

IN BOARD OF SELECTMEN
MONDAY, FEBRUARY 4, 1985

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

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

Tax Anticipation Notes

Present: Town Treasurer Chester Hamilton.

It was on motion by Selectman Frost unanimously

VOTED: To authorize the Town Treasurer to borrow \$2,000,000 in Tax Anticipation Notes, effective February 26, and due May 15, 1985, in accordance with his request of January 31, 1985.

Aquifer Protection Study

The Board was in receipt of a January 21, 1985, communication from the Planning Administrator and the Executive Secretary of the Sudbury Water District requesting input on proposals received for an Aquifer Protection Study.

Following discussion, it was on motion by Selectman Fox unanimously

VOTED: That Dr. Edward Chiang be requested to submit a proposal for an Aquifer Protection Study based on the same specifications provided to bidders as a result of the Planning Board's solicitation of proposals for said study; and that said specifications/guidelines be further defined to reflect new information provided by Dr. Chiang's hydrogeological report submitted recently to the Sudbury Water District and that these updated guidelines be provided to all bidders for reconsideration of their proposals with a request for new or affirmed estimated cost for the preparation of an Aquifer Protection Study, with a joint recommendation on the selection to be forthcoming from the Planning Administrator, the Health Director and the Executive Secretary of the Water District.

It was suggested that the specifications/guidelines be first updated by the Planning Administrator (Planning Board) in conjunction with the Executive Secretary of the Water District and the Health Director (Board of Health); additionally, that all the foregoing be done prior to the Water District meeting, February 25.

Offsets/85ATM

Present: Town Treasurer Chester Hamilton.

Following discussion, it was on motion by Selectman Fox unanimously

VOTED: To approve the use of the following offsets listed in a communication from the Town Accountant, dated February 3, 1985, to reduce the tax impact at the 1985 Annual Town Meeting:

Federal Revenue Sharing to 310-11 Fire Salaries		\$65,000
Federal Revenue Sharing to 320-11 Police Salaries		\$65,000
Cemeteries:		
Sale of Lots	to 420-11 Highway Salaries	\$ 2,412
Mt. Wadsworth	to " " "	2,109
Mt. Pleasant	to " " "	2,515
North Sudbury	to " " "	2,057
New Town	to " " "	5,801
Old Town	to " " "	83

And it was further on motion by Chairman Donald unanimously

VOTED: To support the use of available funds to offset the Line Items or Articles as follows:

Summer School RFA	to 125 Sudbury Summer School	5,735
State Aid	to 600-52 Library - Books	11,081
Dog License Refund	to 600-52 Library - Books	2,400
Overlay Surplus	to 950-81 Reserve Fund	80,000
Ambulance RFA	to Art. 9 - Ambulance	13,000
Horse Pond School Sale	to Art. 34 - Stabilization Fund	170,000

And it was further on motion unanimously

VOTED: To approve the use of the following available funds to offset Article 15, Intersection Improvements:

- 1982 Special Town Meeting Article 2 - Traffic Control Devices, \$7,955.90, subject to Town Counsel's approval;
- 1982 Special Town Meeting Article 3 - Boundary Change, \$3,994.50; and
- 1980 Annual Town Meeting Article 19 - Surface Drains (if the Highway Surveyor determines available), \$6,344.47.

And it was further on motion unanimously

VOTED: To approve use of \$31,950 from the Horse Pond School Rental Account and \$30,193 from the Sale of Town Buildings Account to offset Article 13, Telephone System, if these funds can be legally used for such purpose.

And it was further on motion unanimously

VOTED: To support the use of the remaining available funds listed on page 2 of the Town Accountant communication of February 1, 1985, as determined by the Finance Committee, excluding the following article balances which are being held by the Permanent Building Committee:

- 80ATM/25 Police Station Addition (11,290.31);
- 83ATM/21 Nixon Roof (\$5,750.67); and
- 83ATM/22 Energy Conservation (\$21,900).

Mr. Thompson responded to Selectman Frost that all of the recommendations on the offsets would be discussed with the Finance Committee.

85ATM Article 29/Raymond Road Access

Present: Roger S. Davis, Richard O'Neil, and approximately 13 area residents.

Chairman Donald convened a meeting with Mr. Roger S. Davis at his request relative to Article 29, Raymond Road Access.

Chairman Donald briefly explained that the Selectmen had proposed this article (and Article 30, Nobscot Road Access) for the 85ATM Warrant as a result of the recommendation in the Route 20 Master Plan, that it would help the traffic situation to have access to and from shopping centers other than from Route 20. Because these are zoning articles, the Planning Board must hold a public hearing; she added that the Selectmen plan to take positions on all Planning Board articles following the public hearings.

Mr. Roger Davis explained that in 1974 Mr. Vana wanted to rezone a portion of his land - approximately 6½ acres - near the junction of Route 20 and Raymond Road (formerly the golf course), which required a two-thirds vote of Town Meeting. Because of some opposition and to affect that re-zoning, Mr. Vana wrote a letter to Mr. Richard O'Neil, 45 Rambling Road, dated March 28, 1974, stating his intention not to connect any portion of his land to Raymond Road by granting a conservation easement to the Town as a protective barrier between the proposed business zone and Raymond Road, and that said easement would run with the land. Mr. Davis submitted to the Board an attested copy of the Article and peittioner's report from the April 16, 1974 Annual Town Meeting, pointing out that Mr. Vana restated his "no road" commitment at that time and his intent to extend the deeded conservation easement to the Town to run parallel to all of the westerly side of Raymond Road to the northern boundary of the Water District property to keep the land in its natural state, restricting all sturctures, roadways, parking lots etc.

Mr. Davis stated that last May he talked to Mr. Vana about access from his new shopping center, and Mr. Vana had replied not to worry about it - that he had taken care of it a long time ago. According to Mr. Davis, Mr. Vana had stated that it is a matter of record, there is an easement and nobody can put a road in there. Mr. Davis went on to say that, after reading in the newspaper recently, the Selectmen proposed two zoning bylaw changes to allow Mr. Vana to cut access roads from the rear parking lot to Nobscot Road and Raymond Road, he contacted Mr. Vana. He said that Mr. Vana told him that he did not give the Town an easement, that he was not going to do so, and that if Mr. Davis wanted to sue him to go right ahead.

Mr. Davis stated his point is that Mr. Vana made an agreement with the residents of the "Robsham" area, to the Town of Sudbury through Town Meeting, for a buffer zone so that no road would go through this residential area; it was made a part of his rezoning. Mr. Davis expressed his opinion that when someone makes an agreement, he should keep it. The proposed articles are contrary to the spirit of the zoning agreement which was made eleven years ago.

Mr. Davis asked the Selectmen to withdraw these articles and insist that Mr. Vana keep his agreement to the Town. He expressed his opinion that the Selectmen have a responsibility to see that people should live up to their agreements to the Town, and that the Selectmen should take whatever action, legal or otherwise, to be sure that the agreement of 1974 is adhered to.

Chairman Donald responded that the information provided by Mr. Davis would be given to Town Counsel to be researched and that the Selectmen would consider Town Counsel's advise, along with input from the Planning Board's public hearing, before taking a position regarding these articles.

Town-Wide Distribution of Planning Material

On the question of allowing the Planning Board to include planning material with the Town Report when it is distributed Town-wide, the following points of view were expressed:

- Mr. Thompson expressed concern about the precedent being set, stated that it was his understanding that the Housing Authority is considering a Town-wide survey they may also want to include; also, if the Selectmen agree to allow the Planning Board to do so, it should be the responsibility of the Planning Board to "stuff" the packages;.

- Chairman Donald agreed with Mr. Thompson but also felt that the material was of importance to every household and this seemed like the most economical way of doing it;

- Selectman Frost felt that the people who were interested in planning issues of the community are the ones who will seek it out, and that it is up to the Town to have it available free of cost to them, but he was not sure that it was necessary for the material to go to every household.

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

VOTED: To approve a request dated January 31, 1985, from the Planning Board to distribute summaries of the 1984 Town Planning Survey and the Master Plan Update along with delivery of the Annual Town Report, with the understanding that the Executive Secretary would discuss with the Planning Administrator a way to present a more objective summary of the Town Planning Survey.

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

Draft/Final Cable Television License

Present: William C. Henchy, Adams-Russell Cable Services Division.

Town Counsel reviewed with the Board a January 14, 1985, communication from William C. Henchy, Vice President of Adams-Russell, enclosing the draft final cable television license for Sudbury (the Selectmen did not have a copy of said communication).

Later in the evening, in compliance with the provisional license, Mr. Henchy submitted the following documents under cover letter dated February 4, 1985:

- Adams-Russell Annual Report 1984;
- Adams-Russell Operating Rules and Procedures for Access, Leased Access, Local Origination;
- Adams-Russell Equal Employment Opportunity Statement;
- Registration Statement for New (Sudbury) Cable System before the Federal Communications Commission, Washington, D.C.;
- Programming for the Sudbury System;
- Sudbury Build (purchase orders for strand, cable and electronics needed to build the Sudbury System; copies of pole attachment agreements);
- License Agreement Between Adams-Russell and New England Telephone and Telegraph Company; and
- maps showing every telephone pole in Town and cable routing, above- and underground.

As noted in Mr. Henchy's January 14th communication, he stated that the changes which impact on Sudbury's CATV franchise between the Provisional License (executed July 9, 1984) and the draft final license, which, in part, are due to the passage of new Federal regulations (the Cable Communication Policy Act of 1984 signed by President Reagan October 29, 1984), are in the following areas:

- rates: any new franchise or license or renewal thereof executed subsequent to December 29, 1984, is exempt from all rate regulations unless the Federal Communications Commission finds that there are not competitive alternatives to cable TV in the community;
- renewals: Federal law preempts the Massachusetts rule; and
- subscriber privacy: the general impact is not very much different than the original language in the Sudbury franchise.

Town Counsel Paul L. Kenny reviewed Mr. Henchy's summary of changes, submitted with said January 14 communication, section by section, and made the following recommendations to the Selectmen:

- Do not delete Section 4; instead, add new Section 4 using paragraph "q" only from Section 4 of the Provisional License; all subsequent sections in the Final License, therefore, remain numbered the same.
- In Section 6, delete "Renewals shall be subject to provisions of the Federal Cable Communications Act of 1984."
- In Section 9, delete "so long as this prohibition shall be required by Ch. 166A of the General Laws of the Commonwealth."
- In Section 10, change reference to 21C to 22C.
- In Section 11, delete last paragraph, "In the event this License is not renewed, then transfer of the system shall be effected pursuant to Section 627 of the Federal Cable Communications Policy Act of 1984."

- In Section 13, change reference 21B to 22B.
- In Section 15, paragraph (i) change reference to Section 5(b) to 6(b).
- In Section 19, delete "provided that active use is being made of the equipment at the end of its normal life."
- In Section 20, delete "consistent with the provisions of the Federal Cable Communications Policy Act of 1984."
- Substitute Section 22, Schedule of Rates and Coverage, of the Provisional License in its entirety for that which is in the draft Final License.
- Section 25 amended (with input from Selectman Fox) to read as follows: "The annual license fee payable to the Town shall be fifty cents (\$.50) per subscriber served, or such other amounts as shall be prescribed or allowed under Chapter 166A of the General Laws of Massachusetts, as amended from time to time, or the Federal laws or regulations promulgated thereunder, at the discretion of the Selectmen. The annual payments . . . (as printed)."

- Use Section 29 from the Provisional License and add the following paragraph at the end: "The Licensee shall conform to all laws, rules, and regulations relating to privacy as may be promulgated from time to time."

Mr. Henchy expressed strong reservations and/or disagreement with Town Counsel's exclusions, amendments, opinions and comments, especially in the following areas:

- the exclusion of all reference to Federal regulations, especially on license renewals and rates;
- the inclusion of rates from the Provisional License to the draft final license;
- the actual effective date of the license (Town Counsel stated it had been awarded long before December of 1984 which is the date the new Federal regulations went into affect and his reason for excluding reference to Federal regulations in the final license).

During further discussion, Mr. Henchy implied that, if Town Counsel and Adams-Russell could not reach agreement on the final license, it might be necessary to refer it to the State Cable Commission, noting that the State Cable Commission had decided for Adams-Russell on a previous issue where no agreement could be reached between Town Counsel and Adams-Russell.

Mr. Kenny addressed that issue by stating that, although he disagreed with the State Cable Commission (the issue at the time was underground cable), the Selectmen did not want any further delays in getting cable television in Sudbury. He reiterated that the cable franchise was issued long before December of 1984, which is the effective date of the new Federal regulations and, for that reason, reference to them should not be included in the final license.

After further discussion, it was on motion by Selectman Fox, seconded by Selectman Frost, to accept the draft of the final cable television license, submitted under cover letter dated January 14, 1985, from Adams-Russell, with the recommendations set forth above by Town Counsel.

Mr. Henchy stated that he is not authorized to accept a final license which does not conform to specific provisions of the Federal law; that he is prepared to take it to the State Cable Commission, if that is necessary. He asked that Adams-Russell be allowed to comment on Town Counsel's recommendations and submit to the Board material which might be persuasive on their behalf.

Following further discussion Chairman Donald stated that she would like to have Town Counsel's recommendations in writing, and any other input Mr. Henchy would like to submit, before voting on the final license; therefore, Selectman Fox withdrew his motion, and Selectman Frost his second.

Chairman Donald asked Mr. Henchy to submit his comments in writing this week.

Reserve Fund Transfers

Following a brief discussion, it was on motion unanimously

VOTED: To approve the following transfer requests, all dated January 31, 1985, for the reasons explained on the numbered transfers:

- a. No. 27, from the Reserve Fund to Account 340-12, (Building) Overtime/Extra Hire, in the amount of \$1,000;
- b. No. 28, from the Reserve Fund to Account 340-14, (Building) Deputy Inspectors, in the amount of \$600;
- b. No. 29, from the Reserve Fund to Account 340-16, (Building) Plumbing & Gas Inspector Fees, in the amount of \$3,400; and
- c. No. 30, from Line Item 340-33, (Building) Excess Buildings to Line Item 340-32, Town Building Maintenance, in the amount of \$5,000.

Appoint Special Constables

It was on motion unanimously

VOTED: To appoint two special constables, non-paid, for traffic duty only at Raytheon Company, as requested by Lt. Hall of Raytheon in a letter dated January 24, 1985, and recommended by the Police Chief, as follows:

James S. VandenAkker, 26 Dodge Road, Sutton; and Janet D. Kelley, 56 Edwin Road, Waltham, for terms to expire April 30, 1985.

Resignation/Talent Search Committee

It was on motion unanimously

VOTED: To accept the resignation of Eileen M. Todd from the Talent Search Committee, dated January 29, 1985, and to direct the Executive Secretary to forward a letter of appreciation to Mrs. Todd for her many years of service on said Committee.

Waive Provision/Selectmen's Site Plan Policies and Procedures - Doyle Property

It was on motion unanimously

VOTED: To waive provision 4.a(1) of the Selectmen's Site Plan Policies and Procedures to allow S. F. Doyle & Co., Inc., to submit a 36" X 48" (rather than a 36" maximum sheet size) site plan for property located at the westerly corner of Horse Pond Road and Boston Post Road, as requested dated February 1, 1985, from Colburn Engineering, Inc.

Minutes

It was on motion by Selectman Fox unanimously

VOTED: To approve the minutes of the Regular Session and the Town Fathers Forum of January 28, 1985, both as drafted.

Communications Received

The Board noted receipt of the following communications:

- an invitation to join the League of Women Voters in celebrating the sixty-fifth anniversary of the League, Wednesday, February 6, at 7:30 p.m., at the Wayside Inn.

- a response from Town Counsel relative to U.S. surplus land (a portion of Fort Devens Annex) in Sudbury that the Town can re-zone, down zone, and/or create an Open Space classification for this Federal Land as necessary.

85ATM Article 23

The Board was in receipt of a response from Town Counsel relative to 85ATM Article 23, Sale of Land off Pratt's Mill Road, that the Town can vote to sell the parcel in question to the abutter (Algonquin Boy Scout Council) knowing that said sale will substantially increase the resale value of the abutter's parcel.

Later in the evening, while taking positions on articles, Mr. Thompson informed the Board that Mr. Dick Hill called and informed him that he believed the original intent of the conveyance of the Boy Scout property now owned by the Algonquin Council was solely for its use, or, in the event it had no further use for the land, that it be offered to the Town, or, secondly, for the use of the Perkins Institute for the Blind.

Selectman Fox asked to see copies of the deeds conveying the land to the Town by Alton Clark et als and the one which conveyed the land to Algonquin Council. Additionally, with reference to Mr. Thompson's communication to the local School Committee inquiring of its interest in the land (Article 23),

Selectman Fox recommended that the letter also be forwarded to the Park and Recreation Commission, as well as to any other Town Board which might have an interest, i. e., Conservation Commission.

Additionally, Selectman Fox directed Mr. Thompson, if possible, to contact the other people who had deeded the parcel of land to the Town along with Mr. Clark, and inform them of the intention of Article 23.

MMA Legislative Conference

Selectman Frost indicated interest in attending the Tenth Annual Massachusetts Municipal Association Legislative Conference, Saturday, March 30, 1985, at the State House in Boston. Mr. Thompson stated he would make his reservation.

Traffic Study

It was noted for the record that a communication dated January 29, 1985, had been sent to Planning Administrator Lee Newman from the Executive Secretary expressing opposition to a \$15,000 Planning Board budget item for a traffic study.

Positions/Warrant Articles for 1985 Annual and Special Town Meetings

Following discussion of Warrant Articles for the 1985 Annual and Special Town Meetings, it was on motion unanimously

VOTED: To support the following articles:

Annual Town Meeting Articles

- Hear Reports
- Temporary Borrowing
- Amend Personnel Bylaw, Art. XI - Sick Leave Bank
- Unpaid Bills
- Ambulance
- Accept S.26E of Ch. 148 - Residential Smoke Detectors
- Telephone System, subject to funding
- Amend Bylaws, Art. V(A) - Removal of Earth
- Amend Bylaws, Art. IX,III,C,2 - Technical Correction
- Amend Bylaws, Art. IX,V,A - Site Plan Design Standards
- Amend Bylaws, Art. XI(A) - Council on Aging
- Amend Bylaws, Art. V - Door-to-Door Sales, subject to wording change
- Amend Bylaws, Art. IX,V,J/V(B) - Signs, subject to confirming wording
- Sudbury 350th Anniversary Celebration Fund
- Stabilization Fund

Special Town Meeting Articles

- FY85 Budget Adjustment - Salary Adjustment Account
- FY85 Budget Adjustment - Blue Cross/Blue Shield Account*
- FY85 Budget Adjustment - Casualty Insurance Account**

* Selectman Fox suggested that a thorough explanation be given of what has been done this past year to mitigate this large expenditure.

** may be withdrawn and a Reserve Fund transfer requested instead.

Note: The Town Accountant will speak to the above STM articles.

And it was further on motion unanimously

VOTED: To hold the following articles:

Annual Town Meeting

- Amend Personnel Classification and Salary Plans
- Street Acceptance - Winter Street
- Aquifer Study
- Intersection Improvements
- Haskell Recreation Area
- Sale of Land Off Pratt's Mill Road
- Amend Bylaws, Art. IX,V,B,1 - Off-street Parking*
- Amend Bylaws, Art. IX,IV,A - Intensity Regulations, Lot Perimeter*
- Amend Bylaws, Art. IX, section II,c - Create Business District #17*
- Amend Bylaws, Art. V, Public Safety - Driveway Location*
- Amend Bylaws, Art. IX,I - Certain Open Space and Educational Uses*
- Amend Bylaws, Art. IX,II,C - Raymond Road Access*
- Amend Bylaws, Art. IX,II,C - Nobscot Road Access*

* positions on zoning articles were held until after public hearings in order to evaluate the pros and cons of said articles before taking a position; wording to that effect to be printed in the Warrant.

Note: Intersection Improvements and Haskell Recreation Area articles held pending receipt of wording/information.

And it was further on motion unanimously

VOTED: To not support the following articles:

- Amend Personnel Bylaw, Art. XI - Performance Awards*
- Peakham Road Walkway**
- Raymond Road Walkway**

* not supported on the basis that decisions regarding employees' increases based on merit should be the Department Head's decision, not the Personnel Board's.

** not supported due to the uncertainty of funds; the Selectmen strongly recommended that the Planning Board evaluate reactivating the walkway program. Selectman Fox suggested that "self-help" information from the Goodman's Hill Road self-help walkway proponents be passed along to the proponents of both the Peakham Road and the Raymond Road walkway petition articles.

Following further discussion, it was on motion unanimously

VOTED: That the Selectmen would speak on articles as follows:

Chairman Donald: Articles 3, 4, 5, 20, 21, 24, 27, 29, 30 and 33

Selectman Fox: Articles 11, 12, 15, 16, 17, 18, 19, 22, 25, 28, and 34
Selectman Frost: Articles 8, 9, 10 (with Fire Chief Dunne), 13 (with
Town Accountant), 23, 26, 31 and 32.

And it was further on motion unanimously

VOTED: That the Selectmen would speak as individuals on Article 14.

There being no further business to come before the Board, the meeting was
adjourned at 10:30 p.m.

Attest: _____
Richard E. Thompson
Executive Secretary-Clerk