

IN BOARD OF SELECTMEN  
FRIDAY, MARCH 24, 2000

Present: Chairman John C. Drobinski and Kirsten D. Roopenian, Selectmen.

The statutory requirements as to notice having been complied with, the meeting was convened at 8:00 a.m. by Chairman Drobinski at the Town Hall, 322 Concord Road.

**Executive Session**

It was on motion by roll call unanimously

VOTED: To enter into executive session for the purpose of discussing negotiations in real property relative to the purchase option for the 23-acre +/- parcel off Nobscot and Old Framingham Roads.  
(Chairman Drobinski, aye; Selectman Roopenian, aye.)

It was announced that open session would reconvene following the executive session.

Open session was reconvened at 8:45 a.m.

**Chapter 61A Notice of Intent - Evergreen Realty Trust (Former Mahoney Property)**

Present: Town Counsel Paul L. Kenny; Lawrence O'Brien and Marianne D'Angelo, Candidates for Selectman; Town Planner Jody Kablack; Charles F. Scott, Trustee of Evergreen Realty Trust; Melody Scott; William Duckett; for developer Brendon Homes: Brian Bush, Michael Sullivan, engineer, and Kenneth May, attorney.

The Board was in receipt of a Notice of Intent dated November 29, 1999, from Attorney Paul V. Galvani, on behalf of owner Charles F. Scott, Trustee of Evergreen Realty Trust, to sell for residential development approximately 23.1 acres of land currently assessed as agricultural land under M.G.L. Chapter 61A, located on the westerly side of Old Framingham Road and the easterly side of Nobscot Road.

Chairman John Drobinski stated this meeting had been called to provide the Board's decision relative to exercising its purchase option on the property off Nobscot and Old Framingham Roads (approximately 23.1 acres, owned by Charles F. Scott, Trustee, Evergreen Realty Trust). He stated the Board has met with Town Counsel and has determined it would like to exercise its option and will file/record its vote today.

Notwithstanding the Town's position that the notice by Charles F. Scott, Trustee of the Evergreen Realty Trust, did not contain a bona fide offer pursuant to M.G.L. Chapter 61A, and notwithstanding the denial of the Town's rights to exercise its option of first refusal on prior transfers of this property wherein notice was not provided in accordance with M.G.L. Chapter 61A, in order to protect the Town's interest in this property without waiving or relinquishing its rights to purchase the property for the prior sale price to Charles F. Scott, Trustee of the Evergreen Realty Trust, for \$1,300,000, and in order to protect the Town's interest, in addition, to its other rights to purchase this property for said \$1,300,000, it was on motion unanimously

VOTED: To exercise the Town's first refusal option to purchase certain property described below classified under Massachusetts General Laws Chapter 61A, pursuant to notice of intended sale, dated November 29, 1999, from Paul V. Galvani, Attorney acting on behalf of owner Charles F. Scott, Trustee of Evergreen Realty Trust; this purchase option being subject to appropriation by a Special Town Meeting to be held at a future date and approval of a Proposition 2 ½ Debt Exclusion therefore, under G.L.c. 59, s.21C, at a Special Town Election to be held at a future date.

The property described in the Notice of Intent dated November 29, 1999, which is subject to the option consists of approximately 23.94 acres of land less a lot of at least 60,000 square feet in area including the farm house lot, situated on the westerly side of Old Framingham Road and the easterly side of Nobscot Road, which is Parcel 001 on Town Property Map M07, and a portion of Parcel 026 on Town Property Map L07, and also is shown as Lots 1-12 and 14 on a plan entitled, "Preliminary Subdivision Plan Mahoney Farm Sudbury MA", dated August 29, 1999, drawn by Gregory J. Patterson, P.E. Watertown, MA.

In response to (unidentified lady) in audience, there was a brief discussion relative to the purchase price for this property. Atty. May said the Town cannot pay less than the option offer and all the Town has a right to do is accept the offer.

Chairman Drobinski indicated the Town would be exploring its options and may be taking some action. Town Counsel Paul Kenny stated the Selectmen have asked him to review their options and this purchase option may not be all the options that the Town has.

Chairman Drobinski added that it was not clear whether this is a bona fide offer.

Attorney May stressed that by this action the Town is accepting the purchase price of \$3,000,000 for this parcel of land.

Selectman Roopenian provided the Attorney with a copy of the Selectmen's Notice of Intention to Exercise Option. Town Counsel advised that he wanted to make it very clear that this document says, notwithstanding the Town's rights; the Town is not waiving any rights with regard to the offer and whether they have other rights to acquire the property. He reiterated it is not an acceptance of any offer and he would be advising the Selectmen at a later time, as the Town has substantial rights in the matter.

Atty. May suggested that litigation would be required to purchase the property at less than the offer or to determine if the offer is not correct.

Town Counsel Paul Kenny requested the Board of Selectmen return to executive session for discussion to determine what action should be taken and advised the Selectmen should not address litigation questions in open session.

### **Executive Session**

At 8:50 a.m. it was on motion by roll call unanimously

VOTED: To enter into executive session for the purpose of discussing negotiations in real property relative to the purchase option for the 23-acre +/- parcel off Nobscot and Old Framingham Roads.  
(Chairman Drobinski, aye; Selectman Roopenian, aye.)

It was announced that open session would not reconvene following the executive session.

The meeting was adjourned at 9:15 a.m.

Attest: \_\_\_\_\_  
Maureen G. Valente  
Interim Town Manager-Clerk