

IN BOARD OF SELECTMEN
WEDNESDAY, OCTOBER 4, 1978

Present: Selectmen 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 Acting Chairman John E. Murray.

Goodnow Library Trust Fund Income Account

Present: Helen Lowenthal, Director of Goodnow Library and George D. Max, Chairman of Goodnow Library Trustees.

Executive Secretary Richard E. Thompson stated that at the Board's last meeting with Mr. George D. Max, Chairman of the Goodnow Library Trustees, on September 27, 1978, it was mutually agreed, after some discussion, that Town Counsel should put in writing his answer to Mr. Max's latest letter to the Board dated September 27, 1978, which was received last Wednesday; and in addition, to address tonight the question of the Board taking action on the specific proposals for expenditures from the Goodnow Library Trust Fund income account, in accordance with the chairman's previous letter dated August 31, 1978.

Mr. Thompson read the Selectmen's copy (received today, dated October 4, 1978,) of Town Counsel's response to Mr. Max answering the questions raised in his letter of September 27, 1978.

Mr. Thompson reviewed Town Counsel's letter by commenting that the Trustees of Town Donations can reinvest and/or transfer income account funds to the Goodnow Library Trust Fund principal, but this does not technically make them part of the principal; that Town Counsel states that it is the obligation of the Trustees to protect the fund and avoid depletion on the principal; however, should circumstances require the utilization of all the funds, the Probate Court should be petitioned by the Trustees "for instructions in consideration of the dictates of the gift under the will of John Goodnow".

Mr. Max stated that he understood and concurred with the communication dated October 4, 1978, from Town Counsel (read and reviewed by the Executive Secretary).

Selectman John E. Murray asked the Executive Secretary if he had contacted Town Accountant John H. Wilson regarding the specific proposals for the use of some of the income funds for the purposes specified in Mr. Max's letter of August 31, 1978.

Mr. Thompson stated that Mr. Wilson informed him that there is approximately \$4,000 interest income in the Goodnow Library Trust Fund, and Mr. Thompson recommended that the Board authorize the expenditures from the income account as requested by the Library Trustees.

Selectman Robert J. Hotch repeated his concerns expressed last week and asked why the Library Trustees are requesting the allocation of funds from the Income Account for library use rather than using the regular budget process for this purpose.

Mr. Max commented that all proposed expenditures from the Trust Fund income account might be listed in the Library's annual budget in the future so that the Finance Committee might know which of them would be recommended to be expended through

the Trust Fund after approach to the Selectmen for approval of said expenditures. Mr. Max continued to say that the Trustees have worked well with the Finance Committee in the past and will continue to do so in the future. On the latter statement, Selectman Hotch, being a former Chairman of the Finance Committee, concurred.

Following further discussion it was on motion by Selectman Robert J. Hotch unanimously

VOTED: To approve, as co-trustees of Town donations under the provisions of Chapter 180 of the Acts of 1911, in accordance with a request from the Chairman of the Goodnow Library Trustees dated August 31, 1978 the allocation of \$3,000 from the Goodnow Trust Fund Income Account to be expended during the period October, 1978, through August, 1980, by the Goodnow Library Trustees, subject to the concurrence of the Town Treasurer as Co-Trustee, for continuing the following programs:

Restoration of Ancient Documents -	\$1,600.00
Purchase of Books & Documents -	1,000.00
N. E. History and Genealogy	
Binding	100.00
"Sudbury Landmarks 2"	300.00

The Director of the Goodnow Library, Helen Lowenthal, explained that "Sudbury Landmarks 2" is a continuation of the "Sudbury Landmarks 1" program of compiling photographs and creating narratives of historical sites in Sudbury.

Landham Road Reconstruction Liability Question

Present: Mr. and Mrs. Peter H. Anderson and Ross A. Piken, Landham Road residents.

Executive Secretary Richard E. Thompson stated that shortly after the 1978 Annual Town Meeting it was agreed upon by the Board to notify the Town Engineer to proceed with the designs for Landham Road at a width of twenty-four feet, as voted by the Annual Town Meeting; however, the questions remained as to the liability to the Town if the road was constructed at this width without a seal of a registered professional engineer affixed to the plans, and the liability on the part of Town for a defective design of a road. As requested by the Board of Selectmen, Town Counsel responded on July 24, 1978, that "the presence or absence of the seal itself will not impose liability but the knowledge that the engineer refused to affix his seal to plans and specifications based on the engineer's belief that such plans and specifications were defective could in fact result in liability on the part of the user of such plans and specifications if they were in fact defective or unsafe"; and further indicated at that time that he wanted more time to review the recently enacted State municipal immunity law before responding to the question pertaining to "defective designs of a road".

On the recommendation of the Executive Secretary, Town Counsel Paul L. Kenny reviewed his seven-page report, dated October 4, 1978, which the Selectmen received today, relative to the new State municipal immunity law and his opinions relating to the possible liability of the Town for personal injury claims brought against the Town relating to road design.

Town Counsel's conclusion stressed the importance of determining the interpretation of the experts (Town and State engineers) regarding "unsafe" or "underdesigned"

roads in relation to the construction of Landham Road at a width of twenty-four feet, and that if the engineers determine that the road is "underdesigned" rather than "unsafe" (an "underdesigned" road is not necessarily an "unsafe" road), the liability to the Town would be minimized.

Selectman John E. Murray suggested consultation with local and state engineers relative to their concerns for a twenty-four foot width on Landham Road, and whether it is their opinion that this means the road is "underdesigned" and "unsafe".

Selectman Robert J. Hotch expressed his opinion that the Selectmen should be able to guarantee the Town that it will be free of all liability at the completion of the construction of Landham Road, and stated that the Board will need direction from Town Counsel at this point.

Ross A. Piken, 55 Landham Road, expressed his concerns relative to the fact that engineers' interpretations of accepted Engineering Standards as to the acceptable width of a particular road will vary; therefore, it's very possible to have two different schools of thought on the same. Town Counsel concurred.

Selectman Murray stated that the Board's concern is whether the road is determined to be "unsafe", not "underdesigned", and subsequently the liability to the Town and possible retention of certain funds by the State in connection with the width of the road being 24 feet.

Following further discussion, it was the consensus of opinion that Town Counsel consult with the Town Engineer and certain officials of the State Department of Public Works in determining their interpretation of "underdesigned" and "unsafe" in relation to Landham Road at a constructed width of twenty-four feet (in other words, if Landham Road is determined to be underdesigned at 24 feet, does that in their opinion it is unsafe) and that Town Counsel report back to the Board as soon as possible.

Site Plan R78-193, Peter Piona, Trustee, Peter Cam Realty Trust, 1 Union Avenue

Present: Francis E. White, Zoning Enforcement Agent.

In accordance with Article IX, Section V, Paragraph A of the Sudbury Bylaws, the Board considered site plan renewal application #R78-193 of Peter Piona, Trustee, Peter Cam Realty Trust, for property located at 1 Union Avenue.

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 communication dated August 29, 1978, from the Building Inspector/Zoning Enforcement Agent, recommending approval; 2) a report from the Board of Health dated September 8, 1978, recommending approval; 3) a report from the Conservation Commission dated September 6, 1978, expressing no apparent concern; and 4) a report from the Planning Board dated September 16, 1978, recommending approval.

Executive Secretary Richard E. Thompson explained that site plan #R78-193 is for property located at 1 Union Avenue, north of the Mobil Station, off Route 20,

and that the owner had submitted this renewal application following notification by the Zoning Enforcement Agent that the previous site plan had expired. Mr. Thompson stated that there has been some inquiry through the Selectmen's office as to the present owner of the property as well as inquiries from individuals interested in purchasing the property. Mr. Thompson further stated that the "For Sale" sign which was up last week has been taken down and asked Mr. White if he has any other information regarding ownership of the property.

Building Inspector Francis E. White stated that when he requested the renewal of the site plan the property was owned by Peter Piona; however, at the present time, the property is under a purchase and sales agreement by another party, and a new site plan will be forthcoming. Mr. White recommended that approval of site plan #R78-193 be denied at this time without prejudice.

In answer to Mr. Thompson, Mr. White stated that it has been confirmed by the party signing the purchase and sales agreement that there will be a new site plan. Mr. White informed the Board that he has been speaking with the architect relative to the new plans for the building, that he has seen the renderings of the building, and that it will be used as office space.

Following further discussion it was on motion unanimously

VOTED: To deny without prejudice Site Plan renewal application #R78-193 of Peter Piona, Trustee of Peter Cam Realty Trust, for property located at 1 Union Avenue.

Boston Standard Metropolitan Statistical Area (SMSA)

Present: Frank H. Grinnell, Board of Assessors.

Executive Secretary Richard E. Thomson stated that a communication has been received dated September 26, 1978, from John F. DelPrete, Chairman of the Framingham Board of Selectmen, stating that the Department of Commerce recently proposed a major expansion of the Boston Standard Metropolitan Statistical Area (SMSA), and that the enlarged SMSA would include communities as far north as Newburyport and Pelham, New Hampshire, as far south as Plymouth, and as far west as the Middlesex Communities of Marlborough, Southborough and Hopkinton and stating his opposition to this new definition. Chairman DelPrete's letter further requested, if the Sudbury Board of Selectmen share his concerns, that they communicate the same to the Honorable Juanita Kreps, Secretary of Commerce, as he has done under the date of September 25, 1978, a copy of which was enclosed in his communication to the Board.

Mr. Thompson recommended that the Board support the Town of Framingham and so communicate to Mr. John F. DelPrete, Chairman of the Framingham Board of Selectmen, and to the Secretary of Commerce.

Following discussion, it was on motion unanimously

VOTED: To support the Framingham Board of Selectmen in its request to establish a new South Middlesex Standard Metropolitan Statistical Area (SMSA), and concur with its concern regarding proposed changes to SMSA definitions in eastern Massachusetts, as communicated to The Honorable Juanita Kreps by Chairman John F. DelPrete of the Framingham Board of Selectmen on September 25, 1978;

and it was further unanimously

VOTED: To express to the Metropolitan Area Planning Council Sudbury's interest in having its own South Middlesex (Framingham/Marlboro) SMSA, as MAPC is apparently supporting otherwise.

Classification Amendment - Question No. 1, November Ballot

Following discussion of a letter, dated October 2, 1978, relative to the Classification Amendment from the Metropolitan Area Planning Council (MAPC), on the recommendation of the Executive Secretary, it was on motion unanimously

VOTED: To direct the Executive Secretary, on behalf of the Sudbury Board of Selectmen, to express strong opposition to the communication dated October 2, 1978, from MAPC at their meeting to be held on October 5, 1978.

"King Amendment", House No. 5269 of 1978

The Board acknowledged receipt of a communication dated September 7, 1978, from the Massachusetts Legislative Research Bureau requesting the Board's opinion relative to the "King Amendment" (House No. 5269 of 1978), pursuant to a study mandated by House No. 6109.

Following a brief discussion, on the recommendation of the Executive Secretary it was on motion unanimously

VOTED: To direct the Executive Secretary to communicate with the Legislative Research Bureau indicating the Board of Selectmen's support of items 4 and 5 on page 2 of the Article of Amendment contained in the "Initiative Proposal of Mr. Edward F. King and Others for an Amendment to the Massachusetts Constitution Limiting State Annual Tax Revenues and Expenditures, State Borrowing, and State Laws Adding to Local Governmental Costs (House, No. 5269 of 1978, As Amended)"; and stating their intention to inquire through the King office for a clarification of the other sections contained therein.

Hosmer House Occupancy

Executive Secretary Richard E. Thompson explained that on September 18, 1978, the Board addressed the subject of the occupancy of the Hosmer House as a result of a recommendation from the Sudbury Historical Commission dated August 22, 1978, asking the Board to consider a rent and utility free occupancy of Mrs. Linda White (the late Miss Hosmer's companion) and her friend, Miss Josephine Welch (former post mistress at Sudbury Centre Post Office).

The Executive Secretary stated that he discussed and reviewed with Town Counsel's office from a legal standpoint those recommendations made by the Sudbury Historical Commission, and stated that it is their mutual recommendation that the Board allow the continued occupancy of the Hosmer House by the two ladies, who are both elderly and on fixed income, for an indefinite period of time, free of charge, since base utility costs would still have to be paid by the Town (for the maintenance of the building even if it were vacant), and since Mrs. White has lived in the Hosmer House for many years while caring for the late Florence Hosmer.

In answer to Selectman Robert J. Hotch, Town Counsel said that the Hosmer House is included in the Town's liability policy.

Selectman John E. Murray stated, "We are not doing them any favors at all; they are doing us a favor."

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

VOTED: To allow Mrs. Linda White and Miss Josephine Welch to reside in the Hosmer House in a rent free/utility free situation until further notice, in accordance with the Sudbury Historical Commission's communication dated August 22, 1978.

Site Plan #78-194, Saxonville Wholesale Lumber-Warehouse Company, Radin Subdivision, Union Avenue

Present: Douglas P. Webb, applicant; Francis E. White, Building Inspector/Zoning Enforcement Agent.

In accordance with Article IX, Section V, Paragraph A of the Sudbury Bylaws, the Board considered site plan application #78-194 of Douglas P. Webb of Saxonville Wholesale Lumber-Warehouse Company for property known as RADIN Subdivision, off Union Avenue.

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 report dated August 30, 1978, from the Building Inspector/Zoning Enforcement Agent recommending approval; 2) a report dated September 18, 1978, from the Conservation Commission indicating no concern regarding the proposed addition, but noting the plan does not include 1977 revisions in relation to drainage and pond changes; and 3) a report from the Planning Board dated September 22, 1978, recommending that reference should be made on the plan to show there has been a alteration in drainage as allowed by the Conservation Commission.

Building Inspector/Zoning Enforcement Agent Francis E. White presented a plan to the Board showing the revised drainage changes made by the Conservation Commission and following a brief discussion of the plan it was on motion unanimously

VOTED: To approve and sign site plan #78-194 of Douglas P. Webb of Saxonville Wholesale Lumber-Warehouse Company for property known as RADIN Subdivision off Union Avenue dated May 13, 1974, and revised August 29, 1978.

November 7, 1978 State Election

It was on motion unanimously

VOTED: To set the time and place of the polls for the November 7, 1978, State Election at 6:30 a.m. to 8:00 p.m. at the Peter Noyes School for all four precincts.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session of September 27, 1978, as drafted.

Chapter 766 Appeals Hearing Decision

The Board acknowledged receipt of a communication dated September 26, 1978, from John J. Welch, Administrative Assistant for Pupil Services, Sudbury School Department,

relative to a favorable Appeals Hearing decision under Chapter 766.

The Board of Selectmen commended Town Counsel for his achievement of a possible savings of approximately \$70,000 to the Town of Sudbury as a result of the Appeals Hearing Decision, Chapter 766, Case #1798.

Remaining Appointments

Following consideration it was on motion unanimously

VOTED: To make the following appointments:

Michael E. Melnick, 97 Lincoln Road, to the Permanent Building Committee for a term to expire April 30, 1981.

John R. Williams, 80 Brookdale Road, to the Personnel Board, on the recommendation of the Chairman of the Personnel Board, to replace Douglas A. Dalton, Jr., for a term to expire April 30, 1981.

Pasquale T. Piscitelli, 21 Churchill Street, to the Personnel Board, on the recommendation of the Chairman of the Personnel Board, to replace Frederick R. Garrity, for a term to expire April 30, 1979.

The Executive Secretary indicated that a communication dated September 7, 1978, from Dr. Donald R. Oasis, a candidate to fill the vacancy on the Personnel Board, was responded to by a communication dated September 28, 1978, from Town Counsel indicating that there would be no conflict in Dr. Oasis serving on both the Personnel Board and a subcommittee of the Committee on Town Administration.

The Executive Secretary stated that the Board has received a communication dated September 28, 1978, from the Director of the Goodnow Library, Helen Lowenthal, requesting the Board's consideration of female representation on the Personnel Board now or when a future appointment is necessary on that Board, in light of the recent Bakke Supreme Court Decision, and the Board's reaffirmed commitment to equal employment opportunity.

Site Plan #78-196, Kent M. Wright et als, 157 Maynard Road

Present: Francis E. White, Building Inspector/Zoning Enforcement Agent; Kent M. Wright, applicant; Frank W. Kilburn, attorney for Mr. Wright; Judith A. Cope and Teresa N. Lukas, Conservation Commission.

In accordance with Article IX, Section V, Paragraph A of the Sudbury Bylaws, the Board considered site plan application #78-196 of Kent M. Wright and Joan S. Wright and Kent M. Wright Associates, Inc. for property located at 157 Maynard Road.

Executive Secretary Richard E. Thompson stated that at the request of the petitioners due to a hardship, this matter is being expedited by the Selectmen as quickly as possible.

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 report dated September 26, 1978, from Francis E. White, Zoning Enforcement

Agent, recommending approval; 2) a report dated September 29, 1978, from the Planning Board, recommending approval; 3) a report dated September 28, 1978, from the Conservation Commission expressing no apparent concern regarding said site plan; 4) a hearing decision of the Board of Appeals of September 19, 1978, voting to allow without prejudice the applicatn to withdraw his application in order that he may refile after an approved site plan; and 5) a communication dated September 25, 1978, from W. Robert Wilkinson, abutter, commenting on the Board of Appeal's hearing on September 19, 1978, Case #78-36.

On the recommendation of the Executive Secretary the Board concurred that a copy of Mr. Wilkinson's communication be forwarded to the Board of Appeals.

Selectman Robert J. Hotch brought the Board's attention to the fact that the site plan #78,196 has no stamp of a registered engineer.

Mr. Thompson stated that the Selectmen's Policies and Procedures state that if the site plan does not bear the seal and signature of a registered surveyor or professional engineer the Board of Selectmen can waive the requirement.

Following further discussion it was on motion by Selectmen Robert J. Hotch unanimously

VOTED: To sign and approve site plan #78-.96 of Kent M. Wright and Joan S. Wright and Kent M. Wright Associates, Inc., for property located at 157 Maynard Road, as shown on a plan by Kent M. Wright Assoc., Inc., dated September 26, 1978, subject to a hearing and favorable action by the Board of Appeals;

and it was further

VOTED: To waive the provision (I,1,h) requiring the seal and signature of a registered land surveyor or professional engineer, in accordance with the Selectmen's Policies for Site Plan Submission Rules and Regulations.

Acting Chairman John E. Murray recessed the meeting at 9:00 p.m. for a ten minute break; the meeting was called back to order at 9:10 p.m.

Personnel Board

Executive Secretary Richard E. Thompson stated that an interview had been scheduled for John Elwell, Jr., candidate for the Personnel Board, but that Mr. Elwell was unable to attend tonight's meeting because of a business commitment.

Employment of Juveniles with Misdemeanor Charges

Present: Fire Chief Josiah F. Frost and Police Chief Nicholas Lombardi.

Executive Secretary Richard E. Thompson stated that at a meeting held by the Board of Selectmen last April the Board discussed and reviewed Town Counsel's communication dated March 29, 1978, on the matter of employment by the Town of juveniles with misdemeanor charges, at which time the Board voted to accept Town Counsel's report and keep the matter under advisement.

Mr. Thompson continued that recently the Board has expressed an interest in further discussion with both the Chief of Police and the Fire Chief who would both like to try the program on an experimental basis.

Mr. Thompson said that this program, as originally discussed, if initiated will be used by other Town boards and departments- -it would not be limited to use by only the Police and Fire Departments.

Police Chief Nicholas Lombardi stated that Juvenile Officer William Carroll communicated with "someone" at the court level who indicated that the courts would not support the Town in carrying out this program. The Chief's main concern was the matter of administration of the program.

Selectman John E. Murray agreed that administering the program is a matter requiring further discussion, and suggested that perhaps Town Counsel could work with the Juvenile Officer in setting up a procedure of administering the program which can be presented to the Court.

Selectman Murray stated that it would be imperative for the Town to have the Court's support in view of court and parent participation and cooperation with Town officials necessary in working out a program for juvenile employment.

Selectman Robert J. Hotch agreed that a specific program should be prepared before approaching the Courts.

Selectman Murray said that there are ongoing programs in other areas which the Town could look into as an aid in the formation of its own program.

Town Counsel concurred with both Selectman Murray and Selectman Hotch relative to first setting up a procedure for administration of the program and then proceeding to request support from the Courts.

Mr. Thompson suggested requesting the Juvenile Officer to set up a program of employment by the Town of juveniles with misdemeanor charges, in conjunction with both the Fire and Police Chief, along with Town Counsel, for further discussion by the Selectmen before presentation of the same to the Courts.

Fire Chief Josiah F. Frost stated that there is a national program of this type now in force by the Town of Ashland, called a "Court Diversion Program" and suggested following their idea of dealing with the problem at the local level, in conjunction with a program designed for the juvenile by the juvenile officer, and if there are no results because of lack of participation or cooperation by parents, the family is offered the alternative of the Court (which can result in fines or probation). Chief Frost continued by saying that statistics show that the repeat of offenders is less than 2% in this national program.

Following further discussion it was the decision of the Board of Selectmen to request that the Fire Chief and the Police Chief meet with the Juvenile Officer and Town Counsel in order to define some type of program of employment by the Town of juveniles with misdemeanor charges and report back to the Board, for further discussion of the same, before presentation to the Courts in requesting their support.

Student Exchange Committee Welcome Dinner

The Executive Secretary reminded the Board that they had received an invitation to attend the Student Exchange Committee's Welcome Dinner to be held at the Pierce House

in Lincoln on October 5, 1978.

Selectman John E. Murray said that he would try to attend.

Cancellation of October 16th Board of Selectmen's Meeting

The Executive Secretary asked the Board to consider the cancellation of their meeting on October 16, 1978, due to the fact that he will be out of town.

Lincoln-Sudbury Regional High School Joint Meeting

Executive Secretary Richard E. Thompson suggested that the Board consider a future meeting with the Lincoln-Sudbury Regional High School Committee to discuss further the Contingency Fund and the Parking Fee Bills, in accordance with their mutual agreement.

The Board directed the Executive Secretary to set up a meeting with The Lincoln-Sudbury Regional School District Committee, Town Counsels from both Sudbury and Lincoln, the Finance Committees of both Towns and the Sudbury and Lincoln Boards of Selectmen to further discuss the proposed legislation - the Contingency Fund and the Parking Fee at the Lincoln-Sudbury Regional High School.

Personnel Administration Plan

The Executive Secretary reminded the Board to review the draft of an article to amend the Personnel Administration Plan (prepared by the Executive Secretary), submitted to the Board at their meeting on September 27th, in preparation of a meeting on October 23, 1978, with the Personnel Board, at which time a final review of the Clerical Study and the implementation of a salary plan; a review of non-union personnel salaries, including individual department heads, and a review in order to finalize the Personnel Administration Plan will take place.

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