

# **LUNENBURG PLANNING BOARD**

## **TOWN OF LUNENBURG**

Emerick R. Bakaysa, Chair  
Joanna L. Bilotta, Vice-Chair  
Thomas W. Bodkin, Jr., Clk.  
Robert J. Saiia, Mbr.  
Nathan J. Lockwood, Mbr.  
Marion M. Benson, Planning Director



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Minutes  
Executive Session  
July 18, 2011

*Handwritten initials and signature:*  
JLB  
RJS.  
MJB

Meeting Posted: Yes  
Place: Lunenburg High School Cafeteria, Lunenburg, MA 01462  
Time: 6:00 PM

### **ROLL CALL:**

Present: Emerick R. Bakaysa, Joanna L. Bilotta, Robert J. Saiia, Marion M. Benson  
Also Present: Town Counsel Attorney Joel Bard, Kopelman and Paige

Chair called for Motion to enter Executive Session at 6:25 PM for discussion of litigation of O'Brien Homes, Inc. v. Planning Board and the Town of Lunenburg pending strategy, Motion, Ms. Bilotta, Second, Mr. Saiia, roll call vote, Mr. Bakaysa, aye; Ms. Bilotta, aye; Mr. Saiia, aye. Motion passed. Town Counsel Attorney Joel Bard addressed the Summons served the Planning Board for appearance in Worcester Court on July 26, 2011. Noted was the correspondence between Attorney Winner and the Attorney for the Aros'. Attorney Bard's position is that it is not necessary for the whole Board to appear. He reported that there is a negative aspect. Questioning of Board members could lead to testimony that would be more harmful to the Board than helpful. He suggests that the Planning Director go if the Court deems necessary. He also said that it may be rescheduled, which often happens in Worcester Court. He will keep the Board informed.

Attorney Bard spoke about his concern that the Planning Board decision was not to grant the opposition an extension. He feels that this would be a big mistake. He also spoke about the various issues concerning the case not only with the Planning Board, but also with Aro. One unknown is whether Mr. O'Brien's Purchase and Sales Agreement is valid. Attorney Bard wishes to grant an extension should it be requested by Attorney Diane Tillotson. He would prefer not to rush to Appeal; preferring to preserve the victory the Town received from Land Court. He spoke about the procedure in Appeals Court, which does not necessarily follow Land Court's procedure and decisions.

Board members commented on their opinion of not granting an extension, reasoning that the Plaintiff has not shown any advancement including submitting a new plan; concern for the neighborhood uncertainties, and belief that Mr. O'Brien will just continue keeping the Town locked up legally.

Further discussion on money noted that there can be a varying degree in cost.

Ms. Bilotta spoke about the definite response of the two Board members (who could not attend tonight) that O'Brien Homes not be granted any further extensions.

Attorney Bard will talk to Attorney Tillotson as to their intent. Chair will address the issue in a future executive session when a full Board can be present.

Chair called for adjournment of Executive Session, Motion, Ms. Bilotta, Second, Mr. Saiia, roll call vote, Mr. Bakaysa, aye; Ms. Bilotta, aye; Mr. Saiia, aye. Adjourned 7:00 PM.