

IN BOARD OF SELECTMEN
MONDAY, MAY 20, 1996

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

The statutory requirements as to notice having been met, the meeting was convened at 7:30 p.m. in the Sudbury Town Hall.

Utility Petition 96-3 - Boston Post Road

The Board convened a public hearing to consider Utility Petition 96-3, Boston Post Road, submitted by Boston Edison Company and New England Telephone and Telegraph Company for the purpose of obtaining a Grant of Location to relocate poles 18/94 and 18/94A, necessary to provide access for a road opening into the Star Market Plaza.

Chairman Blacker noted that all appropriate abutters had been notified and approval had been recommended by the Inspector of Buildings and the Wiring Inspector under date of May 10, 1996.

It was on motion of Chairman Blacker unanimously

VOTED: To approve Utility Petition 96-3 from Boston Edison Company and New England Telephone and Telegraph Company for permission to abandon the existing locations of poles 18/94 and 18/94A and relocate pole 18/94 to the northerly side of the Boston Post Road, approximately 145 feet east of Highland Avenue, and pole 18/94A to the southerly side of the Boston Post Road, approximately 185 feet east of Highland Avenue, as shown on Boston Edison Company "Plan of: Boston Post Road, Sudbury", dated March 4, 1996.

Town Forum - 222nd Session

At 7:35 p.m. Chairman Blacker convened the 222nd Session of the Town Forum and presented artistic merit awards to those students attending whose artwork was included in the 1995 Annual Town Report. It was noted that there were 450 submissions of artwork of which sixteen were chosen for publication. The following students were listed by Town Report Committee Chairman Patricia Guthy as award recipients: Beth Colombo, Scott Glovsky, Victoria Horan, Kevin LaHaise and Janine Mandel, Curtis Middle School Grade 5 students; Stephanie Flavin and Brian Knight, Josiah Haynes School Grade 4; Tony Ip and Victor Sulkowski, Josiah Haynes School Grade 5; Jackie Doyle and Chrissy Lee, Peter Noyes School Grade 3; Rachel Dines, Matt Fideler, and Kristin Fleischmann-Rose, Peter Noyes School Grade 5.

Following the award ceremony, and after a brief period for refreshments, reports by various Boards and Departments were given. A letter on the subject of the Open Meeting Law, addressed to the Selectmen, dated May 20, 1996, was read by Marianne D'Angelo, Co-President of The League of Women Voters of Sudbury. This Town Forum was televised over the local Cable network, and a copy of the video tape is available during the next year by contacting the Selectmen's Office.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the May 6, 1996 regular session, as amended, and the minutes of the May 6, 1996 executive session, as drafted.

Council on Aging - Van Donations

It was on motion unanimously

VOTED: To accept \$164.30 in miscellaneous donations for deposit in 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.

Eagle Scout Achievements

In response to a communication dated May 8, from Janet Jennings, Boy Scout Troup 61 Committee member, inviting the Board members to attend the Eagle Court of Honor to be held on June 8, 1996, it was on motion unanimously

VOTED: To send letters of congratulations to Michael Helgeson, Christopher McCann, Dale Walker and Jack Taranto on achieving the rank of Eagle Scout.

In response to a communication dated April 12, from Elizabeth J. Nikula, Advancement Chair, Boy Scout Troop 63, inviting the Board members to attend the Eagle Court of Honor to be held on June 10, 1996, it was on motion unanimously

VOTED: To send a letter of congratulation to Michael Edward Morris on achieving the rank of Eagle Scout.

Special Permit - House Trailer

It was on motion unanimously

VOTED: To confirm approval granted to Odelle B. Peters by the Board on May 15, 1996, for a special permit to use a house trailer at 53 Easy Street for dwelling purposes for a period of six months, while fire damage repairs are being made, subject to obtaining any required building permit for repair of the damaged home and subject to Board of Health approval involving connection of the trailer to the septic system and water supply.

Special Act - Voter Information

After noting the three-year progression in resolving the issue of providing voter information on the ballot, it was on motion unanimously

VOTED: To sign a petition to the Commonwealth of Massachusetts General Court for passage of a Special Act authorizing the Town of Sudbury to send certain information to registered voters in the Town of Sudbury, pursuant to the vote of the 1996 Annual Town Meeting under Article 23.

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Public Hearing - Transfer of Restaurant All Alcoholic Beverage License - Philip's Pizza & Restaurant

Present: Philip Magiannis and Elizabeth Magiannis.

Chairman Blacker opened the public hearing under G.L. c.138, s.12, for consideration of an application for transfer of the Restaurant License for the Sale of All Alcoholic Beverages, from Philip Magiannis, Manager, Philip's Pizza & Restaurant, Inc., to Elizabeth Magiannis, Manager and sole owners, Philip's Pizza Restaurant, Inc., d/b/a Philip's Pizza Restaurant, for property at 447 Boston Post Road.

Documentation, as follows, is on file in conjunction with this application: petition for license transfer, Form 983; Application for Alcoholic Beverage License dated April 3, 1996, and received by the Board of Selectmen on April 29, 1996; vote of the Board of Directors authorizing signing and filing of the license transfer application and authorizing Elizabeth Magiannis to act as Manager under terms of said license; licensee personal information; August 10, 1995 Certificate of Vote authorizing the sale of the corporate assets to Elizabeth Magiannis; sales agreement; Certificate of Change of Directors or Officers; acknowledgment of receipt of information; tax attestations of transferee and licensee; Certificate of Citizenship of Elizabeth Magiannis; Business Certificate under M.G.L. c.110, s.5; February 1, 1994 confirmation of five-year lease extension from Cail Realty and Investments; Articles of Incorporation; Floor Plan dated June 21, 1974, by Robert R. Dion Associates, Inc.; and fees.

Notice of this hearing was published on May 9, 1996, in the Sudbury Town Crier. Verbal reports had been received on May 17, 1996, from the Board of Health and the Fire Chief expressing no concerns and recommending approval. A communication dated May 13, 1996, from John B. Hepting, Inspector of Buildings, reported on his inspection and recommended approval.

Noting that the filing was in order for this intra-family transfer, it was on motion by Chairman Blacker unanimously

VOTED: To approve the transfer of the Restaurant License for the Sale of All Alcoholic Beverages, from Philip Magiannis, Manager, Philip's Pizza & Restaurant, Inc., to Elizabeth Magiannis, Manager and sole owners, Philip's Pizza Restaurant, Inc., d/b/a Philip's Pizza Restaurant, for property at 447 Boston Post Road.

Board of Selectmen Liaison Assignments 1996-97

It was on motion unanimously

VOTED: To approve the 1996-97 Board of Selectmen Liaison Assignments as drafted, subject to comment from Selectman Drobinski.

Annual Appointments

It was on motion unanimously

VOTED: To make the following annual appointments (all appointments are subject to acceptance):

- As recommended by the Council on Aging, Clayton Allen, 515 Concord Road, and Aruna Pundit, 62 Ridge Hill Road, to the Council on Aging, each for a three-year term to expire April 30, 1999, replacing Kenneth W. Clark and Patti M. Wilde, who have served the maximum allowed consecutive terms; and, as

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also recommended by the Council on Aging, Anne Schoechert, to the Council on Aging, for a second three-year term to expire April 30, 1999.

- Andrew J. Fay, Paul S. Hovsepian, Jeffrey H. Jacobson, and Gilbert P. Wright, Jr., as Board of Appeals Associates, each for a one-year term to expire April 30, 1997.
- Jacqueline Fergione, Mark Thompson (Ex-Officio), Frederick G. Walker (Ex-Officio) to the Cable Television Committee, each for a one-year term to expire April 30, 1997.
- Robert A. Noyes as Assistant Director of Civil Defense, for a one-year term to expire April 30, 1997.
- Michael C. Dunne, as Director of Civil Defense, for a one-year term to expire April 30, 1997.
- Marvis M. Fickett, as Radio Operator, Civil Defense, for a one-year term to expire April 30, 1997.
- Stephen M. Meyer, Edward W. Pickering, and Charles L. Zucker to the Conservation Commission, each for a three-year term to expire April 30, 1999.
- Irina Petsch-Schmid and Robert B. Williams to the Commission on Disability, each for a three-year term to expire April 30, 1999.
- Andrew J. Fay, Paul S. Hovsepian, Jeffrey H. Jacobson, and Gilbert P. Wright, Jr. to the Earth Removal Board, each for a one-year term to expire April 30, 1997.
- Lawrence L. Blacker, Maryann K. Clark and John C. Drobinski, as Fence Viewers, each for a one-year term to expire April 30, 1997.
- William C. Schirmer to the Historic Districts Commission for a five-year term to expire January 1, 2002.
- Clayton F. Allen and Winifred C. Fitzgerald to the Sudbury Historical Commission, each for a three-year term to expire April 30, 1999;
- Joseph A. Dudrick to the Industrial Development Commission for a five-year term to expire April 30, 2001.
- Michael Freundlich, Rosalind R. Gurtler, Nancy Schaffer, Frank Vana and N. Jane West Young (replacing Arthur Walker) to the Juvenile Restitution Program Committee, each for a one-year term to expire April 30, 1997.

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- Julieann E. Haugen to the Long Range Planning Committee, for a three-year term to expire April 30, 1999.
- Mary Jane Hillery to the Memorial Day Committee, for a three-year term to expire April 30, 1999.
- Maryann K. Clark, Middlesex County Advisory Board Designee, for a one-year term to expire April 30, 1997.
- Bruce L. Ey and Michael E. Melnick to the Permanent Building Committee, each for a three-year term to expire April 30, 1999.
- On the recommendation of the Permanent Landscape Committee, Elizabeth B. Bishop to the Permanent Landscape Committee, to fill the unexpired term of Marylyn Benson who resigned, until April 30, 1998.
- Victor J. Guethlen to the Committee for the Preservation and Management of Town Documents, for a three-year term to expire April 30, 1999.
- David Yankovich to the Resource Recovery Committee, for a three-year term to expire April 30, 1999.
- Courtney W. Atkinson, Sealer of Weights and Measures, for a one-year term to expire April 30, 1997.
- Donna Kruse to the Sudbury Cultural Council, for a three-year term to expire August 9, 1999.
- Russell DiMauro, Surveyor of Lumber and Measurer of Wood, for a one-year term to expire April 30, 1997.
- Curtis F. Garfield, Town Historian, for a one-year term to expire April 30, 1997.
- Patricia A. Guthy and Linda M. Wallace to the Town Report Committee, each for a one-year term to expire April 30, 1997.
- Thomas W. H. Phelps to the Traffic Management Committee for a three-year term to expire April 30, 1999.
- William R. Duckett, Spencer Goldstein, Ronald J. Griffin, Winifred C. Grinnell, Frederick H. Hitchcock, Jr., and Vincent P. Surwilo to the Veterans' Advisory Committee, each for a one-year term to expire on April 30, 1997; and, on request of the Committee Chairman, Edward P. Rawson, 32 Hollow Oak Drive (P.O. Box 422), for a one-year term to expire on April 30, 1997.
- Robert A. Gottberg to the Wayland-Sudbury Septage Facility Operational Review Committee, for a one-year term to expire April 30, 1997.
- Joseph D. Bausk as a Special Constable (Paid) for a one-year term to expire April 30, 1997.

- Michael C. Dunne, John B. Hepting, Earl D. Midgley and Arthur J. Richard, as Special Constables (Non-Paid), each for a one-year term to expire April 30, 1997.

Town Service Acknowledgements

The Board requested that letters of thanks for past service be sent to those persons who have served the maximum allowed terms, or did not wish to be reappointed:

Kenneth W. Clark	Council on Aging
Patti M. Wilde	Council on Aging
L. William Katz	Industrial Development Commission
Robert A. Maier	Memorial Day Committee
Dorothy R. Carter	Sudbury Cultural Council
Elizabeth J. Darley	Town Report Committee
Elizabeth M. Foley	Veterans' Advisory Committee

The Board also acknowledged that Cable Television Committee Chairman Jeffrey Winston did not wish to be reappointed but was willing to serve in the interim to handle complaints or as ombudsman, if the Selectmen so desired.

Town Manager Steven Ledoux advised the Board that renegotiation of the cable license should commence next year.

Selectman Clark stated that she would like to have local cable access to all towns within the State Representative district.

Massachusetts Alliance for Economic Development - Town Participation

The Board acknowledged receipt of the May 7 communication from the Minuteman Advisory Group on Interlocal Coordination (MAGIC) regarding the Town's interest in participating in an agreement to promote the economic development of the MAGIC region. This agreement is between the Massachusetts Alliance for Economic Development (MAED) and the Metropolitan Area Planning Council (MAPC) with MAPC/MAGIC serving as an intermediary with the Towns. Town Manager Steven Ledoux advised that Town Planner Jody Kablack was willing to act as the contact person if the Town desired to participate.

As to the Town's need to identify private and vacant underutilized sites for the data base, Mr. Ledoux suggested that this might be a role for an Economic Development Committee.

Selectman Clark suggested that the general topic should be included in the Board's goal-setting process and that she would like the Town to explore development of some sort of a local partnership, possibly with Marlboro or Maynard.

Noting that the Town already had the capability of promoting economic development for Sudbury through its participation in MetroWest, the Selectmen took no action.

Site Plan Special Permit Application SP96-327 - WKOX Tower Construction, North Road

Present: Attorney Stephen E. Grande, III, representing the applicant, Fairbanks Communication; Thomas C. Houston, CID Associates, Inc.; Robert Christy, WKLB 105.7; Chief Engineer Kevin Bowland; Broadcast Consultant Robert M. Lund; and approximately ten Town residents.

The Board of Selectmen, sitting as the Special Permit Granting Authority pursuant to Article IX.V.A. of the Town of Sudbury Bylaws, convened a public hearing to consider Site Plan Special Permit application No. 96-327, dated and received on March 29, 1996, of WKOX (Fairbanks Communication) for the installation of three 199' radio towers and a control building, with grading and landscaping, on Town-owned property located off Route 117 (the former Sperry site), Town Property Map C11, Parcel 301, in Research District #1.

Notice of the Public Hearing was duly posted, and advertised in the Sudbury Town Crier on April 25 and May 2, 1996. Parties of interest, being abutters within 300 feet according to the Assessors, were provided written notice by first class mail. Additionally, the Planning Boards of Acton, Concord, Lincoln, Maynard, Framingham, Marlboro, Stow, Wayland and Hudson were provided written notice by first class mail.

The Board, being unable to conduct the hearing and act upon the Special Permit application because all three Selectmen were not present, upon motion unanimously

VOTED: With the agreement of the applicant, to continue until June 10, at 8:30 p.m., in the Sudbury Town Hall, the public hearing on application SP96-327, dated March 29, 1996, of WKOX (Fairbanks Communication), for a Site Plan Special Permit for the installation of three 199' radio towers and a control building, with grading and landscaping, on Town-owned property located off Route 117 (the former Sperry site), Town Property Map C11, Parcel 301, in Research District #1.

Alfred Lima, Planning Director, Town of Concord, presented a letter dated May 20, 1996 to the Board from the Concord Board of Selectmen enclosing comment from the Concord Town Planner and urging continuation of the hearing to allow a detailed analysis and evaluation of the site.

After conferring with his clients, Atty. Grande expressed his desire to informally address some of the concerns expressed by Town Boards and Committees and others about the project.

The Board agreed to allow an informal presentation and dialogue.

With regard to monetary value to the Town, Atty. Grande stated that the lease fee has not been negotiated, but should be more than presumed in the assumptions of the Planning Board. With the prospect of future attachments to the towers, the site could generate \$60,000-\$75,000 per year for the Town which, in his opinion, could not be equaled by any other source on eight acres of land. Atty. Grande stated Sudbury is already impacted visually by towers erected by other towns and does not receive the monetary benefit available if towers were erected within Town bounds. Additionally, WKOX would provide emergency power generation for the Sudbury Police and Fire Departments.

With regard to the site, Atty. Grande questioned the ultimate use of the commercial building owned by others and the potential revenue provided to the Town by the Frost Farm homestead once renovated, noting that it is not now an attractive site. As to site impact, Atty. Grande stated that the Frost garage would

be rebuilt for the Town elsewhere on the site, the towers would not pose any water protection issue, some of the area could be replanted, and the existing trail would remain. It was also noted that whatever use the land is put to will change its character.

Richard Carroll, 142 North Road, the present tenant who is involved in renovating the Frost Farm homestead, questioned the safety of anyone living on the site because of the potential of falling ice, noting that the tower control building is constructed of concrete; stated that clear cutting of the hill would increase wind damage to the homestead which in ten years with renovation would be worth \$400,000; advised that the electronics firm which is renovating the commercial building for occupancy on August 1 would need to allow access to the tower site; and expressed concern for the unknown effect on his own ten-year lease.

Representatives of the applicant responded that any ice would fall within the radius of the tower guy wires and advised that a study on broadcast engineers working at such sites have had health problems no different from the general population. It was noted that the tower control buildings are constructed of concrete because of cost and vandalism prevention.

Visual impacts were discussed, both in contrast to other towers in adjacent towns and as to how they would be perceived at different locations and in general by the townspeople. Proponents argued that the towers are painted to make them appear to disappear in the sky and showed a computer simulation demonstrating the effect. The consensus of those townspeople expressing opinions was that the visual impact would be a negative one and a detriment to the quality of life and the rural character of the Town.

Other information presented included the following:

- the towers would be the same size if they were installed at a different elevation;
- while the whole tower is utilized for transmission, add-ons can be attached without impairing that ability, but the Board would have to approve additional permits;
- WKOX needs the new towers to increase its broadcasting signal;
- the Town requires a bond for demolition, through the Board of Appeals, giving Sudbury the funding to remove the towers upon discontinuance of use if not performed by the owner;
- the access easement would have to be resolved; and
- a public request for proposals would be mandated under the Uniform Procurement Act .

Conservation Coordinator Deborah Dineen in stating the Commission's opposition to the project noted that if this Special Permit was granted the towers would be placed on eight acres of prime upland, leaving 68 acres for Town use, of which 25 acres are wetlands. She noted that at the time of acquisition there was much sentiment discussed at Town Meeting concerning the retention of the property for its visual character and noted that the property is widely used. She opined that allowing the tower construction would eliminate the future potential of the site, and certainly would cause a problem for the owner of the remainder of the site. She noted that other possibilities for development of the Town's portion of the site include elderly assisted care, attached housing, and Park and Recreation use. She also stated that if these towers were to be approved, the Selectmen would be sending the wrong message to the Town Boards, Departments and Committees who were endeavoring to preserve the environmental and aesthetic qualities of the Town.

Conservation Commission Chairman Steven Meyer expressed his belief that the Town needs a more extensive review process and stated his concern that there is no mechanism set up to provide such a review.

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Chairman Blacker reiterated the history of the purchase and stated that had there been a choice he would not have chosen to purchase that particular property and indicated that his consent may be largely influenced by the dollar trade-off.

To a resident's suggestion that a total financial assessment of the project be made both for the present and the future, given the revenues of the broadcasting industry, Chairman Blacker stated that if the site plan vote went forward he would not sign a lease unless the Town was to greatly benefit financially.

Brunjes, Inc., d/b/a, The Hitchcock Store Site Plan Special Permit - Continuance of Hearing

Present: Walter W. Jabs, Jr., Attorney for the applicant.

Chairman Blacker reopened a public hearing (continued from May 6, 1996) to consider the application, SP96-326, dated March 20, 1996, for a Site Plan Special Permit for renovation of the existing building at 348 Boston Post Road and an addition thereto.

The Board, being unable to conduct the hearing and act upon the Special Permit application because all three Selectmen were not present, upon motion unanimously

VOTED: To continue until May 23, at 8:00 a.m. in the Sudbury Town Hall, the public hearing on application SP96-326, of Brunjes, Inc., d/b/a The Hitchcock Store, for property at 348 Boston Post Road, subject to the availability of Selectman Drobinski.

Atty. Jabs informed the Board of the status of the permit applications, advising that the Zoning Board of Appeals had approved the signage and a Certificate of Appropriateness had issued from the Historic Districts Commission. Additionally, two meetings have been held with regard to the Water Resources Protection Special Permit and, while there are questions to be resolved, there are no major issues preventing issuance of the Special Permit.

Atty. Jabs advised that the curb cut and drainage tie-in are presently under negotiation with the Massachusetts Highway Department (MHD). Because of the MHD concern that water will run off the site past the catchbasin and onto Route 20, the State is proposing an alteration of the drainage design involving a change in elevation in the front which would increase the grade of the hill 10-11% and significantly change the grade on the house. Hitchcock has submitted a counterproposal which involves installing a secondary catchbasin which they believe will resolve the problem.

Atty. Jabs reviewed his May 21 letter to the Board of Selectmen containing comments relative to the conditions of the proposed Decision.

Policy and Procedures - Contracts

The Board acknowledged the May 16 opinion of Town Counsel relative to a proposed policy which would require the Selectmen to seek approval of the Finance Committee for certain contracts for which the payment would involve funds not appropriated by Town Meeting. Selectman Clark had drafted the policy pursuant to a discussion with the Finance Committee involving the contractual arrangements involving the former Executive Secretary. Town Counsel opined that there are existing controls in place under the General Laws and the only area where such a policy would have any effect has arguably been altered by the

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Town Manager Act. Additionally, such a policy would change the role of the Finance Committee to assume some of the duties of the Town Accountant.

Selectman Clark stated that her intent was to require communication between the Selectmen and the Finance Committee and to prevent reoccurrence of a similar situation.

Chairman Blacker expressed his opinion in agreement with Town Counsel that the new Town Manager Act puts the Finance Committee in a new role and believed that such a policy was unnecessary since the event which triggered the discussion was unique. As to whether such a policy would be binding on a future Board, it was agreed that policies can be amended at any time to suit the dynamics of the situation; further, Chairman Blacker stated that he would not wish to bind another Board.

The Selectmen agreed that they would discuss the subject further when Selectman Drobinski was present.

Sudbury Foundation Grant

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a check for \$2,500 in supplemental support of the Town history sequel being researched and written by Sudbury Town Historian Curt Garfield, with assistance from Alison Ridley, and to acknowledge the conditions accompanying such a grant.

Future Agenda Items

Town Manager Steven Ledoux brought to the attention of the Board some of the items contained in his activities report for May 6 to May 17 and noted subjects to be scheduled for action by the Board on future agendas. These include a change of polling location as requested by the Acting Town Clerk; and a request relative to the Loring School lease, specifically, the waiver of rent to compensate for the expenditure of tenant funds for HVAC improvements to the building.

Echouafni Dog Order

Town Manager Steven Ledoux apprised the Board that as of 10 a.m. this day, the Echouafnis have not filed an appeal of the order issued by the Board of Selectmen for removal of the dogs from the Town of Sudbury. He expressed his intention to send a Constable or Police Officer to accompany the Dog Officer should removal of the dogs be incumbent upon the Town.

There being no further business, the meeting was adjourned at 11:25 p.m.

Attest: _____
Steven L. Ledoux, Town Manager-Clerk