

ENO FARMS SUB COMMITTEE  
SPECIAL MEETING  
JUNE 5, 2012

CALL TO ORDER

The Special Meeting of the Eno Farms Sub Committee was called to order at 3:30 p.m. in the Main Meeting Room of the Simsbury Town Offices. Present were: Selectmen Lisa Heavner and Sean Askham. Others in attendance included CHFA representatives Wendy Moores and Maura Hayden-Walker, Tom Cooke, Sean Kimball, Mickey Lecours-Beck, Attorney Robert DeCrescenzo and other interested parties.

PLEDGE OF ALLEGIANCE

Everyone stood for the Pledge of Allegiance.

Ms. Heavner explained for background information that CHFA is the current leesees for this property and the Town is the lessor. CHFA has issued an RFP for sale of its interest in the property. Town Counsel drafted a proposed ground lease amendment but it was voted down at a Special Town Meeting on May 14th. The purpose of today's meeting is to hear resident's concerns, get background information on the history of the Eno property and discuss next steps. Because this is a Special Meeting the sub-committee is obligated to follow the agenda as published.

Ms. Heavner informed the audience that public audience would be limited to five minutes per person and when all were finished another five minutes per person would be offered.

PUBLIC AUDIENCE

Joan Coe, 26 Whitcomb Drive. Appreciates that CHFA is trying to do the appropriate thing to make it a better place for the people who live here, but is concerned about the process. The underlying issue is the ground lease – it is clear that the Eno Trust is for the poor and the Eno Farms Affordable Housing is not currently geared for low income people. The Town should be getting guidelines from the Attorney General's Office.

Huguet Pameijer, 10 Highwood. A taxpayer in Town, concerned about the entire complex. She was not happy with the minutes of the Special Town Meeting on May 14th; feels that information is being hidden. She urged the Town to go through the Attorney General's Office.

Tom Delehanty, 8 Pattison Court. He and his wife have been residents for over 40 years, and were homeowners when they were younger. They could not afford to live in Town if not for Eno Farms. Mr. Eno provided an opportunity for folks to be able to stay in Town.

Melissa Torriero, 11 Tuller. Commented that the units that were provided by tax credits are no longer in existence and the rents for moderate income people are over \$1,000 per month. This is a community of hard working people with good intentions but the people are the working poor. She is unhappy with Atty. DeCrescenzo's recommendations. She feels there are no other bidders

except for folks who live there asking for right of first refusal and there are no other bidders because right now there are five families in the eviction process

Kelly Zianio, 2 Tuller. She is happy in the close knit community and doesn't want to see something destructive happening.

Rogene Bogoslofski, 14 Hitchcock Circle. Has asked several times why the Town can't step in and run the place; it needs supervision. It's a nice, quiet community and it is unfair of the town to overlook this.

Rafi Khan, 7 Tuller. Wants to bring attention to the ground lease changes that were denied on May 14th. He urged the committee to look at the first page of the ground lease and consider it. High rents are not relative to rentals.

Melissa Torriero, 11 Tuller. Adopting the changes proposed by Atty. DeCrescenzo would have ramifications – the neighborhood would decline with stricter guidelines. If using guidelines of low and lower income some families would fit into the new restrictions and would have to leave. This is inappropriate because it is too restrictive. Of the 22 units who are currently low income their rent would not sustain the operating budget as it stands. Does the Town really want to take on the operating budget? If keeping low income the operating budget needs to be supplemented. Active cooperative presence – non profit interest has been developed to watch over the low income people who live there now.

Joan Coe, 26 Whitcomb Drive. Feels that the best place for the Eno Farms management is with the Housing Authority; they should oversee it. Referred to the Attorney General's 1997 report on the ground lease; this document is the underlying issue in the town's responsibility for Eno Farms.

Rafi Khan, 7 Tuller. Spoke about Spectrum Enterprises, the agency that handles CHFA tax credits. He feels that there is an error in income requirements actually being due only at time of initial occupancy since people lose jobs, get promotions and change jobs, they can't move every time. There is unlawful discrimination based on income and it's unfair to folks not making a lot of money to have to carry everyone else.

Tom Palmateer, 5 Woodbridge Court. Trying to understand this situation, thinks there is a great opportunity to make things right. The amendments should be geared to re-gaining control. He wants to be kept informed of future meetings. The percentage of occupancy should reflect the affordability. Residents should be involved.

Melissa Torriero, 11 Tuller. - Feels that it would behoove the Board of Selectmen to call on experts to speak on the matters that could severely impact the Town in legal ways that can impact the people who live there in very personal ways. They want to be a true cooperative with management control. Need to call upon experts and make a careful decision and the residents should be a party to this.

Rafi Khan, 7 Tuller. Questioned if there had been a title search, does Simsbury have a community land trust, is this part of the Simsbury Land Trust. He stated that there is a lot of sweat equity invested in the units. The residents would work very hard to keep the property clean and safe.

Tom Palmateer, 5 Woodbridge Court. Questioned if it would be beneficial to form a sub committee of residents and selectmen to come up with some ideas to resolve this issue.

April Caulton, 2 Woodbridge Court. Expressed concern about not being aware when meetings are being held.

Joan Coe, 26 Whitcomb Drive. Again reiterated that this issue needs to be approved and verified by the Attorney General's Office.

Mina Lu Delehanty, 8 Patterson Court. Had the impression that the Board of Selectmen were going to come back to the residents with answers and was disappointed that there were no answers.

Presentation on history of Eno Farms, current status of lease by Town Counsel and discussion

Attorney Robert DeCrescenzo addressed the audience. He began by explaining that a deed is a conveyance of land – this land came to the Town in the form of a deed of real estate with a possibility of reverting to the grantor.

Conditions of the gift are for the Town to take care of its poor and the Town is now trying to interpret the intent of the deed. From 1989 to 1991 all was taken into consideration by the Board of Selectmen with consultation with the Attorney General's Office.

For purposes of housing an acceptable proxy for interpretation of the poor would be the income restrictions utilized by state agencies, such as CHFA, based on HUD guidelines

for low income and very low income. CHFA interprets low income as 80% of average median income for the Hartford Federal Statistical Area. Low income is defined by HUD.

Atty. DeCrescenzo advised that the Town is governed by the language of the ground lease that is clearly in place and it is specific, it says very clearly that (Section 3.1) low and moderate was amended. Moderate doesn't apply today because it's been amended. It is now low and very low.

What matters is how does the Board of Selectmen, today faced with a request from CHFA to sell the property to a new owner, make sure the new owner complies with the ground lease. As of August, 2012, the tax credit obligations are gone. CIL is gone, the cooperative association is foreclosed out. We have CHFA Small Properties Inc., as successor to the lessee of the ground lease. They own the rights to the ground lease and they own the improvements that have been put on the ground lease, the 50 units of housing, subject to the terms of the ground lease.

The deed was an arrangement between the Town and the Grantor – and the only challengers are the heirs of the grantor. The heirs could challenge it and it would be decided in court. In terms

of the ground lease that is an agreement made between the Town of Simsbury as lessor and originally CIL as lessee, CHFA was lessee's lender; and they foreclosed because they weren't making the mortgage payments. CHFA took title to the property by foreclosure including the ground lease. No one else has an interest in the title now. They are sole owner. CHFA currently has title; it is vested in CHFA Small Properties Inc. One of the due diligence documents that will be requested from CHFA will be a title report that proves that. It should be CHFA's obligation to prove that they have the title to convey. They are the owner of the improvements.

Atty. DeCrescenzo pointed out three questions that the Town must ask: 1) are the tenants eligible under the ground lease; 2) are the rents charged consistent with the rents chargeable to low and very low, and 3) is the new buyer/owner maintaining adequate escrow so that the property is properly kept up during the terms of the lease

Atty. DeCrescenzo addressed the status of some residents feeling that they have the right to have some interest in the property conveyed to them. At one time Cooperative Common Ownership was promised by CIL, however, this does not exist under CT law. This was a hybrid of the Condominium Law to enable folks to build some equity but this was foreclosed out during foreclosure proceedings. People were upset and it was brought to litigation; three lawsuits occurred the third of which was the foreclosure action.

Atty. DeCrescenzo summarized that there is a ground lease and it is the controlling document today. In order to change it you need the consent of CHFA Properties, Inc.

The Town is bound by the decisions made many years ago. The original ground lease was reviewed by the Attorney General's Office and the Town relied on their October 6, 1989 letter to enter into the agreement with CIL. This cannot be changed without an order from the court. The document that needs to be dealt with is the ground lease, as amended. The changes suggested failed at Town Meeting and they will not be implemented in the ground lease.

Attorney DeCrescenzo refocused on where things now stand; a ground lease, an amendment to the ground lease and a request for assignment coming from CHFA. The Town has to decide what they are going to do about it.

CHFA has not asked us to change the income requirements, all prospective buyers should be well aware of what they were bidding on, the ground lease, the amendment and the income restrictions. The Board of Selectmen has to think about the remaining terms of the lease which is 70 years. It is absolutely essential that the buyer has the ability to maintain the property given the rent structure that will be imposed on the property.

The new buyer has no obligation to maintain the 30% limit. A Section 8 voucher could help some residents.

Audience was encouraged to e-mail questions to Tom Cooke prior to the next meeting.

Mr. Askham made a motion to adjourn, seconded by Ms. Heavner. Motion passed.

Respectfully submitted,  
Susan B. Mazurski, Secretary to the First Selectman