

IN BOARD OF SELECTMEN
MONDAY, AUGUST 1, 1983

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

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

Utility Petitions

Present: Carole Clinton, Boston Edison Company.

In conformity with the General Laws, Chapter 166, sections 21 and 22, the Board considered the following Utility Petitions of Boston Edison Company:

a. Utility Petition 83-7, Peakham Road.

For permission to lay and maintain, and a location for, such a line of conduits and manholes with the necessary wires and cables therein, under the following public way of the Town:

Peakham Road - southwesterly approximately 145 feet northeast of
Whispering Pine Road, thence turning and running
northwesterly a distance of about 93 feet - conduit.

b. Utility Petition 83-8, Old County Road.

Present: Richard Feldman, Stanmar Corp.

For permission to lay and maintain, and a location for, such a line of conduits and manholes with the necessary wires and cables therein, under the following public way of the Town:

Old County Road - northerly approximately 385 feet east of Boston
Post Road, a distance of about 15 feet - conduit.

Executive Secretary Richard E. Thompson stated that all appropriate abutters had been notified and that a joint favorable report dated July 29, 1983, had been received from the Building and Wiring Inspectors.

Ms. Carole Clinton of Boston Edison Company explained that UP83-7 is to service thirty-four new homes in the Peakham Road area, and that UP83-8 is to install underground service to Stanmar Corp. on Old County Road during the renovations of their building.

It was on motion by Selectman Donald unanimously

VOTED: To approve Utility Petition 83-7, Peakham Road, and Utility Petition 83-8, Old County Road, of Boston Edison Company, both as described above and as shown on plans entitled, "Plan of Peakham Road, Sudbury, Showing Proposed Conduit Location" and "Plan of Old County Rd., Sudbury, Showing Proposed Conduit Location", dated May 18, 1983, and June 16, 1983, respectively.

Parking Tickets

In accordance with a July 8 communication from Assistant Town Counsel, Thomas M. French, Temporary Parking Clerk, and following discussion, it was on motion by Selectman Fox unanimously

VOTED: To authorize the Temporary Parking Clerk to contract, by competitive bid, an outside firm to perform services associated with the processing of parking tickets, i.e., processing, collection and hearing schedule functions, in accordance with G.L.c.90, s.20A 1/2.

During discussion the Executive Secretary responded to the Selectmen that, under the above-noted State statute Mr. French can do the contracting as Temporary Parking Clerk, that the cost to have the firm process the parking tickets is approximately One Dollar per ticket regardless of the minimum number of tickets processed, that there is such a service available to cities and towns set up by the Massachusetts Municipal Association, and that contracting the service of an outside firm will save office time and help recoup overdue parking fees.

Handicapped Parking Stickers

During discussion relative to a July 20, 1983, communication from Assistant Town Counsel Thomas M. French attaching a draft of rules and regulations concerning the issuance and use of handicapped parking stickers Selectman Donald offered the following suggestions:

- that two different stickers be issued, one for permanent and one for temporary disability;
- that the sticker be issued to the individual rather than the car so that it can be used with different vehicles as necessary, and that it be a card-type sign which can be placed in the car window; and
- that the draft rules and regulations be amended to add as last sentence under "7. Fees" the following: "The sticker may be renewed at the discretion of the Parking Clerk at no additional fee".

Selectman Fox suggested that the draft rules and regulations be amended by changing under "3. Handicapped", the word "achievement" to the word "mobility".

In conclusion the Board voted to adopt the rules and regulations for handicapped parking stickers, as drafted by Temporary Parking Clerk Thomas M. French, dated August 1, 1983, and amended by the Selectmen as noted above (one amendment by Selectman Donald and one amendment by Selectman Fox), pursuant to Article V, s.26(e) of the Sudbury Bylaws.

First Option to Purchase

The Board noted receipt of communications from the Conservation Commission, dated July 20, and from the Planning Board and the Assessors, both dated July 26, all expressing no interest on behalf of the Town in a first option to purchase

land (approximately 10 acres) currently under Chapter 61A, owned by the M.S.S. Indulgence Society, off Mossman Road in conjunction with a letter of notice dated July 14, 1983, from C. Arpino, Treasurer, M.S.S. Indulgence Society.

It was on motion unanimously

VOTED: To notify C. Arpino, Treasurer, M.S.S. Indulgence Society, that the Town does not have any interest in exercising the first option to purchase under G.L., c. 61A, s. 14, for the above-noted property.

Heritage Park Yard Sales

At its July 11 meeting the Board acknowledged receipt of a June 17, 1983, communication from the Sudbury-Wayland Lions Club requesting the use of Heritage Park on an annual basis each July 4 for a yard sale and at the direction of the Board, Executive Secretary Richard E. Thompson stated he had contacted Chairman John C. Powers of the Historical Commission regarding the Commission's intentions.

The Board acknowledged receipt of and concurred with Mr. Powers' response, dated July 27, 1983 indicating that the Commission intends to continue its past practice of holding annual July 4 Yankee Doodle Yard Sales (this summer being an exception due to scheduled renovation work), and the Board directed the Executive Secretary to so notify the Sudbury-Wayland Lions Club.

Traffic Light - Route 20/Union Avenue

The Board concurred with and acknowledged receipt of a communication dated July 21, 1983, from the Massachusetts Executive Office of Transportation and Construction to the OG Investment Group, Inc., of Chestnut Hill, Massachusetts, relative to that group's request for installation of a traffic control signal at the intersection of Route 20 and Union Avenue.

Executive Secretary Richard E. Thompson pointed out 1) that the developer would be responsible for the entire cost of the installation of the traffic control signal and the reference in the letter to the fact that the State project - the widening of Route 20 from Union Avenue to Nobscot Road - should be ready for advertising for bid in the summer of 1984; and 2) if the Town is in favor of the construction of the signals it is necessary for the Town to enter into an agreement with the State Department of Public Works which assures that the Town will not incur any costs of the installation. Selectman Fox added that the agreement should insure that the Town will not incur any liability as well, and that should be stipulated if the agreement come to fruition.

Mr. Thompson noted for clarification that it is the developer who pays for the installation, the State which maintains the signals, and the Town pays for the power. Responding to Selectman Fox, Mr. Thompson stated that he would provide the Board with a cost estimate to power the traffic light.

Mr. Thompson also responded to the Selectmen that the Town Engineer is in favor of some type of signalization at that intersection, but not necessarily in favor of full signalization, since signalization is also planned for the intersection of Nobscot Road and Route 20 (approximately one block away) with the widening project.

Site Plan 83-263, Mayo/23 Massasoit Avenue

Present: Building Inspector Joseph E. Scammon; Richard A. and Sara Page Mayo, applicants; abutters, Winifred C. Grinnell, Ester Skog and Josephine Poe.

In accordance with Article IX, Section V, Paragraph A, of the Sudbury Bylaws, the Board considered Site Plan Application #83-263 of Mr. & Mrs. Richard H. Mayo, for property owned by them and located at 23 Massasoit Avenue, Residential District A-1, for partial use as a ballet school.

Executive Secretary Richard E. Thompson stated that all appropriate Town officials and abutters had been notified and that the following communications had been received:

- from the Town Engineer, dated July 20, recommending approval conditioned on the issuance of a permit or variance from the Zoning Board of Appeals for the suggested use in a residential zone, and suggesting that, if the plan is approved with only four parking spaces, as noted on the plan, it could be conditional upon some future review, say in six months;
- from the Building Inspector, dated July 15, recommending approval subject to Board of Appeals action, noting that the Planning Board can determine how many parking spaces are adequate, and suggesting that the Selectmen may choose to waive the Landscape Bylaw;
- from the Planning Board, dated July 26, recommending approval in accordance with recommendations stated in the Town Engineer's letter of July 20;
- from the Board of Health, dated July 28, recommending approval with conditions that: 1) the existing septic system should be located and the capacity of the same should be determined; and 2) the existing water service should also be located and indicated on the site plan; and
- from the Conservation Commission, dated July 25, stating no concern regarding the Wetlands Protection Act.

Relative to the Town Engineer's concern regarding the number of parking spaces, Town Counsel Paul L. Kenny stated that the site plan approval could not be conditioned on a change in the number of parking spaces at some future time without going through another site plan process, although there was agreement that there is ample area if additional parking were required and approved.

The Mayos felt that four parking spaces would be sufficient. The Building Inspector confirmed that the Bylaw does not require those parking spaces to be marked on the pavement; it was sufficient for them to be designated on the site plan.

Relative to the Board of Health's requirements, Chairman Murray stated his opinion that it is unreasonable for Mr. Sullivan to condition approval on the existing septic system being located (and the capacity determined), explaining the difficult time the Selectmen had in doing so at the time the property was sold to the Mayos by the Town. He suggested that the Mayos ask for the Board of Health's help.

Responding to concerns expressed by abutters, the Mayos stated that the ballet school would operate every weekday between September and June (school year) for a maximum of three and one half hours beginning at approximately 3:00 p.m., class size will be ten or less, the remaining space would be used for storage, and the circular driveway could be used by parents picking up and dropping off children so that four spaces will be adequate.

Abutter Winifred Grinnell felt that the traffic generated by these children being dropped off and picked up before and after all the classes might be a problem on adjoining King Philip Road, which, she stated, is already a very dangerous road. The other two abutters expressed agreement.

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

VOTED: To approve Site Plan 83-263 of Richard A. and Sara Page Mayo, for property located at 23 Massasoit Avenue, as shown on a plan entitled, "Site Plan in Sudbury, Massachusetts Showing 'South School Annex'", dated August 19, 1981, subject to compliance with all governmental laws and regulations including, but not limited to zoning, building, and health laws and regulations, and further subject to the following conditions:

- approval of the location of the septic system, and the capacity of the same, by the Board of Health, within a reasonable period of time;
- the location of the septic system, and/or any change in location, to be so noted on the site plan;
- locating the existing water service and indicating the same on the site plan in conjunction with the Engineering Department and the Board of Health's approval;
- a special permit or variance from the Board of Appeals;
- no on-ground delineation of the four parking spaces, shown on the plan, on the property to preserve the residential character;

and it was further

VOTED: To waive the Landscaping Bylaw, Article IX(V,N).

Site Plan 83-264, Vanaria/440 Boston Post Road

Present: Building Inspector Joseph E. Scammon; Applicant Francis J. Vanaria, Jr.; Engineer Joseph Marklinger.

In accordance with Article IX, Section V, Paragraph A, of the Sudbury Bylaws, the Board considered Site Plan Application #83-264 of Francis J. Vanaria, Jr., for property owned by him and located at 440 Boston Post Road, Business District #5, for retail and office use.

Executive Secretary Richard E. Thompson stated that all appropriate Town officials and abutters had been notified and that the following communications had been received:

- from the Fire Chief, dated June 29, 1983, commenting that the underground storage tanks (gasoline) must be removed in accordance with M.G.L., c.148, s.13 and 13A, and 527 CMR 10.12(2)b,c;
- from the Conservation Commission, dated July 24, 1983, stating no concern regarding the Wetlands Protection Act;
- from the Planning Board, dated July 26, 1983, conditioning approval on 1) landscaping to conform as closely as possible to the Landscape Bylaw; and 2) application to the Board of Appeals for a special permit regarding the setback requirements;
- from the Building Inspector, dated July 15, recommending approval of the site and stating that, because the Bylaw requirement for front yard setback is fifty feet and the plan shows the building to be forty-three and one-half feet from the street line, a special permit is needed from the Board of Appeals to erect a second floor;
- from the Town Engineer, dated July 21, suggesting that a drainage system should be required and recommending a system of catch basins to be piped into the existing drainage system within the Boston Post Road; recommending that ingress and egress at West Sport (also owned by Mr. Vanaria) along with the parking scheme could and should be improved; and suggesting landscape improvements on the entire lot (including West Sport) would be beneficial to the over-all appearance of this portion of Boston Post Road;

(Later, responding to the Selectmen, Mr. Thompson stated that he would contact Mr. Merloni and ask him to be a little more specific regarding ingress/egress and landscape improvements and will so inform Mr. Vanaria.)

- from the Board of Health, dated July 28, recommending approval conditioned on the following: 1) submission of a septic system engineering plan; 2) limiting the first floor to retail and the second to office space and disallowing any establishment which is considered a heavy water user; and 3) the water service to the building should be located; and commenting that the building is located in an existing Town well protection area.

There was some discussion regarding the proposed enlargement of a non-conforming building. Mr. Vanaria indicated that the gross area and elevation of the building will change because of the roof alterations, and that there will be office space on the second floor. Mr. Vanaria questioned the need for a Board of Appeals hearing and indicated there had been some delay in informing him that it would be necessary. Mr. Vanaria stated that, in order for his financing to go through on schedule, he needs to have final approval so that the roof construction can be completed for financing by September 4.

The Engineer for Mr. Vanaria, Mr. Joseph Marklinger, responded to Town reports as follows: that the underground gasoline tanks would be removed, that a septic system engineering plan will be submitted and that dry use is fine; relative to drainage, Mr. Marklinger stated that, although the paved area would be altered, there will be no additional paved area - run-off will not change from what is existing so that he did not feel the system of catch basins should be connected to the Boston Post Road; furthermore, he did not even think it could be done because of the plans for the widening of Route 20. Chairman Murray, however, expressed his opinion that the Town Engineer's request was a legitimate one and in both the applicant's and the Town's best interest to do so. Mr. Marklinger stated that it would require a street opening permit from the State, and that there would be a time commitment involved here. Mr. Vanaria stated that when he discussed this issue before the Planning Board, the indication was it could not be done until the reconstruction of Route 20 took place.

Mr. Marklinger requested a waiver of the landscape requirement of a five-foot landscaped buffer area, requesting that the area be four feet instead. The Building Inspector noted that it was shown on the plan as a four-foot buffer area on the east sideline of the property and indicated his approval of the same.

At the request of Selectman Fox, Mr. Marklinger submitted the architectural rendering of the building, dated January, 1983.

Selectman Fox suggested to Mr. Vanaria that West Sport screen with shrubs the fence around the propane gas area, and that the "junk" be removed; also, he questioned whether West Sport had received approval from the Sign Review Board for the six-foot sign advertising "live bait and propane gas". Mr. Vanaria stated he would speak to his tenant.

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

VOTED: To approve Site Plan #83-264 of Francis J. Vanaria, Jr., for property located at 440 Boston Post Road, as shown on a plan entitled, "Site Plan of Land in Sudbury, Massachusetts", dated June 24, 1983, subject to compliance with all governmental laws and regulations including, but not limited to zoning, building and health laws and regulations, and further subject to the following conditions:

- that the architecture be as shown in the architectural rendering of Peter Daigle & Co., Builders, Inc., dated January, 1983, entitled, "Preliminary Front Elevation Prepared for Frank Vanaria";

- a system of catch basins as approved by the Town Engineer;
- that the septic system and drainage plan be submitted to and approved by the Board of Health;
- that there be only office space on the second floor and dry retail use on the first floor which will preclude any wet uses such as beauty parlors, car washes, etc.;
- that the underground storage tanks and liquids therein be removed from the site in accordance with M.G.L.c.148, s.13 and 38A and 527 CMR 10.12(2)b,c;
- that all debris on the lot be removed;
- that landscaping be placed in front of the propane gas tank.

And it was further unanimously

VOTED: To waive requirements of the Landscaping Bylaw, Article IX, (V,N).

Site Plan 83-261, Bushey/Power

Present: Building Inspector Joseph E. Scammon.

The Building Inspector submitted for the Board's signing amended Site Plan 83-261 of Lorraine and Daniel O. Bushey, Jr., Trustees, and Jane Power, for property located at 641 Boston Post Road, in accordance with the Board's vote of July 25, 1983, which had been reviewed by the Fire Chief, the Town Engineer and the Building Inspector.

It was on motion by Chairman Murray unanimously

VOTED: To approve for signing and to sign the above-referenced site plan.

Salaries

Following review and discussion of the legal budget, and on the basis of merit, it was on motion by Chairman Murray unanimously

VOTED: To set the retainer for Fiscal Year 1983-84 for Town Counsel Paul L. Kenny at \$18,000 - an 11.3% increase over his last year's retainer.

And it was further on motion unanimously

VOTED: To set the salary for Fiscal Year 1983-84 for Assistant Town Counsel Thomas M. French at \$14,000 - a 10.8% increase over his last year's salary.

Individually-Rated - Police Chief

Relative to setting the Police Chief's Fiscal 1984 salary, Town Counsel Paul L. Kenny stated that Police Chief Nicholas Lombardi had applied for accidental disability retirement, and if that is denied, the Chief will probably file for regular retirement or the Board can file involuntary retirement; but in the meantime, there is no choice as far as setting his Fiscal 1984 salary by statutory regulations - 1.8% times the highest paid patrolman. When the Chief is retired, Mr. Kenny stated, his salary will cease, but his retirement will be based on this current, increased salary.

The Executive Secretary was directed to contact Chief Lombardi's attorney regarding the status of his retirement with the intention of getting to the business of electing a new Chief within the next thirty days.

At the conclusion of discussion it was on motion unanimously

VOTED: To set the salary for Fiscal Year 1983-84 for Police Chief Nicholas Lombardi at \$36,086 which equals 1.8% times the highest paid patrolman.

Metropolitan Area Planning Council Appointee

In accordance with a communication from the Metropolitan Area Planning Council, dated July 21, 1983, the Board discussed the question of appointing one or two representatives to serve on a working committee for regional planning by the towns of Southborough, Framingham, Natick, Ashland, Sudbury, Wellesley, Weston and Wayland - towns adjacent to Routes 9 and 30 between Routes 27 and 126 and beyond toward Route 495; and to authorize Sudbury's MAPC representative (when appointed) to request assistance from the Metropolitan Area Planning Council to study and seek solutions to growth-connected problems, including but not limited to traffic.

Executive Secretary Richard E. Thompson read a list of names from the Talent Search list - people who had indicated interest in this area. The Board selected several and added personal recommendations and directed the Executive Secretary to write to the individuals, suggested enclosing a copy of the MAPC's letter for information about the position, and requested that he submit to the Board a final list with resumes for appointment(s) at the Board's meeting of August 22.

Annual Appointments - Permanent Building Committee

The Board was in receipt of a July 26, 1983, letter of recommendation from Permanent Building Committee Chairman Michael E. Melnick relative to the vacancies on that Committee.

Chairman Murray questioned if the appointment of Bruce Ey, an engineer who appears before the Selectmen frequently on site plan hearings, and a choice of the PBC's, would produce a conflict of interest.

Town Counsel Paul L. Kenny stated that PBC members are considered special employees and, as such, each member would be only precluded from dealing with the PBC in any matters in which he or his company have an interest or which are part of his responsibility.

At the conclusion of discussion, it was on motion unanimously

VOTED: To appoint Peter F. DiMatteo, 333 Old Lancaster Road, replacing Edward P. Rawson, to the Permanent Building Committee, for a term to expire April 30, 1986.

It was further unanimously

VOTED: To appoint Bruce Ey, 307 Boston Post Road, replacing James F. Goodman, to the Permanent Building Committee, for a term to expire April 30, 1986.

The Board directed the Executive Secretary to inform Mr. Derek J. Gardiner that his resume would be kept on record for the next opening at which time he would be contacted.

Town Donations

It was on motion by Selectman Donald unanimously

VOTED: To accept, as Trustees of Town donations, \$104 in miscellaneous donations for the Council on Aging van.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the Regular Session of July 25, 1983, as corrected.

Regional School Meeting

Chairman Murray notified the Board that he attended, at the request of the Regional School Committee, its meeting on the subject of using the same Labor Relations Counsel for all Town and School employees. The Regional School Committee conducted interviews with Murphy, Lamere and Murphy (the Town's Labor Counsel) and representatives of Ropes and Gray. No decision was reached.

Signs

Selectman Fox commented that, with new construction planned along Route 20, this might be a good time to alter the Town's Sign Bylaw. Under M.G.L.c.40A, Art. IX, only the Board of Appeals can grant variances. He, therefore, questioned the Sign Review Board's authority for the placement of signs insofar as setback requirements are concerned; also, their authority to issue special, thirty-day

permits, and how the Zoning Enforcement Agent (the Building Inspector) is kept up-to-date for enforcement of the same. He further questioned whether or not the numerous temporary signs which are along Town roads have actually been authorized, and if they are up illegally, the question is raised as to how to enforce the Bylaw in getting these taken down.

Following discussion, and on the recommendation of the Executive Secretary, it was on motion unanimously

VOTED: To submit an article dealing with amendment to the Town's Sign Bylaw, Article IX,V.J. to the next Special or Annual Town Meeting.

And it was further unanimously

VOTED: To direct the Executive Secretary to obtain the data discussed above, including a list of all the current temporary sign permits, from the Sign Review Board and report back to the Board.

Loring Parsonage Maintenance

The Board acknowledged receipt of a communication dated July 28, 1983, from Chairman John C. Powers of the Sudbury Historical Commission, concerning Loring Parsonage maintenance.

Selectman Fox expressed his opinion that many of the items were cosmetic and that he hoped there would be no untimely delays on the part of the Historical Commission and the Selectmen's office in implementing the structural and interior repairs.

Cherry Sheet

The Board received Cherry Sheet figures and summaries prepared by Town Accountant James Vanar and focused attention on 1) the Cherry Sheet figures showing a FY84 balance of \$244,780 over FY83; and 2) the fact that, based on 1983ATM action and an estimate of receipts and charges, Sudbury is under the 2½ levy limit by \$443,438.

After discussion the Selectmen approved the Executive Secretary's recommendation that after conferring with Town Counsel, he request an opinion from the Department of Revenue as to whether we can reduce free cash voted at 83ATM under the vote taken, as follows:

"To appropriate the sum of \$466,123 from free cash as an offset to the budget in determining and setting the fiscal year 1984 tax rate if needed to meet the requirements of 2½";

or is it necessary that a Special Town Meeting be called in the early fall to make an adjustment in the amount of free cash voted.

Transient Vendor's License

On the question of approving the issuance of a local Transient Vendor's License to Kenneth G. Dallamora, Dallamora, Inc., Realtors, for the purpose of allowing use of the vendor's stand at 407 Boston Post Road by charitable organizations, and following discussion, it was on motion unanimously

VOTED: To authorize the Executive Secretary to notify Dallamora of the Board's intention to act favorably on the issuance of a Transient Vendor's license upon request by individual charitable organizations with his approval for the use of his property.

Note: On advice of Town Counsel the Board did not issue a blanket license.

Executive Session

At 10:50 p.m., it was on motion by roll call

VOTED: To enter into Executive Session for the purpose of discussing possible litigation where open discussion of the same may have a detrimental effect.

(Roll call vote: Chairman Murray, in favor; Selectman Donald, in favor; Selectman Fox, in favor.)

There being no further business to come before the Board, the meeting was adjourned at 11:20 p.m.

Attest:

Richard E. Thompson
Executive Secretary