

KNOX COUNTY COMMISSION

Special Meeting

Monday – December 16, 2013 - 9:00 a.m.

A special meeting of the Knox County Commission was held on Monday, December 16, 2013, at 9:00 a.m., at the county courthouse, 62 Union Street, Rockland, Maine.

Commission members present were: Carol L. Maines, Commissioner District #1, Richard L. Parent, Jr., Commissioner District #2, and Roger A. Moody, Commissioner District #3.

County staff present: County Administrator Andrew Hart, and Airport Manager Jeff Northgraves.

Others present included: Review Appraiser Leland Buzzell; and South Thomaston property owner Jason Benner.

Special Meeting – Agenda

Public Hearing: Petition for Property Acquisition by Eminent Domain

Monday – December 16, 2013 – 9:00 a.m.

- I. 9:00 Meeting Called To Order**
- II. Commissioners leave Courthouse to view the property:**
 1. Jason L. Benner and Michelle C. Benner (South Thomaston Tax Map 18, Lot 12-1)
- III. 9:30 Commissioners return to Courthouse and conduct Public Hearing on Petition for Property Acquisition by Eminent Domain**
- IV. Action Item:**
 1. Act on Petition for Property Acquisition by Eminent Domain by considering adoption and signing of a Return of Doings and Order.
- V. Action Item:**
 1. Act to Elect a Commissioner Representative to the MCCA and MCCA/Risk Pool for 2014.
- VI. Executive Session**
 1. Convene in Executive Session for Consultations with Legal Counsel pursuant to 1 M.R.S.A. §405(6)(E).
- VII. Adjourn**

- I. Meeting Called to Order**

Commission Chair Carol Maines called the special meeting of the Knox County Commission to order at 9:05 a.m.
- II. Commissioners leave Courthouse to view the property:**
 1. Jason L. Benner and Michelle C. Benner (South Thomaston Tax Map 18, Lot 12-1); and

The Commission left to view the properties at 9:07 a.m.
- III. Commissioners return to Courthouse and conduct Public Hearing on Petition for Land Acquisition by Eminent Domain.**

Meeting reconvened at 9:38 a.m.

Commissioner Maines read aloud a letter submitted by Sharron Merrill dated December 13, 2013. *The letter minus the exhibits is inserted herein below:*

BENDETT & McHUGH
ATTORNEYS AT LAW

December 13, 2013

Carol L. Maines, Chair
Richard L. Parent, Jr.
Roger A. Moody
Knox County Commissioners
c/o Candice Richards
Knox County Courthouse

RE: In Re Petition by Jeffrey Northgraves and William E. O'Brien for Property Acquisition by Eminent Domain
Property: 50 Buttermilk Lane, South Thomaston, Maine

Dear Commissioners:

This office represents Bayview Loan Servicing, the senior mortgagee of record regarding the above-referenced property currently owned by Jason A. Benner. Bayview received notice of the hearing on Monday, December 16, 2013 beginning at 9:00 a.m. The purpose of this letter is to acknowledge the pending petition referred to above and to state for the record Bayview's position regarding any subsequent damages issued as a result of a final order of taking, if issued.

On September 10, 2007, Michelle L. Benner and Jason L. Benner conveyed a mortgage to Mortgage Electronic Registration Systems, Inc. as nominee for Bear Stearns Residential Mortgage Corporation d/b/a Encore Credit in the amount of \$227,500.00 (hereinafter referred to as "the Mortgage"). Said Mortgage is recorded in the Knox County Registry of Deeds in Book 3859, Page 8, and is therefore of public record. The mortgage was subsequently assigned to Bayview Loan Servicing, LLC by virtue of Assignment of Mortgage dated May 21, 2012 and is recorded in the Knox County Registry of Deeds in Book 4525, Page 161. The Mortgage and Assignment are attached hereto as Exhibits 1 and 2 for your reference.

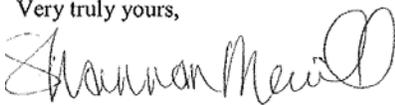
Pursuant to Paragraph 11 of the Mortgage, the Benners assigned to the mortgagee any miscellaneous proceeds. Per the Mortgage, "Miscellaneous Proceeds include, among other things, awards or claims for damages for Condemnation. A taking of property by any governmental authority by eminent domain is known as 'Condemnation'". Furthermore, Paragraph 11 specifically states "if there is any award or claim for damage for the reduction of Lender's interest or rights, the proceeds of that award or claim are assigned to and will be paid to the Lender."

Pursuant to the above-paragraph, any damages paid as a result of this action shall be tendered to Bayview Loan Servicing care of this office.

To clarify for the record, Bayview's interest in any damages resulting from this taking is based on a contractual agreement with the Benners by virtue of the recorded Mortgage. There are four other junior lienholders on this property, all of whose interest in the property differs from Bayview's as they are Writs of Execution resulting from money judgments.

Please enter this letter into the record for Monday's hearing. In the event you have any questions or would like to speak to me, I will be available by phone at 207-517-8922. Please direct any further notices and correspondence regarding this matter to my office.

If you have any further questions or need clarification regarding Bayview's position as the senior lienholder on this property, I would be happy to discuss it with you and provide further clarification, if necessary.

Very truly yours,

Shannon M. Merrill

- A motion was made by Commissioner Richard Parent to close the public hearing portion the meeting. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

The public hearing portion of the meeting concluded at 9:54 a.m.

IV. Action Item

1. Act on Petition for Property Acquisition by Eminent Domain by considering adoption and signing of a Return of Doings and Order.

- A motion was made by Commissioner Roger Moody to postpone action on the Return of Doings and Order as drafted by Attorney James Katsiaficas on behalf of Knox County until the January 14, 2014 Regular Commission Meeting. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.

V. Action Item

1. Act to Elect a Commissioner Representative to the MCCA and MCCA/Risk Pool for 2014.

- A motion was made by Commissioner Richard Parent to elect Commissioner Roger Moody to serve as the Commission's representative to the MCCA and MCCA/Risk Pool for 2014. The motion was seconded by Commissioner Carol Maines. A vote was taken with all in favor.

VI. Executive Session

1. Convene in Executive Session for Consultations with Legal Counsel pursuant to 1 M.R.S.A. §405(6)(E).

- A motion was made by Commissioner Roger Moody to go into executive session pursuant to 1 M.R.S.A. §405(6)(E) for consultations with legal counsel. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.

The executive session convened at 9:56 a.m.

The executive session concluded at 10:40 a.m.

VII. Adjourn

- A motion was made by Commissioner Roger Moody to adjourn the meeting. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.

The meeting adjourned at 10:41a.m.

Respectfully submitted,

Candice Richards
Administrative Assistant

The Knox County Commission approved these minutes at their regular meeting held on January 14, 2014.