast  
21 forward to Page 36 in Exhibit 9. At the top  
22 there's a paragraph that begins with the words  
23 Mr. Michael Doolin.

24 **A. Okay.**

1 Q. If you just read the next three paragraphs, I'll  
2 have some questions about that.

3 (Witness complies.)

4 A. Okay.

5 Q. So at least as of August of 2008 there were  
6 still some complaining going on, but with regard  
7 to Mr. Doolin --

8 A. Okay.

9 Q. -- were you at all concerned that Mr. Doolin is  
10 on the North Hill Advisory Committee and what he  
11 was talking about was keeping the price down for  
12 the golfers? He's also a golfer, correct?

13 A. Was I concerned?

14 Q. Yeah.

15 A. No. Mr. Doolin did not set the fee. I was not  
16 concerned.

17 Q. Okay. So the fee was actually set by the board  
18 of selectmen, correct?

19 A. The fees are -- all fees are set that way, yes.

20 Q. And that's what this hearing was?

21 A. Other than, you know. But yes.

22 Q. The purpose of this particular part of your  
23 selectmen's meeting was for the selectmen to set  
24 the rates, right?

1 A. I don't recall. I didn't read that was what we  
2 were doing at this meeting.

3 Q. If you back up a page, on 35 it says fee  
4 hearing, North Hill Country Club?

5 A. Okay. Right.

6 Q. And the setting of the fees was done to make  
7 them compatible with other courses that you're  
8 competing with, and also reasonable for the  
9 general public to actually access a public golf  
10 course, right?

11 A. What's on the market.

12 Q. Sure. One of the things you would look at are  
13 other 9 hole municipal courses in the area and  
14 how much they're charging, right?

15 A. I would assume so, yes.

16 Q. You'd even look at what the 9 hole rates are at,  
17 you know, because some 18 hole public courses  
18 you can only play -- have a discount if you only  
19 play 9 holes, correct? Are you familiar with  
20 that?

21 A. I believe there's two levels of fees, whether  
22 you're playing 9 or 18. Yes.

23 Q. So that would all have been part of the process  
24 that Gordon would have brought to you folks?

1 A. We would have seen the end product, not  
2 necessarily the work product that went into it.

3 Q. Okay.

4 A. Or the background that went into it.

5 Q. But after this, after August 25th, the fees were  
6 incorporated and the RFP got mailed out to  
7 everybody and then the bids came in, correct?

8 A. I believe so.

9 Q. Okay. Now, do you recall when you were first  
10 advised that the town had rejected all the bids?

11 A. I don't recall the specific date. I'm sorry.

12 Q. All right. Maybe I can help you out. I'll  
13 suggest to you that the first round of bidding  
14 was done with bids being returned on October  
15 24th of 2008.

16 A. Okay.

17 Q. Sometime between then and mid December, did you  
18 become -- of 2008, did you become aware that the  
19 bids had been rejected?

20 A. The bids had been rejected, yes. If you're  
21 saying rejected meaning the same thing that  
22 there was a problem with the bids.

23 Q. How did you come by that information?

24 A. I would assume that it was told to me at a

1 selectmen's meeting.

2 Q. And was it -- did you have communication,  
3 regular communication with the town manager  
4 independent of selectmen's meetings?

5 A. Yes. Certainly. Especially when I was chair.

6 Q. And, I don't recall, were you chair at that  
7 time?

8 A. I don't recall, either.

9 Q. This was the last year that Mr. Andre  
10 Martecchini, if I'm not butchering his name --

11 A. Everyone does.

12 Q. Is that his name?

13 A. Martecchini.

14 Q. In his last year, would you have been the chair?  
15 MR. KESTEN: What date are you looking  
16 at? The date of this meeting?

17 MR. FOLLANSBEE: Yeah. Does it say who  
18 the chair is?

19 A. It says Mr. Whitten then was the chair.

20 Q. Okay. The chair rotates, correct?

21 A. Yes.

22 Q. So the following year you would have been the  
23 chair, correct, in 2009?

24 A. Perhaps, yes.

1 Q. What do you remember anybody telling you, either  
2 Mr. MacDonald or another town official, about  
3 the bids being rejected in the fall of 2008?

4 **A. That there had been a problem with how the**  
5 **volunteers had evaluated the bids.**

6 Q. And did anyone tell you that all the bidding  
7 documents had been removed from Town Hall?

8 **A. I don't remember specifically that, no.**

9 Q. So nobody sought your permission to take the  
10 public documents from Town Hall and bring them  
11 to Attorney Troy's office down at the Cape?

12 **A. I think you give the office more authority than**  
13 **it deserves. No. No one would ask that. It**  
14 **would not be normal to ask whether things could**  
15 **be -- if it was inappropriate to secure**  
16 **documents in a specific place.**

17 Q. Do you have an opinion on whether or not it's  
18 permissible for town records to be removed from  
19 Town Hall and taken to Attorney Troy's office?

20 **A. No. I do not have an opinion on that.**

21 Q. What do you think of that practice, generally?

22 **A. I do not have an opinion on that.**

23 Q. So that you weren't troubled by that?

24 **A. I would not be troubled by counsel acting in his**

1 **capacity to do what he thought was appropriate.**

2 Q. Now, if you look at Exhibit Number 10, that's a  
3 letter from my office to Mr. MacDonald. Do you  
4 -- are you familiar with the Freedom of  
5 Information Act request that -- or this  
6 particular request, Exhibit Number 10? Do you  
7 have any memory of ever seeing this before?

8 **A. Not particularly, no. Not saying I didn't see**  
9 **it, but not in particular. You have sent many**  
10 **letters of correspondence to Town Hall over the**  
11 **course of time, so I don't remember any one of**  
12 **them in particular.**

13 Q. That's the story of my life.

14 **A. Sorry.**

15 Q. As far as obtaining public records, do you have  
16 any problem with the general public or even  
17 attorneys obtaining public records?

18 **A. It's the law.**

19 Q. And, well, if we go to Page 41 of Exhibit Number  
20 10, the very bottom of Page 1 of the requests  
21 was all the minutes of the North Hill Advisory  
22 Committee from January 1, 2004 to the present,  
23 which was December 8th of 2008.

24 **MR. KESTEN: Why don't you ask her if she**

1 has anything to do with it. Is that what you're  
2 asking?

3 **MR. FOLLANSBEE: I just want to**  
4 **establish -- well, I'll ask one question, then I**  
5 **will ask the better question that you're asking.**

6 Q. As far as you're concerned, all those records  
7 should have been readily available at that time,  
8 correct?

9 **A. What do you mean by readily? Instantaneously**  
10 **available?**

11 Q. No. But available within ten days.

12 **A. Within. I would say that I agree that they**  
13 **should eventually become available within ten**  
14 **days. I have no idea what the impact to the**  
15 **staff at Town Hall would be to produce those**  
16 **documents in that amount of time, so, you know.**

17 Q. And did anyone ever show you any requests for  
18 public records prior to today?

19 **A. I don't recall. You have sent so many pieces of**  
20 **correspondence. We have been blizzarded. Trees**  
21 **have died. So to remember any one letter in**  
22 **particular, I don't mean to be flippant, but to**  
23 **remember one letter in particular, I can't say**  
24 **that I do, but to say if --**

1 Q. Do you think you're more hospitable than Doug  
2 Johnson?

3 **A. Probably not.**

4 **MR. KESTEN: No?**

5 **A. Well, I've been known to be thought of as**  
6 **pleasant.**

7 **MR. KESTEN: Which has not been the case**  
8 **with Doug Johnson.**

9 **MR. FOLLANSBEE: Yes. He's been out the**  
10 **room. He's been pleasant once or twice.**

11 **I just said you were pleasant once or**  
12 **twice.**

13 **MR. JOHNSON: Whatever. Doesn't bother**  
14 **me. You don't need to talk about me. You're**  
15 **something lady.**

16 **MR. KESTEN: She didn't start it.**

17 **Ms. Sullivan didn't start anything about you.**

18 **MR. JOHNSON: She can kiss my you know**  
19 **what.**

20 **MR. FOLLANSBEE: Stop it.**

21 Q. If you could look at Exhibit Number 11.

22 **MR. JOHNSON: You're a joke.**

23 Q. Look at Exhibit Number 11.

24 **A. I would say that I would prefer not to interact**

1 **with Mr. Johnson any further today, so we can**  
2 **maybe keep this --**

3 MR. JOHNSON: Yeah. So maybe --

4 MR. KESTEN: Steve --

5 MR. JOHNSON: Good idea.

6 MR. FOLLANSBEE: That's enough.

7 MR. KESTEN: She's simply answering  
8 questions.

9 MR. FOLLANSBEE: I get it.

10 Q. December 22nd, if you look at Exhibit Number 11  
11 at the top of the page, this is a board of  
12 selectmen's meeting, and if you look at the next  
13 page, Page 47, this was a -- the issue was a  
14 liquor license renewal in 2008 up at North Hill  
15 Country Club.

16 Do you remember that issue?

17 A. **I do remember that issue, yes.**

18 Q. And the issue was that no one knew who was going  
19 to be running the course the next year at that  
20 point, right?

21 A. **Right.**

22 Q. As a result the license was not extended,  
23 correct?

24 A. **Yes.**

1 Q. So the license was not renewed?

2 A. **I believe there was a tax issue as well.**

3 Q. No. Different issue. This is 2008.

4 MR. KESTEN: Well, let's get him under  
5 oath.

6 A. **I believe there was a tax issue as well.**

7 **Perhaps I'm incorrect. That would be my memory.**

8 Q. You most assuredly are incorrect, but that's all  
9 right. That's your memory.

10 The liquor license renewal, and this was  
11 December 22 of 2008. Now, do you remember when  
12 the town received the lawsuit papers from my  
13 office and Johnson Golf Management?

14 A. **No. I do not know the date.**

15 Q. Why don't we look at Exhibit Number 12.

16 A. **Okay.**

17 Q. And I apologize. The first page somehow shrank  
18 when it got photo copied, but I have circled the  
19 date of December 12, 2008.

20 A. **Okay.**

21 Q. That is when the lawsuit was filed?

22 A. **Okay.**

23 Q. The summons was served?

24 MR. KESTEN: Don't say okay. If you

1 remember that's --

2 THE WITNESS: That's what it says. I'm  
3 saying okay in response to him saying the date,  
4 not that I remember it.

5 Q. I understand, but you knew that sometime in  
6 December we had filed a lawsuit against the  
7 town?

8 A. **I'm sure I did.**

9 Q. And in receiving that news, you certainly were  
10 not happy about it, were you?

11 A. **I don't remember being happy or unhappy**  
12 **regarding it.**

13 Q. Well, the allegations in the verified complaint  
14 and jury demand that are in Exhibit 12, they  
15 were serious allegations of misconduct against  
16 some town officials, weren't there?

17 A. **I haven't read it recently so I don't know.**

18 Q. When you read it several years ago, was your  
19 reaction that this is a serious matter and these  
20 are serious allegations?

21 A. **I don't remember my reaction. If you'd like me**  
22 **to read it.**

23 Q. Well, the gist of the complaint was that the  
24 process had been manipulated to make sure that

1 Johnson wouldn't get the contract, and our  
2 allegation was that that was misconduct on the  
3 part of the officials involved.

4 Was that your understanding of what our  
5 complaint was?

6 A. **I believe so.**

7 Q. And you understood that at least our allegation  
8 was that there had been a conspiracy among some  
9 town officials and others to make sure that  
10 Johnson didn't get the contract, correct?

11 A. **Your allegation.**

12 Q. That was our allegation.

13 A. **So I --**

14 MR. KESTEN: Did you know that?

15 Q. Did you know that was our allegation?

16 A. **Yes.**

17 **THE WITNESS: Thank you.**

18 Q. And did you discuss that? Having known at the  
19 time that that was our allegation, did you bring  
20 the people in who had been part of this process  
21 and ask them what the heck was going on?

22 A. **Not specifically.**

23 Q. Did you discuss the lawsuit with Gordon Cushing?

24 A. **The allegation was so preposterous that it did**

1 not rise to the level that you are giving it  
2 credit for. It was so -- and I'm sure you're  
3 going to be insulted. I don't mean to be. In  
4 my mind it was so ridiculous that it was a  
5 nuisance.

6 Q. Lawyers file ridiculous pleadings, and I take no  
7 offense.

8 A. Thank you. I don't mean it as offensive.  
9 You're asking me my reaction.

10 MR. FOLLANSBEE: Judge Chernoff will tell  
11 you I've filed a lot of crazy things over the  
12 years.

13 MR. KESTEN: Stipulated.

14 MR. CHERNOFF: I have no memory of that.

15 MR. FOLLANSBEE: There you go.

16 Q. The ridiculous part of it was that anybody in  
17 Duxbury town government would do such a thing;  
18 isn't that it?

19 A. It was ridiculous that the amount of effort that  
20 would be involved in that type of -- would be  
21 put forth for this, yes, or the coordination.  
22 It was ridiculous.

23 Q. Did you ask anybody if it was even possible that  
24 that had happened?

1 A. Specifically, no.

2 Q. Did you discuss it with Attorney Troy?

3 A. In relation to a case or -- but no.

4 Q. In relation to this case.

5 A. Ask him if it were possible?

6 Q. Ask him if he's questioned any of these people  
7 on what they did.

8 A. No.

9 Q. Did you review the pleadings that he was filing?

10 A. Over the course of the following two years?

11 Q. No. Right in December of 2008 when the town  
12 responded to this, did you know what the  
13 response was?

14 A. Before the response was given or --

15 Q. Before or after.

16 A. A summary.

17 Q. And what did you understand the summary of the  
18 defense was going to be?

19 A. That it was ridiculous.

20 Q. Now, if you could look at Exhibit Number 13, and  
21 that's the award letter of Mr. MacDonald,  
22 correct?

23 A. If you say so. It would appear to be as much.

24 Q. Do you remember reading the award letter?

1 A. No.

2 Q. Did you have anything to do with drafting the  
3 award letter?

4 A. No.

5 Q. Do you know who did draft the award letter?

6 A. Not specifically, no.

7 Q. Do you have an unspecific memory as to who  
8 drafted the award letter?

9 A. No.

10 Q. Did you ever discuss the award letter with  
11 Richard MacDonald?

12 A. Did I ever discuss that it existed?

13 Q. I mean, once you became aware of it, did you  
14 ever discuss it with him?

15 A. Not really.

16 Q. Did you ever look at any of the financial  
17 records that any of the bidders had provided?

18 A. No. They were never provided to me. I could  
19 have asked for them perhaps, but they were not  
20 provided to me.

21 Q. They were never provided to you?

22 A. I don't believe so.

23 Q. So the town never provided you with any of the  
24 bid documents from my client or CALM Golf?

1 A. No.

2 Q. To this day have you ever looked at the  
3 financial proposal that was submitted by CALM  
4 Golf?

5 A. No.

6 Q. Have you looked at any of the RFP documents?

7 A. Specifically, I've just looked at some here, so.

8 Q. Other than today, prior to today had you ever  
9 reviewed the RFP that was issued in October of  
10 2008 or the one that was issued in January of  
11 2009?

12 A. Perhaps. I did have access to them, but not  
13 really.

14 Q. So those --

15 A. It's not my area of expertise.

16 Q. Your area of expertise is finance more than  
17 that, correct?

18 A. On some days.

19 Q. And did you become aware that one of the many  
20 allegations that was being made on behalf of my  
21 client was that CALM Golf didn't have any money?

22 A. I have heard that.

23 Q. Did you ever look to see if it was true?

24 A. No.

- 1 Q. That never occurred to you, to see if that was  
2 true?
- 3 A. **I didn't -- I did not look at the proposals. I  
4 did not look at financials for any of the  
5 bidders.**
- 6 Q. So how did you come to the conclusion that all  
7 our allegations were preposterous without  
8 looking at the underlying documents?
- 9 A. **You asked me about your allegation that there  
10 was a conspiracy to exclude your client, and  
11 that is what I am telling you is preposterous.  
12 It was ridiculous in my mind.**
- 13 Q. Okay. I understand that, but you never looked  
14 at the underlying documents and how they had  
15 been changed and altered, did you?
- 16 A. **No, I did not.**
- 17 Q. So were you aware that CALM Golf when they bid  
18 in October of 2008 did not bid according to the  
19 way the town had prepared the bid documents but  
20 had done it on a percentage basis? Did you know  
21 that?
- 22 A. **At that time, no.**
- 23 Q. Did you subsequently learn that?
- A. **You've just told me.**

- 1 Q. And until I told you that, you didn't know it?
- 2 A. **I have heard that someone, people, I cannot tell  
3 you who it was told me, but it is not unfamiliar  
4 to me when you say that.**
- 5 Q. And Attorney Troy told you that CALM Golf would  
6 have been thrown out in the first bid and they  
7 would have been declared ineligible for the  
8 contract, that they would have been declared  
9 nonresponsive, didn't he?
- 10 A. **I do not remember that.**
- 11 Q. You never remember Attorney Troy saying that in  
12 the first round of bidding CALM Golf failed to  
13 fill out the paperwork correctly and did it on a  
14 percentage basis, and as a result they were  
15 nonqualifying and nonresponsive?
- 16 MR. KESTEN: You're talking about the  
17 memo or you have some knowledge or suggestion  
18 that there was a conversation?
- 19 MR. FOLLANSBEE: Either one. Either in  
writing --
- 21 A. **I'm honestly answering you. I do not remember  
22 that.**
- 23 Q. If it were true that CALM Golf had violated your  
24 proposed RFP language and they would not have

- 1 been qualified and then the bid were thrown out  
2 and changed so that that would help to make them  
3 get qualified, would that be of concern to you?
- 4 A. **I don't -- I'm not answering a hypothetical.**
- 5 Q. Why is that?
- 6 A. **Because I'm not comfortable with answering a  
7 hypothetical. I'm not understanding the  
8 question. There's too many parts.**
- 9 Q. I don't know what it is about Duxbury but has  
10 somebody instructed you that you shouldn't  
11 answer hypothetical questions at the deposition?
- 12 A. **No.**
- 13 Q. Attorney Troy never said to you I'm not -- when  
14 you go to a deposition, don't answer  
15 hypothetically?
- 16 A. **No.**
- 17 Q. It's just puzzling that every single witness  
18 from Duxbury says the same thing. Did you know  
19 that? Did you read their depositions?
- 20 A. **No.**
- 21 Q. Have you read the depositions of anybody who's  
22 been questioned in this case?
- 23 A. **Over the course of the years?**
- 24 Q. Yes.

- 1 A. **I think the selectmen received depositions at  
2 one point in time.**
- 3 Q. You received them from us, correct?
- 4 A. **I don't know who sent them.**
- 5 Q. Because Attorney Troy didn't even go to some of  
6 the depositions, correct?
- 7 A. **I have no idea.**
- 8 Q. Now, if you look at Exhibit Number 13, the award  
9 letter, Page 67 at the bottom of the page,  
10 Mr. MacDonald, in the very last paragraph.
- 11 MR. KESTEN: The one that's underlined,  
12 you want her to read that?
- 13 MR. FOLLANSBEE: Yes. The one that's  
14 underlined.
- 15 A. **Okay.**
- 16 Q. Now, with your area of expertise in finance, if  
17 I told you that the financial information from  
18 CALM Golf said that they had total assets of  
19 \$169, do you believe that that would be  
20 sufficient financial information for them to be  
21 considered the most advantageous proposal for  
22 the town?
- 23 A. **I would have to see the proposal.**
- 24 Q. Okay.

1 MR. KESTEN: Are you going to get done  
2 today?  
3 MR. FOLLANSBEE: No.  
4 THE WITNESS: Well, I may have to use the  
5 lady's room for a moment.

6  
7 (Recess taken.)

8  
9 (Exhibit No. 29 ID marked.)

10 Q. Now, what I've given you is Exhibit Number 29,  
11 two pages from the proposal of CALM Golf showing  
12 their balance sheet and what they had total  
13 assets at the end of the year total for 2007.  
14 A. Okay.  
15 Q. And that was the last financial record that they  
16 submitted to the town in their proposal. And if  
17 you look at the second page of the exhibit.  
18 A. Right.  
19 Q. It indicates that their total assets were \$169,  
20 correct?  
21 A. Yep.  
22 Q. And given that that was the information --  
23 actually, this is going to go into your  
24 notebook. It's the only copy I have.

1 A. Where do you want me to put it?  
2 Q. Hopefully you have the notebook with you. If  
3 you put it after tab 29.  
4 A. Sure. I'd be happy to. Okay.  
5 Q. Given that that was the information that  
6 Mr. MacDonald had --  
7 MR. KESTEN: You're asking her to assume  
8 this was information Mr. MacDonald had?  
9 A. I have no knowledge of what Mr. MacDonald had.  
10 Q. No. I think my question is --  
11 MR. KESTEN: How about if that was the  
12 information Mr. MacDonald had, all the  
13 information.  
14 Q. If that was all the information he had as the  
15 current financial condition of CALM Golf, and  
16 given that they said they had \$169 in total  
17 assets, is it your belief that that was  
18 sufficient financial information to consider  
19 them the most advantageous proposal for the  
20 town?  
21 A. There's no business plan attached to this.  
22 Q. I'm just talking about the financial  
23 information.  
24 A. It's incomplete information.

1 Q. So what you're saying is that that information  
2 is not sufficient financial information to  
3 consider that as a highly advantageous proposal?  
4 A. What I'm saying is, you have given me incomplete  
5 information to determine that. I don't know.  
6 Q. What else would you need, ma'am?  
7 A. I'm not going to list a business plan for this  
8 gentleman. I don't know. I don't know. I  
9 really don't know.  
10 Q. Did you ever look into what -- there's all kinds  
11 of allegations repeatedly by myself, by -- not  
12 an allegation by Judge Smith, actually a finding  
13 by a superior court judge that the total assets  
14 of CALM Golf were \$169. Did that concern you as  
15 a selectwoman?  
16 A. At the time, at the time we were rebidding it  
17 anyway. It was --  
18 Q. No. This is from the second bid, ma'am. This  
19 is the second bid.  
20 A. Okay. You're -- thank you. I did not realize  
21 that. You've been with him too much.  
22 Q. No. I haven't been with him.  
23 MR. KESTEN: Don't make -- both of you  
24 stop.

1 A. I'm not trying to anger you. I'm really just  
2 trying to understand your question, and if your  
3 question is -- the first question was what was  
4 Mr. MacDonald -- was this enough for  
5 Mr. MacDonald. I don't know what Mr. MacDonald  
6 had. And then you're asking is it enough for  
7 me, but I feel as though it would be incomplete  
8 so I don't know.  
9 Q. Okay. Why don't we try this. If that is all  
10 the information you had about this company's  
11 finances right there on those two pages and you  
12 are now about to give out a multimillion dollar  
13 contract?  
14 A. Yes.  
15 Q. Would you give it to a company that only had  
16 \$169 in the bank and no other assets?  
17 A. Is this a hypothetical?  
18 Q. It's not a trick question. If a company only  
19 has \$169 in total assets, would you as a  
20 selectwoman be willing to sign a contract with  
21 them in which they're going to manage what the  
22 town describes as a multimillion dollar  
23 facility?  
24 A. It would -- based on that narrow criteria, it

1 **would be certainly -- you would want to see more**  
2 **assets.**

3 **Q.** It would be preposterous to give them a  
contract, wouldn't it?

4 **A.** **I'm not going to agree to that.**

5 **Q.** Those are your words. It was preposterous? Our  
6 allegations wouldn't be preposterous?

7 **A.** **You asked me how I felt and my feelings were**  
8 **that your allegations were ridiculous.**

9 **Q.** Okay. Would it be equally ridiculous to give a  
10 company that only has \$169 in total assets --

11 **A.** **I'm not going to answer that.**

12 MR. KESTEN: For a five-year contract?  
13 Steve, this is getting so argumentative.

14 **Q.** Let's look at what the judge had to say. No.  
15 Let's look at Exhibit 14.

16 MR. KESTEN: You want her to read the  
17 whole thing?

18 MR. FOLLANSBEE: Yeah. It's only two  
19 pages.

20 **A.** **Okay.**

21 **Q.** Now, Exhibit 13, as you can see, was dated or is  
22 dated, I think the last page, yes, the last page  
23 of Exhibit 13 is dated January 15, 2009.

1 **A.** **Okay.**

2 **Q.** That's Mr. MacDonald's award of a contract to  
3 CALM Golf.

4 **A.** **Okay.**

5 **Q.** Then the next day our office proposed this  
6 settlement. Did you discuss this settlement  
7 proposal with Attorney Troy?

8 **A.** **Not to my memory, no.**

9 **Q.** Have you ever discussed any of our settlement  
10 proposals with Attorney Troy?

11 **A.** **I don't remember.**

12 **Q.** Do you have any memory of ever discussing with  
13 anybody the idea that this case should be  
14 settled other than Attorney Kesten?

15 **A.** **No.**

16 **Q.** Why is that?

17 **A.** **That it would run its course, that the bid would**  
18 **-- that the process would continue and that it**  
19 **would run its course.**

20 **Q.** On behalf of the tax payers of Duxbury, did it  
21 ever occur to you that it might be in the  
22 interest of those folks to stop spending all  
23 this money on litigation and actually settle  
24 this case?

1 **A.** **No. Not in the context in which you're**  
2 **discussing, no.**

3 **Q.** What would be the wrong -- or, strike that.

4 If you look at Exhibit Number 15, this is  
5 the decision and injunction that Judge Smith  
6 issued. I think it's --

7 MR. KESTEN: February 2nd.

8 MR. FOLLANSBEE: February 2nd.

9 **Q.** If you go to Page 75.

10 **A.** **Okay.**

11 **Q.** Now, at the bottom of the page there's some  
12 underlining. This is Judge Smith's language.  
13 You did read this when it was issued; is that  
14 correct?

15 **A.** **I don't remember. Perhaps I did. I don't**  
16 **remember.**

17 **Q.** Well, do you remember making comments about  
18 Judge Smith at selectmen's meetings?

19 **A.** **Not particularly, no.**

20 **Q.** Did Attorney Troy tell you anything about Judge  
21 Smith and this decision?

22 **A.** **I don't remember a particular comment.**

23 **Q.** Did Attorney Troy tell you anything about me and  
24 this decision and being in Middlesex Superior

1 Court?

2 **A.** **I don't remember a specific conversation, no.**

3 **Q.** So Attorney Troy never told you that I was just  
4 as irascible as Doug Johnson?

5 **A.** **No. I don't remember that.**

6 MR. KESTEN: Don't flatter yourself.

7 **Q.** You certainly knew what Judge Smith had ordered  
8 though, correct?

9 **A.** **We received summaries of what was going on. I**  
10 **would -- so I had knowledge of it.**

11 **Q.** But Attorney Troy had to come to you and say  
12 Judge Smith just issued an injunction and  
13 Johnson's going to be running the course? He  
14 told you that, didn't he?

15 **A.** **I suppose so. I don't remember.**

16 **Q.** You don't remember that?

17 **A.** **You're asking me for a timeline of a lot of**  
18 **information when there was not -- this was not**  
19 **the only issue that was in front of the board.**  
20 **There were many issues. Some were very**  
21 **difficult.**

22 **So no. For me to tell you -- I remember**  
23 **that we knew that Mr. Johnson was going to be**  
24 **running the course for a period of time, but**



1 **you're asking if I remember the conversation.**

2 **No, not particularly.**

3 **Q.** And you never read this decision? It's only  
4 eight pages long. You never were given a copy  
5 of it to read?

6 **A. I have no memory of reading it. I might have.**

7 **Q.** Do you remember one of your colleagues trying to  
8 read it at a selectmen's hearing? Mr. Donato,  
9 didn't he try to read this out loud at the  
10 selectmen's meeting?

11 **A. Mr. Donato often would bring up pending cases**  
12 **during selectmen's meetings so that would not**  
13 **surprise me.**

14 **Q.** And you actually argued with him about it,  
15 didn't you?

16 **A. I argued with Mr. Donato on occasion when he**  
17 **would bring up court cases.**

18 MR. KESTEN: Well, the question was  
19 whether you remember arguing about this thing,  
20 reading this thing.

21 Is that what you're asking her?

22 MR. FOLLANSBEE: Yes.

23 MR. KESTEN: That's the question. Do you  
24 remember a specific argument about this thing?

1 THE WITNESS: No.

2 **Q.** So is it your testimony today that you never  
3 read Judge Smith's decision?

4 **A. No. It is my testimony today that I do not**  
5 **recall reading the decision.**

6 **Q.** Did you understand that Judge Smith had said in  
7 his decision that Johnson Golf has established a  
8 likelihood of success on the merits?

9 **A. No. I don't remember that.**

10 **Q.** If you could turn to Page 76. At the top of the  
11 page Judge Smith is observing that it is  
12 incredible that CALM Golf was rated highly  
13 advantageous.

14 Did you have any reaction to that part of  
15 his decision?

16 **A. Since I don't recall reading it, the answer**  
17 **would be no.**

18 **Q.** Did you know that CALM Golf had submitted  
19 financial statements that were not audited?

20 **A. No.**

21 **Q.** Did anybody ever tell you that?

22 **A. I don't recall.**

23 **Q.** Other than -- you don't have any memory problems  
24 of a general nature, do you?

1 **A. No, sir, I do not.**

2 **Q.** Now, your lack of memory with regard to these  
3 events, if we could explore Page 77 and the  
4 underlined portion where the Court observed CALM  
5 Golf was notably undercapitalized.

6 Having seen the financial records that  
7 CALM gave your town that say they only have \$169  
8 in the bank, would you agree with Judge Smith's  
9 conclusion that they are notably  
10 undercapitalized for a company offering to pay  
11 half a million to the town? Would you agree  
12 with his conclusion there?

13 **A. Partially.**

14 **Q.** What part would you agree with?

15 **A. The \$500,000 would be coming from the proceeds**  
16 **of running the course, so the monies were coming**  
17 **from the actual fees and they were collected at**  
18 **the golf course.**

19 **Q.** How would CALM Golf buy the equipment to cut the  
20 grass?

21 **A. You know, I do not know and I'm not going to**  
22 **speak to it. I don't know what their plan was.**

23 **Q.** There's the plan.

24 **A. That's a business plan? You gave a tax return,**

1 **not a business plan.**

2 **Q.** I gave you the only financial information that  
3 was given to the Town of Duxbury as to the  
4 financial condition of CALM Golf in 2007.

5 **A. And you're asking my opinion for a specific set**  
6 **of circumstances which I'm not -- I don't feel**  
7 **comfortable giving you because I don't know.**

8 **Q.** Did Attorney Troy tell you that the judge had  
9 said it looks like Johnson Golf has established  
10 a likelihood of success on the merits?

11 **A. I don't remember that being said precisely. I**  
12 **really don't.**

13 **Q.** Do you ever remember Attorney Troy saying  
14 directly to your board that Judge Smith had said  
15 just the contrary and had said, quoting Attorney  
16 Troy, he claimed in front of your board that  
17 Judge Smith said Johnson Golf has a slim to  
18 unlikely chance of success on the merits? Do  
19 you remember Attorney Troy saying that to you?

20 **A. No. I don't remember the specifics of the**  
21 **comments.**

22 **Q.** Do you remember Attorney Troy ever saying to you  
23 that the town couldn't be involved in a  
24 conspiracy because they hired a consultant to

- 1 draft all the RFP documents?
- 2 **A. I don't remember that sentence specifically, no.**
- 3 **Q.** Do you remember having a hearing before the  
4 board of selectmen on alleged violations of the  
5 existing contract by Johnson Golf?
- 6 **A. I remember we had many hearings but --**
- 7 **Q.** No. I mean one hearing where the town was  
8 trying to end the contract with Johnson saying  
9 they had violated the contract. Do you remember  
10 that? There was a stenographer there.
- 11 **A. Was that when they were looking for the**  
12 **financial statements for the last three years**  
13 **that --**
- 14 **Q.** It would have been -- that would have been one  
15 of the issues, yes. Do you remember that  
16 hearing?
- 17 **A. I remember the hearing where we were looking for**  
18 **that, yes.**
- 19 **Q.** That was, if I could refresh your memory, it was  
20 on October 4th of 2010. Does that comport with  
21 your memory?
- 22 **A. I don't remember the date.**
- 23 **Q.** I'll help you out. If you look at Exhibit  
24 Number 25, this is a transcript of the Duxbury

- 1 selectmen's hearing.
- 2 **A. Okay. Good. Thank you.**
- 3 **Q.** So, and it's kind of long, but you remember  
4 actually I appeared on behalf of Johnson Golf at  
5 that hearing, correct?
- 6 **A. A-huh.**
- 7 **Q.** Do you remember that?
- 8 **A. No, but I'm seeing this name.**
- 9 MR. KESTEN: You're asking whether you --  
10 we know you did. We have a transcript.
- 11 The question is do you remember that he  
12 appeared.
- 13 **A. I remember that you've been there a number of**  
14 **times and spoken to us. Do I -- can I picture**  
15 **you that night? No. But -- so I'm trying to**  
16 **remember if there was ever anyone else that**  
17 **spoke for him.**
- 18 **MR. FOLLANSBEE: I'm not as memorable as**  
19 **I thought, Lenny.**
- 20 **A. I guess I do remember it was you that was there.**  
21 **I'm sorry.**
- 22 **Q.** That's okay.
- 23 MR. JOHNSON: Let's show the tape.
- 24 MR. FOLLANSBEE: No. We're not going to

- 1 show the tape.
- 2 **Q.** What we're going to do to help your memory, if  
3 you recall, you and I actually got into a  
4 dialogue where the payments were in arrears or  
5 in advance. Do you remember that issue?
- 6 **A. I do recall that, yes.**
- 7 **Q.** And the contract, upon review and upon  
8 reflection, clearly said all the payments were  
9 in arrears, correct?
- 10 **A. I think we disagreed on that, but. I don't**  
11 **remember the conclusion but I do remember the**  
12 **disagreement.**
- 13 **Q.** And the disagreement was the town was alleging  
14 that Johnson had been late in the payments and  
15 Johnson was saying through me that we always  
16 paid around the 5th or 10th of the month but the  
17 payment wasn't due until the 1st of the  
18 following month.
- 19 Is that what you remember happening?
- 20 **A. I remember you saying that. I don't remember**  
21 **agreeing to it. Yes.**
- 22 **Q.** Well, before we get to that.
- 23 **A. Okay.**
- 24 **Q.** If you look at Exhibit 16.

- 1 **A. Number what?**
- 2 **Q.** 16.
- 3 **A. 16. Okay.**
- 4 **Q.** The second page. Actually, just for  
5 identification purposes, this is a letter from  
6 Johnson Golf to Mr. MacDonald, March 29th of  
7 2009.
- 8 MR. KESTEN: It's actually from Douglas  
9 Johnson, looks like.
- 10 MR. FOLLANSBEE: It is, I think, the  
11 original. This is the filed copy of it.
- 12 MR. KESTEN: Okay.
- 13 **Q.** Did you remember receiving this  
14 correspondence --
- 15 **A. No.**
- 16 **Q.** -- from Mr. Johnson? Did you remember any  
17 attempts by Mr. Johnson to settling a litigation  
18 without the able help of his attorney?
- 19 **A. No.**
- 20 **Q.** Do you have -- do you ever remember Mr. Johnson  
21 appearing before your board and giving you  
22 copies of transcripts and documents and court  
23 orders?
- 24 **A. No.**

- 1 Q. You don't. Okay. Well, let's look at Exhibit  
2 17. Fairly simple document. Do you remember  
3 getting this settlement proposal through  
4 Attorney Troy?
- 5 A. **No. Not this letter, no.**
- 6 Q. Did you ever receive any settlement proposals  
7 from us through Attorney Troy?
- 8 A. **I do not remember specific proposals, no. I'm**  
9 **sorry.**
- 10 Q. Did Attorney Troy ever say to you around April  
11 3rd of 2009, so we're only about three months  
12 into the litigation, did Attorney Troy ever come  
13 to you and say, listen, we've got an offer from  
14 these guys, if we just give them the contract,  
15 they'll drop the lawsuit? Did he ever say that  
16 to you?
- 17 A. **I don't recall that.**
- 18 Q. Did he ever say to you, we can't drop the  
19 lawsuit because they're demanding too much  
20 money?
- 21 A. **No.**
- 22 Q. Did he ever say they're willing to drop the  
23 lawsuit, it won't cost us a penny?
- 24 A. **No.**

- 1 Q. Never said any of those things to you?
- 2 A. **I don't recall him saying that.**
- 3 Q. Do you recall any overture of settlement that  
4 was ever brought to your board for  
5 consideration?
- 6 A. **No. Not in particular, no.**
- 7 Q. Okay. On April 6, 2009, this is Exhibit 18, and  
8 this is the board of selectmen minutes dated  
9 April 6, 2009. If you go to Page 87 at the  
10 bottom there's some material underlined on that  
11 page.
- 12 It indicates in the minutes that you had  
13 a great deal of difficulty issuing a liquor  
14 license to someone who had sued the town? Why  
15 was that?
- 16 A. **I think being sued by someone is a fairly**  
17 **unpleasant experience, and issuing a license to**  
18 **benefit them was difficult. Not that -- it had**  
19 **nothing to do with whether you did it or not.**
- 20 Q. And the difficulty was that they had the  
21 temerity to sue the Town of Duxbury?
- 22 A. **Not -- the difficulty was that there was**  
23 **litigation and it was difficult to work with**  
24 **people when you were in litigation.**

- 1 Q. Prior to this you had had no contact with  
2 anybody from Johnson Golf other than settlement  
3 letters, correct?
- 4 A. **You've asked me about that and I told you I did**  
5 **not remember those.**
- 6 Q. I know you don't remember them. But when you  
7 say it was difficult to deal with someone who  
8 was suing you, there was, between January 2009  
9 up to April 6th of 2009 there had been no  
10 difficulty in dealing with anybody at Johnson  
11 Golf, had there?
- 12 A. **I didn't have an occasion to deal with anybody.**
- 13 Q. So the only -- when you say it's always  
14 difficult to deal with someone when there's  
15 litigation pending, what was the difficulty?  
16 Because there was a court order that said  
17 Johnson Golf was going to run under the old  
18 contract so that was fine, wasn't it?
- 19 A. **I don't remember that that was the case at that**  
20 **point in time.**
- 21 Q. Do you want to go back and look at the  
22 injunction? The injunction was February 2nd of  
23 2009.
- 24 A. **Okay.**

- 1 Q. So Johnson's running it under the old contract  
2 and they come in for a renewal of the liquor  
3 license. What was the difficulty part of that?
- 4 A. **That there was litigation pending. Liquor**  
5 **licenses, my understanding is that it is no**  
6 **one's by right. It is a license granted by the**  
7 **town.**
- 8 Q. I understand that part of it.
- 9 A. **Okay.**
- 10 Q. And the liquor license benefits the town? It  
11 benefits the people who want to have the liquor  
12 at the facility?
- 13 A. **I guess I would disagree that it would benefit**  
14 **the town.**
- 15 Q. Doesn't the town get more money in rent because  
16 of the revenue to go to the operator of the  
17 country club?
- 18 A. **No. I don't believe so. I'm not sure.**
- 19 Q. How do you think that the proposers, the people  
20 who are going to run the club, how do you think  
21 they factor in how much rent they'd be willing  
22 to give the town?
- 23 A. **Rounds of golf.**
- 24 Q. Well, wouldn't it be gross income, and it would

1 be a factor of whatever gross income they can  
 2 achieve that's going to determine how much they  
 3 can pay in rent?

4 **A. I would suppose. I don't know. Rounds of golf**  
 5 **was what I would base your revenue from a golf**  
 6 **course.**

7 **Q.** Wouldn't you also include in addition to rounds  
 8 of golf the number of carts that are used, the  
 9 number of sales in the pro shop, the number of  
 10 sales in the restaurant, the number of sales of  
 11 liquor at the restaurant?

12 **A. Those are different. Those are various things**  
 13 **that he was either successful or unsuccessful**  
 14 **at.**

15 **Q.** But all of those revenue streams combined to  
 16 give the operator a gross income figure so that  
 17 whatever he's going to turn over to the town in  
 18 proposed rent is a factor of that gross number.  
 19 Isn't that simple finance?

20 **A. One would suppose that his gross revenue would**  
 21 **contribute to his ability to pay his debt.**

22 **Q.** So the more money an operator can gross  
 23 including sales of liquor and all the other  
 24 items of revenue would increase what a proposer

1 would be willing to pay in rent, correct?

2 **A. I'm not comfortable speaking to that. It was**  
 3 **not our job to increase his revenue.**

4 **Q.** I understand it's not. Is your -- what did you  
 5 understand your job was with regard to the  
 6 operation of the North Hill Country Club?

7 **A. I thought we were talking about a liquor**  
 8 **license.**

9 **Q.** Well, you just said you didn't think it was your  
 10 job to increase their revenue. Why?

11 **A. Well, you were discussing the liquor license in**  
 12 **regard to his revenue.**

13 **Q.** I understand. And for 13 years they had a  
 14 liquor license, correct?

15 **A. To the best of my knowledge.**

16 **Q.** And to the best of your knowledge there had been  
 17 no incidents and no concerns about the operation  
 18 of that facility and that liquor license, had  
 19 there?

20 **A. I can't say. I don't know.**

21 **Q.** You don't remember any, do you?

22 **A. I do not know. I don't.**

23 **Q.** So you don't remember any -- do you -- I mean,  
 24 it's easy to say I don't remember. You've said

1 it many times today. So on this you don't  
 2 remember any complaints?

3 **A. But you're asking if I remember. I don't know**  
 4 **if there were complaints or not. But you're**  
 5 **right. I do not remember a complaint**  
 6 **specifically in regard to the liquor license.**

7 **Q.** That was easy. You can say that.

8 **MR. KESTEN:** Hey, Steve.

9 **Q.** Now, if you look at Exhibit Number 19.

10 **A. I want to say there was concerns about liquor**  
 11 **being served from golf carts. That was one**  
 12 **complaint that we did receive, so I have to**  
 13 **amend that answer.**

14 **Q.** When did you get that complaint?

15 **A. I'm not sure. Perhaps it was subsequent to**  
 16 **this, but you're asking me if I ever remember**  
 17 **complaints about liquor, and there was a**  
 18 **complaint about liquor being served from golf**  
 19 **carts.**

20 **Q.** There's nothing wrong with that under their  
 21 liquor license, was there?

22 **A. Yes. It was determined that it was not**  
 23 **appropriate under their license, that the**  
 24 **license was specific to the building.**

1 **Q.** It was?

2 **A. That's my memory of it.**

3 **Q.** You signed that license, didn't you?

4 **A. I sign all the liquor licenses.**

5 **Q.** Why don't we look at the liquor license in this  
 6 case.

7 **A. You asked if I --**

8 **Q.** Page 130.

9 **MR. KESTEN:** What number?

10 **MR. FOLLANSBEE:** 24.

11 **A. Yep.**

12 **Q.** You signed it, correct?

13 **A. I believe. That is my signature, yes.**

14 **Q.** And the premises are described there, aren't  
 15 they?

16 **A. Yep.**

17 **Q.** And the premises are described as a 9 hole golf  
 18 course and a clubhouse, correct?

19 **A. Yep.**

20 **Q.** And that's the liquor license that the Town of  
 21 Duxbury issued, correct?

22 **A. It would appear to be, yes.**

23 **Q.** And it's not limited to the clubhouse, is it?

24 **A. It describes the premises. You're asking me to**

1 offer a legal opinion, and it would appear that  
2 the premises are described in one way for the  
3 liquor license. It was -- so there you go. You  
4 asked me if there was -- I remembered any  
5 complaints. That was the complaint that I  
6 remembered.

7 Q. But you also said that your memory was that the  
8 license was limited to the clubhouse when I  
9 asked you if there was nothing wrong with  
10 serving on the golf course itself.

11 A. That was my belief, yes.

12 Q. Your belief was inaccurate because the license  
13 you signed and issued to my client says you can  
14 serve on these premises, correct?

15 A. For 2009.

16 Q. That's --

17 A. The license -- language on the licenses have  
18 changed from year to year, but for this  
19 particular year.

20 Q. What year do you think it was different?

21 A. I don't know. I know that the licenses are  
22 typed up and there has been -- they sometimes  
23 change the language. I don't know.

24 Q. And there's a time on that license, isn't there?

1 A. Time in respect to liquor being served?

2 Q. How long you can be serving. If we look at the  
3 bottom, it does say 8 a.m. to 11 p.m. on  
4 weekdays. I guess that would include Saturdays,  
5 but it's noon to 11 p.m. on Sundays and  
6 holidays, correct?

7 MR. KESTEN: That's what it says. We  
8 stipulate.

9 Q. Okay. And did you issue a different license to  
10 the current operator there as far as the time?  
11 Did they have a 1 a.m. license now?

12 A. I don't -- I don't know.

13 Q. Do you remember anybody coming forward from the  
14 new operator, Pilgrim Golf, and asking to extend  
15 the license to 1 a.m.?

16 A. No, not particularly. I do not remember.

17 Q. What would you do if that came before you?  
18 Would you think that's a reasonable request, to  
19 extend the license to 1 a.m.?

20 A. It won't come before me so I don't know.

21 Q. No. If it did when you were on the board.

22 A. I really don't know.

23 Q. Now, there are no -- at the facility where you  
24 play golf they don't have a liquor license,

1 correct?

2 A. That is correct.

3 Q. Do they get one-day licenses at times?

4 A. Yes.

5 Q. So if they have a big event they can petition  
6 for a one-day license?

7 A. Yes.

8 Q. Okay. Have you voted for one-day licenses for  
9 that facility when you were on the board?

10 A. Maybe, if they came in front of us.

11 Q. You wouldn't recuse yourself as a member?

12 A. I really don't remember if they came or not, did  
13 not come.

14 Q. If you look at Exhibit 25, and this was the  
15 transcript of the hearing before your board.

16 MR. KESTEN: The October 4th?

17 MR. FOLLANSBEE: October 4th, yes.

18 Q. I think these are double sided, so if you go to  
19 Pages 146 and 147.

20 A. Okay.

21 Q. And starting on Page 146, in the lower  
22 right-hand corner it's Page 64 of the  
23 transcript. If you could just read to yourself  
24 the question posed by Mr. Donato and then

1 everything that's underlined on that page and  
2 the top of the following page, then I'll have a  
3 few questions about it.

4 (Witness complies.)

5 A. Yeah.

6 Q. You've read that?

7 A. I just did, yes. Thank you.

8 Q. Do you remember the question coming up and the  
9 answer in the meeting?

10 A. I remember the argument.

11 Q. And what do you remember about the argument?

12 A. That Mr. Troy and Mr. Donato were debating.

13 Q. Well, it looks like -- maybe I'm missing  
14 something. Maybe I'm on the wrong thing. It  
15 looks to me like Mr. Donato started off by  
16 saying, I have a question, who is drafting the  
17 request for proposal. Do you recall --

18 A. Right.

19 Q. Is that part of the argument?

20 A. I would imagine it would be the beginning.  
21 Argument, just, debate. I think heated debate  
22 would be more than an argument.

23 Q. So you think this was a heated debate? That's  
24 your memory?

1 **A. Well, they were, I think, coming at it from**  
 2 **different points of view. They had a difference**  
 3 **of opinion on it.**

4 **Q.** Was it your memory that Mr. Donato had raised  
 5 his voice somehow or was being argumentative  
 6 when he had that question?

7 **A. From what you're reading?**

8 **Q.** Yes.

9 **A. What I'm reading doesn't appear to be**  
 10 **argumentative. It is a question.**

11 **Q.** It looks like a fairly simple question, right?

12 **A. A-huh.**

13 **Q.** Yes?

14 **A. Could you repeat the question. I'm sorry.**

15 **Q.** It was just a fairly simple question from  
 16 Mr. Donato, who wrote the RFP?

17 **A. It would appear to be a straightforward**  
 18 **question.**

19 **Q.** It's certainly something he would be entitled an  
 20 honest answer to, correct?

21 **A. I would think any question is entitled to an**  
 22 **honest answer.**

23 **Q.** And certainly as a member of the board of  
 24 selectmen, when you ask your attorney a simple

1 question like that, who drafted this thing, you  
 2 expect a straight and honest and accurate  
 3 answer, don't you?

4 **A. You would expect an accurate answer.**

5 **Q.** And yet what follows for the next page with  
 6 Attorney Troy having this statement is an  
 7 absolute lie, isn't it?

8 **MR. KESTEN:** Objection. You may answer.

9 **THE WITNESS:** I'm sorry. What?

10 **MR. KESTEN:** You may answer.

11 **A. Is it an absolute lie. I don't know. I don't**  
 12 **know.**

13 **Q.** Okay. Well, why don't we take it bit by bit.  
 14 Towards the bottom of Page 146 Attorney Troy is  
 15 responding, and he says, "In this particular  
 16 case it was decided that the matter was so  
 17 specialized, we actually went outside of Town  
 18 Hall and hired a procurement company."

19 Is that true? Did you hire a procurement  
 20 company?

21 **A. I did not hire a procurement company.**

22 **Q.** Did the Town of Duxbury hire a procurement  
 23 company?

24 **A. I don't believe that they did.**

1 **Q.** So that is a lie, isn't it?

2 **A. I think a procurement company, I was led to**  
 3 **believe that we were getting outside assistance**  
 4 **in creating the bid.**

5 **Q.** I don't care what you were led to believe.  
 6 Either you hired a procurement company or you  
 7 didn't, and this is some two years after the  
 8 fact.

9 **A. I have no knowledge that a company was hired.**

10 **Q.** In fact, you know no company was hired, correct?

11 **A. I do know that for a fact, I know that -- I**  
 12 **don't know that, if they hired someone. I was**  
 13 **led to believe that there was someone who was**  
 14 **going to assist.**

15 **Q.** We'll get to that in a minute.

16 Who would do the hiring of a procurement  
 17 company? Who in town government has that  
 18 authority?

19 **A. I would -- the town manager. I don't know.**

20 **Q.** Where does he get that authority to go out and  
 21 hire a procurement company?

22 **A. Well, what do you mean by procurement company?**  
 23 **I'm sorry.**

24 **Q.** What do you mean by procurement company?

1 **A. I don't know. That's why I'm asking you.**

2 **Q.** I would think a procurement company would be a  
 3 specialized company that drafts procurement  
 4 documents, but.

5 **A. So no, I don't -- I don't believe that we hired**  
 6 **a procurement company.**

7 **Q.** Okay. And then Attorney Troy says, "I know  
 8 there in Plymouth there's been much said that  
 9 there was some kind of conspiracy or something  
 10 at Town Hall. The honest answer is that Town  
 11 Hall had nothing to do with the entire  
 12 procurement document."

13 Starting with the words, "the honest  
 14 answer," that's not true, is it?

15 **A. I believe there was input from Town Hall in**  
 16 **this, in the creation of this document.**

17 **Q.** Well, didn't you get e-mails yourself in which  
 18 Gordon said they had spent countless hours doing  
 19 this work and it was a corroborative efforts?

20 **MR. KESTEN:** Collaborative.

21 **MR. FOLLANSBEE:** Thank you, Lenny.

22 **MR. KESTEN:** This is my third language.

23 **A. Yes.**

24 **MR. FOLLANSBEE:** We'll get off the record

1 **later and figure out the first two. I think I**  
2 **know one of them.**

3 MR. KESTEN: Polish and Hebrew.

4 MR. FOLLANSBEE: We'll put it on the  
5 record. He's smarter than me.

6 MR. KESTEN: No. But I will stipulate to  
7 it.

8 Q. "The honest answer is Town Hall had nothing to  
9 do with the entire procurement document." That  
10 isn't true, is it?

11 A. **I think that it is -- no. I don't believe that**  
12 **to be true.**

13 Q. So the first lie is -- well, strike that.

14 He then says it was sent out to vendors  
15 who had expertise in the field of golf course  
16 procurement. It was not sent to a vendor, was  
17 it?

18 A. **I believed it had been.**

19 Q. Whether you believed it at the time --

20 MR. KESTEN: Well, you're asking what  
21 she --

22 A. **I don't know. I do not know.**

23 Q. I'm asking you now. Do you know whether it was  
ever sent out to a vendor?

1 A. **No. I don't know.**

2 Q. If it was sent out to a vendor, wouldn't it be  
3 the selectmen that would engage the vendor?

4 A. **No.**

5 Q. Who engaged the vendors?

6 A. **The selectmen oversee. They do not individually**  
7 **send out purchase orders to engage people. So**  
8 **no. That would not be part of what we do.**

9 Q. Further on Attorney Troy says, "We have the  
10 information here so what happened is the company  
11 designed the RFP completely. There was no input  
12 here at Town Hall."

13 A. **I think we've covered that, right?**

14 Q. Well, he said it a second time so I am going to  
15 ask you about the second time.

16 You were sitting there and you knew at  
17 the time that the RFP had been designed by  
18 people in Town Hall. They had circulated it by  
19 e-mail to you, so you knew this wasn't true,  
didn't you?

21 A. **My thought was that we were discussing the final**  
22 **document, that there had been -- I hadn't really**  
23 **broken it up into pieces the way that we are**  
24 **today.**

1 Q. When he says -- when Attorney Troy said to your  
2 board there was no input at Town Hall, the  
3 honest answer is Town Hall had nothing to do  
4 with the entire procurement document, you knew  
5 that wasn't true, didn't you?

6 A. **I was thinking that the final document -- I**  
7 **thought that the final document had been**  
8 **reviewed by an outside vendor and that we were**  
9 **talking about the final document, not what led**  
10 **up to it.**

11 Q. But he's telling the board that the entire  
12 document was drafted by somebody else, isn't he?

13 A. **I'm telling you what I was hearing isn't -- he**  
14 **was -- that somebody other than people in town**  
15 **had reviewed the final document and that's what**  
16 **was sent out, not that -- and in my -- and I'm**  
17 **remembering now and trying to remember my sense**  
18 **of it at that moment, and my sense of it at that**  
19 **moment, we weren't discussing the process by**  
20 **which any changes or criteria had come up. It**  
21 **was the final document. And perhaps that was**  
22 **too narrow a point of view, but that was my**  
23 **thought at that time.**

24 Q. Now, if we go back, if we look at Exhibit Number

1 21.

2 A. **Okay.**

3 Q. Now, this, if you want to review it, this is a  
4 two-page letter and a couple of smaller  
5 attachments. All the attachments aren't there.  
6 Why don't you look at this and I'll conclude  
7 with a few questions about this.

8 A. **Okay.**

9 (Witness complies.)

10 A. **I couldn't remember when I graduated from**  
11 **college either, right?**

12 Q. No. You did fine.

13 A. **Okay.**

14 Q. Now, this was an occasion where Mr. Johnson  
15 actually came to the selectmen and presented you  
16 with a binder probably as thick as the notebook  
17 that's in front of you. Do you remember that?

18 A. **Not particularly.**

19 Q. Do you remember getting this from Mr. Johnson  
20 and having the transcripts and a copy of the  
21 judge's decision?

22 A. **I remember receiving transcripts but I'm not**  
23 **clear as to whose transcripts I received.**

24 Q. If you look at Page 97, that gives you a list of

1 what he was delivering to you. Did you read  
 2 Mr. Lanzetta's two depositions?  
 3 **A. No.**  
 4 **Q.** Why didn't you?  
 5 **A. Because it was an ongoing case.**  
 6 **Q.** And are you ever concerned about having an  
 7 ongoing case end?  
 8 **A. Very much so.**  
 9 **Q.** And one way to make it end is to go to trial and  
 10 another way is to settle, correct?  
 11 **A. I would assume those are two ways, yes.**  
 12 **Q.** Are there any other ways?  
 13 **A. People give up. I don't know.**  
 14 **Q.** Now --  
 15 **A. People withdraw. That would be the third way.**  
 16 **Q.** Wow. Okay.  
 17 Having seen the allegations at this  
 18 juncture and having seen the commitment and  
 19 given the fact that Johnson was still running  
 20 the golf course --  
 21 **MR. KESTEN:** What commitment? What do  
 22 you mean commitment?  
 23 **MR. FOLLANSBEE:** The commitment to  
 24 continue with the lawsuit.

1 **MR. KESTEN:** Oh.  
 2 **Q.** Did you --  
 3 **MR. FOLLANSBEE:** There was no commitment  
 4 of any other nature.  
 5 **MR. KESTEN:** No. I just was trying to  
 6 figure out what you were talking about. You  
 7 mean Mr. Johnson and your --  
 8 **MR. FOLLANSBEE:** Mine.  
 9 **MR. KESTEN:** -- tenacity.  
 10 **Q.** Given all of that and given that Johnson was  
 11 still running the golf course, did you consider  
 12 that this might be a possibility, to settle this  
 13 litigation and stop the expense for the Town of  
 14 Duxbury?  
 15 **A. No.**  
 16 **Q.** Why is that?  
 17 **A. I believe that we were obligated to rebid.**  
 18 **Q.** This --  
 19 **A. This would circumvent.**  
 20 **Q.** In the context of this, this is January 24th of  
 21 2010.  
 22 **A. Right.**  
 23 **Q.** Okay. So the bidding was all done and the judge  
 24 had granted the year earlier, Johnson had

1 already run the course for all of 2009. Now  
 2 they were running it in 2010.  
 3 **A. Right.**  
 4 **Q.** This was a chance for the town to settle the  
 5 case. Why didn't you consider that option?  
 6 **A. It was not our decision to settle.**  
 7 **Q.** Did you ever explore it? When you say it's not  
 8 your decision to settle, who formulated that  
 9 decision?  
 10 **A. I don't think there was ever a vote that was**  
 11 **taken. I'm not trying to be difficult. I'm**  
 12 **not. I'm -- you're asking why we didn't, why we**  
 13 **did not settle. Well, we chose not to settle.**  
 14 **Q.** I'm asking if you considered the possibility of  
 15 settling at all.  
 16 **MR. KESTEN:** As a board?  
 17 **MR. FOLLANSBEE:** As a board.  
 18 **A. I don't recall.**  
 19 **Q.** And with regard to all of this material, you  
 20 indicated when Mr. Johnson delivered all this to  
 21 you --  
 22 **MR. KESTEN:** To the board.  
 23 **Q.** To the board, the board indicated they would  
 24 review it and consider it. Is that your memory?

1 **A. I remember various times getting information and**  
 2 **being troubled that we were discussing ongoing**  
 3 **litigation in open session.**  
 4 **Q.** This wasn't an open session. That was brought  
 5 by Mr. Johnson himself, not through his  
 6 attorneys.  
 7 **A. Right.**  
 8 **Q.** You remember him coming down there?  
 9 **A. I don't specifically remember it, but I remember**  
 10 **occasions where litigation was brought up in**  
 11 **open session which I never felt was appropriate.**  
 12 **Q.** This wasn't -- no one was asking you. This was  
 13 just submitted to you. There was no discussion  
 14 about it. Is that your memory?  
 15 **A. I have told you before I don't remember that**  
 16 **instance in particular. I just -- but --**  
 17 **Q.** If you look at -- after Page 97 there's an  
 18 unnumbered page.  
 19 **A. Okay.**  
 20 **Q.** And it's, for some reason, I will take  
 21 responsibility for this, it's upside down.  
 22 **A. That's okay.**  
 23 **Q.** Do you ever remember reviewing that page?  
 24 **A. No. I really don't. Who is the author of this?**



1 **Q.** Well, MacDonald's decision is down on the  
2 left-hand side.

3 **MR. KESTEN:** I mean, bullet points from  
4 MacDonald's decision, left-hand side.

5 **MR. FOLLANSBEE:** Those are the bullet  
6 points from MacDonald's decision. On the right  
7 side is Lanzetta's testimony.

8 **MR. KESTEN:** Bullet points that someone  
9 took out.

10 **MR. FOLLANSBEE:** And then Lanzetta's  
11 testified to it --

12 **MR. KESTEN:** Well --

13 **MR. FOLLANSBEE:** As you can see if you  
14 read Lanzetta's deposition.

15 **Q.** But you're saying you never looked at this,  
16 either?

17 **A. I don't -- I don't recall getting this. I don't**  
18 **know who the author of this was. I don't know**  
19 **what context I would have been given it.**

20 **Q.** Well, you were given it when Mr. Johnson  
21 delivered it to you, weren't you?

22 **A. This was from Mr. Johnson?**

23 **Q.** Yes. Do you remember that?

24 **A. No, I do not remember that.**

1 **Q.** The material that he did give you, did you ever  
2 look at it?

3 **A. I believe we turned it over to the attorneys.**

4 **Q.** So the four volumes that were hand delivered to  
5 the members of the board, I think it was you,  
6 Mr. Whitten, Mr. Donato and the town manager,  
7 the four notebooks were all turned over to Bob  
8 Troy?

9 **A. It would make sense.**

10 **MR. KESTEN:** Do you remember?

11 **THE WITNESS:** I don't precisely remember  
12 what -- I don't have it. I don't remember. I  
13 would not have kept it.

14 **Q.** If you look at Exhibit 22 --

15 **A. That would be my best answer.**

16 **Q.** If you could look at Exhibit 22, there's a boxed  
17 area. This was January 25th, and it indicates  
18 this is the day that Mr. Johnson delivered these  
19 to you.

20 **A. Okay.**

21 **Q.** And according to your minutes, the board  
22 accepted the documents and indicated that after  
23 they had a chance to review them, then if  
24 appropriate, they would put this matter on a

1 future agenda for discussion.

2 **A. Okay.**

3 **Q.** Did you ever put it on a future agenda for  
4 discussion, to your memory?

5 **A. No.**

6 **MR. FOLLANSBEE:** Why don't we suspend.  
7 I'm not going to finish.

8 **MR. KESTEN:** Obviously.

10 (The deposition suspended at 1:07 p.m.)

1 CERTIFICATE

2 Commonwealth of Massachusetts  
3 Essex, ss.

4 I, Jessica F. Story, Certified Shorthand  
5 Reporter, Registered Professional Reporter and  
6 Notary Public in and for the Commonwealth of  
7 Massachusetts, do hereby certify: that  
8 ELIZABETH SULLIVAN, the witness whose deposition  
9 is hereinbefore set forth, was satisfactorily  
10 identified by her United State passport, then  
11 duly sworn by me, and that such deposition is a  
12 true record of the testimony given by the said  
13 witness.

14 I further certify that I am not a  
15 relative or employee or counsel or attorney for  
16 any of the parties, or a relative or employee of  
17 such counsel or attorney, nor am I financially  
18 or otherwise interested in the outcome of the  
19 action.

20 IN WITNESS WHEREOF, I have hereunto set  
21 my hand and notarial seal this 26th day of  
22 April, 2012.

23 \_\_\_\_\_  
Jessica F. Story, CSR, RPR

24 My commission expires  
on September 13, 2013

ERRATA SHEET

Instructions: You are entitled to read and correct your deposition. Please carefully read your testimony, making any necessary changes or corrections by identifying the page and line number, the change desired and the reason. Do not mark the actual transcript. Then date and sign the bottom of this page.

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CERTIFICATE

I, ELIZABETH SULLIVAN, do hereby certify that I have read the foregoing transcript of my testimony, and further certify that said transcript is a true and accurate record of said testimony.

Signed under the pains and penalties of perjury this \_\_\_\_ day of \_\_\_\_\_, 2012.

ELIZABETH SULLIVAN

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