

The Executive Session was duly posted under MGL c. 30A, Section 21 (a)(3)-To discuss strategy with respect to litigation involving Imhoff Solar v. Bridgewater Planning Board where it has been determined that an open meeting may have a detrimental effect on the Town's litigating position was convened at 6:00 pm. in meeting room in the Academy Building, on a motion by Mr. Ajemian, seconded by Ms. Guarino. Voice vote was unanimous

Members present: Mr. MacDonald, Mr. Ajemian, Mr. Geller, Ms. Guarino, Mr. Driscoll
Also present; Jennifer Burke and Attorney Rawlins

Mr. Rawlings advised the members that after the last meeting, he has continued to do his due diligence. He received another plan from the developer's attorney that appears to show some elevations and where the solar panels are. He passed it around. He said he had followed up with Fred Chase who was going to reach out to the Ethics Commission on what his involvement should or shouldn't be. The gist he received was that his position was that he simply doesn't want a solar field there. He doesn't know if that is the case for everyone. He doesn't know if there are mitigating factors that are worth looking at for everyone and again, he doesn't know the relevance of that. He thinks we are in a position right now where we have the opportunity to force them to mitigate. He is leaving it up to the board as to what they want to do. He questioned If we do mediate, who do we have involved? Fred Chase indicated that he was going to reach out to Nicole Holmes who is a civil engineer and an abutter. Jennifer had advised Jason that she had been recently appointed to the comprehensive study committee and may also have to go to the Ethic board). We are still left in the position of trying to figure out how we want to approach this. If we are not going to mediate, he has to talk with the Town Manager about engaging the services of an expert witness of our own and also have to make sure we have witnesses to testify on other things other than just simply we don't like it there because that just isn't enough. If they have experts and have done studies that show that these people are not going to be impacted by seeing or hearing the project, that doesn't go well for us in terms of what we will be able to do or not do.

Mr. Ajemian commented that as far as screening, they will not be able to prevent people on the second floor of their homes from seeing it. Attorney Rawlings stated that is what the video shows. He said that is what they are trying to accomplish. He can't say for certain that is going to happen unless we have an engineer take a look at it; part of what he would do if we mediate is to have them pay the bill for that engineer. If we are not going to mediate, he will tap the Town's resources and we will have to use money from the budget. His job to try and provide actual evidence that comes in through testimony, not through the board's decision. He commented that the abutters bring up a lot of good points, but they present nothing that will back it up; it is all speculative. Attorney Rawlins said he doesn't want to be in a position where this gets remanded back to the Board and you have 60 angry people yelling at you and you could have mitigated it further; he is trying to get as much mitigation as he can. He said maybe they can get experts to testify that there will be glare, or this will affect migration of animals, or that they will see it and it will affect their lives, or their property values will go down. He felt there were countless ways we can do this, but, we are running out of time (the trial is in January) and doing all those things cost money. He commented that he felt that the Board's decision on the original plan and the facts that you were given at your hearing, was 100% right. That is not what the court is looking at right now; they are looking at a new plan with new studies and new experts. All of the things that this developer should have done before. Mr. Driscoll questioned if the back taxes had been paid? Attorney Rawlins said yes.

Mr. Driscoll questioned the area of the project now. Originally when it was proposed in 2016, it was 12 acres; they sought a modification changing size and scope; presented plans dated 10/17/16 which increased the number of panels to almost 14,000 units, changed the footprint to 18 acres, changed the number of inverters to 3 and changed the number of above ground points to 7. Then new plans reduced the number of panels to 11,000+ but were larger. Mr. Driscoll estimated that it grew by 50%. He suggested if it was now back to 12 acres it makes it easier to screen. Ms. Burke interjected that she thought they were getting into too many details. We are here this evening to determine whether or not we are going to mediation or to trial. Attorney Rawlings noted that the has spoken with their attorney and they are open to mediation. Mr. Driscoll asked if we get to the point where we are comfortable with what is being mediated, can we go to a public hearing, notifying the abutters? Attorney Rawlins said yes, we have to. He said we would come to a settlement in principal, and that would be subject to a public hearing and a vote. Mr. Driscoll asked, "and notifying the abutters?" Attorney Rawlins stated "correct". The members felt there was no downside to the mediation.

Questions and answers continued on for approximately 30 minutes.

Mr. Driscoll suggested the following motion:

To allow the Town Attorney, if strategically prudent, to commit to mediation of the Imhoff Solar Farm with the following parameters:

- ° Require the applicant to stay the trial
- ° Create a mediation team with 2 members of the Planning Board, staff- Attorney Rawlings and Jennifer Burke and two abutters or their representatives and consultants, paid by the proponent to evaluate the latest plan concerning noise, screening, glare and any other issues that may come up. If the mediation is successful, it will go back before the Planning Board for a public hearing on the special permit and site plan whereby the abutters will be notified. Attorney Rawlins noted that it really isn't a public hearing; it is just a public meeting for a vote. He suggested not committing him to the consultants being paid by the proponent because he might hire consultants; he doesn't want them to pay if we are coming to an agreement. He said he has to hire someone regardless, because he has to be ready for trial. He said that the proponents will be paying for experts to analyze what we are doing, He said it is part of our bargaining chip in mediation; if it comes to a resolution during mediation, he will ask them to pay for those consultants at that time. If they are not going to come to a resolution, then he will use those consultants as expert witnesses and he doesn't want them to pay for expert witnesses.

On a motion by Mr. Ajemian, seconded by Ms. Guarino, it was unanimously voted by roll call vote, to allow the Town Attorney, if strategically prudent, to commit to mediation of the Imhoff Solar Farm.

On a motion by Mr. MacDonald, seconded by Ms. Guarino, it was unanimously voted to out of Executive Session at 6:55.

The meeting was adjourned.