

IN BOARD OF SELECTMEN  
TUESDAY, FEBRUARY 3, 2004

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 7:35 p.m. in the Lower Town Hall, 322 Concord Road.

**Opening Remarks**

Chairman Roopenian expressed condolences to the families of Dan Claff and Sandra Segien. Prior to his retirement to New Hampshire, Mr. Claff was a long-time Sudbury resident and served on many Town boards and committees. Ms. Segien was employed in the office at the Department of Public Works for a number of years.

**Citizen Petition**

Mr. Ralph Tyler, One Deacon Road, stated he wanted to submit to the Board of Selectmen a report he had prepared, which was a "redacted" version of survey responses to the recent PTERC survey of senior citizens in Sudbury. He stated this is his own work, and the PTERC had not asked him to bring this matter to the Board. He recited several examples of how comments were rendered anonymous. He stated further the comments were typed from the original surveys, so that handwriting would not give a clue as to identity. Mr. Tyler opined this information to be very helpful to the Board in gaining insight into property tax issues.

Selectman O'Brien stated he would not look at the report as it was not a formal PTERC report, and expressed concern that Mr. Tyler did not have the authority to distribute that information on his own, without approval or direction from PTERC. He asked the Town Manager to investigate this matter to learn whether PTERC has any objections to this information being distributed without their approval, and further, to get Town Counsel's opinion on the matter. Mr. O'Brien expressed further concern that survey respondents were assured confidentiality, and noted distribution of their comments may lead residents to believe that assurance was broken.

Selectman Drobinski reiterated that assurances of confidentiality are a matter of public trust.

Mr. Tyler stated the report is comprised of comments and remarks, not actual "data" such as income figures. He asserted his belief that because he submitted a document to the Board, it automatically became a public document.

It was on motion unanimously

VOTED: To REFUSE the document Mr. Ralph Tyler attempted to submit to the Board, to instruct Mr. Tyler not to distribute comments from survey respondents in any way, including electronic transmission, pending review by Town Counsel and the Property Tax Equity Review Committee, and further, to instruct the Town Manager to ask Town Counsel what action the Board may take if the comments are distributed in any way.

**Annual Town Meeting Article -- Motorized Watercraft on Willis Lake**

Present: Dennis Mannone, Recreation Director; Peter Glass, Park and Recreation Commission.

Mr. Peter Glass, Park and Recreation Commission, briefly described the proposed Annual Town Meeting article, designed to specify the highest horsepower of watercraft which may be used on Willis Lake,

in addition to prohibiting personal watercraft such as jet skis. He stated noise pollution (to humans and indigenous wildlife) and environmental concerns to be the main reasons for limiting the size of watercraft. Passive recreation such as kayaking, canoeing, sailing and fishing are all disturbed by the use of large boats and the resulting wake. Mr. Glass opined personal watercraft may already be prohibited by the state on bodies of water this size.

Chairman Roopenian suggested the Park and Recreation Commission hold a public meeting to inform residents. She opined people living directly on the water may already use the pond with boats that do not meet the proposed requirements.

Selectman O'Brien asked about enforcement of regulations such as these. Mr. Glass stated the police department does not have sufficient personnel to assist in enforcement, but opined the Board can appoint a "harbormaster" who would have the authority to issue tickets for violations. He opined the Park and Recreation Commission could absorb the expense of printing tickets.

Mr. Glass stated the pond is suffering from overuse at this time, necessitating limited activity. Problems can include seepage from septic systems, chemicals and waste from engines, and litter from users, as well as overuse of the access road from trucks with trailers hauling large boats.

Chairman Roopenian reiterated her comment about a public meeting to gather information from abutters, as well as users from other towns, and any Police Department concerns. The Board thanked Mr. Glass and Mr. Mannone for their presentation.

### **Featherland Park – Lighting and Sound System**

Present: Dennis Mannone, Recreation Director; Paul Gannon, President; Jeff Dade, Vice President, Sudbury Little League.

Town Manager Valente stated while the Town Manager is responsible for approving what can or cannot be built on Town land, the Board of Selectmen decides if it will accept any enhancement built on public land and financed by fundraising, as it must be gifted to the Town. She pointed out it is critical to get the Board's opinion on the project before any fundraising begins.

Utilizing a slide presentation, Mr. Paul Gannon, Sudbury Little League, briefly described the proposed project, specifically, to install lighting and a press box with sound system at the lower Featherland Park middle field, located at the corner of Concord and Morse Roads, and noting the expenses will be covered by operating funds as well as fundraising. He listed past projects that have been accomplished in this manner.

Mr. Gannon stated the Park and Recreation Commission have held several public meetings, where residents and abutters have expressed concerns about existing amplifier [sound system] usage, lighting issues, and noise following evening games. He stated the plans were revised after hearing resident concerns, and the Sudbury Little League has asked the abutters to help design a system that would satisfy everyone's needs. He clarified the sound system would be used only four times each season, for opening and closing ceremonies and during championship games.

Mr. Gannon stated changes have been proposed for the game schedule, specifically for evening games, and to utilize fields in opposing team communities where lighting already exists. This would reduce the need for lighting to be used at Featherland. He opined, however, that it would be nice to have the

lighting installed and be selective about when it is used. Based on past and present registration, he extrapolated the number of players in coming years, emphasizing the need for additional field space or the ability to use existing space for longer periods of time, i.e., into the evening hours. A survey was conducted posing various questions about game times, preferred days for games, etc.

Mr. David Wallingford, 11 Austin Drive, requested that no games be played on Sunday mornings as they would disrupt services at St. Elizabeth's Church. Mr. Gannon responded that games used to start at 9 a.m. on Sundays, but would start at noon with the revised proposal.

Ms. Claire Schlosser, 509 Concord Road, asked if the lights could be put on a timer or if it is a manual switch. She stated the existing lights at the softball field shine directly into her home. Mr. Gannon responded he did not know. She stated she should be able to turn the lights out at game end, if users of the field had left without doing so. Mr. Gannon opined advanced lighting systems allow the lighting to be more targeted than previous systems, which should decrease impact on the neighborhood.

Ms. Schlosser expressed concerns about parking and entry/egress, as well as planting of trees near the retention basin. She opined trees planted close to one of the drives may affect sight distance. She stated many times cars are parked in her driveway and wondered if signs could be posted. Mr. Gannon stated No Parking signs will be posted and signs will also direct people to approved parking at upper Featherland Park.

Ms. Susannah Flynn, 482 Concord Road, stated her husband has not been contacted to be on the design team. She stated they have been affected by noise and parking, and real estate evaluations included a reference to noise which reduced the value of their home by \$10,000. She said her retired neighbors are home most of the time, and without air conditioning, the noise impacts them greatly. Ms. Flynn also expressed concern that persons wishing to use the tennis courts will have nowhere to park when baseball games are in session. Lastly she commented on the increased amount of construction traffic on Concord Road, i.e., the high school, proposed housing on Newbridge Road, and spring construction at St. Elizabeth's Church.

Mr. Gannon responded to Ms. Flynn that the neighborhood design team has not yet been formed and that is why her husband has not been contacted. He stated the team would not be formed until approval has been granted.

Town Manager Valente reported two residents submitted comments and concerns as well, though they were unable to attend tonight's meeting. Both residents were opposed to the sound system.

Selectman O'Brien asked who would pay the electric bill for the lighting each year. Mr. Gannon responded the bill would be put in the Town's name, but as currently the case with other electric costs at the park, the baseball group would pay the bill.

Mr. Dennis Mannone, Recreation Director, stated the public meetings were advertised on the Town website as well as in the Sudbury Town Crier, and abutters located within 300 feet of the site were notified by mail. He stated the Park and Recreation Department issues permits to all user groups [leagues] as to who can use the fields and when. Selectman O'Brien asked if installation of lightning might prompt more requests for other user groups to use lighted fields in the evening. Mr. Mannone responded that most of the fields are 'little league' size and would not be suitable for other user groups. He opined that if a team is allowed to use a lighted field at Featherland, it would potentially free up space elsewhere.

Selectman O'Brien asked about parking when increased field use begins. Mr. Mannone responded there will always be a parking concern, as most families come to the games in two cars. He opined staggering the start times of the games may help move some traffic out before new traffic comes in.

Chairman Roopenian asked what the next step would be. Mr. Gannon responded, after the Board's approval, they would work with the Park and Recreation Department to begin the work.

Selectman Drobinski reminded residents that any field must be made available to any and all user groups, and not just the Little League. He noted that field hockey, lacrosse and soccer may be interested. He expressed confidence that a team of Little League and neighborhood volunteers can arrive at a reasonable solution for all. Mr. Drobinski thanked all volunteers for their time and hard work in this matter.

Selectman O'Brien asked about the opposing votes noted in the Park and Recreation minutes. Mr. Mannone responded one dissenting vote was concerned about preparing a project without sufficient research into the Master Plan.

Selectman O'Brien asked about the construction timeline. Mr. Gannon estimated it would take approximately six weeks to get the materials and probably one Saturday to complete installation. He added that the contract with Musco includes a ten-year maintenance agreement.

After discussion, it was on motion unanimously

VOTED: To approve for future acceptance the installation of lighting only at the middle field at lower Featherland Park and to authorize the Town Manager to work with the Park and Recreation Department and Sudbury Little League toward construction of said gift on the site, subject to mutually agreeable solutions to concerns about parking, noise and lighting.

### **Sunday Liquor Sales**

Present: Gerard Cedrone, Sudbury Farms; David Fields, Kappy's Liquors; John and Michael MacKinnon, MacKinnon's Liquors.

At 9:20 p.m. Chairman Roopenian convened a Public Hearing to discuss granting permits for Sunday liquor sales to holders of package store licenses, to open on Sundays throughout the year in accordance with Chapter 141 of the Acts of 2003, as requested by Kappy's Liquors, 474 Boston Post Road; MacKinnon's, 5 Concord Road; and Sudbury Farms, 439 Boston Post Road.

The Board reviewed the following information: (1) letter, dated December 29, 2003, from David Fields, Kappy's Liquors, 474 Boston Post Road, requesting Sunday sales from 12:00 to 5:00 p.m., (2) letter, dated January 1, 2004, from John and Michael MacKinnon, MacKinnon's Liquors, 5 Concord Road, requesting a permit for Sunday liquor sales from 12:00 noon to 6:00 p.m., (3) letter, dated December 23, 2003, from Gerard Cedrone, Beer & Wine Buyer, Sudbury Farms, 439 Boston Post Road; and (4) copies of news articles regarding votes of surrounding communities allowing Sunday liquor sales.

Town Manager Valente stated this hearing is more for the residents to comment, as the store owners have already met with the Board, adding that the Board can vote to either refuse or allow Sunday sales of liquor and to set the hours for such sales. Ms. Valente stated there will be no ongoing cost to the Town to add these hours to the annual license, and recommended no fee be charged, if the Board votes in favor of

Sunday sales. She noted also the only one-time cost incurred thus far was to advertise the hearing in the newspaper.

Mr. David Fields, owner of Kappy's Liquors, who was unable to attend the previous meeting, stated he is not a proponent of Sunday sales of liquor, but requested permission to open on Sundays in order to remain competitive. He requested hours of sale from 12:00 noon to 5:00 p.m. Responding to a question from Chairman Roopenian, he stated the loss of business could be considerable, if stores in Sudbury are not open, as patrons can simply go to the next town. He opined that Sunday has become the second most popular shopping day. Mr. Fields reiterated the opinions previously expressed that few additional sales will occur, but that the regular sales will simply be spread out over seven days instead of six.

Mr. Reed Lowery, 25 Dudley Road, asked if there is a restriction on how late the hours could go. Town Manager Valente responded the latest is 11 p.m. with the exception of 11:30 p.m. on a Sunday preceding a legal holiday.

There was brief discussion regarding hours of operation. Selectman O'Brien suggested setting the hours from 12:00 noon to 6 p.m. and next year re-evaluate the hours, if necessary.

It was on motion unanimously

VOTED: To grant a permit to YBF, Inc., d/b/a Kappy's Distributors, 474 Boston Post Road; Sudbury Super Market, Inc., d/b/a MacKinnon's Liquors, 5 Concord Road; and RBSBW, Inc., d/b/a Sudbury Farms, 439 Boston Post Road, holders of a package store license under General Laws Chapter 138, section 15, to sell alcoholic beverages on Sundays, during the hours of 12:00 noon to 6:00 p.m., on an annual basis, pursuant to Chapter 141 of the Acts of 2003, and allow sale of alcoholic beverages seven days per week; and to set no fee for this Sunday permit.

#### **Meeting with Sudbury Democratic Town Committee**

Present: Henry Noer, Don Charles, Tom Hollocher, Carrie Pollack, Democratic Town Committee members.

Chairman Roopenian stated that the Board chose not to place the "Sudbury Citizen's Resolution on Civil Rights and Liberties" on its agenda as the Board felt they could not speak for the entire Town on an issue of this scope. She stated resolutions of this type have never been considered on the Board level but instead sent to Town Meeting; bringing issues of this type to Town Meeting allows all citizens to have a voice in local government.

Mr. Henry Noer expressed concern that individual board members had expressed interest in the resolution and asked whether the Chairman had the ultimate vote in what items could be placed on the agenda. Chairman Roopenian responded that agenda items are booked through the Town Manager's office, and opined that an item has never been kept off the agenda without the support of the entire Board. Selectman Drobinski stated his personal vote at Town Meeting is different from the position he takes when acting as a member of the Board of Selectmen. Selectman O'Brien stated he supports the resolution as it presently stands and agreed that Town Meeting was the appropriate place for it to be addressed.

Mr. Noer expressed disappointment that a public hearing was not scheduled for residents to learn about the resolution. He stated city councils in other communities did so. Chairman Roopenian stated a mayor/city council form of government operates differently from a Board of Selectmen/Town Meeting format. She stated the Board never presumes to have authority over 17,000 people in the area of civil rights.

Mr. Don Charles asked if the policy not to consider resolutions is a written policy. Chairman Roopenian opined she did not believe it was written, just that it had not been done. Proposed resolutions and referendums are instead directed toward Town Meeting. Selectman Drobinski gave several examples.

Selectman Drobinski stated the Board also does not vote on bylaws or zoning changes, but instead offers recommendations, and those measures go to Town Meeting for the residents to consider.

Mr. Tom Hollocher, 623 Concord Road, stated he was glad to have the Board's blessing to go forward with this matter to Town Meeting.

Town Manager Valente clarified for viewers the process of getting an item on the Board's agenda, specifically to send a request to the attention of the Board at the Town Offices. All requests are date stamped upon receipt and will be considered. Mr. Noer asked Ms. Valente if she serves as a "filter" for agenda items, and if she meant no one should contact the Selectmen. She reiterated that, to schedule an item on the agenda, residents should contact the office and added that residents can always contact Selectmen individually on issues. Chairman Roopenian stated the Board has always prided itself on being available to residents by phone, mail or even a "chance" meeting in the supermarket.

Ms. Carrie Pollack expressed concern that residents will not be able to hear how the Board, as individuals, feels on this issue until Town Meeting, and that opinion is important. Selectman Drobinski reminded her that this meeting was being broadcast live and would be rebroadcast numerous times over the next few weeks.

The Board thanked the Sudbury Democratic Town Committee for meeting with them this evening.

### **Minutes**

It was on motion unanimously

VOTED: To approve the minutes of the special meeting of January 21, 2004, as drafted, and the minutes of the regular meeting of January 20, 2004, as amended.

### **Mass. Executive Office of Public Safety Grant**

The Town Manager informed the Board that the Police Department planned to use funds from this year's Community Policing Grant for radio repeater equipment to be located on the communications tower at the Sudbury Landfill.

It was on motion unanimously

VOTED: To accept a FY04 Community Policing Grant from the Massachusetts Executive Office of Public Safety in the amount of \$19,200, to be separately accounted for and expended under the direction of the Police Chief for its intended purpose.

### **Warrant for Presidential Primary**

It was on motion unanimously

VOTED: To sign the Warrant for the Presidential Primary to be held March 2, 2004.

**Troop 63 Eagle Scouts**

It was on motion unanimously

VOTED: To send letters of congratulation to Eric Procopio, 21 Moran Circle, and Christopher MacLeish, 8 Bent Brook Road, on their successful attainment of the rank of Eagle Scout.

**Property Tax Equity Review Committee – Resignations**

It was on motion unanimously

VOTED: To accept the resignations of Claire Schlosser and William Sheehan from the Property Tax Equity Review Committee and to send letters of appreciation for their service.

**Joyce Endee Productions – Arts & Crafts Shows**

It was on motion unanimously

VOTED: To grant a special permit for Joyce Endee Productions to hold two juried Arts & Crafts Shows, one on Sunday, May 2, and one of Sunday, September 12, 2004, at the West Field, Wayside Inn, subject to conditions and permits required by the Fire, Police, Health and Building Departments.

**Sudbury Spring Sprint Triathlon**

It was on motion unanimously

VOTED: To grant permission for the Annual Sudbury Spring Sprint Triathlon, a swim/bicycle/foot race event on Sunday, May 16, 2004, utilizing the loop of Fairbank Road, Maynard Road, and Hudson Road for a bicycle race and the loop of Fairbank Road, Butler Place, Willis Lake Drive, Basswood Avenue, Crystal Lake Drive and Hudson Road for a foot race, beginning and ending at the Atkinson pool, subject to reasonable conditions imposed by the Sudbury Police Department, including provision of three paid police details to direct traffic, and the applicant providing for cleanup of any litter of paper cups or other items used by race participants or staff.

**Election Workers**

It was on motion unanimously

VOTED: To appoint additional Election Officers (Emergency Inspectors) in accordance with recommendations of the Town Clerk and Town Committee Chairmen, as referenced in a communication dated January 30, 2004.

**Ti-Sales – Minor Site Plan Review**

The Board reviewed the following information:

1) Application for Minor Site Plan Review, dated January 26, 2004, from David Zanca, Zanca Land Surveyors, Inc., for a building addition at Ti-Sales, 36 Hudson Road, Sudbury, MA.

- 2) Plans, dated December 18, 2003, received January 26, 2004, for Building Addition, 36 Hudson Road, Sudbury MA, drawn by Zanca Land Surveyors, Inc., 16 Gleasondale Road, Suite 1-2, Stow, Massachusetts 01775, containing Sheets 1-3, A-1, A-2, A-3, A-4, A-5, and A-6.
- 3) Report, dated January 15, 2004, from EcoTec, Inc., Environmental Consulting Services, Worcester, MA, regarding wetland resource evaluation at 36 Hudson Road, Sudbury.
- 4) Report, dated January 23, 2004, entitled Drainage Summary, Ti-Sales, 36 Hudson Road, Sudbury, Massachusetts, submitted by Consolidated Design Group, Inc., Hudson, Massachusetts.
- 5) Report, dated January 15, 2004, from the Design Review Board, stating it had met with the owner of Ti-Sales and its design consultant, and the Board felt the design was reasonable and recommended the Selectmen grant approval.
- 6) Report, dated January 28, 2004, from the Town Engineer/DPW Director, stating access and egress to the site is very difficult. He notes sight line to the east is obstructed by trees at 30 Hudson Road, which he suggests be removed. He further notes the depth to the water table should be determined in the area of the proposed catch basins and stormwater infiltration trench.
- 7) Report, dated January 29, 2004, from the Town Engineer/DPW Director, responding to a request to address the suggested waivers. He stated the proposed parking area is a gravel area used for the storage of water pipe and supplies, and relocation of the parking would interfere with operation of the business. He stated further there is little space to place any landscaping and therefore did not recommend a landscape plan.
- 8) Report, dated January 28, 2004, from the Town Planner, with the following comments: some drainage improvements will be necessary in the rear of the property; signage should be considered for compliance with the signage bylaw; septic tank needs upgrading to a 1500 gallon tank; and separate meetings were agreed to be scheduled with Conservation and Design Review Board. Regarding the waivers, Ms. Kablack recommended granting the waiver on landscaping as a reduction in buffer area could be granted by the Selectmen and not detract from the screening objectives in the bylaw. She stated no objection to retaining the gravel parking area, though she suggested the Town Engineer may recommend some drainage improvements. She stated more work could be done to define open space (30% required), and suggested landscaping should be required in the rear of the parcel.
- 9) Report, dated January 29, 2004, from the Building Inspector, stating the following comments: as the proposed addition will not generate more than 10 parking spaces and is less than 2000 square feet, the proposal meets the requirements of a minor site plan; recommending reduction of the parking setback as the area is well screened from abutting property by the railroad right of way; and noting that a variance was issued by the Zoning Board of Appeals in 1989 for commercial use of the residential section of the property.

Selectman O'Brien stated he had no objection to this matter being handled as a Minor Site Plan Review. It was on motion by Selectman O'Brien to adopt the expedited schedule with the dates set forth in Jan Silva's memo of January 27, 2004.

Selectman Drobinski asked if this schedule allows time to address any issues that may arise regarding the athletic field behind Ti-Sales. Town Manager Valente opined there would be, but noted that the field was not developed and used by the Town this past fall. The only request from Ti-Sales is for the



Town to erect a fence between Town land and Ti-Sales. She stated the Town is looking at fencing options for installation in the spring of 2004.

It was on motion unanimously

VOTED: To adopt the modified Public Hearing schedule for Minor Site Plan Application #04-373 of Ti-Sales, 36 Hudson Road, for a 1944 sq. ft. office addition, as follows:

Hearing date: February 24, 2004  
Publication: February 12, 2004 – *Sudbury Town Crier* (one time, instead of twice)  
Mailing: Notice to abutters within 300' as usual  
Reports: Request reports from departments and boards as usual

Discussion followed regarding the remaining waivers requested by the applicant. Chairman Roopenian questioned the waiver for providing drainage design and calculations as water table depth was mentioned in the Town Engineer's memo, in which he advised that depth be determined in the area of the proposed catch basins and stormwater infiltration trench. Selectman O'Brien opined there to be room for a small amount of landscaping and further information may be helpful.

It was on motion unanimously

VOTED: To grant the waiver of provision of Landscape Plans, to grant the waiver to allow a ten-foot parking offset (setback) in Residential A-1, rather than the required twenty-foot offset, and to deny the request for a waiver for provision of Drainage Design and Drainage Calculations.

### **Annual Town Meeting Action**

A. Warrant Reports – After discussion, it was on motion unanimously

VOTED: To approve Warrant Reports for the following articles: #9, 11, 13, 14, 42, and 50.

It was also on motion unanimously

VOTED: To HOLD approval of Warrant Report for Article 12 (Street Acceptances).

Town Manager Valente submitted a draft report for the Cutting Project Warrant Report and asked the Board review it and forward comments to her as soon as possible. The Board opted to withhold voting on this report until it is in final form.

B. Board of Selectmen Positions – The Board discussed the status of various articles. Regarding the Senior Tax Relief Article, Town Manager Valente stated Town Counsel is still working on the final wording and advised the Board take no position at this time. The Board may withhold taking a position on articles where information is still outstanding.

It was on motion unanimously

VOTED: To SUPPORT the following articles: #13, 14, 23-25, 27, 28, and 45.

It was also on motion unanimously

VOTED: To NOT SUPPORT the following articles: #3, 15 and 16.

It was further on motion unanimously

VOTED: To REPORT AT TOWN MEETING on the following articles: #5 and 12.

**Minuteman Regional High School – Superintendent Search**

The Board reviewed a letter, dated January 22, 2004, from Erin Phelps, Minuteman School Committee, requesting comments on general qualifications for a new superintendent as the present superintendent, Ron Fitzgerald, will retire in August of 2004. This letter was sent to all member towns. Town Manager Valente asked the Board to forward comments to her as soon as possible to meet the February 6 deadline.

**Executive Session**

At 11:05 p.m. it was on roll call

VOTED: To go into Executive Session for the purpose of discussing litigation matters.

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

There being no further business, the meeting adjourned at 11:15 p.m.

Attest: \_\_\_\_\_  
Maureen G. Valente  
Town Manager-Clerk