

**MINUTES OF SPECIAL MEETING -- STONY CREEK ASSOCIATION EXECUTIVE BOARD
MONDAY, NOVEMBER 17, 2014**

A special meeting of the Stony Creek Association Executive Board was called to order by Dan Bullard, President at Willoughby Wallace Memorial Library at 7:00 p.m. on Monday, November 17, 2014.

Executive Board Present:

Dan Bullard (President)	Betsy Wieland (Vice-President)
Greg Ames (Treasurer)	Nick Fischer (Tax Collector)
Dee Dee Hakun	Linda Reed
Sandy Fischer	Kathryn Coffin
Hannah Purdy	Mark Richter
Josh Brooks (arrived 7:45pm)	

Absent: Bonnie Sanders-Newton

Public: 28 members of the public

Minutes:

SCA President Dan Bullard explained that the purpose of the meeting was to update the community on the recent communications regarding the Legacy Theater appeal, communication which was initiated by the Town thru Town Attorney William Aniskovich. He also wanted to provide an update on resident Jon Wilson's request for particular documents, including documents and emails related to Legacy Theater.

FOI Request of Jon Wilson: Dan Bullard read a letter, addressed to the Connecticut Freedom of Information Commission (FOIC) and dated November 14, 2014, that he recently received from Jon Wilson. The letter alleges that SCA is ignoring his request for documents and, therefore, by way of this letter to FOIC, he is requesting penalties be assessed. Dan Bullard explained that the matter is in the hands of Attorney Timothy Lee. The Freedom of Information Act defines what documents must be disclosed in response to a request. Communications related to strategies, negotiations, and/or pending litigation, which Mr. Wilson has requested, are among items that are not disclosable by law. Attorney Lee is handling this matter.

Legacy Theater: Last week, Attorney William Aniskovich, in his capacity as Town Attorney, contacted Attorney Lee and Legacy Theater Attorney James Straub, inviting the parties to a meeting to try to address what he believes to be the five (5) core items at issue; namely:

1. parking/ traffic;
2. limitations as to days/hours of operation;
3. use of the property for non-theater activities such as concerts;
4. use of the property for 3rd part events; and
5. use of the property for education activities/camps/instruction

In addition, in his email invitation to Attorney Lee and Attorney Straub, Attorney Aniskovich stated that "the Town will be an active participant in addressing the parking and traffic issue in Stony Creek." The letter does not indicate whether or not there has been any movement by Legacy Theater, which

prompted this invitation. The letter does not define the scope of the “parking and traffic issue” or suggest what the Town defines as an offer to “address” parking and traffic.

Dan Bullard also summarized the recent Stony Creek Executive Board special meeting on November 12, 2014, which, after discussion in executive session, resulted in a vote to authorize Attorney Lee to meet with Attorney Aniskovich and Attorney Straub for informational purposes only.

The special meeting of SCA meeting was then opened to the public for comments regarding whether or not SCA should engage in any discussions with Attorney Aniskovich and Legacy Theater regarding the five (5) core items as defined by Attorney Aniskovich. Comments included whether or not the town is talking “negotiations.” Negotiations are currently off the table since the executive Board voted unanimously not to negotiate. To change this position at this point would require a motion to rescind and a 2/3 vote of the Executive Board to approve negotiations. There was discussion about the possible role of the Planning & Zoning Commission, the special use permit process, the scheduled vote by the Zoning Board of Appeals, and the option of taking the matter to court, if needed. The question was raised that, if Attorney Aniskovich represents the Zoning Enforcement Office and Town Planner in this appeal, how can he now act as the Town’s attorney.

At 7:30pm, a motion was made by Sam Kirby and seconded by Sandy Fischer to close the public comment and for the SCA Executive Board to move into executive session to draft a response to Attorney Lee. Motion approved by a vote of 8-0.

The Executive Board moved into executive session. Josh Brooks joined the executive session at 7:45pm.

At 8:35 pm, a motion was made by Sandy Fischer and seconded by Dee Dee Hakun for the SCA Executive Board to reconvene in public session. Motion approved by a vote of 9-0.

Dan Bullard read the following draft statement, which could be submitted to Attorney Lee for response to Attorney Aniskovich:

The foundation of the appeal to the Zoning Board of Appeals is whether or not the decision of the Zoning Enforcement Officer to issue the tenant fit-up permit to Legacy Theater was lawful. As directed by the Zoning Board of Appeals, the issues now raised should properly be addressed before the Planning and Zoning Commission in a special use permit application. At this time, it is not appropriate to comment on these issues; however, we ask that you request that the Zoning Board of Appeals table this matter, rescheduling it to their December agenda.

Discussion was opened to the public to comment on the draft statement. Based on comments, including the fact that Attorney Aniskovich was trying to initiate this discussion at the 11th hour, some six (6) months after the Legacy Theater tenant fit-up application had been approved by the Zoning Enforcement Officer, was discussed. A review of the history with Legacy Theater was briefly discussed, including Legacy’s initial statements when they first came to Stony Creek, including, but not limited to, that they were looking to open a summer theater and that they would retain the *Puppet House* name. Legal & Zoning co-chairs Betsy Wieland and Linda Reed also summarized their efforts, including meeting with Legacy Theaters then-Attorney Marjorie Shansky and agent Greg Noble in June 2014 to try to address the concerns, including, but not limited to, the five (5) core items defined by Attorney

Aniskovich. Despite that effort to bring the project to the table, the Legacy Theater agents never responded to SCA or to Attorney Lee.

A motion was made by Betsy Wieland, seconded by Hannah Purdy to modify the draft statement to be submitted to Attorney Lee:

The foundation of the appeal to the Zoning Board of Appeals is whether or not the decision of the Zoning Enforcement Officer to issue the tenant fit-up permit to Legacy Theater was lawful. As directed by the Zoning Board of Appeals, the issues now raised should properly be addressed before the Planning and Zoning Commission in a special use permit application. At this time, it is not appropriate to comment on these issues.

Motion to submit the modified statement to Attorney Lee was approved by a vote of 7 to 2, with Sam Kirby and Josh Brooks, voting against the motion to approve.

A motion was made by Sam Kirby, seconded by Josh Brooks to modify the statement to be submitted to Attorney Lee, amending the last sentence:

At this time, it is not appropriate to comment on these issues; however, we ask that you request that the Zoning Board of Appeals table this matter, rescheduling it to their December agenda.

Discussion resumed, reiterating that Attorney Aniskovich was approaching SCA at the 11th hour, some six (6) months after the Legacy Theater appeal had been filed. The discussion reiterated that the SCA Executive Board had unanimously voted not to negotiate, a position which was supported by the vast majority of the members of the public. The public sentiment was that the SCA Executive Board has a duty to act on behalf of the public.

Josh Brooks called the question to a vote, ending discussion. The request to call the question was approved by a vote of 8 to 0 with one abstention (Katherine Coffin). The motion to modify the last sentence of the statement to be submitted to Attorney Lee failed by a vote of 3 in favor and 6 opposed.

At 9:12pm, a motion to adjourn the meeting was made by Josh Brooks, seconded by Mark Richter. The motion was approved by a vote of 9 to 0.

Respectfully submitted,

Linda Reed,
Acting Clerk