

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS**

July 19, 2011

**Executive Session
Meeting Minutes**

MEMBERS PRESENT: Jonathan Henry, Chairman
Roger Blanchette
Stephen Cushing, Clerk

ALSO PRESENT: Paul Dawson, Town Administrator
Sherman Briggs, Planning Board
Edwin North, Planning Board
Steve Gonsalves, Planning Board
John Sweeney, Planning Board
Patricia McArdle, Planning Board
Jon Witten
Debra Paiva, secretary

The meeting was called to order at 9:10 p.m. in the Town Administrator's office. Attorney Witten reminded everyone present that under the guidelines of Executive Session privilege the Boards have an opportunity to discuss the matter but lose the privilege if anything said tonight in the room leaves the room.

Strategy Related to Ongoing Litigation

Tabor Academy

Attorney Witten went to court last Thursday at the request of the Selectmen to seek injunctive relief on the fields and what the court has labeled "the other five matters" (backstop, bleachers, lights, dugouts, concept of site plan review). The court allowed the completion of the turf field but precluded any continuation of the backstop, bleachers, lights, dugouts, and the foundation portion by the backstop. Due to the longstanding relationship between Tabor Academy and the Town of Marion, the court gave the parties a chance to work it out rather than issue an injunctive order. However, the Town is not conceding on site plan review, the desire to understand what the project is, or the Dover Amendment for the other structures. The court gave until tomorrow to work out a stipulation; if one can't be worked out the parties will go back to court on Thursday. As of this evening Attorney Witten worked out with the other attorneys an agreement to extend the filing date for the stipulation to Friday and if terms can't be reached to see the court next week.

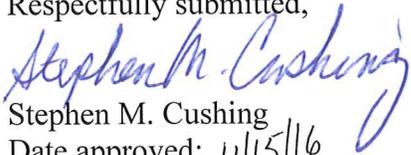
The reason for tonight's meeting is to see whether the Board of Selectmen and the Planning Board are interested in moving forward with their proposed stipulation. Attorney Witten asked Attorney Bobrowski tonight if he was willing to forego appealing the decision on the lights, backstop, bleachers, and dugouts and was told no. He was asked if he was willing to leave the site plan review jurisdiction with the Planning Board and was told no. Tabor Academy is offering to move site plan review to the Zoning

Board of Appeals (ZBA), not call it site plan review, and agree to give the ZBA the same material or data that the Planning Board probably would get under site plan review. They are not offering to take off the table litigation on the other issues.

After discussion it was agreed that Attorney Witten will respectfully decline the offer and see if there is a counteroffer. A memorandum will be given to the judge on Friday and at some point next week Attorney Witten will ask for an injunction.

Moved by Mr. Cushing and seconded by Mr. Blanchette at 10:20 p.m. to adjourn. A roll call vote was taken with all members voting aye.

Respectfully submitted,


Stephen M. Cushing
Date approved: 11/15/16

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