

IN BOARD OF SELECTMEN
TUESDAY, DECEMBER 16, 2003

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

The statutory requirement as to notice having been complied with, the meeting was convened at 7:30 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

On behalf of the Board, Chairman Roopenian extended holiday wishes to residents.

Chairman Roopenian encouraged residents to assist each other during times of inclement weather and to be patient with walkway and street snow removal. She reminded residents to clear the snow around the fire hydrants in their neighborhoods so they are readily available should an emergency occur.

Utility Petitions – Boston Edison/Verizon New England

Present: The NStar rep Dominga Marerra; Jim Kelly, Building Inspector; Art Richard, Wiring Inspector.

At 7:35 p.m. Chairman Roopenian convened a Public Hearing to consider the following Utility Petitions of Boston Edison Co., d/b/a NStar Electric and Verizon New England, Inc.: 1) UP03-09 for one stub pole and one anchor guy at Pole 126/57S on Morse Road, and relocation of Pole 2/100 and location of three anchor guys on Poles 2/99, 2/113 and 2/116 on Concord Road; and 2) UP03-10 for location of two anchor guys at Poles 31/13 and 31/12 on Pantry Road, and location of two anchor guys at Poles 132/25 and 132/16 on Water Row.

The Board was in receipt of the following information:

- 1) Utility Petition #03-09 of Boston Edison Co. and Verizon New England, received November 14, 2003, with Work Order #1277422 for proposed work on Morse Road and Concord Road.
- 2) Utility Petition #03-10 of Boston Edison Co. and Verizon New England, received November 14, 2003, with Work Order #1277422 for proposed work on Pantry Road and Water Row.
- 3) Report, dated November 18, 2003, from the Town Engineer/DPW Director with the following comments:
 - a. Morse Road – Recommends approval as there will be no alteration to existing pavement.
 - b. Concord Road – Recommends approval as anchor guys are all within the public right-of-way, and there will be no alteration to existing pavement.
 - c. Pantry Road – The application lists two anchor guys, yet three are depicted on the plan, and all three appear to be proposed on private property. Approval should be given provided application is revised to list three anchor guys and easements from abutters have been granted.
 - d. Water Row -- Recommends approval as anchor guys are within the public right-of way, and there will be no alteration to existing pavement.
- 4) Report, dated December 1, 2003, from the Building Inspector, raising concerns about guy wires being proposed for private property, questioning need for guy wires, timeframe for removal of a pole, and requesting additional information to support NStar's petition. Report, revised on December 16, 2003, with responses to his questions after consultation with Christine Cosby, NStar.

5) Letter, received December 15, 2003, from Richard Schifone, Supervisor, Rights and Permits, NStar, stating NStar had no knowledge the contractor had begun work on Field Road without obtaining permits from the Town, and prior to NStar releasing the work order for construction. He noted the installation has not been inspected nor has the electricity been connected, awaiting the Town's approval of the petition.

Ms. Marerra stated she would take the Board's questions back to NStar for response.

Using his memo of December 1, 2003, revised December 16, Jim Kelly, Building Inspector, briefly described various utility changes proposed by NStar. His memo posed questions, coupled with responses from NStar. He stated NStar is bringing a new circuit into Sudbury, which will involve approximately 100 poles throughout town.

1) Pole 2/116, Concord Road – Mr. Kelly has requested additional information as to why a new guy wire is necessary. NStar and the Wiring Inspector will review.

2) Pole 31/13, Pantry Road – It was believed this guy wire would be on private property, though this has proved not to be the case. Ms. Marerra stated Ms. Cosby will contact the homeowner to clarify.

3) Pole 132/25, Water Row – This anchor guy has been moved to a 4' setback to avoid being placed on private property. Ms. Marerra stated she would obtain further information to be certain of placement.

4) Pole 2/100, Concord Road – (Nixon School entrance) – Mr. Kelly expressed concern for safety issues regarding placement of the new pole as there seems to be a great deal of stress on the existing pole. There are many utilities on this pole, awaiting removal before pole can be removed. Mr. Kelly recommended a timeline for transfer and pole removal be requested. Ms. Marerra stated there is no timeframe for other utilities to remove their service from poles, though the work can be tracked via the database. She stated further poles are removed by special crews, and not the crews who install service.

5) Pole 126/57S, Morse Road – Mr. Kelly questioned the addition of a second pole instead of replacing existing pole with a stronger one. NStar asserts an additional pole is the best method of supporting the new wires, this connection going across the road. The Board asked if "leg braces" could be utilized at this location.

6) Field Road – It was determined that neither a street opening nor wiring permits were obtained to do this work, that the contractor did the work himself. There was brief discussion regarding potential fines. Mr. Kelly stated NStar is pursuing this matter further, as it was their cable that was damaged and then required repair by NStar. Ms. Marerra stated the service has not yet been connected to the horse barn.

Selectman Drobinski suggested Town Counsel investigate the possibility of fines and other courses of action against the contractor, but stated he did not wish to withhold connection of power for the homeowner. He opined the homeowner should not be penalized for someone else's inappropriate actions.

It was on motion unanimously

VOTED: To approve Utility Petition #03-08 of Boston Edison Co., d/b/a NStar Electric for location of approximately 55 feet of conduit in Field Road at approximately 740 feet east of Dakin Road, as shown on Boston Edison "Plan of: FIELD RD, SUDBURY Showing: PROPOSED CUSTOMER CONDUIT," dated November 5, 2003, Work Order #1292112.

Mr. Jim Cavanaugh, 9 Codman Drive, asked where Morse Road Pole 126/57S would be placed, and wondered if it would be on his property. Mr. Kelly showed Mr. Cavanaugh the NStar Work Order and Diagram, showing placement within the public way. Mr. Cavanaugh stated the pole currently stands just in a grassy area, where no other poles or trees are, and wondered if there were other options to avoid visual impact. He suggested using the area across the street abutting Featherland Park athletic field.

There was brief discussion as to whether NStar could provide a comprehensive plan for all pole setting work needed as part of the circuit upgrade town-wide, rather than seeing each petition on its own.

Selectman O'Brien suggested the pole at the Nixon School be attended to immediately, and suggested further the other petitions be denied until NStar can provide additional information regarding a comprehensive plan for circuit upgrade.

Mr. Joseph Tratnyek, 476 Concord Road, stated pole 2/100 is leaning badly and is in need of attention. He requested the bluish lamp be retained, as it is fairly innocuous even though it shines into the bedroom windows. Further, he expressed concern about the safety of the pole, given speeding motorists on Concord Road as well as school busses coming in and out of the Nixon School property. Chairman Roopenian stated the Board would forward his request to NStar, as the Town has no control over the lamps.

Mr. Dean Yarbrough, 468 Concord Road, asked about pole 2/99 and whether it was on his property. Mr. Kelly stated that, according to NStar diagrams, the pole is in the public way. Mr. Yarbrough stated a guy wire would have to come onto his property and stated further he and his wife are disinclined to grant permission.

Mr. Arthur Appel, 87 Water Row, submitted a photo of the pole [132/25] in front of his home, and stated that the revised setback of 4' would still place the guy wire on his property.

Mrs. Maxine Yarbrough, 468 Concord Road, asked if NStar would come to talk to them. She stated pole 2/99 does need attention but expressed concern this pole is directly in front of their home. Selectman Drobinski replied all resident concerns would be forwarded to NStar.

Selectman O'Brien repeated his suggestion to deny petitions until a comprehensive plan is provided, aside from the immediate safety concerns for poles 2/99 and 2/100. He suggested NStar return on January 20 with such a plan and appropriate timeline. Town Manager Maureen Valente suggested NStar contact the homeowners directly to discuss proposed work.

It was on motion unanimously

VOTED: To deny proposed work on Poles 2/99 and 2/100 on Concord Road as set forth in Utility Petition #03-09 of Boston Edison Co., d/b/a NStar Electric and Verizon New England, Inc., subject to NStar investigating other options and communication with homeowners, and further, to deny the remainder of Utility Petition #03-09 until such time as NStar can provide a comprehensive plan and timeline for town-wide upgrade.

Mr. Tratnyek stated NStar previously wanted to place a guy wire for pole 2/100 far back onto his property and he did not grant permission. He stated there are currently three guy wires on the pole.

It was on motion unanimously

VOTED: To deny Utility Petition #03-10 of Boston Edison Co., d/b/a NStar Electric and Verizon New England, Inc., until such time as NStar can provide a comprehensive plan and timeline for town-wide upgrade.

Site Plan #03-372 – Verizon Wireless at the Wayside Inn

Present: Jody Kablack, Town Planner; Michael Giaimo, Robinson & Cole, LLP; John Kiley, Verizon Wireless.

At 8:25 p.m. Chairman Roopenian reconvened a Public Hearing for further consideration of Site Plan Application #03-372 of Verizon Wireless, for installation of a wireless communications facility in the Wayside Inn Martha Mary Chapel, on property located at 104 Wayside Inn Road.

The Board reviewed the following new information: 1) email, dated December 11, 2003, from Michael Giaimo to the Town Planner, submitting corrected dimensions for the generator pad, 8' x 5'. 2) Certificate of Appropriateness, dated November 21, 2003, from the Sudbury Historic Districts Commission, approving the plans for installation of wireless communications antennas and equipment in the Martha Mary Chapel. 3) email, dated December 16, 2003, from Jan Silva to the Town Planner, reporting Mr. Giaimo's concerns regarding several conditions in the Draft Decision, specifically that conditions 11 and 20 be deleted, and further, his request to revise condition 13 and to discuss condition 14.

Ms. Jody Kablack, Town Planner, stated new sketches have been received further clarifying dimensions for the generator pad and associated screening. She noted new site plans has also been submitted. She stated Verizon Wireless has some questions and concerns about several conditions in the Draft Decision.

Mr. Giaimo, Robinson & Cole, LLP, representing Verizon, briefly described the landscaping plans, stating they have met with the landscaper for the Wayside Inn in order to coordinate it to the satisfaction of the Wayside Inn Trustees. He further described the corrected dimensions of the generator pad, 8' x 5'.

Regarding the Draft Decision, Mr. Giaimo discussed the following conditions:

Condition 13 – Mr. Giaimo stated information on noise levels was presented at the previous hearing and included in the reports. He suggested the condition be revised to reflect that information and conformance to Sudbury Zoning Bylaw. After discussion, it was agreed that Condition 13 shall now read “Any air conditioners or generators shall not produce undue noise and shall conform to the Sudbury Zoning Bylaw.”

Condition 20 – Mr. Giaimo opined this condition was borrowed from a decision involving a tower. He stated Verizon has no control on whether the property owner would allow additional equipment, and asked this condition be deleted.

Condition 11 -- Responding to a question from Selectman Drobinski regarding RF interference with public safety communications equipment, Mr. Giaimo stated they would fix whatever the problem might be. He opined there is no communications installation close enough to create such a problem at this time.

Condition 14 – Mr. Giaimo stated he did not know if this condition existed in any other decision involving a lease situation. He stated annual reporting creates something of an obstacle to doing business, and further,

Verizon meets acceptable levels now, already in information presented. He stated further that periodic checks by Verizon personnel will be conducted on a regular basis. Mr. Giaimo suggested Verizon submit a letter describing the regular maintenance procedures they will be following at this facility. The Board agreed.

Selectman O'Brien clarified that Condition 18 had been modified to read that testing of the generator shall occur between the hours of 9 a.m. and 5 p.m.

Selectman Drobinski asked the Town Planner about her concerns regarding the generator and stone wall. She responded the stone wall will be broken only to allow installation of the generator, then put back together. A permanent opening in the stone wall will not exist.

It was on motion unanimously

VOTED: To approve Site Plan #03-372 of Verizon Wireless, with a Decision as revised this evening (wording changes to condition 13, deletion of conditions 11, 14, and 20 with subsequent renumbering), subject to receipt of letter from Verizon addressing issues in conditions 11 and 14 with approval by the Board of Selectmen.

The Decision as revised and subsequently approved follows:

Based upon a determination that the foregoing evidence, together with the plans submitted, conformed to the intent and purpose of the Zoning Bylaw requirements, a motion was made and unanimously approved as follows:

VOTED: To approve Site Plan Application No. 03-372 of Verizon Wireless for installation of a wireless communications facility at the Wayside Inn Martha Mary Chapel, 104 Wayside Inn Road, Town Property Map L02-002, owned by the Wayside Inn Corporation, consisting of three antennas hidden within reconstructed exterior paneling on the steeple, HVAC compressors enclosed at the rear of the building, an emergency generator placed in the woods behind the Chapel, and equipment housed in the Chapel basement, as shown on site plan drawings comprised of five sheets entitled, "Verizon Wireless, 400 Friberg Parkway, Westborough, MA 01581, Proposed Communications Facility, Longfellow's Wayside Inn, 104 Wayside Inn Road, Sudbury, MA, Middlesex County", dated September 29, 2003, revised October 27, 2003 and November 20, 2003, subject to compliance with all governmental laws and regulations including but not limited to Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, zoning, building and health laws and regulations, and further subject to the following conditions insofar as they apply to the property:

1. Approval of any changes to the drainage system, including traps, catch basins, and periodic maintenance as required by the Town Engineer.
2. Placement of all new utilities underground.
3. No storage or use of chemicals on site except in conformity with guidelines and requirements of the Board of Health and the Fire Chief; the owner or operator of the site shall comply with the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G.L. Chapter 21E, as amended, and all regulations issued thereunder.
4. The grant of an earth removal permit by the Earth Removal Board, if applicable.

5. No use of salt or chemical de-icers on the site.
6. The grant of a permit for the storage of diesel fuel from the Fire Department.
7. Compliance with FCC requirements and receipt of a permit from the Massachusetts Department of Health, if required.
8. Grant of a variance from the 500 foot setback to a residential lot line by the Board of Appeals and compliance with any conditions related thereto.
9. Grant of a Certificate of Appropriateness by the Historic Districts Commission and compliance with any conditions related thereto.
10. Grant of a Water Resource Protection District Special Permit by the Planning Board.
11. In accordance with Sudbury Zoning Bylaw Article IX, Section 4369, Verizon Wireless shall furnish a bond in the amount of the estimated cost plus 25% of dismantling the facility.
12. Any air conditioners or generators shall not produce undue noise and shall conform to the Sudbury Zoning Bylaw.
13. The generator shall be located no less than twenty (20) feet behind the stone wall and shall be completely screened by fencing and vegetation as recommended by the Design Review Board and Historic Districts Commission with final approval by the Wayside Inn Trustees. Sheet Z-3 shall reflect these changes.
14. If there is any removal of the stone wall during installation, the stone wall shall be restored to its original state.
15. The following information shall be supplied for approval by the Board of Selectmen, and added to the Site Plan drawings:
 - a. A detail of the proposed generator, including dimensions of the structure and any other relevant information.
 - b. Proposed access to the generator, showing the area of disturbance, including tree removal and stone wall removal, for installation of the generator and underground utilities.
16. Testing of the generator shall take place only between the hours of 9 a.m. and 5 p.m., Monday through Friday.
17. Site plan submission requirements under Sections 2.1 pre-application, 4.1.3 consistent scale, 5.1 #5 separate landscape plan, 5.1 #7 floor plans, Form SP-1 #16 traffic impact report, Form SP-1 #17 drainage calculations, Form SP-1 #19 parking space calculations, of the Selectmen's Site Plan Rules and Regulations are waived. Also waived are Zoning Bylaw Technical Requirements under Section 6370: s.6352 zoning district boundaries including flood plain, wetlands, and wetlands buffer zones, s.6353 landscape plan, s.6354 building plans and elevations.

18. Submission of an "as built" site plan. Any change in the physical condition of the site, including changes in the location or design of structures or systems, following approval of the site plan, will require approval of the Board of Selectmen.
19. No Building Permit shall be issued until this Decision has been recorded in the Middlesex South Registry of Deeds, the plans are approved and signed, and certain items noted above (1, 4, 6, 7, 8, 9, 10, 11, 13 regarding placing information on Plans only, and 15), as specified by the Board, are complied with.
20. No Occupancy Permit shall be issued until certain items noted above (2, 3, 12, 13, 14 and 18), as specified by the Board, are complied with.
21. This approval shall lapse if construction and a substantial use thereof have not commenced except for good cause within two (2) years from the effective date of said approval.

Site Plan #03-371 – Omnipoint Holdings

Present: Michael Almada, Project Manager; Steven Ruzzo, Construction Manager; Julio Brown, RF Engineer, T-Mobile; Joseph Simonelli, Real Estate Specialist, NStar Electric; Jody Kablack, Town Planner.

At 8:50 p.m. Chairman Roopenian reconvened a Public Hearing for further consideration of Site Plan Application #03-371 of Omnipoint Holdings, Inc., a wholly-owned subsidiary of T-Mobile USA, Inc., on property located at 163 Boston Post Road, owned by Boston Edison Company. Discussion on this matter had been continued December 2, 2003.

Mr. Michael Almada stated he was representing T-Mobile this evening, as Mr. Paul Gascoigne was on vacation.

Mr. Almada reiterated the fact that no changes are proposed to the existing access road.

With regard to underground utility installation, Mr. Almada stated the initial design featured overhead installation to minimize disturbance to wetlands. Selectman O'Brien briefly explained the Town's utility installation bylaw.

Mr. Joseph Simonelli, Real Estate Manager, NStar Electric, stated conduit was prepared for the previous applicant, and that conduit has since been filled with other utility applications and is no longer available. He stated further the NStar duct bank goes under railroad tracks and that there is MBTA jurisdiction in that area. Selectman Drobinski asked if NStar would install underground utilities if the Board required it. Mr. Simonelli responded NStar's preference is for overhead installation as it allows more flexibility in working with all businesses from the existing pole. He expressed concern for trenching through the wetlands areas.

Mr. Almada stated a Mass. Highway permit would be necessary for underground installation as Route 20 is a state road in that area. He stated further that the current substation is not visible from Route 20 and is more than 500 feet from any residential area, noting minimal visual impact. He stated concern that wetlands installation of utilities would require conduit being actually submerged, creating potential for water damage in the future.

Using maps, Mr. Almada pointed out other Omnipoint wireless communications facilities in Sudbury and surrounding area and the areas those facilities service. Facilities currently occupy space in Feeley Park and on a rooftop in Village Green. He also indicated areas that are currently under application or being considered. He noted no additional applications exist for Sudbury. The present proposal will provide coverage for a portion of Route 20.

With regard to public safety communications, Mr. Almada stated T-Mobile is upgrading their entire network of facilities in accordance with FCC regulations regarding 911 Emergency response. He stated the company is paying for the upgrade though it is not yet required in the Commonwealth of Massachusetts. He expressed concern that communities are asking for additional monies, and respectfully declined to offer financial assistance at this time. There was brief general discussion of corporate entities and their response to community concerns and needs.

Mr. Almada reminded the Board that, at the request of the Zoning Board of Appeals to increase the size of the pole to accommodate three carriers, there is considerable additional cost to the applicant. Since the pole will be larger, the foundation pad is also larger.

Town Manager Valente read the timeline associated with this application, noting the process was hindered somewhat due to Omnipoint's submittal of new/revised plans. The Board of Selectmen first met with the applicant on December 2, 2003.

It was on motion unanimously

VOTED: To close the public hearing for purposes of public comment and to direct the Town Manager to instruct Town staff to prepare a Draft Decision for Site Plan Application #03-371 on Omnipoint Holdings, Inc., utilizing standard language and requiring underground utility installation, and, further, to continue this matter until January 6, 2004, for the purpose of approving a Decision.

Sudbury Housing Authority – Scattered Rental Housing Sites

Present: Lydia Pastuszek and James Gardner, Co-Chairs, Blue Ribbon Housing Site Selection Committee; Jo-Ann Howe, Director; Steven Swanger, Sudbury Housing Authority; Deborah Dineen, Conservation Coordinator.

Chairman Roopenian stated that public meetings have previously been held on this matter, and tonight's meeting was for the Board's deliberation and not public comment. She encouraged residents to educate themselves on affordable housing.

Chairman Roopenian noted that, in addition to reports and meeting minutes, the Board has received many phone calls and emails from residents on this matter. Correspondence opposing selection of the property abutting the Nixon Elementary School was received from the following individuals and is on file with materials from the Blue Ribbon Housing Site Selection Committee: (1) letter, dated December 15, 2003, from Richard and Carole Wolfe, (2) email, dated December 15, 2003, from Cathy Cantin, (3) email, dated December 15, 2003, from David Simon, Helene Simon and Paula Adelson; (4) email, dated December 16, 2003, from Martin Miller; (5) email, dated December 16, 2003, from Drake and Maria Behrakis; (6) email, dated December 16, 2003, from Anil Vyas; (7) email, dated December 16, 2003, from Joanne Fitzgerald; (8) email, dated December 16, 2003, from Helene Simon; and (9) letter to the Sudbury School Committee, dated December 2, 2003, from Christopher Morely.

Ms. Lydia Pastuszek stated the Blue Ribbon Housing Site Selection Committee has completed its research and now submits its report on eight different sites around town. Chairman Roopenian clarified the sites must be approved by Town Meeting, first a transfer to the Selectmen, then a vote to transfer the properties to the Sudbury Housing Authority.

Selectman O'Brien suggested several sites be removed from consideration, after discussions with School Committee and Sudbury Housing Authority members. The concerns of those members were basically due to potential for school expansion or the ability to successfully place units at this time.

After brief discussion, it was on motion unanimously

VOTED: To recommend removal from consideration the sites known as Curtis Middle School (Pratt's Mill Road); 275 Old Lancaster Road, Washbrook and Pine Ridge Roads; Old Meadow Road; and Robbins Road.

Selectman Drobinski asked the Town Manager about the deed for the Nixon School property and whether the property could be used for purposes other than education. Selectman O'Brien referred the Board to the BRHSSC's report, which states Town Counsel's findings that the property was transferred to the Town with no deed restrictions stated or implied. Town Manager Valente stated she would request Town Counsel investigate whether separate and later legal documents may conflict with his initial finding.

Selectman Drobinski asked about wetlands concerns on sites. Ms. Pastuszak stated all parcels will be surveyed more thoroughly upon acceptance at Town Meeting. She noted also that the Conservation Commission walked the sites and that a ConCom member served on the BRHSSC. Ms. Deborah Dineen confirmed that wetlands issues were not confirmed, only that there is a basic potential for building.

It was on motion unanimously

VOTED: To recommend for Town Meeting action the sites known as Hudson Road, Landham Road, and Wilshire Street, and further, to recommend for Town Meeting action the site known as Newbridge Road, subject to approval by the Sudbury School Committee.

Mr. Steven Swanger, Sudbury Housing Authority, briefly spoke on the viability of an additional site on Colonial Road. It is the back side of Town-owned land on Hudson Road. Chairman Roopenian advised this information comes too late for consideration for this year's Town Meeting, as it has not been announced for public input nor researched by appropriate Town boards and committees. He acknowledged the lateness of the information, and noted the presence of wetlands may limit or remove its potential.

The Board thanked the Blue Ribbon Housing Site Selection Committee for their hard work, and additionally, thanked residents for providing input reflecting neighborhood concerns.

Bosse Sports & Health Club – All Alcoholic Restaurant, Common Victualer, and Entertainment Licenses

Present: Joshua Fox, Rollins Rollins & Fox; D.J. Bosse, applicant; James Bunnell, Manager; Ellen Singer, Food and Beverage Supervisor.

Chairman Roopenian opened the Public Hearing under M.G.L. c.138, and the Board reviewed the following information: (1) Application for Restaurant/Alcoholic Beverage License for Retail Sale, dated November 17, 2003, with pertinent supporting documents; (2) report, dated December 9, 2003, from the

Building Inspector, stating the Building Department has reviewed the application for a liquor license and has no concerns or objections to said application; (3) report, dated December 12, 2003, from the Fire Chief, with the following comments: the Building Department should determine if the present sprinkler system is adequate for restaurant use, advising application to demonstrate the parking and travel lanes are present on the site, and if these issues are adequately addressed, there are no objections to the granting of the license; (4) report, dated December 12, 2003, from the Police Department that there are no concerns regarding the alcoholic license application, and therefore no problems with issuing a license to the applicant; (5) Application for Common Victualler License, dated November 17, 2003; (6) application for Entertainment License, dated November 17, 2003, for television and pre-recorded audio in locker rooms, juice bar/lounge, and fitness areas, hours of entertainment Monday through Friday 5:30 a.m. to 10:00 p.m. and Saturday and Sunday 7:00 a.m. to 7:00 p.m.; and (7) memo, dated December 12, 2003, from Town staff, stating CORI reports are presently unavailable for Richard J. Bosse and James P. Bunnell. The signed requests were mailed to Boston on December 5, but a phone call verified that their office is backlogged and the applications will not be processed for 3 to 4 more weeks. Both managers stated on the application they have no history of criminal convictions.

Town Manager Valente stated the notice of the Public Hearing was advertised in the Sudbury Town Crier on November 27, 2003, and that abutters were notified by certified mail/return receipt.

Mr. Joshua Fox, attorney for the applicant, briefly introduced those in attendance, D.J. Bosse, applicant, as well as Mr. James Bunnell, Manager, and Ellen Singer, Food and Beverage Supervisor. He listed the professional experience of Mr. Bunnell and Ms. Singer, and their expertise in supervising all staff members handling both food and drink.

With regard to the number of seats in the juice bar, Mr. Fox stated the correct number is 35 and stated he would revise the appropriate sheet to reflect the correct number. He stated this makes a minor impact in the septic flow, but noted the previous elimination of a tennis court counteracts this increase.

Mr. Fox stated preparation of the food will be off-site by a catering company, and food will be reheated or served cold. There are no ovens or cooking facilities on site. He referred the Board to the menu previously submitted.

Responding to a question from Selectman O'Brien, Mr. Fox responded that the club is designed for members and guests only, but that the application for an All Alcoholics Beverage license prohibits exclusion of the public. He opined that, due to the hours of operation, the club will not draw many individuals who are not members or guests. He stated further that a Club license would have allowed a restriction but those licenses are granted only to non-profit organizations. Mr. Fox stated the front entrance will be used for everyone entering the facility. Mr. Bosse stated that member identification cards will be required to electronically access all sections of the facility. He stated it is a new technology that will allow them to track members through the facility and "traffic" in and out.

Mr. Bunnell stated food service would start around 7 a.m. and close around 10 p.m., noting the facility closes at 10:30 p.m.

Selectman Drobinski asked that CORI checks be performed on Mr. Bunnell and Ms. Singer, if it has not already been done. He stressed that as they will be training and supervising other individuals, a criminal check would be prudent.

Selectman Drobinski asked how the serving of alcohol fits with a fitness concept, and stated that the original application did not include a liquor license. Mr. Fox stated that the original application did not include license for alcohol, but that the applicant is requesting one at this time, due to pressure from potential members who prefer a drink following a session. These individuals are accustomed to enjoying a drink at other facilities to which they belong. Mr. Bosse stated he felt it was a wise competitive move to include alcohol at his facility. He expressed his confidence in Mr. Bunnell and Ms. Singer in being able to assess when a patron has had enough. He opined that the average restaurant or bar patron would more likely go to Sky Restaurant across the street.

Ms. Singer stated she is qualified to train servers in the TIPS program, and that her previous experience was certified to be the equivalent to TIPS. She stated she has previously trained staff across the country.

There was brief discussion regarding parking. It was agreed by all parties that the menu of the juice bar would not attract people on its own merit, but rather be a convenience for members already using the facility. It is expected that parking will be adequate.

Responding to a question from Selectman O'Brien regarding license renewal, Town Manager Valente stated the Board of Health, Building Inspector, and Fire Chief inspect every establishment to ascertain they are meeting code requirements, and the Police Department is contacted for any other violations. Inspections are made no matter how long an establishment has been in business.

It was on motion

VOTED: To approve a Restaurant License for the Sale of All Alcoholic Beverages under General Laws Chapter 138, section 12, to Bosse Sports & Health Club, LLC, d/b/a Bosse Sports & Health Club, 141 Boston Post Road, James Bunnell, Manager, to be exercised during the Club's hours of operation, not to exceed 11:00 a.m. – 11:00 p.m. Monday – Saturday and 12:00 noon – 11:00 p.m. (Chairman Roopenian, aye, Selectman O'Brien, aye, Selectman Drobinski abstain).

It was also on motion unanimously

VOTED: To approve a Common Victualler License to Bosse Sports & Health Club, LLC, d/b/a Bosse Sports & Health Club, 141 Boston Post Road, James Bunnell, Manager, effective January 1, 2004 for calendar 2004.

It was further on motion unanimously

VOTED: To approve an Entertainment License for television and pre-recorded music, in juice bar, locker rooms, and fitness areas, to Bosse Sports & Health Club, LLC, d/b/a Bosse Sports & Health Club, 141 Boston Post Road, James Bunnell, Manager, to be exercised from 5:30 a.m. to 10:00 p.m. Monday through Friday, and 7:00 a.m. to 7:00 p.m. on Saturday and Sunday, effective January 1, 2004 for calendar 2004.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session only of December 2, 2003, as drafted.

Rebecca Circle Donation – United Methodist Church

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a donation of \$200.00 from the Rebecca Circle of the Sudbury United Methodist Church, to be deposited into the Discretionary Fund and expended on recommendation of the Community Social Worker to assist Sudbury families in need.

License Renewals – Alden Merrell and The Charcuterie

Town Manager Valente asked the Board to amend its previous vote on Common Victualler license renewals for Alden Merrell and The Charcuterie, establishments that are closing their doors approximately on January 4, 2004. She stated their licenses have been issued effective through January 31, 2004, and asked the Board waive the \$50 renewal fee.

It was on motion unanimously

VOTED: To waive the \$50 license renewal fee for Alden Merrell and The Charcuterie for Common Victualler licenses effective through January 31, 2004, and to cancel The Charcuterie's Entertainment License for 2004, as requested.

Gift of Land – Rice Road

Present: Deborah Dineen, Conservation Coordinator.

The Board reviewed the following information: report, dated December 12, 2003, from the Conservation Coordinator, following up on the Board's questions from its meeting of November 18, 2003, stating Mr. McGarry's declaration the gift of land is offered only for conservation purposes, that if the Town takes title, it is responsible for back taxes, and he would like to conclude the transaction this tax year. Ms. Dineen stated further the back taxes will not exceed \$2,800, including interest if transferred by year end. She noted that, financially it is better to take title now than by Tax Possession, and eliminate the possibility of development in the interim.

Ms. Deborah Dineen briefly reiterated points made in her email, stating that the gift is for conservation purposes and Mr. McGarry will not pay the back taxes prior to land transfer. She reported she spoke with the DPW Director who would like to establish an easement for highway purposes along the edge of the roadway. Ms. Dineen stated that, once the land is designated for conservation purposes, a highway easement cannot be created.

After brief discussion, it was on motion unanimously

VOTED: To accept a gift of land, in accordance with M.G.L., c.60, s.77C, from John F. McGarry, Jr., being approximately 0.71 acres located off Old Sudbury and Rice Roads and shown as Parcel 15 on Town Property Map H10., said parcel to be designated as conservation land under the provisions of M.G.L. c.40, s. 8C, except for that 352 +/- s.f. portion to be used for highway purposes.

Annual Town Meeting – Selectmen Articles

Town Manager Valente asked for the Board’s approval of articles for submission from the Board of Selectmen for the 2004 Annual Town Meeting. She stated this acceptance is a “bookmark” and does not necessarily mean all articles will make it to Town Meeting. A vote this evening allows the subject matter to be included in the Town Warrant under the December 31, 2003 submission deadline.

After discussion, it was on motion unanimously

VOTED: To submit the following articles for the 2004 Annual Town Meeting:

- Hear Reports
- FY04 Budget Adjustment
- Street Acceptances
- Stabilization Fund
- Cutting Property
- Flynn Building Elevator
- New Police Station Feasibility Study
- Amend Bylaws, Art. II, s.10&11 – Government of Town Meetings
- Rental Property Revolving Fund
- Special Act – Senior Assistance/Property Tax Relief

Tree Replacement Fund-Donation

It was on motion unanimously

VOTED: To authorize the creation of a new account, the Tree Replacement Fund, to receive donations for the purposes of replacing trees that are removed within the public right-of-way throughout town, to be administered and expended under the direction of the Director of Public Works;

and it was further

VOTED: To accept a donation of \$600 from Maillet and Sons in connection with the completion of the Marrone Meadows subdivision to be placed in the Tree Replacement Fund.

D.A.R.E. Donation

It was on motion unanimously

VOTED: To accept a donation of \$30 from Christine and John Howard, 20 Middle Road, Sudbury, to be deposited into the D.A.R.E. Account and to authorize expenditure for said program under the direction of the Police Chief.

Fire Department Donation – Ambulance Gift Account

It was on motion unanimously

VOTED: To accept, on behalf of the Fire Department, a donation of \$10 from Laura Poikonen, 35 Powers Road, to be deposited in the Ambulance Gift Account, and further, to authorize expenditure under the direction of the Fire Chief.

NSTAR Electric Meter Replacement

Town Manager Valente stated she received an email from Jennifer and James Gardner regarding the fact that NStar will be changing residential electric meters in town over the next few months. The new meters allegedly can be read electronically. While cautioning residents to exercise caution when allowing strangers into their homes, she opined NStar employees will be wearing NStar uniforms, carry appropriate NStar identification and drive in NStar vehicles.

Selectman O'Brien suggested sending a copy of the email, along with questions expressed by the Gardners as to the specifics of the technology, to NStar for clarification. The Board agreed.

Breakfast with the Selectmen

Town Manager Valente asked the Board to check their calendars for a date when she can schedule breakfast with Ms. Beth Rust. Ms. Rust submitted the winning bid for Breakfast with the Selectmen at the recent HOPEsudbury Telethon. The Board will forward available dates to Ms. Valente.

Cutting Property Purchase – CPC/Sudbury Valley Trustees

Town Manager Valente distributed copies of letters from Stephen Meyer to the Community Preservation Committee and Sudbury Valley Trustees, expressing concern about the proposed Cutting Property purchase. Ms. Valente stated there is no action required from the Board, but stated she wanted them to be aware of the communications and the concerns raised.

Frost Farm – Conservation Designation

Town Manager Valente reported the Conservation Commission would like to designate non-housing Frost Farm land as conservation land, but reported the Town Engineer and Town Planner would like to postpone such action until all outstanding issues [drainage, etc.] are resolved.

After brief discussion, it was on motion unanimously

VOTED: To urge the Conservation Commission to postpone an article designating non-housing Frost Farm land as conservation land, until such time as all outstanding issues regarding the housing development have been resolved to the satisfaction of the Planning Board, the Town Engineer and the Conservation Commission.

Cutting Property – Park and Recreation Commission

Town Manager Valente reported the Park and Recreation Commission would like to jointly sponsor with the Selectmen a combined Town Meeting article for the acquisition and for field development on the proposed Cutting property. She opined the Commission felt the venture may be better received at Town Meeting as one article rather than two separate ones.

Selectman O'Brien suggested this matter be brought to the attention of the Community Preservation Committee before deciding. Ms. Valente cautioned that if an article were submitted after the December 31 deadline, it may be declared invalid. She suggested voting for such an article, to "bookmark" it, as it can always be withdrawn.

After discussion, it was on motion unanimously

VOTED: To jointly submit an additional article with the Park and Recreation Commission for the 2004 Annual Town Meeting combining field development and the proposed Cutting property purchase.

Marlborough Easterly Wastewater Treatment Plant – Hop Brook Protection Assn.

Town Manager Valente reported notification had been received that the Department of Environmental Protection has finally drafted a new permit for the Marlborough Easterly Wastewater Treatment Plant specifying significantly decreased phosphorous discharge. A public hearing will be held on January 14, 2004, for review of the Permit.

Executive Session

At 11:25 p.m. it was on roll call

VOTED: To go into executive session to discuss litigation, land acquisition negotiations, employee contract and collective bargaining. (Chairman Roopenian, aye, Selectman Drobinski, aye, Selectman O'Brien, aye).

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

There being no further business, the meeting adjourned at 11:55 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk