

TOWN OF FOXBOROUGH
SELECTMEN'S MEETING
EXECUTIVE SESSION MINUTES
OCTOBER 6, 2015

Members Present: James J. DeVellis, Chairman
David S. Feldman, Vice Chairman
Christopher P. Mitchell, Clerk
Virginia M. Coppola
John R. Gray

Others Present: William G. Keegan, Jr., Town Manager

The meeting was brought to order at 6:30 p.m. by James DeVellis.

A motion to enter into Executive Session to conduct strategy sessions in preparation for negotiations with union personnel or to conduct collective bargaining sessions or conduct negotiations with union personnel – specifically relating to the Student Officer Pay Issue, and to Approve the 9-22-15 Executive Session minutes. Seconded by John Gray. **The motion carried 5-0-0. Roll Call Christopher Mitchell – yes, James DeVellis – yes, John Gray - yes, David Feldman – yes, Virginia Coppola – yes**

William Keegan explained that Attorney Leo Peloquin did not attend this meeting because there was nothing new for him to report. Of the six (6) officers involved in the McGrath case, five (5) have picked up their checks, including Officer McGrath. The only outstanding piece involved in this is the legal fee. Attorney Peloquin had come across a case which includes determination of fees and provided this information to the other parties' attorney, and has not received a response. Mr. Keegan stated that they are trying to get a universal settlement with Officer McGrath.

Mr. Gray asked if there was an issue with the one (1) officer who has not yet picked up their check. Mr. Keegan stated that this officer has been the most uncooperative, but does not know why he has not come to get the check.

Mr. DeVellis asked that if the officers are accepting these checks, are they waiving their rights to come back at the town. Mr. Keegan stated they could still file a claim but if the claim is made after the Town has made a good faith attempt to pay them, then the damage to the Town is practically eliminated. The fact that they don't pick it up or cash the check would not increase the Town's liability. He further stated that the Student Officer Pay legal decision has been an eye-opener for cities and towns across the State. Mr. Gray asked what will happen that, if in the future, this decision is to be found way off-base. Mr. Keegan stated that it seems unlikely that would happen since this decision was made by the Appellate Court and the only appeal is the Supreme Judicial Court (SJC). As we have seen however, the SJC has rejected our attempt to have this heard. The only way that could change is if the SJC would consider an appeal of a case

with different but similar circumstances. As Attorney Peloquin has said in the past, the legislative wording of the statute was not helpful to cities and towns.

Going back to the previous topic, Mr. Gray asked if there was an estimate on the payout? Mr. Keegan said approximately \$40,000 for the officers, and \$40,000 for legal fees; thus approximately \$80,000. Mr. DeVellis asked about the attorney; Mr. Keegan said that the cost of attorney is approximately \$40,000. Mr. Gray asked how the attorney is paid – is it pay as you go, or is there a retainer? Mr. Keegan said that our attorney is paid by the hour and is not on a retainer. However, he did say that once we get beyond this case, we should be o.k. because he and Mary Beth Bernard are taking on a larger role in negotiations.

Mr. DeVellis asked if there are any comments on the Executive Session minutes of 9-22-15. Mr. Mitchell said they look pretty good. Mr. Feldman asked if these were going to be made public. Mr. DeVellis stated that they cannot be made public until everything is finalized. Mr. Keegan stated that they need to look at past Executive Session minutes to see what can be made public. Mr. Gray stated the last time they reviewed what could be made public was in December 2014. Mr. DeVellis said they will do the same this year; all Executive Session minutes will be reviewed at the end of each calendar year.

Motion made by Christopher Mitchell to approve 9-22-15 Executive Session minutes but that they not be made public at this time. Seconded by John Gray. The motion carried **5-0-0. Roll Call Vote: Christopher Mitchell – yes, James DeVellis – yes, John Gray – yes, David Feldman – yes, Virginia Coppola - yes.**

Motion made by Christopher Mitchell to close executive session and return to regular session at 6:45pm. The motion carried **5-0-0. Roll Call Vote: Christopher Mitchell – yes, James DeVellis – yes, John Gray – yes, David Feldman – yes, Virginia Coppola - yes.**