

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**April 9, 2013 5:30PM**

**Quorum noted**

**5:30 PM:** Meeting called to order by Chairman Moynahan.

**Roll Call:** Mr. Moynahan, Mr. Murphy, Mr. Beckert and Mr. Hirst.

**Absent:** Mr. Dunkelberger.

**Pledge of Allegiance recited**

**Moment of Silence observed**

**New Business (Correspondence List):**

**5:31 PM**

**#1** TO : Board of Selectmen  
FROM :  
REF : Complaint from Mr. Paul Murphy, et al

Mr. Moynahan said that they had a complaint in front of them from Mr. Paul Murphy regarding a Consent Order. He added that they had a letter from Mr. Murphy, the original Consent Order made on March 25, 2010, correspondence from the CEO, and correspondence from Mr. Saucier regarding appeals processes. He confirmed that the Murphy's and the CEO were present. He said that the Murphy's had some concern that the Consent Order was not being followed and related specifically to the snow removal business.

Mr. Paul Murphy agreed and said that he never stopped doing it.

Mr. Moynahan asked what they had for documentation in regard to that operation continuing.

Mr. Paul Murphy said that he had as many pictures as he possible could; that the Board should have quite a few; that he had been taking pictures for three years; and his testimony, as he went down to Mr. Egers' property and watched everything that was going on; that it was hard to get pictures down there but he saw everything that was going on. He added that he invited the CEO to go down there and the CEO refused to go down.

Mr. Moynahan asked the CEO if he had pictures as it related to this.

Mr. Marchese said that he did; that he had a large group of pictures submitted to him by Mr. Murphy but didn't have the date. He gave the pictures to the Board.

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At this time, Mr. Paul Murphy submitted additional pictures to the Board and discussed the different company trucks he had seen throughout three years.

Mr. Moynahan said that these pictures showed trucks coming and going and asked if that indicated a business was being operated; that part of the Consent Agreement (CA) was that no business would be operated out of the home.

Mr. Paul Murphy said that, during one storm after Christmas, he stopped counting after 18 vehicles went in and out of there. He added that people went there and would go to work; that Mr. Knowles told the CEO that it was just his friends coming over to visit but he saw those people with reflective vests on and with sanders and plows. He said that Mr. Knowles kept the vehicles in his basement; that he hid them. He added that after Christmas he was in his driveway taking pictures, per request of the CEO, and 'this' guy came to him and started yelling at him for taking his picture; that Mr. Murphy asked the man if he had a permit to be working out of that property and the man told him he didn't need a permit, it was private property, and threatened Mr. Murphy with a lawsuit. He said that this happened every time it snowed or sanding needed to be done; that they were in and out of there all night long.

Mr. Moynahan asked if there were piles of sand or salt on the property.

Mr. Paul Murphy said no.

Mr. Moynahan said that most of the vehicles he saw in the pictures had different business lettering on them.

Mr. Paul Murphy, referring to a specific picture, said that this one got changed out all the time and that this was taken last Tuesday morning.

Mr. Moynahan said that, in running a business, one would think that all the vehicles would have the same logos or lettering.

Mr. Paul Murphy said that he thought Mr. Knowles was contracting out to these different companies and the people were working out of there; that they came and worked there; that they parked their vehicles there and got into plow trucks and left.

Mr. Moynahan said that it looked like the number of plow trucks there were with different logos on them, so, for the Board to say that Mr. Knowles had twelve different vehicles with different logos on them would be kind of farfetched; that if they all said Knowles Plowing and people were coming and getting into the vehicles then that would show that someone was running a business out of his home.

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Mr. Paul Murphy asked who these people were working for.

Mr. Knowles said that he would respond directly to the Board.

Mr. Moynahan said that the Board had a memo from the CEO dated February 13, 2013, which addressed an investigation done regarding area complaints of excessive traffic during storm events, flatbed truck delivery prior to snow event, people coming in vehicles and leaving in trucks with plows, and that trucks appeared to be loaded on-site. He read the findings from an investigation performed on January 14, 2013 at Mr. Knowles property: owner reported truck traffic during storm related to visitors only; owner reported no business conducted on property; owner full-time with well-drilling company and performed off-site plowing and maintenance of personal property with company vehicle; no unusual/excessive machinery or equipment found at the home; owner aware of Eliot's ordinance and will apply, if needed, for future home business. He added that an additional investigation was performed on February 8, 2013 during a storm event and no evidence was found of a home business operation at the residence in question. He asked Mr. Murphy if he received a copy of this memo from the CEO.

Mr. Paul Murphy said that he received nothing.

Mr. Moynahan asked Mr. Blanchette if this would be considered a decision from the Code Office, a site visit or site investigation.

Mr. Blanchette said that he would presume so since he made a determination that he could not see signs of a business being operated out of there.

Mr. Moynahan said that part of any CEO determination or decision and the ability to appeal that decision to the Board of Appeals (BOA) would be that next step. He added that based on the date of the CEO's determination the appeal time would have long since expired but if this was truly a decision he would think they would have to reissue a decision and cite as just that, as a notice of decision by the CEO so that the Murphy's had the ability to appeal that to the BOA.

Mr. Paul Murphy asked if, when the CEO did his inspection of the pertinent property, the CEO went into the garage.

Mr. Marchese said that he did.

Mr. Paul Murphy said that they could tell when he went over there because the owner cleared everything out; that he has personally witnessed those trucks in that garage being worked on during the storms and then they would go out.

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Mr. Moynahan asked if any of those pictures that were included in Mr. Murphy's submission the same vehicles worked on.

Mr. Paul Murphy said yes; that at one point they had trucks from a landscaping company in Cape Cod.

**5:40 PM**

Mr. Marchese said that he had a letter for the Board that outlined the Home Business Ordinance and his findings of the investigation. He gave copies to the Board. He discussed the definition of Home Business and gave recently-approved examples by the PB: cabinet maker, quilting business, real estate business, hair salon, massage therapy, day nursery, and auto repair. He added that this, to him, did not meet any of the definitions as to what was alleged to be happening at the home.

Mr. Beckert asked to see a Municipal Code Book, as there was a difference between Home Business and Home Occupation and he would like to see the whole ordinance.

Mr. Paul Murphy said that he believed this was a satellite site for other businesses working out of this area.

Mr. Moynahan read, "By agreeing to enter into this Consent Order defendants relinquish and abandon the home business permit granted to them by the Town of Eliot Planning Board on August 22." He said that this clearly said Home Business versus Home Occupation.

**5:44 PM**

Mr. (Scott) Egers, direct abutter, said that this has been happening since 2006; that the whole subdivision brought this before the Board, Mr. Knowles signed the C.A. to dissolve the Home Business, and it hasn't stopped. He described the noise happening during the night whenever there was a snowstorm; that it was now 2013, that the Board told them to stop and they haven't; that he thought it was time for the CEO to enforce the ordinances. He added that he didn't understand why the CEO wouldn't go to the property and take pictures but, instead asked Mr. Murphy to do that.

Mr. Moynahan said that in order to show that someone was violating a C.A. they couldn't just have testimony from people because it became a "he said, she said"; that visual documentation was the only way to prove that, so, when the CEO visited the site and saw no activity happening that would violate that C.A. then he would reach out to neighbors who have concerns to help supply that information.

Mr. Egers agreed, adding that Mr. Murphy got some pictures; that last time he had pictures that showed the same thing; that Mr. Knowles had a spot up at S&J

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Landscaping where he put stuff; that Mr. Knowles was fined by the EPA because he filled in the wetlands; that it just went on and on.

Mr. Moynahan said that the Board could only look at the C.A. in front of them and whether that had been violated, or not, and discussed the definition of a home business, as written in Eliot ordinance. He added that Mr. Knowles was approved for a home business by the PB.

**5:47 PM** Mr. Beckert clarified that what Mr. Moynahan read were examples of a home business, not the definition. He asked the CEO had the original Notice of Decision rendered by the PB in 2006.

At this time Mr. Paul Murphy stated, regarding the inspection of the pertinent property, that he got permission from Mr. Egers to have the CEO go to Mr. Egers' property to witness what was going on when it was going on and the CEO told him he would not go over there, totally refusing to help him with the investigation that he (CEO) should have been doing. He added that that was when he decided to come to the Board; that the CEO called Mr. Knowles to make appointments to go to the property and the neighbors would see the stuff go out of the driveway the day before.

Mr. Moynahan said that he believed that they couldn't just access someone's property.

Mr. Paul Murphy said that the CEO didn't have to access the property; that he could have stood on Mr. Egers' property and clearly see the activity.

Mr. Moynahan said that that was based on the neighbor's schedule and not the CEO's; that the Board would have to hear from the CEO. He asked Mr. Murphy to calm down; that they were all here to try to figure this out.

Mr. Murphy said that in this letter briefly summarizing home business there seemed to be no mention of hours of operation or control of traffic.

Mr. Beckert said that that was why he wanted the PB's Notice of Decision letter.

Mr. Marchese said that he knew he had seen the Decision but he could not find it at this time.

Mr. Beckert said that what bothered him was that the C.A. said that the provisions of the home business would cease, period; that the definition of a home business was that it provided space for commercial activity that was in scale and character of the neighborhood in areas that were primarily residential and, then, they must comply within §45-456.1, but he needed to see what the PB laid down in the 2006

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Notice of Decision, adding that everything Mr. Knowles agreed to in the minutes was also part of the conditions of approval. He added that everything that Mr. Knowles agreed to that was approved in the C.A. was, in his opinion, no longer allowed, period.

Mr. Moynahan invited Mr. Knowles to speak.

**5:51 PM**

Mr. Knowles said that he owned and operated his landscaping business in the seacoast area from 1997 until June 2009. He added that he then sold his business to pursue a career in geothermal alternative energy; that he has provided proof with a bill of sale to the Town's attorney as part of the C.A. He said that, since then, he has retained a one-ton dump truck that he used to maintain his 700-foot private road; that he also maintained family member properties in surrounding towns; that that vehicle did have a plow and sander, which was allowed within the C.A. He said that he has not stored any sand or de-icing material on the property since the C.A.; that he had an outdoor fuel tank that fed his house and didn't have containment that he resolved; that no equipment or trucks were kept outside with plows on them. He added that most of his friends his age drove vehicles with plows on them all winter long; that his brothers and father did; that they routinely came to his property during snowstorms, not during snowstorms, for holidays, throughout the winter to see their...he had two young children; that when he went to work in the winter he had a plow on the front of his truck. He added that all of the trucks he has had in the past fifteen years he has put a back-up alarm on so he didn't run over a small kid; that it was a DOT back-up alarm, did not exceed any noise ordinance and was a requirement on any construction site and his personal vehicle went to construction sites. Mr. Knowles said that, sometimes, friends came over and his wife served coffee or breakfast, sometimes 3-4 or 5-6, but he didn't need a permit to have people come to his residence for such. He added that no trucks got loaded there, no trucks got fueled, and all the pictures of those trucks are of companies owned and operated out of other commercial spots. He added that many owners of area landscaping businesses were his good friends and just because they came to his property visiting didn't mean he was running a business and he was not; that he was employed in well-drilling full-time.

Ms. Knowles said that she has not seen any of the pictures and she had concerns. She added that, as the CEO had indicated, this was a very rare piece of property and it was their home; that she had a concern with pictures being taken and cameras being faced on her property with children, relatives, people that visit and those that she was told were physically stopped and asked why they were visiting her property. She said that she would like to be able to see the pictures.

Mr. Moynahan said that that would be more of a civil thing that would be more of a concern for the police department.

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Ms. Knowles agreed but added that she really did have a concern about cameras being pointed at her property, and when and how it was done.

Mr. Paul Murphy said that those were all done per request of the CEO.

**5:55 PM**

At this time the CEO found the original PB Notice of Decision and gave it to the Board.

Mr. Moynahan said that, after reading the document, this was for a home business to establish a professional office; that the language cited by the C.A. was consistent with the letter. He asked for thoughts from the Board.

Mr. Hirst said that the applicant agreed that he would pave the driveway in spring of 2007 and asked if that constituted being part of the C.A.

Mr. Beckert said that that was part of the approval from the PB and, if that wasn't done, then that was a violation of the PB's approval in 2006.

Ms. Knowles said that one of the stipulations of the C.A. was that the road did not need to be paved.

There was discussion regarding that the paving wasn't done when the C.A. was signed March 25, 2010.

Mr. Paul Murphy introduced information from PB minutes and communications with Mr. Paul White (prior CEO).

Mr. Murphy said that the PB decision, on page two, referenced the standards of § 45-290, §45-404, and §45-406 and asked if those standards were relevant to the current situation.

Mr. Beckert said that, to do this justice, he would recommend the Board go back and look at the entire file of minutes pertaining to this application because, as he said, anything that was agreed to in the minutes, even if not spelled out in the Notice of Decision, were all part of the approval.

**6:03 PM**

Mr. Murphy asked if this approval was still in existence, was this something they still referred to as a condition...

Mr. Beckert said that his sticking point was that the C.A. said that all commercial activity would cease.

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Mr. Moynahan said that the Board's job was to define whether commercial activity was occurring, or not; that they had some photographs in front of them as the only baseline they could go to outside of some verbal information.

**6:05 PM**

Mr. Chuck Denault, neighbor of Mr. Egers, said that he agreed with Mr. Knowles that he may have his own truck and sander; that Mr. Denault's brother owned one. He added that the issue was that, living there, they saw a continuation of vehicles coming and going; that they all came and testified before. He discussed the letter they all signed and put their addresses on, saying that he never received any notification of the outcome of that; that he didn't know it could be appealed because he thought that it was taken care of. He added that no one would fault Mr. Knowles for having his brothers or friends over but when they went there as a satellite business or as a location for ease of access to other places when they had contracts, etc...; that his brother and mother and father were not stopping by his house at 2 AM or 3 AM. He said that it was hard to get evidence of a true business; that if the CEO did go inspect on that one day and time and it wasn't a business, then that was fine but when the continuation of the activity was a vehicle, in itself, to perpetuate the businesses that were going there as a storage facility for their company trucks or as a place to work on them at 2 AM when a plow hose broke, as an example; that there were a lot of different things it could be but, if it was being used to facilitate another person's business, then it was a business; that it was a location in which that business could occur, that it was a place to fix things. He added that they were looking at continuous work, continuous noise, at 2 AM. He discussed that he was able to see activity at 2 AM because of his own work; that he saw trucks come down Fernald Road and pull into the pertinent residence at all hours and that it still continuously happened; that it might not be Mr. Knowles and he might have another job but there was nothing that said Mr. Knowles couldn't have a part-time job while continuing the other job. Mr. Denault said that the pictures were being taken from the road; that the Supreme Court has ruled that that was legal; that anything that could be seen from a roadway or another piece of property was totally legal. He added that, per request of the CEO, pictures were gotten; that aerial pictures were given of the activity at the time to show that there was a continuation and it was still continuing today because, maybe, something failed in the process. He said that more people could have come tonight but asked how many times they had to keep coming to fix something that was agreed to be fixed several years ago.

Mr. Paul Murphy said that Ms. Knowles was very welcome to look at any pictures, adding that no pictures were taken within 100 feet of her house, doing that out of respect for the Knowles.

Mr. Hirst asked if anyone had seen, or was there present, a pay loader or similar device for loading sand into a sanding truck.

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Mr. Egers said that he had seen that.

Mr. Hirst asked if there was any machine with a bucket capable of loading a sander.

**6:09 PM** Mr. Egers said that he had seen a Caterpillar vehicle; that he had seen trucks with longbeds come in and offload stuff. He added that he wanted the Knowles to have a family and live there but he wanted to sleep at night.

Mr. Paul Murphy said that, in the Knowles' defense, he didn't think there was any sand loading going on at the property; that all the sand was over at BJ's (Portsmouth). He added that they had a fairly good-sized Bobcat and he had witnessed them changing the plows on that Bobcat over at Mr. Knowles' house; that they brought it in underneath the house in the garage, then they would bring it over to BJ's, which was where he thought that they got all their sand.

Mr. Moynahan asked, with the information before the Board, did it appear that there was still a home business of any type occurring. He added that he believed they needed to get more documentation from a Town employee to make sure this activity was not going on. He asked if the Board should have this monitored for a period of time with reports given weekly to make sure that the C.A. was being followed. He added that the biggest concern these folks had was snowplowing activity and the C.A., which stated that the "*defendants shall limit the number of plows, including plows attached to vehicles stored or kept outside on the property*", but the other part was the home business, which was the vehicles in and out during snow events. He added that they had some testimony and they had some pictures but did that truly show another home business occurring.

Mr. Denault said that an issue was that there was no more snow coming for several months, then it started up again in November, and they waste another six or seven months trying to resolve this.

**6:12 PM** Mr. Moynahan said that it appeared, from these pictures, that there were four different vehicles photographed, unless there were multiple company trucks; that there were several without plows.

Mr. Paul Murphy said that some of those trucks just came in to pick up snow blowers.

Mr. Moynahan added that it looked like there were five, maybe six, different vehicles that went in and out, of which two had no plows, during this; that that was what he was seeing in the pictures. He asked the CEO if there was, inside the pertinent building, any ability to maintain or work on vehicles, plows, that sort of thing.

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Mr. Marchese said certainly; that he had a large open area under his home.

Mr. Moynahan said that, so, it was possible that some type of repairs could be being done, or what have you, to some of the vehicles going in and out.

Mr. Marchese said yes. He added that he wanted the Board aware that he was on-site March 19, February 8, January 30, and January 14.

Mr. Moynahan asked if any of those dates had snow events.

Mr. Marchese said that on March 19 Town Hall was closed because of a snow event; that he traveled by the home several times and did not see any tracks in the snow.

Mr. Moynahan said that the hard part was that a lot of these concerns were for night-time activity and that they didn't have Town staff, as a rule, driving by to look at that sort of thing. He asked if they should, based on the C.A. that they had.

**6:15 PM**

Mr. Beckert agreed that they were out of the snow season so, at this point, what would they monitor. He added that it was a "he said, she said" but the "he said" seemed to outweigh the "she said"; that there certainly was the opportunity and space in that building to have vehicles in there and to do repairs; to park vehicles in there out of site. He added that Mr. Knowles said something that clicked with him tonight – "that I don't have vehicles parked outside on the property" – they could be inside the building. He reiterated that the definition for Home Business was for commercial activity that fit in with the neighborhood and, when the C.A. was signed, that meant, in his opinion, that there would be no commercial activity going on at that property, whether it be his, or friends of his, or somebody else.

Mr. Murphy said that the Board couldn't hear the back-up sounds from these trucks but there was testimony that they did occur; that there should be some way of turn them off and, if they were not, then that implied they were there for business.

Mr. Paul Murphy said that he didn't hear the back-up bells; that he heard all the trucks in front of his house and that, sometimes, they stopped in front of his house to talk with each other in the middle of the night.

Mr. Marchese said that one possible resolution would be to ask the home owner if he would allow the Code Enforcement Office access to his property within one hour of a phone call and that way they could go to his home, take pictures inside, see if there were plows or activity going on, when this reported activity was actually taking place.

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Mr. Moynahan read from the C.A. that the defendant agreed that the CEO could come to their property to make zoning compliance inspections as long as the CEO called in advance, either speaking directly to one of the defendants or leaving, or attempting to leave, a voice message, and as long as the CEO's vehicle was marked on the outside with signage identifying him as a Town employee. He added that he thought it was addressed in the C.A. that, as long as the CEO had met those requirements, then he was able to visit that property.

Mr. Marchese said that he did not take advantage of that because the Town did not have a vehicle marked as a Code Enforcement vehicle; that he always gave notice.

Mr. Beckert asked Mr. Blanchette where the car magnets went that they had; that they had them at one time.

Mr. Moynahan said that they should make sure that they had those markings because that was another concern.

Mr. Knowles said that the verbiage was important to his family because one of the previous CEO's would randomly show up in an unmarked vehicle and start taking pictures of his home; that he actually took pictures of his wife through a window, adding that with that whole last situation he did not pursue an appeal of the Town's decision within the 30 days; reiterating that it was important to his family to know when someone was coming to their home. He added that there were a few times they spoke this winter when he was on Long Island for work; that his brother was at the house with his family and he didn't want his brother having to deal with it. He said that, on a Sunday after a snowstorm, if he wanted to have ten friends over to have a beer and watch a game, and they all had plows on their trucks, he didn't need a permit for that.

Mr. Moynahan said that he hoped Mr. Knowles could understand and sympathize with the concerns from the abutters, with the noise later in the evenings, and that sort of thing; that that has been one of the biggest concerns raised by the neighbors.

Mr. Knowles said that he plowed his driveway at 3 AM, sometimes, before he went to work and that made noise.

Mr. Moynahan said that he plowed, too, and wasn't arguing Mr. Knowles' point, but that he hoped Mr. Knowles could be sympathetic to the point these folks were making that the noise in the wee hours of the morning, whether it was people coming over to hang out or whatever they were doing...

Mr. Beckert said that the noise seemed to be excessive.

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Mr. Moynahan agreed, based on the information they have received.

Mr. Paul Murphy said that, after Christmas, during one storm he stopped counting at eighteen different vehicles, and they weren't going over there for coffee and donuts. He added that it was hard to get pictures at night but that he has given testimony on this for three years.

**6:20 PM** Mr. Moynahan said that testimony didn't do enough; that he had to prove that someone was breaking an agreement that they made with a legal court.

Mr. Paul Murphy said that, if he wasn't running a business going, then he had excessive vehicles going in and out of there – they should address that; that if he wanted to have his friends over for a beer, then that was fine, but not at 3 AM and not coming in and out of there all night long.

Mr. Moynahan said that, if he had friends coming over at 3 AM, then that was a civil matter.

Mr. Paul Murphy said that he had witnessed that his friends all had reflective vests on.

Mr. Moynahan said that he did not see a reflective vest anywhere. He added that he was not dismissing anything that Mr. Murphy was saying; that he could roll his eyes all he wanted but he (Mr. Moynahan) was trying to look on this with open eyes at both ends of the spectrum but, if this was not provided to him, then how could he see that it was happening; that there were not 18 people walking out of vehicles with vests on.

Mr. Egers discussed the trucks backing in and out of the garage, over and over again, and that he and his family couldn't sleep; that Mr. Knowles had lights outside that were like Wal-Mart; that he would probably never be able to sell his house.

Mr. Moynahan said that they understood that and sympathized with that; that they were trying to get some type of resolution.

Mr. Paul Murphy asked if the Board was saying that they (neighbors) had to go out there to actually take pictures that they (property owners) didn't want then to take.

Mr. Moynahan said no, but, the only way for the Board to say that...Mr. Paul Murphy came in saying that Mr. Knowles violated his C.A. so, now, the Town would take him to court – on what; that Mr. Paul Murphy couldn't just come in

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and tell the Board that someone had done something; that the Board had to try to establish proof and that was what they were trying to come up with right now; that they (BOS) was not a court. Mr. Moynahan asked the Board if they were satisfied that there was a business running in Mr. Knowles' yard and that they should send this to the attorneys.

Mr. Paul Murphy said that he was getting tired of doing this; that he was not making this up and they had been doing this for three years.

Mr. Moynahan said that he understood; that the CEO had indicated he had gone on four different occasions and had seen no activity that would indicate a home business happening or that he had violated the C. A.; that that was the information the Board had to go by; that he wasn't arguing with Mr. Murphy but was just trying to explain how the Board came up with their determinations. He asked the Board how they would like to proceed with this.

Mr. Hirst asked if, specific to the C. A., did he have more than two 55 gallon drums of salt and sand storage, at this point.

Mr. Knowles said no.

Mr. Hirst asked if the exterior pump dispenser had been removed from the exterior fuel tank.

Mr. Knowles said yes.

Mr. Paul Murphy said that he actually added another tank.

Mr. Hirst said that "the fuel could not be dispensed from the tank into any vehicles, machinery, or containers and shall provide documentary evidence to the Town that the tank has been permanently sealed no later than 30 days after the entry of this Consent Order" – he asked if Mr. Knowles did, indeed, have a second tank.

Mr. Knowles said that he has had a second tank since the house was built.

**6:25 PM**

Mr. Marchese said that, to put Mr. Hirst at ease, on March 28, 2011 he did an inspection of the premises to make sure they were in compliance with the C.A. and, at that time, there were only a few things that needed to be finished and he has completed that.

Mr. Hirst asked the CEO if he was content that the elements of the C.A. were still in compliance to this day.

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Mr. Marchese said yes, as of his last inspection off the premises.  
Mr. Hirst asked if the payments to the Town have been made appropriately.

Mr. Marchese said yes.

There was discussion and clarification around the paving of the pertinent road; that because of the C.A. the paving requirement went away.

Mr. Paul Murphy said that paving the driveway was at his request before the PB; that it was never paved and that was one of the reasons why they revoked his business license.

**6:28 PM** Ms. Knowles said that that was a little false and was actually in the legal document; that there were proceedings that happened, privately, between their attorneys and the Town's attorneys ; that it was all documented what the resolution was and why that was not done; which she believed happened behind closed doors.

Mr. Beckert asked if they had another document on file at Town Hall that said that that road did not have to be hot-topped.

Mr. Moynahan said that he thought those were discussions between all parties involved with the final C.A.

Mr. Beckert said that that didn't say that the road didn't have to be hot-topped and discussed that the road should have been hot-topped as agreed to in 2007 and that the Town should have pursued that. He added that he didn't care what they did behind closed doors but wanted to know if they had anything from the court, as that should be documented. He discussed his frustration with the lack of follow-through with code enforcement over time and created issues now.

Mr. Paul Murphy said that he wasn't concerned with the road, now; that he had requested paving because of the dust from the landscaping business that was created.

Mr. Moynahan said that the Town, as a whole, wanted to make sure that follow-up was consistent within the Town.

Mr. Beckert added that his only point was that, if the court officially agreed the Knowles' didn't have to pave, then there should be a copy of that on file here at the Town Hall.

**6:29 PM** Mr. Moynahan asked how, instead of moving backwards, they moved forward and come up with some resolution that no home business was happening.

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**April 9, 2013 5:30PM (continued)**

Mr. Beckert said that they were out of snow season and asked if there had been any evidence of any commercial activity down there during the other three seasons.

Mr. Paul Murphy said an occasional truck during the day but nothing like the snow storms where they were in and out during the night when it was more difficult to catch.

**6:31 PM** Ms. Murphy said her main concern was the middle of the night when nobody could sleep; that her husband was a truck driver so, if he fell asleep when he was working because he couldn't get sleep at night, then where did that leave him.

Mr. Moynahan reiterated that the Board was certainly sympathetic to the noise issue and they were trying to resolve that in whatever was the best way to do that. He asked Mr. Knowles for his thoughts on the activity that he had going on if it wasn't a home business and he had a lot of folks coming in; that the Board was hearing from several abutters that that affected their day-to-day life in the evenings; how did they control that.

Mr. Knowles said that this was news to him; that, as a neighbor, if they had said something, then maybe there was something he could have done but, moving forward, absolutely. He added that he wasn't aware that there was a noise issue, specifically.

Mr. Paul Murphy reiterated that the trucks were loudest when they were by his house; that if he had to put a video camera up next year to show the Board what was going down that driveway, then he would. He added that he hoped it didn't come to that; that it ended right now.

**6:33 PM** Mr. Moynahan said that he thought a good step would be for the residents and Mr. Knowles, collectively on their own, get together and go over concerns to come up with a resolution between them. He added that he thought the Board should direct the CEO to inspect weekly or bi-weekly, at least, to give the Board reports on any business activity that may be going on and, as they got closer to winter, keep more on top of it to prevent future issues. He said that those were his thoughts and asked for input from the Board.

Mr. Hirst said that he thought they should get magnetic signs for Mr. Marchese's vehicle.

The Board agreed.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**April 9, 2013 5:30PM (continued)**

**6:35 PM** Mr. Beckert said that, in all fairness to everyone, Mr. Knowles has heard the concerns tonight and, if Mr. Knowles was in agreement to curb some of the questionable activity that was causing issues, then that was a step in the right direction. He added that it was still inconclusive that commercial activity was happening there. He said to Mr. Marchese that, if he had to enforce the noise ordinance, then do it; discussing that ordinance and how to take readings with the public.

The Board discussed coming to an amicable resolution; that the time-stamp on photos was mostly between 11:00 PM and 12:30 AM; the challenges in proving a home business was occurring.

Mr. Murphy said that they all lived in New England and knew about snow storms occurring at night, with the plowing that went with that. He added that he didn't think it was right for a snow-plow staging area to be at a private home that was in a private residential area; that that was wrong and should be staged somewhere else, such as the parking lot at Eliot Commons.

**6:40 PM** Mr. Moynahan said that, moving forward, Mr. Knowles had a better understanding of what the concerns and frustrations of residents and the Town may be; that the Board would direct the CEO to do more routine inspections on that property to assure there was no business activity that violated the C.A. signed between the Town and the Knowles' in 2010; that the C.A. still fully applied; that the Town would make sure compliance was occurring.

The Board discussed the desire to have better information about the nighttime activity and staying proactive as the winter season approached.

**6:42 PM** Mr. Egers said that there was a bit of a credibility issue here; that the file was very thick with violations, etc.; that he was not here to go to court but asked that the residential home be a residential home, not a business.

It was the consensus of the Board to have the CEO routinely inspect the pertinent property for C.A./commercial activity violations to ensure full compliance and to enforce the noise ordinance, if necessary.

**Adjourn**

There was a motion and second to adjourn the meeting at 6:44 PM.

**VOTE**

**4-0**

**Chair concurs**

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**April 9, 2013 5:30PM (continued)**

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**DATE**

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**Mr. John J. Murphy, Secretary**