

IN BOARD OF SELECTMEN
MONDAY, JUNE 7, 1976

Present: Chairman William F. Toomey, John C. Powers, and Ira M. Potell

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

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular meeting and the executive session of June 1, 1976 and the Town Fathers Forum minutes of May 24, 1976.

Warrant to Kill Dogs

It was on motion unanimously

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

Separation of Police Sergeants from Union -- Special Police Officers

Present: Police Chief Nicholas Lombardi; Francis E. White, and William Bonwitt, Barry Real, Roger Davis, and John Sklenak of the Sudbury Auxiliary Police

The Executive Secretary reported that the Board had earlier received a communication dated May 13, 1976 from the Chief of Police indicating his desire to separate police sergeants from union membership into managerial positions. Mr. Thompson further reported that this above-referenced communication had been referred to Town Counsel and to the Labor Relations Counsel, who were of the opinion that police sergeants, although supervisory, cannot be eliminated from collective bargaining as they are not managerial employees as defined in Chapter 150E of the General Laws, and that, while they could be separated into a separate bargaining unit if sanctioned by the Board and approved by the Labor Relations Commission, this separation would be inadvisable.

Chief Lombardi expressed his disagreement with Town Counsel's and the Labor Relations Counsel's opinion that sergeants could not be considered managerial and confidential employees as defined under Chapter 150E, Section 1, which was quoted in Assistant Town Counsel's May 17, 1976 communication.

Chairman Toomey then brought up the subject of Chief Lombardi's earlier request for appointment of Special Police Officers, and he asked that Chief Lombardi again comment on the matter.

Chief Lombardi expressed his opinion that the Board should appoint Special Police Officers under the provisions of Chapter 41, Section 96 of the General Laws, as it makes no reference to specific types of police officers and is used for such appointments by other cities and towns.

The Executive Secretary stated that all Massachusetts cities and towns do not appoint Special Police Officers under this statute, but do appoint Special Constables and Parking Control Officers. Mr. Thompson suggested that corrected legislation

is needed for this terminology, and he expressed his hope that the Board might sponsor some legislation to clarify this point.

Selectmen Powers concurred and further suggested that clarification of the powers of Special Police Officers was also needed.

Selectman Potell asked Town Counsel if there was a solution to the Board's immediate problem.

Town Counsel responded in the negative, commenting that when the Police Department entered into civil service, the Department was set up for this type of operation. Town Counsel stated that the greatest problem of appointing Special Police Officers is the liability of the Town and that the only way to avoid the problem is a special act.

The Executive Secretary reported that the Board had requested, at its June 1 meeting, that the duration of the appointment of the Special Police Officers at the Regional High School be determined and that Chief Lombardi be asked for his opinion of an approximate date for the completion of the study concerning Special Police Officers, which the Massachusetts Police Institute had undertaken at his request. Mr. Thompson reported that Chief Lombardi had no approximate date for receipt of the study.

Town Counsel proposed that a special act to the legislature, subject to approval of a Town Meeting, be considered.

Selectman Powers, referring to Town Counsel's April 1, 1976 communication, stated that it would appear that authority for appointing employees of educational institutions lies in the hands of the Commissioner of Public Safety under Chapter 147, Section 10G, and he asked whether the Superintendent of the Regional High School had made any such application.

Chairman Toomey reported that none had been made because in the past the Board had appointed Special Police Officers.

Selectman Powers asked if the Board could advise the Superintendent of Town Counsel's April 1, 1976 opinion and suggest that he take the matter up with the Commissioner of Public Safety immediately.

Chairman Toomey asked Francis White, who was present in advance of a later appointment and who was called a Special Police Officer, what his authority as such was.

Mr. White stated that he believed, in his opinion, he had full authority, including the power of arrest, which he had used.

In response to Selectman Potell's question as to whether any precedent had been set in this regard, Mr. Davis stated that he had just given Town Counsel a decision that had been handed down in 1896.

Town Counsel stated that this decision did not apply as the situation had changed when the Police Department went into civil service.

The Executive Secretary recommended that the Board accept Selectman Power's suggestion and refer Town Counsel's April 1, 1976 opinion on the matter to the Regional High School Superintendent and that Town Counsel's office be asked to prepare some corrective legislation.

On motion by Selectman Powers, it was

VOTED: To refer Town Counsel's opinion dated April 1, 1976 to the Superintendent of the Lincoln-Sudbury Regional High School with the suggestion that the School consider taking their particular problem to the Commissioner of Public Safety;

(Selectmen Powers and Potell in favor; Chairman Toomey opposed)

Selectman Powers further moved that it would be the policy of the Board, until it is advised that it has other authority, rather than to appoint Special Police Officers, as that term has been known, to appoint, in their stead, Special Constables under the provision of Chapter 90, Section 29 of the General Laws, as recommended by Town Counsel in his memorandum of April 1, 1976.

Selectman Powers' motion was seconded by Selectman Potell and, in the discussion which followed, Chairman Toomey commented that, in his opinion, appointment of Special Constables would give the appointee only limited authority beyond which he could not go and, unless full authority could be given, no appointments should be made.

Selectman Powers disagreed, stating that the Special Constables are fully authorized to handle traffic matters, including citizen's arrest in this connection, and for anything beyond a traffic matter, they could call for a regular police officer.

Selectman Potell asked Chief Lombardi what his feelings were if the only option available at the present time was appointing Special Constables with powers limited to traffic matters.

Chief Lombardi stated that he would rather have Special Constables than to have no appointments made.

It was then

VOTED: That it would be the policy of the Board, until it is advised that it has other authority, rather than to appoint Special Police Officers, as that term has been known, to appoint, in their stead, Special Constables under the provision of Chapter 90, Section 29 of the General Laws, as recommended by Town Counsel in his memorandum of April 1, 1976;

(Selectmen Powers and Potell in favor; Chairman Toomey opposed)

and it was further unanimously

VOTED: To instruct Town Counsel to prepare the necessary special legislation to be presented to the general court so that the Board of Selectmen would be authorized to appoint Special Police Officers with the powers and duties which the Police Chief feels they should have to carry out their job.

It was agreed that the Board would hold further discussion with Chief Lombardi relative to his request for removal of sergeants from the union.

Site Plan Application #76-165, Granco Realty Trust, 60 Union Avenue

Present: Stephen E. Grande, applicant; Francis E. White, Building Inspector/Zoning Enforcement Agent; Robert Noyes, Highway Surveyor

In accordance with Article IX, Section V, Paragraph A of the Sudbury Bylaws, the Board held a hearing on the site plan application of Granco Realty Trust, 60 Union Avenue, for an additional building to be located at 64 Union Avenue.

The Executive Secretary reported that all appropriate Town officials and abutters had been notified and that the following reports had been received: from the Board of Health, dated May 28, 1976, which recommended conditional approval; from the Zoning Enforcement Agent, dated May 13, 1976, which recommended approval; from the Planning Board, dated June 3, 1976, which set forth recommendations for the Board's consideration; and from the Conservation Commission, dated May 26, 1976, which stated that the plan would be subject to a Wetlands Protection Act hearing.

Items in the Planning Board's letter were discussed and the first two (curbing in parking area and connection of driveways) were agreed to by Mr. Grande. The Planning Board letter also indicated that Mr. Grande had requested that the Town install a catch basin on Union Avenue in front of his property so as to eliminate the hole that presently exists.

Mr. Noyes was asked whether this work could be done, and he responded in the affirmative.

Chairman Toomey stated that an understanding with regard to approval of the site plan had been reached, and he requested that the Executive Secretary draw up an appropriate motion for the Board's action on June 14 relative to approval contingent upon the necessary arrangements being made between the property owner and the Highway Surveyor to eliminate the water problem that exists on the southwest portion of the property.

The Executive Secretary noted the Conservation Commission's statement of the need for a Wetland Protection Act hearing, and he suggested that the vote also be made contingent upon the results of the hearing if it were found to be necessary. Mr. Thompson suggested that Mr. Grande contact Mr. Cutting, Chairman of the Conservation Commission, in this regard.

Tennessee Gas Pipeline Company

Present: Robert A. Noyes, Highway Surveyor

The Board had earlier received a letter dated April 27, 1976 from Aetna Life and Casualty, requesting release of Bond #62 S 19215 BCA (Tennessee Gas Pipeline Company - Road Crossing Bond) in the amount of \$19,500 following completion of the work for which it had been issued on June 17, 1971. The letter had been forwarded to Town Counsel at that time, and he, in turn, forwarded copies to the Town Engineer and the Highway Surveyor.

The Board received a communication dated May 11, 1976, from the Town Engineer, who found no objection to the release of the bond with the concurrence of the Highway Surveyor, and a related communication dated May 28, 1976 from the Highway Surveyor, who asked that it be noted for the record that if and when the Town acquires the streets, easements, drainage, etc., in the Bowker V subdivision, he was of the opinion that the developer did not have a proper outfall for his drainage westerly of Ford Road.

The Highway Surveyor also expressed his dissatisfaction with the way Elsbeth Road was crossed by the Tennessee Gas Company contractor.

Discussion followed concerning the possibility of making a claim against the bond to correct the work, and it was agreed to retain the bond pending an investigation by Town Counsel and the Highway Surveyor.

The Highway Surveyor was asked to obtain an estimate for corrective work from the Town Engineer and to report back to the Executive Secretary and Town Counsel in the next day or two to enable any further action by them.

Interdepartmental and Townwide Radio Communications

Present: Josiah Frost, Fire Chief/Civil Defense Director; Nicholas Lombardi, Police Chief; Francis E. White, Building Inspector; Robert A. Noyes, Highway Surveyor; William Bonwitt, Roger Davis, Barry Real, and John Sklenak of the Sudbury Auxiliary Police

Chairman Toomey announced that tonight's joint meeting had been called for the purpose of determining what improvements should be made to the Town's local internal communications and to discuss emergency situations and procedures.

In response to Chairman Toomey's questions, both the Police Chief and the Fire Chief stated that no problem exists in their departments in reacting to emergencies and that there is excellent cooperation among the Police, Fire, and Highway Departments.

Mr. White, in response to Chairman Toomey's question concerning the Town Hall's capacity on auxiliary power, stated that the water pump on the generator located at the Town Hall had been repaired and that the generator had been tested for as long as forty-five minutes and was in reasonable condition. Mr. White stated that he would prefer a generator which operated on bottled gas.

Chairman Toomey asked if there was a better generator located at the Regional High School.

The Executive Secretary reported that the one located there in connection with the Civil Defense emergency unit could be used in an emergency, but that two interior walls which had since been constructed in connection with the most recent addition to the Regional High School would have to be removed before any relocation.

Chief Frost stated that, as Civil Defense Director, he could sanction use of the generator, but that it is housed in a crate and that he did not know if it is working.

The Executive Secretary pointed out that the generator was located in the basement of the High School and originally intended for use in case of a large scale emergency and that it is attached to and under the control of Emerson Hospital and the State Regional Civil Defense Director.

The Board suggested that an inquiry be made as to whether the generator might be exceeded and that its operability be determined.

In response to the Board's question, Chief Frost stated that the Town Hall generator was acquired in 1948 and that the generator at the Regional High School was a 1951 model.

In response to Chairman Toomey's request concerning any problems in the Highway Department, Mr. Noyes stated that, in his opinion, it would be advantageous if the Highway Department could monitor fire and police calls and also be in contact with the State weather forecasts. Mr. Noyes stated that he did not have sufficient money for these proposals at the present time, but was of the opinion that the Highway Department should have contact in these areas.

Mr. Noyes estimated that a scanner to monitor police and fire calls would cost approximately \$100.

Chairman Toomey suggested that the Highway Surveyor request a transfer from the Reserve Fund for these items, and he stated that the Board would support the same. Chairman Toomey commented that a tie-in with the Highway Department, such as that proposed by the Highway Surveyor, would also include the Sudbury Water District.

The Executive Secretary reported that failure of the Town to vote in favor of the construction of a combined police/fire headquarters building, which would have housed the Civil Defense Communications Center, had slowed the implementation of the recommendations in the November 1973 Emergency Communications Planning Report, but that the telephone system, beginning in July, would merge with that of the Sudbury Schools, which would increase the available lines and would include internal lines to the Highway and Police Departments. The Executive Secretary further reported that outdated radio equipment in the Fire Department was being replaced and that telephone systems in both the Police and Fire Departments have been improved.

In response to Chairman Toomey's question whether the report was being satisfactorily implemented, Mr. White stated that he had requested money for a new emergency generator in his budget a year ago, which has been cut by the Selectmen.

The Fire Chief recommended that the Town Hall generator be used as standby and that if one powered by Boston Gas could be acquired, there would be no further problems.

Chief Frost, in answer to Selectman Powers' question, stated that there were auxiliary pumps located at each Water District well site.

Chairman Toomey commented that the Board had asked those present tonight to also attend the Selectmen's meeting on June 21, at 8:00 p.m., for discussion concerning procedures and protection of the Townspeople during the July 4th week-end bicentennial celebrations.

The Board requested that the Executive Secretary review the Emergency Communication Planning Report and to report back to the Board on what has been implemented to date.

Award of \$50 Savings Bond - Memorial Day Essay

Present: Rebecca Campbell, recipient of award; Mary Jane Hillery and William Burns of the Memorial Day Committee

Chairman Toomey extended the Board's congratulations and presented a \$50 Savings Bond to Rebecca Campbell, 63 Puritan Avenue, for her winning essay on Memorial Day.

Appointments

Following discussion, it was on motion unanimously

VOTED: To make the following appointments:

Lynne Remington and Joan Irish to the Conservation Commission for terms to expire on April 30, 1979;

Robert Savoy to the Board of Appeals for a term to expire on April 30, 1981;

Myron Fox, Robert Burd, Robert Turner, and John Cheney, as Alternates to the Board of Appeals; for terms to expire on April 30, 1977;

Board of Appeals Alternates to the Earth Removal Board as follows: Robert Burd and Myron Fox for terms to expire on April 30, 1979, and Robert Turner for a term to expire April 30, 1978. (Mr. Turner's appointment subject to Robert Savoy's resignation).

Following further discussion, it was on motion

VOTED: To make the following appointments:

Francis E. White and Josiah F. Frost, as Special Constables, non-paid, for terms to expire on April 30, 1977;

Robert Clark and William Kleiner as Special Constables, non-paid, for protection of persons and property at Sperry Rand, for terms to expire on April 30, 1977;

Robert Hatfield, Everett Mitchell, Roland Soucy, Gerardo Vitti, and Ernest Russo as Special Constables, non-paid, for protection of persons and property at Raytheon, for terms to expire on April 30, 1977;

Jeremy P. Rogers as Special Costable, non-paid, for protection of persons and property at the Boy Scout Reservation for a term to expire on April 30, 1977.

Warren Wright as Special Constable, non-paid, for protection of persons and property at the Loring School for a term to expire on April 30, 1977.
(Selectmen Powers and Potell in favor; Chairman Toomey opposed)

Executive Session

At 9:55 p.m., following a unanimous roll call vote, it was on motion further unanimously

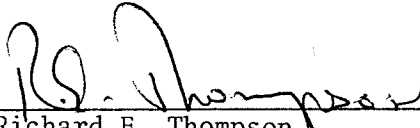
VOTED: To enter into executive session for the purpose of discussing the reputation and character, physical condition or mental health rather than the professional competence of a single individual.

Chairman Toomey announced that the public session would not reconvene following the executive session.

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

VOTED: To adjourn the meeting at 10:30 p.m.

Attest:


Richard E. Thompson
Executive Secretary/Clerk