

NORRIS, MURRAY & PELOQUIN, LLC



Legal Counsel to Employers and Schools

315 Norwood Park South, Norwood, Massachusetts 02062

Tel. (781) 762-2229 • Fax (781) 762-1803

www.nmplabor.com

Leo J. Pelouin
Tim D. Norris
Melissa R. Murray
Brett M. Sabbag
Antoine Fares

Philip Collins
Of Counsel

September 4, 2020

Via Email

Ginny Kremer, Esq.
Blatman, Bobrowski & Havety LLC
9 Damonmill Sq. Ste. 4A4
Concord, MA 01742

Re: August 13, 2020 Public Records Request

Dear Attorney Kremer:

I am writing on behalf of the Board of Selectmen of the Town of Southborough (the "Town") in response to your August 13, 2020 public records request on behalf of Jack and Louise Barron.¹ You have requested records from January 1, 2019 to the present.²

Request No. 1: "all separation agreements, settlement agreements, investigative materials, and all other records associated therewith that pertain to the separation from Town employment any and all employees of the Recreation Department;"

Response No. 1: There are no settlement and/or separation agreements responsive to your request.

Enclosed as Attachment No. 1 is copy of the requested investigative materials. Those records have been redacted pursuant to exemption (c) of the Massachusetts Public Records Law ("PRL") which exempts "personnel and medical files of information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an invasion of privacy." M.G.L. c. 4, §7(26)(c). Massachusetts courts have found that this includes "core categories of personnel information that are 'useful in making employment decisions regarding an

¹ On August 24, 2020, you assented to the Town's request for an extension of time to respond to your request until and including September 7, 2020.

² Aside from Request No. 3 below, you have requested the same records, including the April 25, 2019 and May 7, 2019 executive session meeting minutes, on behalf of Jack and Louise Barron multiple times from the Town. The Town has already provided you with redacted copies of those records and/or explanations as to why those records are being withheld from disclosure. You have also unsuccessfully appealed to the Supervisor of Public Records ("SPR") and the Attorney General ("AG") the Town's prior responses to your requests for those records.

employee””, including documents related to disciplinary investigations, including promotion, demotion, or termination information pertaining to a particular employee. Worcester Telegram & Gazette Corp. v. Chief of Police of Worcester, 58 Mass. App. Ct. 1, 5 (2003); Wakefield Teachers Association v. School Committee of Wakefield, 431 Mass. 792, 798 (2000). The investigative materials have been redacted pursuant to exemption (c) of the PRL as they contain information that is “useful in making employment decisions” and upon which the Board of Selectmen (“BOS” or “Board”) relied in a disciplinary proceeding, or constitute the disciplinary action itself.

Further, the investigative materials are exempt from disclosure under the PRL for privacy reasons. M.G.L. c. 4, §7(26)(c). Massachusetts courts consider the following factors when assessing the weight of the privacy interest at stake: (1) whether disclosure would result in personal embarrassment to an individual of normal sensibilities; (2) whether the materials sought contain intimate details of a highly personal nature; and (3) whether the same information is available from other sources. See People for the Ethical Treatment of Animals (PETA) v. Dep’t of Agric. Res., 477 Mass. 280, 292 (2017). This exemption applies to withhold information that would be harmful to the reputation of an individual. Id. at 292, n.13. Therefore, disclosing this information would violate the employee’s privacy.

Request No. 2: “all meeting minutes (from any open or executive session), and notes made and documents used during any meeting between any and all public officials pertaining to the separation from Town employment of any Recreation Department employee.”

Response No. 2: Enclosed as Attachment No. 2 is a redacted copy of the April 25, 2019 and May 7, 2019 BOS executive sessions meeting minutes. On April 25 and May 7, the BOS entered into Executive Session, per M.G.L. c. 30A, §21(a) to discuss the discipline and/or dismissal of a Recreational Department employee. The BOS did not discuss any documents at those meetings and no notes were taken by Board members.

Those minutes have been redacted pursuant to M.G.L. c. 30A § 22(f) of the Open Meeting Law (“OML”), which states, in pertinent part:

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

(emphasis added). While some of the purposes for the April 25 and May 7 executive sessions have been served, the attorney-client privilege and exemption (c) of M.G.L. c. 4 § 7(26) still apply to withhold these records for the reasons set forth below.

The requested BOS minutes contain confidential communication between Town Labor Counsel and the BOS for the purpose of obtaining legal advice regarding a disciplinary matter, and, therefore, are exempt from disclosure under the attorney-client privilege. Suffolk Constr. Co. v. Div. of Capital Asset Mgmt., 449 Mass. 444, 450 n.9 (2007).

The requested BOS minutes are also exempt from disclosure by exemption (c) of the Massachusetts Public Records Law (“PRL”) as they contain information pertaining to employee discipline. See M.G.L. c. 4 §7(26)(c) and related cases cited above. Since the BOS met in executive session to discuss a disciplinary matter, the minutes are exempt from disclosure as they contain information that is “useful in making employment decisions” and upon which the Board relied, in addition to the advice of its counsel in making such decisions. Indeed, the minutes comprise the employment decisions made by the Board.

Further, the requested minutes are exempt from disclosure by exemption (c) of the PRL as they contain significant allegations against a Town employee, that, if disclosed, would constitute an invasion of privacy. See People for the Ethical Treatment of Animals (PETA) v. Dep’t of Agric. Res., 477 Mass. 280, 292 (2017).

Also enclosed as Attachment No. 2 is a copy of the April 24, 2019 Recreation Commission (“Commission”) executive session meeting minutes. On April 24, 2019, the Commission entered into Executive Session, per M.G.L., c. 30A, §21(a) to discuss the discipline and/or dismissal of a Recreational Department employee. The Commission did not discuss any documents at this meeting and no notes were taken by its members. The April 24 meeting minutes have been redacted pursuant to M.G.L. c. 30A § 22(f) of the OML. Specifically, exemption (c) of M.G.L. c. 4 § 7(26) still applies to withhold these records as they contain information personnel information that is “useful in making employment decisions” and upon which the Town relied in a disciplinary proceeding, and for privacy reasons.

Request No. 3: “any and all audits, analyses, examinations, reviews, etc., formal or informal, of all Recreation Department financial records since 2019;”

Response No. 3: Enclosed as Attachment No. 3 is an unredacted copy of the July 8, 2019 Recreation Department audit report.

Request No. 4: “all documents supporting the calculation of the sum of \$844.88 that was paid to the order of ‘Southborough Recreation’ by check dated April 19, 2019, as well as an un-redacted copy of that check.”

Response No. 4: Enclosed as Attachment No. 4 is a copy of the requested check. The check has been redacted pursuant to exemption (c) of the PRL as it contains information that is “useful in making employment decisions” and upon which the BOS relied in a disciplinary proceeding. Worcester Telegram, 58 Mass. at 5. It also contains information that is protected from disclosure pursuant to exemption (c) of the Massachusetts Public Records Law (“PRL”) for privacy reasons.

You also have requested for records pertaining to how such payment amount was determined. There are no public records in the Town’s possession responsive to this request. The only records that arguably provide such an explanation fall within exemption (c) of the PRL as they are part of a disciplinary proceeding against a Town employee. I have provided a redacted copy of those records as Attachment No. 5. Those records are exempt from disclosure as they contain information that was useful in making an employment decision regarding an employee or constitute the disciplinary action itself.

August 13, 2020 Public Records Request
Ginny Kremer, Esq.
Page 4 of 4

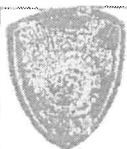
In accordance with the Massachusetts Public Records Law, you may file an appeal with the Supervisor of Public Records.

Sincerely,

Antoine Fares

Antoine Fares

ATTACHMENT NO. 1



**Southborough Police Department
Incident Report**

Page: 1
04/30/2019

Incident #: 19SOH-315-OF

Date/Time Reported: 04/26/2019 0800
Report Date/Time: 04/26/2019 0856
Occurred On: 04/01/2019 1200
Status: Incident Open

Reporting Officer: Detective Keith Nichols

Signature: _____

#	SUSPECT(S)	SEX	RACE	AGE	SSN	PHONE
---	------------	-----	------	-----	-----	-------

1	[REDACTED]	F	A	55	[REDACTED]	[REDACTED]
---	------------	---	---	----	------------	------------

Military Active Duty: N
BODY: NOT AVAIL.
DOB: [REDACTED]
LICENSE NUMBER: [REDACTED]
PCF #: N/A

COMPLEXION: NOT AVAIL.
PLACE OF BIRTH: NOT AVAIL.
ETHNICITY: NOT HISPANIC
LOCAL ID: 19317

[CONTACT INFORMATION]

Home Phone (Primary) [REDACTED]

#	OFFENSE(S)	ATTEMPTED	TYPE
---	------------	-----------	------

LOCATION TYPE: [REDACTED] Zone: Geo Code 80
[REDACTED]
SOUTHBOROUGH MA 01772

1	[REDACTED]	N	[REDACTED]
---	------------	---	------------

OCCURRED: 04/01/2019 1200

#	VICTIM(S)	SEX	RACE	AGE	SSN	PHONE
---	-----------	-----	------	-----	-----	-------

1	[REDACTED]					
---	------------	--	--	--	--	--

SOUTHBOROUGH MA 01772

VICTIM CONNECTED TO OFFENSE NUMBER(S): 1

Southborough Police Department
Incident Report

Page: 2
04/30/2019

Incident #: 19SOH-315-OF

#	PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SEN	PHONE
1	[REDACTED]	[REDACTED]	F	W	55	NOT AVAIL	[REDACTED]
	DOB: [REDACTED] 01772						
	CONTACT INFORMATION:						
	Home Phone (Primary)	[REDACTED]					
	Work Phone (Primary)	[REDACTED]					
	CallBack Number (Primary)	[REDACTED]					

#	OTHER PROPERTIES	PROPERTY #	STATUS
1	[REDACTED]	[REDACTED]	[REDACTED]
	SERIAL #: NOT AVAIL		
	DATE: 04/26/2019		
	OWNER: [REDACTED]		

Attachments for 19SOH-315-OF	
Description	Type
Attachment#: 25CC9FF349B4AE0BAC5F7D954EBAC8B	PDF
Attachment#: 836952D2DF3D49D685186A4675308A2D	XLS

* VI *

Southborough Police Department

PERSONNEL NARRATIVE FOR DETECTIVE KEITH A NICHOLS

Ref: 1960H-315-OF

Entered: 04/26/2019 @ 0908 Entry ID: 84
Modified: 04/29/2019 @ 1143 Modified ID: 84

On April 26, 2019 at approximately 0800 hours, I traveled to the [REDACTED]

[REDACTED] regarding [REDACTED]

[REDACTED]

According to [REDACTED]

[REDACTED] During this conversation, [REDACTED]

At approximately 1020 hours, [REDACTED]

[REDACTED] that approximately three (3) weeks ago, she had received communication [REDACTED]

[REDACTED] According [REDACTED]

[REDACTED] stated that after speaking with [REDACTED] regarding the allegations [REDACTED]

[REDACTED] Upon doing so, she stated that she was able to confirm [REDACTED]

[REDACTED] Upon doing

so, [REDACTED]

[REDACTED] According [REDACTED]

[REDACTED] The statement is a summary of the aforementioned facts. [REDACTED]

[REDACTED] was able to confer with Worcester County Assistant District Attorney Michael Luzzo regarding the matter. [REDACTED]

the case [REDACTED] ADA Luzzo confirmed that the case would have to be [REDACTED]

Southborough Police Department
PERSONNEL NARRATIVE FOR DETECTIVE KEITH A NICHOLS
Ref: 19SOB-315-0F

Page: 2

Entered: 04/26/2019 @ 0908 Entry ID: 84
Modified: 04/30/2019 @ 0855 Modified ID: 84

On April 29, 2019 I spoke with

[REDACTED] I requested [REDACTED]

Respectfully Submitted,

Detective Keith A. Nichols #84



SOUTHBOROUGH POLICE DEPARTMENT
STATEMENT FORM

CASE NUMBER: 1950H-315-0F OFFICER: Nichols

DATE: 4/29/19 TIME: 0759 LOCATION WRITTEN: [REDACTED]

STATEMENT OF: [REDACTED] ADDRESS: [REDACTED]

DOB: [REDACTED] SS#: [REDACTED] PHONE: [REDACTED]

During the week of April 8, 2019 I received a call [REDACTED]
 [REDACTED]
 I spoke with [REDACTED] and [REDACTED]
 [REDACTED]
 who then asked I look into [REDACTED]
 I sat with [REDACTED] and went through
 [REDACTED]
 [REDACTED]
 There approximately [REDACTED] During the
 following week I went through [REDACTED]
 [REDACTED] and determined there [REDACTED]
 that didn't [REDACTED]
 [REDACTED]
 [REDACTED]

SIGNATURE: [REDACTED]
WITNESS: [REDACTED]

DATE & TIME: 7:59 am 4/29/19
DATE & TIME: 4/29/19 12/2

TOWN OF SOUTHBOROUGH



RECREATION COMMISSION

SOUTHBOROUGH RECREATION · 21 HIGHLAND ST. · SOUTHBOROUGH, MASSACHUSETTS 01772
(508) 229-4452 · FAX (508) 229-7969
[HTTPS://SOUTHBOROUGH.RECDESK.COM](https://southborough.recdesk.com)

To: Mark Purple, Town Administrator
Heidi Kriger, Town Accountant

From: Doreen Ferguson, Recreation Director

Date: April 19, 2019

Re: 

On Monday, April 15, 2019, I met with

||

I am available for questions anytime.

CC: Recreation Commission

TOWN OF SOUTHBOROUGH



OFFICE OF THE BOARD OF SELECTMEN

TOWN HOUSE · 17 COMMON STREET · SOUTHBOROUGH, MASSACHUSETTS 01772-1662
(508) 485-0710 · FAX (508) 480-0161 · selectmenoffice@southboroughma.com

25
April 19, 2019

[REDACTED]
Northborough, MA 01532

BY REGULAR MAIL

Dear [REDACTED]

The Board of Selectmen,

session pursuant to the Open Meeting Law.

Additionally, the Town is

If you have any questions, please have your attorney contact the Town's Labor Counsel.

Sincerely,

Mark J. Purple
Town Administrator

cc: Tim Norris, Labor Counsel

TOWN OF SOUTHBOROUGH



OFFICE OF THE BOARD OF SELECTMEN

TOWN HOUSE · 17 COMMON STREET · SOUTHBOROUGH, MASSACHUSETTS 01772-1662
(508) 485-0710 · FAX (508) 480-0161 · selectmenoffice@southboroughma.com

April 17, 2019



Northborough, MA 01532

BY EMAIL AND CERTIFIED MAIL

Dear Ms. _____

Under Chapter 39, Section 23B of the Massachusetts General Laws, the Town is required to

If an Executive Session is held, you also have the following rights:

- To be present at the Executive Session during discussions or considerations concerning you;
- To have counsel or a representative of your choice present and attending for the purpose of advising you and not for the purpose of active participation in Executive Session; and
- To speak on your own behalf.

Your attendance is hereby requested, but not required. Please notify me by email on or before Friday, April 19, 2019 at 12:00 p.m. if you plan to attend.

Sincerely,

Mark J. Purple
Town Administrator

cc: Tim Norris, Labor Counsel

April 16, 2018 meeting with Doreen Ferguson and Mark Purple

Mark asked to meet with Doreen and me at 2:00pm

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the authority to let Jenn go; the board of selectmen were there that that session.



Heidi Kriger, Town Accountant

April 17, 2019

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Mark J. Purple
Town Administrator

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Conversation with Doreen Ferguson April 9, 2019.

Doreen called me Tuesday morning after I left two phone messages on Monday, April 8, 2019 stating I had questions for her regarding invoices.

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Conversion April 12, 2019

I called Doreen to ask to meet with Mark and me on Tuesday. I said I had a delicate topic to discuss.

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Mark Purple

From: Doreen Ferguson
Sent: Tuesday, April 9, 2019 2:44 PM
To: Heidi Kriger
Subject: expenses
Attachments: Finn Healthy Snack.pdf; Nature Program.pdf; Tech program.pdf

Hi Heidi,

Redacted

Let me know if you have any other questions.

thanks,
Doreen

Doreen Ferguson, Director
Southborough Recreation
21 Highland St.
Southborough, MA 01772
office: 508-229-4452 x4002
cell: 508-308-2616 - for emergency use
fax: 508-229-7969
Office Hours: M-Th 9:00-4:00, F 8:30-12:30

Follow us on Facebook

Regarding email from Doreen, April 9, 2019

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Green onions bought almost every month

Tomatoes

Cucumbers

Romaine lettuce

Grapes

Shave cream

Dove soap 6/17/18, 9/9/18, 1/4/19

Fried chili in oil

Chili oil with black bean

AW core pants-2 pairs

Phillips fiber gummies

Airborne gummies

Hair catcher for shower

Tom Collins cocktail mix

White House Detox apple cider vinegar

Weiman's cooktop cleaner 10/19/18

Weiman's stainless steel wipes 10/19/18

Weiman's cooktop trigger cleaner 10/19/18

Multiple purchases of cleaning supplies



Dashboard Programs Memberships Facilities Members Leagues Registration Money PDP Reports Admin

Program List Add New Program

Today is Tuesday, April 09, 2019

Program Info Schedule Fees Forms Instructors Roster Wait List Expenses Attendance

Finn 3D Technology Art

Dates: 3/6/2019 - 4/3/2019 Times: 3:00PM - 4:00PM

Program Detail Report

Program is Full Registration ended on 3/3/2019

Current Enrollment: 14

ID: 2959

Name: Finn 3D Technology Art

Program Type: After School

Program Subtype: -None-

Custom Program Code:

Drop In Support: None

Online Registration: Yes

Show on Portal: Yes

Show Schedule on Portal: Yes

Show Schedule on Internal Calendar: Yes

Display Color:

Allow Wait Listing: No

Enrollment Begin Date: 2/11/2019

Enrollment End Date: 3/3/2019

Instructor: Paradise Island Kids

Description:

Kids will learn the art of 3D drawing and sculpting by using our 3D technology to make one of a kind creations! Lift your imaginations off the page and join us for this technology based art class with endless possibilities! All creations will be taken home after class. No experience necessary, all materials/equipment included.

Notes:

Include Notes on Receipt: No

Created By:

Create Date: 1/24/2019

Accounting

General Ledger Account: -None-

Sales Tax: -None-

Demographics

Gender: Any

Enrollment Minimum: 4

Enrollment Maximum: 12

Grade Minimum: K

Maximum: 1

Age Minimum: -None-

Maximum: -None-

Fees

View Program Detail

Flex Calendar

Print Version

Go To Check In

Go To PDS

Go To FlexForms

Quick Actions

Portal Actions

Online Help

Shopping Cart

0 pending item(s)

sborecreation

Fees are now defined under the Fees Tab

Custom Form Questions

Question	Type	Default Value	Required
Home Room Teacher	Text Box		Y
Bus No.	Text Box		Y
Extended day?	Text Box		Y
Medical Concerns	Text Box		Y
Can your child be photograph for publication?	Text Box		Y
Does your child have an aid at school?	Text Box		N



Dashboard Programs Memberships Facilities Members Programs Registration Master Page Reports Admin

Program List Add New Program

Today is Tuesday, April 09, 2019

View Program Detail

Program Info Schedule Fees Forms Instructors Roster Wait List Expenses Attendance

Finn Healthy Snacks

Dates: 5/1/2018 - 5/29/2019 **Times:** 3:00PM - 4:00PM

Program Detail Report

12 spots remaining

Current Enrollment: 3

ID: 3162

Name: Finn Healthy Snacks

Program Type: After School

Program Subtype: Finn

Custom Program Code:

Drop In Support: None

Online Registration: Yes

Show on Portal: Yes

Show Schedule on Portal: Yes

Show Schedule on Internal Calendar: Yes

Display Color:

Allow Wait Listing: Yes

Enrollment Begin Date: 4/8/2019

Enrollment End Date: 4/26/2019

Instructor: Paradise Island Kids

Description:

Eating healthy does not have to be tasteless & boring and this class will teach kids that there are many delicious healthy options with the perfect combination of fiber, protein, & fat. We will discuss the ingredients in each snack and focus on the importance of making informed decisions for a lifetime of wellness. We will learn how to make and decorate an assortment of super fun kid approved treats using all natural ingredients like fruits, vegetables, cheeses, meats, breads, yogurts and more! All ingredients used are nut free.

Notes:

Include Notes on Receipt: No

Created By:

Create Date: 3/28/2019

Accounting

General Ledger Account: -None-

Sales Tax: -None-

Demographics

Gender: Any

Enrollment Minimum: 4

Enrollment Maximum: 15

Grade Minimum: K

Maximum: 1

Age Minimum: -None-

Maximum: -None-

Flex Calendar

Print Version

Go To Check In

Go To POS

Go To Flex Forms

Quick Actions

Portal Actions

Online Help

Shopping Cart

0 pending item(s)

sborecreation

Fees

Fees are now defined under the Fees Tab

Custom Form Questions

Question	Type	Default Value	Required
Home Room Teacher	Text Box		Y
Bus No.	Text Box		Y
Extended day?	Text Box		Y
Medical Concerns	Text Box		Y
Does your child have an aid at school?	Text Box		Y
Can your child be photographed for publication?	Text Box		Y



- Dashboard
- Programs**
- Memberships
- Facilities
- Members
- Leagues
- Registration
- Money
- POS
- Reports
- Admin

Program List Add New Program

Today is Tuesday, April 09, 2019

[View Program Detail](#)

- Program Info**
- Schedule
- Fees
- Forms
- Instructors
- Roster
- Wait List
- Expenses
- Attendances

[Flex Calendar](#)

[Print Version](#)

[Go To Check In](#)

[Go To POS](#)

[Go To FlexForms](#)

[Quick Actions](#)

[Portal Actions](#) ▾

[Online Help](#)

[Shopping Cart](#)

[0 pending item\(s\)](#)

[sbororecreation](#) ▾

Finn Paint with Nature

Dates: 1/8/2019 - 2/8/2019 Times: 3:00PM - 4:00PM

[Program Detail Report](#)

6 spots remaining Registration ended on 1/8/2019

Current Enrollment: 7

ID: 2932

Name: Finn Paint with Nature

Program Type: After School

Program Subtype: -None-

Custom Program Code:

Drop In Support: None

Online Registration: Yes

Show on Portal: Yes

Show Schedule on Portal: Yes

Show Schedule on Internal Calendar: Yes

Display Color:

Allow Wait Listing: Yes

Enrollment Begin Date: 12/10/2018

Enrollment End Date: 1/6/2019

Instructor: Diane Frazitta

Description:

What to do with the outdoor treasures? Simple painting ideas is a great way for kids to use their imagination to explore texture and patterns in a fun open ended and hands on way. Basic principle is to apply paint to the natural items, tip and turn the tray to roll them along the paper where each item will leave a different trail on the paper.

Notes:

Include Notes on Receipt: No

Created By:

Create Date: 11/15/2018

Accounting

General Ledger Account: -None-

Sales Tax: -None-

Demographics

Gender: Any

Enrollment Minimum: 6

Enrollment Maximum: 12

Grade Minimum: K

Maximum: 1

Age Minimum: -None-

Maximum: -None-

Fees

Fees are now defined under the Fees Tab

Custom Form Questions

Question	Type	Default Value	Required
Home Room Teacher	Text Box		Y
Bus No.	Text Box		Y
Extended day?	Text Box		Y
Medical Concerns	Text Box		Y
Can your child be photograph for publication?	Text Box		Y
Does your child have an aid at school?	Text Box		Y



- Dashboard
- Programs**
- Memberships
- Facilities
- Members
- Leagues
- Registration
- Money
- FINO
- Reports
- Admin

Program List Add New Program

Today is Tuesday, April 09, 2019

[View Program Detail](#)

- Program Info**
- Schedule
- Fees
- Forms
- Instructors
- Roster
- Wait List
- Expenses
- Attendance

Finn 3D Technology Art

Dates: 3/8/2019 - 4/3/2019 Times: 3:00PM - 4:00PM

[Program Detail Report](#)

Program is Full Registration ended on 3/3/2019

Current Enrollment: 14

ID: 2959

Name: Finn 3D Technology Art

Program Type: After School

Program Subtype: -None-

Custom Program Code:

Drop In Support: None

Online Registration: Yes

Show on Portal: Yes

Show Schedule on Portal: Yes

Show Schedule on Internal Calendar: Yes

Display Color:

Allow Wait Listing: No

Enrollment Begin Date: 2/11/2019

Enrollment End Date: 3/3/2019

Instructor: Paradise Island Kids

Description:

Kids will learn the art of 3D drawing and sculpting by using our 3D technology to make one of a kind creations! Lift your imaginations off the page and join us for this technology based art class with endless possibilities! All creations will be taken home after class. No experience necessary, all materials/equipment included.

Notes

Include Notes on Receipt: No

Created By: _____

Create Date: 1/24/2019

Accounting

General Ledger Account: -None-

Sales Tax: -None-

Demographics

Gender: Any

Enrollment Minimum: 4

Enrollment Maximum: 12

Grade Minimum: K

Maximum: 1

Age Minimum: -None-

Maximum: -None-

Fees

[Flex Calendar](#)

[Print Version](#)

[Go To Check In](#)

[Go To POS](#)

[Go To FlexForms](#)

[Quick Actions](#)

[Portal Actions](#) ▾

[Online Help](#)

[Shopping Cart](#)

[pending item\(s\)](#)

[sborrecreation](#) ▾

Fees are now defined under the Fees Tab

Custom Form Questions

Question	Type	Default Value	Required
Home Room Teacher	Text Box		Y
Bus No.	Text Box		Y
Extended day?	Text Box		Y
Medical Concerns	Text Box		Y
Can your child be photograph for publication?	Text Box		Y
Does your child have an aid at school?	Text Box		N

Recreation Accounts Payable Procedures

On November 7, 2018 the Recreation Commission voted to

Redacted

part

ted

All payment requests in FY18 & FY19 were signed by

ATTACHMENT NO. 2

[Redacted]

Roll Call: Braccio, aye; Shifrin, nay; Phaneuf, aye; Kolenda, aye; Shea, aye.
[Redacted]

Mr. Shea departed the meeting at 9:10 a.m.

[Redacted]

[Redacted]

Meeting adjourned at 9:28 a.m. Roll Call: Braccio, aye; Shifrin, aye; Phaneuf, aye; Kolenda, aye.

Submitted by Vanessa D. Hale, Assistant Town Administrator.

BOARD OF SELECTMEN
MAY 7, 2019
EXECUTIVE SESSION
SOUTHBOROUGH HISTORICAL SOCIETY, 25 COMMON ST., SOUTHBOROUGH
SOUTHBOROUGH, MA

RECEIVED
TOWN CLERK'S OFFICE
2019 AUG 29 P 3: 08
AMB

Present: Lisa Braccio, Bonnie Phaneuf, Brian Shea, Dan Kolenda. Attorney Tim Norris, Labor Counsel, Mark Purple, Town Administrator. **Absent:** Brian Shifrin.

The Board voted to enter Executive Session at 8:30 a.m., per M.G.L. Ch30A, S21, [REDACTED]
[REDACTED]
[REDACTED] Roll Call: Braccio, aye; Phaneuf, aye; Shea, aye; Kolenda, aye.

[REDACTED]

Ms. Braccio added [REDACTED]. On the motion, roll call vote: 4-0-0. Braccio, aye; Phaneuf, aye; Shea, aye; Kolenda, aye.

[REDACTED]

Additionally, the Board directed [REDACTED]

[REDACTED]

[REDACTED]

The meeting adjourned at 8:55 a.m. Roll Call: Braccio, aye; Phaneuf, aye; Shea, aye; Kolenda, aye.

Submitted by Vanessa Hale, Assistant Town Administrator.

Documents used at this meeting:

- None.

Approved by BOS 6-4-19

Released with redaction 082019

- L Braccio and K LaVault later spoke over the phone. K LaVault made the request [REDACTED]
[REDACTED]
[REDACTED]
- This was followed by a formal written request to speak to understand:
[REDACTED]
[REDACTED]
- On April 18, L Braccio informed K LaVault via [REDACTED]
[REDACTED]
- A BOS Executive Session was scheduled for [REDACTED]; L Braccio extended an invitation to the Commission to attend.
 - [REDACTED]
[REDACTED]
 - The BOS meeting on April 22 was subsequently canceled. A second BOS Executive Session is scheduled for April 25.
 - There have been no further communications to the Commission on this matter since April 19.
 - K LaVault will send a request to the BOS for more information following their April 25 session.
- A motion was made to adjourn at 8:50 p.m.; it was seconded and unanimously approved.

ATTACHMENT NO. 3

July 8, 2019

Mr. Mark Purple
Town Administrator
Town of Southborough, MA
Southborough Town House
17 Common Street
Southborough, MA 01772

RE: Agreed-Upon Procedures

We are pleased to present our report to the Town of Southborough, MA (the Town) of the services provided related to the Town of Southborough Recreation Department (the Department).

Our engagement was conducted in accordance with attestation standards for agreed-upon procedures engagements of the American Institute of Certified Public Accountants. The Town is solely responsible for the sufficiency of the agreed-upon procedures. Therefore, we make no representations as to the sufficiency of the procedures as described in the following paragraph or for any other purpose. The agreed-upon procedures are not designed to constitute an audit of the financial statements of the Department in accordance with Generally Accepted Auditing Standards. Therefore, we do not express reasonable or limited assurance on the Department's financial statements.

We applied agreed-upon procedures by viewing daily accounting of cash receipts and cash disbursements, walk-through testing to trace step-by-step transactions from inception to final disposition, interviewing the Department staff, Recreation Commission members, certain Town administrators and multiple Board of Selectmen members, and reviewing and analyzing current policies and procedures.

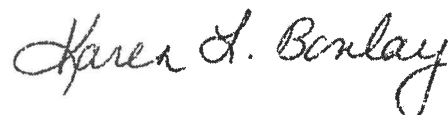
Procedures were performed at the Recreation Department Building, Southborough Town Hall, and over the phone.

Our report and recommendations are contained in the following pages.

Thank you,
Melanson Heath



Scott McIntire, CPA, Principal



Karen Boulay, CPA, CVA, CFE

Background

The Town of Southborough, Massachusetts through Mr. Mark Purple, Town Administrator, engaged us to perform an agreed-upon procedures examination as described in the following "Approach" section. The Accounting Department of Southborough, Massachusetts discovered that a department credit card was being used by an employee for personal purposes. The employee paid funds back to the Town and is no longer employed with the Town. The incident brought about concerns over lack of proper internal controls, revolving specifically around the Department. Our report outlines the relevant parties, the procedures taken, the findings we have noted, and our recommendations for implementing an improved internal control system.

Parties

The Recreation Department consists of a full time Recreation Director, a full time Program Coordinator, and a part time Administrative Assistant. The Recreation Director retired at the end of June 2019, the Program Coordinator was relieved of duties, and the position is currently in the process of being filled. The Department conducts programming for four schools which have sports and other recreational programming such as after school programs, including the following four schools:

- Albert S. Woodward School
- Finn School
- Margaret A. Neary Elementary School
- P. Brent Trottier Middle School

The Recreation Commission consists of 5 Commissioners. The Commissioners are appointed by the Board of Selectmen for 3-year terms.

The Board of Selectmen consists of five elected officials.

The Advisory Committee, appointed by the Town Moderator, is charged with considering all matters included within the articles of any warrant for a Town Meeting. The Committee, per the Town's Website¹, has the authority at any time to investigate the books, accounts, and management of any department of the Town. There are nine committee members.

Mark Purple is the Town Administrator who is the lead in charge of this examination of the Southborough Recreation Department. We interviewed Mark as well as the current Town Accountant and Assistant Town Administrator.

¹ <https://www.southboroughtown.com/advisory-committee>

Approach

To assess the internal controls in the Department, we conducted a site visit and met with Mr. Purple at Town Hall and the Recreation Director at the Department. We walked through the daily procedures and traced select transactions through the accounting process. After the site visit, we conducted telephone interviews with each Recreation Commissioner, all but one Selectman, the Town Accountant, and the Assistant Town Administrator. We also reviewed specific pertinent Massachusetts regulations regarding Municipal Revolving Funds.

Daily Accounting Process

The Department has four main accounts including the 9/11 Field Revolving account, the Recreation Revolving account, and a Gift account. Deposits are made manually once residents mail in or physically hand the Department checks to sign up for programs. Each deposit is recorded with the payer's name on the check, identified as a money order or cash, then given to the Treasurer with the money and a report summarizing the deposits. Once the report and deposits are received, the Treasurer will deliver the deposits to the bank.

Revenue in and expenses out are tracked for each program in the Department but not on the Town's general ledger. According to the Recreation Director, revenue ties out to the number of children in each program. The reconciliation is done through the Department's database, Stripe Software, to verify accuracy. Expenses are not easily reconciled due to the lack of differentiation of expenses between programs. For example, pencils may be purchased and used for multiple programs.

The Department payroll is completed every two weeks. Program Instructors are paid hourly and are not required to fill out a time sheet. The Recreation Director will determine how many hours each instructor has worked based on the number of classes taught and the length of each class. Occasionally, the Recreation Director will contact Instructors via email to confirm the hours the Instructor has worked. For Department employees, salary rates are set by the personnel board, as outlined in a Personnel Salary Administration Plan. From this schedule, each employee's rate is determined during the interview process based on their qualifications and available appropriation. When a new person is hired, the Recreation Director will file the appropriate paperwork then the employee will sign a letter sent by the Recreation Director to confirm that they have acknowledged the Department's procedures. Upon completion, the Recreation Director will send the signed paperwork to the Payroll Department along with an updated excel spreadsheet outlining the hours worked by each employee.

Payables were processed electronically by the Program Coordinator. Upon her departure, the Recreation Director was entering them manually and then sending them to Accounting to process payment. In the past, the Recreation Commission was required to sign off on invoices as well, however, the Commission decided to delegate the responsibility to both the Recreation Director and the Program Coordinator, removing a layer of internal controls.

Southborough, MA Recreation Audit
Examination Report

We found no formal reconciliation between the Department and the general ledger. The Department inconsistently prepares a recreation revolving account report. The Director uses a template provided by the Town Accountant to complete this report. The Director stated that once complete, she would send the report to the Finance Committee to review for budgets and that the Board of Selectmen also get a copy of the report. The Town Administrator states that the Selectmen have not received a copy of the report in at least 7 years.

The Recreation Director stated that the Department offers scholarships to residents to attend programming at reduced or no cost. There are policies in place on who is eligible for the scholarships. When scholarship applications are received, the Director will review all applications and tax information then discuss the applicants with the School and Youth and Family Services Department before making a final decision on whether to award a scholarship.

We traced the following transactions through the accounting process:

Payables

We selected the schedule of departmental bills payable paid out of the recreation revolving fund for the week ending May 13, 2019. We reviewed the schedule of departmental bills payable (the schedule) and supporting documents that were received from the Recreation Director. We verified the total amount payable on the schedule agreed to the invoices provided. We requested all of the Town Accountant's records for the schedule paid out of the recreation's revolving fund for the week ending May 13, 2019.

Revenue

Revenue is reported from the Department to the Town Treasurer via a report titled "Schedule of Departmental Payments To Treasurer" (Schedule of DP). We tested the report for revolving deposits dated May 13, 2019 for the amount of \$942. When reviewing the Schedule of DP, we noted the purpose for collections is not listed. When reviewing the Town Accountant's records, we determined that the information agreed to the Department's records.

Payroll

We selected payroll for hourly recreation employees for the week ending May 22, 2019. The Recreation Director provided the payroll timesheet Excel report for all hourly employees paid out of the recreation revolving fund. The Recreation Director or Program Coordinator fills out one timesheet for all employees, signs off on the time sheet, and sends it to the Town Treasurer for processing.

We requested all of the Town Accountant's records for the hourly recreation pay period paid out of the recreation revolving fund ending on May 22, 2019. When reviewing the Town Accountant's information, we were provided with the same timesheet that the Recreation Director provided. On the timesheet, there were red marks next to each employee's rate along with the Town Accountant's initials signing off in red indicating that she confirmed all employees' rates. We were not provided with any additional information to support the accuracy of each employee's rate or hours worked.

Review and Analysis of Current Policies and Procedures

The current policies and procedures are not documented.

Recreation Commission Interviews

The Recreation Commission has five voluntary Commissioners who have been involved for a variation of years. The commission currently meets every two weeks and will have additional meetings when necessary.

Melanson Heath interviewed each Recreation Commissioner individually via phone call. When discussing the Commission's role with the Department we observed that the Commissioners main focus has been on capital projects and improvements for the Department. The Commission does not oversee day-to-day purchases made by the Recreation Director. For a majority of larger purchases made for the Department, the Commissioners will meet to discuss the potential purchase and vote to authorize as long as it is within the yearly spending cap. The approval or denial of such expenditure is by majority vote. We were informed by a Commissioner that the vote has been unanimous for the past two years. If the Department needs an increase in the funding cap, then the Commissioners will go to the Selectmen to seek approval. Prior to attending the Town Meeting, the Department will seek support from the Board of Selectmen and Town Advisory Committee. Aside from seeking support for large capital project funding, the Commissioners do not typically interact with the Board of Selectmen.

When discussing processes and procedures, one Commissioner noted that the only policies they had ever received revolved around ethics. Overall, each Commissioner noted that they have not seen any formal processes or procedures from the Town or the Department. It was requested that if the Town or the Department has formal processes and procedures that they make them readily available.

Board of Selectmen Interviews

Melanson Heath conducted a phone interview with four of the Selectmen regarding their level of interaction and knowledge of the Department's processes and procedures.

The Board of Selectmen receive a proposed budget from the Department on an annual basis for review and identification of any discrepancies. Aside from reviewing and approving the budget, the Board of Selectmen do not have any day-to-day involvement with the Recreation Commission and will only get involved if there is an issue or request for additional funds. However, the Board of Selectmen do have the authority to receive updated financials. Some Selectmen did note that they will request financials sporadically for review.

The Board of Selectmen believe that there is a lack of processes and procedures. One Selectman specifically expressed that this may be an issue across many departments. A

suggestion was made that the Town establishes internal control processes and procedures that must be implemented throughout the Town's departments.

Town Administration

The Town Administration that we interviewed consisted of the Town Administrator, the Assistant Town Administrator, and the Town Accountant.

During our interviews, the Town Administrator and the Assistant Town Administrator expressed that the Department has always been isolated from other departments, working in a silo. The Town Administration is eager to have the new Recreation Director and Program Coordinator in place to help implement enhanced controls and new policies and procedures.

The Town Accountant expressed concern with how the Department uses their revolving fund. When the Accountant began with the Town, she realized that the revolving fund was quite large even though the intent was to bring in program revenue and use the funds for program expenses. The Accountant expressed concern that the Department and Commission appeared to have been building up the revolving fund to use for renovations and capital improvements instead of asking the Town to approve warrant articles for these appropriations. For example, a new playground was approved at Town Meeting. When the expenditures ran over budget, the Recreation Commissioners used the recreation revolving money to cover the balance.

The Town Accountant believes that there should be more budgetary control with the Department, reconciling Recreation records to the general ledger as well as the Commissioners reviewing financial reports. The Town Accountant typically sends quarterly reports to all departments; however, the departments also have the ability to run reports and check their balance at any time.

The Town Accountant's main role with the Department is to review and approve payments that need to be processed. During the interview, the Town Accountant noted that the reduction in internal controls regarding invoice approval began about 5-7 years ago when the Recreation Commission delegated authority to the Recreation Director and the Program Coordinator without any additional guidelines. The Town Accountant has meeting notes and a letter of authorization regarding the delegation of signing authority from the Recreation Commission.

Findings

- A-1** The Department does not consistently reconcile its Department records with the Town's general ledger.
 - a. The Department did not provide us with a final Fiscal 2018 Recreation Revolving Report that could be reconciled with Vadar, the Town's accounting system. We were provided only a "forecasted" report from the Department.

- B-1** The Recreation Commission does not approve invoices, as that responsibility has been delegated to the Recreation Director and the Program Coordinator. This delegation essentially removes an important layer of internal controls. Additional findings regarding these controls include:
- a. The Department has access to one credit card which can be used to purchase supplies for recreational programs and events. The Director and the Program Coordinator both have access to the credit card, and additional expenditure authorization is not required.
 - b. Individual invoices are not signed (indicating approval) by the Department, only the summary of bills payable is approved by the Department.
- C-1** Recreation Department receipts turnover to the Treasurer lack specificity for which the money was received.
- D-1** Hourly employees do not fill out a timesheet. The Recreation Director notes on an Excel sheet when employees work then the Recreation Director will fill out one timesheet for all employees, sign off on the time sheet, and send it to the Town Treasurer.

Recommended Internal Controls and Procedures

- A-2** The Department must reconcile its records with the Town's general ledger. A reconciliation report (with minimal timing issues) should be signed by the Town Accountant and Recreation Director indicating approval and acceptance that the Department records reconcile to the general ledger.
- a. The Department should share the report annually with the Board of Selectmen
- B-2** For optimal internal controls, the Recreation Director and/or Recreation Commission Chair should approve invoices for payment. Other controls related to payables should be implemented, including:
- a. For each purchase made, the Department must identify what program the purchase will go towards with an itemized receipt to present to the Recreation Director and Town Accountant. If a purchase is to benefit more than one program, than a reasonable estimate of the percentage that will be used for each program is to be provided.
 - b. Require Recreation Director authorization on all invoices submitted to accounts payable.
 - c. Policies should be modified so that the person using the Department credit card does not sign off on the payable of the credit card.

Southborough, MA Recreation Audit
Examination Report

C-2 The Department should specify purpose of cash receipts (the type of program) in addition to the individual party(ies) from which the money was received.

D-2 All employees should be required to fill out and sign timesheets.

ATTACHMENT NO. 4

ATTACHMENT NO. 5

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