

IN THE BOARD OF SELECTMEN  
MONDAY, JANUARY 26, 1998

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

The statutory requirements for notice having been met, the meeting convened at 7:30 p.m. at the Fairbank Senior Center.

Preservation of the David Hill Property - Plympton Road

Present: Greenfield Sluder, 161 Plympton Road, Brian R. Fitzgerald, 26 Clark Road, William R. Moorman, 32 Clark Road, and others.

Greenfield "Kip" Sluder, 161 Plympton Road, stated that the 24 acres off Plympton Road, known as the "Hill property" are being considered for a 12-house subdivision. He explained the property is classified under Chapter 61A and a group of residents is interested in having the Town purchase the property to preclude or mitigate development of the property. He reported the property has been designated a "priority" on the Town's Open Space Plan. He said it is situated in such a way as to create a wildlife corridor for adjacent preserved parcels, including King Philip's Woods, Pantry Brook, and Nashawtuc. He also noted it contains a stream and large hay field. He suggested that its preservation would be in keeping with maintaining the Town's rural character and beauty and thereby enhance property values. He noted that bicyclists and runners from outside the immediate neighborhood use the area. He informed that a number of Townspeople intend to work to preserve this parcel and wished to inform the Board of their activities and to seek the Board's advice.

Brian R. Fitzgerald, 26 Clark Road, and William R. Moorman, 32 Clark Road, reiterated Mr. Sluder's assessment of the community interest in having the Town exercise its option to purchase this property.

Chairman Blacker suggested that the Selectman's Office be kept informed. He said that those advocating a purchase must be able to explain why the Town should expend so many dollars for the property. He said that its inclusion as a priority on the Open Space Plan is a plus, but that generally the Board relies heavily on the assessment of other boards and committees such as the Conservation Commission. He also noted that the Town has many other needs, such as schools and playing fields. He suggested those interested in purchasing the property should consider the possibility of allowing its future use for a school site or soccer fields.

Mr. Sluder indicated he was amenable to such uses and suggested the possibility of trails for walking and/or mountain bikes.

Selectman Drobinski stated the Board is considering forming an Open Space Committee and that Mr. Sluder and his group will want to communicate with such group if it is formed.

Selectman Clark said that she has a problem with spending money to prevent development. She opined that any property to be preserved should meet Townwide values, such as park and recreation value.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session and executive sessions of January 12, 1998, and of the special meeting of January 16, 1998.

Donations - Council on Aging Vans

It was on motion unanimously

VOTED: To accept \$123.54 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.

Approval of Increase in Ambulance Fees

The Board was in receipt of a communication, dated January 12, 1998, from Michael C. Dunne, Fire Chief, requesting authorization to increase ambulance fees in accord with the maximum allowable Medicare rates for 1998.

It was on motion unanimously

VOTED: To approve an increase in ambulance fees in accord with the maximum allowable Medicare rates for 1998.

Acceptance of Grant - Sudbury Foundation

It was on motion unanimously

VOTED: To accept a grant in the amount of \$15,000 to be separately accounted for and expended under the direction of the Council on Aging to support the creation of a new Senior Volunteer Coordinator position at the Fairbank Senior Center.

Amend Driveway Location Rules and Regulations

The Board was in receipt of a communication, from I. William Place, Director of Public Works/Town Engineer, requesting that the Board adopt 527 CMR, (10)(a) as it pertains to Residential Common Driveways to facilitate effective use of fire apparatus.

Accordingly, it was on motion unanimously

VOTED: That the standards set forth in the Selectman's Driveway Location Approval Rules and Regulations (promulgated under Town of Sudbury, Article V. Public Safety, Section 30,) in Appendix B, Common Driveways, be amended as follows:

Width of Street Line – Residential: minimum 18 feet, maximum 24 feet.

Shoulder Width – Residential: minimum 3 feet; Commercial: minimum 2 feet.

ATM-Accept Petition Articles

The Board was in receipt of three petition articles: Delete Senior Residential Community Bylaw, Chapter 90 Highway Funding, and Bonding for Land Acquisitions.

In response to a question by Chairman Blacker, Town Manager Ledoux explained that the Chapter 90 Article related to State legislation that has not yet been re-authorized, but it is believed will be renewed. Assuming such is the case, this article will facilitate the Town's use of its funding allotment under this state program for infrastructure improvements.

It was on motion unanimously

VOTED: To accept these petition articles for the 1998 Annual Town Meeting.

ATM - Order Warrant

Present: Thomas G. Dignan, Jr., Town Moderator, and others.

The Board was in receipt of a proposed Warrant Order for the 1998 Annual Town Meeting.

Chairman Blacker asked Town Moderator Dignan if he had seen the draft and had any suggestions.

Town Moderator Dignan responded that he had seen the proposed order and had two comments. He suggested: (1) to maintain interest that the operating budget be moved further down the warrant and (2) to save time that the "consent calendar be eliminated, as there are only six "consent calendar" items.

It was on motion unanimously

VOTED: To accept the proposed Warrant Order with the following two changes: (1) the FY99 Operating Budget, currently Article 5A, shall be ranked Article 4 and the proposed Article 4, Street Acceptances, shall be ranked Article 5; and (2) the proposed consent calendar designation for Articles 9-12 and 20-21 shall be eliminated and such articles shall appear as regular articles at such rankings.

STM - Schedule

Town Moderator Dignan asked the Board if it projected the upcoming Special Town Meeting would conclude its business in one night. He explained that he has to leave town the next day and wondered if there were going to be a number of articles for the Townspeople to consider.

Chairman Blacker responded that at present it is a one-article warrant and that article should not involve a lengthy debate since no additional funding is being sought. Chairman Blacker noted that although the warrant does not close until February 2, he opined that any petition articles would probably be raised at the Annual Town Meeting in April since considerably fewer signatures are required.

Selectman Drobinski said he had heard that Ralph Tyler might be bringing in some articles for the Special Town Meeting.

Capital Planning Bylaw Article

The Board was in receipt of a communication, dated January 14, 1998, from L. William Katz, Chair, Long Range Planning Committee, setting forth that Committee's suggested amendments to the proposed Capital Planning Bylaw Article.

Chairman Blacker expressed that he needed more time to review these suggested amendments and the Board agreed to continue consideration of this matter until its next regularly scheduled meeting on February 9, 1998.

Regulation of Dogs Bylaw

The Board was in receipt of the following:

1. A proposed Press Release, to be issued January 27, 1998, by the Board, providing notice of the public hearing on the proposed new dog regulations bylaw to be conducted by the Board on February 9, 1998, and of the publication of such notice in the *Sudbury Town Crier* and *TAB* on February 5, 1998, the *Middlesex News* and the posting of such on the Town's Cable Channel and at various Town offices.
2. A communication dated January 12, 1998, from Betsy DeWallace, Dog Officer, suggesting that she be authorized to impose a 24-hour permanent restraining order on individual dogs that are a continuing nuisance to the Town, but do not constitute an urgent threat to public health or safety. The order would require the dog to be restrained at all times, regardless of the Town's bylaw. She opined that if she were given such authority it would reduce the number of dog hearings conducted by the Board.
3. An undated notation by Town Counsel Kenny stating that the Selectmen cannot legally authorize the restraint suggested by Dog Officer DeWallace under current regulation. He advised, however, that such a provision could be incorporated into the new Bylaw.
4. An excerpt from the Town of Wrentham Dog Regulation Bylaw, setting forth a provision requiring the payment of fees for emergency treatment provided by veterinarians to dogs injured on public ways.

The Board concurred in the scheduling of the public hearing and the proposed public notice therefor and further agreed to consider Dog Officer DeWallace's suggestion at said public hearing since the purpose of the hearing is to elicit concerns and input on the proposed new bylaw.

Enterprise Fund Budgets

The Board was in receipt of Enterprise Funds FY99 Budgets for the Town's Solid Waste Disposal program and the Atkinson Pool.

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Chairman Blacker asked if these were the usual enterprise budgets the Board received and Town Manager Ledoux responded in the affirmative noting that the Town only has the two funds and that the budgets were basically the same as FY98. He reported that last year was the first year that the pool had been "self-supporting".

It was on motion unanimously

VOTED: To approve the FY99 Enterprise Fund Budgets, that is, the Solid Waste Disposal Enterprise Fund in the amount of \$269,858 and the Pool Enterprise Fund in the amount of \$347,739, for recommendation at the 1998 Annual Town Meeting.

ATM Article Positions and Speaker Assignments

The Board agreed to continue consideration of this matter until its next regularly scheduled meeting on February 9, 1998.

ATM Warrant Closure

It was on motion unanimously

VOTED: To fix the closure of the 1998 Annual Town Meeting Warrant on February 9, 1998, at 5:00 p.m.

Town Forum - 231<sup>St</sup> Session

At 8:00 p.m. the Board conducted the Town's 231<sup>St</sup> Town Forum. Reports were received from the following officials and boards: Ruth A. Griesel Director, for the Council on Aging; Daniel A. Loughlin, Director of Assessing, for the Board of Assessors; John B. Hepting, Inspector of Buildings and Zoning Enforcement Officer; Michael C. Dunne, Fire Chief and Forest Warden, for the Fire Department, Hans J. Lopater, for the Goodnow Library Trustees; Marilyn A. MacLean, for the Historical Commission; Patricia H. Burkhardt, for the Park and Recreation Commission; John O. Rhome, for the Planning Board; Peter B. Lembo, Chief of Police, for the Police Department; Kathleen D. Middleton, Town Clerk for the Town Clerk's Office; Lawrence L. Blacker, Chairman of Board of Selectmen for the Selectmen; Gregory S. Lauer, for the Sudbury School Committee; Robert H. Sheldon for the Sudbury Water District; and Town Manager Steven Ledoux.

SPC-Route 20 Task Force

Present: Bridget Hanson and Thomas A. Scarlata, Route 20 Task Force, Strategic Planning Committee, and others.

The Board was in receipt of a communication, dated January 22, 1998, from Thomas A. Scarlata, Route 20 Task Force, Strategic Planning Committee, enclosing a draft of guidelines for renovations and development along Route 20, entitled "Architectural Character of Route 20".

Bridget Hanson, Chair, Route 20 Task Force, Strategic Planning Committee, stated that the guidelines were drafted with an eye toward improving the Route 20 corridor for both people and businesses. She said that there are many issues to consider, including infrastructure and traffic, and that

these guidelines chiefly pertain to the visual aspects. She said they suggest the kind of architectural elements - size, scale, and landscaping - which are compatible with the Town's character.

Chairman Blacker expressed his approval of the guidelines and questioned whether zoning bylaws should be amended.

Selectman Clark suggested the Design Review Board should perhaps consider adopting the guidelines, but Selectman Drobinski noted that they did not have statutory authority, only advisory.

Chairman Blacker stated he supported the flexibility inherent in the guidelines. He noted that it is expensive to have to re-do building plans. He said he preferred the more generic guidelines, for example, calling for landscaping screens, rather than requiring a certain Maple tree be planted at a specific spot.

Ms. Hanson stated that she hoped the guidelines might be adopted by the applicable boards and commissions, but merely as guidelines. She said she believed it is important to maintain considerable flexibility in these matters. She said she hoped that those planning new construction and/or renovation along Route 20 might be able to rely on the guidelines in formulating their designs, but did not wish to see them "cast in stone".

When asked if the guidelines were meant to pertain to industrial sites as well as commercial, Ms. Hanson said they were envisioned to apply to commercial sites, but could be of some use in designing industrial sites.

#### Dog Complaint against Jon Delli Priscoli, 100 Prides Crossing

The Board was in receipt of a communication, dated January 22, 1998, from Janet Silva, Administrative Assistant, noting she had had conversations with both the Dog Officer and the complainant, Michael Zeolla. She reports that the Dog Officer has had no calls concerning the Delli Priscoli dogs and that Mr. Zeolla indicated there have been no problems. She said Mr. Zeolla is satisfied with the status quo and he understands the Selectmen intend to dismiss the complaint.

It was on motion unanimously

VOTED: To dismiss the Dog Complaint, dated May 12, 1997, by Michael Zeolla, 109 Prides Crossing against a dog(s) owned by Jon Delli Priscoli, 100 Prides Crossing.

#### Lobbying the State Legislature on Educational Reform and Funding

The Board was in receipt of a communication, dated January 8, 1998, from Mary L. Ford, Mayor, Northampton and Thomas Cross, Selectboard Chair, Southampton, stating that both Towns had hosted a regional meeting to discuss the financial challenges occasioned by educational reform. As a result of the meeting, the two Towns agreed to lobby the legislature for full funding of school transportation and for assistance with high special education costs. To that end, the two Towns passed a resolution calling for such additional funding. Both Towns urge Sudbury's Board of Selectmen and School Committee to pass a similar resolution and to convey such to the Town's legislative delegation and the Massachusetts Municipal Association.

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Selectman Clark stated the state legislature is looking at the special education issue and there is, at least a possibility, that there may be some alleviation of those costs.

Chairman Blacker suggested that perhaps the Board should simply write to their legislators and ask, instead of a tax refund, that the state fund that which the law requires.

Selectman Clark agreed, saying that she too was tired of the "unfunded mandates".

Chairman Blacker said that it was just a thought. He said that he believed the proposed resolution was a good one and it was on motion unanimously

VOTED: To approve and sign the Resolution proposed by the Towns of Northampton and Southampton requesting the state legislature to fully fund school transportation services and to assist in the costs for students with very high special education expenses and to send such resolution to the appropriate parties.

#### Open Space Committee

The Board was in receipt of a communication, dated January 20, 1998, from Jody Kablack, Town Planner, suggesting the name, charge, membership and tasks of the "Open Space Committee" the Board is considering forming to consider real property acquisitions by the Town.

Town Manager Ledoux stated the memo from Town Planner Kablack was merely preliminary and that she intended to conduct further research.

Selectman Clark stated she was interested in determining how other towns handle this issue. She said that historically land has long been held the cornerstone of people's rights. She said that "open space" targets land that is to be protected. She cautioned that it appears the Town is on the verge of a turf war. She opined that open space should serve some use or value to the community. She said land should be acquired for some purpose, such as a soccer field. She disapproved of taking land merely to stop someone from developing it. She said she wants the open space committee membership to have a good representation of individuals with financial backgrounds and landowners. She said it is important to have members on the committee who understand the financial impacts. She also said the Board must determine whether such committee will have substantive or advisory powers.

Chairman Blacker stated he believed the committee's charge should be to delineate the specific criteria for buying land.

Selectman Clark cautioned that in the future the Town might well find itself caught up in "fiscal insanity". She said the Town is not able to purchase all the land it wants any more than she is able to buy every bauble at a jewelry store she might fantasize purchasing.

Selectman Drobinski noted, however, the Town *is* limited by its ability to obtain bonding and a point would be reached when the Town would not be able to borrow the funds to make the purchase.

Selectman Clark opined it is the Board's job to "level the playing field".

Chairman Blacker agreed, but stated there is a value to open space.

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Selectman Drobinski agreed and opined that the reasoning behind the Townspeople's decision to purchase the Meachen property was not to merely preclude development. He said he believed it was based more on quality of life issues and strong sentiments to preserve the Town's rural character. He opined that the Finance Committee would have a strong influence on future purchasing decisions.

Chairman Blacker noted that the Town Planner's memo already suggests the committee membership include accountants and land owners. He suggested the possibility of designating liaisons with both the Finance Committee and Planning Board to ensure fiscal responsibility and planning coordination.

The Board agreed to consider the matter again after the Town Planner is able to complete her research and after other boards and commissions have an opportunity to provide input.

DTE Ruling - Cell Towers

The Board was in receipt of a communication, dated January 17, 1998, from Thatcher W. Kezer, III, Legislative Analyst, Massachusetts Municipal Association (MMA), outlining the January 9, 1998, Department of Telecommunications and Energy (DTE) decision ruling against cities and towns on the cell tower issue. The decision allows providers of Commercial Mobile Radio Services (CMRS) to be defined as Public Service Corporations within the meaning of M.G.L. ch. 40A, sec. 3. The decision allows CMRS providers to apply to the DTE for exemptions from city and town zoning by-laws and ordinances. The impact to cities and towns is the loss of negotiating leverage with telecommunications companies. CMRS providers will be able to apply to the DTE to override a local zoning board's decision or even if they are unsatisfied with the progress of negotiations.

Mr. Kezer further informs that the MMA is currently reviewing its options in response to the decision. It may appeal the decision to the Supreme Judicial Court and/or seek legislation changing M.G.L. ch. 40A, sec.3 to exclude CMRS providers.

Selectman Clark inquired if the provider would have to show "hardship" in order to apply to the DTE or a court for an override of a local bylaw?

Town Manager Ledoux responded that it appears the provider is able to do so merely because of its status as a CMRS.

Chairman Blacker asked Town Manager Ledoux about the status of efforts to resolve the pending application to add to the wireless facility near Willis Hill. Town Manager Ledoux stated he was scheduled to meet with the various representatives this coming Friday and would report to the Board.

STM- Accept Warrant Article - Allow New Construction ECMS

The Board was in receipt of a Warrant Article, entitled "Amend 2/24/97 STM ART. 4 Vote - Allow New Construction for Curtis Middle School", submitted by the Sudbury School Committee and it was on motion unanimously

VOTED: To accept such warrant article for the Special Town Meeting to be conducted on March 2, 1998.



Cancellation of February 23 Town Forum

Town Manager Ledoux suggested in view of the Board's lengthy agenda at its next regular meeting on February 23, it might wish to cancel the Town Forum currently slated for that meeting.

Thus, it was on motion unanimously

VOTED: To cancel the Town Forum scheduled for February 23, 1998.

Special Permit for Arts & Craft Show at Wayside Inn

The Board was in receipt of a communication, dated January 16, 1998, from Joyce M. Endee, Joyce Endee Productions, requesting permission to hold two juried Arts & Crafts shows, one on Sunday, May 3, 1998, and another on Sunday, September 13, 1998, in the West Field at the Wayside Inn. Ms. Endee reports that she will hire two to three police officers for traffic control and parking and intends to obtain all necessary health and building (temporary canopy) permits. She informs that the show will carry its own liability insurance and will be subject to rental fees and regulations of the Wayside Inn.

It was on motion unanimously

VOTED: To grant a special permit for Joyce Endee Productions to hold two juried Arts & Crafts Shows, one on Sunday, May 3, 1998, and another on Sunday, September 13, 1998, at the West Field, Wayside Inn, subject to reasonable conditions imposed by the Fire, Police and Health Departments.

Notice of Defect in Road, Maynard Road

The Board was in receipt of a communication, dated January 20, 1998, from H. Rebecca Cutting, claiming a defect in the public way, that is, Maynard Road at or near the intersection of Wyman Drive.

Chairman Blacker asked Town Manager Ledoux the purpose of the notice and Town Manager Ledoux explained it would potentially expose the Town to liability for property damage and personal injury. Chairman Blacker directed the Town Manager to relay the information to I. William Place, Director of Public Works/ Town Engineer and for his assessment of the situation.

Meachen Property Litigation

Chairman Blacker noted the receipt of a summons to respond to new litigation filed regarding the acquisition of the Meachen property and he suggested that the Board discuss such in executive session during its next regularly scheduled meeting on February 9, 1998, and the Board concurred.

CVS Drive-Thru

Selectman Clark stated that she understood CVS planned a drive through prescription service and questioned whether there was enough space to safely allow such and furthermore whether it violated a Town bylaw precluding drive-thrus.

Chairman Blacker suggested that Selectman Clark review the bylaw; he said he thought it only precluded restaurant drive-thrus.

There being no further business to come before the Board, the meeting adjourned at 10:00 p.m.

Attest: \_\_\_\_\_  
Steven Ledoux  
Town Manager-Clerk