

IN BOARD OF SELECTMEN  
WEDNESDAY, MAY 31, 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.

Jurors

The Board drew the names of William T. Maloney, 119 Willis road, and Miriam S. Weinstein, 17 Barton Drive, to serve as jurors at Cambridge Court commencing July 3, 1978.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session of May 22, 1978, as corrected, and the minutes of the Executive Session and the Town Fathers Forum of May 22, 1978, as drafted.

Lease Agreement - Stephen B. Verrill of Concord

Chairman William F. Toomey stated that the Board's signatures would be required in order to execute a lease agreement in conjunction with the Park and Recreation Commission with Stephen B. Verrill of Concord, Massachusetts, for use of a portion of the Davis Land, North Road, for agricultural purposes, expiring November 30, 1978.

Executive Secretary Richard E. Thompson stated that the Board had a question regarding the payment of the negotiated fee by Verrill Farm for the use of said land, and in answer to their question, Mr. Thompson said that payment in full had been made for both last year and the upcoming year. Mr. Thompson further stated that Town Counsel has reviewed the Lease Agreement and has approved it for signing by the Board of Selectmen.

Selectman John E. Murray stated his belief that last year the Park and Recreation Commission did not obtain and execute a lease agreement from Verrill Farm, and asked the Executive Secretary to check whether this was so.

It was on motion unanimously

VOTED: To sign a lease agreement in conjunction with the Park and Recreation Commission with Stephen B. Verrill of Concord, Massachusetts, for use of a portion of the Davis Land, North Road, for agricultural purposes, expiring November 30, 1978.

Resolution for Special Town Meeting - Lincoln-Sudbury Bills

Present: Richard F. Brooks and Alan Grathwohl, Lincoln-Sudbury Regional School District Committee.

Mr. Richard F. Brooks, Lincoln-Sudbury Regional School District Committee (LSRSDC), stated that the LSRSDC would like the Board of Selectmen to support two

resolutions at the upcoming Special Town Meeting endorsing the LSRSDC's bills (H5360 and H5361) relative to a contingency fund and parking fees.

Mr. Brooks further stated that the LSRSDC plans to propose two resolutions relative to the two above-mentioned bills with wording indicating the Town's endorsement of these two bills, and with the assurance by the LSRSDC that when the bills are passed, before the committee utilizes the authority granted therein, they will come back to the two towns for a formal Town Meeting vote on them. Mr. Brooks said that he and Mr. Alan Grathwohl, LSRSDC member, would like to see the Contingency Fund as an amendment to the original agreement between the two towns.

Mr. Brooks expressed his opinion that the two resolutions should be voted on separately, and that he plans to draft the two resolutions after tonight's meeting with the Board.

Chairman William F. Toomey said that the Board would have liked to have read the two resolutions tonight, since they had planned to take a position tonight on whether or not to support them.

Mr. Brooks said that it was his intention tonight to ask the Board whether or not they thought this was a reasonable approach, and that if they agreed it was, he would draft the resolutions prior to the Special Town Meeting allowing the Board ample time before the meeting to read the resolutions and make a decision to support or not to support them.

Selectman John E. Murray commented to Town Counsel that the Parking Bill was all too encompassing and should be a separate issue and asked if the agreement between the two towns can be amended with the resolution. Selectman Murray further stated that the original concern which was raised by the Board was that the bills themselves would supersede, had they passed, the original agreement between the two towns and would not have required a vote of the two towns. He questioned what it meant to "support the resolution".

Town Counsel answered that a resolution at a Special Town Meeting would simply indicate the opinion of the people in attendance at Town Meeting. It would not be legally binding.

Selectman Toomey stated that he has heard the Superintendent of Schools mention many times that there is a contingency fund, and confirmed this with Mr. Brooks and Mr. Grathwohl. He continued to say that it would be better for them to bring this matter before the 1979 Annual Town Meeting since they have the contingency fund set up this year anyway.

Selectman Toomey asked Mr. Brooks and Mr. Grathwohl how much money was in this year's budget for the contingency fund and learned that it was between \$40,000 and \$45,000. He stated that the bill before the General Court for a contingency fund could authorize up to \$280,000, plus.

Mr. Brooks firmly stated that Selectman Toomey should not imply that the LSRSDC intends to submit budgets in accordance with "some maximum in the State laws".

Selectman Toomey stated that he was not implying this but that this information should be made available to the townspeople; he further stated that if the Board were

to vote now, it would be a split vote.

Selectman Murray stated that the Board would probably support an amendment to the original agreement on the Town floor, but does not understand what purpose the resolution serves other than to indicate that the Board endorses the legislation.

Mr. Brooks stated that the resolutions would put the LSRSDC on record in the towns as proposing a certain administrative course of action.

Mr. Grathwohl stated that the LSRSDC is also seeking the advice of the Board tonight as to one of two ways in which to proceed: 1) the LSRSDC could wait and go before Annual Town Meeting next year; or 2) submit the resolutions to the Special Town Meeting, and if passed, the LSRSDC would hope that the Board would withdraw their objections before the legislature.

Selectman Toomey said that it was his opinion that the LSRSDC should wait and go before Annual Town Meeting next year.

Selectman Murray stated that he is still not clear on the meaning of supporting the resolutions, because in supporting the resolutions the Board would also be supporting the bills, and in his opinion, the two bills need to be rewritten.

Selectman Toomey said that the Lincoln Finance Committee and Board of Selectmen along with the Sudbury Finance Committee support the legislation.

Selectman Murray said that if the Board supports resolutions to support legislation, then they would be supporting the legislation, and he asked Town Counsel what would happen once the legislation becomes law to the agreement between the two towns.

Town Counsel said that the legislation would become an additional condition of the original agreement between the two towns.

Mr. Brooks said that this course of action was suggested by the attorney for the LSRSDC.

Selectman Toomey suggested that the LSRSDC write the resolutions and give the "three-member" Board (as of June 7th) the opportunity to read them.

Mr. Brooks asked the Executive Secretary to make viewgraphs for him of the resolutions for the Special Town Meeting.

The Executive Secretary commented that Town Meetings have Warrants for the purpose of warning people what will be discussed at the Town Meeting, and that it concerns him that these are resolutions of some magnitude, and being that there has been some controversy and discussion in Town about the issue, resolutions coming up in this manner without "legally" informing the public will be a concern to some people.

Mr. Brooks stated that the LSRSDC is aware of that concern and is relying on the press to get the word around; and also, that these resolutions have no legal binding.

It was the consensus of the Board of Selectmen and the members present of the LSRSDC, Mr. Brooks and Mr. Grathwohl, that the LSRSDC would draft their resolutions

for presentation to the Special Town Meeting including their formal vote agreeing to the wording of the resolutions and present the same to the Board of Selectmen prior to the June 7th Special Town Meeting.

Public Hearing - Dog Complaint

Present: Mr. and Mrs. Stephen K. Ellis, complainants; Francis E. White, Dog Officer; and Betsey M. DeWallace, Assistant Dog Officer.

Chairman William F. Toomey convened a Public Hearing under G. L. Chapter 140, s.157, on the Dog Complaint dated May 5, 1978, of Mr. Stephen K. Ellis, 27 Silver Hill Road, against the dog, King, a German Shepherd, owned by Mr. and Mrs. Kenneth E. Simon, 26 Silver Hill Road; said complaint states that the dog is overly aggressive, has bitten Mr. Ellis, has attacked his dog which required the care of a veterinarian and has attacked the U.P.S. man.

Executive Secretary Richard E. Thompson stated that the complaint was filed in the Town Clerk's Office on May 5, 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 25, 1978, from the Assistant Dog Officer listing five complaints against the dog, King, one from the U.P.S. driver and the others from the Ellises; 2) a letter dated May 30, 1978, from Mr. and Mrs. Robert Gottberg, stating that the dog, King, had bitten their dog, Brick, on April 2, 1978; 3) a letter dated May 20, 1978, from Steven H. Sewall, supporting the Ellises in their desire to have the dog, King, penned or leashed at all times because he frightens the neighborhood children; 4) a letter dated May 30, 1978, from David Bliss, U.P.S. driver, stating the details of December 22, 1977, when the dog, King, attacked him; and 5) a letter dated May 30, 1978, which was unsigned, in support of the Ellises' complaint.

Mr. Thompson said that on May 8, 1978, a letter was sent to the Simons, owners of the dog, King, from the Selectmen notifying them of tonight's hearing and requesting them to contact the office if they were unable to attend. Mr. Thompson further stated that the Simons are not present tonight, but failed to notify the Selectmen's office.

Mr. Francis E. White, Dog Officer, stated that the U.P.S. driver had been extremely upset after being attacked by the Simons' dog and took time out from work to file a complaint at the Building Department in person against King.

Mr. Stephen K. Ellis stated that in his opinion there are sufficient complaints against the dog but added that he and his wife want to feel free to walk out to their mailbox, which is across the street, and on their property without constantly having to keep their eyes alert for this dog. He further stated that he decided to pursue this course of action because Mr. Simon has not restrained his dog as he said he would after his dog bit Mr. Ellis, and that the dog often roams in the neighborhood.

Selectman Toomey asked if this was a new neighborhood situation and how long everyone has lived there.

Mr. Ellis said that he has lived there ten years, the Simons have been there about five years, and that the dog came as a pup four to five years ago.

Mrs. Ellis stated that King bit their dog and charged her and scared her so much that she could not speak.

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

VOTED: To permanently restrain and confine the dog, King, a German Shepherd, owned by Mr. and Mrs. Kenneth E. Simon, 26 Silver Hill 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 controlled by a leash; and it was further

VOTED: To request that the Dog Officer pick up and hold said dog if he is so notified that the dog is unrestrained either in the neighborhood or on the owners' property, at which time he should notify the Board of Selectmen; and it was further

VOTED: To allow the Simons their right to another public hearing, if their dog is picked up by the Dog Officer at which hearing it will be at the discretion of the Board of Selectmen to decide if the dog is to be disposed of.

Community Cablevision of Framingham-Presentation by Attorney Richard E. Manelis

Present: Attorney Richard E. Manelis, Bud Hamler, President and Ernest Tunman, Board of Directors, Community Cablevision of Framingham.

Chairman William F. Toomey stated that Attorney Richard E. Manelis is in attendance tonight in order to present, on behalf of Community Cablevision of Framingham, the proposed plans to string cable along Brimstone Lane, Dudley Road, Route 20 and Nobscot Road which will require the Board of Selectmen's approval.

Selectman Toomey raised the question that the Board had taken a position on cable television once before, and the Executive Secretary replied that on his advice he researched the Selectmen's minutes from 1970 to the present time and the only portion of minutes that was found relative to cablevision was on August 12, 1971, stating the following: "The possible request by some company to distribute a wire TV service may be made at any time and the need for Town legislation to force any such new wires to be placed underground was noted."

Selectman Toomey suggested that this was an issue which should come before the Town, not something to be decided by the Selectmen.

Mr. Richard E. Manelis, attorney for Community Cablevision of Framingham, said that the issue before the Selectmen tonight does not concern whether or not the Town will have cablevision, but rather a request to string two-three miles of 3/4" cables on existing telephone poles (between existing larger cables) along Brimstone Lane, Dudley Road, Route 20 and Nobscot Road. Mr. Manelis said that Community Cablevision of Framingham is in the process of discussing the various technical advantages and disadvantages of three different possibilities for the antenna system, and before a decision is made as to which of the three will be utilized, it is necessary to know that all the options are available. Mr. Manelis said that the other two options (which do not involve Sudbury) are being studied, that Boston Edison and New England Telephone will be approached for a contract for use of the required 105 existing poles, and requested that, if utilizing utility poles in the Town of Sudbury requires a public hearing, that Town Counsel and/or the Executive Secretary arrange the necessary procedure for publication.

Selectman Toomey questioned the details regarding distance of cables in a letter from Mr. Manelis dated May 16, 1978.

Mr. Bud Hamler, President of Community Cablevision of Framingham, confirmed the distance of approximately 2 miles of cables in Sudbury stating that he measured the distance (.9 on Brimstone Lane with 15 poles, .95 on Boston Post Road with 51 poles, .6 on Dudley Road with 22 poles, and 1/2 mile on Nobscot Road).

In answer to Selectman Murray's question, Mr. Hamler stated that no additional poles will be needed.

In answer to several questions asked by Mr. Richard F. Brooks, Mr. Hamler gave the following responses:

1) that service would not be provided along this cable in Sudbury without finalizing the issue, perhaps sometime in the future, with the Selectmen;

2) that there would be amplifiers periodically spaced along the cable;

3) that Community Cablevision of Framingham does plan to make an application to the Board of Selectmen for service in Sudbury, that 55% of Framingham should be completed this year and that after completing the Town of Framingham the following year, will plan to expand the program;

4) that the service is capable of handling 36 channels, but will start with 24; and

5) that Community Cablevision of Framingham will agree to pay the Town of Framingham 50¢ per year per subscriber under G.L. Chapter 166.

In answer to Selectman Toomey, Mr. Hamler said that bringing the cable through Sudbury would be the most economical alternative.

Mr. Hamler also said that if in the future Sudbury decided to have cable television, future costs would be minimized because the tower would already be up. He said that the tower would be tree height view on Nobscot Hill (about 80'), that the existing telephone tower is 100', and the existing Algonquin Boy Scout Regional Council tower is 130'.

Selectman Murray stated that to proceed, Town Counsel should review existing statutes on cable television and comments made at the meeting tonight and recommend a course of action for the Board.

The Executive Secretary commented that a petition may also be necessary since utilities are included, and that the Board may require a plan, and suggested that both Counsels agree on the necessary procedure.

Mr. Brooks suggested that the Board include in their vote "the use of existing poles" and specify "no additional poles". Mr. Brooks also questioned the license contract.

Mr. Hamler stated that Community Cablevision of Framingham is in the process of

finalizing their license in Framingham and have a provisional license which is the first step to a final license for a ten-year contract.

Following further discussion it was on motion unanimously

VOTED: To direct the Executive Secretary to contact the Executive Secretary in Framingham for confirmation that Community Cablevision of Framingham does hold a provisional license to operate in the Town of Framingham and authority to proceed, and to report back to the Board of Selectmen on the same.

Diesel Fuel Storage License - Douglas R. Lewis, Jr., 9 Old County Road

Chairman William F. Toomey reviewed the Board's vote of May 31, 1977, relating to the renewal of a diesel fuel storage license to Douglas R. Lewis, Jr., for property at 9 Old County Road, which read in part as follows: "said license will expire on June 1, 1978, and its renewal is subject to the statutory annual filing requirement".

Executive Secretary Richard E. Thompson noted a communication dated May 19, 1978, from Town Counsel recommending a change in that vote so the above-referenced portion would be replaced with the following: "said license is subject to the statutory annual filing requirement of a Certificate of Registration with the Town Clerk".

Mr. Thompson explained that by making this change in the vote, the procedure of the annual renewing of the storage license hearing and the costs associated with the hearing could be eliminated, and Mr. Lewis could simply obtain his renewal license by filing with the Town Clerk and receiving a Certificate of Registration.

Mr. Thompson called the Board's attention to the vote of July 20, 1972, at which time the Board voted this license on a 5-year basis; the vote read in part as follows: "all storage rights shall expire automatically on July 31, 1977, unless renewed by action of the Selectmen after public hearing on proper application on or before June 1, 1977.

Selectman Toomey questioned ownership of the property (9 Old County Road), and Selectman Murray suggested that the Executive Secretary clarify the ownership of the property before the Board amends the vote of May 31, 1977.

The Executive Secretary stated that he was not aware of the Board's concern regarding the ownership of the property, but referenced Town Counsel's letter of May 20, 1977, which states: "I recently spoke to Mr. Lewis as to the present status of the property which is as follows: on the death of Mrs. Eileen Whitworth, the property was left to Mr. Lewis, who was Executor of the Estate. The property is currently used by Mr. Lewis (Lewis Service Corp.), Ted's Automobile Repair and Jenkins Contractor."

Mr. Thompson said that due to the wording of the license, technically the Board could require Mr. Lewis to file a new application, making it necessary for him to go through the process of a hearing, which in addition to the license fee of \$25, would cost Mr. Lewis \$25 for the public hearing.

Selectman Toomey said that at one time there was a problem with the site plan which, in his opinion, the Board never received for that property, and asked the

Executive Secretary to clarify this.

Mr. Thompson said that there was a site plan submitted back in 1972, as the Board's vote in that year indicated approval of the site plan of Eileen Whitworth, 9 Old County Road, dated July 10, 1972, for location of tank and pump for diesel fuel storage in connection with Lewis Transportation on 9 Old County Road.

Selectman Toomey stated that he did not believe there was presently a company in Town by the name of Lewis Transportation, and that it is not possible to have a storage facility without a site plan.

Following further discussion it was on motion unanimously

VOTED: To table amending the vote of the Board taken on May 31, 1977, relating to the granting of a diesel fuel storage license to Douglas R. Lewis, Jr., for property at 9 Old County Raod, so that the Executive Secretary can clarify ownership of the property and whether or not there was an existing site plan for the property.

#### Transfer Request

The Board considered a Request for Transfer #0782 from the Reserve Fund in the amount of \$1,300 for Account 950-99 Telephone-Unclassified, needed to pay for telephone costs for the months of May and June, as a result of an unforeseen increase in expenses due to improved service and a rate increase.

The Executive Secretary, Richard E. Thompson, stated that approximately 1½ years ago the total billing charges were estimated at \$900 per month, but at the present time, they are \$1100 which totals \$2200 for the remaining two months, less an \$800 charge back to the schools for an under-estimated charge to them, and less the \$68 balance in the account, making the transfer of \$1,300 necessary.

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

VOTED: To approve the Request for Transfer #0782 from the Reserve Fund in the amount of \$1,300 for Account 950-99 Telephone-Unclassified, for the reasons set forth in the numbered transfer.

#### Department of Public Works - Form HED-077

Executive Secretary Richard E. Thomspon recommended that the Board sign a verification for the State Department of Public Works of our appropriation for expenditures in street reconstruction highway work, (the last one was signed in June, 1978, verifying \$90,000 received in highway aid), and requested a vote authorizing the chairman to sign these documents and forward them to the Department of Public Works, after verification by the Town Accountant.

It was on motion by Selectman John E. Murray unanimously

VOTED: To authorize the Chairman of the Board of Selectmen to sign and submit to the Department of Public Works Form HED-077 and certified appropriation votes of the 1978 Annual Town Meeting, serving as notification of the amount that will be incurred as the actual cost during Fiscal Year 1979 for construction, maintenance and



policing of streets and roads in accordance with G.L.c.81, Sec. 31, as amended by Section 14, Chapter 497, Acts of 1971.

Ambulance Activities

It was on motion unanimously

VOTED: To accept the reports of the Town Accountant and the Fire Chief dated May 22, 1978 and April 12, 1978, respectively, updating the Board on ambulance activities.

Selectman Toomey recommended that a meeting, when there is a full Board, be scheduled with the Firefighters and the Fire Chief prior to July 1, 1978, for review of the Fire Department activities. The Executive Secretary suggested discussion might include collective bargaining matters and Labor Relations Counsel should be consulted first. Selectman Murray agreed.

Committee on Town Administration

The Board acknowledged receipt of a letter dated May 24, 1978, from Raymond P. Clark, Clerk of the Committee on Town Administration, relative to the recent appointment of Mr. John C. Powers to the Historical Commission, and requested that Town Counsel respond to Mr. Clark through the Board of Selectmen.

CETA Programs

It was on motion unanimously

VOTED: To accept the report dated May 19, 1978, from John H. Wilson, Town Accountant, relative to CETA Program Administration.

Resolution for Elizabeth Eileen Paradis

It was on motion unanimously

VOTED: To sign a resolution for Elizabeth Eileen Paradis upon the occasion of her retirement from the Sudbury School System.

Middlesex County Advisory Board

The Board received a report from the Executive Secretary on the action taken by the Middlesex County Advisory Board (MCAB) at its meeting held on May 25, 1978, relative to the Middlesex County budget for Fiscal Year 1979.

The Executive Secretary commented that the Middlesex County Advisory Board did have a required two-thirds membership present and voting on the MCAB's budget recommendations for incorporation into the Middlesex County budget for Fiscal Year 1979. The following was accomplished: an additional \$630,000 budget deletion will go to the Legislature; and the MCAB voted in opposition to a supplementary budget recently submitted by the County Commissioners.

Sudbury Housing Authority

The Board acknowledged receipt of a communication dated May 23, 1978, from the Sudbury Housing Authority thanking the Board for its support and cooperation in performing duties related to Housing Authority business.

Minutes of December 13, 1976 - Correcting Vote

It was on motion unanimously

VOTED: To correct a vote of the Regular Session of December 13, 1976, to read as follows: To reappoint W. Burgess Warren to the Historic Districts Commission for a term to expire on January 1, 1982.

License Renewals - Sudbury Bowladrome, Inc., 136 Boston Post Road

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

VOTED: To grant to Sudbury Bowladrome, Inc., 136 Boston Post Road, renewal of the following licenses:

1. a License for Public Entertainment on the Lord's Day to operate and maintain Automatic Amusement Devices (Pinball Machines), commencing July 2, 1978 and expiring June 24, 1979, from 1:00 P.M. to 11:00 P.M. on Sundays, subject to the approval of the Commissioner of Public Safety and to payment of fees as required;
2. a License for Public Entertainment on the Lord's Day to operate and maintain six (6) pocket billiard tables for amusement, commencing May 28, 1978 and expiring May 20, 1979, from 1:00 P.M. to 11:00 P.M. on Sundays, subject to the approval of the Commissioner of Public Safety and to payment of fees as required; and
3. approval of the License of Sudbury Bowladrome, Inc., to operate twenty-four (24) bowling alleys on weekdays from 8:00 A.M. to 12:00 midnight and Sundays from 9:00 A.M. to 11:00 P.M. and six (6) pocket billiard tables on weekdays from 8:00 A.M. to 12:00 midnight.

Consideration of Remaining Appointments by the Board

It was on motion unanimously

VOTED: To table consideration of the remaining appointments by the Board for two weeks.

Edison Property for Dog Facility

Executive Secretary Richard E. Thompson reported that he spoke to Boston Edison Company and was informed by them that their Property Review Committee meets on a monthly basis, and that the Selectmen's office will be notified as soon as possible as to their decision for the use of their property on the Boston Post Road as requested by the Town of Sudbury for a dog facility.

Committee on Town Administration - Five-Member Board

The Executive Secretary reported that the Committee on Town Administration is studying the possibility of a five-member Board of Selectmen, and that Town Counsel will review legal ramifications related to the subject and report back to the Board.

There being no further business to come before the Board, the meeting was adjourned at 9:30 P.M.

Attest:

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Richard E. Thompson  
Executive Secretary-Clerk