

WEST TISBURY PLANNING BOARD MINUTES DECEMBER 13, 2010

PRESENT: Ginny Jones, Susan Silva, Leah Smith, Jim Powell, Bea Phear, David Douglas

OTHERS: Harriet Bernstein, Bill Veno, Cynthia Aguilar, Nina Meyer, Ashley Hunter, Rez Williams, J.C. Murphy, Joe El-Deiry, Simone DeSorcy

CORRESPONDENCE

In: J.C. Murphy re. Special Ways;
William Coogan re. Special Ways;
MVC re. DRI Checklist Review

NEW BUSINESS

Public Hearing: Zoning Bylaw Amendment, Special Ways: Ginny read the hearing notice and opened the public hearing. Byway Committee Chairman Harriet Bernstein presented the historic nature of Pine Hill Path, Shubael Weeks Road, and Mott's Hill/Red Coat Hill Road. Ginny said that it is a great advantage to everyone to try to perpetuate a trail system connecting the Island. Leah agreed. Susan said she was surprised that Pine Hill Path was being nominated, as it has become quite a suburban neighborhood. Residents of the Halcyon Way subdivision illegally use it to cut across to the post office. David agreed, noting that the Board had endorsed many Form A divisions along Pine Hill. Joe El-Deiry said that there has been significant development on Pine Hill Path.

Ginny read aloud a letter from William Coogan in favor of designating Pine Hill as a Special Way, and another from J.C. Murphy against designation in general.

J.C. Murphy said that nobody understands what a public way is. He said what the Board is doing is illegal because it amounts to a taking. The term "Ancient Way" has no legal consequence. The Board's actions are exposing the Town to damages. People have died in wars to keep freedom and protect due process. The Board cannot do what it is proposing until it proves that these are public ways. The Board is taking away people's property rights via zoning. This amounts to socialism. The Board can be tried under RICO statutes. It is patently incorrect. Only Rogers Path has been proven to be a public way, and that barely squeaked through in the courts. He reiterated, "A lot of people died in wars to protect the law; you people are randomly breaking it." He said there is a racketeering conspiracy by several people within Town government.

David noted that about 20 years ago the Board received a grant to research the status of ancient ways, and found that it has no right to make them public paths unless it can be proven that the Town has maintained them. The Board needs to be very careful not to take away an owner's rights. There was a discussion re. the pamphlet written by attorney Alexandra Dawson on ancient ways published by Open Land Foundation.

MVC Senior Planner Bill Veno clarified that designating roads as Special Ways does not grant the public the right to use them, although there is a presumption that these old ways have the public's right to use them. It is difficult to find records as to whether towns

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have maintained them. The community has an interest in controlling their development. He likened designation to historic districts, where there is a public interest in maintaining them in order to maintain their character.

J.C. Murphy said that Town Counsel should be asked whether the public can pass over these private ways. He said he was trying to educate the Board. What the Board is proposing is Marxism. Ginny thanked Mr. Murphy for bringing this information forward and assured him that Town Counsel carefully reviews all Warrant items.

The pamphlet that the Byways Committee distributed was discussed. Bea noted that it should state which paths are legally open to the public, and not insinuate that others are in order to protect the Town legally. Joe El-Deiry said that liability for property owners is an issue should someone injure themselves on a way that is privately owned. David said that people don't have the rights to be on private property. He noted that Motts Hill Road was only ever used to access one farm. Bea said that the lines get fuzzy when a way has been continually used by the public. She drew a distinction between protecting the ways and granting public access. Bill Veno noted that when the Land Bank takes over management of a path it takes on the liability.

Susan made a motion to close the public hearing, keeping the written testimony open until January 10, 2010; all in favor. Ginny thanked the Byways Committee for their hard work.

Byways Brochure: The Board directed Simone to draft a letter to the Byways Committee applauding its diligence in sharing this information but requesting that it edit any misleading information that could be construed as infringing on property owners' rights in order to protect the Town from potential law suits.

Chairmanship: Ginny asked whether another Board member should take her place as Chairman. It was agreed that because Ginny does such a stellar job she should continue.

DRI Checklist Review: The Board reviewed the letter from the MVC requesting feedback on their upcoming review of the DRI checklist. Bea said that the commercial threshold trigger of 2,000 sq. ft. seems small, yet the possibility of a 50,000 sq. ft. mansion is not addressed, This should be re-examined. Also, the discretionary DRI referral is very vague, without much guidance. All thresholds should be supported with rationale. The more you let personality and whim get in the way, the more trouble you get into. She noted that the road impacts section was very clear and concise, as should be the rest of the checklist. Ginny said internet cafes could be a DRI

FY 2012 Budget: The Board voted to approve the budget as drafted.

Administrator's Vacation Rollover: The Board voted to roll over 34.74 hours of Simone's vacation time.

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Committee Reports: Jim reported on the progress of the Affordable Housing Committee. Ginny said she hoped the Committee would begin to look into developing affordable senior citizen housing.

OLD BUSINESS

Simon Athearn Road: Ginny said she had spoken with property owner Brian Roberts about not chaining off this road for safety reasons. He said he was sensitive to the safety issues but wanted to protect his privacy. They discussed chaining off his driveway instead of the through-road in order to keep it open for emergency personnel.

Joe El-Deiry, Land Court Plan, Map 21 Lot 10.1: Joe El-Deiry presented a plan for a lot line adjustment to the Form A plan approved by the Board in August 2010 for his and John Keene's lots. This property is Land Courted. Leah made a motion to endorse and sign the plan; all in favor.

The meeting was adjourned at 7:15 p.m.

Respectfully submitted,
Simone DeSorcy, Board Administrator

Approved 1/24/11