

Selectmen' Meeting  
Tuesday, July 5, 2016  
Selectmen's Meeting Room – 11:07 p.m.  
Executive Session

The meeting was called to order by roll call vote at 11:07 the chair having declared that holding the meeting in open session would have a detrimental effect on the litigating position of the public body –R& D Site Development.

The following members were present: Anthony Vegnani, Chair, Martin O'Toole, John Danehey, Shawn Harris and Maura Curran.

Also present was Patricia Vinchesi.

Maura Curran	aye
Shawn Harris	aye
John Danehey	aye
Marty O'Toole	aye
Anthony Vegnani	aye

#### R&D Site Development Lawsuit

Before the Board was a recommendation from Town Counsel Jim Toomey, that the Board settle a pending lawsuit regarding additional work alleged by R&D Construction relative to the water pipe replacement project in 2014-5. R&D alleges that the Town, in its RFP/specifications, did not fully warn potential bidders of the amount of ledge material associated with replacement of water lines. The Town contends that it provided sufficient test borings analysis and tests performed by it engineer for the project, Weston and Sampson. Kevin Cafferty, DPW Superintendent, had kept detailed notes throughout the dispute amount documenting the Town's and R&D's responsibilities. The parties agreed to mediation earlier this year in lieu of court proceedings. R&D's demands were in excess of \$350,000 and Mr. Cafferty believed no more than \$75,000 was warranted. After continued review and negotiation, Town Counsel Jim Toomey is recommending to the Board that it settle the suit for \$100,000 with approximately \$24,000 in retainage included and to be released once the punch list is completed. While Town Counsel noted that Town's position was fairly strong, the time and cost of litigating the matter would in the end cost much more than the proposed mediated settlement.

Selectman Harris expressed concern about the competency of Weston and Sampson regarding the sample test borings and how the Town could insure a similar situation did not reoccur. It was Ms. Vinchesi's understanding that the language has been clarified in subsequent bidding.

Selectman Danehey noted that the cost of litigating the issue, despite the Town's stronger position in the matter would be quite costly and as is sometimes the case, it was best to settle and move on.

Members were agreement that the \$100,000 amount was reasonable to resolve the case.

The Board voted to adjourn the Executive Session at 11:20 p.m. and reconvene in Open Session at 11:21 p.m.


Patricia Vinchesi  
Recorder

Board of Selectmen Executive Session Meeting Minutes for July 5, 2016

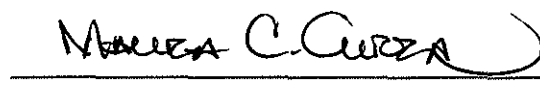
BOARD OF SELECTMEN



Martin J. O'Toole, Chairman




Anthony W. Vegnani, Vice Chairman



Maura C. Curran, Clerk



John F. Danehey



Shawn Harris