

Royalton Planning Commission

APPROVED – Minutes

Tuesday, September 8, 2009

Members Attending: Beguin, Boles, Brandau, Gravel, Judge, Levasseur

Guests Attending: Kira Bryers (Note Taker)

Meeting came to order at 7:33 PM.

Special meeting relating to Times and Seasons Motion for Summary Judgment

- Levasseur opened by stating the reason for the meeting: what to ask the Select Board with respect to Times and Seasons' Motion for Summary Judgment to the Act 250 Court/Natural Resources Board
- At the last meeting, Levasseur was given permission to speak with Geoff Hand and Mark Lucas (attorney for the Natural Resources Board) and spoke to them via conference call. Lucas thinks that since the RPC was a party to this suit since the beginning, it would be useful to appear again as he feels it is a "matter of the principles of justice."
- Times and Seasons is asking again for something that has been denied
- The Motion was filed on August 26, 2009 – Hand and Lucas have to do their work by September 26, 2009, leaving very little time
- Hand thinks that RPC should file a Notice of Appearance or Motion to Intervene and this process might take several hours of Hand's time
- Beguin asked about Hand's billing rate – discussion ensued and if \$100/hour is correct, it would be a discounted rate for the RPC
- Gravel asked why this process is still going as Times and Seasons' seems to have no grounds for appeal
- Discussion ensued about grounds for this appeal
- Select Board will probably say no to the RPC continuing to have to pay for Hand's time, citing financial difficulties → even though the money is budgeted, Select Board signs the checks and makes the final approval
- Discussion ensued – Levasseur reminded RPC that all through this process, the argument that RPC received from some members of the Select Board was that it didn't matter that the Times and Seasons project wasn't suited to the Town Plan because the Town Plan "doesn't matter" – RPC explained amendment process to the Select Board for voters to approve and no one ever attempted to come forward with a proposition to amend the Town Plan so that the area was considered "commercial" at the top of Dairy Hill Road – Levasseur thinks this would be the smartest way to confirm the Town Plan, and could put a cap of \$500 on it
- Gravel asked if RPC has financial reasons for opposing Times and Seasons, such as increased traffic leading to roadwork – answer is no

- Judge asked what floodgates would open if RPC gave up this fight – that area outside the Town Plan’s designated commercial zones could/would be recognized as commercial
- The charge of RPC, according to statute, is to implement, defend and uphold the Town Plan – RPC felt it was doing just this all along. Because old Town Plan was too ambiguous, RPC tried with recent revision to make it clearer
- Judge cited Kevin Rogers as an example of a lost Act 250 fight (requirements imposed on him have hampered his business) – Judge feels that continuing this fight would divide the community, waste money and reopen old wounds
- Beguin asked about Rogers’ case – environmental concerns have shut him down and he “played by the rules”
- Brandau stated his disagreement with Judge – he feels that the owner of Times and Seasons is just trying to throw money at the courts to “buy his way through,” invalidating the effectiveness and point of the Town Plan
- Beguin stated that the Select Board **must** be behind RPC on this for RPC to succeed – there is a precedent that must be stood by, a respect for the community
- Levasseur stated that it is somewhat possible to file an affidavit that Hand would write stating that Times and Seasons has lost and keeps appealing and RPC has no more funds to continue the fight – this sounded to her like the last resort
- There must be a motion for the Select Board to allot up to \$500 from RPC budget to pay Hand for the purpose of continuing representation and involvement of RPC after all of this time, to defend against Times and Seasons Motion for Summary Judgment
- Beguin moved to recommend the above to the Select Board. Judge seconded. Beguin, Brandau, Judge in favor. Boles opposed. Gravel abstained. Motion failed.
- Gravel asked Levasseur to further explain what RPC would ask the Select Board for – since she abstained, she can ask for another vote.
- Motion to Reconsider – Beguin, Brandau, Gravel, Judge, Levasseur in favor. Boles opposed. Motion carries.
- Levasseur stated that she is unsure how to present this – doesn’t feel that any of this information is particularly sensitive – Judge asked if she can go into executive session – if legally sensitive, yes

MEETING ADJOURNMENT:

Judge moved to adjourn. Brandau seconded. All in favor of adjourning. Meeting adjourned at 8:17 PM.

Respectfully submitted,

Kira S. Bryers
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