

Town of Somers
Legal Notice
Special Town Meeting
Thursday, March 20, 2014
7:00pm
Town Hall Auditorium

Legal Notice is hereby given that the Board of Selectmen will hold a Special Town Meeting Thursday, March 20, 2014 at 7:00 pm at the Somers Town Hall, 600 Main Street, Somers, CT so that electors of the Town and other persons eligible to vote may vote on the following items:

1. To elect a moderator
2. To Discuss and Act on a Resolution pursuant to C.G.S. 22-26g as follows:

WHEREAS, the Commissioner of the Department of Agriculture (the "Commissioner") has issued or reissued a permit to allow for the use of a noise making device ("the device") to Thomas and Lorrie Lyman, related to agricultural activities at 128 Shaker Road, Lots 1 and 2; and

WHEREAS, the Town finds that there is an undue hardship presented to nearby residents by the use of the device; and

WHEREAS, the Commissioner is given the authority to determine that the use of the device creates, or will create, an undue hardship on nearby residents.

NOW THEREFORE, the Town, having made the findings set forth above, hereby requests the Commissioner to deny or cancel the right to use such device.

Signed at Somers, Connecticut, this 28th day of February 2014.

BOARD OF SELECTMEN
Lisa Pellegrini, First Selectman
Kathleen Devlin, Selectman
Bud Knorr, Selectman

Publications Date: Tuesday, March 11, 2014

Attestation:

I, Ann Marie Logan, Town Clerk of the Town of Somers, attest this to be a true copy of the notice published in a newspaper with a general circulation within the Town of Somers

Special Town Meeting Minutes
March 20, 2014

The meeting was called to order at 7:01 pm with over 30 individuals in attendance. First Selectman, Lisa Pellegrini requested Town Clerk Ann Logan to read the legal notice.

1. **To elect a moderator**
A motion was made and seconded to elect Lisa Pellegrini as moderator of the Special Town Meeting of March 20, 2014. No discussion, unanimous vote.
2. **To Discuss and Act on a Resolution pursuant to C.G.S. 22-26g**
L.Pellegrini introduced Town Attorney Carl Landolino to provide the attendees with an overview of the Town of Somers legislative body's ability under the statute. C.Landolino noted that if the legislative body (town meeting) finds that the usage of a noise making device creates an undo-hardship for property owners, a resolution may be adopted and forwarded to the Commissioner of the Department of Agriculture. The adoption of the resolution does not guarantee the denial or revoking of a current permit. The first step is the adoption of a resolution which will be taken under consideration by the Commissioner. The Board of Selectmen, based on a petition submitted by residents determined that undo-hardships were being created by the usage of the noise maker. Mr. Lyman does have a current permit issued by the State for use in deterring wildlife away from his crops.

A motion was made by Mr. Hines and seconded by Mr. Merrill to approve the adoption of a Resolution pursuant to C.G.S. 22-26g. Discussion:

J.Cassarino ó What is the decibel of the noise created by this "cannon"? ó Unknown Define "numerous" telephone complaints received ó L.Pellegrini, many, as well as, a petition received from neighbors and discussed at a Board of Selectmen meeting. How often does the "cannon" go off?

J.Merrill, Winwood Circle ó The "cannon" goes off from 7 am ó 7 pm, 7 days a week from July to October although the State permit allows for it to begin in May. The number of times it goes off in an hour varies but averages approximately 25 times per hour. A video was created on 09.04.2013 demonstrating the noise created and the number of times the "cannon" goes off. This type of usage has definitely de-valued the property in the surrounding area and our ability to enjoy our property during the specified months.

R.Smith ó How would you feel if a Walmart parking lot was next to your property vs. a farm attempting to protect its produce and the value that would then be placed on your property.

C.Pyne, Sunset Drive ó Lived in the Town of Somers for 34 years and the "cannon" has not disturbed or bothered her in all the years she has lived in town. The majority of people here this evening moved to Somers for its rural character with normal farm activities. The farmer is protecting the crops from geese and any wildlife which would jeopardize his crops. How would you feel if the open field turned into a cookie-cutter housing project?

S.Leaska, Bittersweet Hill ó Completely believes in farming and the ability to produce from your land, but there must be better solutions to getting rid of geese. Loves Somers for its community, farming and open space, but a better way of deterring wildlife must be available for usage.

J.Merrill, Winwood Circle ó There are over 20 other alternatives available for usage by the farmer for bird control. In 1996, the law limited the time to 7 am ó 7 pm. Prior to 1996, the law allowed the farmer to begin at 5 am.

L.Lacasse, Main Street ó How long has this farm been existence ó 100 years? Should the farmer suffer the loss of his crops because you want to put a stipulation on him and his ability to protect what he produces?

J.Merrill, Winwood Circle ó Stated that he had previously had a good relationship with the farmer. However, year after year the farmer has not been willing to compromise his usage of the "cannon" The enjoyment of property owners to utilize their years has been taken away because of the farmers unwillingness to work with the neighbors.

S.Mulvihill, Royal Manor ó The surrounding property owners have applied for a property assessment reduction. She moved into Somers 5 years ago and has not been able to enjoy her backyard with the noise created by this "cannon" when there are alternatives available for usage by the farmer.

S.Leaska, Bittersweet Hill ó Invited anyone in the room to her home in order to experience the noise level she is being subjected to at her home. Her horses have become immune to the level of noise being created and suggests that the wildlife has done the same and that the usage of the "cannon" is no longer effective.

C.Gall, Billings Road ó Moved into Somers in 2003 for the quite enjoyment of her property but has been disturbed by the noise. She cannot even "sleep-in" on Saturdays.

D.Miller, Winwood Circle ó Animals/wildlife become acclimated to a continuous noise as she believes has occurred. She stated that getting information from the State regarding the issuance of these types of permits is extremely difficult.

L.Pellegrini, First Selectman read several letters into the record from the following: B.Haverly, T.Denahy, and C.Pyne who noted that there is a Right to Farm Provision written by the State.

Atty Landolino summarized the right to farm provision protects farmers from nuisance complaints which are not actionable under the right to farm provision. However, specialized activities by farmers would require special permitting such as the usage of a wildlife noise making devices issued by the Commissioner of the Department of Agriculture. Atty Landolino was unaware of the number of permits issued for "noise cannon" within the State.

No other individuals requested to speak either for or against the noise making device issued or reissued to Thomas and Lorrie Lyman of 128 Shaker Road, Lots 1 and 2, Somers, Connecticut.

All in favor of the Resolution pursuant to C.G.S. 22-26g signify by the raising of a hand: 30; all opposed to the adoption of the Resolution: 4. Motion approved.

A motion was made, seconded and unanimously voted to adjourn the Special Town meeting of March 20, 2014 at approximately 7:42 pm

Respectfully submitted:

Ann Marie Logan, CCTC
Town Clerk