

**TOWN OF NEWMARKET, NEW HAMPSHIRE
TOWN COUNCIL
NON-PUBLIC SESSION, RSA 91-A: 3 II (e) LEGAL ISSUE
MAY 7, 2014
COUNCIL CHAMBERS**

PRESENT: Council Chair Gary Levy, Council Vice Chair Dale Pike, Councilor Dan Wright, Councilor Phil Nazzaro, Councilor Toni Weinstein, Councilor Ed Carmichael

ALSO PRESENT: Town Administrator Steve Fournier

Following a vote in public session, the Council entered non-public at 6:31 p.m. The Council met with Moody Point residents John Badger and Trish Simon about the Stipulation agreement and recent developments in the Walter Cheney vs. the Town of Newmarket case concerning Lot 13. Mr. Cheney had appealed the Superior Court January 9, 2014 ruling that all of Lot 13 was non-buildable and was limited to open space. Mr. Cheney had sold the easement on 51.2 acres for \$240,000, but maintained ownership and management of the property. He had agreed to sell that acreage for \$100 to the Nature Conservancy, but was hoping to sell another 2.1 acres, which he maintained was buildable, to the Federal government. However, the government had not indicated that there was money available for the purchase. The Stipulation stated that the Nature Conservancy option take place within 60 days of its taking effect, and granted one additional 60 day period. Town Attorney Ratigan had added a phrase that if the Nature Conservancy did not act on the option within the initial or extended 60 day period, the property could be offered to a similar organization.

Mr. Cheney had originally agreed to the terms of the Stipulation, but had changed his view, as his interpretation was that the 2.1 acres was buildable. The goal of the Town was to prevent Mr. Chaney from future ownership of Lot 13 and avoid going to the Supreme Court. The Town Administrator, representing the Town, would only sign the Stipulation if all 53.3 acres went to the Nature Conservancy, and in that case Mr. Cheney would no longer be owner of the lot. Both Attorney Richardson and Attorney Ratigan had expressed confidence that the Town would win the case if it came before the Supreme Court. Mr. Badger and Ms. Simon expressed agreement with the terms of the Stipulation. The Council consensus was in agreement with the Stipulation, and that all the acreage of Lot 13 be included in its conveyance.

Vice Chair Pike moved to leave Non-public Session at 6:56 p.m. Councilor Weinstein seconded. Town Administrator Fournier polled the Council. Motion passed unanimously, 6 – 0.

Respectfully submitted,

Ellen Adlington, Recording Secretary