

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

March 20, 2012

Executive Session

Meeting Minutes

MEMBERS PRESENT: Jonathan Henry, Chairman
Stephen Cushing

MEMBERS ABSENT: Roger Blanchette

ALSO PRESENT: Paul Dawson, Town Administrator
Debra Paiva, secretary

The meeting was called to order at 8:15 p.m. in the Town Administrator's office.

The Executive Session was held for discussion of contracts of non-Union personnel and to discuss ongoing litigation.

Ongoing litigation

State Ethics Commission

The Town recently received a summons from the State Ethics Commission for documents from a number of Boards and Committees. On March 7 a committee member provided Mr. Dawson with a letter stating that a preliminary investigation had been initiated to determine whether there were violations to the State Ethics Law. Mr. Dawson forwarded the letter to the Town's insurance carrier because under Chapter 250A the Town has a duty to represent officials who have been accused of violations at least until it has been determined that they have violated the law. The insurance company denied the request for two reasons – the policy coverage is for a lawsuit and this is not a lawsuit, and there is no claim for monetary damages. Mr. Dawson then turned it over to Town Counsel for representation; Attorney Witten believes that he would be in conflict of interest if he represented the committee member and recommended that Troy Wallace Associates be appointed Special Counsel. Mr. Dawson wanted it stated on the record that he and Attorney Witten have both advised the committee member that he should be hiring his own counsel because depending on the Commission's finding, in addition to monetary fines, it could be that they refer the case to the office of the Attorney General for criminal prosecution.

Mr. Dawson also stated for the record that this is a very confidential letter that the committee member gave him and the Town would not normally have received it. This evening Mr. Dawson called the committee member and told him that he would be broaching the subject of appointing Special Counsel for him and requested permission to share the letter with the Board; he gave permission to share it with the Board. Mr. Dawson reminded the Board that the matter cannot be discussed or even acknowledged if questioned by the press.

Moved by Mr. Cushing and seconded by Mr. Henry to appoint Troy Wallace Associates Special Counsel through deposition and subject to a discussion and a plan with Counsel going forward that can be brought back before the Board at the next meeting. VOTE: A roll call vote was taken with both members voting aye.

Update - unemployment cases

The day before the hearing the Attorney General's office contacted Attorney Witten and asked to reschedule the case. Both sides agreed to reschedule the hearing; a few days later Attorney Witten received from Wareham District Court a decision against the town on two other cases that were never scheduled. It seems to be a clerical mistake where instead of rescheduling two cases decisions were made on two others. Attorney Witten has filed a motion for reconsideration which the Attorney General's office has agreed to support.

Negotiations with non-Union personnel

Lt. John Garcia

The Board reviewed and discussed three options developed by Mr. Dawson and Chief Miller in addition to Lt. Garcia's request.

Moved by Mr. Cushing and seconded by Mr. Henry to approve Option 4 as the last and best offer. VOTE: A roll call vote was taken with both members voting aye.

Paul Dawson

It was agreed to conduct this discussion at the Executive Session of the April 3 meeting, when Mr. Blanchette is present.

Moved by Mr. Cushing and seconded by Mr. Henry at 9:01 p.m. to adjourn. VOTE: A roll call vote was taken, with both members voting aye.

Respectfully submitted,



Stephen M. Cushing

Date approved: 11/15/16

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