

IN BOARD OF SELECTMEN
TUESDAY, JANUARY 3, 1978

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.

Monied Articles 1978 Annual Town Meeting

Present: Town Accountant John H. Wilson.

The Board acknowledged receipt of the following monied articles for the 1978 Annual Town Meeting:

Budget
Unpaid Bills
Town Audit
Regional Dispatch Center
Peakham Road/Old Lancaster Road, Intersection Reconstruction
Street Acceptances/Discontinuance
Update Property Values
Webworm Program
Tree Planting Program
Walkway Planning/Construction
Identification, Delineation and Classification of Wetlands
Acquire Hudson Property
Purchase Property off Pantry Road
Purchase Development Rights to Agricultural Land -- Parcel 500, North Road
Purchase Agricultural Property
Purchase Lincoln Lane Property
Purchase Development Rights to Agricultural Land -- Parcel 400, North Road
Surface Drains
Reconstruct Portion of Pantry Road at Railroad
Park & Recreation Truck and Plow
Horse Riding Facilities
Swim Facility

Town Counsel Paul L. Kenny stated that some of the articles submitted by the Conservation Commission might be withdrawn before the Annual Town Meeting. The Board requested Mr. Thompson to obtain copies of the reports on the Conservation Commission monied articles submitted for the Annual Town Meeting.

In addition to the above-listed articles, Executive Secretary Richard E. Thompson requested that the Board consider an additional monied article regarding funding for alternative financial plans for the reconstruction of Landham Road.

Selectman Toomey suggested that the Landham Road article be accepted as a "Bookmark" article to allow flexibility on the final reconstruction plans. The Board was in agreement.

Later in the evening the Board took the following action in regard to the Monied Articles for the 1978 Annual Town Meeting:

1. To approve the article "Town Audit" pending a meeting with the Town Accountant January 17.
2. To approve the article "Regional Dispatch Center" pending a meeting on January 11, 1978, of the Regional Dispatch Review Committee.
3. To add Deacon Lane to the article "Street Acceptances/Discontinuance".
4. To delete the article "Webworm Program".

Town Engineering Budget Report for Landham Road Reconstruction

The Board acknowledged receipt of a communication dated December 15, 1977, from Town Engineer James V. Merloni, relative to engineering costs and impact on Town Engineering budget for the Landham Road reconstruction project if the Town assumes the work of revising the present plans, which have been prepared by the State Department of Public Works.

Utility Petition #77-82 -- Farm Lane

In conformity with General Laws Chapter 166, Sections 21 and 22, the Board considered the following petition:

Utility Petition No. 77-82 of the Boston Edison Company and the New England Telephone and Telegraph Company to transfer from joint ownership to sole ownership by Boston Edison Company two poles and anchor and guy on Farm Lane.

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

It was on motion by Selectman Potell unanimously

VOTED: To approve UP #77-82 as described below and shown on a plan dated October 17, 1977, drawn by C. B. Damrell.

Transfer to Boston Edison Company, the following:

Farm Lane, northeasterly side, from a point approximately 23 feet northwest of Mossman Road, - Two (2) poles
Guy wire and anchor on second pole (existing locations, no new poles to be set.)

Antirecession Fiscal Assistance Funds

Present: Town Accountant John H. Wilson.

Chairman Powers read a communication dated December 16, 1977, from Laura Garcia, Office of Revenue Sharing, Office of the Secretary of the Treasury, denying the Board's recent request for waiver of the six month use requirement for Antirecession Fiscal Assistance (ARFA) funds.

Following discussion, Selectman Toomey suggested that the Executive Secretary talk further with Federal officials inquiring as to an alternative procedure for

waiver of the six month use requirement for ARFA funds. It was on motion by Chairman Powers unanimously

VOTED: To have the Executive Secretary, Richard E. Thompson contact Federal officials -- Congressmen and Senators -- for an alternative procedure for waiver of the six month use requirement for ARFA funds.

Transfer Requests

Present: Town Accountant John H. Wilson.

The Board considered the below-named Reserve Fund Transfer Requests, after which it was on motion by Selectman Potell unanimously

VOTED: To approve Request No. 0755 dated December 9, 1977, for a transfer from Account 340-15, Custodial, to Account 340-12, Overtime and Extra Hire, Building Department, in the amount of \$1,000.00 for the purposes set forth in the numbered transfer.

Following discussion, it was further on motion by Selectman Toomey

VOTED: To approve Request No. 0758 dated December 29, 1977, for a transfer from the Reserve Fund to Account 340-32, Town Hall Maintenance, in the amount of \$1,425.00 for the purpose set forth in the numbered transfer. (Selectman Toomey and Powers in favor -- Potell opposed.)

It was further on motion by Selectman Potell unanimously

VOTED: To approve Request No. 0761 dated December 29, 1977, for a transfer from the Reserve Fund to Account 521-61, Payroll Processing, in the amount of \$343.50 for the purpose set forth in the numbered transfer.

It was further on motion by Selectman Toomey unanimously

VOTED: To approve Request No. 0762 dated December 29, 1977, from Account 521-13, Accounting Clerical, to Account 521-12, Accounting Overtime, in the amount of \$300.00 for the purpose set forth in the numbered transfer.

Tree Warden Budget For 1978-9

Present: Allan Snow, Tree Warden.

Chairman Powers asked for Mr. Snow's recommendations on the two monied Articles, "Webworm Program" and "Tree Planting Program", to be submitted by the Board for the 1978 Annual Town Meeting.

Mr. Snow explained that he had sufficient funds in the Tree Warden's budget to spray all the major roads in Town for the control of webworm, and therefore, suggested eliminating the Board's article "Webworm Program".

Mr. Snow further explained that in the past he was placing fifty trees per year over an approximate one-half mile stretch of road with his budget of \$1,000.00. This year he had expected to put in twice as many trees, and therefore, submitted a budget increase request of \$2,000.00.

Selectman Potell suggested a more extensive program of tree planting along the roads in Town and would like to appropriate a budget to accommodate this idea.

Executive Secretary Richard E. Thompson said that the Tree Warden's budget for 1978-9 has already been submitted.

Selectman Powers suggested that the Board submit a \$4,000.00 special article for the Annual Town Meeting and requested the Tree Warden to prepare a detailed program plan for planting trees. After further discussion it was on motion unanimously

VOTED: To submit an Article in the 1978 ATM Warrant in the amount of \$4,000.00; said amount to be appropriated for a more extensive program of tree planting along the roads in Town on a regular basis, with support and expressed concurrence of the Tree Warden.

Final Report of the Landham Road Advisory Committee

Present: Harold R. Cutler, Chairman; Peter H. Anderson, Miles Robinson, George Mercury, Landham Road Advisory Committee; James V. Merloni, Town Engineer; Anne Donald, Finance Committee; Police Chief Nicholas Lombardi; Robert A. Noyes, Highway Surveyor.

The Board received a letter dated December 16, 1977, from Harold R. Cutler enclosing a copy of the final report of the Landham Road Advisory Committee dated December 6, 1977.

Chairman Powers pointed out that the vote of the Committee was submitted in two sections: 1) the Majority Report; and 2) the Minority Report.

In examining the Majority Report, Chairman Powers first referred to page 7 entitled "General Recommendations". The Board reviewed the ten recommendations and following discussion were assured of approval of all the recommendations by both the Town Engineer and the Highway Surveyor.

The Board suggested that cost information would be helpful on Item 5 of the recommendations regarding the Department of Public Works (DPW) drainage plans of piping all stormdrains north of Lynne Road directly to Landham Brook.

Chairman Powers then referred to page 2 of the Majority Report entitled "Summary of Facts" dealing specifically with traffic volume and accidents, and asked Police Chief Lombardi to comment on the situation. Chief Lombardi agreed that the existing condition of Landham Road contributes to the increased accident factor.

An additional detail further noted on the "Summary of Facts" was that, although the Town of Weston received Chapter 90 funds to reconstruct 3,000 feet of Wellesley Road, at a width of 24-feet, it was not on the basis of a "Scenic Road". Mr. Noyes, Highway Surveyor, commented that there is no similarity for comparison with Landham Road (number of residences, driveways, intersections, etc.).

Selectman Toomey asked Mr. Merloni, Town Engineer, if he could recommend a 24-foot road.

Mr. Merloni responded that he could design in-house a plan for a 24-foot road for the Town but that he would have trouble as a Registered Engineer in putting his seal on that plan.

Chairman Powers referred to a memo, presented within the report (as stated in the "Summary of Facts" as Appendix B), of the Conservation Law Foundation, written by Mr. Altshuler when he was Secretary of the Massachusetts Transportation Department, specifically pointing out Chapter 84, Section 15, which states that "roads designated as 'Scenic Roads' must meet the standards of American Association of State Highway and Transportation Officials (AASHTO)". (One of the standards of AASHTO is a 30-foot road.) Further in the memo, Mr. Altshuler goes on to say "that there is basis for liability and that the DPW could be held liable". He further states, in the memo, "that the case law hasn't demonstrated that yet, but he believes that it is still legally possible for that to happen." Mr. Cutler said that he agrees with Mr. Altshuler's facts based on his own experience as an Engineer.

Chairman Powers said that the Committee's proposal, as a recommended alternative for a 24-foot road, would appear not to be in concert with the AASHTO designs plans. If the DPW's position continues to be that it will not participate and will refuse to provide Engineering capacity, the Board recommends that the Committee give this matter further consideration.

Chairman Powers then made reference to a letter dated December 15, 1977, from James V. Merloni, Town Engineer, enclosing a report from the Engineering Department. Mr. Powers reviewed Exhibit 1 of the report entitled "Landham Road -- Engineering Cost".

The Board then reviewed the "Majority Recommendations", page 8 of the report. Regarding Item 2, Mr. Powers read the statute of "Scenic Roads" as follows:

"Upon recommendation or request of the planning board, conservation commission, or historical commission of any city or town, such city or town may designate any road in said city or town, other than a numbered route or state highway, as a scenic road.

After a road has been designated as a scenic road any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the planning board, or if there is no planning board, the selectmen of a town, or the city council of a city, after a public hearing duly advertised twice in a newspaper of general circulation in the area, as to time, date, place and purpose, the last publication to occur at least seven days prior to such hearing.

Designation of a road as a scenic road shall not affect the eligibility of a city or town to receive construction or reconstruction aid for such road pursuant to the provisions of chapter ninety."

Mr. Powers asked Mr. Noyes, Highway Surveyor, for his comments on the statute. Mr. Noyes said that it certainly would affect his work -- make it harder to do his job.

Chairman Powers read a communication to the Conservation Commission written by Peter Anderson, Committee member, requesting a meeting with the Conservation

Commission, and asked Mr. Anderson to comment on the results of their meeting.

Mr. Anderson said that the Committee is submitting by petition, two articles for the 1978 Annual town Meeting: 1) a by-law which establishes guidelines and procedures for the administration of the "Scenic Roads", and 2) an article which designates Landham Road as a "Scenic Road". (The Conservation Commission supported Item 1 but not Item 2 under Chapter 40, Section 15C.)

Regarding Item 4, ("Majority Recommendations") "Four-feet wide grassed shoulders with a gravel base can provide the desired shoulder areas for emergency stops"; Mr. Merloni, Town Engineer, stated that this is not a good situation in the winter because of plowing and lack of grass, and in the seasons when there is grass, the grass would be slippery and therefore, not a good surface for emergency stopping.

Regarding Item 8, ("Majority Recommendations") "The cost differential between a 24- and a 30-foot road may be enough to pay for outside engineering not provided by the state", the Landham Road Advisory Committee had not arrived at any definite figures.

Mr. Noyes said that the cost cannot be determined until the State determines their charge to the Town for the designs, and Mr. Merloni's figures should be added to that cost.

Chairman Powers stated that if the road is build with Town funds, the Town will receive some reimbursement, and the total cost for the project would be approximately \$315,000.00 according to the Highway Surveyor.

Selectman Toomey suggested that cost figures to build a road at 24-foot width from Town funds would be necessary before the Annual Town Meeting.

Chairman Powers asked what the escalated inflation cost would be per year. Mr. Noyes said that it is about 15 percent.

Mr. Powers asked, "With the exception of Wellesley Road in Weston, does anyone know of a road that does not conform with the standards of AASHTO that received State funding?" Mr. Cutler informed the Board that he knew of two roads in Arlington that were funded and laid out by the State and designated as a "Scenic Road" with a 24-foot width, constructed within the last two years. (The engineering was done by the Town engineers.)

Mr. Cutler summarized what he thought the cost situation is: 1) The Committee believes that the State will pay for the construction if the "Scenic Road" statute is utilized; and 2) additional costs could be: a) The Town may have to reimburse the State for a private consultant to do the engineering; b) The Town may have to pay for its own engineering design; c) inflation.

Mr. Cutler also had a letter from Mr. Mistretta, District Highway Engineer, stating that the Town can have State funding if Landham Road is designated as a "Scenic Road"; and also, that the "Scenic Road" Act also says a road designated as a "Scenic Road" will not jeopardize State funding.

Chairman Powers requested a copy of the letter from Mr. Mistretta.

Chairman Powers continued by stating that the Board had already noted that

the State DPW, to their knowledge, is not changing its view, and if Landham Road is not designed according to ASSHTO standards, they are not going to participate. Mr. Powers added that the "Scenic Road" Statute specifies that the State cannot refuse to participate just because it is a "Scenic Road" but that this has no relationship to the design or width of the road and the State's position on the same.

Chairman Powers pointed out that there is also a Minority Report of the Landham Road Advisory Committee submitted by George Mercury and Robert Phelps, dated November 2, 1977, which he read.

Mr. Powers then asked if there was any further discussion.

Mrs. Susan Anderson commented on accidents on Landham Road, pointing out that two she knew of were both unavoidable because of icing.

Mr. Ross Piken, Landham Road, pointed out that the objective in putting an Article in the Warrant concerning "Scenic Roads" was an alternative protection for concerned residents regarding a 24-foot road as opposed to a 30-foot road. He referenced a meeting with Commissioner John Carroll, Department of Public Works, who said a compromise would be for the Selectmen of any Town to refuse to sign the DPW plans and to simply state this to the head county engineer, Mr. Mistretta; from there it would go to the main office in Boston for arbitration. Mr. Powers said that if the Board truly feels that the 24-foot road is right, that would be an alternative; however, the Board will not exercise such authority until after the Town meeting had an opportunity to express its view on the subject.

Mrs. Piken, Landham Road, said she would be willing to do the work to set up a meeting with the Commissioner, DPW, and the Board.

Chairman Powers concluded by saying that whether the Board agrees with the Committee or not, the Board will go to the floor of the Annual Town Meeting, but that more facts and figures -- particularly on funding -- are necessary.

It was on motion by Selectman Toomey unanimously

VOTED: To accept and submit the Majority Report and the Minority Report to the Annual Town Meeting, and that the Board of Selectmen would take no immediate action in signing the plan for the 30-foot road.

Chairman Powers thanked everyone for coming.

Mr. Anderson asked the Board what kind of vote they would be looking for at the Annual Town Meeting before the Board exercises their power of authority to sign the plans, since as the Board had very correctly pointed out, the "Scenic Road" information does not decide which design is more suitable, the 24- or the 30-foot road.

Chairman Powers said that it is the intention of the Board to make sure that the question of 24- or 30-foot road is placed before the Annual Town Meeting so that the issue can be finalized promptly.

Selectman Toomey pointed out that the Finance Committee will need to have facts and figures. Mrs. Anne Donald, Finance Committee, certainly agreed that it would be necessary to have that information before the Finance Committee could

take a position on this Article.

Regional Dispatch Center

Present: Fire Chief Josiah F. Frost.

Chairman Powers recommended the support of the Board to negotiate an agreement with certain other towns, in Middlesex County, to provide for a joint communications and dispatch center for fire and ambulance services, with the final agreement and funding to be subject to the approval of a future Town Meeting. Mr. Powers said that there will be a meeting on January 11, 1978, with representatives of Concord, Maynard, Acton, Boxboro and Stow, at which time, each town will finalize their decision to participate or not to participate in a Regional Dispatch Center.

Selectman Toomey referred the Board to a communication from Paul J. Flynn (Town of Concord) dated December 28, 1977, a copy of which was sent to representatives of the various interested towns. Mr. Flynn states in his memo that, "The Selectmen of Concord voted not to support the Center at this time and will not include a warrant article for this purpose." Because of this statement, Mr. Toomey strongly urged the Board not to support the Dispatch Center.

Chairman Powers said that the memo received from Mr. Flynn should not be the reason for the Board's withdrawal at this time. He said that, "If on the 11th of January, one or more towns decided to not go forward with the Dispatch Center, then I will report back to the Board and the Board will take the proper action."

Selectman Potell agreed with Selectman Toomey. He asked Fire Chief Frost what would happen to his submitted budget which suggests a \$25,000.00 reduction if the Board decides not to participate in the Dispatch Center.

Chief Frost said that he would plan to submit the budget, upon the approval of the Board of Selectmen, with the \$25,000.00 reduction subject to the approval of the Dispatch Center. He requested that the Board support the Article and make its final decision after January 11, 1978.

Selectman Potell said that before supporting the Article he would like to review certain areas of the Agreement -- Assabet Emergency Dispatch Association (Exhibit A): namely,

- 1) Article 2, Section 4 -- To enter into and perform contracts and agreements of every kind and description pursuant to the operation of a dispatch center is too broad a power.
- 2) Article 3, Section 3 -- dealing with withdrawal from the Association at the end of the fiscal year . . . is too long a period of time.
- 3) Article 4, Section 1 -- paying of all bills should be done with the approval of the Board of Directors.

All of the above sections or Articles of the Agreement, Selectman Potell suggested, need further discussion and clarification.

Chairman Powers expressed his disagreement with Mr. Potell's concerns and added that the content or wording of the Articles reflected normal operating

business practices and did provide for adequate checks and balances.

In concert with Selectman Toomey's concerns, Chairman Powers referred to his report dated December 27, 1977, on the Regional Dispatch Center, page 2, and said that if the approval of the conditions of paragraph 1.a. -- "That such support is contingent upon concurrence by the towns of Acton, Concord and Maynard," is not met by January 11, 1978, then he would recommend the Selectmen not place an Article in the Warrant according to Paragraph 2 -- "That the Selectmen place in the Warrant an article, which is identical with that proposed for each town, in order that the Town Meeting may hear the full report and make its choice as to whether or not to adopt this new direction."

After further discussion, it was on motion by Selectman Toomey

VOTED: To support the recommendations of Chairman Powers on Page 2 of his communication to the Board dated December 27, 1977 on the subject of the Regional Dispatch Center with an additional proviso called item 3 under Recommendation on Page 2, to read as follows:

- "3. That, if after the scheduled January 11, 1978 meeting of the Regional Dispatch Review Committee it is verified that the towns of either Acton, Concord, Maynard or Stow do not intend to pursue a Regional Dispatch Center with an insertion of an article in the Warrant for their upcoming Town Meetings, the Chairman of the Board will so report the same back to the whole Board for further action or rescision of this vote."

(Selectman Toomey and Powers in favor; Selectman Potell opposed.)

Selectman Potell stated for the record that he was not in disagreement with the concept of a Regional Dispatch Center, but had serious reservations, as previously expressed, with the drafted agreement for the Assabet Emergency Dispatch Association.

Traffic Safety Report--Wayland's Landfill Access Road

Present: Police Chief Nicholas Lombardi.

Chairman Powers read a letter dated December 13, 1977, from Executive Secretary Richard E. Thompson to Police Chief Nicholas Lombardi informing Chief Lombardi of the Town of Wayland's proposal for an access road for their proposed sanitary landfill.

Chairman Powers then referred to a letter from Police Chief Lombardi, dated December 22, 1977, in which the Chief recommended a one-way traffic pattern to alleviate unnecessary "traffic-stacking" problems and the need of an officer to direct traffic on the Boston Post Road.

Following discussion it was on motion unanimously

VOTED: To have the Executive Secretary send a copy of Police Chief Lombardi's letter to the Wayland Board of Selectmen, Road Commissioners, and Police Chief.

It was further on motion unanimously

VOTED: To request a meeting with the Wayland Board of Selectmen, and the Wayland Road Commissioners and Police Chiefs of both towns to discuss and consolidate recommendations for the proposed access road to the Wayland Sanitary Landfill.

Closing the Central Fire Headquarters

Present: Fire Chief Josiah F. Frost.

Chairman Powers referred to a letter dated December 22, 1977, to Executive Secretary Richard E. Thompson from Josiah J. Frost, Fire Chief, relative to the impact of closing the Central Fire Headquarters.

Following discussion it was on motion by Selectman Toomey unanimously

VOTED: To accept the report dated December 22, 1977, from Chief Josiah F. Frost and to take the report under advisement.

It was further on motion by Selectman Toomey unanimously

VOTED: To have Executive Secretary Richard E. Thompson schedule a Saturday morning meeting for a review of Fire Stations for the purpose of inspection.

Resignation--Personnel Board

It was on motion unanimously

VOTED: To table the question of accepting the resignation of Douglas Dalton from the Personnel Board.

Appointment--Personnel Board

After review of applications of previously interviewed candidates for appointment to the Personnel Board, it was

VOTED: To appoint Frederick R. Garrity, 54 Pennymeadow Road, to the Personnel Board for a term to expire on April 30, 1979, to fill the unexpired term of Margaret Bonarrigo.

(Selectmen Potell and Toomey in favor; Selectman Powers abstained.)

Award Gasoline Bid for Town Vehicles

Following review of bids opened December 16, 1977, and in accordance with the recommendation of Town Counsel, it was on motion by Selectman Potell unanimously

VOTED: To accept the low bid from Union Petroleum Corporation of Revere dated December 14, 1977, for furnishing regular gasoline at a price of \$.4030/gallon based on a Tank Car price of \$.3830/gallon and unleaded gasoline at a price of \$.4280/gallon based on the Tank Car price of \$.4080/gallon to the Town of Sudbury for a period to expire December 31, 1978.

Annual Report of the Board of Selectmen--1977 Town Report

It was on motion unanimously

VOTED: To table the question of approving the Annual Report of the Board of Selectmen for the 1977 Town Report.

Tax Anticipation Notes

Executive Secretary Richard E. Thompson referred to a report from Mr. William E. Downing, Town Treasurer, dated December 29, 1977, requesting approval of the Board to borrow up to \$2,000,000.00 in Tax Anticipation Notes in January, to fall due in May. Mr. Thompson also referred to a letter dated January 3, 1978, from John H. Wilson, Town Accountant, relative to the above-mentioned request and suggesting approval of \$3,000,000.00 in Tax Anticipation Notes.

It was on motion unanimously

VOTED: To approve the request to borrow \$2,000,000.00 in Tax Anticipation Notes in January, to fall due in May, as requested by William E. Downing, Town Treasurer, in his communication dated December 29, 1977.

Wayside Package Store, Inc.

Town Counsel Paul L. Kenny said that he has not been able to contact Attorney John F. Canty, Jr., as voted at the Board's meeting on December 27, 1977.

Following discussion it was on motion unanimously

VOTED: To have Executive Secretary Richard E. Thompson contact the McManuses (owners of Wayside Package Store, Inc.) directly, requesting the books of the Wayside Package Store, Inc., 119 Boston Post Road, be made immediately available for review by the Board of Selectmen, and that a copy of this communication be sent to their attorney, John F. Canty, Jr.

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

VOTED: To adjourn the meeting at 11:45 P.M.

Attest:

Richard E. Thompson
Executive Secretary-Clerk