



**Meeting Minutes for May 17, 2022, at 6:00 PM,**

The proceeding was held in person, in meeting room #4

This meeting is being videotaped and rebroadcast by Area 58 TV.

This meeting was also available through Zoom

Attendees: Savery Moore, Vice Chairman, via Zoom; Patrick Meagher, Treasurer; Johanna Leighton, Member; Mr. Noblett, Member

Also in attendance: Paul Kelly; Mr. Bott, Planning Director; George McLaughlin, Rte. 44 Development

Absent: Sharon Clarke, Chairman

Meeting opened by Mr. Moore at 6:08 PM

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**North Carver Project:**

- Eminent Domain as requested by Route 44 Development – Ms. Leighton – I received an email from our lawyer, Kathleen O'Donnell. It was sent to both Sharon and myself. The email was read into record. Per Kathleen O'Donnell, KP Law cannot represent this issue as it is a clear violation as there is a conflict of interest in that the firm serves as Town Council and cannot, under the Code of Professional Responsibility represent the RDA which is a co-applicant for the project before the Planning Board. Mr. Bott – We worked together in Kingston. I will check in with Kathleen. Ms. Leighton – Since the beginning of RDA, we have had Kathleen O'Donnell represent us. She is the lawyer for the Carver Redevelopment Authority. Mr. Bott – We worked together in Kingston. I will follow up with Kathleen. Ms. Leighton provided a brief background to the relationship between the RDA and Kathleen O'Donnell. Ms. Leighton – I will get you a copy of the letter. Mr. McLaughlin – I know Kathleen O'Donnell as well. I also spoke with a Katherine Klein today. She agrees pretty much with what I had to say. Mr. Bott –

We are proceeding with Route 44 Developments request. We do have council reviewing that information. Whether we have a shift in which legal council is going to review that is to be determined.

Mr. McLaughlin - I am a principal with Rte. 44 Development and owner of the property. We own 300+ acres out there. Originally, we owned 180+ acres and have acquired the additional property, over the past several years. We are here today, getting ready to convey title to Hillwood. One of the issues that came up was when we purchased the Tassinari property in 2017. The Tassinari's purchased from Mr. Shurtleff and thought they were buying and Mr. Shurtleff believed he was conveying the 5,231 sq. ft. parcel. When we looked into the title, it became very convoluted. There were deaths, etc. It was a very difficult title to track. My title expert suggested the taking by eminent domain. When I bought the parcel from the Tassinari's, I explained the possibility of an eminent domain, down the road. They signed a letter (5 years ago) indicating that they would not seek any compensation with connection to this taking. It was basically a Scribner's era. I started out as a trial lawyer and tried many eminent domain cases. I spoke with Katharine Klein, from Kopelman and Paige, today. Mechanically, you have to hire an appraiser for this property. I would ask the Board to vote to hire Toner to do the appraisal. He will do the appraisal and comes up with a figure. The next step, after talking with your own attorney would be to review the appraisal and vote on the taking order, record the order and whatever he comes up with for a value, Rte. 44 will pay. Under the agreement with the RDA, we will pay for your attorney to review and advise and what Mr. Toner says is the fair market value. After the taking is recorded, a notice will be sent to any known heirs. We pay to the Board, what Toner says the property is worth and you hold that in escrow for 3 years (it's a three-year statute of limitations on an eminent domain taking). If that was recorded today, 5/17/22, the owners would have until 5/16/2025 to file a lawsuit. I believe that, as we are talking about a landlocked parcel it's unlikely that there will be an issue. If no one files a lawsuit, you give us back our money. The title expert has signed off on that approach. Katherine Klein believes this is accurate but wishes to do her own research. Tonight, I would like for you to formally vote to hire Toner tonight.

Ms. Leighton – How can you proceed if we have to wait 3 years? Mr. McLaughlin – The minute you record the taking order at the Plymouth Registry Of Deeds the title passes from whoever owns it, to the Carver RDA. The only issue after that is who previously owned this entire piece and what is it worth. Once you record that taking, the Carver

RDA owns that piece. Under our agreement (Rte. 44 Development and the RDA), we pay for the legal fees, whatever Toner deems the proper amount is and all recording fees, etc. As soon as we reimburse you, you convey the property to us. Mr. Noblett – When the Tassinari's purchased the property, did they pay tax on the small piece? Mr. McLaughlin – In the Assessor's position, they have thousands of parcels and they are advised by bigger consulting firms. They will use their assessing plans, which are many times not accurate. A lot of times, they are assessed for more or less than what they actually own. The Assessing records are about 98% accurate. The Registry Of Deeds plans are 100% accurate. Mr. Noblett – So the Registry Of Deeds doesn't include this property? Mr. McLaughlin – This came up when I hired a local surveying firm to do instrument surveys of the entire property and all of the parcels within the four corners. It isn't until this level of scrutiny that things like this come up. Mr. Noblett – So it has to go through this process? Mr. McLaughlin – Yes. I then went one step further to have a title expert review it. I wanted to figure out who the heir of Shurtleff is, who may have inherited it. It became impossible to track down. Mr. Meagher – This is the only eminent domain? Mr. McLaughlin – Yes. We had to have the power of eminent domain in the agreement. I worked to not have to do that and purchased all of the parcels. I overpaid everyone. With this situation, we have to utilize eminent domain. Mr. Noblett – Any claim would have to be within those 3 years? Mr. McLaughlin – Yes, the law wants title to be solved. Every piece of dirt is owned by someone. Mr. Bott - I did receive an email from Kathleen Klein, Kopelman and Paige at 5:20 PM today. Mr. Bott read the email into record. With her recommendation on this proposal, we can vote to move forward.

Mr. Moore – How long did the Tassinari's believe they owned that piece of property? Mr. McLaughlin – They purchased it on 7/29/99 and sold it on 6/13/17. Mr. Moore – No one came forward during that time? Mr. McLaughlin – No. Mr. Moore - What would be their burden of proof to prove it was theirs. Mr. McLaughlin – They would have to write a letter to the RDA and provide documentary proof of that. If the RDA doesn't feel there is sufficient proof, the "owners" they would have to file a complaint in Plymouth Superior Court stating that they are the owners of the property and that they do not feel they were compensated correctly. If I were the RDA, I would move to dismiss their complaint.

Mr. Moore – This is a taking; we have to take it from someone. Would that be the Tassinari's? Mr. McLaughlin – The taking order which I have sent to the Board and the

Boards council is reviewing right now, it mentions the Tassinaris, some of the Shurtleff dependents. You don't have to identify who you think the owners are with absolute precision, you just have to do the best job you can to figure out who the owner is. You record the taking order, naming those parties. Mr. Moore – This is just for the 5,000 sq. ft and ownership is not required. Mr. McLaughlin – Correct. Mr. Noblett – You own everything around it. Mr. Meagher – You just want to clear this up for Hillwood. Mr. Noblett – This property has a value but will not stop the progress of the project. Mr. McLaughlin – Right.

Ms. Leighton – In your exhibit, you mention Tuscher and Deborah Sullivan. They are alive so they should get a notice. If they are good on recordkeeping, they may have further information. Mr. McLaughlin – I spoke with Mrs. Tuscher (formerly Shurtleff). Karen Shurtleff Tuscher thought that her father sold this property to the Tassinari's. Borovsky owned around them. We have been able to identify, as best we can, anyone who may have an interest. Ms. Leighton – Does this have to get done in 30 days? Mr. McLaughlin – No. You vote to allow Toner to appraise; you get the appraisal; you record it and then send notice. They have to get together as a family and decide what to do. Ms. Leighton – DHCD made us get 2 appraisals in the past. Mr. McLaughlin – If you do a taking on a significant property, you get two. This is so insignificant, only one is needed. Mr. Moore – How quickly can Toner get the appraisal done? Mr. McLaughlin – He should have it within a week. Mr. Moore – Our next meeting is two weeks from tonight. Mr. McLaughlin – I will let him know that it needs to be done by then. Mr. Meagher – The actual appraised value must be minimal. Mr. McLaughlin – Yes, it's on a 5,231 sq. ft. land locked parcel.

*Motion for the RDA to hire Toner to do an appraisal on the property in question: Mr.*

*Meagher*

*Second: Ms. Leighton*

*Approved: Unanimous (4-0)*

Mr. McLaughlin – I will notify Toner and make sure he gets that done. Mr. Moore – He will send an invoice to the RDA for \$1500.00. Mr. Noblett – Does this set a precedent to use other places in Town or is it specific to this project? Mr. Moore – This is a tool that has been available throughout this entire process. This is allowed under very strict circumstances and does not set a precedent. There are eminent domain laws but they are very strict. This is just a little piece that was not recorded correctly. This is a



case where we meet all the guidelines. Ms. Leighton – Those tools of eminent domain are allowing us to clear up the title. Mr. Moore – This is a taking by request from the property owner to clear everything up. Mr. McLaughlin – Yes, you have the letter from the Tassinari's.

- Upcoming meeting with DHCD - Mr. Moore – Sharon, Tom and myself will be on the call on Thursday with DHCD. This call is to see if updated plans require any changes to the original URP. Ms. Leighton – I have a copy of the Development Agreement with Rte. 44. Once Hillwood buys the property, will we be able to have a new Development Agreement? Mr. Moore – We will be able to understand that better after the meeting with the DHCD.

#### **90 Forest Street, Planning Board meeting:**

Ms. Leighton – I was at the Planning Board Meeting on the 10<sup>th</sup>. It went well. Tom was there as well. The site engineer explained there was some back and forth with Fuss & O'Neill. Is Fuss & O'Neill looking at that? Mr. Bott – Yes, they look at most of the Town projects. Ms. Leighton – Is that happening before the site review? Mr. Bott – Yes, I am talking with Fuss & O'Neill tomorrow. Ms. Leighton – On the 23<sup>rd</sup>, they are doing a site visit. I spoke to the Board about the permit approval deadlines. Also, I did mention the sale price and the distribution of that money. Mr. Bott – The Planning Board still needs to do its due diligence. I will talk to Fuss & O'Neill tomorrow.

#### **Topics not reasonably anticipated by the Chairwoman 48 hours in advance of meeting:**

Nothing tonight

#### **Meeting Minutes - 4/20/22 and 5/3/22:**

*Motion to approve the minutes from April 20, 2022, as written: Mr. Meagher  
Second: Ms. Leighton*

Discussion:

*Approved: Unanimous (3-0-1 Mr. Noblett)*

*Motion to approve the minutes from May 3, 2022, as amended: Mr. Meagher  
Second: Mr. Noblett*

Discussion: Mr. Moore – N. Carver Project 3<sup>rd</sup> paragraph ROLE. Ms. Leighton - MR Clarke should be MS Clarke (page 2). Ms. Hannon – That was in reference to Mr. Clarke so we will leave it as is. Mr. Moore – At end Paul Kelley (remove the 2<sup>nd</sup> e) Treasurers report – Stephen Coles last bill should be \$10,050. Ms. Leighton - In attendance add Paul Kelly.

*Approved: Unanimous (4-0)*

**Treasurers Report:**

I did file for reimbursement. Nothing else tonight.

**Members Comments:**

- Ms. Clarke –
- Mr. Moore –
- Ms. Leighton -
- Mr. Meagher –
- Mr. Noblett –

**Next Meeting:**

Our next meeting is tentatively scheduled for May 31, 2022 at **6:00 PM, Room 4.**

**Adjournment:**

*Motion to adjourn at 7:08 PM: Mr. Meagher  
Second: Ms. Leighton  
Approved: Unanimous (4-0)*

Exhibits:

A: Email from Kathleen O'Donnell

B: Email Katharine Klein, Kopelman and Paige

5/17 MINUTES

Johanna Leighton <jmleighton@comcast.net>

5/17/2022 5:31 PM

## RDA EminentDomain

To Johanna Leighton <jmleighton@comcast.net>

Sharon and Johanna:

I have reviewed the documents you sent to me related to a request to the Carver RDA to do a taking to clear title to a small portion of the property being developed by Route 44 Development LLC.

I understand that the RDA is meeting tonight and that the new Town Planner intends to have the taking documents reviewed by KPLaw Attorney Amy Kwesell on behalf of the RDA.

Unfortunately, Amy, and any else at KPLaw, has a conflict of interest in that the firm serves as Town Counsel and cannot, under the Code of Professional Responsibility, represent the RDA which is a co-applicant for the Route 44 project before the Planning Board.

I am prepared to handle this title clearing matter with counsel for Route 44 Development LLC as we need to coordinate the timing of the taking and have the award of damages match what Route 44 intends to give the RDA as compensation for this acquisition.

Thanks,

**Johanna Leighton**

Cell # 508-322-0123

Home # 508-866-2658

AUTHORIZE  
TOWNER TO DO APPRAISAL  
4-0-1



7/5/22, 7:09 PM

Mail - Thomas Bott - Outlook

[EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]Carver Redevelopment Authority  
Katharine L. Klein <KKlein@k-plaw.com>

Tue 5/17/2022 5:20 PM

To:

- Thomas Bott <thomas.bott@carverma.gov>

Cc:

- Robert Fennessy <Robert.Fennessy@carverma.gov>;
- Gregg J. Corbo <GCorbo@k-plaw.com>

Tom:

It is my understanding that tonight the Board of the Redevelopment Authority has before it whether to accept a proposal to perform an appraisal of the property. I recommend the Board go forward with accepting that proposal this evening. I will get back to you in the next day or two relative to what other requirements apply to the exercise of eminent domain. I have spoken with George McLaughlin, and will advise regarding that conversation as well.

Katie

Katharine Lord Klein  
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From: Thomas Bott <thomas.bott@carverma.gov>  
Sent: Tuesday, May 17, 2022 11:24 AM  
To: Katharine L. Klein <KKlein@k-plaw.com>  
Cc: Robert Fennessy <Robert.Fennessy@carverma.gov>; Gregg J. Corbo <GCorbo@k-plaw.com>  
Subject: Re: [EXTERNAL]RE: [EXTERNAL]Carver Redevelopment Authority

Dear Katie:

Attached from our RDA file is this missive from Mark Reich 1/13/20. Does DHCD have a role in the taking as well?  
TBott

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From: Katharine L. Klein <[KKlein@k-plaw.com](mailto:KKlein@k-plaw.com)>  
Sent: Monday, May 16, 2022 12:54 PM  
To: Thomas Bott <[thomas.bott@carverma.gov](mailto:thomas.bott@carverma.gov)>  
Cc: Robert Fennessy <[Robert.Fennessy@carverma.gov](mailto:Robert.Fennessy@carverma.gov)>; Gregg J. Corbo <[GCorbo@k-plaw.com](mailto:GCorbo@k-plaw.com)>  
Subject: [EXTERNAL]RE: [EXTERNAL]Carver Redevelopment Authority

Thank you, Tom. I have worked with him in the past.

Katie

<https://outlook.office365.com/mail/id/AAQkADg2NGU3ZDdjLTNhNzktNGY0NS1hNjllLVVhYWlyYzU2MGY4OQAQANxXKAYJP0CTqcAgsaZWZ0A%3D> 1/3