

IN BOARD OF SELECTMEN
MONDAY, DECEMBER 16, 1985

Present: Chairman Myron J. Fox, Josiah F. Frost and Anne W. Donald.

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

Hosmer House/Request for Expenditure from Edwin Barrett Hosmer Fund

Following review of information provided at the Board's request at its December 9 meeting, it was on motion unanimously

VOTED: To amend the Board's June 26, 1985, vote authorizing the expenditure of \$2,000 from the Edwin Barrett Hosmer Fund to supplement funds to pay Ferrazzani Construction Company, Inc., for Hosmer House renovation work to be performed pursuant to a bid accepted by the Sudbury Historical Commission on June 24, 1985, in the amount of \$18,220, as shown by the underlining as follows :

To authorize the expenditure of \$1,317.83 from the Edwin Barrett Hosmer Fund to supplement funds to pay Ferrazzani Construction Company, Inc., for Hosmer House renovation work to be performed pursuant to a bid accepted by the Sudbury Historical Commission on June 24, 1985, in the amount of \$18,220, and to pay related architectural fees for the project, with the understanding that the Board will authorize additional funds if there is a need.

99 Restaurant/Application for Disc Jockey

Present : John C. Wetherbee, Manager.

Chairman Fox convened a public hearing on the application dated November 1, 1985, from the 99 Restaurant to add a disc jockey to its Entertainment License under G.L.c.140, s.183A, for property located at 694 Boston Post Road.

Mr. John C. Wetherbee, Manager of the 99 Restaurant, stated that, if approved, the disc jockey would be present during the hours of their present entertainment licenses, Monday - Thursday, 7 30-11:30 p.m. and Friday and Saturday, 8 30 p.m.-12 30 a.m., and would only alter the present level of entertainment by providing a means to accept song requests, etc.; he stated further that the focus would be for the entertainment of all their dining customers - all ages up to senior citizens - which he felt was an assurance that it would not be a "rowdy" addition to the restaurant's current entertainment privileges.

Selectman Fox expressed concern about the Selectmen permitting a disc jockey at the 99 Restaurant, particularly because of past objections voiced by the neighbors regarding the restaurant's close proximity to the residential area; he expressed his opinion that having a disc jockey would create an increase in the noise level at the restaurant and he did not feel it was appropriate to subject the abutting residential district to the same.

Also for permission to lay and maintain underground laterals, cables and wires on the same side of the public way as poles, for the purpose of making connections with such poles and single-residence buildings as petitioner may desire for distributing purposes.

UP85-33: Boston Post Road - northerly side at Horse Pond Road, One (1) pole, [One (1) existing JO pole to be removed];

Also for permission to lay and maintain underground laterals, cables and wires on the same side of the public way as poles, for the purpose of making connections with such poles and single-residence buildings as petitioner may desire for distributing purposes.

Executive Secretary Richard E. Thompson stated that all appropriate Town officials and abutters had been notified and noted receipt of two communications, both dated December 12, 1985, jointly submitted by the Wiring and Building Inspectors, recommending approval of the subject petitions.

Following a brief explanation and review of the plan with the Selectmen by Mr. Robert Malis of Boston Edison, it was on motion by Selectman Frost unanimously

VOTED: To confirm the emergency approval of above-noted UP85-32 and UP85-33, granted by the Selectmen on September 18, 1985, as described above, and as shown on the following plans:

UP85-32 : Boston Edison Company Engineering and Construction Department "Plan of Peakham Rd., Sudbury, Showing proposed pole locations", dated September 17, 1985; and

UP85-33 : Boston Edison Company Engineering and Construction Department "Plan of Boston Post Rd., Sudbury, Showing proposed pole relocation", dated September 17, 1985.

Selectman Frost asked Mr. Malis if there was anything he could do to expedite the relocation of the utility pole at the intersection of Concord and Pantry Roads in order that that intersection may be completed.

Mr. Malis responded that he would look into it.

The Board directed the Executive Secretary to contact Boston Edison within the week to confirm the Board's concern that the work be completed as quickly as possible.

Chairman Fox directed the Executive Secretary to require a recommendation from the Town Engineer, in the future, on all utility petitions involving the location of poles.

1985 State Census

The Board tabled to December 30 taking any action on the question of accepting and signing the 1985 State census results for submission to the State Census Director (based on redistricting, and superseding the Board's

Selectman Frost stated he had a problem with a disc jockey; he did not feel it was needed, that the current entertainment - piped-in background music and 1-2 guitarists - was sufficient and very much enjoyed by all clientele.

Selectman Donald suggested the possibility of allowing the 99 to have a disc jockey on a trial basis.

Chairman Fox expressed reservations regarding the use of disc jockeys in general and strong concern regarding the precedent this could set with other establishments in Town.

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

VOTED: To deny the application, dated November 1, 1985, from the 99 Restaurant to add a disc jockey to its Entertainment License under G.L.c.140, s.183A, for property located at 694 Boston Post Road, because of the noise problem it would create.

Selectman Frost commented that the Board's denial was no reflection on Mr. Wetherbee's management; that he has seen real improvement over the past couple of years in terms of the atmosphere at the 99, and that he (and others of his age group) enjoys the restaurant very much. Selectman Frost went on to express his opinion that it would be an unnecessary chance on the part of the Board, if it were to grant this permission.

Utility Petitions

Present: Robert Malis, Boston Edison.

Emergency approval was granted by the Selectmen on September 18, 1985, to Boston Edison Company and New England Telephone and Telegraph Company to proceed immediately with the relocation of four poles at the intersections of 1) Concord Road and Pantry Road (1 pole), 2) Boston Post Road and Horse Pond Road (1 pole), and 3) Peakham Road and Horse Pond Road (2 Poles) to enable intersection improvements to go forward in advance of receipt of petitions and public hearing(s).

In conformity with General Laws, Chapter 166, Sections 21 and 22, the Board considered the following two Utility Petitions of Boston Edison Company and New England Telephone and Telegraph Company for permission to erect or construct, and a location for, a pole and such other fixtures including anchors and guys as may be necessary to sustain or protect the wires of the line, to be used upon, along and across the following public ways:

UP85-32 : Peakham Road - southeasterly side approximately 10 feet northeast of Horse Pond Road, One (1) pole, (One existing JO pole to be removed);
and

Peakham Road - southeasterly side approximately 37 feet southwest of Horse Pond Road, One (1) pole (One existing JO pole to be removed).

vote of August 5, 1985) because of the need for clarification of certain information, brought to the Board's attention by Selectman Donald.

Repurchase Cemetery Lot (#15, New Town Cemetery)

In accordance with a request dated December 3, 1985, and under the authority provided by Section IX, paragraph 3, of the Town's Cemetery Rules and Regulations, it was on motion by Selectman Donald unanimously

VOTED: To repurchase Cemetery Lot No. 15 (four graves) in section 9 in New Town Cemetery, from Norman L. and Robert I. Pollock, 47 Balcom Road, (Deed #379), at the price of \$500 (\$125 Sale of Lot and \$375 Perpetual Care); said amount to be applied toward the purchase of a new lot at the same price and to waive the \$1 recording fee for the new lot purchase (Lot 7, Section 10, New Town Cemetery).

Site Plan 85-293/Chiswick Trading, 490 Boston Post Road

In accordance with a request dated December 12, 1985, from Paris Realty Trust, which asked for postponement of tonight's scheduled hearing pending receipt of information requested by the Board of Health the Board tabled the hearing to January 27, 1986, and directed the Executive Secretary to so notify the applicant.

Later in evening, abutter Bernice Rieders, Arber Realty trust, 830 Boston Post Road, asked to be notified of the next scheduled hearing; they attended this evening not knowing that the hearing was to be continued.

Accept Payment for Fire Alarm Cable from Adams-Russell

The Board was in receipt of a communication, dated December 11, 1985, from the Fire Chief recommending that the Town accept a check in the amount of \$3,934.81 from Adams-Russell representing payment for fire alarm cable strung on Route 20 and Hudson Road (as part of the cable television project) by Clifford, Inc.

Executive Secretary Richard E. Thompson stated that Town Counsel had given his approval of this procedure.

Selectman Frost expressed his opinion that the bill should be paid by Adams-Russell directly, so that the Town does not become involved with the associated bookkeeping.

Upon comment and agreement by the Board, it was on motion by Selectman Donald unanimously

VOTED: To direct the Fire Chief to return the above-noted check, if already in hand, and to send the bill from Clifford, Inc., to Adams-Russell for direct payment.

Fiber Optic Cable - Raytheon/Western Union

Present : J. D. Spautz, Right-of-Way Specialist, Western Union.

The Board tabled to January 6, 1986, continued discussion on the question of granting permission to Raytheon Company to attach fiber optic cable to existing utility poles 1) from the Raytheon Company plant on Boston Post Road, Sudbury, easterly along Boston Post Road and northerly along Union Avenue and Concord Road to the Concord Town Line, as shown on a plan entitled, "Bedford to Sudbury", page B-6, and 2) from Raytheon Company plant on Boston Post Road, Sudbury, easterly along Boston Post Road to the Wayland Town Line, as shown on a plan entitled, "Sudbury to Wayland", page B-7, to transmit communication data between its plants; said cable to be owned by Raytheon Company and installed by Western Union Telegraph Company; all cable to be installed above-ground, with the exception of connections from Route 20 to the Sudbury plant; and further question of granting permission to Western Union Telegrpah Company to install a fiber optic cable of its own along the same routes to serve its customers; said cable to be lashed to the Raytheon Company cable requested above.

Questions to be resolved in the interim are :

- determine level of financial participation for the undergrounding of wires for approximately 9/10 of a mile on Route 20 in the area of the State widening project by the utility companies, the Town, the business community, Adams-Russell Cablevision, Raytheon Company and Western Union; and
- resolve indemnification and liability questions from the Town's standpoint.

Executive Secretary Richard E. Thompson noted receipt of the following communications:

- December 12 from the Health Director stating no health implication;
- December 12 from the Fire Chief with recommendations, which Mr. Spautz stated no problem in complying to;
- December 6 from resident D. J. McCarthy opposing the installation; and
- telephone communication with approximately six surrounding communities involved in the same installation; Lexington being the only community thus far to approve the same.

Disposal of Town Property

The Board acknowledged receipt of a request dated December 12, 1985, from the Town Accountant, to approve under the Town Bylaws, Article XII, Town Property, the transfer by sale or gift to another town, agency or individual who can use it, or to otherwise dispose of, the Burroughs B700 accounting machine no longer of use to the Accounting Department.

Chairman Fox pointed out that the above-noted Bylaw specifies that disposal of obsolete Town-owned property, not being transferred to another Town department, must be transferred by sale, not gift.

Accordingly, it was on motion unanimously

VOTED: To authorize the Town Accountant to dispose of the Burroughs B700 accounting machine, as requested, and in accordance with the Town Bylaws, Article XII, Town Property, "to transfer to another Town department or transfer by sale any personal property of the Town within the possession or control of the department which has become obsolete . . ."

Resignation/Conservation Commission

Present: Conservation Coordinator Deborah Montemerlo.

It was on motion by Chairman Donald unanimously

VOTED: To accept with regret a letter of resignation, dated December 10, 1985, from William R. Duvall from the Conservation Commission, and to direct the Executive Secretary to send a letter of appreciation, on behalf of the Board, to Mr. Duvall for his services on said Commission.

The Board asked the Conservation Coordinator to advertise the vacancy in the Bentley Calendar and the Town Crier.

86ATM Article/Burglar Alarms

Following discussion, it was on motion unanimously

VOTED: To accept for the 1986 Annual Town Meeting Warrant an article received November 4, 1985, from Police Chief Peter B. Lembo to amend the Town Bylaws to provide rules and regulations for burglar alarms, subject to wording changes recommended by the Selectmen and referred to Town Counsel for an opinion.

Chairman Fox recommended that the changes be underlined so that the next discussion of the Bylaw will be easier.

Ford's Folly (off Brimstone Lane)

Present: Conservation Coordinator Deborah Montemerlo.

On the question of accepting a parcel of land for conservation purposes from A. Maillet, including a parcel known as Ford's Folly off Brimstone Lane, the Board was in receipt of a communication from the Town Engineer dated December 16, 1985, stating he had examined the proposed access to Parcel "E" (Ford's Folly) and that it is acceptable as shown on a plan entitled, "Land in Sudbury & Framingham, Mass., Surveyed For G. D. Realty Trust", dated September 1985 (Job No. 13945/Plan No. 5885), that it is his understanding that Parcel H (which will provide access to Brimstone Lane), will also be conveyed to the Town, and that it was his opinion that the developer would also agree to construct the access road from Brimstone Lane to the dam site on Parcel "E".

Ms. Montemerlo stated that the developer is conveying both Parcel E and H and that he had stated that he would construct the access road from Brimstone Lane to the dam site on Parcel E.

The Selectmen had discussed the subject of accepting this land from Mr. Maillet in the past and had expressed strong concern regarding liability

to the Town insofar as there is a dam on the parcel and a drop to land below the dam. On the question of liability, Ms. Montemerlo referred to an opinion written by Town Counsel's office at that time, dated April 23, 1983, which, in part, indicated (and cited a case) that a child old enough to be alone on the property is also old enough to understand the risk of any danger. At that time, Town Counsel had also suggested that guard railings could be installed or that warning signs could be posted in the area. Ms. Montemerlo stated that the Commission had discussed putting in a guard rail along the steep side of the dam but had not yet looked into the cost of doing so.

Selectman Frost suggested that sawed off telephone poles could be put in so that no vehicles can get through; also noted was that this would prevent the dumping of cars over the dam, which had taken place in the past.

Following discussion, Ms. Montemerlo recommended that the Town accept this gift of approximately thirty-eight acres, adjacent to other conservation land, which will be of no cost to the Town with the exception of installing some safeguards.

Ms. Montemerlo stated Mr. Maillet had requested that, if the Town accepts the land, that he be allowed to use a small area adjacent to the dam as a stump dump for a short period of time during construction. There appeared to be no objection to the same. Ms. Montemerlo stated that Mr. Maillet would have to comply with the Order of Conditions as it would pertain to the stump dump.

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

VOTED: To approve receipt of a deed from Alderice Maillet, Trustee of G. D. Realty Trust, conveying a gift of land off Brimstone Lane, under MGLc.40, s.8C, as amended, to be used and controlled by the Conservation Commission, shown as 1) Parcel H (containing approximately 21.52 acres of land more or less, 1.2 more or less acres located in Framingham) on a plan entitled, "Land in Sudbury and Framingham, Mass., Surveyed For G. D. Realty Trust", dated September, 1985, 2) Parcel E (containing 13.99 acres of land more or less) on a plan entitled, "Definitive Subdivision of Land in Sudbury, Mass., surveyed for Arden B. MacNeill", dated November 1982, revised February 9, 1983, and 3) Parcel G (containing 11,537 square feet of land more or less) on a plan entitled, "Land in Sudbury, Mass. Surveyed for Arden B. MacNeill", dated January 1983, revised February 10, 1983, subject to Town Counsel's final review of the deed and subject to the access road from Brimstone Lane to the dam site on Parcel E being constructed by the developer, Al Maillet.

Early Closing/Town Hall Offices

It was on motion by Selectman Donald unanimously

VOTED: To close Town Hall offices at noontime on Tuesday, December 24, and Tuesday, December 31, 1985.

Minutes

It was on motion unanimously

VOTED: To approve the Regular and Executive Session minutes of December 9, 1985, both as corrected.

Fort Devens/ICUZ

In responding to a communication dated December 10, 1985, from John R. Rasmuson, Acting Public Affairs Officer, Fort Devens, it was on motion unanimously

VOTED: To appoint Executive Secretary Richard E. Thompson and Planning Administrator Lee Newman, as the Town's most knowledgeable persons on the subject of zoning and land-use planning for the purposes of assisting the Georgia Institute of Technology in its compilation of an Installation Compatible Use Zone study (ICUZ) which will identify and analyze incompatible land use and develop planning agreements with neighboring communities, and directed the Executive Secretary to so notify the Public Affairs Office at Fort Devens.

Executive Secretary Richard E. Thompson offered the suggestion that Mr. Mark Sugarman, who had been actively involved in many of the issues regarding the Fort Devens land use in Sudbury, should be contacted, but Selectman Donald stated that she was of the understanding that Mr. Sugarman had moved.

Route 20 Widening Meeting

The Board acknowledged receipt of a communication from the State Executive Office of Environmental Affairs (EOEA), dated December 6, regarding a scheduled meeting in Sudbury, Tuesday, December 17 at 10 00 a.m., on the question of whether the EOEA should file an Environmental Impact Report in conjunction with the State Route 20 Widening project.

The Board directed the Executive Secretary to notify Winthrop Fairbank, Executive Secretary of the Sudbury Water District, of the meeting. Mr. Thompson stated that the Conservation Commission will be represented at that meeting also.

On the subject of the State Route 20 widening project, Selectman Frost reported on a DPW sponsored meeting he attended Wednesday, December 11, at the Goodnow Library. He commented that much objection was raised by residents regarding the proposed width of the road - the majority of the 90-110 attendees were concerned over the amount of hot top. Selectman Frost commented further that there did not appear to be any Federal or State money available for the undergrounding of wires in conjunction with the widening project. He stated that he would be meeting with Congressman Chester Atkins in January (1986) on the subject and Selectman Fox stated that the Selectmen would exercise whatever political clout they might have to lessen the width of the road at that time. Selectman Fox stated that he had received a telephone call from one resident who wanted another informational meeting scheduled. The Selectmen agreed that such a meeting should wait until February after the meeting with Senator Atkins.

Selectman Fox also suggested that a non-binding referendum question on this subject be placed on the ballot for the 1986 Annual Town Election.

Inflammables Storage Licenses

The Board was in receipt of a copy of a communication dated December 9 from Town Counsel responding to the Town Clerk regarding the above-captioned matter that the 15-year expiration provision in the Town Bylaws is invalid because of conflict with the General Laws, and the Selectmen referred to Town Counsel the question of changing the Town Bylaw (section 25(a)(2) of Article V) to be in concert with MGLc.148, s.13.

Brimstone Lane/Proposed Subdivision

Selectman Donald reported that at the Sudbury and Framingham Planning Boards' joint meeting on Tuesday, December 10, in Framingham, on a proposed subdivision on Brimstone Lane, the Framingham Planning Board had voted unanimously against the preliminary plan; like Sudbury, that Town is indicating its opposition to the subdivision, located in Framingham, with access only through Sudbury for obvious reasons of access and other related concerns, such as, safety and traffic issues.

MetroWest Meeting

Selectman Donald reported on the recent MetroWest meeting she attended last Wednesday, December 11, as follows :

- voted to apply for a \$75,000 State grant;
- question of whether Sudbury could belong to both MAGIC and MetroWest; (Note: Mr. Thompson stated he discussed it with the MAPC, and they will decide at a later date and in the interim Sudbury should proceed to sign applications for both groups);
- Town of Ashland voted \$5,000-10,000 in its budget to support MetroWest for next year if it is necessary for towns to put money up for its support;
- Town of Weston found \$7,000 left over from an ATM article and donated it as its share for this year; that Town is planning to put money in its budget next year (Note: if grant is decided favorably, MetroWest will urge EOCD to let Weston become an official member).

Sudbury 350th Birthday

Selectman Donald suggested that the Selectmen should begin to think about appointing a committee and making plans for Sudbury's 350th birthday in 1989 celebration and directed the Executive Secretary to schedule discussion of this matter in the near future.

CATV

Selectman Frost referenced a communication dated December 4, 1985, from the State Executive Office of Consumer Affairs and Business Regulation,

Community Antenna Television Commission, enclosing a copy of the Report and Order deregulating cable television rates in Sudbury upon the expiration of any local rate freezes. Executive Secretary Richard E. Thompson responded that Sudbury's contract with Adams-Russell had no local rate freeze stipulation, therefore, the basic rate may no longer apply.

Sudbury, Suffolk, England

The Board acknowledged receipt of a letter dated December 3, 1985, from the Honorable John E. Colman, Mayor of Sudbury, Suffolk, England, requesting information relative to how this area of the United States succeeds in creating new jobs.

Following comments, Chairman Fox directed the Executive Secretary to prepare a response for his signature, instructing Mr. Thompson to include in the response that one contact he should make is with the Massachusetts Department of Employment Security.

Sign Violation

Chairman Fox requested the Executive Secretary to direct the Building Inspector to address the sign violation at the Mobil gas station at the intersection of Landham Road and Route 20.

Serving Hours

It was on motion by Selectman Donald unanimously

VOTED: To grant permission to extend the serving hours on December 31, 1985, New Year's Eve, to 2 00 a.m. on January 1, 1986, to all holders of alcoholic beverages pouring licenses in Sudbury.

Authorize Expenditure/Hosmer Fund

It was on motion unanimously

VOTED: To authorize the expenditure of \$2,599.19 by the Sudbury Historical Commission from the Edwin Barrett Hosmer Memorial Fund to pay Pairpoint Glass Company for cup plates.

Feeley Memorial Award

It was on motion by Selectman Frost unanimously

VOTED: To congratulate Nancy Wollins and George Kevorkian who are being honored as winners of the 1985 Frank G. Feeley Memorial Award for dedication, sportsmanship and energy they each have brought to sports in the Town of Sudbury.

Executive Session

At 10 30 p.m. it was on motion by roll call

VOTED: To enter into Executive Session for the purpose of discussing the reputation and character, physical condition or mental health rather than the professional competence of a police officer, strategy for collective bargaining and litigation concerning James Burke, where open discussion of the same may have a detrimental effect.

There being no further business to come before the Board, the meeting was adjourned at 10 55 p.m.

Attest: _____
Richard E. Thompson
Executive Secretary-Clerk