



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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EDWARD T. MOORE, VICE CHAIRMAN
EMILE W. NIEDZWIADK
ANNE M. MORSE
JOHN P. MURRAY

MINUTES OF REGULAR MEETING

September 27, 1990

Meeting was called to order at 7:35 p.m. All members were present. Board's consultant, Philip B. Herr was also present.

EM introduces John Riedle from the FDIC who is here to discuss letters of credit which were held by the Home National Bank and Milford Savings Bank for developments in the town.

John Riedle states that a letter went out disaffirming letters of credit. All of the projects are being reviewed. It is a lengthy process. The FDIC attorney who is handling this matter is Clark Vanderheld. He was unable to attend the meeting tonight but can be reached at 478-1000.

AM asks if they will be honoring certain letters of credit.

J. Riedle believes that it makes sense for them to reaffirm the letters of credit for Bellingham. The FDIC is in the process of reaffirming anything which they took back after the banks went under. He suggests the town speak with the attorney for FDIC.

AM asks if the town will accept a letter of credit.

EM responds that is up to the Planning Board regarding the type of security which will be accepted. He will make a motion that in the future, the town should not accept letters of credit. The FDIC is proposing to honor the current outstanding letters of credit.

J. Riedle states they should call the FDIC attorney and talk to him about the situation. A letter will be forthcoming to the Planning Board within the next week regarding this issue. The FDIC attorney will be talking with L. Ambler. The FDIC has not dropped the letters of credit. Everything has to go through the appraisal process with the FDIC. It is a lengthy process.

EM thanks Mr. Riedle for coming to the meeting.



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J. Riedle could arrange for the FDIC attorney to come to the next meeting if the Board wants him to attend.

EM indicates they will know better after they talk with Town Counsel.

GG states that Abram Rosenfeld and Lucien Colin are here to hear what the FDIC has to say and drop off the as-built plan for Silver Heights.

Eugene Corriveau, Town Treasurer, is also here to find out what the Board plans to do about the letters of credit.

EM responds that they will keep the current letters of credit, but will not accept them in the future.

GG asks Mr. Rosenfeld if they intend to obtain a letter of credit from Milford National or with the FDIC.

A. Rosenfeld responds he will wait to see what happens with the FDIC.

EM makes a motion that the Board will not accept letters of credit in the future. Road bondings will be done with a bond or a passbook for new subdivisions or subdivisions who have lost their security.

EN seconds motion.

E. Corriveau has no objection to taking a letter of credit for the developments which are in good standing. However, there are some that are behind in their taxes.

EM responds that those are two different things. The letter of credit would be for the road, not the taxes.

AM does not think it would be in the Board's power to not take a letter of credit because someone is behind in taxes.

EM indicates that the bond is just for the road, not taxes. It can not be transferred.

EN states they would have to attach and put a lien on it.

E. Corriveau states that he could put a stop on issuing building permits for taxes due.

EM explains that the letter of credit is a guarantee from the bank that the road will be completed. It may be that it can be applied to the



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taxes. He is not sure. He would be in favor of it if it could be done.

EN states that if that was the case, if someone put a bond up for the road, the money could be used for taxes.

E. Corriveau is not saying that the money for the bond be used to pay the taxes. He is wondering how a letter of credit could be good if a developer owes taxes. He does not see how a bank could give a letter of credit to a developer who can not even pay his taxes.

GG asks for a vote concerning EM's motion that only bonds and passbooks be accepted in the future. Vote of 4.

COGENERATION PLANT

John Emidy, Building Inspector, is here to discuss whether or not a site plan is needed for the Cogeneration Plant.

Harry Martin, construction manager for the Roy family, is also present.

J. Emidy explains he is concerned about the pump site which is off the site and accessory to the plant. It is not on the original plan which was approved by the Planning Board. It is presently owned by the town.

H. Martin explains that they agreed with the town to build a pump site to clean up the tainted chemicals which is in the water there. In a few years the town will have good water. There are under 20 cars. They do not have any parking there. A car will go in once a week to check the water. The land belongs to the town.

EM does not see a reason for a site plan review.

EN questions how they will purify the water.

H. Martin responds they are running it through their treatment plant. Anything which is harmful will be taken out.

EN questions how long it will be before the town can use the water.

H. Martin responds it will be 5 - 6 years.

GG instructs Clerk to send a letter to the Building Inspector indicating that the Planning Board does not feel that a site plan review is required for the well area.



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H. Martin indicates that at some point in time they will tell the town when the water is good. They test the water all the time.

B. Lord indicates that is all defined within the agreement with the town concerning the water which is there.

GENERAL

GG reads letter, dated SEptember 11, 1990, from Maple Brook Condominiums Board of Trustees, indicating that Mr. Canfield, owner of Fortress Babcock, has agreed to plant 10 more white pines at the area adjacent to Maple Brook Condominium by September 21, 1990. They have approved the buffer with the additional planting as promised. GG indicates they feel this will be a suitable buffer and have signed off on it.

Thomas Palli, 310 Farm Street, indicates that he came before the Board on March 21, 1990 and submitted a letter regarding scenic road infractions and screenings. He never received a response.

GG indicates that the Board tried to organize a meeting with the other town boards concerning that subject but was not able to.

EM suggests a copy of Mr. Palli's letter with a new cover letter from the Board be sent to the new Building Inspector asking him to look into this situation.

EM makes a motion for a 5 minute recess. EN seconds. Vote of 4.

GG instructs Clerk to check the Pickering Estates file for the security bond on the road.

GG states the cover letter to the Building Inspector should state that a meeting should be set up regarding Farm Street. The Building Inspector should ask D. Fraine to set up the meeting.

GG reads letter from Jepsky & Sack, attorneys at law, dated September 17, 1990, representing Robert D. Savoia, Bruce W. Allen and Russell S. Santoro, Trustees of Nautilus Realty Trust regarding Beaver Brook Estates, Water St., Bellingham. All of the Trustees have or will be filing for bankruptcy and are in no position to continue subdivision work on Water Street. A withdrawal slip signed by Bruce Allen for the Blue Hill Federal Credit Union, Acct. No. 9071981 in the principal amount of \$8,487.59 for the road bondings is enclosed. The town is authorized to withdraw the funds to complete the work on Water Street. All accrued interest and any surplus from this amount after the work



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has been completed should be returned to Nautilus Realty Trust.

Clerk indicates that this letter and withdrawal slip were given to the Town Treasurer and a copy to Town Counsel. Town Treasurer recently had the passbook updated and the current amount is \$9,360.60.

EN questions who will finish the work.

EM responds that it will probably go out for bids.

NEW ENGLAND COUNTRY CLUB

DISCUSSION REGARDING PAINE STREET ACCESS

GG removes himself from the discussion. EM takes over as Chairman.

EM indicates that this subject was last discussed by the Board on June 28, 1990. It is not a public hearing. The Town Meeting will decide the issue of access to Paine Street. The Planning Board merely makes a recommendation to the Town Meeting. At the time of the June 28, 1990 discussion, it was determined that a traffic study should be done. This is not an issue which just developed.

Gary Martinelli is here representing New England Country Club. He introduces Jeff Souza, project manager and Carl Adamo, Ronald Ash and Associates, project engineer. They are here asking for Planning Board endorsement. They want to rescind the covenant of 1986. At that time there was a zone change which restricted use of Paine Street as an egress for the New England Country Club project. They have 237 lots in their subdivision and propose construction around a championship golf course. The golf course is completed at this time. The subdivision has not been started yet. It was approved with 2 means of access. In lieu of constructing a bridge to egress to Wrentham Road over Bungay Brook, they would like to construct an exit on Paine Street. The current historic access is not a safe means of egress. The new entrance/exit will have a site line distance of 800' on either side. This exceeds the 400' recommended by the Safety Officer. They have received the blessing of the Safety Officer. The traffic study was prepared by Ronald Ash & Associates. Mr. Adamo is here to answer any questions. Reasons for requesting the change include the decline in the economy. They have not been able to open up the golf course. They would like to have the golf course open for play next year rather than waiting for the bridge to be built and the roads constructed to the clubhouse. It is more desirable for them to access Paine Street to the existing clubhouse until a new clubhouse is built. The second reason for this request is the cost to construct the bridge over Bungay Brook. It is very expensive. It would be more economic for them to access



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Paine Street to get the project going in the early stage and avoid the cost of constructing a bridge. The bridge is also a concern of the Conservation Commission because of the wetlands. They were given an Order of Conditions, but the Conservation Commission felt it would be more desirable to access Paine street rather than across a bridge. They are not asking for subdivision amendment at this time. They are asking for the Planning Board's endorsement for the warrant which will be put before the Town Meeting for release of the covenant which was made with the town in 1986 for the zone change.

EM heard the economic reasons for not wanting to build the bridge but that is not the Board's concern. He asks if they will eliminate the Wrentham Road access if they get the Paine Street access.

G. Martinelli responds that is what they are contemplating.

EM questions the benefits to the people and the town.

G. Martinelli responds that there are 2 benefits to the town. One is that people who reside within the subdivision who come out Wrentham Road bound for Woonsocket would have to go around the development. It will be easier for people who live in the development to go out Paine Street.

AM asks if they will possibly do the Wrentham Road access if economic conditions improve.

G. Martinelli responds that it is their preference not to do it.

EM reads letter from the Conservation Commission, dated September 27, 1990, which states that at their meeting of September 26, 1990, it was unanimously agreed to endorse the proposal of New England Country Club to eliminate the Wrentham Road access and instead make lower Paine Street the subdivision access. By eliminating the Wrentham Road access, significant impact to Bungay Brook will be avoided resulting in a reduction in the environmental impacts. The reduction of these impacts is important to regulated resource areas, but especially important considering the proximity to new Town Well No. 11.

EM questions where well No. 11 is. Is it where it has always been?

P. Herr responds it is where it has always been.

EM reads letter from the Safety Officer, dated June 27, 1990, indicating that he has surveyed the sight distance for the proposed entrance at the lower end of Paine Street. The sight distance in both



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directions is well over the required 400'. He feels this entrance is acceptable.

P. Herr states that he raised points regarding the traffic study which was sent to him early on. The revisions have been made. Major concerns which he had are reflected in the copy of the traffic study dated September 14, 1990 which is the recent copy. It benefits residents travelling south. However, the analysis was predicated with the majority of the residents travelling north. The key point concerning the existence of Lake Street is not shown on this drawing. The question is how soon the connection will be made to Bound Road. If they change the egress to Paine Street, the internal circulation system of the project and the logic of the internal circulation does not work. It will require significant changes to the subdivision design. That is not a reason to turn it down.

G. Martinelli states that before they can do anything, they will have to come back to the Board with an amendment to the subdivision.

P. Herr states the question is how many people in the subdivision work where. They need to see evidence about how the distribution will be. The people who will live here will have no parallel to the town. They will be buying expensive lots on a golf course. He is pleased that they responded substantially to the points which he raised. Their figures suggest that this egress will make things better. He could quarrel with that, but it would be hard to make a case that it would make it worse. At the least, it will not make it worse. It will make it better than the subdivision which was approved.

EM states that access to the highways should be considered. People who make enough money to live in those expensive houses will need highway access.

P. Herr states the key time for the analysis is the afternoon rush hour. He is assuming that few people will work in Woonsocket. Jobs to support those homes are not in Woonsocket. He thinks they did a substantial job with the analysis. People will be inconvenienced by this but it does not do any harm. It may be good for traffic circulation.

EM indicates that at the time of approval, the second means of egress had to be built at 120 houses. They may want to make that lower.

G. Martinelli states that issue will be considered the next time they are here. They are willing to accomodate.



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F. Herr points out that Bound Road will be more important with Paine Street than before.

J. Sousa indicates they would be willing to go to 75 - 80 houses.

EN questions how one will take a left from Paine Street to Wrentham Road.

C. Amato responds it is kind of a T.

EN indicates it is actually called Wrentham Street. They have it down as Wrentham Road.

C. Amato responds they used Wrentham Road for Wrentham Street.

EN points out that cars coming north to Pulaski Blvd. will have to stop to take a right there. Most of the traffic flows to S. Main Street to Bellingham Center. The majority of the cars go straight. The right hand turn to Pulaski Blvd. is at a stand still.

C. Amato states that for a conservative approach, they assumed that no one would be going right.

EM states that a public hearing for the Scenic Road was scheduled for 8:30 p.m. He opens the public hearing. Clerk reads notice of public hearing.

EN makes a motion to continue the Scenic Road public hearing to 9:00 p.m. AM seconds. Vote of 4.

EN questions delays to Paine Street and Wrentham Road.

C. Amato states they did counts in the morning and afternoons at peak times - 7:00 - 10:00 a.m. and 3:00 - 6:00 p.m. The highest amount of traffic occurred between 4:30 - 5:30 p.m. which is not abnormal.

EN indicates there is an extreme delay at Crook's Corner.

C. Amato states that one has to wait a couple changes of the light or wait at the stop sign.

EM questions the impact to the fire station. It is a dangerous intersection.

C. Amato states there is a long delay at Paine Street and Wrentham Road. It happens now. It will be slightly better by putting the



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entrance on Paine Street than on Wrentham Road. They will be increasing one car per 30 seconds. It balances out.

EN points out that Paine Street is a very dangerous street to begin with. 4 - 5 people have been killed there. It is a highly travelled area.

P. Herr asks if they have a map here at scale which shows the larger area as a result of the road which links Woonsocket. They expect more people will use Paine Street. EN's concerns regarding Paine Street will be exacerbated by that. They did the analysis of the development with the traffic now. They have to look at the development with traffic 5 - 10 years from now. He is referring to Route 99 in Woonsocket. It is very substantial.

C. Amato indicates they do not have a plan here which shows Rt. 99. The State of R.I. is half done with Rt. 99 which is the Woonsocket Industrial Highway on Mendon Road. The second half is under bid and will be constructed in 1 - 2 years.

EN points out that anyone who goes to do shopping will take Paine Street to Diamond Hill Rd. It is very busy.

C. Amato thinks they will cut off some of the traffic by having the entrance on Paine Street. It will eliminate some of the traffic on Wrentham Road and parts of Paine Street.

P. Herr explains that only applies to the 30% of the people heading south. The other 70% heading north will use that road.

C. Amato indicates the figures are more 40/60.

EN believes this will create a heavy strain on Lake Street. It is a big problem now.

G. Martinelli believes that would happen even with the other egress.

P. Herr states that this development will put additional traffic on Lake Street. Shifting the entrance may effect that but it will be minor.

C. Amato states that once it is built, 40% will go through Bound Road.

EM thinks the traffic on Lake Street would be the same no matter which way they exit. He does see how it would put more to the intersection.



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EM opens the discussion to questions from the audience. He instructs them to raise hands and state names for the record.

Mitch LaPlante, 202 Paine Street, refers to the economic hardship which was mentioned. He believes that putting a road through to Bound Road which is over 12,000 feet of road will be costly. He does not think that makes sense. He questions why it would be cheaper to go out Bound Road than to do the bridge. That would advance the date by 50 lots.

AM refers to the letter from the Conservation Commission which has a real impact on that decision.

EM states the bridge will cost \$1.5 million. They can offset with 45 lots.

J. Sousa ^{states} they will be just doing the improvements 1 - 1 1/2 years earlier.

G. Martinelli indicates they have to build that road sooner or later. It makes economic sense to get the project going before making expenditures to build the road to Bound Road as opposed to spending \$1.5 million to build the bridge.

M. LaPlante states that changing the entrance will add 1 car per 30 seconds. That is 180 cars per hour. There are typically three lights to go through.

C. Amato states that is at peak rate.

M. LaPlante questions where the majority of cars will be going during the rush hour. Peak traffic flow will develop at peak time.

C. Amato states there will be 266 trips during peak hours. That is for the general subdivision and the clubhouse. The rush hour commute is between 4:30 and 5:30 p.m.

M. LaPlante questions if they included Sunday morning church traffic or Saturday traffic in the evaluation. Sunday traffic backs up beyond the bridge.

C. Amato responds they did no traffic study for the weekend, only weekday. There are signal problems. They propose a 4 phase signal. Exclusive lefts could improve traffic signals to a better level of service than what is there now. There is room for improvements. The way it is designed is very inefficient at this time. 20% of the flow will go down S. Main. 10% of the flow will come from Woonsocket. 20%



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of the flow from Providence. 25% from Lake Street and 10% to Wrentham Road to Boston and Framingham.

M. LaPlante refers to P. Herr saying that the internal circulation would have to be revised. He questions if that is something the Planning Board will require - revisions to the internal road system.

P. Herr states that the Regulations which were in effect when the plan was approved would be applied.

EM wants to make it clear that any changes will have to come back before the Board. That is not part of the access issue tonight.

P. Herr points out that trees may be saved if they make this entrance.

Conrad LaBonte, 660 Wrentham Road, has been living there for 30 years. For the past 2 years he has not been able to mow the area near his house because of a water problem. The developers cut a strip through the woods 50 - 80' wide and blasted. Now the water on Wrentham Road is worse than ever. His neighbors were pumping their cellars last winter.

JM questions if a retention pond will be put through there.

J. Sousa indicates that there will be. All the land slopes. They have not done any work on Bound Road. They only cut trees.

C. LaBonte is speaking in favor of the access road to Paine Street. It has been there as long as the golf course was there. He did not have any problems before they changed things. He is in favor of keeping it where it has always been.

Dennis Berard, 160 Paine Street, can not see how the Planning Board can make a recommendation to the Town Meeting when they do not know the changes to the internal part of the subdivision.

P. Herr points out that if there are changes, they have to be made to the satisfaction of the Planning Board. Manchester Road will probably have to be designed to collector standards. Country Club Drive is a T near the trees. It may become something different. The rest will stay largely the same. It is unlikely that any change will effect people outside of the subdivision.

Dennis Berard thinks the impact to Paine Street is high. He is in favor of as many exits as possible. The town will benefit when the project gets started. If the entrance to Paine Street helps that, it should be considered. Money for the bridge was figured in the house



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lots. They could go out that way at the end of the project.

AM questions if consideration will be given to Wrentham Road in years to come.

JM states the original subdivision had 330 lots with 13% grades. Now there are 237 lots.

G. Martinelli responds they would rather not build the bridge. He does not want to create a misinterpretation.

EM indicates that the developer agreed to go to the other access when they get to 75 lots.

Gus Vella, 112 Paine Street, is on the other side of the current entrance. There is a problem with the traffic flow pattern. It is bad now. It will not get better when the traffic flow increases. From Paine to Wrentham Road, the traffic wraps around Beverly and Wrentham. He is in favor of getting the project off and running but does not know if he likes this solution.

JM states that an assessment was made for signalization at the corner. Improvements will be made to circulate traffic.

EN states that three lanes are needed at the bank with a right only to expedite traffic a little.

AM believes that if they do not allow them to go out Paine Street, the project may not happen.

G. Martinelli indicates that is correct.

G. Vella asks if the existing entrance will be shut off.

G. Martinelli indicates that it will be shut off as soon as they get approval for the new access.

J. Sousa explains that the present covenant says that it will go away when the second means of egress is built. It turns into a house lot.

Larry Cibley suggests the Board finish this discussion before going on to the scenic road public hearing.

JM has heard the testimony and read the traffic report which was quite extensive. He has not seen or heard anything showing that this change will have a negative impact.



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AM makes a motion to recommend the Paine Street access to the Town Meeting. JM seconds motion.

EN points out that even if the Board recommends this, it still may not happen. It is up to the Town Meeting.

Unanimous vote of 4 to recommend Paine Street to the Town Meeting.

P. Herr states that there may be some people who are interested in the traffic analysis. The Board might want to put one in the Town Clerk's office and in the library.

GG instructs Clerk to prepare letter of recommendation and give to EM for presentation at the Town Meeting.

GG calls for 5 minute recess.

SCENIC ROAD PUBLIC HEARING

GG returns to the meeting and opens the public hearing at 9:25 p.m.

P. Herr explains they are holding a public hearing as a courtesy. This does not require a public hearing. This is to adopt regulations quickly so that something is on the books in case someone should seek a permit. It will not have to be handled in an ad hoc fashion. The Planning Board may rescind the regulation and rely on the bylaw later.

EM states that the Town Meeting did not adopt a scenic road bylaw.

P. Herr explains that the Town Meeting has designated 2 roads as scenic roads. Beyond that there is nothing in the statute about the bylaw. There was a bylaw drafted by the residents and not the Planning Board which was not adopted. To get the bylaw on the books, they have to set out clarity regarding what constitutes action subject to this. These are procedures to follow and go through for review of a proposal. They have done all these things in several cases without the benefit of a bylaw. He points out that pages 2, 3 and 4 refer to the regulations.

EM states that the Planning Board will adopt these regulations and put them in the Planning Board Rules and Regulations. This is something which will be used in the interim before the bylaw passes.

P. Herr explains that the statute allows the Town Meeting to establish penalties which are stronger politically and financially.



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EM refers to page 3.3 indicating that the words when feasible were supposed to be added regarding the hearing in conjunction with the Tree Warden.

P. Herr responds that the state law mandates the public hearing must be held in conjunction with the Tree Warden.

Ron Paulhus, Tree Warden, indicates that if he can not attend a public hearing, he will send his decision in writing.

P. Herr refers to the recent public hearing which the Planning Board held regarding Maplegate Country Club which the Tree Warden failed to attend. The Planning Board made a decision and the applicant left thinking he was free to take the trees down.

EM thought the Board had made it clear that they had to get the Tree Warden's approval first.

GG questions who investigates whether or not new trees are put in.

R. Paulhus responds that the Tree Warden does that.

P. Herr explains that if all Board members vote yes at a public hearing and the Tree Warden votes no, that is the end of it. If either one says no, that is the end of it.

GG questions if there is a time limit in which the trees have to be in by.

P. Herr responds that they could put it in the bylaw or do it on a case by case basis.

GG thinks it should be in the bylaw.

P. Herr states that the most common use of this bylaw is for the town to make the road wider.

B. Lord states they should consider that the best planting time is in the spring.

GG thinks that 9 months is plenty of time.

R. Paulhus questions who is responsible for making sure that the stonewall is replaced.



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P. Herr responds that *it* says that the Building Inspector is responsible for enforcing this.

GG thinks it should also be signed off by the Tree Warden.

R. Paulhus fines \$500.00 per tree. If someone does not pay their fine, he stops all permits. A developer comes in and submits a cutting plan. A curb cut requires a cutting plan and a public hearing. Some developers think this allows them to cut trees. That is not true.

P. Herr refers to 2 fines in the bylaw: \$500.00 collectible and \$300.00 collectible.

EN questions if the money from a fine goes to the town's general fund.

R. Paulhus indicates that it does.

P. Herr states that \$300.00 comes from the statute.

EM indicates that pages 2, 3 and 4 are approvable tonight.

P. Herr will change it to add the 9 month planting time.

B. Lord refers to the filing time and asks if the clock starts when the Board receives the submittal in the mail or at the next public hearing. He refers to problems created when there are 5 weeks in a month.

P. Herr states that the timing may be dictated by statute. He is not sure. It would be just like not acting if 45 days passed.

B. Lord states there is no time limit on the statute.

EM states that failure to act does not give someone permission to cut down the trees.

B. Lord believes they may be able to imply a decision by not acting. They should establish a time frame which can be met. He suggests they set it at 60 days or at the next Planning Board meeting.

EM states the Chairman sets public hearing times with the Clerk. It does not have to be at a meeting.

Tom Palli explains that he has been involved in the Public Shade Tree Law since 1981. There is nothing but confusion. Public Shade Tree Law, Section 5 says nothing about the removal of trees which endanger others.



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P. Herr states that if a town wants to widen a designated scenic road, they have to go through the processes.

T. Palli states that the electric company used to trim the trees. Now that it is designated as a scenic road, they will not do anything on it. They think that no one is able to touch the roads ever. This bylaw is not saying that.

R. Paulhus believes that this bylaw protects the town from contractors to maintain the trees.

T. Palli questions how the Planning Board rules become a town bylaw.

EM explains that the Planning Board adopts the rule in the Planning Board Rules and Regulations. The Town Meeting will adopt the town bylaw which will be enforced by a designee.

P. Herr states the bylaw will have the \$300.00/day penalty which will be an inducement for enforcement as a town bylaw which will not be in the Rules and Regulations. Also, the strength of the Town Meeting vote will be behind the bylaw. The Town Meeting should be allowed to say it is a reasonable rule. That is where the \$300.00 penalty comes in. The Planning Board can not have a penalty in the Planning Board Rules and Regulations. Also there is no comment in the Rules and Regulations regarding the Building Inspector being the enforcer. The Town Meeting designates that. There is really no substantive difference between the two. The bylaw has better enforcement.

T. Palli refers to Section 3.3 referring to the Tree Warden. He believes the scenic road bylaw should be close to what Mr. Paulhus is doing. If someone has a question at a public hearing, the Tree Warden should be there to answer it.

R. Paulhus indicates that ^{if} he is unable to attend a meeting, his deputy Tree Warden could attend in his place.

T. Palli believes the Public Shade Tree Law and Scenic Road Law should come together.

B. Lord remarks that they can not be consolidated because they are two separate laws by nature.

R. Paulhus has no problem with the numbers shown for replacement.

EM makes a motion to adopt the scenic road regulation on pages 2, 3, 4



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and send a letter to the Board of Selectmen to sponsor a bylaw for a scenic road bylaw.

EN questions who will pay the cost of advertising. He indicates that there should be a fee schedule.

EM indicates that the contractors will pay.

JM questions who will pay for the public hearing advertising if a town agency is the applicant.

EM responds that it will come out of the Planning Board budget.

AM seconds EM's motion to approve the scenic road regulation. Vote of 5.

JM thinks there should be an additional fee.

EM believes that could be drafted into the next step. They could do that on the bylaw.

EM makes a motion to notify the Board of Selectmen that there is a new proposed scenic road bylaw drafted which the Planning Board would like to get on the Town Meeting in the Spring. EN seconds. Vote of 5.

P. Herr is not sure if they would want to have fees. There is a problem in other communities regarding nonrespect of the bylaw. He questions if putting a fee on would be counterproductive. It induces one to cut trees without coming in.

P. Herr explains that the Planning Board now has Subdivision Regulations, Procedural Rules and the new Scenic Road Rules. The Regulations which were just approved will go in the Scenic Road Rules. He will send in a package.

SHOPPES AT CITY LIGHTS

SPECIAL PERMIT - MAJOR COMMERCIAL COMPLEX

DISCUSSION REGARDING DECISION

B. Lord passes out draft decision. They had discussions with P. Herr and Denis Fraine regarding roadway improvements. They established a cost basis for doing that. They are coming before the Board for input and a final decision. Section 4 refers to differences in the cost areas. Section 4.2, page 3 refers to the fee which they used - the square foot method. P. Herr used the traffic method. The square foot method is a simpler way to determine it. The rate would be \$2.50 per



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square foot which comes out to \$700,000.00. P. Herr's method comes out to \$2.2 million. Section 4.2 refers to the time of issuance of this fee at the time they receive the certificate of occupancy. P. Herr's method shows the time of issuance of the fee at the time of the building permit. Impact to the town is at the point of occupancy, not when they get the building permit. It is cost savings for the developer. Section 4.3 indicates that more than one developer is paying for the project. One developer will be allowed to compensation back from the second developer.

P. Herr passes out a memo regarding Shoppes Special Permit Considerations. All the questions in the decision are in Section 4.2. Other differences in language are trivial. The question is whether or not the \$1.50 per square foot is the right number using the floor area instead of trip generation. There is an inflation factor to consider. The other question is if the fee should be paid at the time of building permit issuance or not. He believes that using the floor area is the better method because the buildings could be used for warehouses instead of retail. If that is the case, the fee which the town would collect would go down. He does not think it would hurt to go with the price per square foot. The question is whether the \$1.50 is right. The issue is for them to pay their share of the costs for improvements to Rt. 126. They have to pay their share of the traffic capability which result from their project. That comes out to \$1.50 per square foot. It represents 11% of the total traffic capacity. They should therefore pay 11% of what the improvements will cost. The issue is that that will not get the road built. Stallbrook, Shoppes and Nordblom represents one-third of the improvements. The question is where the remaining 2/3 of the improvements will come from. They would like to be able to take the full costs of the improvements and divy it up to each of the 3 developers. Technically, the town would be reaching too far. They can do \$1.50 per square foot but not \$4.50. They can charge the \$1.50 but nothing will happen. He discussed this with D. Fraine. If this developer pays \$1.50 per square foot, that would be more than anyone else has paid. This developer's financial situation is not robust. However, he will not accept not having an inflation factor. He thinks this is a situation where the special permit will sit on the table for years. It inflates \$1.50 to track increases. It is critical that the fee is paid at the time of the building permit issuance. The road should be improved before the building is done. Otherwise there will be no liquidity. If the permit is not utilized, they will get the money back. If the road improvements are not done, they will get their money back.

B. Lord states that as long as the money is acceptable to the town, they are acceptable to this. The inflation factor is built in. The



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money will be in an interest bearing account and if returned, it should be returned with interest.

P. Herr states there is another issue. If 2/3 of the cost for the road improvements get paid from property taxes and these people help pay for that, they would be double paying. This has been found to be improper in courts across the country. This would be impacting an array of roads other than Rt. 126 which this developer would not be paying for, so this may balance out. He will proceed to revise the language one more time. A new clean draft will be sent to Town Counsel, D. Fraine and Planning Board members to read in advance of a meeting. If they came in right now, the fee would be \$630,000.00.

EM questions what happens if the parcel gets sold. Someone would go to the Building Inspector for a permit and he would not know to collect the money.

P. Herr points out that this proposal has to come back for Development Plan Review.

B. Lord states that they will make improvements required by the B. Campbell plan.

P. Herr refers to Section 4.2 providing the equivalent in kind services.

Janice Hannert indicates that refers to improvements for the road.

P. Herr states that this developer owns the intersection of Rt. 126, but if they go down the road, then it will generate in-kind services for improvements.

B. Lord states they want the work done to have a relationship to the person making the payment.

P. Herr explains that means the town can not take their money and use it for other road improvements.

EM questions who decides what \$200,000.00 worth of road improvements is.

P. Herr responds that the Town Engineer would do that. There is always a cost estimate before it is done.

MAIL/correspondence



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GG reads letter from Westinghouse regarding an invitation to a barbeque on Saturday, September 29, 1990, from 12:00 - 6:00 p.m. to celebrate 50% completion of the co-generation plant.

EN makes a motion to accept the minutes of September 13, 1990 with a note to change the surname Ridley to Regely. EM seconds motion. Vote of 4.

B. Lord requests a continuance for Riverview Park, Phases 1, 2, 5 and Lakeview to January 24, 1990 at 8:00 and 8:30 p.m.

GG instructs Clerk to send a letter to Town Counsel asking what the procedure is to take a bond when the time has expired.

GG also instructs Clerk to send letters to all developers whose bonds are out of date informing them that the Planning Board is considering taking their bonds. Unless improvements are completed by the next meeting, the Board will initiate action to claim the security at the October 25, 1990 meeting. The Board recommend they complete the improvements or come to the October 25, 1990 meeting to discuss their situation.

Clerk informs Board that a resident of Empire Circle has called asking if the town can take the bond since the developer has not completed the road. According to our files, the developer has until December to complete the work.

GG instructs Clerk to send a letter to Hyper Realty Trust asking what their intentions are concerning Empire Circle.

Meeting adjourned at 11:05 p.m.



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Glenn E. Gerrior, Chairman

Edward T. Moore, Vice-Chairman

Emile W. Niedzwiedek

Anne M. Morse

John P. Murray