



BOARD OF SELECTMEN

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Michael S. Rosa, *Chairman*
Marc T. Lombardo, *Vice Chairman*
Andrew N. Deslaurier, *Secretary*
Robert M. Correnti, *Member*
Robert B. Accomando, *Member*

MINUTES EXECUTIVE SESSION June 28, 2010

Selectman Robert M. Correnti, seconded by Selectman Robert B. Accomando, moved to go into Executive Session in accordance with MGL Chapter 39, Section 3, Litigation, at 5:55 p.m. Present were Selectman Chairman Michael S. Rosa, Vice-Chairman Marc T. Lombardo, Selectman Robert C. Correnti and Selectman Robert B. Accomando. Also present was Patrick Costello, Esq., Town Counsel.

SALISBURY HILL ESTATES

Attorney Costello: Important litigation facing the Town. Powers & Sullivan (Auditors) gave us a report on Salisbury Hill Estates. Want to share the report with the Attorney General.

Town's claiming contract violation (excessive profits) and 93A – unfair and deceptive business practices for their failure to correct reports (audit reports).

AG's and Inspector General's office initially do reports. Inspector General's numbers apparently were inflated, partially due to assumptions made to lack of cooperation from developer.

Board needs to determine our direction, prospect of success, claim potential, cost to get there.

Attorney Costello recommends contrary. Depositions scheduled for July. Subpoenas are issued. We will have issue with the fact that things are seven to eight years past and people's memories may be challenged.

We need to reengage the Attorney General. Tried to do settlement with Attorney General and contractor but contractor wouldn't come to the table. Attorney General questioned our case strength due to the value of the land. Initial property purchased at \$610,000. Appraisal later showed \$2.2 million. The number that is needed to be used is the pre-development value. The \$2.2 million assumes a built project and was with permit in hand. DHCD, the bank, and developer signed the regulatory agreement. The Town was never a signatory.

America's Yankee Doodle Town

We will say the contractor factored his cost of the land at \$2.2 million, not the \$610,000 actual.

Suggestions from Attorney Costello:

- Step 1. Try to bring Attorney General back in. Will give significant strength to our case. Meeting with Attorney General and Inspector General to occur in few weeks.
- Step 2. Numerous depositions in July and August. The contractor's lawyer may ask for a summary judgment on the land value. We don't want this.

It is believed there are chances for triple damages.

Powers & Sullivan found a number of expenses including equipment and land purchases not in Billerica and expensed to this project.

Selectman Robert M. Correnti, seconded by Selectman Robert B. Accomando, moved to share the reports (Powers and Sullivan) with the Attorney General and the Inspector General in order to get them involved in the case.

A roll call vote was taken.

It was voted Selectman Accomando, aye; Selectman Correnti, aye; Selectman Rosa, aye; Selectman Lombardo, aye; and Selectman Deslaurier, aye. 5 - 0

RECUPERO vs. BILLERICA

1986, Newbury Street was developed - 3 houses. As part of construction, 12" concrete drainage pipe. Built one house and sold it and subdivided the remaining land and built two additional homes.

The road, Newbury Street, was accepted; the drainage - never acquired rights/easements for the drainage.

We need this drainage intact. We need it for further development in the area.

We need an easement on the land to perform maintenance.

Selectman Correnti, seconded by Selectman Accomando, moved to authorize up to \$10,000 settlement fee subject to a strict release of all claims and 20' easement.

A roll call voted was taken and the motion was voted unanimously in favor 5 - 0

Selectman Correnti, seconded by Selectman Accomando, moved to adjourn and return to regular session at 7:02 p.m.

A roll call voted was taken and the motion was voted unanimously in favor 5 - 0

TRUE COPY


Marc T. Lombardo
Vice-Chairman

APPROVED ON AUGUST 16, 2010

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