

IN BOARD OF SELECTMEN
MONDAY, MAY 21, 2001

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

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

Clerk Pro Tem

It was on motion unanimously

VOTED: To appoint Janet Silva as Clerk Pro Tem until Town Manager Valente arrives at the meeting.

Town Election Results

Chairman Drobinski announced results from the recent Special Town Election: Proposition 2 ½ passed while the debt exemption did not. However, the loss was by only one vote, so the Town Clerk will perform a recount this week at Town Hall.

AT&T – Cablevision Discussion

Present: Mark Reilly, Regional Vice President of Law and Government Affairs; Elizabeth Graham, Director of Government Affairs; Rob Travers, Manager of Government Affairs, Joseph Rocha, Engineering, AT&T Broadband/Cablevision; State Representative Susan Pope; Jeff Winston, Chairman, Sudbury Cable Television Committee; James Basford, Sudbury Chamber of Commerce; Marianne D'Angelo, Economic Development Committee; John Covert, Acton Cable Committee; David Levy, Westford Cable Committee; David Brandon, Robert Cusick, Concord Cable Committee; Lew Halprin, Stow Cable Advisory Committee; numerous residents.

Chairman Drobinski announced the purpose of this discussion was to allow residents an opportunity to hear what AT&T Broadband has to say regarding the delay in high speed internet access to the Town of Sudbury. He instructed attendees on procedure to be followed during the meeting, to clearly identify themselves for the record, to direct their questions to the Chairman, and to keep those questions concise and succinct.

Jeff Winston, Chairman, Cable Television Committee, briefly recounted the events leading up to the license renewal and contract negotiation, enabling attendees to adequately assess the present situation. He clarified that issues of high speed internet access were not permitted to be included in the license renewal, but had been promised by Cablevision, which was later purchased by AT&T Broadband. He stated also that other cable television providers could come into Sudbury, but that high costs and population density are determining factors.

Mr. Mark Reilly, Vice President of Law and Public Policy, AT&T Broadband, introduced himself and other representatives. He acknowledged AT&T Broadband has experienced a change in the financial markets dictating a slowdown in capital allocation to projects such as this (funding 2001 at 2000 level), resulting in a delay in providing the services previously agreed upon. He opined a conservative investment of capital will prevent the company from being spread too thin and possibly running into financial difficulty. Mr. Reilly stated, however, that revenues received from new subscriptions in other communities already

completed will allow the capital allocation to proceed with services in Sudbury. He stated a great deal of work has already been done in Sudbury, and AT&T Broadband has no intention of abandoning Sudbury. They simply need more time.

State Representative and Wayland Selectman Susan Pope stated she was representing the Towns of Wayland and Maynard in this discussion. She reported “no presence” by AT&T, no visibility or local support. Maynard does not feel they have received any guidance or direction from AT&T. She contended the smaller suburb communities are not getting the attention larger cities are getting.

Mr. Reilly stated AT&T has invested over \$2 billion in the Northeast in the past five years to upgrade communities. Approximately 80% of the preparations for Sudbury have been completed. As for favoring larger cities, he responded they have upgraded towns with just a few hundred subscribers.

Mr. James Basford, Sudbury Chamber of Commerce, stated most people just want AT&T Broadband to simply keep their promises and asked about an approximate timetable for completion. Mr. Reilly stated the capital is not available right now and the company is focusing their resources on improving the residential business. Mr. Basford stated nearly 500 homebased or small businesses are located within Sudbury.

Selectman Roopenian opined the business decisions made by many of the people in attendance this evening may have far-reaching impact on AT&Tb.

A resident asked for an overview of preparations already made in town. Mr. Joseph Rocha, Engineering Department for AT&TBroadband, responded the preparation for construction is approximately 80% complete, but does not include tying into the head ends and other things. Nothing is spliced or active. At this point, the system is still operating on the older one and not transferred over to the new one.

Mr. Reilly stated “if the capital were available for this project”, completion would be somewhere in the four to six month time period.

Mr. Richard Griesel, 149 Morse Road, asked for assurances that a year from now another explanation for delay will not be offered.

Mr. Reilly responded it makes sense for them to complete things in Sudbury. He clarified the delay has nothing to do with reserving capital for a possible IPO (initial public offering of stock) later this year.

Mr. Steven Wishner, 92 Fox Run Road, urged the Board to hold AT&T to its contract and to pursue all legal remedies toward getting these services provided.

Mr. John Covert, Acton Cable Committee, stated he worked with his committee during their license negotiations. Acton was also promised internet access; the buildup (re-build) was completed in October. Their internet access has been delayed twice, with the current date being sometime this summer. He opined completion of their services could be done within six weeks, if AT&T chose to spend the money. Mr. Reilly responded he was not familiar with the specifics of upgrades in any other community.

Mr. Tom Plati, 22 Moore Road, stated AT&T was shortchanging the students in Sudbury by delaying the high speed internet access. Mr. Reilly responded schools and libraries are connected free of charge, and will be done as soon as the upgrade is complete.

Selectman O'Brien asked about the approximate \$3.5 billion in capital allocation which he had heard mentioned; Mr. Reilly stated this was a nationwide figure for both the services and equipment. Mr. O'Brien asked if there was another individual within AT&T the Town should be in touch with to improve the position of this pocket of communities (Hudson, Acton, Maynard, Stow, Wayland, and Sudbury) in the completion timetable. Mr. Reilly responded David Grain is the person in charge of this region, but all regions have been instructed not to conduct upgrade new activity but instead to focus on new subscribers who in turn fund those upgrades. Because of the investment already made in Sudbury and David Grain's commitment, Mr. Reilly opined completion should be sometime next year.

Selectman O'Brien stated the Town negotiated its contract in good faith, and he felt the Town would be justified in breaking their contract with AT&T and pursuing other companies for these services. Mr. Reilly responded he would like to "sit down" with Sudbury on this matter.

Mr. David Levy, Westford Cable Committee, stated he had read newspaper articles from around the country where communities are experiencing the same type of slowdown in these services as Sudbury is. He reported the work is about 40% completed in Westford. He also reported he had been told there was some lack of coordination between Cablevision and AT&T Broadband and the way some of the upgrades were done needed re-examination. He asked how finances could have gotten so off track in the latter part of 2000 to differ from the financial statements provided at the regional transfer hearings.

Mr. Reilly responded every region is experiencing slowdowns in completing upgrades. He stated sales people do not have adequate information to respond to questions regarding upgrades. He stated the sales people have lists of communities that have been upgraded and know about various services, but cannot speak to issues in communities not fully upgraded yet. The Engineering Department would be in charge of that information.

Mr. David Brandon, Concord Cable Committee, opined AT&T is appropriately concerned with financial issues, noting third and fourth quarter revenues were down last year for both businesses and consumers.

Mr. Robert Cusick, Concord Cable Committee, opined the communities have little leverage toward pushing for completion. He stated technology changes so quickly that getting on board before systems are adequately checked out may not be efficient for a high volume of users. He opined fiber to the home would be the best but very expensive, and a municipally-owned regional company for broadband would be a good idea.

Mr. Lew Halprin, Stow Cable Advisory Committee, stated Stow is in the process of negotiating their license renewal. He opined a short license duration is a solution to seeking other companies if services are not provided; the shortest possible license is three years, according to State regulations. They would like service available to small businesses as well. He stated the Stow Board of Selectmen has indicated that if the Sudbury Board of Selectmen consider a class action suit against AT&T, the Town of Stow would join with them.

Marianne D'Angelo, Economic Development Committee, referred to the Master Plan in her comments. She opined the business community is being placed at a disadvantage and unable to compete in today's marketplace due to the lack of cutting edge technology.

Mr. Reilly responded AT&T Broadband is primarily a residential company at this time, while branching out into the business sector slowly.

Mr. Charles Schwager stated his family has pursued other options for internet access and opined people can do the same and not wait around for AT&T.

Mr. Reilly opined an estimated completion of the upgrade would be by the end of the second quarter of 2002. He stated money has already been invested in the Town of Sudbury and it is in the company's best interest to finish what they started, yet watch their spending.

Dan Rosen asked what amount of money is necessary to complete things. Mr. Reilly estimated a total of \$4.5 million for both construction needs and customer equipment for Sudbury alone.

Jeff Winston stated the installation of equipment as spelled out in the license is July 1. He asked how the commitment could be valid in November when the license was signed, yet not viable now. Mr. Reilly reiterated his comments regarding the quick change of the capital markets in the latter part of 2000.

Mr. Covert stated the completion of the rebuild by July 1 is contractually binding, while other things are not. He recommended each Town waiting for services exercise the penalty clauses stipulated within contracts.

Mr. Brian Clifton, 45 Mill Pond Road, opined much of the problem is connected to the fact these services are part of monopolies and urged the Board to approach other companies. He stated he is looking into satellite services as an alternative. He urged the Board to break the contract with AT&T and bring in another company.

Selectman Roopenian urged AT&T to reconsider their decision, citing broken promises, company reputation, and customer good will. She stressed that, though many were casually dressed, there were a lot of influential attendees at tonight's meeting, people who make weighty business decisions.

Selectman O'Brien compared AT&T's contract with the Town to a mortgage with a finance company. A finance company expects their monthly payment, regardless of economic downturns or personal situations of the borrower. He urged that the completion dates be moved up as much as possible. He concluded by stating it is the job of the Board of Selectmen to act in the best interest of the Town, and the concerns of other parts of the country are irrelevant.

Chairman Drobinski urged AT&T to seriously listen to the comments and concerns of the townspeople and to work together with the Town toward resolution of this issue. He thanked everyone for coming.

Town Forum

At 9:00 p.m. Chairman Drobinski convened the Town Forum and announced that tonight's presenters included the Veterans' Agent, Memorial Day Committee, Design Review Board, and Pay-Per-Throw Committee.

Mary Jane Hillery, **Veterans' Agent**, reviewed recent and upcoming activities in veterans' affairs, including the 50th Anniversary of the Korean Conflict, Memorial Day observances with its essay contest, and the work of meeting Veterans' medical and health needs, diploma program and funeral services.

Winifred Grinnell, **Memorial Day Committee**, stated parade plans are being finalized. She stated Girl Scouts will be planting flowers by flags at the cemeteries.

Daniel Martin, **Design Review Board**, stated things have been going well. He stated the DRB has some suggestions on bylaw revision that they will forward to the Board.

Geoffrey Howell, **Pay-Per-Throw Committee**, stated recycling has improved slightly and the amount of trash has decreased significantly, noting the discrepancy may be due to more composting of garden wastes. He advocated increasing services [offered by the transfer station], including town-wide curbside recycling. The market for recyclables is low right now, and revenues are at a breakeven point. The Committee will be drafting a proposal, which will be forwarded to the Board. Discussion followed.

Reports concluded at 9:25 p.m. The Board thanked everyone for their participation.

Goal Setting Discussion with Dept. Heads

Department heads and committee chairmen were invited to submit written comments as well as attend this meeting to offer input for the Selectmen to consider as Board of Selectmen Goals and Objectives.

Written reports were submitted by Ruth Griesel, Council on Aging; Lauri Wishner, LSRSD School Committee; Conservation Commission; I. William Place, DPW Director; Patricia Savage, for the Park and Recreation Commission; and Jody Kablack, for the Planning Board.

The Board thanked participants for their comments as it helped them to assess pertinent issues through the perspectives of others.

Lauri Wishner, **LSRSD School Committee**, suggested the Finance Committee educate the public early in the fall with regard to the budgeting process long before Town Meeting time.

Wayne Walker, **Assistant Town Manager**, stated he felt his strengths were in the ability to carry out the policies developed by others. The Board complimented Mr. Walker on his work with the No Place For Hate program.

Bridget Hansen, **Conservation Commission**, requested the Town consider an Integrated Pest Management program. Concern was also expressed for children playing on playgrounds that have been treated with pesticides. Town Manager Valente reported the State mandates how schools are handled under such a program, and confirmed the Earth Decade Committee had submitted a proposal for a program to be adopted for municipal properties. Ms. Valente stated Sudbury would be one of the first communities in the State to put a pest management program into place. Discussion followed.

Ms. Hansen stated the Conservation Commission is working hard to education the public on the Wetlands Protection Act so that homeowners are aware of their responsibilities. She suggested putting together a brochure that could be easily distributed.

There was general discussion regarding increased use of the Town's website to increase public awareness of available programs.

Ruth Griesel, **Council on Aging**, updated the Board on current issues regarding senior citizen programs, including tax relief, lack of space for programs at the Fairbank Community Center, and community spirit.

Jody Kablack, **Planning Board**, stated their goals are similar to last year's with primary focus being community development issues. The Community Preservation Act, Zoning Bylaw (Phase II), completion of Frost Farm development, walkways and adherence to the Master Plan figure prominently in their efforts.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular and executive sessions of May 7, 2001.

Council on Aging

It was on motion unanimously

VOTED: To accept \$138.75 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.

Resignation – Capital Improvement Planning Committee

It was on motion unanimously

VOTED: To accept the resignation, dated May 2, 2001, of Ellen Goodman from the Capital Improvement Planning Committee.

Comprehensive Facility Study

It was on motion unanimously

VOTED: To authorize the Town Manager to sign a contract with Bargmann Hendrie + Achetype, Inc., 316 Summer Street, Boston, MA 02210-1710, to perform a Townwide comprehensive facility study, as set forth in the Town's "Request for Proposals for Facility Needs Consulting Services for Municipal Facilities" and the consultant's response dated January 22, 2001, in the amount of \$47,000.

Bay Avary Associates – Frost Farm

Selectmen O'Brien and Roopenian briefly discussed the Ground Lease granted to Bay Avary Associates LLC on approximately sixteen acres of a portion of Town of Sudbury land on North Road formerly known as the Frost Farm, for the purpose of establishing a condominium development. Chairman Drobinski abstained from the discussion.

It was on motion subsequently

VOTED: To authorize the Town Manager to sign a Ground Lease granted to Bay Avary Associates LLC on approximately sixteen acres of a portion of Town of Sudbury land on North Road formerly known as the Frost Farm, for the purpose of establishing a condominium development (Frost Farm Village Condominiums), containing a maximum of 44 dwelling units, for a basic rent of \$1 per annum plus a one-time additional payment of \$10,000 for each residential unit for which the Lessee or Declarant receives a

Certificate of Occupancy from the Town. (Selectman O'Brien, aye, Selectman Roopenian, aye, Chairman Drobinski, abstain).

Annual Appointments

It was on motion unanimously

VOTED: To make the following annual appointments (subject to acceptance):

Historic Districts Commission: In accordance with nomination of the Sudbury Historical Society dated May 18, 2001, to appoint Frank W. Riepe for a term of five years ending on January 1, 2006, replacing Louis Hough.

U.N. Day Chairman: To reappoint Elaine K. McGrath for a term of one year ending on April 30, 2002.

In a discussion earlier this evening, Town Planner Jody Kablack opined Mr. Richard Brooks would not object to another individual being appointed to the Metropolitan Area Planning Council. Selectman Roopenian stated she would like to submit another name for this appointment and will report back to the Board.

It was on motion unanimously

VOTED: To rescind the May 7, 2001 re-appointment of Mary Ann McCormick to the Sudbury Cultural Council, as she has already served two full terms on the Council and is therefore ineligible to serve another term.

Town Counsel – Pending Litigation

Town Manager Valente distributed an additional item for the report of Town Counsel's pending litigation, previously received by the Board.

Savings for Town Accounts

Town Manager Valente stated the Town has been successful in substantiating overpayments on telephone bills, resulting in a credit of approximately \$35,000. The overpayment will be applied toward future bills. She credited Janet Silva with persevering through the process.

Ms. Valente reported a savings of approximately \$30,000 in health insurance costs resulted from a correction of records. Assistant Town Manager Wayne Walker and Debbie Greeno worked hard at investigating and straightening out these records and receiving adjustments from the insurance company.

Ms. Valente summarized by stating these are employees just doing their jobs with outstanding results. The Board expressed their appreciation for the efforts of these individuals.

After discussion, it was on motion unanimously

VOTED: To direct the Town Manager to devise some method of recognizing these individuals for their generosity of time and effort, and to maintain said method for future occasions.

Police Dept. – Bulletproof Vests

Town Manager Valente stated the Town's application to the Commonwealth of Massachusetts 2001 Bulletproof Vest Partnership Grant Program was approved for \$7,455.25. She stated federal grant monies are being pursued to hopefully cover the remaining cost of the purchase, which in total is approximately \$21,000. Ms. Valente will report their progress to the Board.

Anti-Defamation League – No Place for Hate Program

Town Manager Valente stated her office received an invitation from the Anti-Defamation League to visit the Holocaust Museum in Washington, D.C. She recommended Assistant Town Manager Wayne Walker be allowed to participate in this event as he spearheaded the No Place for Hate Program in Sudbury. The Board expressed its belief that this invitation was an honor for the Town, noting it would also be an enjoyable day trip.

Letter to Override Supporters

Selectman Roopenian stated she had some additional names to be included in the letter she drafted thanking people for their support in passing the override. Other revisions were discussed.

It was on motion unanimously

VOTED: To authorize the Town Manager to sign the revised letter on behalf of the Board.

Executive Session

At 10:46 p.m. it was on motion by roll call

VOTED: To go into Executive Session to discuss collective bargaining (agreement with Local 1156, Highway Department) and the signing of amendment to Town Manager's Employment Agreement. (Chairman Drobinski, aye, Selectman Roopenian, aye, Selectman O'Brien, aye).

Chairman Drobinski announced regular session would not reconvene following Executive Session.

There being no further business, the meeting adjourned at 11:08 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk