



Development Review Board
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23 June 2021

Re: Improper Selectboard actions & ex parte communication during 26 Hutchins St. DRB hearing

Dear Members of the Selectboard,

We, the members of the Morrisville/Morristown Development Review Board (DRB), ask that the Selectboard review the behavior of one of its fellow members during the recent DRB permitting of the 24-unit residential housing project proposed by Lamoille Housing Partnership (LHP) at 26 Hutchins Street in downtown Morrisville. We feel that Selectwoman Judy Bickford interfered on numerous occasions during the DRB's permitting of 26 Hutchins Street, and acted on behalf of LHP to undercut the DRB's and Town's authority on multiple occasions during the hearing process. Selectwoman Bickford also endangered the legality of the DRB's approval of the revised project by engaging in ex parte communication with DRB Member Mary Ann Wilson (by calling and asking for her vote to approve the project with a waiver outside of the DRB's public hearing process). We ask that the following actions of Selectwoman Bickford be reviewed by the Selectboard:

1. On or around March 9th, Selectwoman Bickford called a presiding DRB Member on the phone, and asked for a vote to support the proposed LHP development with a waiver at 26 Hutchins Street. Selectwoman Bickford calling the DRB Members she appoints, and asking for votes outside of the public hearing process, on a pending development application, is a clear and substantial violation of Vermont's Open Meeting Law. This phone call, if the DRB Member had responded inappropriately, could have undermined the entire local hearing process due to illegal ex parte communication per 24 VSA §1207. Selectwoman Bickford's phone call also could have potentially subjected the Town to an appeal lawsuit regarding a hearing that, as a result of her call, would not have been conducted in an open, fair, and impartial manner.
2. Starting at the 1 hour and 14 minute mark of the March 15th Selectboard meeting (), Selectwoman Bickford made an unsolicited public statement on camera that the Development Review Board was acting tyrannically by requiring the developer to comply with the Town's zoning requirements by providing a business space on the ground floor of the proposed LHP development on Hutchins Street. Selectwoman Bickford also publicly asked the DRB Members during the Selectboard concerns portion of the March 15th Selectboard meeting to waive the ground floor business space required as part of the project by the Zoning Bylaws (the same Zoning Bylaws that she herself had previously voted to approve). Selectwoman Bickford also intimated in her public statement that the developer, if the DRB did not waive the ground floor business space permit requirement, would no longer be able to afford to make the agreed upon improvements to the

Copley Municipal Parking Lot. These parking lot improvements were a critical component of the DRB's initial permit approving LHP's 26 Hutchins Street project. It is important to note that Selectwoman Bickford's March 15th public statement was made while the Development Review Board was still considered to be in Deliberative Session (because the written permit for the project had not been issued). A Selectboard Member publicly lobbying for a development project, in an attempt to pressure a board that she votes to appoint the members thereof, is unethical, and could also be considered illegal ex parte communication per 24 VSA §1207.

3. On March 17th, the Zoning Administrator, as requested by the DRB, obtained legal advice from the staff attorney on-call at the Vermont League of Cities and Towns' office about how to proceed in the Town's best interest regarding the expiring permit for the LHP development at 26 Hutchins Street. This legal advice received spoke to a few different permitting scenarios of how the permit for this project could be extended or changed, with some scenarios being more advantageous to the Town, and others being more advantageous to LHP. The Town Administrator requested this legal advice in writing from the Zoning Administrator. The Town Administrator then forwarded the emailed legal advice to the entire Selectboard. Selectwoman Bickford then forwarded the email containing the VLCT legal advice directly to the developer, LHP. Within a matter of only hours of obtaining this legal advice from Selectwoman Bickford, LHP contacted the Zoning Administrator to withdraw their second revised application for the Hutchins Street project in an attempt to build under the soon to be expired original permit. By sharing the Town's legal advice with the developer, we effectively gave the Town's playbook to the other team. Doing so is what gave the developer the option of tolling the original DRB permit by starting the site work / soil remediation). This was the exact scenario provided by VLCT in the legal advice email that was most advantageous to LHP, and the most potentially damaging to the Town's interest. If LHP had gone forward with the original permit by starting the soil remediation, downtown Morrisville could have ended up with a giant development hole on Hutchins Street, similar to what CityPlace in Burlington, or Main Street in Newport, has right now. This development hole on Hutchins Street could have persisted for years, or more, if LHP did not receive its State funding for its project under the tolled original permit. Having a Selectboard Member share the Town's legal advice with a developer, regardless of who the developer might be, is completely unethical. Doing so completely took the legs out from under the DRB, and put the Town and its taxpayers in a very precarious situation.

4. Starting at the 17 minute mark of the June 7th Selectboard meeting (), Selectwoman Bickford lobbied her fellow Selectboard Members to let the developer, LHP, out of the previously agreed upon \$35,000 +/- financial commitment to add additional parking spaces to the Copley Municipal Parking Lot on Hutchins Street. The DRB's permit to allow the new 24-unit apartment building with only two on-site parking spaces relied heavily on the MOU signed between the developer and the Selectboard regarding improving and adding spaces to the municipal parking lot. How is the DRB to confidently permit future large developments that rely on parking waivers when a Selectboard Member lobbies, after the expiration of the permit appeal period, to waive the developer's contribution to the parking that the development is highly dependent on? Her suggestion to waive the \$35,000 +/- cost the developer was required to commit to the parking improvements (per the DRB's conditional approval of LHP Hutchins Street housing project) completely undermines the public hearing process conducted under the Open Meeting Law and the Town's Zoning Bylaws.

The above examples are only what is known to the DRB about what was happening behind the scenes between Selectwoman Bickford and the developer of 26 Hutchins Street (LHP) while the DRB was

trying to conduct a legal hearing under Vermont's State Statutes. During this hearing process, a majority of the Development Review Board felt as if Selectwoman Bickford was working on behalf of the applicant LHP, instead of working in the best interests of the Town and its taxpayers. The undersigned DRB Members ask the Selectboard to investigate and take any action deemed necessary regarding the above instances, including any additional unknown interference or collusion by Selectwoman Bickford during the hearing process for LHP's 24-unit housing project on Hutchins Street.

Thank you again for your immediate attention and consideration of this very important matter.

Sincerely,

The undersigned Morrisville/Morristown Development Review Board Members

Susanna Guthmann

Melissa LeBlanc

Laura Streets

Paul Trudell

Mary Ann Wilson
