

ck

IN BOARD OF SELECTMEN  
MONDAY, JANUARY 8, 1990

Present: Chairman John C. Drobinski, Judith A. Cope and David A. Wallace.

The statutory requirements as to time and place having been fulfilled, Chairman Drobinski called the meeting to order at 7:30 p.m. at lower Town Hall.

Utility Petition 90-1 - French Road

Present: Edmund F. Kelly, representing Boston Edison Company.

The Board reviewed Utility Petition 90-1 from Boston Edison Company and New England Telephone and Telegraph Company for location of approximately forty feet of conduit under French Road. Edmund F. Kelly, Right of Way Agent, Distribution Division of Boston Edison Company, was present and explained that the work was necessary in order to provide electric service to a new subdivision known as Carding Mill.

Executive Secretary Thompson noted that all appropriate abutters had been notified and approval had been recommended by the Inspector of Buildings and Wiring Inspector under date of January 2, 1990.

It was on motion of Chairman Drobinski unanimously

VOTED: To approve Utility Petition 90-1 of Boston Edison Company and New England Telephone and Telegraph Company for permission to install forty (40) feet of conduit in French Road as follows: westerly approximately 23 feet east of Carriage Way; as shown on plan of Boston Edison Company entitled "Plan of French Rd.-Sudbury", dated October 11, 1989; and New England Telephone and Telegraph Company's plan numbered 90-1, dated January 5, 1990.

Utility Petition 90-2 - Lake Shore Drive

Present: Edmund F. Kelly, representing Boston Edison Company.

The Board reviewed Utility Petition 90-2 from Boston Edison Company and New England Telephone and Telegraph Company for location of approximately 185 feet of conduit under Lake Shore Drive. Edmund F. Kelly, Right of Way Agent, Distribution Division of Boston Edison Company was present and explained that the work was necessary in order to provide electric service to Lot #412 Lake Shore Drive.

Executive Secretary Thompson noted that all appropriate abutters had been notified and approval had been recommended by the Inspector of Buildings and Wiring Inspector under date of January 2, 1990.

It was on motion of Chairman Drobinski unanimously

VOTED: To approve Utility Petition 90-2 of Boston Edison Company and New England Telephone and Telegraph Company for permission to install one hundred eight-five (185) feet of conduit in Lake Shore Drive as follows: at and northeasterly from Elmwood Avenue; as shown on plan of Boston Edison Company

entitled "Plan of Lake Shore Dr.-Sudbury", dated November 29, 1989; and New England Telephone and Telegraph Company's plan numbered 90-2, dated January 5, 1990.

Joint Meeting with Conservation Commission and Board of Assessors

Present: Conservation Commission Chairman Gordon D. Henley, Vice Chairman Frances H. Clark, and members Muriel C. Plonko, J. S. Yeo and Cheryl Baggen; Board of Assessors Chairman Thomas H. Hillery and member Fred N. Haberstroh; Assistant Assessors Mary H. Walsh and Daniel A. Loughlin; Wesley Ward, Deputy Director, The Trustees of Reservations; Attorney Stephen J. Small.

At 7:45 p.m., Chairman Drobinski convened a joint meeting with the Conservation Commission and Board of Assessors to discuss conservation restrictions. Conservation Commission Vice Chairman Frances H. Clark opened the discussion by introducing two speakers who are experts in the area of conservation restrictions and who were present this evening to give a short summary of how these restrictions are utilized in Massachusetts and the current status of the law pertaining to same. The invited speakers were Wesley Ward, Deputy Director of The Trustees of Reservations, located in Beverly, Massachusetts; and Stephen J. Small, Esquire, of the law firm of Power and Hall, Boston, Massachusetts.

Mr. Ward opened his presentation by handing out two brochures, one of which described the purpose and activities of The Trustees of Reservations, and the other pertaining to Conservation Gifts. Mr. Ward also mentioned that there is a booklet entitled "Land Conservation Methods and Their Tax Advantages: A Guide for Massachusetts Landowners" available by request from The Trustees of Reservations.

With the use of an overhead projector, Mr. Ward presented an outline of the three types of conservation restrictions in Massachusetts: Agricultural, Conservation, and Historic Preservation. Mr. Ward explained that the basic difference among these types of restrictions versus the private deed restriction is that the former protects the land in perpetuity. Mr. Ward referred to Massachusetts General Laws, Chapter 184, §§31-33 for procedure and explained that the process for creating a conservation restriction is that such a restriction is given to a qualified holder, approved by the Commonwealth, and, if the restriction is given to a non-profit organization, approved by the town or city government's head.

Mr. Ward pointed out, and Attorney Small concurred, that there are procedures for amendment or release from these conservation restrictions, but that same is not lightly given and the procedures are difficult. Such a release requires approval by the parties involved in the original approval process, as well as a 2/3 majority vote of the Massachusetts Legislature.

Mr. Ward continued by stating that enforcement of these restrictions is by the holder. If the holder is an organization whose goal is land preservation and that holder ignores its responsibility, Mr. Ward explained, then the membership of that organization has been an effective cross-check to make certain the restrictions are upheld. If the holder of the restriction is a municipality, then it is up to the voters to see that compliance is made; and

if the holder is this Commonwealth, then it is up to all its citizens to see that the State upholds the restriction.

Mr. Ward outlined potential benefits for the grantor of a conservation restriction, including: (1) the grantor retains ownership and control of his land and the ability to sell, give or bequeath his property; (2) may be an important component of family estate planning, especially if the children wish to own and maintain the property; (3) tax advantages such as income, estate or property tax savings; and a possible charitable deduction.

The potential benefits to the grantee, Mr. Ward continued, include (1) perpetual conservation control over important open space, water sources, and/or historic resources; (2) no property management costs, although monitoring and enforcement of the restriction is a continuing responsibility. Mr. Ward explained that although the normal conservation restriction does not permit public access, this is a matter that may be specifically negotiated and pointed out that there are many such restrictions given with public trail easements over the property.

Mr. Ward next discussed the valuing of conservations restrictions and stated that generally the value of the property involved is the value before the granting of the restriction less the value after the restriction is given. This placing of a value, short of selling, is one that the assessors must do, taking into account all the factors involved. Attorney Small expressed his opinion that even if a restriction appears to "enhance" the property because, for example, it may assure an uninterrupted scenic vista, the fact that a right has been given away forever (i.e., the "weight of restriction") per se diminishes the value of the property.

Attorney Small discussed the effect of the Internal Revenue Code on conservation restrictions and the fact that the rules and regulations under the Code afford protection. Other "levels of protection" Attorney Small discussed were the Board of Directors of a charitable organization; the Attorney General's Office; and the Internal Revenue Service.

In response to inquiry by Selectman Cope, Mr. Ward assured that groundwater protection, although not specifically addressed by him in his presentation, is certainly a financial factor considered when granting or seeking a conservation restriction.

There followed a question-and-answer period and Board of Assessors Chairman Thomas Hillery and member Fred Haberstroh engaged in an informative and lively exchange of ideas and opinions with Messrs. Ward and Small. It should be noted for the record that Town Counsel's Office rendered opinions in memoranda dated November 2, 1989, and January 3, 1990, on the subject of conservation restrictions, much of which was repeated by Messrs. Ward and Smith.

At the close of the question-and-answer period, Vice Chairman Clark thanked Mr. Ward and Attorney Small for taking the time to educate all present on the many aspects of conservation restriction; and the meeting concluded with Chairman Drobinski thanking Mrs. Clark for the work she did in making this meeting possible.

1990 Girl Scout Cookie Sale Kick-Off

Present: Michael Guernsey; Brownie Scouts Hilary Guernsey and Channing May.

At the invitation of Chairman Drobinski, Michael Guernsey, spokesman for the 1990 Girl Scout Cookie Sale, announced that Thursday, January 11, 1990, at 3:00 p.m., the 1990 Patriots' Trail Girl Scout Cookie Sale begins.

Mr. Guernsey explained that this annual event contributes over 40% of the funds that Patriots' Trail needs to provide the programs that more than 30,000 Girl Scouts and volunteers use in their scouting adventures. Mr. Guernsey went on to say that the sale also provides the girls with a learning experience by teaching them salesmanship, record keeping, responsibility in meeting deadlines, and goal setting. It also gives them the opportunity to present themselves to the public in a positive manner.

Mr. Guernsey concluded his remarks by stating that he and Brownie Scouts Hilary Guernsey and Channing May were here this evening to thank the Selectmen and the Town for allowing the girls to participate in this annual national sale.

Mr. Guernsey then introduced First Grade Brownies Hilary Guernsey and Channing May, each of whom made a presentation of a box of cookies to the Selectmen.

Tax Anticipation Notes

Present: Town Treasurer/Tax Collector Chester Hamilton.

The Board reviewed memorandum dated January 5, 1990, from Town Treasurer/Collector Chester Hamilton, wherein he requested approval to borrow \$5,000,000 in tax anticipation notes.

Mr. Hamilton was present and informed the Board that as of January 1, 1990, prior to borrowing any amounts over \$1,000,000, the municipality must complete a disclosure document, which he displayed to the Selectmen. Mr. Hamilton explained that although this document is similar to what has been seen in the past, this new document requires more time to complete because it is more detailed; and failure to provide same may cause banks to refuse to bid on the notes.

On motion of Selectman Wallace it was unanimously

VOTED: To authorize the Treasurer to borrow, if necessary, up to \$5,000,000 in Tax Anticipation Notes, to be dated January 22, 1990 and to come due May 18, 1990.

Executive Secretary Richard E. Thompson informed the Board that he and Mr. Hamilton have discussed newly-proposed legislation that is expected to be placed into law shortly, which will enable a municipality to bill for real estate taxes on a quarterly basis. Mr. Hamilton stated that he will be looking into the feasibility of implementing this procedure and will report his findings to the Board.

1990 Annual Town Meeting - Withdrawal of Article Re: Free Cash

At the recommendation of the Executive Secretary, it was on motion of Selectman Cope unanimously

VOTED: To withdraw the article pertaining to use of Free Cash from the 1990 Annual Town Meeting Warrant.

1990 Annual Town Meeting - Ordering of the Warrant

Present: Town Moderator Thomas Dignan.

The Selectmen reviewed a draft numerical list of articles for review by them and the Moderator. Town Moderator Thomas Dignan was present, but had to leave early. Prior to leaving, however, Mr. Dignan expressed his approval and voiced no objection to the order as presented.

Selectman Cope questioned the wording of Article numbered 6, "Accept G.L. Chapter 40 Amendment - Majority Vote to Transfer Land for Low and Moderate Income Housing", and Executive Secretary Thompson explained that it relates to the Pine Street Parcels and all such future land transfers by the Town.

Selectman Cope questioned whether amounts requested in the articles numbered 18 and 19, "Septage Facility Equipment" and "Septage Facility Mechanical Bar-screen and Wedge Wire Compactor" would be included in the Facility's Enterprise Fund. The Executive Secretary stated that he would review the action taken last year concerning this and report back to the Selectmen.

It was on motion of Chairman Drobinski unanimously

VOTED: To approve the warrant ordering as prepared by Janet Silva, the Administrative Assistant to the Board of Selectmen; and to approve designation of articles for the Consent Calendar as drafted.

League of Women Voters - Review of Town's Governmental Structure

The Board expressed its pleasure and acknowledged acceptance of letter dated January 3, 1990 from Virginia L. Howard and Catherine A. Rader, Co-presidents of the League of Women Voters of Sudbury, relative to the League's interest in establishing a Charter Commission to review Sudbury's governmental structure.

Executive Secretary Thompson informed that he met with Mrs. Howard and Mrs. Rader last week and he is delighted that they are willing to become involved with the issue of obtaining needed revenue for Fiscal Year 1991; and in fact the League has taken a vote supporting an override. Mr. Thompson stated that he has invited these individuals to attend tomorrow morning's meeting with the Five Year Financial Planning Group.

In answer to inquiry by Selectman Cope, Mr. Thompson advised that he believes members of a Charter Commission must be elected, not appointed.

Selectman Cope asked the Executive Secretary to write the co-presidents of the League of Women Voters of Sudbury, enclosing copies of data such as the

Charter Commission flow charts that would be of interest to them; and request the League to clarify what assistance they would like to give.

#### Citizen Reporting of Speeders

The Board reviewed communication from Selectman Cope proposing to establish a formal program for citizen reporting of speeders with follow-up by the Police Department, and the copy of an article concerning this type of program that is being implemented in Marlboro.

At the suggestion of Executive Secretary Thompson, it was on motion unanimously

VOTED: To forward Selectman Cope's letter and enclosure to Police Chief Lembo regarding the establishment of a formal program for citizen reporting of speeders with follow-up by the Police Department; and to request the Executive Secretary to discuss this matter with Chief Lembo and request that the Chief assign the Safety Officer or Lt. Nix to follow-up on this proposal.

#### Minutes

It was on motion unanimously

VOTED: To approve the minutes of the executive session of December 19, 1989, as presented.

The Board commended substitute Recorder Elaine Jones for an exceptionally fine job in preparing these minutes.

#### Regional Meeting of Selectmen

The Board acknowledged receipt of letter dated January 3, 1990, from Town of Weston Board of Selectman Chairman Harold B. Willis, Jr., informing that the next meeting of the Selectmen from the region will be held at the Josiah Smith Tavern in Weston on Wednesday, January 17, 1990, at 7:30 p.m.

At the request of the Selectmen, Executive Secretary Thompson will attend said meeting on their behalf.

#### Unisys Property

The Board acknowledged receipt of letter dated December 21, 1989, from Ralph S. Tyler, President, Cold Brook Development, Inc., with enclosures, concerning parking requirements for Unisys' subdivision plan.

#### Chiswick Park - Nickerson Theatre

The Board acknowledged receipt of letter dated January 8, 1990, from Ted Pasquarello of Paris Trust, updating the Board on the status of proceedings before the Planning Board; together with draft copy of letter to Town Planner Lee Newman from HMM Associates, Inc.

Executive Session

At 10:00 p.m., it was on motion by roll call unanimously

VOTED: To go into Executive Session to discuss litigation matters.

(Chairman Drobinski, aye; Selectman Cope, aye; Selectman Wallace, 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 10:00 p.m.

Attest:

\_\_\_\_\_  
Richard E. Thompson  
Executive Secretary-Clerk