

**Date: June 1, 2015**

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TOWN CLERK

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DUXBURY, MASS.

**BOARD OF SELECTMEN**

**EXECUTIVE SESSION MINUTES**

**Present:** Theodore Flynn, Chair; Shawn Dahlen, Vice-Chair; and David J. Madigan, Clerk

**Staff:** René J. Read, Town Manager; John Madden, Finance Director; and Nancy O'Connor, Executive Assistant

**Others present for this meeting:**

Attorney Art Kreiger, Anderson & Kreiger; Attorney Lenny Kesten, Brody, Hardoon, Perkins & Kesten; Bill MacKinnon, MIIA, Peter Buttkus, DPW Director; Peter Mackin, Water and Sewer Superintendent; Gordon Cushing, Recreation Director; and Anne Murray, Administrative Assistant.

**CONVENED IN OPEN SESSION**

The Selectmen's meeting was called to order at 6:00PM in Open Session.

**VOTE TO ENTER EXECUTIVE SESSION**

Mr. Madigan moved that the Board of Selectmen enter into an Executive Session for the purpose of discussing strategy with respect to litigation as an open meeting may have a detrimental effect on the litigating position of the public body, if the Chair so declares, in accordance with Mass. General Laws Chapter 30A, Section 21. This Executive Session will adjourn when completed and *will* reconvene in Open Session. Seconded by Mr. Dahlen.

As Chair, Mr. Flynn declared that the necessity for an Executive Session is due to the confidential nature of discussions pertaining to litigation.

**ROLL CALL VOTE:** Mr. Flynn ---aye; Mr. Madigan---aye; and Mr. Dahlen---aye

**EXECUTIVE SESSION**

**DISCUSSION**

**Russ Erikson – 9 Lake Shore Drive – Water main issue**

Mr. Bill MacKinnon from MIIA was present to discuss the insurance claim Russ Erikson filed against the Town for trespassing, nuisance, taking, and diminution of home value due to water pipe installation. Mr. MacKinnon stated that Mr. Erikson's comment was that the Selectmen said that they would "take of care of it." Mr. Dahlen asked if Mr. Erikson produced anything that proves trespassing. Mr. MacKinnon stated no. The Town performed a survey and all work was done within the right-of-way. Mr. MacKinnon further stated that Mr. Erikson claimed that he had decreased access to his yard due to the installed apron. Mr. MacKinnon provided pictures of the pipe, guardrail, dam and driveway areas. Mr. Dahlen asked if the assessed value of the home has gone down. Mr. MacKinnon replied yes. Mr. Madigan said that he thought the original problem was the water pipe. Mr. Buttkus stated that it was, they installed a guardrail, and also offered landscaping, and that Mr. Erikson was not happy with the dam headwall. Attorney Kreiger asked if the Town provided either Mr. Erikson or Attorney Jonathan Young (representing Erikson) a copy of the land survey. Mr. MacKinnon replied yes. Mr. MacKinnon continued to state that Mr. Erikson also alleged that he had to rebuild his driveway and was requesting 60 cubic yards to fix his

driveway. Mr. MacKinnon showed a picture of Mr. Erikson's driveway to his backyard, which led to a fence (no gate). Mr. MacKinnon said that he will deny this claim. Mr. MacKinnon reiterated that Mr. Erikson claimed that the Selectmen promised him that they would take care of this; however, he cannot provide documentation to prove that. Mr. Dahlen recalls that they agreed to provide landscaping/planting. Mr. Buttkus stated that they tried to go underground, but that the work was limited due to State Dam Safety and not allowed to change location of the pipe, which would have also required an easement from Mr. Erikson. Mr. Read mentioned that currently there is no suit, but expects there may be one coming. Mr. MacKinnon mentioned that he was under the impression that Mr. Erikson's attorney is a friend, and also that Mr. Erikson is working on high-end cars in his backyard. Attorney Kreiger asked if that business was properly zoned. Mr. Read stated no and if you Google Mr. Erikson, it will show the name of his business. Mr. Flynn stated that he had heard of this garage working on high-end cars. Mr. Dahlen inquired as to whether the surveyed land was staked. Mr. Buttkus said yes, and that there were flags put out too. Mr. MacKinnon said that the contractor will be put on notice as well because the Town of Duxbury is named as an additional insured.

**CALM Golf v. Duxbury/Duxbury v. Troy matters**

{REDACTED}

Mr. Flynn asked if we still have a Golf Committee. Mr. Dahlen stated no because no one is appointed. There was further discussion regarding this committee with a final decision of possibly disbanding.

**EXECUTIVE SESSION ADJOURNED**

At approximately 6:30pm, Mr. Madigan moved that the Executive Session be adjourned. Seconded by Mr. Dahlen.

**ROLL CALL VOTE:** Mr. Madigan---aye; Mr. Flynn --- aye; and Mr. Dahlen---aye

*Minutes prepared by Nancy O'Connor*

*LIST OF DOCUMENTS*

1. *Agenda*
2. *Draft motion for entering Executive Session.*
3. *Email regarding Erikson*