



Office of the
BOARD OF SELECTMEN
272 Main Street
Townsend, Massachusetts 01469

Carolyn Smart, *Chairman*
James Kreidler,
Interim Town Administrator

Gordon Clark, *Vice-Chairman*

Cindy King, Clerk
Office (978) 597-1701
Fax (978) 597-1719

EXECUTIVE SESSION MINUTES
MAY 10 2016 6:00 P.M.
SELECTMEN'S CHAMBERS, TOWN HALL
272 MAIN STREET, TOWNSEND, MA

EXECUTIVE SESSION

Executive Session: pursuant to GL c. 30A, s. 21(a)(1) to discuss complaints brought against public officers, employees, staff members, or individuals. Cindy King, Clerk (CK) moved to enter in to Executive Session: pursuant to GL c. 30A, s. 21(a)(1) to discuss complaints brought against public officers, employees, staff members, or individuals. Gordon Clark, Vice-Chairman (GC) seconded. Roll call vote: CK present/yes, GC present/yes and Carolyn Smart, Chairman (CS) present/yes. Unanimous.

James Deroian, (JD) John Hussey (JH) of the Conservation Commission were present as well Michael Turgeon (MT) for John Hussey, also of the Conservation Commission, Building Inspector Richard Hanks (RH) as witness and Town Administrator James Kreidler (JK).

CS swore in JD JH MT and RH under oath. All in attendance had a copy of the complaint written by VK.

JK stated that Veronica Kell (VK) declined to participate in this Executive Session, having been provided due notice. JK stated that the complaint had been received 4/1/2016. JH asked if there was more than one complaint, JK said that there was not, however there was an email that was not in the form of a complaint that may be addressed.

JK cautioned all in attendance to only comment and speak on the complaint at hand; going off topic or bring up another complaint may violate the rights of commission member, agents, volunteer's not in attendance.

CS said that the crux of the complaint was in reference to an incident that occurred in the Building Department offices, and read a portion of the complaint. RH offered to explain the situation as he saw it; because the Town did not currently have a Conservation Agent, the member of the Conservation Commission has been taking turns reviewing properties/applications as needed. The day in question it was JH's turn, however VK got there earlier in the day and looked through the bin (RH clarified that any of the Conservation Commission could come in and see what was pending). JH and JD came in later in the day talking about a solar project. RH asked how the site view went, JH and JD said that VK got to the property first. The property owner said that VK had been there to review and was discussing how she would like to see the project undertaken in regards to the storm water runoff. While RH, JD and JH were having this discussion in the Building Department, VK came back in and walked in to RH's office.

JD and JH asked why she went to review the property (it was JH's turn) and RH's assistant, Janet Leavitt (JL), seeing that there were three (3) members in the office, asked if that made a quorum, VK said no it did not but JH walked out of RH's office and went to the entry way door. CS said that she must have entered at that point because she saw JH at the door. JD asked VK some questions about her review the property and telling the property owner how to proceed. VK said that she did not tell the property owner how to proceed. JH said that at that point JD turned to JH and asked what the property owner told them, JH conveyed what he heard the property owner say. JH said that VK interrupted him and said that she did not say that. JH then said at that point in time, there was another application in the basket that he and JD would be going to review on Wallace Hill Road.

RH continued his recollection of the incident saying that JD and VK remained in his office going back and forth about what happened, JD saying that they would discuss the issue further at a meeting and VK continued speaking. RH said that after a limited amount of time, JD left RH's office.

JD said that the discussion he was having with VK was about the application being signed off (by her) and that JD wanted the application brought to a Conservation Commission meeting before being signed off so that it may be discussed further to make sure that all compliances were in place.

MT said that prior to all this happening, he was in Town Hall to pay his taxes, he saw JH and they reviewed the solar array (the property application that VK/JD were discussing), and MT pointed out some potential issues that he saw that he wanted JH to pay attention to while reviewing the property.

CS asked if VK had signed off on this property and that was the issue, JH said yes. JD said that as Chairman of the Conservation Commission, he specifically asked VK to hold off on signing off on the application so that it could be further discussed at a meeting but she did it anyway. JD said that solar arrays are a relatively new development and JD wanted to take the time to make sure the Commission knew what they were doing and take the time to make sure they are making the correct decision.

GC clarified that there was a request made to not sign off on the solar application, but it was then signed off on-yes.

CK clarified that the complaint said that the complaint was about 'unprofessional civil and unbecoming, yelling and derision, etc.', CK suggested that the discussion stick to whether or not that happened.

RH said that he did not witness that kind of behavior just that JD and JH were a bit put out that VK would get to the applicants property before them and that was what JD was trying to convey. RH said that VK kept challenging JD on everything he said, and JD got to the point where he said that it needed to be brought to the next meeting and left RH's office. CS said that she spoke to JL, RH's assistant and JL confirmed that although they were loud, they was no disrespect.

MT said that there was a question about process, communication and how the applications were reviewed. MT said that at the last Conservation Commission meeting, they reviewed the new process about swapping weeks but VK was not at that meeting.

JK said that the point of this meeting was to determine if the complaint as read by the Chair and the Clerk is accurate. RH has said no.

CK asked if the discussion was contemptuous, JD said that it this is an ongoing issue of being talked over and can be difficult to continue speaking in a calm manner. RH said that he did not find JD's tone to be threatening or overbearing, perhaps a little agitation, that his point was not being heard.

CS said that she entered in to the office at the end of this discussion and no one seemed agitated, thus CS finds no merit to these claims.

GC said that he carefully reviewed complaints before this meeting, interviewing RH separately, and without the complainant being present, he believes there is no basis to these complaints.

CK asked if when the incident occurred, it stopped when CS walked in or is her walking in what made everyone stop talking. JD said that the conversation was basically over at that point. JH was near the door, and JD, VK, RH and JL were still there. CS agreed. CK then asked CS if she was participating as a hearing officer or testifying as a witness, CS said that she was not testifying, just providing information.

CK said that she would like it noted that the Chairman of the Board of Selectmen was a participant in the complaint, testifying as to how people appeared and what was going on regarding the complaint. CS

that as the Chairman of the Board of Selectman she was providing her fellow Board members with information she had in regards to this incident. CK said she would still like it noted that in her opinion, the CS testified on JD and JH's behalf.

GC said that he thought that participant was the incorrect term to use as he noted in the complaint it stated that "the unacceptable behavior only stopped once CS walked in" all actions that were alleged to occur happened before her arrival.

CS said that she would entertain a motion as to how to proceed regarding Ms. Kell's complaint. GC moved to issue a finding on the complaints against James Deroian, Chairman of the Board of Conservation, and John Hussey Conservation Commissioner, a fact of no finding, after thoroughly investigating and hearing sworn testimony thereof find no facts that these complaints are valid and to authorize James Kreidler to send Veronica Kell a letter stating as such. CS seconded. CK abstained from voting. Roll call vote, GC-yes, CS-yes.

CK moved to absolve the executive session at 745PM. GC seconded. Roll call vote unanimous.