

IN BOARD OF SELECTMEN
WEDNESDAY, APRIL 22, 1987

Present: Chairman Anne W. Donald and David A. Wallace.

The statutory requirements as to notice having been complied with, the meeting was called to order at 4:30 p.m. at the Loring Parsonage.

Site Plan 86-303--Terrio Realty Trust, 339 Boston Post Road

Present: Donald Terrio, Bruce Ey, Town Engineer William Place, Fire Chief Michael Dunne.

Bruce Ey of Schofield Bros., Inc., Civil Engineers, submitted to the Board on behalf of Terrio Realty Trust copy of letter dated April 16, 1987, from Robert F. Dionisi, Jr., Esquire, Attorney for Terrio Realty Trust, which letter stated that Mr. Terrio has no fee interest in the access and egress area which is the subject of concern to the Selectmen. Mr. Terrio stated to the Board he believes that area is owned by the Millbrook Park Condominium Association and the person to speak with would be Steve Doyle.

Various alternatives were discussed, including the placement of a "No Left Turn" sign, narrowing the area to a standard width, and placing an island which would direct the flow of traffic. Selectman David A. Wallace felt the suggestion of placement of a "No Left Turn" sign during certain peak hours was a good one, but reiterated his concern that the congestion in that area not be made worse by that access/egress. Executive Secretary Thompson suggested a plan whereby the access drive would be narrowed to a standard entrance and exit and try a "No Left Turn" sign during peak hours. The Board agreed and assured Mr. Terrio this was the only remaining problem area and the pendency of a resolution should not prevent him from proceeding with his plans.

After further discussion, it was on motion unanimously

VOTED: To request Town Engineer William Place to submit a plan for approval by the Board outlining proposed modifications to the access/egress area owned by Millbrook Park Condominium Association; and to request Executive Secretary Richard E. Thompson to submit and negotiate such proposed plan with Steve Doyle of the Association.

Petition for Pole Attachments - Digital Equipment Corporation/NYNEX

Present: Cynthia Leary, Project Manager, NYNEX; Nancy S. Grodberg, Attorney, Rackemann, Sawyer & Brewster.

Executive Secretary Thompson explained that the last time this matter was before the Board, the only question remaining was that NYNEX was to submit to the Board a detailed plan for location of above-and-underground cabling.

NYNEX Project Manager Cynthia Leary referred the Board to her letter dated April 3, 1987 to Janet Silva, wherein she outlined the underground and aerial portions of the route proposed by them for installation of the fiber optic cable. Ms. Leary informed the Board that this information was based on verbal information she had received from New England Telephone, but that pursuant to a letter sent

the Board on April 17, 1987, the conduit is changed. Since the Board had not received this follow-up letter, Ms. Leary attempted to outline the changed routes. In essence, Ms. Leary indicated that there were two options: to go underground through the center of Town; or to circumvent this area and go aerial through an alternate route. The Board stressed the town's preference for underground wiring. Executive Secretary Thompson recommended that NYNEX submit a better plan for review and suggested NYNEX obtain a map from the Town for its use in preparing same.

After discussion, it was on motion unanimously

VOTED: To table the matter of the petition dated February 6, 1987, amended April 3, 1987, of Digital Equipment Corporation to attach/install a fiber optic and/or copper communication cable to existing poles owned by New England Telephone and Telegraph Company and/or Boston Edison Company and within existing underground conduit facilities owned by New England Telephone and Telegraph Company in Maynard Road, Hudson Road, Concord Road, Union Avenue, Boston Post Road, Nobscot Road, and Old Framingham Road; said cable to be installed by NYNEX Business Information Systems Company.

State of Emergency - April 5, 1987 through April 17, 1987

The Board reviewed letter dated April 8, 1987 from State Representative Lucile P. Hicks to Executive Secretary Thompson, outlining the procedure necessary for Sudbury to receive emergency financial assistance due to the heavy rains and accompanying floods during the period April 5, 1987 through April 17, 1987.

After discussion, it was on motion of Chairman Donald unanimously

VOTED: To declare a State of Emergency for the period April 5, 1987 through April 17, 1987 during the heavy rains and accompanying floods.

Transfer Requests - Selectmen

Upon motion of Selectman Wallace, it was unanimously

VOTED: To approve Transfer Request No. 87-63 for transfer of \$1,150 from Selectmen's Administrative Salaries 501-110, to Selectmen's General Expense 501-210; and Transfer Request No. 87-66 for transfer of \$328 from the Reserve Fund to Unclassified/Fidelity Bonds 950-802.

Signing of Surety Bonds

Upon recommendation of Executive Secretary Thompson, on motion of Selectman Wallace, it was unanimously

VOTED: To authorize Chairman Anne W. Donald to sign surety bonds certifying approval of the amounts of the individual bonds, pursuant to requirements as outlined in the January 1987 communication from Commissioner of Revenue for the Commonwealth, as follows: Town Treasurer - \$142,000; Tax Collector - \$140,000; Town Clerk - \$14,000; Assistant Treasurer - \$35,500.

Police Mutual Aid Agreements - Acton, Concord, Stow

In accordance with the vote taken by the Board on March 9, 1987, wherein the Board approved the form of Police Mutual Aid Agreements to be entered into with neighboring communities, it was on motion unanimously

VOTED: To sign police mutual aid agreements with the towns of Acton, Concord and Stow, as drafted, to be effective until terminated in writing by either party.

Planning Board Vacancy

The Board reviewed a communication dated April 10, 1987, from the Planning Board, formally notifying the Board of Selectmen of the vacancy existing on the Planning Board due to the resignation of John C. Drobinski, and requesting a joint meeting to fill said vacancy.

Executive Secretary Thompson pointed out that seven days' notice must be published before the date of the joint meeting with the Planning Board. Mr. Thompson informed the Board that, at present, there are two applicants for the position: Judy Cope and Carmen Gentile.

After discussion, it was on motion unanimously

VOTED: To advertise in the appropriate media that the Town is seeking candidates to fill the vacancy on the Planning Board left by the resignation of John C. Drobinski; and to arrange a joint meeting with the Planning Board to fill said vacancy sometime in May 1987.

Massachusetts Interlocal Insurance Association Property and Casualty Group

The Board reviewed a tentative application and member agreement with the Massachusetts Interlocal Insurance Association Property and Casualty Group, Inc., a non-profit corporation established under Mass. General Laws C. 180, for the purpose of securing property and casualty risk management services and financial protection, and records herewith the signing of said agreement by Chairman Donald on April 13, 1987.

Mass. Department of Public Works - Chapter 90 Forms

Recorded herewith is the signing by the Board of Selectmen on April 15, 1987, of the following Chapter 90 forms required by the Mass. Dept. of Public Works: 1) Initial Advisory Report relative to Chapter 811 of the Acts of 1985 for resurfacing of Landham Road and Raymond Road, at a cost of \$103,450; and 2) Final Advisory Report relative to Chapter 811 of the Acts of 1985 for street overlay work on Pratts Mill Road, Dakin Road, Dutton Road sections 1 and 3, Moore Road, and Dutton Road section 2, at a cost of \$103,453.

Minutes

On motion of Chairman Donald, it was unanimously

VOTED: To approve the minutes of April 6 and April 7, 1987, as drafted, and to approve the minutes of April 8, 1987, as amended.

Senate Bill 717 - Uniformity of Health Coverage Payments

The Board reviewed communication dated April 15, 1987, from the Town's health insurance consultant, Commercial Insurance Planning Corporation, providing a copy of Senate Bill 717, which would allow municipalities to pay an equal percentage, rather than equal dollars, for those employees who elect to enroll in Health Maintenance Organizations. Executive Secretary Thompson recommended the Board support said Bill.

On motion of Chairman Donald, it was unanimously

VOTED: To support Senate Bill 717, "An Act to Establish Uniformity of Health Coverage Payments", which would allow municipalities to pay an equal percentage, rather than equal dollars, for those employees who elect to enroll in Health Maintenance Organizations.

Planning Board April 21, 1987

Chairman Donald reported to the Board on the Planning Board meeting she attended last evening. Present at that meeting were representatives from Waltham Precision Instruments; Frank Vana, who represented the Chamber of Commerce; and, for a while, members of the Conservation Commission.

Chairman Donald stated that Kenneth R. Howatt of Brimstone Lane stated that he and his father were the owners of Waltham Precision Instruments, and that they employ 150 individuals, most of whom live in the Waltham area. He stated they intend to continue as a small business for government contracts (which would mean no more than six hundred employees); however, he stated absolutely and emphatically that 207,000 square feet would be much too small. He further informed those present that the company has signed a purchase and sale agreement with Sperry, but they have contingencies in that agreement and will back out of the purchase and sale agreement if Article 22A passes. Chairman Donald stated the company is requesting 800,000 square feet and pointed out that at present there is only 69,000 square feet. Mr. Howatt stated the company has another location in Rhode Island, with 60,000 square feet, employing 45 people. There is a question as to whether they have a place in Natick.

Mr. Howatt stated the company researches and builds prototypes of altimeters, wind instruments and medical instruments. They ship these items out every day via one UPS truck. In response to inquiry by Chairman Donald, Mr. Howatt indicated they already are considering the use of van pools since there are a number of senior employees who would need transportation. Their hours of employment are from 7:30 a.m. to 4:30 or 5:00 p.m. He was also asked if the Town would have access to Whites Pond and he stated he would reserve his answer, because of liability problems.

Chairman Donald stated that, although different numbers were discussed, the company was not interested in compromise. Morton Brond suggested 500,000; and it was further suggested to them that they go back to Sperry and renegotiate the purchase price based on a lesser square footage.

At the time Chairman Donald left the meeting, a vote had not been taken by the Planning Board. It was her impression, however, that the Board was going to stand by its decision reached at the joint meeting of April 8, 1987. It was also

brought up that the Planning Board would be better able to live with the larger number if the other parcels in this research district were removed from the Article. Chairman Donald stated she did not feel this would be fair to the owners of the other properties to change at this point.

Executive Secretary Thompson stated he has been informed by Lee Newman that the Planning Board would be holding to its previous position. Also, he has learned that HMM Associates may give the Town model traffic data at no cost. A question came up at the meeting concerning interpretation of the bylaw with respect to the bidding of government contracts and whether such manufacturing would be an allowed use in a Research District. Assistant Town Counsel Dave Doneski stated the question becomes one of percentage of volume of business, whether it is "incidental" to a company's business. Attorney Doneski stated the company apparently does bid on government contracts. An opinion might depend on an examination of some of the books as to how the company's work breaks down; it must be "incidental".

Executive Secretary Thompson recommended that the Board of Selectmen and Planning Board proceed as previously agreed, unless there is a groundswell from the townspeople or the traffic study shows the Town should go lower or higher. Chairman Donald stated the Planning Board indicated it may go to Town Meeting with the original plan and state that if the traffic study shows more or less is acceptable, then the Town can come back to make such change.

In conclusion, Selectman Wallace expressed the opinion that, at this point, the Board's recommendation should remain as decided at the joint meeting with the Planning Board.

TM Article 15 - Goodnow Library/Council on Aging

The Board reviewed a memorandum dated April 17, 1987, from Town Counsel Paul Kenny regarding use of Goodnow Library land for other than library purposes; to wit, the proposed Senior Citizen's Center. Assistant Town Counsel Dave Doneski reported that there is no record at the Registry of Deeds of the original deed.

Executive Secretary Thompson stated that his reading of the memorandum indicates that the Town can proceed to build the Senior Citizen's Center, if the Library Trustees vote there is no use for that part of the land for library purposes.

Mr. Thompson stated there was another consideration, and that is if the parcel in question was under water. He stated he believed the original addition to the library was built on water and was designed that way. Dye tests were performed and specs reviewed. He opined that the Board of Health may have some questions with a new septic system, but he did not feel this was anything that could not be worked out.

In conclusion, Chairman Donald pointed out that the Board of Selectman have already taken the position to support the article at Town Meeting and the Board agrees that, after this discussion, it will continue its support.

Sewage Treatment Plants Serving Conventional Subdivisions

Executive Secretary Thompson submitted to the Board copies of letter dated April 21, 1987, from Michael J. Sullivan, Director of the Town's Board of Health,

to Town Counsel Paul Kenny, outlining legal questions the Board of Health feels remain unresolved concerning the use of treatment plants in conventional subdivisions. Mr. Thompson also reported that he received this date a four-page letter dated April 22, 1987, from Mark L. Scheier, an attorney for a property owner, citing case law regarding this matter.

Mr. Thompson stated that he personally feels the resolution would be out of place, but recommended to the Board that they adopt a "wait and see" posture.

Assistant Town Counsel David Doneski stated he has not seen the letter referred to by Mr. Thompson, but he has been conducting preliminary research into this matter and has spoken with DEQE, who were non-committal at best. Attorney Doneski has also spoken with an attorney who was involved in the presentation of these issues at Tufts University and he raised the possibility that a moratorium of this nature would be outside the Board of Health's authority. He stated the Board of Health has statutory authority under Chapter 111 to adopt regulations for public health. The regulations imposed by the Board of Health may be more stringent than federal regulations, but there is a fine line drawn between regulation and an outright ban.

Move By Abutters To Amend Article 31

Executive Secretary Thompson reviewed with the Board a copy of a motion proposed by abutters to transfer Park & Recreation land off Longfellow Road and off Middle Road/Firecut Lane to the Conservation Commission to be permanently retained as Conservation Land. Selectman Wallace opined that this action is not legally permissible, as was discussed at a prior meeting.

Selectman Wallace stated that prior to the receipt of this proposed amendment, he, nor to his knowledge any other members of the Board, was not approached regarding this matter. Executive Secretary Thompson indicated that one of the abutters, Denise Floyd, has spoken with him and that has been only in the past few weeks.

Selectman Wallace concluded by stating that, since he is the liaison who will be speaking at Town Meeting on this, he will state that the Board was told that it was Park & Recreation land; that Park & Recreation had no use for it; and Park & Recreation wanted to transfer it to the Board of Selectmen. He further will inform the townspeople that it is his belief that the Conservation Commission had indicated that it did not want the land. Mr. Wallace will further point out that although the figure of \$330,000 for the value of the Longfellow property may not seem like a great amount, it is a significant amount for the Town (for instance, it would fund a number of departments for the coming year) that could be put to good use.

Housing Authority

Executive Secretary Thompson reported to the Board that he received a letter from Jo-Ann Howe from the Housing Authority concerning the Affordable Housing Conference.

Upon inquiry by Chairman Donald, Mr. Thompson confirmed that Housing Authority member Myrna Goldstein indicated her intent to resign.

Chairman Donald reported that she was asked by Jo-Ann Howe if members for a Fair Housing Committee should be advertised, and Executive Secretary Thompson stated that this has been done.

Board of Health/Landfill

Executive Secretary Thompson noted for the record letter dated April 14, 1987 from Board of Health Director Michael J. Sullivan to Deputy Regional Environmental Engineer Richard J. Chalpin, DEQE, concerning the Town's landfill. The Board agreed with Mr. Thompson that Mr. Sullivan's response was very articulate and stated the Town's position well.

MAGIC Meeting

Chairman Donald indicated that she would be attending the April 23, 1987 of the MAGIC meeting. Executive Secretary Thompson expressed the opinion of the Board that if former Board of Selectman Chairman Josiah Frost has the time and interest, the Town would be well served to have Mr. Frost's continued involvement with this project.

Board of Appeals

Selectman Wallace informed the Board that he has been in contact with Marshall Karol, who continues to express great interest in becoming a member of the Board of Appeals. Since Mr. Karol is an attorney for Cumberland Farms, he is concerned about the appearance of a conflict of interest. Selectman Wallace suggested that should a circumstance present itself concerning Cumberland Farms, Mr. Karol should just excuse himself from the Board for that discussion and determination.

Executive Secretary Thompson reported that he was contacted by Geraldine Nogelo, who indicated that she would not be seeking appointment to the Board of Appeals. Mr. Thompson further reported that Eben Stevens stopped in the office concerning his absences from Board of Appeals meetings, and stated that his attendance record will improve.

Chamber of Commerce Meeting

Chairman Donald indicated that she would be attending the Chamber of Commerce meeting scheduled for Thursday, April 23, 1987.

Raytheon Open House

Raytheon Company will hold an Open House on Sunday, May 31, 1987. Chairman Donald indicated she would be out of town; Selectman Wallace asked that he be reminded of this event.

Installation of Unitarian Minister

Chairman Donald indicated that she would be representing the Board of Selectman on Sunday, April 26, 1987, at the installation of the new Unitarian Minister, Deborah Pope-Lance.

Acquisition of Dickson Land by Department of Environmental Management

The Board reviewed communication dated April 14, 1987, from Head Administrative Assistant Brenda Asegan of the Commonwealth's Department of Environmental Management concerning Certificate of Notification Waiver and Certificate of Announcement regarding the acquisition of a certain parcel of land in Sudbury, now or formerly owned by Ruth Dickson, et al, by the Department of Environmental Management.

Following the Board's public announcement of the proposed acquisition by the Massachusetts Department of Environmental Management of the Dickson land off Water Row, upon recommendation by Executive Secretary Thompson, on motion, it was unanimously

VOTED: To authorize Chairman Anne W. Donald to sign on behalf of the Board of Selectmen the Certificate of Notification Waiver and Certificate of Announcement relative to said acquisition; subject to comment by Town Counsel.

There being no further business to come before the Board, the meeting was adjourned at 6:10 p.m.

Attest:

Richard E. Thompson
Executive Secretary-Clerk