

IN BOARD OF SELECTMEN
MONDAY, MAY 5, 1975

Present: Acting Chairman 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.

Jurors

Present: Betsey M. Powers, Town Clerk

The Board drew the name of Janet E. Adamson, 409 Dutton Road, to serve as juror at Cambridge Court, commencing May 19, 1975.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular meeting and the executive session of April 28, 1975;

and it was further

VOTED: To declassify the minutes of the executive session of April 1, 1975.

Civil Service - Permanent Part-time Patrolman Reserve List

The Executive Secretary reported that the present Civil Service Part-time Patrolman Reserve List will expire in June of this year and that legislation has been filed to extend the duration of the list, but that he does not know of its outcome. The Executive Secretary further reported that the Police Department presently has a vacancy in the position of patrolman and that the Police Chief and he are recommending that a Reserve Patrolman List be requisitioned from Civil Service.

Mr. Thompson then referred to a vote of the 1968 Town Meeting which authorized the establishment of a reserve police force of ten men in accordance with Chapter 147, Section 13A of the General Laws.

Following further discussion, it was on motion unanimously

VOTED: To authorize the Executive Secretary to request from Civil Service a list of ten reserve part-time patrolmen.

Stow, Massachusetts - Henry Gardner Day

The Board received, on April 25, 1975, an invitation from the Stow Revolutionary Bicentennial Committee for a representative of the Board of Selectmen to sit in the reviewing stand during that Town's Minutemen Parade, which will be held on Sunday,

May 25, 1975.

It was on motion unanimously

VOTED: To designate Chairman John E. Taft to represent the Board at Stow's Henry Gardner Day celebration.

Heritage Park

It was on motion unanimously

VOTED: To approve the Engineering Department to proceed with the preparation of plans for bidding and construction of a proposed work project at Heritage Park, the cost of which is not to exceed \$3,100.

State Census Costs

The Board received a communication dated May 5, 1975, from the Town Clerk, which reported that the costs, to date, were \$475, excluding the cost for producing the required new precinct maps, which may be absorbed by the Engineering Department. The communication also stated that a few dollars should also be added to the above amount for postage to mail the material to the State.

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

VOTED: To authorize the expenditure of \$500.00 from Account #501-81, Surveys and Studies, for the purpose of paying for the State Census.

Site Plan Application #75-147, Leonard E. Pike, 475-477 Boston Post Road

Present: Robert Hagopian, attorney for applicant; Francis E. White, Zoning Enforcement Agent

In accordance with Article IX, V, A of the Sudbury Bylaws, the Board considered the site plan of Leonard E. Pike, 475-477 Boston Post Road.

The Executive Secretary read the notice of the hearing and reported that all appropriate department heads and abutters have been notified and return receipts received.

The Executive Secretary reported that the following reports had been received: from the Zoning Enforcement Agent, dated April 2, 1975, which recommended approval based on compliance with the zoning bylaws only and which indicated that the storage of flammables is another matter to be considered at this time; and from the Planning Board, dated May 2, 1975, which recommended conditional approval. Mr. Thompson read the above-referenced reports into the record.

Mr. Hagopian reported that he has appeared before the Sign Review Board and the Planning Board. Mr. Hagopian stated that his client has no objections to Mr. White's recommendation, which were discussed in the Planning Board's May 2 communication, relative to changes in the existing site. In response to the second section of this communication, Mr. Hagopian stated that the necessary changes to the

plan will be made and that he will request from the State roadway entry opening permits.

Acting Chairman Toomey suggested that between now and next week's meeting the Board and the Zoning Enforcement Agent meet on the site and that the site plan be rescheduled for further consideration at the Board's May 12 meeting.

Selectman Powers requested Town Counsel's opinion relating to the question of approval of the site plan, setting aside the question of storage of inflammables as a separate issue.

Town Counsel stated that he would address that issue on May 12.

Selectman Powers suggested that a designee of the Planning Board be requested to attend the on-site inspection to clarify the location of the pump for which they have requested removal.

Following further discussion, it was on motion unanimously

VOTED: To schedule an on-site inspection with the Zoning Enforcement Agent for Saturday, May 10, at 9:00 a.m.;

and it was further

VOTED: To request that Mr. Hagopian and Town Counsel withdraw for further discussion of the plan.

Selectmen's Meetings - May 19, and May 27, 1975

It was on motion unanimously

VOTED: To cancel the May 26, 1975, regularly scheduled Selectmen's meeting due to the observance of Memorial Day and to reschedule the meeting for Tuesday, May 27, 1975.

It was further

VOTED: To schedule the May Town Fathers' Forum for May 19, 1975.

The Executive Secretary announced that the Board would consider appointments of Department Heads and members of boards and committees on May 19. Mr. Thompson also announced that the Board has received a memorandum dated May 2, 1975, from Town Counsel relative to the licensing and operation of beano games and that the first beano application will be considered on May 19.

Reserve Fund Transfer Requests

#0630 - Police Department - Maintenance 340-35 - Following discussion, it was on motion unanimously

VOTED: To approve a request for a transfer (#0630) in the amount of \$1,200.00 from the Reserve Fund to Account 340-35, Police Department Maintenance, for the increased cost of heating and electricity and the unexpected breakdown of the generator.

#0631 - Selectmen - Equipment Purchase 501-51 - Following discussion,
it was on motion unanimously

VOTED: To approve a request for a transfer (#0631) in the amount of \$71.56 from the Reserve Fund to Account 501-51 - Selectmen - Equipment Purchase, for the replacement of Mrs. Sampson's obsolete, irreparable chair.

#0628 - Fire Department Overtime 310-12 - Following discussion, it was on motion unanimously

VOTED: To approve a request for a transfer (#0628) in the amount of \$2,000.00 from the Reserve Fund to Account 310-12, Fire Department Overtime to cover the cost of overtime coverage for off duty fire time for the months of May and June.

S.419 - H.3270 - School Committee Bill

Selectman Powers reported that Representatives Gannett and Coughlin had recently voted in opposition to a bill filed by the Massachusetts Selectmen's Association to provide a constitutional amendment to allow Town Meetings, by a four-fifths vote, to delete expenditures for additional programs or increases in existing programs. Selectman Powers stated that, as a Selectmen, this was an action he would hope would be remembered by the voting public.

Taylor Rental Center

Present: Edward Sokoloff

Mr. Sokoloff presented to the Board and to Town Counsel his communication dated May 5, 1975, which opposed Town Counsel's April 11, 1975, opinion, which stated that Taylor Rental Center is not in violation of the Zoning Bylaws of the Town.

Mr. Sokoloff also stated that rental commercial trucks were regularly parked on the premises outside the fenced-in area.

Town Counsel stated that he respects Mr. Sokoloff's point of view, but does not agree with it and stated that he is unaware of any regular parking of commercial vehicles at this location. Mr. Turner further stated that, if this is the case, it is a violation and should be prohibited and suggested that the Zoning Enforcement Agent inspect the site and take appropriate action.

Acting Chairman Toomey stated that the Board would take Mr. Sokoloff's communication under advisement and requested that the Executive Secretary and Zoning Enforcement Agent report back to Town Counsel on the matter of the parking of commercial rental vehicles.

Selectman Powers stated that, if the vehicles were found to be in violation, Town Counsel's opinion relative to that violation would be adjusted.

Town Counsel stated that he would further discuss the matter with the Zoning Enforcement Agent.

At 8:25 p.m., Acting Chairman Toomey called a five-minute recess.

Industrial Development Commission

At 8:30 p.m., Acting Chairman Toomey reconvened the meeting and announced that the Board had received a request from the Industrial Development Commission for appointment of an additional member.

It was agreed that consideration of the appointment would be scheduled for the Board's May 12, meeting.

Newton-Waltham Regional Refuse Disposal District

The Executive Secretary reported that the Board had received, on April 25, a communication from Newton-Waltham Regional Refuse Disposal District relative to a regional meeting on May 13, 1975, at 8:00 p.m. in Lexington, on the subject of a solid waste resource recovery plant in the suburban west and northwest area of Boston.

It was on motion unanimously

VOTED: To refer the communication to Mr. McNally, Chairman of the Planning Board, who is Sudbury's representative to the Regional Refuse Disposal Planning Committee and to request that he attend the meeting and to report back to the Board on the matter.

Hearing - All Alcoholic Restaurant License - Todd & Wagoner, 8 Village Green, Hudson Road

Present: Francis E. White, Zoning Enforcement Agent; Robert Quirk, property owner; Donald Wagoner and Patrick Todd, applicants; Josiah F. Frost, Fire Chief; William Cooper, William Cossart, and James Healy of the Board of Health; John Sullivan, Health Director; Mr. and Mrs. Lamonte Griswold, George R. Hanow, and approximately 10 other abutters

In accordance with Chapter 138 of the General Laws, the Board held a hearing on the application of Todd - Wagoner Corporation, Patrick Francis Todd, Manager, for a license to sell all alcoholic beverages as a common victualler on premises located at #8 Village Green, Sudbury.

The Executive Secretary reported that the hearing had been advertised in a local newspaper on April 24, 1975, that all abutters had been notified as well as appropriate Town boards and committees, and that return receipts had been received. The Executive Secretary also reported that the following reports had been received: from the Fire Chief, dated April 30, which recommended conditional approval; from John V. Sullivan, Health Director, dated April 30, 1975, which set forth the restrictions issued with the initial permit on November 1, 1971; and from the Building Inspector, dated April 30, 1975, which called for full compliance with the Massachusetts State Building Code and to any rules and regulations relative to this type of occupance.

Acting Chairman Toomey suggested that the petitioners introduce themselves and requested that they make a presentation of the proposal.

Acting Chairman Toomey stated that the Board would not, tonight, vote on the issuance of the license but would take the matter under advisement.

Donald Wagoner, President of the Todd - Wagoner Corporation, introduced Patrick Todd and both men commented on their background and past business experience.

Mr. Wagoner began his presentation by stating that, if a decision is made to allow them to locate a restaurant at #8 Village Green, it is his and Mr. Todd's intention to live in Sudbury. Mr. Wagoner also stated that he and Mr. Todd intend to comply with all State and Town regulations if granted an all alcoholic beverage license.

Mr. Wagoner stated that the proposed restaurant would occupy Building #8 and the second floor of Building #7 in the Village Green complex and that these buildings are physically connected.

Mr. Wagoner displayed floor plans and the following features were discussed:

Basement: to house the cocktail lounge, bar and a small function room

Access: direct outside entrance and stairway down from the main entrance; also a second entrance and stairway to the rear for employees

Toilet facilities: none at present but proposed installing underground facilities, using a pump system

Interior finish: Ceiling to floor height - 8'6"; relationship between floor of lounge and ground level outside windows - three feet; solid brick floor; off white stucco walls with wainscoting and ceiling with hand-hewn beams - wainscoting and beams to be stained dark pine; six-foot fire place in the style of the 17th century. Selectman Powers questioned the apparent 3' apertures of the window and its actual distance from the floor level and asked that this matter be further reviewed from a safety standpoint.

Seating Capacity of basement level: 75

First Floor: to house reception area, offices, toilet facilities, food preparation area, delivery area, and refrigeration area

Access: main entrance to the building from the parking lot, main stairway, up and down, second stairway, up and down, to the rear for employees

Seating capacity in reception area: 12 - 15

Second Floor: to house main dining room, which extends into the second floor of Building #7, cooking facilities, service area, service bar, and salad bar

Access: Main stairway, up and down, and employees stairway, up and down, in the rear in Building #8, open access to Building #7 from main staircase

Seating capacity: 40 people in Building #8; 42 people in Building #7.

Interior Finish - early Georgian with outdoor garden effect.

Mr. Wagoner stated that, if fire doors are required between Buildings #7 and #8, he will have them installed.

Loft Areas situated above main dining room areas in both Buildings #7 and #8

Access: Main stairway will extend up to the loft area in Building #8; there will be two entrances to the loft above Building #7

Seating capacity: Building #8 - 42 people; Building #7 - 28

Height: from floor of loft area to ground below - 16' - 17'

Interior finish: off-white stucco and wainscoting

Mr. Wagoner stated that the restaurant would employ 12-15 fulltime people, 25-35 part-time people and that there would be a maximum of 22 employees at any given time. In discussion of available parking spaces, Mr. Wagoner stated that there are 108 spaces to the rear of the building, that the restaurant proposes 28 tables for four and 21 tables for 2, and that when filled to capacity, he would, based on similar statistics, estimate the need for 56 parking spaces. Mr. Wagoner further stated that if an additional 100 patrons were waiting, he would estimate a need for 85 parking spaces.

Mr. Sullivan stated that the Board of Health's prime interest is seating capacity of the restaurant, that the size of the present leaching area is based on a seating capacity of 130 seats and would need to be almost doubled.

Mr. Wagoner assured Mr. Sullivan that they would meet all requirements.

Dr. Cooper suggested that Mr. Wagoner submit a specific plan showing enlargement of the leaching area and reminded him that State approval is also necessary. Dr. Cooper stated that the Board of Health also wishes to see a plan for the basement toilet facilities as well as the proposed refrigeration system.

In response to a question, Mr. Wagoner stated that he anticipates a patronage drawing range within a twelve-mile radius.

The Building Inspector reported that Robert Quirk, the property owner, is presently doing a revaluation of the parking spaces and will soon have his report.

Mr. Wagoner stated the Corporation's intent to abide by all State and local building codes and regulations.

The Building Inspector stated that he wishes further discussion relative to the maximum allowable number of occupants -- a number to be agreed upon by the Health Director -- as well as further discussion on all means of egress.

Town Counsel was requested to rule on whether or not the loft area constitutes a third floor.

Mr. George Hanow, 24 Hudson Road, asked for the proposed hours of operation and questioned the impact the increased traffic will have upon commuter traffic.

The Executive Secretary reported that the license is valid until midnight with the exception of an additional hour on a few special occasions.

Mr. Wagoner stated that their initial proposal is for an evening operation, but that they would not want to be restricted to this. Mr. Wagoner stated that they would open at 5:00 p.m. and the greatest impact on traffic would occur about 7:00 p.m.

Mr. Lamonte Griswold, 293 Concord Road, requested the ratio between the restaurant and the lounge patronage, and Mr. Wagoner reported that the business would be approximately a 70% food operation, that the lounge is a secondary part of the operation, and that the lounge-only use occurs usually after 9:00 p.m.

Mr. Wagoner further stated that he or Mr. Todd would almost always be present and that no overindulgence in drinking would be allowed.

On the subject of increased requirements for the leaching field, Mr. Griswold questioned the disposition of the water and commented that the present leaching field is higher than the surrounding properties. Mr. Griswold stated that the Board of Health and the Building Inspector should see that the field is built to the approval of the abutters.

Acting Chairman Toomey stated that the Town will have to rely on the Board of Health and Mr. Sullivan in this matter.

Mr. Griswold stated that he had seen a different type of water flow following the construction of Heritage Park and questioned whether the increased leaching field would further aggravate this condition.

Mr. Griswold stated his objections to the proposal as a whole for this location, which is adjacent to his property, stating that he is unalterably opposed to it because of the associated noise, smells, and increased amounts of refuse and garbage, which is an attraction for insects. Mr. Griswold further stated that, in his opinion, the property is not in compliance with the site plan as approved by the Town. The Board requested that Mr. Francis White investigate Mr. Griswold's allegations and report back to the Board. The Board indicated this might involve Mr. White checking with the Historic Districts Commission.

Mr. Wagoner stated that with regard to garbage and insects, his past dealings with health boards on the matter would indicate control by those boards.

In response to a question by Acting Chairman Toomey, Mr. Wagoner stated that the completed investment should cost between \$200,000 - \$220,000.

Dr. Cooper expressed the Board of Health's concern with the problems of liquid wastes and food handling.

In response to a question from Mr. Hanow, The Board stated that a license if approved would be issued to the manager of the corporation and if the corporation were later sold, the matter must come before the Selectmen again.

Selectman Powers requested that Mr. Wagoner submit to the Board a detailed listing of officers and shareholders.

Relative to the applicant's proposed operation being at least 500' from the nearest church or school, as required by General Laws Chapter 138, Section 16C, Town Counsel was asked to render an opinion for the Board, as to his interpretation of the word premises, as used in the State Statute, as to whether it means the property boundary line or the building which would house the restaurant.

Following further discussion, it was on motion unanimously

VOTED: To continue the hearing until Tuesday, May 27, at 8:00 p.m.

Mr. Wagoner requested that he be supplied with a list of issues to which he may respond at that time.

Construction of Wastewater Collection and Treatment Facilities - Federal Grants

The Board noted receipt of an informational copy of correspondence from the Board of Health to Mr. Thomas C. McMahon, Director, Division of Water Pollution Control relative to availability of federal grants under P.L. 92-500 for the construction of wastewater collection and treatment facilities.

Rules and Regulations for Licensing of Public Entertainment - Bowling, Billiards, and Automatic Amusement Devices

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

VOTED: To adopt, as part of the Selectmen's policies and procedures, rules and regulations for licensing of public entertainment such as billiard tables, bowling alleys, and automatic amusement devices, as prepared by Town Counsel and set forth in a communication dated April 17, 1975.

American Cancer Society Fund Raising Drive - Town of Sudbury

Present: Robert E. Guthrie, Chairman of the American Cancer Society Fund Raising Drive for the Town of Sudbury

The Executive Secretary reported that his office had, today, received a communication, dated May 5, 1975, from Mr. Robert Guthrie, Chairman of the American Cancer Society Fund Raising Drive for the Town of Sudbury, which requested permission for a Dixie Land/Rock Evening on Friday, June 6, 1975, 7:30 p.m. - 12:30 a.m. at the Sudbury Skating and Tennis Club.

Mr. Thompson reported that he had discussed the matter with the Chief of Police, who had responded in writing, this date, indicating his disapproval of the proposal and opposition to the issuance of any permit to hold such an affair for so large a number of people.

The Board directed the Executive Secretary to schedule the matter on the agenda for the Board's May 12 meeting.

Board of Health - Pending Litigation

Present: William Cooper, William Cossart and James Healy of the Board of Health;
John Sullivan, Health Director

Members of the Board of Health met with the Selectmen to discuss pending litigation relative to a homeowner's violation of the Sudbury sanitary code.

Dr. Cooper stated that the Board of Health had contacted the property owner recently and that the situation has not been corrected. Dr. Cooper stated that some time ago the Board of Health had requested legal help in the matter and that the Selectmen had responded that Town Counsel would be made available to them. Dr. Cooper further stated that, upon inquiry, they have learned that no action has yet been taken in Superior Court on this matter.

Town Counsel stated that the complaint, of which the Board of Health has a copy, has been filed with Superior Court, but that he did not know where service stood with the property owner. Town Counsel stated that it is his intention, as soon as papers are served, to request a preliminary hearing.

Mr. Sullivan suggested that if the case were heard in Framingham District Court, it might be easier for everyone involved.

Town Counsel stated that, in his opinion, the matter would be better disposed of in Superior Court.

Dr. Cooper requested more communication between his Board and the Town Counsel in the future.

The Board requested the Executive Secretary to confirm the filing of the complaint with the Superior Court, and the Board of Health be so notified prior to Wednesday, May 7th.

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

VOTED: To adjourned the meeting at 10:05 p.m.

Attest: Richard E. Thompson
Richard E. Thompson
Executive Secretary/Clerk