

IN BOARD OF SELECTMEN
MONDAY, JUNE 16, 1975

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

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

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the following meetings: regular meeting and executive session of June 2, the former as amended; the special meeting of June 4; the regular meeting of June 9; and the special meeting and executive session of June 10, 1975.

Appointments

It was on motion unanimously

VOTED: To direct the Executive Secretary to arrange an interview with Sandris J. Stubelis, 49 Austin Road, and Edward P. Rawson, 32 Hollow Oak Drive, relative to their possible appointment to the Conservation Commission.

The Executive Secretary was also directed to request the Chairman of the Conservation Commission to attend the interviews.

Town Common - Curbing

The Board received a communication dated May 13, 1975, from the Town Engineer relative to cost estimates for curbing around the Town Common.

The Executive Secretary stated that it was his recommendation that slope granite curbing Type S.B. (cost estimate \$3,100.00) be used.

The Board requested that this subject and a method for providing payment for the same be placed on a future agenda for further discussion.

Wayside Inn Area Archaeological Excavation

The Board received a copy of a communication dated June 4, 1975, to Superintendent David L. Levington from William G. Flynn, Secretary of Communities and Development and Edward A. McColgan, Executive Director, Massachusetts Bicentennial Commission, which notified Superintendent Levington that the Wayside Inn Area Archaeological Excavation has been funded in the amount of \$500.00.

Site Plan Application #75-148, Philip and Marjorie Newfell, 57 Codjer Lane

Present: Philip Newfell, applicant; David Weir, property owner; Francis E. White, Zoning Enforcement Agent; Robert Cooper of the Planning Board; Robert Nims, Daniel and Barbara Bortle, Irwin Leav, and several other residents of Codjer Lane.

Chairman Taft reported that the Board, at its June 2 meeting, had voted to continue the hearing on the site plan application of Philip and Marjorie Newfell for location at 57 Codjer Lane until the Board's meeting of June 16, inasmuch as the Selectmen had been informed that the Board of Appeals had denied the owners of the property a permit to conduct a retail business for the sale of hardware and related items at this location and the fact that the location was to be the subject of Article 2 of the June 9 Special Town Meeting.

The Executive Secretary reported that the Board had received notification from the Board of Appeals of its denial, on May 20, 1975, of a permit to allow Mr. Newfell to conduct a retail business for the sale of hardware and related items at 57 Codjer Lane.

Mr. Newfell stated that he now intends to use the property in accordance with the permitted uses specified for a Limited Industrial District and will submit a new site plan in this regard. (The June 9 Special Town Meeting voted to retain the Limited Industrial District designation for this property.)

Following discussion, it was unanimously

VOTED: To deny the site plan application of Philip and Marjorie Newfell, for location at 57 Codjer Lane, inasmuch as the Board of Appeals denied Mr. Newfell's request for a permit and the intended use shown on his site plan is not permitted in the Limited Industrial District designation; and it was further

VOTED: To waive the filing fee for a new site plan for a permitted use if submitted within a period of sixty days by Mr. Newfell.

Wayland-Sudbury Septage Treatment Facilities - Water Resources Commission

The Executive Secretary reported that the Board had received a communication dated June 11, 1975, from Thomas C. McMahon, Director, Water Resources Commission, which stated that the proposed Wayland-Sudbury Septage Treatment Facility is eligible for federal and state grant participation and has been included on their 1976 Federal Priority List.

Appointment - Personnel Board

The Executive Secretary announced the appointment, on June 4, 1975, of A. Douglas Dalton, Jr., 109 Maynard Farm Road, to the Personnel Board.

Lord's Day License for Public Entertainment - Sudbury Bowladrome, Inc.

On the recommendation of the Executive Secretary, it was on motion unanimously

VOTED: To approve the license for Sudbury Bowladrome, Inc., to operate automatic amusement devices on Sundays, with the commencement and expiration dates to be determined by the Executive Secretary.

The Board requested that the Executive Secretary review similar licenses in an attempt to make the expiration dates uniform.

Auctioneer License - Carl W. Stinson

It was on motion

VOTED: To grant an auctioneer license to Carl W. Stinson, 293 Haverhill Street, Reading, Massachusetts, to conduct a public auction on June 20 and 21, 1975, to liquidate the estate of Paul Whitney Rhoades.

(Selectman Powers abstained, as he is Executor for the late Mr. Rhoades.)

Utility Petition #75-32

The Board received notification from New England Telephone and Telegraph Company and Boston Edison Company that the following pole has been removed and the location abandoned:

HUDSON ROAD, northerly side, approximately 203 feet east of Lakewood Drive:
One (1) pole.

Hearing - Application for Beer and Wine License, Antonio Giovane, Pizza alla Pietra, Inc., 447 Boston Post Road

Present: Antonio Giovane, applicant and Vice President/Manager of Pizza alla Pietra, Inc.; Francis E. White, Building Inspector; Fire Chief Josiah Frost; Ronney R. Fulton, employee of Pizza alla Pietra, Inc.

Under the provisions of Chapter 138 of the General Laws, the Selectmen held a hearing on the application of Pizza alla Pietra, Inc., Antonio Giovane, Vice President/Manager, for a license to sell wine and malt beverages as a common victualer on premises located at 447 Boston Post Road.

The Executive Secretary read the notice of public hearing and reported that all abutters and appropriate town agencies had been notified and return receipts received. Mr. Thompson also reported that a communication dated June 16, 1975, indicating conditional approval, had been received from the Fire Chief and that a communication dated June 13, 1975, had been received from Frank M. Vana, abutter, which indicated support of the application.

The Executive Secretary recommended that if approval were granted by the Board, it be subject to the favorable recommendation of the Board of Health and the Building Inspector.

Chairman Taft reviewed Mr. Giovane's application and statement of persons who would have a direct or indirect beneficial interest in the license, if granted. Mr. Giovane was asked to clear up several minor errors in his application. Chairman Taft also reviewed Mr. Giovane's verification of United States citizenship and advised Mr. Giovane that a certificate of residence would also be necessary.

The Executive Secretary stated that the Board was authorized, on August 21, 1970, following State certification of the 1970 census, to issue sixteen annual licenses for the sale of all kinds of alcoholic beverages and that the Town has issued six restaurant licenses and one club license to date.

Mr. Giovane stated that he has been manager of the Pizza alla Pietra, Inc., since its opening on September 1, 1974, and had applied for a beer and wine license at the request of his customers.

In response to Selectman Toomey's question concerning whether Mr. Giovane held similar licenses in his two Lynn establishments, Mr. Giovane stated that he held no other beer and wine licenses as Lynn's quota for the same had already been filled.

In response to Selectman Powers' questions, Mr. Giovane stated that less than 1% of his business included people under the age of 18 not accompanied by an adult, that approximately one-third of his business is done as take-out service, and, that in any case, alcoholic beverages would not and could not be allowed as a take-out item.

Mr. Giovane also stated that the Pizza alla Pietra employs four people and that he is on the premises during the hours of operation approximately 99% of the time.

Abutter Frank Vana and employee Ronney Fulton spoke in support of Mr. Giovane's application.

Chairman Taft stated that the Board had not received as yet a report on the application from the Police Chief.

Following further discussion, it was on motion unanimously

VOTED: To continue the hearing until a later date to allow receipt of a report from the Police Chief and a Certificate of Residence from the Town Clerk.

The Executive Secretary stated that Mr. Giovane would be informed of the continuance date.

Later in the evening, Mr. Giovane submitted to the Board a Certificate of Residence, dated June 16, 1975.

Also, later in the evening, Chief Lombardi was asked for a recommendation on the matter and stated that, in his opinion, the granting of such a license would create no problem. Chief Lombardi stated that he would submit a written report to this effect to the Board.

Hawkers and Peddlers License - Rocco R. DiVerdi, Jr.

The Board received an application dated June 6, 1975, from Rocco R. DiVerdi, Jr., for a Hawkens and Peddlers License to sell ice cream and related goods in Sudbury parks and residential areas.

Discussion followed relative to the rules and regulations governing hawkers and peddlers which were recently adopted by the Board.

Selectman Toomey suggested that the Police Chief be asked for his opinion as to whether the regulations can be realistically enforced.

Town Counsel stated that, in his opinion, there is no legal problem with their enforcement and that they can also be realistically enforced.

Mr. Charles Fulton, 11 Blackmer Road, stated that he is opposed to the granting of Hawkers and Peddlers Licenses in general.

Following further discussion, it was on motion unanimously

VOTED: To issue a Hawkers and Peddlers License to Rocco R. DiVerdi, Jr., 90 Howe Avenue, Shrewsbury, subject to the Board's rules and regulations pertaining to hawkers and peddlers as adopted on April 1, 1975.

Later in the evening Police Chief Nicholas Lombardi was asked for his opinion concerning enforcement of the regulations, and he stated that his men have met with cooperation when they have notified vendors of the new regulations.

Vana Property - Boston Post Road

Present: Frank Vana; Francis E. White, Zoning Enforcement Agent; Robert Cooper of the Planning Board, Richard Heimann and Judith Cope from PRIDE; and Edward and Carol Sokoloff and approximately twelve other townspeople.

Chairman Taft stated that at the April 28th meeting of the Planning Board, which had been attended by some townspeople, questions had been raised relating to some of the items of the Vana Miniature Golf Site Plan. Chairman Taft reported that, as a consequence of that meeting, a letter, dated May 1, 1975, was sent to the Selectmen with questions concerning the lighting, the present use being a permitted use in that particular zone (Limited Business District #6), and whether the semi-portable buildings should be considered structures and treated as such relating to set backs under the Town Bylaws.

Chairman Taft stated that Town Counsel in his May 9, 1975, communication on the subject had stated that the existing exterior lighting for the course is not as shown on the site plan and, in at least one regard, violates the Zoning Bylaw (lights shine toward the Boston Post Road, in violation of Article IX, V, I,), that the miniature golf units are structures, and that a special permit will be required from the Board of Appeals unless such use has been established as part of a pre-existing, non-conforming use.

Mr. Vana reviewed the past history of his property and stated that he had acted upon the recommendations of PRIDE concerning improvement of the site by installing a green tennis back-drop, planting shrubs and trees, and by some replanting.

Mr. Cooper stated that the existing lights which shine on the Boston Post Road should be adjusted so as to shine only on the site and that the site plan should be changed to show the existing light not now indicated and the deletion of those lights which will not be installed. Mr. Cooper stated that the Planning Board is interested in seeing the legalities cleared up and the omissions corrected.

Mr. Heimann stated that PRIDE is also interested in seeing the legalities cleared up and that, in his opinion, Mr. Vana had been very responsive.

Selectman Toomey stated that the site plan had officially come before the Board and that the Selectmen, accepting recommendations from the Planning Board and the Zoning Enforcement Agent, had signed the plan. Selectman Toomey stated that, in his

opinion, PRIDE, in conducting itself with Mr. Vana, had gone too far away from the Town's government and that any violations, if they exist, is the responsibility of the own to enforce and correct.

Selectman Powers stated that he was not in agreement with Town Counsel's definition of the miniature golf units as structures and stated that if this were the case all of PRIDE's planters along the Boston Post Road would be in violation as to set back.

Discussion followed relative to the site plan, and it was agreed that the site plan would be adjusted to reflect changes in lighting. Mr. Cooper and Mr. White expressed their satisfaction with the proposed changes. Chairman Taft requested that the chain link fence be indicated on the plan.

Town Counsel stated that the site plan did not show the 7-foot windmill and other tall units and, if they had been shown, he would have ruled them structures.

Chairman Taft requested that these units also be shown on the site plan.

Discussion followed relative to the present use being permitted in a Limited Business District and whether the use would be considered a pre-existing, non-conforming use.

Mr. Vana stated that the property had been used as a golf driving range for fifty-five years.

The Executive Secretary stated that he will request that Mr. Vana work with the Zoning Enforcement Agent on modifications to the site plan and that no new filing fee will be required.

Chairman Taft stated that when the modified site plan is submitted to the Board, Town Counsel will be prepared to further discuss whether or not Board of Appeals action will be necessary.

Edward Sokoloff asked the Selectmen why the Board allows this use to continue until Mr. Vana has a permit from the Board of Appeals.

Chairman Taft responded that the Board does not necessarily agree that the present use is illegal and that further investigation of the matter will continue.

At 9:30 p.m. Chairman Taft recessed the meeting for a period of five minutes.

Town Counsel - Planning Board

The Board received a communication dated May 28, 1975, from the Chairman of the Planning Board relative to recordings and notifications of legal action taken by Town Counsel.

Town Counsel stated that he did not know specifically to what the Planning Board was referring, but that he would respond to them and would send a copy of his response to the Selectmen.

At the request of the Board, Town Counsel stated that he will ask the Planning Board if this request is from the chairman alone or follows an action of the Board.

Resignation - Historic Districts Commission

The Board received a communication dated June 9, 1975, from Clark M. Goff, who tendered his resignation from the Historic Districts Commission.

It was on motion unanimously

VOTED: To accept the resignation of Clark M. Goff, with regret, and to direct the Executive Secretary to acknowledge Mr. Goff's communication, expressing the Board's appreciation for his service on that Commission.

Sudbury Villagers Club - July 4

The Board received a communication dated June 10, 1975, from the Sudbury Villagers Club, which requested permission to sell T-shirts and sweatshirts on the lawn or driveway of the First Parish Church on July 4, using the proceeds as part of their civic donation fund.

Town Counsel advised the Board that this activity would not need a permit as the Club was a non-profit organization.

The Board did not act upon the above-mentioned request because it seems the only permission needed would be from the First Parish Church.

Warrant to Kill Dogs

On the recommendation of the Executive Secretary, it was on motion unanimously

VOTED: To authorize the signing, by the Chairman of the Board, of the Warrant to Kill Dogs to be issued to the Dog Officer in accordance with General Laws Chapter 149.

Civil Service - Authorization of Employment

The Board received the requisitioned list of Permanent Reserve Police Officers, dated June 3, 1975, and, on the recommendation of the Executive Secretary, it was on motion unanimously

VOTED: To approve the appointment of Louis Abbondanzio, 32 Sexton Street, Sudbury, as Permanent Reserve Police Officer, subject to approval of the Division of Civil Service and the Sudbury Personnel Board; and it was further

VOTED: To request an additional Reserve listing from Civil Service.

Award Bid - Hosmer Barn

The Executive Secretary reported that an invitation to bid had been advertised for the removal of the Hosmer Barn and that one bid had been received from L. Davenport Boyd, Inc.

On the recommendation of the Executive Secretary, it was on motion unanimously VOTED: To award the removal of the Hosmer Barn, at no cost to the Town, to David H. Bradley Jr. of L. Davenport Boyd, Realtors, Inc., of Weston in accordance with the bid specifications and his letter of June 11, 1975.

Order of Taking - Minebrook Marsh

The Executive Secretary stated that the office of Town Counsel had prepared an Order of Taking for Minebrook Marsh, which had been unanimously approved by the Conservation Commission on June 11, 1975.

Town Counsel stated that the acquisition of this land, by purchase or by eminent domain, is an action of a past Town Meeting. Mr. Turner reported that his office had researched all records and titles and had been unable to determine the owners of this property, and as a result, he is of the opinion that the Town should make the taking by eminent domain.

In response to Selectman Powers' questions, Mr. Turner stated that this property is a landlocked area and that there is sufficient money to further research the ownership if it becomes necessary.

It was on motion unanimously

VOTED: To adopt the Order of Taking dated June 16, 1975 as prepared by Town Counsel.

Town Counsel added that the \$500 award for damages, if not claimed during the statutory period, will be paid to the Commonwealth in accordance with G.L.c79§7d, as amended.

Perambulation of the Town Bounds

The Executive Secretary reported that the Sudbury and Framingham Town Engineers had recommended perambulation of town bounds during the Fall, at which time there will be less foliage and better visibility.

Chairman Taft suggested that it be scheduled in the early Fall months.

Fourth of July Parade

The Board received a communication dated June 6, 1975, from the Park and Recreation Commission which requested that the Board act as Parade Marshals in the Fourth of July Parade.

The Executive Secretary was requested to send a letter to the Park and Recreation Commission expressing the Board's acceptance and appreciation for the invitation.

Executive Session

At 9:55 p.m., it was on motion unanimously

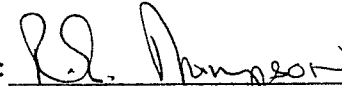
VOTED: To enter into executive session for the purpose of discussing matters which if made public would adversely affect the financial interest of the Town and the

reputation of any persons.

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

VOTED: To adjourn the meeting at 11:45 p.m.

Attest:



Richard E. Thompson
Executive Secretary-Clerk