

**TOWN OF EAST LYME
SPECIAL TOWN MEETING
JANUARY 6, 2015**

Recorded Jan 13 20 15
AM
9:45 PM Lesley A. Blais
East Lyme Town Clerk

Moderator, Gene Cushman, called the Special Town Meeting to order at 7:00 p.m. Ron Stevens then led the assembly in the Pledge of Allegiance.

Assistant Town Clerk, Karen Galbo, read the call of the meeting, stating it had been posted on the signpost, published in The Day newspaper, and filed in the Town Clerk's office.

Moderator stated the rules of the Special Town Meeting, saying that only registered voters or taxpayers with a minimum assessment of \$1,000 on the last completed Grand List were eligible to vote and that there are penalties for anyone doing otherwise.

- 1. To appropriate as approved by the Board of Finance a Special Appropriation of \$650,000 for Settlement of Litigation a full and final release by New England National and all of its affiliates of all matters; \$325,000 would come from Open Space Fund 59, \$50,000 from General Fund Contingency, \$146,000 from General Fund Undesignated Fund Balance and \$129,000 from Legal Settlement Funds.**

Motion (1) Joe Mingo, 397 Boston Post Road, East Lyme moved to approve Item 1.

Seconded by Rita Franco-Palazzo, 43 Sleepy Hollow Road, Niantic.

Discussion:

First Selectman, Paul Formica discussed the history of the litigation. He has spent a portion of every week that he has been in office working on this case. The Board of Finance and Board of Selectmen are here in solidarity in favor of this settlement. He understands this is a large sum of money. It is difficult to ask the Town to settle but this is necessary to end the litigation. This has been agreed on by both sides in an open court session, subject to Town approval this evening. This is an important opportunity for no further lawsuits. They will also be releasing the easements around Darrow Pond. He is disheartened to have to ask for this, but it will end decade long litigation to the community.

Attorney Mark Block stated he is not an elector of the Town. He is Special Council employed by the Town. The Town has been engaged in litigation with New England National for about 12 years. The opportunity has arisen to settle the case. They have pieced together a settlement that will bring the litigation to an end. He discussed the terms of the settlement. A U.S. District Court Judge will approve this in open court. Parties from the Town and from New England National will be present. There will be a full and final release against all town employees, officials, and agents. Attorney Block read a portion of the full and final Release and Discharge. Attorney Block stated that he has spent innumerable hours answering and responding to this litigation. He is not minimizing the payment. If this settlement is not approved then they will spend much more.

Karen Rak, 27 Black Point Road, Niantic asked what the breach was in the 2008 Compromise Agreement.

Attorney Block stated there were an alleged issue with a Cease and Desist Order, there was an allegation that the town did not obtain the permit from the Army Corps of Engineers promptly for the redesign of Mostow Road, there was an issue with a mylar for lot line revisions not being filed, and there was also an issue with the settlement with AIG without New England National's approval.

John Cesario, 15 Darrows Ridge Road asked if the acquisition of the property would allow the Town to get Grants from the State.

Mr. Formica stated he doesn't know the answer to that, but the Town will pursue that. There is the potential of Grant dollars.

Mr. Cesario asked if the Town obtained Title Insurance on the property.

Attorney Block stated the Town did obtain a Title Policy.

Mr. Cesario asked what the legal costs to the town would be if they do not approve this tonight.

Attorney Block estimated that if the litigation were to continue the legal fees and expenses could be approximately \$200,000 to \$300,000.

Joe Mingo stated the LLC limits New England National's liability. What prevents the principals in that LLC from organizing another LLC and coming back.

Attorney Block stated the settlement agreement specifically prohibits New England National or members or affiliates as part of any other entity from coming back and engaging in business for the next 20 years.

John Drabik, 18 Drabik Road, asked why the insurance company was indemnified and absolved of responsibility.

Amanda Sisley, Special Council employed by the Town reviewed the timeline for the litigation.

John Drabik stated he would like this to go to a referendum vote.

William Sawicky of Drozdick Drive, Groton discussed the ownership of 16 Mostowy Road.

Karen Rak encouraged this to go to referendum.

Joe Palazzo moved the Motion.

Seconded by Rita Franco-Palazzo.

Item 1 Passed.

Motion (2) Rob Wilson moved to adjourn the meeting at 8:30 p.m.

Seconded by Holly Cheeseman.

Motion Passed.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Karen Miller Galbo, ATC".

**Karen Miller Galbo
Assistant Town Clerk**