

IN BOARD OF SELECTMEN
MONDAY, SEPTEMBER 25, 2000

Present: Chairman Kirsten D. Roopenian, Lawrence W. O'Brien, and John C. Drobinski, Selectmen.

The statutory requirement for notice having been met, the meeting convened at 7:30 p.m. at the Town Hall, 322 Concord Road.

Cable Television Franchise

Short-Term License Renewal
Transfer Control of License

Present: Jeffrey Winston, Chairman, Cable Television Committee; David A. Green, Director of Government Relations, Cablevision.

Chairman Roopenian convened a meeting for the purpose of granting a short-term Cable Television Renewal License to Cablevision of Massachusetts, Inc., to extend the contract for the period September 25, 2000 through October 23, 2000, and to approve the change of control of the Town of Sudbury's current cable television license from CSC Holdings, Inc., parent of Cablevision of Massachusetts, Inc., to AT&T Corp. It was noted that the current licensee, Cablevision of Massachusetts, Inc., will continue to own and operate the system with AT&T Corp. as the ultimate parent after the closing.

Mr. Jeffrey Winston, Chairman, Cable Television Committee, stated previous delays in negotiations have been due mostly to time constraints of special counsel as many communities are negotiating contracts at this time. He stated the extension is necessary to allow time for all parties to review and comment before the October 10, 2000 Board of Selectmen meeting, and that the contract itself may not be executed until the October 23, 2000 Board of Selectmen meeting. Chairman Roopenian pointed out that meeting will be immediately before the Special Town Meeting and would be held at Lincoln-Sudbury Regional High School.

Chairman Roopenian made the following introductory statement relative to the cable television license transfer application: *The purpose of this meeting is to act upon the application (FCC Form 394), dated June 16, 2000, of AT&T Corp. and Cablevision of Massachusetts, Inc. for change in control of the existing cable television franchise in Sudbury from CSC Holdings, Inc., parent of Cablevision of Massachusetts, Inc., to AT&T Corp. A similar application has been filed in 36 other cities and towns within Massachusetts.*

As a brief explanation: On April 18, 2000, the two companies entered into an agreement whereby, through a merger of a wholly owned subsidiary of AT&T Corp. with and into Cablevision of Massachusetts, Inc., Cablevision of Massachusetts, Inc. will become a wholly owned subsidiary of AT&T. The current licensee, Cablevision of Massachusetts, Inc., will continue to own and operate the system with AT&T Corp. as its parent, effective upon the consummation of the merger. The system will be operated as part of a cluster of systems serving Massachusetts operating as "AT&T Cable Services".

*To assist in the hearing process, the Cable Television Division of the Massachusetts Department of Telecommunications and Energy scheduled three regional hearings in the month of July as follows: in Peabody on July 18, in Maynard on July 25, and in Fitchburg on July 27, 2000. Sudbury representatives attended the July 25 hearing in Maynard, which was advertised in the July 13, 2000 edition of the **Sudbury Town Crier**.*

On file in the Selectmen's Office is a "Summary of Proceedings and Magistrate's Report Re: Transfer of Control of Cable Television Licenses from Cablevision of Massachusetts, Inc. to AT&T Corp.", dated August 25, 2000, pertaining to the regional hearings.

Jeffrey Winston, Chairman, Cable Television Committee, concurred with Ms. Roopenian's remarks, adding that AT&T has acquired Media One, another provider of cable service in Massachusetts

Mr. David Green, Director of Government Relations, Cablevision, and liaison for the Town of Sudbury, stated Cablevision had opted to concentrate their business efforts in the City of New York, hence the sale of systems in several states including Massachusetts. He stated AT&T, as the buyer, will continue many of the services initiated by Cablevision, and add more in the future. He reported the new customer service plan will be in effect the day AT&T takes over, and the Town of Sudbury will be well served by this transfer.

Mr. Green stated the sequence of events will be the short-term renewal license, transfer of control, followed by the ten-year contract. He noted that CSC Holdings, Inc. will remain the license holder until the merger is completed, sometime between December 1, 2000 and January 1, 2001. He stated he will continue to serve as liaison until that time.

It was on motion unanimously

VOTED: To grant and sign a short-term Cable Television Renewal License to Cablevision of Massachusetts, Inc. to extend the contract for the period of September 25, 2000 through October 23, 2000.

It was further on motion unanimously

VOTED: To approve the change of control of the Town of Sudbury's current cable television license from CSC Holdings, Inc., parent of Cablevision of Massachusetts, Inc., to AT&T Corporation; the current licensee, Cablevision of Massachusetts, Inc., will continue to own and operate the system with AT&T Corporation as its ultimate parent after the closing.

Chairman Roopenian thanked Mr. Winston and the Cable Television Committee for their efforts.

Sprint/Omnipoint Cell Tower – Borrow Pit

Present : Joseph Giammarco, Sprint PCS; Peter Cooke, Omnipoint Communications; Ralph Tyler, One Deacon Lane.

The Board was in receipt of the following: (a) Report, dated September 8, 2000, from Town Manager Maureen Valente, stating she had spoken with the Town Manager in Concord with the following report: their Board of Selectmen has no objection to the cell tower at the Borrow Pit site as long as it is within the Town of Sudbury; also indicating they could not guarantee how private Concord residents would react; and (b) Letter, dated September 13, 2000, from Joseph Giammarco, Sprint PCS, containing five sets of coverage maps as well as a map of the Melone parcel with a marked location 1000 feet east of the nearest school. Mr. Giammarco submitted a Town of Concord plan showing abutting Concord properties, and new coverage maps (2).

Town Manager Valente stated the Board had requested additional information now provided by Sprint and Omnipoint, with respect to coverage areas, Concord abutters, and distance from schools.

Mr. Joseph Giammarco, Sprint PCS, briefly reviewed the coverage maps with the Board. He reported that Mr. I. William Place, Director of Public Works, preferred the original location, in the corner of the lot, as it would not interfere with future plans for the parcel. Mr. Giammarco stated he would be willing to apply for a dimensional variance as there is already a cell tower near the school on the adjoining property.

Mr. Giammarco stated Mr. Peter Cooke, Omnipoint, went to the Concord Assessors Offices to obtain the maps showing Concord abutters to this property. The Board briefly reviewed these maps. Mr. Cooke stated many of the abutting parcels were in Chapter 61A, conservation land, or belonging to the Water District of the Town of Concord.

The Board briefly reviewed updated coverage maps, "before" and "after". Mr. Cooke stated the area covered by the proposed cell tower in the Borrow Pit was labeled BO485D.

Selectman Drobinski asked about the status of area BO009 in Wayland near the junction of Routes 27 and 20. Mr. Cooke responded he believed it was still in litigation. Mr. Giammarco stated Sprint will soon be filing for a site in Wayland along Route 20. It will be behind Classic Clocks, whose proprietor is one of the trustees of a trust that owns the property.

With regard to distances from schools, Selectman O'Brien expressed his preference for placing the cell tower at least 1,000 feet away from the Montessorri school, in accordance with the bylaw.

Mr. Ralph Tyler, One Deacon Lane, asked why another tower was being proposed instead of adding equipment to existing towers in Town. Mr. Cooke responded that a monopole is created to house only one or two carriers to keep it narrow in size and looking like a flagpole. Mr. Tyler also wanted to know why the utilities to the tower on the landfill site were above ground. Mr. Giammarco responded that it was an AT&T site but that Sprint always tries to put utilities underground whenever possible. Selectman Drobinski clarified that DEP required above ground placement at the landfill due to concerns about methane gas.

After discussion, it was on motion unanimously

VOTED: To direct the Town Manager to clarify the location preferred by the Director of Public Works, and then request Town Counsel to prepare a Draft Request for Proposal (RFP) to site a wireless communications facility at the North Road "Borrow Pit" for the Board's review and comment, and subject to that review and comment, determine whether to issue a Request for Proposal.

Town Manager Valente asked Mr. Cooke how many other carriers could be seeking coverage in this area. He responded there are several wireless providers that may seek coverage as well as possibly specialty niche providers.

Appointments – Board of Appeals

Present: Richard L. Burpee, 220 Haynes Road, Applicant.

Selectman O'Brien recused himself and asked the Board if he should remove himself from the room as his wife was being recommended for appointment. Chairman Roopenian stated he need not do so.

Mr. Richard Burpee stated he has been a resident of Sudbury since 1984, spending time coaching Little League and Babe Ruth baseball. He is now seeking another community involvement. He stated he does have a legal background, though no experience in real estate law.

Following a brief discussion, it was on motion unanimously

VOTED: To appoint Richard L. Burpee, 220 Haynes Road, to the Earth Removal Board and Board of Appeals Associates, for a term to expire April 30, 2001.

Chairman Roopenian stated she knew Ms. O'Brien well and felt sure she would excuse herself from any issue presenting a conflict of interest, and wholeheartedly endorsed the appointment.

It was on motion by Selectman Drobinski and subsequently

VOTED: To appoint Associate Member Lauren S. O'Brien to the full Board of Appeals for a term to expire April 30, 2002, replacing Marshall A. Karol. (Chairman Roopenian and Selectman Drobinski, aye, Selectman O'Brien, recused himself from vote).

ESS Sudbury Athletic Academy LLC

Present: Myron Fox, Attorney, Rollins, Rollins & Fox; D. J. Bosse, Chief Executive Officer, Stephen Gray, Dr. David Striegel, ESS Sudbury Athletic Academy LLC; Steven Astrove, Bill Seuch, Goulston & Storrs; Bruce Ey, Schofield Brothers of New England; Jennifer Conley, Rizzo Associates; David A. Wallace, Attorney, Whittemore and Wallace; Laury Hammel, The Longfellow Clubs; Bryan Koop, Economic Development Committee; Nicole Dupre, TEPP LLC; Liana Moore, Bowditch & Dewey, LLP; Ivan Lubash, 25 Barbara Road; David Kerrigan, 40 Wagonwheel Road; Vicki Hammel, 610 Peakham Road; Terrance Keeney, 71 Blueberry Hill Lane; other residents.

At 8:22 p.m. Chairman Roopenian reconvened a Public Hearing for the purpose of consideration of Site Plan Application #00-356 of ESS Sudbury Athletic Academy LLC for a Site Plan Special Permit, in accordance with Town of Sudbury Bylaws Arts. IX.V.A, to construct a recreational and educational athletic facility consisting of a two-story building containing approximately 64,833 s.f. in floor space, three outdoor tennis courts and three seasonally enclosed tennis courts, with associated driveway, parking and drainage structures, on property located at 141 Boston Post Road, owned by T. & E. Realty LLC, zoned Industrial District #4. This matter had been continued from September 11, 2000.

The Board was in receipt of the following new information:

1. Letter, received September 25, 2000, from Mary Fenner, Vice President, Paxon Corporation 490B Boston Post Road, Sudbury, stating no opposition to the application and noting it as an opportunity for economic growth, healthy business competition and tax revenue for the Town.
2. Letter, dated September 25, 2000, from Larry and Patty McGlynn, McGlynn Insurance Agency, 83 Boston Post Road, Sudbury, urging the Board's support of the proposed facility, contending the low traffic impact to be one of the greatest strengths of the proposal.
3. Report, dated September 19, 2000, from I. William Place, Town Engineer, stating the driveway could be relocated between 167 and 240 feet from the centerline of Goodman's Hill Road to the centerline of the proposed driveway. He states further this location will meet the stopping sight

distance for the posted speed limit of 40 mph and present no conflict with the intersections of Goodman's Hill Road, Best Friends, Wingate Nursing Home and Old County Road. Mr. Place also states the building coverage calculations have been revised to include a 29,000 sq. ft. bubble, with a resulting lot coverage of 12.30% and that the maximum building coverage does not apply to the definition of lot area under Article IX, Section C.

4. Report, dated September 19, 2000, from the Economic Development Committee, urging approval of the application, opining this facility will cause lower generation of traffic compared to other allowed uses and that other concerns such as zoning, circulation, stormwater management, environmental protection and design review have all been addressed and can be mitigated.
5. Report, dated September 20, 2000, from Rizzo Associates, Inc., presenting additional research and data for the proposed Athletic Academy, in particular as it would be affected by Old County Road. The report states that 87% of Route 20 traffic does not turn on or off of Old County Road. Regarding the Next Generation Day Care, currently on Old County Road, and planned to be relocated to a location further west on Route 20, the analysis contends no modifications need to be made to traffic volume counts for this change. It concludes the intersection of Old County Road and Route 20 currently operates at a Level of Service E and would operate at Level of Service F by 2005.
6. Memo, dated July 11, 2000, to the Board of appeals from Myron J. Fox, Rollins, Rollins & Fox, presenting arguments with regard to zoning applicable to the site, citing case law.
7. Memo, dated September 5, 2000, to the Board of Appeals from ESS Sudbury Athletic Academy LLC, further presenting their position as to the applicable zoning for this site, also citing case law, and declaring the proposed use is an appropriate use and should be permitted.
8. Document entitled "The Case for Rejecting the Application for Site Plan Special Permit of the Sudbury Athletic Academy", dated September 21, 2000, from Laury Hammel, 610 Peakham Road.
9. Report [submitted during meeting by Nicole Dupre], dated September 25, 2000, from TEPP LLC (Transportation Engineering, Planning and Policy), Reading, Mass., reviewing potential traffic impacts and presenting data showing reports by Rizzo Associates to be unrealistically low for this type of multi-use facility and recommending re-evaluation by proponent.
10. Memo [submitted during meeting by Liana Moore], dated September 25, 2000, from Brian C. Levey, Esq. and Liana Moore, Esq, Bowditch & Dewey, LLP, challenging the SAA's application with regard to parking spaces and presenting argument that the calculations used are insufficient, not clearly defined, and do not comply with the bylaw. It urged the Selectmen to deny the application.
11. Letter [submitted during meeting by Laury Hammel], dated September 25, 2000, from James Loehr, LGE Performance Systems, Orlando, Florida, describing that facility and its services, specifically two buildings totaling 15,000 sq. ft., and six outdoor tennis courts. Services do NOT include public tennis lessons, tennis camp or academy, golf instruction or practice area, day spa nor memberships of any type. The letter also states that 90% of their clients come from outside the Orlando area.

Chairman Roopenian asked that only new information be presented, followed by public comment.

Mr. Myron Fox, representing the applicant, stated his new information had been included in the Board's packets and he would be happy to wait until summation and allow time for public comment.

Mr. David Wallace, representing Laurence Hammel and the Longfellow Club, stated the proposed facility at 141 Boston Post Road has stirred up passion, both for and against it. He stated 216 residents have signed a petition to the ZBA requesting denial due to increased traffic concerns at the Goodman's Hill Road and Route 20, yet the Economic Development Committee has endorsed the proposal as a good way to utilize that location and generate revenue for the Town, maintaining the positives outweigh the negatives. He pointed out that this Committee stated that increased competition with the Longfellow Club should not be a consideration in evaluating this application for Site Plan Special Permit. Mr. Wallace stated the Planning Board has supported this application, sending two letters to this effect, even to the newspaper. He concurred that the facility should be judged on its own merits, and not how it affects anyone else.

Mr. Wallace stated the facility should be judged on whether it meets the five criteria required for a Site Plan Special Permit. Referring to the Building Inspector's memo of September 8, 2000 with regard to parking spaces, Mr. Wallace read the reference to existing comparable facilities. Mr. Wallace pointed out that due to the fact this facility offers multiple uses and has massive size, the 95 spaces are inadequate. A memo from the Town Planner reiterated this position. He opined a facility of this size should require approximately 300 parking spaces, as reports from additional sources would indicate. Mr. Wallace stated the Building Inspector was misled in the belief that this facility was similar to LGE in Orlando, Florida, and therefore his report is invalid.

Mr. Wallace read from Mr. William Keller's letter to *The Town Crier* in support of the facility, noting few environmental impacts and economic growth. He disagreed with Mr. Keller's statement that the traffic impact would be low and opined research would show a far greater increase in traffic than the applicant has reported.

Ms. Nicole Dupre, TEPP LLC, a transportation engineering firm in Concord, NH and Reading, MA, stated she would confine her comments to the trip generations, stating they are greater than the applicant's report indicates. She stated Rizzo Associates used Institute of Transportation Engineering Rates, the standard methodology, but stated they used only one site instead of several. In addition, the tennis court land use was not included, nor was the weight room, aerobics room, etc. She stated this suggests that a different land use should be used as comparison for peak hour traffic. For this reason TEPP used the Longfellow Club as a comparable use as it also has tennis courts, squash courts, aerobics classes, etc.

Ms. Dupre stated that, for two different days in August, the trip generation was considerably higher than in the Rizzo analysis. Specifically, the Rizzo analysis reported 18 trips during the morning peak hour and 40 during the afternoon peak. She stated the Longfellow Club showed counts of 204 trips during the morning and 144 during the afternoon.

Selectman O'Brien asked if someone actually stood by the entrance and counted the cars as they came in. Ms. Dupre stated the Longfellow Club did the counts. Mr. O'Brien asked if the counts might possibly include the day camp drop offs. She responded they did not. She summarized that the impact of traffic from the proposed Sudbury Athletic Academy would be greater than originally indicated.

Selectman O'Brien asked why facilities like the Wayside Racquet Club in Marlboro were not used in comparative analysis. He found it unusual that the facility tested was the facility owned by the person opposing the application. Ms. Dupre stated a YMCA, for example, would fall between these two comparisons.

Ms. Liana Moore, Bowditch & Dewey, LLP, stated she was representing The Longfellow Club and would speak on the issue of insufficient parking spaces for the Athletic Academy. She submitted a memo, dated September 25, 2000, with her calculations. Ms. Moore stated the initial parking calculations submitted by the applicant are not clearly referenced, nor are the scheduled uses stated. She indicated there are a number of calculations submitted with no basis in the provisions of the Zoning Bylaw. She stated that the applicant's proposal of 95 parking spaces is clearly inadequate. A variance would be required to reduce the number of parking spaces from the required 164 down to the proposed 95, after a reduction of up to 30 percent which could be granted by the Board of Selectman. The reserve parking must be shown on the site plan and documented.

Referring to the Planning Board's correspondence dated September 8, 2000, she concurred with the statement that "the number of parking spaces proposed is the limiting factor on the intensity of use at the site", though they supported the proposed use. She noted the Planning Board letter also commented the outdoor tennis courts could be used in the future as additional parking space, though that determination is contrary to the bylaw.

Selectman O'Brien asked Mr. Fox about the square footage on the "bubble". Mr. Fox responded that, with the bubble's 29,000 sq. ft. included, the total square footage is approximately 94,500. Ms. Moore stated the plans she used in her calculations were submitted on July 5 and stated further she did not know if those plans had been revised since that time. Mr. O'Brien cited a discrepancy in square footage numbers. Ms. Moore stated that discrepancy is minimal and has no impact on the parking spaces, which are based on the educational use of the facility; (had the use been retail, over 400 spaces would be required).

Chairman Roopenian asked Ms. Moore to recalculate the figures as they are very different from information already presented. Ms. Moore stated the parking numbers will not change even if the square footage numbers were not consistent. She agreed to re-examine her calculations. Ms. Moore stated the applicant's calculations do not take into account the use of the pool, human performance lab, and agility area.

Laury Hammel, 610 Peakham Road, and owner of The Longfellow Club, stated the high square footage number of 100,000 sq. ft. included the 7,000 sq. ft. of "shell space" on the second floor which could conceivably be used for something other than storage. He noted varying square footages have been used throughout discussions, and stated his belief that 103,500 sq. ft. is the figure that should be consistently used. He expressed support for Ms. Moore's calculations and square footage used.

Mr. Hammel asked the Board if the proposed site plan meets Sudbury's bylaw and other regulations. He opined he would present a case to show this plan to be completely off-base and far from the realm of reality. He questioned whether the facility is for "intense use" or "light use". He quoted an analogy of a "Sudbury Farms building for a Sudbury Farms business" or a "Sudbury Farms building for an Alden Merrill business". Mr. Hammel declared there to be no comparable facility in existence. High usage means traffic increase, safety problems, inadequate septic system and parking. He stated that, based on the proposed 95 parking spaces, only 155 people would utilize the facility on any given day. He doubted that could be proven or supported by documentation. Why would anyone build a large building to run a small business?

Mr. Hammel suggested looking at comparable facilities such as the Thoreau Club and the Longfellow Club. In both cases the parking and septic flow greatly exceed the estimated use by SAA and they are much smaller facilities. Mr. Hammel stated LGE in Orlando, Florida has been touted as comparable to the SAA. He submitted a letter from James Loehr, President & CEO, LGE Performance Systems, dated September 25, 2000, which details its facilities totaling 15,000 sq. ft. plus outdoor tennis courts and having

no memberships, no golf, no day spa, and no tennis camp/academy. He declared this could not possibly be considered comparable to the proposed SAA facility.

Mr. Hammel referred to a letter, dated September 21, 2000, from the International Health, Racquet & Sportsclub Association, which presented data that clubs over 70,000 sq. ft. in size reported an average of 285,330 visits to their facilities in 1999. He stated this supports the lack of a comparable facility.

Mr. Hammel stated the Thoreau Club was required by DEP to have a septic system designed to handle a flow of 7,000 gallons per day, and will have to increase it because their flow is greater. A club in Franklin was denied for 2,600 gallons per day on a facility of 80,000 sq. feet.

Mr. Hammel stated the activities not tennis-related such as fitness and aerobic rooms makes it an intense use facility. If a racquet club category (includes fitness) were used to estimate trip generation for a facility over 80,000 sq. ft. in size, 1600 trips per day (800 round trips) is the figure, he said.

Mr. Hammel asked the Board to consider the example of a 5,000 sq. ft. fitness room that can easily house 75 machines, yet SAA believes the client use during peak times to be only 50 individuals. He stated he could not understand why the size of the facility could not be scaled down to more adequately represent the number of expected clientele. He stated he spoke with representatives of Sudbury Fitness for Women (when they were in Sudbury Farms Plaza) who indicated 300-400 trips per day in their aerobics classes. He stressed, from a common sense point of view, the trip generation has to be dramatically higher than what is presented by the applicant.

Mr. Hammel expressed his belief that many misleading statements have been made by the applicant.

- (a) The shell space was not considered, and the square footage has been reported differently each time.
- (b) He clarified that weekly memberships are not available at the Longfellow Club, except as a special promotion.
- (c) Mr. Hammel reported that when the proposed manager of SAA was asked if non-members would be allowed to use the facility, the response was no. Yet out-of-town clients will be coming to use the facility.
- (d) There are actually five businesses in this facility: day spa, human performance lab, tennis academy, membership club, golf driving range/instruction area.
- (e) Memberships will be offered for individuals, couples and families.

Mr. Hammel opined the parking spaces should be closer to 300 and the septic system should be much larger. The traffic increase should be strongly considered. He reiterated his question to the Board: Is this a "low use" or "intense use" facility? He summarized by stating a 100,000 sq. ft. facility is hardly necessary to service 155 people per day.

Selectman Drobinski asked how many parking spaces the LGE facility in Florida has. Mr. Hammel responded they have under 50 parking spaces.

Chairman Roopenian asked if a club such as Nashawtuc Country Club in Concord would be considered comparable, due to its exclusive nature, pricing structure, etc. She noted it has swimming, tennis, and golf, but a very small parking lot. Mr. Hammel responded it would be considered a "social club" because it has an outdoor pool and restaurant. The proposed SAA facility does not have that social component. He stated he could show the Board a number of facilities around New England offering the same products and services as SAA except that they are somewhat smaller. The Sudbury Athletic Academy is by no means unique. He added that half of the parking spaces proposed will most likely be utilized by employees.

Selectman O'Brien asked if there are other clubs in New England charging fees as high as SAA proposes, and do those high fees make SAA more exclusive and/or desirable. Mr. Hammel responded by stating a business plan can change in a heartbeat. A facility can be sold in a heartbeat. He opined that because the Board cannot dictate the business plan, they can change it any way they want. He stated he had never heard of the high fees proposed by SAA. Exclusivity is not connected to size of facility.

Mr. O'Brien offered an example that, if he, as a customer, could not find a parking place consistently at this facility, he would terminate his membership. He opined this would not be good business practice and questioned why SAA would start their enterprise this way. Mr. Hammel noted the 95 parking spaces is not adequate according to the bylaw, and should not be approved based on the benefit of the doubt, "they must know what they are doing with so few spaces", as there is no place for overflow parking.

Mr. O'Brien asked who the DEP contact is to obtain information regarding the septic systems for other clubs in the area. Mr. Hammel stated he would forward the contact name to the Town Manager.

Mr. Ivan Lubash, 25 Barbara Road, stated traffic is growing in the area regardless of what businesses open. He suggested making Goodman's Hill Road one-way.

Mr. David Kerrigan, 40 Wagonwheel Road, asked that the Board approve the application. He is also a member of the Economic Development Committee, and realizes the difficulty of weighing all the information presented. His understanding of the proposal is that it is not another Longfellow Club with a different type of plan. He opined the critical issue is that this proposed use is well suited for this location and would generate fewer car trips than another use. He stated this facility is not intended for "over-the-hill former athletes" nor high membership numbers, but serious athletes. He opined if the applicant is denied, there may not be another more suitable that would offer so little environmental and area impact.

Vicki Hammel, 610 Peakham Road, stated the approval or denial of the application cannot be determined on whether or not there is another suitable use. It must be considered on its own merit, and in accordance with the bylaw. She declared it the Board's responsibility, as elected officials, to weigh all the information presented to arrive at the best possible solution. She stated if this cannot be done, then perhaps Town government should be re-examined. She said the bylaws were made for a reason and should be followed. She urged the Board to review all information and make their decision.

Mr. Terrance Keeney, 71 Blueberry Hill Lane, expressed concern about traffic on Route 20, and stating that he has witnessed motorists taking chances pulling out into the traffic, estimating he waits five to ten minutes before he can get onto the road safely.

Bryan Koop, 9 Briant Drive, and a member of the Economic Development Committee, pointed out that SAA is a good use for this site compared with other entities. He stated this developer has met with Town boards and followed their input with good faith. He contended that it is not the job of the Board of Selectmen to determine business risk and found it incredible that more asphalt [parking] is desired when generally less asphalt is what communities want. Mr. Koop noted that the taxes for this site will be a boon to the Town coffers as compared to what is being received at this time.

Chairman Roopenian suggested continuing the hearing until the next meeting and allowing more time so the applicant does not have to come back numerous times. She also felt there needed to be more time for public comment. The Board concurred. Ms. Roopenian announced that all new information should be forwarded to the Selectmen's office so there is adequate time to review it prior to the next meeting. She also requested future comments be restricted to new information.

It was on motion unanimously

VOTED: To continue this hearing until October 10, 2000, at 8:45 p.m.

Lincoln-Sudbury Regional High School Committee

Present: Andrew Schwarz, Chairman, John Ryan, Vice-Chairman, LSRHS Committee.

Mr. Andrew Schwarz distributed copies of his presentation entitled "Lincoln-Sudbury Regional High School -- Building for the 21st Century". On page 12, he pointed out that the School Building Assistance Program can reimburse up to 62% of a building's cost, up to a total cost of \$64 million.

Mr. John Ryan stated the design plans must be submitted by June 30, 2001, and funds for the building must be approved by both Lincoln and Sudbury no later than December 31, 2000. After that time, the reimbursement drops to approximately 50%. Both gentlemen emphasized how crucial the votes are in order to keep the costs down, as construction costs continue to rise by 4 – 6% each year.

Mr. Schwarz stated the designed building is priced out at approximately \$72 million and briefly outlined design features that could be eliminated to lower the costs to \$64 million. These features include elimination of some entrances, loss of parking spaces, inferior interior finishes, loss of mechanical housing on roof, reduced auditorium seating and block instead of brick on external surface. The committee added back some features they felt were absolutely necessary, bringing the cost up to approximately \$68 million. He explained how some classrooms were initially placed over the gymnasium, structurally unappealing due to long expanses and away from resource rooms such as the library, and it made that area of the building very high. Those rooms have been relocated nearer to the library and related classrooms.

Mr. Schwarz expressed confidence the redesigned \$68 million building would deliver the high quality educational programs Lincoln-Sudbury residents have come to expect and have flexibility to adapt future programs easily.

Mr. Schwarz stated the Committee is researching costs of heating/cooling systems to determine if air conditioning can be installed during the building phase or be "AC ready", meaning the ductwork is in place for when AC could be installed at a later date. Fuel costs are also a major concern.

There was discussion on the possibility of using portions of the existing school building for Town events and meetings. Mr. Schwarz opined such use could affect reimbursement and might impact future expansion options.

Discussion continued on design elements and community use. Chairman Roopenian thanked Mr. Schwarz and Mr. Ryan for the committee's efforts.

Codman Drive Neighborhood Concerns

Present: Kenneth L. Daly, 29 Codman Drive; Paul Trefry, 42 Codman Drive; Paul Kenny, Town Counsel; Peter Buxton, Park and Recreation.

Mr. Paul Trefrey, 42 Codman Drive, stated he would serve as the group's spokesperson. He stated the group has come before the Board as a unified voice, representing all ten homes on Codman Drive. He

contends the residents have been damaged due to the recent transactions and settlement with regard to the parcel of land belonging to the CAS Trust, from which the Town received cemetery land.

Mr. Trefrey stated: When the residents were purchasing their homes, they were assured that parcel of land would always be in agricultural use and not developed for homes or businesses. Now that agricultural restriction has been lifted and anything can happen with that land. A second issue is that the Town has leased six acres for potential use as recreational field space. The residents should have been party to any settlement discussions regarding this land, as they had a vested interest in its future. Their property values have already been adversely affected by this settlement, and will be further affected by the possibility of athletic fields. The opportunity to receive cemetery land in exchange for lifting the Agricultural Preservation Restriction had been before Town Meeting previously and rejected. This is a precedent. Town officials had indicated the residents would be kept informed of all changes to this area.

Mr. Trefrey continued: At least twenty children live on Codman Drive and the Board should understand the residents are not against providing playing fields. They simply believe it will be harmful to their neighborhood. They already have traffic impact, lights, and other associated nuisances as they are right behind Featherland Park. He expressed doubt that anyone would park in Ti-Sales and walk the quarter mile to the playing field, and opined people would be driving up and down Codman Drive to drop off or pick up their children. He also expressed concern for emergency vehicles getting down to the fields.

Mr. Trefrey stated there is no buffer planned between the private properties and the fields. He stated there is not even a tree buffer or conservation land. Drainage is also a major concern in that area. He opined there to be not a single playing field within 50 feet of a residential area anywhere in Town.

Mr. Trefrey and the Codman Drive neighborhood group proposed the following: They prefer not to open up the settlement the Town entered into. They understand the Town has the right to use the land for ten years, after paying the taxes and providing required insurance, but would like the Town to sign a legal agreement between the Town and the residents of Codman Drive, agreeing to NOT exercise that right. He pointed out that the Town would still receive the cemetery land, which is an important consideration. Mr. Trefrey opined only one field would actually be available, after all the work and costs associated with preparing the field for use. He stated the residents are unified in their beliefs and feel they have a good case.

Peter Buxton, Park and Recreation Commission, responded as follows: The Commission has been looking for additional land for over two years. Current fields are overplayed and not allowed to rest. Many of the properties that might have been available have either been tied up in litigation, are too "wet", too hilly, have parking issues, have poor or no access, etc. He stated there have been no new recreation lands developed in the past 26 years, and the population has greatly increased by 30% in that time. Mr. Buxton briefly described several pieces of land the Commission is considering. He stated Sudbury Youth Soccer is paying \$30,000 to prepare the upper half of Haskell in the spring, as well as installing a well to keep the grass watered.

Selectman Drobinski pointed out that the Board is trying to work out a solution to benefit all children, even if one neighborhood might be inconvenienced for a short time. He stated the Town worked out a lease for ten years as it would be a temporary solution, and stated further the land may never be used.

Mr. Buxton stated the access to the Codman parcel goes over water and may not work out. One of the residents opined that stretch of access is determined "wet", and is the only place where runoff from Codman Drive drains.

Mr. Trefrey stated the Codman Drive group will not accept playing fields behind their homes under any circumstances. He stated further they have engaged counsel to review all the documents, and the group has a defense fund. He reiterated his belief that they have been wronged by the lifting of the Agricultural Restriction as that allows the property to be used for other things.

Selectman Drobinski pointed out that the Board is made up of citizens and wanting to do what is best for the community. He expressed surprise that the Haskell Field Improvements Article was voted down at the last Town Meeting, and opined that residents want fire and police protection, schools, but did not want to support recreational space. He asked that the audience support Mr. Buxton's efforts this year.

Mr. Kenneth Daly, 29 Codman Drive, stated there is a big difference between needing playing fields and the manner in which they are acquired. He stated they live with the biggest, most intensely used playing field in Town, which is Featherland. He listed drunks playing at night, bright lights all summer long, Sunday morning batting practices, etc. He reported the Codman Drive residents supported Mr. Buxton at the last Town Meeting. He expressed serious doubt that spectators and players will actually park behind Ti-Sales and walk another 800 feet to a playing field; instead they will park on his street and lawn which is closer and more convenient. He listed several other pieces of land that could be used as recreational land and wondered why some of those were not being developed. Chairman Roopenian responded that the Meachen land was put under conservation restriction because residents threatened legal action if it was used for recreation.

There was brief discussion on current field use. Mr. Buxton stated he has approached the high school about use of their fields. Community groups and school groups are sharing fields based on individual sports and usage cycles. He stated the Town is about ten years behind in providing fields to match growth in sports programs. He explained how the Conservation Commission whittled the Ti-Sales acreage down to eight acres, and DPW is preparing that area for fields now.

Chairman Roopenian stated parking was a major issue when Selectmen were considering the settlement and they had agreed parking will not be allowed on Codman Drive. However, Ms. Roopenian pointed out that if playing fields are not found soon, the programs will have to be cut. She noted there are many more questions than answers regarding use of this field.

Chairman Roopenian stated the Town would keep the Codman Drive residents informed of any action taken concerning the property. Selectman Drobinski stated there is time, as the funding would need to be voted at Town Meeting, in addition to securing the insurance required by the settlement agreement.

Mr. Trefrey expressed disbelief that the Board would expect them to be patient when they [the residents] have been placated before, and the land was negotiated away.

Chairman Roopenian pointed out the Town does not have the money to prepare a field at this time so this will not happen quickly. Winter is also coming and grass cannot be seeded until spring.

Selectman O'Brien suggested meeting with the residents in 90 days to update them on what is happening. This would give the Board time to research the matter further. Mr. Trefrey wanted absolute assurance that nothing would be done to the field in the interim.

Paul Kenny, Town Counsel, stated nothing can happen before the 90 days is up. The Town is obligated to notify CAS Trust of their intent to use the field for the coming season by December 31, 2000, and that cannot happen until the money for the insurance is appropriated.

Town Manager Valente stated the cemetery acceptance article was removed from the Special Town Meeting Warrant because it was determined it is not necessary to have it there, as it comes under the Town Manager Act. Mr. Kenny stated the Board accepts easements, conservation restrictions, and gifts of land on a regular basis without Town Meeting approval.

Mr. Daly expressed concern that once the cemetery land is accepted, their rights are lost. Discussion followed on waiting at least 90 days to deed the land.

Robert Ewing, 23 Codman Drive, asked, if the Town does not appropriate the funding for the insurance by December 31, 2000, does that mean the entire ten years is negated. Mr. Kenny responded no, it only affects the coming year. He explained that in April an appropriation for the money would have to occur at Town Meeting, followed by notification to the landowner by December 31. He stated it could be used for one year and not the next, or in any order.

Discussion ensued regarding the building out of Peter's Way. Mr. Daly contended this enables Mr. Bartlett [landowner] to develop the land and provides him access he did not have before. Mr. Kenny stated the street cannot be built as it is in wetlands.

After discussion, it was on motion unanimously

VOTED: That the Board of Selectmen will not take any action on the land known as the CAS Trust during the period September 25, 2000 until the first Selectmen's meeting in January, 2001, at which time it will reconvene with the Codman Drive residents to keep them apprised of this matter.

Minutes

It was on motion unanimously

VOTED: To approve the regular and executive session minutes of September 11, 2000, as drafted.

Council on Aging

It was on motion unanimously

VOTED: To accept \$115.83 in miscellaneous donations, to be deposited into the Van Donation Account, and to authorize the Council on Aging to expend said funds for the purpose of operating and maintaining the Council on Aging vans.

Hunting on Town-Owned Land

It was on motion unanimously

VOTED: To grant permission to Donald Stanley, 1355 Lowell Road, Concord, to hunt waterfowl on property owned by the Town of Sudbury, "Tax Possession Parcel #172" (parcel 013 on Property Map G12), during waterfowl hunting season (October 14 – November 27, 2000 and December 16, 2000 – January 8, 2001) within 50 yards of the shore line of the Sudbury River, one-half hour after dawn to one-half hour before sunset.

Bullfinch's Restaurant – Entertainment License

The Board was in receipt of an application, dated September 10, 2000, to renew a Sunday Entertainment License for Bullfinch's Restaurant, 730 Boston Post Road, Thomas Scott Richardson, representative. It was noted that this is the same entertainment as last year and requests no changes.

It was on motion unanimously

VOTED: To renew the Sunday Entertainment License for Bullfinch's Restaurant, 730 Boston Post Road, for a jazz trio from 11 a.m. to 3 p.m. for the period September 24, 2000, through September 16, 2001, in accordance with M.G.L. Chapter 36.

Sudbury Cultural Council

It was on motion unanimously

VOTED: To accept the resignation of Elizabeth Bernstein from the Sudbury Cultural Council, dated September 21, 2000.

It was further on motion unanimously

VOTED: To make the following appointments to the Sudbury Cultural Council, all for terms to expire September 25, 2003, as recommended by said Council: Pamela S. Anderson, 316 Goodman's Hill Road; Julie Binding, 109 Dakin Road; Kimberly Faris-Kreisel, 295 Boston Post Road; and Karen F. LaCamera, 11 Rose Way.

Tantamouse Trail Conservation Restriction

Town Manager Valente stated the Town Planner reports no issues or concerns with this Conservation Restriction. She noted that Town Counsel has approved the documents.

The Board was in receipt of a memo, dated September 21, 2000, from Debbie Dineen, Conservation Coordinator, stating the restriction on this property prevents future homeowners from blasting out the ledge, removing trees, making room for pools, tennis courts, and expanded lawns, and endangering a certified vernal pool and scenic rock ledges.

It was on motion unanimously

VOTED: To approve a Conservation Restriction granted by Sky Rock LLC containing approximately 2.45 acres located on Tantamouse Trail and Skyview Lane and shown on "Plan of Land in Sudbury, Mass. Prep. For: Telliham Trust, 150 Powdermill Rd., Maynard, Mass.," prepared by Thomas Land Surveyors & Engineering Consultants, Inc., dated June 13, 2000; and "Plan of Land in Sudbury, Mass. Owner/Applicant: Telliham Trust, 150 Powdermill Rd., Maynard, Mass." Prepared by Thomas Land Surveyors & Engineering Consultants, Inc., dated February 28, 2000.

MAPC Joint Purchasing Program

Town Manager Valente stated that a grant has been received by MAPC that will allow the Town of Sudbury to participate in establishing a joint purchasing program at no cost for the remainder of this fiscal

year. In the future, the costs per year will depend on the number of communities participating. It is noted that Town Counsel has reviewed and approved the agreement.

It was on motion unanimously

VOTED: To authorize the Chairman to sign an agreement between the Town of Sudbury and the Metropolitan Area Planning Council establishing the MetroWest Regional Services Consortium for the remainder of Fiscal Year 2001.

Special Town Meeting Articles

Fairbank Easement: Town Manager Valente stated Bell Atlantic is reluctant to be put into a position where they are required to construct and maintain an underground entity. Selectman O'Brien suggested trading the underground entity option for getting the vault on St. Anselm Way put underground. Ms. Valente stated Christopher Parella of Bell Atlantic reported work there was scheduled for mid-October, removing the pad. Discussion followed. Ms. Valente also noted there has been no word about landscaping.

Zoning Recodification Article: Chairman Roopenian explained it is proposed to leave the article on the Warrant to provide time to update residents of this project; therefore, this requires the rescinding of the Board's vote to withdraw the article.

It was on motion unanimously

VOTED: To rescind the Board's vote of September 11, 2000, to withdraw its Zoning Bylaw Recodification Article.

Special Town Meeting Warrant: It was on motion unanimously

VOTED: To approve and sign the October 23, 2000 Special Town Meeting Warrant.

Review articles and assign speakers:

There was brief discussion regarding articles, positions and articles. Positions will be determined at the next meeting. After discussion, it was agreed to assign speakers as follows:

Article 1. Unpaid Bills.	Selectman Drobinski
Article 2. FY01 Budget Adjustment.	Selectman Drobinski
Article 3. Revised Bell Atlantic Easement – Fairbank Rd.	Chairman Roopenian
Article 4. Piper Land Purchase	Selectman O'Brien
Article 5. Zoning Bylaw Recodification	Chairman Roopenian & Selectman O'Brien
Article 6. L-S High School Construction	Selectmen Drobinski & O'Brien

Bomb Threat – LSRHS

Chairman Roopenian stated she had been contacted by numerous parents expressing concern. She immediately went to the school and spoke with school officials and police. It was noted that officials in the Town of Lincoln had not been notified in a timely manner and subsequently it was determined that notification procedures would be examined and revised. Ms. Roopenian briefly outlined procedures used by

teachers and staff to determine if anything had been moved in their classrooms and offices, after the police and fire officials had been through the building twice.

Ms. Roopenian felt it important to send a message that this type of action (bomb threat) will not be tolerated. The Board approved a letter she had drafted as Chairman to the School Committee, High School Staff, Police and Fire Departments in Sudbury and Lincoln. It was agreed to also send the letter to the newspaper with all their signatures.

Proposed Home Depot in Marlborough

Selectman O'Brien brought to the Board's attention the continuing discourse regarding a proposed Home Depot store on Route 20 in Marlborough. He suggested contacting officials there with input regarding Sudbury's concerns on traffic, both delivery/supply trucks and customers. He opined this might have more of an impact on Sudbury than the Brimstone Lane matter.

Goal Setting Session

Town Manager Valente reminded the Board their goal review session is scheduled for October 6.

Proclamations

In response to a question by the Board, Town Manager Valente reported officials in many communities have stopped this practice, unless it is a very local event or very moving cause. She noted the time and effort it takes to prepare proclamations is significant and offered to consult with the Chairman before putting them on the meeting agenda. The Board agreed.

Hazardous Waste Collection

Town Manager Valente reported the recent collection was very successful though there was no police detail and subsequent grumbling by residents waiting in line.

There being no further business to come before the Board, the meeting adjourned at 12:30 a.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk