

IN BOARD OF SELECTMEN  
WEDNESDAY, OCTOBER 29, 1997

Present: Chairman Lawrence L. Blacker, and Selectmen John C. Drobinski and Maryann K. Clark.  
Selectman Drobinski arrived late, having participated by speaker phone prior to arriving.

At 4:05 p.m. Chairman Blacker called to order a special meeting of the Board at the Fire Department Headquarters, 77 Hudson Road.

Bolton Property - 61B Matter

Present: Town Counsel Paul L. Kenny.

Following discussion with Town Counsel and concurrence by Selectman Drobinski upon arrival, it was the Board's determination that it would not be advantageous for the Town to pursue action under General Laws Chapter 61B concerning the Bolton property.

Therefore, it was on motion unanimously

VOTED: To direct Town Counsel to notify the Board of Assessors and appropriate parties that the Board of Selectmen will not pursue its right of first refusal to purchase the 25 acres off Willis Road, owned by the Mattie C. Realty Trust, as recorded in the Middlesex Registry of Deeds Book 4770, Pages 172, 174, 176 and 178, and shown on Town Property Map as Parcel E07-515, and to advise the Tax Collector to accept \$162,500 in conveyance taxes from said Trust.

Further, the Board asked the Town Manager and Town Counsel to let the Board of Assessors know the Selectmen will schedule a joint meeting of the two boards, if the Assessors desire, to explain their position and review Chapter 61 procedures with Town Counsel, and perhaps work on an amendment to the state legislation.

Long Range Planning Committee

Concerning the appointments to the Long Range Planning Committee which were not completed this past spring, the Town Manager was requested to contact members of the Committee for input and schedule the subject on the Board's next agenda.

Health Insurance

As a follow-up to the Board's October 27th meeting, Town Manager Steven Ledoux informed the Board that only one health insurance trust fund would be required to accommodate both Blue Cross and Harvard Community Health Plans.

Chairman Blacker expressed his concurrence with going forward with the Harvard plan, albeit he does not agree with doing so.

Meachen-Meggs Property

Present: Town Counsel Paul L. Kenny.

Town Manager Steven Ledoux informed the Board that since time is getting short, Town boards and officials and interested parties are eager to prepare for the Special Town Meeting and market the Meachen article, and need to know the Selectmen's position concerning use of the property.

Chairman Blacker stated his opinion that, when the Town started out on the project to buy the property, the intent was that it would be for open space, conservation, Town use, recreational use, or whatever use needed, but for the Town to own it all. Then, the option of a senior residential community (SRC) came up. It is Chairman Blacker's opinion that the primary concern - character/open space - can still be preserved, enough so that the cost savings outweigh the other benefits that may have come about by keeping the entire parcel. As a result he would ask the Town to support the purchase with the understanding we would come back with a request for an SRC by a developer that makes sense to Conservation Commission and to the esthetic considerations of preserving as much of the field as possible. In this way there would be time to tailor the development (and number of units) to the best interests of the Town and substantially cut the cost to the Town, depending upon how much land would be used for the SRC. This would make the article more salable as an alternative to Mr. Dionisi's "no cost" SRC proposal.

Responding to question by Selectman Clark as to why the Town is pursuing it if by both ways approximately 50% of the land is preserved (a requirement for an SRC), Chairman Blacker responded that a developer would have economic considerations and would not be required to build an SRC, and the developer might later opt for single family housing.

Further, to Selectman Clark's question concerning the possibility of a letter of agreement with the owner as to building an SRC, Chairman Blacker informed the Board that at a previous meeting with the developer this avenue was suggested; however, their proposal contained the provision that, if permits were not obtained to their satisfaction, they could revert to a 19-lot subdivision.

Selectman Drobinski agreed the issue was to be able to control what happens to the property.

Chairman Blacker further told the Board, at the meeting which had taken place, plans were presented for an SRC of 46 units on the near side and 7-8 units on the far side. He said a single septic system would be limited to 45 units, and the developer was satisfied with 45. The advantage of the Town controlling the property is that it does not have to maintain 45 units; it can sell less property for less money and make it feasible for fewer units to be built.

It was discussed that once Town Meeting has approved the purchase, the Town can begin negotiations with the owner and developer, and perhaps information would be available to the voters before the December 8 Special Election. Any re-sale of the land would need to go back to Town Meeting for approval, and full plans could be presented at that time. Such a sale would require compliance with the bid laws.

Chairman Blacker asked if he should advise the Conservation Commission Chairman that the Selectmen's position is to purchase the Meachen property to bring about an SRC on said land that makes sense and will cost the Town as little as possible or nothing.

Selectman Drobinski concurred but desired to qualify by adding: or if the Town wants to keep the land as open space or use for recreation (soccer fields), our intent is to do something like that. Chairman Blacker opined that stating too many options with no decision would make the Board look foolish. Selectman Drobinski felt the Board should have the more open approach in case positions are asked by boards such as Park and Recreation. Chairman Blacker responded he believed it was important to get all Town boards, in particular the Conservation Commission, Planning Board and Park and Recreation Commission, in concert with the goal of an SRC.

In conclusion, as no consensus could be reached on the full statement the Board wished to make, it was agreed to continue discussion of this subject at the Board's next meeting of November 10.

Town Counsel Interview - Paul L. Kenny

Present: Paul L. Kenny, Town Counsel.

Paul L. Kenny, 16 Wethersfield Drive, Andover, MA, 01810, current Sudbury Town Counsel, appeared before the Board for interview in response to the Board's solicitation of proposals for Town Counsel services.

Upon request, Attorney Kenny addressed the Board, stating he has concentrated in the field of municipal law and served as a Town Counsel since 1974 and became Town Counsel for Sudbury in 1976. In addition to representing Danvers and Sudbury, he has represented other towns in municipal and collective bargaining matters and currently serves as Labor Counsel for the City of Medford, a position he has held since 1983. He said there is virtually no area of municipal law he has not been involved in. His experience involves two landmark decisions concerning minimum manning and binding arbitration and appearance before federal, state and appellate courts and other administrative bodies for the Town. He has been called upon as a consultant by other towns and people in many areas of municipal law, including judges from Land Court regarding decisions.

Attorney Kenny opined that he provides a dedicated service that others would not give the Town, as he has only a small, private practice otherwise. He is familiar with the everything in Town and officials are comfortable with him and like being able to come into the office and get an answer the same day. He also knows how to get the parties together and gave examples. His presence and availability do not cost the Town; the only extra cost billed the Town is for litigation. He cited the instance where he appeared numerous times before the DEP concerning the Landfill without charge to the Town and was able to obtain favorable decisions for the Town. He opined that other counsels would be weighing the cost of their representation in relation to the budget and might settle for something less.

Responding to Chairman Blacker, Atty. Kenny said that sometimes people might rely on him more than necessary, and sometimes interruptions made were difficult; however, he believes most of the time his open door policy is efficient. Yes, he does often act as a general counsel if called upon. He would not change anything procedurally. He likes to handle things on a day-to-day basis and believes it is more beneficial to stop and deal with an issue then and there which might need attention. He also believes it is not efficient to use the Town Manager's time as a "gatekeeper". The Town Manager commented that he had never refused a request when monitoring requests in Williamstown.

He is comfortable in all courts of law and has a very close relationship with the Land Court.

His approach to dealing with the various personalities and pressures is to try to do the right thing all the time and never play politics. Because of this he is respected and has been able to step in to help resolve situations.

Chairman Blacker expressed his frustration with not receiving time records from Town Counsel, although this is something which has been asked for. Atty. Kenny responded that his keeping of detailed time records has been sporadic--kept for a time, then not done consistently. It was noted that when Mr. Kenny has his own computer this duty will be easier to accomplish.

Concerning a retainer vs. hourly rates, Atty. Kenny stated he could make more with an hourly rate, but believes he should stay on retainer; otherwise the cost would go up for the Town.

In answer to the question as to what things can be done better in relation to the legal department, Atty. Kenny replied that, if reappointed, he would maximize his time with the use of a computer.

He keeps up-to-date on new legislation particularly through the *Lawyers Weekly* and advises the Town Manager and pertinent department heads.

Additionally, although not previously requested, Chairman Blacker stated he would ask that formal monthly reports on all litigation matters being handled by Town Counsel be furnished regularly to the Board.

Mr. Kenny said this could be provided.

The Town Manager inquired as to what provision can be made for a back-up counsel when Mr. Kenny is unavailable, since he is a single counsel. Atty. Kenny replied that he can provide a well-qualified person to be available when needed.

Concerning construction contracts, he never uses the arbitration clause, makes extensive changes to the standard AIA contract and is comfortable negotiating all types of contracts.

His greatest victory? Perhaps the Corcoran case and successful Civil Service actions.

The Board thanked Mr. Kenny for his attendance.

#### American Legion Post 191 - Comedy Night

In accordance with a communication dated October 23, 1997, from Commander Spencer R. Goldstein, it was on motion unanimously

VOTED: To grant permission to American Legion Post 191, 676 Boston Post Road, to hold a "comedy night" on the evening of November 22, 1997, to raise funds for its charities, subject to meeting the requirements of the Police, Fire and Building Departments, and not exceeding the Legion's seating capacity.

At the close of the meeting, it was agreed that the Board would individually rate the candidates interviewed for the position of Town Counsel and discuss those ratings and selection process at the Board's November 10 meeting.

There being no further business to come before the Board, the meeting was adjourned at 6:15 p.m.

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Attest: \_\_\_\_\_

Steven L. Ledoux  
Town Manager