

**BOARD OF CIVIL AUTHORITY MEETING MINUTES
OCTOBER 5, 2009
GIFFORD MEDICAL CENTER
MAPLE LEAF CONFERENCE ROOM**

Present: **Justices of the Peace:** Pat Meyer, Ellen Baker, Barbara Angell, John Jackson, William Brigham, Jack Cowdrey, Elaine Soule, Ruth Lutz, and Richard Burstein
 Selectboard: Stephen Webster, Larry Townsend, Dennis Brown and Carol Flint
 Board of Listers: Donald Sweetser and Polly Frankenburg
 Town Clerk & Treasurer: Joyce Mazzucco
 Others: Patrick French, Town Assessor; Dwight Porter; Mary Porter; Eric Benson; Sally Truckenbrod; Jesse Sammis; and Tom Vickery

Board Chair Richard Burstein called the meeting to order at 6:45 p.m. Before hearing the tax appeals, Town Clerk Joyce Mazzucco gave copies of “Guidelines for Conduct of Meetings and Hearings”, approved 09/05/2006. She asked the board to review these guidelines and to approve similar guidelines for this year’s appeals. Dennis Brown made a motion to approve the guidelines as presented. Larry Townsend and Pat Meyer seconded the motion. A voice vote was taken and the motion carried by majority vote to approve the “Guidelines for Conduct of Meetings and Hearings”.

The first hearing was to hear the appeal of Melvin McLaughlin, parcel # 101008-000, located at 957 Mason Road, and parcel #101009-000, located at 91 Hollyhock Hill. Sally Truckenbrod, Mr. McLaughlin’s daughter, was present to answer questions. Pat Meyer recused herself because her law partner has previously represented the appellant. Mr. Burstein recused himself because he is the Town Agent.

Before hearing the first appeal, Town Clerk Joyce Mazzucco swore in the board with the following oath: “Do you solemnly swear (or affirm) that you will well and truly hear and determine all matters at issue between taxpayers and listers submitted for your decision? So help you God (or under the pains and penalties of perjury)?” Ms. Mazzucco then gave the board an oath sheet to sign.

Because of health issues, Mr. McLaughlin was unable to attend the hearing. He sent a letter to the board to request the board delay his tax appeal hearing to a later date because he could not attend and his attorney could not attend. Ms. Mazzucco handed out copies of Mr. McLaughlin’s letter to the board. Stephen Webster made a motion to proceed with the hearing. Dennis Brown seconded the motion. A voice vote was taken and the motion carried to proceed with the tax appeal hearing.

A discussion of the appeal followed. The listers argument was that there were two separate deeds filed, with two separate Property Transfer Tax Returns filed. Mr. McLaughlin’s argument was that he retained a life estate, with full control of both parcels, and that the parcels should remain as one. The following people participated in the discussion: Stephen Webster,

Richard Burstein, Patrick French, Elaine Soule, Larry Townsend, Barbara Angell, and Sally Truckenbrod. The central point of the discussion was a legal interpretation of the deeds filed. Dennis Brown called the question. Carol Flint made a motion to return the property assessment to last year's assessment as one parcel and to list Melvin McLaughlin as the sole owner. Elaine Soule seconded the motion. A voice vote was taken and the motion carried by majority vote, with two (2) abstentions. The property assessment will return to last year's assessment and Mr. McLaughlin will be listed as the sole owner of the property. The board dispensed with appointing an Inspection Committee.

The first hearing adjourned at 7:20 p.m.

Mr. Burstein called the next hearing to order. This hearing was to hear the tax appeal of Dwight and Mary Porter, parcel #118001-000, property located at 67 Stock Farm Road. Town Clerk Joyce Mazzucco administered the following oath to Patrick French, Donald Sweetser, Polly Frankenburg, Dwight Porter, Mary Porter, and Eric Benson: "Do you solemnly swear (or affirm) that the evidence you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth so help you God (or under the pains and penalties of perjury)?"

Mr. Porter presented his position that the property assessment of \$321,600 is too high. He told the board he and his wife hired an independent appraiser to appraise their property. The independent appraiser's opinion is the property should be valued at \$297,000.00. It was Mr. Porter's opinion that the property value should be around \$245,000-\$250,000. Mr. Porter told the board the house is two houses put together, not a new house. Part of it is the original 1835 farmhouse.

Patrick French, Town Assessor, presented the Listers' position on the assessment. An appraisal is an opinion of what the market value for a property should be. There can be a difference in opinion of 7%-10% on the value for a property. On this particular property the difference is 7.6%.

The following people participated in the discussion of the appeal: Dwight Porter, Dennis Brown, Carol Flint, Richard Burstein, Patrick French, Stephen Webster, Eric Benson, Barbara Angell, and Elaine Soule. The discussion covered a number of topics: the improvements made to the property; the kinds of adjustments made to the value; the zoning for the area (currently zoned as commercial); traffic noise; the best use for the property; how property is taxed (homestead or nonresidential); explanation of the quality grades and what they mean; how standards are developed when conducting a mass appraisal (analyze sales to set standards); and median value.

The following documents were labeled and entered in as evidence:

- Exhibit #1 – Porters' appeal letter to the BCA
- Exhibit #2 – Copy of Eric Benson's appraisal as of July 13, 2009
- Exhibit #3 – Photos of the garage and house
- Exhibit #4 – Lister's card for the Porters' property

Discussion ceased. The following board members volunteered to be on the Inspection Committee: Dennis Brown, Ellen Baker and Barbara Angell. The inspection of the property will take place on Monday, October 12, 2009 at 9:00 a.m.

Pat Meyer recused herself on this appeal.

The Porter hearing adjourned at 7:55 p.m.

The next hearing was to hear the appeal of Trident, LLC. Since no one from Trident or any representatives of the company were present at the meeting, Mr. Burstein suggested that the board table hearing that appeal to the end of the scheduled hearings. The board was agreeable to this.

The next hearing was to hear the appeal of MGolf, LLC, property located at 48 Randolph Avenue and off Route 66, parcel numbers 243024-000 and 243024-010. Dennis Brown recused himself because he works at a business owned by Mr. Sammis. Jack Cowdrey recused himself because he knows the appellant and felt it best not to participate.

Town Clerk Joyce Mazzucco administered the following oath to Patrick French, Tom Vickery, Donald Sweetser, and Jesse (Sam) Sammis: “Do you solemnly swear (or affirm) that the evidence you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth so help you God (or under the pains and penalties of perjury)?”

Mr. Sammis provided the board with handouts to support his case. The following items were entered as evidence:

Exhibit #1 – The appeal letter dated September 17, 2009

Exhibit #2 – Letter from Jesse Sammis, Managing Partner, to the Board of Civil Authority

Exhibit #3 – Spreadsheet of Income/Expenses for Montague Golf Club from 2003-2008

Exhibit #4 – Letter from Jesse Sammis, Managing Partner, to Vermont Department of Taxes

Exhibit #5 – Closing Settlement Sheet—Montague Golf Club, Inc. to MGolf, LLC, dated March 18, 2009

A discussion followed with the following people participating: Stephen Webster, Sam Sammis, Patrick French, Barbara Angell, Bill Brigham, Jack Cowdrey, Elaine Soule, John Jackson, Richard Burstein, and Carol Flint. The discussion included: description of the property; current use; flood plain; deed restrictions; the purchase price (assumed FEMA loan of \$471,000 and the balance cash to pay bills and closing costs); the Vermont Property Transfer Tax Return (sale price \$982,000, less \$100,000 for personal property equals price for real property of \$882,000); business valuation; study of golf courses; personal loan (\$432,000) to Montague; time frame for repayment; and reason for the sale.

Patrick French, Town Assessor, presented the Lister's position on this appeal. He told the board that Montague was not for sale on the open market so this sale was not an arms length transaction. Mr. French presented some handouts to support the Lister's position. The following documents were entered as evidence:

Exhibit #6 – Vermont Property Transfer Tax Return dated March 18, 2009, for the sale of Montague Golf Club to MGolf, LLC.

Exhibit #7 – Lister's card on the 73.07 acres, dated June 11, 2009

Exhibit #8 – Lister's card on the 88.7 acres in the Police District, dated June 11, 2009

Mr. French told the board that Larry Martin, an independent appraiser, had appraised the property in May for Mr. Sammis. It was Mr. Martin's opinion that the value for the property should be \$900,000. The Martin appraisal was entered as evidence and labeled "Exhibit #9". Mr. French introduced Tom Vickery, an appraiser who has worked on reappraisals in Randolph in the past, is currently the Assessor for the Town of Stowe, and has extensive experience with appraising golf courses.

Mr. Vickery told the board Mr. French had asked him to look at the Martin appraisal to assist in determining the value for the Montague property. He said that of the comparables used by Mr. Martin, the Alburgh sale is most similar to Montague. He described the course as being in disrepair, located in a very rural area without the population base to support it. In general, golf course values are going down because it is harder to find people who are interested in golfing—the memberships are not there. Golf courses are very expensive to build. It was Mr. Vickery's opinion that the value on the Montague property should be lower than the \$1,348,000 assessment.

Mr. French told the board there was no change in value from grievance. After discussing the value with Mr. Vickery, the Listers and Mr. French recommend that the value be adjusted down to \$1,110,200. Two more handouts were entered as evidence:

Exhibit #10 – Lister's card on the 88.7 acres in the Police District, dated October 5, 2009

Exhibit #11 – Lister's card on the 73.07 acres, dated October 5, 2009

Discussion continued. The following people participated in the discussion: Stephen Webster, Patrick French, Sam Samis, Jack Cowdrey, Richard Burstein, and Tom Vickery. The discussion included: option to acquire the property; development restrictions; flood plain; the irrigation system; reasons for purchasing; number of members; and how has been much spent on improvements.

Discussion ceased. The following board members volunteered to be on the Inspection Committee: Stephen Webster, Joyce Mazzucco and Pat Meyer. The inspection of the property is scheduled for Tuesday, October 13, 2009 at 11:00 a.m.

The hearing adjourned at 9:15 p.m.

The next hearing was to consider the appeal of Trident, LLC, property located at 2281 Vermont Route 66, parcel number 106051-030. The attorney representing Trident in this appeal was unable to attend the hearing but did email information to Joyce Mazzucco, Town Clerk. The following documents were entered as evidence:

Exhibit #1 – Letter of appeal from Murphy Sullivan Kronk on behalf of Trident, dated September 11, 2009

Exhibit #2 – Letter to Patrick French from Mary T. Martin, CPA, dated October 4, 2009

Exhibit #3 – Emailed letter from Pamela Moreau, Esq., Murphy Sullivan Kronk, dated October 5, 2009

Exhibit #4 – Lister's card for Trident property, dated June 24, 2009

Patrick French, Town Assessor, presented the Listers' position on this appeal. He told the board that the sale through auction was not a valid sale for determining value. Mr. French said he needed more information to determine the true market value of the property. When Trident appealed through grievance he had asked Trident to submit a copy of the appraisal they had commissioned. Trident declined to provide a copy. Mr. French told the board that Mary Martin, the court appointed accountant, has a copy of the appraisal and would be providing a copy to him. Mr. French also said he would consult with Tom Vickery.

A discussion followed about how to proceed, since the appellant was not present and more information was needed by the board to fairly consider the appeal. Dennis Brown made a motion to recess the Trident hearing to a date not more than 30 days hence. Carol Flint seconded the motion. A voice vote was taken and the motion carried. The hearing was recessed to a date to be determined, but not more than 30 days from this hearing.

The hearing adjourned at 9:40 p.m.

Attest: _____
Joyce L. Mazzucco, Town Clerk