

IN BOARD OF SELECTMEN
MONDAY, SEPTEMBER 8, 1997

Present: Chairman Lawrence L. Blacker and Selectmen Maryann K. Clark and John C. Drobinski.

The statutory requirements for notice having been met, the meeting was convened by Chairman Blacker at 7:35 p.m. at the Fairbank Senior Center.

Chairman's Opening Statement

Chairman Blacker announced the Board had voted in executive session on September 2, 1997, to exercise the Town's right of first refusal to purchase 19.1 acres of real property at Marlboro and Willis Roads. He said the Board had called a Special Town Meeting to be held on November 17, 1997, to seek the townspeople's approval of the acquisition and a special election was slated for December 8, 1997, to obtain the townspeople's approval of the resulting contingency debt exemption. Chairman Blacker explained that the Board had determined to take such action in response to the community's concerns regarding the preservation of the Town's rural character in face of continued residential development. The property had previously been under agricultural restriction, and the Town had an opportunity to preserve it by exercising its right of first refusal. He said the Board had reasoned that it was prudent to bring this matter before the Town for its consideration.

Chairman Blacker announced it had been determined that the Town would not need to purchase additional land at the Loring School site for the construction of a new elementary school. He said he wished to thank Barberry Homes on behalf of the Town for making the property available for purchase.

Minutes

It was on motion unanimously

VOTED: To approve the regular session minutes, as amended, and the executive session minutes of August 25, 1997.

Donations - Council on Aging Vans

It was on motion unanimously

VOTED: To accept \$219.07 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.

Expenditure - E. B. Hosmer Memorial Fund

It was on motion unanimously

VOTED: To approve the expenditure of \$1,500.00 from the E. B. Hosmer Memorial Fund to purchase Sudbury Throws for resale.

Renewal of Bullfinch's Sunday Entertainment License - 730 Boston Post Road

It was on motion unanimously

VOTED: To renew the Sunday Entertainment License for Bullfinch's restaurant, 730 Boston Post Road, for a jazz trio from 11:00 a.m. to 3:00 p.m. for the period of September 21, 1997, through September 13, 1998.

Town Counsel Services

Based on the combined individual recommendations of each Selectman, the Board concurred in interviewing the following eight applicants for Town Counsel Services: Burns & Levinson; Collins & Weinberg; Keegan, Werlin & Pabian; Paul L. Kenny; Kopelman and Paige, P.C.; Murphy, LaMere & Murphy; Murphy, Hesse, Toomey & Lehane; and Pickett and Miyares.

The Board directed staff to prepare an interview grid based on each applicant's response to the RFP and to request suggestions for interview questions from department heads, to be provided in advance of the interviews so that the same series of questions might be proposed to each applicant. Interviews will be scheduled as agreed by the Board Sept. 2.

Warrant Schedule for 11/17/97 STM and 12/8/97 STE

The Board was in receipt of a Warrant Schedule prepared by staff in conjunction with the November 17, 1997, Special Town Meeting and the December 8, 1997, Special Town Election, and dated September 5, 1997.

Chairman Blacker inquired of the Town Manager if the dates complied with state statutes and Town Manager Ledoux responded in the affirmative.

The Board concurred in the schedule as set forth.

Approval of Warrant Articles - 11/17/97 STM

The Board was in receipt of draft warrant articles, (1) Land Purchase - Marlboro Road; and (2) FY98 Budget Adjustments, prepared by staff and dated September 5, 1997.

Town Manager Ledoux explained that the first article incorporated the Board's decision to exercise the Town's right of first option on the "Meachen property" and the second article was in response to unanticipated, additional state aid the Town will be receiving in the immediate future. As to the latter, he said that he was meeting with the School Committee and other departments to establish priorities. He stated he was considering renovations to bring the Flynn Building into ADA compliance and to correct basic health and safety needs at the Town Garage.

It was on motion unanimously

VOTED: To approve warrant articles Land Purchase - Marlboro Road and FY98 Budget Adjustments, for submission at the November 17, 1997 Special Town Meeting.
Loring School Site Construction

Town Manager Ledoux reviewed the conclusion of the School Committee and Permanent Building Committee that it was not necessary to purchase additional land at the Loring School site for the construction of the new elementary school. He said that although the purchase of additional land had been approved to allow for expanded playing fields, it was subsequently determined that a vernal pool existed on the abutting property and such is not capable of replication. For this reason, the Committees had concluded that the additional expense was not warranted. Both Committees expressed their appreciation for the Town's support on this matter and Chairman Blacker again expressed appreciation to Barberry Homes for allowing the Town an opportunity to purchase the additional land.

Special Permit - Peter Noyes PTO Fall Fling

Town Manager Ledoux reported that the Peter Noyes Elementary School's Parent Teacher Organization seeks Board approval for a Special Permit for its annual "Fall Fling" to be held this year on October 26, 1997, with games, crafts, and a haunted house.

It was on motion unanimously

VOTED: To approve a special permit for the Peter Noyes Elementary School PTO to hold its annual "Fall Fling" on October 26, 1997, at the Peter Noyes Elementary School, provided that all reasonable conditions set by the Police, Fire and Health Departments are met.

Grant of Right Easement - Haynes/Pantry Intersection

Town Manager Ledoux advised the Board that a five-foot easement along Pantry Road had been granted by John N. and Cynthia Ruddy to accommodate the roadway reconstruction that was being done at the Haynes/Pantry intersection.

It was on motion unanimously

VOTED: To accept the five-foot easement along property at 42 Pantry Road from John N. and Cynthia Ruddy to accommodate the roadway reconstruction that was being done at the Haynes/Pantry intersection.

Acceptance of Conservation Restriction

It was on motion unanimously

VOTED: To accept the Conservation Restriction, dated August 20, 1997, granted by Kevin M. and Karen A. Thompson, 340 Dutton Road, on that portion of the hereinafter described parcel which is shown as "Easement area" on Lot 9 as shown on a subdivision plan as approved by the Land Court, filed with the Land Registration Office as Plan 38006B.

Town Manager - Review Performance/Set FY98 Salary

Chairman Blacker informed that Town Manager Ledoux's job performance had been individually evaluated by each Selectman and that each Selectman had met with the Town Manager to discuss his/her evaluation. Chairman Blacker further informed that the combined ratings reflected that Town Manager Ledoux had done a "very fine job in his first year" in the position.

Therefore, it was on motion unanimously

VOTED: To set Town Manager Ledoux's FY98 salary, effective July 1, 1997, at \$86,100 per annum, which reflects an increase of \$2100 or 2.5% from his FY97 salary.

Petition for Boundary Change on Framingham Line by Joan Avenue Residents

Present: Peter Netburn, 5 Joan Avenue; Mark Feinburg, 3 Joan Avenue, Whitney Cahn, 1 Dawson Drive, and others.

The Board was in receipt of a previous communication, dated June 16, 1997, from Russell R. Marcoux, Town Manager, Framingham, addressed to Messrs. Netburn and Feinberg memorializing a meeting between him and Messrs. Netburn and Feinberg and Town Manager Ledoux, noting that all services to the subject properties are provided by Sudbury with the exception of water and sewage which is provided by Framingham. He also notes that currently real estate taxes totaling \$15,000 are currently paid to Framingham. Finally he noted that Mr. Netburn has agreed if the boundary change is effected he will transfer "ownership" of the pumping station or property on which it is located to the Town of Framingham. Enclosures included a sketch of the existing and proposed boundary line; plat maps of subject properties, voter request for insertion of article in warrant for Town of Framingham; and outline of legal procedures provided by Sudbury Town Counsel, Paul L. Kenny.

Peter Netburn, 5 Joan Avenue, stated that he and his two neighbors, Mark Feinburg, 3 Joan Avenue, and Whitney Cahn, 1 Dawson Drive, seek to petition to have the Town line moved to include their residential properties in Sudbury. Currently, the properties are situated in Framingham with the Town line cutting in front of them. He stated that moving the boundary makes sense because the properties are "landlocked" within Sudbury; he has to drive over a mile on several Sudbury roads to reach a Framingham road. He reported that the three properties are serviced by Sudbury Fire and Police; and mail and telephone service is via Sudbury. He said the situation has created some problems with determining voting locations and issuance of library cards. He said currently there are two children that would be affected if the Town line is moved. He stated there are only these three properties involved, and they would bear all expenses associated with the boundary change. He acknowledged that in order to effect the requested boundary change approval is needed from both Framingham and Sudbury Town Meetings as well as the state legislature. He explained that he was seeking the support of the Board in hopes that such endorsement might enhance their position at the Town Meetings.

Chairman Blacker stated, although he did not question their motives, their property would be worth \$75,000 - \$100,000 more if it were within the Town. He said frankly that the Town did not want any more school children and that it was "going broke" because of increased school populations. He asked Mr. Netburn why the Board should allow this kind of windfall and Mr. Netburn said it was the right thing to do; that it made sense. Mr. Netburn said there were only two children involved and the Town would receive increased tax revenues, and at the higher value, if such is generated by the boundary change.

Mr. Netburn explained that the only service the properties receive from Framingham is water and sewage and they would continue to pay Framingham for those services. He said, although Framingham had voiced some concern about its ability to lien the subject properties for failure to pay, Framingham could lien the properties or turn off the service. He explained further that no other properties in the area would be forthcoming with a similar request. He said the property to the east of Lot 1 is the site of a retaining overflow basin for the subdivision behind them accessed by Overlook East and to the West of Lot 12 is the subdivision accessed by Overlook West.

Selectman Clark noted the plans were drawn in 1958 and opined, due to the unique position of the lots, subdivision approval from the appropriate Planning Board was avoided. She also noted that two of the lots would be "non conforming" since they are less than one acre, and it was unknown if the "set backs" met Sudbury requirements.

Mr. Netburn responded that his house was sited far back on his lot and the other two appeared to be set back similarly to other residences across the street that are within Sudbury.

Chairman Blacker inquired of the Town Manager if there were other situations like this within the Town, and Town Manager Ledoux responded that he knew only of one - Brimstone Lane.

Chairman Blacker stated he was not opposed to the petition. He noted that access to the property is totally within Sudbury. He said, although two of the lots are "non conforming", he opined that was not a reason to oppose the request. He admitted his own lot is "non conforming". He said, although residential property tax revenues never recapture the school system costs, it did seem to be "the right thing to do".

Selectman Clark concurred, noting that it appeared to be a quirk of geography. Selectman Drobinski also agreed.

Chairman Blacker advised that the petitioners might need to have the warrant article phrased in terms of metes and bounds and suggested that they consult with the Town Counsel. He further advised that if a survey was needed they do it before the snow flies. He also suggested the petitioners return to the Board, prior to the Town Meeting next April, to refresh the Board's recollection of its decision to support the petition and to respond to any other questions the Board might have. The petitioners agreed to do so.

Complaint of Michael Zeolla, 109 Prides Crossing, against a Labrador Retriever Owned by Jon Delli Priscoli, 100 Prides Crossing

Present: Michael Zeolla, 100 Prides Crossing; Betsy M. DeWallace, Dog Officer, and others.

The Board was in receipt of the following:

1. A communication, dated August 26, 1997, from Town Manager Ledoux to Jon Delli Priscoli, notifying him of the continued hearing re: the dog complaint of Michael Zeolla, to be conducted on Monday, September 8, 1997, at 8:30 p.m. at the Fairbank Center.
2. A communication, dated September 3, 1997, from Debra Mattie, 77 Pride's Crossing, stating she had the Dog Officer pick up the brown Labrador "Bacall" on two occasions. She states that the dog

comes on her property on almost a daily basis, causing damage to her landscape features, including an elaborate water garden, harassing her two dogs, and disturbing her garbage. She also states she is unable to walk her two dogs in the neighborhood since "Bacall" and "Bogie" (the other Labrador owned by the Delli Priscolis) "accost" her on the street and she is unable to control her dogs with Bacall and Bogie following. She further states she has spoken with Jennifer Delli Priscoli seeking an amicable resolution to no avail.

3. A notation of a verbal communication from a resident of Prides Crossing Road, dated September 5, 1997, who wished to remain anonymous to avoid any possibility of a threatening situation, stating the female dog owned by the Delli Priscolis has caused various types of destruction on their property on several occasions.

4. A communication, dated September 4, 1997, from Betsy DeWallace, Dog Officer, informing that she had received three complaints from Michael Zeolla against the chocolate lab, "Bacall", owned by the Jon Delli Priscoli, since the June 9, 1997 hearing; and she had to impound "Bacall" on two occasions. She also noted she had three calls regarding a chocolate lab running loose in the area, but had been unable to locate a dog fitting this description. She stated that at first Mrs. Delli Priscoli was willing to place "Bacall" with another family, but ultimately refused to give up the dog.

5. A communication, dated September 3, 1997, from Administrative Assistant Janet Silva, informing that she had orally notified Jon Delli Priscoli of the continued hearing on September 8, 1997, since she had not received the return receipt for the written notice. Mr. Delli Priscoli had stated that he would be unable to attend the meeting on September 8, 1997, but if rescheduled, he would refuse to attend. He stated he was not interested in attending another meeting. When informed there had been additional complaints and the Selectmen would like his input, he stated that the Selectmen can do whatever they want and he would do what he has to, implying that he would appeal.

Michael Zeolla stated he had seen one of Mr. Delli Priscoli's dogs on his property four times since the last hearing. He said that each time was at about 5:00 p.m. and he was sure it was one of Mr. Delli Priscoli's dogs since they are always out.

Dog Officer DeWallace stated that the dogs, although not vicious, are not being controlled and are a nuisance.

Chairman Blacker suggested Town Counsel provide the Board with a legal opinion regarding what evidence and procedures, including notice, must be followed in order for the Board to consider having both dogs banned from the Town or put down. Chairman Blacker opined that it would probably be necessary for the complaining witnesses to come in and offer sworn testimony. He also suggested that perhaps notice should be served by the police on Mr. Delli Priscoli since it seemed that he was unwilling to sign for certified mail. He also suggested that it would be necessary to determine when the incidents referred to by Ms. Debra Mattie had taken place. He suggested the Dog Officer keep a log of all calls regarding the dogs. He also suggested Town Counsel consider whether the Town had any authority to indefinitely impound the dogs.

The Board concurred and the hearing on both "Bogie" and "Bacall" was continued until 8:30 p.m., on Tuesday, October 14, 1997, at the Fairbank Center.

Execution of Board's Vote of September 2, 1997, to Exercise the Town's Right of First Refusal to Acquire the Meachen Property

The Board was in receipt of a "Notice of Intention to Exercise Option", incorporating its vote, in executive session, on September 2, 1997, to exercise the Town's right of first refusal to acquire the 19.1 acres of real property located on the northerly side of Marlboro Road and partially bordering Willis Road, and which is commonly known as the "Meachen property".

Chairman Blacker suggested that the notice be corrected to reflect that when the Board had voted on September 2, 1997, it had included the Special Town Meeting date of November 17, 1997 and the Special Town Election date of December 8, 1997. Town Manager Ledoux agreed that the Board had included those dates in its vote.

Chairman Blacker suggested that the Board acknowledge its previous vote at this time and that "Notice of Intention to Exercise Option" be corrected and executed by the Selectmen at the Board's Offices on September 9, 1997. The Board concurred and on motion it was unanimously

VOTED: To confirm the Board's vote of September 2, 1997, in executive session, to wit: "To exercise the Town's first refusal option to purchase certain property described below classified under Massachusetts General Laws Chapter 61A, pursuant to a notice of intended sale, dated May 23, 1997, from Robert F. Dionisi, Jr., Attorney acting on behalf of owners John W. Meachen, Jr., Brown Moore Meggs, Trustee of Meggs Family Trust and the President and Fellows of Harvard College; this exercise of purchase option being subject to appropriation by a Special Town Meeting to be held November 17, 1997, and approval of a Proposition 2 ½ Debt Exclusion therefor, under G.L. c.59, s. 21C, at a Special Town Election to be held December 8, 1997.

The property described in the Notice of Intent dated May 23, 1997, which is subject to the option consists of approximately 19.1 acres of land on the Northerly side of Marlboro Road, which is a portion of Parcel 600 on Town Property Map EO8, and also is shown on a plan entitled "Sketch of Land in Sudbury, Mass., Prep. for: John W. Meachen II & Meggs Family Trust, Prep. by: Thomas Land Surveyors & Engineering Consultants, Inc., 118 Forest Ave., Hudson, Mass.", dated January 24, 1997, revised March 31, 1997.

DPU Hearing

Town Manager Ledoux reported there had been no decision to date from the Department of Public Utilities regarding the Town's petition to maintain its current 508 area code.

Executive Session

It was on motion by Chairman Blacker, by roll call vote, unanimously

VOTED: To enter into Executive Session for the purpose of discussing an expenditure from the Discretionary Fund.

(Chairman Blacker, aye; Selectman Clark, aye; Selectman Drobinski, aye.)

Chairman Blacker stated that the Board would not return to open session.

There being no further business, the meeting adjourned at 9:05 p.m.

Attest: _____
Steven L. Ledoux
Town Manager-Clerk