

IN BOARD OF SELECTMEN
WEDNESDAY, JANUARY 18, 1978

Present: Chairman John C. Powers and Ira M. Potell.

The statutory requirements as to notice having been fulfilled, the meeting was called to order at 7:45 P.M. by Chairman John C. Powers.

Tax Anticipation Notes

Relative to the question of signing Tax Anticipation Notes in the amount of \$2,000,000 as listed in a communication dated January 11, 1978, from William E. Downing, Town Treasurer, Executive Secretary Richard E. Thompson stated that the broad range of interest varied from 3.08% to 4.50% within the ten listed banks. He further stated that the following banks had been awarded the bids for the Town of Sudbury: Shawmut Community Bank, Guaranty First Trust Co., New England Merchants National Bank, Bay Bank Newton Waltham Trust Co., and State Street Bank & Trust Co.

It was on motion by Selectman Potell unanimously

VOTED: To sign Tax Anticipation Notes in the amount of \$2,000,000 dated January 20, 1978, and due May 25, 1978, as follows:

Shawmut Community Bank, N.A.	3.08%	100M
Shawmut Community Bank, N.A.	3.18%	100M
Guaranty First Trust	3.22%	100M
Shawmut Community Bank, N.A.	3.28%	100M
New England Merchants National Bank	3.37%	250M
Bay Bank Newton Waltham Trust Co.	3.38%	500M
Guaranty First Trust Co.	3.38%	200M
State Street Bank & Trust Co.	3.39%	250M
Guaranty First Trust Co.	3.55%	300M
Shawmut Community Bank, N.A.	3.58%	100M

in accordance with a communication dated January 11, 1978, from William E. Downing, Town Treasurer.

Transfer of Obsolete Library Books

In was on motion unanimously

VOTED: To table the question of approving the transfer by sale of obsolete library books to Friends of the Goodnow Library, in accordance with a request dated December 20, 1977, from Helen Lowenthal, Director, and George D. Max, Chairman Goodnow Library Trustees, to await further information from the Library Director.

Big Brother -- Big Sister Week

The Board acknowledged receipt of a letter dated January 10, 1978, from Elizabeth McManus relative to signing a proclamation to designate the week of January 23 - January 29, 1978, as Big Brother -- Big Sister Week in the Town of Sudbury.

Executive Secretary Richard E. Thompson read the communication and recommended the proclamation to the Board.

It was on motion by Selectman Potell unanimously

VOTED: To sign a proclamation to designate the week of January 23 - January 29, 1978, as Big Brother - Big Sister Week in the Town of Sudbury.

Rescheduling the Board's Regular Meeting Date of February 20, 1978

Following discussion it was on motion unanimously

VOTED: To reschedule the Board's regular meeting date of February 20, 1978, due to the holiday of Washington's Birthday, to February 21, 1978.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session of January 3, 1978, as corrected.

Ye Olde 117 House, 470 North Road, Sudbury

Present: Roger S. Murray, Manager of Ye Olde 117 House.

Executive Secretary Richard E. Thompson referred to a letter dated January 4, 1978, from Mr. Roger S. Murray, Manager of Ye Olde 117 House, requesting a change in the weekday entertainment license issued January 1, 1978, for Ye Olde 117 House, 470 North Road, Sudbury.

Mr. Thompson recommended that the Board restrict the license in accordance with the request in said above-mentioned letter for live entertainment consisting strictly of a solo entertainer.

It was on motion by Selectman Potell unanimously

VOTED: To approve a change in the weekday (Monday - Saturday) entertainment license issued January 1, 1978, for Ye Olde 117 House, 470 North Road, Sudbury, to include a solo musical entertainer, such as accordian player, guitarist, or pianist, in accordance with a communication dated January 4, 1978, from Roger S. Murray, Manager, Ye Olde 117 House.

Appointments -- Police Department

a. Policewoman

Executive Secretary Richard E. Thompson referred to a letter dated January 12, 1978, in which Police Chief Nicholas Lombardi recommended the appointment of Darlene Robinson, 461 North Road, as an alternate Crossing Guard.

Following discussion it was on motion by Selectman Potell unanimously

VOTED: To appoint Darlene Robinson, 461 North Road, as Policewoman--Crossing Guard, for a term to expire April 30, 1978.

b. Auxiliary Police

Executive Secretary Richard E. Thompson stated that under the date of January 12, 1978, Police Chief Nicholas Lombardi recommended the appointment of Gerald J. Cicciu, 182 Wayside Inn Road, as an Auxiliary Policeman.

Following discussion, it was on motion by Selectman Potell unanimously

VOTED: To appoint Gerald J. Cicciu, 182 Wayside Inn Road, to the Sudbury Auxiliary Police force.

Unemployment Compensation

Selectman Potell referred to the Executive Secretary's letter dated January 12, 1978, to Dr. John J. O'Neill, Superintendent of Schools, regarding transferring School Crossing Guards from Police to School Department jurisdiction to avoid unnecessary unemployment compensation cost. After discussion of the same, it was agreed to place it on the agenda for the next meeting.

Regional Dispatch Center

Chairman Powers reported that on January 11, 1978, the Regional Dispatch Review Committee met and voted four to one against the Regional Dispatch Center. Mr. Powers said that the article for the Regional Dispatch Center should now be withdrawn from the warrant.

Chairman Powers also said that there will be a final report put together for the towns for future file records, and that this has been a useful examination for a basic plan in the future.

It was on motion by Selectman Potell unanimously

VOTED: To accept Chairman Powers' report and withdraw the article of the Regional Dispatch Center from the warrant for the 1978 Annual Town Meeting.

Middlesex County Budget

At the Board of Selectmen's meeting on December 27, 1978, the Board voted to support the Governor's veto of the Middlesex County Budget, as recommended by the Middlesex County Advisory Board.

Tonight, the Board discussed the results of the Massachusetts State Senate's and House of Representative's roll call votes overriding the Governor's veto and passing the Middlesex County Budget.

Special Act Relative to the Appointment of Special Police in the Town of Sudbury

With reference to the Board of Selectmen's previous vote of May 23, 1977, relative to the submission of a petition to the Massachusetts General Court for the enactment of a Special Act Relative to the Appointment of Special Police in the Town of Sudbury -- Article 18, 1977 Annual Town Meeting, it was on motion by Selectman Potell unanimously

VOTED: To resubmit a signed petition to the Massachusetts General Court for passage of a Special Act Relative to the Appointment of Special Police in the Town of

Sudbury, in accordance with the vote taken under Article 18 of the 1977 Annual Town Meeting, for submittal at the 1978 legislative session.

Piona Trust

Because of the Board's concerns regarding a communication from the Town Engineer regarding a Purchase and Sales Agreement from Mary A. Piona, Executive Secretary Richard E. Thompson reported that he had spoken to the President of the Sudbury Non-Profit Housing Authority (SNPHA), Mrs. Helga Andrews, on January 18, 1978, and learned the following:

- 1) That SNPHA does have the right of first refusal option for the Piona land off Boston Post Road -- approximately 58 acres -- until May 1, 1978, \$500/month after May 1st to continue the option.
- 2) Mrs. Andrews, President of SNPHA, signed the option.
- 3) SNPHA has a letter from Piona Trust verifying the same, and a copy of the letter will be forthcoming to the Board.

Selectman Potell again expressed his concern that some misrepresentation may have been made to abutters during or after the most recent negotiations for an option on the Piona land, and asked the Executive Secretary to pursue the matter so that it does not happen again in the future, if it is true that it involved a Town employee thought to be representing a federal employee. The Executive Secretary stated that his investigation led him to believe one of the abutters to the Piona land thought a CETA employee to be a federal employee.

Conservation Commission

Executive Secretary Richard E. Thompson referred to a letter (having no date, but received January 13, 1978) from the Conservation Commission relative to warrant articles.

Following discussion it was on motion by Selectman Potell unanimously

VOTED: To remove from the Warrant the two articles entitled: 1) "Purchase Development Rights to Agricultural Land - Parcel 500, North Road" and 2) "Purchase Development Rights to Agricultural Land - Parcel 400, North Road" and to not take any action on the other two articles entitled: 1) "Purchase Agricultural Property," and 2) "Purchase Lincoln Lane Property" until next week after Executive Secretary Richard E. Thompson obtains further clarification of the articles from the Conservation Commission.

Southern Essex Solid Waste Council

Chairman Powers referred to a communication dated January 5, 1978, from Southern Essex Solid Waste Council (SESWC) suggesting a proposed warrant article relative to the Town of Sudbury joining the Southern Essex Solid Waste Disposal District.

In was on motion unanimously

VOTED: To have Executive Secretary Richard E. Thompson inform Southern Essex Solid Waste Council that their correspondence dated January 5, 1978, was received beyond the Town's date deadline to submit an article for the 1978 Annual Town Meeting.

1978 Annual Town Meeting -- "Town Audit"

Present: John H. Wilson, Town Accountant.

The Board met with John H. Wilson, Town Accountant, relative to discussion of the article submitted by him for the 1978 Annual Town Meeting entitled "Town Audit".

Mr. Wilson read his report dated January 18, 1978, requesting withdrawal of the "Town Audit" article for the 1978 Annual Town Meeting.

Following discussion it was on motion unanimously

VOTED: To withdraw the "Town Audit" article submitted by John H. Wilson, Town Accountant, and to have Mr. Wilson contact the Massachusetts Director of Bureau of Accounts relative to urging him to include Sudbury as a "Pilot" town for future audit in conformance with the generally accepted accounting principles required by the Federal Government.

Unclassified Budget

Present: John H. Wilson, Town Accountant.

Mr. Wilson explained that his original \$88,000 figure -- Unclassified Account 950-31, Casualty Insurance -- included the following: 1) all automobile insurance for the year 1978, 2) multi-peril insurance (for buildings), 3) separate insurance coverage for Hosmer House and Loring Parsonage, 4) liability insurance, and 5) workmen's compensation.

Mr. Wilson said that last year's budget was \$75,000, but that he suggested \$88,000 due to additional insurance coverage and increases in the following areas: 1) municipal official indemnification, 2) re-appraisal of Town property values, and 3) ambulance attendants' coverage.

He said that based on the \$75,000 figure and a 10% inflation plus re-appraisal of town property he, therefore, submitted a figure of \$88,000.

Selectman Potell expressed his agreement with the inflation increase, and said that since there are no accurate figures available yet for the purchase of the following: 1) municipal official indemnification, 2) Town property re-appraisal, and 3) ambulance attendants' coverage, he would suggest submitting a figure of \$100,000 to the Finance Committee now, rather than go into Town Meeting with insufficient funds and have to ask for a transfer of funds.

After further discussion, it was on motion unanimously

VOTED: To re-affirm the Board's support for \$100,000 for Unclassified Account 950-31 -- Casualty Insurance.

Sylvan Way (Lot 30)

Present: David Lee Turner, Attorney and friend of the Morans; Harold Jacobi, III, Attorney for the Morans; Daniel Willey, Director, West Newton Savings Bank.

Mr. David Lee Turner said that he was acting not as a paid attorney but as a friend of the Morans on behalf of their unfortunate circumstances. Mr. Turner read his letter to the Board dated January 17, 1978, with attachments as follows: 1) Quitclaim Deed of Peter F. Carr et ux to John M. Moran et ux dated July 15, 1974, recorded in Middlesex South Registry of Deeds in Book 12679, page 540; 2) Plan of Land shown as Bartonwood, A Restricted Subdivision of Land in Sudbury, Massachusetts, dated July 8, 1959, recorded in Middlesex South Registry of Deeds as Plan #1 (A of 2) of 1960 in Book 9527, page 54; 3) Two photostatic copies of "Proceedings of the Annual Town Meeting, March 14, 1967"; 4) Letter dated August 9, 1971, from Richard F. Brooks, Chairman of the Sudbury Planning Board to Philip H. Johnson; 5) Two-page list of lots and owners on above-mentioned Plan of Land; and 6) Nine Release Forms dated January 14, 1978, duly executed and recorded with Middlesex South Registry of Deeds in Book 9527, page 54.

Mr. Turner explained that in 1974 John M. Moran and Paula C. Moran bought Sylvan Way, Lot 30 on a subdivision plan entitled "Bartonwood"--subdivided in 1959; whereas, Lot 30 was endorsed "To be used for Playground Purposes."

Mr. Turner continued that in 1967 at Annual Town Meeting, the Town voted to accept a gift of Lot 30 from Philip H. Johnson et ux, but to date there is no record of a deed being recorded or conveyed to the Town by Mr. Johnson. In August of 1971, the Sudbury Planning Board sent a letter to Mr. Johnson stating that the Planning Board had no interest in retaining the rights to Lot 30. The same letter also stated that the Park and Recreation Commission is not interested in one-acre lots.

Mr. Turner stated that the Morans have reviewed the situation with their neighbors and have obtained releases from their neighbors of any rights they may have in Lot 30.

The Morans' attorney, Harold Jacobi, III, stated they must clear the title to Lot 30 before February 1, 1978, or they will be forced to default on the purchase of their new home in Chicago and lose their substantial deposit.

Mr. Turner recommended that "the Board authorize Town Counsel to enter a consent decree in the Superior Court which will forever establish that the endorsement on the Subdivision Plan, aforesaid, and any rights the Town may have had in the lot are extinguished."

Chairman Powers expressed his concerns for the Morans; however, he said that the Board could not authorize the consent decree relying solely on the letter of the Planning Board dated August 9, 1971.

Chairman Powers further stated that the Board must be sure that there is no deed from the Johnsons on record conveying said Lot 30 Sylvan Way to the Town. He said, too, that another concern is that the Town Meeting had voted to accept this gift (Sylvan Way, Lot 30) and questioned the Board's proper action relative to the same, indicating that written direction must come from Town Counsel in the first instance.

Selectman Potell suggested that to avoid future problems of "accepting gifts" by Town Meeting, clarification of the procedure by which the Town may accept gifts should be established or reviewed by staff.

Chairman Powers proposed that Town Counsel Paul L. Kenny should prepare an article for Town Meeting, regardless of what action transpires in the interim, to clear the record for all time. All parties in attendance agreed.

It was on motion unanimously

VOTED: To have Town Counsel Paul L. Kenny submit a written report of his investigation of the record as to: 1) the vote of the Annual Town Meeting to accept Lot 30 Sylvan Way as a gift of Philip H. Johnson; 2) a recorded deed conveying said Lot 30 to the Town of Sudbury; and 3) the authority of the Board to execute a consent decree based on his findings.

And provided further

To have Attorney Harold Jacobi, III, obtain from Philip H. Johnson an affidavit stating that he did not convey a deed to the Town relative to Lot 30, Sylvan Way and Article 13 of the 1967 Annual Town Meeting.

Election -- Park and Recreation Commission

Present: Claire J. Feeley, Nancy D. Lewis, Arthur A. Walker, members; Pasquale T. Piscitelli, Chairman of the Park and Recreation Commission; Oscar Harrell, Ronald A. Stephan, Robert Myers, candidates.

Executive Secretary Richard E. Thompson stated that in accordance with General Laws, Ch. 41, s. 11, the Board had received a communication dated December 1, 1977, from Pasquale T. Piscitelli, Chairman of the Park and Recreation Commission, requesting an election be held to replace John R. Carter who had resigned by letter dated November 27, 1977. Mr. Thompson further stated that the Board had received certification by the Town Clerk, Betsey M. Powers, that the resignation of John R. Carter had been recorded as effective on December 2, 1977. The Board and Park and Recreation Commission in joint session on December 19, 1977 agreed to January 9, 1978 as the cutoff date for the filing of applications to fill the vacancy on the Park and Recreation Commission and that the nominations and elections would be at the Board's regular meeting on January 17, 1978, notice having been sent out on January 13, 1978 to that effect. That meeting had been subsequently postponed to January 18.

It was on motion by Selectman Potell unanimously

VOTED: To appoint Richard E. Thompson, Executive Secretary, to serve as Clerk for the joint session of the Board of Selectmen and the Park and Recreation Commission for the purpose of electing a new member to the Park and Recreation Commission to fill the existing vacancy occasioned by the resignation of John R. Carter.

Mr. Thompson indicated that all members of the Park and Recreation Commission and the Board had received copies of the applications of each candidate to be interviewed.

All three candidates were present this evening and were interviewed as to their qualifications for and interest in serving on the Park and Recreation Commission.

Mr. Piscitelli nominated Oscar Harrell, and the nomination was seconded.

Mr. Walker nominated Ronald A. Stephan, and the nomination was seconded.

Ms. Feeley nominated Robert Myers, and the nomination was seconded.

Chairman Powers asked for other nominations and, there being none, he announced that nominations had closed and requested the Clerk to proceed with the roll call vote.

Claire J. Feeley voted for Robert Myers.

Nancy D. Lewis voted for Oscar Harrell.

Pasquale T. Piscitelli voted for Oscar Harrell.

Ira M. Potell voted for Oscar Harrell.

John C. Powers voted for Oscar Harrell.

Arthur A. Walker voted for Ronald A. Stephan.

At the completion of the roll call vote, the Clerk declared that Oscar Harrell, having received a majority of the votes of the officers present and entitled to vote, was elected to fill the vacancy on the Park and Recreation Commission until the next Annual Election, in accordance with Chapter 41, Section 11 of the General Laws, as amended.

Chairman Powers stated that there will be two vacancies on the Park and Recreation Commission at the next Annual Election, since Mr. Piscitelli had previously announced he will not seek reelection, and encouraged all the candidates appearing tonight to run for said positions.

Chairman Powers thanked the members of the Park and Recreation Commission and the candidates for attending the meeting tonight and congratulated Mr. Harrell on his election.

Landham Road

In regard to the question of the Board taking a position on the "Landham Road" article and the article classifying Landham Road as a scenic way for the 1978 Annual Town Meeting and the question of approving the Board's report for the 1978 Annual Town Meeting article entitled "Landham Road", Chairman Powers read the report he had prepared, entitled "Major Points Re Landham Road", which included five sections, and the Board made the two following corrections: 1) Section on Safety. E. add the words "as soon as possible" at the end of the sentence; and 2) Section on Finances, add E. to read as follows: "Responsibility or liability for Landham Road Bridge has been assigned to the State by past Town Meeting action; however, it is possible the State will not retain such liability if Landham Road is built to a substandard 24 feet width causing a funneling effect.

After discussion, it was on motion by Selectman Potell unanimously

VOTED: To accept the report, as noted above and amended, on "Major Points Re.

Landham Road", dated January 18, 1978, and have it printed in the Warrant for the 1978 Annual Town Meeting as the Report of the Board of Selectmen under the Landham Road Reconstruction article.

It was further on motion by Selectman Potell unanimously

VOTED: To approve the corrected Landham Road Article to read as follows:
"Landham Road -- To see what sum the Town will vote, raise and appropriate or transfer from available funds for the reconstruction of Landham Road, and to determine whether this sum will be raised by borrowing or otherwise and to determine the use of the funds in the existing 420-63 Account, or act on anything relative thereto", subject to final wording approval by Town Counsel.

In regard to the proposed by-law article for scenic roads, Chairman Powers read the Majority Report of the Conservation Commission recommending Landham Road be considered by Town Meeting as a Scenic Road relative to Massachusetts General Law, Chapter 4, Section 15(c), with no recommendation relative to width, design or funding; and referred to the Minority Report of the Conservation Commission not recommending an opinion as to width, funding or design.

Chairman Powers also referred to the report dated November 28, 1977, submitted by the petitioners of the article. It was a consensus of opinion, following discussion, that this report shows a lack of basic study, is contradictory to the Scenic Road statute, which Chairman Powers read, and presents the important question as to whether or not the Town of Sudbury has the authority to pass such a by-law. Selectman Potell questioned whether or not the article was a zoning matter and thus required a 2/3 vote to pass. Town Counsel was also asked to review the latter point.

Executive Secretary Richard E. Thompson recommended that Town Counsel review the above-mentioned articles again and advise the Board relative to their appropriateness as legitimate articles for consideration by the 1978 Annual Town Meeting, taking into consideration the comments on the same by the Selectmen this evening.

Selectman Potell said that roads that are scenic should be termed "Scenic Roads" but that the committee is using this term for Landham Road to satisfy their own purposes in obtaining a 24-foot road width.

Chairman Powers especially questioned several sections of the Scenic Roads by-law as their being in direct conflict with State statutes, i.e., definition of a road incorporating word, walkway, references to limiting time for holding public hearing by Planning Board, etc.

Mr. Powers referred to Mr. Harold Cutler's letter of September 28, 1977, to Mr. Charles Teeg, Massachusetts Department of Public Works (DPW), asking for the "department's (DPW) 'design criteria on State Aid Projects' and understanding of the process by which the Town of Sudbury may have State funds designated for this project."

Chairman Powers further referred to a letter dated October 14, 1977, from Mr. Charles F. Mistretta, District Highway Engineer, in response to Mr. Cutler's requests of September 28, 1977, stating particularly the safety necessity for a 30-foot pavement. Mr. Powers said that this makes very clear the State DPW's policy regarding 24-foot roads, and that the Landham Road Advisory Committee should have made this letter available to the Board sooner.

Chairman Powers referred to a letter dated June 16, 1975, from Robert T. Tierney, Chief Engineer, Department of Public Works, to Mr. Charles F. Mistretta relative to "Proposed Scenic Road Policy", which clarified again the State DPW's policy not to participate in construction of a substandard road at a width of 24-feet even though it may be classified as a Scenic Road, and further, that if the Town proceeded to do so, the State will accept no liability whatsoever.

Chairman Powers noted that Mr. James Merloni, Town Engineer, has already said that he will not sign plans for a substandard 24-foot Landham Road for professional and personal liability reasons; and Chairman Powers questioned further that if it is done outside by a private engineering firm, what firm would be willing to assume full liability for a road that does not meet minimum safety standards. He also noted that safety standards will determine State funding.

School Committee Summary

Selectman Potell shared his concerns with the Board regarding the Horse Pond School lease which was recently executed without notifying the Board, and agreed with Chairman Powers that this was a "breach of togetherness."

Executive Secretary Richard E. Thompson said that the School Committee had probably acted on the advice of their own counsel and that at the hearing tomorrow night, it would most likely be discussed.

Chairman Powers said that he questioned the School Committee's authority to enter into a lease without the Board of Selectmen's consent, and further expressed serious concern about the Town's future possible liability relative to the same.

Selectman Potell said that the Board had several remaining questions regarding the original lease, and that the lease had probably been signed without the Board's consent because the problems had not been resolved. He further stated that the Board should take some action.

It was on motion unanimously

VOTED: To direct the Executive Secretary Richard E. Thompson to send a letter to the Chairman of the School Committee expressing the concerns of the Board and request clarification and legal justification of the School Committee's signing and/or executing the Horse Pond School lease without the consent of the Board, and to further request a copy of the same for examination by Town Counsel.

Executive Session

At 11:00 p.m., it was on motion following a unanimous roll call

VOTED: To enter into Executive Session for the purposes of discussion relative to use of the Charity Fund and collective bargaining and possible litigation, where open discussion may have a detrimental effect.

Chairman Powers announced that 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 11:15 p.m.

Attest: _____

Richard E. Thompson
Executive Secretary-Clerk