

TOWN OF LUNENBURG

Office of the Planning Board

Matthew Allison, Chair
David Prokowiec, Vice Chair
Kenneth Chenis, Clerk
Tanner Cole, Mbr.
Paula Bertram, Mbr.



Tel: (978) 582-4147, ext 5
Fax: (978) 582-4353
960 Massachusetts Avenue
Lunenburg, MA 01462

Adam R. Burney
Land Use Director

Marjorie J. Boggio
Administrative Assistant

Minutes
Executive Session
November 26, 2018

Meeting Posted: Yes
Place: Town Hall, 17 Main Street, Lunenburg, MA
Time: 9:35 PM

Present: Matthew Allison, David Prokowiec, Kenneth Chenis, Tanner Cole, Paula Bertram, Adam R. Burney

Board Chair M. Allison requested a Motion to enter Executive Session pursuant to M.G.L. c. 30A, §21, #3, to discuss strategy with respect to litigation, where an open meeting may have a detrimental effect on the government's litigating position, and the Chair so declares, namely O'Brien Homes Inc. et al v. Town of Lunenburg et al., Land Court Docket Nos. 13-MISC-477878 to 13-MISC-477887 and O'Brien Homes, Inc. v. Town of Lunenburg Planning Board, et al., Appeals Court Docket No. 2018-P-1520, not to enter back into Regular Session. So moved by K. Chenis, Seconded by D. Prokowiec, Roll Call Vote- P. Bertram, aye; T. Cole, aye; D. Prokowiec, aye; K. Chenis, aye; M. Allison, aye.

A. Burney apprised the Board of the current situation. The O'Brien case was split into two; one was the bad faith claim and the second was the subdivision. Final judgment was issued on the subdivision in favor of Mr. O'Brien; the Town has appealed that Decision to the Appeals Court. Mr. O'Brien's attorney has approached Town Counsel and asked for a settlement. The proposed settlement would be for the Town to drop its appeal and Mr. O'Brien would drop his bad faith claim. When both Counsels asked the Land Court to stay the proceedings during discussions, the judge denied the request. A trial date has been set for late-January on the bad faith claim.

Either one or two Board members are needed to participate in potential voluntary (not court-mandated) settlement discussions. Whoever is selected will not have the authority to make any decisions, but will see if an out-of-court resolution is possible. A member of the Select Board will also participate. As a result of these discussions, the selected Board members will come back to the Planning Board with a potential settlement agreement for Board discussion. The Board will then vote on whether or not to support the settlement agreement.

Board discussion ensued. K. Chenis questioned if it would be possible to change the density of the project during settlement agreements. T. Cole asked if any indication was given as to how lengthy these discussions would be. A. Burney felt that the Board needs to see what the settlement options are. P. Bertram felt that whoever sits in the settlement discussions needs to go in with an understanding of what the Board is willing to accept. Board members suggested the unit count be reduced to comply with the current Bylaw of two acre lots. **K. Chenis made Motion that T. Cole and D. Prokowiec be the representatives, as available, P. Bertram Seconded, all aye.** Either one or both will attend, depending on individual availability.

K. Chenis made Motion to exit Executive Session, Seconded by P. Bertram, Roll Call Vote- P. Bertram, aye; T. Cole, aye; D. Prokowiec, aye; K. Chenis, aye; M. Allison, aye.

D. Prokowiec made Motion to adjourn, Seconded by K. Chenis, all aye. Adjourned 10:00 PM.

Minutes/executive 2018/06.11.26.18_exec