

IN BOARD OF SELECTMEN
TUESDAY, APRIL 24, 1979

Present: Chairman John E. Murray, Robert J. Hotch and William J. Cossart.

The statutory requirements as to notice having been fulfilled, the meeting was called to order at 7:00 P.M. by Chairman John E. Murray in the Finance Committee Room, Flynn Building.

Local School Budget

Present: School Committee Chairman N. Cornell Gray, School Committee members Steven M. Fisch, Jonathan J. Sirota, B. K. Nelson; School Superintendent John J. O'Neill; Finance Committee Chairman Linda Glass, Finance Committee members Chester Hamilton, Carol McKinley, and Edward Glazer; Attorney Alan J. Grace; Petitioners Maxine J. Yarbrough, Ellen M. Berkowitz, Wendy L. Sohn, Alorie Parkhill, David N. Martin, Mary Lou Abrams, Sandra J. Couranz, Steven H. Sewall, Carole Daniels, Donald Allen, Sheila Allen, Loring Smith, Philip B. Cox; Carole Chaet, Sandra E. Wrensky, Carolyn W. Cossart, Jim Grossberg, Jim Ross, Rosalind Hill, Eula Walsh, Sue Sirota, Susan Smith, Susan L. Berry.

Chairman John E. Murray opened the meeting by stating that the purpose of the joint session with the School Committee was to discuss and learn each other's position on a probable petitioners' suit to restore monies (\$66,000) cut from the School Committee budget by action of the 1979 Annual Town Meeting. Mr. Murray stated that the petitioners and their attorneys were invited to the meeting and were in attendance represented by their counsel. Mr. Murray then asked the Chairman of the Sudbury School Committee, N. Cornell Gray, to bring the Board up-to-date on the School Committee position relative to the pending suit and the action of Town Meeting.

Mr. Gray made the following comments:

- that the Sudbury School cannot provide anticipated elementary school services with the \$66,000 cut by the 1979 Town Meeting;
- that the School Committee was in a serious bind keeping the FY80 operating budget within the Finance Committee recommended 4% cap, but did so hoping that the school bus contract and fuel problems could be worked out;
- that, since the Town Meeting voted, more data has been compiled with further analysis on the school bus transportation costs; it now appears that \$10,000 - \$15,000 at the maximum can be saved but will be absorbed by additional fuel costs estimated in the original budget at \$17/barrel, but now costing \$21/barrel plus the projected to be \$25/barrel plus. On this same matter he stated that the local School Committee would save money with a joint contract with the Regional School District, but would save the Town more money with their own school bus contract.

Mr. Gray stated that the School Committee has no official input on the taxpayers' suit and, in his opinion, he felt that they should wait until the School Committee

has evaluated all options relating to bus and fuel costs, but from the School Committee's standpoint they do not want to close any options dealing with regaining the \$66,000 cut. Without the \$66,000, class sizes will have to be increased and the art and music programs will have to be cut in half, but that doing this did still not amount to \$66,000 savings; therefore, they cannot, in their opinion, operate the schools at the current level of appropriations.

In response to a question from Mr. Gray, Town Counsel Paul L. Kenny stated that if a Special Town Meeting were called to restore the \$66,000 cut and voted in the negative, that would not eliminate any taxpayers' right to bring suit.

Committeeman Jon Sirota stated that because of Town Meeting action additional notices have been sent to staff on rehiring next year and that, in his opinion, the School Committee should move on their options now to regain the funds so that the educational planning for the next fiscal year can proceed as soon as possible.

School Committee Chairman Gray responding to some public inquiries stated that to move an entire school, i.e., Nixon pupils to Noyes School, if possible, would only save approximately \$40,000.

Committeeman Steven Fisch stated that the School Committee has considered all options to reduce operating costs and submitted a responsible budget after much evaluation and consternation and added that he could not emphasize enough the timelines of some action so that the planning and scheduling could go forward.

In response to Selectman Cossart's inquiry as to why planning and scheduling cannot proceed, the School Committee members present responded that planning and scheduling is under way which must address the Town Meeting action, as stated previously, by notification of possible layoff of staff and the evaluation of specific programs. Committeeman Jon Sirota, further addressing Selectman Cossart's concerns, expressed the quandary of the School Committee trying to write its schedules and programs for next year with paradox of a \$66,000 cut in funds and a probable taxpayer's suit to restore the same, stressing that some resolution must be brought to fruition as soon as possible.

Attorney Alan Grace, representing the petitioners, stated that Town Meeting members present and voting at the time the School Committee budget was cut were aware of the law and ramifications of the same because Town Counsel spoke to the issue by stating that ten taxpayers could go to court and that funds would probably be restored plus a 25% penalty. Attorney Grace continued that Town Meeting acted illegally and that the Selectmen to defend a possible suit would not be acting in the best interest of the Town. Attorney Grace suggested instituting a law suit immediately and that, if the Selectmen agree to a "friendly" taxpayers' suit, then the petitioners could consider saving the 25% penalty, which should be in the best interest of the Town and the proper thing, not political thing, for the Selectmen to do.

Selectman Hotch responded that, in his personal evaluation of the matter, it is the Selectmen's duty to carry out the mandate of Town Meeting and that he would rely heavily of Town Counsel for direction.

Chairman Murry and Selectman Cossart agreed but added that the purpose of tonight's meeting was to meet with all concerned, especially the School Committee, to determine options and solicit official positions on the probable suit while at the same time seeking advice and consent from the individual School Committee members before reaching a final position.

In response to a question, Town Counsel stated that the Selectmen are the executive body of the Town and that Town Meeting is the legislative body and that chances are great that a court would restore funds cut by Town Meeting which, in the opinion of the School Committee, are necessary to support the schools. Town Counsel further clarified that if the suit was successful \$66,000 would be the direct levy on the tax rate unless it had been set, and if such was the case, the funds would be bonded; if a 25% penalty was awarded that would be an offset to the next fiscal year's school budget.

Selectman Cossart inquired that if this meeting were adjourned and a taxpayer suit filed would the School Committee proceed to develop a school spending plan based upon Town Meeting action?

Chairman Cornell Gray responded in the affirmative that they must proceed in accordance with the Town Meeting vote until such time as other official actions are taken. Chairman Gray reiterated that the program and services had already been cut before submission to Town Meeting and that all requested monies were needed to operate the schools for the next fiscal year.

In response to Selectman Hotch's question Town Counsel replied that he could not project an accurate time frame for a taxpayers' suit, if filed, but estimated that the earliest resolution would be one to two months.

Finance Committee member Edward Glazer stated that Town Meeting has voted and that those voting, in his opinion, knew of the consequences and the risk of the vote. Mr. Glazer suggested that a Special Town Meeting be called to restore the school funds, if necessary, versus a taxpayers' suit.

Attorney Grace replied that the suit had been postponed due to the calling of the meeting this evening but did not foresee any constructive consensus coming forth.

Chairman Murray responded that the purpose of tonight's meeting had been stated previously and that there are two viable options to be discussed: 1) taxpayers' suit and 2) the Special Town Meeting route for restoration of the funds.

Selectman Cossart added that from conversation with persons prior to the meeting, tonight's discussion would also address whether or not the School Committee could live with less than \$66,000 and that for those in attendance to deny that such discussion has taken place would be untrue.

Attorney Grace stated that he has no faith that a Special Town Meeting would restore anything and that he would recommend to the petitioners to move as quickly as possible with the suit, not to hold out and wait for a possible Special Town Meeting.

After further consideration and discussion, it was the consensus of the Board of Selectmen to discuss its official position relative to a possible taxpayer suit to restore funds to the local School Committee budget cut by the 1979 Annual Town Meeting in Executive Session and to direct Town Counsel to report to the petitioners' attorney Wednesday morning.

Town Meeting Appropriations and 4% Tax Levy Ceiling

The Board acknowledged receipt of a communication dated April 20, 1979, from Town Accountant John H. Wilson, providing the status of the 1979 Annual Town Meeting appropriations in relation to a 4% tax levy ceiling.

Governor King's FY1980 Budget

Following a brief discussion it was on motion unanimously

VOTED: To acknowledge receipt of a communication dated April 17, 1979, from the Massachusetts Municipal Associations Joint Legislative Office regarding the deletion in the Governor's FY1980 budget proposal of \$2.5 million normally given in aid to fifty communities on the fringe of the MBTA district by communicating to both the Massachusetts House and Senate Ways and Means Committees the Board's support of restoring these State aid funds.

Special Town Meeting

Executive Secretary Richard E. Thompson recommended that the Board take action to call a special Town Meeting for the following reasons: 1) to present the Classification and Salary Plan again for Town Meeting approval; and 2) in anticipation of necessary articles dealing with "tax caps".

Chairman Murray stated that he felt an obligation to bring the Personnel Classification & Salary Plan back to Town Meeting because it is his opinion that it was not sufficiently discussed at the Annual Town Meeting.

Finance Committee member Edward L. Glazer suggested that the Board review the Classification and Salary Plan again (and it should request the Personnel Board to do the same) in order to make any necessary corrections and to reaffirm its position that it is a good plan for the Town.

Chairman Murray stated that Personnel Board member Pasquale T. Piscitelli requested that the Selectmen call a special Town Meeting for the purpose of presenting the Classification and Salary Plan again, and that the Personnel Board is in the process of reviewing said plan right now for that purpose. Mr. Thompson confirmed that it would be more complicated to implement the plan if it were passed at a special Town Meeting held any later than June 30.

Mr. Glazer commented that the proponents for the indefinite postponement (at the 1979 Annual Town Meeting) argued that there had not been sufficient examination of the plan, and Mr. Glazer again stressed the importance of a final and thorough review by the Selectmen, the Town Accountant and the Personnel Board before any special Town Meeting.

The Board concurred, and it was on motion by Selectman Robert J. Hotch unanimously

VOTED: To call and set the date of June 11, 1979, for a Special Town Meeting, with the Warrant closing date of May 7, 1979, at 5:00 P.M., to be held in the auditorium of the Lincoln-Sudbury Regional High School at 8:00 P.M.

Massachusetts Division of Personnel Administration Examinations for Sudbury Police Department

Following a brief discussion it was on motion unanimously

VOTED: To authorize the Executive Secretary to request the inclusion by May 25, 1979, of Sudbury in the Massachusetts Division of Personnel Administration examinations for police sergeants on October 13, 1979.

Bids for Landham Road Reconstruction

The Board reviewed a communication dated April 24, 1979, from Paul L. Kenny, Town Counsel, relative to bids received for the reconstruction of Landham Road.

The Executive Secretary stated that it was his understanding, based on Mr. Kenny's communication, the Highway surveyor would be awarding the bid to the lowest bidder, Bates Sand & Gravel Co. The Executive Secretary also explained the bidding contract procedure requiring the obtaining of performance bonds.

Housing Rehabilitation Grant Funds

The Board of Selectmen approved a letter, to be sent to townspeople who have expressed interest in receiving housing rehabilitation grant funds, informing them that the Town of Sudbury's grant application was denied due to limited Federal funds and other factors not in the Town's favor.

Liaison Communication

The Board reviewed and approved a letter dated April 30, 1979, to be sent to all departments, boards, commissions and committees regarding better liaison communication, and further joint meetings with the Selectmen.

Historical Commission Vacancy

The Board considered the following two candidates to be interviewed for possible appointment to the Historical Commission: Royce C. Kahler and Rev. Goddard, and directed the Executive Secretary to schedule interviews for them.

Selectman Hotch requested an up-to-date list of all the present vacancies on all Town departments, boards, commissions and committees so that the most appropriate appointments can be made.

The Board tabled further consideration of candidates for interviews for appointment to the Historical Commission until the Executive Secretary provides the requested listing.

Town Observance for Deceased Veterans

The Board acknowledged receipt of a communication dated April 15, 1979, from Forrest D. Bradshaw relative to observance by the Town of deceased veterans, and requested the Executive Secretary to send a copy of the Selectmen's Policies and Procedures which explains the manner of lowering the flag and other Town observances for deceased Town officials and employees.

Executive Secretary Richard E. Thompson commented that only under the Selectmen's Policies and Procedures is the lowering of flags addressed, and suggested that he request the "Code of the Flag" from the Federal government. The Board concurred.

Executive Session

At 8:55 P.M. it was on motion following a unanimous Roll Call

VOTED: To enter into Executive Session for the purpose of discussing litigation where open discussion of the same may have a detrimental effect; and for the purpose of discussing Collective Bargaining.

(Roll call vote: Chairman Murray in favor; Selectmen Hotch in favor; Selectman Cossart in favor.)

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

There being no further business to come before the Board, the meeting was adjourned at 9:35 p.m.

Attest:

Richard E. Thompson
Executive Secretary-Clerk