

**TOWN COUNCIL MEETING MINUTES  
EXECUTIVE SESSION  
Weymouth Town Hall  
Council Chambers  
May 2, 2016, Monday**

Present: Patrick O'Connor, President  
Michael Smart, Vice President  
Robert Conlon, Councilor  
Kenneth DiFazio, Councilor  
Jane Hackett, Councilor  
Ed Harrington, Councilor  
Rebecca Haugh, Councilor  
Thomas J. Lacey, Councilor  
Arthur Mathews, Councilor  
Brian McDonald, Councilor  
Michael Molisse, Councilor

Also Present: Ted Langill, Chief of Staff  
Lee Hultin, Asst. Town Clerk  
Joseph Callanan, Town Solicitor

Recording Secretary: Mary Barker

**Executive Session-Purpose of Discussing Strategy Regarding Potential Litigation  
Against Natural Gas Companies, Resultant from Potential Expansion Plans**

President O'Connor reported that the administration reports there is no longer a need for the executive session. Comments were received and this is to wrap things up. The administration is currently leaning towards other actions. Councilor Mathews responded that the Council President was not present at the last session, and during the discussion, a lot of open-ended issues were left unresolved. The Council had asked for a written legal opinion on the cost if the matter were taken to court. He then asked Solicitor Callanan if he had the opinion. Solicitor Callanan explained the role of the Council was that the Mayor had asked them and then withdrew the request. He had since spoken with Councilor McDonald addressing his concerns but did not provide such in writing. He said in his opinion, the chance of the gas companies' success getting permitting is over 90%. Councilor Mathews responded that he was not privy to phone conversations between the attorney and administration.

Councilor DiFazio reported that he expected the executive session would have reconvened after the first one and there was no response to this request; then the information was in the press. He can't speak to his constituents about the subject because it's still in executive session. He did not have sufficient information to make a decision.

Council President O'Connor reiterated that the administration made the request and then cancelled.

Councilor Mathews responded that the Council doesn't know what language was asked to be reviewed. Had they looked into the matter of any agreement with language of Council- then it must be approved in open session by Town Council. In terms of talking litigation- he suggests looking to the original deal between Sithe and Weymouth in 1999 and the language in that deal. It is his personal opinion that the town has a better chance of fighting the language than the FERC process and he would like to have the discussion with counsel. He strongly suggest that everyone read the language from Sithe Agreement. Specifically, the town is not "mutually agreeing" to it.

Solicitor Callanan responded that this was raised in the first executive session and he reported that enforcing that provision would not stop the station. Alonquin will take by eminent domain. Calpine discussed acquisition of the North Weymouth parcel in excess of \$10 million and they won't sell. If they take by eminent domain, it would cost \$12 million and with risk, it could be more. The utility can also take by eminent domain, so the question is who could take last? He noted the cooperation with the Baker administration for federal funding and noted this will be a highly risky strategy.

Councilor Mathews suggested not offering a TIF any longer. He thinks they are in breach of their contract. Solicitor Callanan responded that beating up on Calpine will not stop the station, and they are unwilling to work with us. By the time they have any success taking away the TIF or their license, the station will be up and running. Councilor Mathews suggested they could bond the money through the CPA. Solicitor Callanan responded to that strategy-- they would have to come up with money immediately and if they give less, they would be on the hook for the balance plus interest. They would sue and add on damages. Councilor Mathews reported that the 1999 document would supersede other documents. It's no different than any other agreement. Solicitor Callanan responded that they discussed that provision in the first meeting; they are aware of the interest in the agreement. It will not stop the compressor station. A public utility has as much rights as a landowner.

Councilor Lacey reported that he concurred with Councilor DiFazio; they were asked to go into executive session to partner with the administration; they were asked to engage. Not only was there not another session scheduled, but the administration met with others outside of the purview of the Council, creating an environment of public outcry and put the Council in a horrific position. The administration did not plan to attend this session and since they are not present, then the need for the session is finished. The administration has to decide what to do. Any gag order has to be voted in open session and this is great news for the Council. It's now up to the administration to decide the best course-they have indicated they are open to a deal which puts the Council at a disadvantage and in recovery mode. He looks forward to closing this out and after the meeting, to advocacy.

Councilor Harrington asked if they can close it out or is the gag order still in effect. Councilor Callanan responded that he has a different view of the restrictions of the executive session. If something is learned in executive session it is confidential; if it is

learned from a different source, then one is not forever barred from discussing it. If the only source of knowledge is in the executive session, then yes, one is obliged to keep it confidential. Something learned in a public forum can be repeated and discussed. Vice President Smart reported that what was learned was in the confines of the executive session and it was all considered confidential. Solicitor Callanan asked if he was suggesting the mayor breached executive session. Vice President Smart responded that at the end of the last session they were handed a document and asked to read it...Solicitor Callanan responded that it was a different layer of confidentiality. Councilor DiFazio suggested they close out the executive session; then anything the Mayor wants to say will be in open session.

A motion was made by Councilor DiFazio to go out of executive session and return to the Town Council Meeting for the purpose of adjournment and was seconded by Councilor Lacey. Councilor Mathews noted that under Open Meeting law, they can close this out tonight. Someone can then request draft meeting minutes. If the Mayor signs an agreement it is resolved, but if they are still discussing litigation...and if the minutes are voted, they have to be released.

Councilor DiFazio asked Solicitor Callanan on the motion to close executive session, if he can then respond to constituent's emails. Solicitor Callanan responded they can answer emails, yes, and include facts that were learned elsewhere. Will it include a copy of the Mayor's letter? Solicitor Callanan responded that the intent of executive session is to provide the broadest protection. During this discussion, at 10:35 PM, President O'Connor left the meeting.

Councilor Haugh noted that during the whole situation, she was portrayed as the only one who was against it. She read the letter from the Mayor. It was never included on any agenda. She would have liked to have considered it. Why is the Mayor authorized to negotiate a package without having done so. She had other correspondence with the Mayor and it was not fair to have thrown in that letter. She noted that they knew it was coming for a year and she has concerns with the "fast track" comment. Solicitor Callanan reported that the first offer was received and the deal revealed on 4/14. Councilor Haugh responded it was only after learning that FERC would issue Environmental Assessment. It gives the illusion the Council negotiated a benefit package with the Mayor.

Councilor McDonald reported that they expected it would come back to executive session before being brought out publicly. Not many were comfortable with the deal but the opinion was that they needed to move this forward. Before that could happen it became public knowledge. Councilor DiFazio responded that he would like some finality and it's important how the constituents learn about this subject. Councilor McDonald suggested they could take a look at the TIF considering the lack of good faith by Sithe or Calpine.

Solicitor Callanan responded that they could only go after the TIF and not their license or only go after the money or all of their obligations. Councilor Lacey responded that Atty. Callanan is here in the role of Town Solicitor. He reiterated that the Mayor is not here.

He decided not to come and doesn't want to hear from the Council. They have been dismissed and should close this out.

Councilor Harrington asked if they speak in the interim would they botch the deal...and if going after Calpine because it isn't acting in good faith, they could take us to court. It proves a point but will cost money.

Councilor Mathews noted it gives them chances; if they Mayor does not sign an agreement with Spectra, then Calpine is in breach of the contract signed in 1999. Any and all options should be on the table, but this doesn't matter if the Mayor signs a contract.

Councilor Haugh suggested they gave up any right by not performing their obligations to Weymouth. Solicitor Callanan noted that in the present form of the agreement, the town gives up the right to a claim against Calpine. If they were to interfere with the deal already in place, they would sue on the grounds that Weymouth is being unreasonable. It's reasonable as a matter of law that Alonquin's plans are reasonable.

Councilor Lacey suggested a substitute to the motion on the floor; that they write a letter to the Mayor to the effect that the Town Council does not want to be a part of the deal he makes. Vice President Smart responded that the substitute must be germane to the main motion. Councilor DiFazio withdrew his motion.

A motion was made by Councilor DiFazio that the Town Council write a letter demanding the Town Council is not part of any deal with Spectra and was seconded by Councilor Haugh. Councilor Harrington asked if it would affect the deal? Solicitor Callanan responded that because the Mayor has not signed the agreement then it would not be a part of it, but it could possibly jeopardize it. Councilor Lacey responded that the administration didn't come back to the Council. Councilor Haugh asked how he can sign something they didn't sign as a body; she referred to separation of powers. Solicitor Callanan responded that although they were not party to the agreement, a vote in opposition would grant Alonquin the right to withdraw.

Councilor Hackett noted the language is different than it was 18 days ago. Solicitor Callanan responded that the provision is new because they sweetened the deal by \$2.5 million.

A motion was made by Councilor Mathews to suspend Rule 24 ; it was not seconded.

Councilor DiFazio responded that they don't need to send any message; they are no longer included. Councilor Mathews noted that any agreement by the administration, that includes the Town Council, must be voted in open session. The legislative powers cannot be given away.

A motion was made by Councilor Hackett to close Executive Session and was seconded by Councilor Mathews. A roll call vote was taken:

Councilor Conlon- Yes  
Councilor DiFazio-Yes  
Councilor Hackett- Yes  
Councilor Harrington-Yes  
Councilor Haugh-Yes  
Councilor Lacey-Yes  
Councilor Mathews-Yes  
Councilor McDonald-Yes  
Councilor Molisse-Yes  
Vice President Smart-Yes

UNANIMOUSLY VOTED, 10/0

Respectfully submitted by Mary Barker as Recording Secretary

Approved by Council President Arthur Mathews

Voted unanimously on 16 November 2020