

IN BOARD OF SELECTMEN
MONDAY, MARCH 1, 1982

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 by Chairman Anne W. Donald at 7:30 p.m.

Cable Television

Present: Chairman Roger A. Bump, Joseph D. Bausk, P. Jeremy Smith, William H. Eburn, Jr., Dr. Margaret Anne Ward, Kenneth E. Brown and Anthony Kreisel, Cable Advisory Committee; David Tarantino, Executive Director and Ronnie McMorris, Esq., both of Massachusetts Cable Television Commission.

Chairman Donald convened a meeting with members of the Cable Advisory Committee (CAC) and members of the Massachusetts Cable Television Commission (MCTC).

Chairman of the CAC, Roger A. Bump, commented that their meetings to date have been very informative, that they have received input from two cable television companies, and that their meetings are open to anyone who would like to attend and/or contribute. Mr. Bump referenced the minutes of their February 15, 1982, meeting, which the Selectmen had received a copy of.

Ms. Ronnie McMorris, Esq., of MCTC stated that the MCTC is a fairly new State agency - it has been in existence for about ten years and employs eight people. One of its functions is to become involved with communities in all aspects of the cable television licensing process in an advisory capacity concerning rate regulation, the Commission is now becoming less involved in this area; Sudbury will be subject to deregulation due to its geographic location. It also works to resolve consumer complaints and assist in community programming.

Selectman Murray asked for an explanation regarding advantages and disadvantages of deregulating rates.

Ms. McMorris stated that the MCTC has set up a competitive standard, in terms of where there is adequate competition via broadcast television, and in those areas felt there was no need to regulate rates to the customer for the basic service. Ms. McMorris stated that there does not appear to be any difference in the rate structure in communities which are regulated and those which are not.

Selectman Murray commented that, in terms of cable television companies regaining dollars expended on installation and associated costs, consumer rates would soar over the years unless regulated, since once they have the franchise they are a monopoly. Ms. McMorris stated that the customer always has the option to discontinue their service and the Commission would always have the option to resume regulating rates.

Selectman Cossart asked if the Commission had information available to help communities assess the financial stability of any company that may be applying to bring cable television into the community.

Ms. McMorris stated that the company should be supplying sufficient information on their application forms. Executive Director, David Tarantino added that the Commission would be available as a resource in terms of reviewing applications with Sudbury if there are any questions regarding finances.

Mr. William H. Eburn, Jr., of the CAC asked if the Commission regulated basic service in all instances and questioned the need of competitive bidding in that case; he stated it was his understanding that the individual communities regulated them, and that those communities received a percentage of those revenues.

Ms. McMorris stated that initially a town would determine the rate and ask for service at that rate; however, the regulation of those rates over the term of the license is done at the State level. Usually that rate determined by the Town would be retained for the first year of operation under the initial contract. The Commission has the responsibility of reviewing/reassessing cable systems on a yearly basis and can deregulate that system on the basis of competition from broadcast television. Explaining further, Ms. McMorris stated that Sudbury is within the network of ABC, NBC and CBS broadcasting and as long as subscriber penetration stays below 70% the town would be deregulated.

Mr. Tarantino further explained that only the basic rate is regulated by the State (by State statute), defining basic rate as the normal off-the-air television signals received, as well as some cable channels and service, such as satellite service. Mr. Tarantino stated that the initial basic rate established with the initial franchise in reality would be unenforceable by the Commission, but he also stated that he has never known a company that would not live up to their contract for whatever number of years they had agreed to hold the basic rate.

Mr. Tarantino went on to explain that the bulk of the revenue does not come from that basic rate but rather from the paid packages. Mr. Tarantino stated that the State is regulating only the lowest rate of service - the basic rate. In Boston, for example, the basic rate is \$2, but the average subscriber pays about \$30 on cable television.

Mr. Tarantino expanded on the reason why the Commission chose to deregulate, stating that in areas which have HBO, Starcase, Preview, etc. - significant competitive alternative television - cable television stands on its own merit. Mr. Tarantino agreed with Ms. McMorris that the Commission has the power to step back in and regulate rates, and, if in the future, there is no competitive alternative television because cable television companies may have services that are somewhat monopolistic (i.e., sports), at that point the State would have to reimpose regulations. Mr. Tarantino expressed his opinion that what keeps rates down now is the fact that franchising is going on and there is also that marketing strategy to lower the basic rate to get cable into homes and then sell the paid packages which increases penetration and revenues. Additionally, cable companies are not about to increase their rates and force the State back in to the regulatory business!

Responding to a question by a CAC member, Mr. Tarantino stated that the community contract with the supplier for the paid packages are not on a contractual basis but under the jurisdiction of the Federal Communications Control (FCC).

Responding to Selectman Murray, Ms. McMorris stated that in a system that is deregulated, the rate can fluctuate monthly.

Mr. Kreisel of the CAC made a conjecture about the future by stating, and briefly explaining, that there are technological viable alternatives which are coming along all the time; i.e., direct broadcast satellite systems, and telephone company systems, which add to the competitiveness of broadcast systems.

Mr. Kenneth Brown of the CAC commented that the initial license is a fifteen year (maximum) license.

Selectman Murray commented that he believes, after talking to some of his colleagues that a big problem is the fulfillment of the cable television company's commitment to the town in terms of finances.

Ms. McMorris stated her feeling that this was not a serious problem; but in terms of planning, stated that you would have to be as realistic as possible, and recommended consulting with other towns using the same service, before selecting a company. One factor that comes into it would be whether or not you have a regional service or remain autonomous.

It was explained that using a common head end and antenna (with a neighboring community) does not cause towns to become regional; it can ask for autonomy in community programing.

Chairman Donald mentioned that the Sudbury School Committee had appointed a liaison to the CAC, John Sirota, who was present this evening. Mr. Thompson stated that the Regional School Committee had indicated an interest in doing the same.

Dr. Ward of the CAC asked about community programing.

Ms. McMorris had stated earlier that the Commission has a fulltime commissioner working in community programing and publishes a quarterly newsletter on that subject. Dr. Ward indicated, on behalf of the CAC, that she would like to be on the mailing list. Responding to Dr. Ward, Ms. McMorris indicated that community programing, under the F.C.C. had been set up with four divisions - educational, government, access and municipality, and briefly explained how the program works.

Responding to Mr. Kreisel, Ms. McMorris stated that towns receive fifty cents on each subscriber, and the State receives eighty cents per subscriber by State statute.

Responding to Mr. Bump, Selectman Cossart stated, and Ms. McMorris confirmed, that it is not mandatory for a city/town to accept any of the applications. Mr. Tarantino added that the only issuing authority is the local authority - and in Sudbury it is the Selectmen.

At the conclusion of discussion, Chairman Donald thanked everyone for their attendance this evening.

Introduction: Jack Goggin, Boston Edison

Present: Jack Goggin, District Manager, Community Relations, Boston Edison.

Mr. Goggin introduced himself, as newly appointed District Manager in Community Relations for Boston Edison and stated that he would be willing to answer any questions. Mr. Goggin briefly talked about the new rate case filed for a \$98.3 million dollar increase by Boston Edison because of inflation and the cancellation of Pilgrim 2 - Pilgrim 2 was canceled because of increasing interest costs, the delay surrounding licensing and the uncertainty of future regulations - stressing the importance of Boston Edison receiving that increase since it needs one billion dollars over the next ten years to keep the system running.

Utility Petitions

Present: Carole Clinton, Boston Edison.

In conformity with General Laws, Chapter 166, sections 21 and 22, the Board considered the following Utility Petitions:

a. UP82-3, Prides Crossing Road

Present: Victor J. Guethlen, 177 Prides Crossing Road.

- The joint Utility Petition of New England Telephone and Telegraph Company and Boston Edison Company, for permission to erect or construct, and a location for, poles, and such other fixtures including anchors and guys as may be necessary to sustain or protect the wires of the line, to be used in common by them, upon, along and across the following public way of the Town:

Prides Crossing Road, northerly side from a point approximately 320 feet east of the Sudbury-Marlborough Town line, Two (2) poles, guy wire and anchor on the first pole.

Ms. Clinton of Boston Edison stated that this petition is to extend the pole lines to homes on Prides Crossing Road - two poles to be located on the street and one on private property.

Abutter Victor J. Guethlen of 177 Prides Crossing Road questioned the need for additional poles and stated that he was serviced by Massachusetts Electric. Ms. Clinton stated that two homes in Sudbury on the Marlborough line now serviced by Massachusetts Electric will be picked up by Boston Edison upon approval of this petition. Since these homes are in Sudbury, Ms. Clinton stated, Massachusetts Electric no longer wishes to service these homes; another reason being that there are new homes under construction in the area. Additionally, Ms. Clinton stated that, once these poles are set, Massachusetts Electric will remove their poles. Ms. Clinton explained the location of the poles on the plan.

At the conclusion of discussion it was on motion by Selectman Murray unanimously

VOTED: To approve Utility Petition 82-3, as described above and as shown on a plan entitled, "Plan of Private Property and Prides Crossing Rd., Sudbury, Showing proposed pole locations, guy wire & anchor", dated January 5, 1982.

b. UP82-4, Haynes Road

Present: Karl D. Loos, II, 177 Haynes Road.

- The petition of Boston Edison Company for permission to lay and maintain, and a location for, such a line of conduits and manholes with the necessary wires and cables therein, under the following public way of the Town:

Haynes Road, approximately 1,290 feet south of North Road, a distance of about 10 feet - Conduit.

Ms. Clinton explained that this petition was submitted to facilitate Town installation of school flashing signals.

Abutter Karl D. Loos questioned the location of the proposed pedestal pole (with blinking lights) in relation to his property at 177 Haynes Road. Ms. Clinton showed him on the plan. Mr. Loos voiced no objection.

It was on motion by Selectman Murray unanimously

VOTED: To approve Utility Petition 82-4, as described above and as shown on a plan entitled, "Plan of Haynes Rd., Sudbury, Showing Proposed Conduit Location", dated February 9, 1982.

Mr. Thompson stated for the record that all appropriate Town officials and abutters had been notified and that a joint favorable report had been received from the Wiring and Building Inspectors, dated February 25, 1982, pertaining to both of the above petitions.

Ms. Clinton stated that no further petition would be forthcoming, but that they were waiting for payment from Signal Systems before commencing work on the School Signal project.

Tax Anticipation Notes

Present: Chester Hamilton, Town Treasurer.

It was on motion unanimously

VOTED: To sign Tax Anticipation Notes in the amount of One Million Dollars, effective March 10, 1982, and due May 12, 1982, as requested by the Town Treasurer in a communication, dated February 25, 1982, as follows:

| | | |
|-------------------------------------|-------|------|
| New England Merchants National Bank | 7.10% | 200M |
| Bay Bank Middlesex | 7.17% | 250M |
| Boston Safe Deposit & Trust Co. | 7.26% | 200M |
| Bay Bank Middlesex | 7.27% | 250M |
| Shawmut Community Bank, N.A. | 7.30% | 100M |

Responding to the Executive Secretary, Mr. Hamilton stated that these are the lowest percentages which have come through in a long time; they are two percentage points below the Town's borrowing last fall.

Change in Manager - Wayside Package Store, Inc.

Present: Thomas L. McManus, Sr.

Executive Secretary Richard E. Thompson noted receipt of all the necessary documentation, i.e. birth record, probation report, petition for change of manager, directors' consent, certified vote, in conjunction with the change of manager request for the Wayside Package Store, Inc.

It was on motion by Selectman Cossart unanimously

VOTED: To approve the change in manager request dated February 14, 1981, and renewed February 3, 1982, designating Thomas L. McManus, Sr., Manager of the Wayside Package Store, Inc.

Responding to Selectman Murray, Mr. McManus stated that Mr. John Turner of Sudbury manages the store but that he is personally responsible/in control at all times. Town Counsel Paul L. Kenny confirmed that it was not necessary for Mr. McManus, as official manager, to be on the premises.

Budget Information - Minuteman School District

The Board noted receipt of a communication dated February 24, 1982, from Ron Fitzgerald, Superintendent-Director, Minuteman Regional Vocational Technical School District, providing budget information for the upcoming fiscal year.

Executive Secretary Richard E. Thompson stated that the Finance Committee will be reviewing its position on the Minuteman budget prior to Town Meeting.

Fidelity Bonds

It was on motion by Selectman Cossart unanimously

VOTED: To authorize the Chairman of the Board to sign fidelity bonds for 1982, as follows:

- a. No. S040430 for the Town Treasurer in the amount of \$130,000;
- b. No. S586834 for the Collector of Taxes in the amount of \$130,000;
- c. No. S722023 for the Town Clerk in the amount of \$5,000; and
- d. No. S766459 for the Assistant Town Treasurer in the amount of \$32,500.

Responding to Chairman Donald, the Executive Secretary stated that the policy amounts are set by the State, and that he would try and find out why only the Collector of Taxes increased over last year.

MBTA Advisory Board Dues

It was on motion by Selectman Cossart

VOTED: To authorize payment after July 1, 1982, of MBTA Advisory Board dues for calendar 1982 in the amount of \$199, from Account #501-21.

(Chairman Donald, in favor; Selectman Cossart, in favor; Selectman Murray, abstained.)

Warrant - 82ATM

It was on motion unanimously

VOTED: To sign the Warrant for the 1982 Annual Town Meeting.

Site Plan 82-241, 474 Boston Post Road

Present: Stephen P. Steinberg, Trustee, M&S Sudbury Realty Trust; Edward L. Morrill, Manager, The Colonial Spirits; Richard Skarinka, Schofield Bros., Inc., Engineer; Building Inspector Joseph E. Scammon.

The Board continued consideration of site plan application 82-241 of M&S Sudbury Realty Trust, Stephen P. Steinberg, Trustee, for property located at 474 Boston Post Road, Business District #5, received in the office of the Building Inspector on January 12, 1982, and which expires on February 27, 1982. This site plan was taken under advisement on February 8 until February 22 for the purpose of further review of the amended plan by the Town Engineer, the Building Inspector/Zoning Enforcement Agent, and the Fire Chief and their subsequent reports to the Board. The meeting of February 22 had been further postponed by mutual consent to tonight.

Executive Secretary Richard E. Thompson stated that the following reports, which he stated the applicant was aware of, had been received:

- from the Fire Chief, dated February 19, 1982, stating no objection to the amended plan and supporting a vote for acceptance of the site plan;
- from the Building Inspector, dated February 22, 1982, with recommendations regarding parking revisions and regulations in conjunction with the revised plan; and
- from the Town Engineer, dated February 22, 1982, listing several concerns/problems regarding the parking layout and engineering design on the revised plan.

The Building Inspector was present and showed the revised plan entitled, "Site Plan of Land in Sudbury, Massachusetts", dated November 9, 1981, revised February 10, 1982, showing a total of 36 parking spaces (a reduction of 6 from the previous plan) and other improvements.

Mr. Thompson stated that the Town Engineer had suggested to the applicant that he withdraw and submit a new plan showing modifications in accordance with the Town Engineer's February 22 report, but that it was the desire of the applicant to proceed with the site plan process. The site plan was revised as noted above.

It was noted that the Town Engineer recommended that the petitioner either reduce the size of the building, thereby reducing the parking requirements, and submit a new plan, or request a waiver from the parking requirements (provided the petitioner can show evidence that the reduced parking - 24 spaces - will be adequate for the intended business use) and submit a new site plan addressing problem areas listed in his above-mentioned report.

The Building Inspector explained and showed on the plan his suggested revisions to the parking, which included adjusting parking space #19 so that it would be parallel to the westerly lot line and moving spaces #20 and 21 in line with space #19 along the westerly lot line (each space would be 25', for a total of 75'). The relocation of spaces #20 and 21 would increase the width of the turning aisle from 18' to 27' and be more in line with the loading dock. It would also facilitate the movement of trucks backing into the dock and allow a greater radius of turn for other vehicles exiting the lot. Additionally, this change and the six decreased spaces would allow for some landscaping. The Selectmen expressed agreement with the Building Inspector's suggestions.

Responding to Chairman Donald, the Building Inspector stated the number of parking spaces total 36, the required number under the mixed-use provision, Section V, B, (last paragraph), for 6,180 square feet of retail space plus storage and four employees. (The parking spaces on the revised plan have been renumbered.) The Building Inspector stated he had no problem with the intended use. It was noted that the Town Engineer's report mentioned several more revisions for the parking area than the Building Inspector's report.

Reference was made, and there was some discussion, to the Town Engineer's above-noted report indicating the entrance grade in the parking area at Route 20 between 8-10% upward (under current Planning Board rules and regulations, 6% is the maximum grade for roadways with a leveling area of no greater than 2% at intersections); a grade of 15% downward in the location of parking spaces #33, 34, 35 and 36; and a grade of over 16% downward in the aisle around space #20 toward abutting property to the west.

There was a brief discussion regarding the water table. Selectman Cossart commented that he did not feel a spring calculation would show any reduction in the water table. If the water table were lower (for example, reduced to 142 from 143, so marked on the plan and referred to), there would be the possibility of reducing the grade.

There was some discussion regarding the use of a retaining wall on the easterly lot line to alleviate some of the slope problem, and there appeared to be a consensus that, if a retaining wall were built, it should only run about half the distance of the lot line to allow maneuverability on the abutter's property.

Relative to a reduction in spaces to 24, the number of spaces the applicant indicated would be sufficient for his intended use of the property, Town Counsel stated that this would require Board of Appeals action. If a variance is applied for, it would have to be on the basis of a hardship; the water table on this particular lot could be considered a hardship.

At the conclusion of discussion, and following comments by Selectman Cossart to the effect that he personally favored the proposed improvement to Route 20 but, at the same time, felt that the proposed site plan was unacceptable for the various reasons discussed tonight, Selectman Cossart made a motion to disapprove the site plan. The motion was defeated.

Following further discussion, and agreement by the applicant, it was on motion unanimously

VOTED: To extend the expiration date, and schedule consideration on April 26, 1982, of site plan #82-241 of M&S Sudbury Realty Trust, for property located at 474 Boston Post Road, Business District #5, for the purpose of allowing the applicant more time to work on/resolve the problem areas discussed tonight - to recalculate the water table, investigate the suggestions discussed this evening to correct the slope of the parking area and determine the best possible solution to the parking problems in conjunction with the Town Engineer's and Building Inspector's reports, both dated February 22, 1982; any revisions to the revised site plan submitted this evening should be given for further consideration/comments to the Planning Board, the Conservation Commission, the Board of Health, the Building Inspector, the Town Engineer and the Fire Chief.

South Annex Building

Executive Secretary Richard E. Thompson stated that the bid opening for offers to purchase the South Annex building took place at the Loring Parsonage at 3:00 p.m., March 2, 1982, and that eight bids had been received. Mr. Thompson commented that there is no obligation to award the bid to the highest bidder.

Following discussion and on the advice of Town Counsel, it was on motion by Selectman Cossart unanimously

VOTED: To acknowledge receipt of the eight bids submitted for the purchase of the South Annex building, as follows:

- Theodora and Joseph Koziol, \$10,000;
- Mark S. and Diane C. Greenbaum, \$15,000;
- Michael J. Quinn, \$28,001;
- Brooks A. and Patricia M. Mostue, \$31,100;
- C. John and Dianne E. Bernas, \$31,516;
- Robert D. and Rose M. McCart, \$45,100;
- Thomas F. Jenkins, \$51,050; and
- Richard A. and Sara P. Mayo, \$60,000.

And it was further

VOTED: To take the matter under advisement until March 8, 1982, at 3:00 p.m., at which time the Selectmen will meet at the Loring Parsonage to discuss the proposals on an individual basis.

Town Counsel Paul L. Kenny stated that the Selectmen have twenty-one days to make a final decision as to which of the bid or bids they will recommend to Town Meeting. Regarding the interpretation of item 12 of the Conditions of Sale, Town Counsel expressed his opinion that it was probably supposed to indicate that the bid was to be awarded within 30 days, subject to Town Meeting approval, and that checks (initial deposit required with submitted bids) were to be returned within twenty-one days thereafter; since it reads that bids are good for thirty days and checks are to be returned within twenty-one, a twenty-one day decision period should be adhered to.

Appointment - Acting Town Accountant

It was on motion by Selectman Cossart unanimously

VOTED: To appoint Dorothy H. Roberts, as Acting Town Accountant, in the absence of Acting Town Accountant Richard E. Thompson, from March 2, until his return on March 5, 1982.

Minutes

It was on motion unanimously

VOTED: To approve the Regular Session of February 16 and the Town Fathers Forum of February 22, both as amended, and the Executive Session of February 16, the Special Meeting of February 17, and the Regular and Executive Sessions of February 22, all as drafted.

Current Items of Interest

Sperry-Univac Data Processing Proposal

Responding to Selectman Cossart, Mr. Thompson informed the Board that Sperry-Univac had provided the Town with a proposal for a data processing system - Sperry-Univac System 80 - which includes word processing. Mr. Thompson stated that the complete proposal is available in the Selectmen's office, and it was agreed that it would be circulated among the Selectmen.

Local Safety

The Board approved for mailing a response, dated February 25, 1982, to Mr. Robert M. Flora regarding policing of drinking and driving violations.

Police Matters

The Board noted receipt of a communication, dated February 26, 1982, from the Chief of Police regarding possible reserve fund transfers and directed the Executive Secretary to schedule the subject for the March 15 (or 16th) agenda.

Relative to the Police Chief's communication of February 26, 1982, concerning Sick Leave Buy Back, Mr. Thompson stated that the Finance Committee would be alerted, and that an amendment to the Chief's budget may be required.

Communication from John C. Powers

The Board noted receipt of a communication from John C. Powers, dated February 2, 1982, on the subject of gypsy moths, specifically responding to the Board's November 17, 1981 response to an earlier letter from Mr. Powers.

Mr. Thompson informed the Board that he is investigating the concerns raised by Mr. Powers.

Donations

It was on motion unanimously

VOTED: To accept, on behalf of the Town, the following donations:

- to the Edwin Barrett Hosmer Fund from John C. Powers in the amount of \$200; and
- for the Council on Aging van totalling \$51.20.

Department of Interior - Payment in Lieu of Taxes

It was on motion unanimously

VOTED: To accept \$8,997 received from the United States Department of the Interior Fish and Wildlife Service, under Public Law 88-523, Payment in Lieu of Taxes, representing a percentage of the adjusted current value of the Great Meadows National Wildlife Refuge lands in Sudbury; such funds to be expended for the benefit of public schools and roads, in accordance with 16 U.S.C. 715s.

Offsets to 82-83 Budget

It was on motion unanimously

VOTED: To approve the use of the above-mentioned Funds as offsets to the 1982-83 Fiscal Year Budget, as follows:

- to Account 110 Sudbury Schools \$4,499; and
- to Account 400 Highway 4,498.

Lincoln-Sudbury West

The Board noted receipt of a communication, dated February 26, 1982, from the Chairman of the Lincoln-Sudbury Regional School District Committee, Dante Germanotta, and following discussion, the Executive Secretary was directed to send a reply to Mr. Germanotta indicating that the Selectmen have not changed their way of thinking in terms of Lincoln-Sudbury West relocating to the Flynn Building for the reasons expressed during discussion at their last meeting. (February 22) with the Regional School Committee and Mrs. Topalian of Lincoln-Sudbury West. Selectman Murray commented that it would cost approximately \$20,000 to relocate the credit union and the communications system, as shown on a plan by Mrs. Topalian last week. Also to be expressed in the letter is the Selectmen's position that they have no desire to continue to make the Fairbank School available to L-S West for the 1982- 83 school year, since it is in the best interest of the Town to sell that building.

It was noted that, if the Fairbank School building should be sold prior to June of 1982, the Selectmen would assist the Lincoln-Sudbury West school to relocate temporarily, as stated in the lease agreement.

Selectman Murray commented that he believed that the Flynn Building would have to be recertified as a school, and may not qualify, as it has not been used as such for a very long time.

During further discussion, Selectman Murray stressed the Board's support of the Lincoln-Sudbury West school, which is evidenced by the fact that it is costing the Town approximately \$12,500 for Lincoln-Sudbury West's use of the Fairbank School.

Use of Loring and Fairbank School Buildings

Mr. Thompson confirmed earlier individual discussions with the Board regarding the use of the Fairbank School, Sundays, Mondays and Thursdays, in the evening, and the Loring on Wednesday evenings, in both cases for the BAYS soccer program.

The Board directed Mr. Thompson to have the broken lights replaced in the Fairbank school gymnasium.

Executive Session

The Board agreed to postpone the Executive Session, scheduled for this evening, to March 8, 1982, at 4:00 p.m. at the Loring Parsonage.

There being no further business to come before the Board, the meeting was adjourned at 11:00 p.m.

Attest:

Richard E. Thompson
Executive Secretary-Clerk