

VOLUME: II
PAGES: 1 - 34
EXHIBITS: #30

COMMONWEALTH OF MASSACHUSETTS

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

-----X
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

CONTINUED 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 Follansbee & McLeod, LLP, 536 Granite Street, Braintree, Massachusetts, on Tuesday, July 10, 2012, commencing at 11:53 a.m.

BRAMANTI & LYONS COURT REPORTING, INC.
REGISTERED PROFESSIONAL REPORTERS
92 STATE STREET, BOSTON, MA 02109
TEL: 617.723.7321 / FAX: 617.723.7322
www.bramanti-lyons.com

INDEX

2	<u>Deposition of:</u>	<u>Page</u>
3	ELIZABETH SULLIVAN	
4	Examination by Mr. Follansbee	4
5		
6	<u>Exhibits</u>	<u>Page</u>
7	30 October 24, 2010 Materials	
8	to Board of Selectmen	22
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

APPEARANCES:

Stephen R. Follansbee, Esq.
Follansbee & McLeod, LLP
536 Granite Street
Braintree, Massachusetts 02184
Attorney for the Plaintiff

Leonard H. Kesten, Esq.
Brody, Hardoon, Perkins & Kesten, LLP
One Exeter Plaza
Boston, Massachusetts 02116
Attorney for the Defendants,
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)

Nina Pickering Cook, Esq.
Anderson & Kreiger, LLP
One Canal Park, Suite 200
Cambridge, Massachusetts 02141
Attorney for the Defendants,
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:

Doug Johnson

P R O C E E D I N G S

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

EXAMINATION BY MR. FOLLANSBEE:

Q. Good morning. This is the continuation of the deposition that we began on April 20th.

By way of background, I don't think I asked you this before, how long have you lived in the town of Duxbury?

A. 27 years.

Q. And prior to that, where did you live?

A. Sudbury.

Q. And did you grow up in Sudbury?

A. No.

Q. Where did you grow up?

A. Hingham.

Q. And where did you go to high school?

A. Notre Dame Academy.

Q. And if I remember correctly, you went to Boston

<p style="text-align: right;">5</p> <p>1 College after that?</p> <p>2 A. I went to Newton College of the Sacred Heart,</p> <p>3 graduated from Boston College.</p> <p>4 Q. Right. At the time the two schools were --</p> <p>5 A. Merged.</p> <p>6 Q. One acquired the other or something?</p> <p>7 A. Yes.</p> <p>8 Q. That was 1975 that you graduated from college?</p> <p>9 A. Yes.</p> <p>10 Q. When did you first have an office in town</p> <p>11 government in the town of Duxbury?</p> <p>12 A. '91, I believe.</p> <p>13 Q. And what function did you serve for the town of</p> <p>14 Duxbury beginning in '91?</p> <p>15 A. School Committee.</p> <p>16 Q. And that's an elected position?</p> <p>17 A. Yes.</p> <p>18 Q. And how long did you serve on the School</p> <p>19 Committee?</p> <p>20 A. Nine years.</p> <p>21 Q. And after that you became a selectwoman?</p> <p>22 A. Yes.</p> <p>23 Q. When was that?</p> <p>24 A. 2002.</p>	<p style="text-align: right;">7</p> <p>1 A. No.</p> <p>2 Q. And prior to your deposition, have you ever seen</p> <p>3 this document?</p> <p>4 A. Not to my memory.</p> <p>5 Q. Directing your attention to the bottom of the</p> <p>6 page on Page 1 of Exhibit 14, had you received</p> <p>7 information as a member of the selectmen that</p> <p>8 CALM Golf was not managing a golf course and</p> <p>9 they had no assets, would that have been of</p> <p>10 concern to you?</p> <p>11 A. In what respect?</p> <p>12 Q. In the respect that the town manager had just</p> <p>13 awarded a contract for a multimillion dollar</p> <p>14 facility to a company that had no assets. Would</p> <p>15 that have been a concern to you?</p> <p>16 MS. COOK: Objection. You can answer.</p> <p>17 A. In isolation that statement would cause concern,</p> <p>18 yes.</p> <p>19 Q. Are there any circumstances where it would not</p> <p>20 cause you concern?</p> <p>21 MS. COOK: Objection.</p> <p>22 A. Without the circumstances.</p> <p>23 Q. What circumstances are you talking about?</p> <p>24 MS. COOK: Objection.</p>
<p style="text-align: right;">6</p> <p>1 Q. You also indicated that at least some of your</p> <p>2 family members had played golf at North Hill.</p> <p>3 Who were they?</p> <p>4 A. My husband, my son, and perhaps my daughter.</p> <p>5 Q. And was it your son who was on the high school</p> <p>6 golf team?</p> <p>7 A. No.</p> <p>8 Q. Who was on the high school golf team?</p> <p>9 A. My daughter.</p> <p>10 Q. And where was that at? What school?</p> <p>11 A. Duxbury High School.</p> <p>12 Q. What year did she graduate?</p> <p>13 A. 2001.</p> <p>14 Q. Directing your attention to --</p> <p>15 MR. FOLLANSBEE: And I don't think I have</p> <p>16 extra copies of these but I think we had an</p> <p>17 exhibit notebook and I believe those are the</p> <p>18 original exhibits there.</p> <p>19 Q. Directing your attention to Exhibit 14, and a</p> <p>20 copy of that was marked this morning as Exhibit</p> <p>21 9 in this morning's deposition. And it's a</p> <p>22 January 16, 2009 letter from my office to</p> <p>23 Attorney Troy. Do you remember receiving a copy</p> <p>24 of this document?</p>	<p style="text-align: right;">8</p> <p>1 A. I don't think I'm going to make up</p> <p>2 circumstances. It would --</p> <p>3 Q. I'm not asking you to make up anything. I'm</p> <p>4 saying, I'm asking you if you were provided with</p> <p>5 information that CALM Golf had no assets in</p> <p>6 January of 2009, would that have been a concern</p> <p>7 to you given the fact that the town manager had</p> <p>8 just awarded them a contract.</p> <p>9 A. And I have stated that in isolation as just a</p> <p>10 statement, yes.</p> <p>11 Q. And would it have been a concern to you had you</p> <p>12 been provided information that CALM Golf had</p> <p>13 made material misrepresentations in their</p> <p>14 proposal?</p> <p>15 A. Yes.</p> <p>16 Q. And did anyone tell you in January of 2009 that</p> <p>17 the company, CALM Golf, had not been operating</p> <p>18 any golf courses?</p> <p>19 MS. COOK: What was the time period</p> <p>20 again?</p> <p>21 MR. FOLLANSBEE: January 2009.</p> <p>22 A. Yes. Or, well, no. Wait. The question is --</p> <p>23 I'm sorry. Did -- was I told that they were not</p> <p>24 operating a golf course. No.</p>

- 1 **Q.** Did you inquire from the town manager the basis
2 for his award of a contract to CALM Golf?
3 MR. KESTEN: When?
4 MR. FOLLANSBEE: In 2009.
5 **A. I don't recall.**
6 **Q.** Had you been given a copy of Mr. MacDonald's
7 award letter in 2009?
8 **A. I don't recall.**
9 **Q.** If you take a look at Exhibit Number 13, I
10 believe that's a copy of his award letter.
11 **A. Not to my memory.**
12 **Q.** Did you discuss the litigation that was pending
13 in Middlesex Superior Court entitled *Johnson*
14 *Golf Management versus the Town of Duxbury* at
15 all with Mr. MacDonald or Mr. Troy in January of
16 2009?
17 MS. COOK: Just answer yes or no if you
18 can.
19 **A. I do not recall.**
20 **Q.** Do you recall sending any correspondence to
21 Attorney Troy regarding the North Hill Golf
22 Course litigation?
23 **A. At what time?**
24 **Q.** In January of 2009.

- 1 **A. I don't recall.**
2 **MR. FOLLANSBEE: I'll make an additional**
3 **copy of this, but this was Exhibit 7 at**
4 **Mr. Martecchini's deposition this morning, and**
5 **it's an invoice from Attorney Troy to the board**
6 **of selectmen dated January 28, 2009.**
7 **Q.** And I'd just direct your attention to the second
8 page and the entries for January 12th of 2009.
9 **A. Okay.**
10 **Q.** And it indicates that Attorney Troy did a review
11 and analysis of correspondence from Elizabeth H.
12 Sullivan. That would be you, correct?
13 **A. Yes, it is.**
14 **Q.** And do you recall what you were corresponding to
15 Attorney Troy about?
16 **A. No, I do not.**
17 **Q.** Did you know any of the principals of the
18 various vendors who were bidding the North Hill
19 contract in 2008 and 2009?
20 **A. I'm sure I did.**
21 **Q.** Did you know Mr. Gunnarson?
22 **A. By reputation.**
23 **Q.** What was the reputation you knew about
24 Mr. Gunnarson?

- 1 **A. That the family had been associated with the**
2 **course previously.**
3 **Q.** And other than that, did you know anything about
4 him?
5 **A. No.**
6 **Q.** Did you know Mr. Daley and Mr. Stiles?
7 **A. No.**
8 **Q.** Did you know Mr. Lanzetta?
9 **A. Yes. I had met him.**
10 **Q.** When had you met Mr. Lanzetta?
11 **A. Our daughters were in school, same year.**
12 **Q.** So did your daughter play golf with
13 Mr. Lanzetta's daughter?
14 **A. Yes.**
15 **Q.** They were on the same golf team?
16 **A. Yes.**
17 **Q.** Did Mr. Lanzetta ever provide any instruction
18 for your daughter?
19 **A. No.**
20 **Q.** What did you know about Mr. Lanzetta and his
21 company?
22 **A. That he ran a golf course.**
23 **Q.** And what golf course did he run?
24 **A. I believe it was Rockland.**

- 1 **Q.** And did you know the name of his company?
2 **A. No.**
3 **Q.** And were you familiar with the Rockland Golf
4 Course?
5 **A. No.**
6 **Q.** By way of reputation for Mr. Lanzetta in the
7 golf industry, did you have any knowledge of his
8 reputation?
9 **A. No.**
10 **Q.** Did you ever express an opinion that
11 Mr. Lanzetta's company would be a good fit for
12 North Hill?
13 **A. Not to my memory, no.**
14 **Q.** Did you ever discuss Mr. Lanzetta and/or his
15 company with any other employees or officers of
16 the town of Duxbury?
17 **A. Not to my memory.**
18 **Q.** And I may have just asked you this. Did you
19 know the name of the company that Mr. Lanzetta
20 had that operated the Rockland Golf Course?
21 **A. No.**
22 **Q.** In 2008, did you know Mr. Emmett Sheehan?
23 **A. No, not personally.**
24 **Q.** Did you know anything about Mr. Sheehan's

<p style="text-align: right;">13</p> <p>1 company?</p> <p>2 A. I knew it existed.</p> <p>3 Q. Did you know what they did?</p> <p>4 A. I believe it was landscaping.</p> <p>5 Q. And did you know John Geary?</p> <p>6 A. Yes.</p> <p>7 Q. And how did you know John Geary?</p> <p>8 A. Again, through children and school.</p> <p>9 Q. Did one of his children go to school with one of</p> <p>10 yours?</p> <p>11 A. Yes. School activities.</p> <p>12 Q. And did you know that John Geary was a member of</p> <p>13 the North Hill Advisory Committee in Duxbury?</p> <p>14 A. I'm sure I did. I had access to that</p> <p>15 information.</p> <p>16 Q. Did you know that Emmett Sheehan had been a</p> <p>17 member of the North Hill Advisory Committee?</p> <p>18 A. No. I don't recall that.</p> <p>19 Q. Do you ever recall appointing as a member of the</p> <p>20 board of selectmen Mr. Sheehan to a position on</p> <p>21 the North Hill Advisory Committee?</p> <p>22 A. I don't recall that, that appointment.</p> <p>23 Q. Do you recall appointing Mr. Michael Doolin to</p> <p>24 the North Hill Advisory Committee?</p>	<p style="text-align: right;">15</p> <p>1 Q. Do you recall an issue of not having a bond was</p> <p>2 something that was of great concern to you?</p> <p>3 A. Yes.</p> <p>4 Q. And you -- am I correct that your belief was</p> <p>5 that everybody would be at risk if there was no</p> <p>6 bond provided?</p> <p>7 MR. KESTEN: Are you quoting from the</p> <p>8 transcript?</p> <p>9 MR. FOLLANSBEE: No.</p> <p>10 A. Repeat your question, please.</p> <p>11 Q. Do you recall forming an opinion that everyone</p> <p>12 would be at risk if there was no security</p> <p>13 provided, meaning a bond?</p> <p>14 A. Could you define everyone.</p> <p>15 Q. Everyone associated with the golf course, I</p> <p>16 imagine. These were your words, not mine.</p> <p>17 A. If everyone was defined as the town of Duxbury</p> <p>18 as a legal entity, then yes.</p> <p>19 Q. And what did you envision was the risk?</p> <p>20 A. Whatever the bond protected us from it was.</p> <p>21 Q. Do you know what the bond protected you from?</p> <p>22 A. I can't list it right now.</p> <p>23 Q. Is there something that would help you to list</p> <p>24 that?</p>
<p style="text-align: right;">14</p> <p>1 A. No, I don't. I don't remember that appointment.</p> <p>2 Q. In the previous deposition I may have asked you</p> <p>3 this.</p> <p>4 Did you ever review the decision of Judge</p> <p>5 Smith granting an injunction awarding or --</p> <p>6 granting an injunction allowing Johnson Golf to</p> <p>7 continue to operate the golf course in February</p> <p>8 of 2009? It's Exhibit Number 15 in your book.</p> <p>9 A. I don't believe I did.</p> <p>10 Q. You do recall the hearing that was held by the</p> <p>11 Duxbury board of selectmen in October of 2010</p> <p>12 regarding Johnson Golf's compliance with</p> <p>13 contract issues; is that correct?</p> <p>14 A. I remember that there were several meetings.</p> <p>15 Q. And one of the meetings on October 4th</p> <p>16 specifically, I believe the transcript is, let's</p> <p>17 see, Exhibit Number 25. It was actually a</p> <p>18 hearing conducted by the board of selectmen</p> <p>19 regarding Johnson Golf's contract at North Hill,</p> <p>20 correct?</p> <p>21 A. I don't recall the nature of the meeting.</p> <p>22 Q. Do you recall stating that the lack of security</p> <p>23 at the facility was deeply troubling to you?</p> <p>24 A. No.</p>	<p style="text-align: right;">16</p> <p>1 A. The bond.</p> <p>2 Q. And is it your belief that that would be equally</p> <p>3 important, whether it was Johnson Golf</p> <p>4 Management or any other entity running the</p> <p>5 facility?</p> <p>6 A. The protection, yes.</p> <p>7 Q. So it would be just as important for anyone, any</p> <p>8 vendor to have a bond there as it would be for</p> <p>9 Johnson Golf, correct?</p> <p>10 A. The bond -- the protection that a bond affords</p> <p>11 was my concern.</p> <p>12 Q. And that you would have that concern with any</p> <p>13 vendor, not just with Johnson Golf Management,</p> <p>14 correct?</p> <p>15 A. The lack of that protection would be a concern.</p> <p>16 Q. If I could direct your attention to Exhibit</p> <p>17 Number 26, and Exhibit 26 was the letter,</p> <p>18 November 24, 2010, rescinding the award to CALM</p> <p>19 Golf signed by Richard MacDonald.</p> <p>20 Prior to that letter being sent, did the</p> <p>21 board of selectmen discuss this issue with</p> <p>22 Mr. MacDonald?</p> <p>23 A. I don't recall the conversation.</p> <p>24 Q. Do you recall any discussion with either</p>

<p style="text-align: right;">17</p> <p>1 Attorney Troy or with Mr. MacDonald regarding</p> <p>2 rescinding the award to CALM Golf?</p> <p>3 A. Not specifically, no.</p> <p>4 Q. Do you have a non-specific memory of that?</p> <p>5 A. No.</p> <p>6 Q. Did anyone make you aware that the town was</p> <p>7 about to rescind the award to CALM Golf in</p> <p>8 November of 2010?</p> <p>9 A. I would expect so.</p> <p>10 Q. And who would that be?</p> <p>11 A. Communication could have been through the town</p> <p>12 manager or town counsel.</p> <p>13 Q. But you, you have no recollection that it was</p> <p>14 actually done?</p> <p>15 A. I don't remember that conversation, no.</p> <p>16 Q. Did anyone discuss with you in the fall of 2010</p> <p>17 instituting a new lawsuit against Johnson Golf</p> <p>18 Management in Plymouth District Court to evict</p> <p>19 them from the property?</p> <p>20 MS. COOK: I'm going to instruct the</p> <p>21 client not to answer to the extent it implements</p> <p>22 attorney-client privilege. That's within the</p> <p>23 bubble.</p> <p>24 MR. FOLLANSBEE: I think you have a vast</p>	<p style="text-align: right;">19</p> <p>1 Q. Directing your -- did Mr. MacDonald discuss with</p> <p>2 you in the fall or the winter of 2010 to 2011</p> <p>3 the fact that he was planning to issue a new bid</p> <p>4 document for the North Hill Golf Course</p> <p>5 property?</p> <p>6 A. It would make sense.</p> <p>7 Q. Why would it make sense?</p> <p>8 A. The bid document had been sent out. I'm sure it</p> <p>9 was -- we were told, but I don't remember a</p> <p>10 specific conversation.</p> <p>11 Q. Directing your attention to Exhibit Number 27,</p> <p>12 and that's information for bidders with a bid</p> <p>13 date of March 21, 2011. Were you made aware</p> <p>14 that a new bid process was undertaken -- that a</p> <p>15 new bid process had been undertaken to award a</p> <p>16 contract at North Hill during that time period?</p> <p>17 A. Probably.</p> <p>18 Q. You don't have any memory of that?</p> <p>19 A. My term ended at that time.</p> <p>20 Q. When did your term end?</p> <p>21 A. I don't know the specific date, but the election</p> <p>22 is the third Saturday in March so my involvement</p> <p>23 was winding down as I did not stand for</p> <p>24 reelection.</p>
<p style="text-align: right;">18</p> <p>1 definition of where the bubble is.</p> <p>2 Q. Prior to -- are you aware that the town of</p> <p>3 Duxbury filed a lawsuit in Plymouth District</p> <p>4 Court against Johnson Golf Management?</p> <p>5 A. Sounds familiar.</p> <p>6 Q. And did you authorize that as the board of</p> <p>7 selectmen?</p> <p>8 A. Not specifically, no.</p> <p>9 Q. And before anybody can hire town counsel in</p> <p>10 Duxbury to initiate a lawsuit, they need the</p> <p>11 approval of the board of selectmen, don't they?</p> <p>12 A. New counsel?</p> <p>13 Q. Pardon me?</p> <p>14 A. New or existing counsel?</p> <p>15 Q. Before anybody in town government can hire an</p> <p>16 attorney to initiate a lawsuit, whether it's</p> <p>17 town counsel or new counsel, it requires a vote</p> <p>18 of the board of selectmen, doesn't it?</p> <p>19 MS. COOK: Objection.</p> <p>20 A. I'm not sure.</p> <p>21 Q. Do you remember authorizing a lawsuit against</p> <p>22 Johnson Golf Management in 2010 in Plymouth</p> <p>23 District Court?</p> <p>24 A. No.</p>	<p style="text-align: right;">20</p> <p>1 Q. Were you aware in February of 2011 that a</p> <p>2 similar IFB had been issued and it resulted in</p> <p>3 no vendors bidding on the project?</p> <p>4 A. That sounds familiar.</p> <p>5 Q. And did you discuss that with Mr. MacDonald?</p> <p>6 A. I would assume I did.</p> <p>7 Q. Did you ask Mr. MacDonald why didn't we get any</p> <p>8 bidders?</p> <p>9 A. I don't recall what I said.</p> <p>10 Q. Do you recall anybody -- well, strike that.</p> <p>11 Do you recall Mr. MacDonald explaining to</p> <p>12 you why no bidders were forthcoming?</p> <p>13 A. I don't remember the reason.</p> <p>14 Q. Do you remember at the meeting of the board of</p> <p>15 selectmen on October 4, 2010 that on behalf of</p> <p>16 Johnson Golf we submitted a packet, a written</p> <p>17 packet of materials to you?</p> <p>18 A. Not specifically.</p> <p>19 Q. Well, do you remember saying you were</p> <p>20 disappointed that Mr. Johnson didn't come to the</p> <p>21 meeting and chose to just give you written</p> <p>22 materials?</p> <p>23 A. No.</p> <p>24 Q. Was it your intent when you were having the</p>

<p style="text-align: center;">21</p> <p>1 hearings to be fair to both sides and come to a</p> <p>2 conclusion based on all the evidence before you?</p> <p>3 MS. COOK: Objection.</p> <p>4 A. Yes. Yes.</p> <p>5 Q. So if written materials were given to you, would</p> <p>6 you have read them?</p> <p>7 A. Perhaps.</p> <p>8 Q. And perhaps not?</p> <p>9 A. I do not recall the materials.</p> <p>10 Q. I'm not asking if you recall them. If written</p> <p>11 materials were provided to you, would you have</p> <p>12 read them?</p> <p>13 A. If they were provided at the hearing?</p> <p>14 Q. Yes.</p> <p>15 A. Then I would not have read them before the</p> <p>16 hearing.</p> <p>17 Q. I'm not asking if you read them before the</p> <p>18 hearing. At the hearing if written materials</p> <p>19 were provided and you made your decision some</p> <p>20 two weeks later, would you have read the</p> <p>21 materials?</p> <p>22 A. I don't know.</p> <p>23 MR. FOLLANSBEE: All right. I'm going to</p> <p>24 have to get a copy of this then. Be right back.</p>	<p style="text-align: center;">23</p> <p>1 Q. And the pages are numbered at the bottom, and if</p> <p>2 you look at Page 86, beginning on Page 86, that</p> <p>3 was Judge Smith's decision issuing the</p> <p>4 injunction.</p> <p>5 Is it your testimony that you never read</p> <p>6 that?</p> <p>7 A. I don't recall it.</p> <p>8 Q. Does that mean you just don't know whether you</p> <p>9 read it or is that, no, I did not read it?</p> <p>10 A. That is I do not recall it. I do not recall</p> <p>11 reading it.</p> <p>12 Q. You do not recall reading it. So is it possible</p> <p>13 you did read it?</p> <p>14 A. I do not recall reading it.</p> <p>15 Q. Do you recall -- if you look at Page 91, do you</p> <p>16 recall being informed from any source, whether</p> <p>17 it's from this document or conversations with</p> <p>18 others, do you recall being given information</p> <p>19 that CALM Golf had \$169 in assets in 2007? And</p> <p>20 that's a footnote at the bottom of Page 91.</p> <p>21 A. When?</p> <p>22 Q. When what?</p> <p>23 A. When would I have been told that?</p> <p>24 Q. Well, I'm asking you. At any time prior to your</p>
<p style="text-align: center;">22</p> <p>1</p> <p>2 (Recess taken.)</p> <p>3</p> <p>4 (Exhibit No. 30 ID marked.)</p> <p>5 MR. KESTEN: You don't want her to read</p> <p>6 the whole thing?</p> <p>7 THE WITNESS: Are you thinking I'm going</p> <p>8 to read this whole thing right now?</p> <p>9 MR. FOLLANSBEE: No. I'm going to ask</p> <p>10 you a few questions to find out if you ever read</p> <p>11 it.</p> <p>12 THE WITNESS: Okay.</p> <p>13 Q. Now, when this was delivered to you on October</p> <p>14 4, 2010 at the hearing of the Duxbury selectmen,</p> <p>15 you took, I believe it was a two-week interval</p> <p>16 before you issued a decision on October 18th.</p> <p>17 A. Okay.</p> <p>18 Q. In those two weeks, did you review the material</p> <p>19 that had been provided by Johnson Golf?</p> <p>20 MS. COOK: Objection.</p> <p>21 (Discussion off the record.)</p> <p>22 Q. So, what's your answer? In the two-week</p> <p>23 interval, did you read this material?</p> <p>24 A. I don't recall it.</p>	<p style="text-align: center;">24</p> <p>1 deposition had you been informed that CALM Golf</p> <p>2 only had \$169 in assets in 2007?</p> <p>3 A. It sounds familiar.</p> <p>4 Q. And did that cause -- when it first became known</p> <p>5 to you, did you become concerned about the fact</p> <p>6 that the town was embarking on a course to award</p> <p>7 a contract to such a company?</p> <p>8 A. I don't recall.</p> <p>9 Q. And at the bottom of Page 1 of Exhibit Number</p> <p>10 30 --</p> <p>11 A. Yep.</p> <p>12 Q. -- Mr. Johnson is suggesting that Attorney Troy</p> <p>13 has provided the Court with erroneous</p> <p>14 information and then he articulates some of it</p> <p>15 on Page 2.</p> <p>16 Was this of concern to you?</p> <p>17 MS. COOK: Objection.</p> <p>18 A. I didn't read it.</p> <p>19 Q. You didn't read this?</p> <p>20 A. Would you like me to read it now?</p> <p>21 Q. No. I'm asking you. You've never read this?</p> <p>22 A. I think I answered that question before. Yeah.</p> <p>23 I did not read it. I don't recall reading it.</p> <p>24 Q. Why wouldn't you read it?</p>

1 **A. All legal documents that were received in the**
2 **course of many meetings would be given to**
3 **counsel for review and summary.**
4 **Q.** Ma'am, you were the hearing officer. You as a
5 member of the board of selectmen were conducting
6 the hearings. You were considering the
7 evidence, and you're telling me that you never
8 read the material that Johnson Golf submitted?
9 MS. COOK: Is there a question, Steve?
10 MR. FOLLANSBEE: Yes.
11 **Q.** Is it that you never read the material that
12 Johnson Golf gave you?
13 **A. I do not recall.**
14 **Q.** But you just said you didn't read it, you turned
15 it over to counsel.
16 **A. I don't recall.**
17 **Q.** Didn't you --
18 **A. You are asking me about a specific of something**
19 **that I don't recall.**
20 **Q.** Do you know whose suggestion it was to conduct
21 the hearing on October 4, 2010?
22 **A. No.**
23 **Q.** Did you ever read the transcript of
24 Mr. Lanzetta's testimony?

1 **A. I don't recall.**
2 **Q.** Did you ever read the transcript of
3 Mr. MacDonald's testimony?
4 **A. I don't recall.**
5 **Q.** Did you ever read the letter to Attorney Troy
6 regarding breach of contract by the town of
7 Duxbury involving the removal of the residences
8 on the premises at North Hill?
9 MS. COOK: Steve, you're referring to the
10 list of documents appearing on Page 4 of Exhibit
11 30?
12 MR. FOLLANSBEE: Yes. Yes.
13 **A. Does not sound familiar.**
14 **Q.** Is it your belief today that you never read any
15 of the six items articulated on Page 4, second
16 paragraph?
17 **A. I'm sure I read the liquor license as I signed**
18 **it.**
19 **Q.** And that's on Page 99 of the exhibit? Is that
20 the one you're talking about, the one on Page 99
21 that you signed?
22 **A. Yes.**
23 **Q.** That's the one where the premises are defined as
24 a nine hole golf course and a clubhouse in the

1 fourth line of text?
2 **A. As I stated, I've seen this because I signed it.**
3 **Q.** And my question is, you understood that the
4 premises included a nine hole golf course and a
5 clubhouse, correct?
6 **A. Yes.**
7 **Q.** Did you ever inquire, going to the front, Page 1
8 of Exhibit Number 30, did you ever inquire of
9 anybody in Duxbury town government what had
10 happened to the residence that's described in
11 paragraph 1 of Exhibit 30?
12 **A. No.**
13 **Q.** Were you at all concerned that the town of
14 Duxbury might be in breach for destroying that
15 property?
16 **A. No.**
17 **Q.** Why were you not concerned about that?
18 **A. Why would be I concerned about something I**
19 **didn't know.**
20 **Q.** Well, you were informed, even if you read the
21 first paragraph of this letter, that the town of
22 Duxbury is allegedly in breach of contract due
23 to its destruction of the residence of part of
24 the leased premises.

1 Did you at least read the first paragraph
2 or are you saying you never read any of this?
3 MR. KESTEN: I think the witness has
4 repeatedly said that she has no memory of ever
5 reading this.
6 **Q.** So did you know anything about the fact that
7 there had been a residential building on the
8 premises at North Hill?
9 **A. It sounds familiar.**
10 **Q.** And did you know that the town had demolished
11 the residence?
12 **A. Not specifically, no. I don't recall that.**
13 **Q.** Do you recall occasions at the selectmen's
14 meeting where there was a disagreement between
15 yourself and Mr. Donato regarding him reading
16 excerpts of Judge Smith's decision out loud?
17 **A. Yes.**
18 **Q.** And why were you concerned about Mr. Donato
19 reading the judge's decision at a board of
20 selectmen meeting?
21 **A. Because I did not think it appropriate to**
22 **discuss pending litigation in open session.**
23 **Q.** Well, I'm not talking about the discussion of
24 pending litigation. I'm talking about someone

<p style="text-align: right;">29</p> <p>1 reading a public record from the Middlesex 2 Superior Court. Did that bother you? 3 A. I believe I just answered you. 4 Q. And so it that a yes, it did bother you? 5 A. I did not feel it was appropriate to read or to 6 introduce pending litigation into open session. 7 Q. When the pending litigation was discussed at the 8 October 4th meeting and Attorney Troy indicated 9 to the board of selectmen that the judge had 10 said that Johnson Golf had a very small 11 likelihood of success, did that -- was that of 12 concern to you that Attorney Troy was bringing 13 that up at a public meeting? 14 A. If it was on the agenda, then it would be 15 appropriate. If it wasn't on the agenda, it 16 wouldn't be. 17 Q. Well, at the same meeting when Mr. Donato 18 attempted to read what the judge actually wrote, 19 you seemed much more concerned about that then 20 about Attorney Troy's analysis. Is there a 21 reason for that? 22 A. I don't remember the specifics. 23 Q. Were you frustrated as a member of the board of 24 selectmen that this litigation had gone on as</p>	<p style="text-align: right;">31</p> <p>1 that was submitted on a monthly basis, do you 2 know who would type that material up? 3 A. No. 4 Q. Did you ever discuss that with Gordon Cushing? 5 A. That sounds familiar that we discussed the 6 information. 7 Q. And did Gordon Cushing tell you that the form 8 was typed up in his office all the time? 9 MS. COOK: Just to clarify, are you 10 talking about financial data from Johnson Golf? 11 MR. FOLLANSBEE: Yes. Yes. 12 Q. Did Gordon Cushing ever tell you that the 13 financial data would be provided on a 14 handwritten form to his office, his office would 15 type it up and that's how it was generated? 16 A. I don't recall that. 17 MR. FOLLANSBEE: I have nothing further. 18 19 20 (The deposition concluded at 12:51 p.m.) 21 22 23 24</p>
<p style="text-align: right;">30</p> <p>1 long as it did? 2 A. Yes. Certainly. 3 Q. With regard to the decisions that you made and 4 the vote that you entered on October 18th, did 5 you give equal weight to the material that was 6 provided by Johnson Golf and that was provided 7 by Attorney Troy? 8 A. I haven't seen what Mr. Troy -- have you 9 provided me with what Mr. Troy gave me? I'm 10 not clear on the question. I'm sorry. 11 Q. Well, were you giving equal consideration to all 12 the facts that were provided to you at that 13 hearing? 14 A. Yes. 15 Q. Did you ever -- one of the issues that you 16 raised at that hearing was that some of the 17 material of a financial nature was being 18 provided on handwritten forms. Do you remember 19 that concern that you had? 20 A. It sounds familiar. 21 Q. Did you ever inquire of anybody from Duxbury how 22 those forms had been generated? 23 A. Whose forms specifically? 24 Q. The form that was submitted, the financial data</p>	<p style="text-align: right;">32</p> <p style="text-align: center;"><u>CERTIFICATE</u> Commonwealth of Massachusetts Essex, ss.</p> <p>3 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 previously 10 satisfactorily identified by her 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 16th day of July, 22 2012.</p> <p>23 _____ Jessica F. Story, CSR, RPR</p> <p>24 My commission expires on September 13, 2013</p>

1 ERRATA SHEET

Instructions: You are entitled to read and
 2 correct your deposition. Please carefully read
 your testimony, making any necessary changes or
 3 corrections by identifying the page and line
 number, the change desired and the reason. Do
 4 not mark the actual transcript. Then date and
 sign the bottom of this page.

5

6	<u>PAGE</u>	<u>LINE</u>	<u>REASON FOR CORRECTION</u>
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____
19	_____	_____	_____
20	_____	_____	_____
21	_____	_____	_____
22	_____	_____	_____
23	_____	_____	_____
24	DATE: _____		SIGNATURE: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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