

## Great Barrington Zoning Board of Appeals

Minutes of August 5, 2014, executive session.

Attending were Chairman Ron Majdalany, Vice Chairman Carolyn Ivory, Kathy Kotleski, Madonna Meagher, Michael Wise and alternate Don Hagberg. The meeting was at Great Barrington Town Hall.

Following its regular business, the board at 8 p.m. entertained a request from Town Manager Jennifer Tabakin to enter executive session. The executive session was not part of the first posted agenda. The secretary reported he learned of the request late Monday, but in reading the Massachusetts Open Meeting Law, identified a section that says: "While not required under the Open Meeting Law, public bodies are encouraged to make a revised list of topics to be discussed available to the public in advance of the meeting if the body intends to discuss topics that come up after posting but before the meeting convenes. The secretary said he posted a revised agenda that Tuesday morning before the meeting. Mr. Wise moved the board go into executive session to discuss litigation strategy in the Hutchinson/Schwab matter, including in the discussion Town Manager Tabakin and associate member Hagberg. The board would not return to open session. Ms Ivory seconded. In a roll call vote, Ms. Meagher, Mr. Wise, Dr. Majdalany, Ms. Ivory and Ms. Kotleski all voted yes. The secretary also attended the meeting to take minutes.

Ms. Tabakin said there is choice in selecting counsel to represent the ZBA in the Land Court matter: David Daneski of Kopelman & Paige or Richard Dohoney, who represented the building inspector during the Hutchinson appeal hearing before the ZBA. Members said both attorneys were capable and had Land Court experience. Mr. Dohoney has fresh familiarity with the case, having attended and spoken at the public hearing before the ZBA. Mr. Wise pointed out the court appeal suggests the state's forestry program takes precedence over the town's drinking water protection district will likely be keenly followed in the commonwealth as it could set a precedent. It might, in fact, draw amicus help from other agencies or other towns. After discussion, Mr. Wise moved to recommend the Town Manager seek permission from the Board of Selectmen to hire Richard Dohoney to handle this case in Land Court. In a roll call vote, Ms. Meagher voted no, Mr. Wise yes, Ms. Kotleski yes, Ms. Ivory yes and Dr. Majdalany yes. The board briefly discussed some of the issues around statements made in the Hutchinson appeal. Ms. Tabakin is to ask the Selectboard's approval of Mr. Dohoney at the board's Aug. 11 meeting.

The board adjourned its meeting at 8:15 p.m. without returning to public session.

Respectfully submitted

Bernard A. Drew, Secretary

