

IN BOARD OF SELECTMEN
MONDAY, MARCH 13, 1995

Present: Chairman Lawrence L. Blacker, and Maryann K. Clark. John C. Drobinski arrived at 8:30 p.m.

The statutory requirements as to notice having been met, the meeting was convened at 7:30 p.m. at the Fairbank Senior Center by Chairman Blacker.

Minutes

It was on motion unanimously

VOTED: To approve the regular session minutes of February 27, 1995 as amended by Selectman Clark.

Council on Aging - Van Donation

It was on motion unanimously

VOTED: To accept \$70.75 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.

Sudbury Woman's Club - Pie Sale

At the request of the Sudbury Woman's Club Corresponding Secretary Ruth M. Brown, in a communication dated March 7, 1995, it was on motion unanimously

VOTED: To grant permission to the Sudbury Woman's Club to sell pies on the Common on July 4, 1995.

Sudbury Earth Week and Spring Cleanup Day - Proclamation

It was on motion unanimously

VOTED: To proclaim April 23 to April 29, 1995 as Sudbury Earth Week, and April 29, 1995, as Spring Cleanup Day.

Walkway Easement - Old Lancaster Road

Upon review of a map of the area, it was on motion unanimously

VOTED: To sign acceptance of a Walkway Easement, dated February 24, 1995, granted by Sudbury Valley Trustees, Inc., as shown on "Plan Showing Proposed Walkway Easement Over Land of Sudbury Valley Trustees, Inc.", dated January 5, 1994, drawn by Town of Sudbury Engineering Department, located on the westerly side of Old Lancaster Road, Town Property Map G07-200.

Constable Bond - Lawrence E. Hartnett, Jr.

It was on motion unanimously

VOTED: To approve, under Section 92 of Chapter 51 of the General Laws, the surety of the constable's bond of Lawrence E. Hartnett, Jr., Bond Number BON-1563756, Massachusetts Bay Insurance Company, in the amount of \$5,000; and approve the filing of the bond with the Town Clerk.

Federal Emergency Management Agency Reimbursement Grant - 1991 Hurricane Bob

It was on motion unanimously

VOTED: To accept \$1174 in final payment from Federal Emergency Management Agency Reimbursement Grant for 1991 Hurricane Bob administrative expenses, to be deposited into the General Fund.

D.A.R.E. Donation - Sudbury Rotary Club

In response to a communication dated March 10, 1995, from D.A.R.E. Officer Ronald B. Conrado, it was on motion unanimously

VOTED: To accept with thanks a donation in the amount of \$1,000 from the Sudbury Rotary Club to be deposited into the D.A.R.E. program fund, and to authorize the Chief of Police to expend same for the D.A.R.E. program.

Local Government Week - Resolution

With the intention to implement some of the ideas presented for observing Local Government Week, it was on motion unanimously

VOTED: To declare May 1-6, 1995 as Local Government Week in the Town of Sudbury in conjunction with the Mass. Municipal Association.

Historic Districts Commission - Resignation

In response to a communication dated January 10, 1995, from Lorenzo Majno, it was on motion unanimously

VOTED: To accept the resignation dated January 10, 1995, of Lorenzo Majno from the Historic Districts Commission, and to send a letter of appreciation to Mr. Majno for his service.

Highway Department - Deficit Spending

The Board acknowledged receipt of a communication dated March 8, 1995, from Highway Surveyor Robert A. Noyes to the Finance Committee requesting the authority to deficit spend, and a request dated March 8, 1995 from Highway Surveyor Robert A. Noyes requesting the Board to approve such expenditure.

It was on motion unanimously

VOTED: To approve deficit spending by the Highway Surveyor in the snow and ice accounts in an amount not to exceed \$30,000, as requested by the Highway Surveyor and approved by the Finance Committee.

Fort Devens Annex - Sudbury Housing Authority

The Board acknowledged receipt of a communication dated March 7, 1995, from Sudbury Housing Authority Director Jo-Ann Howe, requesting the Board attend a meeting at Musketahquid Village on Wednesday, March 22, at 7:30 p.m. regarding the SHA's interest in obtaining a small portion of the Fort Devens Annex for housing.

Chairman Blacker commented that he thinks a "master plan" of the area should be in place before any acreage is assigned. Secretary Thompson remarked that he recently spoke with State Fire Marshall Steve Cogan concerning the State Fire Academy's interest in land at the Annex. Mr. Thompson suggested a joint or unified application including area towns and the State and that a good approach would be to put together a team to prepare for final excessing by the Federal government.

Both Chairman Blacker and Selectman Clark expressed a desire to attend the SHA meeting.

Earth Removal Board/Board of Appeals Associate - Appointment

Present: Patrick J. Delaney III, Chairman, Board of Appeals, and Paul S. Hovsepian, applicant.

The Board acknowledged receipt of a communication dated February 28, 1995, from Patrick J. Delaney III, recommending applicant Paul S. Hovsepian for the vacancy, and an application for appointment from Mr. Hovsepian.

Chairman Blacker and Selectman Clark briefly interviewed Mr. Hovsepian, and explained that a vote would be taken upon the arrival of Selectman Drobinski.

Upon arrival of Selectman Drobinski and a brief review of the interview, it was on motion unanimously

VOTED: To appoint Paul S. Hovsepian to the Earth Removal Board and Board of Appeals Associates, for a term to expire April 30, 1996.

Historical Commission - "Wishing Well" - Route 20

The Board acknowledged receipt of a communication dated March 8, 1995, from Clay Allen, Historical Commission, regarding the Commission's desire to restore the landmark "wishing well" that has been destroyed by the contractor at the new Dunkin' Donuts site located on Route 20.

Secretary Thompson informed that there is nothing on file concerning this being a historical landmark, but he would proceed, under the Board's direction, to work with the new owners to accomplish the desire of the Historical Commission to salvage the field stone and rebuild the wishing well or make space for a marker.

The Board requested Mr. Thompson to pursue the matter.

Goodnow Library - Debt Exemption Question Separation

The Board received a communication dated March 2, 1995 from Library Trustee Hans J. Lopater, requesting that the library expansion debt exemption question appear separately from any other funding request that may be seeking approval, should Town Meeting voters approve the Goodnow Library funding article.

Following a brief discussion in which Mr. Thompson commented that he has not received input from the Finance Committee regarding this request, it was on motion unanimously

VOTED: To agree to the above-stated request dated March 2, 1995, from the Library Trustees.

Goodman's Hill Road - Walkway Petition

The Board acknowledged receipt on March 10, 1995, of a petition to place an article on the 1995 Annual Town Meeting Warrant to fund a walkway on a portion of Goodman's Hill Road. Since the Warrant has already been printed and mailed, the Board was unable to accept the article for this year's Town Meeting.

The Selectmen directed the Executive Secretary to respond to the petitioners providing information concerning resubmission for a future meeting.

1995 ATM - Public Ways - Bridle Path and Trailside Circle

Present: Town Planner Jody A. Kablack; Conservation Coordinator Deborah Montemerlo; Conservation Commission member Stephen M. Meyer, and approximately 10 residents.

The Board convened a public hearing to consider the intention of the Board of Selectmen of the Town of Sudbury to lay out, relocate and/or alter the following ways: **Bridle Path and Trailside Circle.**

The Board acknowledged receipt of the following communications:

1. Certification by the Highway Surveyor that notice of tonight's hearing had been delivered on March 2, 1995 to all abutters of said ways.
2. Communication dated February 8, 1995, from the Planning Board noting their recommendation for acceptance of these streets, but urging the Selectmen to request drainage easements from the current owners of the subdivision lots which may flood (lots 2, 4 and 5).

3. Communication dated February 3, 1995, from the Conservation Commission noting that there is a Wetlands Protection Act Order of Conditions, issued July 21, 1986 still outstanding. The Commission noted that, although the flood storage area was constructed significantly smaller than designed, the Town Engineer's runoff calculations both pre and post-development indicated that the original compensatory flood storage area was designed far in excess of what was needed to contain the 100-year storm event and prevent an overtopping of Tall Pines Drive. The Commission concluded that current constructed design will not increase flooding beyond that originally permitted in the original subdivision approval. However, the Commission recommends that these streets be accepted as public ways only if drainage easements can be obtained from abutting property owners; and also, if it is determined necessary, drainage easements from other properties within the subdivision be obtained.

4. Communication dated December 6, 1994, from Town Engineer, I. William Place asking for any outstanding issues to be reviewed by the Planning Department, Conservation Commission, and the Highway Surveyor, and opining that the streets have been constructed in accordance with the Planning Board's Rules and Regulations.

Secretary Thompson offered a recommendation to proceed with the stated recommendation to accept these streets at Town Meeting subject to the drainage easements.

Mr. Lawrence A. Savage, 12 Bridle Path, expressed the residents' impatience with all the delays in accepting these streets, stating that it is difficult for the residents to understand why drainage easements were never requested at the time the area was being developed. He asked why, after ten years, the residents are being asked to take on this responsibility.

Chairman Blacker noted that the Board is trying to understand as well, and said that it is his understanding that the developer filled in certain areas and failed to dig out other areas for compensatory water storage. Mr. Savage opined that the residents have not been given the benefit of the doubt, and that the objective is to absolve the Town of its responsibility. He added that streets without homes have been accepted in the past.

Selectman Clark asked if drainage is a problem in the area. Mr. Savage responded that no problems were encountered with 50-year flood conditions. Ms. Clark asked what the potential for flooding is--does this potential include the lots in the subdivision and/or the lots that already existed when the subdivision began? Mr. Savage said there is a potential for both, and added that the abutters had an opportunity to object ten years ago. Selectman Clark stated that the Board has to be concerned about the Town's liability should flooding occur.

With regard to the roads themselves, Town Planner Jody Kablack said there is no potential for flooding on the roads, just the abutting properties and the back portion of three of the lots. Ms. Montemerlo noted that the Commission does not have a problem with accepting the roads, but is concerned about the Town's liability should flooding prevent access to one's home if water is at their back door. She said the Town would not only be accepting the roads, but the assurance that the drainage into the subdivision is correct. The Commission is concerned that Town Counsel be comfortable with the decision to accept the roads, and has asked Town Counsel Paul Kenny to review the information and reports.

At this time, the residents submitted a petition to the Selectmen to have these roads accepted. Chairman Blacker stated he is in favor of acceptance. He said he does not believe the residents should be burdened by the faults of the various boards in Town. Mr. Savage remarked that many of the problems occurred with the builder and should have been resolved with him a long time ago. Mr. Thompson opined that the Board vote to proceed to Town Meeting for acceptance.

Conservation Commission member Stephen Meyer remarked that the Conservation Commission's interest is only to "flag" what might be a potential problem regarding flooding, and it has encouraged Town Counsel to review the matter.

Ms. Peggy Nelson expressed that she would like to see the issue finally closed and have the Town accept the streets. She added that she has left several phone calls and written letters, but has not received satisfactory responses from the Conservation Commission. Conservation Commission Coordinator Deborah Montemerlo responded that she forwarded all calls and letters to the Town Engineer as they were not conservation issues. Selectman Blacker expressed concern that the initial town contact person did not make the first response to an inquiry.

Town Planner, Jody Kablack informed that she would like the Selectmen to approach the homeowners of Lots 2, 4 and 5 to give drainage easements, which will grant the Town the right to come onto the small portion of the back of these lots for improvements to the drainage area. This will allow the Town to respond to for the issues of flooding.

Following discussion and on motion by Chairman Blacker, it was on motion unanimously

VOTED: To take the following steps:

1. Suggest that the Town Engineer contact the homeowners of Lots 2, 4 and 5 to explain and hopefully obtain drainage easements.
2. Ask Town Counsel Paul Kenny to review the liability issues by March 29, 1995.
3. Support the acceptance of Bridle Path and Trailside Circle at Town Meeting barring any further unforeseen problems that would be a liability for the Town.

It was on motion unanimously

VOTED: To approve and sign layouts for Bridle Path and Trailside Circle, to be filed with the Town Clerk.

Lamijo Corporation - d/b/a Jezebel's - 29 Hudson Road - Entertainment License Expansion

Present: Paul M. LaCava, Manager, and William Roche.

Upon receipt of applications for Sunday and Weekday entertainment licenses, and a brief discussion of their intentions, it was on motion unanimously

VOTED: To approve application of Lamijo Corporation, d/b/a Jezebel's, 29 Hudson Road, for expansion of their entertainment license to include a 1-4 piece musical group which may include a singer, on Thursday, Friday, and Saturday evenings from 9 to 12 p.m. and on Sunday from 12 Noon to 12 Midnight, subject to the condition that all entertainment be contained within (indoors) the structure.

Herbies Homemade Ice Cream Store - 103 Boston Post Road - Site Plan Special Permit

The Board acknowledged receipt of an application for site plan approval, dated March 1, 1995, from Philip K. Lewis, for an ice cream store at 103 Boston Post Road. In addition, the Board received a communication dated March 9, 1995, from Building Inspector John B. Hepting, denying acceptance of the site plan application received from Philip K. Lewis due to incomplete representation of the site plan.

On motion by Chairman Blacker, it was unanimously

VOTED: To acknowledge and confirm action by the Building Inspector, in accordance with the Selectmen's Rules and Regulations, of denying acceptance of an application dated March 1, 1995, received March 7, 1995, from Phil Lewis of Ashland for a Site Plan Special Permit for property located at 103 Boston Post Road concerning change in use to an ice cream store. (Reference: letter dated March 9, 1995, from the Building Inspector to Mr. Lewis.) It is understood a new filing will be made.

Veterans Services - Budget Requests

The Board acknowledged receipt of a communication dated March 10, 1995, from Veteran's Agent Mary Jane Hillery concerning budget cuts made to the Veteran's Budget by the Finance Committee. The Board questioned the new practice of "0" funding Veteran benefits proposed by the Finance Committee.

Foreclosures of Tax Titles

The Board acknowledged receipt of a communication dated March 3, 1995, from Town Treasurer and Collector Mary Ellen Normen Dunn, regarding the foreclosure on the rights of redemption of the Tax Title for non-payment of taxes on four properties located in the Town of Sudbury.

The Board received copies of letters sent by Town Counsel Paul L. Kenny, dated March 6, 1995, to two of these properties--Powers Road and Austin Road, indicating the initiation of eviction proceedings.

Chairman Blacker expressed that it is his belief that the Town does not have to foreclose on the lien to collect taxes, but can sue the property owners for the amount of taxes owed. He brings this to the attention of the Board because of the nature of some of the properties, and the inability to dispose of or use certain properties, and/or the liability that a property might be to the Town, i.e. a pond. Selectman Drobinski asked what the cost would be to sue. Mr. Thompson was directed to confer with Town Counsel.

With regard to the Powers Road and Austin Road properties, Chairman Blacker expressed his desire to commence with an auction as soon as possible. Mr. Thompson informed that insurance has

already been obtained for these properties which are now owned by the Town. He added that he hopes no decision will be made tonight regarding the auction and the disbursement of the money obtained from the auction, to allow for further consideration and discussion about surplus funds received after the debt to the Town is paid. It was concluded that the Board will revisit this issue, but that the Town will proceed with the eviction procedure.

1994-1995 Annual Sudbury Awards Program

The Board acknowledged receipt of a communication received from the Sudbury Chamber of Commerce President, Ronald A. Stephan, concerning the Annual Sudbury Chamber of Commerce Awards Program. Secretary Thompson asked the Board to begin thinking about their recommendations for the Citizen of the Year award and the Town Employee of the Year award.

Reserve Police Officers - Appointments

Present: Police Chief Peter Lembo.

The Board acknowledged receipt of a communication dated February 21, 1995, from Police Chief Peter B. Lembo, regarding four candidates, all from Sudbury, which he has recommended for appointments as Permanent Reserve Police Officers.

Following discussion with Chief Lembo, and after review of applications received from all four candidates, it was on motion unanimously

VOTED: To appoint the following candidates as Permanent Reserve Police Officers for the Town of Sudbury from Department of Personnel Administration certification list #941418, dated December 16, 1994, effective March 13, 1995, as recommended by the Chief of Police, and subject to approval by the Department of Personnel Administration; and further, to authorize the Executive Secretary to sign and file all documents related thereto with the Department of Personnel Administration:

1. Richard S. Nix
48 Landham Road
Sudbury
2. Wayne Michael Shurling
14 Center Street
Sudbury
3. Denise M. Keegan
655 Boston Post Road
Sudbury
4. Stephen J. Treacy
28 Emerson Way
Sudbury

Surrey Lane Transfer - Conservation Commission

Secretary Thompson informed that the Conservation Commission has requested to meet with the Board regarding Surrey Lane and the possibility of transferring it to the Conservation Commission. The Board responded they would prefer to wait to meet with the Conservation Commission sometime after Town Meeting.

Article 44 - Utilities

Secretary Thompson reported that he learned from the MetroWest meeting recently held in Sudbury that other towns are having similar problems with the existence of second poles. Boston Edison has informed that they have assigned the task of inventorying second poles, for which there are about 800 in Natick alone. Mr. Thompson said he was encouraged by his meeting with Boston Edison, and has asked them if a representative from Boston Edison could be present at Town Meeting to help field questions regarding the utilities, and the articles presented by Ralph Tyler. In addition, Mr. Thompson reported he has contacted NYNEX to ask if they could assign a representative to be present at Town Meeting also. He said NYNEX will be submitting a report to the Board relative to Article 44.

Selectman Clark remarked that there is a section in the statute that discusses the idea of setting forth a plan to put utilities underground and to obtain approval from Town Meeting to do this for existing poles. She further commented that the Transportation Improvement Program (TIP), sponsored by the State, might be a good place to put a proposal such as this for the safety issues on the streets and walkways alone. Mr. Thompson noted that funding such a program under TIP might take a long time, but is a possibility for the future.

Wingate - Sign

Mr. Thompson reported that there is concern over the variance application for the sign for the new Wingate of Sudbury, which includes the issues of being "free standing" and over-sized.

Selectman Clark suggested that the Board send a copy of the site plan approval conditions highlighting the conditions regarding the sign to the Board of Appeals before their March 21, 1995 meeting with Wingate, to help ensure conformance with the original site plan conditions.

Health Care Insurance - Administrator

Chairman Blacker remarked that Cook & Company is no longer administering the Medicare supplemental coverage. Mr. Thompson informed that the Town is going out to bid to acquire a new administrator.

Enterprise Fund - Septage Treatment Facility

Secretary Thompson explained that the Operational Review Committee (ORC) under Article 42 is requesting a four-year extension of the agreement for joint use of the septage treatment facility, but that there have been some internal problems within the Town of Wayland administration, and funds from this facility have been co-mingled with funds in the Town of Wayland. Mr. Thompson said the original agreement called for keeping all septage funds received for the use of this facility separate. In the future,

the Operational Review Committee, which consists of members from both towns, may decide to take over the administration of the facility.

Selectman Clark offered a suggestion to approach the Town of Wayland asking for their compliance with the terms of the agreement. If they refuse after 30 days, notify them that the Town of Sudbury will hold all funds collected by our Board of Health in an escrow account until compliance with the terms of the agreement are made.

After further discussion with Karen Palmer, Chairman, Finance Committee, and the need to determine why these funds have been co-mingled, which was discovered through an audit, Chairman Blacker remarked that he may want to meet with the Wayland Board of Selectmen, and/or the Operational Review Committee, and asked to have a report by the next Board meeting scheduled for March 29, 1995.

In conclusion, it was suggested that the Sudbury Board of Health review the financial operation with Wayland Town Accountant and Finance Director Robert W. Hilliard.

MetroWest - Property List

Selectman Clark informed that MetroWest Chairman John Moran has requested a list of all State-owned real property, including its assessed value and the area.

In addition, Ms. Clark informed that MetroWest wants to change its Memorandum of Agreement to include a member at large who will not be a voting member.

On the recommendation of Selectman Clark, it was on motion unanimously

VOTED: To support Selectman Maryann K. Clark's recommendation not to change the MetroWest Memorandum of Agreement to include a non-voting member at large.

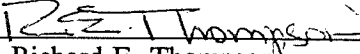
Executive Session

At 9:30 p.m., it was on motion by roll call unanimously

VOTED: To go into Executive Session to discuss the status of interviews with the Town Manager Screening Committee.

(Chairman Blacker, aye; Selectman Drobinski, aye; Selectman Clark, aye.)

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

Attest: 
Richard E. Thompson
Executive Secretary-Clerk