

IN BOARD OF SELECTMEN
MONDAY, OCTOBER 7, 1985

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

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

Frequent Power Loss/Emerson Way Area

The Board acknowledged receipt of a communication dated September 30, 1985, from Rosalind Hill, 17 Emerson Way, requesting a meeting with the Selectmen, Representative Hicks, and Boston Edison Company, relative to the frequent loss of power which occurs in the Emerson Way area (off Morse Road).

Executive Secretary Richard E. Thompson stated that, in speaking to Jack Goggin, District Manager of Boston Edison, he learned that Boston Edison has formed a new committee to deal with power outage problems, e.g., the effect of power outages on data processing equipment, etc., and that Boston Edison is planning to have a public hearing before the end of November to hear from residents on the subject.

Chairman Fox directed the Executive Secretary to inform Mrs. Hill of the above and to make further inquiry of both Mrs. Hill and Boston Edison to determine the facts, as Mrs. Hill requested, and report back to the Board accordingly.

Octoberfest/Ephraim's

It was on motion by Selectman Donald unanimously

VOTED: To grant permission to Ephraim's Restaurant to sell food and beer and wine outdoors in the courtyard at Village Green on Sunday, October 20, 1985, from Noon to 5:00 p.m., for an Octoberfest, which will be participated in by the other businesses at Village Green, as requested in a letter dated September 30, 1985, from Tom Kennedy of Ephraim's Restaurant, subject to notification to the Fire and Police Departments and the Board of Health.

Appointments - Town Report Preparation Committee

In accordance with an October 4, 1985, recommendation from Linda Krusinski, Town Report Preparation Committee, it was on motion by Selectman Frost unanimously

VOTED: To appoint the following people, who have expressed a willingness to serve, to the Town Report Preparation Committee, for terms to expire April 30, 1986: Edith Creter, 16 Wildwood Lane, Rosemary Treacy, 74 Winsor Road; June E. Allen and Clayton F. Allen, 515 Concord Road, and Mary Jane Hillery, 66 Willow Road.

Minutes

It was on motion unanimously

VOTED: To approve the Regular Session minutes of September 23, as corrected, and the Regular and Executive Session minutes of September 30, both as drafted.

Review List/86ATM Articles

The Board reviewed a draft list of articles, dated October 4, 1985, for the 1986 Annual Town Meeting, as follows: Revise Site Plan Bylaw IX,V,A; Revise Sign Bylaw IX,V,J; Earth Removal Bylaw V(A); Revise Personnel Bylaw XI,7(2); Revise Inflammables Storage Bylaw V,s25; Street Acceptance - Layout for new Codjer Lane extension (from Raytheon parking lot); Reconstruction of a portion of Codjer Lane (east of Union Avenue); Sudbury Centre Intersection; Accept Chapter 477 of the Acts of 1984 to allow town to bid on federal or state surplus equipment valued over \$4,000 (now controlled by bidding statute); Accept Legislation - Liens: Septage Billings; 350th Celebration Fund (\$500); Hear Reports; Temporary Borrowing; Street Acceptances; Stabilization Fund; Free Cash - separate from Budget wrapup and instead have an article at end of warrant which would authorize use of Free Cash to "reduce the tax levy"; and Unpaid Bills.

During discussion of that list the following comments were noted:

1) relative to an article to revise several areas of the Site Plan Bylaw IX,V,A - one being to establish a Design Review Board, as proposed by the Planning Board, Selectman Frost expressed strong opposition to establishing yet another Town board from which a developer would be required to seek approval for his site or subdivision plan. Selectman Frost expressed his general opinion that, at times, it appears that certain Town boards place stumbling blocks in front of developers; he felt that, instead, the Town should try and be more cooperative, especially in handling subdivision plans. He agreed that a design review process is necessary but felt that the Selectmen should address the same during site plan hearings and that a Design Review Board should not be necessary.

Selectman Donald stated she did not disagree with what Selectman Frost was saying; on the other hand, having a Design Review Board might alleviate the problem which exists right now with the soon-to-be Matt Garrett's restaurant. There have been some complaints about the exterior renovations of the existing building and, Selectman Donald felt that may have been avoided had there been a Design Review Board. It was noted, however, that it was not necessary for Matt Garrett's to have a site plan for those particular renovations and, therefore, there would not have been control even with a Design Review Board.

2) an article to revise the Sign Bylaw (IX,V,J) had been referred by the 1985ATM to the Planning Board for a comprehensive study and rewriting.

3) relative to an article to revise the Personnel Bylaw [XI,7(2)], Sick Leave Bank - a technical correction is necessary to eliminate contradictory wording concerning participation of temporary and permanent part-time

employees with regularly-scheduled working hours or normally-scheduled work days in the sick leave bank.

Currently these employees are entitled to participate in the sick leave bank in accordance with a 85ATM revision to this bylaw.

4) agreed to include a bookmark article to revise the Inflammables Storage Bylaw (V,s25). The Executive Secretary was directed to check with the Health Director and/or the Fire Chief on the status of State legislation with regard to inflammable storage.

5) regarding the necessity of a Street Acceptance article for the layout for the new Codjer Lane extension from Raytheon parking lot, Chairman Fox referred the question to Town Counsel.

Brush Stockpiling/Highway Garage

Executive Secretary Richard E. Thompson announced that provisions have been made for residents to dump brush (from Hurricane Gloria) for burning at the Highway Garage, off Old Lancaster Road, Monday through Friday from 9:00 a.m. to 5:00 p.m., and on Saturday from 8:00 a.m. to 3:30 p.m., until further notice.

Mr. Thompson stated that Massachusetts cities and towns which had been hit by Hurricane Gloria had received permission from the State to burn brush for one month at one location designated by each city and town; also, that the Sudbury Park and Recreation Commission had granted a two-year approval for the stockpiling of brush for burning, not only during this emergency period, but once a year in the spring thereafter, and for the burying of stumps at the Davis Land. Mr. Thompson stated that the area to be used is being prepared now and an application is being filed with the Town's Conservation Commission for determination of applicability, in accordance with the Wetlands Protection Act, since the area in which the burning will take place is within 100' from the wetlands. This will also accommodate the Park and Recreation's long-range plans for a driving range on the Davis Land in that it will raise the elevation of the land.

Dog Hearing - Delani/Turner, 38 Hadley Road

Present: Dog Officer Betsy M. DeWallace and Assistant Dog Officer Michael Leighton; Diana Breen, on behalf of complainant; and Matthew C. Turner.

Chairman Fox convened a public hearing on the complaint dated September 24, 1985, of C. Kenneth Delani, Principal of the Josiah Haynes School, against the German Shepherd dog owned by Mrs. Diane Turner, 38 Hadley Road.

Executive Secretary Richard E. Thompson stated that all appropriate parties and Town officials had been notified by certified mail and noted receipt of the following communications:

- complaint dated and filed with the Town Clerk September 24, 1985, stating the following: "The dog is a trained attack dog and has been loose on the school playground, charged (snapping and growling) two staff members and two students. The dog officer has been called twice in this regard and on one occasion was incapable of securing the dog."

- report dated October 3, 1985, from Dog Officer Betsy DeWallace stating that, to her knowledge, the dog has been at Haynes School during school hours three times and that the dog "went after her" when she tried to catch him at the school. The Dog Officer was of the opinion that, if there is the least possibility of this dog getting away again, he should be removed from 38 Hadley Road; that he is a very dangerous dog to be near the school and that the dog is unprofessionally attack trained.

Mr. Thompson swore in all those planning to give testimony.

Lunch Aid Diana Breen gave the following account of the incident which took place at Haynes School and which initiated the filing of this complaint by the Principal, C. Kenneth Delani.

On September 24 at 12:35 p.m. the Turner dog came onto the playground where the children were eating lunch. He took food out of the plates from which children were eating and when the children tried to get their food back the dog lunged at them snapping. Realizing the danger, Ms. Breen sent for help and a guidance counselor came out to assist. She took the children to the other side of the building while Ms. Breen coaxed the dog away from the school by giving him bits of food until he was close enough for her to reach his collar, at which time, she noticed the dog's blue Watertown tag and remembered the Turner boy saying that his dog was an attack dog. She said she was unsure whether she should let the dog go or what to do, but held on to him. At this time, Mrs. Gibson, the school secretary, came out to try and read the tag and the dog lunged at her with his teeth bared while Ms. Breen held his collar. One of the children came and the dog growled but sat as soon as Ms. Breen told him to sit; she tied a rope to his collar and restrained him until the Dog Officer came. Ms. Breen stated that the dog lunged at two children and is very strong.

Responding to Chairman Fox, Ms. Breen said that she knew of one other time when the dog was on the school grounds and that was in June, just before school was out for the summer.

Mr. Turner responded to Ms. Breen as follows:

The dog is usually restrained on his property but did get out on that day (September 24). The dog is thirteen years old, weighs 74 pounds, and has been with the family since he was eight weeks old. Mr. Turner agreed that the dog should not have been roaming, stated that he owns another German Shepherd, a 9-month old puppy, and both dogs are usually restrained on his property. He said that the dog's name is Boris, that he is a personal protection dog, trained in obedience and protection of the house and kids - he has an eleven-year-old son, a two-year-old daughter - that the dog acts on command, not on instinct, and that German Shepherds and all good dogs should be trained. He

felt it would be harsh to have the dog leave town but that his wife is willing to take him; she lives in Hudson.

Responding to the Selectmen, Mr. Turner stated that his property abuts Haynes School, that he has no children at Haynes School now; his son goes to Curtis Middle School.

Mr. Turner reiterated that he uses the dog for the protection of personal property, i.e., to protect against having his car broken into, etc.; that the dogs do not go out loose, but with him on a leash, or he drives with the dogs to a field to let them run.

The Dog Officer mentioned a biting incident involving Boris in July.

Mr. Turner responded that his dog had bitten his son's friend on the leg while tied to a run on his property and was a result of the boys teasing the dog; that when his son, Jay, commanded "OUT" the dog went right down on his stomach.

Responding to the Dog Officer, Mr. Turner stated that the dog has been in Sudbury for approximately ten months.

The Dog Officer explained that when she approached the dog last June on the school grounds he growled as she came toward him and then headed home. She was unable to catch him but did catch the other dog which had been running with him. She went on to say that Boris is no problem in his own yard when he is tied up and that the Turners are very cooperative people, but she felt very strongly that the dog should not be allowed to remain in such close proximity to the school.

Recounting the incident of September 24, Ms. DeWallace stated that when she got to the school the dog was under control and tied to a fence. The Police and Mr. Delani were there and they all waited for Mrs. Turner to arrive and take the dog home. They explained to her the seriousness of what had taken place.

Responding to Selectman Frost, Mr. Turner stated he bought the house on Hadley Road last November; stated he felt comfortable as owner of the dog and knowing the liability involved as owner and being next to the school; he added that he has two million dollars insurance on the dog. He also indicated that his children have lots of friends who come to the house and who are not bothered by the dog.

Selectman Frost stated his concern because of the youngsters, running through the Turners' yard or at the school, and the disfigurement that "might happen" if the dog gets loose again. Selectman Frost stated, at the same time, he understood Mr. Turner's feelings.

Responding to Mr. Turner, Ms. DeWallace verified that Boris is a "sweetie" in his own yard - that he licked her hand.

Chairman Fox stated that there is a major problem here, in part, because of the location of the Turners' house to the elementary school (kindergarten

through fifth grade). He indicated that the Selectmen have the power under State statute to order the dog extinguished; commented that there had been two incidents involving this dog in less than four months, and, although the Selectmen cannot control what happens on private property, they would be less than vigilant if they did not order the dog out of Town, especially when there is availability of housing for the dog in Hudson.

Selectman Donald agreed and stated her opinion that the \$2,000,000 insurance would not make Mr. Turner very happy if some child was disfigured, pointing out that a large portion of the (429) children at Haynes School have dogs and would react in a friendly manner to Boris should he approach them on the playground. These children, she stated, should not be put in that position. She added that, even though Mr. Turner intends to keep the dog tied up, accidents do happen; it would only take one instance of the dog getting loose and this has already happened twice.

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

VOTED: To order out of Town within one month the German Shepherd dog, License #1783, owned by Diane Turner and housed at 38 Hadley Road.

The Board directed the Executive Secretary to officially notify the dog's owner, Mrs. Diane Turner, of the Selectmen's vote and to provide her with a copy of the Massachusetts General Laws which explains the appeal process of the Selectmen's decision.

85ATM - Selectmen Action Required

As requested by Selectman Donald the Executive Secretary briefly updated the Board on action still required under various articles of the 85ATM, as follows: delinquent tax notices will be going out shortly, management report will be done within one month on the Town Audit, Town Counsel and TCM, Inc.'s counsel have reached agreement on the contract for the new telephone system, intersection improvements are underway, the Town Engineer is now collecting permit fees in accordance with the Driveway Location Bylaw; Mr. Thompson stated also that the Selectmen are aware of all that is taking place with regard to the Fort Devens excess land.

Joint Meeting/Conservation 5-year Capital Improvement Program

Present: Conservation Coordinator Deborah Montemerlo, Vice Chairman Jeffrey W. Moore, William R. Duvall, J. S. Yeo, Frances H. Clark and Associate Member Adam Ames, Conservation Commission; Chairman Robert J. Cusack, Theodore A. Barten, Robert "Kip" Johnson, Joseph W. Mooney, Long Range Capital Expenditures Committee (LRCEC); Planning Administrator Lee Newman, Chairman Morton L. Brond, John C. Drobinski and Lael M. Meixsell; Chairman Marjorie R. Wallace, John T. Hannan, John B. Hepting, Christopher F. Baum, Daniel A. Wren, Stephen D. Ellis and David P. Wilson, Finance Committee.

Chairman Fox convened a joint meeting with the Conservation Commission, at its request, the Long Range Capital Expenditures Committee, the Finance Committee, and the Planning Board to discuss the Conservation Commission's

five-year Capital Improvement Plan. This CIP showed land acquisition goals, 1986-89, and was submitted to the LRCEC under date of October 10, 1985.

Conservation Coordinator Deborah Montemerlo explained during which Fiscal Years the parcels identified would be available and gave an overview of each parcel in terms of feasibility of success under the self-help program for 80% funding reimbursement from the State.

There were some general questions by Chairman Fox regarding the submission which were answered by Ms. Montemerlo.

There was some question regarding information Ms. Montemerlo received from the State Department of Environmental Management and that given to Mr. Thompson relative to whether the State is officially planning to withdraw its application to purchase local Federal excessed property off Hudson Road (south). The Selectmen expressed surprise and concern that the Conservation Commission agreed with the State, at the State's request, to ask the State to withdraw its application. Mr. Thompson was directed to make inquiry accordingly and report back to the Board. The Selectmen requested that the Conservation Commission not submit a letter to the State requesting that it withdraw its application for the GSA excessed federal land in Sudbury. The Commission members present agreed not to do so.

LRCEC member Kip Johnson expressed his opinion that it would be helpful to see a map of the Town of Sudbury showing the various public lands, i.e., conservation land by outright purchase, parcels such as the Stone Farm with special concessions, conservation land by use of easements and restrictions, and wetland areas which are undevelopable.

Mr. Thompson stated that there is such a map available in the engineering office; however, that map does not show properties on which there are conservations easements and restrictions because there are so many minor parcels all over Town. The Conservation Commission agreed to circulate a copy of that map to the Chairmen of each of the committees represented here tonight.

Responding to questioning by Finance Committee members the Commission responded as follows:

1) difficult to prioritize because of all the questionable aspects of the self-help applications; whether the Commission limits themselves to self-help parcels will depend on which parcel(s) is approved by the State, the Commission would also like to pursue private funding.

2) expect to have to bond large land purchase(s) and expect to use a portion of the Conservation fund.

Note: During discussion a question was raised whether the Town can vote a Proposition 2½ exemption prior to and subject to Town Meeting approval was referred to Town Counsel for resolution and report back to the Board October 16, 1985.

During further discussion, Chairman Fox pointed out that the Selectmen previously supported putting money from the sale of certain Town lands (off Pratt's Mill Road, Tract 006, and TP#189, Crystal Lake Drive) into the Conservation fund with the understanding that this would obviate the need for further appropriation at the 1986ATM.

Finance Committee member Christopher Baum suggested that estimates of debt burden be generated based on the Town buying each of these parcels and bonding them, i.e., what would be the annual cost for the Town for the five years. The Conservation Commission agreed to furnish said information.

Responding to questioning by the LRCEC, Commission members responded as follows:

1) a listing of parcels for proposed acquisition was not provided in prior CIP's of the Commission because previous plans were a projection of what the Commission wanted to have put into the Conservation fund; this year, parcels have been identified because the Commission became eligible for self-help funding in August after the State accepted the Town's new Open Space Plan, 1984 - 1988 Town of Sudbury.

2) although there is no way to know what parcels will be going on the market, the Open Space Plan provides a means for the Commission to define those parcels which it might be interested in purchasing in the event the parcel becomes available. Selectman Fox asked that a copy of the Open Space Plan, when finalized (the State is asking for supplementary information relative to Park and Recreation plans for upgrading existing park equipment and a section on endangered species), be provided to the LRCEC, as requested.

3) because it is difficult to assume what parcels will be available it is difficult to project a 10-year, rather than a 5-year, CIP.

Ms. Wallace stated that when the Conservation fund was originally set up it was based on x% of the Town valuation to be deposited and as parcels became available the fund was available. When this was no longer realistic because of the rise in the cost of land, (prior) Finance Committees no longer supported this method.

Finance Committee member Chris Baum commented that it might be a wiser choice to also request some "realistic" sum be added to the Conservation Budget for maintenance and creating some uses for the land the Town already owns instead of a singular program of only land acquisitions.

Selectman Frost commented as follows:

- Fort Devens excess land will be difficult to maintain and the Town should hold the State accountable since they committed themselves to the purchase and received support from all surrounding towns.

- suggested the Commission consider purchasing less than three, 1-acre, lots in Great Pond Woods - it being his feeling that the Commission did not need three acres in order to carry out its plans for that particular area, i.e., boat launch, etc.

- felt the Commission's CIP was an ambitious program and not realistic given Proposition 2½ constraints; he felt the Town would have to decide if an exemption would be the best way to do it.

Resident Cliff Hughes stated that there are 550 acres of conservation land of the 14,000 total acres of land in the Town (26 square miles), that 2% of the acreage is commercial property which equals 20% of the Town's taxes, and that he would like to see a chart showing the Fort Devens land, Park and Recreation land, open space along the River - it was his opinion that 3-4% of the Town was already conservation land, indicating in his opinion the Town already has enough conservation land. He also stated he would like to see the Town pursue access to the pond on the Sperry-Rand property.

Joint Meeting/Planning Board

Planning Administrator Lee Newman; Chairman Morton L. Brond, John C. Drobinski, and Lael M. Meixsell, Planning Board.

Chairman Fox convened a joint meeting with the Planning Board to discuss the preparation of articles for the 86ATM.

Chairman Fox reviewed a list of draft articles which the Selectmen had discussed earlier this evening.

Planning Board Chairman Morton L. Brown stated the Planning Board's interest in submitting several articles, as follows:

1) to appropriate \$100,000 per year for five years to reinstitute the walkway program - a more comprehensive program serving the whole town rather than special interest groups; the plan will also include money for engineering in advance of the walkways; the Planning Board will submit a written plan.

2) An article relative to cluster zoning is being considered - no position at this time.

3) A revision to the parking bylaw to expand the engineering description - what constitutes size, etc.

4) Planning Board reviewed preliminary draft of revisions to the site plan rules and regulations. Selectman Frost reiterated what he had said earlier this evening about the creation of a Design Review Board. After a lengthy discussion, the Planning Board members indicated that they would put all their ideas in writing to the Selectmen, along with backup data substantiating Ms. Newman's ideas, for further comment, discussion and consideration, since they had not worked out all of the details yet.

There being no further discussion, the meeting was adjourned at 10:40 p.m.

Attest:

Richard E. Thompson
Executive Secretary-Clerk