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TOWN OF CHARLTON
Minutes of Special Selectmen's Meeting
Tuesday – February 10, 2015 at 6:30pm
Charlton Middle School

Present: Chairman – Frederick C. Swensen, Vice-Chairman – Joseph J. Szafarowicz, Clerk – Cynthia B. Cooper and Members– David M. Singer and John P. McGrath. Also present: Town Administrator - Robin L. Craver.

1. Call to Order. Chairman Swensen called the meeting to order at 6:30pm. He wanted to make it clear that this is NOT a public hearing. It's an informational session. He explained the process when a project comes in to the Planning Board, they provide a copy to the Board of Selectmen to review and provide comments. That's what this meeting is for. He also clarified that the Board of Selectmen has no authority to say yes this project can go forward or no it cannot go forward. That authority lies with the Zoning Board and Planning Board. The Board of Selectmen can offer thoughts and comments on the project. Chairman Swensen stated that the Board of Selectmen would like to hear what all the residents have to say and that they will all have a turn to speak but he would ask that each person is limited to no more than two minutes.
2. Sunset City discussion – Mrs. Craver stated that at the January 6, 2015 Board's meeting, many residents of Charlton and Sturbridge attended with concerns regarding the site plan application for Sunset City, Phase 1. As you know, this request is for a proposed 150-space campground and motor-cross recreation park with accompanying driveway access, parking lot and infrastructure on an approximately 150-acre site located southerly off of Brookfield Road and is zoned Agricultural (A) and is before the Planning Board for a site plan review. She was asked to gather information that would be helpful for the Board as you consider providing comments to the Planning Board as requested in their December 18, 2015 letter. Mrs. Craver stated that before she goes into the results of her research, she must tell you that a letter was dropped off at the office today around noon with 30 questions, many of them were 2, 3, and 4 part questions. She reviewed the questions and believes many of the questions will be addressed in the following report. She also said that many of these questions are more appropriate for the Boards they are asking about and that it would be improper for the Selectmen to comment on other elected Boards authority. This Board's authority to regulate or insert yourself into the Board of Health or Planning Board's deliberations is not within the Board of Selectmen's purview according to the Charlton by-law. Also, many of the questions in this letter should be asked of the applicant as our office would have no knowledge of such things as: employees; future plans; their planned mitigation in regards to other Boards' requests. As she will point out, the following Boards will be the appropriate town officials to answer questions such as:

Conservation Commission- wetlands, endangered species, aquifers, forest cutting, logging, wildlife

Planning Board thru site plan review- traffic, noise, road improvements, tree removal and replacement,

Board of Health – bathrooms, campgrounds, drinking water (along with DEP)

Owner- business plans, employees, how they advertise, what they call themselves, ownership issues

Assessor – tax values,
Library Trustees- displays at library
State Permitting Agency- campgrounds
Board of Selectmen- if requested: common vic license, liquor license, entertainment/amusement
(ie live music), automatic amusement (coin operated machines)
Fire Dept. – campfires, hazardous waste, EMS
Police- litter, speeding/traffic

Now, for the report, she also asked Building Commissioner Curtis Meskus to provide information and process as well as Town Planner Alan Gordon. Those comments are attached for the Board's review. Building Commissioner Meskus has provided his opinion that the project is appropriately zoned. There has been a challenge to that determination to the Zoning Board of Appeals. There has been one hearing, but no vote on the matter to my knowledge. Mr. Meskus is aware that questions regarding what, if any, zoning regulations found in the Code of the Town of Charlton (the Bylaw) apply to this proposed project. The above captioned property is located in an Agricultural (A) zone which requires 60,000 square feet of area, 175 feet of frontage, 40,000 square feet be free of wetlands in accordance with (IAW) § 200-3.1 D of the Bylaw, Intensity of Use Schedule. The property/project as submitted has approximately 320 feet of frontage and 150 acres and easily over 40,000 square feet of uplands, all over the minimum requirements. The plan submitted to the Planning Board shows proposed construction of a campground and motor-cross recreation park. The Bylaw, § 200-2.1 B; Use Regulation- Schedule use category Recreational Uses (4) line (h) "Camp grounds" is marked with a "Y", in addition, line (c) "Other recreation facilities conducted for gainful profit including indoor and outdoor theaters, physical fitness centers, health clubs, and indoor and outdoor tennis and racquetball facilities" is marked with a "P". The Bylaw §200-3.1 A; General shows; "Y" a permitted use, "P" a use whose use is subject to regulation by means of a site plan review and approval, "N" an excluded or prohibited use and "SP" a use permitted under special permit granted by the Planning Board. Given the above information, it is the opinion as the Zoning Enforcement Officer for the Town of Charlton, the campground activities are allowed by right and the motorcross recreation park is subject to site plan review by the Planning Board. The applicant in this case has submitted to the Planning Board the combined project of the campground and motorcross recreation park for site plan review, IAW § 200-7, 1, D, of the Bylaw for that board's review. During the site plan review process, copies of the plans are distributed to various Town Departments for those departments review and comment. As the Building Commissioner/Zoning Enforcement Officer, Mr. Meskus has submitted written comments in conjunction with the Fire Chief on some accessibility, fire department access and fire protection water supply concerns for the project. As the Planning Board's review moves forward, it is anticipated additional concerns may be brought up and previously stated concerns will be addressed. The applicant will also have to submit plans to the Conservation Commission for approvals as there are wetlands on the property. The Board of Health and/or Department of Environmental Protection has oversight of the potable water supply and sewage disposal regulations for the project. Before any structures are erected, a building permit application with review is required before a permit to construct any structures can be issued. This opinion is based on the information available and presented to Mr. Meskus and is subject to change, modification or review at any time in the future. It is the applicant's responsibility, in all ways, to insure that the proposed uses, modification and/or activities comply with the laws and regulations of any governing body. Mr. Meskus further states that this opinion does not constitute approval of any other board, agency, department or commission. You should obtain a Town of Charlton Permitting Guidebook and use that as a baseline for other boards or commissions that maybe involved in the project process.

Town Planner Alan Gordon provided a summary for how the site plan public hearing process will be conducted by the Planning Board for the ongoing Sunset City site plan application. He states that his points are essentially a summation and repeat of the explanation he verbally provided during the opening site plan public hearing session that was held on Wednesday, January 7, 2015. Mrs. Craver would like to re-state what these are for those residents that could not attend the meeting. Similar to other large-scale projects submitted for site plan review (i.e., the Overlook and Konover projects), the Planning Board will conduct a deliberate, lengthy and detailed site plan review process that will entail several public hearing sessions, scheduled on various Planning Board meeting agendas over a time period of many weeks and most likely several months. Various sessions will be devoted to specific technical design issues (i.e., traffic, noise control, civil engineering issues such as stormwater management, etc.). Administrative site plan permitting under Mass. State Zoning Enabling law, local zoning regulations and court appellate and Land Use Court decisions of many decades is clearly affirmed to be non-discretionary in nature. That means that any site plan-proposed land use in Mass. cities and towns is allowed in the Commonwealth Of Mass. by right, subject to the Planning Board reviewing specific design items for the site use. As such, the Board is not deciding whether or not the proposed Sunset City campground and motocross facility should be allowed or not. Planning Board authority is over site design specifics. More subjective issues such as concern over changing community/neighborhood character, concern over potential effect on property valuation, etc. cannot be taken into technical review account. All wetlands issues are required to be deferred to local Conservation Commission review. The opening January 7 site plan public hearing session consisted of a project overview presentation by the applicant's engineer, as well as Planning Board review of the initial civil engineering peer review report by the Board's peer review consultant, Michael Andrade, P.E. of Graves Engineering, mostly pertaining to site driveway design and stormwater management infrastructure design. The Board also noted written comments from Building Commissioner Curt Meskus and Fire Chief Cloutier commenting or asking questions on driveway design and site handicapped ADA compliance design. Future sessions of the hearing process will revisit these design issues via plan revisions to be submitted by the applicant's engineer. The second Planning Board site plan review public hearing session will be held on Wednesday, February 18 at 7:15 p.m. in the auditorium of the Charlton Middle School. That session will be devoted solely to discussion/review of the project traffic engineering report submittal. It will be reviewed on the Board's behalf by the Planning Board's peer review traffic engineering consultant. An electronic file version of the report will be posted as public information on the Town webpage and a print copy will be provided to the Town Library Circulation Desk for public reading. A future Planning Board public hearing session will be devoted solely to a noise analysis report to be submitted in the future to the Board by the applicant. That report will be reviewed on the Planning Board's behalf by the Board's noise engineering peer review consultant, who has professional experience analyzing noise analysis of proposed motocross recreational facilities. An electronic file version of the report will be posted as public information on the Town webpage and a print copy will be provided to the Town Library Circulation Desk for public reading. As the Planning Board and Mr. Gordon stated at the January 7 hearing session, the Planning Board is not the only permit-granting authority required to review this project proposal. The project requires Conservation Commission filing/review regarding wetlands and Board of Health will require both local Board of Health and state regulatory health review regarding rest facilities for both proposed site land uses, as well as showering facilities required for the campground. The State MEPA Unit within the Mass. Executive Office of Environmental Affairs confirmed to Mr. Gordon that the project as proposed does not trigger or require State MEPA review. Mass. Division of Conservation Resources (DCR) staff has spoken to Mr. Gordon at the prompting of area residents. While they have no regulatory

permitting review of the proposed project, they have requested and the Planning Board and Mr. Gordon have provided them with application information and maintain an ongoing, open communication with them.

Lastly, we received numerous letters with concerns from residents in Charlton and Sturbridge. The following is a list of some those concerns. Although some concerns have been addressed in Mr. Meskus and Mr. Gordon's information, she will restate :

Where does it allow for either for-profit commercial venues or for commercial enterprises that create noise? What are the state noise thresholds, and consequences for not meeting them?

The issue of noise will be reviewed by the Planning Board through the Town's site plan review process.

Another Board that deals with noise is the Board of Health.

The annual town meeting May 2013 proposed a Noise By-Law but was defeated. At present, Charlton has no Noise By-Law.

There were several questions relating to traffic and driveways. The concerns included: the project will cause increased traffic to the area; residents would like the Town of Charlton and Town of Sturbridge together employ a 3rd party comprehensive traffic study of Brookfield Road and Rte. 49, including all their contiguous roads in both towns; are there any traffic thresholds, either locally or state-wide? What are they? ; Where can residents see a copy of the traffic impact report submitted to the Planning Board?; Can driveways serve more than one business on a lot?; Who oversees driveways at road intersections in town? The next Planning Board hearing will be focused solely on traffic and as the Planning Board reviews all zoning requirements during the site plan review process, that would be the appropriate Board to refer these questions to.

There are concerns of possible decreased safety and quality of living such as air pollution.

Again, this is part of the site plan review process. It could also be something the Board of Health gets involved if a potential hazard to public health can be proven. Residents ask about reduced property values? The Assessors would be the department which residents could talk to regarding property value and things that would affect prices. She has been told that this was also a concern regarding the installation of the power plant, in the long run, it had no impact. Residents ask about the possibly of reduced revenue due to tax abatements. This would assume that values are reduced. Residents ask about the possible destruction of wetlands and potential contamination of well water supplies as well as possible damage to wetlands off of Ladd Road in Sturbridge, along Rt. 49 and Brookfield Road in Charlton. Risk to existing wetlands from fuel runoff, etc. The project will go before the Conservation Commission for review on all wetlands issues.

Damage to natural terrain in rural residential areas. Not sure what this impact or question means. All development will impact terrain, even the existing houses disturbed terrain when they were built. suppose it is referring to the present residents' appetite for further development.

The risk of damage to any prehistoric archaeological remnants, vernal pools, stone walls, endangered species and vegetation that may be discovered while stripping the land in order to clear and put tracks in for the motorsports. The project will go before the Conservation Commission for review on vernal pools and endangered species issues. If there are any known significance in the area about historical archaeological remnants, they should be referred to the Charlton Historical Commission or the MA Historic Commission. Mrs. Craver is not aware of any significance at this time. The disruption of wildlife currently living within the 400+ acres proposed site. The potential trigger to commercial re-zoning in the neighborhoods for what is now classified as a rural zoning. All questions or requests for zoning changes must be brought to Town Meeting for approval. The Town of Charlton has insufficiently addressed, notified and communicated with its residents and the Town of Sturbridge about the project's intentions and impacts since its preliminary discussions began with Mr. Jennings and Mr. Sellew fifteen months

ago. Mrs. Craver is unclear of this concern. It is her understanding that the Planning Board has met all of its advertising requirements since the application was filed and although some individual town officials may have known about the "potential" for a project, until there was an application, those officials could have created legal issues for themselves and the Town if they had brought the project forward to residents before there was action by the owner. The property is in Chapter 61. The owners of property in Chapter 61 have the right to remove it from the Ch 61 list with certain requirements. They may be liable for back taxes. This would be handled by the Assessors. The Board of Selectmen would only have right of first refusal if the property was being sold or conveyed. She has also received some phone calls regarding the process and why are the Selectmen holding a meeting when it should be presented through the Planning Board. The Board received a notice of a site plan application, as the process goes, for Sunset City from the Planning Board on December 18, 2014. Due to the holidays and lack of a quorum, the second regular meeting for the Selectmen was not held in December. The comments were due to the Planning Board no later than December 31, 2014. The Board was not able to review the site plan to see if they had any comments and are doing that now. It should also be noted that other permits may be required from other departments. If the applicant requires permits for serving food, alcohol or entertainment; those would be granted by the Board of Selectmen.

Mrs. Craver has given the Board much information and there is still considerable information and requirements to be made during the site plan review process. Many of the Planning Board's studies and hearings on specific areas such as traffic are not completed. She would recommend that the Board consider holding off on specific comments or recommendations until more information is provided.

Mrs. Cooper thanked Mrs. Craver for all the information she provided. She asked if there was a process for appeal for each of the board's listed. Mrs. Craver isn't comfortable answering that question as she doesn't know every board's process. Mr. McGrath stated that there is a way to appeal an administrative site plan by the Planning Board. Chairman Swensen opened the floor to the people present.

Ron Charette from 205 Brookfield Road came forward. He stated that the Selectmen are the overseers of the town and wants to know how all this can happen. He also stated that there is a display for this project over at the Library and wants to know why. Chairman Swensen stated that the Planning Board and the Board of Health are elected boards that report to the people not the Board of Selectmen. He stated that this is the first time he's heard of a display at the Library. Mrs. Craver stated that the Library Commissioners are also elected and Chairman Swensen stated that we can ask them.

Mrs. Craver gave some information on the government that we have and how it works.

Mr. Charette came back to the microphone and said the Board should be appalled that there are two boards in town that send out letters on behalf of the town and the Board of Selectmen are the overseers. Chairman Swensen stated that we have town bylaws to go by and the rules are in there as to how the town government will work. Chairman Swensen stated that the EDC is appointed and the board can ask them to explain.

Mr. Szafarowicz noticed a member of the EDC in the audience and asked if he would like to come up and explain about the curb cut as it would be helpful. The member would not like to talk at this time.

John Sanborn from 12 Jennings Road had copies of the letters in question that were sent by the Planning Board and the EDC on September 27, 2013 regarding Mr. Jennings permit application to develop a multi purpose recreational facility. These letters were sent to the Mass DOT – Highway Division.

Mr. Singer stated that he had a list of comments that he would like to send to the Planning Board. He stated that he would read them out loud but they will be changing because of information he has been provided.

Chairman Swensen stated that he owns a company and sells sound equipment. It makes noise. He was on a group that proposed a noise bylaw that was on town meeting and it was disapproved overwhelmingly.

Mrs. Craver stated that the board opened the warrant for Town Meeting in May if anyone in the room wanted to come and look at it and work on it.

Joanne Guering from 44 King Road is against this.

A resident from Hammond Hill Road came forward. She said she and her family rides motor-cross. They enjoy it and feel it would be great in town.

A resident from 44 Buffum Road came forward and said he's organized these rides in town before. They had 250 racers and there were no abutter complaints. You couldn't hear any of the noise.

Mr. McGrath stated that we've heard a lot of complaints and concerns on the noise and this is why the Planning Board has the applicant have their engineer do a noise study.

Robert Furrell from Brookfield Road has been a resident for 40 years. One of his concerns is the real estate property. He did some extensive research on line and said there will be effect on real estate values.

A resident from 45 Sunset Drive came forward and asked if she could ask Mr. Charette and his gang if they can say one positive thing about the plan. Mr. Charette stated that the first meeting they had with Mr. Jennings and Mr. Sellew, there were many positive aspects.

Mr. Charette stated that traffic on Brookfield Road is horrendous. It is only a 35 mph road and they speed. This project is going to add a tremendous amount of speeding and traffic.

Chief Pervier stated that he will be at the Planning Board traffic study meeting. He thinks what the people on Brookfield Road are looking for is some assurances that it will be more highly regulated.

Dawn Pettinelli that lives on North Sturbridge Road said they have a lot of traffic on that road and would like to see something done with that.

Mrs. Cooper stated that she had done a study and the speed limit being 35, all the calculations were done at that speed instead of 45 mph. She would request that some calculations be made at

45mph so if any issues arise from that, they can be addressed. Mr. McGrath stated that they do the study on what the speed limit is posted at.

Lisa Westwell from 107 City Depot Road came forward. She lives right around the area and has a lot of noise now in different directions but she blocks it out and feels that other abutters will be doing the same. She did recommend that any abutters should go to the Planning Board and request that they have set hours.

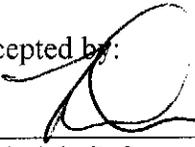
Ann Guyer from Sturbridge has an email from the New Hampshire Noise Coalition and wanted to read part of it because it talked about the Economic Development aspect of this project and the noise.

Chairman Swensen thanked everyone for coming out. He said he will be looking into the Library project display and the letter that was sent by the EDC. He will talk to the Assessors information on consequences of tax impact and if there was any impact from Millennium. There are two issues on Brookfield Road which is the traffic and the road itself. He is going to talk to the Board and Mrs. Craver and try to reach out to other towns that have a motor-cross to see what the effects are. Chairman Swensen stated that if anyone has concerns with traffic, noise, zoning or any that are real concerns, come to town meeting. Every resident has a right to participate at town meetings. Mrs. Craver told the Chairman that he mentioned this will be discussed at the next meeting and there won't be enough room for this amount of people. Chairman Swensen stated that the purpose of discussion next week will be to review the questions. It can be watched on the local cable channels.

3. Other Business (unknown at time of posting)
4. Adjourn/Executive Session. **Motion by Mr. Szafarowicz to adjourn at 8:17pm seconded by Mr. McGrath, motion carries.**

Submitted by:
Mary C. Devlin
Administrative Assistant

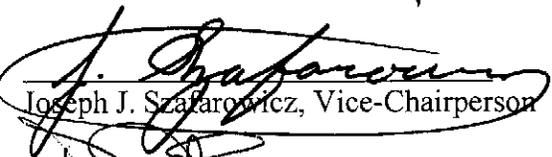
Accepted by:



Frederick C. Swensen, Chairman



Cynthia B. Cooper, Clerk



Joseph J. Szafarowicz, Vice-Chairperson



David M. Singer, Member



John P. McGrath, Member