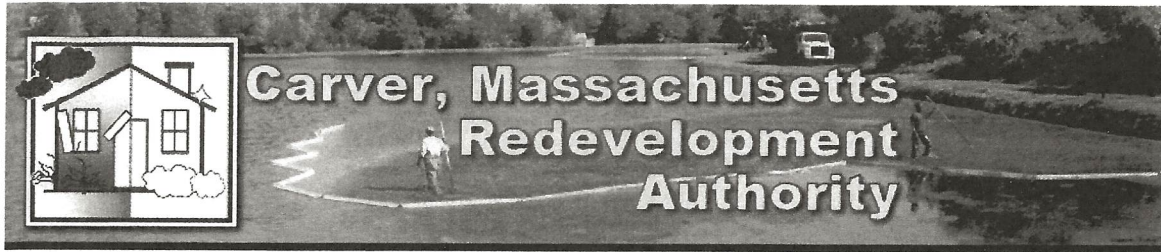


2/20/24 Voted to release

approved 2/11/2020



Executive Session Meeting Minutes for January 14, 2020, Carver Town Hall, Room 3

Attendees: William Sinclair, Chairman; Savery Moore, Vice Chair; Sharon Clarke; Brian Abatiello; Johanna Leighton

Also, in attendance: Jim Walsh, Planning Director; Michael Milanoski, Town Administrator

Absent:

---

Entered into Executive Session at 5:30 PM – Roll call vote noted on Regular Session Minutes.

Mr. Sinclair – Michael has handed out a letter from K&P Law that shows us step by step the process for the taking of property by eminent domain.

Mr. Milanoski reviewed the letter with the Board. This letter was written to protect this Board/Town. You have to take a vote to do the taking and a vote for the relocation. In this situation we have all of these extra steps. Item #3 – The Preparation Cost is mostly done; maybe \$20K left for documents. The second bullet – authorized acquisition cost. In addition to that money, they would have to put an additional 50% (\$230K) from the developer. I would suggest about \$20K for relocation and about \$60K for any taking cost (legal expenses). The developer is the eminent domain attorney; but would still be paying K&P Law to be there. All totaled there would be \$793K of cash that would be held in an account. You should allow for a buffer. #8 – Performance Mortgage – to cover any extras that occur. Counsel should work with developer to ensure that happens. Timelines were developed four years ago. The developer is willing to put up the money within a couple days. The recommendation tonight would be for this Board to move forward, allow money to be deposited and have counsel bring everything back to you at the next meeting. I suspect that before it gets to trial there will be some type of settlement; if not, this covers us.

Mr. Sinclair – With regards to a performance security; I have no interest in the land. It should be a cash bond. Mr. Milanoski – You could have a Performance Bond and have the lawyers draft a personal guarantee for each of the owners. Mr. Moore – Why not the land? Mr. Sinclair – That property has had issues since I have been here; cash would be better. Ms. Leighton – The whole property or this single parcel? Mr. Sinclair – The whole property.

Mr. Sinclair – We, as a Board, need to come to terms with this.

Mr. Moore - #5-#7 – 30 days from acquisition... Does that mean "prior to"? Mr. Milanoski – Yes. Mr. Abatiello – How does the developer represent themselves? Wouldn't this be a conflict of interest? Mr. Milanoski – That is a good question for Town Counsel. K&P has to represent the Town in this process. I will flag that when it goes back to them to determine participation or if just K&P will represent us. Ms. Clarke – Last meeting we discussed an extra timeframe built in to give McLaughlin extra 90 days to negotiate with Borofski. Mr. Milanoski – Mr. Borofski has not hired an eminent domain attorney which really needs to happen. Ms. Clarke – This Board would be the face of the eminent domain taking; I want to make sure that McLaughlin has negotiated everything possible. Mr. Milanoski – As part of your motion; I would add a step 12

*12. Authorize town counsel to set up a meeting with Borofski to walk through the steps.*

Ms. Leighton – Would you include George? Mr. Milanoski – Yes. Ms. Leighton – That way K&P can mediate. There is no loss on time for George but their money would be tied up for up to 5 years. Ms. Clarke – I want to know that we did everything we could and took every step necessary. Mr. Walsh – Borofski's main concern is replacing the property for the same money; there has been talk of a land swap on Spring Street. Ms. Clarke – We are talking about a February vote; I would like to move that to March. Mr. Milanoski – Borofski has not moved on this. I would keep the date and then if more time is needed, you can bump it out. Mr. Moore – How quickly could K&P arrange a meeting? Mr. Milanoski – They should be able to send a notice to him by next week. Mr. Moore – It should be known whether they will be first or second chair prior to that meeting. Mr. Sinclair – K&P represents us and I would prefer that they do so. If they are going to do this mediation, how does it work if we would go to trial? Mr. Milanoski – After a taking occurs; the judge that would hear it would strongly recommend both parties get together, resulting in a second round of mediation. Mr. Moore – Due to the vagueness with George in the past, anything in the future needs to be documented, including phone calls (recorded). Mr. Abatiello – I want to be fair to Mr.

Borofski but I also don't want to waste time. Ms. Clarke – Mr. Borofski may not know the process, if we give him all of the facts then we are good.

Moving forward -

- Add # 12 to the document presented – K&P will organize and host a meeting with all 3 parties
- The Board wants KP to be first chair.
- K&P to update us as to what transpired at the mediation session.

Next meeting is 2/11/2020

*Motion to accept this document, as amended: Ms. Leighton*

*Second: Mr. Moore*

*Approved: Unanimous (5-0)*

Mr. Walsh – Relocation services proposal. The Board needs to vote on this; I will then send to DHCD.  
Ms. Leighton – Does DHCD know where we are in this? Mr. Walsh – They know where we are. WD Shaw company proposal includes the Borofski property and a vacant property owned by Stump Realty trust in Middleboro. The relocation would not start until after the vote on the taking. Mr. Milanoski – The analysis would occur prior to.

Mr. Borofski - Cost would be \$8K

*Motion to authorize relocation amount according to WD Shaw Company proposal not to exceed \$8K:*

*Ms. Clarke*

*Second: Mr. Abatiello*

*Approved: Unanimous (5-0)*

*Motion to add to the 2/11 agenda, the vote for the taking of the Borofski property by eminent domain*

*as discussed: Mr. Moore*

*Second: Ms. Leighton*

*Approved: Unanimous (5-0)*

Mr. Walsh - Stump Realty Trust - Mr. McLaughlin has requested a taking on this 4.5-acre parcel, as well. We need appraisals. The bids I have received are from James Toner with a cost of \$2500 and Clancey Appraisal with a cost of \$750.

*Motion to approve the paying of \$2500 to James Toner Co. for the appraisal on the Stump property:*

*Mr. Moore*

*Second: Ms. Leighton*

*Approved: Roll Call Vote – All Affirmative (5-0-0)*

*Motion to approve the paying of \$750 to Clancey Appraisal for the appraisal on the stump property:*

*Mr. Moore*

*Second: Ms. Leighton*

*Approved: Roll Call Vote – All Affirmative (5-0-0)*

Return to regular session:

*Motion to enter into regular session at 6:25 PM: Mr. Abatiello*

*Second: Ms. Leighton*

*Approved: Unanimous roll call - all affirmative - 5-0-0*