

IN BOARD OF SELECTMEN  
MONDAY, DECEMBER 22, 1980

Present: Chairman John E. Murray, Anne W. Donald and William J. Cossart.

The statutory requirements as to notice having been fulfilled, the meeting was called to order at 7:00 p.m. by Chairman John E. Murray.

High School Racial Problems

Present: Alan H. Grathwohl, Chairman of Lincoln-Sudbury Regional School District Committee(LSRSDC)

Chairman Alan H. Grathwohl, LSRSDC, informed the Board that the High School would be closed tomorrow (December 23) for the safety of the children due to a racial disturbance there - school will re-open on January 5th. Mr. Grathwohl expressed his gratitude for the support the School Committee had received from the Selectmen and the Fire and Police Departments this past weekend, and stated that during the holiday recess, the LSRSDC would seriously look into all the incidents which have apparently taken place in the immediate past in order to deal with any continuing (racial) problems in the future.

Selectman Cossart asked if not being able to remove a Metco student from the program who was not performing as expected was an added problem for the School Committee. Mr. Grathwohl said that this was not a problem, but that in the past this has been a case in more than one instance. However, Mr. Grathwohl did clarify that the LSRSDC does not have jurisdiction in this area - they would only become involved in the case of an expulsion.

Ambulance Fees

Present: Fire Chief Josiah F. Frost.

The Board reviewed a communication dated December 11, 1980, from Fire Chief Josiah F. Frost at its last meeting on December 15th and requested comments from the Chief relative to charging mileage as well as increasing fees.

Fire Chief Frost confirmed his opinion that ambulance fees should be increased to \$60 from \$30 but that it probably would not be a good idea at this time to charge mileage due to the extra paper work involved. The Chief responded to the Board that Medicare's maximum coverage does not include supplies in the ambulance.

Chief Frost distributed copies of an ambulance survey he had prepared showing amounts charged, and other related data, by surrounding towns, as well as a breakdown of Sudbury's Fire Department's billings and collections for January through October, 1980.

Executive Secretary Richard E. Thompson commented that it is the Chief's intention to suggest uniform fees at the next area Fire Chief's meeting.

Mr. Thompson further commented that there was no legal requirement to advertise any increase; Chief Frost stated, however, that, if the Selectmen approve a raise in fees, the information would be mentioned in the next fire report.

At the conclusion of discussion, it was on motion by Selectman Donald unanimously

VOTED: To establish a new ambulance fee of \$60 per trip, effective January 1, 1981, in accordance with a request dated December 11, 1980, from Fire Chief Josiah F. Frost.

#### 1981 Street Acceptances

At the Selectmen's request, Executive Secretary Richard E. Thompson referenced information he obtained from Health Director John V. Sullivan relative to the status of the building lots on Bishop Lane and Thompson Drive - a subdivision off Concord Road. Although information received from Mr. Sullivan differed from information received under date of December 8, 1980, from James V. Merloni, Town Engineer, there was not a substantial enough difference to alter the opinion of the Selectmen, and the recommendation of the Town Engineer, that these two roads should not be included in the 1981 Street Acceptance article.

It was on motion by Chairman Murray unanimously

VOTED: To delete Thompson Drive and Bishop Lane from the 1981 Annual Town Meeting Street Acceptance article.

#### Fill - Wayland/Sudbury Septage Disposal Facility

The Board noted receipt of the following communications relative to the inadvertent removal of gravel by landfill operators from a area of the Wayland/Sudbury Sanitary Disposal Facility site which abuts the Sudbury Landfill:

- from the Chairman of the Operational Review Committee, William W. Cooper, dated December 16, 1980;
- from the Town Engineer, dated December 19, 1980; and
- from the Highway Surveyor to Mr. Cooper, dated December 22, 1980.

Chairman Murray stated that he had spoken to the Highway Surveyor and had been assured by him that the bounds between the Sudbury Landfill and the Wayland/Sudbury Sanitary Disposal Facility have now been properly marked by the Town Engineer to alleviate this problem in the future. Also, the Highway Surveyor confirmed that he had the required supply of fill on hand to replace 100 cubic feet, more or less, of gravel, if and when it is requested by the Town of Wayland, under the terms of a mutual agreement that Sudbury would supply.

#### Utility Petition 80-23, Old County Road

Present: Carole Clinton, Boston Edison Company.

In conformity with General Laws, Chapter 166, Sections 21 and 22, the Board considered Utility Petition #80-23 of Boston Edison Company and New England Telephone and Telegraph Company for joint ownership of pole 104/1 (formerly owned solely by Boston Edison Company) and for permission to erect or construct one guy wire and anchor to be used in common by them, upon, along and across the following way of the Town:

- Old County Road, southeasterly side, approximately 15 feet southwest of the Sudbury-Wayland town line - One (1) pole, One (1) guy wire and anchor. (This is an existing location, no new pole to be set,)

Executive Secretary Richard E. Thompson reported that all appropriate Town officials and abutters had been notified and that favorable reports had been received from the Building and Wiring Inspectors, dated December 19, and 12, respectively.

It was on motion unanimously

VOTED: To approve Utility Petition 80-23, as described above and as shown on a plan entitled "Plan of Old County Rd., Sudbury, Showing proposed pole location", dated October 21, 1980.

Grant Under BayPath Senior Citizens Services, Inc. for Council on Aging

It was on motion by Selectman Donald unanimously

VOTED: To accept funding of \$2100 under a grant from the BayPath Senior Citizens Services, Inc., to be utilized for operating and maintenance expenses for the Council on Aging van.

Accept Bid for Purchase of Damaged Police Cruiser

Following review of the three bids received, on the recommendation of the Police Chief, it was on motion unanimously

VOTED: To accept the offer of Central Auto Parts of Natick, Inc., 327 West Central Street, Framingham-Natick Line, Massachusetts, 01701, in the amount of \$621.85, for the 1978 Chevrolet Nova, vehicle identification number 1X69U8T250980, and to direct the Executive Secretary to assign the title and a bill of sale to the purchaser.

Executive Secretary Richard E. Thompson, responding to Selectman Cossart stated that he had spoken to the Police Chief, who stated that he would begin looking into the purchase of new vehicles the beginning of January.

Minutes

It was on motion by Selectman Donald unanimously

VOTED: To approve the minutes of the Special Meeting of December 6, 1980, as amended; and the Regular and Executive Sessions of December 15, 1980, as drafted.

Current Items of Interest

Lot 54 - Bowker V Subdivision

Responding to Selectman Cossart, Town Counsel updated the Board on the status of building lot 54 in the Bowker V Subdivision, said lot having been sold, relative to whether or not a building permit can be issued. Town Counsel

stated that he spoke to the Building Inspector who informed him that a building permit will not be issued. Town Counsel further stated that there is an outstanding Cease and Desist Order which involves an Order of Conditions, the DEQE, and a probable legal suit(s) against the owner of the subdivision.

Draft Letter to Star Market

The Executive Secretary was directed by Selectman Cossart to make one change in a letter he drafted which is to be sent to the Star Market Company thanking them for their service in the past to provide transportation for shopping to the elderly in the community.

Holiday Pay - Fire Chief

The Selectmen noted receipt of a communication dated December 18, 1980, from Town Accountant John H. Wilson relative to Holiday Pay/Fire Chief and directed the Executive Secretary to schedule discussion with the Town Accountant at the Board's next meeting on December 29.

Induction Ceremony - New Postmaster

Mr. Thompson informed the Board of an induction ceremony for the new Postmaster, Ron Packard, to be held on December 29.

Travel Expense/Police Department

At the direction of the Board on December 15, the Executive Secretary reported back to the Board relative to mileage reimbursement for three new police officers under the Police Department travel account 320-41 by stating that he had been assured by the Town Accountant that mileage is monitored very carefully by himself and the Police Chief. Mr. Thompson explained the traveling requirements of the three new officers, and was further requested by Selectman Cossart to supply the Board with that section of the Police Contract pertaining to mileage reimbursement, questioning whether it is being administered properly.

Dog Officer's Budget - -31 Account

Mr. Thompson confirmed, at the Board's request, that gasoline for the Dog Officer's vehicle comes from the -31 account in her budget, and that there appears to be enough included in that line item to cover gasoline for the coming Fiscal Year. That account is monitored by the Town Accountant's office.

"Make it in Massachusetts" Bumper Stickers

The Executive Secretary informed the Board of a telephone request from the State Department of Commerce to participate in a fund raiser by ordering bumper stickers for the Town of Sudbury entitled "Make it in Massachusetts". The Board directed the Executive Secretary to express a lack of interest on the part of the Board to participate due to the Town's current economic state.

Letter from Dr. Kramer

The Board acknowledged receipt of a communication dated December 15, 1980, from Mr. Melvyn W. Kramer relative to the physical examination of a new Police Officer, Michael R. Shaughnessy.

Meeting with Manager of Ephraim's Restaurant

Present: Donald Wagoner, Manager, Ephraim's of Sudbury; Fire Chief Josiah Frost.

The Board was in receipt of a communication dated December 10, 1980, from President/Manager Donald Wagoner, Ephraim's of Sudbury, requesting a meeting with the Board to discuss a request from Ephraim's for a Sunday entertainment license, increased seating and restaurant capacity, and parking problems/solutions.

Mr. Wagoner explained that, in order to deal with the parking problems, which have surfaced due to the growth of the Village Green complex, Ephraim's has instigated a valet service, with the cooperation of the Methodist Church for the use of their parking lot, which, he stated, would alleviate some of the parking problems created by the restaurant and lounge location at Village Green.

Responding to Selectman Cossart, Mr. Thompson stated that we are presently waiting for our order for parking tickets to be processed by the State following which Police and Fire Departments will issue tickets more readily to any violators at the shopping center.

There was discussion relative to the restaurant capacity and the increased seating arrangements at Ephraim's observed/counted by the Fire Chief and the Building Inspector on more than one occasion, during which the following comments were made and discussed:

- Chairman Murray pointed out that the original site plan for Ephraim's of Sudbury had been approved by the appropriate Town officials and Departments specifying a maximum of 160 seats in both the restaurant and lounge areas, based on public safety, parking, and the septage system.

Mr. Wagoner stated that the seating capacity is no different since the restaurant opened in January, 1979. Mr. Wagoner further stated that, if all four dining rooms plus the lounge are in use at the same time, there would be more than 160 seats; however, he pointed out that there are times when all the dining rooms will be set up, but may not all be in use, and that the lounge is only open in the evenings, thereby allowing additional dining room seating during the daytime. Mr. Wagoner expressed his opinion that license renewals have been issued to Ephraim's based on a capacity of 160 seats in the dining areas only, not including the lounge area.

- Chairman Murray pointed out that on one occasion approximately 275 seats had been counted by the Fire Chief and the Building Inspector. Chief Frost confirmed this, and stated that on another occasion 75 seats had been counted in the lounge, while 165 had been counted in the dining areas, for a total of 240 seats. Responding to Mr. Wagoner, the Chief stated that on these occasions, all seats had been counted in the restaurant and lounge regardless of the configuration of seating. (Mr. Wagoner had pointed out that, depending on the arrangement of chairs, it might look like there are more seats than were acutally being used.)

There was some discussion relative to certain excess space in the building, and the Selectmen concurred that no matter how the seating was arranged, there could only be 160 persons, not including staff, on the premises being served at one time. The Chief pointed out that only 10% of the maximum capacity (160) was the allowable number of people permitted to be waiting to be served in the building at any given time for safety reasons.

- Selectman Cossart reviewed by saying that the unauthorized increase in seating does not just affect the parking situation in the center but becomes a matter of public safety and public health. Mr. Wagoner assured the Board that he realizes these problems are his responsibility as a business person. The parking is being resolved by the valet services, he said, and he explained that for practical purposes his septage system is under contract for cleaning every two weeks. He stated his opinion that, although the Health Director confirms 195 as a maximum for Ephraim's under their present septic system, they are falling into a general category under a sanitary code which pertains to mostly fast food (gallons per day), which creates more stress on a septage system than a restaurant such as Ephraim's, where the consumption factor per seat is nowhere near what the code sets as a base.

Chief Frost stated that the Building Inspector was in the process of recalculating the floor area and re-checking the count or number that is equitable for that building, but expressed his opinion that it would not change anything, especially in the top dining area because of the stairway. In the meantime, the count has to be brought back down to reality - 160. The Chief stated that it was not his intention to make it hard for Mr. Wagoner, as Selectman Cossart also stated earlier on behalf of the Board, but that as Town officials we have a certain responsibility to maintain public safety and public health for the Town.

Selectman Donald added that it was important that Mr. Wagoner carry out the legalities specified in the original site plan approval, and that any changes should be requested through the (revised) site plan process.

At the conclusion of discussion it was the concensus that the number of persons being served at Ephraim's of Sudbury should not exceed 160 in both the dining rooms and lounge areas, and that a site plan approval process should be pursued for any expansion within Ephraim's. Mr. Wagoner commented that he felt it would be impossible for most restaurants to stay within the 10% leeway, especially during the holidays. The Chief responded that it might become necessary to have a patrolman at the door to monitor the crowds in that case.

The Board requested that a follow-up report relative to compliance with seating limitations and resolution of parking problems be submitted by the Building Inspector.

Following a brief discussion relative to the Selectmen's disapproval of a Sunday entertainment license on November 24, 1980, it was a consensus not to alter their opinion based on the apparent lack of cooperation on the part of the management of Ephraim's in the above-cited matters. It was, however, the consensus of the Board, that if the other situations could be worked out in the near future, the Board might reconsider and address further the application for a Sunday entertainment license for Ephraim's. Mr. Wagoner explained that this license would be something he would like to have for Sundays, fall through spring, a slow time and when restaurants generally need something different to attract patrons, such as a jazz band, which is what he plans to have.

There being no further discussion, Chairman Murray thanked Mr. Wagoner for requesting and attending tonight's meeting to try and resolve mutual concerns.

Executive Session

At 9:00 p.m. it was on motion by 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.

(Roll call vote: Chairman Murray, in favor; Selectman Donald, in favor; Selectman Cossart, in favor.)

Chairman Murray announced that Public Session would not reconvene following the Executive Session.

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

Attest:

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Richard E. Thompson  
Executive Secretary-Clerk