

IN BOARD OF SELECTMEN
MONDAY, JUNE 6, 1977

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

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

Town Common--July 4, 1977 - Villagers Club

In response to a request dated May 25, 1977 from Betsy Gottberg, Civic Relations Chairman, The Villagers Club, after discussion, it was on motion by Selectman Powers unanimously

VOTED: To grant permission to the Villagers Club to sell "Sudbury, Mass. 01776" tee shirts and cookbooks next to Town Hall on July 4, 1977, under the direction and control of the Executive Secretary.

Application for Incorporation - Educational Innovations, Inc.

Present: Lois Kroin and Carol Coutrier, applicants

Following a discussion with the applicants, Lois Kroin and Carol Coutrier, Co-Coordinators of the "Just Kids" program, and a review of the below-named application for incorporation, it was on motion unanimously

VOTED: To send a favorable report to the Secretary of the Commonwealth on the application of Carol Coutrier and Lois Kroin for incorporation under the name of Educational Innovations, Inc., to be located at 248 Concord Road, in the Town of Sudbury.

Brackley, England--Visitors

Sandris Stubelis and his wife Janice introduced Leighton and Celia King, who are visiting from Brackley, England and were observing the Selectmen's meeting.

Chairman Powers welcomed Mr. and Mrs. King to Sudbury, and presented them with several Town publications and a King Philip's War Commemorative plaque.

Application of Sudbury House, Inc. Gerald Brogna, Manager--Permission to Change the Premises as a Common Victualler All Alcoholic Beverages License Holder

Executive Secretary Richard E. Thompson reported that the Board, at its meeting on May 16, 1977, voted to continue the public hearing on the application of Sudbury House, Inc., Gerald Brogna, Manager, for permission to change the premises, in accordance with G.L. c138, as it applies to a Common Victualler All Alcoholic Beverages License holder to allow the Executive Secretary and Building Inspector/Zoning Enforcement Agent Francis E. White to meet with Mr. Brogna concerning Mr. Brogna's decision during the May 16 meeting to withdraw his application and to revert to the use upon which his present license is based, as well as any possible existing violations at the premises.

Mr. Thompson reported that, during the May 16 meeting, Mr. Brogna had stated that it would not be financially feasible for him to expand the septic system to accommodate the proposed increased seating capacity, which was required by the Board of Health and set forth in that Board's letter dated May 16, 1977.

Mr. Thompson reported that, during his and Mr. White's recent meeting with Mr. Brogna, Mr. Brogna had given them a floor plan of his establishment, dated June 1, 1977, which indicated that the use and description had reverted back to that upon which his license is based and that Mr. Brogna had agreed to make changes in accordance with Mr. White's recommendations.

After discussion, it was on motion by Selectman Toomey unanimously

VOTED: To deny, without prejudice, the application of Gerald W. Brogna, Manager, Sudbury House, Inc., for permission to change the premises, in accordance with G.L.c138, as it applies to a Common Victualler All Alcoholic Beverages License holder.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session of Tuesday, May 31, 1977, as corrected.

Giovane & Manion, Inc., d/b/a Pizza Alla Pietra, 447 Boston Post Road--Notice of Intent to Pledge Corporation and Liquor License Stock to Shawmut Community Bank N.A.

Executive Secretary Richard E. Thompson reported that the Board had received a letter dated May 31, 1977 from Michael J. Norris, attorney for Giovane & Manion, Inc., which requested that the Board note on its records and notify the Alcoholic Beverages Control Commission that Giovani & Manion, Inc., d/b/a Pizza Alla Pietra is pledging the stock of the corporation and the liquor license as part of the collateral for a loan to the Shawmut Community Bank N.A.

Town Counsel Paul Kenny stated that approval of the request and the pledging of the stock would not preclude any of the Board's rights with regard to the granted license.

Selectman Toomey inquired as to whether the establishment's all alcoholic beverages restaurant license had ever been exercised, and, after discussion, it was on motion by Selectman Toomey unanimously

VOTED: To table further consideration of the above-referenced request until June 13, 1977 to allow the Executive Secretary to inquire as to whether the license, which was granted on May 10, 1976, subject to the conditions imposed by the Board of Health in their letter of that date and to be issued following compliance with the same, had ever been exercised.

Insurance Advisory Committee--Report and Recommendations

Present: Chairman of the Insurance Advisory Committee, John Wilson

The Board received a report and recommendation dated June 2, 1977 from John H. Wilson, Chairman of the Insurance Advisory Committee, relative to the public bidding of Town insurance.

Mr. Wilson was complimented on his excellent report, and it was on motion by Selectman Toomey unanimously

VOTED: To accept the above-referenced report and recommendations from the Insurance Advisory Committee.

Acceptance and Acknowledgment of \$100 Gift for the Town's Celebration of the United States' Tercentenary

After a report by the Executive Secretary, it was on motion unanimously

VOTED: To accept and to extend the Board's appreciation, on behalf of the Town, to individual members of the Sudbury Revolutionary War Bicentennial Committee for a gift to the Town of \$100 to create a fund to be used by the Town for its celebration of the Tercentenary of the United States, in accordance with the resolution of intent passed at the 1977 Annual Town Meeting.

1977-1978 Juror List - Town of Sudbury

Executive Secretary Richard E. Thompson reported that the 1976-77 Juror List had been updated, by removal of those names of persons who had died, moved away, or had become otherwise exempt, and was before the Board for its approval for use during 1977-1978.

After review and discussion, it was on motion by Selectman Toomey unanimously

VOTED: To approve the 1977-78 Juror List as prepared by the Executive Secretary.

Fire Department--Overtime Coverage - Report from Town Accountant

Present: Town Accountant John H. Wilson

The Board, at its meeting on May 23, 1977, voted to table further consideration of Chief Frost's May 20, 1977 report on overtime coverage vs. additional hire until July 6 to allow receipt of a report on the costs of the same from the Town Accountant and a report from the Labor Relations Counsel.

Executive Secretary Richard E. Thompson stated that a report dated June 2, 1977 had been received from Town Accountant John Wilson, who had estimated costs of overtime vs. additional hire to be approximately the same.

Selectman Potell stated that the Board should thank the Town Accountant for his fine report, but that he would wish to defer any decision on the matter for several months. Selectman Potell stated that he would not support the Fire Chief's May 20, 1977 request for a transfer between Fire Department accounts which would permit him to hire one man for a period of one year to run a pilot program using this man to cover some of the overtime.

After further discussion, during which it was mentioned that the matter should also be discussed with the Labor Relations Counsel, it was on motion unanimously

VOTED: Not to approve, at this time, the Fire Chief's May 20, 1977 request for a transfer of \$12,000 from Account 310-12, Overtime, to Account 310-11, Salaries.

Robert P. Winterhalter, President, Big W Trans, Inc., Ashland

Executive Secretary Richard E. Thompson reported that the Board, at its meeting on May 15, 1977, had voted to grant a license to Big W Trans, Inc., Ashland, to operate as a common carrier for the transportation of passengers for hire by motor vehicle along certain routes in the Town of Sudbury, for the purpose of providing bus transportation for the employees and trainees of the Regional Comprehensive Training Act (CETA) training programs.

Executive Secretary Richard E. Thompson reported that the Board had received a letter dated June 1, 1977 from Robert Winterhalter, President, Big W Trans, Inc., which expressed his opinion that the license granted by the Selectmen was not a valid license in the eyes of the Department of Public Utilities, Division of Railway and Bus Utilities, by its conditioning relative to CETA employees and trainees only, and which stated that, while he was in agreement with that condition and would abide with it, it was his opinion that such conditions cannot be written into a local license and that he had filed an appeal on May 26, 1977 requesting that the DPU act as licensing authority for the Town in this instance.

Mr. Thompson further reported that Town Counsel's response dated June 2, 1977 to Mr. Winterhalter's June 1 letter had been received, which stated that he had that day spoken with Mr. John E. Ingalls, Director of the Division of Railway and Bus Utilities (DPU) concerning the above-referenced restriction and that it was Mr. Ingall's opinion that, while the license, as issued, is probably acceptable to the Department, the matter would be determined at the appeal hearing (Case #19209, to be heard on June 30, 1977 at 11 a.m.).

Chairman Powers reported that the Board had many times acted on applications for Sudbury routes from Mr. Winterhalter and had not granted any other than those connected with SudbuS, as the Board did not deem it to be in the best interest of the Town. Chairman Powers stated that the Board would now make very sure that the license recently granted for purposes of the transportation of CETA employees and trainees would be so restricted.

After discussion, it was agreed that Town Counsel should represent the Board at the June 30 DPU hearing.

Utility Petitions #77-77 and #77-78 -- Hudson Road, Lincoln Road

Present: Robert Blake of Boston Edison Company

In conformity with General Laws Chapter 166, Sections 21 and 22, the Board considered the below-named utility petitions:

UP#77-77 - Petition of Boston Edison Company and New England Telephone Company for

HUDSON ROAD, southerly side, from a point approximately 210 feet east of
Ronald Road, --
Two (2) poles
(Three (3) existing JO poles to be removed)

Executive Secretary Richard E. Thompson reported that all appropriate abutters and Town officials had been notified and that a report dated May 27, 1977 recommending approval had been received from the Wiring Inspector.

After a review of the plan with Mr. Blake, during which Selectman Potell commented adversely on the increased span of wires which would result with the installation of two poles and the removal of the three existing poles, it was on motion by Selectman Toomey

VOTED: To approve Utility Petition #77-77 as described above and shown on a plan drawn by C.B. Damrell, dated April 13, 1977.

Chairman Powers and Selectman Toomey in favor; Selectman Potell opposed)

UP#77-78 - Petition of Boston Edison Company and New England Telephone and Telegraph Company for

LINCOLN ROAD, northerly side, approximately 1,240 feet east of Water Row,--
One (1) pole

Executive Secretary Richard E. Thompson reported that all appropriate abutters and Town officials had been notified and that a report dated June 1, 1977, which recommended approval, had been received from the Wiring Inspector.

After a review of the plan with Mr. Blake, it was on motion by Selectman Toomey unanimously

VOTED: To approve Utility Petition #77-78, as described above and shown on a plan dated March 22, 1977, drawn by C. B. Damrell.

On a related matter, Selectman Toomey asked Mr. Blake about the relocation of utility poles on New Bridge Road.

Mr. Blake responded that he did not know, but would check with Mr. Roth.

Selectmen's Dues

The matter of dues annually paid by the Selectmen to the Massachusetts Selectmen's Association in the amount of \$487.50, the Massachusetts League of Cities and Towns in the amount of \$602.00, the Middlesex County Selectmen's Association in the amount of \$15.00, and the Metropolitan Area Planning Council in the amount of \$2,138 (Cherry Sheet charge) was discussed.

Executive Secretary Richard E. Thompson stated that the Cherry Sheet charge was a charge to the Town which was determined by the State and that it was mandatory that the Selectmen belong to this organization.

Selectman Toomey suggested that the subject of these various dues be a topic on the agenda at the next meeting of the South Middlesex Area Selectmen.

Selectman Potell commented that the Board will spend, this year, almost \$1,100 in dues to the Massachusetts Selectmen's Association and the Massachusetts League of Cities and Towns (MLCT) and that the function of these organizations is essentially duplicated and, in his opinion, has little real impact on legislation.

Chairman Powers disagreed that these organizations have little impact on legislation, citing, in particular, the recent year's extension to the Commonwealth's cities' and towns' compliance with the ambulance law, which came as a result of lobbying. Chairman Powers stated that, in his opinion, these organizations are the only viable weapon which the cities and towns have and that he was not in favor of taking a position to lessen their impact.

Selectman Potell suggested that the two organizations merge.

Selectman Toomey stated that the merger had been proposed for some time and that he would agree that there is some waste through duplication, but that some gains have been made in this direction with regard to their joint legislative office. Selectman Toomey stated that the towns west of Worcester will not use or join the MLCT and that they are the ones that will have to be convinced concerning a merger, as they are afraid they will lose their voice.

The Board agreed that the subject would be a good topic for the South Middlesex Area Selectmen's meeting, and Selectman Toomey stated that, if other members were in agreement, it could bring more pressure to merge the two organizations.

Chairman Powers pointed out, however, that because of the fundamental differences between cities and towns, it would be difficult to reach agreement on a merger.

Executive Session

Present: Labor Relations Counsel Richard W. Murphy

At 8:25 p.m., Labor Relations Counsel Richard W. Murphy joined the meeting, immediately following a negotiating session with the Fact Finder and the Firefighters union, and after a brief discussion, it was, following a unanimous roll call

VOTED: To enter into executive session for a brief period to receive an update on the status of collective bargaining negotiations.

Chairman Powers announced that the public session would reconvene following the executive session.

At 8:35, the public session resumed, and Chairman Powers announced that, subject to verification of figures by the Town Accountant and ratification by vote of the Firefighters' union, an agreement had been reached with the Firefighters' union on a two-year contract.

Chairman Powers asked the Executive Secretary to outline the terms of the contract, and the Memo of Understanding, dated June 6, 1977, was read.

It was on motion by Selectman Toomey unanimously

VOTED: To authorize the Chairman to execute the agreement on behalf of the Board of Selectmen, subject to verification of the figures by the Town Accountant and ratification by a vote of the Firefighters' union.

Dog Hearing--Craig, et al./Bierig

Present: Robert and Nancy Bierig, dog owners; Walter and Kathleen Sykes, Joseph Griffin, Trudy Craig, and nine other area residents, complainants; Assistant Dog Officer Betsy DeWallace

Chairman Powers convened a public hearing on the complaint dated May 24, 1977 of Mr. and Mrs. William N. Craig, 11 Peakham Road, et al. against the St. Bernard dog "Ralph", a two-year old, female St. Bernard owned by Robert and Nancy Bierig, 534 Peakham Road, for reason of a vicious disposition.

Executive Secretary Richard E. Thompson reported that the Board had received a complaint dated May 24, 1977 signed by William N. Craig, Gertrude L. Hirsch, Kathleen C. Sykes, Walter L. Sykes, Trudy Craig, Mr. and Mrs. Joe Griffith, Sylvia Throckmorton, Kenneth L. Throckmorton, Cecilia M. Carignan, and Robert J. Carignan and that all appropriate persons had been notified of tonight's hearing and return receipts received. Mr. Thompson reported that a report dated June 3 had been received from the Assistant Dog Officer, which he then read. The report cited one dog bite on August of 1976, four complaints during 1976 and 1977, and four instances of the dog's being picked up by the Assistant Dog Officer during April - July 1976.

In response to Chairman Powers' question, the Assistant Dog Officer stated that she had no further report.

Mr. Sykes reported that he had called the Bierig home on at least two occasions some months ago with complaints concerning "Ralph" and a second dog owned by the Bierigs.

Mrs. Sykes reported that they had also recently called the Bierigs' home several times before the formal complaint was made, but had not been able to reach Mr. Bierig.

Mr. Joseph Griffin stated that he and his wife were in support of Mrs. Craig's formal complaint, that he had had two encounters with "Ralph" while jogging around 6 p.m., and had managed to frighten her off, but was of the opinion that she does pose a threat to the children in the area. Mr. Griffin stated that the first encounter was on Peakham Circle where "Ralph" was in the middle of the road and that the second was on the sidewalk directly across the street from the Bierig home. Mr. Griffin reported that, during the second incident, Mrs. Bierig came and called "Ralph" off.

Mrs. William Craig stated that she was walking her dog in the vicinity of the Bierig home about a week ago when she saw "Ralph" and asked Mr. Bierig's son to call his dog. Mrs. Craig stated that "Ralph" grabbed her dog, shaking its neck, and that Mr. Bierig's son was able to call his dog off. Mrs. Craig reported that her dog was not injured, but she expressed her opinion that the dog might hurt neighborhood children.

Mr. Sykes stated that, within the past four weeks, he had called Mr. Bierig and that he had told him that the dog would be penned and not allowed to run free.

Mr. Bierig reported that the bite which was recorded by the Assistant Dog Officer, had occurred in his home when a young man had entered unannounced. Mr. Bierig reported that Mr. Sykes was correct, that he had called complaining of his dog, and that, since that call, the dog has not been allowed to run free to the best of his knowledge. Mr. Bierig stated that there are six children in his home and that it is taking a long time to educate them to keep the dog in the house. Mr. Bierig stated that he does have a run for the dog.

Mrs. Bierig commented that their screen door has been opened, at times, by other dogs who have entered the house, that the screen has been ripped off, and that the dogs have all gone out through the door.

Mr. Bierig stated that it was not their intent to let the dog run free and that, on the occasion when "Ralph" had chased Mr. Sykes' son, the dog had run onto the Sykes' property when she saw Mr. Sykes' son emerge from the house and had caused him to run back into his house. Mr. Bierig stated that his dog should not have been on the Sykes' property.

Mrs. Sykes reported that "Ralph" had molested their dog a year ago.

Selectman Toomey commented that the Assistant Dog Officer's report had stated that the dog had been picked up on four occasions, that the Town has a dog control bylaw in effect between the hours of 7:00 a.m. and 8:00 p.m., and that it was the Board's usual recommendation in similar cases to have the dog permanently restrained.

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

VOTED: To order that the dog "Ralph" be permanently restrained and that the Board be immediately notified if the dog is picked up again, in which case a second hearing will be held by the Board regarding the final disposition of the dog.

At the conclusion of the hearing, Chairman Powers recessed the meeting for a period of five minutes.

Grievance--Firefighter

Present: Firefighter James H. Jackson, complainant; George Abrahamson, Vice President, Firefighters Association; Fire Chief Josiah F. Frost

Executive Secretary Richard E. Thompson reported that the Board, at its May 31, 1977 meeting, had voted to continue, by mutual agreement with the complainant and representatives of the Firefighters Association, Local 2023, until June 6 further discussion of a communication from the International Association of Fire Fighters, Peter Devoll, president, dated May 21, 1977, relative to a grievance of a firefighter dealing with the question of time off in lieu of holiday pay and whether holiday time can be carried over to the next fiscal year to allow receipt of a report on the matter from Town Counsel.

Mr. Thompson reported that Mr. Kenny had, a few moments ago, received an emergency call and had had to leave the meeting, but that his report had been received.

Chairman Powers asked if there was any new evidence to be received.

As there was none, Chairman Powers stated that the Board had spoken with Town Counsel on the subject and had had a chance to study the record.

After a brief discussion, it was on motion by Selectman Potell unanimously

VOTED: To concur with the Personnel Board in denying Firefighter Jackson's grievance for the following reasons:

1. The Chief has discretion in scheduling time off in lieu of holiday pay.
2. The Chief can schedule it after July 1, 1977.
3. The contract does not allow for a pay back on holiday pay.
4. The grievance was untimely presented in accordance with the grievance procedure set forth in Article V of the Agreement.

Special Town Meeting

Present: Firefighter George Abrahamson, Vice President, Firefighters Association

Selectman Toomey suggested that the Executive Secretary look into the scheduling of a Special Town Meeting in connection with the funding of the newly agreed-upon Fire contract.

After a brief discussion, it was agreed that the time would start running when the Board received formal ratification of the contract.

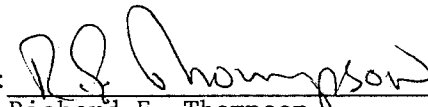
Firefighter Abrahamson, Vice President of the Union, stated that the Board would receive a formal letter of ratification by next week.

Selectman Toomey requested that the Executive Secretary check dates for the scheduling of a Special or Emergency Town Meeting and the particulars relating to the opening and closing of the warrants for the same.

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

VOTED: To adjourn the meeting at 9:05 p.m.

Attest:


Richard E. Thompson
Executive Secretary-Clerk