

IN BOARD OF SELECTMEN
MONDAY, MAY 22, 1978

Present: Chairman William F. Toomey and John E. Murray.

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.

Accepting Gifts

Executive Secretary Richard E. Thompson referenced the following notifications of gifts for acceptance by the Board of Selectmen:

1) A letter dated May 15, 1978, from Fire Chief Josiah F. Frost informing the Board that the Sudbury Villagers Association, through its President, Mrs. Walter Fardy, 34 Alta Road, and the Chairman of its Fund Raising Committee, Mrs. Robert Gottberg, 89 Mossman Road, has donated to the Sudbury Fire Department and the ambulance three pieces of important medical aid equipment: a) a modern version of the traditional Stokes Stretcher; b) a CPR Portable Resuscitator with case; and c) an Anatomic Resusci-Anne;

2) A letter dated May 15, 1978, from Chief Frost informing the Board that the Sudbury Fire Wives Association, through their President, Mrs. Shawn Kelly, 35 Dudley Road, Hudson, has donated to the Sudbury Fire Department Ambulance a child's blood pressure cuff (Sphygmomanometer); and

3) A \$100 donation from James A. Punch Associates for the Council on Aging.

It was on motion by Selectman John E. Murray unanimously

VOTED: To accept and acknowledge, with appreciation on behalf of the Sudbury Fire Department, the three gifts of medical aid equipment from the Sudbury Villagers Association and the medical equipment gift from the Sudbury Fire Wives Association, as described above; and further

To accept and acknowledge with appreciation, on behalf of the Council on Aging, a \$100 donation from James A. Punch Associates to the Council on Aging.

Public Hearing - Dog Complaint - Melley/Mitchell

Present: Mr. and Mrs. Robert Melley, complainants; Mrs. and Mrs. Neal Mitchell, Jr., dog owner; Francis E. White, Dog Officer; Betsey M. DeWallace, Assistant Dog Officer and Police Chief Nicholas Lombardi.

Chairman William F. Toomey convened a Public Hearing under G. L. Chapter 140, s.157 on the Dog Complaint dated May 3, 1978, of Mr. and Mrs. Robert A. Melley, 110 Prides Crossing Road, against two dogs, Rascal, a Shepherd/Malamute - Dog Tag #78-603 and Shelea, a Collie/Shepherd, Dog Tag #78-604, owned by Mr. and Mrs. Neal Mitchell, Jr., 122 Prides Crossing Road; said complaint states "intrusion of property, threatened wife, attacked our dog, frightens children, numerous complaints to Dog Warden and Sudbury Police with no cooperation from the owners."

Executive Secretary Richard E. Thompson stated that the complaint was filed in the Town Clerk's Office on May 3, 1978, that both parties were notified of the

public hearing by certified mail, and that the following reports relative to the same have been received: 1) A report dated May 15, 1978 from the Assistant Dog Officer listing seven complaints against the dog Rascal (Dog Tag #78-603), one from Mr. Toubman, 54 Brimstone Lane, and the others from the Melleys; 2) A report dated May 15, 1978 from the Dog Officer enclosing four police reports relative to the May 2nd dog complaint/firearms violation and one police report dated May 9th relative to the Mitchells' dog being on the Melley property; and 3) A report dated May 18, 1978 from Mr. and Mrs. Robert A. Melley relative to the various complaints against the two above-mentioned Mitchell dogs, including a written statement dated May 9, 1978 from Dr. Stuart E. Wiles indicating that he treated the Melleys' dog on June 30, 1977 for a puncture wound injury (caused by the Mitchells' dog, as stated in the Melleys' report).

The Dog Officer reported that, at the request of the Selectmen, he and the Assistant Dog Officer visited the Mitchells' dogs and concur that they are very friendly.

Mr. Robert Melley, 110 Prides Crossing Road, Complainant, stated that he and his wife would have liked to have resolved this dog problem on a more amicable basis and regret having to formally complain against the dogs. He further stated that, although the dogs may have appeared very friendly to both the Dog Officer and the Assistant Dog Officer in their own environment, on his property the dog (Rascal) had growled at his wife (while in the garage) so that it was necessary to fire a blank shot to scare the dog away; that the dogs have scared his children, making them afraid to play on his property for fear that the dogs will come into the yard; that they had to get rid of their own dog because of attacks by the Mitchells' dogs; and suggested that the dogs be under full control before his children are bitten.

Mrs. Melley added that just before they moved in (about one year ago) they had been told by the Mitchells that if the dogs come after their children, they were to put their hands behind their backs and stand still.

Mr. Neal Mitchell, Jr., 122 Prides Crossing Road, owner of the two dogs, stated that they are doing everything possible to prevent the dogs from barking and admitted that this can be annoying; but he said that he believes the problem began when the Melleys first moved in. Mr. Mitchell said that the Melleys' children were constantly at the Mitchell home and were told to be careful while there. Mr. Mitchell continued that sometime later their own children were told not to play with the Melleys' children for various reasons, and at one point the Melley dog came onto the Mitchell property and came after their dog; since that time, there has been a problem.

Mr. Mitchell added that they have taken their dogs to a trainer in order to determine why the dogs are so "up tight", and the trainer was willing to testify that the dogs are being provoked.

Mr. Mitchell also stated that the dogs are only loose before 7:00 A.M. and after 8:00 P.M., which is within the Dog Control Bylaws of the Town, and stated that he felt this was reasonable on six acres of land, but that occasionally the dogs "sneak" out.

Mr. Mitchell stated that it has never been necessary to lock their doors, as

the dogs protect their house, and that they would be tough if someone came into the house unannounced, but that the dogs would stop barking and obey on the owner's command.

Mr. Raymond Toubman, 54 Brimstone Lane, commented that during his recuperation from a heart attack, he was advised to take uninterrupted walks and had never been threatened by dogs until the Mitchells moved into the neighborhood. Mr. Toubman said that the Mitchell dogs come up to his waist, have large mouths, and have come out at him while growling at least four times and have really scared him. He stated that he had reported these attacks to Mrs. DeWallace, the Assistant Dog Officer, but that nothing was done about the dogs; since that time, the same thing has happened at least three more times.

Mr. Toubman stated that it is not right for a dog to be a menace to others in the neighborhood, that people have a right to walk on the Town streets no matter where they live, and that it is the duty of the Town to protect the residents by enforcing the Town Dog Bylaw.

Mrs. Michael Zeolla, 109 Prides Crossing Road, stated that they have lived in Sudbury since 1976, that they have a four-year-old daughter, and that the dog has never bothered them. (They live across the street from the Mitchells.)

Mr. John Evans, an employee of Mr. Mitchell's, stated that he has been at the Mitchells' home many times and the dogs have never bothered him or barked at him when he approaches the Mitchells' home.

Selectman Toomey asked Mr. Evans if the dogs know him, and Mr. Evans replied that the dogs only vaguely know him.

Martha DeWolf, 61 Dutton Road, stated that she rides her horse on Prides Crossing Road all the time, and that the dog has never barked at her or her horse.

Mr. Toubman then stated that he could not understand how and why the dogs would come bounding out at him from a distance with a growl and yet not attack Mr. Evans while approaching the Mitchells' property.

Selectman Toomey stated that the Board would like to resolve this problem, and that it should be able to be resolved in a neighborhood where the homes each have five acres of land or more.

Mr. Melley stated that he had to shoot a gun because the dogs charged all the way up his driveway at him.

In answer to Selectman Toomey, Chief Nicholas Lombardi stated that a complaint had been brought against Mr. Melley for a firearms violation on May 2nd, but that it was dropped by the Court for the reason that it was a neighborhood quarrel and would be resolved with the public hearing on the Dog Complaint.

Selectman Toomey referred to the police department statement given by Ceri Zeolla that she and her child had been in the line of fire at the time that Mr. Melley shot his gun to scare the dog away, and told Mr. Melley that he had no right to fire a shot in that neighborhood, and that it should never happen again.

Mr. Melley stated that he was not proud of himself and apologized for his actions.

Mr. Mitchell stated that three nights after that incident, the Melleys' young son was throwing rocks and sticks in his yard and at his car; and another night his wife had a fire cracker thrown at her by their child who ran away laughing.

Mrs. Mitchell added that the rifle had been shot after she had called the dog, and he was on his way home.

Mrs. Melley stated that when the shot was fired, the dog was ten feet in front of her husband, and that both dogs had been there, one of which was on his way home.

Mr. Toubman expressed his opinion that he is sure that the Mitchell children feel that it is good for the dog to intimidate people for a while before they call him.

It was Selectman Toomey's opinion that the dog be controlled at all times within the compounds of the Mitchells' property, and that it be walked on a leash while on the street.

Mr. Mitchell stated his opinion that they have done their job in keeping the dogs controlled to 8:00 P.M. and that they should be allowed to roam after that time because other dogs are out running after 8:00 P.M.

Selectman Murray stated that he concurs with Selectman Toomey because people have a right to walk on the streets without fear of dogs, and that with a provision that the complaint be reviewed in six months, it was not an unreasonable request. Mr. Murray said that the Board would like to please all those involved, and feels that this is the right decision.

There being no further discussion, it was on motion by Selectman John E. Murray unanimously

VOTED: To restrict and confine the dog Rascal, a Shepherd/Malamute, Dog Tag #78-603, owned by Mr. and Mrs. Neal Mitchell, Jr., 122 Prides Crossing Road, within the compounds of their property, (the dog is not to run loose unless in a constructed dog-run) at all times, except while being walked on the street at which time the dog must be restrained by a leash; and it was further

VOTED: That the Selectmen will review the complaint in six months.

Chairman William F. Toomey recessed the meeting for ten minutes at 8:00 p.m.; the meeting was reconvened at 8:10 p.m.

Town Fathers Forum - 122nd Session

At 8:10 P.M. Chairman William F. Toomey convened the 122nd Session of the Town Fathers Forum, a summary of which is attached and is a part of these minutes.

Manager Change Request - 99 Restaurant, 698 Boston Post Road

Present: Theodore S. Hatch and Francis V. Strachan, 99 Restaurant.

The Board acknowledged receipt of a letter dated May 8, 1978, from Paul J. Whitney, Clerk of the Ninety Nines, indicating that at a special meeting of the Board of Directors of 99 West, Inc., held on May 6, 1978, it was voted that Francis V. Strachan would be the manager of 99 West, Inc., 698 Boston Post Road, Sudbury.

Executive Secretary Richard E. Thompson stated that this matter does not require a Public Hearing, and that it is not necessary to notify the abutters. He further stated that the necessary petition and documents have been received and recommended that the Board approve the change in management.

Town Counsel stated that he had reviewed the documents and everything is in order.

It was on motion by Selectman John E. Murray unanimously

VOTED: To approve a request dated May 1, 1978, to change the manager of the 99 Restaurant, 698 Boston Post Road, from Theodore S. Hatch to Francis V. Strachan, subject to approval by the Alcoholic Beverages Control Commission.

Notice of Public Hearing by Wayland Conservation Commission - Wetlands Protection Act

The Board received notification that the Conservation Commission of the Town of Wayland will hold a public hearing on Tuesday, May 23, 1978, at 8:30 P.M. in the Town Office Building, 41 Cochituate Road, Wayland, relative to a Notice of Intent under the Wetlands Protection Act to dredge and fill wetlands within Sudbury River flood plain to construct a temporary access road from Route 20 to Wayland's future sanitary landfill area, and to remove sand and gravel from adjacent upland area.

The Executive Secretary stated that he thought the matter should have some public attention and that the Conservation Commission tonight had expressed an interest to attend, and were given a copy of the hearing notice.

Confirmation of Bid Award - Police Cruiser/Sedan

It was on motion by Selectman John E. Murray unanimously

VOTED: To confirm a telephone vote of May 18, 1978, to award a bid to furnish one sedan vehicle to be used as a cruiser by the Police Department to West End Chevrolet, Inc., for a Chevrolet Nova at a net price of \$4227 in accordance with the recommendation of the Police Chief dated May 16, 1978.

The Executive Secretary explained that the reason for the telephone vote of May 18, 1978, was to meet the deadline for ordering the car by May 20th by West End Chevrolet, Inc.

Resignation of Thomas A. Welch from Minuteman Regional Vocational Technical School District

The Board acknowledged receipt of a letter dated April 12, 1978, from Thomas A. Welch to J. Owen Todd, Moderator, tendering his resignation as representative to the Minuteman Regional Vocational Technical School District,

effective upon replacement, and directed the Executive Secretary to express the Board's appreciation for his service to the Town in this capacity.

Appoint a Representative to 128 West Resource Recovery Council

Following discussion it was on motion unanimously

VOTED: To appoint E. Lawrence Gogolin, Board of Health, as representative from the Town of Sudbury to the 128 West Resource Recovery Council in order to participate in planning for a regional resource recovery plant.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session of May 15, 1978, as drafted.

Ritchie Bus Lines

Relative to the new schedule of Ritchie Bus Lines, Executive Secretary Richard E. Thompson stated that he received a memo dated May 17, 1978, from Town Counsel's office indicating that the Department of Public Utilities requires a fourteen-day notice in advance of change in schedule, but does not need approval. Since Ritchie Bus Lines gave only a seven-day notice, there was an additional seven day wait before implementing the schedule causing confusion among some commuters.

The new schedule is as follows: Leaving Park Square, Boston
4:45 P.M. and 5:15 P.M.

Executive Session

At 9:45 P.M. it was on motion following a unanimous Roll Call

VOTED: To enter into Executive Session for the purpose of discussing litigation where open discussion of the same may have a detrimental effect; and for the purpose of discussing the Charity Fund where open discussion may have a detrimental effect on the reputation and character of an individual.

Chairman Toomey announced that the public session would not reconvene following the Executive Session, and that Robert J. Hotch, the only candidate running for the office of the Board of Selectmen in the Special Town Election on June 5, 1978, would be allowed to remain during the Executive Session to observe the procedure of the same.

There being no further business to come before the Board, the meeting was adjourned at 10:00 P.M.

Attest:

Richard E. Thompson
Executive Secretary-Clerk