

**TOWN OF NEWBURY
SELECT BOARD**

EXECUTIVE SESSION MINUTES

DATE: January 11, 2024

PRESENT: **SELECT BOARD:**
Alicia Greco, Chair; William DiMaio, Vice Chair; Leslie Matthews, Clerk; Dana Packer; Geoffrey Walker

CONSERVATION COMMISSION:
Bob Connors, Chair

TOWN COUNSEL:
Brian Winner, Mead, Talerman & Costa, LLC

STAFF:
Martha Taylor, Planning Director

Call to Order:

At 5:36 p.m. A. Greco called the meeting to order with a salute to the flag.

EXECUTIVE SESSION:

Motion: At 5:40 p.m. A. Greco asked for a motion to enter into Executive Session. A motion was made by G. Walker and seconded by W. DiMaio to enter into Executive Session pursuant to Open Meeting Law (Chapter 30A, Section 21(a)(3)), and subject to the Chair's declaration, to go into Executive Session to discuss strategy with respect to the matter of the Department of Environmental Protection and Cricket Lane LLC, Superseding Order of Conditions DEP File #050-1355 and OARD WET-2022-028, for 55R Pearson Drive litigation.

A roll call vote was taken:

Geoffrey Walker – Yes
Leslie Matthews – Yes
William DiMaio – Yes
Dana Packer – Yes
Alicia Greco – Yes

A. Greco announced that the meeting would not reconvene at the conclusion of the Executive Session.

R. Connors reported on the vote that the Conservation Commission took in Executive Session at an emergency meeting held on December 14, 2023, regarding the Commission's appeal of DEP's Superseding Order for the proposed Cricket Lane 40B at 55R Pearson Drive. The primary issue has centered on whether a pool of standing water on the property is a vernal pool or not. R. Connors said that the Commission had hired a wetlands expert, Scott Smyers of Oxbow Associates, Inc., to investigate the pool and provide an opinion on whether this pool qualifies as a vernal pool. Following a site visit in December and investigation of all materials previously collected, Mr. Smyers reported that he could not ascertain definitively that this body of water is a vernal pool. Based on this report, the Commission determined that there was no viable path forward for the Commission's appeal.

B. Winner discussed the issues in more detail, reiterated that Mr. Smyers could find no conclusive evidence that this pool could be certified as a vernal pool, and said that without that evidence, there was no place to turn and the Commission elected not to pursue the appeal any further.

B. Winner then advised that the next procedural step would be for the Select Board to decide whether to support the Commission or not and to provide instruction to him in accordance with its decision.

Discussion among the Board members, R. Connors, and B. Winner followed. B. Winner noted that if the Board voted to support the Commission, the next step would be for him to file a Stipulation of Dismissal.

Motion: A motion was made by A. Greco and seconded by G. Walker to vote to support the Conservation Commission's decision and instruct B. Winner to file a Stipulation of Dismissal.

A roll call vote was taken:

Dana Packer – Yes
William DiMaio – Yes
Geoffrey Walker – Yes
Leslie Matthews – Yes
Alicia Greco - Yes

B. Connors noted that B. Winner and his team had done an excellent job.

Motion: At 5:48 p.m. a motion was made by G. Walker and seconded by D. Packer to close the Executive Session.

A roll call vote was taken:

Geoffrey Walker – Yes
Leslie Matthews – Yes
William DiMaio – Yes
Dana Packer – Yes
Alicia Greco – Yes

Motion: A motion was made by L. Matthews and seconded by G. Walker to adjourn the Select Board meeting. All voted in favor.

The meeting was adjourned at 5:50 p.m.

Respectfully submitted,

Martha Taylor
Planning Director