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COMMONWEALTH OF MASSACHUSETTS

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WORCESTER COUNTY COURTHOUSE
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October 16, 2008

Gerald M. Moody, Esq.
Town Counsel
Town of Milford
Town Hall
53 Main St.
Milford, MA 01757

Re: Milford Board of Selectmen
Open Meeting Law Violation Complaint

Dear Mr. Moody:

Thank you for cooperating in our investigative request by sending us your letter of September 23, 2008 and furnishing this office with copies of the minutes of both the open session and executive session of the meeting in question concerning the Open Meeting Law complaint which we received on August 19, 2008.

After further review of the matter and further research, it is the opinion of this office that the use of GL ch. 39 section 23B(6) which allows a governmental body to convene in executive session "to consider the purchase, exchange, lease or value of real property if an open discussion may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation," was inappropriate for this case. *Allen v. Board of Selectmen*, 58 Mass App. Ct. 715 (2003).

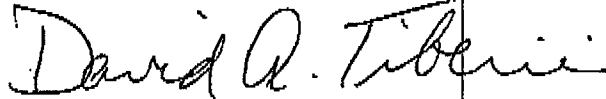
It is clear from the minutes of the executive session that the purpose of the meeting with Mr. Nunes, the potential casino developer, was to discuss "an economic development opportunity" for a casino to be built in Milford. It did not show any discussion directly bearing on real property owned by the Town of Milford. Furthermore, section 23B(6) is meant to allow the governmental body to confidentially consider the value of its property to be purchased, exchanged or leased in order to avoid impairment of its negotiating position with third parties. That need for confidentiality does not exist when the third party is present at the meeting and participates in the discussion. *Allen v. Board of Selectmen*, 58 Mass App. Ct. 715 (2003).

Although no substantive action was taken, the meeting on July 14, 2008 violated both the letter and the spirit of the Open Meeting Law. The remedy for this violation will be the immediate release of the executive sessions minutes regarding the discussion of the casino

proposal. A copy of the minutes should be made available to the public, the media, and this office as soon as they are entered into the record of the Milford Board of Selectmen.

Once again, thank you for your cooperation in this matter and for your advice and assistance to the Milford Board of Selectmen.

Very truly yours,



David A. Tiberii
Assistant District Attorney

CC: ✓ Richard K Lodge
Dino De Bartolomeis, Chairperson

MINUTES OF EXECUTIVE SESSION – JULY 14, 2008
ROOM 03 – TOWN HALL
8:35 P.M.

PRESENT: Chairman Dino B. DeBartolomeis; Selectmen Brian W. Murray and William D. Buckley; Town Administrator Louis J. Celozzi; Town Counsel Gerald M. Moody; Minutes Recorder Vicki Dowdell.

ROLL CALL VOTE: Chairman DeBartolomeis, Selectmen Murray and Buckley all vote in the affirmative to go into Executive Session to discuss real estate negotiations and to meet with Counsel on Verizon negotiations.

1. David Nunes, Ajax Gaming Ventures LLC, was present to discuss an economic development opportunity for the Town of Milford, specifically to determine their interest in a legalized gaming facility located in Milford. Mr. Nunes indicated that he represents private investors presently acquiring options for parcels of land in Milford (approximately 340 – 500 acres) with easy access to Rt. 495. Milford, along with another community in close proximity to Boston and Worcester, is being considered as one of the host communities, in addition to Middleboro, for Southeastern Massachusetts gaming licenses. This venue would include an 800 room hotel, gaming room, 56,000 sq. ft. of retail space, two, five-story structural parking garages plus an outdoor parking area, and 175,000 sq. ft. of Meeting Space. This will compare with Phase I and II Development of Foxwood in their first seven years of business. This venture would be a \$3 to \$4½ Billion Dollar investment. Significant dollars would be brought to Milford (1 ½ % - 5% of gaming revenues per year). The Board expressed interest in the proposal, after outlining many of their concerns (i.e., traffic, infrastructure, water, etc.). They will meet with Mr. Nunes in September regarding progress of this proposal.
2. Town Counsel Moody updated the Board on the Verizon negotiations and indicated that Town Administrator and he will meet with the town's consultant on Wednesday. A tentative meeting with the Board was scheduled for July 23, 2008.

3. Mr. Murray moved, seconded by Mr. Buckley: To adjourn Executive Session at 9:30 p.m., UNANIMOUS.

Respectfully submitted:

Vicki Dowdell

Minutes Recorder

MILFORD BOARD OF SELECTMEN

Dino B. DeBartolomeis, Chairman

Brian W. Murray

William D. Buckley