

Town of Carlisle Affordable Housing Trust Fund

Minutes

February 23, 2016

Present: Karina Coombs; Chair; Carolyn Ing, Vice-Chair; Nathan Brown; John Gorecki; Vanessa Moroney; Claude von Roesegen; and E. Lyn Lemaire who joined the meeting at 7:20 p.m., (sat in audience between 7: 24 p.m. to 7:45 p.m. and then rejoined the meeting).

Guests: Alan Lehotsky, Chair and Mark Levitan, Vice-Chair, Carlisle Housing Authority; Barbara Bjornson, Carlisle Housing Authority; Robert Zielinski; *Carlisle Mosquito*; Elizabeth DeMille Barnett, Housing Coordinator.

Meeting called to Order at: 6:45 p.m. by Karina Coombs, Chair

Entered into Executive Session at 6:50 p.m. and adjourned back to Open Meeting at 7:00 p.m. Joint meeting of the Board of Selectmen and Carlisle Affordable Housing Trust began at 7:15 p.m.

Documents Distributed:

Town Counsel's draft response to E.Lyn Lemaire's Commonwealth of Massachusetts Attorney General's Office Open Meeting Complaint dated January 28, 2016.

- 1. Joint meeting with the Carlisle Board of Selectmen to discuss the Open Meeting Law Violation Complaint filed by E. Lyn Lemaire with the Massachusetts Attorney General's Office.** John Gorecki introduced this agenda item by reporting that when the Carlisle Affordable Housing Trust Fund (CAHTF) received the initial complaint, that it had engaged Town Counsel to draft a response to the Commonwealth of Massachusetts Attorney General's Office (AG Office). Ms. Lemaire had the timeframe to respond to the CAHT's response and she did.

Ms. Lemaire then asked if she should leave the table. Town Counsel, Ivria Fried replied that Ms. Lemaire has the choice to stay or to leave. Ms. Coombs noted that, upon direction from Town Counsel, she would not be sharing the CAHT's draft response to Ms. Lemaire's second complaint. Ms. Lemaire asked that she be allowed to distribute a handout document which she had prepared as well as to discuss this handout prior to the first joint Board of Selectmen/Carlisle Affordable Housing Trust Fund agenda item. Ms. Lemaire asked Ms. Coombs if she was asking her to recuse herself. Ms. Coombs replied that as Chair of the CAHT she was not going to recognize Ms. Lemaire's proposed discussion. Ms. Lemaire replied that Town Counsel has a conflict of interest representing the Town and the CAHT.

Ms. Lemaire then asked if the Board of Selectmen would allow her to speak. Vanessa Moroney, Chair, Board of Selectmen (BOS) asked Ms. Fried if the BOS were obligated to allow this. Ms. Fried noted that both Ms. Moroney and Ms. Coombs were the Chairs of their respective boards and that recognizing speakers was at their discretion.

Ms. Coombs noted that the purpose of the meeting was to review Town Counsel's draft response to Ms. Lemaire's complaint to the Attorney General's Office and that was the business which was going

to be addressed. John Gorecki also noted that the agenda item for this meeting was posted as a Joint meeting with the Carlisle Board of Selectmen to discuss the Open Meeting Law Violation Complaint filed by E. Lyn Lemaire with the Massachusetts; that this agenda did not list the topic of substance concerning the transfer of Town land. (Ms. Lemaire left the table at 7:20 p.m.).

Ms. Fried reported for the CAHT and for the record, that on December 4, 2015, an Open Meeting Law (OML) Complaint was filed against the CAHT's September 9, 2015 meeting that 1) the CAHT had improperly discussed Site Plan Review and Karina Coombs, Chair of the CAHT and was not authorized to sign the Site Plan Review application for the applicant proposing to build a two-unit, nine-bedroom group home residence on the CAHT's Bedford Road property; and 2) The September 9, 2015 CAHT had not been posted to discuss Site Plan Review. She went on to report that the CAHT meeting had been posted 48 hours prior to the meeting; and it had not been reasonably expected to address Site Plan Review during the meeting. She added that this OML violation is untimely because the said violation occurred at the September 9, 2016 meeting and the complaint was received on December 4, 2015. The second allegation referring to Ms. Coombs signing the SPR Application does not relate to OML and therefore is not a violation of the same.

She noted that it is Town Counsel's expectation that the AG's Office will not review the complaint for September 9, 2015 and will not file an OML violation for the complaint that the CAHT was not authorized to sign the Site Plan Review application. The Chair was authorized to do so by vote of the CAHT in June 2014.

Ms. Coombs asked Elizabeth D. Barnett, Housing Coordinator, to distribute copies the draft letter which had been prepared by Town Counsel, to Kevin Maganaro, Office of the Attorney General which was a ***Response to E. Lyn Lemaire's Request of Further Review of Complaint Against the Carlisle Affordable Housing Trust Fund.***

Mr. Gorecki requested that Ms. Fried provide the history for the boards as for the television viewers. Ms. Fried reported that on December 4, 2015, E. Lyn Lemaire had filed an Open Meeting Law Complaint with the Town Clerk against the Trust and about improperly discussing Site Plan Review. She noted that no violations of Open Meeting had occurred as the meeting had been posted within 48 hours of the meeting and that agenda was to list all types of topics that are reasonably anticipated. In this instance it was clear that it was not anticipated that there would be a discussion regarding Site Plan Review.

Ms. Fried went on to report that Town Counsel on behalf of the CAHT, filed a response to Ms. Lemaire's December 4, 2015 complaint to the Attorney General's office. On the first complaint, she noted that Ms. Lemaire's complaint was untimely, as it was filed 60 days after the alleged violation and there is a 30-day limit for filing. Regarding the second complaint, concerning the Chair of the CAHT's authority in signing the Site Plan Review application; she noted that a June 10, 2014 CAHT vote allowed the Chair of the Trust these powers. She went on to report that Ms. Lemaire had until February 2, 2016 to file her complaint with the Attorney General's Office, in response to Town Counsel, Tom Harrington's initial response on behalf of the CAHT.

She reported that on January 28, 2016, E. Lyn Lemaire filed an 8-page letter with the AG's Office. Ms. Fried noted that this letter introduced nothing new and was a rehash of Ms. Lemaire's earlier

allegations. The next possible steps are as follows: the AG may reach out to the CAHT, Timothy Goddard, Town Administrator; or Ms. Lemaire. It is Town Counsel's recommendation that the CAHT have Town Counsel file a response on their behalf.

Mr. Gorecki asked how long is the process? Ms. Fried responded minimally 70 days. Ms. Coombs then said she wanted to open the discussion to the Draft Town Counsel response to Ms. Lemaire's second complaint.

Mr. Gorecki said that he had reviewed the letter and had no substantive changes. He said that he like the discussion of the Site Plan Review (SPR), as it made it clear and put into context that the CAHT is not the body which conducts the SPR process. Ms. Moroney contributed that she had read the letter thoroughly and thought that it was a fine response. Mr. Gorecki also noted that he particularly appreciated the final paragraph as it detailed how Ms. Lemaire was using the OML complaint as an intimidation tactic, to swing the votes of public officials. He cited the Commonwealth of Massachusetts law regarding bribery, M.G.L. Part 4 Title 1 Section 262, which addresses attempts to offer a public official in exchange for something of value, which in this instance was a vote, in exchange for reduced liability.

Ms. Coombs contributed that a lot of effort has been made about shutting the project down and returning the land. She noted that this was untimely, as the project was just getting started. She said that the mission of the CAHT was to preserve and create affordable housing. I also am pleased with the last paragraph of the draft letter. Nathan Brown responded that he had no edits and agreed with the document. Claude von Roesgen responded that bribery is not a good thing. I don't know the intention, but notwithstanding all which happened was counterproductive to Ms. Lemaire's objectives. He said that we do need to take a look at the land and how the lease might be modified.

Ms. Coombs responded that as long as the property is attached to the OML Complaint, the CAHT could not discuss the land. This topic was going to be a CAHT agenda item until the complaint came along. Mr. Gorecki noted that he had provided Ms. Lemaire with 7 or 8 questions regarding financing, logistics and with the 70-day Attorney General's response window – that he would not have the ability to participate in that discussion. He said he would forward his questions to Ms. Coombs.

Ms. Moroney responded by quoting the January 28, 2016 E. Lyn Lemaire letter to the Attorney General's Office "that at least two members [of the CAHT] acted with specific intent to violate the law." She said that she found this the most offensive aspect of the Complaint. She said that it was sad and ironic from someone who had run for uncontested election and in an article following this, it had been written in the *Carlisle Mosquito* that past actions of Selectmen not relevant. Ms. Moroney went on to note that Ms. Lemaire had not been allowed to practice law in California due to frivolous lawsuits. She continued that this was the same situation here. She noted that she believed Ms. Lemaire had also been faced with up to \$70,000 in fines.

Mr. Gorecki responded that he wanted to echo Ms. Moroney's point about Ms. Lemaire's accusation of specific intent to violate the law. He noted that in his earlier tenure on the BOS, although not everyone agreed on everything, there had been a culture of mutual trust and respect toward board members. He noted that since E. Lyn Lemaire had joined the BOS, there had been a general feeling

of angst and that they did not have that anymore, particularly in view of her OML Complaint and accusations. He went on to note that the ramifications of this situation had reverberated through Town Hall and would affect the ability to recruit new volunteers. Ms. Moroney concurred noting that this was a situation of a lawsuit with personal consequences – the Town would not be paying.

Mr. Gorecki went on to report that he had asked Town Counsel about the cost of the OML Complaint. In January, the cost had been \$3500.20 and February's bill was estimated to be \$2000. He noted that Town residents would not want him to have to pay over \$5000, for costs brought on by being sued by a fellow board member.

Carolyn Ing responded that she had been a CAHT member for three years, in which time board members contributed significant time to make the projects possible which were coming into fruition today. She noted that there had been strong personalities, but all worked within the spirit of cooperation. Ms. Coombs added that public speaking was not within her comfort zone, but Carlisle was a special place and she saw the CAHT as an opportunity to work with a law which we did not like in our own way. Vanessa had stepped down, and she stepped up, and then this whole business has derailed the work of the CAHT. Ms. Coombs noted that this had derailed her whole experience on the Trust.

Ms. Fried responded that she wanted to clarify a response to the last CAHT meeting in Executive Session. She said that this had been allowed under state law – Purpose 1. She noted that this meeting could have been in Executive Session as well. Mr. Gorecki replied that in this instance the more information the better for the public.

Mr. von Roesgen responded that he sympathized with Ms. Coombs. He shared that he is a Solar Coach and had wanted to leave his “Little House” at Kimball's for the Farmer's Market. He had checked with Kimball's and the Town, but ran into trouble with the person who manages the Farmer's Market. He noted that this is part of the territory. Mr. Brown said that he echoed all the comments. It is important not to get discouraged, as it can be incredibly rewarding to be a volunteer.

Mr. Gorecki made a motion to approve and execute the Town Counsel draft response to the Attorney General in response to the E. Lyn Lemaire Open Meeting Law Complaint to the Attorney General. Mr. Brown seconded the motion. Ms. Coombs conducted a roll call vote: Brown, aye; Coombs, aye; Gorecki, aye; Ing, aye; Moroney, aye; von Roesgen, aye; Lemaire, abstain. The vote was 6 yes, 1 abstain; the motion passed.

Mr. Gorecki asked if this was now a public document? Ms. Fried responded that it would become one once Town Counsel, Tom Harrington executed it and sent it to Mr. Maganaro at the Attorney General's Office.

Ms. Coombs noted that Ms. Moroney wanted to share some final remarks. Ms. Moroney said because of the negative atmosphere recently created within our Town government and the significant impact it had made on the Board of Selectmen, she has decided to resign from the Board of Selectmen. She will remain on the Board until Annual Town Election on May 17, 2016.

“ *The Town of Carlisle is lucky to benefit from excellent schools, a sound budget, unmatched natural surroundings, and scores of dedicated hard-working volunteers. As one*

example, members of the Board of Selectmen devote countless hours coping with issues of governing, budget, housing, and a litany of other responsibilities, and those countless hours are usually put in after they have already put in a full day at their jobs or caring for their families.

When I ran for the position of Selectman two years ago, it was with the best of intentions and out of my desire to give back to my community. I have sincerely enjoyed and valued my time as a Selectman and I hope I have served our Town well. However, I now find it difficult to justify the amount of time and energy I am expending, at the expense of my family life, in order to deal with a negative atmosphere recently created within our Town government - a negative atmosphere that significantly impacts the Board of Selectmen.

I, along with other volunteer members of the Town's boards and committees, have been incessantly questioned, undermined, and threatened. Often, in my opinion, this undermining and questioning has been simply for the sake of it. As trustee, and prior chairman of the Carlisle Affordable Housing Trust I felt similar negativity.

I did not run for the Board of Selectmen to watch progress stall, to endure offensive personal attacks, and have my reputation called into question. I am simply a mother and a resident of Carlisle who volunteered to run for a position that no one else was running for because I wanted to contribute to this wonderful community. I think everyone who knows me, knows that I came to the board with a sense of idealism and optimism. While I do not know all the ins and outs of the law, and I do not know how all aspects of town and state government work. I have been eager to learn, willing to cooperate, and ready to work towards what I believe to be the in the best interest of the Town and its citizens. I can say with confidence and pride that I have learned a tremendous amount about town government during my time on the board.

However, I have also learned from this experience that sometimes, when things do not go 100% their way, some people will say whatever they can say – and do whatever they want to do – without concern for how that might affect policy or those around them. This kind of behavior is not something I expected to encounter in Carlisle. This kind of behavior is not the model I want for my children. This kind of behavior is not in character of the Town I fell in love with.

Recently, in my role as Selectman, I have been called a liar and threatened with litigation. While I may not be a lawyer, or an expert in such matters. I know that have done nothing wrong. Nevertheless, I feel that it is best to resign my position. I will remain on the board until May 17th, when a replacement can be elected, so that the Town will not be without a full Board of Selectmen.

Serving as your Selectmen has been an honor. It has been an amazing opportunity and profound learning experience. I want to express my sincere gratitude to all the staff, volunteers, and leaders in this community who have been so supportive and who work every day for the betterment of Carlisle.

John Gorecki responded that Ms. Moroney had been a huge credit to the Town, with her energy, ideas, and enthusiasm. He regretted her decision to resign, but understood how this situation has affected her family. He had some of the same thoughts himself, but at this point was looking at less than a half a year left in his term of office.

Ms. Coombs responded that Ms. Moroney had been an inspiration to her and had given her the courage to serve on the CAHT. Mr. Brown added that he hoped she would reconsider and that it had been a pleasure to be “learning partners” as their BOS terms had started the same year.

Ms. Ing responded that she really appreciated Ms. Moroney's leadership position on the BOS. She said that she had not expected this outcome given Ms. Moroney's enthusiasm. Ms. Ing said that she was inspired by Ms. Moroney's leadership and would be very sorry to go.

As there was no other business to discuss, Ms. Coombs requested a motion to adjourn. Mr. Gorecki made a motion to adjourn and Mr. Brown seconded the motion. Six aye and 1 abstain, the motion passed.

1. 1. 2. Action Item(s)-

Town Counsel will produce and execute a final copy of the draft response to E. Lyn Lemaire's Commonwealth of Massachusetts Attorney General's Office Open Meeting Complaint dated January 27, 2016.

Meeting Adjourned at 7:52 p.m.

Respectfully submitted by Elizabeth DeMille Barnett, Housing Coordinator

Documents presented during this meeting:

Draft *Response to E. Lyn Lemaire's Request of Further Review of Complaint Against the Carlisle Affordable Housing Trust Fund.*