

IN BOARD OF SELECTMEN  
MONDAY, JUNE 13, 1983

Present: Chairman John E. Murray, Anne W. Donald and Myron J. Fox.

The statutory requirements as to notice having been fulfilled, the meeting was called to order at 8:30 p.m. by Chairman Murray.

FY82-83 Tax Classification Hearing - Adoption of Residential Factor

Present: Chairman David M. Collins, D. Randolph Berry and Patrick M. Schrafft, Board of Assessors; Town Accountant James Vanar; Town Clerk Jean M. MacKenzie; Assistant Town Clerk Florence Fosgate; Town Treasurer Chester Hamilton; and approximately thirty other interested persons and residents.

Chairman Murray convened a public hearing in accordance with Chapter 369 of the Acts of 1982, to determine what percentage of the local tax levy will be borne by each class of real and personal property. The options are: 1) for the Selectmen to determine whether or not to use a residential factor, which means establishing different tax rates for residential properties and for commercial and industrial properties; and 2) whether or not to allow a ten percent residential property exemption in addition to the above. If the Selectmen do not vote to adopt the above, the local tax rate will be a single rate uniformly applied to all properties.

Chairman Murray noted receipt of a petition, which he read, from taxpayers in favor of two different tax rates with residential lower than commercial and industrial. Later Executive Secretary Richard E. Thompson noted receipt of a June 13th communication from Jeanne A. Schultz, 9 Stonebrook Road, also favoring two tax rates.

Chairman Murray then called on Chairman of the Assessors David Collins. To better understand the decision that the Selectmen have to make, Mr. Collins explained some material which had been supplied to the Board prior to the meeting, as follows:

- The Town has a levy limit mandated by Proposition 2½ which requires that the Town not exceed on its levy an increase of 2½% over the prior year's levy plus all new construction (buildings that did not exist previously or major alterations to buildings which resulted in an excess in value of 50%). The Town's FY83 levy limit is \$12,324,715.08. The appropriations voted by Annual and Special Town Meetings reduced by offsets from the Cherry Sheet and further adjusted by the overlay account (amount Assessors vote as a contingency for abatements granted) lead the Assessors to believe that they need to approach the levy limit very closely - the Town needs to raise approximately all the Town is entitled to raise under Proposition 2½.
- Under the classification law the Town can vote to have two tax rates which can be set so that residential property would pay at least 65% of what they otherwise would pay if the Town had a single rate, so long as commercial, industrial and personal property taxes do not pay more than 150% of

what would be paid under a single tax rate. There is a formula applied by the Department of Revenue which gives the Town a percentage called the minimum residential factor, and essentially what the Assessors do is compute, based on the levy and the total valuation of the Town, what a single rate would be. This year the minimum residential factor is 92.8%; the residential rate cannot be less than 92.8% of what the single rate would be. Once that is determined, the commercial and industrial rates can be determined. This year the single rate would be \$23.85 per thousand on all property. If the Town adopts the minimum residential factor, the tax rate would be \$22.15 per thousand for residential and \$35.67 for all others. In the alternative a maximum residential factor would favor commercial, industrial and personal property; those amounts would be \$26.21 per thousand for residential, and \$7.36 for all others.

- The residential exemption consideration can be discussed after the Selectmen have discussed the residential factor to be adopted.

Mr. Robert Grierson, 11 Great Road, asked if the mandated 2½% was on the fair market value of each individual property. Chairman Murray stated it was not - that Proposition 2½ means that the Town can raise only 2½% of the total valuation (certified by the State) of the Town; the following year the Town can raise only 2½% of that previous year's "tax levy".

Mr. Grierson expressed his opinion that, if the inflation rate went up 12%, he felt the value of one's property assessment also increased by 12%. Mr. Collins responded that Mr. Grierson is correct but pointed out that they are talking about the January 1, 1982 property values and for this period, the overall increase in total property values of the Town amounted to an average of 9% (low because of the economy and its effect on property sales, interest rates, etc.).

Mr. Collins went on to say that inflation is a general index of all commodities that people would buy - houses are only one component of that. The value of homes and commercial and industrial properties are not directly tied to inflation rate, although the two usually parallel.

Regarding new home construction, Mr. Berry responded to Mr. Grierson that on January 1, 1982 there was a total valuation increase of 6.7 million dollars generated from new construction.

Mr. Grierson further stated that in his opinion it was not fair to tax industrial and commercial properties at a higher rate than residential property, his reasons being that many of the commercial, etc., people make less money than the average businessman, that they are called upon for donations, etc., and because they are already paying a higher assessment.

Chairman Murray commented that there have been two tax rates for the past couple of years. He felt, taking an average, there were no great changes in the transition to the two-rate system.

Mr. Collins commented that if the Town in any particular year does not go to the maximum levy, whatever they did raise is the base for the following year - 2 1/2% of that - there is no "catch-up" provision. There is a mechanism for the voters of the community, a special election to vote an over-ride of the 2 1/2 provisions to raise more money. Mr. Collins stated this has happened in Weston.

Former Assessor Donald Peirce stated that the first year the Town had two tax rates, \$12,500,000 was raised for the levy at \$26.40 for residential and \$39.60 for commercial, industrial and personal property; the second year those rates were down to \$23.12 and \$34.66 without substantial changes in the percentage of each classification of property. He asked if the present Board of Assessors had equated the different percentages of the levy relating to the different tax rates between the minimum residential factor being adopted and the maximum residential factor being adopted so that they would know if the residential community is still going to be asked to produce approximately 77% of the levy and the commercial 12% and the industrial 5-6%, and personal property the remainder.

Mr. Collins referenced an analysis prepared by Mrs. Walsh, Secretary to the Assessors, of a selection of commercial and industrial properties in the community and their tax burdens for FY80 and 82 and for FY83 under the minimum residential factor and under a single tax rate.

Continuing, Mr. Peirce stated that there is growth within each of the different classes of properties which automatically means changes in the percentage of the levy that one class shares.

Mr. Berry responded that, if the minimum residential factor is adopted, the residential property owners will pay the higher percentage of the total levy - in 1981, it paid 78%; in 1982, 77.4%, and projected this year, 81%. Commercial properties went from 12% to 9% and industrial and personal properties remained almost the same.

Mr. Collins stated that the reason for the increase in residential values is that the residential values increased at a faster rate than commercial and industrial values from year-to-year, in part due to commercial properties not being able to rent their properties at the rates that would carry the investment. Mr. Peirce stated that many of the Town's commercial taxpayers have been very cooperative this past year in supplying the Assessors with data on the rental income of their properties which has been reviewed by the Assessors, McGee and Magane (Tax Consultants), and the Department of Revenue, noting that the burden has shifted slightly to the residential taxpayer.

Mr. Peirce asked about the residential factor that was adopted for 1981 and 1982 as opposed to the minimum residential factor for 1983. Mr. Berry responded: 90.4% in 1982, 92.6% in 1981.

Responding to Mr. Fosgate regarding fluctuation in individual commercial and industrial property assessments, Chairman Murray stated they go both ways. Mr. Collins pointed out that, for example, Sperry Rand in FY80, was assessed at \$99,164.50 and for FY83, \$104,463.11 - other properties show more significant changes.

Mr. Hamilton questioned the sharp increase in his personal tax bill (up 40%) as opposed to the 9% overall increase mentioned by Mr. Collins earlier.

Mr. Collins discussed that point stating that just as some taxes went up, others went down, that the average was a 9% increase, and that the procedures for assessing properties are continually being refined.

Mr. Peirce added, as former Assessor, that commercial values of the Town were produced by a professional appraiser for FY81, reviewed by a professional appraiser for FY82, reviewed by the Board of Assessors for FY83; those were sent to the State and that review process resulted in their professional appraiser being brought in again so that the commercial, industrial and personal property values have been assessed four times in the past three years. Mr. Peirce concluded that Assessors in the past have not over-taxed, as can be seen by his above comments, and that if the Town wants equity, in his opinion, there should be one tax rate.

Responding to Mrs. Geraldine Morely, 43 Drum Lane, regarding whether surrounding towns had adopted single tax rates, Mr. Collins stated that across the state mostly single tax rates had been adopted. He said that relatively few cities/towns had adopted a residential factor (two rates). Mr. Collins stated he favored a single tax rate because, in his opinion, the classification amendment to the constitution was a mistake voted by the voters of the Commonwealth.

Chairman Murray noted figures agreed on with the State: total values of residential properties according to the State equal \$451,664,900; commercial - \$29,995,512; industrial - \$21,550,700; and personal property - \$13,417,947.

Responding to Mr. Peirce regarding the Town of Sudbury's Appellate Tax Board case against the Massachusetts Department of Revenue which established the total value of the Town as of January 1, 1982, to be \$509 million versus the state's figure of \$536 million, Mr. Collins stated that the State on appeal from Sudbury established the total value of the Town at \$509,000,000 (rounded off) for the purpose of distributing State aid; that amount was later increased by the State to \$516,000,000 (rounded off) (while the \$509,000,000 figure was still used for State aid) which the State gave preliminary certification for in establishing the tax rate. Therefore, Sudbury profited to some degree in the settlement of the suit.

Responding to Selectman Fox regarding the reason for the Town not having an open space factor, Mr. Berry pointed out that the Assessors in part based that decision on the majority vote of the Towns-people on a non-binding public opinion ballot question last spring.

Mr. Collins added that he was surprised when he came on the Board of Assessors that Sudbury did not have an open space category, but pointed out that many communities, which are even more rural than Sudbury, also do not have an open space category.

Mr. W. Fairbank, 136 Old Sudbury Road, asked what the increase in the tax rate would be. Mr. Collins stated that if the Selectmen vote to follow the practices of the preceding years, there will be a decrease in the residential rate by approximately \$1 and an increase of the same amount for all others.

Mr. Collins, responding to Selectman Donald, stated that the Board can adopt a residential factor based on the law and restraints they are operating under for a low of 92.8% up to 110% - at 92.8% the tax rate would be \$22.15 for residential property, and the maximum residential factor would be \$26.21 at 110% for residential property.

Responding to Mr. William J. Dunn, Jr., 9 Kendall Road, Mr. Collins stated that taxpayers have thirty days from issuance (date on envelope) to apply for abatement to the Board of Assessors; if the Assessors fail to act within ninety days of the application it is deemed denied and the taxpayer would have a further ninety days to apply to the Appellate Tax Board. Selectman Murray added that the taxpayer must pay the tax bill in the interim or his rights are forfeited.

Mr. Collins stated that the Assessors in conjunction with the League of Women Voters will be publishing those rights in the Bentley Community Calendar.

Following further comments, discussion, it was on motion by Selectman Fox unanimously

VOTED: To adopt the minimum residential factor of 92.8084% per thousand or such other ratio that would not exceed the classification guidelines, which would result in a residential tax rate of \$22.15 per thousand and of \$35.67 per thousand on commercial, industrial and personal property. (NOTE: The actual factor used was 92.8718.)

Prior to voting Selectman Fox asked Mr. Thompson to confirm that the Selectmen for the last two fiscal years adopted the minimum residential factor consistent with the motion on the floor. Mr. Thompson responded in the affirmative.

Mr. Peirce pointed out that this is the first year that the decision has been entirely a decision of the Selectmen; prior to FY81, the Selectmen were not involved in this process. FY81 and 82 the law allowed for the Board of Assessors and the Selectmen to meet and a majority of those present voted the residential factor. (Mr. Thompson added that it was with the approval of the Selectmen, but not a majority vote.)

Prior to the Selectmen's voting, Chairman Olga P. Reed of the Planning Board commented that since the adoption of the two tax rates and the placement of the open land into the commercial rate eleven sub-divisions have developed and there are three more planned that the Planning Board knows of.

Mr. Collins commented that the legislature corrected last August the law on that - open space will be assessed according to zoning and/or usage, not necessarily at the commercial rate as it is now but, most likely, at the residential rate.

Chairman Murray commented that there were other variables involved.

Mr. Peirce added that there are other ways to receive exemptions, and that is a filing under Chapter 61, 61A and 61B which if approved upon application for individual properties would substantially reduce the value of the property in terms of its assessment. He stated further that when open space was taxed at a commercial rate it was not necessarily valued as commercial land.

Following a coffee break, the Board resumed discussion with the Assessors on the subject of whether or not to allow a 10% residential property exemption.

Mr. Berry explained that this is an assessment deduction off every "owner-occupied" principal residence - it would be the same deduction for everyone. To make up for the loss in revenue which must be generated by the residential class, however, the rate would increase on the residential property resulting in more expensive homes paying slightly higher taxes. Mr. Collins referred to it as a graduated tax on residential property. The Assessors were not in favor of the 10% exemption on residential property for FY83, especially because of the research and paper work involved, and the fact that Sudbury's data base was not programmed to allow them to do so within any reasonable timeframe.

Following brief discussion, it was on motion by Selectman Fox unanimously VOTED: To not adopt the residential exemption of 10% for FY83, insomuch as it would be impossible to do so because of the lack of data base.

Selectman Fox indicated to the Assessors that he would be interested in learning more about this process - that perhaps they could investigate it for FY84.

#### Minutes

It was on motion by Selectman Donald unanimously

VOTED: To approve the minutes of the Regular Session of June 6, 1983, as amended.

#### Transfers

It was on motion unanimously

VOTED: To approve the following transfer requests:

- a. Transfer Request No. 1082, dated May 27, 1983, from Account 340-13 to Account 340-12, Building Overtime & Extra Hire, in the amount of \$775, to replenish funds which were used to pay Building Department custodians for repair work ordinarily done by hired plumbers or boiler men, and as further explained on the numbered transfer;
- b. Transfer Request No. 1099, dated May 27, 1983, from Account 340-13 to Account 340-16, Building/Plumbing, in the amount of \$1,200, for money due the Plumbing Inspector, estimated to be sufficient through FY83, and as further defined on the numbered transfer;
- c. Transfer Request No. 1100, dated May 27, 1983, from Account 340-13 to Account 340-21, Building, General Expense, in the amount of \$225, for printing plumbing applications and permits, as noted on the numbered transfer;
- d. Transfer Request No. 1103, dated June 6, 1983, from the Reserve Fund to Account 320-51, Police, Equipment Purchase, in the additional amount of \$868, which amends the amount of said Transfer approved by the Board June 6, 1983, in the amount of \$753.35, for a total transfer of \$1,621.35, the amount needed to meet the bid for two new police cruisers, and as further explained in the numbered transfer;
- e. Transfer Request No. 1104, dated June 7, 1983, from the Reserve Fund to Account 350-21, Dog Officer, General Expense, in the amount of \$500, for the care of dogs;
- f. Transfer Request No. 1106, dated June 13, 1983, from the Reserve Fund to Account 501-41, Selectmen Travel, in the amount of \$72.05, for money due the Executive Secretary for the month of June;
- g. Transfer Request No. 1107, dated June 13, 1983, from Account 501-81, Surveys & Studies to Account No. 501-21, Selectmen's General Expense, in the amount of \$174.40, to purchase minutes paper to complete processing of three years of minutes for microfilming, and as set forth on the numbered transfer;
- h. Transfer Request No. 1108, dated June 13, 1983, from Accounts 502-12 and 502-13 to Account 502-11, Engineering Salaries, in the amount of \$988.43, necessary because of retirement with sick leave buy back and changes in personnel within the department, as shown on the numbered transfer;
- i. Transfer Request No. 1109, dated June 16, 1983, from the Reserve Fund to Account 950-11, Blue Cross/Blue Shield, in the amount of \$13,992.28, due to rate increases and as shown on the numbered transfer.

It was further on motion

VOTED: To approve Transfer Request No. 1110, dated June 13, 1983, from the Reserve Fund to Account 950-31, Casualty Insurance, in the amount of \$10,668.63, to eliminate a problem existing in the insurance account and as explained in the numbered transfer.

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

There being no further business to come before the Board, the meeting was adjourned at 10:45 p.m.

Attest:

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Richard E. Thompson  
Executive Secretary-Clerk