

IN BOARD OF SELECTMEN
MONDAY, OCTOBER 20, 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 Chairman John E. Taft.

Award Bids - Fuel Oil and Service

The Executive Secretary reported that the Board, at its meeting on September 29, 1975, had voted to readvertise the invitations to bid for #2 fuel oil and burner service to Town buildings in order to standardize bidders' responses relative to tank car prices, increments, and service policies.

Mr. Thompson reported that new bids were received and opened on October 16 and that the low bidder for fuel, based on tank car price and increment, was Marvelheat of Boston and the low bidder for service was Interstate Gas & Oil Corporation of Sudbury. Mr. Thompson stated that it was his recommendation that the bids be awarded to these low bidders.

The Board received a related memorandum dated October 6, from the Building Inspector, which recommended the local vendor Interstate Gas & Oil Corporation, who had held contracts for both oil and service during fiscal 1974-75.

Selectman Toomey expressed his strong feelings and recommendation that the bid should go to the only local vendor, Interstate Gas & Oil Corporation, since it was a local vendor, and in his opinion, the cost differences between Interstate and the actual low bidder were insignificant. Both Selectman Taft and Powers stated they preferred to award to the only local vendor, but could not vote to do so, in that the low bid indicated a cost savings to the Town of approximately \$1000.

On the recommendation of the Executive Secretary, it was on motion by Selectman Powers

VOTED: To award the bid for supplying #2 fuel oil to Town buildings to Marvelheat Corporation, 950 Morrissey Boulevard, Boston, for the net delivered price of \$.3387 per gallon, including a constant increment of \$.0172.
(Chairman Taft and Selectman Powers in favor; Selectman Toomey opposed)

and it was further

VOTED: To award the bid for service to Interstate Gas & Oil Corporation, Sudbury, for \$8.50 per hour from 8:00 a.m. - 5:00 p.m. weekdays, and \$11.50 nights, weekends, and holidays.

(Selectman Toomey abstained)

Bowker V Excavation

Present: Building Inspector Francis E. White and Town Engineer James V. Merloni

The Board had earlier received copies of correspondence from Town Counsel to the Town Engineer, dated September 23, 1975, and the Town Engineer's response to

Town Counsel dated October 2, 1975 on the subject of the filling of the excavation of Lots 130-134 in the Bowker V subdivision.

Town Counsel now reported that he had earlier suggested that the Town hire a soil engineer to make recommendations as to the correction of the excavation. He further reported that the firm of Haley & Aldrich, Inc., had been contacted and had responded with a letter dated July 22, 1975, which recommended a procedure for the proper filling of the excavation.

Town Counsel stated that it would appear from the Town Engineers' letter referenced above that the Haley & Aldrich recommendations are not being followed and that, in his opinion, the situation should be clarified to protect the future owner of these lots.

Chairman Taft reported that the Town has filed an injunction against further excavation, that a hearing was held as to whether a temporary order should be continued, and that the injunction was continued with minor modifications. Chairman Taft stated that if filling is to take place it should be in accordance with the recommendations of Haley & Aldrich.

Selectman Powers asked whether there was any outstanding order by any Town board or any court or any written understanding or gentlemen's agreement among any Town board, Court, or the developer relating to the method of filling this excavation.

Town Counsel stated that the procedure to be used was that found in the Haley & Aldrich report and that they had recommended that the owner, upon completion of the proper filling, provide the Town with a certificate from a registered professional engineer stating that the work has been properly done in accordance with the Haley & Aldrich specifications. Mr. Turner stated that he had sent a letter to the Building Inspector requesting that these recommendations be incorporated with any building permits on the lots involved.

The Building Inspector stated that the developer has been put on notice that not only will the filling require certification by a qualified registered engineer, but that it should also be done in accordance with the Haley & Aldrich procedures.

After further discussion as to the best means to bring about the proper filling, it was the consensus of the Board to proceed with a temporary restraining order to prevent further filling and to hold a hearing on the merits.

The Board further agreed that if the developer, through his attorney, will make a stipulation that he will follow the Haley & Aldrich specifications, it will not then be necessary to pursue the temporary injunction to prevent further filling.

Taylor Rental Site Plan - Review

Present: Normand Martel, owner of Taylor Rental, David P. Gadbois, attorney for Mr. Martel

The Board at its September 29 meeting held a lengthy discussion on a possible zoning violation at Taylor Rental, 712 Boston Post Road, at which discussion was held on the definition of "commercial vehicles" in the Sudbury Bylaws.

Chairman Taft reported that the Board at that meeting had requested Mr. Gadbois to submit a brief as to his interpretation of the term.

Mr. Gadbois' response dated October 16, 1975 had since been received by the Board, and Chairman Taft asked Town Counsel for his comments on the same.

Town Counsel stated that he did not agree with Mr. Gadbois' interpretation of "commercial vehicles" as set forth in the Zoning Bylaws and referred to Mr. Gadbois' letter in which he cited Article IX, III, (3), 2, g, which permits the operation of garages for the sale and repair of new and used motor vehicles once a permit has been obtained from the Board of Appeals, as reinforcement for his opinion that vehicles sitting unused on Mr. Martel's property cannot be considered "commercial".

Mr. Turner stated that the situation, in his opinion, would require Board of Appeals action and that he could not forecast what action that Board would take and that there is a difference between new vehicles for display purposes and vehicles for rental purposes -- that difference being use.

In resumption of the discussion later in the evening, Town Counsel again stated that he saw no justification for Mr. Gadbois' interpretation of "commercial vehicles" and referred to Article IX, V, E, "Enclosure of Uses" as the basis for his own opinion that the regular parking of commercial vehicles in this location is in violation.

Selectman Toomey stated that Mr. Martel's business as operated today had previously been operating in another location and that when the site plan for its relocation came before the Selectmen he had understood that the business would remain the same. Selectman Toomey further stated that the Town agencies at that time had recommended approval of the site plan.

Chairman Taft stated that he was unaware that Mr. Martel's previous operation had included trucks, but that he was aware that trailers were being stored. Chairman Taft stated that, in his opinion, the parking of the trucks is in violation of the bylaws.

Selectman Powers stated that he did not agree with the opinion of Town Counsel, but did agree with the petitioner. Selectman Powers stated that he was not convinced that these vehicles are "commercial vehicles" and agreed with Mr. Gadbois that they are the stock in trade of a businessman waiting to be taken off the shelf. Selectman Powers further stated that this, in his opinion, was what the Town meant by "commercial vehicles" when the bylaw was adopted. He also stated that if the Planning Board is of another opinion, clarification of the bylaw is needed.

Chairman Taft stated that the Board would send a letter to the Planning Board notifying them that two members of the Board of Selectmen believe that there is no zoning bylaw violation involved in the existing situation at the Taylor Rental site and that it is in accordance with the site plan. He stated that the letter would also suggest to the Planning Board that if that Board is in disagreement with the Selectmen's position, they take steps to clarify the bylaw at Town Meeting.

Assignment of Raymond Land

Present: Town Engineer James V. Merloni; Robert Carter and Arthur Walker of the Park and Recreation Commission; Joseph Tratnyek, Olga Reed, and John Cutting of the Conservation Commission; and Milton Bartlett and George Mercury of the Sudbury Water District

Town Engineer James Merloni displayed a plan of the Raymond Land which had previously been distributed to the Park and Recreation Commission, the Conservation Commission, and the Sudbury Water District. Mr. Merloni described the proposal for assignment of various portions of the land which had been discussed in an earlier joint meeting.

Mr. Carter stated that the Park and Recreation Commission's concern was the high ground portion of the seventy-two acres west of Raymond Road. He stated that the Commission was of the opinion that it was a good area for recreational development, but that they had no immediate plans for such development.

Mr. Merloni stated that while at first glance this high ground appears to be an ideal site for recreational purposes, there is no way to get to it. Mr. Merloni stated that the access is swampy and for environmental reasons they had decided to leave it for passive activities such as horseback riding and picnicking.

Mr. Tratnyek stated that the Conservation Commission concurs with the proposed assignment of the land as shown on the plan.

Mr. Bartlett, referring to his letter to the Board dated October 20, 1975, requested that the Selectmen retain land to supply the Water District with a right-of-way as access to their new well. Mr. Bartlett described on the plan three proposed access routes and stated that the well is now installed and has been tested with indications that it can yield a million gallons per day or better.

Selectman Toomey questioned Mr. Bartlett as to whether the Water District could use an access coming from Nobscot Road, and discussion followed on this possibility and the costs of alternate routes.

The Town Engineer stated that the Engineering Department had calculated an access within the railroad right-of-way as the least expensive route.

A lengthy discussion followed concerning maintenance of the westerly portion of the land and the possibility that this can be done by the Park and Recreation men and equipment. Discussion also included the possibility of changes in these allocations to provide an ultimate plan acceptable to all Boards.

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

VOTED: To designate the Town agency noted below to act on behalf of the Board of Selectmen as agents for the purpose of managing that portion of the Raymond Land set forth below and upon the following terms and for the purposes as noted. All parcels are shown on a plan entitled, "Proposed Land Allocation - Raymond Road", dated October 3, 1975, by the Town of Sudbury Engineering Department.

Land on the Easterly Side of Raymond Road:

Parcels shown in yellow (18 plus 8.9 acres) to the Park and Recreation Commission for park and recreation purposes, for five years. Parcels shown in red (38 acres) to the Conservation Commission for recreation and conservation, for five years.

Land on the Westerly Side of Raymond Road:

Parcels shown in red (72 acres) to the Conservation Commission for recreation and conservation, for three years.

This assignment is for the time indicated above, subject to amendments and renewal by the Selectmen.

The conditions of this assignment are, of course, subject to change by vote of a Town Meeting.

The Selectmen request that their agents report at least annually, prior to December 1, their doings with respect to their management.

Mr. Bartlett requested that the Selectmen arrange for the inclusion of an article in the next Annual Town Meeting for the purpose of turning over to the Sudbury Water District the 6.8 acre area shown as "New Well Site" on the plan referenced above. The Board was in agreement.

Interviews - Talent Search Committee

Present: James W. Doyle of the Talent Search Committee; Freda Doyle and Joseph P. Levesque, candidates

The Board interviewed Mrs. Doyle and Mr. Levesque as to their interest in serving on the Talent Search Committee, and Chairman Taft questioned Mr. Doyle as to the current status of the Talent Search Files.

Following the interviews, it was on motion unanimously

VOTED: To appoint Freda E. Doyle, 220 Morse Road, and Joseph P. Levesque, 33 Elaine Road, to the Talent Search Committee, each for a term to expire April 30, 1976.

Massachusetts League of Cities & Towns - Home Rule Defense Fund

Chairman Taft reported that the Board had received a letter dated October 14, 1975, from the Massachusetts League of Cities & Towns which requested a contribution to a newly created fund of the League to be called the Home Rule Defense Fund.

After discussion, it was the consensus of the Board to refer this matter to Selectman Toomey to take up at the next meeting of that organization.

Announcements

Chairman Taft announced that Selectman Toomey, on October 16, had been appointed to the Executive Board of the Massachusetts League of Cities and Towns and that Selectman Toomey had also been appointed as a member of the Nominating Committee of the Massachusetts Selectmen's Association.

Chairman Taft announced the appointment of Selectman Powers to the Legislative Committee of the Massachusetts Selectmen's Association.

Selectman Toomey announced that Chairman Taft had been appointed as Chairman of the Massachusetts Selectmen's Association's Budget Committee.

UN Day Chairman - Town of Sudbury

The Selectmen received a letter dated October 3, 1975, from J. J. Haynes, Chairman of the Board, Standard Oil Company of California, and National Chairman of UN Day 1975, in appreciation of the Selectmen's appointment of a UN Day Chairman for the Town of Sudbury. The letter also enclosed a proclamation for the Board's possible adoption and a Distinguished Service Certificate for presentation to the Town's UN Day Chairman.

The Executive Secretary read the proposed proclamation and on his recommendation it was on motion by Selectman Toomey unanimously

VOTED: To adopt the above-referenced proclamation dated October 24, 1975, and to authorize the Chairman to sign the Distinguished Service Certificate for presentation to Sudbury's UN Day Chairman Sue Ann Thome.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the Board's meeting of October 14, as corrected.

Tax Possession Property #97 Lillian Avenue

The Board at its meeting on September 29 directed the Acting Executive Secretary to request additional information from the Board of Health relative to their request for use of Tax Possession Lot #97, Lillian Avenue.

The Board had since received a letter dated October 15, 1975 from the Board of Health which set forth that Board's needs in this regard.

After discussion, it was the consensus of the Board that a settlement, reserving the right of the Board of Health to conduct periodic tests for ground water observation, should be negotiated with the abutter, who has expressed interest in acquiring this parcel, and that this parcel be included with several others for sale at a public auction in the near future or accomplished through an article in the near future or accomplished through an article in the next Town Meeting.

Sale of Landfill Materials

The Board received a letter dated October 17, 1975, from the Highway Superintendent requesting the Board's permission that the Highway Commission sell materials collected at the Sanitary Landfill.

The Executive Secretary read Article XII, Section 1, of the Sudbury Bylaws, which provides for such disposition and specifies that it be done by public bid in a manner prescribed by the Board of Selectmen if the aggregate value, in the opinion of the Board of Selectmen, exceeds \$1,000.

After discussion, it was the consensus of the Board to direct the Executive Secretary to request that the Highway Commission specify the particular material they wish to sell as well as the methods for disposal of the same. The Board also asked that the Executive Secretary call the above-referenced bylaw to the attention of the Highway Commission and request that all arrangements be made in accordance with its provisions. In addition, the Executive Secretary was directed to question the Highway Commission concerning any costs that might be incurred by the Town as part of the disposal procedure.

Selectman Powers suggested that the Executive Secretary offer to the Highway Commission the availability of his office and that of the Town Accountant in assisting the setting up of procedures for disposal of Landfill materials.

Executive Session

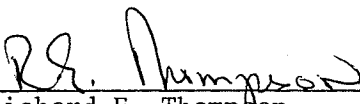
At 10:00 p.m., it was on motion unanimously

VOTED: To enter into executive session for the purpose of discussing matters of collective bargaining, litigation, and matters which, if made public, might adversely affect the reputation of persons.

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

VOTED: To adjourn the meeting at 11:30 p.m.

Attest:



Richard E. Thompson
Executive Secretary-Clerk