

Board of Selectmen
Minutes
December 13, 2011
Town Hall Hearing Room

Approved - ON HOLD
1/10/12 5-0
release 10/2/12
4-0

The meeting was called to order by Erik Tolley at 6:30pm. Selectmen present: Erik Tolley, Suzanne McAuliffe, James Quirk, Tracy Post, Curtis Sears.

Also present: Town Administrator William Hinchey, Assistant Town Administrator Peter Johnson-Staub

MOTION: Roll call vote to go into executive session for the purposes of discussing litigation and potential litigation.

Motion by: Curt Sears **Seconded by:** Suzanne McAuliffe
Tolley – Aye, McAuliffe – Aye, Quirk – Aye, Post – Aye, Sears - Aye

Executive Session

Mr. Hinchey described a conversation with an individual who had spoken to the lender to the owner of the Cavalier and West Yarmouth Lodging motels. No formal proposal has been received and no action was taken by the Board.

Mr. Johnson-Staub referred to his memo of 12/13/2011 regarding Cape Cod Vacation Condos. The members discussed attorney Freeman's request to delay by one month legal action (from January 6, 2012 to February 6, 2012) for violations of the zoning bylaw so that Condo owners can present a plan and a timeline for bringing the property into compliance. The consensus of the Board was not to grant the request for a delay but the members will consider any proposal that might be submitted by Mr. Freeman in the interim.

MOTION: Roll call vote to close executive session and not return to open session.

Motion by: Suzanne McAuliffe **Seconded by:** Curt Sears
Tolley – Aye, McAuliffe – Aye, Post – Aye, Quirk – Aye, Sears - Aye

BOARD OF SELECTMEN
December 13, 2011
CONFIDENTIAL Distributed Material at Meeting
EXECUTIVE SESSION

Litigation

- Memo from PJS to BOS, dated December 13, 2011. Re: Cape Cod Vacation Condos – Zoning Violations

CONFIDENTIAL
NOT PUBLIC

Released
10-2-12.



TOWN OF YARMOUTH

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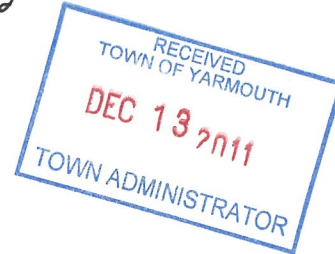
BOARD OF
SELECTMEN

TOWN
ADMINISTRATOR
William G. Hinchey

Confidential – potential litigation

*Released
10-2-12.*

MEMORANDUM
CONFIDENTIAL
NOT PUBLIC



December 13, 2011

TO: Board of Selectmen
FROM: Peter Johnson-Staub, Assistant Town Administrator *PJS*
SUBJECT: Cape Cod Vacation Condos – zoning violations

This morning, Karen Greene and I met with Peter Freeman who was recently retained to represent the Board of Managers of the Cape Cod Vacation Condominiums Trust with regard to violations of the zoning bylaw. Mr. Freeman, who replaces the Trust's prior attorney in this matter, conveyed his client's desire to resolve this matter without costly litigation. He asked if the Town would defer legal action for another month while he works with his client to prepare a project plan with a timeline for achieving compliance with the zoning bylaws. You may recall that the Town put the Trust on notice that the Town would initiate legal action if zoning compliance is not achieved by January 6, 2011.

We described to Mr. Freeman the Board's concerns with the lack of progress since the Board of Appeals denied the Trust application for a variance in November 2008 and the concern with the disproportionate police and fire responses to this property in recent years. We suggested that the Board may look upon the request more favorably if the Trust agrees not to accept any new tenants while working toward zoning compliance. In speaking with Town Counsel Bruce Gilmore later in the day, he suggested that if the Board were inclined to afford the Trust more time to carry out a conversion to meet zoning requirements, it would be preferable to do so before initiating court action rather than after an initial filing. Mr. Freeman indicated he would submit a written request to the Board.

cc: William Hinchey, Town Administrator
Bruce Gilmore, Town Counsel

//CCVC memo to BOS 12-13-11