

IN BOARD OF SELECTMEN  
MONDAY, JUNE 12, 1978

Present: Chairman William F. Toomey, John E. Murray and Robert J. Hotch.

The statutory requirements as to notice having been fulfilled, the meeting was called to order at 7:30 P.M. by Chairman William F. Toomey.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session of June 5, 1978, as drafted, and to approve the minutes of the regular session of May 31, 1978, and the minutes of the special session of June 7, 1978, as corrected.

Grievance - International Association of Fire Fighters, Local 2023

Present: Fire Chief Josiah F. Frost; Peter Devoll, President, Local 2023; George Abrahamson, Vice President, Local 2023; and Captain James Devoll.

Executive Secretary Richard E. Thompson stated that as a result of a grievance (relative to vacation policy for 1978-79) of Local 2023, International Association of Fire Fighters, dated April 28, 1978, denied by Fire Chief Josiah F. Frost on May 2, 1978, and likewise by the Personnel Board on May 30, 1978, the Board of Selectmen received said grievance on June 2, 1978, in accordance with Article V, step 4 of the existing contract, "Grievance Procedure", of Local 2023.

The Executive Secretary stated that the following communications had been received: 1) a letter dated June 1, 1978, from Peter Devoll, President of Local 2023, appealing said grievance; 2) a Department Order (#78-117) dated April 18, 1978, from Fire Chief Frost relative to vacations - 1978-1979; 3) a letter dated May 30, from the Personnel Board denying said grievance; and 4) a letter dated June 8, 1978, from Richard W. Murphy, Labor Relations Counsel, responding to the grievance. (Mr. Thompson commented that Labor Relations Counsel really meant "Paragraph 3", not "Paragraph 2", in his letter when referencing Chief Frost's Department Order of April 18, 1978.)

Mr. Thompson suggested that Fire Chief Frost consider altering paragraph 5 of his Department Order (#78-117, dated April 18) to read as follows: "All vacation time not requested or scheduled for the Fiscal Year 1978-1979 by January 1, 1979, may be scheduled by the office of the Chief of Department unless a hardship exists, in which case the Chief would review and/or adjust the same on an individual basis."

Fire Chief Josiah F. Frost stated that the grievance refers to paragraph 3 of the Department Order which reads as follows: "Effective August 1st 1978 and until further notice, only one private per shift will be allowed on vacation at a time." Chief Frost further stated his willingness to accept the change in paragraph 5 on the recommendation of the Executive Secretary.

Peter Devoll, President of Local 2023, stated that the employees' rights are being violated by the Fire Chief's Department Order #78-117, and that no concessions to the grievance will be made.

Fire Chief Frost responded that there are more than twelve weeks during "prime time" for vacations during the period of May through September, so that each firefighter will be able to have two weeks vacation time during "prime time" without having to allow more than one private per shift on vacation at a time.

George Abrahamson, Vice President of Local 2023, presented the Board with three past year's Department Orders (February 18, 1975, April 12, 1976, and February 24, 1977) of Chief Frost's and stated that a "past practice" has been established allowing more than one private per shift on vacation at a time.

Chairman William F. Toomey referenced Labor Relations Counsel's letter of June 8, 1978, regarding "past practice" which reads as follows:

"The fact that he and his predecessors may not have enforced their right to limit the number of men on vacation does not mean that they have waived such managerial right.

"Article 6, Section 2, of the Contract clearly shows that such inaction does not constitute a waiver. Further I believe that the arbitrability of this matter is questionable because the grievance is premature."

At 8:00 P.M. Firefighters Peter Devoll and George Abrahamson were called to duty, and it was the consensus of everyone present to table further discussion until they returned.

Following a review, the Executive Secretary, in answer to Chairman Toomey, stated that, if the Board decided to deny the grievance, Local 2023 would have ten days within which to appeal to the American Arbitration Association.

Following further discussion it was on motion unanimously

VOTED: To deny the grievance of Local 2023, International Association of Fire Fighters, dated April 28, 1978, received in the Office of the Board of Selectmen June 2, 1978, relative to the vacation policy for 1978-79, (Fire Chief's Department Order #78-117), in accordance and concurrence with a letter dated May 30, 1978, from the Personnel Board and a letter dated June 8, 1978, from Labor Relations Counsel.

Site Plan #78-189 - 327-329 Boston Post Road

Present: S. F. Doyle, petitioner; Robert R. Dion, architect; Mr. and Mrs. Donald M. Fellows, abutters; Francis E. White, Building Inspector; and David Grunebaum and Joan Irish, Conservation Commission.

In accordance with Article IX, Section V, Paragraph A, of the Sudbury Bylaws, the Board considered the Site Plan Application #78-189 of S. F. Doyle & Co., Inc., for property located at 327-329 Boston Post Road for the construction of buildings.

The Executive Secretary reported that all appropriate abutters and Town officials have been notified, and that the following communications have been received regarding the same: 1) a letter dated May 22, 1978, from the Conservation Commission relative to a future continuation of a Wetlands Protection Act Hearing; 2) a letter dated May 22, 1978, from the Sign Review Board noting applicant should

be advised of sign set back requirement; 3) a letter dated June 9, 1978, from the Planning Board, recommending approval with recommendations relative to landscaping and traffic flow in parking area; 4) a letter dated June 12, 1978, from the Board of Health recommending approval; and 5) a letter dated June 12, 1978, from the Town Engineer, to the Building Inspector at his request, relative to the "Flood Plain Zone".

Chairman William F. Toomey asked for an explanation of the construction.

Robert R. Dion, architect, stated their intention to develop the upper acreage of the property located at 327-329 Boston Post Road into a group of a maximum of ten offices in two two-story buildings, three one-and-one-half-story buildings and the remaining buildings to be one story on a gross area of 10,200 square feet; to landscape around the buildings and along Boston Post Road; to improve the entrance off Route 20 to allow for easier entrance and exit to the property; and to provide 46 parking spaces including three spaces for the handicapped. Mr. Dion stated that the appearance of the buildings will be modified traditional in a contemporary vein, and that there will be no windows on the first level. He presented elevations and floor layouts to the Board.

In answer to Selectman Hotch, Mr. Dion stated that there will be no sprinkler system, and further stated that Building 2 is on the low side of the lot and that each office in that building will have its own private deck giving a very attractive appearance.

In answer to Selectman Toomey, the Building Inspector stated that the site plan and the elevations presented are in compliance with the Bylaws of the Town of Sudbury.

Selectman Toomey announced that two abutters had just arrived.

Mr. Donald M. Fellows, abutter, asked how many stories the buildings would have, and if there will be future additions to the buildings.

Mr. Dion repeated his explanation that the buildings would be one and two stories, and that there will be no expansion because of a limitation of 10,200 square feet of building area due to the size of the sewage disposal system.

Francis E. White, Building Inspector, added that the Zoning Bylaws restrict height and that those restrictions can only be changed by Annual Town Meeting vote.

Selectman Hotch asked what the control would be, on the part of the Selectmen, over the construction and final appearance of the buildings once the site plan is approved.

Mr. White stated that this hearing is only for compliance of the site plan to the Zoning Bylaws of the Town, and that usually the developer or contractor will supply renderings to the Board, as Mr. Dion and Mr. Doyle have done tonight, indicating construction plans, and stated that the Town has experienced very good results with this type of arrangement.

Selectman Toomey suggested referencing the approval of the site plan to the renderings presented tonight, and asked Town Counsel for his recommendations.

Town Counsel stated that in doing so, there would be no guarantee that construction would be as shown in the renderings but a burden would be placed on the applicant to comply with the renderings, and that the buildings must comply with the Zoning Bylaws and the Building Code.

Mr. Richard F. Brooks expressed the following concerns:

1) that trees should be shown in front of the buildings and along Boston Post Road on the site plan; and

2) that developments along Boston Post Road, being a State Highway, should comply to the State laws (rather than the Town's Bylaws) relative to curb cuts, and should be approved by the Department of Public Works (DPW).

Mr. White addressed Mr. Brooks' concern by stating that Mr. Doyle has a permit from the DPW relative to the curb cut specifying 24' on the inside with two 30' radiuses.

The Executive Secretary (in reference to the trees on the site plan) explained that the Board's policy has been to approve the site plan by a vote containing the restrictions as part of the vote and then to sign the site plan; this procedure is recorded in the minutes, a copy of which is transmitted to the applicant.

Town Counsel further explained that the vote is the operative act of the Board. He said that the site plan is prepared and presented to the Selectmen, and if the Selectmen approve the site plan subject to certain conditions, whether or not those conditions are placed on the site plan, it has the same effect.

In answer to Mr. Fellows, Selectman Murray said that a retaining wall which will keep the leaching field land or soil above the 130' contour had been designed into the plans, and that in this way there will be no involvement with the Flood Plain.

David Grunebaum, Conservation Commission, stated that a partial hearing was held relative to the Wetlands Protection Act and agreed to be continued by the Conservation Commission and the petitioner when it became evident that they would be doing some filling in the Flood Plain. Mr. Grunebaum said that at the continued hearing the Conservation Commission will execute an Order of Conditions. He further stated that he is confident that, if the Engineering Department and the Board of Health both approve it, the septic system will work and that the biggest concern to the Conservation Commission is the tremendous amount of fill and large amount of new impervious surface that will be brought onto the property.

Mr. S. F. Doyle, petitioner, confirmed that the hearing was continued because of questions still being addressed precipitated by the question of the Flood Plain.

The Executive Secretary recommended that the Board sign the site plan tonight subject to the recommendations set forth in the Planning Board's letter of June 9th and compliance with any necessary filings and approvals by the Conservation Commission relative to the Wetlands Protection Act, since the site plan expires June 23rd.

Selectman Toomey asked Town Counsel's advice on the recommendations of the Executive Secretary, and Town Counsel suggested that the Board approve the site plan

subject to the condition that the buildings be constructed in compliance with the renderings presented with the site plan and subject to the condition that it conform to the Wetlands Protection Act.

Selectman Robert J. Hotch expressed his concern that the conditions of the Board's vote be written in on the site plan and said that he would approve the plan but could not sign it, because in his opinion it would not be complete without the conditions written on it.

Mr. Thompson suggested that the Board and the petitioners agree by mutual consent to continue the hearing to June 26th in order to allow the necessary time for the Building Inspector to follow Selectman Hotch's directions, if the Board so desires, at which time the Board can take some action on the site plan.

The Building Inspector suggested that the conditions required by the Board and the trees suggested by Mr. Brooks be written in on the site plan tonight to expedite matters so that the petitioner can begin work on the construction project.

The Board concurred to table discussion at 8:30 P.M. to allow time for the Building Inspector, Town Counsel, Mr. Doyle and Mr. Dion to make the necessary changes on the site plan tonight, and return to the meeting, at which time the Board could act upon the site plan.

At 9:10 P.M. Chairman Toomey opened discussion on site plan #78-189, following which it was on motion unanimously

VOTED: To approve site plan #78-189 of S. F. Doyle & Co., Inc. for property located at 327-329 Boston Post Road, Business District #2, as prepared by Robert R. Dion and S. F. Doyle & Co., Inc., dated April 14, 1978, revised June 1, 1978, and further revised June 12, 1978, subject to compliance with the Wetlands Protection Act and the recommendations set forth in the Planning Board's letter of June 9, 1978; it being understood and agreed by all parties that the finished buildings on the property will appear as shown on the rendering presented this evening.

Public Hearing - License to Store Inflammables, James L. Kates, 33 Ford Road

Chairman William F. Toomey convened a Public Hearing under G.L. Chapter 148 on the application of James L. Kates to store inflammables (2000 gallons #2 fuel oil) underground, for home heating purposes, on property located at 33 Ford Road.

Executive Secretary Richard E. Thompson stated that notice of the hearing had been published in the South Middlesex News on June 2, 1978, and notices had been sent to abutters by certified mail and the following reports were received: 1) a letter dated June 1, 1978, from Fire Chief Josiah F. Frost, recommending approval; and 2) a letter dated June 12, 1978, from Building Inspector Francis E. White, recommending approval.

Fire Chief Josiah F. Frost stated that it is becoming increasingly popular for homeowners to store fuel in this way, and that the Massachusetts Board of Fire Prevention Regulations has indicated a possible change in their regulations requiring a permit only in order to do so.

Following further discussion it was on motion by Selectman John E. Murray unanimously

VOTED: To grant to James L. Kates a license to store 2000 gallons #2 fuel oil underground, for home heating purposes, on property located at 33 Ford Road, subject to installation being done with the approval and under supervision of the Fire Chief.

Fire Department, "Swing Man" Report and Transfer Request

Present: Fire Chief Josiah F. Frost; Captain James Devoll; Firefighters George Abrahamson and Peter Devoll; Edward Glazer and Ronald A. Stephan, Finance Committee.

Chairman William F. Toomey invited Captain James Devoll and Firefighters George Abrahamson and Peter Devoll to remain and join the Board and Fire Chief Josiah F. Frost in a discussion relative to a report from the Fire Chief dated May 12, 1978, on the four-month experimental use of a "Swing Man" to cover absences in the Fire Department and a Transfer Request (#0785) in the amount of \$50,565 from Account 310-12 Fire Overtime to Account 310-11 Fire Salaries in Fiscal Year 1978-1979.

Executive Secretary Richard E. Thompson stated that at the direction of the Board (approximately four months ago) and with the concurrence of the Finance Committee, Fire Chief Frost instituted on an experimental basis what was recently termed a "Swing Man" -- a full-time firefighter who would cover absences in the Fire Department, therefore, reducing overtime in the Department, a problem which has become increasingly worse and of great concern to the Board of Selectmen and the Finance Committee.

Mr. Thompson further stated that at the request of the Board, the Fire Chief had submitted a report dated May 12, 1978; said report recommended the addition of four men to the Fire Department on the basis that it was now economically feasible to do so, whereas, three years ago, when this procedure was first tried, it was proven (and verified by the Town Accountant) not to be economically worthwhile.

Fire Chief Josiah F. Frost stated that as of his May 12th report (four months of experimentation with a swing man) the total overtime savings amounted to \$1,273.66, and that as of June 12th the savings totaled \$2,095.32. Chief Frost further stated that this period of time is the slowest four months of the year with regard to absenteeism and recommended that the Transfer Request (#0785) in the amount of \$50,565 from the Fire Department Overtime Account 310-12 be placed in the Fire Department Salary Account 310-11 so that he will be able to hire the additional four men, since the 1978-79 salary budget (\$150,565) will no longer be sufficient, and there will be substantial savings at the end of Fiscal Year 1978-79, possibly \$20,000 or more, if this transfer is approved.

Chief Frost said that the only additional cost to the Town as a result of hiring the additional firefighters, other than their salaries, will be their pension costs and Blue Cross/Blue Shield; as no coverage will be provided for them if they are absent from duty due to sickness, holiday days off in lieu of holiday pay, vacations, school time or compensatory time off.

Chief Frost stated that if his request for a transfer for the hiring of four new firefighters is approved by the Board as well as the Finance Committee, then he would like to be able to notify the men two weeks in advance and have them begin on August 1st.

Chief Frost further stated that there are nine men interested in the position who have already been tested, and that four of the men are EMT's. He said that two of the men have already gone through the Firefighters Academy, but even if they had not, the Town would only have to pay for their tuition and books, as it has already been established that they must attend school on their own time.

Selectman Robert J. Hotch asked Edward Glazer, Finance Committee member, to comment on behalf of the Committee.

Mr. Glazer stated that the Finance Committee had not reviewed the transfer request recently, but originally had concurred with Chief Frost for the hiring of one man. He said that the Finance Committee is concerned with the substantial increase of overtime from last year to this year, and that it will require further consideration.

Captain James Devoll addressed Town Counsel on the question of liability to the Town for a firefighter required by the Fire Department to attend school on his own time.

Town Counsel answered that the Town's liability would not be any greater than it would be if he were on duty.

Mr. Thompson noted Labor Relations Counsel's letter of December 12, 1977, in which he states that an assignment of a swing man would not be in violation of the collective bargaining agreement or of the Massachusetts G.L., Chapter 150E, and therefore, would not be an unfair labor practice.

Following further discussion, on the recommendation of the Executive Secretary, the Board concurred that the discussion be tabled until July 10, 1978, so that the Executive Secretary could forward a copy of the Chief's report dated May 12, 1978, and transfer request dated June 5, 1978, to the Finance Committee for their consideration and consult with Labor Relations Counsel relative to the same.

#### Brimstone Lane Petition (Hulbert Conservation Land)

Executive Secretary Richard E. Thompson brought to the Board's attention a petition dated June 3, 1978, signed by several area residents (Brimstone Lane-Hulbert Conservation Land) requesting resolution of problems generated from the use of the Hulbert Conservation Land.

Mr. Thompson suggested scheduling a meeting with the petitioners to include the Conservation Commission, the Police Chief and the Fire Chief, and the Highway Surveyor for further review and consideration of the situation.

Selectman John E. Murray suggested that the Auxiliary Police and the Park and Recreation Commission, who will be taking over the maintenance of the conservation land as of July 1, 1978, also be included at the meeting.

Lynne Remington, Conservation Commission, stated that she would forward copies of the Conservation Commission's minutes relative to the Hulbert Land Acquisition and the Land Management Meeting (which area residents attended) to the Board of Selectmen.

Following further discussion it was on motion unanimously

VOTED: To accept the petition dated June 3, 1978, from Brimstone Lane residents relative to problems to area residents generated from the use of the Hulbert Conservation Land, and to direct the Executive Secretary to arrange a meeting on June 26, 1978, with the petitioners, the Police and Fire Departments and their Auxiliary, the Highway Surveyor, the Park and Recreation Commission and the Conservation Commission.

Wayland-Sudbury Septage Disposal Facility

Following a short discussion it was on motion unanimously

VOTED: To accept a letter dated May 30, 1978, from Thomas C. McMahon, Director of the Massachusetts Water Resource Commission, relative to the Wayland-Sudbury Septage Disposal Facility funding application.

Board of Health - Receipts for Calendar Year 1977

It was on motion by Selectman John E. Murray unanimously

VOTED: To accept the Report of Accounts dated June 5, 1978, from the Town Accountant to the Board of Health in accordance with G.L., Chapter 41, s. 50 and 55, verifying receipts of the Board of Health for the Calendar Year 1977.

Accounting Machine Contract for 1977-82

Executive Secretary Richard E. Thompson stated that because of the volume of the Accounting Machine Contract for 1977-82 with Burroughs Corporation, the Board did not receive copies; it was, therefore, on motion unanimously

VOTED: To table the executing of the Accounting Machine Contract for 1977-82 and related agreement with Burroughs Corporation, as prepared and recommended by the Town Accountant and Town Counsel in order to allow the necessary time for the Board to read said contract.

Parade Marshals - Fourth of July Parade

It was on motion by Selectman John E. Murray unanimously

VOTED: To accept the invitation dated June 4, 1978, from the Park and Recreation Commission to the Selectmen to act as Parade Marshals in the Fourth of July Parade.

Sudbury Villagers Club - Cookbook Sale, July 4, 1978

Following discussion it was on motion by Selectman John E. Murray unanimously

VOTED: To grant permission to the Sudbury Villagers Club to sell cookbooks next to Town Hall on July 4, 1978.



Award Bid - Building Inspector/Sedan

Present: Francis E. White, Building Inspector

The Executive Secretary reported that a notice inviting bids to furnish a new vehicle for the Building Inspector had been advertised in the South Middlesex News on May 20, 1978, specifications had been mailed to a long list of dealers, and on June 7, 1978, one bid was received and opened.

Following discussion it was on motion by Selectman John E. Murray unanimously

VOTED: To award a bid to furnish one sedan vehicle to be used by the Building Inspector to West End Chevrolet, Inc., for a 1978 1XY69 Nova Custom Sedan, Stock #1169, at a net price (including 1973 Chevrolet Bel Air trade-in) of \$4,399.00 in accordance with their bid dated June 7, 1978, and as recommended by the Building Inspector in a letter dated June 12, 1978.

Middlesex County Selectmen's Association

The Executive Secretary reminded the Board that the Middlesex County Selectmen's Association's meeting will be held at the Lord Wakefield on June 14, 1978.

Lincoln-Sudbury Regional High School - Proclamations (State Championship)

It was on motion by Selectman John E. Murray unanimously

VOTED: To confirm the Proclamation in acknowledgement of the Lincoln-Sudbury Regional High School Boys' Lacrosse Team State Championship signed and dated June 12, 1978; and it was further

VOTED: To confirm the Proclamation in acknowledgement of the Lincoln-Sudbury Regional High School Girls' Gymnastics Team State Championship signed and dated June 12, 1978.

Landham Road Reconstruction

Executive Secretary Richard E. Thompson stated that at the request of the Board a letter dated June 12, 1978, was received from the Town Engineer, James V. Merloni, suggesting three options available to the Town with respect to the preparation of a new construction plan for Landham Road in accordance with the most recent vote of the June 7th Special Town Meeting, and in which Mr. Merloni requests more time to review his work-load commitments before making any recommendations on his suggested options.

The Executive Secretary clarified a possible misunderstanding at the Special Town Meeting relative to the cost of an outside engineering firm to redesign the width of Landham Road at 24' by stating that the total cost would be \$58,000, not \$50,000, because work done by the Town's Engineering Department will amount to at least \$8,000. Mr. Thompson suggested that the Board consider the options suggested by Mr. Merloni and take some action on those options at the Board's first meeting in July.

Selectman Robert J. Hotch commented that the Board must clarify its position relative to acceptance and approval of any engineering plans not identified by the stamp of a certified engineer.

Selectman John E. Murray requested that Town Counsel be consulted on the question of liability on Landham Road either on the part of the Town or the outside engineering firm.

On the recommendation of the Executive Secretary, it was on motion by Selectman John E. Murray unanimously

VOTED: To direct the Town Engineer to proceed with compiling the required information (District 4, Department of Public Works) in order to submit his recommendation to the Board of Selectmen relative to the redesigning of Landham Road at a width of 24' in accordance with the vote of the Special Town Meeting of June 7, 1978.

Elizabeth Eileen Paradis Day

It was on motion unanimously

VOTED: To declare June 20, 1978, Elizabeth Eileen Paradis Day in the Town of Sudbury to coincide with the open house being held in her honor at Peter Noyes School in recognition of her twenty-eight years of teaching in the Sudbury Schools.

Appointments

It was on motion unanimously

VOTED: To appoint Selectman Robert J. Hotch as a Fence Viewer, for a term to expire April 30, 1979.

There being no further business to come before the Board, the meeting was adjourned at 9:50 P.M.

Attest: \_\_\_\_\_

Richard E. Thompson  
Executive Secretary-Clerk