

4/14/99
NO

Released
11/6/2000

SELECTMEN'S MEETING

EXECUTIVE SESSION

January 3, 1994

LITIGATION - CONTRACT WITH SMITH-GROVE / SCHOOLS

Mr. Cohen reported on the contract with Smith-Grove for work on the schools, which has a late penalty clause for so much per day to complete the project. The Board discussed whether the Town should sue to collect the penalty, and look into getting the bonding company involved in paying that amount..

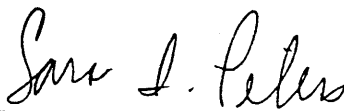
Mr. White asked the Selectmen to authorize filing a suit, and the Board agreed to do so by a unanimous counted vote.

LITIGATION - BURIAL VAULT MANUFACTURERS

Mr. Cohen reported that he expects an anti-trust suit from the Burial Vault Manufacturers, and will keep the Board informed when it is filed.

Upon motion duly made and seconded, it was voted to adjourn at 11:20 p.m.

A true record, Attest:


Sara I. Peters
Executive Clerk

SELECTMEN'S MEETING

EXECUTIVE SESSION

JANUARY 10, 1994

4/14/99
NO

Released
11/6/2000

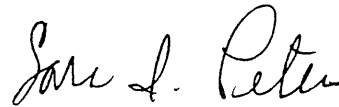
PRESENT: Selectmen: Chairman Dailey, Mr. McSweeney, Mr. Busa, Mr. Fenn, Mrs. Eddison; Mr. Cohen, Town Counsel; Mr. White, Town Manager; Mrs. Novak, Assistant Town Manager; and Mrs. Peters, Executive Clerk.

LITIGATION: BURIAL VAULT MANUFACTURERS

Mr. Cohen reported that the Burial Vault Association had filed a complaint against the Town regarding the exclusive sale of burial boxes and vaults, but would not serve it pending settlement negotiations. After discussing various alternatives, the Board was of the opinion that Town Counsel should contact the Plaintiff's Lawyer and let him know that the resulting publicity would not be beneficial to his clients. Whether the Town would actively defend the case could be decided after an answer is filed following service of the complaint.

Upon motion duly made and seconded, it was voted to adjourn at 11:25 p.m.

A true record, Attest:



Sara I. Peters
Executive Clerk

SELECTMEN'S MEETING

EXECUTIVE SESSION

FEBRUARY, 28 1994

4/14/99
NO

✓
Released
11/6/2000

PRESENT: Selectmen: Chairman Dailey, Mr. McSweeney, Mr. Busa, Mr. Fenn, Mrs. Eddison; Mr. Cohen, Town Counsel; Mr. White, Town Manager; Mrs. Novak, Assistant Town Manager; and Mrs. Peters, Executive Clerk.

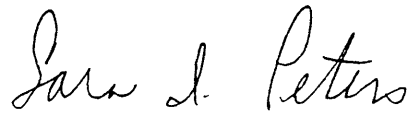
REAL ESTATE - MUNROE SCHOOL/ARTS LEXINGTON

Mr. White reported that for the past three or four years, he has been meeting with the Arts Lexington management to try and correct infringements of conditions contained in the lease the Town has with Arts Lexington, and that are not being adhered to. He mentioned illegal subleasing, illegal selling of products on the premises, and not conforming to the hours of operation set forth in the lease, as examples of this problem. He noted that because of these practices, the Town really does not know who are actual tenants in the building. He also discussed the deteriorating physical condition of the building.

After discussing the matter, the Board agreed with the Town Manager's assessment of the problem, and authorized him to send a letter to Arts Lexington citing non-compliance with the terms of the lease, and informing them that the Tenancy at Will lease will be terminated, as of September 1, 1994. The Town will submit a new RFP at that time and Arts Lexington will be eligible to submit a new proposal. Mr. Dailey agreed to serve as Selectman Liaison to Arts Lexington.

Upon motion duly made and seconded, it was voted to adjourn at 11:19 p.m.

A true record, Attest:



Sara I. Peters
Executive Clerk

SELECTMEN'S MEETING
EXECUTIVE SESSION

MARCH 7, 1994

4/14/99
NO

Released
11/6/2000

PRESENT: Selectmen: Chairman Dailey, Mr. McSweeney, Mr. Busa, Mr. Fenn, Mrs. Eddison; Mr. Cohen, Town Counsel; Mr. White, Town Manager; Mrs. Novak, Assistant Town Manager; and Mrs. Peters, Executive Clerk.

POTENTIAL LITIGATION - MUNROE SCHOOL

Mr. Dailey reported that he and Mr. White met recently with several tenants representing Arts Lexington who use the Munroe School under a lease with the Town.

The Board directed that a letter be sent, as the Board had agreed last week, to Arts Lexington, informing them that the Tenancy at Will lease will be terminated, as of September 1, 1994, and that a new RFP will be issued at that time and Arts Lexington will be eligible to submit a new proposal.

The Board also agreed that it should exert more control over the Arts Lexington operation at the Munroe School. They also expressed the hope that Arts Lexington would come back with a good proposal.

Upon motion duly made and seconded, it was voted to adjourn at 10:58 p.m.

A true record, Attest:

Sara I. Peters

Sara I. Peters
Executive Clerk

SELECTMEN'S MEETING

EXECUTIVE SESSION

MARCH 14, 1994

4/14/99
NO

Released
11/6/2000

PRESENT: Selectmen: Chairman Dailey, Mr. McSweeney, Mr. Busa, Mr. Fenn; Mr. Cohen, Town Counsel; Mr. White, Town Manager; and Mrs. Peters, Executive Clerk.

LITIGATION - DEMPSEY CASE

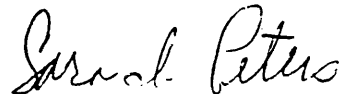
Mr. Dailey reported that a settlement has been agreed to in principle in the suit against the Town that was filed on February 15, 1994 by Lorne J. Macdougall, in his capacity as the administrator of the Estate of Kathleen Dempsey Macdougall v. Dispatcher Kenneth Robishaw and Captain Robert Walton, in their official capacities, and the Town of Lexington.

If settlement papers are signed it will result in no out-of-pocket expenses to the Town as all amounts will be covered by insurance.

The Board and Mr. White agreed the settlement was in the best interest of the Town.

Upon motion duly made and seconded, it was voted to adjourn at 10:58 p.m.

A true record, Attest:



Sara I. Peters
Executive Clerk

SELECTMEN'S MEETING
EXECUTIVE SESSION
July 11, 1994

ES6-21

4/14/99
No

Revised
11/6/2000

Present: Selectmen: Chairman Dailey, Mr. McSweeney, Mr. Fenn, Mrs. Eddison; Mr. Cohen, Town Counsel; Mr. White, Town Manager, Julia Novak, Assistant Town Manager; and Phyllis Smith, Executive Clerk.

Litigation: Philip Road

Mr. Cohen reported that with respect to Mr. Anthony Busa's appeal to the Department of Environmental Protection (DEP), it was suggested by DEP that the dispute be resolved by mediation. One plan that has been suggested is to have each side's engineer agree upon a neutral engineer to make a decision. The Board indicated that they would go along with mediation and the Chairman indicated that he would participate if appropriate. The Board emphasized that the decision would relate to technical findings as to whether one or both of the lots are buildable.

Collective Bargaining Strategy

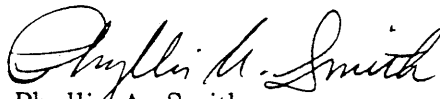
Mr. White suggested that the Board of Selectmen and the School Committee meet in Executive Session to discuss collective bargaining strategy for Fiscal Year 1996.

Litigation: Morganstern Appeal of Appellate Tax Board Decision

Mr. Cohen briefed the Board on the status of the Appellate Tax Board appeal by Mr. and Mrs. Paul Morganstern of Burroughs Road. Mr. Morganstern's appeal was dismissed for lack of jurisdiction since he paid his last quarter FY93 real estate tax bill late. He is now claiming that the Town mailed the bills late. The Town has the Post Office receipt showing that the bills were mailed on March 25, 1993. Mr. Cohen indicated that he would attempt to recover costs in this matter although the Appellate Tax Board may not award costs despite the obvious frivolousness of the claim.

Upon motion duly made and seconded, it was voted to adjourn at 9:10 p.m.

A true copy, attest:


Phyllis A. Smith
Executive Clerk

SELECTMEN'S MEETING
EXECUTIVE SESSION
January 30, 1995

ES6-40
Released
11/6/2000
N6
4/14/99

Present: Selectmen Chairman Dailey, Mr. McSweeney, Mr. Busa, Mrs. Eddison; Mr. Cohen, Town Counsel; Mr. White, Town Manager, Mrs. Novak, Assistant Town Manager and Ms. Smith, Executive Clerk

Litigation - Grave Boxes

Mr. Cohen reviewed the matter of the grave boxes. He reported that Attorney Harrington had called Aaron von Staats and said that after receiving Lexington's demands for interrogatories he would like to postpone the matter until after Town Meeting.

Philip Road

Mr. Cohen reported that we have basically offered to settle the Philip Road case. The lawyer for Tony Busa indicated that there are three things that need to be done for the case to be settled.


1. A conservation restriction that the second lot will not be built upon. This requires a Town Meeting vote.
2. A permanent easement to use the driveway on the land.
3. A permanent easement for the drain pipe.

Mr. Cohen felt the Town would win on the one lot if the plaintiffs were not willing to settle the case. He also felt it should be enough for the Board of Selectmen to say it is not going to propose another house. Next year we can put an article in the warrant for a conservation restriction. At the same time we can put on a permanent easement for the driveway.

Mr. Cohen also suggested a temporary license to use the driveway.

Upon motion duly made and seconded, it was voted to adjourn at 9:55 p.m.

A true record, Attest:


Phyllis A. Smith
Executive Clerk

SELECTMEN'S MEETING
EXECUTIVE SESSION
August 28, 1995

ES6-53
Released 11/6/20
No
4/1/99
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Present: Selectmen Chairman McSweeney, Mr. Dailey, Mr. Busa, Mr. Fenn, Mrs. Eddison; Mr. White, Town Manager; Mr. Cohen, Town Counsel and Ms. Smith, Executive Clerk

Land Acquisition

Mr. White reviewed an offer from Mr. Donald Valente of 63 Westview Street to sell his property at 63 Westview Street containing approximately 158,558 square feet of land with a Cape-style home and a cottage style building on two lots. Mr. White indicated he thought the Town might be interested in this property which is in back of the Cemetery for possible expansion of the cemetery property. He indicated further that he would pursue getting an appraisal and see what the property is assessed for.

Litigation - Pumping Station

Mr. Cohen reviewed the status of the litigation on the pumping station. He indicated that it looks like it will be settled. DER will get nothing and the Town will get approximately \$60,000 to \$70,000 in liquidated damages. The pumping station has been built.

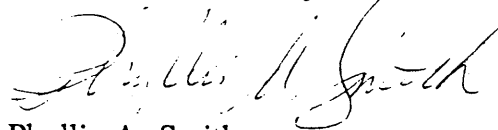
Upon motion duly made and seconded, it was voted 6-0 by roll call vote; Mr. McSweeney, Mr. Dailey, Mr. Busa, Mr. Fenn and Mrs. Eddison and Mr. White to authorize Town Counsel to settle the case.

Litigation - Field House Roof

Mr. Cohen indicated the Town is still waiting on the decision to settle the costs for the field house roof repair. This case has been going on for over eight years.

Upon motion duly made and seconded, it was voted to adjourn at 10:30 p.m.

A true record, Attest:



Phyllis A. Smith
Executive Clerk

SELECTMEN'S MEETING
EXECUTIVE SESSION
November 27, 1995

ES6-58
Released 11/6/2000
No
4/14/99

Present: Selectmen Chairman McSweeney, Mr. Dailey, Mr. Busa, Mr. Fenn; Mr. White, Town Manager, Mr. Cohen, Town Counsel and Ms. Smith, Executive Clerk

Litigation

Attorney Peter Epstein explained to the Board that the CATV License Negotiations Subcommittee's request of the Board to not extend the December 29 date for final formal negotiations of the license renewal period carries with it some risks that need to be explained.

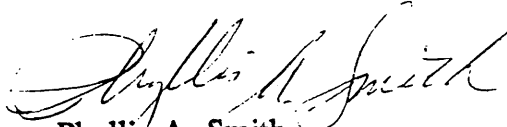
There is great potential for litigation because the procedures followed at the hearings to renew the license often get challenged in court. Mr. Epstein outlined the various litigation scenarios that could take place.

The Board thanked Mr. Epstein for advising them of the risks and strategy to be followed with respect to any litigation.

Upon motion duly made and seconded, it was voted 4-0 by roll call vote: Mr. McSweeney, Mr. Dailey, Mr. Busa and Mr. Fenn to return to open session.

Upon motion duly made and seconded, it was voted to adjourn at 10:20 p.m.

A true record, Attest:


Phyllis A. Smith
Executive Clerk

SELECTMEN'S MEETING
EXECUTIVE SESSION
January 16, 1996

ES 6-1
Released
11/6/2008
4/14/99

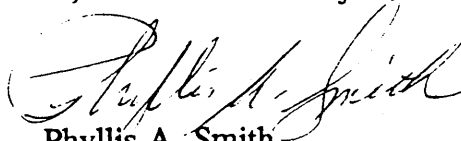
PRESENT: Selectmen: Chairman McSweeney, Mr. Dailey, Mr. Busa, Mr. Fenn, Mrs. Eddison; Mr. White, Town Manager; and Ms. Smith, Executive Clerk

Litigation

Mr. Cohen reviewed the status of the litigation with Marion Angoff. Mr. Dailey suggested that a letter be sent to those individuals who had signed the petition for a warrant article on behalf of Marion Angoff indicating that what she is requesting is not within the jurisdiction of Town Meeting. After discussion, Town Counsel was requested to draft the letter to the petitioners.

Upon motion duly made and seconded, it was voted to adjourn at 11:00 p.m.

A true record, Attest:



Phyllis A. Smith
Executive Clerk

ES6-68

SELECTMEN'S MEETING
EXECUTIVE SESSION
March 25, 1996

Released
11/6/2000

NO
4/10/99

PRESENT: Selectmen: Chairman McSweeney, Mr. Dailey, Mr. Busa, Mr. Fenn, Mrs. Eddison; Mr. White, Town Manager; Mr. Cohen, Town Counsel and Ms. Smith, Executive Clerk.

Land Acquisition

Carol Mahoney, Walter Pierce and Julie Triessl were present and reviewed the latest cost estimates for the Cary Memorial Library construction and renovation. It is estimated that the cost will be \$7.5 million with 1/3 coming from the State grant, 1/3 from fund raising and 1/3 from the Town. This amount reflects a reduction of \$2 million which represents cutting out furnishings. Ms. Mahoney indicated that the expansion plans should meet the library needs for the next 20 years. It is estimated that a new library would cost approximately \$14 million exclusive of land costs.

The Library representatives left the meeting at 11:00 p.m.

Mr. Dailey reviewed the status of acquisition of the Augusta property. He indicated he was very well received by the Bankruptcy Trustee. With the Spencer Street property as part of the deal, the Town should be able to acquire the Augusta property for \$150,000 to \$175,000. There is \$50,000 in the Conservation Fund.

The asking price for the Exxon station is \$365,000. The property has an appraisal figure of \$305,000. Mr. Dailey suggests the Town offer \$275,000 for the property.

Litigation

Mr. Cohen received a call from Steve Politi asking what the Town is doing about the lady barber. Norman will call her lawyer.

Upon motion duly made and seconded, it was voted to adjourn at 11:35 p.m.

A true record, Attest:

Phyllis A. Smith
Executive Clerk

Released
11/6/2000
ES6-73

Executive Clerk
SELECTMEN'S MEETING
EXECUTIVE SESSION
June 17, 1996

NO
4/14/99
✓

PRESENT: Selectmen: Chairman McSweeney, Mr. Dailey, Mr. Busa and Mrs. Eddison; Mr. White, Town Manager; Mr. Cohen, Town Counsel; and Ms. Smith, Executive Clerk

Land Acquisition

Mr. Dailey reported on some confusion over the size of the lot on Spencer Street and how it would impact LexHAB's ability to build a duplex house on the site. He had met with David Williams, Don Wilson, Bob Bowyer and Dave Eagle to see if there was something that could be done. Bob Bowyer suggested doing something similar to the local initiative permit done on Grandview. The proposal would be to have a driveway off Spencer Street that served the lot. The plans would have to be discussed with the Fire and Public Works Departments.

Board Members felt they could make an exception on this lot because it represents a tremendous opportunity for affordable housing on the lot.

The Board indicated they would like to see Mr. Dailey pursue the local initiative permit process.

Upon motion duly made and seconded, it was voted to adjourn at 11:00 p.m.

A true record, Attest:

Phyllis A. Smith
Executive Clerk

Released
11/6/2000
ES6-81

SELECTMEN'S MEETING
EXECUTIVE SESSION
September 9, 1996

No
4/14/99

PRESENT: Selectmen Acting Chairman Mr. Dailey, Mr. Busa, Mr. Fenn, Mrs. Eddison; Mr. White, Town Manager; Ms. Crew Vine, Assistant Town Manager; Mr. Cohen, Town Counsel and Ms. Smith, Executive Clerk.

Litigation

Mr. Cohen reported that Comptroller John Ryan raised an issue concerning the painting of Buckman Tavern. The building belongs to the Town and it appears that the painting contract should have been put out to bid by the Town. The Historical Society did get three quotes. There is siding and clapboard work to be done in addition to the painting. We may have to have a Town Meeting Article next year to amend the purpose for which the Town's contribution can be used..

Mr. Cohen indicated that he will keep the Board posted on this matter.

Upon motion duly made and seconded, it was voted to adjourn at 8:55 p.m.

A true record, Attest:

Phyllis Smith
Executive Clerk

Released
11/6/2000

ES6-93

No
4/14/99

SELECTMEN'S MEETING
EXECUTIVE SESSION
April 16, 1997

PRESENT: Selectmen: Chairman McSweeney, Mr. Busa, Mrs. Eddison, Mr. Enrich; Mr. White, Town Manager; Mr. Cohen, Town Counsel and Ms. Smith, Executive Clerk.

Litigation

Mr. White explained that for the first time in twenty years, the Town will be taking two pieces of property for failure to pay back taxes. The two houses are at 51 Grant Street and 31 Blossomcrest. The Tax Collector has failed in all attempts to collect the back taxes.

Mr. Cohen will keep the Board informed of the proceedings.

Upon motion duly made and seconded, it was voted to adjourn at 8:00 p.m.

A true record, Attest:

Phyllis A. Smith
Executive Clerk

ES6-102

SELECTMEN'S MEETING
EXECUTIVE SESSION
August 11, 1997

Released
NO 4/14/99
4/6/2000

PRESENT: Selectmen: Chairman McSweeney, Mr. Fenn, Mr. Busa, Mrs. Eddison; Mr. White, Town Manager; Ms. Crew Vine, Assistant Town Manager; Mr. Cohen, Town Counsel and Ms. Smith, Executive Clerk.

Real Estate

Mr. Cohen reported that the house on Grant Street has been sold. The closing is scheduled for the 25th of the month. The Town will be receiving real estate taxes owed plus costs involved in foreclosing on the property.

Mr. Cohen discussed the status of the house on Blossomcrest now owned by the Town. He inquired whether the Town would rent the property to the owner if all of the back taxes are paid. The Board indicated that it would be preferable for the property to be sold to a new owner. Selectman Busa will do some further investigation.

Litigation

Mr. Cohen reported on an accident at Bridge school where a young boy was playing basketball and the hoop and mounting came down and broke a tooth. Mr. Cohen recommends settling the case for \$265 provided that a release of the Town is obtained.

Upon motion duly made and seconded, it was voted 5-0: Mr. McSweeney, Mr. Busa, Mr. Fenn, Mrs. Eddison and Mr. White to settle the case for \$265 provided that a release of the Town is obtained.

Mr. Cohen reminded the Board of the various items still pending involving the Historic Districts Commission and their desire to have court proceedings begun if they are not satisfactorily concluded.

Collective Bargaining

Mr. White asked the Board to approve the retroactive distribution of 1.5% salary adjustments to all non-collective bargaining employees with the exception of those employees who are on probation.

ES6-126

Released
11/6/2000
NO
4/14/99
✓

EXECUTIVE SESSION
October 5, 1998

PRESENT: Selectmen: Chairman Enrich, Mr. Busa, Mr. Fenn, Mrs. Eddison; Mr. White, Town Manager; Mr. Cohen, Town Counsel and Ms. Pease, Assistant to the Executive Clerk

NESWC Litigation

Mr. Woodbury supplied the Selectmen with three options regarding a NESWC litigation compromise settlement with MRI/Waste Management (parent company to Wheelabrator) for the air pollution control retrofit. The options are:

1. NESWC pays 75% of the \$35.5 million in cash and MRI/Waste Management will guarantee timely completion of the retrofit and its compliance, and will further assume all future liability for unforeseen circumstances and change of law issues.
2. NESWC pays 55% of the \$35.5 million in cash and the communities will bear 55% of the liability for unforeseen circumstances or changes until the retrofit test period begins. Thereafter Waste Management assumes liability for change of law issues.
3. NESWC pays 50%. NESWC is liable for 50% of additional costs for unforeseen/uncontrollable circumstances and changes in law.

Mr. Woodbury's recommendation is Item 2 unless they can negotiate Item 1 down from 75%. The Selectmen agreed in principle with Mr. Woodbury's recommendation.

Grave Box Litigation

Mr. White met with representatives of Palmer & Dodge to discuss the Grave Box case. A compromise settlement was discussed which would allow the Town and funeral directors to sell boxes and vaults in the existing cemetery, but which would provide that for the undeveloped part of the cemetery the Town would bid for boxes and vaults to be preinstalled. The idea behind this compromise is to use the undeveloped part of the cemetery wisely so it will last until around 2010 or later. The Selectmen agreed and said Mr. White could try to make a settlement along the lines proposed.

Upon motion duly made and seconded, it was voted to adjourn at 10:05 p.m.

A true record, Attest:

Lynne A. Pease
Assistant to the Executive Clerk

ES6-130

Released
11/6/2000
No
411499

EXECUTIVE SESSION
December 14, 1998

PRESENT: Selectmen: Chairman Enrich, Mr. Busa, Mr. Fenn, Mrs. Eddison, Mrs. Krieger; Mr. White, Town Manager, Mr. Cohen, Town Counsel and Ms. Smith, Executive Clerk

Land Acquisition

Conservation Commission Chairman Joyce Miller and member Phil Hamilton reviewed plans for a Warrant Article at the 1999 Annual Town Meeting. They would like to proceed with a request for a bond authorization that would allow the Conservation Commission to negotiate with land owners for parcels of land designated in the Land Acquisition Planning Committee Report of April 1996. The Conservation Commission would come back to Town Meeting for approval to purchase specific properties as the opportunity arises. The Commission estimates they would like to ask for a \$2 million bond authorization.

Mrs. Miller reviewed the pieces of property they are interested in acquiring based on a priority list in the Land Acquisition Report.

Board members felt it makes sense to put an article in the warrant that authorizes the funding with the condition that they would come back to Town Meeting for approval on a particular parcel. The Commission does not anticipate borrowing becoming necessary until the year 2002.

Upon motion duly made and seconded, it was voted to adjourn at 10:20 p.m.

A true record, Attest:

Phyllis A. Smith
Executive Clerk

Released
11/6/2000
ES6-131
NO 11/4/99

EXECUTIVE SESSION
December 21, 1998

PRESENT: Selectmen: Chairman Enrich, Mr. Busa, Mr. Fenn, Mrs. Eddison, Mrs. Krieger; Mr. White, Town Manager, and Mr. Cohen, Town Counsel.

Collective Bargaining

Mr. White discussed collective bargaining strategy with respect to health care benefits.

Upon motion duly made and seconded, it was voted to adjourn at 10:35 p.m.

A true record, Attest:

Norman P. Cohen
Town Counsel

ES6-132

EXECUTIVE SESSION
February 1, 1999

Received
11/6/2000
No
4/14/99
✓

PRESENT: Selectmen: Chairman Enrich, Mr. Busa, Mr. Fenn, Mrs. Eddison, Mrs. Krieger; Mr. White, Town Manager, Mrs. Crew Vine, Assistant Town Manager and Mr. Cohen, Town Counsel.

Collective Bargaining

The Town Manager discussed with the Board the present organization of the Department of Public Works and the possible need to reorganize some of the divisions in order to increase productivity and to foster more effective communication from the superintendents and foremen to the crews. A discussion was held as to how this could be accomplished within the collective bargaining agreement.

Upon motion duly made and seconded, it was voted to adjourn at 10:00 p.m.

A true record, Attest:

Norman P. Cohen
Town Counsel

Released 11/6/2002

ES6-133

NO
4/14/99

EXECUTIVE SESSION
February 8, 1999

PRESENT: Selectmen: Chairman Enrich, Mr. Busa, Mr. Fenn, Mrs. Eddison, Mrs. Krieger; Mr. White, Town Manager, and Mr. Cohen, Town Counsel.

Collective Bargaining

The Board continued its discussion concerning the current functioning of the Department of Public Works. Meetings will be held with the superintendents in order to promote accountability and the need for a systematic approach to solving problems.

Upon motion duly made and seconded, it was voted to adjourn at 8:30 p.m.

A true record, Attest:

Norman P. Cohen
Town Counsel

Released 4/6/20

NO
4/14/99

EXECUTIVE SESSION
February 22, 1999

PRESENT: Selectmen: Chairman Enrich, Mr. Busa, Mr. Fenn, Mrs. Eddison, Mrs. Krieger; Mr. White, Town Manager, and Mr. Cohen, Town Counsel.

Litigation

DPW Director George Woodbury reviewed terms of a proposed settlement between the NESWC communities and Massachusetts Refusetech, Inc. Mr. Woodbury recommended the proposed settlement as follows:

1. NESWC pays 50% of the \$35.5 million cost except as amended and approved by the ITP for any cost increases not known at the time of settlement. That amount is to be paid in full at settlement. Lexington's share is \$996,000, which will be paid out of the tipping fee stabilization funds.
2. The Communities forgo any right to legal action for any past actions. The existing Tolling Agreement would end 60 days after settlement.
3. MRI would guarantee performance.
4. MRI would release NESWC from all past claims including but limited to the excess heating value of the refuse.
5. NESWC shall be responsible for the first \$300,000 cost of pending State-mandated mercury and HCL mitigation. Costs beyond \$300,000 would be prorated fifty/fifty.
6. The NESWC communities will in no way be liable for MRI's share of the costs. Should MRI fail to perform, NESWC would be paid the full amount of the agreed retrofit costs.
7. MRI is fully responsible to complete the retrofit prior to December 19, 2001 and, if not, pays NESWC \$35.5 million in damages.
8. NESWC agrees to support but not pledge the faith and credit nor guarantee MRI's efforts to obtain tax exempt financing.
9. MRI and NESWC will share any NOx credits.

Upon motion duly made and seconded, it was voted 6-0 by roll call vote: Mrs. Eddison, Mr. Fenn, Mr. Enrich, Mr. Busa, Mrs. Krieger and Mr. White to authorize Mr. Woodbury to sign the agreement outlined on behalf of the Town.

A true record, Attest:

Phyllis A. Smith
Executive Clerk