

IN BOARD OF SELECTMEN
MONDAY, SEPTEMBER 21, 1981

Present: Chairman Anne W. Donald 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 Anne W. Donald.

Appointment - Long Range Capital Expenditures Committee (LRCEC)

Present: Alan Silver, applicant; and Frederick P. Armstrong, III, LRCEC.

Following an interview and discussion, it was on motion by Selectman Murray unanimously

VOTED: To appoint Alan Silver, 29 Dunster Road, to the Long Range Capital Expenditures Committee, for a term to expire April 30, 1983, replacing James Pitts.

New Law - Use of Anticipated Receipts

The Board reviewed a communication dated September 16, 1981, from Town Counsel explaining the provisions of Chapter 339 of the Acts of 1981, which created Section 53E of Chapter 44 and allows the use of anticipated receipts as offsets to operating costs, and referred the same to the Town Accountant to see if there is any need to investigate the same, especially as it relates to this first year when the Selectmen have the power to authorize said use.

Drainage Easement - Washbrook Road

It was on motion unanimously

VOTED: To sign and accept, on behalf of the Town, a revised drainage easement from Theodore and Ashild Athanassoulis, Washbrook Road, as shown on a plan entitled, "Compiled Plan of Land in Sudbury, Massachusetts, showing revised drain easement Washbrook Road", dated May 9, 1977, revised September 4, 1981.

Certification of Highway Monies

It was on motion by Selectman Murray unanimously

VOTED: To authorize the Chairman of the Board of Selectmen to sign a certification of highway monies voted at the 1981 Annual Town Meeting for Fiscal Year 1982 construction, maintenance, and policing of streets and roads, in accordance with Chapter 81, section 31 (State Aid - Highways), as amended by Section 14, Chapter 497 of the Acts of 1971, and to forward the same to the Massachusetts Department of Public Works.

Temporary License for Sale of Wines and Malt Beverages Only

With permission granted from Francis Koppeis, Innkeeper of the Wayside Inn, on September 18, 1981, it was on motion by Selectman Murray unanimously

VOTED: To approve a temporary license for the sale of wines and malt beverages only, to be issued to Joseph D. Bausk, Sudbury Ancient Fyfe and Drum Company and Sudbury Companies of Militia and Minute, for one day only, September 26, 1981, from 9:00 a.m. to 6:00 p.m. for their annual fair and muster on the grounds of the Wayside Inn, subject to the provision of sanitary facilities for attendees, obtaining the required building and wiring permits, and approval by the Fire and Police Chiefs.

The Selectmen directed the Executive Secretary to find out how Wayland handles the issuance of one-day licenses for certain annual events.

Contract - Water Study

The Board tabled to October 5 the matter of signing an agreement with the firm of Whitman and Howard, Inc., relative to preparing a study of the effects on the Town of the diversion of water from the Sudbury River by the MDC, funded by Article 26 of the 1981 Annual Town Meeting, in order to allow Mr. John V. Sullivan, who will be Town coordinator and contact for this study, an opportunity to consult with the firm.

Resignation - Sign Review Board

It was on motion by Selectman Murray unanimously

VOTED: To accept with regret the resignation of Dorothy A. Emmons, dated September 8, 1981, from the Sign Review Board and directed the Executive Secretary to send a letter of appreciation to Mrs. Emmons for her years of service on that Board.

The Executive Secretary was further directed to inquire as to a recommendation to fill this vacancy from the Sign Review Board.

Rescheduling Meeting - Columbus Day Holiday

The Board rescheduled the Selectmen's meeting of October 14 due to the Columbus Day holiday to Wednesday, October 14, subject to the concurrence of Selectman Cossart, who is not present this evening.

Minutes

It was on motion unanimously

VOTED: To accept the minutes of the Regular Session of September 14, 1981, as drafted.

Site Plan Renewal #81-235 - S. F. Doyle & Co., 327-29 Boston Post Road

Present: Building Inspector Joseph E. Scammon; and Stephen F. Doyle, applicant.

In accordance with Article IX, Section V, Paragraph A of the Sudbury Bylaws, the Board considered Site Plan Renewal Application #81-235 of S. F. Doyle & Co., Inc., for property located at 327-29 Boston Post Road, Business District #2, for the construction of buildings.

The Executive Secretary reported that all appropriate abutters and Town Officials had been notified, and that the following communications had been received:

- from the Building Inspector, dated August 21, 1981, recommending approval;
- from the Planning Board, dated September 15, 1981, with no recommendation due to the lack of a quorum at its September 14 meeting;
- from the Board of Health, dated September 17, 1981, recommending approval;
- from the Town Engineer, dated September 11, 1981, recommending approval;
- from the Sign Review Board, dated September 16, 1981, with no recommendation at this time; and
- from the Conservation Commission, dated September 9, 1981, expressing no concerns regarding the extension.

It was on motion by Selectman Murray unanimously

VOTED: To approve Site Plan Renewal #81-235 of S. F. Doyle & Co., Inc., for property located at 327-29 Boston Post Road, Business District #2, as prepared by Robert R. Dion Associates, Inc., dated April 14, 1978, revised June 1, 1978, and further revised June 12, 1978.

Current Items of Interest

Request for Temporary Trailer

Present: Paul F. Cleveland, applicant.

Earlier in the evening when Mr. Paul F. Cleveland was present, and following discussion with him, it was on motion by Selectman Murray unanimously

VOTED: To grant permission to park a 22-foot, 1972 Terry trailer, Massachusetts Registration #TL 50-199 in the name of Jane Pelletier, 154 Charles Street, Waltham, to Paul F. Cleveland, 261 Lincoln Road, for three months, effective immediately, to be used for dwelling purposes while repairs are being done on his home, as requested in a communication, dated September 21, 1981, from Mr. Cleveland, subject to Board of Health approval if required, and issuance of a building permit by the Building Inspector.

And it was further agreed not to require a bond for removal in the amount of \$1,000.

Mr. Cleveland stated that the trailer would be removed from the premises by the end of this three-month period.

Grand Piano

It was on motion unanimously

VOTED: To direct the Executive Secretary to dispose of the grand piano in the upper Town Hall, (it having been professionally established that the piano has no value) due to the fact that Mr. David C. Kunz, Harpischord & Piano Service, withdrew his offer to take the piano in exchange for work which was to be done by him on the lower Town Hall piano because of the expense involved in removing the grand piano from the upper Town Hall.

Police Safety Cruiser

Executive Secretary Richard E. Thompson reported that, in looking into the matter of purchasing a police safety cruiser, he had been in touch with Natick Ford, which apparently has an appropriate vehicle.

At the request of the Executive Secretary it was on motion by Selectman Murray unanimously

VOTED: To authorize the use of the Sudbury Auxiliary Police Department vehicle as a trade-in toward the purchase of a police cruiser with the stipulation that the existing light bar, the radio and any other equipment on that vehicle be used to offset the expense of a new cruiser.

(Mr. Thompson confirmed that he had checked with the Police Department and learned that the light bar and radio are in good working order.)

Donation - Council on Aging

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a ten dollar (\$10) donation from James Punch to the Council on Aging.

Transient Vendor License

The Board acknowledged receipt of a Transient Vendor License application, dated September, 1981, from Peggy C. Wayman, and a letter requesting approval for the same, dated September 19, 1981, from Lee A. Young, on whose property the license is to be exercised.

Selectman Murray questioned the validity of two licenses at the same location. Assistant Town Counsel Thomas M. French stated that non-use of a Transient Vendor License and the failure to pay rent for the same premises terminates the license, and confirmed that this license request could be approved if the Selectmen so desire.

It was on motion by Selectman Murray unanimously

VOTED: To issue a Transient Vendor License to Peggy C. Wayman, 17 Decatur Lane, Wayland, for the sale of house plants, hanging baskets and small plants in baskets, from 9:00 a.m. to 5:00 p.m., for the one-month period beginning October 15 through November 15, at the open air booth on the property owned by Lee A. Young on Route 20 next to the Police Station.

Tax Rate

Selectman Murray questioned how close we are to setting a tax rate. Mr. Thompson stated that the Town Accountant had spoken to Town Assessor Donald Peirce last Friday, who indicated that, subject to confirming the data in the computer, we expect to be on schedule - the tax rate should be set by mid-October.

Game Room Correspondence

In connection with the Game Room site plan which the Board acted upon and which is going before the Board of Appeals tomorrow evening, Mr. Thompson referenced a communication, dated September 14, 1981, from the Law Office of Gollub & Hassenfeld, representing abutter Bed & Bath, indicating opposition to the site plan and explaining the exclusive right of Bed & Bath to use a substantial portion of the parking area within the complex through a lease with owner Saul Westelman. Mr. Thompson stated that he would be sure that the Board of Appeals had a copy of this communication in-hand prior to the hearing on the 22nd.

Board Meeting - September 28

Mr. Thompson informed the public the reason for not cancelling the Selectmen's regularly scheduled meeting of Monday, September 28, which is the Rosh Hashanah holiday, explaining that, due to important matters of business and scheduling problems, it is necessary to meet on the 28th, although the Town Fathers Forum on that date had been cancelled.

Warrant - September 21, 1981

It was on motion unanimously

VOTED: To sign Warrant #14, dated September 21, 1981, subject to the Town Accountant verifying the propriety of line item #20015 relative to Bill #2095, Schedule of 1981 Real Estate Tax Refunds, dated September 15, 1981.

Site Plan #81-236 - John D. Nicholson, 370 Boston Post Road

Present: Dr. John D. Nicholson, applicant; and Building Inspector Joseph E. Scammon.

In accordance with Article IX, Section V, Paragraph A of the Sudbury Bylaws, the Board considered Site Plan Application #81-236 filed by John D. Nicholson for property located at 370 Boston Post Road, Business District #4, owned by Musketaquid Realty Trust. (Dr. Nicholson stated that Dr. F. Daniel Buttner was also party to this application.) Said site plan is for the renovation of a portion of the barn attached to the building in which the applicants' offices are presently located.

Executive Secretary Richard E. Thompson reported that all appropriate abutters and Town Officials had been notified, and that the following communications had been received:

- from the Sign Review Board, dated September 16, 1981, with no recommendations at this time;
- from the Conservation Commission, dated September 9, 1981, stating no concern;
- from the Board of Health, dated September 18, 1981, recommending approval;
- from the Planning Board, dated September 15, 1981, with no recommendation due to the lack of a quorum at its meeting of September 14, 1981;
- from the Town Engineer, dated September 18, 1981, recommending that the lease be reviewed by Town Counsel for form and content, and that the site plan of the abutting property be reviewed by the Zoning Enforcement Agent to insure that the lease of fifteen spaces would not detract from the off-street parking requirements on that site; further suggesting that the site plan be changed to reflect the actual conditions on the site with respect to parking;
- from the Building Inspector, dated September 18, 1981, recommending conditional approval based on correcting the site plan to show the actual layout of parking in front of the property, an agreement between abutter, MacKinnon's Liquor Store, and the applicant concerning the rear parking spaces, and that the parking spaces be properly marked.

Following discussion it was on motion by Selectman Murray unanimously

VOTED: To approve Site Plan #81-236 of John D. Nicholson, M.D., for property located at 370 Boston Post Road, owned by Musketaquid Realty Trust, Business District #4, as shown on a plan entitled, "Musketaquid Realty Trust, 370 Boston Post Road, Sudbury, Mass., Renovations for Doctor's Office Suite", dated August 7, 1981, subject to verification in writing from John S. MacKinnon, Trustee, Sudbury Super Market, Inc., regarding agreement to the use of the required number of parking spaces on their property by the applicant, updating the site plan to show the exact number of parking spaces on site, proper marking of all parking spaces on the site, and verification by the Building Inspector that the lease of parking spaces for use under this site plan will not detract from the parking requirements of the MacKinnon site, as noted in communications from the Town Engineer and the Building Inspector, both dated September 18, 1981.

Dog Hearing - Kurriss/Marino

Present: Mr. & Mrs Edward D. Kurriss; and Dog Officer Betsy M. DeWallace.

Chairman Donald convened a Public Hearing under General Laws, Chapter 140, section 157, based on the dog complaint dated September 4, 1981, concerning the German Shepherd/Labrador Retriever owned by Jerry C. Marino of 37 Minebrook Road, which states that the dog has a vicious disposition, attacked the Kurriss' dog three times resulting in hospitalization and sutures, and bit Mr. Kurriss, as well as a playmate of the Kurriss' son.

Executive Secretary Richard E. Thompson stated that the Kurrisses and the Marinos had been notified by certified mail, dated September 9, 1981, of tonight's hearing. Mr. Marino, however, had informed the Selectmen's office that he would be unable to attend because he would be out-of-town and said he did not have anyone to send in his place to represent him. Mr. Marino requested that he be given an opportunity to meet with the Selectmen at another time, further indicating his intention to keep the dog under control at all times.

The Selectmen agreed to proceed with tonight's hearing because of the number of complaints and to give Mr. Marino the option of meeting with the Board on October 5.

Mr. Thompson stated that a copy of the minutes of tonight's meeting with the Kurrisses would be forwarded to both the Marinos and the Kurrisses prior to October 5th.

Mr. Thompson referenced the Dog Officer's report dated September 17, 1981, reporting a series of complaints from the Kurrisses between December 24, 1980 and September 3, 1981.

Mr. and Mrs. Kurriss were sworn in by Assistant Town Counsel Thomas M. French.

Mr. Kurriss gave the Selectmen a written report, with attachments, dated September 21, 1981, explaining the complaint and related problems, in part, as follows:

- problems include trespassing, harassment, and attacks (which were listed) by the Marino's dog and the irresponsibility of the Marinos in controlling the dog;

- recommendations were that the dog be banned from the neighborhood, and that the Marinos reimburse the Kurrisses for medical expenses incurred in the amount of \$104.58.

Selectman Murray stated that the matter of reimbursement would require bringing civil action in District Court by Mr. Kurriss himself.

The attachments to the above-mentioned report are as follows:

- a September 20, 1981, letter from Sara Bonnett of 275 Morse Road, supporting Mr. Kurriss' complaint, stating that her son had been bitten by this dog and that she had been harassed by the dog on several occasions while at the Kurrisses home,

- a December 24, 1980, communication from Stuart E. Wiles, V.M.D., Sudbury Animal Hospital, Inc. stating that the Kurriss' dog "Muffy", a 5-year old female beagle, was treated for puncture wounds on that date;

- a September 19, 1981, receipt for payment in the amount of \$18.72 from the Sudbury Animal Hospital;

- a list of itemized costs incurred for medical treatment from December 24, 1980-September 26, 1981, (including the \$18.72) totaling \$104.58; and

- a picture of the sutures on Mr. Kurriss' dog, noted in the dog complaint.

Following further discussion it was on motion by Selectman Murray unanimously

VOTED: That the German Shepherd/Labrador Retriever dog owned by Jerry C. Marino of 37 Minebrook Road be permanently restrained immediately, 24 hours a day (by keeping the dog in the house, in a penned area or on a dog run). Any further report of the dog being unrestrained will result in a further hearing to determine the disposition of the dog, either to be removed from the Town or destroyed.

The Selectmen directed the Executive Secretary to inform Mr. Marino of the tentatively scheduled meeting with him on October 5th if he desires or is not satisfied with the Board's action tonight. The Board urged Mrs. DeWallace to report any incident of the dog being unrestrained and to attempt to pick up the dog and hold it until a hearing can be reconvened.

Joint Meeting with Historic Districts Commission

Present: Burton H. Holmes, Louis H. Hough, W. Burgess Warren and Donnilea S. Marshall (arrived later), Historic Districts Commission (HDC); Raymond A. Johnson, Trustee, Village Green Realty Trust; Robert Quirk, Contractor for Village Green; and Joseph E. Scammon, Building Inspector.

Chairman Donald convened a meeting with the Historic Districts Commission (HDC) and the Village Green Trustees to discuss the completion of unfinished work at the Village Green site.

Mr. Burton H. Holmes Chairman of the HDC, referenced his August 3 letter to Mr. Johnson listing four items requiring completion at Village Green.

Mr. Johnson responded to those items as follows:

1) Replace existing air conditioning unit with a flush model at the northwest corner of Building 1, second level. Hold-up partially due to obtaining tenant's permission and problems in ordering the unit. One is now on order and due shortly.

2) Wood trellis to conceal air conditioning unit, northwest corner of building 1, first level. Mr. Johnson expressed his opinion that the original trellis suggested would not fit into the aesthetics on that exposure of the building and offered an alternative type of screening (wood design which would attach to the unit) which he stated he would show to and discuss with the HDC.

3) False chimneys. Because of differences of opinion between the HDC and the Trustees of the Village Green, which have not been resolved, regarding the acceptability of the false chimney constructed on Buildings 4, 6 and 1, and the cost involved, no further work has been done.

4) Ephraim's loading dock. This was not completed because there was a question as to whether they would remain as a tenant.

Chairman Donald asked how many of these items go back to the original plan.

Mr. Holmes responded as follows: 1) that the air conditioning units were never envisioned on the original plan and all have been installed without a Certificate of Appropriateness. Mr. Johnson stated that, although the air conditioning was not initially considered, it was later decided that they could be put in with HDC approval.

2) that the HDC was unaware that the trellis was unsatisfactory and discussion regarding this trellis to conceal the air conditioner has been going on for some time; and

3) that the issue regarding the false chimneys goes back to 1979 when it was determined that until the Building #1 chimney had been approved by the HDC, reconstruction on Buildings #4 and 6 chimneys would be held up. Mr. Johnson replied that the approval given by the HDC for the chimney on Building #1 was given in such a manner that he felt uncertain about continuing with the reconstruction of the false chimneys on Buildings 4 and 6 since it was so costly and apparently the workmanship was still somewhat unsatisfactory to the HDC, on the false chimney on Building #1.

Mr. Holmes stated that the design for the chimneys on Buildings 4 and 6 was never satisfactory; that the design for the chimney on Building 1 was satisfactory, but the workmanship was not first class.

Selectman Murray recommended that the people who are doing the masonry work should meet with the HDC in an attempt to reach some consensus regarding the design and workmanship of the false chimneys. Mr. Thompson offered to coordinate the same through the Selectmen's office. This proposal was generally agreed upon by all parties.

The Selectmen recommended that Mr. Johnson pursue the matter of the trellis or some type of screening with the HDC, as discussed earlier.

Mr. Johnson stated that he would be meeting with Ephraim's this week regarding their lease, and that in the meantime, concerning the loading dock, he could put the door in place and install the grillework in the upper part of the structure. Mr. Thompson asked and Mr. Johnson agreed to report back to the Selectmen's office through Town Counsel by Friday or early next week regarding the same.

At the conclusion of discussion, Chairman Donald thanked the members of the HDC, Mr. Johnson and Mr. Quirk for their attendance.

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