

IN THE BOARD OF SELECTMEN
MONDAY, MARCH 23, 1998

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

The statutory requirements for notice having been met; Chairman Lawrence L. Blacker convened the meeting at 7:34 p.m. at the Fairbank Senior Center.

Chairman's Statement

Chairman Blacker noted this was his last formal meeting as a selectman since he is not running for another term. He said he would miss participating with the Board and that it had been an interesting and rewarding six years.

Donations - Council on Aging Vans

It was on motion unanimously

VOTED: To accept \$200.17 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 Two Conservation Restrictions, 54 Bigelow Drive and 3 Raymond Road

It was on motion unanimously

VOTED: To approve an amendment of a conservation restriction and grant of conservation restriction, dated March 17, 1998, by Roger and Kathy Wilcox, 54 Bigelow Drive, shown on a plan dated September 19, 1995, by Zanca Land Surveyors, Inc., 270 Main Street, Hudson, MA 01749; said document to replace that approved and signed by the Selectmen on January 16, 1998, to accommodate changes required by the Executive Office of Environmental Affairs.

and

VOTED: To approve the conservation restriction, dated March 6, 1998, granted by Weston Design and Development Corporation, as shown on a plan dated February 13, 1998, prepared by Noonan & McDowell, Inc., for property located at 3 Raymond Road.

Proclamation: Sudbury Earth Week and Spring Cleanup Day

It was on motion unanimously

VOTED: To proclaim April 26-May 2, 1998 as *Sudbury Earth Week* and May 2, 1998 as *Spring Cleanup Day*.

Acceptance of Moneys from Regional School District

It was on motion unanimously

VOTED: To accept \$11,500 from the Lincoln-Sudbury Regional School District for grounds maintenance and to deposit the same into an account, entitled LSRHS Fund, to be expended under the direction of the Director of Public Works.

Draft Open Space and Recreation Plan

The Board was in receipt of a draft Open Space and Recreation Plan (1997-2002) and notice that comments on the plan are due by April 1, 1998.

Chairman Blacker suggested that a letter be sent commending the people involved in the project. He said the only comment he had was the use of the words *not protected*. He said such description was used throughout the report in reference to many Town-owned parcels and he found it "insulting". He said the community needs open space for recreational use as well as for conservation. He said the repeated reference to a *not protected* status made the report appear biased against parcels used for recreation.

Selectman Clark agreed in part, saying the Town did need land for recreational use.

Selectman Clark asked what the deadline was for sending in comments, and Town Manager Ledoux said the deadline was April 1 and explained further that the Town needed to submit the report to the State sometime in May.

ATM- Speaker Assignment and Board Positions

The Board was in receipt of the proposed speaker assignments and Board positions for the 1998 Annual Town Meeting Warrant Articles, as revised by staff on March 20, 1998.

With respect to speaker assignments, Chairman Blacker indicated an interest in speaking on Article 7 - Conservation Land Bond Issue and Article 8 - Take Weisblatt Property by Eminent Domain; and suggested, in exchange, assigning Selectman Drobinski to Article 26 - Amend Bylaws - Capital Planning and Article 27 - Senior Tax Program, if such were acceptable to Selectman Drobinski. Selectman Clark stated she wished to speak on Article 27 - Senior Tax Program and Chairman Blacker indicated such was acceptable to him. The Board agreed to discuss these possible re-assignments with Selectman Drobinski at the Board's next meeting on April 1.

With respect to Board positions, the Board determined to support: Article 6, Resolution - Character of Sudbury; Article 10 - Designate Portion of Former Unisys Property; Article 11 Resolution - Housing Task Force; Article 21 Framingham/Sudbury Boundary Change; and Article 24 - Wetlands Administration Bylaw.

Selectman Clark noted certain articles appeared to be merely "housekeeping" amendments to the zoning bylaws. Those articles are: Article 24 - Amend Bylaws, Art. XXII; Article 34 - Amend Zoning Bylaw, Art. IX.III.G.5; Article 35 - Amend Zoning Bylaw, Art. IX.IC/IV.E.5.a, and Article 38 - Amend Zoning Bylaw, Art IX.IV.B. However, the Board expressed divergent opinions on the remaining articles and, thus, concurred that such should remain designated *Report at Town Meeting* so the individual selectmen might speak separately on such articles.

Article 27 Discussion with Senior Tax Relief Committee

Present: Walter Parfenuk, 808 Concord Road, and Edward E. Kreitsek, 59 Dudley Road, on behalf of the Senior Tax Relief Committee; Director of Assessing, Daniel A. Loughlin, and the Board of Assessors: Trevor A. Heydon, Joseph H. Nugent and David G. Berry; and others.

As requested by Chairman Blacker, Director of Assessing Loughlin explained the Assessors have authority under a state statute, *clause 18*, to provide some property tax relief in cases of hardship. Hardship may result from advanced age, infirmity or health, and/or financial circumstances.

Edward E. Kreitsek, 59 Dudley Road, said that the Town had grown tremendously in the past 45 years. He said the population had gone from 3,000 to 15,000. He said much of it had occurred in the mid 1950's through the 1960's. He said it was the young professionals who moved into Town during that period who have made the Town what it is today, and these same people are now the Town's senior citizens. He said continued growth has generated increases to the school budget and the recent override constitutes an eviction notice for the Town's seniors, the very people who have made the Town so inviting. He said the Town's seniors cannot maintain a decent standard of living with the current property taxes. He said people are being forced to leave their dwellings and that a great injustice is being imposed. He urged the Board to take action to reverse this trend.

Walter Parfenuk, 808 Concord Road, said the Senior Tax Relief Committee had conducted a survey to determine what problems the seniors were having. He informed that, based on the survey it was determined the average gross income for a senior is \$31,000, the average age is 67 years, and the average length of residency in the Town is 37 years. He said 53% responded they planned to move out of Town and 86% of these people stated the reason was the property taxes. He said the survey also indicated that if those planning on moving actually did so it would cause the transfer of some 371 homes in the community, undoubtedly bringing in more families with school age children. He said the survey indicated that 319 of these homes would be transferred as a direct result of the property taxes. He said under the suggested senior tax relief article 68% of those seniors would qualify for relief and presumably 217 of those homes would not change hands. He said the average senior citizen's home is valued at \$279,140 and pays about \$4,400 in annual property taxes. He noted with education costs running about \$5,000 annually per child, if any of these properties were occupied by the typical family with 1.5 children, such would result in a deficit. Furthermore, he noted the senior pays about 14% of his/her income for property taxes whereas the non-senior pays only 6.1% of his/her income for such. (The average income for non-seniors is \$86,000 per year; the average value of his/her house is \$330,000 with property taxes of \$5,250.) He explained that under the proposed article a hardship warranting tax relief would be indicated if the property taxes exceeded 12% of the seniors gross income. If such were the case, this would result in a tax reduction savings of \$1512 to the senior and, if applied to the 217 homes involved, a total revenue loss to the Town of \$328,000. However, Mr. Parfenuk contended, if these same homes were sold to families with 1.5 to two children, the annual deficit to the Town would be over a million dollars.

Chairman Blacker stated he was in favor of the proposal. He said it was the least the Town could do in the circumstances. He opined it is impossible for the assessors to pick and choose who falls within the hardship category. He said he thought the concept of relating the amount of the tax to the individual's income was a fair and rational one. He cautioned that one would have to carefully define income. In conclusion, he favored the suggested guideline - 12% of income.

Selectman Clark agreed, saying this really constitutes a redistribution of the property taxes. She opined it did not dilute the authority of the assessors, but provides a guideline for determining hardship. She said she supported it 100%.

Assessor Joseph H. Nugent contended the matter must be left to the unfettered discretion of the Board of Assessors and the term *hardship* must remain flexible. He said he could not endorse establishing a particular percentage to provide an entitlement to relief.

Mr. Parfenuk responded that the article did not mean to impose a rigid rule and that 12% was only a suggestion.

Selectman Clark agreed with Mr. Parfenuk, saying the average incomes of non-seniors will fluctuate and, although currently they are paying 6% , such will not always be the case and it would not be prudent to commit to any particular percentage.

Assessor Trevor A. Heydon stated he understood the statute allowed for considerable discretion. He said he favored the concept and supported the ability of seniors to be able to remain in their homes.

Mr. Kreitsek noted that in the past Sudbury has been quite innovative in solving its problems and he hoped it would continue to respond creatively. He said Massachusetts is the only state that does not provide tax relief for its seniors. He said the *clause 18* exemption is not being applied in any meaningful manner to assist seniors. He said that hardship is relative, having different meanings in different locations. He said that even the worst living conditions in Sudbury would be luxurious if compared to those in Bangladesh. He said the interpretation of the hardship provision is clearly a subjective one and urged the Board to support the proposed article.

William J. Keller, Jr., 31 Churchill Street, stated he was a former member of the Board of Assessors. He said he strongly supported affording tax relief to seniors and he opined the article proposes a viable use of *clause 18*.

Public Hearing: Local Tax Levy

Present: Director of Assessing, Daniel A. Loughlin, and the Board of Assessors: Trevor A. Heydon, Joseph H. Nugent and David G. Berry, Alan J. Marrone (Marrone's Bake Shop), 729 Boston Post Road, Ronald Stephan, President, Chamber of Commerce, and others.

At 8:00 p.m., Chairman Blacker convened a public hearing to consider what percentage of local tax levy would be borne by each class of real and personal property in setting the FY97-98 tax rates and furthermore to consider whether or not to allow a residential property exemption, a small commercial exemption or an open space exemption. Notice of this public hearing was duly posted and advertised by the Town Manager.

The Board was in receipt of the following:

1. Data and information prepared by the Board of Assessors including: (1) the commercial shift and the effects of such on the tax burden; (2) fiscal 1998 property valuations and tax recap figures; (3) seven year tax shift history (4) comparison of tax shifts in other neighboring towns; (5) open space classification, definition and example; (6) residential exemption, definition and example; (7) small commercial exemption, definition and example.

2. A communication, dated March 4, 1998, from Marilyn H. Browne, Chief, Bureau of Local Assessment, Division of Local Services, Massachusetts Department of Revenue, addressed to the Sudbury Board of Assessors, stating that a preliminary review indicates the revaluation process and proposed assessments conform with the Commissioner's standards for certification.
3. A communication dated March 11, 1998, from Ralph S. Tyler, One Deacon Lane, urging the Board to establish the commercial tax shift at 175%. In support, he cites high commercial tax shifts in various communities and encloses several articles from the *Boston Globe*. He also argues large out-of-town corporations own 55% of the Town's commercial properties. He contends by shifting the commercial burden to 175%, taxes on residential properties would be reduced by \$840,000.

Daniel A. Loughlin, Director of Assessing, stated that currently the commercial shift is at 140% of the flat rate. He said the flat rate is what it would be if all paid at the same rate. He noted that only a small percentage of property in the Town is commercial. He said the average residential tax is \$4,876, and the average commercial tax is \$14,000. He cautioned, however, that there is a greater range in the commercial properties since there are a dozen or so very large holdings by various large corporations, such as Raytheon and Boston Edison. Director of Assessing Loughlin said the residential assessments averaged 8.5% higher than last year. He noted that the maximum commercial shift is 175%, and there has been a 6.9% increase in the Town's budget.

Director of Assessing Loughlin explained the Board's other options. He reported the open space classification offered a tax break or discount on vacant land and that it includes unimproved subdivision lots. He opined it had a benefit to large landowners and little impact on residential property owners. He said it would take about one year to implement.

With regard to the residential exemption, Director of Assessing Loughlin said it would shift the tax burden to open space or vacant parcels and rentals, which the Town has few. He said it would have the effect of shifting the tax burden from the less expensive properties to the more expensive. He said it is usually adopted in urban areas where there are many non-owner occupied properties. Again, he said it would take about a year to implement.

Joseph H. Nugent, Board of Assessors, urged the Board to adopt this exemption. He said it was a way to provide a tax reduction to the seniors since it shifted the tax burden from the moderate and less expensive homes.

Chairman Blacker responded he felt it further pitted "us against them". He said some seniors may be living in homes valued at less than the average, but that does not mean that they need the benefit. He said for this reason he favored Article 27 over this type of exemption.

Selectman Clark agreed, saying the Town has ½ of 1% non-owner occupied properties. She said she did not believe this exemption solves the problem.

Mr. Nugent disagreed, saying it would shift the burden to the vacant landowner and the high-end homes.

Chairman Blacker disagreed, saying *clause 18*, unlike the exemption, would clearly provide an economic savings to the Town. He also said that by shifting the tax burden onto the vacant landowner one is only increasing the pressure for further development.

Thus, the Board declined to adopt the residential exemption.

Selectman Clark suggested the Board consider adopting the small commercial exemption. She said there are a number of small businesses in Town and opined that such an exemption would have the effect of increasing the Town's commercial tax base. She calculated that some 80 businesses would benefit from the exemption. She also noted it would shift the tax burden to the some 12 commercial properties which comprise 55% of the Town's commercial tax base.

Chairman Blacker agreed it would shift a greater tax burden onto the large companies, but contended it would also have an adverse impact on the "little guy". He said, if the tax is raised on the landowner, the landowner is simply going to raise the rent on the small business.

Alan J. Marrone (Marrone's Bake Shop), 729 Boston Post Road, agreed, saying he understood very few would be benefited (for example, the small business in a commercial condo).

Thus, the Board declined to adopt the small commercial exemption.

Mr. Marrone said what would help the small business would be to decrease the commercial tax shift.

Selectman Clark responded, saying that creates a problem since it shifts the tax to the residential property owners who are already stressed.

Ronald Stephan, President, Chamber of Commerce, said the other towns that had shifted a greater burden on the commercial segment in the 1980's have gone back to an equal shift. He suggested the Board adopt a 125% commercial shift.

Mr. Marrone agreed, saying such would attract businesses and would only increase the average residential tax by \$60.

David G. Berry, Board of Assessors, suggested the shift be increased to 150%. He said all factors suggest that businesses are looking at locating in Sudbury despite the commercial shift. He said, otherwise, they would have considered Wayland, Concord, or Acton where the commercial shift is equal.

Chairman Blacker noted, however, because there is so little commercial property any savings to the homeowner is small, whereas the impact on the commercial property is great. He noted that shifting the burden to 150% saves the average residential owner about \$40 while the increase to the commercial owner is \$1100.

Chairman Blacker stated he favored reducing the shift to 135%, which would only cost the average residential owner an additional \$20.

David G. Berry, Board of Assessors, remarked that such would benefit the big industries in Town considerably. He said the savings to the little businesses would be small. He suggested the Board consider a shift to about 143%, which would result in both the residential and commercial segments sharing equally in the tax increase based on the percentage increase.

Selectman Clark agreed, saying a 143.5 % shift would be an equitable one.

Chairman Blacker continued to support a 135% shift and, due to the stalemate, suggested continuing the hearing until April 1, 1998, at which time Selectman Drobinski would be able to participate.

Town Manager Ledoux stated the Board of Selectman really needed to decide this evening in order to send out the last quarter tax billings.

Director of Assessing Loughlin pointed out that, if the tax bills did not go out on a timely basis, the Town would have to borrow money and such would cost the Town thousands of dollars.

Chairman Blacker, suggesting a compromise, moved for a 140% commercial shift, and such motion was duly seconded and unanimously

VOTED: To establish the commercial shift at 140% for setting the FY1997-1998 tax rate.

Approve Common Victualler and Entertainment Licenses, Fireside Café, 103 Boston Post Road

Present: David Riney-McGimpsey, applicant, and others.

The Board was in receipt of an application for a Common Victualler License and Entertainment License by David Riney-McGimpsey, d/b/a Fireside Café, 103 Boston Post Road. The Entertainment License specified the use of a television and/or stereo from 6:30 a.m. until 8:00 p.m.; poetry readings and/or guitar folk music from 5:00 p.m. to 8:00 p.m. on Thursdays and Fridays.

The Board was also in receipt of the following comments: (1) Fire Chief Dunne stated he had inspected the premises and found no problems; (2) The Building Department reported the café had applied for a sign permit and other than that they had no concerns regarding the proposed use; (3) The Health Department indicated it had inspected the premises and had no problems, and its final inspection would be on Monday, March 30, 1998.

It was on motion unanimously

VOTED: To grant a Common Victualler License and Entertainment License to David Riney-McGimpsey, d/b/a Fireside Café, 103 Boston Post Road. The Entertainment License shall be for the use of a television and/or stereo from 6:30 a.m. until 8:00 p.m.; and poetry readings and/or guitar folk music from 5:00 p.m. to 8:00 p.m. on Thursdays and Fridays. Both licenses are subject to the applicant meeting any reasonable requirements resulting from the Board of Health's final inspection.

Goodnow Library

Town Manager Ledoux informed the Board that the Goodnow Library was the recipient of a Massachusetts Historical Commission grant in the amount of \$90,000.

Town Assessor Position

Town Manager Ledoux said he had interviewed several excellent candidates for the position of Town Assessor and would be keeping the Board informed of the hiring process.

Wireless Communications

Town Manager Ledoux said he had just become aware of a federal case out of New York upholding a local community's denial of a wireless communication site on grounds of economic loss, aesthetic degradation and the fear that permission would lead to the creation of an antennae farm. Mr. Ledoux said he intended to provide the decision to Town Counsel Kenny, who is working on the Board's recent decision denying a site plan to AT& T Wireless PCS.

Selectman Clark requested the Town Manager provide her with a copy of this recent federal decision, and Town Manager Ledoux agreed to do so.

Adjournment

There being no further business to come before the Board, the meeting adjourned at 9:50 p.m.

Attest: _____
Steven Ledoux
Town Manager-Clerk