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IN BOARD OF SELECTMEN
MONDAY, SEPTEMBER 25, 1989

Present: Chairman John C. Drobinski, Judith A. Cope, and David A. Wallace.

The statutory requirements as to time and place having been fulfilled, the meeting was called to order by Chairman Drobinski at 7:30 p.m., lower Town Hall.

Appointment of Executive Secretary Pro Tem

It was on motion of Chairman Drobinski unanimously

VOTED: To appoint Janet Silva as Executive Secretary Pro Tem for purposes of this meeting.

Sierras, Inc. - Change in Description of Premises

Chairman Drobinski convened a public hearing to consider the petition of Sierras, Inc., d/b/a Sierras, holder of a Restaurant License for the Sale of All Alcoholic Beverage, for permission to correct/amend the description of the premises at 470 North Road, as required under the provisions of General Laws Chapter 138.

Executive Secretary Pro Tem Janet Silva stated that advertisement and notice of this hearing was done in accordance with applicable law; and noted receipt of all necessary documents, which are in order.

Mrs. Silva reminded the Board that the purpose of this hearing is to correct the liquor license granted August 14, 1989, so that it conforms to the actual description of the premises. Mrs. Silva explained that the former owners of the restaurant had made changes to the interior; i.e., a reduction of rooms from three to two; a reduction in exits from five to four; and placed storage in the basement.

It was on motion of Chairman Drobinski unanimously

VOTED: To approve a change in the premises requested by Sierras, Inc. for property at 470 North Road, as required under the provisions of General Laws Chapter 138, in accordance with the plan on file in the Selectmen's Office, thereby amending the description of the premises to the following:

One floor: two rooms (dining room with bar and kitchen). Storage in basement. Four exits: entrance on south side; one service exit at southeast corner and two service exits on north side (one on main level, one in basement).

61 King Philip Road - Meeting With Hans Lopater Concerning Complaints

Present: Hans Lopater; Assistant Building Inspector Earl Midgley.

At 7:45 p.m., Chairman Drobinski convened a meeting with Hans Lopater, requested by him relative to complaints of possible zoning violations with regard to the property owned by Philip Mauro at 61 King Philip Road.

As background, the Board was in receipt of the following:

1. copy of letter dated July 21, 1989, from Bruce L. Ey, Vice President, Schofield Brothers, Inc., to the Historic District Commission, enclosing copies of the revised site plan and the barn reconstruction plans for the subject property;
2. various correspondence from resident Hans J. Lopater of 43 Winsor Road, dated July 17 and 29, 1989; August 7 and August 21, 1989, concerning scheduling of a discussion of this matter on Selectmen's Agenda;
3. responsive letters from Executive Secretary Richard E. Thompson to Mr. Lopater dated August 4 and 9, 1989, attempting to schedule the requested meeting at a mutually-convenient time;
4. copy of letter dated July 18, 1989, to Paul J. Mauro from Zoning Enforcement Agent Joseph E. Scammon, issuing a Cease and Desist order from use of the barn for commercial purposes;
5. letter dated July 18, 1989, to the Executive Secretary from Town Engineer I. William Place, advising that upon a review of his files and plans, Mr. Place concluded that the cars parallel parked to King Philips Road and the cars parked perpendicular to King Philips Road are approximately three feet, more or less, within the public way;
6. note dated July 28, 1989, from Administrative Assistant Janet Silva, informing that Police Lieutenant Ronald Nix called to report that the occupant of the subject property has been spoken to, and the stone has therefore been pulled back and the vehicles moved back;
7. copy of letter dated July 27, 1989, from Paul J. Mauro, owner of the premises, to Zoning Enforcement Agent Joseph E. Scammon, explaining the temporary use of the barn by a friend for storage of some items relating to his soda business; and expressing his hope for a speedy resolution to the problem;
8. copy of letter dated August 14, 1989, from Zoning Enforcement Agent Joseph E. Scammon and his Deputy Earl Midgley, to Paul J. Mauro informing that an August 10th visit to the site showed no progress in removal, and an August 14th visit showed increased activity in storage;
9. copy of letter dated August 25, 1989, from Zoning Enforcement Agent Joseph E. Scammon and his Deputy Earl Midgley, to Paul J. Mauro informing that inspection of the barn on August 24th revealed renewed use of the barn as a warehouse for the soda company; and placing Mr. Mauro on notice of the Town's intent to cite Mr. Mauro for every offense discovered, and to use whatever legal means are available to assure cessation of operations at the property;
10. copy of letter dated August 28, 1989, from Richard C. Miller, Senior Vice President, Razcal Corporation, explaining the situation regarding the temporary storage of items in the barn and the mitigating factors relating thereto.

Mr. Lopater introduced himself to the Board and thanked them for the opportunity to appear before them. Mr. Lopater stated that his intention for

this meeting was to call the Selectmen's attention to the subject property, which he believes to be located in the Historic District and in an area zoned for single residence use. Mr. Lopater expressed his opinion that this property is being used in violation of the Town's zoning regulations.

By way of background, Mr. Lopater informed that he has been a resident of Sudbury for fourteen years, during which period of time he has observed a number of changes in the Town, arguably many of which have been of a negative nature. Mr. Lopater stated that two years ago, a financial consulting business was established at that location, and he questions whether that is a legal use of the property.

Mr. Lopater continued by stating that since the business was established, a substantial number of cars are parked there on a daily basis, ranging in numbers from six to nine, with as many as eleven being seen by his wife.

Mr. Lopater summarized the problem concerning use of the barn by a soda beverage company and noted that the Zoning Enforcement Agent issued a Cease and Desist order on July 18, 1989. Mr. Lopater further noted that the Town Engineer expressed his opinion that the cars were parking on a public way.

Based on the continuing problems, Mr. Lopater requested that the Town proceed in an aggressive and timely manner to assure that the property is used within the parameters of legal zoning.

Deputy Zoning Enforcement Agent Earl Midgley concurred with the chronology of events as stated by Mr. Lopater; and informed that the \$50 violation ticket he issued to Mr. Mauro is presently scheduled in court for October 3, 1989. In addition, on August 24th, Mr. Midgley inspected the barn and found it full once again and he therefore issued another \$50 citation to Mr. Mauro. Finally, as of an inspection made by Mr. Midgley this afternoon, he reported that the barn is clear, and there were seven cars parked on the site.

Mr. Midgley explained that the subject property actually sits in two zoning areas of the Town, the dividing line cutting through a corner of the house. Mr. Midgley confirmed that the barn and parking area are in a residential zone. Thus, Mr. Midgley stated, the problem is that although the property contains business-zoned property, that business zone has no parking area available to it.

Mr. Midgley went on to say that it is his understanding that Mr. Mauro will be making a plan and proposal for submission to the Board of Appeals to get this piece of property in a position so that it can be used commercially, with parking. It is Mr. Midgley's opinion that until this matter goes before the Board of Appeals, the use of the property is in limbo.

Selectman Wallace complimented Mr. Midgley for his aggressiveness and tenacity in investigating not only this matter, but other zoning issues within the Town. Selectman Wallace reiterated the long-standing position of the Selectmen that they will not tolerate any illegal use of properties within the Town, and have always attempted to be kept informed of all possible zoning violations and monitor the situations as best they can.

Executive Secretary Pro Tem Silva stated that she believes several permits will be required by the Board of Appeals, and Mr. Mauro has been clearly

instructed to make his filing to the Board of Appeals as soon as possible. Ms. Silva pointed out that the reason for the continuance of the hearing held January 9, 1989, was for the express purpose of allowing Mr. Mauro the opportunity to resolve the barn situation with the Historic Districts Commission and obtain decisions relative to use of the property by the Board of Appeals.

Dennis J. Camelio of 11 Massasoit Avenue stated his concerns about the use and status of the barn, and his lack of confidence in Mr. Mauro's intentions and good faith in meeting his obligations.

Mr. Camelio further informed that over the July 4th weekend, he observed what appears to be a formation of a parking area "blazed" on the side of the building. When asked about this, Mr. Camelio reported that Mr. Mauro stated that area was getting "muddied" and the reason for his smoothing same out and adding stones for cover was to beautify that area. Mr. Camelio concluded by expressing his concern that Mr. Mauro will little by little make changes without approval and suddenly the whole climate of the neighborhood will be changed.

Chairman Drobinski assured Mr. Camelio that the Special Permit process is very strict, and if Mr. Mauro does not comply with the specific conditions placed upon him, he will lose his permits. In other words, Mr. Drobinski stated, if parking is not approved in a certain area, Mr. Mauro cannot put it there. Mr. Drobinski stated his belief that the neighbors' best way of assuring the climate and physical condition of the neighborhood remain as they want it, they should attend the Board of Appeals' hearings and make their concerns and wishes known.

Historic Districts Commission member Edwin A. Blackey Jr. of 62 King Philip Road pointed out that this situation is entering its third year; and he expressed his opinion that the present parking arrangements are not only a hazard to other vehicles travelling the road, but are a safety problem to the people walking on the street. Mr. Blackey urged that the Town pursue this matter as speedily as possible and decide either to allow Mr. Mauro to develop or not to develop. Mr. Blackey expressed his concern with a statement Mr. Mauro has made indicating that if he could not submit plans and obtain approval by October, he would probably wait until next Spring to start the process.

Mr. Blackey stated that the Historic Districts Commission approved the razing of the barn and construction of a new barn in the same style and dimensions of the old one on August 14, 1989; and he thought that meant it would proceed to the Board of Appeals within 45 days.

After further discussion, it was on motion of Chairman Drobinski unanimously

VOTED: To request the office of the Executive Secretary to immediately contact Philip J. Mauro, owner of the property located at 61 King Philip Road, in order to impress upon Mr. Mauro that the Selectmen strongly request his cooperation in making application to the Board of Appeals forthwith.

Chairman Drobinski thanked those present for their input and reiterated his suggestion that the neighborhood watch for the notice advertising the Board of Appeals hearing on this matter, so that they might make certain the Board of Appeals fully understands and knows the wishes of the neighbors.

Mr. Camelio asked what the status of the barn would be if the barn were to fall down or otherwise be destroyed prior to its being razed. He wondered if that situation would still mandate that Mr. Mauro rebuild a barn to the exact specifications. Chairman Drobinski stated that although he could not answer that particular question because it calls for a legal conclusion, he could state with certainty that without the Special Permit, that or any other structure on that specific area or the area itself could not be used for parking.

The meeting adjourned with Chairman Drobinski assuring that the Selectmen will continue to monitor the situation.

Personnel Board - Appointment

Present: Applicant Wilfred J. Benoit, Jr.

Upon interview of candidate Wilfred J. Benoit, Jr., for appointment to the Personnel Board, and upon review of letter dated September 12, 1989, from Management Intern Mary Ellen Normen informing that the Personnel Board recommends appointment of Attorney Benoit, it was on motion of Chairman Drobinski unanimously

VOTED: To appoint Wilfred J. Benoit, Jr. of Eleven Stone Root Lane to the Personnel Board, replacing Kathy Osborn, for a three-year term to expire at the adjournment of the 1992 Annual Town Meeting.

186th Town Forum

At 8:00 p.m., the 186th Session of the Town Forum was convened and a video tape of same is on file in the Office of the Board of Selectmen.

Special note is made of the following:

- The School Committee, through its Chairman James Flanagan, gave a presentation of Options proposed under Articles 4 and 5 for the October 17, 1989 Special Town Meeting. At the conclusion of his presentation, Mr. Flanagan announced that the School Committee will be conducting a public hearing regarding these articles on Wednesday, October 4, 1989, and invited all to attend so that any questions or comments may be addressed.
- Sudbury Historical Commission Chairman Marilyn MacLean mentioned the urgency of there being constructed a back driveway for access to the Hosmer House by fire apparatus and other vehicles; and she noted that she was working with the Executive Secretary on this matter.
- A standing ovation was held for the 350th Anniversary Celebration Committee, and especially its Chairman Beverly Bentley, for the magnificent celebration which brought together the whole community in a spirit of unity.

Davis Land Recreation Area - Request for Establishment of Stump Dump

Present: Town Engineer I. William Place, Conservation Coordinator Deborah Montemerlo.

The Board considered communication dated September 19, 1989, from Town Engineer I. William Place, requesting approval to establish a stump dump on Davis Land recreation area off Route 117.

The discussion opened with Selectman Cope's inquiry as to the feasibility of contracting to have the stumps hauled out of Town. Mr. Place stated that it is difficult to estimate how many truckloads would be needed to accomplish this, but he opined that it would be enough of an expense to make it fiscally unwise to go this route.

Ms. Cope also suggested the possibility of use of two natural large craters located on New Bridge Road, not near wetlands, for placement of some of the stumps. Mr. Place responded by saying that he did not know about that particular situation but they have made a review of all possible areas within the Town and came up with this proposed site as being the most adaptable, with minimum destruction.

Mr. Place also informed that there had been some dialogue with Wayland concerning joint composting; but Wayland has made it clear it is not feasible for them to pursue any joint composting efforts at this time due to a crisis at their Landfill.

Mr. Place presented a plan outlining the proposed area for use as the stump dump. In answer to inquiries by Selectman Drobinski, Mr. Place stated that the area would be graded off to the same contours that presently exist, and the materials would be excavated down to water table level, approximately four feet; and that there would be no need for fencing.

In answer to inquiry by Mrs. Silva, Mr. Place stated the stump dump would be used for municipal purposes only. Mr. Place stressed the need for the same, noting the backlog of undisposed of stumps and unsightly tree butts left standing along the Town's highways; and he added that current and pending walkways have contributed to the problem.

Conservation Coordinator Deborah Montemerlo was asked if the Conservation Commission had any concerns regarding this proposal, and Ms. Montemerlo stated that since the proposed site does not fall within the 100' wetlands requirement, the Conservation Commission has no jurisdiction over this proposal. However, Ms. Montemerlo did express some concern regarding placement of the stump dump at this location because it would cause a change in the nature of the area and because of its high wildlife density. Ms. Montemerlo stated that the Commission has not yet seen the plan.

After further discussion, it was on motion of Chairman Drobinski unanimously

VOTED: To request the Town Engineer to establish communications with the Park and Recreation Commission and present to them a proposal to establish a stump dump on Davis Land recreation area off 117; and to request the Executive Secretary to render assistance to the parties in coordinating efforts and reaching a mutually-beneficial resolution of the issue.

Local Arts Council - Appointment

Executive Secretary Pro Tem Janet Silva advised that applicant Philip L. Read was unable to attend this evening's meeting.

Upon review of application of Philip L. Read, and letter of recommendation from Nora Hall, Chair of the Sudbury Arts Lottery Council, it was on motion unanimously

VOTED: To appoint Philip L. Read of 80 Witherell Drive to the Local Arts Council for a two-year term to expire September 25, 1991.

Sherman's Bridge

It was on motion unanimously

VOTED: To acknowledge receipt of the following:

1. Letter dated September 19, 1989, from Highway Surveyor Robert A. Noyes, informing of an inspection of Sherman's Bridge by his assistant on September 18, 1989, and of his verbal request of the District Four Office in Arlington to send a bridge inspector to check out the situation; and

2. Copy of letter dated September 21, 1989, from Highway Surveyor Robert A. Noyes to Peter J. Donohue, District Highway Engineer, Massachusetts Department of Public Works, District 4 Office, informing of the condition of Sherman's Bridge and making formal request for an inspection so that the Towns of Sudbury and Wayland may finalize their plans for the temporary repairs.

Election Officer - Resignation

It was on motion unanimously

VOTED: To accept the resignation dated September 14, 1989, from Election Officer Nancy Taft, P. O. Box 87, Brewster, Massachusetts, effective September 18, 1989; and to request the Executive Secretary to forward a letter of thanks to Mrs. Taft for her selfless contribution of service to the Town.

The Board expressed its special commendations to Mrs. Taft, and wished to make particular note of the fact that Mrs. Taft has served the Town from 1976 to the present, a period of thirteen years.

Selectmen's Meeting - Cancellation; Scheduling of Special Meeting

It was on motion unanimously

VOTED: To cancel the Board's regular meeting of October 9, 1989, because of the holiday; and to schedule a special meeting prior to the Special Town Meeting at 7:00 p.m., October 17, 1989, to be held in the Lincoln-Sudbury Regional High School and on any subsequent nights Town Meeting continues.

Eagle Scout - Adam P. Rosell

It was on motion of Chairman Drobinski unanimously

VOTED: To sign a letter of acknowledgement and congratulations to Adam P. Rosell of 39 Willow Road, on his achievement of the rank of Eagle Scout; and to commend Mr. Rosell for making his community proud through his attainment of Scouting's highest award.

Each of the Selectmen expressed a desire to attend the Court of Honor which will be assembled to celebration Mr. Rosell's advancement to Eagle on Sunday, October 8, 1989, but their schedules would not permit it. The Executive Secretary was requested to see that their letter is presented to Mr. Rosell.

October 17, 1989 Special Town Meeting - Warrant

It was on motion of Chairman Drobinski unanimously

VOTED: To sign the Warrant for the October 17, 1989 Special Town Meeting.

Minutes

It was on motion of Selectman Wallace unanimously

VOTED: To approve the minutes of the regular meeting of September 18, 1989, as corrected.

Sudbury Water District

The Board acknowledged receipt of memorandum dated September 25, 1989, from the Sudbury Water District requesting the Town assume the responsibility for fire hydrant snow removal for the Town, and offering three options for consideration:

1. snow removal be conducted by town forces after a storm when the time allows;
2. the District continues to contract out the removal and the Town assumes the actual cost through the snow removal account; and
3. no snow removal be provided and the abutters be required to provide the service for their own protection.

The Board requested the Office of the Executive Secretary to follow up on this matter.

Fort Devens Land - Response from GSA to National Park Service Request

The Board acknowledged receipt of copy of letter dated September 14, 1989, from P. Vaccaro, Director, Office of Real Estate Sales, Federal Property Resources Service, General Services Administration, which letter rejected the request by the United States Department of the Interior, National Park Service, for assignment of 219 acres of land identified as a portion of the Fort Devens Training Annex, located in Sudbury and Hudson.

Executive Secretary Pro Tem Janet Silva reported that Gordon Tucker of the Sudbury Neighborhood Planning Association telephoned and wished the Selectmen

to know that he will be available if there is anything he can do regarding this situation. Mr. Tucker further suggested that the Town especially work through Senator Edward M. Kennedy's Office; and it was confirmed that this is already being done.

Landfill

The Selectmen discussed ongoing problems concerning interpretation and enforcement of the Landfill's Rules and Regulations. Selectman Wallace noted that the majority of telephone calls he receives from townspeople focus on what is or is not allowed at the Landfill. Chairman Drobinski cited as an example a personal experience he just recently encountered. When he carried a couple of recyclable items to the Landfill for disposal, he was advised that he required a Special Permit. Although he was certain the Rules and Regulations as amended specifically state that such disposal of recyclables not only does not require a Special Permit, but would not require a sticker as well, Mr. Drobinski presented himself to the Highway Department to pay the \$10 fee for the Special Permit. At that time he was advised that if he intended to use his truck for disposal of the two items, the fee would have to be based on the size of the truck, not the small quantity within it. The Selectmen also raised the question of why issuance of stickers on Saturday at the Landfill has not yet commenced.

Mrs. Silva suggested that the Selectmen may want to review the Rules and Regulations and if any of the Selectmen see a problem with the wording or ambiguity of any item, he/she make note of same and bring it to the attention of the Office of the Executive Secretary for possible future amendment if necessary.

A copy of the Regulations will be furnished the Selectmen for this purpose. In the meantime, the Office will look into any practices involved which seem to be creating problems.

There being no further business to come before the Board, the meeting was adjourned at 10:30 p.m.

Attest:

Janet Silva
Executive Secretary Pro Tem