

TOWN OF BROOKFIELD
SELECTMEN'S MEETING
ELEMENTARY SCHOOL, OUTREACH ROOM

MINUTES OF MARCH 9, 2010

EXECUTIVE SESSION

At about 6:17 p.m., Mr. Heller called the meeting to order. Mr. O'Connell moved to proceed immediately into Executive Session; Mr. Allen seconded; so voted with Mr. Allen voting aye; Mr. O'Connell voting aye; Mr. Heller voting aye.

The Executive Session was opened at about 6:17 pm.

The purpose of this Executive Session was to discuss strategy with respect to litigation. (Reason numbered 3: To discuss strategy with respect to collective bargaining or litigation, if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body)

Lakeside Resort & Campgrounds:

An e-mail was received from Verilyn O'Connell's daughter, Verilyn Mitchell, who is handling her mother's affairs. Mrs. Mitchell offered to trade title to her mother's property for a partial payment of taxes. Mr. O'Connell expressed concern that the Board needed to be clear about who on the Board of Selectmen was providing guidance to Town Counsel or whether that guidance was the responsibility of the Treasurer (because some of this is Tax Title)? Mr. Allen suggested that Mr. Heller had been previously designated by the Board to be the liaison with Town Counsel for the Lakeside matter, which he argued was more appropriate than expecting our part-time treasurer to provide that oversight.

Mr. O'Connell reminded the Board that it had previously authorized Town Counsel to seek title for all Lakeside properties that were in Tax Title through land court. Town Counsel estimated that the cost would be less than \$10,000, but would take several months for the Court to reach a decision. Mr. O'Connell asked for clarification about the purpose and costs of pursuing the Town's claims for the payment of back taxes in Superior Court.

The Board then called Jeffrey Honig, Town Counsel and first reviewed the billing to date. Mr. Honig explained that nearly all of the legal costs for Lakeside had already occurred and the Town could expect a judgment in the Town's favor very soon. Remaining costs include asset searches that would cost less than \$1,000. Assuming that the land court grants the Town's petition for foreclosure, the owners would still have six months after the Court grants the Town title to pay off all past due taxes, interest, and legal costs. If they do not, there will be some additional costs in the next fiscal year to dissolve the condominium governance structure.

Mr. Honig explained that in Superior court the Town is attempting to secure debt for back taxes by having the Court issue a judgment that allows the Town to attach a lien to the assets of the tax delinquents. This suit was authorized by the Board several years ago and in a status conference in January 2010, the Judge said that he wanted this case to be resolved as it had been ongoing since 2005. Mr. Honig explained that the Town is pursuing only Verilyn O'Connell, the estate of Peter O'Connell, Cynthia Chapman, and Thomas Babb because they live in Massachusetts. Lisa Wadden, another property owner of Lakeside, is not yet in Tax Title, as far as Mr. Honig knows. He said to add Ms. Wadden to the litigation at this point, would cost more than she owes. He recommended that her property be put immediately into tax title and recorded at the Registry. It would be too expensive to pursue the claims of people out of state.

He said that Mrs. O'Connell does have a residence with some value. We have to do an asset search for Mr. Babb; a registered search costs about \$100. If he looks for bank accounts, he estimated this cost would be "well under \$1,000" and wouldn't expire for 20 years.

In an attempt to settle with Mrs. Verilyn O'Connell and the estate of her brother, Peter O'Connell, Mr. Honig was approached by their attorney suggesting the Town accept deed to the properties in lieu of the remaining taxes that are due. Mr. Honig did not recommend this and said that Mrs. O'Connell had done nothing for the 10 years when she received her tax bills and now wants to deed two parcels to the Town but not pay any of the remaining back taxes. If the Town takes a deed in lieu of foreclosure, title is transferred and all back taxes are "wiped clean". He further stated that a municipality has no authority to waive taxes. He suggested that the Town place a lien on the property, but agree to wait to be paid until after Mrs. O'Connell leaves her home or dies.

Motion: Mr. Allen moved to authorize Counsel to proceed to get more details of the O'Connell's offer and to find out if it is legal with the DOR; Mr. O'Connell seconded; so voted with Mr. Allen voting aye; Mr. O'Connell voting aye; Mr. Heller voting aye. Mr. Honig will explore with the Department of Revenue (DOR) how much, if any, the Town could waive in back taxes in this case. However, taking title for taxes requires a Town Meeting vote.

At about 7:20 pm, Mr. Allen moved to adjourn Executive Session and return to Open Session; Mr. O'Connell seconded; so voted with Mr. Allen voting aye; Mr. O'Connell voting aye; Mr. Heller voting aye.

Respectfully submitted,

Donna L. Neylon, Administrative Assistant

Date approved by Board: _____

Date Released: December 11, 2012

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