

**IPSWICH SCHOOL COMMITTEE MEETING
AMENDED DECEMBER 17, 2011 EXECUTIVE SESSION MINUTES
MS/HS ENSEMBLE ROOM**

CALL TO ORDER

Mr. Loeb called the meeting to order at 9:05 a.m. with the following School Committee members present: H. O'Flynn, L. Dietz, B. Hopping, J. Bauman, S. Gresh, and R. Roesler; Board of Selectmen present: R. Morley, C. Surpitski, S. Berry, W. Craft, and P. McNally; and Finance Committee present: M. Schaaf, L. Seidler, M. Feldman, R. White, T. Wilson, I. Miles, M. Swan, J. Fay, and R. Howard. S. Perry, Attorney, and R. Korb, Superintendent, were present also.

ANNOUNCEMENTS

Mr. Loeb announced that Executive Session will be held to discuss ongoing litigation strategy relative to real estate matters after which the meeting will adjourn.

CITIZENS' COMMENTS

Doug DeAngelis read a prepared message urging a procedure in a non-hurried manner with public discourse.

Clark Ziegler asked for public discussion as well.

Kathy Savoie opined, as a litigator herself, that the trial should go on until the judge makes a decision. The legislators are watching this, and she said that the House of Representatives could help toward appointing public officials to a new management board of Feoffees.

EXECUTIVE SESSION

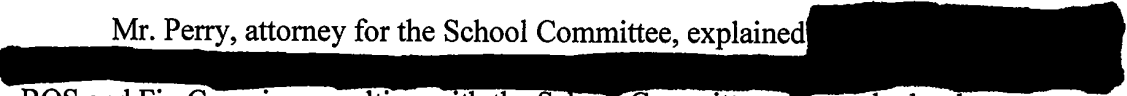
Dr. O'Flynn moved, seconded by Mrs. Dietz, to go into Executive Session for the purpose of discussing strategy with respect to real estate litigation, inviting the Finance Committee and Board of Selectmen to join the School Committee and allowing for Open Session after Executive Session if needed, otherwise to adjourn after Executive Session. Roll call IN FAVOR- Roesler, Gresh, Bauman, Loeb, Hopping, Dietz, O'Flynn.

Mr. Schaaf, Fin Com Chair, accepted a motion from Mrs. Miles, seconded by Mr. White, to consider matters relating to ongoing litigation. Roll call IN FAVOR- Schaaf, Seidler, Feldman, White, Wilson, Miles, Swan, Fay, Howard.

Mr. McNally moved, seconded by Mr. Craft, to consider matters relating to ongoing litigation. Roll call IN FAVOR- McNally, Craft, Morley, Berry, Surpitski.

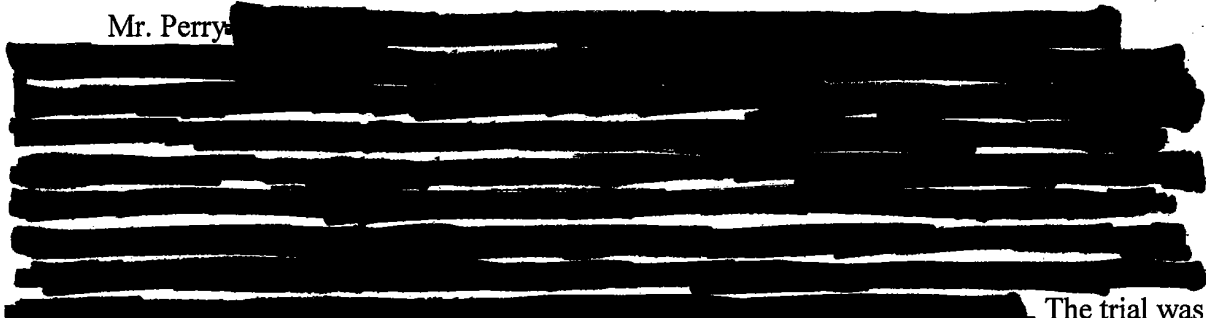
Mr. Loeb thanked everyone for coming on short notice and gave a quick history of the last 72 hours. The Attorney General's office stated that this emergency meeting is permissible.

Mr. Perry, attorney for the School Committee, explained

 The BOS and Fin Com, in consulting with the School Committee, were asked to keep communications within the group and to keep the judge's remarks and tenants' offers confidential.

Mr. Perry detailed an offer that had been made by the Tenants late on Thursday to buy Little Neck property and create a condominium arrangement. The proposal, which the tenants had made clear was their best and final offer, with the financial aspects non-negotiable, includes the following: the tenants would increase the amount paid in use and occupancy by a total of \$2.4 million. This will automatically result in the reduction of lessee rebates of close to \$600,000 for a total increase in proceeds of approximately \$3 million. These amounts would be net income for purposes of making distributions and could be paid to the School Committee in three annual distributions of \$800,000 plus interest. The homeowners could amend their purchase agreements so that the additional amounts were treated as part of the price for purposes of their purchase and sale agreements. The extra use and occupancy payments by the tenants would be paid in cash as part of the closing, except for those tenants who were accepting Feoffees financing, expected to be a relatively small number given current interest rates, in which case they could be paid through five year fully amortizing notes at a 4 percent interest rate. The Feoffees were planning to close on all sales by July 1, 2012, but if there was a delay, the tenants would have to pay use and occupancy starting on July 1, 2012 at the same rate as the tenants, which would also eliminate any lessee rebates from that point forward. The tenants and Feoffees also agreed to accelerate the date when the interest in the escrow account (estimated at \$50,000) would be paid to the School Committee, a feature of the original agreement. The Feoffees had agreed that the engineering and legal costs for achieving the condominium conversion would be capped at \$400,000 if Donahoe could do the engineering and if the Feoffees' current counsel handled the legal work. The School Committee would be able if it wished to apply for an award from the Trust of attorneys' fees, which would allow it to satisfy any unpaid fees or expenses and to repay the Town any amounts that were owed to the Town under the terms of advance of such expenses. With respect to governance, the proposal calls for the current Feoffees to remain in office until the filing of the Master Deed, during which time they would act only in the ordinary course, and no compensation would be paid to them other than the ongoing ordinary payments to Peter Foote. Once the Master Deed was filed, the Feoffees would be reconstituted so that there were five publicly appointed trustees and two life Feoffees, and then on the first to occur of the completion of sales or 90 days after recording the Master Deed, the Feoffees would be reconstituted to seven members, six appointed by Town Boards (two each from the Selectmen, School Committee and FinCom). The seventh individual would be appointed by the life Feoffees, who would continue to be self-perpetuating for the sole purpose of appointing this seventh member on an ongoing basis. The Feoffees would obtain a release from the School Committee and release and indemnity from the Trust for any claims other than claims for unknown deliberate misconduct. The Trust Administration Order that had been submitted to the court would need to be revised given the sale of the property and also to revise the distribution/spending policy for the endowment, as it had been determined that the distribution policy contained in the existing version was inadequate for a permanent endowment. Accordingly, a revised Trust Administration Order consistent with what is outlined above would have to be adopted by the School Committee and submitted to the court with input from the Office of the Attorney General.

Mr. Perry



The trial was to resume on Monday, and a decision needed to be reported to other counsel, and potentially the court, before that occurred.

Following that, Mr. Loeb requested that those around the table ask questions and, in continuing discussion, then to make comments about their feelings of approval or disapproval. Three expressly mentioned the need to ask for a higher price. Several expressed concern that the land that the Feoffees had agreed to sell included approximately one hundred yards of Pavilion Beach and that this would affect the rights of the public to utilize the beach. Others were concerned about the elimination of seasonal use restrictions which could increase the need for town services, including enhanced enrollment numbers in the schools. Mr. Morley felt that it wasn't up to the public, and the School Committee should vote for themselves. Mrs. Dietz needs a change in governance as her priority.

Mrs. Roesler expressed concerns regarding the meeting and votes conducted in executive session, indicating that public input was necessary before taking a vote of such magnitude. She said that it was a shame that a 350-year-old trust would be dismantled with a settlement and does not want a sale to occur on her watch as a School Committee member when Payne's trust expressly forbids it.

Mrs. Roesler also commented that, while a settlement would result in roughly \$25 million placed into an investment trust, the money would be vulnerable to market volatility, and future trustees or School Committee members could decide to dip into the account for large capital improvements to the schools in the future, thus losing the valuable real estate of Little Neck. Long-term leases would produce equal or more of a return to the schools, and the trust would still have the valuable land asset. She expressed frustration that the trial was just getting underway and any talk of a settlement at this point is premature, advocating for allowing the School Committee attorney to present his case.

Mrs. Bauman felt sad that the issue wasn't continuing into litigation.

Mr. Loeb moved, seconded by Dr. O'Flynn, to authorize counsel, as a bottom line, to accept and take action to implement the proposal by the Tenants that he had outlined with the addition of clearing up the right of the public to utilize the 100 yards of Pavilion Beach abutting Little Neck property (at the gate). IN FAVOR – O'Flynn, Dietz, Loeb, Gresh; AGAINST- Bauman, Roesler, Hopping.

The Committee also directed Mr. Perry to attempt to negotiate the following elements with only number 1 as essential to a deal:

1. Use of Pavilion Beach
2. Financial return: intermediate rent between January – July, 2012, (about \$25,000 extra because the schools need the funds
3. A covenant against winter rentals by owners (November – April)

ADJOURNMENT

Dr. O'Flynn moved, seconded by Mr. Hopping, to adjourn at 1:32 p.m. IN FAVOR- Roesler, Gresh, Bauman, Loeb, Hopping, Dietz, O'Flynn. The Fin Com (4) and BOS (1) members present adjourned as well.