

Bourne Conservation Commission (BCC) - Executive Session Meeting Minutes
April 6, 2023

Commission members present: Chm. Robert Gray, Vice-chair Rob Palumbo, Sarah Butler, Paul Szwed and Peter Holmes

Professional staff in attendance: Stephanie Fitch, Conservation Agent, and Bryan Bertram, representative for Town Counsel

Participants by remote access: Bryan Bertram and Peter Holmes

All items within the meeting agenda are subject to deliberation and vote (s) by the Conservation Commission. The Conservation Commission will reconvene in open session at the end of the Executive Session. The Chair will report out a summary of any votes taken during the Executive Session.

Chm. Robert Gray motioned to convene Executive Session at 6:00PM held hybrid on Thursday, April 6th, 2023, in the Bourne Veterans Community Building, 239 Main Street Buzzards Bay, MA 02532. Motion to enter into Executive Session pursuant to G.L. c.30A, §21(a) (Purpose 3) to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect of the bargaining or litigating position of the public body and the chair so declares.

- 96 Megansett Rd, Cataumet: Superseding Order of Conditions SE7- 2171

Motion made by Chairman Gray to convene Executive Session.

Roll call vote: Mr. Palumbo-yes, Ms. Butler-yes, Mr. Holmes-yes, Mr. Szwed-yes and Chm. Gray-yes.

Motion carried. 5-0-0.

Bryan Bertram, Town Counsel, participated by remote access and per regulations stated that no one could over hear the conversation; Mr. Holmes also stated the same. Bryan Bertram gave a brief update on the pending lawsuit regarding DEP File No. SE7-2171. The executive session was held to discuss and potentially resolve the appeal on the local level, since the appeal pertaining to the State laws had gone through the DEP process. Town Counsel explained that the bylaws on the local level can sometimes be more restrictive and are not under DEP's jurisdiction. Therefore, a second appeal was filed with Barnstable Superior Court; this appeal was on pause pending the outcome at the State level. In January 2023, a Superseding Order of Conditions (SOC) was issued. If the SOC resolved the original concerns and is satisfactory to the Commission, then the Commission can revisit and possibly modify the local Order of Conditions. If that is the case, the applicant would come back before the Commission to Amend the Order with something that they could now approve. With an amended order, there would be no further reason for ligation in court, avoiding ligation costs and expense with the Town.

Bryan Bertram framed the question to the Commission if they want to keep ligation or work with the revised Massachusetts Environmental Protection Act (MEPA) Preferred Alternative plan and Amend the local Order.

During the meeting, the Commission discussed the proposal to work with the new MEPA plan in order to approve the project under the local bylaw. The overall feeling was that the

Bourne Conservation Commission (BCC) - Executive Session Meeting Minutes
April 6, 2023

SOC essentially obtained and addressed all the issues the Commission was originally concerned with. The Commission would additionally like to see a Conservation Restriction (CR) originally on the plan labeled Lot 2 and recorded at the registry of deeds in perpetuity as a condition in the special conditions of the Order, for a portion dedicated to Open Space.

In conclusion, Mr. Bertram gathered the extent of the Commission's comments and that is it worth a discussion with plaintiff's attorney to get it back before the Commission as a Request to Amend. No votes were needed to be taken on this discussion.

Action Items:

1. Bryan Bertram will discuss further with the plaintiff's attorney to the extent of what is needed to come back before the Commission and if he doesn't hear an objection; he will reach out to Ms. Fitch on what would be acceptable to be reheard in an Open Session.

Roll call vote to adjourn the Executive Session and re-enter Public Session. Motion made to adjourn and seconded. Roll call vote: Vice-chair Palumbo- yes, Ms. Butler-yes, Mr. Holmes-yes, Mr. Szwed-yes and Chm. Gray-yes. **5-0-0.**

2. Adjourned. 6:13PM

Minutes typed by Amalia Amado- Conservation Secretary II
Meeting minutes edited by Stephanie Fitch- Conservation Agent
Recorded by Zoom platform
Audio recorded by Conservation Department