



STERLING BOARD OF SELECTMEN'S EXECUTIVE MINUTES
November 21, 2017
Joint meeting with Earth Removal Board regarding Foley Lawsuit

approved
11/29/17

9:01 AM.

In attendance:

Dolores Rich

Mike Rivers

Russ Philpot

Mike Pineo

Maureen Cranson

Rich Lane

Ross Perry

Kama Jayne

Attorney Carolyn Murray

The Earth Removal Board was called to order for executive session.

At 9:02 Chairman Cranson moved to open an executive session with the Earth Removal Board. The purpose, as stated by the Earth Removal Chair, was to meet under M.G. L. Chapter 30A. Sec 21 (a) Reason # 3 – to discuss strategy with respect to litigation, if an open meeting may have a detrimental effect on the litigating position of the public body and the Chair so declares (he did), with respect to the following matter; LCM Realty Trust et al v. Town of Sterling Earth Removal Board et al., Worcester Superior Court Civil Action No 17 CV1839D relative to 38 Clinton Road. Selectman Lane 2nd. Chairman Cranson- Aye. Selectman Lane – Aye. Selectman Kilcoyne was absent. Motion Carried.

John Kilcoyne joined the meeting at 9:07

[REDACTED]

The Boards discussed the actions taken by the Earth Removal Board regarding the removal of earth from 38 Clinton Road by LCM Trust, as well as the specific allegations in the law suit.

Selectman Lane stated that he would like the Earth Removal By-Law to be updated at Town Meeting in order to make it more current, specific and enforceable.

The injunction hearing will take place next week and the Plaintiff (LCM Trust) must prove there is merit for an injunction. Since there is an alleged Federal Claim included in the law suit, the Consensus of the Boards was that it would be in the best interest of the Town to have the case heard by a Federal judge. If heard in Federal Court, the Town would be able to access the free mediation program which would be most beneficial, since the goal of the Town is to find a way to dissolve the litigation and then to find a way to proceed.

At 10:19, Chairman Cranson excused herself from the meeting due to obligations elsewhere.

The Board of Selectmen is hopeful that MIIA will make a positive determination regarding coverage of this issue. Further, they are hopeful that the MIIA will employ K&P Law to represent the Town because Attorney Carolyn Murray is already aware of the details in this particular case. The injunction is scheduled for next week and The Town's deductible will be \$2500.00.

At 10:53 Selectman Kilcoyne moved to exit Executive session of the Board of Selectmen and not return to public session. Selectman Lane 2nd. Selectwoman Cranson – Absent. Selectman Lane – Aye. Chairman Kilcoyne - Aye. Motion carried.