

**BOARD OF SELECTMEN  
BROOKFIELD, MASSACHUSETTS  
EXECUTIVE SESSION  
SELECTMEN'S OFFICE**

**MINUTES FOR MARCH 4, 2003**

**DISCUSS STRATEGY WITH RESPECT TO LITIGATION REGARDING PRE-  
CONSTRUCTION KENNEL FUNDS**

The Executive Session opened at 8:50p.m. Beverly A. Lund, Robert S. Phillips, Joseph J. Klimavich and Mark Reich, Town Counsel, were present.

The Board sought advise from Town Counsel on how to have funds returned to the Town that were paid to Jeff Taylor, Builder, for materials and supplies as preconstruction funds to build a dog kennel. The kennel was never built and the Board requested Mr. Taylor to list the services, materials and submit receipts used in the preconstruction funds and return the funds to the Town. At this time no funds were returned.

Mr. Reich reviewed the contract written in October 2001 between the Board of Selectmen and Mr. Taylor and read the recent correspondence regarding the return of the preconstruction funds.

Mr. Reich, the contract specialist for Kopelman and Paige, advised that the kennel construction contract written in the amount of \$9,000.00 was not valid and not enforceable. He cited non-compliance of the procurement law, MGL c30B, because only one quote was submitted and the law requires three quotes on bids over \$5,000. He further stated that according to MGL c41, s56 (warrants for payment of bills), Towns cannot pay in advance of services and the request for payment prior to services rendered was in violation of this law.

The Town could seek court action for improper use of funds but the cost to draft the complaint would outweigh the amount to recoup the funds.

The Board and Town Counsel planned to meet in open session with Jeff Taylor after the close of the executive session to discuss the validity of the contract.

**ADJOURNMENT**

Mr. Phillips moved to adjourn the Executive Session meeting at 9:20 p.m. and return to open session; Mr. Klimavich seconded. Mr. Phillips voted aye; Mr. Klimavich voted aye; Ms. Lund voted aye.

Respectfully submitted,

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Christine McManus, Administrative Assistant

Date approved by Board March 18, 2003

Minutes were made public: 10/30/12