

# **EXECUTIVE SESSION MINUTES**

**2019**

**EXECUTIVE SESSION – SELECT BOARD  
JANUARY 7, 2019 AT 6:30PM  
PLANNING BOARD CONFERENCE ROOM (ROOM 3)**

A motion was made by Ms. Wilson and seconded by Mr. Brooks to enter into executive session at 6:32pm under Mass General Law Chapter 30A, Section 21A, Exception 1, to discuss the reputation, character, physical condition or mental health rather than professional competence of an individual (Highway Laborer), Exception 3, to discuss strategy with respect to collective bargaining (Interim Police Lieutenant) and to review executive session minutes. The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll Call: 5:0:0.

Select Board members Dianna Provencher, Sandy Wilson, Brian Green, Harry Brooks and Rick Antanavica were in attendance in addition to David Genereux, Kristen Forsberg and [REDACTED]

[REDACTED]

[REDACTED]

A motion was made by Ms. Wilson and seconded by Mr. Green to approve the executive session minutes of December 17, 2018. Roll call: 3:0:2 (Mr. Brooks and Mr. Antanavica abstained).

Mr. Genereux discussed the proposed MOA with the sergeant's union to add one lieutenant position. The union has agreed to give up one sergeant position and has asked that the salary for this position be set at 18.5% above the sergeant salary schedule as this schedule is 18.5% higher than the patrol officer salary schedule. The lieutenant position as negotiated would receive the same incentives, benefits and stipends as the sergeants and the lieutenant can still do details. The Board discussed overtime concerns, the possibility of adding part-time officers, and concerns regarding annual step increases plus the union negotiated annual COLA increase. Mr. Genereux noted that part-time officers are rarely academy trained and the Town would have to pay for this training and that addressing steps in the patrol officer contract during the next negotiations would be the best way to address step concerns.

A motion was made by Mr. Brooks and seconded by Mr. Green to go out of executive session at 7:32pm and to resume meeting in open session. Roll Call: 5:0:0

**EXECUTIVE SESSION – SELECT BOARD  
FEBRUARY 11, 2019 AT 6:30PM  
SELECT BOARD CONFERENCE ROOM**

A motion was made by Ms. Wilson and seconded by Mr. Brooks to enter into executive session at 9:00pm under Exceptions 3 & 7, to discuss strategy with respect to litigation (BSI Litigation); meeting with Town Counsel pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007) to discuss pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985. The Chair declared that to discuss these matters in open session would compromise the position of the town. Roll call: All Ayes

Board members Dianna Provencher, Sandy Wilson, Harry Brooks and Rick Antanavica were in attendance in addition to David Genereux and Kristen Forsberg.

Mr. Genereux noted the Town had a positive settlement meeting with BSI and was surprised to receive a letter following this meeting that BSI was not ready to accept any offers at this point and will be proceeding with litigation. Town Counsel recommended signing a Joint Defense and Tolling Agreement with Context Architecture and ACG at this time and hiring a cost consultant to assess what the damages should be. Mr. Genereux stated he did not agree with moving forward with the Joint Defense and Tolling Agreement at this time because Context and ACG are not pushing for it and it will end settlement talks with BSI by forming an alliance with the other parties involved. The Board was in agreement. Mr. Genereux recommended moving forward with the cost analysis by hiring Arcadis to begin value engineering for the project which can be used for negotiations and in court.

A motion was made by Mr. Antanavica and seconded by Ms. Wilson to sign the value engineering agreement with Arcadis. Roll call: All Ayes.

A motion was made by Mr. Brooks and seconded by Ms. Wilson to go out of executive session at 9:24pm. Roll call: All Ayes

**EXECUTIVE SESSION – SELECT BOARD  
MARCH 4, 2019 AT 6:30PM  
SELECT BOARD CONFERENCE ROOM**

**1. EXECUTIVE SESSION, MGL CHAPTER 30A, SECTION 21A**

- a. **Executive Session Minutes**
- b. **Exceptions 3 & 7 – Discuss strategy with respect to litigation (BSI Litigation); meeting with Town Counsel pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007) to discuss pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985**

Mr. Green arrived at 7:19pm. A motion was made by Mr. Brooks and seconded by Ms. Wilson to enter into executive session under Mass General Law Chapter 30A, Section 21A, Exceptions 3 and 7, to discuss strategy with respect to litigation (BSI Litigation); meeting with Town Counsel pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007) to discuss pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985 and to review executive session minutes. The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll call: 5:0:0.

Executive Session Minutes

A motion was made by Ms. Wilson and seconded by Mr. Antanavica to approve the executive session minutes of January 7, 2019. Roll call: 5:0:0.

A motion was made by Ms. Wilson and seconded by Mr. Antanavica to approve the executive session minutes of February 11, 2019. Roll call: 5:0:0.

Mr. Genereux provided a recap of the conversation held Thursday with BSI and Marc Armington at which BSI was asked to quantify each component of the \$1.4M lawsuit amount to help determine who is at fault for each piece. Mr. Genereux noted the conversation centered around the \$202K in liquidated damages, site work and the significant rain event, design deficiencies and BSI feeling as if they were constantly being threatened with having their bond pulled which they attribute to the conduct of the OPM, Architect and Fire Station Building Committee. Mr. Genereux noted the costing out of each issue can be done by Arcadis at a cost of \$50,000. Mr. Genereux asked if BSI is willing to continue negotiations and they were noncommittal as any work product provided becomes part of discovery. BSI stated they would consult with their attorney and get back in touch with the Town. As of today, Mr. Genereux stated he has not heard back from them and noted he did stress that time is of the essence is order to for the Town to commit to its legal obligations. Mr. Genereux did note that BSI indicated they were not interested in having the claim assigned to them and pursuing Context due to the Town's contract language. Mr. Genereux recommended waiting to receive a response from BSI before moving forward with Arcadis and/or the Joint Tolling Agreement with Context and the Board concurred.

A motion was made by Ms. Wilson and seconded by Mr. Antanavica to go out of executive session at 7:44pm and to resume in public session only for the purpose of adjournment. Roll call: 5:0:0.

**EXECUTIVE SESSION – SELECT BOARD  
APRIL 1, 2019 AT 6:30PM  
SELECT BOARD CONFERENCE ROOM**

**EXECUTIVE SESSION**

- a. **Executive Session Minutes**
- b. **Exceptions 3 & 7 – Discuss strategy with respect to pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985 pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007).**

A motion was made by Ms. Wilson and seconded by Mr. Brooks, at 8:57 pm to enter into executive session under Mass General Law Chapter 30A, Section 21A, Exceptions 3 and 7, to discuss strategy with respect to litigation (BSI Litigation); meeting with Town Counsel pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007) to discuss pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985 and to review executive session minutes. The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll call: 5:0:0.

Executive Session Minutes

A motion was made by Mr. Brooks and seconded by Mr. Antanavica to approve the executive session minutes of March 4, 2019. Roll call: 4:0:0.

Mr. Genereux stated that BSI told Mark Armington that they remain interested in negotiating. However, they requested that the Town contact Context to see if they will participate as well. If Context chooses not to negotiate, BSI would still be open to negotiating solely with the Town. Mr. Genereux supported the idea of bring all parties in at once, in order to better allocate the funding from the settlement between the parties while minimizing legal expenses.

Mr. Genereux stated that Mr. Armington has the plans, specs and bid prices, and saw potential legal exposure on the Town's part, but it was not yet quantifiable. The goal would be to break each event that BSI referenced in their complaint to individual costs, rather than considering their entire loss on the project. This would be it easier to quantify exposure.

Mr. Genereux explained that Attorney Petrini had no problem with the mediation, but recommended that a moderator be retained to ensure that it runs smoothly.

BSI has started filing through discovery so time is of the essence. Mr. Genereux stated that if the Board concurred, he would reach out to Context and Counsel to try to schedule the negotiation. The Board concurred with Mr. Genereux's recommendation.

A motion was made by Ms. Wilson and seconded by Mr. Antanavica to go out of executive session at 10:13 pm and to resume in public session only for the purpose of adjournment. Roll call: 4:0:0.

**EXECUTIVE SESSION – SELECT BOARD  
MAY 20, 2019 AT 6:30PM  
SELECT BOARD CONFERENCE ROOM**

A motion was made by Mr. Brooks and seconded by Ms. Wilson to enter into executive session at 7:03pm under Mass General Law Chapter 30A, Section 21A, Exceptions 3 and 7, to discuss strategy with respect to pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985 pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007) and to review executive session minutes. The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll call: 5:0:0.

Dianna Provencher, Sandy Wilson, Brian Green, Harry Brooks, Rick Antanavica, David Genereux, Kristen Forsberg, Mark Armington and Town Counsel Chris Petrini were in attendance.

A motion was made by Ms. Wilson and seconded by Mr. Brooks to approve the minutes of April 1, 2019 with one change: amend the votes to reflect 4 members in attendance (Mr. Green did not attend). Roll Call: 5:0:0.

Mr. Genereux discussed settlement meetings with BSI. A specific offer has not been made but BSI has indicated willingness to settle in the ballpark of \$800,000 to \$850,000. Mr. Genereux noted that BSI has incurred additional legal costs as they have already completed discovery.

Mark Armington has been participating in discussions free of charge to assist the Town given his expertise in engineering and public construction and presented an analysis of the project. Mr. Armington reviewed the bids received, noting that BSI came in more than \$400,000 below the next low bidder and \$637K lower than the average bid. As the advertised construction cost was \$5.2M, Mr. Armington stated he would have had the contractor in and gone line by line, possibly rejecting the bid if it appeared too low. Mr. Armington noted he read the specifications which had minimal references to water mitigation, adding that BSI only carried \$258K for general site work. Mr. Armington noted that the borings indicated the water table was at 17ft below grade but that no borings were taken in the retention pond areas and subsequent engineering studies indicated that the site drainage design was flawed. The SWPPP plan that was submitted was typical to most construction sites and did not indicate the issues that BSI ran into on the site. Mr. Armington stated he did not believe the engineer spent significant time on the site but signed the affidavit and had a minimal punch list. Mr. Armington believed the architect had an extensive punch list which indicated they were not paying enough attention during project construction. Mr. Armington read the SWPPP and stated it was not overly detailed or specific to some of the site issues.

Mr. Armington described the general approach to discussions with BSI, the goal of which was to minimize legal fees and have an open book, non-binding dialogue. The focus was on the major cost overrun issues related to the claim and Mr. Armington noted that there is blame on all sides and the contract was not followed to a tee on either side. The three areas analyzed were water mitigation, MEP coordination and miscellaneous/liquidated damages. BSI assigned approximately costs to each of these areas. Mr. Armington did a cost comparison with some of the industry leaders and BSI's estimates were in line with industry standards.

Mr. Armington referred to this project as the perfect storm due to a combination of issues with design documents, a contractor not that skilled in site work, a tough site due to the water and the 50-year storm. Mr. Armington noted that the water mitigation efforts affected the overall project schedule and their time

extensions were mostly denied. Mr. Armington stated that implementing liquidated damages in the midst of a project is highly unusual and penalizing the contractor can completely change the dynamic of a project in a negative way. Change orders were at \$448,000 which is approximately 10% of the bid. Mr. Armington stated that this number is not bad but does reflect the additional scope added including the training tower. Removing the project add-ons reduces the change order percentage to around 6%. Mr. Armington believes the Town got a great building despite the project finishing late but the issues with the retention ponds must be addressed. The retention ponds are not supposed to hold water all the time as they are doing now.

Mr. Armington recommended settling with BSI in the \$800,000 to \$850,000 range. Mr. Armington believes that BSI owns at least 30% of the water mitigation costs as they should have carried more money in their bid and come up with a better plan to address these issues. Mr. Armington believes the Town owes the MEP issue and associated costs. BSI has been open to a phased payment plan. Mr. Armington believes if BSI agrees to a settlement, they would not be open to addressing issues with the ponds as they did not design them.

Mr. Armington discussed issues with the architect, who he believes had errors and omissions and did not do the best job on the site plan. Context has stated they do not want to assume any liability. The Town could choose to file a legal claim for the errors and omissions or perhaps negotiate services to resolve the site drainage issues at no cost to the Town. Mr. Armington stressed the importance of maintaining a good relationship with contractors and not losing sight of the fact that this is a good building.

[REDACTED] Mr. Armington confirmed that the Town has not given out any numbers at this point. Mr. Armington gave a very rough estimate of \$200,000 to address the drainage issues on the site. Mr. Antanavica noted that water has always been an issue in that area and Mr. Armington added the project might have made it worse.

Ms. Wilson asked if the \$128K for the MEP (mechanical, electrical, plumbing) related to ceiling heights is in addition to what the Town paid BSI already and Mr. Armington stated it is. The liquidated damages are comprised of \$202K in withheld funding, the unpaid last invoice of \$7,500 and cost overruns. Mr. Armington believes that Town's biggest misstep was letting the contractor come on the site without a good water mitigation plan. Mr. Armington believes the architect's engineer is largely to blame for the retention pond design flaws. Ms. Wilson stated that there was no other way to pay the architect and the OPM other than holding liquidated damages for the 7-month project delay.

[REDACTED]

[REDACTED]

Mark Armington left the meeting at 8:36pm.

The Board discussed the possibility of offering a \$500K settlement. [REDACTED]

[REDACTED] Ms. Wilson noted if they had started earlier when the site was dry and had not scraped the site the foundation and walls would have been up by the end of November. Ms. Wilson stated the glacial till was noted through all specs and reports and this is the issue, not the retention ponds. [REDACTED]

[REDACTED]

Mr. Genereux discussed the upcoming pumping of the ponds, noting when you drain the ponds, if the water comes back it is a water table issue, whereas if the ponds stay dry it is a design issue. Putting in drainage would require easements, Town Meeting approval and dealing with wetlands regulations. Ms. Wilson noted the site has always been wet and all homes on that side of Warren Ave have had sump pumps for at least 50 years.

[REDACTED] Mr. Genereux said under the \$800K settlement scenario plus the \$200K to address the water issues, the Town should do a 10-year note and transfer \$130K each year from free cash. The Board discussed the options, including waiting to see what occurs when the ponds are drained tomorrow and offering to settle for \$600K. [REDACTED]

[REDACTED] The Board agreed to discuss the matter further in executive session at their meeting Thursday evening at Becker.

A motion was made by Mr. Brooks and seconded by Mr. Antanavica to go out of executive session at 9:10pm. Roll call: 5:0:0.



**EXECUTIVE SESSION – SELECT BOARD**  
**MAY 23, 2019 AT 6:30PM**  
**BECKER COLLEGE, BORGER 110, 964 MAIN STREET, LEICESTER, MA 01524**

**1. Executive Session, MGL Chapter 30A, Section 21A, Exceptions 3 & 7**

Discuss strategy with respect to pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985 pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007).

A motion was made by Ms. Wilson and seconded by Mr. Brooks to enter into executive session at 7:35 pm under Mass General Law Chapter 30A, Section 21A, Exceptions 3 and 7, to discuss strategy with respect to pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985 pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007) and to review executive session minutes. The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll call: 5:0:0.

Dianna Provencher, Sandy Wilson, Brian Green, Harry Brooks, Rick Antanavica, and David Genereux were in attendance.

Mr. Genereux opened the discussion by asking what was the Board's wish regarding the proposed legal settlement with BSI. Mr. Antanavica recapped the discussion held in Executive Session the previous Monday. He reminded the Board that Attorney Petrini stated that he believes that he can reach a settlement at a lower value, but could not guarantee it. Mr. Antanavica recommended that the Town Administrator and Mark Armington be given authorization to negotiate a range of \$750k to 825k as a settlement. Mr. Antanavica stated that it would be better if this was resolved before the next election.

Mr. Brooks asked if the Library contract had liquidated damages. Mr. Genereux stated that it did not.

Ms. Wilson stated that the first BSI construction manager was the problem. She cited the delay in the onsite mobilization and the foundation subcontractor that walked off the site after a day. She stated that she believed that the Town did not owe BSI Anything. Mr. Brooks stated that he was not happy with Context not being held responsible for the design flaws of the building and the retention ponds. He further stated that the Town should not settle unless the ponds are reengineered.

Mr. Green stated that he was in favor of spending the \$100 - \$125k for the expedited discovery as recommended by Attorney Petrini. Ms. Wilson reminded the Board that the 201k that was held as liquidated damages did not cover the cost of Architect and OPM being on site for that time period. Mr. Brooks restated that he wanted Context to do something about the retention ponds.

Mr. Genereux stated that the settlement, if approved, would use some of the funding currently in the legal budget, as well as a likely 10 year borrowing to cover the settlement and the engineering and improvements for the Warren Avenue area, payable via Free Cash annually.

Mr. Brooks stated that he would like language inserted so that any settlement remains bound to the warranty claim and that the responsible party be made to fix the retention ponds. Ms. Wilson stated that the highest that she would be willing to go would be 600k.

Mr. Antanavica made a motion that the Board authorize a settlement of 750k to 825K. There was no second.

Mr. Brooks made a motion that the Board authorize a settlement offer of \$700k with the warranty claim as part of the offer. That motion was seconded by Mr. Antanavica. Roll Call: Mr. Brooks – Yes, Mr. Antanavica – Yes, Ms. Provencher – Yes, Mr. Green – No, Ms. Wilson – No.

A motion was made by Mr. Brooks and seconded by Mr. Antanavica to go out of executive session at 8:50 pm. Roll call: 5:0:0.

**EXECUTIVE SESSION – SELECT BOARD  
JUNE 3, 2019  
SELECT BOARD CONFERENCE ROOM**

A motion was made by Ms. Wilson and seconded by Mr. Brooks to enter into executive session at 7:38pm under Mass General Law Chapter 30A, Section 21A, Exceptions 3 and 7, to discuss strategy with respect to pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985 pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007) and to review executive session minutes. The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll call: 4:0:0.

Dianna Provencher, Sandy Wilson, Harry Brooks, Rick Antanavica, David Genereux and Kristen Forsberg were in attendance. Mr. Green was absent.

A motion was made by Ms. Wilson and seconded by Mr. Antanavica to approve the minutes of May 20, 2019 (with minor corrections) and May 23, 2019. Roll call: 4:0:0.

Mr. Genereux discussed today's meeting with BSI. Mr. Looney from BSI signed a confidentiality agreement ensuring that all offers discussed would not be disclosed should the project go to court. Mr. Genereux discussed the warranty claim for the retention ponds. At this time, the cause of the failing ponds is unknown. This warranty claim would not be waived as part of any settlement. Mr. Looney stated he would need to think on the \$700K offer, adding that if it was \$750K he would have agreed. Mr. Looney said he will call Mr. Genereux tomorrow with his answer.

Mr. Genereux expressed concern about the settlement passing at Town Meeting and noted a possible solution might be to have the court write up a judgement if a settlement is reached which would require the Town to fund the settlement. Mr. Genereux discussed the possibility of a 10-year borrowing authorization in the amount of \$1,000,000 to pay the settlement and address the issues with the retention ponds. The funds would be paid back out of free cash at \$100,000 per year. Mr. Genereux discussed the possibility of having an executive session meeting next Monday if the offer is accepted to formalize the agreement.

Mr. Genereux noted that some of the ponds have filled back up since being drained and others have not. A third-party engineer will likely be needed to look at this issue. The first pond (closest to the driveway and Leroux's Liquors) should fill first, then drain to the second pond which is not happening. There is some runoff from the parking lot filling up the third pond.

A motion was made by Ms. Wilson and seconded by Mr. Brooks to go out of executive session at 8:09pm. Roll Call: 4:0:0.

**EXECUTIVE SESSION – SELECT BOARD**  
**JUNE 10, 2019 at 6:30PM**  
**TOWN HALL, MEETING ROOM 3**

The Chair opened the meeting at 6:34pm. Chair Dianna Provencher, Vice-Chair Sandy Wilson, 2<sup>nd</sup> Vice-Chair Brian Green, Selectman Harry Brooks, Selectman Rick Antanavica, Town Administrator David Genereux and Assistant to the Town Administrator Kristen Forsberg were in attendance.

A motion was made by Mr. Brooks and seconded by Mr. Antanavica to enter into executive session at 6:34pm under Mass General Law Chapter 30A, Section 21A, Exceptions 3 and 7, to discuss strategy with respect to pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985 pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007) and to review executive session minutes. The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll call: 5:0:0.

Mr. Genereux stated that BSI has accepted the proposed \$700,000 settlement and attorneys on both sides are now working out the details. Mr. Genereux has received a first draft of the agreement which included some terms not previously agreed to such as asking the Town to agree to go after Context for damages with BSI, putting down a settlement deposit and adding language stating the Town will pay out the settlement even if it is not approved by Town Meeting. Mr. Genereux noted that while there is funding remaining in the FY19 legal budget and \$150,000 in the FY20 legal budget, the Town has a bylaw which clearly states that any settlement in excess of \$500 must be ratified by Town Meeting. Mr. Genereux has asked Town Counsel to put in the agreement that the parties will work in good faith towards a settlement if not approved by Town Meeting. Even borrowing within the levy requires 2/3<sup>rd</sup> approval at Town Meeting. Mr. Genereux advised against calling a Special Town Meeting solely for this settlement and recommended Town Counsel continue to negotiate on the payment terms. Mr. Genereux added that Town Counsel has advised against entering a judgement in the courts at this time because it could be viewed as a potential red flag to contractors looking to do work in Town.

Mr. Genereux discussed the outstanding \$13,500 water connection bill from Leicester Water Supply District which is outside of the \$700,000 settlement and would need to be paid by the Town. Mr. Genereux added that the Town owes \$7,000 to BSI which will not be paid out. The Town will be receiving a reimbursement of approximately \$29,000 for the Opticom and there is approximately \$25,000 remaining in the project budget. Ms. Wilson noted remaining work includes radios (estimated at \$63,000) and an upgrade to the air conditioning in the meeting room (under \$10,000). Currently, there is no backup for the Fire Station should Regional Dispatch go down. The Board discussed the possibility of raising funds for the radios at Fall Town Meeting.

Mr. Genereux discussed the water issues on Warren Ave, noting that Highway will be walking the properties this week and looking into reconstituting the old drainage system and swale rather than engineering an underground pipe system. If this plan moves forward, the Town would be asking residents to allow access to their properties to clean the land and dig a trench which would drain into Sargent's Pond. The question of to what extent this problem was preexisting remains. Neighbors would be responsible for keeping the swale clean and there is no way to write this requirement into their deeds.

A motion was made by Mr. Antanavica and seconded by Mr. Green to move forward with the proposed \$700,000 settlement, to pay the Leicester Water Supply District water connection fee pending approval from the Fire Station Building Committee. Roll call: 5:0:0.

A motion was made by Mr. Brooks and seconded by Ms. Wilson to approve the executive session minutes of June 3, 2019. Roll call: 5:0:0.

A motion was made by Mr. Brooks and seconded by Mr. Green to go out of executive session at 7:37pm. Roll call: 5:0:0.

A motion to adjourn was made by Ms. Wilson and seconded by Mr. Brooks at 7:38pm. The motion carried 5:0:0.

**EXECUTIVE SESSION – SELECT BOARD  
JULY 15, 2019 at 6:30PM  
TOWN HALL, MEETING ROOM 3**

Chair Sandra Wilson, Vice Chair Harry Brooks, 2<sup>nd</sup> Vice Chair Rick Antanavica, Selectwoman Dianna Provencher, Selectman John Shocik, Town Administrator David Genereux and Assistant to the Town Administrator Kristen Forsberg were in attendance.

A motion was made by Mr. Antanavica and seconded by Ms. Provencher to enter into executive session at 7:04pm under Mass General Law Chapter 30A, Section 21A, Exception 2, to hold a strategy session in preparation for negotiations with nonunion personnel (Animal Control Officer & Building Inspector). The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll call: 5:0:0.

A motion was made by Mr. Antanavica and seconded by Mr. Shocik to approve the executive session minutes of June 10, 2019. Roll call: 5:0:0.

Mr. Genereux discussed the proposed three-year contract renewal with Animal Control Officer Patricia Dykas, noting that the \$3,000 stipend included in her current contract has been rolled into her overall salary. Mr. Genereux noted Ms. Dykas has accepted a full-time second shift position with Worcester Animal Control. Mr. Genereux spoke with Chief Antanavica who stated he was not concerned about coverage as the Town receives an average of less than one call per day (360 in 2018). The Board discussed putting a backup animal control officer in place in case of emergency and benefits. Mr. Genereux noted the Town received one complaint last year about Ms. Dykas not returning a call.

The Board discussed developing a social media policy for Town employees as well as Town Board and Committee members and Mr. Genereux will draft up a policy for the Board's review.

Mr. Genereux presented a contract amendment with Building Inspector Jeff Taylor which would extend his current contract through October 31, 2019 at which point he plans to retire.

A motion was made by Ms. Provencher and seconded by Mr. Antanavica to go out of executive session at 7:33pm. Roll call: All Ayes

**EXECUTIVE SESSION – SELECT BOARD  
SEPTEMBER 9, 2019 at 6:30PM  
TOWN HALL, MEETING ROOM 3**

Chair Sandra Wilson, Vice Chair Harry Brooks, 2<sup>nd</sup> Vice Chair Rick Antanavica, Selectwoman Dianna Provencher, Selectman John Shocik, Town Administrator David Genereux and Town Counsel Christopher Petrini were in attendance.

A motion was made by Mr. Shocik and seconded by Mr. Antanavica to enter into executive session at 6:34 pm under Mass General Law Chapter 30A, Section 21A to discuss strategy with respect to pending litigation in the case of BSI v. Town of Leicester, Civil Action No. 1885CV00985 pursuant to G.L. c. 30A Section 21(a) (3) and Suffolk Construction v. DCAM, 449 Mass. 444 (2007). The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll call: 5:0:0.

The minutes from 07/15/2019 were discussed briefly, but Attorney Petrini advised the Board that

[REDACTED]  
[REDACTED] With the said, the Board passed over its vote on the meeting minutes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A motion was made by Mr. Brooks and seconded by Ms. Provencher to go out of executive session at 7:01pm. Roll call: All Ayes



**EXECUTIVE SESSION – SELECT BOARD  
SEPTEMBER 23, 2019 at 6:30PM  
TOWN HALL, MEETING ROOM 3**

Chair Sandra Wilson, Vice Chair Harry Brooks, 2<sup>nd</sup> Vice Chair Rick Antanavica, Selectwoman Dianna Provencher, Selectman John Shocik, Town Administrator David Genereux, Assistant to the Town Administrator Kristen Forsberg, Highway Superintendent Dennis Griffin and Town Counsel Christopher Petrini were in attendance.

**1. EXECUTIVE SESSION, MGL CHAPTER 30A, SECTION 21A**

- a. **Exception 3 – To discuss strategy with respect to pending litigation pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAMM, 449 Mass. 444 (2007) (Worker's Compensation case)**

A motion was made by Mr. Brooks and seconded by Ms. Provencher to enter into executive session at 6:31pm under Mass General Law Chapter 30A, Section 21A, Exception 3, to discuss strategy with respect to pending litigation pursuant to G.L. c. 30A, §21(a)(3) and (7) and Suffolk Construction v. DCAMM, 449 Mass. 444 (2007) (Worker's Compensation case); Exception 1, to discuss the dismissal of an employee (Highway Laborer); and Exception 3, to discuss strategy with respect to collective bargaining (restoration of employee vacation time – Government Employees Union Local 1). The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll call: 5:0:0.

[REDACTED]

[REDACTED]

- c. **Exception 3 - To discuss strategy with respect to collective bargaining (Restoration of employee vacation time – Gov. Employee Union Local 1)**

Mr. Genereux received a request from the highway union (Government Employee Union Local 1) to restore Mr. Robert Provost's vacation time. Mr. Provost has 14 years of service with the Town but took a leave of absence for approximately two years due to the loss of his CDL license. The MOA between Mr. Provost and the Town allowed him to return to the Town as a laborer at step 1 if there was funding in the budget for this position once his license was reissued. The MOA did not address vacation or sick time. Based on his 14 years of service, Mr. Provost is requesting he be granted 4 weeks of vacation and that his 149.75 days of sick time he had accrued when he took the leave of absence on October 5, 2015, be

restored. Highway Superintendent Dennis Griffin supported the request, noting Mr. Provost is a hard worker, a leader in the department and a valued employee. A motion was made by Mr. Antanavica and seconded by Ms. Provencher to allow Mr. Provost's vacation time to be restored to 4 weeks per year and to restore his 149.75 days of sick leave. Roll call: 4:0:1 (Mr. Shocik abstained).

A motion was made by Mr. Brooks and seconded by Ms. Provencher to go out of executive session at 7:21pm. Roll call: 5:0:0

**EXECUTIVE SESSION – SELECT BOARD**  
**OCTOBER 7, 2019 at 6:30PM**  
**TOWN HALL, MEETING ROOM 3**

Chair Sandra Wilson, Vice Chair Harry Brooks, 2nd Vice Chair Rick Antanavica, Selectwoman Dianna Provencher, Selectman John Shocik, Jim Reinke with Quality Contracting, Town Administrator David Genereux and Assistant to the Town Administrator Kristen Forsberg were in attendance.

A motion was made by Mr. Brooks and seconded by Ms. Provencher to enter into executive session at 6:31pm under Mass General Laws Chapter 30A, Section 21A, Exception 6, to consider the purchase, exchange, lease or value of real property (Hillcrest Country Club). The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll call: 5:0:0.

Jim Reinke with Quality Contracting did a walkthrough of the Hillcrest Country Club at the request of the Town Administrator. Mr. Reinke noted that while the building is not falling down, there is significant deferred maintenance over many years which will require a substantial investment to improve. Mr. Reinke could not give a cost estimate as this was a visual inspection and there could be hidden conditions. Mr. Genereux noted that all repairs are subject to prevailing wage and public bidding requirements. Mr. Reinke discussed issues with the siding, window caulking, paint, lack of ADA compliance and foundational issues that can be corrected. The basement is used as storage and is full to capacity. The Board discussed having the basement cleaned out due to fire hazard concerns and having unregistered vehicles removed from the site.

The Board discussed options including using Hillcrest's \$24,000 in annual rent to address structural issues, tearing down the building, and what is the responsibility of the Town and the Lessee. Mr. Genereux stated that as Hillcrest is a Town owned building, we are primarily responsible for maintenance and the current lease will not make much of a dent in the outstanding issues. The current tenants have stated they are not interested in making building improvements unless they receive credit.

The Board discussed extending the current tenant's lease for one year while the Town hires an architect to fully assess and cost out all issues with the building. Once the architect's report is received, the Board can decide how much money they want to put into the building and speak with commercial realtors to see what kind of rent could be charged on the improved building. The possibility of separating the restaurant from the golf course and converting the course to fields was discussed. The golf course could also be run as a town-owned golf course, but Mr. Genereux noted those are not typically very profitable. The building can be sold but the golf course land must be preserved for outdoor recreation of some sort in perpetuity. The Board discussed the possibility of putting some host community agreement and/or sales tax revenue funds into the building. Mr. Brooks expressed concern about the building deteriorating further over another year and felt the Town was too far out from doing the study.

A motion to go out of executive session and back in to open session was made by Ms. Wilson and seconded by Mr. Brooks at 7:38pm. Roll Call: 5:0:0.

**EXECUTIVE SESSION – SELECT BOARD  
OCTOBER 21, 2019 at 6:30PM  
TOWN HALL, MEETING ROOM 3**

Chair Sandra Wilson, Vice Chair Harry Brooks, 2nd Vice Chair Rick Antanavica, Selectwoman Dianna Provencher, Selectman John Shocik, Town Administrator David Genereux and Assistant to the Town Administrator Kristen Forsberg were in attendance.

A motion was made by Mr. Brooks and seconded by Ms. Provencher to enter into executive session at 6:31pm under Mass General Laws Chapter 30A, Section 21A, Exception 6, to consider the purchase, exchange, lease or value of real property (Hillcrest Country Club) and to reconvene in open session at the conclusion of executive session. The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll Call: 5:0:0.

The Board discussed rejecting all bids under the RFP and extending the contract with Hilltop Management Group for one year. There would be no option for a second year as the total value of the lease would exceed \$35,000. Mr. Genereux noted the group would not be required to make any repairs during this year. If the group decides something needs to be fixed, they must notify the Board in writing. If the Board agrees, the Town will procure quotes/bids. Mr. Genereux stated the Town could move forward with an architectural study of the property during this time to determine the building conditions, necessary renovations and options for future reuse. Mr. Brooks expressed concern about the building deteriorating further over another year and felt the Town was too far out from doing the study. Mr. Genereux noted the group would like to paint the building and fix the porch, but the Town needs to determine the overall buildings needs and cost first. The Board did not approve reimbursement or credit for prior work done without board authorization as requested in the RFP from Hilltop. Mr. Genereux added that the study would help the Town determine the cost to fix the building, decide if the renovations make financial sense, and determine if the work can be done in stages so to have as minimal impact as possible on the business.

A motion was made by Mr. Antanavica and seconded by Mr. Brooks to go out of executive session at 7:08pm and to resume in open session. Roll call: All Ayes

**EXECUTIVE SESSION – SELECT BOARD  
DECEMBER 9, 2019 at 6:30PM  
TOWN HALL, MEETING ROOM 3**

Chair Sandra Wilson, Vice Chair Harry Brooks, Selectwoman Dianna Provencher, Selectman John Shocik, and Town Administrator David Genereux were in attendance. 2nd Vice Chair Rick Antanavica was absent.

A motion was made by Mr. Brooks and seconded by Ms. Provencher to open the meeting and enter into executive session at 6:31pm under Mass General Laws Chapter 30A, Section 21A, Exception 3 - to discuss strategy with respect to collective bargaining (Highway Union); Exception 7, to comply with , or act under the authority of, any general or special law (Discussion Regarding Potential Release of Executive Session Minutes from 2014); and Exception 2 – To conduct strategy sessions in preparation for negotiations with nonunion personnel (Building Commissioner/Zoning Enforcement Officer & Police Chief). The Chair declared that to discuss these matters in open session would compromise the position of the Town. Roll Call: 4:0:0.

Mr. Genereux presented the Board with draft contracts for the Police Chief (Kenneth Antanavica) and the Building Inspector/Zoning Enforcement Officer. The Board discussed the Chief's contract at length. The Board discussed the previous chief's contract and asked what the differences were. Mr. Genereux replied that the base salary was 11k lower than the previous Chief's contract, and that the salary increases tied to performance of specific goals had been removed. Mr. Genereux discussed the benefits requested by the Chief that were removed during the negotiation, noting that the proposed contract contains the same benefits in the current Sergeants union contract, except with a fixed salary and no ability to work paid detail.

Mr. Genereux explained the Building Inspector/Zoning Enforcement Officer's contract, noting that he was starting at Level 4, Step 1, and had a six-month probationary period. The Board recommended that the contract be amended to include the duties and title of ADA Coordinator. Mr. Genereux stated that he would make the amendment.

Mr. Genereux discussed the hiring process that was just undertaken for a vacant Highway position. He stated that the Committee doing the evaluations of candidates were pleased with two of the five candidates, but that candidate only had a learner's permit on his CDL certification, which is not addressed in the current Highway Union contract. Mr. Genereux noted that there were several other issues that needed to be addressed in the contract as well. The Board stated that a similar situation was allowed via a letter to the union a few years ago, that did not require opening the contract.

Mr. Genereux further explained that the School Department has requested that the Highway Department take over plowing and snow removal duties from the Schools after January 1, 2020. Mr. Genereux stated that to do so, the School Committee will have to make such a request of the Select Board at the December 16<sup>th</sup> meeting.

The Town would then seek to hire two more positions through June 30, and another position effective July 1. The School Department would transfer funds at the May Town Meeting to cover the cost of the two initial positions at the Spring Town Meeting and would have to agree to a budget reduction for FY2021 to pay for all three positions. These positions, overseen by the Highway Department, would be responsible for snow and ice removal and athletic field maintenance throughout the year. The School Department has made this request because outside contractors providing these functions are difficult to find and prohibitively expensive. Mr. Genereux stated that if the Board approved this action at its next meeting, a recruitment for the two positions would have to take place.

Mr. Genereux then discussed potential processes regarding the release of executive session meeting minutes. After discussion, Mr. Genereux stated that he would undertake releasing executive sessions minutes, after appropriate redaction by Town Counsel.

A motion was made by Mr. Brooks and seconded by Ms. Provencher to go out of executive session at 7:49 pm and close the meeting. Roll call: All Ayes