

IN BOARD OF SELECTMEN  
WEDNESDAY, DECEMBER 9, 1981

Present: Chairman Anne W. Donald, William J. Cossart and John E. Murray.

The statutory requirements as to notice having been fulfilled, the meeting was called to order at 7:00 p.m. by Chairman Anne W. Donald.

Joint Meeting with Board of Assessors

Present: Chairman Donald P. Peirce, William R. Duckett and Elizabeth M. McClure, Board of Assessors; various Town officials; and approximately 100 residents.

Chairman Donald opened a joint public meeting with the Board of Assessors to discuss various aspects of the Assessing Department - abatements, Appellate Tax Board cases, demands of the Overlay Account, and the adequacy of their budget, staffing and office space.

Chairman Donald referenced the agenda for tonight's meeting, stating that time may not permit the completion of the same, since she intended to adjourn the meeting by 10:00 p.m., and indicated that another meeting may be scheduled, if necessary.

Chairman Donald explained that the Board intended to allow time for written questions from the public, to be submitted through the Executive Secretary. This will avoid repetition, therefore, allowing discussion to move right along. Chairman Donald further explained that only questions written and including name and address would be recorded, and that no questions would be answered pertaining to personal financial affairs of the Assessors unless they are a matter of public record or the Assessor(s) wishes to respond.

Abatements

Chairman of the Board of Assessors, Donald P. Peirce, explained the requirements for receiving the various kinds of abatements (statutory property tax exemptions), as follows:

- Clause 17: certain surviving spouses, minor whose parent is deceased, or persons over age 70, whose whole estate does not exceed \$20,000.
- Clause 18: any portion of the estates of persons who by reason of age, infirmity, and poverty are, in the judgment of the assessors, unable to contribute fully toward the public charges.
- Clause 22: certain disabled veterans - purple heart, Spanish-American War, Philippine Insurrection, or Chinese Relief Expedition, spouses of disabled veterans, parents of soldiers killed in action, surviving spouses of WWI veterans.
- Clause 22a-e: other special classes of disabled veterans.
- Clause 37: legally blind person.

- Clause 41: persons age 70 or over, meeting income and residence requirements.
- Clause 41a: deferral of all or any portion of taxes, persons age 65 or over, meeting income requirements.
- Clause 42: a surviving spouse of a police officer or firefighter killed in line of duty.
- Clause 43: minor children of police officer or firefighter killed in line of duty.

Mr. Peirce stated that all exemptions are filed under the penalties of perjury. Any properly filed application requires an examination by the Assessors and a determination on that application by a majority of Assessors for a favorable decision. There are three ways the Assessors can treat an application:

- 1) The Assessors can examine it and deny it;
- 2) The Assessors can examine it and accept it; and
- 3) The Assessors can deny it by taking no action on it whatsoever.

Mr. Peirce added that as long as he has been an Assessor, the Board has never denied by inaction any application that has been properly and timely filed.

Selectman Murray asked what the obligation of the Assessors was to keep any or all of this information under all the above-mentioned clauses from the public.

Mr. Peirce responded that it is the policy of the present Board of Assessors to handle all applications with confidentiality and all information regarding the same within the privacy of their office. Town Counsel Paul L. Kenny stated that those applications filed for exemption of real estate taxes are for the most part private information.

Selectman Murray asked Mr. Peirce how many applications for abateements had been received over the past couple of years.

Mr. Peirce gave the following run-down: going back to the last revaluation in 1970, the number of real estate tax abatement applications filed then was 440; 134 in 1971; 155 in 1972; 239 in 1973-74; 80 in 1975; 65 in 1976; 84 in 1977; 71 in 1978; 52 in 1979; 29 in 1980; and 514 in 1981, the year of the revaluation.

Selectman Murray asked if the percentages in 1970 versus 1981, the two revaluation years, were compatible. Mr. Peirce stated that in 1970, there were 4,521 parcels of land in Town and 400 applications filed; in 1981, 5,047 parcels and 514 applications filed, concluding that the two revaluation years were pretty much the same.

Selectman Cossart expressed his disagreement, stating that, looking at the differences, the abatement applications were twice as much in 1981 since the amount of parcels between 1970 and 1981 were up 10% and the number of filings were up 20% during that period. On the same subject and responding to Selectman

Murray, Mr. Peirce stated that out of the 400 applications filed in 1971, 373 were granted, totaling \$88,905.42. The tax rate was \$37 on a thousand dollars. From the Fiscal Year 1981 filings, 327 were granted out of 514, totaling \$142,728.80. (These do not include personal property.)

Mrs. McClure and Mr. Duckett further pointed out that in 1970, 8.8% of the parcels had applications made; whereas, in 1981, 10% of the parcels had applications made.

Questions, Answers and Discussion

Chairman Donald entertained questions, responses and comments as follows:

Question 1 - from Anita Lewtas, 15 Juniper Road.

"Is it not a conflict of interest for a member of the Board of Assessors to apply for an abatement?" Town Counsel responded that it was not.

Selectman Cossart stated that there is a very serious question of propriety, expressing personal feelings that, if an Assessor is in a situation where he must file for or receive an abatement, the Assessor should judiciously consider resigning from the Board. Responding to Mr. Peirce, who asked if Selectman Cossart felt it was just as important where other Town officials were concerned, Selectman Cossart made the comparison that it would be more serious for a police officer to accumulate traffic tickets than it would be for another individual. Mr. Peirce added that any individual who is a member of the Board of Assessors, who had an issue with that Board, would not sit in on consideration of his own application - that would be a conflict of interest.

Question 2 - from A. Anderson, 69 Ames Road.

"Based on reading Clause 18, to qualify for an abatement under that clause, would it not have to be granted ONLY upon a finding of age, infirmity AND poverty, and that one could not be granted if all three elements were not met."

Mr. Peirce stated that any one of those conditions would be sufficient to meet the requirement of Clause 18.

Question 3 - from Frederick R. Garrity, 54 Pennymeadow Road.

"Regarding Clause #18 'age, infirmity and/or poverty' - What criteria are used to determine suitable poverty levels?"

Question 4 - from L. Abrams, Winsor Road.

"Could the Assessors define 'poverty' as applied in the abatement clause?"

Mr. Peirce responded to the two above questions by making the following statement: When he came onto the Board of Assessors about five years ago, there was no policy dealing with hardship except perhaps the knowledge of a person by one of the Assessors, the facts on the application, the interviewing of the applicant and the information obtained. In February, 1981, the Assessors' office contacted the Framingham Welfare Office and requested the figures

regarding the maximum allowable budget for a single person (plus children) and discussed the same with Col. Leahy, who was Veterans Agent at that time and on the Council on Aging. Col. Leahy considered \$5,000 to be a minimum amount for survival, for a single person with a mortgage of \$7,500, and \$1,800 added for each child. From numerous State offices the figure seemed to be approximately \$8,000 minimum, with \$1,200-1,400 added for each dependent child. Based on these figures, the Assessors then take into consideration the amount of money the individual has in the bank, existing mortgages, and other obligations of a binding nature and make a deliberation based on their best judgment. That policy is subject to change by any new Board of Assessors.

Question 5(-9) - from R. J. Flynn, 16 Brimstone Lane.

for Mrs. McClure - "What is your gross monthly income from all sources?"

Mrs. McClure refused to answer. (personal question)

Question 6

for Mr. Peirce and Mr. Duckett - "What were 1980 gross revenues of your business?" Mr. Peirce answered that he was a farmer and that he has filed under Chapter 61a for a number of years, which requires the submission of a financial statement and it has been filed every year. Referencing his tax delinquency Mr. Peirce stated that any citizen who is delinquent pays penalties, interest and demand charges, and the payment or request for those do not originate in the Assessor's office but in the Tax Collector's office. Mr. Peirce stated that he has always paid his taxes. As to his general income, he had about a \$67,000 loss in his business due to imported roses coming in from South America. Mr. Peirce further stated that he could have paid his taxes timely if he had discharged all but one of his employees, but they have been with him for 5-6 years and he felt he would rather pay the \$400-500 interest than discharge them.

Mr. Duckett did not reply regarding his gross income, but concurred with Mr. Peirce's comments regarding interest due on delinquent taxes, stating that delinquent taxes are considered a lien on the property - 14% interest is charged on any delinquent taxes; that he had made some substantial payments of the taxes in the past couple of weeks and that he will continue to do so until they are paid.

Question 7

for both Mr. Peirce and Mr. Duckett - "What is total 1981 assessed valuation of your business property in Sudbury?"

Question 8

for both Mr. Peirce and Mr. Duckett - "What is total 1981 assessed valuation of your residential property in Sudbury?"

Question 9

for Mr. Peirce and Mr. Duckett - "What were 1981 assessed taxes on each of 7 and 8 above?"

Mr. Duckett replied that his total tax bill increased by \$1,000; that 40% of his real estate is taxed at the residential rate and 60% is taxed at the commercial rate; and that for 1981 his assessed taxes were approximately \$5,400.

Mr. Peirce stated that his assessed taxes were \$104,000 in FY81 (tax rate was \$26.50), and that he did not know what the business taxes were.

Selectman Murray asked how the Assessors would arrive at the percentage rate of increase in valuation of property throughout the Town.

Mr. Peirce stated that the Assessors are obligated under law to value the market as of January 1 of each year. This is different than in the past. In 1970 the only time this had to be done was when the court ordered a revaluation based on the difference the property was assessed for and what the property sold for. Under the law, Sudbury revaluated to market under Chapter 797; that law also required that the Town be certified as being at market by the Commission (also includes classification). This certification went for two years. (first year, certification of residential value; second year, approval of residential value). The State gave the Town of Sudbury an opportunity to have a free service performed by the Commissioner, which was a statistical analysis of its sales for calendar year 1980 for the purpose of determining market values for FY82. The Assessors took advantage of that and asked the State to analyze statistically our sales for the purpose of approving an inflation factor for the Town, which resulted in being 12%.

As part of the Town's contract with McGee and Magane, a sales analysis was provided which showed the different architectural styles of houses in the Town which were off the market by an average 12%. That analysis took into consideration the architectural style of the house, the relationship of the house to the lot, the location within the Town, the age of the building.

Mr. Peirce went on to say that a different factor was used for different styles of property and different ages of properties, etc., based upon the sales of comparable properties in Town. That is called equalized factoring, and that program of equalized factoring had to be approved by the State in order for Sudbury to arrive at the total values for the purposes of setting the tax rate. It was approved; equalized factoring was used for FY82. It is the intention of the Assessors that that equated factoring will be allowed for FY83 in place of being ordered to conduct another revaluation, which is in the authority of the State Commission. The Assessors feel that, if Sudbury is within 10% of the market, using the State's criteria, they will not order us to reevaluate.

Question 10 - from Robert J. Bailey, 38 Blueberry Hill Lane.

"Mrs. McClure has refused to state income. Does the Assessors Board verify those income tax statements - the truth of applications - for her total income?"

Mr. Peirce stated that it is within the power of the Assessors' office to demand income tax forms, bank books, almost anything that they feel they need to make a judgment. By the same token, regarding Clause 18, there is no appeal to a higher court of the Assessors' decision.

Mr. Peirce went on to say that the application is filled out under the penalties of perjury and must be accepted by the Assessors as being a true and valid statement. Mr. Peirce stated that the Assessors had asked for specific information from Mrs. McClure which she provided.

Question 11 - from Frederick R. Garrity, 54 Pennymeadow Road.

"Mr. Peirce states, and Counsel agrees, that content of exemption applications are to be treated as confidential. What statute or regulation establishes this policy?"

Town Counsel Paul L. Kenny stated that he was speaking in terms of exemptions, not abatements, and certain personal information. As a general rule, most of the material contained on applications for abatement is public record. There may be certain circumstances or certain items that may be requested by the Board of Assessors that may be entitled to become confidential. Application for abatement for over-evaluation is not a confidential document - it is a public record. The subject concerning Mrs. McClure is not an abatement, it is an exemption.

Mr. Garrity stated that his question, then, relates to an exemption.

Mr. Kenny responded that the general public record law - Chapter 66, section 10 or Chapter 4, section 7 - explains that, and suggested that he call the office for confirmation of the section.

Referring to the agenda, Chairman Donald asked if there have been more cases than usual going to the Appellate Tax Board.

Mr. Peirce stated that, comparing years of revaluation, in 1971-72 there were 16 cases before the Appellate Tax Board and for FY81, there are a total of 84. The numbers, he said are deceiving, because a number of these filings involve the same individual who has a number of properties.

Chairman Donald asked what the status is of the Appellate Tax Board cases. Town Counsel responded that a number of the ones filed this year will come up before the end of the year, and that there are four or five pending from previous years.

Question 12 - from Mark Bloomberg, 8 Minebrook Road.

"How may a taxpayer best demonstrate the quality rating (as separate from quality points) is in error and should be lower than currently assessed?"

Mr. Peirce stated that under the law, Chapter 797, the market analysis determines the value of one's property and there were sufficient, comparable sales in residential property in Sudbury to use that system. Mr. Peirce explained that in the past a quality points system was used and those recordings are still on the record cards for each Sudbury property and kept for future reference and/or any court cases which come up.

Responding to Selectman Murray, Mr. Pierce stated that there were some judgments made by different appraisers from McGee and Magane within a neighborhood which resulted in some inequities, but those have been removed for FY82.

Selectman Murray asked how the Assessors can justify the 12% or higher factor if there have not been any sales in a particular neighborhood - no sales/false value.

Mr. Peirce explained that some locations have a higher site value than other locations and further explained how in two identical colonials the value can vary according to location and size of lot.

Mrs. McClure explained that she did an analysis for FY82 on 100 homes and further explained the formula for determining the value of varying older homes in Sudbury used by McGee and Magane. Responding to Selectman Murray, Mrs. McClure stated that the value for a home in a neighborhood with no sales is produced by taking the value of a similar house and a similar location.

Responding to Selectman Murray, regarding maintaining the full and fair market value, Mr. Peirce stated that for FY83 the Town has to certify at value and classify again and request approval from the State on the plan and the firm performing the work.

Mrs. McClure stated that the overall (average)percentage was up approximately 10% - some homes were slightly higher.

Selectman Murray commented that perhaps the Town Meeting appropriation was not sufficient to have a complete job performed by McGee & Magane and suggested that perhaps this is the time for the Town to think about hiring a full-time appraiser. Selectman Murray said that he is not suggesting that the Board of Assessors be eliminated, but that a permanent appraiser be added to the Assessors' office.

Mr. Peirce commented that the Finance Committee had cut the Assessors' funds for traveling, which was the fund used to reimburse the Assessors to travel around Town to do the appraisals.

Selectman Murray suggested that this matter be discussed at a later date with the Assessors.

Question 13 - from George Maravelias.

"What valuation procedures were used for commercial properties?"

Mr. Peirce stated that the valuation procedures for commercial property are different from procedures for residential property in that there are insufficient sales to use the market approach. Therefore, in cases where sales could be used, commercial properties were valued accordingly, but the income analysis would be the final analysis by State law.

Question 14 (-18) - from William P. Reed, 31 Candy Hill Lane.

#14 "If the principal duty of assessors is to equalize valuations, how can you justify the great discrepancies evident in this year's valuations as opposed to those professionally developed, supposedly, for last year?"

No answer/no comment received.

#15 "Regardless of how the law reads; how can you justify forgiving one tax obligation while making another a lien against the real estate?"

Mr. Peirce stated that there are a number of applications which require a lien; i.e. under Chapter 61A, 61, 61B, and some that do not.

#16 "When a Town Board loses its credibility, how can it expect to serve the community effectively?"

Mr. Peirce stated that there is always a question of credibility with all Town officials, boards.

#17 "How do you feel about expecting the property owners to pay their taxes on time when none of the assessors has paid his/(her) taxes in full?"

No comment received.

#18 "If you were not assessors, would you feel the taxpayers of Sudbury have been abused by the current assessing practices?"

Mr. Peirce stated that none of the assessors have questioned the value that was placed on their property by the revaluation firm.

Question 19 - from Alice Morrison, 18 Pheasant Avenue.

"Whose formula is being used: the State's, McGee & McGane's or Assessors' when you assess small lots at \$72,000 per acre and under an acre lots at \$48,000 per acre - etc. Please explain how and why this formula is used in that small, (even tiny) lots are so much more valuable than larger lots. Who decided that land value in Sudbury has increased 500% in 10 years?" (Mr. Thompson indicated that the proper figure was 300% not 500%.)

Mr. Peirce stated that the land value is based upon what people are willing to pay for land. There is an excess land value priced at approximately \$30,000 an acre within a parcel beyond the building lot price. The highest value of land in Town is approximately \$40,000 in an approved subdivision with forty foot roads and all utilities underground.

Question 20 - from T. Racicot, 423 Peakham Road.

"If you used the market evaluation method, how can you explain a property that was purchased in 1979 at market value of \$46,000 and evaluated 1981 at \$110,000". Read this way not to reflect individual case: "Were you using the market evaluation in 1979?"

Mr. Peirce stated that the market evaluation was not used in 1979. FY81 was based on sales of the 1979 calendar year. The question was further explained by Mr. Racicot - purchased property in 1979 and taxes in 1981 were better than 50%. Mr. Peirce stated that the sales price is not necessarily the market. There has to be a determination that it was a qualified sale based on approximately 9-10 categories/criteria of the State. The market is within 10% of comparable sales.



Questions 21 and 22 - from Russ MacLeod, 28 Victoria Road.

#21 "Do you think that people in the past, especially the elderly, have been forced to sell their property because they couldn't afford their taxes?"

Mr. Peirce stated that the Assessors have gone out of their way to inform the elderly the provisions under law that are applicable to them that would not force them to sell their property: i.e., 41A deferral explained specifically as it relates to age - a person under 65 (meeting income requirements of not more than \$20,000) can defer up to 50% of the full and fair cash value of their house and a lien is placed on the property; at some point in time, the Town recovers from the sale of the property those deferred taxes plus 8% interest.

#22 "Do not people who can't afford their taxes, usually have a lien on the property for eventual collection by the Town when the property is sold?"

Town Counsel responded in the affirmative. Mr. Thompson stated that that is the decision of the Tax Collector.

Question 23 - from I. Abrams, Winsor Road.

"What is the procedure normally followed, as to time and action, in case of non-payment of real estate taxes by a resident?"

Town Counsel responded that taxes not paid on time warrant a demand bill to be sent out; after that, a tax taking by the Tax Collector. Then a foreclosure proceeding is begun in the land court.

Chairman Donald asked, "Is there any noticeable trend in the funding or use of the overlay account?" (Mr. Thompson explained that the overlay is the amount of money the Board of Assessors set aside to pay for abatements and other things.)

Mr. Peirce commented as follows:

- the Assessors estimated anticipated exemptions;
- they estimate the number of errors that will be forthcoming regarding abatements going back on over-valuations of property;
- the law allows the Assessors to use a figure not in excess of 5% of the levy and it may be added to the levy;
- the Assessors can, in a year of revaluation, request from the State an amount in excess of the 5%, if necessary.

Mr. Peirce stated the following trend in dollar appropriated overlay amounts according to years: \$167,861 in 1970; \$152,172 in '71; \$98,861 in '72; \$135,629 in '73-73; \$73,904 in '75; \$200,570 in '76; \$124,734 in '77; \$127,837 in '78; \$242,034 in '79; \$395,345 in '80; \$401,396 in '81 and \$306,082 in '82.

Mr. Peirce continued to say that in the event that the amount of money abated or exempted exceeded the amount calculated in the overlay, then that amount is added to the levy the next year.

Mr. Peirce stated that the amounts remaining in the Overlay Account after abatements in corresponding years are as follows:

- 44% remaining in '80, 50% remaining in '79; and 24% remaining in '78.

Mr. Peirce further commented that the Town had a financial disclosure statement prepared by the Town Treasurer with the assistance of a consultant firm and the Town Accountant, and that financial status of the Town can be followed up through the Selectmen's or the Town Treasurer's office.

Chairman Donald stated that the Selectmen had asked the Assessors if there had been a significant change in the number and amount of over-due tax payments in recent years. Mr. Thompson referenced material he had circulated to the Board, at its request, showing comparisons of surrounding towns in regard to tax collection methods and property tax bills in arrears, and noted the following:

- it is a difficult comparison to make because all cities and towns are in a different state in meeting their 100% revaluation;
- arrears in Maynard is 100, \$1,000,000; and in Sudbury 208, \$677,000, (discrepancies due to large companies, such as Digital in Maynard).
- explained in detail Sudbury's pending appellate tax board cases.

Chairman Donald pointed out the collection rates as follows:

- in Wayland - 96-97%; in Lincoln 97%; in Stow, 95%; in Concord, 96%; in Acton, 96%; and in Sudbury, 97-98% (best collection rate).

Selectman Cossart asked what has been happening in the overlay reserve, noting the following - that in ten years, it went from \$168,000 to \$400,000; abatements went from \$100,000 to \$222,000; 208 parcels in arrears.

Mr. Peirce pointed out that these figures are in relation to the assessed value and does not equal more than 5%.

Selectman Cossart asked if the Assessors had given any consideration to the hiring of a professional appraiser. Mr. Peirce stated that the Assessors of Sudbury belong to two groups: 1) the Middlesex County Association of Assessing Offices; and 2) the Massachusetts Association of Assessing Offices. The law requires a minimum of three assessors, full or part-time not required. Mr. Peirce talked about what various cities and towns are doing, and expressed his opinion that with the good technology available to the Assessors, there does not appear to be a need for a full-time appraiser as long as there are people willing to serve as part-time assessors, and as long as the staff and tools are adequate. Mr. Peirce stated that it will cost the Town approximately \$28,000 - \$30,000 to hire a full-time appraiser right now and that is not a top man. Mr. Peirce commented that, if the Assessors' budget was cut \$1,000 for transportation, how can the Town justify this amount for a full-time appraiser. After comments by Selectman Murray, Chairman Donald expressed her feeling that with the mandatory State revaluation requirements, there appears to be much more work for the Assessors to do now, and, for this reason, agrees with both Selectmen Murray and

Cossart's comments in support of hiring a full-time appraiser, adding that, under Proposition 2 1/2, the payment of these services will have to come from an elimination of something in the budget and requires some serious discussion.

Questions 24 and 25 - from T. Racicot, 423 Peakham Road.

#24 "If Mrs. McClure was granted an exception under Clause #18 would she be willing to disclose whether that was for age, infirmity or poverty?"

Mrs. McClure stated it was evident that the reason was not for age or infirmity!

#25 "Also, in this clause it states 'unable to contribute fully toward the public charges', why if she was able to pay the charges in full and in fact did originally make payment, was this clause applicable?"

Mr. Peirce stated that the exemption was granted on the basis of information given to the Assessors.

#### Space

Chairman Donald asked if the Assessors had a specific need in regard to space. Mr. Peirce stated that he has been asking for space since 1977 and that there is a necessity for the Assessors' office to be located near the Town Clerk for the vault and the Tax Collector. He said that the space situation is not a problem to the Assessors working within the office but becomes difficult when people are coming in.

Mr. Thompson stated that it is a complicated procedure to move Town offices around and hopefully will be resolved in the near future.

Question 26 - from Martha Cubrilovic.

"How much is McGee and Magane being paid for annual updates on evaluation?"

Mr. Peirce stated that the Assessors had negotiated a two-year contract, approximately \$16,500 each year with adjustments for inflation.

There were some questions from the floor which were not written and therefore not recorded.

#### Staffing

Mr. Peirce explained some of the staffing commitments, as follows:

- inspect construction completion by January 1;
- inspect properties on which complaints regarding revaluation have been received;
- photographs are taken of all Chapter 61, 61A and 61B properties, as well as of every piece of property on which a building permit has been taken out involving exterior or new construction.

Mr. Peirce stated that it costs him twice what he is paid to be an assessor.

At the conclusion of discussion, Chairman Donald thanked everyone for attending.

There being no further business to come before the Board, the meeting was adjourned at 10:15 p.m.

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