

IN BOARD OF SELECTMEN
MONDAY, JANUARY 22, 1996

Present: Selectmen Maryann K. Clark and Lawrence L. Blacker.

The statutory requirements as to notice having been met, the meeting was convened by Acting Chairman Clark at 7:35 p.m. in the Town Hall.

Dog Complaint Public Hearing - Rottman vs. Bagley

Present: Complainants James and Patricia Rottman of 63 Willis Lake Drive; Ralph and Debra Bagley of 71 Willis Lake Drive; Dog Officer Betsy DeWallace; Attorney David Wallace, representing Mr. & Mrs. Bagley; numerous neighbors of the Bagley and Rottman families.

The Board convened a public hearing to consider the complaint, dated December 21, 1995, of James B. Rottman, DVM, Ph.D., 63 Willis Lake Drive, against a male Bull Mastiff named Brutus, owned by Ralph and Debra Bagley, 71 Willis Lake Drive, for killing the Rottman's dog on a public street near both families' homes.

Acting Chairman Clark noted for the record that notice of the hearing had been served upon the parties; all persons expected to give testimony in the matter were then sworn in by her. Ms. Clark also informed all parties concerned that they have ten days after a decision is rendered by the Board to appeal that decision.

Patricia Rottman began her complaint by stating that she and her husband are both veterinarians and are knowledgeable about dog behavior. She said that on December 20, 1995, about 4 p.m. she and her two children were outside shoveling and sledding in the snow; she said that her dog, a Sheltie, was with them. Her dog began to run up a hill near her home and toward the home of the Bagleys. Mrs. Rottman said she heard a yelp and quickly went to her dog and found it on the ground, barely alive. She said her dog was in the middle of the public street, near the Bagley home and that it was already almost dead when she reached it. On query by Selectman Clark, Mrs. Rottman said that her home is approximately 50 yards from the Bagley home.

Mrs. Rottman then said that she saw Mrs. Bagley drag her large male dog home by the scruff of the neck and that her large female dog followed behind them. Mrs. Rottman said that her own dog died sometime on the way to the hospital. At this point, Mr. Rottman submitted a pathology report to the Board.

Selectman Clark asked if the Rottmans had met the Bagleys prior to this incident and Mr. Rottman replied that they had not met until after his dog died. Ms. Clark asked if the Bagleys and Rottmans had discussed any resolution of this matter and received a negative answer.

Selectman Clark then asked Dog Officer DeWallace if she had anything to add to the statements of the Rottmans and Ms. DeWallace replied that the presentation had been accurate. Ms. Clark asked whether there had been any previous incidents and Ms. DeWallace replied in the affirmative, that there had been a bite incident prior to this problem. The Dog Officer's January 17, 1996 written report cited a complaint and bite on August 25, 1993, and attack on another neighborhood dog on November 10, 1995.

David Wallace then spoke as attorney for the Bagley family. He stated that the Bagleys are responsible dog owners, and that as outlined in a memorandum that Mr. Wallace submitted this evening to the Board, the owners do not believe that "Brutus" (the Bull Mastiff accused of attacking the Rottmans' dog)

deserves to be destroyed. Mr. Wallace asked that the recommendation made in his memorandum be adopted by the Selectmen, as he stated that the dog is kind and gentle with all people, and even good with children.

In response to Selectman Clark's queries as to the weight and age of Brutus, Mr. Wallace stated that the dog weighs 165 pounds and is 6 years old. Mr. Wallace furthered that this breed is not known to be aggressive (as is a German Shepherd, e.g.) and that Brutus was on a leash when this incident occurred. Mr. Wallace said that a "natural friction" occurs when one dog is on a leash and the other off, as was the Rottman dog. Mr. Wallace also said that since the incident occurred near Brutus' yard, his naturally territorial nature and the fact that Mrs. Bagley was unable to hold him back contributed to the incident. Mr. Wallace stated that the Bagleys have since had a muzzle custom-made for Brutus which they use at all times while he is being walked. He said that the Bagleys propose this evening that the muzzle will be on Brutus when he is outside and that he will be neutered within a few weeks. He said that the Bagleys realize that the death of their dog is like a death in the family for the Rottmans and therefore, would like to pay for the replacement of the Sheltie. He concluded by saying that he asks that the Board recognize the several affidavits submitted this evening testifying that Brutus is not vicious.

Selectman Clark asked about the other Bull Mastiff present at the time of the attack, and was told that it was a female of the same litter as Brutus and that it could be posited that Brutus was also defending the female when he acted aggressively.

Ms. Clark asked the Rottmans for their opinion of the proposals made by the Bagleys to keep Brutus under the conditions they offered. Mr. Rottman responded that although he understands that Brutus is part of the Bagley family, this is an aggressive and vicious dog and that the owners knew it prior to this incident. He pointed to the fact that Mrs. Bagley was not strong enough to prevent her dog from killing his smaller dog and said that some other neighbors are also afraid of Brutus. Mr. Rottman said that he is a board-certified pathologist and stated that his dog died from a single, massive bite to its dorsal, thoracic region, that one of Brutus' canine teeth had punctured his dog's lung. Mr. Rottman said that these three factors: aggression (Brutus killed), intention to kill (without a warning growl, as Mrs. Bagley herself told the Rottmans), and the history of aggression (other prior incidents) are the reasons he and his wife are asking that Brutus not be allowed to stay in the Bagley home. Mrs. Rottman added that in her experience, a pattern of aggression will worsen over time and wondered if a human would be the next victim. She said that since she lives 50 yards from the Bagley home, she is afraid for her small children. Mrs. Rottman said that with many small children in her neighborhood and with many other neighbors expressing fear of Brutus, that she asks that Brutus be removed from Sudbury altogether. She said that if the Selectmen do nothing that there is always a chance that the dog can get out of its muzzle and attack another dog or human.

Selectman Clark asked if neutering will change Brutus' disposition and Mr. Rottman replied that this is not a foolproof method and that the dog's aggressive, learned behavior is the problem rather than hormonal factors. Mrs. Rottman opined that since Brutus is six years old, neutering would do very little to alter his disposition as it might have at a younger age. Ms. Clark asked about medicine for aggressive behavior, but Mr. Wallace responded that Brutus is not "hyperactive" and Mr. Rottman added that daily medication would not be fair to the dog.

At this point, Mr. Bagley stated that he and his family deeply regret the incident in question. He asked again if the Rottmans would accept compensation for their loss and/or to replace the dog. He reiterated Mr. Wallace's point that he and his wife are not irresponsible people and they believe that the remedial measures they have proposed this evening will prevent another incident. He mentioned that he has

a kennel on his property and responded to Selectman Clark's query on this kennel by stating that it is six feet high and that Brutus cannot jump over this height. Mr. Bagley said that the Bull Mastiff is regularly referred to as a "gentle giant" and is known to be gentle with children. He said that Brutus does not growl at people and shows no aggression to people. He concluded by asking that the offer he has made be accepted as reasonable.

Selectman Clark asked if Brutus shows aggressive behavior toward other dogs and Mr. Bagley said that he does not, unless other dogs are near the Bagley property, as Brutus is protective of his own property. Mrs. Bagley told Ms. Clark that on the day in question she had walked outside with her dogs on a leash; when she noticed a small dog unleashed, so to try to prevent an incident, she turned around to return to her home. She said, however, that the small, unleashed dog arrived near her very quickly and that there was a small amount of mutual growling before a very quick attack, one she was not strong enough to prevent. Ms. Clark asked if Brutus could have been protecting the female Mastiff, but Mrs. Rottman interjected that it was more a territorial issue. She continued that her small dog was only about 29 pounds and could not walk in the deep snow and for that reason was in the middle of the plowed street. She said that her dog took a submissive pose, but Brutus attacked it despite this.

At this point, Mr. Wallace wondered whether this hearing could be continued for some weeks in order to have a trial period to see if the Bagleys' proposed conditions and modifications to Brutus' situation would satisfy the Rottmans. Selectman Blacker stated here that he would like added to the conditions proposed by the Bagleys that Brutus be penned at all times, that he not be allowed out at all, not even on a leash. Mrs. Rottman responded that she is not willing to risk a trial period, even with a muzzle and a leash and Mr. Rottman said that the Bagleys have had opportunities to modify Brutus' behavior in the past, that they now must do something to ensure that such an incident will never happen again. Mr. Wallace again asked the Rottmans to give the Bagleys the chance to keep Brutus under the restrictions they propose to impose on themselves; he said that he personally would not plead the case for the Bagleys if he believed Brutus to be vicious. Mr. Wallace then cited a personal experience with his young son and a vicious dog as evidence that he would never help anyone keep a dangerous dog in Town.

Mrs. Rottman countered that the evening they met with the Bagleys after the incident, the Bagleys had stated to her that there had not been a previous history of attacks by Brutus. Mrs. Rottman said that she subsequently found that this is not the truth, that there had been at least three other dogs attacked by Brutus. She said that Brutus' protecting his own property is not a true reflection of what happened, because the incident happened on a public street. She said that the Bagleys said that Brutus is never off a leash, but that also is not true, that she has seen Brutus off a leash in front of her own home. For all these reasons, Mrs. Rottman reiterated her desire that Brutus be sent out of Town.

Selectman Blacker stated that banishing the dog to another town only passes the problem to that other town. Mr. Blacker further stated that he hears the Rottmans expressing their concern about the vicious nature of Brutus and yet does not hear them asking that Brutus be destroyed. Mr. Blacker then reviewed the offer by the Bagleys to take several measures to control their dog, to which Mr. Blacker himself has this evening added the condition of kenneling at all times. Mr. Blacker expressed his opinion that the conditions proposed by the Bagleys and adding the kenneling should be enough to protect the neighborhood from further incidents. Selectman Clark stressed here that Brutus should not be walked even on a leash, as he is too big to be restrained by his owners even on a leash. She asked Mr. Bagley how big the kennel on his property is and was told it is currently 30' by 12' but that the pen will be enlarged to 80' by 30', and that at Brutus' size there is no chance that he could dig a hole big enough for himself to go under the fence or to

jump high enough off the ground to go over the fence. Interim Town Manager Thompson suggested that the Selectmen's approval of the enlarged pen be subject to Dog Officer DeWallace's approval.

At the close of the public hearing held January 22, 1996, it was on motion unanimously

VOTED: It is ordered that the Bull Mastiff named Brutus, owned by Ralph and Debra Bagley, 71 Willis Lake Drive, shall be kept penned at all times on the property of the Bagleys (in an enlarged and improved pen to be subject to the approval of the Dog Officer), and also shall be muzzled at all times when outside, even when in its pen; that when the dog is being transported off the property, it be always on a leash and muzzled; that the dog be neutered within 30 days of this order; that the Bagley family make restitution to the Rottman family for the loss of their dog; and that if any of the above conditions are not met by the Bagley family, the Town will pick up the dog and the dog will be banished from Sudbury.

220th Town Forum

Present: Nancy "Hasty" Evans, State Representative, and representatives of Town boards and departments.

At 8:05 p.m. Acting Chairman Clark convened the 220th Session of the Town Forum. Various representatives of the Town's boards and departments updated the Town on their activities; following which Town Forum was adjourned and coffee and conversation enjoyed by those present.

This Town Forum was televised over the local Cable network, and a copy of the videotape is available for a period of one year by contacting the Selectmen's Office.

Meeting with Members of Lincoln/Sudbury Regional School Committee

Present: Frederick Pryor, Donna Coutu, and David Wilson, members of Lincoln/Sudbury Regional School Committee.

Mr. Pryor stated that he asks for the support of the Selectmen at Town Meeting for the improvement of Rogers Theatre at Lincoln/Sudbury. He provided the Board with an easel display of blueprints of the current theatre and the proposed improvements. Mr. Pryor said that in a study done by Gale Engineering in 1991, several improvements were listed as being necessary at the high school; he said that of these, two out of three have been accomplished (roof repair and boiler repair) and that now it remains to accomplish the third, the redesign of Rogers Theatre. Mr. Pryor added that in 1994, the Town of Lincoln had passed the debt exemption for Rogers Theatre, but that it was defeated at Sudbury's Town Meeting last year. Mr. Pryor stated that last year the Finance Committee came up with a priority list for future projects and that the Long Range Planning Committee's first choice for priority was Rogers Theatre, with the Highway Department building being second and the library improvements being third. Mr. Pryor furthered that he knew how necessary the highway building was to the Town and that the library issue needed to be addressed in order that strategy for obtaining the State grant be worked out. Therefore, Mr. Pryor continued, he realized last year that Rogers Theatre would have to wait until next year in order to give these first two projects priority. Mr. Pryor concluded his opening remarks by stating that since preparations for the 1996 Town Meeting are currently underway, his committee again will be making a capital request for the redesign of Rogers Theatre.

Mr. Pryor then gave two information sheets to the Board. The first sheet is entitled "Why Renovate Roger's (sic.) Center?" and addresses goals for renovation, current problems with Rogers as it now exists, discussion of the renovation and use of the auditorium as an alternative, a "bottom line" on costs of

renovation, and a listing of work the LSRHS school committee has done on this issue. The second sheet lists "Rogers Educational Center Benefits" and posits the benefits to both the high school and the communities of Lincoln and Sudbury of the proposed renovations. David Wilson opined that perhaps one thousand people per day would use the newly-renovated facility.

Selectman Clark stated that the ultimate decision on Rogers will be made by the residents at Town Meeting and that the bottom line will be paying for the proposed renovations. Selectman Blacker concurred, saying that he does not disagree with the fact that an improved Rogers Theatre is desirable; however, Mr. Blacker stated that in his opinion there are more pressing issues on which the Town must spend funds, e.g. a new school may be needed. Mr. Pryor stated that in his opinion, if the Selectmen state opposition to this capital request, it will be defeated again and asked that if the Selectmen cannot support this idea, that they at least abstain rather than expressing negative feelings to it. Mr. Blacker again stated his opinion that the Town is losing funds rapidly and in a situation such as the one Sudbury is experiencing, many things become luxuries rather than necessities. Mr. Pryor countered that he believes that this will be the only debt exemption coming before the Town, and again asked that the Selectmen abstain if they cannot speak in favor of it.

Selectmen Clark and Blacker agreed to discuss this issue with Chairman Drobinski and decide together with him whether or not the Board will take an official position on the capital request for Rogers Theatre renovations. They thanked Mr. Pryor and Mr. Wilson for their input.

Interview of Candidate for Long Range Planning Committee

Present: Herbert Shanzer, Candidate.

The Board acknowledged receipt of a communication from William Katz, of the Long Range Planning Committee, dated December 22, 1995. Mr. Katz stated that there are four members remaining on the Committee (out of five) due to the resignation of one member in the Spring of 1995. He further stated that the Committee has reviewed the applications of two candidates (Herbert Shanzer and Charlotte Broussard) who wish to serve on the Committee and then requested that the Selectmen approve both candidates, as both applicants would make excellent LRPC members. Finally, Mr. Katz offered to have the LRPC choose one of the two applicants if retaining six members of the Committee is impossible.

Interim Town Manager Thompson informed the Board he had replied to Mr. Katz that according to Art. 14 (1986) there are to be only five members of the Long Range Planning Committee, and that the Board of Selectmen would interview both suggested candidates and pick one of them for the position. Mr. Thompson said that Mr. Shanzer will be interviewed this evening and Ms. Broussard will be interviewed on February 12, 1996.

In response to questions from the Board, Mr. Shanzer stated that he has been a resident of Sudbury for ten years; that he worked as a high-tech executive; that he would like to help the Town with his business experience, as the decisions that must be made by the Long Range Planning Committee are not unlike those made in industry settings. Selectman Clark asked Mr. Shanzer if he is flexible in the hours he would be able to devote to Town affairs and received an affirmative answer, as Mr. Shanzer stated that he is semi-retired. The Selectmen thanked Mr. Shanzer for being interviewed and stated that they will make a decision after interviewing a second candidate on February 12, 1996.

Application for Limousine and Taxi License

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Present: Drew W. Goss, Applicant; Brian Goss and Thomas Moriarty (possible future employees of proposed Taxi Service); James and Ray Butler, of Sudbury Limousine Service.

The Board acknowledged receipt of a letter dated November 13, 1995 from Drew W. Goss, owner and manager of Sudbury Taxi Co. stating his intent to create a Taxi and Limousine company which will service the Town of Sudbury; that the office and place of garagement will be located at 928 Boston Post Road, Marlboro, MA; that the initial fleet of vehicles will consist of one taxi and two limousines with additional vehicles to be added at a later date; and that initial employees to be Mr. Goss along with his brother Brian, Mr. Reed Cooper and Mr. Thomas Moriarty, with additional employees to be added at a later date. Accompanying the letter were copies of the registrations and proof of insurance for a 1985 Buick Lesabre (Taxi), a 1987 Lincoln Towncar (Limousine) and a 1988 Plymouth Reliant (Limousine) and a proposed rate schedule for taxi and limousine service.

The Board is in receipt of a memo from Janet Silva noting that Mr. Goss has decided since filing his application on November 13, 1995, to change the name of his business to "Yellow Cab of Sudbury" and will file a new d/b/a. Ms. Silva also noted that Mr. Goss is licensing only himself as driver and the 1987 and 1988 vehicles; any change in this situation will require approval by the Police Department and notification to the Selectmen's Office.

The Board also was in receipt of a copy of the Application for License to Operate Taxi and Limousine Vehicles to the Town of Sudbury, (Driver's License) dated November 15, 1995 by Drew Goss. Accompanying the application was a copy of information on Mr. Goss from the Commonwealth of Massachusetts Criminal History Systems Board, dated January 18, 1996; a copy of a license inquiry on Mr. Goss, dated January 18, 1996; and a statement from Stephen Reid, Inspector of Buildings for the City of Marlboro, stating that Mr. Goss has met any and all licensing requirements for the City of Marlboro and that there is no violation of City Law or Ordinance for him to operate a Taxi and Limousine Company at 928 Boston Post Road, Marlboro, including answering the telephone and garaging his vehicles at this location.

Mr. Goss presented the Board with a Commonwealth of Massachusetts Business Certificate (City of Marlboro), dated January 19, 1996, in conformity with the provisions of Ch. 110, Sec. 5 of the General Laws that a business exists under the title of Yellow Cab of Sudbury, 928A Boston Post Road, Marlboro. He also stated in writing that only two of his above-named vehicles have been inspected by the Sudbury Police Department and that Mr. Moriarty and he have obtained driver permits. Mr. Goss further said that he expects to have additional vehicles inspected and his brother receive an operator's permit in the future. He concluded by saying that initially he and his brother would operate the vehicles.

Mr. Goss stated that he would like to provide Sudbury with employment, a taxi service within Town, and a limousine service to Logan Airport. He said he has the goal of adding handicapped accessible transportation at some future date.

Selectman Blacker queried as to how many taxi services are currently operating in Town. James Butler, of Sudbury Limousine replied that there are three firms licensed with two actively operating. Mr. Blacker asked who sets the rates charged and was told that there are State guidelines for such rates. James Butler opined that there will not be enough business to support an additional company, and that mid-day there is much down-time in demand. Mr. Blacker asked about limousines for social occasions and Mr. Butler replied that Mr. Ed Brown of Triple A Limousine provides that service as he has stretch cars available. Ray Butler added that Sudbury Limousine is doubling its fleet size from four to eight vehicles.

Mr. Goss replied that at peak periods (rush hours) it is not good business to keep customers waiting and that the addition of his company would be good for taxi business as a whole.

Interim Town Manager Thompson informed the Selectmen that they can approve of or disapprove of rates.

Selectman Clark stated that since she had not been able to review all the material submitted this evening by Mr. Goss, she would need time to review the material appended to the application. Also, Ms. Clark stated that since Mr. Drobinski is not present, it would be desirable to continue this matter to a future meeting.

It was on motion unanimously

VOTED: To continue the discussion on the granting of a license to operate a taxi and limousine service in the Town of Sudbury to Drew W. Goss, 23 Davis Road, Apt. 5C, Acton, MA, d/b/a Yellow Cab of Sudbury, 928 Boston Post Road, Marlborough, MA, to February 26, 1996 at 7:30 p.m.

Town Option to Purchase Land (G.L.Ch. 61A and 61B) - Cutting Property

Present: John C. Cutting and Beth Cutting.

The Board acknowledged receipt of a letter, dated December 12, 1995, from John C. Cutting, Frank J. Cutting, and Louise C. Dorian regarding their notice of intent to sell land classified under Chapter 61A and 61B. The letter stated that the Cuttings and Ms. Dorian have received an offer to sell a parcel of land on Fairbank Road, portions of which are currently assessed for horticultural and recreational use pursuant to MGL Chapter 61A and 61B. The letter further stated that the parcel consists of house lots and open space lots, as shown on attached subdivision plans, and can be identified as a portion of Parcel F06 400 and Parcel F06 003 on Town Assessors' maps. The letter also stated that the offer received is from Greenspire, Inc. and that the writers have accepted this offer with a closing date of April 15, 1996. A copy was enclosed of the \$2,076,000 offer dated December 8, 1995 from Greenspire, Inc. to John and Frank Cutting and Louise Dorian, for eleven lots in subdivision plans "Run Brook II" and "Run Brook III." Only portions of Parcel F06-400 are classified under Chapters 61A and 61B; the offer tendered therefor is \$1,200,000.

The Board is also in receipt of a memo from the Conservation Commission, dated December 27, 1995, stating that the Commission does not recommend that the Town pursue its first option to purchase the Cutting parcel, while noting that the approved subdivision plan for this parcel is a cluster subdivision, which incorporates preservation of the most sensitive areas of the site into the plan at no cost to the Town. The memo further notes that Wetlands Protection Act and Wetlands Bylaw Orders of Conditions have been issued for these subdivisions, and expressed the hope that this subdivision will serve as a model for future developments to incorporate open space and protection of important resources in their plans.

The Board is also in receipt of a note from Jody Kablack, Town Planner, dated January 19, 1996, stating that at its meeting of 9 January 1996 the Planning Board voted to recommend that the Town not exercise its option to purchase subject property.

The Board is also in receipt of a memo from the Board of Assessors, dated January 17, 1996, stating that the Assessors are unable to recommend the Town's exercise of the right of first refusal to purchase the portion of the Cutting property currently assessed under the provisions of Chapter 61A and 61B, as they

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have researched the financial impact to the Town budget of the construction of this subdivision and have concluded that the annual net revenue shortfall of approximately \$9000 is not sufficient to cover the debt service required to purchase this property at a price of \$1,200,000.

It was on motion of Selectman Blacker unanimously

VOTED: To decline to exercise the Town's option to purchase land pursuant to G.L.Ch.61A and 61B, as set forth in a Notice of Intent dated December 12, 1995 and postmarked December 13, 1995, from John C. Cutting, Frank J. Cutting and Louise C. Dorian to sell to Greenspire, Inc. for residential use approximately 6.76 acres currently assessed and taxed on the basis of agricultural or horticultural use and approximately 6.10 acres currently assessed and taxed on the basis of recreational use, situated on Fairbank Road, being a portion of Parcel 400 on Town Property Map F06 and shown on plans for Run Brook II and Run Brook III subdivisions, both dated July 20, 1995, revised August 30, 1995.

Minutes

It was on motion unanimously

VOTED: To approve the regular session minutes of January 10, 1996, as amended.

Council on Aging - Van Donation

It was on motion unanimously

VOTED: To accept \$50.89 in miscellaneous donations for deposit into the Council on Aging Van Donation Account and to authorize the Council on Aging to expend the same for purposes of operating and maintaining the Council on Aging vans.

Change of d/b/a from San Antonio Grill to Matt Garrett's

Finding that the documentation was in order, upon the recommendation of the Interim Town Manager on the petition of Matt Garrett's of Sudbury, Inc., dated January 12, 1996, it was on motion unanimously

VOTED: To approve a change of d/b/a from San Antonio Grill to Matt Garrett's Restaurant, as requested by Matt Garrett's of Sudbury, Inc., 120 Boston Post Road, holder of a Restaurant All Alcoholic Beverages License, under date of January 12, 1996.

Continued Public Hearing - Bell Atlantic/NYNEX Mobile Site Plan Special Permit

It was on motion unanimously

VOTED: To continue until February 12, 1996, when all three Selectmen will be present, the approval and signing of a Decision on the application of Bell Atlantic/NYNEX Mobile for a Site Plan Special Permit for erection of a communications tower, an 11' by 27' radio equipment building, and a 30' by 36' two-bay garage for the Town, on property located at 20 Boston Post Road, Sudbury's Sanitary Landfill, LID5.

Utility Waiver - Middlesex Savings Bank

Present: Kenneth F. Parry, of KFP Architects, Inc.; Michael and John MacKinnon, of MacKinnon Family Realty Trust.

The Board acknowledged receipt of a letter, dated January 18, 1996, from Kenneth F. Parry, of KFP Architects, Inc. requesting that the overhead electric service and telephone line to the existing office building to be occupied by the Middlesex Savings Bank be maintained. The letter requested the Board's approval of a waiver from zoning article IX (V,A,7) (requiring underground utilities on all new construction), so that work by Boston Edison Company on improvement of the existing service may be scheduled.

It was on motion unanimously

VOTED: To grant a waiver to the Middlesex Savings Bank of site plan (SP95-323) requirements for undergrounding of utilities, as requested in a letter dated Jan. 18, 1996, from KFP Architects, Inc., for the reasons that overhead utilities are consistent with others in the neighborhood and to place utilities underground would create an undue hardship for the builder, which amends the Site Plan 95-323, Item #3, Page 4, Decision of October 12, 1995.

Communication from Park and Recreation Commission on Proposed Use for Landfill Site

The Board acknowledged receipt of a letter, dated January 9, 1996, from the Park and Recreation Commission, on a proposed use of land at the Town Landfill, which is scheduled to close shortly. The Commission suggested that the Town give serious consideration to building a golf course driving range on this property, and offered to take the lead in beginning a feasibility study.

Interim Town Manager Thompson recommended that the Board support this idea and the Selectmen agreed it would be worth pursuing.

Annual Town Meeting

Petition Article (Concord Road Drainage)

It was on motion unanimously

VOTED: To accept a petition article entitled, Concord Road Drainage and Walkway Improvement, for the 1996 Annual Town Meeting Warrant.

The Board is also in receipt of the 1996 Annual Town Meeting Draft Ordering, dated January 18, 1996, and accompanied by four requests from Article sponsors on Ordering Warrant, regarding #7 & 8, #47, #36, and #41 & 42.

Selectman Clark requested a change in ordering: that #26 (on Highway Equipment Building Appropriation) be left in place, but that #27 (on LSRHS Rogers Educational Center) be placed after #32 (on Extraordinary School Repairs).

Interim Town Manager Thompson informed the Board that there will be additional petition articles proposed, e.g. the Board was informed by FAX this morning that a Petitioner's article will be filed with the Town Clerk within the week, on the subject of police detail. This was included in the ordering as #52.

It was on motion unanimously

VOTED: To order the 52-article ATM Warrant as drafted with the exception of Selectman Clark's amendment.

Conservation Restriction Revision - Meachen Property

The Board acknowledged receipt of a copy of a communication to Robert Dionisi, Esq., Attorney for Meggs Family Trust, et.al., from Joel Lerner, of the Executive Office of Environmental Affairs, Commonwealth of Massachusetts, and dated January 11, 1996, which suggested four modifications to the conservation restriction from John W. Meachen, Jr., Trustee Brown Moore Meggs, President and Fellows of Harvard College and Briarwood Development on Parcels 40A and 41A, Marlboro Road, previously signed on December 11, 1995.

Accompanying the communication was a copy of the Conservation Restriction.

Selectman Clark questioned the wording in the heading on page 6: "Approval by Conservation Commission" and stated that it should read "Acceptance by Conservation Commission." Ms. Clark also wondered whether the Conservation Commission has the power of "re-conveyance" (page 3, paragraph 3), and requested that Town Counsel Paul Kenny look into the matter.

It was on motion unanimously

VOTED: To initial the Restriction in approval of the changes made.

Election Officer Appointments

It was on motion unanimously, as recommended by the Democratic and Republican Town Committee Chairmen and the Town Clerk,

VOTED: To take the following action regarding Election Officers for the 1995-96 Election Year: Democratic Party - Accept resignation of Donna Ellis as Inspector in Precinct 1; Appoint Elizabeth H. Swank, 25 Musket Lane, to fill that position. Republican Party - Appoint Donald M. Stacey as Deputy Clerk in Precinct 3 (moving him from Emergency Insp.); Appoint Anita W. Lewtas, 30 Maplewood Avenue, as Emergency Inspector.

DARE Project Donation

The Board acknowledged receipt of a letter from D.A.R.E. Officer Ronald B. Conrado, dated January 22, 1996, stating that the D.A.R.E. Program received a donation of \$1,780 from Berlin Auto Parts, Inc. of 76 Coburn Road, Berlin, MA and asking that the Selectmen accept this donation for the D.A.R.E. Program and authorize that the money be spent with Police Chief Lembo's approval.

It was on motion unanimously

VOTED: To accept with gratitude a donation of \$1,780 from Berlin Auto Parts to be deposited into the D.A.R.E. Program Account, and to authorize the Police Chief to expend same for the D.A.R.E. Program.

MMA Training Programs

Selectman Clark informed the Board that she is interested in attending some training programs sponsored by MMA on Saturday mornings, e.g. programs on wetlands protection, wetland watershed protection, wastewater management, etc. Interim Town Manager Thompson told Ms. Clark that the Selectmen's Office would enroll her in whichever program she wishes to attend.

Letter to Massachusetts Highway Department

Selectman Clark questioned Interim Town Manager Thompson as to whether he had yet sent a letter to the Massachusetts Highway Department regarding the signalization at Star Market and Route 20; Mr. Thompson responded that he is in the process of doing so.

Raytheon Company Contribution

The Board acknowledged receipt of a memo from the Park and Recreation Commission, dated January 22, 1996, which was accompanied by record of a donation from the Raytheon Company. The memo stated that Raytheon's challenge helped the Commission to raise the additional money needed to reach fundraising goals. Also accompanying the memo was a copy of a letter to the Commission from Raytheon, dated December 21, 1995.

It was on motion unanimously

VOTED: To acknowledge with gratitude receipt of a check in the amount of \$5000 from the Raytheon Company, to be deposited into a separate account to be used for the site improvement project at the Fairbank Community Center, and to authorize expenditure for said purpose under the direction of the Park and Recreation Commission.

Extension of Interim Town Manager Appointment

Selectmen Clark and Blacker stated that the services of Interim Town Manager Thompson would be needed until the end of February, at which time a new Town Manager should be in place. Mr. Thompson agreed to extend his service in the interim position until February 29, 1996 and to help in the transition process.

It was on motion unanimously

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VOTED: To extend the term of employment of Richard E. Thompson as Interim Town Manager, as stated in paragraph 13 of his contract dated December 20, 1995, from January 31, 1996 to February 29, 1996.

There being no further business, the meeting was adjourned at 11:05 p.m.

Attest: _____
Richard E. Thompson
Interim Town Manager-Clerk