

Saugus Board of Selectmen
November 18, 2008

The Saugus Board of Selectmen met on November 18, 2008 at 7:30 PM in the Town Hall Auditorium, 298 Central Street. Present were: Selectmen Stephen Castinetti, Stephen Horlick, Michael Kelleher, Peter Rossetti Jr. and the Chairman Donald Wong. The Town Manager Andrew Bisignani was also present.

Invited guests: Pastor Leahy

Reverend Martha Leahy, First Congregational Church was present and thanked the Board for the invitation. Mr. Castinetti announced that last Sunday she was ordained a Reverend and congratulated her. Board Members welcomed her and wished her well.

Approval of minutes:

October 28, 2008:

Mr. Rossetti moved to approve the minutes. Chair seconds. Vote: 5-0.

October 21, 2008: Mr. Castinetti asked why the minutes were tabled. Mr. Horlick said because it is a show cause hearing. Mr. Rossetti said the DA's Office said it may be a potential violation. Mr. Horlick asked if minutes were tabled in the past. Their clerk said only executive session minutes.

Mr. Rossetti moved to approve the minutes. Mr. Horlick added: with video as back up. Mr. Rossetti said after speaking with the Secretary of State, they cannot use it as back up because the Board doesn't own the broadcast. The Chair asked if they wanted to check with legal adviser. Mr. Horlick said Town Counsel never objected in the past, but withdrew his amendment to the motion. Chair seconds. Vote: 5-0.

Continued Hearings:

Helen McCarthy, 0 Rear Pennsylvania Avenue, for Special Permit for contractor's yard.

Lawrence Beals, Beals Associates was present and explained the public hearing was continued and did provide information requested and understands the concerns of all of the clean up of the site and explained the mitigation work and passed out copy of most recent report. And noted removal of solid waste and the remaining work is substantial and if not done to DEP satisfaction, DEP will do it and said he is present on application for use and it has been used as a contractor's yard since the 80's and is trying to bring the property into compliance and understands the concern with the clean up, but doesn't feel the granting or denying of S-2 will effect it because the clean up must be done regardless and asked the Board for decision if this use is appropriate. Mr. Rossetti asked if the property is in foreclosure. Mr. Beals said no. Mr. Rossetti said it was listed in Banker Tradesman. Mr. Beals said it may not be this property. Mr. Rossetti asked if portion was sold. Mr. Beals said yes and described 3 acre lot to Crystal Trucking. Mr. Rossetti asked if there's an easement. Mr. Beals said yes. Mr. Rossetti asked number of contractors on site now. Mr. Beals listed 3. Mr. Horlick said the land sold for over \$600,000 and his letter says the clean up is in excess of ½ a million. Mr. Beals said it was used toward cost. Mr. Horlick asked about left side dirt hill with landscaper and asked why they continue to do this. Mr. Beals said the road has been there for 20-30 years and there was a trailer up there and a substantial amount of solid waste and the dumping is screened material and the landscaper has some material used in his business. Mr. Horlick said no business was there a year ago and the Building Inspector is concerned with businesses popping up there. Mr. Beals said the site has been used as a contractor's yard for many years and because of the recent decision of the Building Inspector he is here and all businesses there have been there on site prior to 1 year and would assume its an acceptable use, no new businesses he is aware of and noted Vanguard Trailers are Permitted for. Mr. Horlick

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said the site is a mess and saw business activity from site visit. Mr. Kelleher asked he show site and asked if he is asking to have areas continue as they are now. Mr. Beals said yes and he did file with the application a plan showing the parcel within the parcel with parking plan as required and said the rest of the parcel is unaccessible. Mr. Kelleher asked about vehicles. Mr. Beals said he provided a list to the Board. Mr. Kelleher asked if they are looking for expansion. Mr. Beals said the applicant is actively marketing the property and wants the clean up and wants to allow the continued use. Mr. Kelleher asked if the parcels are granted a contractor's yard, if permitted, would it be as is with any expansion to come back before the Board. Mr. Castinetti said he disagrees with his statement the clean up wont happen any faster and said he feels there is a lack of performance, slow compliance. Mr. Beals said they have done a tremendous amount of work and depleted resources and said the controlling party is DEP and they will decide if the property is clean and said the contractors are a cash flow for clean up. Mr. Castinetti said he is not comfortable that it will get done. Mr. Kelleher said it is under an ACO with DEP and they monitor and if not done to their specifications in the time frame they establish, then DEP will do the work and charge the land owner. Mr. Beals said yes and said he speaks with DEP regularly and they recognize the situation they're in. Mr. Kelleher said there is concern with allowing them to continue to operate and if deny, those business must find new locations and on the other hand in a short time frame he wants to see progress. Mr. Castinetti asked what are their options. Mr. Kelleher said a 3 month Permit subject to renewal and said DEP wont let go and they need cash flow to continue clean up. Mr. Rossetti said the foreclosure issue concerns him because the Permit goes with the property. Mr. Kelleher said that's why he suggested limiting to 3 months to protect the business there and will expire if not come back/not renewed. The Chairman said he went on a site visit and the Building Inspector was there and said it is hard to communicate and doesn't want to do for them if they don't cooperate with the Town. Mr. Kelleher said its incumbent on the Board to act. Mr. Castinetti said the Building Inspector made it clear he is not getting cooperation from anyone there. Mr. Kelleher asked about 1 month. Mr. Rossetti said 1 month is not realistic. Mr. Kelleher not for clean up, but is incumbent on landowner to cooperate. The Chairman asked why grant now and said they should work with the Building Inspector. Mr. Rossetti said the Building Inspector did file action.

Mr. Horlick moved to table the 7:45, 7:55, 8:05 & 8:15 public hearings. Chair seconds. Vote: 5-0.

Mr. Kelleher said its incumbent on the Board to grant or deny. Mr. Castinetti agreed and said he's not looking to put anyone out of business, but he expects to see more response to Depts. in Town. Mr. Kelleher said to send a message to get tenants in compliance. Mr. Beals said he will follow up with the Building Inspector. Mr. Rossetti said he doesn't see the purpose in granting 1 month permit. Mr. Horlick said the Building Inspector had concern with no utilities or sanitary facilities. Mr. Beals said the S-2 is for use. Mr. Kelleher said if not permitted they must evict all from the land. Mr. Rossetti said if they do vote to grant they wont vacate. Mr. Kelleher said grant or not grant.

Any in favor or in opposition? None.

Mr. Rossetti moved to close the hearing. Chair seconds. Vote: 5-0.

Mr. Rossetti moved to deny. Chair seconds.

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Roll call vote: Mr. Castinetti, yes; Mr. Horlick, yes; Mr. Kelleher, no; Mr. Rossetti, yes; Mr. Wong, yes. Vote to deny passes 4-1.

Continued Hearings:

Crystal Kimball Lane Real Estate Trust, 0 Rear Pennsylvania Avenue, for contractor's yard.

Attorney Richard Magnan, 320 Central Street was present and explained the hearing was continued for site visit to clear up confusion of the properties and said he feels this is an accessory use and the Building Inspector now agrees and requests to withdraw petition. Mr. Horlick said the main business is in Wakefield and 2 separate parcels and would feel better with S-2. Atty. Magnan said the application is for contractor's yard and it is not. Mr. Castinetti said based on the site visit with Building Inspector an opinion is not needed and will support to withdraw.

Mr. Castinetti moved to allow petitioner to withdraw without prejudice. Chair seconds. Vote: 4-1 with Mr. Horlick voting in opposition.

Mr. Kelleher moved to request opinion from Town Counsel to support this use as an accessory use. Chair seconds. Vote: 5-0.

The Chair excused himself from the table and passed the Chair to Vice Chair Castinetti and left the room.

7:45 Church St Creole Café, Inc. d/b/a Border Café, Frank Imbergamo, manager for new location of All Alcoholic Common Victualer's License & Entertainment License from 819 Broadway to 356 Broadway.

Attorney Richard Magnan was present and explained site at Shops at Saugus, seating, floor plan, parking plan and said liquor to food ratio will be 72% to 28% and hours and days the same, same entertainment of 4 televisions, number of employees and said regarding comments from departments that the money owed can be condition. Mr. Kelleher said it will be almost the same as existing. Atty. said yes. Mr. Horlick asked number of bar seats and dining seats. Attorney said 234 dining and 41 bar with a total of 275.

Any in favor or in opposition? None.

Mr. Kelleher moved to close the hearing. Vice Chair seconds. Vote: 4-0.

Mr. Kelleher moved to grant change in location. Mr. Horlick added: with same restrictions on current licenses hours of operation 8:30-1:30AM Monday through Saturday & 11AM to 1:30AM Sunday; and seating limited to 234 dining and 41 bar with total of 275 seats. Vice Chair seconds. Vote: 4-0.

The Chairman returned to the table.

7:55 Garden Nails & Spa, 358 Broadway, for Special Permit (S-2) to allow manicures, pedicures, facials and waxing.

Mai Phung, engineer was present with petitioner and passed out floor plan and explained the petitioner owns 2 other nail salons and regarding the Health Dept. comment, they do not have hot tub or tanning booths and hours of operation 9:30AM to 8:30PM and 11 to 6 on Sunday with 7 employees. Mr. Horlick asked number of stations for waxing & facials. Mr. Phung said there are 2 rooms for waxing.

Any in favor or in opposition? None.

Mr. Horlick moved to close the hearing. Chair seconds. Vote: 5-0.

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Mr. Horlick moved to grant the request with conditions: no hot tubs or tanning booths; waste must be properly stored and disposed of; hours of operation 9:30AM to 8:30PM Monday through Saturday and 11AM to 6PM on Sunday. Chair seconds.
Roll call vote: Mr. Castinetti, yes; Mr. Horlick, yes; Mr. Kelleher, yes; Mr. Rossetti, yes; Mr. Wong, yes. Vote: 5-0.

Mr. Castinetti moved to take the 8:05 public hearing off the table. Chair seconds. Vote: 5-0.

8:05 To amend the Town's Traffic Rules & Regulations ARTICLE VI "One Way Streets" by designating one way traffic on Jaffrey Street in an easterly direction from Howard Street to Lynn Fells Parkway and to post "Do Not Enter" sign at the east end of Jaffrey Street.

Lt. Swezey explained the request and said it is a small narrow street and a short cut that causes safety hazards and the best solution is to post one way traffic.

Any in favor or in opposition? Elias & Lillian Elkhaouli, 6 Jaffrey Street were present in favor.

Mr. Castinetti said he supports this also because it is an extremely narrow street and people fly to avoid traffic. The Chair said he supports this also for safety reasons. Mr. Rossetti concurred.

Ms. Cannistraci, 98 Lynn Fells Parkway, in favor and said her concern is the hill and maybe the one way should go in the other direction.

Mr. Castinetti moved to close the hearing. Chair seconds. Vote: 5-0.

Mr. Castinetti moved to amend the Town's Traffic Rules & Regulations by designating Jaffrey a "One Way" street and to post signs. Chair seconds. Vote: 5-0.

Mr. Castinetti moved to take the 8:15 hearing from the table. Chair seconds. Vote: 5-0.

8:15 To amend the Town's Traffic Rules & Regulations ARTICLE V "Stopping, Standing, Parking" by designating two hour parking from 8AM to 6PM except on Sundays where one hour parking currently exists on both sides of Jackson Street from Essex Street to Bond Place.

Mr. Castinetti explained the original request was brought up by a business owner on Jackson Street and he has received many calls that the one hour parking is sufficient for the types of businesses on the street and will support no changes. Lt. Swezey said parking is an ongoing issue on Jackson between residents and businesses and the consensus is to leave well enough alone. Mr. Rossetti said he is in agreement with one hour and said two hour was put in the area to accommodate beauty salons, but this location has plenty of parking that's not limited also. Lt. Swezey said the MBTA riders leaving their cars all day there's no solution yet.

Any in favor or in opposition? Diane Walsh, 6 Bond Place, said the problem is its not enforced and would like no parking on the church lot side and is opposed to 2 hour parking and said Bond Place is suppose to be 1 hour parking, but the signs are gone.

The Chair said they will ask the parking enforcement officer to enforce it. Mr. Castinetti said he has already spoken to both.

George Moriello, 6 Cliftondale Ave., said 2 hour parking isn't necessary, but asked for two spaces at the bend.

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Mr. Rossetti said the Clifftondale Merchants Association put together a plan to try to keep commuters from using spaces all day and looked at all options and agree 1 hour is sufficient. Lt. Sweezey said he will look into the 2 spaces.

Mr. Castinetti moved to close the hearing. Chair seconds. Vote: 5-0.

Mr. Castinetti moved the Board not change and keep the 1 hour parking as is. Chair seconds. Vote: 5-0.

CORRESPONDENCE

1.) Mr. Harris re: request for reappointment as constable.

Mr. Castinetti moved to reappoint Al Harris as constable. Mr. Horlick asked if CORI was back. Their clerk said it was fine. Mr. Rossetti said Mr. Harris had another commitment this evening and will attest to his character. Chair seconds. Vote: 5-0.

2.) Town Counsel response re: Wheelabrator request for temporary use of Ballard St.

Mr. Castinetti said the Board asked for opinion and basically the Board cannot prohibit use and read and said to request, they must go through Mass Highway. Mr. Rossetti said the Board received additional correspondence regarding Aggregate Industries and feels the issues are related and the Manager has offered his services to meet with the parties and discuss and work it out. Mr. Kelleher said he disagrees and said we have an agreement and is not in favor of accommodating them. Mr. Horlick said Ballard Street will be pummeled and should stay with original agreement. Mr. Castinetti said the agreement is more like a gentleman's agreement and sounds like it doesn't have teeth to enforce and it makes sense to try and work it out. Mr. Kelleher said the agreement is official. Lt. Sweezey said the amount of traffic will expand there and to voluntarily ask for alternative routes are ok, but if we say no the process is it is incumbent on us, the Town, to do a traffic study and submit to the State with a plan of alternate routes and feels you will move a problem from one neighborhood to another, and alternate routes have to be within a distance, and free commerce and trade, and businesses pay taxes to use roads and Chapter 90 money is provided for roads etc. and said our society relies on goods and services. Mr. Castinetti said alternate route would be through Revere. Mr. Rossetti said that was the purpose of suggesting a meeting, but if the State will do the traffic study, and maybe if we talk, maybe compromises and said keep in mind the State can overrule the Town and feels we can get more by negotiating. Mr. Kelleher said he doesn't think 107 is inconvenient for RESCO, but Ballard Street is inconvenient for Saugus. Mr. Horlick said trucks are being pushed through neighborhoods on Fellsway, no trucking, but Swampscott to Lynn and Lynn to Saugus. Lt. Sweezey agreed there is a storm coming but there are certain procedures that must be followed and said remember that other vendors use that roadway. Mr. Kelleher said he is not suggesting changes and said RESCO asked the Board for temporary relief and is not in agreement with that. Mr. Rossetti asked about Aggregate and said the Manager has met with them and he is offering to broker a meeting to discuss it. Mr. Kelleher said RESCO requested relief and they must come before the Board. Mr. Rossetti said they are both traffic issues. Mr. Kelleher said the Manager can do what he does, but he will not negotiate with RESCO. Mr. Castinetti said it's a lot better to talk with them based on the circumstances. Mr. Kelleher said RESCO states they can't use 107 and said they can, its just inconvenient. Mr. Rossetti said we need to open discussions with Aggregate and RESCO and maybe the State will mitigate. Mr. Kelleher said to clarify that he is not going to vote and does not want the Board negotiating with RESCO. Mr. Castinetti said it

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is incumbent on them as Traffic Commissioners to be involved. The Chair agreed they should be involved. Mr. Rossetti said planning for the future, possibly public hearing with in put from community. Mr. Kelleher said he's not opposed to that.

Mr. Kelleher moved to place it on correspondence on a future meeting. Chair seconds. Vote: 5-0.

3.) Town Counsel response re: 173 Main Street S-2 Permit.

Mr. Kelleher said no action is needed. Mr. Rossetti read and asked if work has been done at the site. Their clerk said demolition and leveling the lot was done.

Mr. Kelleher moved to take correspondence under advisement. Chair seconds. Vote: 5-0.

4.) Mr. DiNardo re: Town issues.

Al DiNardo, TMM, 199 Essex Street, thanked all regarding handicapped ramps and said the issue he wants to discuss is the extension of the Manager's contract. Mr. Rossetti said this may be executive session topic. Mr. DiNardo said, no, he wants to discuss the process, that the Board should have given notice to the public. Mr. Kelleher said the Manager is a contracted employee. Mr. DiNardo said he is asking for more information on where we are going, what issues will be met and reminded the Board there was an upheaval last year with a message that people want change. Mr. Kelleher said he is comfortable where we are going. Mr. DiNardo said the contract supersedes 2 elections and if there's a financial change would like reasonable notice. Mr. Rossetti said notice of change is through the budget process. Mr. DiNardo asked what's the 5 year plan. Mr. Rossetti said there's a 10 year plan for sewer and plans, all plans are subject to funding. Mr. Horlick said the last time the Board extended the Manager's contract he asked it be extended and discussions were held in executive session, but he didn't ask the Board this time, the Board just offered, it's a different set of circumstances. Mr. Kelleher said the Manager was not aware. Mr. DiNardo said the people voted for major change and asked how that message permeates to that office. Mr. Kelleher said he talks to the Manager. The Chair said we are more unified and help work together. Mr. Kelleher thanked him for coming.

5.) Collector / Treasure's report on delinquent License / Permit Holders.

Their clerk requested the Board call a show cause hearing for the purpose of non payment of taxes and fees for more than 12 months.

Mr. Castinetti moved to schedule a show cause hearing on December 16. Chair seconds. Vote: 5-0.

The Chairman thanked those that took part in the Veteran's Day Parade and said Friday 21st heating fuel seminar. Mr. Kelleher said the date has changed. The Chairman announced Friday is Mr. Castinetti 60th birthday and officially retired from the Navy, and said November 28th is SHS Sports Hall of Fame Banquet, and 29th is curbside leaf collection week, and license renewals are due by November 30th, and the tree lighting ceremony will be Friday, December 5th.

Manager's report

- said the Collector / Treasurer sent Board letter regarding the Mass Water Pollution Abatement Loan and explained it was approved by Town Meeting.

Mr. Rossetti moved as presented by the Collector / Treasurer:

VOTED: (1) That the Town shall issue a bond or bonds in an aggregate principal amount not to exceed \$1,365,625 (the "Bonds")

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pursuant to Chapters 29C and 44 of the General Laws and votes of the Town passed May 21, 2007 (Articles 20 & 23), for construction of sewers and other water pollution control facilities (the "Project");

- (2) That in anticipation of the issuance of the Bonds the Treasurer is authorized to issue an interim loan note or notes (the "Notes") from time to time in an aggregate principal amount not to exceed \$1,365,625;
- (3) that each Bond or Note shall be issued as a single registered security, and sold to the Massachusetts Water Pollution Abatement Trust (the "Trust") at a price determined pursuant to the Loan Agreement;
- (4) that the Treasurer is authorized to determine the date, the form, the maximum interest rate and the principal maturities of each Bond and Note, and to execute a Loan Agreement or Agreements with the Trust with respect to the sale of the Bonds and Notes, such date, form and maturities and the specific interest rate or rates of the Bonds and Notes to be approved by a majority of the Board of Selectmen and the Treasurer and evidenced by their execution of the Bonds or Notes;
- (5) that all action taken to date by the Town and its officers and agents to carry out the Project and its financing, including the execution of any loan commitment or agreement by the Treasurer, are hereby ratified, approved and confirmed; and
- (6) that the Treasurer and the other appropriate Town officials are each hereby authorized to take any and all actions necessary and convenient to carry out the provisions of this vote, including execution and delivery of the Loan Agreements and the Project Regulatory Agreements relating to the Project

Chair seconds. Vote: 5-0.

- Mr. Horlick said for the public to know the interest rate at 1.22% is a great rate.
- Reminded that December 13th the compost site will close for the winter.
 - Reminded that the winter parking ban is in effect.
 - requested the Board accept donation of \$5,948 from RESCO for youth risk survey.

Mr. Castinetti moved to accept the gift of \$5,948 from Wheelabrator for a youth risk survey. Chair seconds. Vote: 4-1 with Mr. Kelleher voting in opposition.

- announced the tax classification hearing will be held on November 25.

Member's motions

Mr. Castinetti: asked Manager for update on Hitching Hill Road wall. The Manager said a court hearing was today and the court showed concern and said the mortgage company and engineers agreed to get together to find a common solution and have until December

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9th to report to the judge, but in the short term, he has completed survey & design of crash fence and will get quotes and hopefully underway after Thanksgiving. Mr. Castinetti said the neighbors have granted access to their properties.

- said Veteran's Day parade was a huge success and it was touching to see little kids with thank you signs and it was a great turnout and said the Veterans do speak at the schools and went to the middle school which held one of the best ceremonies and did an outstanding job and they raised \$400 for flag holders and Lynnhurst raised \$285 and Mike's Barbershop raised \$1,041 and thanked all that donated.
- said the Board received 3 applications for Harbormaster and asked to set interviews. The Board will interview on Nov. 25 at 7PM.

Mr. Rossetti: said the senior center is working with Triad programs people should be aware of.

- said Saugus.net ghost story contest winners are:
- congratulated the Town Clerk on election.
- said the former Chair was in contact with the Manager regarding MAPC project and will keep us updated.
- asked Manager to look into brook cleaning request.
- said Friends of Breakheart are collecting coats and have a drop off there.

Mr. Kelleher: said the heating fuel seminar has changed to December 5 at 9AM.

- thanked the Board, FinCom and Town Meeting for funding the senior center.

Mr. Kelleher moved the Board vote to request the Manager work with Saugus Community Television for a deserving plaque in honor of Joe Kennedy. Chair seconds. Vote: 5-0.

- commended the Town Clerk and staff for outstanding job.

Mr. Horlick: said at last meeting with Mass Highway regarding the Bly Bridge they said they would post notice of closing and he hasn't seen any signs or ads.

Mr. Horlick moved the Board vote to send letter to Mass Highway requesting they put notice of bridge closing on cable and local newspapers. Chair seconds. Vote: 5-0.

Mr. Horlick moved the Board vote for the record opposed to any toll increases and send to State Delegates. Chair seconds. Vote: 5-0.

Mr. Horlick moved to send letter to State Delegates in opposition to proposed gas tax increase. Chair seconds. Vote: 5-0.

- thanked for support regarding shell fisherman aide and \$5 million was granted.
- thanked Town Clerk and staff.
- thanked everyone for Veteran's Day parade.
- asked send request to Special Counsel on update regarding Tabu hearing.
- said the Board received letter from PEG.

Mr. Horlick moved to advertise vacant position. Chair seconds. Vote: 5-0.

- asked at next special or annual to address dam issue. The Manager said he doesn't have cost yet, but survey & design and then get cost.
- asked about police cadets that didn't make it through the academy. The Manager said it is being dealt with.
- said the Board received response from Town Counsel regarding earth removal and want them to come in for a hearing.

Mr. Horlick moved to ask Zoning Officer why permit not needed. Chair seconds. Vote: 5-0.

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Mr. Horlick moved to invite JIN in to discuss / address security. Chair seconds.
Mr. Kelleher said he doesn't believe enough to bring in and can't support.

Mr. Horlick moved to send a letter requesting they respond to what happened at JIN. Chair seconds. The Chair said they need recommendation from the Chief first. Mr. Castinetti explained what happened at JIN and said based on the circumstances he can't support. The Chair said they would need police report. Mr. Kelleher said all licensees must be held to the same standards and the police handle individual incidents. Vote 1-4 with Mr. Castinetti, Mr. Kelleher, Mr. Castinetti and Mr. Wong voting in opposition.

Mr. Kelleher moved to adjourn. Chair seconds. Vote: 5-0.

Meeting adjourned at 10:54 PM.

Respectfully submitted,

Wendy Reed, Clerk