

IN BOARD OF SELECTMEN
MONDAY, MAY 3, 1982

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

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

Town of the Month

Present: Peter Falconi, Operations Manager; Colleen Hughes, Producer, and Thomas A. Wilson, Account Executive, WKOX Radio Station.

Operations Manager Peter Falconi introduced members of WKOX Radio Station who were present with him and presented the Selectmen with a plaque honoring the Town of Sudbury as being selected by WKOX as "Town of the Month" for the month of April. Mr. Falconi stated that, during the month of April, Selectman Cossart had appeared as a talk show guest and that throughout the month, information about the events and history of the Town had been highlighted during regular broadcasting with the intention of teaching people in surrounding towns a little bit about Sudbury.

The Selectmen thanked WKOX representatives for the award and attendance this evening.

Art Awards - 1981 Annual Town Report

Present: 12 recipients with parents and/or families; and Patricia D. Drobinski, Chairman, Town Report Preparation Committee.

With the assistance of Town Report Preparation Committee Chairman, Patricia D. Drobinski, Chairman Cossart acknowledged and/or presented certificates of merit to the eighteen kindergarten through eighth grade children whose art work had been selected to appear in the 1981 Annual Town Report.

Chairman Cossart expressed his appreciation on behalf of the Board to all the children who had submitted a drawing, and commented, along with Mrs. Drobinski, on the difficulty of deciding from among such good overall work.

Amend Underground Storage of Inflammables License - Gibbs Tire Depot, Inc.

The Board received a report dated April 21, 1982, from Koller Associates, Inc., on behalf of Gibbs Tire Depot, Inc., providing updated information on the storage of gasoline at 465 Boston Post Road. Since gasohol is not presently being stored or used and the Gibbs Company desires to store gasoline in its place, the Board discussed amending the license indicating 10,000 gallons of Gasohol to read 10,000 gallons of Gasohol/Gasoline to reflect the actual storage and/or possible future storage of gasohol. The Selectmen agreed, however, not to amend the license in that way, but rather to require Gibbs Tire Depot, Inc., to re-apply if they should decide they need to store gasohol in the future.

At the conclusion of discussion, it was on motion unanimously

VOTED: To amend the underground storage of inflammables license held by Gibbs Tire Depot, Inc., for property located at 465 Boston Post Road, for 10,000 gallons of gasohol, issued July 14, 1980, Document #80077, to read as follows: 10,000 gallons of Gasoline.

Amend Vote - Sunday Automatic Amusement Devices License, Sudbury Bowladrome

It was on motion by Selectman Donald unanimously

VOTED: To amend the Board's vote of April 26, 1982, by adding to the Sunday Automatic Amusement Devices License of the Sudbury Bowladrome, Inc., 136 Boston Post Road, "(four coin-operated computer games)", for the additional fee of \$175 for the Town of Sudbury and \$50 for the Commonwealth of Massachusetts.

Executive Secretary Richard E. Thompson stated that the additional fee had been received under date of April 30 and that the license specifies the numbers and types of automatic amusement devices which are licensed.

Disposition of Surplus School Property

The Board noted receipt of a communication dated April 26, 1982, from Business Manager John H. Wilson, which will be sent to all Town Departments, relative to the disposition of surplus Sudbury school property - to be made available between April 26 and May 14.

Executive Secretary Richard E. Thompson stated that any requests received would have to be approved by the Selectmen in order for the transfer of the property to take place, and that any remaining property would be sold at public sale - perhaps sometime in July if approved by the Selectmen. Mr. Thompson stated that a complete inventory is available in the Selectmen's office.

Chairman Cossart directed the Executive Secretary to forward a copy of Mr. Wilson's communication to the Historical Commission and the Ancient Documents Committee as they were not included on the original list of Town departments; and should be in accordance with the Town Bylaw, Article XII, ss.1.

Minutes

It was on motion by Selectman Donald, unanimously

VOTED: To approve the minutes of the Regular Session of April 26, 1982, as amended.

Utility Petitions:

Present: Francis S. Brown, New England Telephone.

#82-6, Maynard Road and Maynard and Marlboro Roads

Present: Edythe F. Covitt, 242 Maynard Road.

In conformity with General Laws, Chapter 166, Sections 21 and 22, the Board considered Utility Petition 82-6 of New England Telephone and Telegraph Company for permission to lay and maintain, and a location for, such a line of conduits and manholes with the necessary wires and cables therein, under the following public way of the Town:

Maynard Road, easterly side from a point approximately 44 feet north of Willis Road extending northerly approximately 3079 feet of conduit and three (3) manholes;

Maynard Road
and

Marlboro Road, easterly side from proposed manhole 120 at Marlboro Road extending easterly and southeasterly along Marlboro Road approximately 80 feet of conduit.

Executive Secretary Richard E. Thompson reported that all appropriate Town officials and abutters had been notified and that a favorable joint report, dated April 27, 1982, had been received from the Wiring and Building Inspectors for both UP82-6 and UP82-7.

Mr. Francis S. Brown of New England Telephone explained that the Telephone Company is working on a new "electronic switching system", underground, (cut-over date May, 1984) which will provide Sudbury with many more telephone services, such as touch tone, call wait, conference call, etc. The service requires additional underground conduit, with cables to be placed therein, because the present capacity will be exhausted by December, 1982. He stated that this Utility Petition, #82-6, is part of the overall project. Mr. Brown further stated that this project is going to approach over one million dollars in underground facilities. Mr. Brown explained the project in a little more detail and outlined on the map where the conduit and cable would be placed on Maynard and Marlboro Roads.

Mrs. Edythe F. Covitt of 242 Maynard Road expressed her concern regarding any further digging by the utility company near her property, explaining that, sometime ago, the utility company had installed some equipment and that she has had a drainage problem on her property ever since as a result of that digging. Mrs. Covitt stated she was not opposed to the improvement plans for the telephone service, but that she was concerned that there may be increased drainage problems on her property in order to do so.

Mr. Brown gave Mrs. Covitt his personal card with telephone number stating that he was surprised that the Telephone Company had not been notified by the Town Highway Surveyor or the Department of Public Works, because if they had, the situation would have been corrected. Responding to Chairman Cossart, Mr. Brown further stated that he would see to it that the problem Mrs. Covitt is speaking of will be looked into and/or resolved by the Telephone Company.

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

VOTED: To approve Utility Petition #82-6, as described above, and as shown on plan #1-82, dated February 4, 1982.

#82-7, Boston Post Road and Boston Post Road and Nobscot Road

In conformity with General Laws, Chapter 166, Sections 21 and 22, the Board considered Utility Petition 82-7 of New England Telephone and Telegraph Company for permission to lay and maintain, and a location for, such a line of conduits and manholes with the necessary wires and cables therein, under the following public way of the Town:

Boston Post Road, southerly side from existing manhole 30 opposite Concord Road extending westerly approximately 2536 feet of conduit and three (3) manholes;

Boston Post Road (State Route 20)
and

Nobscot Road, southerly side from proposed conduit at Nobscot Road extending westerly across thence southerly along Nobscot Road approximately 80 feet of conduit.

Mr. Brown stated that this utility petition is to tie in with the Maynard Road project and being a State road, the project had been cleared by the State Department of Public Works and also by the local Conservation Commission, under G. L., C.131, s.40 (see Determination of Applicability of the Wetlands Protection Act, dated February 17, 1982, given to the Selectmen by Mr. Brown).

Responding to Selectman Cossart, Mr. Brown stated that the cable being installed under this new project would not be used jointly with the Boston Edison Company but could be leased for cable television. Also, Mr. Brown stated that one, 4" pipe was being reserved for all fire and police alarms as part of the overall project.

Mr. Thompson stated that the Board is trying to make sure this will be a one time trenching; that Boston Edison has no future plans for this location.

Mr. Brown stated that, although he is not a representative of the electric company, he could say they normally do not go underground in a public way.

Following further discussion, it was on motion by Selectman Murray unanimously

VOTED: To approve Utility Petition #82-7, as described above, and as shown on plan #2-82, dated February 5, 1982.

Dog Complaint - Elwell/Ginsberg

Present: Mr. and Mrs. John M. Elwell, Jr.; Mr. Charles Ginsberg, dog owner; Sandra P. Harding, neighbor; and Dog Officer Betsy M. DeWallace.

Chairman Cossart convened a Public Hearing under General Laws, Chapter 140, section 157, based on the dog complaint dated, and notarized in the Town Clerk's office, April 5, 1982, concerning the springer spaniel owned and harbored by Mr. Charles Ginsberg, 41 Plympton Road, which states that the dog has a vicious disposition; that Mrs. Elwell was bitten by the dog on March 8, 1981; that the dog has been unrestrained on numerous occasions; that the dog had lunged at her, her daughter and her husband; that the dog had nipped at a neighbor who was riding a bike; and the dog had attacked another dog doing bodily harm.

Executive Secretary Richard E. Thomposn stated that the parties involved had been notified by certified mail of tonight's public hearing, and noted for the record receipt of the following communication:

- from the Dog Officer dated April 30, 1982, stating that "Chipper", the springer spaniel owned by Charles Ginsberg, does not like joggers and that her records indicate that two people were bitten by the dog and that the dog went after the Elwells' child and attacked a dog; all of these incidents took place between December 1980 and April 1981.

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

Mrs. Elwell stated that her complaints against Mr. Ginsberg's dog are as stated in the filed dog complaint ; that the dog is a menace to the neighborhood; and commented on Mr. Ginsberg's irresponsibility to the neighborhood.

Mr. Elwell gave the Board a letter form Carol McCarty, 58 Plympton Road, who could not be present, which stated that her dog had been attacked by Mr. Ginsberg's dog after Mrs. Elwell was bitten and that, although Mr. Ginsberg had assumed responsibility by paying in full for the hospitalization and medical care to her dog, he was not keeping his dog restrained at all times since.

Mrs. Sandra P. Harding, 109 Water Row, stated that her daughter, Amy, had been bitten in the summer/fall of 1980. Mrs. Harding stated she supported her neighbors and felt that the neighborhood needed some protection/relief from this dog.

Mr. Elwell stated that he had been chased by the dog about four or five weeks ago as he walked past Mr. Ginsberg's house. The dog had nipped at his heels, barking, growling and he showed his teeth. Mr. Elwell stated he had been very frightened.

Mr. Ginsberg stated that he thought it had been a year since his dog had bothered anyone, and further stated that his dog is always tied up when he is not at home, and is usually not tied when he is at home. Mr. Ginsberg later stated that his dog has become territorial in that he stays mostly in the yard when he is not tied.

Responding to Chairman Cossart, Mr. Ginsberg stated that his dog had never before been brought before the Board of Selectmen on a dog complaint. He stated that the Dog Officer had told him to tie his dog and repeated that his dog is tied when he is not at home.

The Dog Officer confirmed that the first incident involving Mr. Ginsberg's dog was in December of 1980; that the dog is an aggressive springer and that she has picked him up several times. Mrs. DeWallace stated that the dog is not leashed as much as she would like him to be.

Mr. Elwell commented that the dog is sometimes tied with a rope, which rots, and then the dog gets loose; also, on the incident he just related, the dog was not tied at all. Mr. Elwell stated that his daughter jogs every day, and that she has to go out of her way through a field to avoid going past Mr. Ginsberg's house for fear of his dog.

Mr. Elwell continued to say that at times Mr. Ginsberg's dog appears friendly and at other times he seems vicious. Mr. Ginsberg later agreed to this unpredictable behavior.

Mrs. Harding expressed her opinion that people/children are more important than dogs and that it is not worth taking chances with a dog with an erratic behavior. She stated if it were her dog, she would not keep it.

Selectman Donald pointed out that the Town has a Dog Control Bylaw which requires a dog to be under the owner's control between the hours of 7:00 a.m. and 8:00 p.m. Chairman Cossart added that it is inappropriate for Mr. Ginsberg to allow his dog to be loose if it is within the dog control hours, adding that if a situation arises where his dog becomes a nuisance to the neighborhood, the Selectmen would have to tighten up on those requirements.

Selectman Murray made a motion that Mr. Ginsberg's dog be under his control during the Dog Control hours.

Mr. Elwell stated his objections informing the Board that the neighborhood had just gone through a version of that under the direction of the Dog Officer, and noting the way Mr. Ginsberg takes care of his dog, expressed his opinion that a different level of authority would not change things.

Selectman Murray stated that the difference in the order coming from the Board of Selectmen is that, if the dog were picked up by the Dog Officer, because it was unrestrained during the Dog Control hours, it would not be returned to Mr. Ginsberg but held for further direction by the Selectmen. The Selectmen could, upon violation of their order that the dog be under the owner's control during dog control hours, order the dog restrained at all times, order the dog out of Town, or disposed of.

Selectman Donald indicated that the Selectmen could vote in one of these ways tonight, and that it was her personal feeling that the dog should be permanently restrained.

Mr. Elwell expressed his opinion that the dog should be fenced in and/or restrained by a chain rather than by a rope. Selectman Cossart responded that, should the Selectmen order the dog restrained, it is Mr. Ginsberg's responsibility to restrain the dog and not the responsibility of the Selectmen to instruct him how to do it.

Responding to Mr. Elwell, Town Counsel stated that so long as a dog is not being teased, anything a dog does is the responsibility of its owner, whether it is on his own property or not.

At the suggestion of the Dog Officer, and following further discussion it was on motion unanimously

VOTED: In accordance with General Laws Chapter 140, section 157, that the springer spaniel dog owned and harbored by Charles Ginsberg, 41 Plympton Road, be restrained during the hours of 6:00 a.m. and 10:00 p.m.

Selectman Murray informed Mr. Ginsberg that the decision of the Selectmen may be appealed by him within ten days in the district court. Mr. Kenny added that the ten days begin from the date of notification in writing.

Mr. Thompson stated that he would forward tomorrow to Mr. Ginsberg a copy of the law pertaining to the appeal process along with the vote of the Board.

Mr. Thompson responded to the Elwells that the Selectmen's office would notify them if Mr. Ginsberg chose to appeal tonight's decision.

Actuarial Study

Present: B. William Bigwood.

On the question of contracting with a firm to perform a financial and actuarial study of the Town's future pension costs, the Board acknowledged receipt of a communication dated April 28, 1982, from B. William Bigwood, of Bigwood Associates, Inc., and a resident of Sudbury, responding that, although Bigwood Associates would not be able to provide the quality study required within the cost limitations prescribed in Article 25 of the 81ATM, he would be willing to volunteer his services to the Town on a consultant basis.

The Board expressed its appreciation to Mr. Bigwood and accepted his offer, asking him to act as Advisor to the Board of Selectmen.

Executive Secretary Richard E. Thompson stated that two firms he feels are qualified to complete the study are The Wyatt Company and William M. Mercer, proposals dated February 19, 1982, and February 24, 1982, respectively.

Mr. Bigwood commented that both of these firms are qualified and have the staff to provide the services required.

Mr. Thompson added that Mercer has the added expertise of having knowledge on the State level, having prepared actuarial valuation reports for the Massachusetts Retirement Law Commission.

Mr. Thompson stated that the Town Accountant would deal more directly than himself with the firm and on the study once the Selectmen has authorized the procedure to go forward, and that once he has received the data he requested from the Middlesex County Retirement System he would forward the same to Town Accountant James Vanar.

On the recommendation of the Executive Secretary, and following further discussion, it was on motion by Selectman Murray unanimously

VOTED: To enter into an agreement with the firm of William M. Mercer Incorporated to perform a financial and actuarial study of the Town's future pension costs, in accordance with a communication dated February 24, 1982, from Vice President William J. McDonnell, subject to the review and concurrence of Town Counsel.

Town Counsel Paul Kenny stated that his opinion would be in writing and filed with the Town Clerk since the contracting of the Mercer company is subject to resolving the question of a conflict of interest in that a member of the Sudbury Finance Company is employed by the Mercer Company.

Mitre Municipal Data Management Project

The Board was in receipt of the MITRE Municipal Data Management Project proposal dated March 9, 1982, and of a drafted response to that proposal, prepared by the Executive Secretary under date of April 30, 1982.

During discussion, the Board indicated that it wholeheartedly endorses Sudbury becoming part of the MITRE Municipal Management Project and supports whatever would be necessary on its part to do so, and directed the Executive Secretary to so amend the response.

Current Items of Interest

Coatings Engineering

In reference to the Board's vote of April 26 directing Coatings to return to the permitted level of aboveground storage of Class A chemicals within thirty days, Town Counsel Paul L. Kenny stated that the 30-day period begins as of the date of written notification. Mr. Thompson stated that notice would be sent out tomorrow; he was waiting for the minutes of that meeting to be approved by the Board this evening.

Following a lengthy discussion, and on the advice of Town Counsel, the Board agreed to meet with Mr. Craig at his request dated April 30, at the Board's meeting next Monday, May 10. Selectmen Donald and Murray expressed a reluctance to meet with Mr. Craig unless he had new information or a plan of compliance to present to the Board. Chairman Cossart urged that the meeting go forward so it's not used as a delay tactic on Coatings' part.

The Board approved a communication prepared by the Executive Secretary to Mr. Kenneth Hagg, Director, Division of Air Quality Control, Department of Environmental Quality Engineering, at the direction of the Board on April 26 requesting assistance in determining and enforcing the quality of air emissions at Coatings Engineering, 33 Union Avenue.

Shick Land - House Bill #6076

Selectman Donald had received notice of a hearing at the State House, to be held May 5 relative to the Shick Land, House Bill #6076. Mr. Thompson and Chairman Cossart will be in attendance.

Council on Aging Donation

It was on motion unanimously

VOTED: To accept on behalf of the Town, \$42.31 in donations, for the Council on Aging to be used for operating costs of the van.

Finance Committee Appointments

Mr. Thompson reported that the Town Moderator had appointed two new members to the Finance Committee, one being Marjorie Wallace, a former member, and the other, Thomas Dignan.

Landfill

Mr. Thompson informed the Board that before the Wayland Annual Town Meeting is an article dealing with private contracting for the operation of the Landfill. Mr. Thompson added that he and Selectman Murray planned to attend a meeting as scheduled with the Wayland Road Commissioners regarding the hours of operation of the Landfills later this month.

Heritage Park

Mr. Thompson reported that the balance in the Heritage Park account was \$1,090 and expressed concern regarding summer hire. He stated that he would speak to Jack Braim and report back to the Board.

Boston Edison Company - Oil Import Fee

The Board signed a communication to Mr. John Goggin, District Manager of the Boston Edison Company, prepared under date of May 5, 1982, as requested by the Board on April 26th.

Proposed Closing Sequence - Shick Land

The Board confirmed receipt of a copy of the proposed closing sequence relative to the Shick Land, submitted by Davis Cherington under date of April 29, 1982.

Transcript - ATM Articles 34 and 36

The Board noted receipt of the transcript of the discussion under 1982 Annual Town Meeting Articles 34 and 36.

Selectman Murray directed the Executive Secretary to request from the Permanent Building Committee a report on the condition of the roof at the Loring School.

Chairman Cossart directed Mr. Thompson to invite the PBC to the Selectmen's May 11 meeting relative to the excessed schools and asked Selectman Murray to get in touch with the Town Facilities Committee if he felt there was anything they should do.

Sudbury River Diversion - Citizens Advisory Committee

The Board discussed the replacement of H. Rebecca Ritchie on the Citizens Advisory Committee. Ms. Ritchie will be resigning as of June and Selectman Donald stated that Ms. Ritchie would like to begin initiating her replacement as soon as possible.

Selectman Donald stated that there is a meeting tomorrow evening of the Citizens Advisory Committee.

Selectman Donald updated the Board as follows relative to the Sudbury River Diversion project:

- data collection extended to July/August, 1982 (low flood periods).
- extension of study to September, 1982.
- projected earliest release of draft EIR, October, 1982; final EIR, early 1983.
- area consultants meeting with I.E.P. to review study.
- Nyanza Chemical dump now included.
- three sample station locations in Sudbury; test for quality at all three.
- Sudbury Reservoir pilot plan turned over to consultant April 7; start-up is imminent.
- safe yield model for reservoir by A.D. Little.
- meeting with Wallace, Floyd - April 30 at MDC offices.
- irrigation needs are being compiled.
- M. Kempe - "Effects of . . . drawdown on . . wells will be used as a constraint in determining safe yield."

Assessors' Contract for FY1983 Valuations

The Board noted receipt of a communication, dated April 30, 1982, from Donald P. Peirce, Chairman of the Board of Assessors, to L. Joyce Hampers, Commissioner of the State Department of Revenue requesting an opinion under Chapter 797, s.1A, regarding the contract's form or content as it relates to Chapter 41, section 56.

Police Matters

At the direction of Chairman Cossart, the Executive Secretary is to draft a letter of acknowledgement to the Chief of Police regarding the recent performance of his Department in solving and curtailing crime in the Town of Sudbury, further requesting that he put letters of recognition in the appropriate personnel files.

Referencing one item on a list of recent activities of the Police Department, the Executive Secretary was directed by the Selectmen, to consult with the Juvenile Officer regarding involvement of the Juvenile Restitution Committee.

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