

EXECUTIVE SESSION

December 29, 2014

Present was Scott Bugbee, James Lehan, Jeffrey Palumbo, Jack Hathaway, Town Administrator and Marian Harrington, Executive Assistant.

Also present was Jeff Blake, Town Counsel, of Kopelman and Paige, P.C.

Jeff Blake did the Lease Agreement for the Waste Water Treatment Plant (WWTP) first. He said they reviewed this and it is just accepting the WWTP. We cannot back out of the Agreement at this point. Jim said it isn't our issue, it's the Association's issue. Jeff Blake said the way it is written, the Association is only on the hook for the pro rata share. Jeff Blake said the Condo Association doesn't pay that timely and are in arrears right now from last August. He said they spoke with Borrelli's attorney and found out they haven't paid since August. This will be our problem for collecting any monies owed us. We would collect from January 1 on. Jim said what if they won't pay until we resolve the 40% instead of 57%. Jeff Blake said there are options, such as shut them off. We can legally do that. This wouldn't happen though probably. Jack asked if we can lien it like we do a water bill. Jeff Blake said not really.

Jeff Blake said the Agreement is pretty specific about what we can do regarding the rate. Jack said we didn't do that Agreement. Jeff Blake said by taking it over, we do. It is specific about what's included in the expenses. He said that maybe we can do a user fee. We are basically buying into a controversy. As Jack pointed out, they are paying for some fees like a management fee. It will cost us less to run the plant, so maybe the number doesn't change, and they might want the number lower and then we can throw things out like shutting them off, etc.

Jack said the commercial side is more of an issue. There is only Walgreens and soon Cilla's. Jeff Blake said we need to see how they are calculating the 57%. Jim said they have been feisty, mostly because they don't care for Borrelli's. They are trying to get the Town to be a solution to the problems with Borelli and figure we will resolve everything. They made a bad deal with Borelli and want the Town to do the road. Jack said we are getting \$200K that was going to go to Affordable Housing, which is now coming to the Town to do the road. Jim said there is also some poor workmanship within the condos. They shorted themselves on the deal, and the right of way to the water tower.

Jeff Blake said the Transfer Agreement was sent to DEP for their comments. Their comment is under 6B. Responsible for compliance of terms and conditions of the permit. Jeff Blake asked if they expire soon? Jack said yes, but we

renew it every 5 years. Mr. Borrelli paid a \$7K annual fee. We don't have to pay that, so it saved us money in the budget.

Jeff Palumbo said the plant was built without a generator. We should have known that before going to town meeting, so we are stuck. Jeff Palumbo also questioned if we could do some type of betterment to help us with some of the issues. Jim said we should build that into the fees, to help us cover things. Jack said we are going to bill whatever the documents tell us we have to bill. Jim thinks we have sufficient funding, but knowing the Association, they will try to make their issue our issue.

Jim questioned the \$68,000 we are supposed to get. Jack said it says right here (per Atty. Connelly) that we are still getting it.

Discussed pro rata on allocation of capacity. 40%. Jeff Blake said 40% could be the cap, and pick a number and you say 15 and we're using 12, then who pays? You can't charge more than full capacity.

Jack said this Agreement is only between Borrelli and the Association. We have to absorb it. Jack said the Agreement says Borrelli and/or his successors, and we are the successors. Scott said we have not seen the Agreement with Walgreens. Jeff Blake said the only things we are bound to are the two Agreements. Jeff Blake said he is curious now if there is such an Agreement as he doesn't see it. Jack said Norfolk Commons may be the commercial, and Norfolk Town Center may be the residential.

Jack said Matt Borelli said he sent out two bills; one bill to the Association, and one bill to Stop & Shop. There are now others such as Walgreens.

Jim Lehan moved to approve the Agreement. Jeff Palumbo seconded. Jeff Blake said we are shooting for January 1. Jack asked if anyone talked to DPW? They were working on January 15. Jeff Blake said that last meeting we talked about January 1, and DEP will do the transfer as of 1/1. We need the insurance, which Scott is working on. It was **so voted** unanimously. The Board signed the Agreement.

66 PRISCILLA AVENUE

The Board then reviewed a title issue with 66 Priscilla Avenue. Jack explained that they were made aware of a home built on town property.

Jeff Blake said there is no quick fix on this. A quick fix is that there is town land that is taken in tax title. Jeff Blake showed the Board on a plan. He thought it was 100% on our property that we took for tax title. The builder put the house in the middle of the three lots. The laws of tax title, the Treasurer-Collector can

dispose of these without a town meeting vote, but has to do so by auction. Quickest and easiest way.

Jim said but there is a house on it. Jeff Blake said yes. Jeff Blake said get it transferred from the Custodian of Tax Title at a town meeting. Then get permission for Selectmen to dispose of it. He said get an RFP and make it sufficiently narrow so it limits it to the owner.

Jack said can we do a friendly agreement, a land swap. Jeff Blake said the courts don't usually like us going around town meeting. They may say we will swap the three for the two. We would get a lousy deal. Jim said he doesn't think there is sufficient land there to do that. They own three lots. One is in conformance. Jim said to be a conforming lot, they need one of ours. They aren't any use to us. Jeff Blake said they should buy the two lots outright at an auction. Jack said we'll be auctioning the lot with the house on it.

Jim said the two lots are of no use to anyone except an abutter. They are of no value to the town. Jim said we should go after Landmark to pay for this.

Jeff Blake said if we move the house, you may lose your grandfathering. You could leave the foundation. Jim said how do we advise them in the easiest quickest way. The owners are gone. The "buyers" are renting the house because there hasn't been a closing. This is not our problem to solve. Jeff Palumbo said if there hasn't been a closing, they can go buy another house, or keep renting.

Jim said lets talk about the Town buying the house for Affordable Housing. Some of the funds may come from Landmark or whoever. Jim said if we bought the house and the three lots next door and we own all five. Jeff Blake said that the same owner cannot do a contiguous parcel. Jim said what if the Housing Trust bought the house and lots. Jeff said we would have to find out if the Housing Trust is separate enough from the Town.

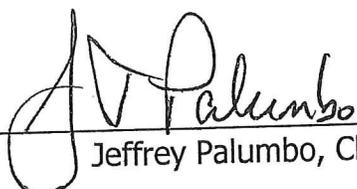
The house sold for \$350,000. If the Town got ownership of the house, auction it for affordable housing. We also have a buildable lot next door that the housing trust buys from the current owner. Now we have a house that we can sell, and it would be a viable option. Habitat wants to build in Norfolk now but we didn't have a lot. The Housing Trust will get a sale. We will have to talk to the owner. Jeff Blake said get a variance from the ZBA. If we get a house and separate lot for \$350,000, that would be a great deal for the Housing Trust. Buying a buildable lot, they are gifting the house. They are getting a house and a buildable lot for \$350,000.

Jeff Blake said he could call the owner and have a friendly conversation on behalf of the Board.

At 11:45 a.m., Jim Lehan moved to go out of executive session. Jeff Palumbo seconded, and it was a roll call vote: Jim Lehan, **aye**; Scott Bugbee, **aye**; and Jeff Palumbo, **aye**.

At 11:45 a.m., Jeff Palumbo moved to return to open session. Jim Lehan seconded, and it was **so voted**.

This is a true and accurate report of the Executive Session of December 29, 2014.



Jeffrey Palumbo, Clerk