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GateHouse Media New England

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Joseph D. Early Jr.  
Worcester District Attorney  
225 Main Street, Room G-301  
Worcester, MA 01608

Dear District Attorney Early:

I am writing to register a formal complaint and to ask that your office investigate what we believe is a violation of the Massachusetts Open Meeting Law.

I am including copies of our news stories published today in The MetroWest Daily News and Milford Daily News, and coverage by The Boston Globe about what we believe was a violation of the law by the Milford Board of Selectmen.

Briefly, selectmen as a board held an executive session July 14 with David H. Nunes about plans by Nunes to build a resort-casino somewhere along I-495, possibly in Milford. Selectmen, the town administrator, town counsel and Nunes all confirmed the closed-door meeting took place but we believe the meeting should not have been closed and that the reasons given are not among the nine OML exemptions which allow closed meetings.

Specifically, the Milford selectmen's minutes from July 14 say all three selectmen voted to go into executive session "to discuss real estate negotiations and to meet with Counsel on Verizon negotiations."

Exemption 6 in the Open Meeting Law allowed executive sessions "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* with a person, firm or corporation."

It does not appear logical the board would use this exemption to protect its negotiating position *while meeting with the very individual with whom the board would eventually be negotiating* if, indeed, the sale or transfer of town-owned land were at issue.

If this is the first meeting between the Milford Board of Selectmen and Nunes, it would appear premature for any discussion of "real estate negotiations," as cited in the minutes. And if "real estate negotiations" were, in fact, the focus of the meeting between the board of Nunes on July 14, then there is reason to believe considerable discussion about the sale or transfer of town-owned land had taken place at some earlier time and place among the three selectmen and other town employees, at least some of which would appear to be in violation of the OML.

Milford's town counsel Gerald Moody is quoted in our story as saying the large parcel of land Nunes might be considering for a casino site could include town-owned land.

"It may be and may be not - that's the thing," Moody said. Again, it appears to be a contradiction to use Exemption 6 as the justification for a closed-door meeting to protect the negotiating position of the Board of Selectmen, when the meeting appears to have been held specifically to discuss the casino plan, land acquisition, presumably whether town-owned land would be involved and, presumably, the price of that town-owned land with the developer – the prospective purchaser of that town-owned land.

We believe the board held an executive session without properly stating under which OML exemption the meeting was being closed and that the justification appearing in our story and in The Globe is at odds with the intent of Exemption 6 – to protect the governmental body's negotiating position, which would mean the board would *not* share such information with the developer of a casino at such an early stage.

Our newspapers believe the public has a strong and compelling interest in the details of a proposed resort-casino and its possible impact on the economy and overall quality of life in the region. In addition, if town-owned land is or might be involved, the public has a right to know the details and to have first-hand access to the discussions about the sale or transfer of that land, except when Exemption 6 is properly cited.

Closing out the public and press at even this early stage of the discussion unfairly and unlawfully precludes taxpayers and other interested parties from being informed about the actions of town employees, elected town officials and possible disposal or transfer of public land.

We appreciate your prompt attention to this matter, which we believe is a significant breach of the public's right to know and of the requirements of the Open Meeting Law in Massachusetts.

Sincerely,

Richard K. Lodge  
Editor-in-chief

cc: Louis Celozzi; Robert Ambrogi; Bethany Edwards