

IN BOARD OF SELECTMEN  
MONDAY, JANUARY 4, 1982

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

The statutory requirements as to notice having been fulfilled, the meeting was called to order by Chairman Anne W. Donald at 7:30 p.m.

Winchesters of Sudbury - Pledge of Liquor License

Present: Atty. Robert F. Dionisi, Jr., for Winchester's of Sudbury, Inc.

Atty. Robert F. Dionisi, representing Winchester's of Sudbury, Inc., explained to the Board that Winchesters had pledged its All Alcoholic Beverages Restaurant License as collateral when applying for a \$240,000 loan to purchase and refurbish the 120 Boston Post Road site, subject to authorization from the Board of Selectmen within a January 15th deadline.

Atty. Dionisi stated that Winchester's expects to open by February, no later than February 15th.

Responding to Selectman Cossart regarding the significance of pledging a liquor license for collateral, Assistant Town Counsel Thomas M. French stated that all liquor licenses have a value (in this case, Atty. Dionisi stated it was \$7,500), regardless of whether the same can be sold outright, because it is an asset to the business property and can be transferred to a new owner, subject to the Board's approval, as the licensing authority of the Town.

It was on motion by Selectman Murray unanimously

VOTED: To grant permission, in accordance with G.L.c.138, s.23, to Winchester's of Sudbury, Inc., to pledge their All Alcoholic Beverages Restaurant License to the Bay Bank Harvard Trust as collateral for a loan, subject to Massachusetts Alcoholic Beverages Control Commission approval, as requested in a communication dated December 31, 1981, from Atty. Robert F. Dionisi, Jr.

Cable Television Licensing Procedures

Continuing with the licensing procedure for cable television for Sudbury, the Board reviewed and authorized for publication the following:

1) a public notice requesting applications for a cable television license, to be published in The Middlesex News and in Broadcasting, a trade journal; and

2) a notice soliciting candidates for a Sudbury Cable Advisory Committee, to be published in the Sudbury Community Calendar, both as submitted by the Executive Secretary.

The Board also reviewed a tentative list of candidates to make up a Cable Advisory Committee, compiled through the Selectmen's office by personal requests and/or Selectmen's recommendations. While updating the list, the Board directed the Executive Secretary to send an application to Mr. Hugh Keenan.

Transfer Request - Account 501-21, Selectmen's General Expense

Executive Secretary Richard E. Thompson explained the necessity of request for transfer #1025 from the Reserve Fund to Account 501-21, Selectmen's General Expense, in the amount of \$4,000, as follows:

Advertisements for:

Town Accountant position - total amount \$447.00, approximately;

Cable Television Licensing - totaled \$326.00, approximately;

Bids for South Annex School Building (three times in The Middlesex News and in The Boston Globe) - total amount \$710.00, approximately; and

Requests for Proposals for Loring, Fairbank and Horse Pond Schools (one time in The Wall Street Journal, three times in The Boston Globe, The Boston Herald, and The Middlesex News) - totaling \$2,405.60, approximately.

Following a brief discussion, it was on motion by Chairman Donald unanimously

VOTED: To approve Request for Transfer No. 1025, dated January 4, 1982, from the Reserve Fund to Account 501-21, Selectmen's General Expense, in the amount of \$4,000, to fund the unexpected costs of advertising, as explained above.

The Board directed the Executive Secretary to attend the Finance Committee's hearing on the transfer request.

Site Plan 81-239 of West Sport, 225 Boston Post Road

Present: Building Inspector Joseph E. Scammon; Town Engineer James V. Merloni; Chairman Joan C. Irish and H. Rebecca Ritchie, Conservation Commission; Richard D. Yerardi and Larry Shewan, West Sport; Peter George, owner of property; and approximately ten abutters.

In accordance with Article IX, Section V, Paragraph A of the Sudbury Bylaws, the Board considered Site Plan Application 81-239 of Richard D. Yerardi of West Sport, for property located at 225 Boston Post Road, which is a portion of a 7.46 acre parcel of land, to be leased from owner Peter George for the purpose of operating a retail business.

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

- from the Town Engineer, dated December 14, 1981, commenting that the proposed parking is adequate, and recommending bituminous concrete blended into the existing driveway pavement, and that there appears to be sufficient grading, landscaping and maneuverability for vehicular and pedestrian traffic existing on site. The Town Engineer conditioned approval on the issuance of a variance from the Board of Appeals because of the proposed business use for the site, located in a residential area, and on Board of Health approval of the existing septic system;

- from the Planning Board, dated December 23, 1981, recommending disapproval based on questionable on-site parking, concerns expressed by abutters regarding traffic safety, the issue of re-supply of propane storage by truck in an area of hazardous traffic conditions, zoning, and the concern that the proposed business is not in keeping with the general residential character of that portion of Route 20;

- from the Building Inspector, dated December 17, 1981, commenting that the site is located in a residential district (which abuts Business District #16, a zone that encompasses a farm stand and Mercury Mobil gas station) with a past history of operating under a pre-existing, non-conforming use; that the plan shows no provision for outside storage of rubbish; and that the parking plan meets the provisions of the bylaw;

- from the Board of Health, dated December 17, 1981, recommending conditional approval; and

- from the Conservation Commission, dated December 9, 1981, indicating the site is not under its jurisdiction, and requesting to be notified if there is any alteration within one hundred feet of the wetland.

The Building Inspector showed the plans for the property entitled, "Site Plan of Land in Sudbury, Mass. at 225 & 227 Boston Post Road", and "Plan Showing Proposed Parking Spaces at 225 & 227 Boston Post Road", both dated November 30, 1981.

Mr. Larry Shewan of West Sport explained that they propose to relocate their business, which is presently located on Union Avenue, into the building containing one thousand two hundred seventy-seven square feet, on Mr. George's property. There will be no exterior changes made, but there will be some interior renovations. Mr. Shewan stated that there are adequate parking spaces, with additional spaces available next to the gas station. Mr. Shewan explained that, without the three most easterly parking spaces, two of which impose on the house lot (also belonging to Mr. George), noted on the plan showing the proposed parking, there would be adequate parking for the ski shop. Mr. Shewan expressed his opinion that there is adequate egress and access to Route 20. The propane tank will be located to the rear of the gas station which will be refilled by small trucks - smaller than those which refuel Mr. George's gasoline tanks.

Responding to Chairman Donald, Mr. Shewan stated that they have discontinued their trailer/camper rental service, and that they had no plans to display a sign indicating the propane service.

Responding to concerns regarding the re-fueling of propane tanks, Mr. Shewan stated that this was a service for portable tanks only - that ninety-nine percent of the business was servicing tanks for home use, such as gas grilles; the other one percent was for portable tanks taken out of campers and trailers and refilled.

Mr. John J. Silva of 8 Green Hill Road expressed the following concerns:

- that the variance required under this site plan would extend the area of Mr. George's property which is already being used under a variance, leading to the future use of the entire parcel belonging to Mr. George;

- that the above-ground storage of propane gasoline, adding to the total storage of inflammables on site, creates a dangerous situation considering the excessive traffic; this would also create a dangerous situation for children in the area, considering there is no fencing proposed around the propane storage tank.

Mr. Russell P. Kirby of 244 Boston Post Road stated that he lives across the street from Mr. George's property and expressed the following concerns and opinions:

- that this portion of Boston Post Road, from Landham Road and westerly to beyond his property, has had more than its share of accidents this past year, two of which were fatal, because of the curvature and visibility of the road;

- that parking is a problem; the proposed plan shows parking along the edge of the road on the property which will severely affect the visibility in both directions of Route 20 beyond its present condition;

- that traffic safety problems will be increased by the exiting and entering onto Route 20 of campers and trailers;

- that the proposed sign to be used on the front of the building cannot be seen by west bound traffic causing reverse turns on Route 20 or in his driveway;

- agreed with previous comments by Mr. Silva;

- he later expressed his opinion that there would be additional runoff of water from the property as a result of additional paving.

Responding to Mrs. Jessie C. Cunningham of 17 Singletary Lane, Chairman Donald stated that the applicants could not go to the Board of Appeals unless the Selectmen approved the site plan first.

Mrs. Cunningham stated that the neighbors did not want to have another business operating in this residential zone and explained the past history of the use of that property, expressing her opinion that there have been violations in the use of the Town Bylaws, as follows:

- there is nothing in the Bylaw which stated that a person operating under a variance can lease the property - variances are usually granted to alleviate some kind of hardship;

- the area was zoned in 1938 and the first variance was granted to a man with an ill child in 1939 for operation of a farm stand and one or two gasoline pumps. When Mr. George bought the property, he applied for a variance for two pumps. Under a variance, a business use in a residential zone is not to be enlarged, and, in case of the destruction of any non-conforming building or structure existing at the time of the passing of a bylaw, that building or structure is to be reconstructed substantially as it existed before and within two years from the date of destruction. There are now approximately three pumps on the property and the "flimsy" farm stand has been replaced by a permanent building.

Mrs. Cunningham stated that the gasoline pumps were removed in 1953 and there were no pumps from 1953-59; that the abutters have opposed the foregoing changes, and the neighbors would like to go on record as being opposed to the additional business use, and, when Mr. George retires, they would like to see the entire area used as it is zoned - residential.

Mrs. Cunningham stated that, if Mr. George sold the property, and the new owner wanted to operate a gasoline station, he would still be operating under a variance. Assistant Town Counsel stated that, if the property were sold, the gasoline station could continue to operate.

Mr. Arthur Walker of Sudbury, spoke on behalf of the applicants, and stated the he has been doing business with West Sport for seventeen years, both on a personal basis, and through the Sudbury Ski Program, and commented on the high standards of the business they conduct. Regarding excessive traffic and parking concerns, Mr. Walker pointed out that the majority of the customers are Sudbury people, and that their business on Union Avenue seldom had more than four or five cars in the parking lot.

Mr. John Drobinski, 222 Boston Post Road, agreed with Mr. Kirby's comments about the traffic accidents and traffic safety in the immediate area and questioned what effect the proposed parking would have on the landscaping (removal of trees, etc.) and what type of lighting and sign they propose to have.

Chairman Donald stated that their sign would have to be approved by the Sign Review Board; Mr. Shewan stated that he did not believe the parking that is proposed would mean any removal of trees and shrubs. Additionally, Mr. Shewan stated he did not feel they have that many people going in and out at any given time, but that one of the reasons for their move to a more heavily traveled road, would be to increase their business.

Responding to Selectman Cossart, Mr. Shewan stated that they have not looked at any other locations, but when their lease is up in the spring, they would rather not renew in their present location.

Mrs. Janet W. Cares of 18 Singletary Lane agreed with traffic safety related comments already expressed by the other neighbors.

Mr. J. V. Cunningham of 17 Singletary Lane commented on the technicalities of the issuance of a temporary variance and the lapse of the same.

On the recommendation of Selectman Cossart for the reasons stated therein, it was on motion

VOTED: To disapprove Site Plan #81-239 of Richard D. Yerardi of West Sport, for property located at 225 Boston Post Road, owned by Peter George et ux, for the reasons that the activities associated with the proposed use, including propane storage, parking and traffic, are detrimental to the residential zoning of the area, and the neighboring properties, and that the increased volume of business traffic at the location would create safety problems in and along that section of Route 20.

(Chairman Donald, in favor; Selectman Cossart, in favor; Selectman Murray, abstained.)

Joint Meeting with Town Engineer - Flood Insurance Rate Maps

Present: Town Engineer James V. Merloni; Chairman Joan C. Irish and H. Rebecca Ritchie, Conservation Commission.

Relative to finalized Flood Insurance Rate Maps for Sudbury, received from the Federal Emergency Management Agency, Town Engineer James V. Merloni showed the Board a map which he had prepared entitled, "Flood Plain, Town of Sudbury, Middlesex County, Massachusetts", and explained the following:

- areas on the map designated in blue are the areas common to both the Flood Hazard Insurance Rate Maps and Flood Plain (Town Zoning Bylaw) areas. These are the areas which would flood in a one-hundred year storm. (It was later noted that a one-hundred year storm means the chances of flooding in these areas would be once every one hundred years at an elevation of one hundred twenty-two feet):

- areas on the map designated in green are in the Flood Hazard areas, but not in the Flood Plain Zone areas. These are the Federal computations based on a one hundred twenty-two foot elevation factor and are the additional areas which have to be included under the Town's zoning bylaw in order for the Town to be accepted under the Federal Flood Insurance Coverage Program;

- areas on the map designated in red are the areas within the Flood Plain (areas under the Town Zoning Bylaw which include 125' flood elevations), but which are not included in the Federal Flood Hazard area.

Mr. Merloni stated that, if the Town adopts the Federal computations as its Flood Plain area, by including the blue and green areas, but not the red, then the Flood Hazard and the Flood Plain would become one and the same and those areas will be protected as required by Federal regulations.

Ms. Ritchie questioned the data basis used by the Federal Emergency Management Agency, and Mr. Merloni responded that he received no response to his request for comment from any of the Town boards when the Federal maps and other information were received.

Mr. Merloni added that if the blue and green areas become one, the Conservation Commission would still have jurisdiction over the red areas under the Wetlands Protection Act, stressing the point that too many maps are confusing to people inquiring through the Engineering Department about whether properties are located in "flood areas" - do they mean Flood Plain or Flood Hazard, or are they asking if the property is covered under the Federal Flood Insurance Program?

There was some discussion regarding the consequences of dropping the red areas. Selectman Cossart pointed out that many Board of Health decisions have been based on the restrictions placed on these "red" areas under the Town Zoning Bylaw, based on the one hundred twenty-five foot flood elevations, and that these areas should not be eliminated, if only from an ethical point of view.

It was noted that, in order to be eligible for Federal flood insurance protection, the Town must adopt the Federal Flood Hazard map. Mr. Thompson suggested that it be superimposed on the Town's map. Mr. Merloni recommended that, in the area of the Sudbury River, the Town hold the existing Flood Plain at one hundred twenty-five feet.

Mr. French explained the consequences of not being covered under the Federal Flood Insurance Program, stating that people in these areas would not be able to sell their homes to anyone needing a mortgage because a bank would not give a mortgage for any property in a Flood Hazard Zone since the Flood Hazard insurance would not be available.

Responding to the Selectmen, the Town Engineer stated that he had not done a detailed analysis but his estimation was that there were approximately nineteen houses falling within the Flood Hazard Zone in Sudbury and eight businesses along Union Avenue. Most of those properties in the green area are adjacent to the brook, and the houses are built up from the brook. There are approximately eight hundred parcels of land within the entire Town.

Mr. French stated that two Town Meeting articles would be needed:

- 1) to change the Flood Plain by use of another map or overlay map for use with the Town's current map; and
- 2) an amendment to the use provision of Flood Plain - add those requirements of the Federal Government for additional protection.

It was noted that any zoning bylaw change would require a hearing by the Planning Board.

Mr. Merloni's recommendation was that the Town adopt the Federal Flood Hazard maps as defining the Flood Plain.

At the conclusion of discussion, there was a consensus of the Board to adopt the Federal Flood Insurance Rate Maps, and to direct the Town Engineer to discuss with the Conservation Commission their recommendation to the Board for preserving the Town's Flood Plain.

Selectman Cossart stressed that Town boards and officials should be able to understand the situation well enough to take a definitive position prior to Town Meeting.

Town Counsel's office was directed to proceed with preparing an article for inclusion in the Warrant for the 1982 Annual Town Meeting to incorporate in the local Zoning Bylaws the latest Federal Flood Hazard Rate Maps; and other amendments called for in the communication from the Federal Emergency Management Agency, dated December 1, 1981.

Chairman Donald thanked Mr. Merloni for his presentation/explanation.

#### Gasoline Bids for Calendar 1982

On the recommendation of the Executive Secretary, it was on motion by Selectman Murray unanimously

VOTED: To table addressing the matter of accepting a bid for furnishing the Town with gasoline for calendar year 1982 because there was an insufficient amount of time between the bid opening this afternoon and tonight's meeting to compile the information and make a recommendation.

Perpetual Trail Easement

Present: Chairman Joan C. Irish and H. Rebecca Ritchie, Conservation Commission.

With respect to a Perpetual Trail Easement being granted to the Town by the Massachusetts Farm and Conservation Lands Trust on the Barton Land, the Board reviewed a map entitled, "Plan of Land in Sudbury, Mass.", dated December 9, 1981, with the Conservation Commission members who were present. Ms. Ritchie showed the location of the two trails on the plan, and recommended, on behalf of the Commission, that the Board sign the Perpetual Trail Easement.

Assistant Town Counsel Thomas M. French stated that both he and Town Counsel Paul L. Kenny had reviewed and approved the Perpetual Trail Easement as submitted.

Following discussion, it was on motion by Selectman Cossart unanimously

VOTED: To approve and sign a Perpetual Trail Easement Agreement being granted to the Town by the Massachusetts Farm and Conservation Lands Trust on the Barton land to provide public access in accordance with Article 30 of the 1981 Annual Town Meeting.

Annual Town Meeting Articles

Accept Articles Submitted under December 31 Deadline

It was on motion by Selectman Cossart unanimously

VOTED: To accept articles submitted under the December 31, 1981, deadline for inclusion in the Warrant for the 1982 Annual Town Meeting, as follows, not denoting any positions/support of the same by the Selectmen.

Unpaid Bills  
Budget  
Hear Reports  
Temporary Borrowing  
Town Audit  
Accept G. L. c.90, S.20A 1/2, Parking Fines Administration  
Accept G. L. c.32B, s.17, Extension of Insurance Coverage  
Insurance for Surviving Spouse  
Accept G. L. c.44, s. 53E, User Fee Budget Offsets  
Sanitary Landfill  
Town Meeting Quorum  
Town Meeting - Order of Articles  
Noyes School Roof  
Curtis Middle School Roof  
Energy Conservation Implementation  
Ambulance and Equipment  
Gypsy Moth Control

Selectmen's Position on 1982 Annual Town Meeting Warrant Articles

During discussion regarding 1982 Annual Town Meeting articles, it was on motion unanimously



VOTED: To support the following:

Transfer Tax Possession Parcels 175-182 to Water District  
Grant Easement to Water District  
Hear Reports  
Temporary Borrowing  
Town Audit  
Accept G. L. c.44, s.53E, User Fee Budget Offsets  
Accept G. L. c.90, s.20A 1/2, Parking Fines Administration  
Accept G. L. c.32B, s.17, Extension of Insurance Coverage  
Sanitary Landfill  
Insurance for Surviving Spouse  
Amend Bylaws, Art. IX,V,A - Special Regulations, Temporary Trailers  
Amend Bylaws, Art. IX,III & IV  
Inflammables Storage Bylaw, Art. V.

Warrant Reports

It was on motion unanimously

VOTED: To approve the Warrant reports for the following 1982 Annual Town Meeting Warrant articles:

Transfer Tax Possession Parcels 175-182 to Water District  
Grant Easement to Water District  
Hear Reports  
Temporary Borrowing  
Town Audit  
Accept G. L. c.44, s.53E, User Fee Budget Offsets  
Accept G. L. c.90, s.20A 1/2, Parking Fines Administration, as amended  
Accept G. L. c.32B, s.17, Extension of Insurance Coverage, as amended  
Sanitary Landfill, as amended  
Amend Bylaws, Art. IX,III & IV, as amended  
Inflammables Storage Bylaw, Art. V.

And it was further

VOTED: To hold for amendment, the Warrant reports for the following 1982 Annual Town Meeting Warrant articles:

Insurance for Surviving Spouse  
Amend Bylaws, Art. IX,I,G - Flood Plains  
Amend Bylaws, Art. IX,V,A - Special Regulations, Temporary Trailers

Moderator-Proposed Articles

It was on motion unanimously

VOTED: To hold on wording and positions for the following 1982 Annual Town Meeting articles, until the Moderator has had an opportunity to review:

Town Meeting Quorum  
Town Meeting - Order of Articles

Appoint Acting Town Accountant

It was on motion by Selectman Murray unanimously

VOTED: To appoint Executive Secretary Richard E. Thompson as Acting Town Accountant, effective January 9, 1982.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the Regular Sessions of December 21 and 28, 1981, both as amended.

Current Items of Interest

Merger of Police and Fire

Chairman Donald brought to the Board's attention a recent newspaper article dealing with the possibility of a merger of Police and Fire in a major U. S. city and, with the Board's permission, stated that she would forward a copy of the article to the Committee on Town Administration and ask them to study the subject.

Letter from Sudbury, Ontario, Canada

The Board acknowledged receipt of a communication from children in the fourth, fifth and sixth grades in Sudbury, Ontario, Canada, requesting information about Sudbury, Massachusetts, and names of students interested in becoming penpals in those respective grades.

The Board directed the Executive Secretary to respond to the children by sending them a copy of the League of Women Voter's pamphlet on Sudbury, Massachusetts and by answering their questions regarding the population in the Town of Sudbury, which is 14,726. The Board further directed the Executive Secretary to forward a copy of the above-mentioned communication to the Superintendent of Schools, Dr. Joseph D. LoPresti, in the hopes that he may find children in the fourth, fifth and sixth grades who are interested in becoming penpals to the children in Sudbury, Ontario.

Regional High School Budget and Teachers' Contract

Selectman Cossart reported that he had met with Lincoln-Sudbury Regional School District Committee (LSRSDC) members, Richard F. Brooks and Alan H. Grathwohl, to discuss the Regional High School's budget for FY83 and the newly executed teachers' contract. Selectman Cossart stated that he had asked some very tough questions, regarding their no rif contract, the 9 1/4% increase for teachers during the 1981-82 school year, and possible use of another facility other than Fairbank School for High School West. Selectman Cossart stated that he was very satisfied with their explanations in all instances, including the information regarding their revised formula and restructuring of their budget (a copy of which Selectman Cossart gave to Mr. Thompson to copy for the Board). Selectman Cossart stated that Mr. Grathwohl and Mr. Brooks had a lot of backup budget information regarding reorganization of programs and departments.

Selectman Murray talked at some length about the cuts other Town departments and boards had made, as requested by the Finance Committee, under the restraints of Proposition 2 1/2, and expressed his opinion that the Regional School Committee should have been able to make more of an effort to do the same, whether or not they revised or updated their methods of producing their budget.

During discussion, the Board directed the Executive Secretary to draft a letter to be sent to all department heads and committee chairmen, requesting constructive ideas for a more interesting, more efficient running Town Meeting, to be discussed at the annual Saturday morning joint meeting of all department heads and/or committees prior to Annual Town Meeting.

Hosmer House - Heating Fuel Supply

Mr. Thompson informed the Board that he had requested Interstate Gas and Oil to take over the service of supplying heating oil to the Hosmer House for the Town. Mr. Thompson reported that on several occasions recently, the Hosmer House had run out of fuel because the oil tank is so small and because the current supplier is out-of-town. The deliveries of small quantities of heating fuel by this out-of-town supplier created a very uneconomical situation for everyone involved. The Selectmen agreed with Mr. Thompson's decision.

Auctioneer License Renewal

At the request of J. David Coccoli, dated January 3, 1982, it was on motion by Chairman Donald unanimously

VOTED: To approve the annual renewal of the auctioneer license granted to J. David Coccoli, 22 Hadley Road, Sudbury, Massachusetts.

School Zone Signals

The Board acknowledged receipt of a communication dated December 30, 1981, from Albert Etre, Signal Systems, Inc., regarding that company's delay in proceeding with the installation of school zone signals at two locations in Sudbury.

The Executive Secretary reported that Mr. Etre had met with Mr. French, Assistant Town Counsel, today and had promised construction would commence next week.

Collective Bargaining

On the recommendation of the Executive Secretary, it was on motion by Selectman Cossart unanimously

VOTED: To table the Executive Session on collective bargaining.

There being no further business to come before the Board, the meeting was adjourned at 11:00 p.m.

Attest:

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Richard E. Thompson  
Executive Secretary-Clerk