



Stanley H. Kellerhouse Municipal Building
One Van Wyck Street
Croton-on-Hudson, NY 10520-2501

To: Mayor & Board of Trustees
From: Bryan T. Healy, Village Manager
Date: January 31, 2022
Re: Village Attorney

Mayor
Brian Pugh

Trustees
Ann Gallelli
Sherry Horowitz
Alejandro Rosales
Len Simon

Village Manager
Bryan T. Healy

Treasurer
Daniel Tucker

Village Clerk
Pauline DiSanto

A number of residents have claimed that Village Attorney Linda Whitehead should not be allowed to represent the Village Board on the Special Permit applications before it regarding the solar array project at the Hudson National Golf Club (HNGC). The reasoning behind these claims is that Ms. Whitehead formerly represented HNGC in the 1990s.

The Village has been aware of Ms. Whitehead's former representation, and that of her firm, McCullough, Goldberger & Staudt, since the firm was placed on Village retainer in 2008. The facts are that Ms. Whitehead has not represented HNGC since 2001, and her firm has not done any work for them since 2004. In the ensuing 18 years, all the principal parties at the golf club from that time period are no longer there.

I consulted with another law firm which the Village has on retainer, and have been advised that there is no conflict in these proceedings with Rule 1.9 of the Bar Association's Rules of Professional Conduct. Rule 1.9 addresses attorney conflicts of interest relating to former clients and is designed to protect the former client. The duty in such a case is primarily concerned with the use of confidential information gained in the prior representation to the disadvantage of the former client. In this case the prior representation related to the approval process where all information is public. There is no confidential information from that prior representation, over 20 years ago, which is applicable here. The matter before the Village Board today relates to the proposal to install solar panels on a portion of the property and therefore is not "the same or substantially similar" to that for which Ms. Whitehead represented the golf club 25 years ago.

Furthermore, Rule 1.7 of the Rules of Professional Conduct addresses conflicts of interest for current clients. It states that a conflict exists if the representation will involve the lawyer in representing differing interests or there is a significant risk that the lawyer's professional judgment will be adversely affected by the lawyer's own financial, business, property or other personal interests. Ms. Whitehead has no relationship with Hudson National at this time or any time over the last 18+ years and therefore has no financial, business, property or other personal interest in Hudson National at this time.

I would also like to point out that Ms. Whitehead was also the one who raised many of the issues in this matter from the beginning, including the existence of the non-disturbance provision in the EMP and the issues of the work done in the ancillary maintenance area without permits and not in accordance with any prior approvals. This led to the amended special permit and site plan and the requirement for many drainage improvements along Prickly Pear Hill Road. More recently Ms. Whitehead raised the issue of the addition of the energy storage system to the site plan.

I hope this information will help the public to understand the relationship between the Village, Hudson National and Ms. Whitehead. Please let me know if you have any questions regarding the above.