

IN BOARD OF SELECTMEN  
THURSDAY, MARCH 12, 1981

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

Open Space Classification

Present: Chairman Donald P. Peirce, David G. Hubbard, Board of Assessors; Chairman John C. Cutting, Olga Reed, William Firth, Robert Dionisi, Planning Board; Chairman Joan C. Irish, H. Rebecca Ritchie, Richard O. Bell, Conservation Commission; Susan Hayden, David Portney, Chris Dunn, John C. Powers, William P. Reed, Brad Reed, R. R. Kurth, A. Alexander, Jean Mac Kenzie, Geraldine Morley, Frank Cutting, Robert A. Noyes, Pamela Goff and others.

Chairman Murray opened the meeting at 7:35 p.m. stating that it was called at the request of the Planning Board, Specifically Chairman John Cutting, for discussion among the Planning Board, Conservation Commission, Board of Assessors and the Board of Selectmen of open space assessment practices.

Planning Board Chairman John Cutting prefaced his remarks by stating that the purpose for the meeting was not to "throw bricks at the Assessors", but to express concern about the current method of assessment of undeveloped, unsubdivided open land which, in the opinion of the Planning Board, is and will hasten development. Mr. Cutting remarked that the resulting unnaturally rapid growth rate, which would be difficult to monitor and control, would also force expansion of Town services and produce a change in the character of the Town.

Mr. Cutting noted that the 1974 townwide Planning Board survey indicated that this open space and rural character of the Town is the predominant reason most people like the Town and that the tradition of Town Meeting support for open space acquisition by the Conservation Commission reinforces this indicator. He added that the Growth Policy Statement of 1976 lists preservation of open space as a goal; furthermore, the 1978 State Referendum Question 7, relative to special taxation for recreational and wild lands, was supported by 60% of the Sudbury voters.

Mr. Cutting reported that in discussion with the State Department of Revenue it was confirmed that the judgment to classify open land in residence zones as commercial property is purely a local option and one in which the Assessors can exercise "home rule". He stated that, while he realizes that no change can be made to the present classification until 1983, he would hope that the Assessors would consult the townspeople before making a judgment on open space classification at that time. To this end, he added, the Planning Board would be glad to work with the Assessors if they need more of an indication than has already been currently expressed by the townspeople.

Chairman Murray commented on the recent increase in activity in the Planning, Engineering and Conservation offices relative to proposed subdivisions and land offers.

Conservation Commission Chairman Joan Irish concurred with the Planning Board concerns expressed by Mr. Cutting.

Mr. Donald Peirce, Chairman of the Board of Assessors, stated that in the 425-430 applications filed for abatement consideration as a result of the revaluation, improper classification was not an issue in those hearings held to date. Mr. Peirce, explained the sequence of the classification and rate setting process, stressed that, in fact, the use of the "residential factor" was the cause of the increase in taxes on open space land classified as commercial and added that no change (classification) could occur until FY83 by law. He stated that at present 6094 acres are classified as residential; 4014 acres, commercial; 330 acres, industrial; 545 acres are under Ch. 61A; and 107 acres are under Ch.61; additionally, Sudbury has 2,668 acres of open land which are tax exempt, including areas owned by the federal and state governments and the Federation of Women's Clubs.

Mr. Peirce explained the differences in definitions in the statutes under which land could be classified in FY80 (Chapter 580 of the Acts of 1978) and under the present Chapter 797 of the Acts of 1979 and noted that the distinctions involved were factors used by the Assessors in judging how open space of certain acreage should be classified, or whether an Open Space classification should be used at all. Other determinants which entered into the decision concerned production or appreciation of income, the number of tax exempt acres in the Town, agricultural use of land, conservation restrictions and acreage in the Flood Plain Zone; these and other factors led the Assessors to limit the classification of land for residential use to land supporting a house and to consider the remainder as commercial if it meets certain criteria. Mr. Peirce stated that, in his opinion, the law adequately protects people engaged in agriculture and that the Assessors do acquaint the public with options available to them.

Selectman Donald commented that she did not think that the Assessors' decision relative to the classification of open land was improper, just "undesirable".

After discussion relative to criteria used to classify such acreage, including the subject of public access, Mr. Peirce reiterated that it was the residential factor which created the different tax rates. He stated that the Assessors would be making their decision relative to classification between July 1982 and June 1983 and would certainly be interested in, although not bound by, a majority opinion of the community.

After further discussion relative to the method of obtaining this input, it was decided that the Planning Board and Board of Assessors would work together to develop wording for a non-binding referendum question to solicit citizen input.

Mr. Peirce reiterated that the Board had heard few, if any, complaints from landowners relative to the classification of open land.

Mr. Brad Reed expressed his opinion that, while his land was not involved, he disagrees with the Assessor's judgment because open land does not cost the Town for services, but development of such land does.

Executive Secretary Richard E. Thompson added that under Proposition 2 1/2 additional future development cannot effect an increase in our levy limit;

therefore, we would be in the position, if such land were to be developed, of providing more services without being able to use the corresponding increased revenue factor.

Conservation Commissioner Richard Bell reported on a letter received from Jane Malme, Chief, Bureau of Local Assessment, Department of Revenue, which stated that the Assessors had acted consistent with the law, but that Sudbury was the only town in Massachusetts acting in this manner. He added that many towns use the open space classification for residential acreage over five acres.

Mrs. Pamela Goff added that in her contact with the Department of Revenue, the question was asked as to whether the land involved was held by developers, and when told that it was not in all cases, the Department spokesman commented that the practice was "unusual".

Mr. Peirce pointed out that he would be interested to know how many towns under Ch. 797 have Department of Revenue approved plans and of these towns how many are actually comparable to Sudbury.

Selectman Cossart asked if it was possible to determine what would have happened if an Open Space classification had been factored in the current tax rate.

Mr. Peirce replied that he did not have those figures available tonight, but that they could be obtained.

Mr. Peirce stated that although there would not have to be public access to land so classified, the Assessors would have to determine if the public would derive significant benefit. He added that it is the Assessors' feeling that there is public access to significant acreage already in Sudbury and that the Board may in the future also explore means of taxation of current tax-exempt properties.

The Board of Selectmen, in response to Mr. Peirce's question, agreed that given the same set of circumstances, they would use the residential factor in FY83. The decision to do so in FY81 was to reduce the impact on the residential owner in relation to commercial and industrial owners whose properties have traditionally been assessed closer to 100% and whose properties do not appreciate as rapidly.

In closing summation, Chairman Murray stated that it appears there is agreement between the Planning Board and Assessors to work together to establish the wording of a non-binding referendum question to determine public opinion on the classification of vacant land.

#### Energy Conservation Measures Funding Application

After discussion and at the request of the Permanent Building Committee, it was on motion

VOTED: To authorize the Executive Secretary to file an application for Energy Conservation Measures with the Massachusetts Office of Energy Resources, and to sign and execute all contracts and documents related thereto.

There being no further business the meeting was adjourned at 8:45 p.m.

Attest: \_\_\_\_\_

Richard E. Thompson  
Executive Secretary-Clerk