

IN BOARD OF SELECTMEN  
WEDNESDAY, OCTOBER 16, 1974

Present: Chairman John C. Powers, John E. Taft, and William F. Toomey

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

Site Plan Application #74-137, Robert A. Waters, Boston Post Road

Present: Robert A. Waters, applicant; Anthony F. Dernbach, Laser Graphic Systems

In accordance with Article IX, Section V, A, the Board considered the site plan of Robert A. Waters, Longfellow Center, Boston Post Road, for the addition of a new building for the storage of inflammables.

Chairman Powers stated that reports, recommending approval, had been received from the Zoning Enforcement Agent, dated September 18, 1974, from the Board of Health, dated October 4, 1974, and from the Planning Board, dated October 1, 1974.

Mr. Waters stated that he had applied, on October 1st, for a hearing with the Board of Appeals for a variance to allow the proposed building to have insufficient sideline setback.

Following a review of the site plan, it was on motion unanimously

VOTED: To approve the site plan, dated September 12, 1974, for Robert A. Waters, Longfellow Center, Boston Post Road, showing the addition of a building to store inflammables, subject to the granting of a variance by the Board of Appeals for insufficient sideline setback.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular meeting and the executive session of September 30, 1974, as submitted, the Town Fathers' Forum of September 30, 1974, as submitted, and the regular meeting and executive session of October 7, 1974, the former as corrected.

Auctioneer License - Carl W. Stinson

In response to his request in a communication date October 9, 1974, it was on motion unanimously

VOTED: To grant an auctioneer license to Carl W. Stinson, 293 Haverill Street, Reading, Massachusetts, for the purpose of conducting a public auction sale of antiques and furnishings on Friday, October 25, 1974, on the grounds of the Wayside Inn.

Auctioneer License - Axel Sorensen

In response to a request from Debby Grace, Senior Class Advisor, in a communication, dated October 4, 1974, it was on motion unanimously

VOTED: To grant an auctioneer license to Axel Sorensen, of Rhode Island, to operate a public auction at the Lincoln-Sudbury Regional High School on Saturday, October 19, 1974.

November Election - Time and Place

At the request of Town Clerk in a communication dated October 16, 1974, it was on motion unanimously

VOTED: that the State election be held between the hours of 6:30 a.m. and 8:00 p.m., on Tuesday, November 5, 1974, in the Peter Noyes School, for all four Sudbury precincts.

Utility Petitions #74-9 and #74-10, Sudbury Centre

On the recommendation of Town Counsel, in a memorandum dated October 8, 1974, it was on motion unanimously

VOTED: To grant Utility Petitions #74-9 and #74-10 for the undergrounding of the power lines already completed in Sudbury Centre as follows:

74-9	CONCORD ROAD,	at and southwesterly from Old Sudbury Road, a distance of about 464 feet - Buried Cable and Conduit
	CONCORD ROAD,	at and northeasterly from Old Sudbury Road, a distance of about 718 feet - Manholes, Buried Cable and Conduit
74-10	HUDSON ROAD,	at and westerly from Concord Road, a distance of about 272 feet - Buried Cable and Conduit
	CONCORD ROAD,	at and easterly from Hudson Road, a distance of about 292 feet - Buried Cable and Conduit
	OLD SUDBURY ROAD,	at and easterly from Concord Road, a distance of about 673 feet - Manhole, Buried Cable and Conduit

Dog Hearing - Nicholls/Ain

Present: Assistant Dog Officer Betsy Lawson; Mrs. Joyce Nicholls, complainant, and Mr. and Mrs. Mark Ain, owners of the dog "Ruffski"

Chairman Powers read the complaint, dated August 26, 1974, filed with Town Clerk by Mrs. Joyce B. Nicholls, 403 North Road, against the dog owned by Mr. Mark Ain, 395 North Road. The complaint stated that the dog "Ruffski", a Labrador/Collie, was a nuisance by reason of causing damage to, and taking things from, her property, as he is not leashed during the dog control hours.

Chairman Powers also reported that the Board had received a communication dated September 12, 1974, from the Dog Officer, enclosing the report of the Assistant Dog Officer dated September 11, 1974, relative to the past history of the complaint.

Mrs. Nicholls stated that the dog had earlier in the year been involved in several near accidents on North Road and that he had caused damage to her garden and had destroyed personal property. Mrs. Nicholls also stated that she had reported to the Assistant Dog Officer that the dog was not restrained during the dog control hours and that following her call, the dog had been kept in for about a week.

Mr. Ain stated that Robert and Harriet Packer, 387 North Road, had written a letter attesting that the dog was not a nuisance and that he and Mr. Packer had trained the dog not to enter the Packer's yard. Mr. Ain expressed the hope that the same thing could be done in conjunction with the Nicholls.

Mr. Ain stated that he had paid for damages to articles of clothing taken from the Nicholl's yard and had offered, through the Assistant Dog Officer, to put a fence around Mrs. Nicholl's garden. Mr. Ain further stated that since July, when they first learned of the dog control law, "Ruffski" has been out a maximum of two hours during the evening and for ten minutes in the morning and that during the balance of the time is either in the house or basement garage.

Mr. Ain stated that most of the damage had occurred when the dog was very young and that he was of the opinion that the problem could easily be resolved if Mrs. Nicholls would inform them when the dog was in her yard.

Following a brief recess, the Board advised Mr. and Mrs. Ain to comply with the dog control law and requested that they and Mrs. Nicholls work out the problem. The Board also advised Mr. and Mrs. Ain that if the complaint recurs, the Board will have no recourse but to order restraint of the dog.

Conservation Commission - Park and Recreation Commission

Present: Margaret Langmuir, Olga Reed, John Cutting of the Conservation Commission; John Carter, Arthur Walker, and Robert Grant of the Park and Recreation Commission.

Members of the Conservation Commission and the Park and Recreation Commission met with the Board to discuss the following subjects:

Davis Land - Chairman Powers stated that an opinion, dated October 3, 1974, had been received from Town Counsel, which stated that the Town is obligated to purchase the Davis land and that Mr. Davis is under an agreement to sell the property to the Town, and that those facts are not altered by the fact that the Town may not be able to fund the purchase as discussed at the 1974 Annual Town Meeting. Town Counsel's opinion also stated that a modification of the original purchase and sales agreement has been agreed upon by Mr. Davis' attorney which would delay the purchase of the Park and Recreation portion of the land until October - November 1975. Chairman Powers stated that the communication requested that the Board indicate its approval of the modification to the Conservation Commission.

Chairman Powers stated that the borrowing-in-anticipation-of Federal-funding method of purchase that was presented at the 1974 Annual Town Meeting is no longer viable because there is no Bureau of Outdoor Recreation (BOR) funding during 1974, and it is not assured in 1975, and that the Board's concern is with the townspeople who voted the article on the premise of matching funds.

Mrs. Langmuir stated that the Conservation Commission has applied for Self-Help matching funds on its portion and also on the Boston Edison portion. Mrs. Langmuir reported that the Commission had received a communication from Commissioner Brownell of the Department of Natural Resources committing Self-Help funds on the Conservation portion and expects the same affirmative response on the Boston Edison portion.

Mr. Carter stated that it had been his understanding at Town Meeting that BOR funding would be forthcoming, but that it was not guaranteed. He further stated that the Park and Recreation Commission is in agreement with Town Counsel's recommendation.

Chairman Powers again expressed the Board's concern that boards and commissions keep faith with the voters, if no BOR funding is available in 1975, because of the language of the Town Meeting presentation as it related to funding, and he cautioned the Commissions about the wording of future presentations in this regard.

Selectman Taft suggested that the office of the Executive Secretary work closely with the Department of Natural Resources between now and the 1975 purchase to secure any possible State and Federal funding which may become available.

Following further discussion, it was on motion unanimously VOTED: To accept the recommendation of Town Counsel in his October 3, 1974, memorandum in regard to executing a new purchase and sales agreement with Mr. Davis to implement the vote taken by Town Meeting on April 9, 1974, and to use the interim before the purchase of the Park and Recreation portion of the land to secure any State or Federal funding which may become available.

Hulbert Land - On the subject of the procedure for the purchase of the Hulbert land, a small portion of which must be purchased from the Town of Framingham, the Board requested that the Conservation Commission make known to the Framingham Conservation Commission its intent of purchase. The Conservation Commission was in agreement.

Raymond Land - Septic System - The Administrative Secretary was requested to schedule on the agenda for the Board's October 30th meeting a joint meeting with the Sudbury Water District Commissioners and the Park and Recreation Commission for the purpose of resolving the location of the septic facilities on the Raymond land.

Haskell Land - Mr. Carter reported that the loam on the Haskell land has been stripped off to enable subgrading of the property for the playing fields.

#### Sudbury Bus Transportation Committee

Present: Paul Buxbaum, Robert Coe, Bruce Langmuir, and Paul Wishengrad of the Sudbury Bus Transportation Committee

On the subject of the Board's request that the Sudbury Bus Transportation Committee meet with Mr. Sullivan of the Sudbury School Department and the Safety Officer in regard to the scheduling of the intra-town busses to insure safety and eliminate schedule conflicts, Mr. Buxbaum stated that the schedules of the intra-town busses have been rearranged so as not to conflict with the school bus schedules.

The Selectmen requested that the Committee obtain, for the Board, a letter to that effect from Mr. Sullivan.

Mr. Buxbaum stated that the question of exact timing of schedules can be worked out once the contractor has been chosen.

The request for changes in the specifications which were made at the September 30th meeting were reviewed for their inclusion in the bid specifications.

Additional changes in the bid specifications were discussed and agreed upon and are listed below in the vote.

Selectman Toomey suggested that a provision be included in the specifications for having the contractor check on a regular basis with Town Accountant to verify accounts to insure ample warning of a depletion of the subsidy.

On the subject of the "Sudbus Practices and Procedures" which was distributed to the Board, at the meeting Town Counsel suggested that the word "discount" be deleted in all references to ticket books and that the reference relative to future arrangements to permit merchants to print advertising on ticket backs be reworded to limit advertising to the back of the ticket book only.

It was moved and seconded that the Board approve the proposed bid specifications of the Sudbury Bus Transportation Committee subject to the following changes in the bid specifications:

- 1) the deletion of the Board of Selectmen as a contract awarding authority;
- 2) reduction in minimum seating capacity of the busses from twenty to fifteen; and
- 3) change in the date of pre-bid conference.

The above motion was then amended as follows:

a) addition of a phrase that the bus contractor be required to maintain and man, during business hours, a local telephone number, to which bus queries and complaints can be directed; and

b) addition of maximum subsidy of \$22,000.

Following further discussion, the above motion, as amended, was unanimously voted.

Selectman Toomey suggested that future reports from the Committee be channelled through the Executive Secretary rather than submitted directly to the members of the Board as it facilitates the processing of reports, and the Committee was in agreement.

Continued Hearing - Application for License to Store Inflammables  
Underground, 578 Boston Post Road

Present: John Bartlett, applicant; Fire Chief Albert St. Germain;  
and Zoning Enforcement Agent Francis E. White

The Board, on September 30th, held a hearing on the application of John P. Bartlett for a license to store inflammables underground, 500,000 gallons #4 - #6 heavy fuel oil, on property located at 578 Boston Post Road. On that date the Board voted to continue the hearing following their on-site inspection of the proposal.

Chairman Powers now reported that the Board, the Executive Secretary, the Fire Chief, and the Zoning Enforcement Agent had made an on-site inspection on October 3rd and that the Board is now continuing the hearing. Chairman Powers also reported that notices of the continued hearing had been mailed to all abutters on October 9, 1974.

Fire Chief St. Germain stated that he had, on October 1st, requested of the State Fire Marshal that a determination be made in regard to the construction of a 300,000 gallon concrete tank on property located at 578 Boston Post Road as to whether it was an underground or above ground tank and whether it would be governed by Chapter 148, Section 37 and Fire Prevention Regulations - 8, Rule 2, Section c.

Fire Chief St. Germain stated that his request had been forwarded to Mr. John K. Olsen, head of the Engineering Inspection Division of the Department of Public Safety, who, following an inspection of the site by one of his men, had ruled that the tank was an above ground structure which would be governed by G.L. Chapter 148, Section 37 and would require a permit from the Commissioner of Public Safety. Chief St. Germain also stated that the Fire Marshal's reply had indicated that the tank would be subject to the above statute and, therefore, not subject to FPR-8, rule 2, (C).

Chairman Powers read into the record Mr. Olsen's October 4th communication referenced above, a communication dated October 11, 1974, from Donald L. Beauchemin of Raytheon Company, who stated no objection to the granting of the subject license as long as the installation conforms to all of the applicable Town, State and Federal codes, and a communication dated October 15, 1974, from Town Counsel, which set forth his opinion that a building permit is necessary for the storage tank, as it is a structure which, if not properly constructed, would be a danger to the public safety.

The "Instructions for Tank Installations" of the Division of Inspection, Department of Public Safety, intended for use as a guideline, were reviewed and the following requirements noted:

- 1) license for storage must be secured from the local licensing authority (Selectmen);
- 2) receipt and approval by the Department of Public Safety of a plot plan, a foundation plan, a dike plan, and mechanical drawings of the tank, all stamped and signed by a registered professional engineer;
- 3) submission of Form BLR-4;
- 4) permit from the Commissioner of the Department of Public Safety before tank installation;
- 5) conferences in advance of any foundation or tank construction among the owner, builder, and other contractors with the Department representative to establish inspection stop points; and
- 6) notification to the Department well in advance of all construction steps.

Mr. Bartlett stated that, following receipt of notification by Mr. Olsen that the tank had been determined to be above ground and, therefore, subject to the above-referenced statute, he had tried unsuccessfully to contact Commissioner Kehoe several times.

Following a lengthy discussion of the nearly completed state of tank construction, the safety factors relating to the tank covers of the proposed and existing storage tanks, the lack of a certified design plan for the proposed tank, the uncertainty as to whether or not the existing tanks carry a seal of the Department of Public Safety, certifying their suitability for the storage of oil, and other factors, it was agreed that the Board was not yet in a position to act on the application.

Selectman Toomey suggested that the Board contact Commissioner Kehoe on October 17th, requesting that he, in turn, contact Mr. Bartlett as soon as possible, to discuss the problem.

Mr. Bartlett was requested to prepare, in full detail to the point of acceptance, everything necessary to comply with the requirements of the Department of Public Safety.

It was on motion unanimously



VOTED: To table further consideration of the application of John P. Bartlett for a license to store inflammables underground, 500,000 gallons #4 - #6 heavy fuel oil, on property located at 578 Boston Post Road, to enable Mr. Bartlett to proceed with Department of Public Safety requirements and the Board to contact Commissioner Kehoe relative to the processing of the application.

Lincoln-Sudbury Oral History Program

Chairman Powers announced that matching funds in the amount of \$990.00 had been granted by the Massachusetts Bicentennial Commission to the Lincoln-Sudbury Regional School District for the Lincoln-Sudbury Bicentennial Oral History Program.

Appointments

It was agreed to defer consideration of the Board's 1974 appointments until a later meeting.

Sale of All Alcoholic Beverages - Election Day, Tuesday, November 5, 1974

It was on motion unanimously

VOTED: To allow the sale of alcoholic beverages by common victuallers and retail package stores during the polling hours of the election on November 5, 1974.

Joint Regional Transportation Committee

The Board received a communication dated October 1, 1974, from Malcolm M. Beers, Sudbury's Representative to the Joint Regional Transportation Committee, requesting a joint meeting with Town boards to discuss the subject of area transportation needs for the purpose of input for an October 24th meeting of the Joint Regional Transportation Committee.

The Board directed the Administrative Secretary to forward a copy of the communication to the Planning Board and to schedule a joint meeting on the agenda of the October 21st meeting.

1975 Town Gasoline Supplier

The Board received a memorandum dated October 10, 1974, from Town Counsel relative to bids for supplying the Town with gasoline for 1975, in which Mr. Turner stated that four responses to bid invitation were received, but each declined to bid at this time. Town Counsel's communication also stated that under the mandatory regulations of the Federal Energy Agency, the Town is required to be serviced by its supplier during the

months of January through December 1972.

On the recommendation of Town Counsel, it was on motion unanimously

VOTED: To accept the recommendation of Town Counsel in his October 10, 1974, memorandum that the Town continue having Atlantic Richfield Company supply the Town with gasoline at the applicable price until such time as there is a change in the Federal Energy Office mandatory allocation.

Award Bid - Three Police Crusier Wagons

It was on motion unanimously

VOTED: To accept the bid of West End Chevrolet, Inc., Waltham, Massachusetts, to supply the Town with three new 1975 Bel Air station wagons at the cost of \$13,905.00, less allowance for three 1974 Bel Air station wagons of \$1,965.00, for a net cost delivered to the Town of Sudbury of \$11,974.00. (Delivery in approximately 8 weeks.)

Police/Fire Headquarters Bids - Report on Protests

As requested by the Board at its meeting on October 7, 1974, the Board received a communication dated October 11, 1974, from Town Counsel relative to background and legal procedures on protests registered with the Department of Labor and Industries, alleging violation of the statutes regulating competitive bidding in the award of contracts for public building projects.

Town Counsel reported that the hearing relative to the police/fire headquarters bid protests had been held today before the Department of Labor and Industries with the following results:

A bid protest lodged by Armand Engineering of Providence, Rhode Island, against A & R Air Conditioning, Inc., was thrown out and the low bid of A & R Air Conditioning, Inc., stands.

On the subject of a second protest involving the low electrical bid, Mr. Turner stated that extensive discussion had been held on the matter and that the Permanent Building Committee had taken a position in favor of selecting the low bid. Mr. Turner stated that the Department of Labor and Industries wants additional information and that all parties agreed to file the information with Mr. Galluccio of that Department before the end of the week. Mr. Turner also stated that Mr. Galluccio will try to make a determination before the Special Town Meeting.

Executive Session

At 11:35 p.m., it was on motion unanimously

VOTED: To enter into executive session for the purpose of discussing, deliberating, or voting on matters, which if made public, might adversely affect the financial interest of the Town.

There being no further business to come before the Board, it was on motion unanimously

VOTED: To adjourn the meeting at 11:50 p.m.

Attest: Phyllis A. Sampson  
Phyllis A. Sampson  
Executive Secretary Pro Tem