

IN BOARD OF SELECTMEN
MONDAY, MAY 17, 1976

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

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

One Day Beer and Wine License -- Frank Grinnell

The Board signed a One Day Beer and Wine License for Frank H. Grinnell, which had been granted at their meeting on May 10, 1976. The Board agreed to waive the fee as the license was sought in connection with a testimonial barbeque-picnic to honor a former official of the Town.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session of May 10, 1976, as corrected.

Selectmen's Liaison Assignments

The Board considered a list dated May 17, 1976 of Selectmen liaison assignments for 1976-77, as prepared by the Executive Secretary, for distribution to all boards, commissions, committees, and department heads in a communication dated May 17, 1976 from the Chairman of the Board of Selectmen.

Selectman Powers suggested that a realignment of liaison assignments which would increase the function of the Chair and the Executive Secretary in this area might be considered by the Board, and his memorandum dated May 17, 1976 on the subject was submitted to the Board.

Chairman Toomey suggested that an addition could be made to the Selectmen's Policies and Procedures in connection with Selectmen's liaison and work assignments to the effect that, while the Selectmen could not attend the various board and committee meetings, a Selectman would be available to those groups to which he was assigned if a problem or project arose of which the Board should be made aware.

After further discussion, it was on motion by Selectman Powers, unanimously

VOTED: To table further consideration of Selectmen's liaison assignments until June 1, 1976.

Selectmen's 1976 Summer Schedule

The Board received and briefly discussed the Selectmen's summer meeting schedule proposed by the Executive Secretary in a communication dated May 17, 1976, after which it was on motion unanimously

VOTED: To table further consideration of the above-referenced schedule until June 1, 1976.

Licenses - Sudbury Bowladrome, Inc., 136 Boston Post Road

After consideration, it was on motion unanimously

VOTED: To grant to Sudbury Bowladrome, Inc., 136 Boston Post Road, the following:

1) a license for Public Entertainment on the Lord's Day to operate and maintain Automatic Devices (Pinball Machines) commencing July 4, 1976 and expiring June 26, 1977, from the hours of 1:00 p.m. to 11:00 p.m. on Sundays, subject to the approval of the Commissioner of Public Safety;

2) a license for Public Entertainment on the Lord's Day to operate and maintain six (6) pocket billiard tables for amusement commencing May 30, 1976 and expiring May 22, 1977, from the hours of 1:00 p.m. to 11:00 p.m. on Sundays, subject to the approval of the Commissioner of Public Safety; and

3) approval of the license for Sudbury Bowladrome, Inc., to operate twenty-four (24) bowling alleys on weekdays from 8:00 a.m. to 12:00 Midnight and on Sundays from 9:00 a.m. to 11:00 p.m.; and six (6) pocket billiard tables on weekdays from 8:00 a.m. to 12:00 Midnight.

Sudbury's Equalized Valuation

Present: Frank Grinnell, Chairman, and Donald Peirce of the Board of Assessors

The Board received a copy of a notification dated May 7, 1976 from the Department of Corporations and Taxation which stated that, after consideration, the State Tax Commission has determined that no change in the \$268,000,000 valuation figure proposed for Sudbury by that Commission is warranted.

The Executive Secretary reported that the Board, at its April 26, 1976 joint meeting with the Board of Assessors, had voted to authorize Town Counsel to proceed, in accordance with the request of the Assessors, to preserve the Town's right to appeal the proposed 1976 equalized valuation set by the State Tax Commission and had further voted to authorize Town Counsel to file a formal appeal, if that is considered necessary, with the Appellate Tax Board.

Town Counsel was now asked for his recommendation in this regard.

Town Counsel responded that he had again reviewed the equalized valuation for Sudbury and, in order to put it into perspective, had also reviewed the equalized valuations for the other cities and towns in the Commonwealth. Town Counsel reported that it would appear that Sudbury's position has not changed any and may actually have improved.

Town Counsel recommended that rather than to file an appeal, Sudbury join with other cities and towns in reviewing critical appeals, such as that of the City of Boston, and work to see that these valuations remain at the levels set by the State and not lowered.

Selectman Powers asked how the Town could maintain a strong position if it does not pursue its appeal.

Mr. Grinnell, in response to Chairman Toomey's question, stated that the Assessors would defer to the recommendation of Town Counsel in the matter of their appeal.

Mr. Turner stated that, in his opinion, the Court's current Sudbury suit is the proper place to address the Town's appeal and again stated that, in his opinion, the Town does not have a good basis for appeal after looking at the state-wide figures.

Selectman Powers stated that the Department of Corporations and Taxation established a viable basis by determining valuations without a uniform application, and he expressed his opinion that Sudbury would not lose anything by proceeding with its appeal while also joining with other communities. Selectman Powers stated that Sudbury's equalized valuation placed by the Department of Corporations and Taxation is wrong for the Town of Sudbury because it is out of line with those placed on other towns. Selectman Powers further stated that the Sudbury case was based on the multiple standards used to determine equalized valuation and that Sudbury's earlier and present equalized valuation were not uniformly determined and, because the valuations are determined on the basis of vastly different data and formulas, Sudbury is being deprived of its constitutional rights. Selectman Powers asked how the Town could acquiesce to the State's figure by not pursuing its appeal, and he asked the Board and the Assessors to acknowledge the fact that the valuation figure is wrong vis a vis the other cities and towns.

Town Counsel stated that, in his opinion, the Town could only consider Sudbury's figure, which could be appealed through the end of May.

Selectman Potell asked the Assessors if it was their opinion that the \$268,000,000 figure is realistic for Sudbury.

Mr. Grinnell responded that the Assessors were of the opinion that the figure was in the ball park.

Selectman Potell commented that he would have a problem with an appeal in light of the Assessors' opinion.

Selectman Powers asked for the difference between the State's and the Assessors' figures.

Mr. Grinnell stated that, in his opinion, there was not much difference.

Chairman Toomey suggested that further discussion of the matter be deferred in order that the Assessors and Town Counsel produce figures to substantiate their position.

After further discussion, it was on motion unanimously

VOTED: To defer, until May 24, 1976, further discussion of the matter of possible appeal to the State Tax Commission relative to Sudbury's assessed valuation to allow the submission of additional information from Town Counsel and the Board of Assessors.

Reserve Fund Transfer - Fire Department

Present: Fire Chief Josiah F. Frost

After consideration, it was on motion by Selectman Powers unanimously

VOTED: To approve Request No. 0678 for a transfer from the Reserve Fund to Account 310-31, Fire Department Maintenance, in the amount of \$1,600, for the purposes set forth in the numbered transfer.

Reserve Fund Transfer - Police Department

After consideration, it was on motion by Selectman Powers unanimously

VOTED: To approve Request No. 0681 for a transfer from the Reserve Fund to Account 310-13, Police Department Clerical, in the amount of \$77.64 for the purposes set forth in the numbered transfer.

Sudbury Players

Present: Ronald Adolph, President, Sudbury Players; and Francis E. White, Building Inspector/Wiring Inspector

Mr. Adolph, President of the Sudbury Players, met with the Board on the matter of recent correspondence relative to use by the Sudbury Players of the Town Hall facilities.

Under discussion were the following communications: from the Building Inspector to the Executive Secretary (March 19, 1976); from the Executive Secretary to the Building Inspector (March 17, 1976), from the Executive Secretary to Mr. Adolph (March 17, 1976), from Mr. Adolph to the Selectmen (March 15, 1976), from the Building Inspector to Mr. Adolph (March 10, 1976), and from the Building Services Coordinator to Mr. Adolph (March 10, 1976).

Matters in the communications referenced above were discussed as well as others in earlier correspondence referenced by Mr. Adolph, particularly the use of the kitchen and rest rooms and electrical wiring.

Mr. Adolph stated that, in his opinion, the Players need a standard set of operating procedures for the use of the Town Hall, and he asked that they receive some type of direction and that instructions be issued to the Building/Wiring Inspector or to him in order that wiring work can be done.

Further discussion followed, during which the Building Inspector reported that a serious sewage problem exists at the Town Hall which requires very frequent pumping of the tank. Mr. White recommended that the rental of the Town Hall be curtailed until the problem can be straightened out with the State Board of Health.

Selectman Powers suggested that the existing rules concerning the use of the Town Hall be reviewed.

On the recommendation of Chairman Toomey, it was on motion by Selectman Potell unanimously

VOTED: That a committee be established to consist of the Executive Secretary, at least three members of the Board of Directors of the Sudbury Players, the Building/Wiring Inspector, and the Fire Chief for the purpose of reviewing and possibly revising the existing rules concerning the rental of the Town Hall and to report back within thirty days with an established procedure for the same.

Hearing - Contemplated Termination of Robert L. Wenham, Patrolman, Sudbury Police Department

Present: Patrolman Robert Wenham; Police Chief Nicholas Lombardi; Francis Keane, Attorney representing Patrolman Wenham; Attorney David Downes from the International Brotherhood of Police Officers; two Police Patrolmen and six members of the Sudbury Police Auxiliary; George Distler, Chairman, Personnel Board

The Executive Secretary stated that the Board, at its meeting on May 7, 1976, voted to grant a continuance of the hearing relative to the contemplated termination of Robert L. Wenham, Patrolman, Sudbury Police Department, in accordance with General Laws, Chapter 31, as amended, until 8:30 p.m. on May 17, 1976, with the understanding that Officer Wenham will stay on the payroll, but not engage in active duty until such time as that date and a determination is made at the hearing.

Mr. Thompson reported that this continuance was granted to Patrolman Wenham to allow receipt of a more recent report relative to his condition from his doctor. Mr. Thompson further reported that Attorneys Keane and Downes agreed, at the May 7 meeting, that Patrolman Wenham would submit to an additional physical examination by a doctor of the Town's choosing.

The Executive Secretary read the notice, dated April 23, 1976, of the hearing which was sent to Patrolman Wenham, and he stated that a report dated May 11, 1976 had today been received from Arthur P. Safran, M.D. (Board's request) with regard to Patrolman Wenham.

Attorney Keane commented that, under Chapter 31 of the General Laws, the Board has flexibility in its conduct of a termination procedure. Mr. Keane stated that on May 13, 1976 Patrolman Wenham had applied for accidental retirement benefits through the Middlesex County Retirement Board. Mr. Keane stated that his main concern at this particular time was the termination of Patrolman Wenham's medical benefits and that it was his hope that the Board might consider staying the termination procedure for an additional period of time with the anticipation that Patrolman Wenham can be examined to see if he qualifies for accidental retirement. Mr. Keane stated that Patrolman Wenham has applied for accidental retirement on the basis of an injury which occurred in 1971 while he was directing traffic. Mr. Keane stated that there is a strong possibility that this injury was the beginning of a deteriorating disc condition and may be service connected.

Mr. Keane stated that if there were some way that the Town could protect Patrolman Wenham's interests, he would plead for that kind of relief.

Attorney Downes stated that he concurred with Mr. Keane and that he had become involved when Civil Service laws came into play. Mr. Downes stated that the International Brotherhood of Police Officers (IBPO) is extremely concerned with Patrolman Wenham's medical benefits during the next several months, as his present condition is such that he could not afford to continue payments at his own expense. Mr. Downes suggested that a medical leave of absence for a specified period of time might be granted, and he again expressed his concern that severance not begin tonight.

Chairman Toomey requested that the recent report from Patrolman Wenham's doctor be submitted to the Board for review.

Mr. Keane stated that he did not have the report with him this evening.

Chairman Toomey stated that receipt of this doctor's report was part of the agreement upon which the continuance of the hearing had been voted, and this statement was supported by the other members of the Board, Chief Lombardi, and Mr. Distler.

Mr. Keane apologized for his oversight and he stated that Dr. Helfant had performed the surgery and, as yet, there is no final medical prognosis.

Attorney Downe stated that the original situation has changed whereas Patrolman Wenham has now applied for accidental disability retirement.

The Executive Secretary reported that he had spoken late today with Attorney Downes concerning disability retirement and had told him that, in his opinion, Patrolman Wenham's disability was not service related and, on the subject of Blue Cross/Blue Shield coverage, it was his opinion that Patrolman Wenham would be covered until or through August.

The Executive Secretary further reported that he had discussed the subject of medical coverage with the Town Accountant, who had also expressed the opinion that coverage would be continued for two to three months.

Mr. Distler, Chairman of the Personnel Board, stated that, in his opinion, the Town has acted in a very responsible manner with regard to Patrolman Wenham in granting extensive sick leave and arranging the 90-day evaluation period which followed. Mr. Distler commented that the injury had occurred in August 1975 and, as medical coverage will run into August 1976, it was his opinion that the Town has more than done its share. Mr. Distler stated that, if medical protection is available as indicated, in his opinion, the Town has fulfilled its obligation to a loyal Town employee.

Chief Lombardi declined to comment on the matter at this time.

Patrolman Bruce Noah, representing the IBPO, stated that the union supports Officer Wenham in his retirement plans and he expressed their hope that the Board would also support his request. Patrolman Noah also expressed the union's appreciation to the Police Chief for his efforts on behalf of Patrolman Wenham on the matters of sick leave and the 90-day evaluation period.

Selectman Powers stated that he was not aware that any request for a leave of absence was before the Board, and he asked what was now being proposed.

Mr. Keane stated that Patrolman Wenham was in need of both money for his family and medical coverage. Mr. Keane stated that if it is determined that Patrolman Wenham's injury is job-related, he is eligible to received 72% of his present salary and that if his disability is determined not to be job-related, he will be eligible to receive 50% of his salary. Mr. Keane stated that in the event Patrolman Wenham is terminated tonight, an adjustment would be made retroactively, but that he would hope that Patrolman Wenham could continue until a decision is made on his retirement.

The Board advised Mr. Keane that any request for a medical leave of absence must be submitted to the Board in writing from Patrolman Wenham.

Mr. Potell stated that it was his understanding that the Board was being requested to have Patrolman Wenham kept on the payroll and put on inactive duty. Selectman Potell asked Chief Lombardi how this status would affect his department.

Chief Lombardi stated that his Department would remain short one man.

Mr. Potell commented that the Board's granting a leave of absence would lessen the Town's protection for an indefinite period of time, which was a problem.

Chairman Toomey commented on the need for the Board to make a decision in this difficult situation which must be in the best interests of the Town.

Patrolman Wenham stated that, at the time he filed his application with the Middlesex County Retirement Board, they had indicated that a meeting on the matter would be held shortly and that it was his impression that a decision would be made in the near future.

At the request of Patrolman Wenham and his attorneys, it was on motion unanimously VOTED: To recess the hearing for a period of five minutes.

At 9:30 p.m. the hearing reconvened, and Mr. Downes made the following request: that the Board, if possible, retain Patrolman Wenham as a Town employee through June 30, 1976, which would provide him with his medical benefits, and to grant, effective July 1, 1976, a three-month leave of absence.

After further discussion and mutual consent, it was on motion unanimously

VOTED: To further continue the hearing relative to the contemplated termination of Patrolman Wenham until a special meeting scheduled for 7:00 p.m., Thursday, May 20, 1976, at the Loring Parsonage; and it was further

VOTED: To request Town Counsel to prepare alternative motions for the Board's consideration at that time.

Sudbury School Committee -- Task Force Report on Declining Population

The Board received a communication dated May 10, 1976 from the Sudbury School Committee, inviting the Board to a meeting of that committee scheduled for May 19, 1976 on the subject of their Task Force Report on Declining School Population.

After discussion, it was on motion unanimously

VOTED: To thank the Sudbury School Committee for their May 10, 1976 letter and to request that the report mentioned therein be forwarded to the Board for their information.

Mutual Aid - Fire Department

In response to a communication dated May 10, 1976 from the Fire Chief relative to mutual aid participation by neighboring towns during recent fires in Sudbury, the Selectmen directed the Executive Secretary to express the Board's appreciation to the Department of Natural Resources and to the Boards of Selectmen of the towns listed in the above communication, with copies to the respective Fire Chiefs.

Horse Pond Walkway Railroad Crossing - Order of Taking

It was on motion by Selectman Powers unanimously

VOTED: To execute the Order of Taking relative to the Horse Pond Walkway railroad crossing.

Department of Public Utilities - Extended Local Calling Area

Town Counsel reported on the findings set forth in the Department of Public Utilities report dated May 14, 1976 relative to the availability to the Sudbury subscribers of optional extended local service.

Chairman Toomey expressed the Board's gratitude to Town Counsel, former Selectman John E. Taft, and Estelle Simon, spokesperson for the petitioners, who appeared at the Department of Public Utilities hearing.

Muscular Dystrophy Association, Inc., Annual March

The Board received a communication dated May 7, 1976 from the Muscular Dystrophy Association, requesting permission to conduct a drive for that Association in Sudbury during the summer months.

Selectman Powers suggested that the Board endorse the idea, but that the Executive Secretary request from the Association a specific time for the conduct of this activity.

Chairman Toomey and Selectman Potell were in agreement, and the Executive Secretary was so directed.

1976 Annual Town Election

The Board reviewed a letter dated May 13, 1976 drafted by Town Counsel in response to a letter received by him from a citizen on the subject of the 1976 Annual Town Election.

It was the consensus of the Board that the above referenced letter be forwarded to Mr. Bradshaw and his attorney.

Site Plan - Philip Newfell

The Board received a copy of correspondence dated May 7, 1976 from the Zoning Enforcement Agent to Mr. William A. Senecal relative to a request from Mr. Philip Newfell that his approved site plan for property located at 57 Codjer Lane be canceled.

The Board directed the Executive Secretary to request clarification from the Zoning Enforcement Agent of his communication referenced above.

Sudbury Non-Profit Housing Corporation

Selectman Potell announced that the Board has been invited to an open meeting of the Sudbury Non-Profit Housing Corporation to be held at 8:00 p.m. at the Community Room of the elderly housing development on Hudson Road.

Town Accountant - Annual Military Training

The Executive Secretary brought to the Board's attention a communication dated May 13, 1976 from the Town Accountant relative to his annual military training.

The Board authorized the Executive Secretary to review and sign the payroll and bill warrants that become due within the period of May 30 - June 24 or to have them prepared for the Town Accountant's signature on weekends when he will be available.

Application for Highway Funding Assistance

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

VOTED: To authorize the Chairman of the Board to sign an application for highway funding assistance through Governor Dukakis' Highway Program.

Appointments

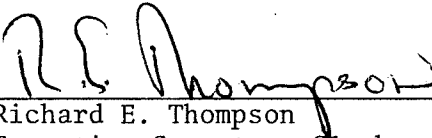
It was on motion unanimously

VOTED: To defer consideration of the Board's remaining 1976 appointments until a later meeting.

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