

DENNIS WATER DISTRICT
Board of Water Commissioners
Minutes of **EXECUTIVE SESSION** held
June 25, 2013

A meeting, having been duly posted, was held this date at the Dennis Water District, 80 Old Bass River Road, South Dennis. The meeting was called to order in open session by Paul F. Prue, Chairman at 4:30 PM. Also in attendance were Charles F. Crowell and Peter L. McDowell and the following individuals:

David Larkowski, Superintendent, Sheryl A McMahon, Clerk & Treasurer, Thomas Perrino,
General Counsel for the District, Bruce Gilmore, Attorney for Mediation Services

Chairman Prue declared the meeting open and announced that the regular monthly meeting would be held Thursday, June 27 at the Dennis Police Station at 6:00 PM.

Charles F. Crowell moved to go into **EXECUTIVE SESSION: Section 21 (a)(1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual and not to return to open session. It was seconded by Chairman Prue. The roll call vote was as follows:**
Charles F. Crowell – “Yes”; Peter L. McDowell – “No”; Paul F. Prue – “Yes

Chairman Prue asked that Attorney Perrino begin the meeting. Mr. McDowell discussed with Attorney Perrino the rules allowing for Executive Sessions. Mr. McDowell said that he had not been notified about the meeting and since the meeting was about him, he requested that the meeting be held in open session. Attorney Perrino explained that since an employee has made a request to resolve by mediation assertions made publicly by one of the commissioners, the meeting was about her as the employee and the Board as the employer. Attorney Perrino stated that the meeting had been duly posted and that Ms. McMahon was provided notice of the meeting as is required by the Executive Session exemptions in the Open Meeting Law. Mr. McDowell further challenged the legality of the Executive Session meeting stating that mediation was not one of the expressed purposes stated in MGLc30A, Section 21 (a)(1) published in the call of this meeting. He further noted his surprise that, except for receipt of the meeting notice found in his Commissioner’s mailbox on July 9 no information, whatsoever had been given to him that the purpose of this meeting would be a mediation action involving him. Accordingly, Mr. McDowell said the meeting was illegal and that he would not participate. Mr. McDowell left the meeting at approximately 4:38 PM.

Chairman Prue asked Attorney Perrino and Attorney Gilmore how best to proceed. Attorney Perrino said that Ms. McMahon could still present her case if she so desired. Attorney Gilmore said that having reviewed the video tapes he suggested that there were three options; do nothing, develop a Board policy on communications and or change job descriptions.

Attorney Gilmore described the mediation process. Chairman Prue stated that it was disappointing that Mr. McDowell was not willing to participate in resolving the situation. Ms. McMahon declined to make any comments during the meeting.

Chairman Prue asked when the minutes of this Executive Session could be released. Attorney Perrino said they should be released when it is determined that the matter is resolved. Chairman Prue thanked Attorney Gilmore for attending. Attorney Gilmore left the meeting at 5:05 PM.

The Board members present briefly discussed whether there would be an opportunity to mediate as Ms. McMahon had requested. On a motion made by Charles F. Crowell, and duly seconded by Paul F. Prue, the Board **VOTED: 2-0-0 (PLM absent): to adjourn the Executive Session at approximately 5:10 PM.**

Respectfully submitted,

David Larkowski, Superintendent