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ORLEANS TOWN CLERK

BOARD OF SELECTMEN
EXECUTIVE SESSION MINUTES

June 16, 2009

Approved on September 9, 2009

An executive session meeting of the Orleans Board of Selectmen was held on Tuesday June 16, 2009 in the Nauset Room of the Town Hall for the purpose of discussing legal strategy with respect to real property negotiations. Present were Chairman Jon R. Fuller, Clerk Sims McGrath Jr., Selectman Mark E. Carron, Selectman David M. Dunford, Town Administrator John Kelly, Wright-Pierce Consultant Michael Giggey and Orleans Town Counsel Michael Ford.

On a motion by Mr. Dunford, and seconded by Mr. Carron the Board voted by way of roll call to enter into executive session for the purpose of discussing legal strategy with respect to real property negotiations. The vote was 4-0-0, with Mr. Dunford, Mr. Fuller, Mr. Carron and Mr. McGrath all voting aye.

The Board met with Orleans Town Counsel Michael Ford to discuss the inter-municipal agreement between the Towns of Orleans, Brewster and Eastham with regard to the Tri-Town Septic Treatment Facility.

Town Administrator John Kelly outlined the goals for the Town of Orleans in regards to the termination of the inter-municipal agreement prior to 2015, and the most beneficial way for the Town of Orleans to achieve those goals.

Mr. McGrath suggested that the Town of Orleans might wish to stress the fact that due to the advanced age of the Tri-Town Facility and it's equipment, that the plant may prove to be a liability for Brewster and Eastham, rather than a financial asset in terms of salvage and resale.

Mr. Ford pointed out that the report generated by Wright-Pierce Consultant Michael Giggey states that there is significant financial gain for the Town of Orleans to re-use portions of the existing Tri-Town facility for the new comprehensive wastewater management plan.

Mr. McGrath stated that perhaps the conversation should start with the fact that, if Eastham and Brewster are unwilling to terminate the agreement prior to 2015, then at the point where the agreement terminates, Eastham and Brewster will then be asked to pay one third of the cost for the remediation of the site and Orleans, will regain control of the property and will be able to commence with the Comprehensive Wastewater Management Plan.

Mr. Kelly stated that the agreement calls for an appraisal to be done when the agreement terminates. Mr. Ford suggested that the Town of Orleans might wish to

retain the services of an appraiser. Mr. Ford suggested Paul O'Leary of O'Leary Associates, as he is highly regarded in the real estate field.

Mr. Kelly reminded the Board that the appraisal for the property had to come through the Tri-Town Board of Managers. Mr. Kelly stated that if the Town of Orleans hired an appraiser, Tri-Towns Board of Managers would have to hire an additional appraiser for a second opinion.

Mr. Ford stated that key for the Town of Orleans was to show the Towns of Eastham and Brewster that the "value" of the property is dependant upon the ownership of property, because the property belongs to Orleans the value is significantly less for Eastham and Brewster.

Wright-Pierce Consultant Michael Giggey presented the Board with his summary of upcoming decision needed for the Comprehensive Wastewater Management Plan. Mr. Giggey stated that there are seven decisions needed in order to continue with the Comprehensive Wastewater Management Plan. The first item on the summary is the construction schedule; the second item is the layout of the facility, third is a decision on the existing Tri-Town Facility, fourth on the list is a decision item for the Tri-Town Board of Managers regarding any unforeseen expenses that may occur within the facility, fifth and sixth items on the list is involve regionalization of the Comprehensive Wastewater Management Plan, last on the list is the current compost shed and the land that may be needed for later regional wastewater efforts.

Mr. Giggey also discussed the draft of the regionalization study contracted through the Cape Cod Water Protection Collaborative. Mr. Giggey suggested to the Board that a formal submission to the sister towns might be in order, as the study demonstrates the cost savings from the regionalization of wastewater efforts on the lower Cape area.

Mr. Giggey stressed to the Board the need to emphasize that the current direction the Board is taking in regards to the Tri-Town Facility is in the best interest of all of the involved parties and not just to the benefit of the Town of Orleans.

Mr. Dunford asked where the Town of Orleans is in terms of the construction time line. Mr. Giggey replied that the 2013 date for the start of construction is accurate.

Mr. Kelly reminded the Board that construction couldn't commence until the encumbrance is removed from the property.

Mr. McGrath suggested using the access to the property as a bargaining chip. In that the Town of Orleans might indemnify Eastham and Brewster for repairs to the property if the Towns of Brewster and Eastham allowed access to the property in 2013.

Mr. Kelly stated that he felt that the other Towns would not be receptive to that type of negotiation.

Mr. Carron stated that he felt the Town of Orleans would have a difficult time selling the idea of early termination of the inter-municipal agreement to the other towns. Mr. Carron also stated that he was concerned with the idea of building a large plant in anticipation of regionalization, and what might happen if the other towns decided not to join into the facility.

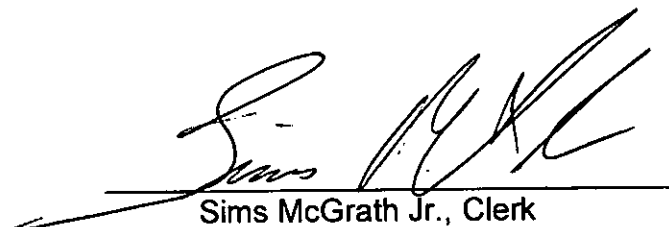
Mr. Kelly replied that an inter-municipal agreement could be drafted in a phased approach, so that the plant was constructed and expanded on an as needed basis. Mr. Kelly suggested renegotiating the current inter-municipal agreement on a ten-year extension basis that would grant the Town of Orleans proprietorship over the Tri-Town property. The Towns of Eastham and Brewster would still be able to dispose of their septage at the member town rate, but the Town of Orleans would be able to construct a new facility at the Tri-Town location and have control over the property for the construction of the new wastewater treatment facility. Mr. Kelly further stated that at the end of the ten-year agreement period, another extension of the inter-municipal agreement could be drafted to address possible regionalization efforts with Eastham and Brewster.

On a motion by Mr. Dunford, and seconded by Mr. McGrath, the Board voted, by way of roll call, to authorize the Chairman of the Board of Selectmen to send a letter to the Towns of Eastham and Brewster and their representatives on the Tri-Town Facility Board of Managers regarding the initiation of an appraisal of the Tri-Town Septic Treatment Facility and to initiate a draft of the terms for a revised Inter-Municipal Agreement that would represent the position most advantageous to the Town of Orleans for the upcoming sessions. The vote was 4-0-0, with Mr. Dunford, Mr. Fuller, Mr. Carron and Mr. McGrath all voting aye.

Mr. Dunford requested that the list of decisions needed drafted by Mr. Giggey be presented to the Board in a chart format with a time line for the necessary decisions.

On a motion by Mr. McGrath, and seconded by Mr. Dunford, the Board voted, by way of roll call, to return to open session for the sole purpose of adjournment. The vote was 4-0-0, with Mr. Dunford, Mr. Fuller, Mr. Carron and Mr. McGrath all voting aye.

Transcribed by:
Kristen Holbrook



Sims McGrath Jr., Clerk

Released on: December 6, 2017