

IN BOARD OF SELECTMEN  
TUESDAY, AUGUST 16, 1977

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

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The statutory requirements as to notice having been fulfilled, the meeting was called to order at 8:00 p.m. by Chairman John C. Powers.

Juror

Present: Town Clerk Betsey M. Powers

The Board drew the name of Marjorie Kohane, 43 Hobart Road, to serve as juror at Cambridge Court, commencing October 5, 1977.

Appointments--Archeological Advisory Committee--Haynes Garrison Site

The Board, at its meeting on July 11, 1977, voted to establish an Archeological Advisory Committee to do preliminary investigation relative to an archeological dig at the Haynes Garrison Site.

Selectman Powers stated that his recommendations for candidates for appointment to this committee were Royal Haynes, Royce Kahler, and George D. Max.

Selectman Potell stated that he concurred with Chairman Powers' recommendations, and it was on his motion unanimously

VOTED: To appoint Royal E. Haynes, Royce C. Kahler, and George D. Max to the Archeological Advisory Committee--Haynes Garrison Site, each for a term to expire on April 30, 1978.

In response to Selectman Toomey's question, Chairman Powers stated that the committee would act in an advisory capacity only and would report back to the Board with recommendations for the actual work.

Massachusetts League of Cities and Towns Legal Defense Fund

Executive Secretary Richard E. Thompson reported that the Board had recently received a request from the Massachusetts League of Cities and Towns (MLCT) for a payment of \$60.20 to that organization's Legal Defense Fund for the purpose of meeting legal fees and related expenses arising from investigations and litigation concerning Municipal Home Rule. Mr. Thompson reported that approximately 100 communities are currently participating and that \$6,200 has accumulated in the Fund, that the Fund was originally set up because the League was faced with certain things in which they were forced to participate and had no funds allocated for action, such as the Fair Labor Standards Act case, the Open Meeting Law, and the Arlington Binding Arbitration case. Mr. Thompson stated that the MLCT's Executive Board had met on August 4 to decide on projects and proposals, but that he did not know what had been decided at that meeting.

Selectman Potell stated that he was unsure whether best value would be received for money spent in this way and that he would like to see the Legal Defense Fund included as a part of the MLCT's normal operating budget rather than a separate expenditure, and he expressed his strong objection to the request.

Mr. Thompson stated that the MLCT's Executive Board had recently adopted a bylaw with regard to the establishment of the Home Rule Legal Defense Fund.

Selectman Toomey stated that he sits on the Board of Directors of the MLCT and that he had voted against the proposal for the Fund and had been ready to resign over the issue, and he stated that, in his opinion, the Fund should be a budgetary item.

After further discussion, it was on motion by Selectman Potell unanimously VOTED: To reject the Massachusetts League of Cities and Towns' request for payment of \$60.20 to the Home Rule Legal Defense Fund.

Site Plan #77-180--Joseph and Charles Calareso, Northern Farms Farmstand and Country Store, 15 Union Avenue

Present: Building Inspector/Zoning Enforcement Agent Francis E. White; Joseph and Charles Calareso, applicants

Chairman Powers reported that the Board, at its August 8, 1977 meeting, with the consent of the applicant, had unanimously voted to continue further consideration of Site Plan #77-180 of Joseph and Charles Calareso for property located at 15 Union Avenue until tonight's meeting and that all necessary board reports had earlier been received and discussed.

Selectman Potell asked whether the canopy structure could be used for outside storage of goods other than plants.

It was agreed that produce and other products could be stored in the area, subject to approval by the Board of Health.

In response to Selectman Toomey's question, Building Inspector/Zoning Enforcement Agent Francis E. White reported that the Board of Health had indicated no concern with the site plan with regard to the sewerage system, as the system is pre-existing and no change is proposed and that the only concern the Board of Health might have would be only with regard to any rubbish which would attract rodents. Mr. White read his August 4 status report on the site.

Selectman Potell stated that he had no objection to the site plan, but that he would like to restrict outside overnight storage of produce because of a potential need for increased security in the area.

Town Counsel Paul Kenny expressed his opinion that outside overnight storage would be at the risk of the owner and would not appear to have any impact on the site plan.

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

VOTED: To approve Site Plan #77-180 of Joseph and Charles Calareso, Northern Farms Farmstand and Country Store, 15 Union Avenue, subject to the Bylaws of the Town and approval of the Board of Health.

Executive Secretary Richard E. Thompson reported that the applicant had earlier indicated his request to the Board that the \$50 application filing fee be waived because revision of the site plan was necessary following notification by the Town Engineer of the incorrect boundaries at the site, and the Board, acting on its own initiative, had requested that the plan be brought back as a new site plan rather than as a renewal because of the extent of the revision involved.

The Board discussed the question of whether the plan should be considered a renewal or a new site plan, after which Selectman Toomey moved that the application fee be set at \$50, the fee for a new site plan, because of the extent of the revisions to the plan.

Selectman Potell seconded the motion for purposes of discussion.

Mr. Charles Calareso stated that, as it had been necessary to revise the site plan because of a boundary error which he had brought to the attention of the Town officials, it was his opinion that he should not be penalized by having to pay the higher fee.

After further discussion, it was unanimously

VOTED: To set the application fee for Site Plan #77-180 at \$50.

Massachusetts Municipal Associations Joint Legislative Office--Proposed Litigation Relative to Financing Public Education

The Board, at its meeting of August 8, 1977, had tabled action relative to the question of supporting proposed litigation to challenge the constitutionality of the present method of financing public education, which was set forth in a communication received on July 27, 1977 from the Joint Legislative Office of the Massachusetts Municipal Associations Joint Legislative Office, until it could be discussed by the full Board.

Executive Secretary Richard E. Thompson stated that, since last week's meeting additional input had been received on this subject--an article had appeared in the South Middlesex News which stated that the Natick School Committee would join other school committees statewide in helping to fund the above-referenced proposed litigation by agreeing to pay 50% of that town's contribution; that notice had appeared in the August 10, 1977 edition of the Massachusetts League of Cities and Towns' publication "The Beacon" that a recent study by the United States Office of Education of school funding procedures nationwide uncovered the fact that Massachusetts is now the only state in the nation that gives local school districts fiscal autonomy; and a communication dated August 15, 1977 had been received from David L. Levington, Superintendent of the Lincoln-Sudbury Regional School District, who, as a citizen, suggested that the results of the suit might not necessarily benefit the citizens of Sudbury, as, in his opinion, costs of education, health, welfare, and municipal services would continue to rise with inflation unless quantities or qualities of these services are reduced.

Mr. Thompson stated that, at the request of the Chairman, he had checked figures with Town Accountant John Wilson, whose report dated August 16, 1977 had been received relative to the cost of the proposed suit. Mr. Wilson's report stated that the requested \$596 would result in a \$.003 on the tax rate, or \$.15 on \$50,000 and that in Cherry Sheet comparisons between FY76-77 there had been a decrease of total educational aid of \$469,660.03 (FY76-77, \$1,671,857.81)(FY77-78, \$1,202,197.78), which is down 28% and a \$2.68 tax rate loss.

Chairman Powers stated that the request comes from the Massachusetts Selectmen's Association (MSA), the Massachusetts League of Cities and Towns, Massachusetts Mayors' Association, Massachusetts Municipal Management Association, and the Association of Town Finance Committees. Chairman Powers stated that he, as a member of the Legislative Committee of the MSA, was very happy to recommend this legislation, as the State's failure to properly fund public education must be challenged and challenged effectively. Chairman Powers stated that the concept of this suit has been developed over the last several years and that the aforementioned organizations have indicated that the Massachusetts Association of School Committees and the Association of School Superintendents have been consulting with them cooperatively in this regard.

After discussion, it was on motion by Selectman Potell unanimously

VOTED: To support the request from the Massachusetts Municipal Associations' Joint Legislative Office to support proposed litigation to challenge the constitutionality of the present method of financing public education and to forward to that Office a check for \$596 for this purpose; said funds to come from the Selectmen's Surveys and Studies Account (501-81).

Selectman Toomey questioned the use of the name "Massachusetts Municipal Association Joint Legislative Office" to include all the above-listed organizations, stating that he was not aware that a vote had been taken by the Massachusetts League of Cities and Towns for inclusion under the above title.

Mr. Thompson stated that, to his knowledge, the title was a paper setup only, and that his Management Association had never taken a formal vote, but that he would look into the matter.

After further discussion, the Executive Secretary recommended that he be authorized to contact the Sudbury School Committee in an effort to have that Committee join with the Board of Selectmen in support of the proposed litigation.

Finance Committee member Alan Grathwohl asked whether the Board would consider the Finance Committee's concurrence for a united front.

Chairman Powers suggested that the Selectmen schedule a meeting early in September with the Finance Committee and the Sudbury School Committee to discuss common goals.

After further discussion, it was on motion unanimously

VOTED: To authorize the Executive Secretary to contact the Sudbury School Committee for the purpose of requesting that Committee's joint support of the proposed litigation.

Landham Road Advisory Committee--Appointments

Present: Peter H. Anderson, Harold R. Cutler, Sally Piken, Miles Robinson, George Mercury, and approximately eight other Landham Road area residents

Chairman Powers stated that the Board, at its August 8, 1977 meeting, had voted to appoint the Landham Road Advisory Committee at tonight's special meeting. Chairman Powers stated that the Committee would work with Town officials and would hold a public meeting early in September at the Loring School so that area residents could review and discuss the alternate plans for the Landham Road reconstruction.

Chairman Powers stated that the Board had solicited citizens interested in possible appointment to the Committee and had studied the list of those who responded.

Selectman Toomey suggested that the Committee consist of five members, and Chairman Powers and Selectman Potell were in agreement. It was further agreed that, as requested by the Finance Committee, Finance Committee member Karl Clough, that committee's liaison to the Highway and Engineering Departments, would also be appointed as an ad hoc member and that Highway Surveyor Robert A. Noyes, and Town Engineer James Merloni also be included as resource people.

It was on motion unanimously

VOTED: To appoint Finance Committee member Karl Clough, Highway Surveyor Robert Noyes and Town Engineer James Merloni as ad hoc members to the Landham Road Advisory Committee.

Following a review of the list of candidates, it was on motion unanimously

VOTED: To appoint Peter H. Anderson, 11 Landham Road, Harold R. Cutler, 163 Landham Road, Miles Robinson, 40 Landham Road, Robert Phelps, 65 Victoria Road, and George Mercury, 260 Landham Road, to the Landham Road Advisory Committee.

Selectman Powers asked Mr. Robinson to check whether any restriction caused by his present service on the Board of Registrars would prevent him from also serving on this committee.

Mr. Robinson stated that he would make inquiry in this regard.

Executive Secretary Richard E. Thompson recommended that he be authorized to coordinate and schedule, as soon as possible, the first organizational meeting of this committee through his office.

After discussion, it was agreed that the Committee should sit for purposes of reaching a consensus relative to its recommendations regarding all the alternatives which will be presented at the public meeting in September.

The Board requested that the Committee meet with the Selectmen to advise them of its recommendations in advance of the public meeting.

There being no further discussion, it was on motion unanimously

VOTED: To direct the Executive Secretary to convene the Landham Road Advisory Committee for organizational purposes as soon as possible.

Chairman Powers offered the services of the Selectmen's office for any assistance it might provide and the cooperation of officials over which the Board has jurisdiction, and he thanked those present for their interest and attendance tonight.

Resignation--Sudbury Police Department--Gary E. Ryan

The Board received a communication dated July 26, 1977 from Gary E. Ryan, who tendered his resignation from the Sudbury Police Department effective August 9, 1977, which Executive Secretary Richard E. Thompson recommended be accepted.

Selectman Potell stated that Mr. Ryan, in addition to submitting his resignation, had requested that his name be placed on the reserve list, and he asked whether Police Chief Lombardi had sent a recommendation in this regard.

Mr. Thompson stated that he had not requested anything from the Chief, but had asked the Chief to discuss the matter with Mr. Ryan and to inform him that a reserve list did not exist at this time.

The Board expressed its concern with the wording of the second paragraph of Mr. Ryan's letter with regard to reference to a reserve list, as all such lists have been suspended by court decree, and, reacting to the first paragraph of the above-referenced communication only, the Board on motion unanimously

VOTED: To accept and acknowledge the resignation of Gary E. Ryan, dated July 26, 1977, from the Sudbury Police Department.

Selectman Potell asked what Mr. Ryan's status would be if he did, at a later time, request return to the Department whereas he has currently completed the ninth month of his twelve-month's probationary period.

Executive Secretary Richard E. Thompson stated that Mr. Ryan is serving a probationary period and, if he returned, his status would revert to that at the time of his resignation.

Auction--Tax Possession Parcels

Present: Rose McCart, and approximately 12 East Street area residents and interested citizens

Executive Secretary Richard E. Thompson reported that the matter of reviewing bids relative to the sale of Tax Possession parcels at the auction held on August 6, 1977 had been tabled from the Board's meeting of August 8, 1977 in order to allow the Board to review the bids.

Mrs. Rose McCart, 19 East Street, speaking on behalf of Ronald Ragno, 15 East Street, who was unable to attend tonight's meeting, stated that in Mr. Ragno's opinion, Tax Possession Parcel #49 had been sold to him in 1975, when Mr. Ragno had bid upon the parcel and had made a deposit and later payment for the balance of his bid.

Mr. Thompson stated that the Selectmen are guided by a Town bylaw passed in 1962 and that, even though it is the Board's hope that tax possession land will be sold to abutters, because of the bylaw, the Board technically cannot do anything other than accept a public bid which approximates the value of the property being auctioned.

Town Counsel Paul Kenny stated that the Board had acted in a proper manner and that Mr. Ragno's bid had been rejected by the Selectmen in 1975 as, in the Selectmen's opinion, the bid did not approximate the fair value of the property being auctioned.

Town Counsel Paul Kenny stated that the Board had acted in a proper manner and that Mr. Ragno's bid had been rejected by the Selectmen in 1975 as, in the Selectmen's opinion, the bid did not approximate the fair value of the property.

Selectman Toomey stated that, in his opinion, the Board had carried out the proper procedures, but that, if any persons disagreed, those aggravated could take action against the Town.

Mr. Kenny stated that the Selectmen, in his opinion, could not have acted in any other way and that their action was in accordance with the statutes and the Town's bylaw. Mr. Kenny further stated, with respect to tax property, that the Town cannot and does not make any representation with regard to title or zoning and that the bidders are under notice to make whatever inquiry and research they wish regarding property.

The Board stated that their records were open to the public if anyone wished to review them.

There being no further discussion, it was on motion by Selectman Toomey unanimously

VOTED: To accept the bids as recommended by Town Counsel in his letter dated August 8, 1977 and to execute the deeds.

#### Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular and executive sessions of July 25, 1977.

(Selectman Toomey voted "Present", as he was not in attendance);

and it was further

VOTED: To approve the minutes of the regular and executive sessions of August 8, 1977.

(Selectman Potell voted "Present", as he was not in attendance).

#### Parkinson Land

It was agreed that the Board would walk the Parkinson Land at 6:00 p.m., Monday, August 22, prior to the Board's regular meeting later that night.

Hydrology Study

The Executive Secretary advised the Board that he would, when time permitted, prepare for the Board's review a summary of the report entitled "Hydrology and Ground Water Resources of Sudbury, Massachusetts", which was prepared for the Planning Board by Ward S. Motts, Hydrogeologist, Amherst, Massachusetts.

Heritage Park Wood

After discussion, it was on motion unanimously

VOTED: To donate the wood recently cut in the clearing operation in Heritage Park to the Boy Scouts of the Town for their use.

Regional Dispatch Center

Selectman Toomey expressed his concern with an article that appeared in the August 11, 1977 edition of the "South Middlesex News" relative to statements attributed to the Sudbury Fire Chief at a recent Regional Dispatch Center Committee meeting. Selectman Toomey stated that, if these statements had been made by the Fire Chief, he would move that the Executive Secretary represent the Town on the Regional Dispatch Center Committee in the future. Selectman Toomey requested and Chairman Powers agreed to schedule the matter for discussion on the agenda for August 22, 1977.

J.T. Steakhouse

After discussion, the Board directed the Executive Secretary to request reports from the Police Chief, the Building Inspector/Zoning Enforcement Agent, and the Board of Health concerning recent activities at J.T. Steakhouse.

Collective Bargaining Negotiations

Selectman Potell suggested that a meeting be scheduled at the earliest convenience with the Personnel Board and the Finance Committee for the purpose of discussing the Town's position with regard to next year's collective bargaining negotiations.


The Board was in agreement, and it was on motion unanimously

VOTED: To direct the Executive Secretary to schedule a meeting for the above-stated purpose early in September.

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

VOTED: To adjourn the meeting at 9:35 p.m.

Attest:

  
Richard E. Thompson  
Executive Secretary-Clerk