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IN BOARD OF SELECTMEN  
MONDAY, MARCH 5, 1990

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

The statutory requirements as to time and place having been fulfilled, the meeting was called to order by Chairman Drobinski at 7:35 p.m., at lower Town Hall.

UP90-4 - Concord Road at Featherland Park

Present: Edmund Kelly, Boston Edison Company; abutter Hermel J. Cassivi.

The Board reviewed Utility Petition No. 90-4 submitted by Boston Edison Company and New England Telephone and Telegraph Company for Guy Wire and Anchor on Concord Road. Edmund Kelly, representative of Boston Edison Company, explained that this work is necessary in order to support proposed poles 2-106/1 and 2-106/2, which were requested by the Town in order to provide electrical service to Featherland Park.

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 February 22, 1990.

Abutter Hermel J. Cassivi of 502 Concord Road was present and expressed his concern that the location of the guy wire, although not on his property, would be a safety issue since it would be directly in front of his door.

After discussion, it was on motion unanimously

VOTED: To approve Utility Petition 90-4 of Boston Edison Company and New England Telephone and Telegraph Company for permission to locate and construct one guy wire and anchor on Concord Road - southeasterly side approximately 240 feet southwest of New Bridge Road; as shown on plan entitled "Plan of Concord Rd. Sudbury" dated August 30, 1989.

It was further on motion unanimously

VOTED: To request Executive Secretary Thompson to have the Town Engineer review the proposed installation with abutter Cassivi, for an alternate location if possible; and to request Boston Edison Company and New England Telephone Company to postpone installation of the guy wire and anchor described in Utility Petition No. 90-4, as approved, until such time as Town Engineer I. William Place has had the opportunity to report back to the Executive Secretary.

Papa Gino's Restaurant - Change in Manager

Present: Daniel Howard Ives.

The Board considered Petition For Change of Manager filed by Papa Gino's Of America, Inc., d/b/a Papa Gino's Restaurant, 104 Boston Post Road.

Executive Secretary Thompson reported that all documents are in order and recommended approval.

It was on motion unanimously

VOTED: To approve a change in manager requested by Papa Gino's of America, Inc., for restaurant located at 104 Boston Post Road, Sudbury, from David Herbert to Daniel Howard Ives, subject to approval by the Alcoholic Beverages Control Commission.

Special Town Election - Schedule

Present: Town Clerk Jean A. MacKenzie.

It was on motion unanimously

VOTED: To call a Special Town Election to be held on May 14, 1990, from 7:00 a.m. to 8:00 p.m. at the Peter Noyes School for all four precincts.

Reserve Fund Transfer Request 90-13

The Board reviewed Reserve Fund Transfer Request No. 90-13 by the Building Department for \$28,090 to pay for emergency work on Fairbank boilers, pipes, valves, etc., as well as for asbestos removal, boiler repair and oil burner replacement and related work at Loring School.

Executive Secretary Thompson pointed out that if a lease arrangement can be entered into with the current tenant-at-will at Loring, all indications are that the tenant will assume a great portion, if not all, of the costs for repairs.

Mr. Thompson informed that if the Selectmen approve this request, the next step will be to go before the Finance Committee on March 15, 1990. The Finance Committee, Mr. Thompson stated, is aware of the requested transfer.

In response to inquiry by Chairman Drobinski, Mr. Thompson stated that he believes the results of the class action asbestos suit will result in some reimbursement to the Town, perhaps in the neighborhood of \$4,000-\$5,000; but there is no way of determining how long this will take, or what the exact amount will be.

It was on motion unanimously

VOTED: To approve Transfer Request No. 90-13 in the amount of \$28,090.00, for Account 340-330, Building Department Excess Buildings.

Sherman's Bridge - Chapter 90 Project Request

Upon review of letter dated February 27, 1990, from Highway Surveyor Robert A. Noyes, with enclosure, it was on motion unanimously

VOTED: To sign Chapter 90 Project Request relative to funding under M.A. #31233 for design services for Sherman's Bridge in the amount of \$9,680.34.

Design Review Board - Request To Expand Duties

The Board reviewed communication dated March 1, 1990, from Frank Riepe, member of the Design Review Board ("DRB"), requesting expansion of duties to include review of designs for public buildings, bridges, landscape and signage.

Selectman Cope stated, and the Board concurred, that this is a great idea. Executive Secretary Thompson recommended that the Board request Town Counsel to review the bylaws and statutes to make certain this may be done, since it appears to Mr. Thompson that the bylaws are ambiguous with regard to this matter. After discussion, it was a consensus of the Board that the DRB should act in an advisory capacity concerning all local public construction projects.

It was on motion unanimously

VOTED: To approve expansion of duties of the Design Review Board to include review of designs for public buildings, bridges, landscape and signage; and to request the Executive Secretary to mail a communication to all departments and boards notifying of same and requesting their cooperation in so involving the Design Review Board.

Traffic Management Committee - Sudbury Village Project

The Board reviewed letter dated February 24, 1990, from Jim McKinley, Chairman, Traffic Management Committee, regarding funding for the Sudbury Village Project.

Executive Secretary Thompson informed that he has spoken with Mr. McKinley and it is the position of the Traffic Management Committee that the funds that might be made available should be used for the short-term prioritized improvements already determined, and that any excess funds could then be used to supplement other traffic-mitigation solutions for Route 20, such as the Sudbury Village Project.

It was on motion unanimously

VOTED: To adopt the recommendations of the Traffic Management Committee as set forth in letter dated February 24, 1990, from Committee Chairman Jim McKinley relative to the application of available funds to short-term improvements and excess funds to supplement the Sudbury Village Project; and to request the Executive Secretary to proceed with negotiations with Raytheon Company concerning its funding of traffic-mitigation solutions on Route 20.

Selectmen's Meetings During Annual Town Meeting

It was on motion unanimously

VOTED: To schedule Selectmen's meetings to be held each night of the Annual Town Meeting at 7:00 p.m. in the Library of the Lincoln-Sudbury Regional High School.

Executive Session Minutes

It was on motion unanimously

VOTED: To approve the minutes of the executive session of February 26, 1990, as amended.

Local Tax Levy - Fiscal Year 1989-1990 Tax Rate

Present: Assessors Fred N. Haberstroh and Thomas H. Hillery; Assistant Assessors Daniel A. Loughlin and Mary H. Walsh; Town Accountant James Vanar.

Chairman Drobinski convened a public hearing to determine what percentage of the local tax levy will be borne by each class of real and personal property in setting the Fiscal Year 1989-1990 tax rate.

Executive Secretary Thompson informed that compliance has been made with M.G.L. c. 40 § 56 with regard to publication of notice of said hearing. Mr. Thompson explained that, as stated in the notice, this hearing is being held to enable the Selectmen to determine the Residential Factor, which in turn determines how different tax rates for residential, commercial and industrial properties will be established. This hearing affords the public the opportunity to receive information and give input to the Selectmen regarding all options available.

The Board acknowledged receipt of report from the Board of Assessors concerning Fiscal Year 1990 Classification Options; and a breakdown of options prepared by Town Accountant James Vanar.

Chairman Drobinski invited the Board of Assessors to make its presentation and Assistant Assessor Daniel Loughlin introduced himself. Mr. Loughlin referred to the handout he prepared for a detailed explanation of the proportionality of the tax rate, entitled "Fiscal 1990 Tax Rate".

Mr. Loughlin stated the first question for determination is what percentage the residential classification will bear of the total tax levy. As a result of this determination, the remainder percentage would be borne by the commercial class. Mr. Loughlin referred to his handout and explained that there are five classes of property: residential, open space, commercial, industrial and personal property. Mr. Loughlin went on to say that the law allows the Town to shift the residential percentage so that the commercial class can bear a higher percentage of the total taxes. The reason this was allowed by statute in 1980, Mr. Loughlin explained, is that historically, commercial property tends to appreciate at a slower rate than residential property. As a result, it becomes a burden on the residential taxpayer. Mr. Loughlin informed that Sudbury has done such a shift of burden for the past eight years. In addition, Mr. Loughlin went on to say, the law has recently changed to allow commercial properties to bear 175% of what would be a flat tax rate.

Mr. Loughlin pointed out that Sudbury needs to raise \$19,241,014.00 in taxes in order to cover Fiscal 1990 expenses.

Mr. Loughlin next discussed the Residential Factor and referred to his handout which gives three possible scenarios using the various tax rates. Mr. Loughlin noted that item 3 reflects the minimum residential factor of .903130, which would mean a 6% increase in the residential rate, and a 5% increase in the commercial/industrial rate.

Mr. Loughlin referred to page 5 of his handout, which explains an Open Space classification. This classification, Mr. Loughlin explains, would allow a tax break to owners of larger parcels of property, while shifting the burden to the smaller residential landowner to make up for the savings given to the holder of Open Space property. Mr. Loughlin reiterated the Board of Assessors position that if Open Space is being seriously considered, a question concerning same should be placed on a Ballot at Town Elections so that the townspeople could decide for themselves if they want to have an Open Space classification.

Selectman Cope pointed out that there are already in place some fine programs for the large landowner which would result in tax savings to them. Mr. Loughlin concurred and stated if any landowner owning five acres or more is interested in pursuing a Chapter 61 transfer, or a deed restriction in perpetuity, to name two such options, the Board of Assessors would be pleased to discuss same.

Resident Ralph Tyler of One Deacon Lane opined that when valuing commercial property, one must look at potential income. Mr. Tyler foresees a situation where increased taxes could have a long-term negative effect on the marketability of a piece of commercial property; which would, Mr. Tyler believes, have a chilling effect on new investments. Mr. Loughlin concurred that when valuing commercial properties, one must look at the potential income of that property; and that one of the things that an investor will look at is what will have to be paid in taxes.

It was, on recommendation of the Executive Secretary, on motion unanimously

VOTED: To compute the Fiscal Year 1990 tax rate based on a factor of .903130, which will give an approximate equal percentage increase and a tax rate of \$10.89 for residential (+5.5%), and a tax rate of \$21.11 for commercial, industrial and personal property (+5.3%).

And it was further

VOTED: To assess no Open Space exemption.

And it was further

VOTED: To assess no residential exemption.

Chairman Drobinski thanked the Board of Assessors and in particular Assistant Assessor Daniel Loughlin for an informative presentation; and he adjourned the public hearing at 8:35 p.m.

#### Handicapped Spaces

Town Clerk Jean A. MacKenzie brought to the Board's attention a problem with the lack of Handicapped Parking signs at various locations; more particularly, in front of Post Road Apothecary and Bed and Bath.

It was on motion unanimously

VOTED: To request the Executive Secretary to refer the subject to Zoning Enforcement Agent Joseph Scammon to investigate the matter of the lack of

Handicapped Parking signs throughout the Town, and in particular in front of Post Road Apothecary and Bed and Bath, both located on Route 20, immediately and take whatever steps are necessary to correct the situation.

Override Ballot Questions

Present: Finance Committee Chairman Richard Pettingell and members John B. Hepting and Robert K. Coe; Town Moderator Thomas Dignan; League of Women Voters Co-President Catherine A. Rader; resident Hale G. Lamont-Havers.

Chairman Drobinski convened a joint meeting with the Finance Committee to discuss the matter of override ballot question(s).

At the invitation of the Chairman, Executive Secretary Thompson opened the discussion by stating that the purpose of the meeting is to try to come to some consensus on the part of the various Town boards and departments as to the form of the ballot question(s). Mr. Thompson emphasized that no decision needed to be finalized this evening.

The Board acknowledged receipt of the following:

1. 1990 Finance Committee Report which has been printed in the Warrant.
2. communication received March 5, 1990, from Goodnow Library Director William R. Talentino, expressing the Library Trustees' support of a three-tier approach to a pyramid format for an override ballot.
3. verbal communication received February 21, 1990, from Library Trustee Ivan Lubash, stating that while he "selfishly believes the menu is best...the one question (all or nothing) is disastrous and would [therefore] prefer the pyramid [to the single question]."
4. letter dated February 26, 1990, from resident Hale G. Lamont-Havers of 173 Morse Road, supporting the "pyramid" ballot and the override of Proposition 2½.

The Board noted that since it requested input from Town boards and committees, various communications have been received. Since the Selectmen would not be making a final determination this evening, they urged further comment, either telephonically or in writing, as a follow-up to this evening's discussion.

Mr. Thompson reminded that a summary had been prepared by Town Management Intern Mary Ellen Normen outlining the Proposition 2½ Override ballot options of "Single Question", "Menu", and "Pyramid".

Mr. Thompson informed that the Finance Committee will have printed in the Warrant a "No Override" budget, as well as three "Contingency" budgets, which they wish to present in the Pyramid form.

Before hearing from the Finance Committee, Chairman Drobinski commended the Committee for its tireless efforts and the incredible job it has done under extremely unpleasant fiscal conditions.

Richard Pettingell, Chairman of the Finance Committee, stated that the best place to start a discussion of this year's budget proposals is to remember last year's failed override. Mr. Pettingell opined that the Town's financial condition was greatly exacerbated when the State abruptly took away monies earmarked for the communities. On a positive note, Mr. Pettingell noted that the Town is managing to run on a current budget with approximately \$700,000 less than it thought it would have.

Mr. Pettingell reminded that last year the Finance Committee made a promise to the Town that this year it would allow the Town to determine the level of override it wanted. The Committee feels the pyramid form keeps that promise. The three levels would be: Level 1, which includes public safety, education, highway and the library; Level 2, which includes all of Level 1 plus other areas of the Town; and Level 3, which includes all of Levels 1 and 2 plus additional monies for what the school committees feel they need to maintain even the minimum standards of quality education. Mr. Pettingell emphasized that even with the highest level override, Sudbury will suffer cuts in services; and does not include salary or any other increases for Town employees.

In conclusion, Mr. Pettingell stated that all budgets contemplated require service cuts; and the Town should therefore give its voters the opportunity to be heard in order to see what override, if any, the townspeople would be willing to accept.

League of Women Voters Co-President Catherine A. Rader stated that the League maintains its position that a Single Question ballot should be presented, since the League believes that asking for less than what is realistically needed would only prolong the process of repeated overrides; and it would be ambiguous to state \$1,000,000.00 is needed, yet offer lesser sums as a choice to voters. Mrs. Rader reiterated the League's belief that there is support for the total override, and the League is currently taking signatures for support of the full override amount. Having emphasized the League's preference, Mrs. Rader stated the League's unqualified support for whatever form is ultimately chosen for the ballot.

Chairman Drobinski stated he believes it is critical that whatever form is placed on the ballot must have a reasonable chance of passage. On a personal note, Chairman Drobinski stated that he originally thought the Single Question form would be the best way to present the override question to the voters; however, after review and discussion, Chairman Drobinski no longer is so certain that the Single Question form is the best form. Chairman Drobinski stated that a problem he sees with the Single Question form is that, while Town government may be confident that the \$1,000,000.00 override is necessary and reasonable and therefore would be supported, that may not in reality occur.

Mr. Pettingell informed that the Finance Committee had envisioned a Single Ballot question that would show four "boxes": (1) No Override; (2) Level 1 in the amount of \$560,000; (3) Level 2 in the amount of \$723,000 (a vote for Level 2 incorporates a vote for Level 1); and (4) Level 3 in the amount of \$1,036,000 (a vote for Level 3 incorporates votes for Levels 1 and 2). This is what the Finance Committee believes would be the ideal form; however, Town Counsel should provide his opinion as to whether this would be a proper form.

Mr. Pettingell also made it very clear that although the Finance Committee will present a No Override budget in the Warrant, as required by law, the Committee cannot recommend the Town accept it. The Finance Committee recommends a "Level 3" override budget in the amount of \$1,036,000.

Lincoln-Sudbury Regional School District Committee member Sarah Cannon Holden of Weston Road, Lincoln, asked about the experience of other communities who presented a pyramid ballot. Executive Secretary Thompson informed that from what has been received to date, it appears the results were split among the various communities surveyed.

Selectman Wallace pointed out that the new legislation that allows the towns to pass a contingent budget at Town Meeting and then proceed to a ballot within 45 days, makes more sense than the prior routine of having to first vote for an override and then have to convince everyone at Town Meeting to approve it. Mr. Wallace concluded by stating that he is pleased to see that a debate may now be held on the floor about what the townspeople want in the budget; and then the special election will vote to allow the Proposition 2½ override.

Ms. Holden next brought up the question of whether the school committees may send some sort of mailing to the general public concerning the proposed override. Selectman Wallace confirmed Ms. Holden's belief that neither the school committee nor any Town board or committee can spend town funds supporting a position on the override. Selectman Wallace emphasized that it is through public meetings such as this evening's that the information could go out to the people; and the Selectmen expressed their hope that the media will carry the message to the public as much as they are able.

Stephen L. Bober of the School Committee stated that they have voted unanimously to support the highest override proffered. Mr. Bober further stated that the School Committee is aware of the fact that it is not legal for them as a Committee to advocate a position through mailings. However, Mr. Bober informed that private citizens have indicated a willingness to fund a mailing showing their endorsement of the Level 3 Override.

Mr. Bober went on to say that speaking as an individual who has had the benefit of witnessing the development of the Town budget, he believes the pyramid approach would in fact be in the best interests of the Town. Mr. Bober stated that he had been afraid the menu approach would "pit" one group against another, leaving feelings of ill-will. Thus, Mr. Bober concluded, it is his sense that democracy will best be served by allowing each individual voter to determine what level of support each will give.

Selectman Cope cautioned against anyone disseminating information coming across as telling the citizen how to vote. Mr. Drobinski expressed his personal opinion that it was this perception of being told what to do that may have contributed to the defeat of last year's override.

Executive Secretary Thompson stated that if the pyramid form is approved, there would be some mailing required which will adequately provide information to the voter; and an educational process would have to be undertaken in order to make the ballot less confusing to the voter.



Town Clerk Jean MacKenzie informed that she has forwarded a communication to the Chairman of the School Committee advising of the legal prohibition against a mailing by the Committee advocating a position.

Finance Committee member John Hepting commented that the pyramid form would show the particulars of where the money would go; and Committee member Robert Coe opined that even though the pyramid form is unfamiliar to the voters, it is not unexplainable. Mr. Coe suggested that if at all possible it would be wise to provide a "mock-up" of the ballot for display at Town Meeting. Notwithstanding time constraints, Town Clerk MacKenzie also suggested that perhaps the Town Crier or other publication would be willing to print a generic form of the proposed ballot questions with an explanation.

Town Clerk MacKenzie suggested a public hearing be scheduled after Town Meeting, before the Elections, which could inform the voters of the process. Chairman Drobinski stated the general consensus of those present that this is a good idea.

Town Moderator Thomas Dignan stated that although he will discuss the matter with Town Counsel, his tentative view on the budget matter is that when the budget is brought up the first night of Town Meeting, it be postponed to the following night. At that time, everyone should be prepared to take as long as necessary to complete the discussion and votes regarding the budget and not continue same to another night. Mr. Dignan commented that although he is aware that this would almost certainly mean a very late evening, it would obviate the necessity for reiterating what had occurred in earlier discussions.

In closing the meeting, Chairman Drobinski again commended the Finance Committee for an outstanding job in a very difficult year; and he expressed his hope that the public will come out of this process with a sense of community. Mr. Pettingell responded by stating that the cooperation of department heads was truly outstanding and showed a commitment to work together; and this made the Finance Committee's job easier.

Chairman Drobinski thanked all for their attendance and input and stated that the Selectmen will use their best efforts to make a final determination as to the form of the override ballot questions by next week's meeting. The meeting adjourned at 9:50 p.m.

#### Sudbury Historical Commission

Present: Applicant Francis Kelly.

The Board reviewed recommendation letter dated February 19, 1990, from Lyn MacLean, Chairman, Sudbury Historical Commission, and application of Francis Kelly for appointment to the Commission.

Upon interview of Mr. Kelly, it was on motion unanimously

VOTED: To appoint Francis Kelly of 162 Fairbank Road to the Sudbury Historical Commission, to fill the vacancy created by the resignation of Steven Fontaine, for a term to expire April 30, 1991.

Carding Mill - Northland of Massachusetts, Inc.

Executive Secretary Thompson informed that after the Declaration of Covenants was recorded, it was realized by Northland of Massachusetts, Inc. that the legal descriptions in Appendix A and Appendix A-1 included the entire 128.3 acres, which was incorrect since the land which was conveyed to the Town as Open Space was not intended to be covered by the Declaration of Covenants. Mr. Thompson further informed that Town Counsel, Conservation Coordinator and Town Engineer have each reviewed the amendment and have approved same.

It was on motion unanimously

VOTED: To sign Amendment to correct description of land under Declaration of Covenants, Restrictions and Easements of Carding Mill, as requested by Northland of Massachusetts, Inc.

Sudbury Housing Authority - Ft. Devens Annex

The Board acknowledged receipt of draft "Sudbury Housing Authority Ft. Devens Annex Alternative Proposal" prepared February 9, 1990, by the Sudbury Housing Authority for review by the Selectmen.

Town Historian

Executive Secretary Thompson advised that Town Historian Laura Scott will be relocating to Rockport, Massachusetts, and will therefore be leaving approximately the end of June 1990.

Mr. Thompson stated that Ms. Scott requests the Board's consideration of Edward Blackey as her replacement, when her formal resignation is received and accepted.

Fort Devens Property

Executive Secretary Thompson informed that he has heard that, as previously indicated, the GSA Ft. Devens property south of Hudson Road is on the National Superfund List; and it appears that such a listing may stop any transfer of excess land for two years.

Mr. Thompson is attempting to obtain confirmation of this in writing and will report back to the Board.

Nickerson Theatre

Selectman Cope requested Executive Secretary Thompson to pursue the stipulation on the Nickerson Theatre as to the number of seats.

Also, at the request of Selectman Cope, Mr. Thompson will investigate the question of limitation of the number of matinees allowed.

Mr. Thompson will report back to the Board when he obtains the information sought.

Request for Expert Legal Advise - L. Mike Meixsell

The Board reviewed letter dated February 20, 1990, from Planning Board Member L. Mike Meixsell, requesting, as an individual and not as a member of the Planning Board, that the Selectmen approve the procurement of outside legal counsel for the Planning Board and the Town concerning advice on the Research District and contamination issues.

The Selectmen concurred that such a request is superfluous; and at any rate there are no funds available to pursue such a request.

It was therefore on motion unanimously

VOTED: To deny request of L. Mike Meixsell for approval of the procurement of outside legal counsel for the Planning Board and the Town concerning advice on the Research District and contamination issues.

Resource Recovery Committee

Selectman Cope asked Executive Secretary Thompson to review and follow-up the expansion of the Committee and the appointment of certain individuals as Associate Members, as has been discussed in the past.

Mr. Thompson informed that Janet Silva will pursue this matter and report results to Selectman Cope.

Asbestos Removal

Selectman Wallace requested the Executive Secretary to contact Hank Sorett as soon as possible concerning follow-up on Mr. Sorett's suggestion relative to the Town's total expenditure concerning asbestos removal and possible litigation to reclaim certain expenses.

Executive Session - Discretionary Fund Expenditure

It was on motion by roll call unanimously

VOTED: To go into Executive Session to discuss a Discretionary Fund expenditure.

(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 11:00 p.m.

Attest:

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Richard E. Thompson  
Executive Secretary-Clerk