

IN BOARD OF SELECTMEN  
MONDAY, FEBRUARY 7, 1977

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

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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 Acting Chairman John C. Powers.

Minutes

It was on motion by Selectman Potell unanimously

VOTED: To approve the minutes of the regular and executive sessions and the Town Fathers Forum of January 24, 1977.

Jurors

Present: Town Clerk Betsey M. Powers

The Board drew the names of James R. McCarthy, 7 Hammond Circle, to serve as juror at Lowell Court and Preston N. Cook, Jr., 109 Moore Road, and Kirsten L. Lundblad, 44 Old Coash Road, to serve as jurors at Cambridge Court, all to commence March 7, 1977.

Chairman Toomey arrived at the meeting at this time.

Minutes

It was on motion by Selectman Powers

VOTED: To approve the minutes of the regular and executive sessions of January 31, 1977, the former as corrected.

(Selectman Potell did not vote as he had not been present on that date).

Utility Petition #77-70 - Great Lake Drive - Confirmation of Existing Poles

After review of a report dated February 2, 1977 from the Wiring Inspector, it was on motion by Selectman Potell unanimously

VOTED: To confirm the existence, upon property accepted by the Town as a public way, of Boston Edison Company and New England Telephone and Telegraph Company utility poles at the following location:

GREAT LAKE DRIVE, Ten (10) poles, as shown on a plan dated December 28, 1976, drawn by C. B. Damrell.

Non-Binding Public Opinion Advisory Questions

At its meeting on January 24, 1977, Selectman Powers suggested that the Board schedule, on a future agenda, discussion with regard to the possibility of using the new Chapter 309 of the Acts of 1976 (G.L.c53 §18A) for placing on the next

ballot a non-binding public opinion advisory question on the subject of advising the local representatives of the Town's will that they vote "No" on proposed legislation for continuing compulsory and binding arbitration.

Chairman Toomey referred to the South Middlesex Area Selectmen's Meeting scheduled for February 16 at the Wayside Inn, at which he proposes to ask the local legislators how each will vote on this issue. Chairman Toomey stated that he would prefer that a resolution to this effect be brought to the Annual Town Meeting.

After further discussion, it was the consensus of the Board that a resolution in this regard would be placed before the Annual Town Meeting.

Heritage Park - Seven Boulders for Historic Markers

Executive Secretary Richard E. Thompson reported that two cost proposals had been received for supplying the Town with boulders to be used as historic markers in Heritage Park, and he stated that it was his recommendation that the lower proposal be selected.

After discussion, it was on motion by Selectman Powers unanimously

VOTED: To accept the proposal of Cook, Watkins, and Patch, of Barre, Vermont, for seven (7) Best Light Barre Boulders, in the amount of \$1,941.00, in accordance with their proposal dated January 27, 1977.

1977 Annual Town Warrant - Printing Award

Executive Secretary Richard E. Thompson reported that eight cost proposals for printing the 1977 Annual Town Warrant had been received.

After review of a report dated February 4, 1977 from Administrative Secretary Janet Silva, it was on motion by Selectman Powers unanimously

VOTED: To accept the proposal of Central Middlesex Printers, Inc., Lowell, MA (lowest estimate), for printing the 1977 Annual Town Warrant at the estimated cost of \$13.48 per page for a total of \$970.56.

Annual Reports -- Heritage Park, Haskell Land, and Raymond Land

Executive Secretary Richard E. Thompson reported that, in accordance with earlier votes of the Board of Selectmen at the time various lands were assigned to the management of the Park and Recreation Commission and the Conservation Commission, annual reports on the use and management of the lands were due from those Commissions, which would be made available to any interested persons.

After the Board's review of the below-named reports, it was on motion by Selectman Powers, unanimously

VOTED: To receive and to place on file in the Selectmen's office the following annual reports from the Park and Recreation Commission: Heritage Park, Haskell Land, and Raymond Land;

and it was further

VOTED: To receive and to place on file in the Selectmen's office the annual report from the Conservation Commission on the Raymond Land.

Civil Defense - Sudbury Emergency Operations Plan

The Board, at its meeting on November 1, 1976, had reviewed with Fire Chief/Civil Defense Preparedness Director Josiah F. Frost his proposed Emergency Operations Plan for the Town of Sudbury and had suggested, at that time, that several changes be made. The Board, at its later meeting on December 13, approved and signed the plan, as further amended by the Board, for submission to the State Director of Civil Defense.

Executive Secretary Richard E. Thompson reported that Chief Frost had, by letter dated December 30, 1976, reported that he had presented the plan to Area 1 Director William Linehan on Tuesday, December 28, 1976 for his approval and subsequent submission to the federal directors, and that Mr. Linehan had, by letter dated December 28, 1976, suggested changes to bring it into compliance with federal and state guidelines; one suggestion being that all references to nuclear war be included in the text rather than to be dealt with separately, as had been earlier directed by the Board.

Chief Frost, in his letter of January 31, 1977, stated that the plan had been again revised to meet all requirements outlined in Mr. Linehan's December 28 report, had again been submitted to Mr. Linehan, and had subsequently been approved as to form, as confirmed by Mr. Linehan's letter dated January 18, 1977.

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

VOTED: To table further discussion of the subject until after a review of the original plan which was approved by the Board on December 13.

Board of Appeals - Request for Additional Associate Members

Executive Secretary Richard E. Thompson reported that the Board had received a letter, dated January 26, 1977, from Eunice Secatore, Chairman of the Board of Appeals, which requested that additional associate members be appointed to the Board of Appeals in order to ensure that that Board's hearings would be held before its full five-member group.

Executive Secretary Richard E. Thompson also reported that John Cheney, an associate member of that Board, had requested that he not be reappointed to serve on the Earth Removal Board.

The Board requested that Mr. Thompson contact Mr. Cheney to advise him that Earth Removal Board members are appointed to that Board by virtue of their appointment as Associate Members of the Board of Appeals and to ask him if he wishes to continue in this capacity.

After further discussion, it was on motion unanimously

VOTED: To table further consideration of appointment of additional Associate Members of the Board of Appeals until after April 1.

Mr. Thompson was asked to contact Mrs. Secatore concerning additional pertinent information with regard to her request.

Public Hearing - Application for Package Goods Store License for the Sale of Wines and Malt Beverages

Present: Building Inspector/Zoning Enforcement Agent Francis E. White;  
Joseph R. Calareso and Charles C. Calareso, applicants; Antonio Giovane, owner, Pizza Alla Pietra

Acting as the licensing authority of the Town of Sudbury, in accordance with Chapter 138 of the General Laws, the Selectmen held a public hearing to consider the application of Joseph R. Calareso and Charles C. Calareso, Partners, d/b/a Northern Farms Farmstand and Country Store, for a retail package goods store license to sell wines and malt beverages on premises known and numbered as 15 Union Avenue, Sudbury, Massachusetts, and described as follows: One floor, three rooms; one salesroom, one office, one storage/receiving room; no cellar; one front entrance (east side) and two side entrances (north side), three service entrances (south side) and one service entrance (west side).

Executive Secretary Richard E. Thompson read the public notice which had been advertised, and he reported that all appropriate abutters and Town departments had been notified of tonight's hearing, and the following reports received: from the Police Chief, dated January 24, 1977, who expressed no objection to the issuance of the above-referenced license; from the Building Inspector, dated January 21, 1977, who recommended approval, and from the Board of Health Director, dated February 1, 1977, who recommended approval.

Building Inspector/Zoning Enforcement Agent Francis E. White stated that a site plan for the property had been approved by the Selectmen on May 10, 1976 and, by law, the owner had a full year to bring the site into full compliance with the site plan. Mr. White reported that the shrubbery display and the two-rail, split-rail fence had not yet been installed and that the layout of the driveway and the definition of parking spaces in the parking area had not been completed.

Mr. Thompson stated that the required probationary check of all such applicants must now be done through Boston rather than the Sudbury Police Department, and he reported that the request has been made, but the response will not be received for another week or two.

In response to Chairman Toomey's question as to the reasons for their above-referenced application, Mr. Joseph Calareso stated that his customers have indicated their approval of his present operation, but have asked that he also sell beer and wine for their convenience. Mr. Calareso also stated that their present volume of business is not sufficient to pay all expenses.

Chairman Toomey advised the applicants that, if the license were to be granted, all employees would have to be at least eighteen years of age. Chairman Toomey also stated that the plan accompanying the application must also indicate how the liquor would be secured on Sundays, as no such sales could be made on that day.

Mr. Thompson reported that the present plan does not indicate where the liquor could be stored.

Mr. Joseph Calareso stated that his selling area uses approximately half of the building and that the second half is used for storage. Mr. Calareso stated that liquor could also be stored in this location and that from this area there presently are, and would be, no sales.

Chairman Toomey further advised the applicants that the liquor sales area and storage area, as well as the manner in which the liquor would be secured on Sundays, must be shown on the plan.

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

VOTED: To continue the hearing on the application of Joseph R. Calareso and Charles C. Calareso for a retail package goods store license to sell wines and malt beverages at 15 Union Avenue until 8:00 p.m., Wednesday, February 23, 1977, to allow receipt of the required probationary information and the necessary changes to be made to the plan.

Chairman Toomey requested that the Building Inspector work with the applicants with regard to the necessary plan changes.

Article 16 - Annual Town Meeting - Use of Horse Pond Road School

Building Inspector Francis E. White, present.

Executive Secretary Richard E. Thompson reported that Town Counsel, by letter dated January 31, 1977, had informed the Selectmen, with a copy to the Superintendent of Schools, that, during a review of the Town Meeting articles, a problem had been noted with respect to the School Committee's article (Article 16) entitled: "Use of Horse Pond Road School". Town Counsel's letter stated that there is no record of a vote by the School Committee that the School is no longer needed for the purpose for which it was acquired nor had there been any notification to the Selectmen of such a determination and that, under these conditions, affirmative action by the Town Meeting on the article would be invalid, as the School Committee presently has custody and control of the School and it may be used for other educational and recreational purposes and such activities as are allowed under G.L. c71 §71.

Mr. Thompson reported that following the School Committee's receipt of a copy of the above letter, the Selectmen had received a second article on February 4 from the Committee with the request that it be substituted for the original article.

Mr. Thompson reported that, if the substitute article was not accepted, the original article would have to be amended from the floor.

In response to questions from Selectman Powers, Town Counsel Paul Kenny stated that the School Committee at the present time has full jurisdiction to use the School for any school-related purpose, but has no authority for its use or lease by persons other than those associated with educational or charitable organizations for school-related purposes. Mr. Kenny confirmed Selectman Powers' statement that the revised article is only a request to raise and appropriate \$50,000 to be used for some purpose not inconsistent with school purposes.

Chairman Toomey asked, if the School were to be surplusd by the School Committee and in two, three, or five years a request was made to reactivate it as a school, what the problems would be.

Mr. White stated that he had written to the School Committee, telling them that he would be more than happy to recertify the School yearly, if it were not surplusd, but did not know if this would be legal, and he suggested that the Committee discuss with Town Counsel whether the use of the school if surplusd would be considered to be abandoned.

Chairman Toomey asked what the cost of reopening the building in a few years would be.

Mr. White responded that, if the building is recertified yearly and Town Counsel says it is legal, the old code would be in effect unless an emergency amendment is made to the present code.

Chairman Toomey asked that, if the School Committee excessed this building to the Town and then decided in a few years that it was again needed, would the Town have to spend money for toilets, ramps, etc., to bring it up to the new code.

Mr. White responded that, in this case, it would have to conform to the new code, but that the School was already ramped.

In response to Selectman Powers' question as to whether the \$50,000 could be used for mothballing the building, Mr. Kenny stated that the money could be used for any purpose in maintaining the School, which could include mothballing.

Selectman Powers asked if the words of the article were sufficiently broad so that a motion under it to close up the school could be made.

Mr. Kenny responded in the affirmative, but stated that a motion to close up the school would not have to be followed.

Selectman Powers stated that the School Committee could already do this if they saw fit, that they only need the money to do it, and he expressed his opinion that this request did not belong to the Town Meeting until the building was excessed.

Mr. Kenny stated that, if the \$50,000 were included in the budget presented to the Town, it would come under fiscal autonomy, but that it would appear that the School Committee was removing it from the budget and removing it from fiscal autonomy.

Selectman Powers asked whether the revised article was a substitution in form or a substitution in direction.

Chairman Toomey and Mr. Thompson expressed their opinion that it was a substitution in form. Chairman Toomey further expressed his opinion that this question should be asked at Town Meeting.

Selectman Powers asked what latitude a board has in changing the nature of an article after the deadline, and he asked if there was a basic difference between the original and the revised article.

Mr. Kenny stated that, in his opinion, there was no basic difference--that the change resulted from the January 31 opinion from his office.

Selectman Potell stated that he would like to see the original article printed because he would like to know why the School Committee wants \$50,000.

Mr. Kenny stated that the reason his office wrote the letter in the first place was because they were concerned with the wording of the original article, that it is the policy of the Board to accept an article the way it is submitted, but that there was some question whether the Moderator would allow a motion under the original article.

After further discussion, it was on motion by Selectman Powers unanimously VOTED: To accept the revised wording for Article 16, Use of Horse Pond Road School, which was received on February 4, 1977 from the Sudbury School Committee.

Public Hearing - Dog Complaint - Weisblatt/Hills, Calney, Rosen

Present: Dog Officer Francis E. White; Assistant Dog Officer Betsy DeWallace; Adam Weisblatt, complainant; J. Clark Hills, Harry Rosen, Kristine Calney, and Joseph Reimann

In accordance with General Laws, Chapter 140, Section 157, Chairman Toomey convened a hearing on the complaint filed by Adam Weisblatt on January 17, 1977 against unknown dogs owned or harbored by residents of Nokomis Road, which stated that the dogs were nuisances by reason of vicious dispositions and attacking hikers in the woods and on his own property.

Executive Secretary Richard E. Thompson reported that, in response to Mr. Weisblatt's January 17, 1977 complaint, the Selectmen's office had notified all parties concerned and requested a recommendation from the Dog Officer and Assistant Dog Officer.

Mr. Thompson reported that a report dated February 2, 1977 had been received from the Dog Officer, which recommended, on the basis of the attached report dated February 1, 1977 from the Assistant Dog Officer concerning two previous complaints and her unsuccessful attempts to have the owners confine them, that only one dog be allowed on the property where the three dogs were harbored (14 Nokomis Road) to eliminate the possibility of any pack action by the dogs.

Chairman Toomey established that the dogs involved in the complaint were "Ralph", a St. Bernard owned by Kristine Calney, "Bunky" a St. Bernard owned by Harry Rosen, and "Chloe", a Labrador mix, owned by J. Clark Hills.

Mr. Adam Weisblatt reported that he, his wife, his son, and his son's friend were horseback riding through the woods to the rear of his property when the three dogs came after the horses, frightening them, with the result that his son was thrown from his horse. Mr. Weisblatt reported that a few minutes later, Mr. Rosen appeared, but stood and did nothing when he asked him to call his dogs.

Mr. Weisblatt further reported that his wife had been attacked by the dogs while cross-country skiing and his younger son had been frostbitten during a 1½ mile walk to avoid the dogs on another occasion.

Mr. Weisblatt also reported that two of the dogs had come after him while he was feeding his horses, and he further reported that he had filed a complaint with the police and had called the Dog Officer. Mr. Weisblatt stated that there was another neighborhood woman who was afraid to let her children out of the house, and that he had spoken with Mr. Rosen and had threatened to use a shotgun on the dogs if another incident occurred.

Chairman Toomey asked if the dogs were licensed when the reports were made.

Assistant Dog Officer Betsy DeWallace reported that one St. Bernard, "Bunky", was licensed at that time and that the other dogs were licensed later.

Mr. Joseph Reimann stated that he was the person present when "Ralph" attacked Mr. Weisblatt's horse and that Mr. Rosen did not know those events had occurred. Mr. Reimann stated that "Ralph" is a fairly large St. Bernard and does go after horses occasionally. Mr. Reimann stated that the terms in the complaint described the dogs as vicious and attacking, but that, in his opinion, the dogs were playful and scary, but not vicious.

Mr. Reimann stated that it is regrettable that Mr. Weisblatt's son fell from his horse, but that he had not just stood by, but had tried to grab the dog. Mr. Reimann stated that they had not known about the other neighborhood complaints or that the dogs were being a nuisance to the neighbors and that, since the complaint, the dogs have been restrained with heavy link chains on a run which enables them to get to the porch of the house.

Mrs. DeWallace reported that quite a few complaints had been made before January 17 and that she had spoken with Mr. Rosen a number of times.

Chairman Toomey asked whether the dog owners were aware of the dog control law, and he asked Mr. White to explain the law.

Mr. Rosen stated that the Assistant Dog Officer had contacted him twice within a two-week period, but that he had taken no action other than to keep the dogs in the house during the day. Mr. Rosen stated that he had heard no further complaints and had thought the situation had remedied itself. Mr. Rosen stated that on another occasion the Assistant Dog Officer had called him, but that the dogs had been in the house during that period and he had assumed it had to be other dogs.



Selectman Potell asked how long the dogs had lived at this address.

Mr. Rosen stated that "Bunky" had been there since the middle of August, and "Ralph" since the middle of October.

Selectman Powers stated that the Dog Officer had recommended that only one dog be allowed on the property at one time to eliminate pack action by these dogs, and he asked what authority the Board had to limit the dogs on the property.

Mr. White responded that there was no specific authority for such action.

After further discussion, on the recommendation of Chairman Toomey, it was on motion unanimously

VOTED: That the three dogs be permanently restrained and, if they are not, the Dog Officer will be instructed to pick them up and a hearing will be held on the subject of their disposal.

#### Sudbury Players - Rental of Town Hall

Present: Building Inspector Francis E. White; Fire Chief Josiah Frost; Sheldon Pitchel, Ann Zamzow, and Walter Fardy representing the Sudbury Players

Executive Secretary Richard E. Thompson reported that, at an earlier meeting, the Board had agreed to meet with representatives of the Sudbury Players in advance of their plans for their Spring production to review the last rental of the Town Hall facilities by the Players, and that tonight's meeting with the Building Inspector and the Fire Chief had been scheduled for this purpose.

Building Inspector Francis White reported that he had, following the last joint meeting, asked for documentation from the custodian of any violations which might be noted.

A list of these violations was distributed and reviewed.

Mr. Thompson reported that the electrical wiring work done by Mr. Fardy and approved by Mr. White had worked out well, and Mr. White was in agreement.

Mr. White asked why the Players did not assign someone to check on these items.

Mr. Pitchel and Mrs. Zamzow responded that they had assigned someone as a security check, but the person had not been able to be present at all times during this period and that the violations had been inadvertent.

Mr. White stated that his main concern was with doors and windows left open and lights left on, and he stated that this year he had had to apply for a \$5,000 transfer for utilities and that the upcoming budget for these items had increased by 30%.

Chief Frost stated that general housekeeping had been much better since the last time, but that he was still waiting to see what type of main curtain would be installed.

Mr. White stated that, if their security check does not work next time, the Players would have to hire a custodian for each use of the Town Hall.

Chairman Toomey stated that the Town Hall has a smoke detector as the only protection to what in his opinion was the most precious building in Town, and that, if the windows are left open, both protection of the building and fuel will be lost. The Board agreed with Mr. White that, if their security check did not work this season, a custodian would be necessary for all work meetings, rehearsals, and productions.

After further discussion, it was agreed that from now on a custodian must be on duty the nights that performances are held.

Mr. White stated that he would use the same system of documentation for future violations, if any.

Application for Transfer of All Alcoholic Beverages Restaurant License -  
Antonio Giovane, Manager d/b/a Pizza Alla Pietra, 446 Boston Post Road

Executive Secretary Richard E. Thompson reported that the Board received, on January 4, 1977, an application from Antonio Giovane, Manager, d/b/a Pizza Alla Pietra, for a transfer of his all alcoholic beverages restaurant license to Giovane & Manion, Inc., property located at 447 Boston Post Road.

Chairman Toomey asked whether the recently approved all alcoholic beverage restaurant license for this property was yet in effect and, therefore, able to be transferred, as it had been conditioned by the installation of the dishwasher at this location.

Mr. Thompson reported that the license was to have been activated by the Board of Health once they confirmed the installation of the dishwasher. Mr. Thompson stated that he would contact the Board of Health Director in this regard and, if the license is not active, he would not schedule the item.

Second Annual Joint Legislative Conference

The Executive Secretary announced that the Second Annual Joint Legislative Conference would be held on Saturday, February 26, 1977, beginning at 8:30 a.m.

It was agreed that the Board and the Executive Secretary would attend.

Department Head Evaluation Forms

The Executive Secretary recommended that a change in the Department Head Evaluation sheets be made, and he submitted a revised form to the Board for its review.

The Board was in agreement that the revised form should be used in the future.

Binding Arbitration

The Executive Secretary reported that he and Selectman Powers had attended the State House's public hearing on binding arbitration on February 2. Mr. Thompson reported that it would appear that the Chairman of that Committee (Senator Atkins) is not indicating his position, and he reported that Selectman Powers had asked that he bring to the Board's attention the fact that there will be a meeting of the Democratic Town Committee this week and that Selectman Powers had suggested that they send a letter to Senator Atkins, advising him that it is in the Town's best interest that he vote for the modification of the binding arbitration section of the collective bargaining law.

After discussion, it was agreed to send a letter in this regard to the Democratic Town Committee.

Executive Session


At 9:30 p.m., following a unanimous roll call vote, it was on motion further unanimously

VOTED: To enter into executive session with a member of the Personnel Board to discuss collective bargaining.

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