

IN BOARD OF SELECTMEN
MONDAY, SEPTEMBER 27, 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.

Public Hearing - Application for Storage of Inflammables, Class 5 & 6 "Electronic Gases" - Union Carbide Corp., 141 Boston Post Road

Present: Chester Hamilton, Buddy Dog; and James and Jennifer Himmelman, abutters; and Fire Chief Josiah Frost.

Chairman Cossart opened a public hearing continued from September 20 on the above-captioned application and a related site plan revision.

Executive Secretary Richard E. Thompson noted receipt of the following communications, received subsequent to last week's public hearing:

- from S. Robert Steele of 125 Stock Farm Road, objecting to the issuance of the license on the basis of his concern of the hazards posed by such gases; and
- from the Planning Board, dated September 21, 1982, confirming the Planning Board's verbal recommendation to approve the above application based on information obtained at the September 20 hearing.

Responding to Chairman Cossart, Mr. Thompson stated he had no confirmation regarding Mr. Morgello's attendance this evening. He also informed the Board that Mr. Wimmer, the Eastern Region Technical Representative for Linde Division of Union Carbide, had made himself available to the Selectmen's office during the week.

Chairman Cossart expressed serious concern regarding the nature of the gases and questioned Union Carbide's direction in this industry. Chairman Cossart questioned the hazardous range of a leaking cylinder, pointing out that the minutes of last week's hearing indicated no effect at a distance of 20' from a leaking cylinder, and that a person standing next to a leaking arsine cylinder probably would not survive.

Selectman Murray told Chairman Cossart, who was not present last week, that at that time Mr. Morgello had indicated that the business would be on a limited basis right now, that they would store only what is proposed and that storage would be replenished from their out-of-state plants.

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

VOTED: To take no action on the above-noted license application until the Board can meet again with an expert from Union Carbide to answer some of the questions raised by Selectman Cossart.

The Executive Secretary was directed to schedule such a meeting, and, upon request of the abutters present, to so notify them of any future meetings with Union Carbide.

Selectman Donald suggested the Board's October 13th meeting.

At the direction of the Board, Mr. Thompson stated he would check with Town Counsel regarding the related revision of the applicant's site plan in terms of any time constraints.

Chapter 61A Property - First Purchase Option

Present: Josiah F. Frost.

Selectman Donald left her seat at the Board and took a seat in the audience, and, thereafter, took no part in the Board's decision on the subject matter, which she was bringing before the Board as a petitioner.

The Board acknowledged receipt of a communication dated September 17, 1982, from Mrs. Donald, explaining her intention to sell 2.97 acres of her property, of which approximately .85 acre is presently under Chapter 61A tax abatement (non-productive land), and, as such, requires that the Town have first option to purchase.

Mrs. Donald explained the location of the land on a plan entitled, "Plan of Land in Sudbury, Mass.", dated March 16, 1977, revised December 8, 1980.

Following a brief discussion, it was on motion by Selectman Murray unanimously

VOTED: To direct the Executive Secretary to follow-up with the Conservation Commission and the Planning Board, Mrs. Donald's offer, dated September 21, 1982, to sell approximately .85 acre of land presently under Chapter 61A tax abatement; and further, to contact the Board of Assessors relative to the abated value of the .85-acre portion of land on Maynard Road, and return to the Board with that information.

Mrs. Donald then returned to her seat at the Board.

Retirement - Fire Chief Josiah F. Frost

Present: Fire Chief Josiah F. Frost.

It was on motion by Selectman Murray unanimously

VOTED: To acknowledge receipt of, and accept, a communication dated September 21, 1982, from Fire Chief Josiah F. Frost, setting forth his retirement date of January 31, 1983.

Chairman Cossart acknowledged the Chief's request that the Selectmen choose his successor during November, 1982, for a smooth transition, and stated that the Board would make every effort to accommodate that request.

Minutes

It was on motion by Selectman Murray unanimously

VOTED: To approve the minutes of the Regular Session of September 20, 1982, as drafted.

(Chairman Cossart abstained as he was not present at that meeting.)

It was further on motion by Chairman Cossart unanimously

VOTED: To approve the amendment to the Regular Session minutes of April 20, 1982, as presented.

FY83 Hourly Rate - Town Counsel

Following review of information dated September 14, 1982, regarding FY83 fees for legal services in surrounding communities, requested by the Board at its meeting of September 13, 1982, it was on motion by Selectman Murray unanimously

VOTED: To increase Town Counsel Paul L. Kenny's hourly rate for court time for FY83 to \$50.

Sign Fuel Oil Contracts

The Board signed a fuel oil contract with Atlas Oil Corporation, dated September 1, 1982, pursuant to the Board's vote of September 2, 1982.

Town Fathers Forum

At 8:00 p.m. Chairman Cossart convened the 146th Session of the Town Father's Forum, a copy of which is attached and made a part of these minutes.

Appointment - Republican Town Election Officer

In accordance with recommendation from the Sudbury Republican Town Committee, dated September 21, 1982, and concurrence by the Town Clerk it was on motion by Selectman Donald unanimously

VOTED: To appoint Jodie B. Holzwasser, 26 East Street, as a Republican Town Election Officer - Emergency Inspector - for the 1982-83 election year, to replace Stephanie Hearl who did not accept reappointment.

Donations

It was on motion by Selectman Murray unanimously

VOTED: To accept the following donations on behalf of the Town:

- a. \$25 to the Heritage Park Account from Mr. and Mrs. William L. Bazemore of Stow; and
- b. \$325 to the Edwin Barrett Hosmer Memorial Fund from the Sudbury Newcomers Club.

State Promotional Examinations - Police Personnel

Present: Police Administrative Assistant Peter B. Lembo.

At the direction of the Board at its meeting of September 20, 1982, Mr. Thompson stated that he had contacted the State Division of Personnel Administration and received authorization for Sudbury to apply within an extended deadline, by September 27, 1982, for the Police Chief examination scheduled for February 5, 1983. (The Board did not have sufficient prior notice to address the matter and respond within the September 17th deadline.)

Upon advice of State officials, Mr. Thompson stated that he had requested on the application that: 1) a departmental promotional exam be given - this requires at least four applicants, and if fewer apply - 2) an open competitive examination be given - this presents a problem in that Sudbury applicants would be competing on a State-wide basis, and it is required that the Town choose a chief from only the top three scoring applicants.

Responding to Chairman Cossart, who questioned the eligibility of people taking the police chief examination, Mr. Thompson responded that it is usually limited to sergeants, and that other criteria might be established by the Selectmen, i.e., years of service, residency, etc. Sergeant Lembo confirmed that a State requirement is that a police chief live within ten miles of the Town.

Responding to Chairman Cossart, Town Counsel stated that the Selectmen would establish the basic criteria which allows people to take the examination, prior to the examination in February. The Selectmen could then make the appointment based on a more specific criteria, i.e., psychological examination, etc.

Sergeant Lembo stated that less than 5% have passed the Departmental promotional exam for police chief in the last few years; on the State-wide test, 7 passed in the whole state! He went on to say that in Maynard and Hudson, no one passed after three examinations. Sergeant Lembo informed the Board that 77% was the only and highest passing score of Sudbury's last sergeant's test (April 24, 1980), and the highest mark recently was 76% in the chief's exam by the Chief of Somerville.

Responding to the Selectmen, Mr. Thompson stated that Sudbury's list of sergeants from the Division of Personnel Administration expired on April 24, 1982. The deadline for filing for the sergeant examination is December 3, 1982, for the April, 1983 exam.

Following discussion, the Executive Secretary was directed to schedule further discussion relative to requisitioning for a sergeant's exam on the agenda for the Board's November 15 meeting.

Selectman Donald brought up the subject of "second-in-command" (lieutenant), the possibility of discussing the same during the upcoming budget season, and requisitioning for the April, 1983 exam.

Selectman Murray commented that there have been some good and valid reasons for surrounding towns going to a lieutenant's position for supervision and assistance to the chief.

Chairman Cossart stated that the new Police Chief should have input and support the idea enthusiastically before he would support it.

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

VOTED: To direct the Executive Secretary to request the Committee on Town Administration to look into the subject of title and duties of the second-in-command position for the Police Department, as suggested by Selectman Donald, and report back to the Board.

License Violation - Sudbury Variety, 621C Boston Post Road

Present: Administrative Assistant Peter B. Lembo, Officer Earle D. Ryder; Richard J. Rogers, Sudbury Variety.

Chairman Cossart convened a public hearing on the question of a violation of the conditions of its retail package goods license by Sudbury Variety, 621C Boston Post Road.

Executive Secretary Richard E. Thompson stated that Mr. Richard J. Rogers of Sudbury Variety had been notified of tonight's hearing by certified mail dated September 15, 1982, a copy of which was sent certified mail to Nancy B. Taylor, 10 Thunder Road.

Chairman Cossart asked that all questions be directed through the Chairman; Town Counsel stated it was not a requirement that those present be sworn in.

Officer Earle D. Ryder read his report of July 13, 1982, explaining the incident on that date at Sudbury Variety leading up to the conviction of three individuals in the sale, purchase, and transporting by minors of alcoholic beverages, as follows:

- Janet King, 17 Beechwood Avenue, found guilty of selling alcoholic beverages to a minor - case continued without a finding until March 8, 1983;

- Charles Taylor, III, 10 Thunder Road, found guilty, minor in possession of alcoholic beverages and fined \$50; and

- Sara A. Sitomer, 26 Field Road, found guilty of minor transporting alcoholic beverages - case continued without a finding until March 8, 1983.

Mr. Rogers of Sudbury Variety apologized to the Board for the situation which occurred at his store and stated that, because of their location away from the busier area of Town on Route 20, they get more than their share of under-aged persons, sometimes with false identifications coming into their store. Mr. Rogers stated that there has been no other occasion where there has been an illegal sale/purchase in the store, and that he has been on the premises quite a bit since the July incident.

Chairman Cossart stated this particular Board has been very direct in its conversations with any potential alcoholic beverages license holders when appearing before the Board of the seriousness of, and the responsibilities which go along

with, the license, and stated his recollection that it had not been an easy judgment in the case of issuing a license to Sudbury Variety in terms of location, whether or not there was a public need, and the likelihood of the Town being able to enforce the conditions of the license. He further stated that the Town has also been very overt in its attitude on the consumption of alcoholic beverages by minors - people are very serious about not allowing youngsters to consume alcohol and are doing everything they possibly can to prevent it. Selectman Cossart, therefore, expressed his opinion that this license should be revoked on the basis of the illegal sale of alcohol to a minor.

Sergeant Lembo stated he felt the license should be suspended. He commented that the courts are making it too difficult for local police to make a conviction on this type of case, and when a conviction is made by the court, he felt the Selectmen should take a hard line just as legislators are taking a hard line on drunk driving.

Chairman Cossart concurred with Sergeant Lembo's comments but reiterated his feeling that the license should be revoked (withdrawn), not suspended (for a time).

Sergeant Lembo again stated he felt it should be suspended, not completely revoked - "the Selectmen would be setting a difficult precedent to withdraw the license completely". He felt that other package stores should be cognizant that any violation of a liquor license will receive a stiff penalty, and a suspension would accomplish that.

Responding to Selectman Murray, Town Counsel Paul L. Kenny stated that Mr. Rogers can appeal the Board's decision to the Alcoholic Beverages Control Commission within five days of receiving notice.

Mr. Rogers asked if there had been another case like this in Town and if so, what action was taken. Chairman Cossart stated that there has been no such violation during his tenure.

Mr. Thompson stated that the Board had issued a fourteen day suspension to Sudbury House on their All Alcoholic Beverages License for after-hours drinking; a four-day suspension was given to a package store in 1977 by a different Board. Sergeant Lembo stated that at one time a three-week suspension was issued to the Wayside Package Store on a first offense. Chairman Cossart stated that that predated this Board.

Mr. Rogers asked where Officer Ryder was located when he observed the July 13th incident at Sudbury Variety which he reported. Officer Ryder stated that he was in the parking lot of the medical building across the street, facing the front door of Sudbury Variety.

Selectman Donald stated that, since this is the first provable violation, she is inclined to favor a suspension for perhaps six days of Wednesdays and Thursdays, and give Mr. Rogers another chance with the understanding that, if it should happen again, the license would be revoked. Chairman Cossart reiterated that there was a question in the first place as to whether this liquor license should be granted, that there has been strong action taken by the State relative to drunk drivers, and that laypeople are working very hard to convince the public that this is a very serious situation.

Selectman Murray added that a liquor license is a privilege, and that there are a lot of responsibilities that go along with it.

Mr. Rogers agreed that it is a privilege to hold a liquor license, adding his opinion that because a mistake was made it should not warrant revocation of the license. He went on to say that when he originally applied for the license, the main objection by Selectman Cossart was that another package store license along Route 20 was not needed - the location was a question at that time. Mr. Rogers added that the Town is entitled to a certain number of package store licenses - it is controlled under state statute - and questioned what the Selectmen's job is regarding that control.

Chairman Cossart stated that the State only sets the maximum.

Selectman Murray stated that it was fortunate that Officer Ryder had been there at the time pointing out what could have happened if he had not been there - what accidents could have taken place.

The Board, being certain that satisfactory proof exists to indicate a violation of a condition of the above-referenced Package Goods Store License by the selling of alcoholic beverages to a minor on or about July 13, 1982, at approximately 8:45 p.m., on motion unanimously

VOTED: To revoke the license issued on November 30, 1981, to Richard J. Rogers, d/b/a Sudbury Variety, 621C Boston Post Road, Sudbury, Massachusetts.

Mr. Rogers stated that on many occasions he observed police cars across the street watching his store with binoculars and stated that this was a form of entrapment and that it would be brought up during the appeal process. Mr. Rogers expressed his opinion that the incident which took place at Sudbury Variety on July 13th was a mistake and that the revocation of his license should not be used to set an example for the other licensees in Town.

Representative Lucile Hicks

Representative Lucile Hicks updated the Board on two bills she is submitting on behalf of the Regional School dealing with corrective legislation, as follows:

- to allow the Regional School to rent excessed space as local schools can presently do; and
- to allow the Regional School to use tuition monies to offset educational costs in the year received, as local schools presently can do.

Chairman Cossart mentioned for Representative Hicks' information the following two articles in the Warrant for the October 7 Special Town Meeting: 1) Accept GLc41, s108L - Career Incentive, Police; and 2) Town Boundary Change.

Route 20 Widening

Selectman Murray stated that the prospect of the widening of Route 20 looks grim but suggested the Board hold any further action on the matter until after the election in November. The Board concurred.

Fort Devens - Ribbon Cutting Ceremony

Mr. Thompson informed the Board of an invitation to the official opening - ribbon cutting ceremony - at Fort Devens, Sudbury, on September 30, at 10:30 a.m.

Communications Received

The Board noted receipt of the following communications:

- from Atty. William M. Keiley, Jr., dated September 20, 1982, relative to Police Chief Nicholas Lombardi's back injury.
- from the Personnel Board, dated September 16, 1982, denying the grievance of Shawn Kelley.
- from the Secretary of State's office, received in the Board of Selectmen's office August 4, Acts and Resolves, Chap. 336 "Authorizing Estimated Tax Payments in Certain Cities and Towns".

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