



TOWN OF NORTHBRIDGE CONSERVATION COMMISSION

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LINDA S. ZWYER

Meeting Minutes Executive Session May 24, 2017

Motion made and seconded that the Conservation Commission (NCC) enter into Executive Session, and not return to Open Session, to discuss strategy with respect to the litigation known as McCarthy v. NCC because an open meeting may have a detrimental effect on the litigation position of the NCC. Upon roll call vote of Joy Anderson – yes; Gerald Ouillette – yes; Cindy Campbell – yes; Rich Chiras – yes; Barbara McNamee – yes; and Justin Arbuckle – yes; the NCC entered into Executive Session. No one was absent. Barbara Kinney, Administrative Assistant and David Doneski, Kopelman & Paige were also present. David Pickart, Conservation Agent, was reached by phone.

Ms. Anderson called the executive session to order at 7:55PM.

MGL Chapter 30A, Section 21, #3 Litigation (John McCarthy vs. Town of Northbridge Conservation Commission) Church St. & Providence Rd. Forest Cut Properties

Mr. Doneski gave a summary of the court documents. Most of the allegations do not have sufficient information for the defendant (NCC through Mr. Doneski) to admit or deny the allegations. There is no real support of the injunction. The main point is the subject of the enforcement order that is to be addressed.

WRT and TSE (property owners) along with Mr. McCarthy should to discuss with the attorneys and the NCC to come to an agreement. Mr. McCarthy is under the weight of the penalties and believes the penalties should be to the owners. Any contact we have should be through Mr. McCarthy's counsel, per Mr. Doneski. Mr. Arbuckle stated that it is a gray area on who to go after; the agent and / or the owner(s).

The questions are is the remediation going to be done and when is it going to be done. *The NCC reached Mr. Pickart by phone.* The NCC caught Mr. Pickart up on what was discussed so far and the NCC is willing to entertain the idea of setting up a meeting so everyone is on the same page. The penalties are not self-executing and Mr. McCarthy does not want to be the only one assessed with the penalties. Also, the assessment of fines will not be incurred while everyone is working in good faith to resolve the issues.

The discussion next centered on where the NCC members stand. Mr. Pickart explained that the NCC is evaluating whether to issue the fines. This cannot be done overnight. Also, there has been some effort to respond to the law suit. There must be a way to leverage what's already been done. All parties should come to the table to hash out the issues. Mr. Pickart is amenable to this. This will take a long time to sort out. The NCC wants the remediation done and they don't care who does it, who pays for it (not NCC), etc.

The meeting should consist of Mr. Pickart, two NCC members, both attorneys, Mr. McCarthy, TSE, and WRT. Mr. Pickart will check the schedule as to when this can be set up.

Mr. Doneski received some additional background information and there should be no further litigation activity while the parties are working to address the issues. Ms. Campbell, Ms. McNamee and Mr. Arbuckle are interested in attending the meeting.

An agreement has been reached with the attorneys that there is no need to go to court on Thursday, May 25, 2017, per Mr. Doneski.

Motion made by Ms. Campbell and seconded by Mr. Arbuckle. The NCC voted 6-0 (Mr. Ouillette – yes; Mr. Arbuckle – yes; Ms. McNamee – yes; Ms. Campbell – yes; Ms. Anderson – yes; and Mr. Chiras – yes) to adjourn the executive session on or about 8:36PM.

Respectfully submitted,

DATE APPROVED:

April 04, 2018

DATE RELEASED:

January 20, 2021

Barbara A. Kinney

Barbara A. Kinney
Conservation Administrative Assistant