

IN THE BOARD OF SELECTMEN  
MONDAY, FEBRUARY 23, 1998

Present: Vice Chairman John C. Drobinski and Selectman Maryann K. Clark.

The statutory requirements for notice having been met; Vice Chairman John C. Drobinski convened the meeting at 7:30 p.m. at the Fairbank Senior Center.

Vice Chairman's Statement

Vice Chairman John C. Drobinski announced that the Special Town Meeting on the reconfiguration of the middle school construction project would commence on March 2, 1998, at 8:00 p.m., at the Lincoln-Sudbury Regional High School and he encouraged Townspeople to attend.

Trustees of Town Donations

Present: Maureen Valente, Finance Director/Town Treasurer-Collector and Co-Trustee of Town Donations; and others.

Notice having been duly given, Vice Chairman Drobinski convened a meeting of the Board as Co-Trustees of Town Donations.

The Board was in receipt of the First and Second Quarter Trust Fund Reports, dated September 30, 1997 and December 31, 1997, respectively, which were prepared by Maureen Valente, Finance Director/Town Treasurer-Collector. The Board was also in receipt of the account statements for the Wood-Davison House Fund and Harry C. Rice Museum Fund, for the periods ending September 30 and December 31, 1997, both of which were issued by the Massachusetts Municipal Depository Trust.

Finance Director/Town Treasurer-Collector Valente stated there were no decisions to be made at this time and she appreciated the additional time to become familiar with the accounts. She said that she hoped to maintain 5% in cash and that currently there is only about 2%. She said that such should be corrected in May when one of the Treasury Bonds matures.

Selectman Clark inquired about the status of the stock market and Finance Director/Town Treasurer-Collector Valente responded that there were some ups and downs, but the Town's investments were doing well.

Acting as Co-Trustees of Town Donations, it was on motion unanimously

VOTED: To accept the First and Second Quarter Trust Fund Reports, prepared by Co-Trustee Maureen Valente, dated September 30, 1997 and December 31, 1997, respectively.

Site Plan 97-340, AT&T Wireless PCS, Inc., Maynard Road/Water District Property

On request, it was on motion unanimously

VOTED: To continue the public hearing, as mutually agreed between Applicant and Town, on the application of AT&T Wireless PCS, Inc., for a Site Plan Special Permit under Sudbury Bylaws, Art. IX.V.A, to add to wireless communications facilities on Water District Property on Maynard Road, as set forth in Site Plan 97-340, until 9:45 p.m., March 9, 1998, at the Fairbank Senior Center.

Minutes

Selectman Clark said she had not had an opportunity to read the draft minutes and asked that this matter be held over until the Board's next meeting.

Vice Chairman Drobinski agreed, noting that such would also allow Chairman Blacker to review them as well.

Donations - Council on Aging Vans

It was on motion unanimously

VOTED: To accept \$138.01 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 - Edwin Barrett Hosmer Memorial Fund

Upon request, it was on motion unanimously

VOTED: To approve the expenditure of \$450 from the Edwin Barrett Hosmer Memorial Fund to pay an invoice from Aragon Art for the cleaning and framing of one oil painting, *Miss Trombley*, and the cleaning of four others.

Acceptance of Resignation - Strategic Planning Committee

The Board was in receipt of a communication, undated, but received on February 11, 1998, from Steven J. Swanger, 14 Bent Brook Road, informing of his need to resign from the Strategic Planning Committee because of increasing demands occasioned by his position with the Cambridge Housing Authority.

Thus, it was on motion unanimously

VOTED: To accept the resignation of Steven J. Swanger, from the Strategic Planning Committee, and to send Mr. Swanger a letter of appreciation for his service to the Town.

Special Permit for Annual Sudbury Spring Triathlon

The Board was in receipt of a communication, dated February 15, 1998, from William H. Fiske, Race Director, Fiske Independent Race Management, Marlborough, requesting permission to hold the 10<sup>th</sup> Annual Sudbury Spring Sprint Triathlon, a swim/bike/foot race event, on Sunday, May 3, 1998. He

notes that the Atkinson Pool has been reserved from 7:30 a.m. – 9:30 a.m. and that the bicycle and foot race will use the same roadways as last year and that as in years past a police detail will be hired.

Thus, it was on motion unanimously

VOTED: To grant permission for the 10<sup>th</sup> Annual Sudbury Spring Triathlon, a swim/bicycle/foot race event on Sunday, May 3, 1998, utilizing the loop of Fairbank Road, Maynard Road, and Hudson Road for a bicycle race and the loop of Fairbank Road, Butler Place, Willis Lake Drive, Basswood Avenue, Crystal Lake Drive and Hudson Road for a foot race, beginning and ending at the Atkinson Pool, subject to reasonable conditions imposed by the Sudbury Police Department, including provision for a paid police detail to direct traffic.

#### Special Town Meeting

Selectman Clark asked the Town Manager who was to present the article at the Special Town Meeting, and Town Manager Ledoux responded that members of the School Committee would do so.

#### Annual Town Meeting

##### Article 25 - Town Meeting Procedures

Selectman Clark expressed concerns regarding Article 25, Town Meeting Procedure, which would allow the moderator the discretion to estimate a two-thirds vote of the Hall. Selectman Clark noted that the article had been submitted by the moderator, but the Board had been requested to submit it to the Town Meeting. Selectman Clark stated in her opinion the existing system works well. She said that democracy may not be swift, but it works. She said that she has been on both sides of this issue. She said that she has found Moderator Dignan to be very accurate in his estimates, but noted that he will not always be the Town's moderator.

Vice Chairman Drobinski pointed out that the article still allows for the Hall to call the count, but Selectman Clark responded that such must comply with the "Town Meeting Time". Selectman Clark said she did not know how that term is defined and Vice Chairman Drobinski indicated that he too did not know.

Town Manager Ledoux explained that it would be difficult for the Moderator to speak on the article and at the same time moderate the meeting. He said it was for this reason that the Board had been asked to formally submit the article. Town Manager Ledoux also explained that most moderators use the same Town Meeting Rules Book and the term is undoubtedly defined therein.

Selectman Clark said the article was generated by a new state law permitting such procedure, but expressed concern with being one of the "guinea pigs" to see if it works.

Vice Chairman Drobinski suggested that it be noted at Town Meeting that the article is being submitted by the Board on behalf of the Moderator. Moreover, he said that such submission by the Board does not preclude individual discussion by any Selectman.

Selectman Clark agreed with this understanding.

**Article 29 - Wireless Communications**

Vice Chairman Drobinski inquired of Town Manager Ledoux if the Planning Board article on cell towers had been finalized. Vice Chairman Drobinski noted that such would permit a cell tower in the cemetery off Concord Road and doubted anyone would desire such.

Town Manager Ledoux responded that he believed that provision would be deleted.

Selectman Clark suggested a moratorium be placed on any additional cell tower construction until the law is settled. She noted the Town of Hanover has appealed its case. She informed that the analog system requires a cell every five miles and the digital system, one every mile. In any event, she predicted a proliferation of cell towers. She opined that clearly a court would have to consider requiring operators to use the most recent technology given the reduced impact on the community. She inquired if it would be possible to move for a moratorium.

Town Manager Ledoux responded such a motion might not be within the "four corners" of the article.

Vice Chairman Drobinski noted that the prior moratorium on Route 20 construction was by an article specifically calling for such.

Vice Chairman Drobinski asked if under the proposed article the site plan must be reviewed by both the Selectmen and the Board of Appeals, and Town Manager Ledoux responded that he believed so.

Selectman Clark stated it would constitute a "commercial use" and thus come under purview of the Selectmen, as well as the Board of Appeals.

**Article 30 - Incentive Senior Development**

Selectman Clark also expressed her concern with Article 30, Incentive Senior Development. She said what it comes down to is ¼ acre zoning. She opined that the Town is giving too many incentives.

Town Manager Ledoux stated that it is still in the modification process.

**Article 43 - Regulation of Dogs**

The Board was in receipt of a communication, dated February 10, 1998, from the Park and Recreation Commission, suggesting the inclusion of certain language specifying that park areas and recreations fields are included in those areas where dog wastes must be removed.

Town Manager Ledoux informed that the revised bylaw had incorporated those changes requested by the Board and the Board concurred in those revisions.

With respect to the suggestion by Park and Recreation Commission, Selectman Clark contended that such was not necessary and would be redundant since the Board intended the language *public area* to be all-inclusive.

Vice Chairman Drobinski agreed.

Town Manager Ledoux informed the Board that the Finance Committee wished to meet with the Board on March 18, 1998, regarding the proposed bylaw. He surmised that the Finance Committee is concerned with the fiscal impact of the bylaw, including the costs for housing dogs under the new 24-hour restraining order provision and anticipated revenues from license fees and fines.

Vice Chairman Drobinski asked Town Manager Ledoux if staff had a handle on the costs and Town Manager Ledoux responded that fees would probably pay 40% of the Dog Officer's budget.

Selectman Clark commented that the Town had previously considered building its own kennel but, found the costs to be prohibitive. Selectman Clark directed the Town Manager to check with Dog Officer DeWallace to make sure that she has sufficient space to house dogs under the proposed bylaw.

#### **Article 44 – Allow Ice Cream Trucks**

The Board was in receipt of a communication, dated, February 13, 1998, addressed to Town Counsel, from Pat Savage, Director of Park and Recreation Commission, noting that the article would allow the sale of ice cream products at any of the park and recreation properties as well as school properties. She suggests that the article might be illegal due to the potential for generating private gain from use of public property. If legal and permitted on park and recreation property, she raises the following concerns: (1) a child running after the ice cream truck might get struck in a parking lot or roadway; (2) increased litter generated by the vendor; and (3) competition with existing vendors on site which provide a source of revenue for the Town and Non-profit youth sports organizations.

Vice Chairman Drobinski stated the Park and Recreation Commission raised a valid point. He said that there is an existing snack stand at the main soccer field (Haskell Recreation Area); allowing a mobile unit to come in would reduce revenues to that vendor who supports local sports activities.

Town Manager Ledoux noted, however, there are no existing vendors at other recreational fields, such as at Davis and behind the Haynes Elementary School. He suggested that perhaps the ice cream trucks should be precluded from competing with those existing vendors at Town recreational fields.

Vice Chairman Drobinski suggested that Town Counsel consider the issue and report back to the Board; Selectman Clark agreed.

#### **Refund of County Dog Fund**

Town Manager Ledoux reported that he had recently received a communication from the Massachusetts Department of Revenue informing that the Town would be refunded \$6,904 paid to the Middlesex County Dog Fund as a result of the disbanding of Middlesex County. He noted that the refund may be used for library and school purposes.

Vice Chairman Drobinski asked if the funds could be used for dog regulation matters.

Selectman Clark agreed, saying that if the Dog Officer is given authority to restrain dogs for 24 hours, she will need additional housing expenses.

Town Manager Ledoux stated that he had not had an opportunity to review the communication in detail, but it appeared that the refund was restricted to library or school purposes.

#### Cell Tower at Hudson Road Fire Station

Town Manager informed there is some interest from AT&T in installing a cell tower at the Hudson Road Fire Station. He said that it might be possible to incorporate it into a flagpole; he noted that currently the station is without a flagpole.

Vice Chairman Drobinski asked if the station is within the Historic District?

Town Manager Ledoux responded that it is just outside the District.

Vice Chairman Drobinski said that he would be concerned if there were a tower just outside the District. Furthermore, he suggested that the Town should consider assisting Hanover in its litigation regarding cell tower construction.

#### Health Insurance Costs

Town Manager Ledoux reported that he had received a communication from the Group Benefits Strategies, Inc., the Town's insurance agency, informing that the state had mandated contributions to a statewide "uncompensated pool". He said that Blue Cross might attempt to pass on some of those costs to the Town.

Vice Chairman Drobinski commented that in the past the pool was funded primarily by the hospitals.

Town Manager Ledoux agreed, but stated that now insurance companies are also required to contribute. He noted that the Town is self-insured, but Blue Cross administers the program, and it may well seek additional moneys from the Town to compensate for this expense. For this reason, Town Manager Ledoux contended the issue was a matter of concern and he would apprise the Board should the Town be billed for this expense.

Selectman Clark agreed, noting that any adjustment should be proportionate to the Town's responsibility.

#### Designation of Surrey Lane Parcel as Conservation Land

Selectman Clark stated that she had reviewed the communication dated February 5, 1998, from Deborah Dineen, Conservation Coordinator, requesting the Board's designation of the Town-owned Surrey Lane parcel as conservation land.

Selectman Clark stated that she remained reluctant to do so until the adjacent Ft. Devens annex is actually transferred to the Department of the Interior for a wildlife refuge.

Special Permit for Temporary Sales Trailer - Barberry Homes, Inc., Plantation Circle

Present: David Carter, Barberry Homes, Inc.; William H. and Laura M. Bohlke, 136 Old Lancaster Road; Kenneth A. Young, 235 Goodman's Hill Road, and others.

At 8:15 p.m., Vice Chairman Drobinski convened a public hearing concerning a request, dated February 9, 1998, from Kenneth A. Labarre, Project Manager, Barberry Homes, Inc., for permission to locate a sales trailer off Plantation Circle, on lot 6, Greenhill Estates. The trailer is currently located on lot 1, Anselm Way. Abutters had been notified of the hearing.

David Carter of Barberry Homes, Inc., explained that the trailer is 24' by 8' and is needed at the requested site for about 10 months. He said it is a very nice trailer designed to look like a home. He said it has clapboard siding, a foundation skirt and some landscaping, including stone entry steps. He said it has electric heating and lighting, but there are no sanitary facilities, or exterior lighting. He said it was currently located at Anselm Way should anyone care to view it.

William H. Bohlke, saying that he was an abutter, inquired about the hours of operation and anticipated volume of customers.

Mr. Carter responded that the hours at the trailer would be from 9:00 a.m. to 5:00 p.m. He said they anticipated little or no volume during the weekdays and six to ten cars a day on the weekends, and parking would be in the cul-de-sac.

Kenneth A. Young, 235 Goodman's Hill Road, said that his property would have a direct view of the trailer since most of the trees formerly at the site had been removed. He questioned the need for a sales trailer since Barberry Homes has a business office on Route 20. He questioned the need to bring a commercial enterprise into a residential neighborhood. He also expressed concerns about increased litter and traffic and the potential for vandalism.

Mr. Carter responded that, although Barberry Homes does have an office on Route 20, it is nice to have a place on site to explain the process to customers. He reported there were no problems of vandalism with the trailer at the Anselm Way site.

Selectman Clark asked for the distances from the proposed trailer site to Old Lancaster Road and Goodman's Hill Road.

Mr. Carter responded that the trailer would be about 800' from Old Lancaster Road and 1000' from Goodman's Hill Road.

Vice Chairman Drobinski stated that he had personally viewed the area and he agreed that a great number of the trees had been removed. He also noted that there was no turnaround area and suggested that Mr. Carter address that issue with the Fire Chief. He said that he noticed that the road was awfully wet and advised that Mr. Carter consult with the Conservation Commission. With respect to the request

at hand, he asked Mr. Carter if he desired a 12-month permit and Mr. Carter responded in the affirmative.

Selectman Clark asked if the area was going to be secured and Mr. Carter explained that the roadway would be chained off about 200' feet off of Old Lancaster Road and once the area is prepared for viewing, the chain would be taken down and possibly used on the driveway into the trailer site.

Vice Chairman Drobinski said that he could understand the discomfort of the abutters, but noted that this is merely temporary. He explained that this is something that the Board has permitted at other locations. He asked Mr. Carter if he would consider a six-month permit so that the Board might be able to review the situation again should there be a need for an extension and Mr. Carter agreed.

Thus, it was on motion unanimously

VOTED: To grant a special permit to Barberry Homes, Inc., to locate a sales trailer off Plantation Circle, on lot 6, Greenhill Estates, for a period of six months from this date.

Consideration of Police Report - Alcoholic Beverages Licensees' Sales to Minor

Present: Peter B. Lembo, Chief of Police, various licensees, and others.

The Board was in receipt of the following:

1. A communication dated, February 20, 1998, from Janet Silva, Administrative Assistant, informing that Town Counsel Paul Kenny reports that the Board, as the licensing authority, in response to a proven violation of the General Laws, may under Ch. 138, sec. 64, (1) issue a warning; (2) modify the license; (3) suspend the license for a specified period; or (4) revoke or cancel the license. Additionally the Board in this instance may file a criminal complaint with the District Court and the Court under Ch. 138, sec. 34, may punish the offender by a fine not to exceed \$2,000 or by imprisonment of not more than six months or both. (Copies of the cited statutory provisions were enclosed.)
2. Police Reports, dated February 11, 1998, drafted by Officers Richard J. Glavin and Richard A. MacLean, Sudbury Police Department, detailing an undercover operation involving the use of a nineteen-year-old female to attempt to purchase alcoholic beverages at all licensed establishments within the Town. The undercover agent was successful in purchasing alcohol at the Wayside Inn, Bullfinch's Restaurant, the American Legion Post, Philip's Pizza, Sudbury Farms Market, Lotus Blossom Restaurant, Papa Gino's Restaurant, and Sierra's Restaurant. In each instance, the undercover agent was observed by either Officer Galvin or MacLean to be in possession of an alcoholic beverage shortly after entering the particular establishment. When confronted with the sale to a minor, the particular licensee and/or employees were cooperative with the authorities.

Peter A. Lembo, Chief of Police, said that his Department had conducted a "sting" operation on February 10, 1998, to determine if the licensed establishments in the Town might sell to minors. He said that an "undercover girl" was used in the operation and eight establishments were caught.

Chief Lembo explained that he had received phone calls from several parents complaining that minors were able to purchase alcohol at several establishments within the Town. He said that this type of



operation has been conducted before in the Town, but not for some five years now. He said that an advertisement was taken out in the newspaper putting the licensees on notice that the Department intended to conduct such an investigation. He said two of the establishments caught in the sting were ones that had been identified as having sold to minors in the past. He was unwilling to reveal those licensees, contending that such was confidential. He said he plans to conduct another such investigation in the future and will again advertise a warning. However, he said next time the operation will occur over the course of several days, because he suspected some of the licensees were tipped off during this operation.

Regarding reprisals, Chief Lembo first noted that among the various violators the Roche Brothers (Sudbury Farms Market) had taken the matter very seriously and had immediately conducted employee training. He suggested that each of the violators consider the TIPS program, which provides employee training.

Selectman Clark asked if it were required of licensees and Chief Lembo responded in the negative.

Selectman Clark opined that the newspaper article would be an effective tool in curtailing this type of activity.

Vice Chairman Drobinski inquired of the procedures to follow and Town Manager Ledoux responded that the Board might wish to conduct a special meeting if it chose to impose some sort of punishment.

Selectman Clark stated that she wished first to hear from some of the licensees and others who were present. She said that this might be just a matter of issuing a warning. She noted that there had been no such investigations for some five years and maybe this "bell ringing" is sufficient.

Vice Chairman Drobinski said he has two teenage children and he considers this type of investigation to be appropriate. He said that all Townspeople have a duty to preclude minors having access to alcohol. He expressed his disappointment with the licensees, saying that they had violated the trust the Board had placed in them.

The representative from Sierra's Restaurant said that he had considered the matter a "wake up call" and had taken it very seriously. He said that he had spoken to all of his staff.

The representative from the Wayside Inn said that they too had taken the matter very seriously and that it would not happen again.

Police Chief Lembo suggested that a warning, together with a recommendation for training, is appropriate at this juncture. He said these people should be trained; he informed that some were serving alcohol for the first time. He also opined there was a language problem with some of the people.

Selectman Clark suggested that each of the licensees send a letter to the Board explaining how he/she intends to train their employees, including how any language problems will be addressed. Selectman Clark said she would like to see this event as having placed the licensees on notice. She cautioned that a second offense would bring more than just a warning. She said there should be "carding" in all cases unless it is quite obvious that the person is of the proper age.

Vice Chairman Drobinski agreed, saying that the Board relied on each of the licensees to make certain that minors are not served. He also said that he was pleased with the attendance of the various licensees since it reflected that they had taken the matter very seriously.

Thus, it was on motion unanimously

VOTED: To issue a warning to each of the licensees involved in the February 10, 1998, sale of alcohol to a minor, that is, Wayside Inn, Bullfinch's Restaurant, the American Legion Post, Philip's Pizza, Sudbury Farms Market, Lotus Blossom Restaurant, Papa Gino's Restaurant, and Sierra's Restaurant, and to further require each of these licensees to train their employees in this area and to send a letter to the Board explaining how they have complied with this training requirement and considered any language problems that might affect future compliance.

Executive Session

Town Manager Ledoux requested the Board go into an Executive Session to discuss reputation, character and mental health of a Town employee.

On motion by Vice Chairman Drobinski, by roll call vote, it was unanimously

VOTED: To enter into Executive Session for the purpose of considering a personnel matter.

Vice Chairman Drobinski announced the Board would not return to open session.

(Vice Chairman Drobinski, aye, and Selectman Clark, aye.)

Adjournment

There being no further business to come before the Board, the meeting adjourned at 8:50 p.m.

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