

IN BOARD OF SELECTMEN
MONDAY, JANUARY 11, 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.

Accept Bid - Town Gasoline Supply for 1982

Present: Fire Chief Josiah F. Frost.

On the recommendation of Fire Chief Josiah F. Frost, dated January 5, 1982, and following a brief explanation from the Fire Chief, it was on motion unanimously

VOTED: To award the contract for supplying the Town of Sudbury with gasoline for the calendar year 1982 to Belcher New England, Inc., 222 Lee Burbank Highway, Revere, Massachusetts, in accordance with Town of Sudbury specifications and their bid dated December 29, 1981, as follows:

Tank car base price per gallon - Regular Gasoline \$1.00
- Unleaded Gasoline \$1.035

Increment \$.035 and Massachusetts Tax \$.111 for both

Total base price per gallon - Regular Gasoline \$1.146
- Unleaded Gasoline \$1.181

Selectman Cossart commented that these new prices indicate a decrease over last year's price which, as of November, were \$1.1811 for Regular Gasoline and \$1.2161 for Unleaded Gasoline.

Collection of Overdue Ambulance Charges

Present: Fire Chief Josiah F. Frost.

As stated in his communication of December 31, 1981, Fire Chief Josiah F. Frost explained his request for authorization from the Board to turn over for collection, certain overdue ambulance charges, to the local law firm of Hill and Gibney on Boston Post Road.

The Chief further explained that the attorney would deduct a 20% remuneration before forwarding the money collected to the Fire Department, and it would not be necessary to establish another account. The Chief stated that money collected from ambulance charges in the past has been held in a Reserve for Appropriation Account,

It was on motion by Selectman Cossart unanimously

VOTED: To approve the concept of contracting for collection of overdue ambulance charges, as noted in the Fire Chief's communication of December 31, 1981, and as further explained above, subject to the legalities of the same in terms of cash flow and individual handling of accounts, being reviewed by Town Counsel.

Schedule for Street Layouts

It was on motion by Selectman Cossart unanimously

VOTED: To adopt a schedule, prepared by Assistant Town Counsel under date of January 6, 1982, for the Selectmen to follow for the laying out of streets to be accepted at the 1982 Annual Town Meeting.

Advertising Notice - Request for Proposals

It was on motion by Chairman Donald unanimously

VOTED: To approve a notice advertising for requests for proposals for the lease or purchase of the Loring, Fairbank, and Horse Pond school buildings and grounds and a tentative schedule for acting upon the same.

The Board discussed at some length the preparedness of the Board to deal with individual proposal requests, regarding such matters as deferred taxes and zoning changes, and assurances on the part of the Town for the same, in order to be able to negotiate a lease or sale.

Land Management Reports for 1981

Present: Chairman Joan C. Irish, Judith A. Cope, Hugh Caspe, Richard O. Bell, H. Rebecca Ritchie and Carolyn A. Woolley, Conservation Commission; and John C. Cutting, Sudbury Nurseries.

Following a brief discussion, it was on motion unanimously

VOTED: To accept the Land Management Reports for the Haskell Land, Feeley Park and Heritage Park from the Park and Recreation Commission, received under cover letter dated December 1, 1981;

and it was further

VOTED: To accept the Land Management Reports for the Raymond Land, the Parkinson Land plus Pernice Land, and Surrey Lane (Tax Possession #188), all dated November 30, 1981, from the Conservation Commission.

The Board reviewed, and discussed with Mr. John C. Cutting, his communication of January 8, 1982, regarding the possibility of renting the field area of the Parkinson Land, or purchasing a portion thereof, for the production of nursery stock. Executive Secretary Richard E. Thompson commented that approximately four years ago, when Mr. Cutting had first suggested the above possibilities, the Conservation Commission had agreed that it would be in the best interest of the Town for the land to be used by Mr. Cutting; likewise, that the entire portion remain under the Town's ownership. The Chairman of the Conservation Commission stated that they would discuss the matter at their Wednesday night meeting, and make a recommendation to the Board after that meeting.

Responding to the Selectmen, Mr. Cutting stated that motor bikes would be no more of a problem to his crops in this area than they are at his present planting location(s). Selectman Cossart stated that, if Mr. Cutting were to use this land, he would hope that the Town would have the same access to the property as it now has.

Management of Raymond Land

It was on motion by Selectman Murray unanimously

VOTED: To extend the assignment of management of the Raymond Land (38 acres on easterly side and 72 acres on westerly side) to the Conservation Commission from the expiration date of October 20, 1981, for one year, to October 20, 1982.

Dog Hearing - Garfield/Peters

Present: Complainant Mrs. Henry G. Garfield and sister, Mrs. Margaret A. McKenna and Atty. Fred B. Williams; Mr. and Mrs. Arthur Peters, owner of the dog; Dog Officer Betsy M. DeWallace; Mr. Taufiq, Mr. Charles Sauta, and approximately eight abutters.

Chairman Donald convened a Public Hearing under General Laws, Chapter 140, section 157, based on the Dog Complaint dated December 16, 1981, concerning the German Shepherd, Arnold (License No. 1401), owned and harbored by Arthur Peters, 53 Easy Street, which states that the dog has a vicious disposition.

Executive Secretary Richard E. Thompson stated that the parties involved had been notified by certified mail of tonight's public hearing. The delay in the hearing from the date of the receipt of the complaint was at the request of Mrs. Garfield to wait until after the holidays.

Mr. Thompson noted receipt of a communication from the Dog Officer, dated January 5, 1982, listing several complaints against the Peters dog by Mrs. Garfield, and indicating that the Dog Officer had tried on each occasion to solve the problem by speaking with Mrs. Peters.

Town Counsel Paul L. Kenny swore in all those who were planning to speak.

Atty. Fred B. Williams introduced himself and requested permission to help Mrs. Garfield and her sister, who were elderly, by guiding the testimony against the Peters dog with questions. Atty. Williams referenced the dog complaint hearing against the Peters dog which had been held in September of 1976.

Mrs. Garfield, and later her sister, responded to Atty. Williams' questions and gave the following information:

- Mrs. Garfield stated that she had lived at 52 Easy Street for the past fifteen years and in Sudbury for over forty years. Easy Street is a deadend, and she lives with her sister at the end of the road on the right. The Peters family lives across the street, and they have a full-grown police dog. Regarding problems and trouble in the neighborhood because of the dog, Mrs. Garfield stated in October, while she was in her yard bending over her lawn at approximately 3:00 p.m., the Peters dog displayed a vicious disposition by coming very close to her, barking and showing all his teeth. Not one of the Peterses called his dog! On another occasion, Mrs. Garfield said, the oil man was unable to get back to his car from her house because of the Peters dog, but finally the two Peters boys came and took the dog. This took place at approximately 4:30 in the afternoon. Mrs. Garfield described the dog as being gray with a white neck, but that her eyesight was not very good anymore,

Mrs. Garfield stated that she cannot go out of her house. Her mailbox is only eight to ten feet from her door, but she has to have someone bring her mail to her front door every day. Mrs. Garfield stated she has been afraid ever since the Peterses got their dog, and that the dog is loose quite often during the day.

Mrs. Garfield stated that she had spoken to the Dog Officer on several occasions, but that she had had other problems with a sick husband, who passed away three months ago, and was not always able to follow up on telephone calls when the dog was out loose.

Mrs. Margaret McKenna, stated that she had lived at 52 Easy Street for the past three years, and knows the neighborhood quite well. Mrs. McKenna stated that on two occasions, when she went for the mail, the Peters dog ran across the street and barked viciously and frightened her. The second time, Mrs. McKenna stated that Mrs. Peters had a hard time getting her dog. Mrs. McKenna stated that her heart was beating so hard, it took her a half hour to recover from the fright. She was not able to get the mail, and later the Peters boys took it in to her. Mrs. McKenna further stated that she has not been out in the yard since.

Mr. Taufiq of 47 Easy Street stated that he is a next-door neighbor of the Peters family, and that all the neighbors are annoyed by the Peters dog barking and jumping on them. When they have visitors, they have to wait in the car while the Peterses are called to come and get their dog. On one occasion, a young lady visitor was pulled across the street by her skirt by the Peters dog. On another occasion, Mr. Taufiq stated, he was working in his yard and the Peters dog was about five feet from him. When Mrs. Peters began screaming at the dog, he attacked Mr. Taufiq by barking, showing his teeth, running after him, and nipping at the back of his feet as he ran into the house.

Mr. Taufiq stated that his brother was attacked by the dog also.

Mr. Taufiq related an incident, witnessed by his brother, where the Peters dog had attacked a child causing her to fall off her tricycle and a neighbor went to the child's rescue.

Mr. Taufiq stated that whenever the dog had been tied up in the past, he barked continuously.

Mr. Charles Sauta stated that he lives next door to the Garfields on 735 Boston Post Road. He stated that five years ago a grandchild of one of the neighbors was threatened by the Peters dog and that the dog backed off only after Mr. Sauta had managed to put himself between the dog and the child. Mr. Sauta stated that both he and the child were threatened by the dog.

Mr. Sauta stated that his son gets along very well with the Peters dog; however, in the summer of 1980, while his son and niece were walking in the field, the Peters dog bit his niece on the shoulder and she was taken to Marlboro Hospital.

Mrs. Arthur Peters stated that she has four sons, but only her ten-year-old son walks the dog now because her other boys are at college. When her boys were younger, they used to be "beaten up", but the dog was good protection to them and to her home. Mrs. Peters further stated that only Michael Sauta will play with her boy.

Mrs. Peters stated that on one occasion when her dog had been loose the Dog Officer had picked him up and he was missing for one month. She finally found him at Buddy Dog. Mrs. Peters mentioned other occasions when neighbors had brought her dog home for her. She also stated that for the past three years, her dog had been in during the day - he is home alone from 6:30 a.m. to 3:00 p.m. and only out after 7:30 p.m. unless he is able to rush out past one of them when the door opens. Mrs. Peters stated that some of her neighbors throw sticks at her dog; that there are four or five other German Shepherds on the street and there might be cases of mistaken identity; and that the only person her dog bit was Mr. Sauta's neice, which she felt was done in protection of Michael Sauta. Mrs. Peters went on to say that she had never been called by Mr. Taufiq to take her dog in so that his company could get out of their car, and that Mr. Taufiq carries a big stick. Mrs. Peters stated that her dog makes a lot of noise but that he does not bite.

Mr. Peters said that this is not a chronic situation - the problem is basically with the fear of the dog by the Garfield family; that his dog has never harmed the Garfields, but they are afraid of him; that the dog is never out during the day, except when he escapes. The dog is a large dog, Mr. Peters stated, and he can understand why the dog would frighten people.

Responding to Chairman Donald, Mr. Peters stated that his dog will not come when he is called; they have to go and get him.

The Dog Officer explained that on the occasion Mrs. Peters spoke of regarding the one-month disappearance of her dog, she had picked him up on Route 20 with no identification, kept him for ten days, and then took him to Buddy Dog. Mrs. DeWallace stated that the Peters dog is a very aggressive dog, is a barker, and would really scare people when she had him at the pen. Mrs. DeWallace stated that she had no other complaints other than those from the Garfields, and verified that the dog had been out when the Garfields called to complain.

Responding to the Selectmen, the Dog Officer stated that the dog had been out on occasion since 1976, but that the complaints are sporadic.

Atty. Williams summarized that this dog is without adult supervision all day; he will not come when called; the Dog Officer has reported that he is an aggressive dog; that it is not a question of how many bites but that the dog is a nuisance, has a vicious disposition, barks excessively; that the dog is allowed to run after 7:30 p.m., instead of after 8:00 p.m., which is the time designated by the Dog Control Bylaw; and that the Board should make their decision based on Chapter 140 - to protect the inhabitants of the Town.

Mr. Peters did not agree with Atty. Williams' summarization.

Selectman Murray expressed that the Selectmen are in a very difficult situation because the people involved, on the one hand, are being genuinely frightened by a dog, and on the other hand, there are people who love this same animal. Selectman Murray stated that there is a Dog Control Law which requires that a dog be under the owners' control and commented that, unless a dog which is running loose can be controlled by its owner, the dog should be leashed or penned. He further noted that both Mr. and Mrs. Peters indicated that their dog was not under their control when he is not on a leash, and everyone admits that it is a frightening dog. Selectman Murray mentioned the various options which were available to the Selectmen, (explained below);

and that the decision can be appealed in the Framingham District Court within ten days:

- 1) The Selectmen can order the dog to be controlled in accordance with the Dog Control Bylaw - a dog is to run loose only between the hours of 8:00 p.m. and 7:00 a.m.;
- 2) The Selectmen can order the dog restrained at all times;
- 3) The Selectmen can order the dog out of town; or
- 4) The Selectmen can order the dog destroyed.

It was on motion by Chairman Donald to order the Peters dog restrained at all times, in the house, in a pen, or on a leash; the dog should not be allowed to run loose at any time. The motion was defeated.

It was on motion by Selectman Cossart unanimously

VOTED: To take the matter under advisement for one week. The Executive Secretary was directed to request the Dog Officer to personally speak with the Peters family regarding resolution of the situation which has been created by their dog, and to report back to the Board. The Board will review that report and the information from the hearing as a basis for its decision on January 18.

Selectman Murray asked the Peterses to restrain their dog at all times for this one-week period, and stated that the Selectmen will notify them of their decision following their January 18th meeting.

Atty. Williams asked the Board to speak also to the neighbors who were present and to the Garfields in the interim.

Interviews - Conservation Commission

Present: Chairman Joan C. Irish, Judith A. Cope, Hugh Caspe, Richard O. Bell, H. Rebecca Ritchie and Carolyn A. Woolley, Conservation Commission; James Binder, Sarah Bysshe, John Drobinski, Lynne Remington, Frank Scofield and James Widmer, Applicants.

Chairman Donald welcomed the six applicants to the Conservation Commission.

Executive Secretary Richard E. Thompson stated that the Selectmen will not be making any appointments tonight, since the Conservation Commission plans to meet this coming Wednesday, January 18th, and will discuss the four vacancies on the Commission, and, following that meeting, will submit recommendations to the Selectmen.

Following interviews and discussion with the applicants, Chairman Donald thanked them all for their interest, commenting that all of the candidates are well qualified, and stated that the Selectmen will plan to act on the Conservation Commission's recommendations for appointments at their next meeting on January 18th, but that it would not be necessary for the applicants to attend; the Board will officially notify those appointed following that meeting.

Revised Warrant Reports

Following review and discussion of three revised Warrant reports, it was on motion unanimously

VOTED: To approve the wording of the following reports:

- Amend Bylaws, Art. IX,V,A - Special Regulations, Temporary Trailers.
- Amend Zoning Bylaw, Art. IX, secs. III and IV.
- Insurance for Surviving Spouse, as amended.

Board's Annual Report

The Executive Secretary asked for comment from the Selectmen regarding their annual report which he and the Chairman prepared.

Following suggested revisions, amendments and deletions, the Executive Secretary stated that he would make the recommended changes and resubmit the report to the Board for final approval.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the Regular Session of January 4, 1982, as amended.

Accept Donations - Council on Aging

It was on motion by Selectman Cossart unanimously

VOTED: To accept, on behalf of the Town, \$54.45 in donations for the Council on Aging, to be used for operating costs for the van.

Current Items of Interest

Sperry Research

Selectman Cossart directed the Executive Secretary to check on the status of Sperry Research compliance to the local Board of Health requirements in conjunction with their pending site plan.

Business and Professional Women's Club

Regarding the invitation, dated January 5, 1982, from the Business and Professional Women's Club to attend a 7:00 p.m. dinner meeting at the Wayside Inn on January 20, Chairman Donald stated she could not attend due to a conflict and asked if another member of the Board could. Selectman Murray stated he possibly could attend and indicated that he would let Mr. Thompson know as soon as possible; Selectman Cossart replied he would attend.

New Legislation Regarding Proposition 2 1/2

Following remarks by Selectman Murray and a conversation among the Selectmen regarding new legislation on the local override of Proposition 2 1/2, Mr. Thompson stated that he had received a package from the law firm of Murphy, Lamere and Murphy, dated January 6, 1982, regarding the same, but that the Massachusetts Municipal Association (MMA) had prepared a synopsis of the same which he felt would offer a better understanding of the legislation and which he had requested from the MMA. Mr. Thompson stated that he would try and obtain the information for the Board prior to the Thursday night meeting with the Finance Committee.

Codjer Lane, Vesta Site Plan

Both Selectmen Donald and Cossart stated that they had received telephone calls regarding complaints about late hour and other activities at the Codjer Lane, Vesta site, and directed the Executive Secretary to continue to work with Town Counsel and the Building Inspector in terms of enforcing the Board's denial of their site plan.

Reschedule Board's Meeting of February 15

It was on motion unanimously

VOTED: To reschedule the Board's meeting of February 15 to February 16, 1982, due to the holiday.

Minuteman Regional Vocational Technical School (MRVTS) Budget

The Executive Secretary gave the Board a copy of the proposed MRVTS budget, dated January 7, 1982.

Shick Land, Lincoln Road

On the subject of matching the highest bid (within a 60-day limitation) for the purchase of a parcel of land, known as parcel #3 (Shick Land, Lincoln Road) and following an update by the Executive Secretary, explaining interest and some available money on the part of the Conservation Commission and the Sudbury Valley Trustees, Selectman Cossart directed Mr. Thompson to schedule a meeting as soon as possible with Town Counsel and all interested persons/parties to try to find some common interest on how to proceed with the same.

Executive Session

At 11:10 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 Donald, in favor; Selectman Cossart, in favor; Selectman Murray, in favor.)

Chairman Donald announced that Open Session would not reconvene following the Executive Session.

There being no further business to come before the Board, the meeting was adjourned at 11:40 p.m.

Attest: _____

Richard E. Thompson
Executive Secretary-Clerk