

IN BOARD OF SELECTMEN  
MONDAY, MAY 9, 1983

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

The statutory requirement as to notice having been fulfilled, the meeting was called to order at 7:30 p.m. by Chairman Murray.

Ford's Folly/West Way Hills Subdivision

Present: Conservation Commission member Gordon D. Henley (arrived later in the evening).

In accordance with a communication dated May 2, 1983, from Chairman Richard Bell of the Conservation Commission relative to an offer of Parcel E, West Way Hills Subdivision, known as Ford's Folly, as a gift to the Town from Mr. Arden MacNeill, it was on motion by Selectman Donald unanimously

VOTED: To indicate willingness to accept the above offer, on behalf of the Town, subject to receiving the final documents for signing and transfer and further input from Town Counsel, if any.

Selectman Fox suggested that eventually the land be posted to the effect that it is public property and that people should proceed at their own risk. Town Counsel stated that the Town is properly insured and this parcel would be included once the transfer is made.

Executive Secretary Richard E. Thompson recommended that the assignment of management to the Conservation Commission be held until after the transfer. The Board concurred.

Later in the evening Conservation Commission member Gordon D. Henley arrived and asked how the Town could express to Mr. MacNeill its appreciation for his generosity. Selectman Murray stated that after the transfer is consummated, the Selectmen would publicly express their appreciation to Mr. MacNeill, on behalf of the Town.

Lease - Fairbank School/L-S West

Executive Secretary Richard E. Thompson reviewed with the Board a draft lease for Fairbank School and the Lincoln-Sudbury West Alternative High School, which was prepared by Town Counsel and the Executive Secretary and which incorporates some provisions for maintenance and cost-sharing in a Memorandum of Understanding signed by Director of Administrative Services John H. Wilson under date of March 31, 1983.

Following discussion and two amendments by Selectman Fox, the Board approved the lease, along with a cover letter, for submission to the Chairman of the Lincoln-Sudbury Regional School District Committee for review and approval.

Accept Donation

It was on motion by Selectman Donald

VOTED: To accept a donation, on behalf of the Town, in the amount of \$24.97 from the Myron Fox campaign organization, to be added to the Town's Charity Fund.

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

Sale of Poppies

It was on motion by Selectman Donald unanimously

VOTED: To grant permission to Guy L. Dietrich, Post Chaplain, Sudbury American Legion Post #191, to solicit donations for artificial poppies at the Star Market and Sudbury Farms shopping centers on May 26, 27 and 28, 1983, subject to approval of said owners/operators.

Drainage Easement

Present: Abutter Sandra Bell.

The Board was in receipt of a drainage easement for the Mill Road estates, Lots 3 and 4, Singing Hill Circle, off Powder Mill Road.

Abutter Sandra Bell, after looking at the map showing the proposed development - four lots on a new private way, Singing Hill Circle - and drainage easement, expressed concern regarding the impervious surface of the road and cul-de-sac; she stated it had been her understanding initially that this was to be a paper street. She asked if the proposed road and drainage had the written approval of the Town Engineer.

Town Counsel Paul L. Kenny stated that that had nothing to do with the Selectmen accepting the drainage easement; that the Selectmen's approval was in order that the Town would be assured of proper drainage within the subdivision - that the subdivision itself is approved by the Planning Board, with Town Engineer James V. Merloni's recommendations, as necessary.

Executive Secretary Richard E. Thompson stated that he would double check with Mr. Merloni and call Mrs. Bell.

It was on motion by Selectman Donald unanimously

VOTED: To accept, on behalf of the Town, in accordance with the Sudbury Bylaws, Article XII, section 3, a drainage easement on Lots 3 and 4, shown on a plan entitled, "Definitive Subdivision Plan of Mill Road Estates", dated December 13, 1982, revised April 1, 1983, from Carlton B. Colburn, Jr., trustee, Mill Road Trust, said easement dated April 5, 1983.

Minutes

It was on motion by Selectman Fox unanimously

VOTED: To approve the minutes of the Regular Session of May 2, 1983, as drafted.

Powder Mill Road - Town of Maynard Appeal

Present: Sandra Bell, Robert Gottberg, Joseph F. Adolph, and approximately four other interested residents; and Brian Pettigrew, Project Management.

The Board acknowledged receipt of a copy of an appeal, dated May 4, 1983, by the Town of Maynard to the Middlesex County Commissioners concerning the discontinuance of a portion of Powder Mill Road as a public way as a result of action by the Sudbury 1983 Annual Town Meeting under Article 25.

Following a brief discussion, it was on motion by Selectman Donald unanimously

VOTED: To direct Town Counsel to write a letter to the County Commissioners indicating the Board of Selectmen's opinion that the Commissioners have no jurisdiction in the decision to close a portion of the public way, Powder Mill Road, in Sudbury, and requesting that the Commissioners respond to the Selectmen should they feel otherwise.

Mr. Robert Gottberg brought up the point that if Maynard created a cul-de-sac on its portion of Powder Mill Road there would be a piece of useless property remaining. Selectman Fox suggested that at that point the developer might want to sue the Town of Maynard since Sudbury worked in conjunction with the developer in its decision.

Dr. Joseph Adolph stated that at Town Meeting Mr. Guernsey had asked a specific question about the opinion of the Maynard Selectmen in this matter and the answer was that the Selectmen had met with the Maynard Selectmen and that all felt it was a satisfactory solution. He stated that he and Mr. Guernsey had pointed out that this was not true and commented that they were disappointed in the Selectmen's action at Town Meeting not to comment further on that.

Selectman Murray stated that the Maynard Selectmen had only challenged Sudbury on the legal aspect, questioning whether or not the Town of Sudbury had properly notified Maynard regarding their plans to cul-de-sac Powder Mill Road. Selectman Murray stated that the Town of Maynard had been properly notified.

Dr. Adolph said that he felt the Selectmen should have emphasized at Town Meeting, before the vote, the difficulties they obviously should have perceived with the Town of Maynard; also, he stated there are many matters going on on Powder Mill Road, one being talk of cluster zoning, and he stated he is unclear as to where the cul-de-sac is going to be since there is now a different owner for the residential portion of the land than for the industrial land - what about the three hundred feet on either side of the cul-de-sac as pointed out to Town Meeting.

Mr. Brian Pettigrew of Project Management, owner of the industrial land, stated that he had sold the residential land but had retained Lot 4R in the residential portion which is where the cul-de-sac will be.

Town Counsel Paul L. Kenny pointed out that Powder Mill Road runs through a very small corner of Maynard, and that there is no access to Powder Mill Road from the Town of Maynard.

Mr. Pettigrew stated a friend had received a telephone call from Counsel at Digital reflecting the same impatience with the Town of Sudbury and indicating that if the Town of Maynard did not pursue this, they would pursue legal action against the Town of Sudbury.

Mrs. Sandra Bell commented on the safety issue on Powder Mill Road stressing the importance of it being corrected - and of the cul-de sac.

Mr. Gottberg questioned the legality of closing off the road. Selectman Donald responded that the Board had questioned Town Counsel many times on whether the Town had a right to close off the road, and that he was of the opinion the Town could do so.

Both Mrs. Bell and Mr. Pettigrew noted that their respective attorneys had concurred with the legality of closing the road.

Selectman Fox commented, as Selectman Murray had earlier, that Town Meeting had voted and the Selectmen have an obligation to carry that vote out.

Dr. Adolph stated that, on the other had, he felt there were ways to reverse Town Meeting action and that it was the responsibility of the Selectmen to attempt to do so if it were in the best interest of the Town. He stated that he was not trying to indicate that the Selectmen should not carry out the vote of Town Meeting but, in a case where they see that the Town would be getting into financial difficulties because of Town Meeting action, then the Selectmen should use their own discretion in the matter.

At the conclusion of discussion and comment, the Board stated that Town Counsel would forward a letter to the County Commissioners as soon as possible.

Representative to Metropolitan Area Planning Council (MAPC)

In accordance with a communication from the Department of Environmental Quality Engineering dated April 20, 1983, notifying Sudbury that a Water Supply Protection Atlas had been prepared and will be distributed to a designated representative at the Metropolitan Area Planning Council meeting on May 25, it was on motion by Selectman Fox unanimously

VOTED: To appoint Town Engineer James V. Merloni, temporary representative to the MAPC, in order to attend said meeting, receive the maps and maintain them in the Engineering office.

Mr. Thompson informed the Board that MAPC representative, William R. Firth had contacted him and had indicated his preference not to be reappointed.

Site Plan 79-208 Granco Realty Trust

It was on motion by Selectman Murray unanimously

VOTED: To sign an amended Site Plan #79-208 of Granco Realty Trust, 64 Union Avenue, as approved by the Board on May 2, 1983.

General Meeting - Board of Assessors

Present: Assessors David M. Collins and D. Randolph Berry.

Assistant Assessor Position

Mr. Collins stated the Assessors had met with the Personnel Board and they had agreed on a job description and salary range (\$21,000-26,000) for the position of Assistant Assessor. Mr. Collins stated that they would be advertising the position in several area newspapers, as well as, the Massachusetts Municipal Association newsletter, The Beacon. On the question of offering mileage to this person, Mr. Collins stated he did not recall discussing that with the Finance Committee, and that it had not been included in the budget; that will require further attention.

Classification

Mr. Collins indicated that the Assessors are still waiting for material from McGee and Magane (MGM) to re-submit to the Department of Revenue, that they have gone through two recently promised dates and the newest promised date is tomorrow. The State found fault with four areas: 1) dispersion in the values of colonial-type homes, 2) discrepancies in the lot size valuation in different zones, 3) commercial and industrial properties - they need a more thorough review, and 4) question of an excess capacity factor that the Assessors had on some very large older homes where market would not support the valuation based on replacement value. When the Assessors have that information from MGM they will bring it to the Department of Revenue (Mr. Collins stated he would hand deliver it), then Sudbury will be back in line for a field re-check. The next step would be a letter of certification from the State; at that point, the Selectmen could schedule a meeting on classification to discuss the tax rate(s). At this time the Assessors will send out a tax statement to those taxpayers who will receive a significant change in their assessment or who are first being assessed. The Assessors also plan to run, in conjunction with the League of Women Voters, a press release explaining the certification process and taxpayers' rights. Finally, the Assessors can print the bills and send them out. Mr. Collins predicted it will be a minimum of one month before tax bills are mailed.

The Board concurred with comments by Selectman Fox, and, on behalf of the Board, he asked that the Assessors convey to MGM the Board's extreme displeasure with their performance, and that the Board would consider litigation if MGM does.

not supply the promised information tomorrow. This is not based on performance regarding the revaluation, Selectman Fox stated, but on the fact that they have promised the Assessors, on more than three occasions information in order to certify the tax rate, which the Assessors have not yet received.

The Assessors concurred with the Selectmen's feeling that MGM had not supplied information on a timely basis in all but one instance (new construction deadline was met) and felt that was why Town Meeting had supported the hiring of a full-time assessor. Mr. Collins went on to say that, although they were still within their budget, he was concerned because every time MGM did something there was a bill attached.

Responding to Selectman Donald regarding the status of the contract with MGM, Mr. Collins stated that MGM has actually performed one service that pertains to next fiscal year - that is the inspection of property as of January 1 which is on a one-year lag basis. (Mr. Collins informed the Board that the Legislature is working on changing the evaluation date to July 1. He added that the change to the three-year certification should make it easier for everybody - it will decrease the work load at the Department of Revenue by one third and would shorten the line for review of values. But that does not go into effect until the fiscal year beginning after July 1, 1983.)

Selectman Donald asked if there were some way to put something in the next contract with MGM about performance. Mr. Collins agreed that that would be an appropriate area and referred it to Town Counsel.

Selectman Fox again recommended that the Board's message be conveyed to MGM and added that perhaps the Board should submit a press release by way of a letter urging all taxpayers to pay an estimated amount on their tax bill with the explanation of perhaps the Town Treasurer's figures on borrowing and interest costs and how that means more money on their tax bill(s) next year. Mr. Thompson stated he would ask the Tax Collector if it would be too much trouble for her in terms of keeping her records straight.

Selectman Murray stated that the Selectmen had attempted to do that once before with poor results. Mr. Collins did not feel that would be very successful either.

Mr. Thompson suggested that, after meeting with the Town Treasurer, the Board might have a better idea of how to proceed.

#### Joint Meeting with Town Treasurer

Present: Town Treasurer Chester Hamilton; Janes Vanar, Town Accountant; and Assessors David M. Collins and D. Randolph Berry.

Mr. Hamilton stated that the Director of the Bureau of Accounts (BOA) expects, under Chapter 44, section 4, that any borrowing would be repaid by the end of the fiscal year; for Sudbury, June 30. He went on to say that Sudbury is neither in the position to repay the Three Million Dollars borrowed on February 23 and due June 15, by June 15, nor by June 30! He stated he and Assistant Town Counsel

both disagree with the BOA but feel it is inappropriate to challenge the BOA before June 15. Mr. Hamilton stated it will be necessary to renew the Three Million Dollar borrowing due June 15 to mature after July 1, 1983.

He requested permission to borrow \$900,000 which will carry Sudbury to June 30. Prior to June 15, he will ask to renew the Three Million Dollars. By then he will have discussed the new maturity date with the BOA and anticipates that he will not have to re-new on June 15 with repayment to June 30 and then renew again to a date sometime in July.

Mr. Hamilton stated the Town cannot count on voluntary payments.

Mr. Hamilton felt that with tax bills going out later than May 27, as the Assessors had indicated, he will not be able to repay the Three Million Dollars, tonight's borrowing cannot be re-paid, he cannot re-pay the Tax Anticipation Notes on June 15, and will also have to make additional borrowing over and above what is borrowed tonight.

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

VOTED: To authorize the Town Treasurer to borrow \$900,000 in Tax Anticipation Notes, to be issued May 25, with a maturity date of June 30, 1983.

Interest on that borrowing, Mr. Hamilton stated, will be approximately \$100 per day, and combined with other interest on borrowing will make a total of approximately \$500 per day until June 30.

Mr. Hamilton requested that the Selectmen include time for him on next week's agenda for the signing of the notes.

Mr. Hamilton informed the Board that the Town Accountant is putting on the computer a program which will forecast the weekly cash position of the Town which will be very helpful.

The Board directed the Executive Secretary to coordinate a press release with input from both the Town Treasurer and the Assessors, as discussed during the earlier meeting with the Assessors.

Mr. Collins stated that the State requires the Assessors to disseminate tax information to the people in some manner and felt it would be more cost effective; also people would read it more readily, if it were in the form of a news release rather than a mailing to individuals.

Selectman Fox stated that he would be willing to withdraw his suggestion for a letter in the local papers to all taxpayers for early payment of taxes if the Tax Collector so desired.

Overlay Zoning Districts - Sudbury Motor Parts

The Executive Secretary asked Town Counsel to confirm his verbal opinion on April 25 relative to site plan #83-255 of Sudbury Motor Parts, 119 Boston Post Road.

Town Counsel Paul L. Kenny stated the opinion given at the public hearing on April 25 was that where there are overlaying zoning districts the allowed uses of both districts would be allowed on that property and that opinion remains unchanged.

Traffic Safety Issues - New Developments

Mr. Thompson stated that, at the direction of the Board, he had spoken to the Chairman of the Planning Board, Theodore Theodores, and all agreed that a general meeting on the subject of traffic safety issues, in relation to new developments, should be held and the public invited.

Loring School

After a lengthy discussion, the Board agreed that Mr. Thompson should contact Laury Hammel and inform him that the lease for the use of Loring School is being drafted and to also inform him about the Board's concerns regarding some of the proposed uses which may not be allowed in that district. Selectman Murray brought up the point that there is another party interested in a five-year lease and that Mr. Hammel should be made aware of that. Mr. Thompson stated he would schedule a meeting with the Board and Mr. Hammel after the draft lease had been submitted to him, following which the Board thought they might want to meet with the other interested individual.

There being no further business to come before the Board, the meeting was adjourned at 9:20 p.m.

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

Richard E. Thompson  
Executive Secretary-Clerk