

COMMISSIONERS REGULAR MEETING

July 10, 2013

YORK,ss

At a regular meeting of the County Commissioners of the County of York, begun and holden at the York County Government Building in the Commissioners' Community Room in Alfred, within and for the County of York, being held on Wednesday, July 10, 2013 A. D. at 4:30 P. M.

COMMISSIONERS PRESENT:

Sallie Chandler
Daniel C. Cabral
Richard R. Dutremble
Michael J. Cote
Gary Sinden

County Manager Gregory Zinser was present at the meeting.

All present were invited to rise and salute the flag of the United States.

1 PUBLIC COMMENT(S) ON ANY ITEM(S)

None

2 CONDUCT EMINENT DOMAIN HEARING

Commissioner Chandler began the hearing and advised each attorney they could speak for a five minute period. Attorney Roman addressed the board and stated that Mick Corporation has a much larger parcel. She clarified that the focus is not on the larger parcel but on the parcel that the water district purchased. That is the land used as a comparison to the land belonging to the Paige's according to Attorney Roman. She stated that according to the water district the highest and best use of the land makes a difference in price. The Mick parcel consisting of 3.67 acres is landlocked just like the Paige parcel. The tax card for the Mick property is \$29,000.00 and the S.B. Water District purchased the land for \$150,000.00. The Town of South Berwick tax card for the Paige property purchased by the water district is \$28,000.00 and the water district paid \$2,850.00. The remaining twenty nine (29) acres of the Paige property would be developable for two lots if the water district would've allowed the Paige's to build but the water district sued. Attorney Roman referenced the water district trustee

minutes in which it was stated that the water district wanted to put wells on Mick property as well as Paige property. Attorney Roman also stated that the Paige's land has a commercial restriction on it making it a residential parcel and that the Mick parcel is in a residential zone. Finally, Attorney Roman stated that the issue of financing of the Mick land is irrelevant. She stated that the Paige's would be open to financing. And, Attorney Roman informed all that the option agreement purchase of Mick parcel expired in 2011 and they didn't take the land back.

Attorney Harwood addressed the board and stated that the biggest problem with this case is there was only one appraisal done and supplied by the water district. There is no appraisal from the Paiges. Attorney Harwood stated that the Mick parcel is not comparable to the Paige property as the Mick property is valuable and subdividable. Mick property was being developed as a residential subdivision, stated Attorney Harwood and the tax assessment is the valuation for the water district's portion only. He argued that the seller financing effects the purchase price as it is a valuable right that the water district could sell back the land to Mick Corporation. He stated that the land is not land locked and the \$150,000 paid by the water district for the land is to compensate Mick for losing the right to develop it as a subdivision. He concluded that there is very little in common between these two parcels as is shown by the real estate appraisal.

The Commissioners deliberated and Commissioner Sinden read proposed Findings of Fact (attached as record to minutes).

Commissioner Sinden added that he would add the timber value of \$1,900.00 bringing the compensated total to \$51,900.00.

Commissioner Sinden motioned to order the South Berwick Water District to compensate the Paiges \$51,900.00 for their parcel of land. Commissioner Dutremble seconded the motion. Vote 5-0.

Commissioner Sinden motioned that restriction #2 (provided in Findings of Fact attached to the minutes as record) should be removed. Commissioner Cabral seconded the motion. Vote 5-0.

Commissioner Sinden motioned that restriction #3 (provided in Findings of Fact attached to the minutes as record) should be removed. Commissioner Cabral seconded th motion. Vote 5-0.

Motion made by Commissioner Sinden to approve relocation of the access easement as described in the Findings of Fact (attached to the minutes as record) item #4. Motion seconded by Commissioner Dutremble Vote 5-0.

Motion made by Commissioner Sinden to abide by item #5 in the Findings of Fact (attached to the minutes as record). Commissioner Cabral seconded the motion. Commissioner Dutremble suggested adding the wording “*required to meet current town requirements*”. Vote 5-0.

3 TO REVIEW AND APPROVE THE MINUTES OF THE COUNTY COMMISSIONERS’ REGULAR MEETING OF JUNE 5, 2013 AND JUNE 13, 2013 WORKSHOP

Commissioner Dutremble motioned to accept the minutes of June 5, 2013 meeting. Commissioner Cabral seconded the motion. Vote 4-0 with Commissioner Chandler abstaining.

Commissioner Cabral motioned to accept the minutes of the June 13, 2013 workshop. Commissioner Sinden seconded the motion. Vote 5-0.

4 TO HEAR ANY REPORTS OF THE COMMISSIONERS

Commissioner Sinden informed all that they are racing to finish the Memorial bridge from Kittery into Portsmouth with a deadline of July 19th.

Commissioner Sinden read a resolution for F-35 Lightning II (attached to the minutes as record) and motioned that the Commissioners approve and sign. Motion seconded by Commissioner Cote. Vote 5-0.

5 TO HEAR ANY REPORTS OF THE COUNTY MANAGER

The County Manager introduced Deputy Jason Soloman who was named school resource officer of the year.

Commissioner Chair Sallie Chandler read and presented to Deputy Soloman a proclamation signed by the Commissioners.

County Manager Zinser asked the Commissioners to award the bid for the partial roof replacement at the York County Government Building. He explained that there was a mandatory walk through on June 20, 2013 and that two contractors (Skyline Roofing and Viking Roofing) bid last Friday (the 5th of July).

Skyline Roofing’s bid is \$176,600.00 and Viking Roofing’s bid is \$131,455.00 County Manager Zinser requested the Commissioners motion to award the roof bid to Viking Roofing and to approve funds for additional costs to remove the old HVAC units, electrical work and an on-site project manager bringing the total to

\$158,000.00. He explained the funds were previously set aside in designated capital costs.

Commissioner Dutremble motion to approve the project in the amount of \$158,000.00. Commissioner Cabral seconded the motion. Vote 5-0. Commissioner Sinden asked if the company will have a performance bond. The County Manager replied yes.

The County Manager informed the board that the posting for HR director closes this Friday. He added that it may be necessary to extend the search and expand criteria.

County Manager Zinser told the board that the complete revision of the county policies should be back from the attorneys soon and be presented to the Commissioners for review and discussion.

6 NEW BUSINESS

Commissioner Cote introduced an e-mail he sent to Commissioners.

He feels an ethics board is missing from the County ethics policy. He stated that he feels this is important and added that the City of Bangor has such a board and he's been talking with their attorney.

Commissioner Sinden responded that he had questions and concerns with this idea and added that it seems like we are putting another layer of bureaucracy here. He added that he felt the ethics policy was created to allow Commissioners to make decisions with all questions dealing with ethics. He clarified that the City of Bangor has a charter which dictates authorities.

Commissioner Cote added that this board would be advisory. Commissioner Sinden replied that the final decision lies with the Commissioners by law. Commissioner Cote stated that he feels the policy is more ethical with this buffer in it. Commissioner Sinden responded that if another layer was going to be added to the process, more information would be needed.

Commissioner Sinden stated that any recommendation down the road to modify the current ethics policy is something we could look at. Our current policy is quite clear added Sinden.

7 OLD BUSINESS

8 PUBLIC COMMENT(S) ON ANY ITEM(S)

Bill Burns asked if the work bid out for the partial roof replacement had been verified as not included in the roof work done during the remodeling of the building with energy grant funds. The County Manager responded that this work was not included.

9 TO CONDUCT AN EXECUTIVE SESSION ON PERSONNEL ISSUES PURSUANT TO 1 M.R.S.A. §405 (6) (A), ACQUISITION OF REAL PROPERTY OR ECONOMIC DEVELOPMENT PURSUANT TO 1 M.R.S.A. § 405 (6) (C), LABOR NEGOTIATIONS PURSUANT TO 1 M.R.S.A. § 405 (6) (D) AND CONSULTATION WITH LEGAL COUNSEL PURSUANT TO 1 M.R.S.A. § 405 (6) (E).

RECESS UNTIL 6:00 P.M.

10 CONDUCT HEARING PURSUANT TO CODE OF ETHICS SECTION FOR 3.12FOR VIOLATIONS OF SECTION 3.8

Commissioner Chair Sallie Chandler took attendance to verify Budget Committee members present. The following members were present at the hearing:

Dwight Venell, Dean LePage, Jim Emerson, David James, Arthur Tardif, Tammy Jo Girard, John Sylvester, Joe Hanslip, William Bartosch, Jo-Ann Putnam and Richard Clark.

David Spoffard, Paul Fecteau and David Barton were **not** present.

Commissioner Chair Chandler explained that the reason for the hearing was to ask budget members to provide adequate reasons as to why they should not sign a disclosure statement.

Attorney Brad Morin addressed the board and stated that he was hired by the Budget Committee and represented all members of the Committee. He explained the Budget Committees' objections and reasons for not signing the ethics policy disclosure statement. The Budget Committee members believe that the County Commissioners have no role in modifying and objecting to the Budget Committees' actions as the ethics policy reads. They object to section 3.7(C) which allows the Commissioners to review a conflict if the same agenda item comes before the Commissioners.

The Budget Committee adopted its own ethics policy on July 10, 2013, which Attorney Morin represented was similar but not identical to the York County Code of Ethics.

Attorney Morin explained that the Commissioners have the right to appeal to Superior Court and that the Budget Committee should be afforded the same independence that the County Commissioners have.

Attorney Morin went on to state that if this is a political issue, then the Ethics Code adopted by the Budget Committee today should resolve the need for censure. If it's territorial (he did not define "territorial"), it will go further. Attorney Morin stated that the taxpayers will be upset by this as it will easily cost both sides \$10,000.00 to \$15,000.00.

Commissioner Cote asked if the budget committee would be open to the formation of a board of ethics to oversee this type of situation. Attorney Morin responded that they would consider such a proposal. Commissioner Cote further explained that the potential members would be interviewed and appointed by the Commissioners but have no ties to the Commissioners or Budget Committee. They would act as an advisory board as a buffer.

Commissioner Sinden questioned the Budget Committees' procedure in developing their own ethics policy. Attorney Morin responded that they met and developed the policy today. Commissioner Sinden asked why the Budget Committee couldn't provide something to review prior to the hearing. Attorney Morin explained that they met Monday in executive session and reviewed it in a public meeting today. Commissioner Sinden asked where in the statute (30-A M.R.S. § 831) does the Budget Committee get the authority to establish a Code of Ethics? He added that the authority is vested solely in the Commissioners. Commissioner Sinden addressed what he termed misinformation originating from the Budget Committee who argue the Commissioners want the right to overturn decisions made by the Budget Committee on substantive budget matters. Commissioner Sinden stated this is not true and has been documented by our attorney. Attorney Libby stated that item § 3.7(C) is limited to a review of whether or not a conflict exists and does not authorize the Commissioners to vote on the substantive budget matter which is reserved to the Budget Committee by statute. He reviewed as an example the procedure if thirteen Budget Committee members voted and one had a conflict, but participated in the vote. The Commissioners could determine that the one member had a conflict and then send the budget back to the Budget Committee and have the Budget Committee vote with twelve members. Attorney Libby added that there is a simple solution, assuming the disclosure statement the Budget Committee adopted is identical to the disclosure statement adopted by the Commissioners; all Budget Committee members could complete the Disclosure Statement and there will be no need to censure Budget Committee members. He reminded the Budget Committee that it has limited, specific statutory authority. Those statutory powers do not include

the authority to adopt a code of ethics. This authority is specifically and unambiguously delegated to the Commissioners.

Attorney Morin responded that the Disclosure Statement created by the Budget Committee is not identical and that there are minor differences in sections 3.8.2 and 3.8.3.

Commissioner Sinden stated that the language “territorial issue” used by Attorney Morin is wrong and offensive. This is about trust in elected officials and nothing more. The appearance of conflict is overwhelming continued Sinden. We are trying to elevate the trust in County government by saying to the public that we understand what you expect of us.

Commissioner Dutremble questioned the procedure of the Budget Committees’ recent meetings and why there was not better communication about the meetings to the public.

Hearing closed at 6:30 p.m.

Commissioner Sinden stated that the Budget Committee members had failed to demonstrate any reason for not completing the disclosure statement as mandated by Section 3.8 of the York County Code of Ethics. He added that the only way to resolve the legal issue would be by having an impartial judge deciding the jurisdictional question. Commissioner Sinden recommended the Commissioners move forward with a censure of Budget Committee members who failed to complete a Disclosure Statement since the York County Code of Ethics was adopted on September 13, 2012.

Commissioner Cabral motioned to censure the Budget Committee members: Dwight Venell, Dean LePage, Jim Emerson, David James, Arthur Tardif, Tammy Jo Girard, John Sylvester, Joe Hanslip, William Bartosch, Jo-Ann Putnam and Richard Clark for violation of Section 3.8 of the York County Code of Ethics pursuant to Section 3.12. Paul Fecteau, David Spofford and David Barton were not present, but also censured. Commissioner Sinden seconded the motion. Vote 4-1, with Commissioner Cote opposed.

11 ADJOURN

Commissioner Cabral motioned to adjourn. Commissioner Dutremble seconded the motion. Vote 5-0. Meeting adjourned at 6:32 p.m.

S/YORK COUNTY COMMISSIONERS

**Minutes taken by Administrative
Assistant**

**SIGNED: _____
Kathryn A. Dumont**

**SIGNED: _____
Sallie V. Chandler-Chair**