

TOWN OF STERLING  
BOARD OF SELECTMEN  
April 30, 2015

MEETING:	Chairman Patacchiola called the meeting to order at 12:05pm. Roll Call: Chairman Patacchiola – Present. Selectman Cutler - Present. Selectman Kilcoyne – Selectman Kilcoyne – Present.
Minutes:	<p>VOTE: Chairman Patacchiola moved that the Board approve the public minutes for April 22 with a minor spelling change. Selectman Kilcoyne 2<sup>nd</sup>. Selectman Cutler - Aye. Selectman Kilcoyne – Aye. Chairman Patacchiola – Aye.</p> <p>VOTE: Chairman Patacchiola moved that the Board approve the public minutes for April 23, 2015. Selectman Kilcoyne 2<sup>nd</sup>. Selectman Cutler - Aye. Selectman Kilcoyne – Aye. Chairman Patacchiola - Abstained.</p>
PUBLIC HEARING 33 Main Street	<p>VOTE: Chairman Patacchiola moved to open the public Hearing on the issue of 33 Main Street. Selectman Kilcoyne 2<sup>nd</sup>. Selectman Cutler - Aye. Selectman Kilcoyne – Aye. Chairman Patacchiola – Aye.</p> <p>Attorney Corbo explained the process for the Public Hearing. It was stated, for the record, that a notice of the Public Hearing was duly served to Mr. Gary Griffin at 8:30 am on April 23 at 1 Park Street, Sterling. Mr. Gary Griffin was present.</p> <p>Stage 1. Board to entertain evidence and testimony in support of finding the building a public nuisance. Consensus of the Board is that they are aware of the condition of the Building as it is currently in severe disrepair and has been thus for years. Visible deterioration, lead paint chips that litter the public sidewalk are in evidence.</p> <p>At 9:30 this morning, April 30, the Town Administrator, accompanied by the Facilities Manager, collected paint chips from the public sidewalk, on Maple Street, which runs parallel to the property on 33 Main Street.</p> <p>Similar paint specimens were collected by the former Town Administrator, last June. A certified analysis shows that the lead level in the submitted paint samples was significantly elevated.</p> <p>Several letters as well as emails have been received by the Board of Selectman and the Board of Health from constituents asking that the Board members take action to remediate the condition of the building at 33 Main St.</p> <p>This issue has been a concern of citizens for an extended period of time, as the building has been in disrepair for many years.</p> <p>Pursuant to the Boards direction, the Town Administrator met with Mr. Griffin in regard to coming to a cooperative resolution to the problem. The Board wished to mediate an agreement that would include an amicable solution and time frame in which to have the building de-lead and painted. However, Mr. Griffin is adamantly unwilling to sign any legally binding agreement.</p> <p>Stage 2. Board to entertain evidence and testimony from those who object to the building being declared a public nuisance.</p> <p>Mr. Griffin stated that he had presented a formal protest regarding the process by which the Public Hearing was called. This protest had been delivered to the Town Administrator, via constable, several hours earlier. It was explained to Mr. Griffin that his protest held no sway in this Public Hearing. He was advised that the Public Hearing was posted in full and in complete compliance with the Selectmen's policies, Town Bylaws and the Open Meeting Law, with a 48 hour prior posting and a written notice was hand delivered to him via the constable. Attorney Corbo reminded the Board that Mr. Griffin was at the meeting in which the Public Hearing was decided. At that time, Mr. Griffin had no objections or questions and his presence at the meeting made it apparent that he understood the date and time of the hearing. Therefore, it is the opinion of counsel that this is a properly scheduled and properly</p>

convened public hearing, at which the Board can take action, if it finds action appropriate.

Mr. Griffin was asked to present evidence and testimony only, regarding objections to the building being declared a public nuisance.

Mr. Griffin declares that he has made a commitment to renovate the building at 33 Main Street but objects to being "forced". He suggests that by declaring the building a "nuisance" he may be unable to secure investors and loans that he needs, in order to completely renovate the building.

Mr. Jed Lindholm advocated for a "community solution" rather than possible court action and suggested that all dilapidated buildings in the town should be addressed as a group.

Mr. Mike Hudson voiced his concerns that the Town does not have a bylaw that would dictate the process of handling a "nuisance building". He stated that there a lot of buildings in Town that need to be addressed as nuisances but first he would like a bylaw in place.

Mr. Ken Williams, Chairman of the Planning Board reported that, years ago, a bylaw regarding such issues, was brought before town meeting, in conjunction with the designation of an historic district in the center of town. The article was defeated or withdrawn.

### Stage 3. Deliberation and vote

Attorney Corbo explained the jurisdiction of the Select Board, according the MGL Chapter 139 Section 1, which is applicable to all towns in the Commonwealth and gives the authority required to declare a building as a nuisance and to dictate remedial action. The options available to the Board were also explained by Attorney Corbo. After discussion, Attorney Corbo asked Mr. Griffin if he was willing to sign an agreement that would commit to painting within one year's time in exchange for the Board NOT declaring 33 Main Street as a "nuisance" building. However, Mr. Griffin refused to sign such an agreement.

#### *A. Decide whether building will be declared a public nuisance*

VOTE: Chairman Patacchiola moved that the Board find that the Building located at 33 Main Street is a nuisance and a danger based on credible evidence presented at this hearing including the Boards view of the subject of this hearing and in support of this vote, the Board finds that the poor dilapidated conditions of the exterior of the building which are harmful to the health, safety and general public welfare. These conditions include the existence of copious amounts of peeling chipping and flaking lead paint chips about the exterior of the building. Said paint chips have fallen onto the sidewalks, roads, public ways in the Town of Sterling. And further, the Board finds that such conditions are causing and contributing to a blight within the historical town district which is offensive to those who work in, live in and visit Sterling and which is likely to result in adverse effects on the value of adjacent and surrounding properties. Selectman Kilcoyne 2<sup>nd</sup>. Selectman Cutler - Aye. Selectman Kilcoyne - Aye. Chairman Patacchiola - Aye. Motion carried.

#### *B. If declaration made, findings made in support of that declaration.*

The consensus of the Board is that in the future, they would like to address the nuisance buildings by having a sub-committee consider verbiage for a bylaw. However, in the interest of the Town they conceded that action must be taken immediately on this particular issue.

#### *C. If declaration made, disposition will need to be voted*

Chairman Patacchiola moved that in accordance with said findings that the Board vote to order the owner and occupants of said building with Mr. Gary Griffin as trustee of the Griffin Family Trust and Sholan Homes Realty Inc. to take the following actions to abate the nuisance:

1. All Loose and peeling lead paint shall be removed from the structure either mechanically, chemically or manually or by removal and replacement of existing clapboards. All abatement work shall be performed by licensed contractor and all materials will be disposed of in accordance with applicable law
2. The exterior of the building shall be painted using a good quality exterior paint in a color appropriate

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	<p>to the buildings age and history and the character of the surrounding buildings.</p> <p>3. The work shall commence no later than <u>Date</u> and work shall be completed by <u>Date</u> no later than <u>said date</u> and owner/occupant or representative shall submit to the Board a signed contract with a qualified professional to perform the work required by this order. Selectman Kilcoyne 2<sup>nd</sup>.</p> <p>Attorney Corbo explained that the Board needs to have proof of a contract to commence the work, work must commence by a certain date and then work must be completed by a certain date. Mr. Griffin requested that the Board not include the Sholan Homes Incorporated in their order, stating that Sholan Homes Inc has nothing to do with the ownership of that building. Chairman Patacchiola moved that the prior motion on the floor be amended to remove references of tenants and to include only the Trust and principal owners of the real property. Selectman Kilcoyne 2<sup>nd</sup>. Selectman Cutler - Aye. Selectman Kilcoyne – Aye. Chairman Patacchiola – Aye. Motion carried.</p> <p>After discussion: Vote Chairman Patacchiola moved that the following amendment replace bullet # 3 of the previous motion. : The work will commence no later than October 1, 2015 and the work will be completed by October 1, 2016. No later than August 1, 2015 the owner occupant or their representative will submit to the Board of Selectmen a signed contract with a qualified professional to perform the work, required by this order. No further enforcement without a vote of the Board. Selectman Kilcoyne 2<sup>nd</sup>. Selectman Cutler - Aye. Selectman Kilcoyne – Aye. Chairman Patacchiola – Aye. Motion carried.</p> <p>Chairman Patacchiola moved that the main motion be approved, as amended. Selectman Kilcoyne 2<sup>nd</sup>. Selectman Cutler - Aye. Selectman Kilcoyne – Aye. Chairman Patacchiola – Aye. Motion carried.</p> <p>Selectman Kilcoyne moved that the public hearing be closed. Selectman Cutler 2<sup>nd</sup>. Selectman Cutler - Aye. Selectman Kilcoyne – Aye. Chairman Patacchiola – Aye. Motion carried.</p> <p>Chairman Patacchiola called a recess at 1:18 pm</p> <p>Public session was reconvened at 1:25 pm</p>
Fair Committee Appointment	<p>After discussion, Chairman Patacchiola moved that the board appoint Amy Legere as a non-voting, out of town, member of the Sterling Town Fair Committee. Selectman Kilcoyne 2<sup>nd</sup>. Selectman Cutler - Aye. Selectman Kilcoyne – Aye. Chairman Patacchiola – Aye. Motion carried.</p>
Memorial Tree placement	<p>Family members of the Late Jeff Ritter wish to have a memorial tree planted in the Town of Sterling. After discussion, Chairman Patacchiola moved that the tree be placed in the Memorial Park area behind the Fire Station with the delegation of the specific location to be determined by the Recreation Director, Kristen Dietel. Selectman Kilcoyne 2<sup>nd</sup>. Selectman Cutler - Aye. Selectman Kilcoyne – Aye. Chairman Patacchiola – Aye. Motion carried. A memorial service will be coordinated in the near future.</p> <p>Chairman Patacchiola made a motion to enter into Executive Session with Counsel pursuant to MGL 30A Section 21(a) reason 2 to conduct strategy sessions in preparation for negotiations with non-union personnel or to conduct collective bargaining sessions or contract negotiations with non-union personnel – Mike Szlosek, Town Administrator and also MGL 30A Section 21 (a) reason 3 to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body as declared by the Chairman – local Firefighter union and to NOT reenter into public session. Selectman Kilcoyne 2<sup>nd</sup>. Roll Call VOTE: Selectman Cutler - Aye. Selectman Kilcoyne – Aye. Chairman Patacchiola – Aye. Motion carried.</p> <p>The Board proceeded to convene in Executive session.</p>
Adjourn	<p>At 2:48 Chairman Patacchiola moved to adjourn the public meeting. Selectman Cutler 2<sup>nd</sup>. Selectman Kilcoyne – Aye. Selectman Cutler – Aye. Chairman Patacchiola – Aye. Motion carried.</p>

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