



**COMMONWEALTH OF MASSACHUSETTS  
TOWN OF NEW MARLBOROUGH  
OFFICE OF THE BOARD OF SELECTMEN  
807 Mill River Southfield Road, Mill River, MA 01244-0099  
Phone: 413-229-8116 Fax: 413-229-6674 E-mail: [nmbdselectmen@aol.com](mailto:nmbdselectmen@aol.com)**

**Tara B. White, Chair  
Nathaniel H. Yohalem  
Michele Shalaby  
Board of Selectmen**

**Minutes of Selectmen's Meeting  
Tuesday, May 13, 2014  
Executive Session**

**Board Members Present:** Nathaniel Yohalem, Chairman  
Tara B. White  
Michele Shalaby

**Others Present:** Michael Skorput, Administrative Assistant  
Sharon Fleck, Administrative Secretary  
Marsha Pshenishny, Assessor  
Ron Berenson, Attorney (by telephone)

**The meeting of the Board of Selectmen convened at 11:36 a.m.**

A telephone call was placed to Ron Berenson who advised he spoke with Bob Adams at Cartographics who could come to no conclusion about what the lot should look like. Marsha Pshenishny stated that after reviewing all the instruments regarding this issue with Cartographics, possibly Lot 13 came out of Lot 12 before Lot 12 was ever sold. Cartographics is saying that the mortgage plot plan is approximately correct.

Mr. Berenson stated he had spoken with Jeremia Pollard, who stated that the Town of New Marlborough could step away from this auction, that this was a mutual mistake in that the Town did not know what it was selling and the buyer did not know what he was buying, so there is no valid contract. That would be one possible outcome the Select Board could choose. The attorney for the high bidder, Vicki Donohue, the attorney from Cain Hibbard who represents the high bidder, blustered and said they would sue to enforce the contract; however, Jeremia Pollard was not concerned about that possibility.

It was determined that this piece of property could be rebid, not through an auction, but through sealed bids; however, a survey would have to be completed prior to any bids. Mr. Berenson suggested that the minimum bid for this property could begin at the cost of the survey. However, if the survey concludes a smaller lot, it may not be suitable for building purposes. Mr. Berenson suggested the Town wait to bid the property, as there is a foreclosure action against a lot to the south of the East Hill property. That foreclosure action will be completed in approximately three

months, then both properties could be combined and sold as one. The foreclosure should not take longer than three months.

Chairman White agreed that this was a more logical route to take. The buyer at this point, however, wants to close on the East Hill property, but wants the price adjusted. Under the above scenario, he would have the opportunity to purchase this property along with the foreclosed property and with a valid survey. Tax Assessor, Marsha Pshenishny advised even with the foreclosed property as a part of this sale, it would still be an unbuildable piece of property because it is only a half acre. However, Marsha also added that the property may be grandfathered for a year for the footprint of the old building. The buyer could also apply for a special building permit. A septic system and a well would have to be part of the property in order for building to take place. The plot plan submitted shows the well outside of the plot plan and is actually located on the Hearn property. The buyer also was aware of the fact that the well was off their property. The property also has a stream that runs through it that may interfere with a Perk test. However, if Hearn allowed the well to be put on their property, that also changes the scenario as to how much property is needed to build.

The Selectmen agreed that the way to proceed would be to return the depot of \$5,000.00 to the buyer because, without a survey, it is uncertain as to what would be conveyed. Mr. Berenson advised the buyer be told the property is going to be rebid in a sealed bid procedure and that, as a potential bidder, he would be advised when the property is going to be rebid.

Selectman Yohalem advised he was made aware of the fact that the buyer has spent some money in clearing this lot. It was agreed that the buyer should be made aware of the fact that the plan now is to return the money, a survey will be completed, and a foreclosure is in process that could change the amount of property that would be available for rebid. Mr. Berenson agreed, but would like to have a conversation with the buyer's attorney, Vicki Donohue, about the proposed route the Selectmen wish to take, and if she agrees, Mr. Berenson will draft a letter, copy the Select Board and advise Pat Meilke to return the \$5,000.00. Two letters should be sent to the buyer's attorney, who would then return one signed copy to the Town, thereby acknowledging their consent to this agreement. Mr. Berenson will draft a letter and send it to the Board for their approval.

**Being that there was no further business to be brought before the Board, a motion was made, seconded and so voted by all members to adjourn the Executive Session at 11:58 a.m.**

<b>Roll Call:</b>	<b>Nat Yohalem</b>	<b>Yes</b>
	<b>Michele Shalaby</b>	<b>Yes</b>
	<b>Tara White</b>	<b>Yes</b>

Respectfully submitted,

Sharon Fleck  
Administrative Secretary