

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

EXECUTIVE SESSION - MONDAY, JUNE 28, 2004

JUDGE WELSH HEARING ROOM

Acting Chairman Mary-Jo Avellar convened the executive session at 9:10 PM noting the following attendees: Board of Selectmen members: Mary-Jo Avellar, Michele Couture, Sarah Peake, Richard Olson.

Excused Absence: Cheryl Andrews

Other attendees: Town Manager Keith Bergman, DPW Director David Guertin and Attorney Richard Olson Holland - Kopelman & Paige.

Recorder: Sarah Peake

The following are meeting minutes, in brief.

9. TOWN COUNSEL: LITIGATION STRATEGY

MacMillan Pier Floating Dock System: December 2003 Storm Damage

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL C. 39, §23B cl.3, to go into executive session for the purpose of discussing strategy with respect to litigation; and not to convene in open session thereafter.*

Roll Call: Sarah Peake - Yes Michele Couture - Yes
Mary-Jo Avellar - Yes Richard Olson - Yes

Motion by: Michele Couture **Seconded by**: Richard Olson Yea 4 Nay 0

Discussion ensued.

MOTION: *Move that the Board of Selectmen vote to authorize Town Counsel (a) to make a formal claim on the performance bond provided by AGM Marine Contractors, Inc., for the MacMillan Pier floating dock system; (b) in the event the surety denies the Town's bond claim, to proceed with litigation against AGM, Southeast Floating Dock System, Inc., and surety Zurich North America; and (c) to authorize Simpson, Gumpertz and Heger, Inc. (SGH) to conduct an analysis of the potential liability of Fay, Spofford & Thorndike in this matter. [roll call vote]*

Roll Call: Sarah Peake - Yes Michele Couture - Yes
Mary-Jo Avellar - Yes Richard Olson - Yes

Motion by: Sarah Peake **Seconded by**: Richard Olson Yea 4 Nay 0

Motion to reconvene in open session by Michele Couture at 9:30 pm.

Minutes transcribed by: Vernon Porter, Secretary to Board of Selectmen
June 30, 2004