

Present: Christopher Morely (Chairman), Fred Floru, Lynne Remington,
Pat Brown, Sherrill Cline, Diana Warren, Thomas Friedlander,
Bob Beagan, and Director of Planning and Community Development
Meagen Donoghue

Absent: Elizabeth Quirk

Executive Session – Use of CPA Funds for Bruce Freeman Rail Trail Design

Present: Board of Selectmen Chair Susan Iuliano

At 8:00 p.m., Chairman Morely opened an Executive Session regarding the use of CPA funds for design of the Bruce Freeman Rail Trail (BFRT), and he welcomed Board of Selectmen Chair Susan Iuliano to the Meeting.

Ms. Iuliano stated the Selectmen have received a legal opinion regarding the use of CPA funds for the design of the BFRT because there is the potential threat from a citizen who has stated they will sue the Town if CPA funds are used for the design of the BFRT.

Mr. Beagan stated he will soon be joining the BFRT Design Task Force and he asked if there is a conflict of interest with him participating in tonight's discussion. Ms. Iuliano stated she does not believe there is a conflict.

Ms. Iuliano stated the Selectmen decided not to release privileged information to the public, but they have chosen to share the attorney/client privileged information with the CPC, the Capital Funding Task Force and the Capital Improvement Advisory Committee. She stated the Selectmen are considering strategy options, which might include pursuing funding from other sources in the future. However, Ms. Iuliano further stated the Selectmen have decided to not withdraw the CPA funding request at this time. She briefly summarized that the Town's ownership rights have come into question regarding the BFRT land being used for recreational use and being eligible for CPA funding. Ms. Iuliano stated the Town is in the process of negotiating a lease with the Department of Transportation which might afford it a firmer legal footing. She stated the Town is pursuing options to strengthen its legal position. Ms. Iuliano noted a lease with the DOT is required by law to be a minimum of 30 years.

Mr. Friedlander asked if minutes are being taken of this Session, and the Recording Secretary stated she was taking minutes as best as is possible without having any background information provided.

Ms. Iuliano stated the Selectmen have decided to still pursue the CPA funding request, but they may also consider alternative funding sources such as Free Cash. She further stated the Selectmen could decide to pursue a different CPA-funding request for the October 2017 Town Meeting. She noted the Selectmen wanted the CPC to be aware of the situation.

Chairman Morely stated the Selectmen are asking the Committee to proceed with putting the article forward at the May 2017 Town Meeting, with the knowledge that changes might occur which could result in the money not being appropriated.

Mr. Beagan asked for clarification about spending CPA funds for this purpose which were previously appropriated. Ms. Iuliano stated last year's BFRT appropriation has not yet been spent. However, Mr. Beagan noted monies have been spent previously on the BFRT and it is possible the Town could be sued for those expenditures.

Environmental Planner Beth Suedmeyer stated the Community Preservation Coalition website lists at least five other rail trail projects which have used CPA funds, however she noted the ownership rights in these instances are not known.

Chairman Morely stated the Town's strategy is to negotiate a tighter lease.

Mr. Frielander stated the Selectmen are essentially not asking the CPC to do anything different tonight. He further stated there is always a potential threat that anyone can sue the Town about any issue. Mr. Frielander stated that, he believes tonight's Executive Session was unnecessary based on the information provided, and that there is no strategy to discuss tonight.

Mr. Floru asked if the Town's intent is to sign a 99-year lease. Ms. Iuliano stated the minimum lease by law is for 30 years.

At 8:16 p.m., on motion duly made and seconded, it was on roll call unanimously:

VOTED: To close the Executive Session to discuss strategy with respect to potential litigation if an open meeting may have a detrimental effect on the litigation position of the public body and the Chair so declares (Bruce Freeman Rail Trail), pursuant to General Laws Chapter 30A, section 21 (a) (3),), Thomas Friedlander, aye, Sherrill Cline, aye, Pat Brown, aye, Diana Warren, aye, Bob Beagan, aye, Fred Floru, aye, Lynn Remington, aye, and Chairman Chris Morely, aye.

On motion duly made and seconded, it was also unanimously:

VOTES: To adjourn the Executive Session at 8:16 p.m., and to resume the Regular Meeting Session

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There being no further business, the meeting adjourned at 8:16 p.m.

Attest: _____
Meagen Donoghue