

IN BOARD OF SELECTMEN  
MONDAY, SEPTEMBER 15, 1975

Present: Chairman John E. Taft and John C. Powers

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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 E. Taft.

Announcement of Appointment

Chairman Taft announced the appointment, in executive session on September 8, 1975, of Alan Carpenter to the Personnel Board.

Utility Petition 75-33a and 33b - Peakham Road

Present: Frederick A. Roth and Robert L. Blake of Boston Edison Co.

The Board, at its meeting on August 25, 1975, considered Boston Edison Company's and New England Telephone & Telegraph Company's joint Utility Petitions 75-33a and 33b, Peakham Road, following which it was voted to request those petitioners to submit, at a continued hearing on September 15, revised petitions placing overhead wiring on one side of the street only and minimizing the number of poles.

At that time, the Board also voted to support such revised petitions.

The Board now considered the following petitions:

UP 75-33a - Petition of Boston Edison Company and New England Telephone and Telegraph Company, dated September 11, 1975, for joint or identical locations for the erection of poles to be owned and used in common by them, including anchors and guys and such other fixtures as may be necessary to sustain or protect the wires of the line upon, along, and across the following public way:

PEAKHAM ROAD, easterly side, from a point approximately 455 feet north of Boston Post Road, --  
Nine (9) poles

PEAKHAM ROAD, southeasterly side, approximately 520 feet southwest of Old Garrison Road, --  
One (1) pole

UP 75-33b - Petition of Boston Edison Company and New England Telephone and Telegraph Company, dated September 11, 1975, for joint or identical locations for the erection of poles to be owned and used in common by them, including anchors and guys and such other fixtures as may be necessary to sustain or protect the wires of the line upon, along, and across the following public way:

PEAKHAM ROAD, southeasterly side, from a point approximately 185 feet southwest of Old Garrison Road, --  
Two (2) poles

PEAKHAM ROAD, southeasterly side, approximately 670 feet southwest of Old Garrison Road, --  
One (1) pole

Following review of the plans by the Selectmen and Messrs. Roth and Blake, it was on motion unanimously

VOTED: To approve the revised Utility Petitions 75-33a and 33b, as shown on Plans 27 BG, 2-1 and 27 BG 2-2, dated September 8, 1975, as approved by C. B. Damrell, Superintendent, Boston Edison Company, Engineering and Construction Department. The granting of this petition assumes the abandonment by New England Telephone and Telegraph Company of their five poles located on the easterly side of Peakham Road.

#### Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular meeting and the executive session of September 8, 1975, the former as corrected.

#### Modifications to Site Plan of Frank Vana, 423 Boston Post Road

The Board at its meeting on September 8, 1975, voted to approve modifications to the site plan of Frank M. Vana, 423 Boston Post Road, dated November 1, 1974, as discussed at an earlier meeting on June 16, 1975 .

The Building Inspector, at that time, was directed to have the revised plan ready for the Selectmen's signatures on September 15, and the plan, noting the modifications was now signed by members of the Board.

#### Petition - One Way Status for Old Lancaster Road

Present: Colonel Paul Leahy and two other residents of Old Lancaster Road, petitioners

Chairman Taft reported that a petition had been submitted on January 10, 1975, from residents of Old Lancaster Road, seeking to make that portion of Old Lancaster Road, which lies between Concord Road on the east to Peakham Road on the west, a one-way street, with traffic to flow in a westerly direction only. Chairman Taft stated that this petition had, at that time, been forwarded to all appropriate Town boards and committees for their reports and that the following responses had been received: from the Planning Board, dated February 24, 1975; from the Chief of Police, dated February 14, 1975; from the Fire Department, dated February 13, 1975; from the Engineering Department, dated February 25, 1975; from the Sudbury Public Schools, dated March 5, 1975; and from the Highway Commission, dated February 26, 1975.

Chairman Taft stated that copies of these reports had been forwarded to Colonel Leahy earlier in the year and that the Selectmen were meeting with him tonight to review his response to the same, which was received by the Board on July 16.

Departmental reports, all of which recommended against the proposal, were then discussed along with Col. Leahy's response to each, and the following agreements were reached:

1) to request that the Planning Board include in its present study of one-way traffic on Warren Road, Old Lancaster Road, with any supporting data or recommendations to be available to the Selectmen by October 15;

2) to request the Police Department to supply the Board, by October 15, with a record of accidents which have occurred over a one-year period, within this section of Old Lancaster Road, particularly its intersections with Concord Road and Peakham Road, as well as the intersection of Peakham Road and Hudson Roads; and

3) to request the Police Department in conjunction with the Town Engineer's office to install traffic counters or make traffic counts, and to supply the Board with the results by October 15, on those sections of Old Lancaster Road between Peakham Road and Concord Road and Peakham Road and Hudson Road, especially the count of traffic direction at the intersection of Peakham and Old Lancaster Roads.

Chairman Taft stated that following receipt of the above information the Board will again contact Colonel Leahy.

Appointments - Wayland/Sudbury Septage Disposal Planning Committee

Following discussion, it was on motion unanimously

VOTED: To make the following appointments to the Wayland/Sudbury Septage Disposal Planning Committee:

John C. Powers, designee of the Board of Selectmen; Sandris J. Stubelis, designee of the Conservation Commission; William W. Cooper, designee of the Board of Health; and Paul McNally, designee of the Planning Board for terms to expire on April 30, 1976.

(Martha Coe was appointed as designee of the Highway Commission on August 25, 1975.)

Town Clerk Fees

Present: Town Clerk Betsey M. Powers, William F. Brewin, attorney for Mrs. Powers, and Lawrence Gogolin, Chairman of the Finance Committee

Mrs. Powers and Mr. Gogolin met with the Board for a discussion relative to Town Clerk fees and a possible inconsistency in the Town Bylaws.

Mr. Gogolin stated that last July the Finance Committee had discussed the general subject of fees, during which a question was raised concerning an inconsistency in Article III, Section 7, of the Sudbury Bylaws, which provides that all Town offices shall pay into the Town Treasury all fees received by them by virtue of their office, as some fees are retained by the Town Clerk. Mr. Gogolin reported that it was the feeling of the Finance Committee that the inconsistency should be corrected and that they had sought an opinion from Town Counsel on the matter. Mr. Gogolin further stated that the Committee had received a reply, dated August 7, 1975, from Town Counsel, which stated that a conflict did exist and the Committee scheduled a discussion of the subject at their next regular meeting.

The Town Clerk then read a statement relating to the present system of record keeping for dog, fishing, and hunting licenses, which stated that in 1963, at the time the Finance Committee proposed and the Town adopted the "fee bylaw" (Article III, Section 7), it had been clearly understood that the Town Clerk's fees from the sale of dog and fishing licenses were excluded from that bylaw. Mrs. Powers stated that at that time the Finance Committee had recommended that an increase in salary be granted to the Town Clerk to cover those other fees, which had previously been retained by the Town Clerk and which were now to be turned into the Town Treasury under the new bylaw. Mrs. Powers further stated that the above procedure had been the practice since adoption of the bylaw -- that the Town Clerk has retained part of the fee from dog, fishing, and hunting licenses as provided by the General Laws. She also stated that this practice and the amounts involved have been reported and submitted regularly to the Finance Committee with budget requests and have been the subject of various public committee meetings as well as the 1973 Annual Town Meeting.

Mrs. Powers took exception with the manner in which the issue of Town Clerk fees had recently been reported in the press as being in some manner linked with the Haskins and Sells audit and the fact that she had not been contacted by the Finance Committee to join in discussion of the subject. Mrs. Powers further stated that she had indirectly received a copy of Town Counsel's August 7 opinion on the matter of her fees on August 11 and in conference with Town Counsel that evening had learned that he had been requested to attend the Finance Committee's meeting of August 14 to discuss the subject.

Attorney William Brewin stated that he had been consulted by Mrs. Powers and asked to give advice and assistance regarding the matters recently reported in the press. Mr. Brewin expressed his disagreement with Town Counsel's August 7 opinion that "all fees received by Town Clerk including license and tag fees and similar fees are received by her 'by virtue of her office' and, therefore are included within the provisions of the bylaw, Article III, Section 7." Mr. Brewin stated that in his opinion the 1886 case of Shepard vs. City of Lawrence, cited by Town Counsel, had never been overruled and that Town Clerk, in collecting fees for dog, fishing, and hunting licenses, is acting as an agent for the County or the Commonwealth and that the fees so collected are not Town monies. In this regard, Mr. Brewin cited G.L. c 131, §17, which amended c.131, §11, which provides that fees collected from hunting and fishing licenses go directly to the Commonwealth and not to the town treasuries.

Town Counsel's August 7 opinion also mentioned the Massachusetts Finance Committee Handbook, by Stuart DeBard, in the 1970 Edition, which sets forth in Section 7.18 Fees of Town Officers "that fees received by the town clerk for dog licenses are not for himself but are received in his official capacity for the county, and hence do not come within such bylaw". Town Counsel's opinion also stated that "...by analogy the same would presumably apply as to fees for hunting licenses received for the Commonwealth..." and further, that the above "section had been deleted in the 1975 Edition of the Handbook, with the text now reading, 'Dog and hunting license fees do not belong to the clerk'".

Mr. Brewin stated that, in his opinion, the Massachusetts Finance Committee Handbook, authored by Stuart DeBard, which was cited in Town Counsel's August 7 communication, is only a handbook and has no position in law. He further stated that the 1972 State audit of the Town Clerk's records indicated that they were being kept in accordance with the law and that, in his opinion, a great injustice has been done to Mrs. Powers.

Mr. Brewin continued, stating that other communities' Town Clerks' salaries are adjusted to reflect that they do not receive these fees and expressed his belief that a system could be worked out so that the entire fee could go to the county or Commonwealth.

Mr. Brewin again expressed his disagreement that G.L.c.140, §147 had been amended by the phrase "unless otherwise provided by law".

Town Counsel stated that he would stand by his August 7 opinion, that he was not in agreement with Mr. Brewin, and was of the opinion that the Acts developed by the legislature were clear.

Town Counsel stated that if the Finance Committee and Selectmen agree to turn over all fees to the Town, some adjustment should be made to maintain the present level of the Town Clerk's salary and, if this is not to be the case, that the fee bylaw should be amended.

In answer to Mr. Taft's question, Mr. Turner stated that Mr. DeBard was an associate of his, though not a law partner in the usual sense of the word.

In response to Chairman Taft's question as to the amounts of the fees, the Town Clerk stated that the fees governed by the bylaw amount to approximately \$2,000, that the dog license fees amount to \$750 - \$800, and the hunting and fishing license fees total approximately \$150. Mrs. Powers stated that she had presented this information to the Finance Committee last year.

The Executive Secretary stated that all information relating to fees except those retained by the Town Clerk, is included in the Annual Town Reports in the reports of the Town Clerk and the Town Accountant.

Mr. Gogolin stated that the intent of the Finance Committee had been to clear up an inconsistency between the handbook and the Town Bylaws and that they had not, at any time, questioned the Town Clerk's lack of accuracy or integrity. Mr. Gogolin stated that the Finance Committee was guilty of a lack of communication and could have better handled the situation.

Chairman Taft stated that the Selectmen's concern is the resolution, if such should be the case, which would be made following discussion at the Finance Committee's September 18 meeting, and he requested that an opinion be obtained from Town Counsel on the disposition of the fees.

On the subject of the amendment "unless otherwise provided by law" under earlier discussion, Town Counsel stated that he would obtain a copy of the pertinent Act both before and after amendment.

Sudbus

Present: Robert Coe, Chairman, and Paul Buxbaum of the Sudbury Bus Transportation Committee and Emmanuel Tiliakos, Planner

The Board had, on June 30, 1975, received a communication dated June 10, 1975, from Big W Trans, Inc., which applied for a license under the provision of Section 1, Chapter 159A of the General Laws to operate as a common carrier for the transportation of passengers on routes to provide service on a regular basis from all parts of Sudbury to the Route 9 shopping centers.

At that time, the Board voted to table the matter and to refer the request to the Sudbury Bus Transportation Committee and to the Planning Board asking for their advice and counsel.

The Board had since received a communication dated July 18, 1975, from the Sudbury Bus Transportation Committee, which recommended that the Selectmen consider granting a license restricted to a direct route from the Boston Post Road southward to the Framingham line in this regard.

The Board had also received a communication dated July 24, 1975, from Emmanuel Tiliakos, which reported that the Joint Regional Transportation Committee together with the Central Transportation Planning Systems had announced a program of funding on a matching basis for demonstration suburban transportation systems within the MBTA district.

Messrs. Coe, Buxbaum and Tiliakos now met with the Board to discuss a proposal for a one-year local transit experiment to be sponsored by the State Office of Transportation and Construction.

Mr. Coe stated that the Sudbury Bus Transportation Committee had considered dial-a-bus service, but had rejected the idea in favor of a proposal to schedule two busses travelling in the opposite direction within a fixed route on a more intense schedule than previously used which would supply ridership to a third bus, running southerly from the Boston Post Road to the Framingham line to make connections with transportation to the Route 9 shopping centers.

Mr. Coe stated the Committee's recommendation that the Board consider granting a license to Big W Trans, Inc., to provide such a service, with the license to be restricted to a direct route from the Boston Post Road. Mr. Coe also suggested that Town Counsel be requested to give his opinion relative to the implications of granting such a license to Big W Trans for the Framingham connection; specifically, whether the granting of said license would impair the competitive position of other common carriers who conduct business within the Town.

Mr. Tiliakos commented that, in his opinion, there was no certainty that any funds would be available for the Town's proposal, but it was expected that the program selections would be made in time for the projects to be operating by January 1976.

Selectman Powers commented that the Town had appropriated money to subsidize intra-town service and that Big W Trans' proposal was something else. Selectman Powers questioned whether a transfer system to the third bus would be used.

Mr. Coe responded that if a transfer system is used, it will in no way involve the subsidy to the Sudbus service.

Selectman Powers commented that the Town might work out a better system in a coordinated effort with Framingham and Wayland.

Mr. Buxbaum stated that, in his opinion, the proposed Framingham connection provides a destination which would stimulate Sudbus ridership.

The Board requested that the Committee obtain the ridership figures of those Sudbury residents who take the train to Boston from Lincoln for future route consideration.

In response to the Board's questions, Mr. Coe replied that there was approximately \$23,000 left of the money appropriated by the 1975 Annual Town Meeting and that running two busses eight hours a day, six days a week, would expend approximately \$1500 per week, less whatever income would be received. Mr. Coe stated that the subsidy, in the opinion of the Committee, would last for a period of approximately four months. Discussion also included the fact that a delay in the beginning of such an operation would allow, if Sudbury were chosen for funding, a greater amount of matching funding to be received.

Mr. Coe stated that if funding were received on the Framingham connecting route approved, the Town, in his opinion, should proceed with the Sudbus operation.

Mr. Buxbaum stated that, in his opinion, the Town should not proceed unless in receipt of both the funding and the approval of the Framingham connecting route.

It was the concensus of the Board to table the matter until September 22, when Selectman Toomey will be present, and Chairman Taft requested that in the interim the Committee work on the state transportation grant proposal and present it to the Board on that date.

On the matter of the implications of granting such a license to one carrier, Town Counsel stated that, under the law, a licensing board having granted a license to one operator, can then proceed to grant licenses to others, but that problems are likely to develop among operators.

After further consideration, it was on motion unanimously

VOTED: To deny the request of Big W Trans, Inc., dated June 10, 1975, for a license under the provisions of Section 1, Chapter 159A of the General Laws to operate as a common carrier for the transportation of passengers by motor vehicle over certain Sudbury public ways, as set forth in the attachment to their June 10 request;

and it was further

VOTED: That all future similar requests by Big W Trans, Inc. or other transportation companies for licenses first be submitted to the Sudbury Bus Transportation Committee and the Planning Board for their comments and recommendations prior to their submission for action by the Selectmen.

Permit for Use of Public Ways - Request from Wayland

The Board received a communication dated September 5, 1975, from the Town of Wayland relative to a request to traverse Pelham Island Road and Landham Road to the Framingham line for the purpose of a bus transportation program.

After discussion, it was on motion unanimously

VOTED: To refer the above-referenced communication to the Sudbury Bus Transportation Committee and the Planning Board for their recommendations prior to September 22 when the matter will be again scheduled on the agenda.

Executive Session

At 11:10 p.m. it was on motion unanimously

VOTED: To enter into executive session for the purpose of discussing matters of litigation and matters which, if made public, might adversely affect the financial interests of the Town.

The executive session ended at 11:30 p.m.

Application for license for Public Entertainment on the Lord's Day - Sudbury Skating & Tennis Club

Following discussion, it was on motion unanimously

VOTED: To approve the application of Rowe International Inc., of Dedham, to operate automatic amusement devices on property owned by the Sudbury Skating & Tennis Club, 31 Union Avenue, Sundays from September 21, 1975 through September 19, 1976, and weekdays through December 31, 1975.

Fence - Minebrook Road

The Board received a communication dated September 8, 1975, from the Zoning Enforcement Agent relative to a fence located at 8 Minebrook Road. The Board also received related communications from the Chief of Police, dated September 2, 1975, and the Town Engineer, dated September 4, 1975.

After review and discussion of the communications referenced above, it was on motion unanimously

VOTED: To direct the Town Engineer to clarify for the property owner the property line in the area where the fence has been installed;

and it was further



VOTED: To inform the Zoning Enforcement Agent of the preceding vote and to authorize him to take appropriate action relative to the removal of the fence to the property owner's property line.

National Register of Historic Places - Letter of Endorsement

Following its review, it was on motion unanimously

VOTED: To sign a Letter of Endorsement directed to appropriate Sudbury property owners relative to the Sudbury Historic Districts Commission's application to have the Town Centre district and portions of Old Sudbury Road listed in the National Register of Historic Places.

Special Speed Regulation No. 241

The Board received a communication dated September 10, 1975, from the Chief of Police relative to Special Speed Regulation No. 241, as submitted by the Department of Public Works, and his recommendations on the subject.

Following discussion, it was agreed to table the matter to allow receipt of additional information pertaining to the specific changes proposed and the reasons for the same.

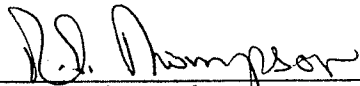
Police Department - Temporary Dispatcher

The Board noted receipt of a copy of a communication dated September 10, 1975, to the Town Accountant from the Chief of Police relative to the hiring of a temporary dispatcher.

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:

  
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Richard E. Thompson  
Executive Secretary/Clerk