

IN BOARD OF SELECTMEN
MONDAY, JUNE 14, 1999

Present: Chairman John C. Drobinski, Maryann K. Clark and Kirsten D. Roopenian, Selectmen.

The statutory requirement for notice having been met, the meeting convened at 7:30 p.m. at the Town Hall, 322 Concord Road.

Announcements

Selectman Roopenian, Vice Chairman, stated that Chairman Drobinski had a previous commitment and she would chair the meeting until he arrived.

Selectman Roopenian announced that there would be a meeting Wednesday, June 16, 1999, beginning at 7 p.m. with John Mullin and the Planning Board with regard to the Master Plan. The discussion period will begin at 7:45 p.m. She encouraged all residents interested in the Master Plan to attend.

Trustees of Town Donations – Quarterly Meeting

Present: Maureen G. Valente, Finance Director/Treasurer-Collector.

The Board, acting as Co-trustees of Town Donations, met to consider FY99 second and third quarter reports of Town Trust Funds, the release of funds from the George J. Raymond Scholarship Fund, and amending the Town's Investment Policies.

Maureen Valente, Co-trustee of town Donations and Finance Director, briefly explained that she has been researching past Town Trust Funds reports, financial audits, and general ledgers to reconcile some discrepancies. She stated, for example, that when gravesites are sold, an amount is to be applied to perpetual care, but her predecessor had been labeling that money as "expendable", meaning it could be available for current spending.

Ms. Valente stated that capital gains have been rolled back into the principal when they should be reported as expendable funds. According to state law, the trust fund donor is the only person with the authority to change the principal. Ms. Valente noted that she reported the capital gains as a separate amount and temporarily restricted them so they are not spent too quickly.

With regard to investment policies, Ms. Valente asked that the Board review her suggestions and meet in late July to discuss possible changes.

With regard to scholarship awards, Ms. Valente stated a decision should be made regarding whether the recipient should also receive the capitals gains accrued during the period. The award for FY98 will be \$1,254.33 (from interest and dividend income); if capital gains of \$573.35 are awarded, the total would be \$1,827.68. She opined that the intention of the donor was for the student to have all the income from the current year.

Selectman Clark asked if the capital gains accrued from stock splits. Ms. Valente stated capital gains are used to buy more shares in the fund, much like a mutual fund. Ms. Clark opined the donor wanted the capital gains to be included with the principal, if the earnings are from a stock split, but if capital gains are from a sale, it should be set aside. Ms. Valente stated the issue can be further explored, but discussions with other treasurers support her belief. Selectman Clark suggested the matter comes down to whether the Town wishes to take a more conservative stance.

With regard to the Raymond Scholarship Fund, Selectman Roopenian asked how the award was calculated. Ms. Valente stated the donor specified that the award was based on earnings for the calendar year, so she uses half of each fiscal year to begin her calculations. Ms. Valente stated the capital gains issue applies only to the past two years and suggested that if capital gains are included for this year, that capital gains, around \$400, be awarded to last year's recipient. She stated that, if a precedent is set, the scholarship fund will grow at a slower rate as the capital gains will be disbursed instead of rolled back into the principal.

Selectman Roopenian suggested continuing this matter to allow more time to digest and understand the material. She stated she has more questions, but is inclined to follow Ms. Valente's advice. Ms. Valente offered to contact the school to see if there were any time constraints in issuing the funds. She noted that these funds are going to students who have already completed a year of school and its intent is to help defray their expenses.

Selectman Roopenian stated that she would like to continue including the capital gains in the principal.

Ms. Valente stated she would meet with the Investment Advisory Committee to discuss possible changes in the portfolio. She stated brokerage statements will be available after June 30 and stated further that she will prepare a report for presentation in late July.

After discussion, it was agreed to continue the Raymond Scholarship Fund matter until June 28, 1999, and to continue the investment policy matter until late July.

It was on motion unanimously

VOTED: To accept FY99 second and third quarter reports of Town Trust Funds, ending 12/31/98 and 3/31/99 respectively, as prepared by the Town Treasurer.

Bullfinch's Restaurant – Seasonal Sidewalk Dining Area

Present: Margaret Richardson, Owner.

At 7:45 p.m. Selectman Roopenian convened a public hearing for the purpose of considering the application of Bullfinch's Restaurant, 730 Boston Post Road, holder of a Common Victualer All Alcoholic Beverages License, for permission to change the described premises to include the addition of a seasonal sidewalk dining area. This outdoor dining area was approved in 1982. This hearing is to comply with the requirements of M.G.L. Chapter 138 to conduct an advertised public hearing to change the licensed description of the premises.

The Board was in receipt of (1) a report, dated June 2, 1999, from Michael C. Dunne, Fire Chief, stating the Fire Dept. has no problem with this request; (2) a verbal report stating that the Building Inspector and Board of Health concur, (3) Petition for License Transaction, dated May 28, 1999, from Margaret Richardson, Owner, Bullfinch's Restaurant, with plan attached, and (4) Report, from Margaret Richardson, President, Board of Directors of Bullfinch's Incorporated, stating a unanimous vote on May 28, 1999 to include the outdoor dining area in the license.

Margaret Richardson, Owner, stated that there will be no changes in restaurant operations and that this request is simply to bring the premises into compliance with State law.

It was on motion unanimously

VOTED: To grant permission to Bullfinch's Restaurant, 730 Boston Post Road, to change the described premises for their Common Victualer All Alcoholic Beverages License to include the addition of a seasonal sidewalk dining area to comply with M.G.L. Chapter 138.

Storage Trailers: Alan C. Freimont – 315 Maynard Road

Present: Alan C. and Jeanine Freimont, Owners.

The Board acknowledged receipt of a letter, dated June 9, 1999, from Alan C. Freimont, requesting permission to place one or two storage trailers on their property at 315 Maynard Road while they demolish and rebuild their residence. The letter stated the size of probable rental units, noting they would be used to store personal possessions during the construction of their new home. Photographs and plans accompanied the request.

Mr. Alan Freimont stated the house has been in his family for 45 years and is now in his name after the recent death of his father. He stated the house is in severe disrepair so he plans to tear it down and build a new one in its place. He, his wife, their children, and his mother will live in the new home.

Mr. Freimont stated the rental cost of the storage trailers is approximately half the cost of storage units elsewhere and that having the trailers on the premises eliminates the need to hiring trucks to move their possessions. He stated further that there is plenty of room on the three-acre property for the trailers. He submitted letters from two abutters expressing support for his intentions.

Selectman Roopenian asked what the trailer would look like. Mr. Freimont stated the actual size of the trailer depends on what is available at the time, that it could be a box container or a tractor trailer box. Ms. Roopenian asked if the trailer would be locked at all times and if there would be electricity hooked up to it. Mr. Freimont responded no to both questions.

Selectman Clark reminded Mr. Freimont that if he needs more than the estimated 9-month period that he should come back to the Board for an extension, before the time runs out. He stated they hope to break ground in July.

It was on motion unanimously

VOTED: To grant permission to the Freimont family to place one or two storage trailers on their property at 315 Maynard Road while they demolish and rebuild their residence, for a period not to exceed nine months from date of placement.

Minutes

It was on motion unanimously

VOTED: To approve the regular session minutes of May 24, 1999, as amended.

Council on Aging Donations

It was on motion unanimously

VOTED: To accept \$286.41 in miscellaneous donations to be deposited into the Council on Aging Van Donation Account, and to authorize the Council on Aging to expend same for the purposes of operating and maintaining the Council on Aging vans.

Contracts – FY2000 Gasoline and Fuel Oil

It was on motion unanimously

VOTED: To contract for supplying the Town with premium unleaded 93 octane gasoline for the period July 1, 1999 through June 30, 2000, with Buckley Energy Group Ltd, Bridgeport, CT, the lowest eligible bidder, at an increment of 0.0425 per gallon over the tank car price based on the Platts Oilgram Price Report U.S. Wholesale low posting for Boston throughout the supply period, as recommended by the Director of Public Works.

It was on motion unanimously, upon recommendation of the Building Department,

VOTED: To contract for supplying the Town with #2 fuel oil with James Devaney Fuel Co., Inc. at the price of 0.0385/gallon to be added to the lowest rack price as listed in the New York Journal of Commerce (Boston), in accordance with specifications of The Education Cooperative/Massachusetts Plant Administrators, for the period July 1, 1999 through June 30, 2000.

Sprint PCS of Woburn

The Board was in receipt of a letter, dated May 24, 1999, from Joe Giammarco, Consultant, Sprint PCS, formally expressing interest in the Fire Station on Hudson Road for a possible wireless communications installation, and stating typical design requirements.

Town Manager Steven Ledoux stated there are several vendors interested. He stated further the Town needs to decide if it wants a pole at the Fire Station and then issue an RFP. He stated that Michael Dunne, Fire Chief, expressed caution at using that location with respect to it possibly being within the Historic District. He stated further that Chief Dunne indicated that the top of Town Hall is actually at a higher elevation than the proposed antenna, and that Chief Dunne wondered why vendors have not considered Town Hall as a viable location.

Selectman Clark asked if an antenna would be attached to the chimney on Town Hall, and whether it could support that weight. Mr. Ledoux replied he did not know.

Selectman Clark wanted to know if there is an accurate description by running feet of the Historic District. Mr. Ledoux stated the Town Meeting vote that created the Historic District may include the parameters.

It was on motion unanimously

VOTED: To continue this matter, and to direct the Town Manager to investigate the viability of Town Hall as a wireless communication facility and obtain an accurate description of the Historic District.

Route 20 Resurfacing – Dudley Road Bypass

The Board acknowledged that the State Highway Department has requested use of Dudley Road as a bypass during resurfacing of Route 20 for approximately two days.

Town Manager Ledoux stated the bypass will be needed when the area between Nobscot and the other side of the Star Market Plaza is scheduled to be resurfaced. The tentative dates are June 21 and 22.

Selectman Clark expressed concern for two-way traffic on a narrow street such as Dudley Road and suggested that Dudley Road traffic (west to east) be maintained as is, and that east to west traffic be diverted down Union, to Lancaster, to Peakham, and finally to Horse Pond to reach Route 20. She stated that those roads are much wider and able to accommodate trucks, and stated further that two days is a short period of time to use such a detour. Selectman Roopenian disagreed, stating that it was much too long a detour. Ms. Roopenian expressed concern for the schools in the Peakham Road area and adding traffic to those roads.

Selectman Clark asked if the entire road will be resurfaced at once, or if it will be done one lane at a time and opined that one lane could be open for traffic. Town Manager Ledoux left the meeting briefly to phone I. William Place, Town Engineer, and reported that Mr. Place stated that the resurfacing will be done one lane at a time, with the Dudley Road bypass only for the west-to-east traffic. Mr. Ledoux stated Mr. Place indicated the east-to-west traffic will be handled on the lane not being resurfaced.

It was on motion unanimously

VOTED: To approve the request of the State Highway Department to use Dudley Road as a west-to-east bypass during resurfacing of Route 20 for approximately two days, with the caveat that a Police Officer be installed nearby.

Nixon School and Loring School – School Zones

The Board acknowledged receipt of a letter, dated June 7, 1999, from I. William Place, Department of Public Works, advising that the Nixon School and Loring School be added to the Town of Sudbury Traffic Rules and Orders for school zones and speed zone of 20 miles per hour when flashing signals are activated.

It was on motion unanimously

VOTED: To amend the Town of Sudbury Traffic Rules and Orders under Article IX, SPECIAL SPEED REGULATIONS, to add school zones for Nixon School and Loring School at speed zones of 20 miles per hour when flashing signals are activated.

1074 Concord Road – Chapter 61B Release

In accordance with advice of Town Counsel and pursuant to a communication dated March 17, 1999, from Attorney Robert F. Matson, McElhiney and Matson, representing Bruce C. Rudy and Caren McGready, sellers of property at 1074 Concord Road, it was on motion unanimously

VOTED: In confirmation, not to exercise the Town of Sudbury's right of first refusal to purchase portions of land at 1074 Concord Road, Sudbury, converted from G.L.c. 61B Recreational Land Tax Assessment during transfer of ownership from Nashawtuc Country Club, Inc. to Michael H. and Deborah R. Harrity, shown as Parcels "B" (3782

sq. ft.) and "D" (4098 sq. ft.) on plan recorded with the Middlesex South District Registry of Deeds as Plan No. 852 of 1989, Book 19984, Page 265.

Educational Reform Funding Endorsement – Town of Cohasset

The Board acknowledged receipt of a communication, dated May 17, 1999, from the Town of Cohasset, seeking endorsement from the Selectmen and School Department of a petition to the Governor and State Legislature for reform of educational funding in the Commonwealth.

Selectman Roopenian stated she spoke with a representative from the School Committee who endorses the petition, but Ms. Roopenian opined that the petition does not go far enough. She stated that the first two paragraphs are acceptable, but that the rest goes into a discussion of special education which is a separate issue from Ed Reform funding. She suggested withholding endorsement for the moment.

Selectman Clark stated the petition merely raises the issue but does not offer a solution.

Selectman Roopenian stated that the Town of Cohasset has not been particularly active in this area, and stated further that a very broad acceptance of funding reform is more to the point. She stressed that the funding formulas need to be reviewed.

After discussion, it was on motion unanimously

VOTED: To not endorse the petition from the Town of Cohasset directed to the Governor and the State Legislature for reform of educational funding in the Commonwealth.

Dog Hearing – Cooper and Smerlas vs. Geheran, 21 Saddle Ridge

Present: John and Christa Geheran, 21 Saddle Ridge Road; Timothy Geheran, 21 Saddle Ridge Road; Frederic and Kristinee Smerlas, 11 Saddle Ridge Road; Suzanne Sege, 36 Saddle Ridge Road; Mark and Amy Cooper, 41 Fox Run Road; Betsy DeWallace, Dog Officer; Paula Adelson, Assistant Dog Officer; other residents.

At 8:30 p.m. Selectman Roopenian convened a Public Hearing, for the purpose of considering the complaints dated May 17, 1999, of Amy G. Cooper, 41 Fox Run road, and of Frederic Smerlas, 11 Saddle Ridge Road, against the German Shepherd dog named Becky, harbored by Christa Geheran, 21 Saddle Ridge Road. All parties were contacted by certified mail. All persons wishing to testify were sworn in.

The Board was in receipt of the following:

1. Complaint, dated May 17, 1999, from Amy G. Cooper, 41 Fox Run Road, stating that her two dogs (cock-a-poops) were viciously attacked while being walked on leashes, sustaining injuries requiring stitches.
2. Complaint, dated May 17, 1999, from Frederic Smerlas, 11 Saddle Ridge Road, stating that the dog harbored at 21 Saddle Ridge Road, frightens his children when they play along the side of his house that borders 21 Saddle Ridge.
3. Dog License No. 1593, issued May 17, 1999 to Christa Geheran, 21 Saddle Ridge Road, for the German Shepherd named Becky, 8 years old.

4. Report, dated June 11, 1999, from Betsy DeWallace, Sudbury Dog Officer, describing an incident six years earlier when the dog Becky attacked another dog while she (Becky) was being walked without a leash. Ms. DeWallace offered no recommendation regarding Becky at this time.

Betsy DeWallace, Dog Officer, reported she inspected the pen and found it to be adequate, and stated further that the dog is well-behaved and well-trained. She added that it is an older dog.

Selectman Roopenian pointed out that there had been an incident six years earlier. Ms. DeWallace stated the dog did not get out of the pen, but that the teenage son had walked it without a leash. She added that she was unable to contact the people involved in that incident, as they have moved away from the area.

Selectman Roopenian asked Ms. DeWallace for her recommendations. Ms. DeWallace said she spoke with the owner, who said she never lets the dog out, and always walks the dog with a leash. She stated she could not comment further as the dog seemed well behaved to her, but she stated she wanted to hear what the other witnesses had to say.

Amy G. Cooper, 41 Fox Run Road, stated she was walking her two dogs, leashed, on the street in front of the Geheran property when the dog Becky came at the dogs and started attacking them. She stated both dogs had to be hospitalized for stitches and exploratory procedures.

Mark Cooper, 41 Fox Run Road, stated he and his wife feel terrible about the whole situation and do not want to dog put down. He opined that this dog simply does not belong in a neighborhood. He stated their children are traumatized by the incident, and his wife, who likes to jog, no longer does so in the neighborhood. He noted that the entire Geheran family was in attendance, noted that some of the grown children no longer live in Sudbury, and suggested that the dog live with one of the other family members. He stated there are many other small dogs in their neighborhood, as well as small children, and stated again that the dog does not belong in this type of neighborhood.

Frederic Smerlas, 11 Saddle Ridge Road, stated that, when they first moved next door to the Geherans, his children liked to play in the back yard. He stated that the dog would charge the fence from the other side, scaring the children so no longer play on that side of the yard. He stated they always go out of the house through the garage because they are afraid Becky is going to charge the fence. He stated he had spoken with other neighbors who informed him that the dog had attacked other dogs and children before. He stated theirs is a neighborhood with a lot of children and there is no need to have a violent dog nearby. He labeled it as "an accident waiting to happen". He stated that he had spoken with the Geherans' daughter who told him the dog does not like anyone and growls at everyone.

Kris Smerlas, 11 Saddle Ridge Road, stated she had a letter from a former abutter at 41 Fox Run Road, who had lived there from 1991-1996. She stated these people, who have relocated to Florida, felt strongly enough to participate in the hearing. She read the letter that described an incident in 1994 where the dog attacked a child playing ball, and that years later, the child is still emotionally distraught over it. She presented another letter from Christine Nolan, 24 Saddle Ridge Road, who witnessed the attack on the Cooper dogs, stating the dog came from across the street and attacked the dogs. Ms. Nolan wrote that she assisted Ms. Cooper in bringing the injured and bleeding dogs into the house. Ms. Nolan wrote of her concern for the many small children in the neighborhood.

Ms. Smerlas stated that the former owners of 104 Fox Run Road informed her at a block party of a previous incidents, and as they (the Smerlases) were next door to Becky, she advised them to be wary.

Ms. Smerlas stated that another neighbor, Laurie Wishner (who was attending the Planning Board meeting this evening), 92 Fox Run Road, had told her the dog was out during an outdoor children's birthday party and that she asked the Geherans to put the dog inside. Ms. Smerlas stated that they had a party for their son and asked the Geherans to be sure the dog was in the house. She opined that the dog can get out of the pen as it is not even six feet high, and during the winter, the dog climbs the snowbanks to get out.

Ms. Smerlas stated she and her husband do not think any less of the Geherans as people, just that they should better control the dog. She stated further she feels like they are paying taxes on a part of the house they do not use because they have to exit through the garage all the time. She stated she cannot leave the children in the yard unattended.

Mark Cooper stated he would like to present the vet bills, around \$400.

The new owner at 104 Fox Run Road stated his concern for his three small children, as his back yard adjoins the Geheran yard.

John Geheran, 21 Saddle Ridge Road, expressed apologies for the events that brought tonight's group together, and expressed specific apologies to the Coopers for the incident in front of his house. He stated that he and his wife were away that weekend, and upon their return and learning what happened, went to the Coopers to see if there was anything they could do. He stated he would not dispute any of the facts presented, with the exception of the dog charging the fence, and opined that perhaps the dog was interested in the children as playmates.

Mr. Geheran stated that dogs are naturally attracted to motion, such as a ball, bicycle wheel, etc. and related stories of his experiences as a paper carrier when he was young.

Mr. Geheran stated they have lived in this neighborhood for about 25 years, first on Peakham Road, and had three dogs within that time frame. He acknowledged that many people are sensitive and cautious around big dogs, stated they have avoided walking the dogs during the daytime when children are outside, and maintained that the dog is inside the house 95% of the time. They have a pen as well as an enclosed yard. He stated that they take the dog to Callahan Park for exercising, where Becky plays with other dogs. He stated the dog is not normally free to do as she pleases.

Mr. Geheran stated the following with regard to the day of the Cooper incident: He and his wife were away. His son and the dog were outside. When the son noticed Mrs. Cooper coming down the street with her dogs, he took Becky inside the house and went upstairs to work on his computer. In the meantime, his oldest daughter Christina drove up with her infant son, needed to use the restroom quickly, so left the baby in the car with the door open, went into the house, leaving the door open, and went into the bathroom. By this time Mrs. Cooper was in front of the house, and the dog bolted out the front door.

Mr. Geheran stated that, while there have been a couple of incidents in the 25 years they have had dogs in this neighborhood, they have exercised excellent responsibility to the sensitivity of the neighbors. He stated that they would keep the dog restrained in the house or in the pen, and on leash for exercising at Callahan Park.

Mr. Geheran disagreed with labeling Becky "vicious" as she has been to obedience school. He stated that if the dog officer were to visit the house today, she would find the dog very obedient and normally responsive to commands.

Mr. Cooper stated that "95% of the time" is not good enough, given the nature of the dog. He stated that his wife did nothing to provoke the dog and was attacked anyway.

Various residents stated that the dog does charge the fence. Mr. Geheran did not dispute this, but repeated his statement that he had not seen the dog do this. Ms. Cooper suggested watching when people go past to observe the dog's behavior.

Suzanne Sege, 36 Saddle Ridge Road, stated that she owns two dogs, acknowledged how pets become beloved family members, but stated further that if one of her dogs ever hurt a person or an animal, it would be gone. She stated she saw the injured dogs and could not get the image out of her mind for days. She advised the Geherans to calm themselves and view the situation more objectively.

Selectman Clark, referring to Mr. Geheran's comment that dogs seek motion, stated that is the reason the Town of Sudbury has a leash law so that everyone can live together in relative harmony.

Ms. Clark opined that the pen is not adequate for this size dog. Mr. Geheran disagreed, stating that the dog did not get out of the pen, but instead through an open door in the house, and that the incident six years earlier was because she was being walked without a leash.

Selectman Clark suggested moving the pen away from the common fence between themselves and the Smerlas to alleviate some of the discord. This raised opposition from the residents in attendance who live on the remaining sides of the Geheran property, all of whom have small children. Ms. Clark then opined that the Geherans may be limited to confining the dog to the house, always walking the muzzled dog on a leash, or make improvements to the fence.

Selectman Clark stated that Mr. Geheran had not mentioned any kind of restitution to the Coopers for their expenses. Mr. Geheran replied there was no question about doing so, and that they were certainly planning to take care of the veterinarian bills.

Selectman Clark asked Mr. Geheran if he had any recommendations on resolution. He responded that if he were in the position as the Coopers, he would probably react the same way. He stated if he had small dogs or small children, he would share their concern. He stated his wife asked Mrs. Cooper what they could do to help; Mrs. Cooper responded that they should get rid of the dog, or words to that effect. He stated that that solution may be the right one, to find an alternative residence for the dog, if for no other reason than the emotional well-being of the young children and other neighbors. He stated that the neighbors certainly have the right to have the fear for their pets and children eliminated.

Selectman Clark stated that the dog Becky would be happier in different circumstances, and that a large dog likes having room to run. She added that finding a new residence for the dog would be the responsible thing for the Geherans to do.

Mr. Geheran stated that his wife has already contacted groups such as German Shepherd Rescue to find a new home for the dog. He added that a couple of their children live in more rural settings that may be more appropriate. He stated they will continue to explore options and asked for a reasonable period of time in which to accomplish it.

Selectman Clark asked if one month would be a sufficient time. Mr. Geheran stated that 30 to 60 days should be adequate. Ms. Clark advised that during that period the dog should always be on a leash outdoors and they should make certain the dog does not have an opportunity to get out open doors.

Chairman Drobinski asked Betsy DeWallace if the fence was secure enough to contain the dog. Ms. DeWallace stated her belief that the fence was adequate, and that Becky was an older dog and not prone to attempting to jump the fence. Mr. Geheran stated that the dog also has a severe hip dysplasia and would prevent jumping over a fence. He added that the pen is attached to the house with entry from the garage.

Selectman Roopenian stated to the assembly that there has been an 85 percent increase in dogs loose in this town and wondered how this could be, given that a 24-hour leash law has been instituted as well as increasing the dog fines to the maximum the Town is allowed by the State. She stated that owners need to accept the consequences of what their pets do. She added that it would be nice if all the neighbors involved could get together to solve these situations without having the Selectmen make the decisions for them.

Mr. Geheran asked if the leash law applied when the dog is on one's own property. Chairman Drobinski stated that, while the dog is on its own property, the owner must have it under control, but that when it leaves the property, it must be on a leash.

A resident expressed concern for the safety of school age children as school will soon be dismissed for the summer, and asked what could be done for them. Chairman Drobinski stated that as neighbors they can talk together to work out some interim solutions, and suggested keeping the hearing open for 30 days, at which time the Geherans can report their progress at finding another home for the dog. He added that stronger action can be taken at that time, if deemed necessary.

Mr. Geheran asked what kind of ground rules should be in force as to restraining the dog during the 30-day period, so they know what their responsibility is. He offered to keep the dog on a leash all the time when outdoors.

Suzanne Sege, 36 Saddle Ridge Road, stated muzzles do not hurt dogs and can be used during walks outdoors so that attacks do not occur. She stated this would provide peace of mind to all concerned.

Chairman Drobinski asked Mr. Geheran if 30 days was enough time. Mr. Geheran responded that they would make their best effort in the 30 days but requested the leeway to increase to 60 days if more time is needed.

It was on motion

VOTED: To allow the Geheran family sixty (60) days to relocate the German Shepherd Dog named Becky outside the Town of Sudbury; that during the 60-day period the dog shall always be muzzled and on a leash when walked outside the fence, the dog shall be muzzled when inside the fence, and the dog shall be enclosed/restrained when outside house or fence doors are open; that the Geheran family shall make restitution to the Coopers for their veterinarian bills; and that the Geheran family shall report back to the Town Manager at the end of 30 days if more time is necessary to effect relocation of the dog.

Note: Chairman Drobinski abstained from this vote as he arrived during the middle of the hearing.

Continued Dog Hearing – Zelamsky/Cordaro vs. McCart

Present: Leslie Zelamsky, 62 Oakwood Avenue; Marc Cordaro, 62 Oakwood Avenue; Patti McCart, 67 Oakwood Avenue; Michael Berkowitz, 61 Oakwood Avenue; Betsy DeWallace, Dog Officer; Paula Adelson, Assistant Dog Officer.

At 9:25 p.m. Selectman Roopenian reconvened a Public Hearing, continued from April 26, 1999, for the purpose of reviewing the Zelamsky and Cordaro complaint against the dogs owned by Patti and Robert McCart,

67 Oakwood Avenue. All persons wishing to testify were sworn in.

The Board was in receipt of the following:

1. Report from Selectman's Office, dated May 7, 1999, stating that Mrs. Michael Berkowitz, 61 Oakwood Avenue, reported (by phone) continued problems with the McCart dogs, citing excessive barking at night, harassing visitors and getting loose.
2. Report from Selectman's Office, dated May 12, 1999, stating that Leslie Zelamsky (by phone) requested the hearing date be moved up as there are continued complaints about these dogs.
3. Report, dated May 17, 1999, from Betsy DeWallace and Paula Adelson, Animal Control Officers, listing 18 additional telephone complaints against the dogs owned by the McCarts. Complaints included loose dogs, excessive barking, and loose dogs harassing neighbors.
4. Report, dated May 24, 1999, from Paula Adelson, Assistant Dog Officer, noting incident on May 21, 1999, where the dogs were reported loose and harassing an individual, and Ms. Adelson was unable to capture the dogs.
5. Report from Selectmen's Office, dated, May 21, 1999, stating that Beth Berkowitz reported (by phone) that the McCart dogs are loose, that they harassed her family and a rollerblader, and that the McCarts were not home.
6. Report, dated June 11, 1999, from Betsy DeWallace, Dog Officer, stating that the dogs have not been restrained as per the Selectmen's order of April 26, 1999, and recommending that the dogs probably should be housed outside of the Town of Sudbury.

Paula Adelson, Assistant Dog Officer, briefly recounted the incident on May 24, 1999, when the dogs were again reported loose, and noted her unsuccessful efforts to capture them. She stated that neighbors continue to complain that the dogs are out, barking excessively at all hours of the night, and harassing neighbors. She stated she feels there may be no other solution than to have the dogs removed from Town. She stated that she does not want the dogs put down, but feels the owners are unable to control their dogs.

Patti McCart, 67 Oakwood Avenue, emphatically declared that they have built a beautiful kennel and have worked hard to prevent the dogs from getting loose. She insisted the dogs are tied within a fenced-in kennel. She acknowledged that the dogs did get out once, and for that incident, she received a telephone message from a "screaming Dog Officer" (she played a cassette recording of the message), and then asked Ms. Adelson if she was all right. Ms. McCart insisted the dogs are tiny little dogs and not a threat to anyone.

Ms. McCart loudly declared the complaints and treatment of her dogs to be ridiculous. Chairman Drobinski asked her point-blank if the dogs get out. She admitted they did one time, but that her husband installed 2x4 boards at the bottom of the fence, and that the dogs are now tied. Mr. Drobinski reminded Ms. McCart that she promised to control the dogs at the hearing on April 26, 1999.

Ms. McCart then accused Ms. Zelamsky of locking her own dogs in her basement and that they bark all day long. She stated that she has a life and that she does not have time to complain about barking dogs.

Selectman Roopenian reminded Ms. McCart that, since the last hearing, there have been 18 additional complaints about the dogs. Ms. Roopenian continued to state that she lives in the area and that she almost hit one

of the dogs with her car the previous week. Ms. McCart sweepingly invited everyone to come to her house and look at her kennel. Ms. Roopenian stated she received phone calls from people over the weekend complaining about the dogs.

Ms. McCart stated there are a few people in her neighborhood who do not like her dogs, and they are the ones calling in the complaints. She stated a Mr. Saxe, who lives across the street and walks with a cane, has never had a problem with the dogs. She stated further that she had to refuse his request to bring the dogs over because they were not allowed to take the dogs out, and that the dogs were tied inside the kennel. She stated she has not seen the dogs loose and demanded that someone needs to do a lot of proving. She insisted that she has gone through extreme measures to contain dogs that are not vicious, dogs that have yet to bite anyone, and expressed a willingness to go to court to resolve the matter.

Leslie Zelamsky, 62 Oakwood Avenue, stated that she really did not want to be at another hearing, and stated further that she and her husband are moving, but that she felt it necessary to follow through on this matter. She stated she did not dislike the McCart dogs and, in fact, is very fond of dogs, as she is an obedience trainer. She stated further that dogs should not have to be banished, but should simply be controlled. She expressed concern for the dogs being outdoors on very hot days, and suggested that if Ms. McCart really cared about her dogs that she would take better care of them. Regarding Ms. McCart's accusation about Ms. Zelamsky's dogs, she stated she never puts her dogs in the basement, and if she did, they would still be under her control. Ms. Zelamsky stated she does not even report the dog Mollie being out because Mollie is a very sweet dog.

Ms. Zelamsky stated the McCarts are seldom home and do not know when the dogs get out. Ms. McCart repeated her belief that the dogs do not get out and asked how they could possibly get back into their collars.

Ms. McCart asked Ms. Zelamsky if she calls in complaints about other dogs. Ms. Zelamsky responded that she only reports dogs that are behaving in an aggressive manner.

Ms. McCart stated the dogs are now tied inside the kennel. Ms. Zelamsky expressed further concern for the dogs being tied as they could easily hang themselves on the leashes.

Michael Berkowitz, 61 Oakwood Avenue, related an excessive barking incident when the McCarts were not home and the dogs barked until early morning. He opined that the barking stopped because the McCarts came home or because they took the dogs inside. He stated that Digger and Meeko do get out, and he in fact saw one of the dogs running down the street with the leash hooked on. He admitted that since the last hearing things have been better but there are still problems. He stated they are small dogs, they are a pain in the neck, and when they are out, they run people off the road.

Ms. McCart stated that when they were on vacation, the woman caring for the dogs had a problem. Mr. Berkowitz stated he was referring to a period after they had returned home. She said that they now have arranged with the dogsitter that the dogs will go to her house the next time the McCarts are away. Mr. Berkowitz advised Ms. McCart not to believe the dogs are not getting out, because they are.

Selectman Clark stated there are nine different names on the most recent list of complaints and asked Ms. McCart if these people have imagined seeing the dogs running down the street. Ms. McCart repeated that the dogs are tied on, that she was not lying, and asked what date those calls came in. Ms. Clark told her all the dates listed.

Selectman Roopenian reminded Ms. McCart that she almost ran down one of the dogs, had reported the unrestrained dog to the Dog Officer, and her call was not on the list. Ms. Roopenian stated that, if the McCarts had been fined for every incident on this list, the fines would total \$950.

Ms. McCart stated she thought she would come tonight to find that all the problems had been resolved and expressed surprise that this was not the case. She stated she was under the impression that barking was the only unresolved issue. She stated further that the only message she has received from a Dog Officer was the outrageous message that she (the Assistant Dog Officer) couldn't handle it emotionally. She refused to acknowledge that someone could be emotionally drained by the behavior of her three little dogs. Chairman Drobinski stated that continuing complaints and lack of response on the owner's part would aggravate most people. Ms. McCart invited people to come to look at her kennel and offer ways to make it better, insisting she has done everything possible.

Selectman Roopenian stated a letter was sent to the McCarts on May 25, 1999, by certified mail, stating that there have been additional complaints, and that the dogs have been running loose off the property. Ms. Roopenian expressed disbelief that Ms. McCart could come to tonight's meeting thinking the issues had been resolved.

Selectman Roopenian asked the Animal Control Officers for their recommendations. Betsy DeWallace, Dog Officer, stated she would like to see the dogs quiet and contained on their own property. Paula Adelson, Assistant Dog Officer, stated she would like to see the dogs out of the Town of Sudbury.

Chairman Drobinski stated he was inclined to give the McCarts two more weeks to get the situation under control, but if there was one more complaint, it was their last chance. Selectman Roopenian suggested the McCarts get an electrical/invisible fence, and learn how to use it. Ms. McCart stated she has looked into the possibility of an invisible fence, but insisted the dogs were too small to be able to be controlled by it.

Selectman Clark asked about the barking at night, and asked Ms. McCart if the dogs are allowed out to relieve themselves. Ms. McCart responded the dogs are barking because they are like watchdogs and bark at stray people in the neighborhood. She stated that several times a week the dogs are put on leashes and exercised while she rollerblades with them. Chairman Drobinski stated the dogs bark even at neighbors and not just at strangers. Ms. McCart insisted there are a lot of other dogs that bark and again commented on Ms. Zelamsky's dogs being in her basement. She asked the assembly what else she could possibly do to contain the dogs.

Selectman Roopenian stated that the situation is out of Ms. McCart's hands now, and that the Board must make a decision that is fair to everyone involved. Chairman Drobinski remarked that if a single complaint is received, he is willing to banish the dogs from Town. Ms. McCart questioned a single complaint being the deciding factor. Mr. Drobinski stated there have already been significant complaints to date, and that she is being given another chance to rectify the situation. He reminded Ms. McCart that it is her responsibility to make sure her dogs are not bothering the neighbors. Ms. McCart asked if she should get electrical collars and offered to discuss it with her husband (who was not present) and asked if that would give them another chance. Mr. Drobinski stated that at this time there is no tolerance.

Marc Cordaro, 62 Oakwood Avenue, stated that he would feel better if there had been any indication of a good faith attempt at controlling the dogs, and stated further that as of yesterday afternoon, he saw Mr. McCart outside and Meeko was running down the street.

Chairman Drobinski stated that while an electric fence might work well with other dogs, it was his opinion that it would not for the McCart dogs, as excessive barking would not be affected. He advised Ms. McCart to go

home tonight and make the best possible arrangements she could, to avoid having another complaint come in. She suggested she just might take the dogs to her mother-in-law's house for two weeks to satisfy people. She then suggested people will be calling in for spite, and suggested further that the Dog Officer could even invent a call in order to get the dogs out of Town.

It was on motion unanimously

VOTED: To continue the hearing for two weeks, at which time the McCart's shall submit a solid recommendation of what they will do about the dogs, with the condition that if another complaint is received about the dogs known as Mollie, Meeko and Digger, the Board will vote to banish the dogs from the Town of Sudbury.

AT&T Wireless PCS – Site Plan Special Permit Application 99-350

Present: Stephen D. Anderson, Anderson & Kreiger LLP, representing AT&T; Justin Leland, Consultant, Tower Resource Management; Peter Jeffrey, Radio Frequency Engineer, AT&T.

At 9:55 p.m., Selectman Roopenian reconvened a public hearing, continued from May 10, 1999, for the purpose of continued consideration of Site Plan Special Permit Application 99-350 of AT&T Wireless PCS, Inc., including waiver from Site Plan Special Permit Rules and Regulations in regard to submittal requirements, to construct a wireless communications facility consisting of a power mount pole with antennas erected through the center of an existing 100'5" Boston Edison power utility tower, extending 20' above the existing tower, and a 12' x 20' equipment shelter on property owned by Boston Edison Company located at 183 Boston Post Road, zone Industrial District #4 and Residential.

The Board was in receipt of the following:

1. Report, dated May 10, 1999, from Deborah Dineen, Conservation Coordinator, stating that the Conservation Commission has no issues with this site plan provided all work is in already disturbed areas.
2. Letter, dated June 3, 1999, from Peter J. Buxton, Chairman, Park & Recreation Commission, urging that monies received from wireless communications leases for use of Park and Recreation facilities be allocated toward Park & Recreation Department capital improvements not budgeted in FY2000.

Stephen Anderson, Anderson & Kreiger LLP, stated they have unanimous approval from the Zoning Board and that AT&T has now come before the Board for Site Plan approval. A court reporter hired by AT&T recorded the proceedings.

Mr. Anderson stated they investigated some concerns raised at the previous meeting. With regard to Feeley Field and Omnipoint's proposal to construct a wireless communications facility there, he stated that he attended that hearing and noted strong neighborhood opposition. He stated that from a RF (radio frequency) standpoint, it does not adequately fill the coverage gap.

With regard to potentially handling the Town's communications services, Justin Leland stated he spoke with Lt. Nix of the Police Department and Michael Dunne of the Fire Department and got their requirements as to what they would need for assistance and discussed possibly combining services. He stated that each would require a "whip" antenna of approximately 15' high with a corresponding cable 7/8" in diameter, which would lead to small equipment boxes that would be concealed within the equipment shelter. Mr. Leland confirmed with Boston Edison that ample power for both AT&T and the Town's needs is available, as well as an existing conduit for

telephone. He stated that Boston Edison did accept the requirement that something would need to be arranged between Boston Edison and the Town's departments regarding liability and access.

Mr. Anderson stated that while the Town does not need service at this time, AT&T would be willing to make space available on the power mount installation in the event the Town needs it in the future. He stated further that the power could be installed now and made available later.

Mr. Anderson stated the Board's concerns have been addressed and AT&T is eager to move forward with the construction of the facility. He respectfully requested approval.

Chairman Drobinski commented on the neighborhood opposition to the installation proposed for Feeley Field. He stated that the Boston Edison location is in a less densely populated area. Mr. Anderson stated that, in all the hearings on this issue, not one person spoke in opposition of the facility on the rear of the property, but for the monopole proposed for the front of the property. He noted there was no one at tonight's hearing to oppose the proposed installation on the rear of the property.

Chairman Drobinski asked if this installation would support co-location with other carriers. Mr. Anderson stated it could support another carrier besides the Town, but they would have to see if all the configurations would fit.

Chairman Drobinski asked if Chief Dunne of the Fire Department had expressed concern for access in the event of accidents on the structure, and some question of capability of Town equipment in a rescue situation. Mr. Anderson stated that electrical/high voltage equipment will naturally be a fire concern but this power mount will not.

Chairman Drobinski asked if this matter and matters scheduled for Executive Session are connected. Mr. Anderson stated this matter is a stand-alone issue and not related to the one slated for Executive Session.

It was on motion unanimously

VOTED: To request Town Counsel to draft a Decision approving Site Plan Special Permit Application 99-350 of AT&T Wireless PCS, Inc., including waivers from Site Plan Special Permit Rules and Regulations in regard to submittal requirements, and to continue this hearing to June 28, 1999, at 7:30 p.m., for the purpose of approving the Decision.

Appointments

Town Manager Ledoux stated he had spoken with Tom Phelps of the Traffic Management Committee who stated the Committee should be disbanded. Mr. Phelps stated they had not been active for four to five years, and that other committees have taken over some of the responsibilities.

It was on motion unanimously

VOTED: To sponsor an article at the next Town Meeting to dissolve the Traffic Management Committee.

It was on motion unanimously

VOTED: To appoint Mark A. Kablack to the full Board of Appeals for a term to expire April 30, 2000, filing vacancy of Andrew Fay.

And it was further unanimously

VOTED: To appoint the following persons to the Land Use Priorities Committee for a term to expire April 30, 2000:

Sigrid Pickering	Citizen at Large
Jane Coddington	Environmental
Elizabeth Eggleston	Planning Board
Richard Davison	Citizen at Large
Jody Kablack	Town Planner
Parker Coddington	Conservation Commission
J. Darcey	Housing Authority
I. William Place	Engineering
Nicholas Palermo, Jr.	Chamber of Commerce
Saul Bloom	Citizen at Large
Carole Wolfe	Landowner
Deborah Dineen	Conservation Coordinator
Charles Schwager	L-SRHS

And further unanimously

VOTED: To appoint Cheryl Anderson (per Republican Committee Recommendation) to the Board of Registrars for a term to expire April 30, 2002,

And further unanimously

VOTED: To appoint Elaine McGrath (per League of Women Voters Recommendation) as U.N. Day Chairman for a term to expire April 30, 2000.

Gas Tax Revenue Sharing

The Board was in receipt of a communication from the Massachusetts Municipal Association (MMA) seeking a resolution from the Selectmen concerning full gas tax revenue sharing by the State for local road projects.

Town Manager Ledoux stated the MMA is attempting to apply pressure on the Legislature to restore some of the Chapter 90 funds that had previously been cut from the budget. He stated that it was a \$150 million cut statewide. MMA is trying to send the message that cities and towns have relied on this money in the past and are entitled to it again. Mr. Ledoux stated also that the gas tax was to help fund road and bridge projects in the State.

Selectman Roopenian asked Selectman Clark what the MetroWest Growth Management Committee's position is on this issue. Ms. Clark stated they have lobbied for instituting the full amount, but stated further that the bonding is a major problem. Ms. Clark stated getting past the veto will be very difficult.

Chairman Drobinski stated that the environmental policy group within MMA is also in favor of this.

It was on motion unanimously

VOTED: To sign the resolution to return Chapter 90 money to cities and towns, and to write a letter to the editor, on behalf of the Town of Sudbury, supporting the resolution, as recommended by the Town Manager.

Public Construction Reform -- House 4288

The Board was in receipt of a lengthy Public Construction Reform Legislation Section by Section Summary, accompanied by a letter, dated, June 3, 1999, from Andrew S. Nests, Secretary, Commonwealth of Massachusetts, and a letter, dated April 27, 1999, from Governor Cellucci and Lt. Governor Swift. Both letters urge support of the Construction Reform package.

Town Manager Ledoux stated that Paul Kenny, Town Counsel, has looked over these changes. Mr. Ledoux explained that, under the current system, an architect hired for preliminary work on a project is not eligible for the final project. He stated that this sometimes creates problems with designer selection and other difficulties. One change would be to allow design/build where one entity could take care of the entire project.

Selectman Clark stated she had been away all weekend and had not had an opportunity to read the reform package. She asked if this matter could be continued until the next meeting. Mr. Ledoux stated there was a hearing scheduled for Wednesday, June 16, by the Joint Committee on State Administration. Ms. Clark asked for time to look over the document and forward any comments to Mr. Ledoux prior to the hearing.

It was on motion unanimously

VOTED: To endorse the Public Construction Reform document so that a positive response can be sent to the Joint Committee on State Administration, pending comments from Selectman Clark.

Pine Lakes/Great Lake Drive and Oakwood Avenue Stop Signs

The Board was in receipt of a letter, dated June 12, 1999, from Bob Carroll, 39 Oakwood Avenue, repeating his request for stop signs at the intersection of Oakwood Avenue and Great Lake Drive, as well as other intersections in the Pine Lakes neighborhood. This matter was previously discussed on June 22, 1998, and August 24, 1998.

Selectman Roopenian stated she spoke with Mr. Cargill this past weekend and suggested that the Board direct the Town Manager to meet with the neighbors, Safety Officer Conrado and I. William Place, Public Works, to determine a course of action. She opined that this particular intersection warrants a stop sign, from two ways.

Selectman Clark cautioned against setting a precedent by the installation of these stop signs, and suggested researching an accident record, as well as investigating unreported accidents. She suggested installing stop signs on a temporary basis, six months perhaps, and see what happens. She stated stop signs by themselves are not enough, if there is no one to monitor their success. She stated that, once the traffic tickets and insurance surcharges start making their appearances, the stop signs will be effective.

Selectman Clark repeated her earlier (June and August) suggestion of speed humps, as they are self-policing, and suggested taking a second look at the possibility of installing those in place of stop signs.

It was on motion unanimously

VOTED: To direct the Town Manager to meet with Safety Officer Ronald Conrado, I. William Place (Public Works), and interested neighbors to develop a plan for the Pine Lakes neighborhood, with Bob Cargill to serve as the contact person for the neighborhood.

Letter of Support – Senator Birmingham

Town Manager Ledoux stated that he had been contacted by Walter Parfenuk, who would like the Board to send a letter in support of Senator Birmingham's current legislation.

It was on motion unanimously

VOTED: To send a letter in support of Senator Thomas Birmingham's Circuit Breaker legislation for seniors.

Omnipoint – Feeley Field

Present: Peter Cooke, Omnipoint.

The Board acknowledged receipt of a letter, dated June 11, 1999, from Deborah Dineen, Conservation Coordinator, stating that she has visited the proposed Omnipoint site at Feeley Field and as the proposed building is within 20' of wetlands, it is not likely to be permitted by the Conservation Commission. She suggests that Omnipoint meet with the Conservation Commission before proceeding any further with the site plan.

Peter Cooke, Omnipoint, submitted coverage plot plans showing existing and proposed facilities, as requested by Selectman Clark at the previous meeting. He stated the distance between the Nobscot radio tower and Feeley Field is approximately 1.8 miles. He stated that coverage is topography-oriented, and noted where large hills will block signals. Mr. Cooke stated that both the terrain and the frequency output limit their technology, and that increased height of a tower may not solve all the problems.

The Board thanked Mr. Cooke for his assistance and directed the Town Manager to reproduce the documents for them.

Salary Review – Town Manager

Chairman Drobinski stated that the Board had not conducted the salary and performance review for the Town Manager, which should have been done immediately after Town Meeting. Mr. Drobinski stated the performance review will probably be done sometime this summer, and stated further that Mr. Ledoux is entitled to a salary increase as voted at Town Meeting. Chairman Drobinski asked that the Board approve the increase as voted at Town Meeting, while holding off on the performance review for later this summer.

Selectman Clark stated that the reviews should be done together. Mr. Ledoux stated that he had not received the increase for the past year, FY99.

Chairman Drobinski stated that typically the review is done right after Town Meeting, which is very near Mr. Ledoux's anniversary date.

It was on motion unanimously

VOTED: To set Town Manager Ledoux's FY99 salary, effective July 1, 1998, at \$88,597 per annum, which reflects an increase of \$2,497 from his FY98 salary.

Natural Gas Deregulation

Town Manager Ledoux stated that when the Town sought proposals for electric deregulation, there were two joint purchase entities considered, with PowerOptions selected. Regarding natural gas deregulation, the only entity offering a group discount is the MunEnergy program through the MMA. He stated that PowerOptions is not geared up to deal with natural gas at this time.

Mr. Ledoux stated that MunEnergy has offered a two-year proposal providing 8.5% savings on natural gas expenses, which would be a savings of \$11,400 over the two-year period. Mr. Ledoux recommended contracting with MunEnergy to supply natural gas.

It was on motion unanimously

VOTED: To award a two-year contract to MunEnergy to provide natural gas service to the Town.

Postage Machine – Flynn Building

Town Manager Ledoux stated the Town has received a proposal under the State contract for a new postage machine. The postage machine in the Flynn Building has been having significant maintenance problems. Mr. Ledoux recommended the purchase of a new Pitney Bowes postage machine at a cost of \$15,811.

It was on motion unanimously

VOTED: To purchase a new Pitney Bowes postage machine at a cost of \$15,811, as recommended by the Town Manager.

Executive Session

At 10:30 p.m., it was on motion by roll call unanimously

VOTED: To go into Executive Session to discuss various litigation matters and the Discretionary Fund. (Chairman Drobinski, aye, Selectman Clark, aye, Selectman Roopenian, aye).

Chairman Drobinski announced that public session would not reconvene following Executive Session.

There being no further business to come before the Board, the meeting was adjourned at 11:44 p.m.

Attest: _____
Steven L. Ledoux
Town Manager-Clerk