



BOARD OF APPEALS

MINUTES OF THE BOARD OF APPEALS CASE #2023-03 ROD N REEL INC/DONOVAN ESTATES LLC CONTINUATION HEARING JANUARY 4, 2024

- I.** The hearing was opened at 7:00 p.m. by Chair Jody Hoon-Starr. In attendance were Chair Hoon-Starr, Paul Doherty, Amy Everett, and Stephen Sharp, Board of Appeals Members, Sharon L. Humm, Board Clerk, and Fred Sussman, Board Counsel. Absent was Richard Burch, Board member.

Chair Hoon-Starr noted two items. Moving forward, at the beginning of each meeting, he would inquire of the Board Clerk if any public comments had been received regarding the hearing. If so, they would then be entered into the record. The Board Clerk stated six public comments had been received to date. Receipt of comments was acknowledged and entered into the record. There was no discussion on the comments at this time. Second, those that have signed up as a party of record will have the opportunity to question witnesses at the conclusion of their testimony.

- II. Approval of the minutes of the November 8, 2023 Board of Appeals Case #2023-03 Rod n Reel Inc./Donovan Estates, LLC continuation hearing.**

MOTION: Mr. Doherty moved to approve the minutes of the November 8, 2023 Board of Appeals Case #2023-03 continuation hearing. Seconded by Mr. Sharp, all in favor.

- III. Approval of the minutes of the November 14, 2023 Board of Appeals Case #2023-03 Rod n Reel Inc./Donovan Estates, LLC continuation hearing.**

MOTION: Mr. Doherty moved to approve the minutes of the November 14, 2023 Board of Appeals Case #2023-03 continuation hearing. Seconded by Mr. Sharp, all in favor.

- IV. Approval of the minutes of the November 14, 2023 Board of Appeals Closed Session.**

MOTION: Mr. Doherty moved to approve the minutes of the November 14, 2023 Board of Appeals closed session. Seconded by Mr. Sharp, all in favor.

Chair Hoon-Starr announced tonight will be a two-hour maximum length session. All questions are to be addressed to the Board Chair and/or Board Counsel. In order of presentation, the Appellant's Counsel continues his presentation of testimony and evidence. Once completed, Mr. Pounds, representative for the Town, will then present his testimony and evidence. Once both parties have completed their presentation of testimony and evidence the public will have the opportunity to be heard. With that being said, tonight will not allow for verbal public comments but written comments will be accepted at any time.

At the November 14, 2023 hearing, Mr. Pounds raised an objection as to whether Mr. Blitz, Counsel for the Appellant, had been officially sworn in. At the conclusion of that hearing, the Board decided that they would like to view all relevant segments of the recordings regarding the oath given to

witnesses and members in the room so as to determine if Mr. Blitz was officially sworn in and rule on Mr. Pound's objection before continuing with the evening's hearing.

Ms. Wahl displayed a video compilation of several segments referencing the oath during the hearings.

Mr. Blitz formally objected to the video as presented. Mr. Blitz had requested a clip from the September 19th hearing to be included, which was not. Second, the video that was presented showed the entire argument for Mr. Pound's motion of objection to be reheard by all, without including his counter argument, which he feels is unfair. Mr. Blitz said that the blanket swearing in of everyone did not identify any one in particular, but he believes he was sworn in at that time. He further stated the Rod n Reel should not be singled-out based on the Board's lack of formality in administering the oath. It would be unfair to exclude some witnesses over others, all of whom were subject to the same blanket swearing in process. Mr. Blitz stated Mr. Pounds should have brought the swearing in issue to surface at the time evidence was submitted and that Mr. Pound's motion to exclude all evidence submitted should be denied.

Mr. Pounds made a brief statement.

Chair Hoon-Starr called for Board discussion regarding the swearing in of Mr. Blitz. After each Board member expressed their thoughts, it was decided to play the additional clip of the September 19th hearing that was requested by Mr. Blitz. Ms. Wahl displayed that segment for the Board to view. After reviewing the clip, the Board agreed Mr. Blitz was sworn in and made the following decision:

The Board unanimously agreed Mr. Blitz was sworn in and to leave it undeniable, the Board requested Counsel Sussman to retroactively swear in Mr. Blitz. This would cover any testimony previously given in this case of the September 19, 2023 hearing and all moving forward. Counsel Sussman had Mr. Blitz raise his right hand and swear under penalties of perjury that the testimony previously given in those proceedings and the testimony that he will give through the end of these proceedings and the responses and statements that he has made or are about to make have been and will be the whole truth and nothing but the truth. Mr. Blitz confirmed.

Chair Hoon-Starr then ruled the initial objection by Mr. Pounds as overruled.

Mr. Pounds entered for the record, an objection of this entire process stating that you cannot do a retroactive swearing in.

Chair Hoon-Starr overruled and continued the hearing. With the short amount of time remaining in tonight's session, it was determined that the hearing conclude for the evening and resume at the next appointed time.

There being no further comments, upon motion duly made by Mr. Doherty and seconded by Ms. Everett, the Chair declared the hearing adjourned at 8:11 pm and to resume again on January 25, 2024, at 7 PM.

Submitted by,

Sharon L. Humm
Board of Appeals

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