

**WEYMOUTH CONSERVATION COMMISSION
RECORD OF MINUTES AND PROCEEDINGS – EXECUTIVE SESSION
Wednesday, June 11, 2014**

Present: Tom Tanner, Vice Chairman
George Loring, Commissioner
Scott Dowd, Commissioner & Clerk
Anthony Merlino, Commissioner

Absent: Steve DeGabriele, Chairman

Also Present: Mary Ellen Schloss, Conservation Administrator
Abby McCabe, Recording Secretary
David Robinson, Planning Department Intern

**Weymouthport Condominium – Phase 1 Trust v. Town of Weymouth Conservation Commission and Eastbay at Weymouthport Corporation
84-89 Broad Reach (Map 3, Block 1, Lot 1)**

At 9:00 p.m. Vice Chairman Tanner explained that the Commission will take a vote to go into executive session to review and discuss strategy surrounding the active litigation remand case filed by Weymouthport Condominium against the Weymouth Conservation Commission and Eastbay at Weymouth Corporation. Commissioner Tanner stated that an executive session is necessary because of the sensitive nature of the challenges asserted by the plaintiff and the case is active. Furthermore, if approved, the executive session will be closed to the public but the Commission will reconvene in a public meeting at the conclusion of the executive session.

The Clerk, Commissioner Dowd, took a roll call to go into open session. Commissioners Tanner, Merlino, Loring, and Dowd voting 4-0 in favor of an executive session.

Ms. Schloss, Conservation Administrator, distributed to Commission members the Attorney General's Open Meeting Law Guide excerpt relative to executive sessions and the draft motion for remand prepared by the Town Solicitor, George Lane, received by the Conservation Commission on June 3, 2014.

Ms. Schloss explained that the motion would ask the Superior Court to remand the case back to the Commission because the Commission did not act properly because there is no historical mill rule or exemption under the Local Wetland Protection Ordinance (WPO), only the State Wetlands Protection Act (WPA) and the original Notice of Intent was filed under both the local and state jurisdictions. Essentially, the Commission only performed the delineation in accordance with the WPA and not the WPO. The abutter, Weymouthport Condominium, appealed the delineation asserting that the Commission did not consider both the WPA and the WPO during the delineation, therefore, the Commission should not have issued a WPO riverfront delineation map. The motion asks the Court to send the case back to the Commission to hold a new public hearing under the WPO.

The Commission members reviewed the Town Solicitor's draft response to the Court agreeing to bring the matter back before the Commission for a hearing. Commissioner Dowd asked if the Town Solicitor was planning to attend the remand hearing and Ms. Schloss replied that she would check. She also noted that the plaintiff (Weymouthport Condominiums) agreed to the new hearing but the defendant, Eastbay Corporation, has not yet agreed to a new hearing.

Vice Chairman Tanner expressed his concern with going forward with a new hearing if the applicant hasn't agreed to participate.

The Commission members further reviewed the draft motion prepared by the Town Solicitor to make suggestions before it is submitted. The Commission requested "apparently" to be added in section number 2 on the second page after "Commission" and before "did not". It was also recommended that the first part of section number 4 be changed to "In order to rectify the oversight," to replace "In order to cure this inadvertent error" before the comma.

Ms. Schloss informed the Commission that since the Chairman, Steve DeGabriele, was not able to attend this evening's meeting he provided a comment to staff on the remand motion to change "failed" to "did not act to" in section number 3 so that it would read "The Commission *did not act* to delineate the wetland resource areas on the Eastbay property..."

Vice Chairman Tanner explained that the sensitive nature of the legal matter before the Commission was reason for the executive session.

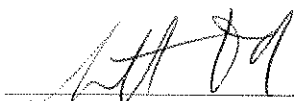
On a motion made by Commissioner Loring, seconded by Commission Dowd, the Commission voted 4-0 (Dowd, Loring, Merlino, Tanner) to close the executive session and return to the regular meeting.

The Commission reconvened and continued the meeting in open session at 9:30 p.m.

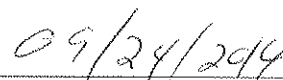
Respectfully submitted by,

Abby McCabe
Recording Secretary

Approved by:



Scott Dowd, Clerk



Date