

EXECUTIVE SESSION (ES) CONFIDENTIAL

The ES was part of the joint meeting of the **Wenham Board of Selectmen (BOS)** and **Finance and Advisory Committee (FAC)**, **Wednesday, May 21, 2014** posted meeting.

Pursuant to Open Meeting Law, M.G.L. c. 30A, §§ 22 (f) the minutes of any ES, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under sub clause (a) of clause Twenty-sixth of Section 7 of Chapter 4, as long as publication may defeat the lawful purposes of the ES, but no longer; provided, however, that the ES was held in compliance with Section 21. These minutes will not be released until approved for release by the BOS / FAC and notice of such approval has been entered into the regular minutes.

The purpose of the ES was to discuss litigation with regards to William Fairfield Drive lots #4 and #5.

Selectmen Present: Jack Wilhelm, Chair; Catherine Harrison, Vice Chair; Ken Whittaker, Clerk

Finance Committee Present: Michael Lucy, Chair; Kathryn Mansfield; Kevin Lech; Richard Quinn

Also Present: Mark Andrews, Town Administrator; Paul Weaver, Town Counsel; David Geikie, Planning Board Chair; Emilie Cademartori, Planning Coordinator; Catherine Tinsley, Minutes Secretary

Mr. Weaver summarized that when the Tucker Estate sub division plan (William Fairfield Drive) was approved in 1980, the original covenant included a perpetual restriction: "That no buildings may be erected on lots 4 & 5 (located on the corner of Topsfield Road and William Fairfield Drive) and those lots shall be used only for agricultural and recreational uses". The restriction was to protect the historic stonewalls and scenic view.

The original covenant expires in 2020. An amended covenant expired in 2011.

When Brian Kelley originally purchased his house lot, he also purchased these two abutting lots. Mr. Kelley has since sold his home and no longer resides on William Fairfield Drive.

Presently he has indicated that he is seeking building permits for these lots, claiming the statutory effect of the restriction expired on the 30th anniversary on the covenant in 2011.

Property owners of William Fairfield Drive have indicated their support that the Town not issues the building permits. There has been some indication that the abutters to the William Fairfield property may be willing to advance money for a common defense. Negotiations with Mr. Kelley and his attorneys have produced a possible compromise to avoid litigation by allowing one buildable lot with a 200 foot set back from the stonewalls, and protection of the wetlands.

Chairman Wilhelm opened meeting for discussion.

Ms. Cademartori participated in the conversation, stating that as a part of a possible settlement a site plan and architectural drawings for one house was submitted.

The original minutes of the Planning Board regarding the covenant dated February 12, 1981 and May 14, 1981, were referenced.

It was the consensus of the BOS/FC that the first action be to get a legal opinion if the original covenant expires in 2020 or expired 2011, and that the neighbors be updated on the possible settlement and confirm their interest in sharing the legal costs. Ms. Cademartori will coordinate with Mr. Weaver.

Vote: Ms. Harrison moved, and it was seconded, to adjourn to open session for purpose of adjournment. The motion carried unanimously by roll call vote.

Vote: Mr. Quinn moved, and it was seconded, to adjourn to open session for purpose of adjournment. The motion carried unanimously by roll call vote.

Respectfully Submitted by

Catherine Tinsley
5.23.14