

**BOARD OF SELECTMEN
EXECUTIVE SESSION MINUTES
NOVEMBER 5, 2007**

Present: Hal White, Chairman
Ted Goodwin
Arnold Wilson
William Emrich
James Malloy, Town Administrator

The Chairman called the executive session to order under MGL Chapter 39, §23B, Paragraph #3: To discuss strategy with respect to collective bargaining or litigation; and Paragraph #6: To consider the purchase, exchange, taking, lease or value of real property; not to reconvene in open session.

51 Holland Road

J. Malloy had Town Counsel draft an amendment, breaking out the properties so that 55 Holland Road and 52 Stallion Hill Road would sell first at \$700,000; then hold off on 51 Holland Road until the Notice of Non-Compliance was addressed. Peter Jacques reviewed it and provided an alternative to close on all three properties as planned, but set aside \$40,000 in an escrow account to cover the cost of the cleanup. J. Malloy submitted to the Board the amendment that was proposed by Peter Jacques' attorney, which has been forwarded to Town Counsel for review. The EPA indicated that if the seller were to offer something like this, it would actually assist the town in obtaining a Brownfields Grant. Jacques' proposal is to place \$40,000 in an escrow account and to give him until 12/31/07 to bring the property into compliance; if it is not done by that date, the Town can access the funds in the escrow account to accomplish the remaining issues in the MADEP notice. It also requires the Town to apply for Brownfields grants in good faith and to attempt to collect from Tyrone Jones (through the MADEP).

J. Malloy received Town Counsel's review, and it removed paragraph 6, which stated: "If the seller requested, we would be required to file a lawsuit against Tyrone Jones." This removes the paragraph that the Town would pursue Tyrone Jones if Peter Jacques requested it. It has been forwarded to Peter Jacques.

J. Malloy thought that based on LSP estimates, the outstanding work could be completed for less than \$40,000, based on a conversation with the former LSP on the property, William St. Hillare (Tyrone Jones had stopped paying him). William St. Hillare estimated an approximate cost of \$25,000 to complete; the LSP at Tighe and Bond estimated \$30,000.

J. Malloy said that the EPA indicated that if the current owner is able to put up some money, it would look good for a Brownfields grant. However, the way that the DEP has handled this may make it difficult to get a Brownfields grant.

Town Counsel assumes that the seller's attorney would be the escrow agent. J. Malloy said that it would be better to have Town Counsel as the escrow agent.

H. White suggested that the work session on November 13th be posted as a regular meeting so that the Board can vote to sign the amendment.

Woodstock Properties v. Town

J. Malloy informed the Board that the court date was pushed back from October 30th to November 15th. Town Counsel strongly recommends that the Board consider a higher settlement in the neighborhood of \$160,000 to \$175,000 due to the Town's expert witness increasing his estimated value of the property due to the limited access off Route 148.

J. Malloy went to the Army Corps of Engineers, who had granted an easement across the property in 1955. In 1959 the Corps of Engineers took it as a flooding easement. It goes up onto the side of the Turnpike embankment and is land locked, so it cannot be developed with a house on the site. He noted that hunters could bring their dogs out there, which would be the only recreational use for the property. He said that a title search company said that the property has limited uses, and the appraisal states that it is worth \$160,000. The Board of Assessors had it valued at \$170,000 as buildable land, which creates a real problem for the Town in court.

J. Malloy said that it would be necessary to go back to Town Meeting for an additional appropriation from CPA. A. Wilson said that Town Counsel has a good argument to settle, and noted that the court usually decides in favor of the plaintiff.

Members of the Community Preservation Committee joined the Board: Penny Dumas, Carol Childress, Edward Goodwin, Russell Chamberland, Joseph Ouellette and Michael Moran. They were given a verbal summary of the situation, and they would support going back to Town Meeting.

The members of the CPC left the meeting at 9:15 p.m.

MOTION: To authorize the attorneys to settle at \$175,000, by A. Wilson.

2nd: W. Emrich

Roll call vote: All in favor.

Police Labor

J. Malloy informed the Board that he had met with the Police Association. They had agreed to use the same 10 towns for survey purposes, and other towns with accredited police departments.

H. White said that he was against the 1% for accreditation, and noted that it will be on the table.

MOTION: To adjourn, by W. Emrich.

2nd: T. Goodwin

Roll call vote: All in favor.

The meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Judy Knowles

BOS Clerk

Date