



STERLING BOARD OF SELECTMEN'S EXECUTIVE MINUTES

June 13, 2018

LCM Realty Trust, et. al. vs Town of Sterling

7/11/18

At 8:13, Selectman Cranson moved to enter into executive session for exemption #3 for the purpose of discussing 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 public body and the chair so declares. Selectman Kilcoyne 2<sup>nd</sup>. Roll Call VOTE: Selectman Kilcoyne - Aye. Selectman Cranson - Aye. Chairman Lane - Aye. Motion carried.

Executive Session Roll Call: Chairman Lane- Present. Selectman Cranson - Present. Selectman Kilcoyne - Present.

The Board discussed the case of Foley VS the Town of Sterling and three Sterling Earth Removal Board members. Mediation for this will take place in Boston on Friday, June 15, 2018 at 10:00am.

- Potential settlement terms to be offered by the Town:
  - Since the reported eventual use of the site is residential, no ZBA variance for a change of use will be required. [REDACTED]
  - Mr. Foley will be encouraged to file for an Earth removal permit through the ERB, with the following information/conditions:
    - The site will be treated as a single lot per an ANR.
    - MR. Foley's engineering plan will show final contours of the finished site
    - A site stabilization and close out plan will be established and initiated
    - Once the new permit expires, any further earth removal will require an extension or a new permit
    - The plaintiff must acknowledge that more material was removed than allowed under the 1000 cubic yard per building lot and septic exemption.
    - Any future non-compliance could result in new fines and payment of past fines.
    - The plaintiff will drop all charges against the Town and ERB members

The Town's liability insurance carrier, MIIA, asked what amount of money the Town would authorize them to pay, in the event that this case is decided in Mr. Foley's favor.

- The Town's initial approach should be to seek a judgement that does not grant monetary remuneration.
- However, should monetary remuneration be granted, then the Town Administrator suggested that the Town attempt to negotiate a quid pro quo arrangement where, the fines levied against Mr. Foley by the Town, for exceeding the 1000 yard exemption, would balance against the judgement.

The consensus of the Board was that they do not, at present, have sufficient information to make a decision as to what the Town would be willing to pay the plaintiff. Therefore, they withheld judgement on this matter until after the mediation session.

At 8:39, Selectman Cranson moved to adjourn from executive session and to reconvene in Public session. Selectman Kilcoyne 2<sup>nd</sup>. Selectwoman Cranson - Aye. Chairman Lane - Aye. Selectman Kilcoyne - Aye. Motion carried.