

WAYLAND CONSERVATION COMMISSION
Minutes - Executive Session

Minutes, Thursday, September 4, 2014 8:37 – 10:00AM

Location: Selectmen's Meeting Room, Town Building, 41 Cochituate Road, Wayland, MA

Present: Commissioners: Roger Backman, Joanne Barnett, Bob Goldsmith, Barbara Howell, Betty Salzberg, Chairperson: Sherre Greenbaum, Conservation Administrator: Brian Monahan

Not present: John Sullivan

Minutes: Taken from notes assembled at meeting

S.Greenbaum opened the meeting at 8:37AM noting that a quorum was present.

1. **8:37 a.m. – Executive Session** Discussion of Pending Litigation re: the Matter of the Landfill Access Road, DEP Office of Appeals and Dispute Resolution Docket No. WET 2014-012.

S.Greenbaum announced at 8:37am that Executive Session is now open. Roll call was conducted by S.Greenbaum noting R.Backman, J.Barnett, B.Goldsmith, B.Howell, B.Salzberg, and S.Greenbaum all in attendance.

S.Greenbaum invited staff member B.Monahan, Conservation Administrator, and M.Lanza, Town Counsel, to attend the Executive Session. Roll call vote was taken to approve the staff members' attendance noting the approval of R.Backman, J.Barnett, B.Goldsmith, B.Howell, B.Salzberg and S.Greenbaum.

M.Lanza discussed the motions filed and the status of those motions. One point was the use of the roadway. History was given on the new motion. The petitioners are saying if there is a change in use to access for public works purposes, then a new NOI should be filed. This is the issue now. The Conservation Commission has to file its response by 9/15/14.

Discussion ensued about the change in use and impact of filing a new NOI. S. Greenbaum asked about next steps. M.Lanza said if there is any interest in settlement, he thinks perhaps DEP would agree but guesses that the Board of Public Works would not agree. B.Goldsmith agreed. M.Lanza then outlined the options of settling and not settling appeal. If not settlement, the case could be appealed to Superior Court and drag on. If settled, road mitigation could happen sooner.

Commissioners were polled:

B.Salzberg: wants mitigation done sooner. B.Goldsmith: Why not setting precedent? Could any other group make a use appeal? Board of Public Works has discussed not transferring River's Edge if roadway is not granted. R.Backman: logical to settle. B.Howell: make it clear in the settlement that mitigation must be done. J.Barnett: quick settlement in best interest of Commissions. S.Greenbaum: settlement would benefit getting work done sooner.

Approved: January 29, 2015

Page 2

S.Greenbaum asked if there was a vote to agree to settlement subject to working out details. Motion was made by B.Salzberg and seconded by B.Howell. Roll call vote: B.Goldsmith abstain based on conflict with two boards and does not fully understand precedence; R.Backman voted yes but asked why abstain and why not all agree; J.Barnett voted yes; S.Greenbaum voted yes; B.Salzberg voted yes; B.Howell voted yes.

M.Lanza discussed where to go from here noting that all parties have to agree and if one says no, there is no settlement. R.Backman asked if the Commission can meet with petitioners to discuss settlement, and M.Lanza said yes, however two other parties. M.Lanza is going to ask DEP and BoPW if they agree.

Discussion of reality of getting affirmative answers from both. B.Goldsmith asked if M.Lanza represents the BoPW and he said yes and that both BoPW and Conservation now want the Superseding Order of Conditions upheld. S.Greenbaum asked if ConCom wants settlement and BoPW does not, why not different interests. M.Lanza said both want SOC. If BoPW wants conditions out, then diverge.

M.Lanza said he does not think ConCom needs any expert testimony but he needs to file statements saying if the use changes, it will not result in any wetlands violations from J.Moynihan and B.Monahan. DEP must file by 9/22/14.

Motion to exit Executive Session at 10:00am; Seconded; Roll call conducted for vote by S.Greenbaum noting R.Backman, J.Barnett, B.Goldsmith, B.Howell, B.Salzberg and S.Greenbaum all in favor 6-0