

IN BOARD OF SELECTMEN
TUESDAY, SEPTEMBER 7, 1976

Present: Chairman William F. Toomey 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.

Executive Secretary Richard E. Thompson announced that he had received word at 7:20 p.m. that Selectman Powers would be unable to attend tonight's meeting.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular meeting and the executive session of August 23, 1976, the former as corrected.

Saugus Board of Selectmen - Proclamation - Legal Drinking Age

The Board received a communication dated August 16, 1976 from the Board of Selectmen of the Town of Saugus, seeking support of that Town's proclamation urging the General Court to return the legal drinking age to twenty-one rather than nineteen as proposed by House Bill 1239.

The Executive Secretary stated that he had forwarded a copy of the communication referenced above to the Police Chief for his comments and that his response, dated August 24, 1976, had expressed his complete support of the proclamation. The Executive Secretary also reported receipt of a related communication dated August 27, 1976 in support of raising the legal drinking age from Lawrie Honens, 87 Woodside Road.

Chairman Toomey reported that passage of the lowered drinking age had followed requests from restaurants and hotels that persons under twenty-one years of age be allowed to work in establishments in which liquor was served. Chairman Toomey stated that he would not wish to support this proclamation unless it was amended to protect the jobs of those persons now able to be employed in such establishments.

Selectman Potell was in agreement and after further discussion, it was on motion unanimously

VOTED: To support the return of the legal drinking age from eighteen to twenty-one years of age, affirming the recommendation of the Chief of Police as set forth in his August 24, 1976 communication;

and it was further

VOTED: To request the Selectmen of the Town of Saugus to amend their proclamation so as not to rule out employment of, and service of alcoholic beverages by, persons between the ages of eighteen and twenty-one in establishments in which liquor is served.

The Executive Secretary was requested to advise Lawrie Honens of the Board's action in the matter.

Woodlane Farms III - Peerless Insurance Company

Present: Thomas French, Assistant to Town Counsel

The Board received a communication dated August 27, 1976 from Thomas French, Assistant to Town Counsel, relative to exercising Bond #S-55-32-31, in the amount of \$13,010, of Peerless Insurance Company for work in the Woodlane Farms III subdivision.

Mr. French stated that the Peerless Insurance Company had expressed its willingness to pay the bond penalty to the Town, but that it wanted assurance that the money would be earmarked solely for the completion of work guaranteed by that bond rather than to be entered into the Town's general fund. Mr. French further stated that he had explained to the company's representative that the money could be placed in a special account for this purpose under Chapter 41, Section 81U of the General Laws.

Mr. French stated that the Town Engineer had estimated the cost of completion of the Woodlane Farms III subdivision at \$13,000, but that the bonding company's estimate was several thousand dollars above that figure.

The Executive Secretary recommended that the money be placed in a special account by the Town Accountant rather than be returned to the general fund.

Town Counsel explained that the bonding company is concerned with liability if the money is not placed in a special account specified for this purpose because of a decision in a recent court case, and he suggested that such an account be set up.

After further discussion, on the recommendation of Town Counsel and the Executive Secretary, it was on motion unanimously

VOTED: To accept, from Peerless Insurance Company, funds in the amount of \$13,010 from Bond #S-55-32-31, in accordance with the August 27, 1976 letter from Assistant to Town Counsel, with the understanding that the Town Accountant will be instructed to set up a special account for these funds under General Laws Chapter 41, Section 81U and that expenditure of the same is to be approved by the Planning Board and the Board of Selectmen.

Town Report Preparation Committee - Alternative

It was on motion unanimously

VOTED: To defer, until the Board's regular meeting on September 13, consideration of a communication dated August 19, 1976 from Selectman Powers relative to a proposal for an alternative to appointment of a Town Report Preparation Committee.

Fire Department - Engine #2

The Executive Secretary reported that he had been notified on August 30, 1976 by the Fire Chief's communication of that date that the Fire Department's Engine #2 was no longer able to perform in any capacity and that the Fire Chief had removed this piece of apparatus from service and had placed into service the Department's single reserve piece of apparatus, Engine #1.

Mr. Thompson reported that the engine that had failed was the one for which replacement funds had been requested in the 1977 fiscal year budget but later deleted due to the fact that the engine was still functioning, although with difficulty.

Mr. Thompson further reported that the Fire Chief is having the engine surveyed by several master mechanics and truck agencies to obtain figures for evaluation as to the replacement and that a report relating to replacement costs is expected to be available by the end of September.

After further discussion, it was on motion unanimously

VOTED: To take the Fire Chief's August 30, 1976 communication under advisement until further information is received.

Sudbury Police Officer - Medical Expenses

The Executive Secretary brought to the attention of the Board the question of whether it is appropriate to indemnify, in accordance with General Laws Chapter 41, Section 100, a police officer for medical expenses incurred due to an injury sustained while on duty.

Mr. Thompson reported that he had expected a report on the matter from the Chief of Police to be available for tonight's meeting, but that the Chief had not yet returned from vacation.

Town Counsel commented that, in accordance with the above-referenced statute, if the injury were sustained by a police officer through no fault of his own, the Town would be obligated to indemnify him.

After a brief discussion, it was on motion unanimously

VOTED: To table further consideration of the above matter until receipt of a written or oral report from the Police Chief.

Bicentennial Ball Committee

Present: Marilyn MacLean, Chairman, Bicentennial Ball Committee

Mrs. MacLean met with the Board to discuss the Bicentennial Ball Committee's recommendations set forth in their communication received by the Board on August 26, 1976 relative to use of the profits from the June 3, 1976 Ball.

In response to a question as to whether restrictions would be placed on the expenditure of this money, Town Counsel stated that expenditure would be in accordance with Chapter 198 of the General Laws.

Chairman Toomey suggested that the Board accept the Committee's report and take their recommendations under advisement until the next meeting of the Revolutionary War Bicentennial Committee, at which time further discussion of the matter would be held.

Chairman Toomey stated that a public meeting would be held before any expenditure of the profits would be made.

Personnel Board Policy - Job Vacancies

The Board received a communication dated August 25, 1976 from the Personnel Board

relative to that Board's policy on posting job vacancies.

Chairman Toomey asked that the minutes of the meeting at which the discussion took place be requested from the Personnel Board and that the subject be rescheduled as a miscellaneous item on the agenda for the Board's regular meeting on September 13.

The Executive Secretary reported that Town Counsel's opinion on the subject has been drafted and will be distributed to the Selectmen and to the Personnel Board.

Town Hall Employees - Picnic, September 12, 1976

In response to a request from the Town Hall employees, it was on motion unanimously

VOTED: To grant permission for their use of Town-owned property adjacent to the Town Hall on Sunday, September 12, 1976, for purposes of a picnic.

Middlesex County Advisory Board

The Executive Secretary announced that a tour of the Middlesex County Hospital facility had been arranged at 10:00 a.m., Tuesday, September 14, 1976.

Chairman Toomey and Selectman Potell expressed their intent to attend the tour.

Massachusetts League of Cities and Towns - Annual Meeting

The Executive Secretary reported that the annual meeting of the Massachusetts League of Cities and Towns would be held on October 29 and 30 at the Sheraton in Boxborough.

Chairman Toomey expressed his hope that the Executive Secretary, the Town Accountant, Town Counsel, and the Assistant to Town Counsel could attend this meeting.

It was agreed that Chairman Toomey would be designated as the voting authority for the Town for the purpose of casting a ballot during the meeting, and the Executive Secretary was requested to so inform that organization.

Chairman Toomey recessed the meeting at 8:40 p.m. for a brief period.

The meeting was reconvened at 8:45 p.m.

Cemetery Rules and Regulations

Present: Robert A. Noyes, Highway Surveyor/Superintendent of Cemeteries; Rabbi Lawrence Kushner, Congregation Beth El, Ronald and Nancy Blecher, Bailey Barron, Frank Grinnell, Philip Felleman, Marian Zola, Ronald Adolph, Judith Cope, and approximately ten other interested citizens

The Executive Secretary reported that the last time the matter of cemetery policies was discussed, he was directed to meet with Town Counsel David Turner and Highway Surveyor/Superintendent of Cemeteries Robert Noyes to draft rules and regulations governing cemeteries. Mr. Thompson stated that Mr. Noyes had, in the interim, reviewed the former Highway Commission's rules on the subject, had redrafted

the same, and had forwarded a copy of both to the Board. Mr. Thompson reported that the Board had also received a letter dated August 13, 1976 from Selectman Powers, which set forth his recommendations for certain items to be included in the drafted rules and regulations. Mr. Thompson further stated that Selectman Powers' recommendations had not yet been included, as he was awaiting further direction from the Board on the matter.

Mr. Thompson reported that he had reviewed the Town Meeting Indexes from 1866 to the present in an effort to learn whether the Town had ever adopted regulations governing cemeteries and that he had found no record of such adoption. Mr. Thompson further reported that Town Clerk's office has no copy or record of cemetery regulations adopted by the Highway Commission on April 29, 1964.

Town Counsel stated that, based on what he had been told and his examination of the records, it was his opinion that the Town has no cemetery rules and regulations at the present time, and furthermore, in his opinion, the only way to adopt such regulations is through a vote of the Town Meeting.

Town Counsel suggested that tonight's discussion be directed toward possible preparation of an article for a future Town Meeting, but he recommended that a special town meeting not be called just for this item.

Mr. Noyes stated that the Highway Department has been operating on what, in their opinion, were regulations established in 1964.

Mr. Felleman, a member of the Highway Commission at that time, stated that in the drafting of their regulations they had set down what had been custom and usage and had made no significant change in any area.

Town Counsel commented that he had earlier advised the former Highway Superintendent of the necessity of Town Meeting adoption of rules for this purpose. Town Counsel stated that, in his opinion, the present situation is a complex one and that he would suggest that the Board set up an advisory committee to study the matter and make recommendations within a certain time frame. Town Counsel further suggested that the committee consist of members of the clergy and people who are familiar with past practice and have various interests and disciplines in the matter. Mr. Turner volunteered his time to work with such a committee if that should be their wish.

Town Counsel stated that, in his opinion, recent cemetery deeds executed under the hands of the Selectmen could not be challenged and that Chapters 40 and 114 of the General Laws would protect the present operation. Mr. Turner further stated that, in his opinion, Mr. Noyes should continue in his past practice.

Mr. Noyes stated that he had earlier explained to Mrs. Barron, who had contacted him relative to purchase of lots adjacent to those sold following the Board's discussion on August 9 with representatives of Congregation Beth El, that the area in which she and other members of Congregation Beth El had expressed interest was not developed and that development of this next section would cost \$2,000, for which no funds were available at this time. Mr. Noyes reported that areas of the cemetery had been developed as needed in the past and that a group purchase in a new undeveloped area would tax his budget.

Mr. Felleman commented that the Finance Committee had recently discussed trust funds which are expended by the Selectmen, and he suggested expenditure of trust funds and the interest therefrom as a possible method of obtaining the funds.

Mr. Adolph suggested that a transfer from the Reserve Fund be approved for this purpose.

In response to Selectman Potell's question as to the size of the area which the Congregation Beth El wished to be set aside for their use, Rabbi Kushner stated that he would hope for enough land to accommodate the Sudbury members of his congregation.

Mrs. Barron expressed her concern that she had been denied, on orders of the Selectmen, the purchase of a lot in an area adjacent to those recently sold.

After discussion, it was determined that the Board had given no direction to this effect to the Superintendent of Cemeteries, and Chairman Toomey stated that the Board would stand on its vote of August 9.

Town Counsel stated that it was his understanding that under the present custom and usage a person goes to the Superintendent of Cemeteries to request lots which are available for use, and he asked Mr. Noyes to confirm whether his policy, under present usage, would be not to sell any contiguous undeveloped land.

Mr. Noyes replied that the policy described by Town Counsel was the policy under which he operated. Mr. Noyes stated that he presently has 184 grave sites which are developed and available.

Chairman Toomey stated that in all probability a Special Town Meeting would be called on other business within the next two or three months, and he suggested that the Board act on Town Counsel's earlier recommendation with regard to appointment of a committee to draft regulations.

After further discussion, it was on motion unanimously

VOTED: To direct the Highway Surveyor/Superintendent of Cemeteries to sell only those cemetery lots already developed until further direction of a Town Meeting;

and it was further

VOTED: To direct the Executive Secretary to request members of the local clergy to meet with the Selectmen and the Highway Surveyor/Superintendent of Cemeteries at 7:30 p.m., Monday, September 13, to discuss the possible creation of a study committee to review and recommend certain cemetery rules and regulations.

Future Status of Town Legal Services

Town Counsel stated that in addition to acting as Sudbury's Town Counsel, he had also recently been retained as Counsel for the Town of Brookline. Mr. Turner stated that he now has a conflict in that the meetings in Brookline are held on Monday afternoon, running into the evening, at which time they conflict with the Sudbury Selectmen's meetings. Town Counsel stated that he would not presume to ask the Board to change its meeting night and was of the opinion that the Town should consider different legal counsel.

Chairman Toomey stated that the Town could not retain a finer Counsel than Mr. Turner, and he expressed his concern that to continue with both Towns on a regular basis would place too much stress on Mr. Turner. Chairman Toomey suggested that perhaps Mr. Turner could continue to represent the Town in special cases, and he commented that Sudbury's Monday night meeting time was very acceptable because of the Selectmen's other commitments.

Mr. Turner requested that the Board make its determination in the matter by the end of October, and he offered his service as Town Counsel until that time and any reasonable time thereafter. Mr. Turner further stated that he would complete any pending cases if that would be the Board's desire.

Selectman Potell stated that he did not know if the Selectmen could find anyone who could replace Mr. Turner in what he has done for the Town. Selectman Potell stated that he has no loyalty to a Monday night meeting and was of the opinion that the Board should consider all the alternatives.

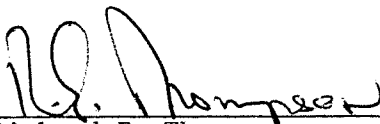
It was agreed to hold further discussion of the subject at the Board's special meeting on September 14.

The Executive Secretary stated that he would update the previous report on legal services for the Board's review and use at that time.

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

VOTED: To adjourn the meeting at 10:35 p.m.

Attest:


Richard E. Thompson
Executive Secretary-Clerk