

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, JUNE 26, 2012

Present: Chairman Lawrence W. O'Brien, Vice-Chairman Robert C. Haarde, Selectman John C. Drobinski and Assistant Town Manager Maryanne Bilodeau

Absent: Town Manager Maureen G. Valente

The statutory requirements as to notice having been complied with, the meeting was convened at 7:32 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

At 7:32 p.m., Chairman O'Brien opened the meeting. He encouraged the community to support the July 4th Parade, which will begin at 1:00 p.m.

Chairman O'Brien reviewed the policy for submitting a Citizen's Petition to the Board to be placed on a meeting agenda, and he noted the procedures are on the Town website.

Clerk Pro Tem

It was on motion unanimously

VOTED: To appoint Assistant Town Manager Maryanne Bilodeau as Clerk Pro Tem, in the absence of Town Manager Maureen Valente for the June 26, 2012 meeting.

Reports from the Assistant Town Manager

Assistant Town Manager Bilodeau announced Adaptive Sports and Recreation Specialist Anna Wood has been recognized by the National Recreation and Park Association 2012 Excellence in Inclusion Award. She also announced that Dave Tucker from the Assessor's Office will be retiring after 15 years of service. On behalf of the Town, Ms. Bilodeau thanked him for his contributions.

Assistant Town Manager Bilodeau reported the consultant from Boston Benefits Partners stated Sudbury's transition to the Group Insurance Commission (GIC) was one of the most effective, and the Town enrolled the highest number of participants in HMOs ever. Ms. Bilodeau said a lot of credit goes to Sudbury's employees for making these difficult plan choices.

Chairman O'Brien noted the increased HMO enrollments save the Town money and cost less for insurance premiums for the employees.

Selectman Drobinski asked if final cost-saving figures are available from the shift to the GIC. Ms. Bilodeau stated she is compiling this information for presentation to the Board in July. She also thanked Debbie Greeno and the Sudbury Public Schools Department staff for helping to coordinate the conversion.

Reports from the Board of Selectmen

Selectman Drobinski attended a meeting of the Massachusetts Municipal Association Energy and Environmental Committee, which he also chairs.

Vice-Chairman Haarde stated collective bargaining discussions continued with the Sudbury Public Schools. He also attended a joint meeting of the Route 20 Sewer Steering and the Route 20 Sewer Citizens'

Advisory Committees. Vice-Chairman Haarde stated a preliminary survey of Route 20 business owners was conducted, and a more in-depth survey will be formalized. The Committees also discussed different financial models. In response to a question from Chairman O'Brien, Vice-Chairman Haarde stated a Committee liaison will soon be appointed to communicate with the Planning Board. He further stated the Committees hope to have the sewer zoning issues in place for the 2013 Town Meeting, and the project for the 2014 Town Meeting.

Chairman O'Brien reported the collective bargaining discussions with Lincoln- Sudbury Regional High School (L-SRHS) will continue in a meeting tomorrow. He announced an information session will be held at L-SRHS on Thursday, June 28, 2012 from 7:00 p.m. to 9:00 p.m. regarding how citizens can participate in a multi-town purchasing group for residential solar panels.

Public Hearing: Underground Storage of Flammable Liquids – 432 Boston Post Road

At 7:45 p.m., Chairman O'Brien opened the Public Hearing regarding the request for an amended license for underground storage of flammable liquids classified as Class IB at 432 Boston Post Road, by Gilbarco Veeder-Root, dated March 15, 2012, on behalf of Global Montello Group Corporation and Global Companies. The Board was in previous receipt of copies of notes from Town Counsel Paul Kenny regarding storage of flammables, which was read aloud by Chairman O'Brien, and the Application for Amended License submitted June 20, 2012 by owner Global Montello Group Corporation and Global Companies, the Public Notice, the Department of Public Safety Division of Fire Prevention License issued August 26, 1974, a letter from Assistant Fire Chief John M. Whalen dated September 30, 2011, a letter to the applicant from Executive Assistant to the Town Manager, Mary McCormack, and an email message from Building Inspector Jim Kelly dated June 6, 2012 .

Selectman Drobinski noted this is for the Mobil gas station located at the corner of Union Avenue and Route 20. He stated this request is a standard procedure in order to continue to operate.

Vice-Chairman Haarde asked if the request is only for permitting purposes, or if structural tank work is planned.

Selectman Drobinski stated underground tanks must now be in compliance with State and Federal laws, and he assumes this request is required for operation.

Vice-Chairman Haarde asked if there is an inspection process to verify the proper upgrades have been made to the tanks.

Selectman Drobinski stated annual tightness tests are required for the tanks. He explained what falls within the jurisdiction of the local Fire Chief and that the State Department of Environmental Protection (DEP) would regulate any release from the tanks to the environment. He referenced the original license issued by the Department of Public Safety – Division of Fire Protection in 1973.

Vice-Chairman Haarde stated 1974 was a long time ago, as was 1989, when several tanks were replaced. He suggested the Board request confirmation from the Fire Chief that the tanks are in compliance.

Chairman O'Brien referenced a letter sent to Gilbarco Inc. in October 2011 from the Town, citing the existing tanks.

It was on motion unanimously

VOTED: To approve an amended license for underground storage of flammable liquids classified as Class IB at 432 Boston Post Road, being two 10,000 gallon underground gasoline storage tanks and one 6,000 gallon underground gasoline storage tank pursuant to the application by Gilbarco Veeder-Root, dated March 15, 2012 on behalf of Global Montello Group Corporation and Global Companies, pending receipt of a communication to the Board from Sudbury's Fire Chief stating site inspections are current and equipment is in compliance with all relevant regulations. (NOTE: A letter was received by the Fire Chief so stating that the tanks are in compliance.)

Massachusetts School Building Authority's Green Repair Program – Nixon School Roof Project

Present: Permanent Building Committee Co-Chairman and Energy and Sustainability Green Ribbon Committee member Mike Melnick

At 7:56 p.m., Chairman O'Brien opened the discussion regarding the Nixon School roof project. He explained an article had been submitted for the 2012 Town Meeting, but it was pulled awaiting notification from the Massachusetts School Building Authority (MSBA). Chairman O'Brien stated Sudbury has now been invited by MSBA to participate in its Green Repair Program for the Nixon School roof project. The Board was previously in receipt of copies of a letter of invitation to participate in the program from MSBA dated June 6, 2012, an email from MSBA Green Repair Program Manager Katie Timmins dated June 8, 2012 and accompanying "Initial Compliance Certification and Exhibit A," and a "Proposed Project Schedule."

Permanent Building Committee (PBC) Co-Chairman and Energy and Sustainability Green Ribbon Committee member Mike Melnick summarized the application process to date. Mr. Melnick described the project estimated at approximately \$705,000 to repair the 22-year old section of the roof, which accounts for approximately 50% of the total surface area. He explained participation in the program will require many subsequent actions, including execution of the Initial Compliance Certification, approval to participate in the program by this Board and the School Committee, and approval for funding for a schematic design by the School Committee.

Mr. Melnick stated, if successful, the Town could be reimbursed approximately 35-37% of the estimated total project cost for an estimated \$250,000. He explained the next steps, which include the assignment of a designer and development of a maintenance plan, a certification plan, and a production schedule. Mr. Melnick stated that, following a November 2012 MSBA meeting, if Sudbury is notified that the project is accepted, the Town will have 90 days to conduct a Special Town Meeting. It is anticipated the project can be bid in the winter of 2013, with work completed in the summer of 2013.

Selectman Drobinski stated the roof needs to be replaced. He further stated it would be financially irresponsible for the Town not to apply for these funds, which will save taxpayers money.

Vice-Chairman Haarde asked for clarification that it was only for the older part of the roof, which Mr. Melnick confirmed.

Chairman O'Brien asked if the repair will improve the building's energy efficiency. Mr. Melnick stated energy improvements are anticipated.

Mr. Melnick stated the PBC completed a study in 2010 of 19 Town/School building roofs. He stated the study report is on the Town website and it includes a projected repair time schedule. Mr. Melnick stated the Nixon School is behind one year from its projected date.

In response to a question, Mr. Melnick stated he assumes this MSBA program will also be available next year, but he added that only school buildings are eligible.

It was on motion unanimously

VOTED: To authorize the Chairman of the Board of Selectmen to execute the Massachusetts School Building Authority's Initial Compliance Certification for the General John Nixon Elementary School, MSBA Project No. 201202880025, certifying on behalf of the Eligible Applicant that the terms have been read and understood and certifying that each of the statements contained therein are true, complete and accurate; and further

To authorize the Chairman and/or Town Manager, or their designees, to sign and execute any other documents, including the Proposed Project Schedule, to further the MSBA required process, without a need to convene a meeting of the Board of Selectmen, provided copies of the executed documents are made available to the Board members.

At 8:05 p.m., Chairman O'Brien closed the discussion.

Livery and Limousine Licenses – AAA Limousine, Inc.

It was on motion unanimously

VOTED: To approve the renewal of Livery and Limousine Licenses for AAA Limousine, Inc., 39 Union Avenue, and Sudbury Limousine and Taxi Service, Inc., 26 Shadow Oak Drive, and to approve rate schedules as provided, subject to approval of individual driver licenses and satisfactory vehicle inspections by the Police Department, said licenses to expire on June 30, 2013.

"2011 CF Cycle for Life Tour" - Special Permit

It was on motion unanimously

VOTED: To grant a special permit to Terry Waite, Senior Development Director of the Cystic Fibrosis Foundation, "2012 CF Cycle for Life Tour" on Saturday, October 6, 2012, following a route outlined and submitted, subject to Police Department safety requirements, proof of insurance liability coverage and the assurance that all litter will be removed at the end of the race.

Pantry Brook Farm – LAND Grant Application

Vice-Chairman Haarde asked for clarification as to why the Town is applying for this grant.

Chairman O'Brien summarized the grant program previously described by Director of Planning and Community Development Jody Kablack, which, if successful, could award up to \$400,000 to defray the cost of the Pantry Brook Farm purchase.

It was on motion unanimously

VOTED: To authorize Lawrence W. O'Brien, Chairman of the Board of Selectmen and as Chief Executive Officer for the Town of Sudbury under the Town Manager Act, to sign the LAND Grant application for Pantry Brook Farm and to authorize Jody Kablack, Director of Planning and Community Development, to

submit the application and represent Sudbury in all communication with the Dept. of Conservation Services in matters concerning this grant.

911 Memorial Garden Trust Fund – Increase of FY12 Expenditure Limit

Selectman Drobinski recommended the Board approve the requested increase for the 911 Memorial Garden Trust Fund.

It was on motion unanimously

VOTED: To approve an increase in the FY12 expenditure limit for the 911 Memorial Garden Trust Fund from the previously requested \$300 limit to \$500, as requested by Town staff on behalf of the 911 Memorial Garden Oversight Committee.

Rt. 20 Sewer Citizens' Advisory Committee - Appointment

Chairman O'Brien announced this agenda item has been pulled tonight, awaiting a vote from the Route 20 Sewer Steering Committee.

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Site Plan Modification Application – 29 Hudson LLC - Endorsement

Assistant Town Manager Bilodeau distributed copies of a memorandum from Director of Planning and Community Development Jody Kablack, dated June 26, 2012, summarizing the final submissions and recommending endorsement by the Board.

It was on motion unanimously

VOTED: To endorse the final site plans for 29 Hudson LLC, Village Green, as recommended by the Director of Planning and Community Development, the Site Plan Decision for which plans were approved by the Board on April 24, 2012.

Walkway Easements – 143 Peakham Road, 151 Peakham Road, 6 Kendra Lane and 167 Willis Road

The Board was previously in receipt of copies of four Walkway Easements and accompanying maps as described below and an email from Director of Planning and Community Development Jody Kablack, dated June 21, 2012.

It was on motion unanimously

VOTED: To accept the following easements: Walkway Easement dated 6/13/12, on property located at 143 Peakham Road, granted by Rebecca B. Capone, and Walkway Easement dated 3/24/12, on property located at 151 Peakham Road, granted by Sean and Christine Barrett, both as shown on "Plan of Land in Sudbury, Mass.," drawn by Colburn Engineering, dated 3/16/70, rev. 3/31/71; Walkway Easement dated 1/3/09, on property located at 6 Kendra Lane, granted by John P. Wei & Sharon S.F. Chiang," dated 1/5/09, prepared by the Town of Sudbury Engineering Department; and Walkway Easement, dated April 15, 2009,

on property located at 167 Willis Road, granted by David L. Froelich, shown as "Proposed Walkway Easement" on "Plan Showing Proposed Walkway Easement over land of David L. Froelich," dated 1/8/09, prepared by the Town of Sudbury Engineering Department.

At 8:16 p.m., Chairman O'Brien announced the meeting would be temporarily suspended, awaiting the arrival of Sudbury's Police Chief for the next agenda item.

NOTE: Chairman O'Brien recused himself from further discussion and absented the hall for the remainder of the meeting.

Police Department - Lavender Asian Cuisine - Violation Discussion

Present: Police Chief Richard Glavin

At 8:25 p.m., Chairman O'Brien resumed the regular session meeting. He announced that, on the advice of Town Counsel, he is recusing himself from this agenda item, as he had done at the last meeting. Chairman O'Brien reviewed the appropriate protocol for recusal, which includes leaving the Hall.

The Board was previously in receipt of copies of a letter to Vice-Chairman Haarde from Town Counsel Paul Kenny dated June 22, 2012, a letter to Town Clerk Rosemary Harvell from Town Counsel Kenny dated June 12, 2012, and accompanying letters of opinion regarding conflict of interest for Selectman Drobinski and Town Manager Valente both dated June 6, 2012, a letter from the Commonwealth of Massachusetts State Ethics Commission to Town Counsel Kenny dated June 11, 2012 and the Town of Sudbury Entertainment License issued to Lavender on December 6, 2011. In addition, Assistant Town Manager Bilodeau distributed copies of a memo she sent Vice-Chairman Haarde and Selectman Drobinski today, suggesting discussion guidelines, the warning letter issued by the Police Department on May 10, 2012 to Lavender Restaurant and accompanying Board of Selectman rules and regulations for licenses for the sale of alcoholic beverages, effective June 1, 1982.

Vice-Chairman Haarde reinforced the proper procedures for recusal include that the recused party leave the room and not listen to the discussion.

Sudbury resident Bob Stein, 7 Thompson Drive, speaking as a private citizen and not as a member of Sudbury's Finance Committee, asked if the agenda item discussion should be held until the advertised 9:20 p.m. time, in case people still at home were planning to attend or view the cable broadcast.

Vice-Chairman Haarde stated the meeting is running over an hour ahead of schedule, and the discussion would proceed and not be delayed. He stated this matter has received a lot of attention in Town, and the Board has received public feedback and questions. Vice-Chairman Haarde emphasized tonight's discussion should be conducted respectfully and with civility. He stated people make mistakes, but what is important is that the community comes out better from the dialogue and the experience.

Vice-Chairman Haarde stated there is typically a public discussion regarding liquor license violations to determine if there was a breakdown in the process of complying with the license rules and regulations. He noted the rules exist for good reasons, one of which is to ensure public safety. Vice-Chairman Haarde stated when the Board has discussed previous violations, they discuss the details of an incident, what caused the mistake and what has been done to resolve the issue. He noted this is done in hopes of resolving the matter so that a similar incident does not happen again. Vice-Chairman Haarde explained that, in each instance when the Police Department has issued a warning, there has not been a second offense. Police Chief Glavin confirmed this to be accurate.

Vice-Chairman Haarde reported that Lavender Restaurant manager Tim Fong was invited to tonight's meeting, but due to a long-standing planned vacation, he will not be able to meet with the Board until its next meeting. He emphasized the penalty phase for this matter has been concluded by the Police Department by issuing its warning to the Restaurant, and that the public discussions are now part of the resolution phase. Vice-Chairman Haarde stated it is important to have the discussion, and he is confident the community will get through this experience.

Selectman Drobinski reinforced the importance of Vice-Chairman Haarde's opening remarks. He noted clearly a mistake was made, but it is important for residents, as members of a community, to work together for the good of the Town, and he believes that in doing so, it will be indicative of Sudbury's character.

Vice-Chairman Haarde presented guidelines for the discussion, asking speakers to not discuss/reference any other criminal or personnel-related matters tonight other than the one agenda item relating to the alcoholic beverages license violation, and he asked the Police Chief to present the details of the violation.

Police Chief Glavin provided background information regarding how the Department usually approaches these issues. He stated the Police Department is the enforcement arm of the Town's Licensing Authority, which is the Board. Chief Glavin stated the Department believes it is important to foster a good relationship with the business community. Thus, he stated situations have historically been handled independently by the Department, on site, with supervisors, to ensure incidences do not reoccur. However, Chief Glavin did note that violations of underage serving are typically brought before the Board to discuss because these are believed to be violations with more serious consequences.

Police Chief Glavin next presented the details of the incident at Lavender Restaurant on May 9, 2012 between 1:22 a.m. and 1:47 a.m. He noted the first officer on the scene at 1:22 a.m. observed 20 vehicles in the parking lot, which is not an unusual occurrence. The officer, who was also aware of a missing person report at this time, returned to the location at 1:42 a.m. and observed approximately 10 cars in the parking lot. At this time, the manager Tim Fong addressed the officer outside and stated that no alcohol was being served or consumed inside. At approximately 1:47 a.m., a second officer arrived and both officers entered the restaurant, and they were met by Board of Selectman Chairman Larry O'Brien, who asked if he could help them. Officer Espinosa stated he could assist the officers by getting patrons out of the restaurant.

Vice-Chairman Haarde concurred with the statement made earlier that underage serving is a worse offense. Selectman Drobinski concurred, stating the Town establishments do a good job of upholding the rules, and he believes the Police Department does a good job of enforcing the regulations. He further stated the Town receives a monthly report of violations from the Alcoholic Beverages Control Commission (ABCC), and to his knowledge, Sudbury has not appeared on the list. Chief Glavin confirmed the Town has a great record regarding liquor license violations, and if a situation arises, there has never been a recurrence.

Sudbury resident Ursula Lyons, 157 Wayside Inn Road, asked if someone could explain the closing time according to the license because there is confusion as to whether it was to be midnight or 1:00 a.m.

Vice-Chairman Haarde read aloud the license language which expires December 31, 2012. He noted 1:00 a.m. is referenced in the license, but he believes there is some confusion regarding this. Vice-Chairman Haarde stated he reviewed the minutes of the Board meeting when Lavender Restaurant requested the closing time extension, which was to be for karaoke nights and special events only. Selectman Drobinski recalls that Mr. Fong requested a 1:00 a.m. closing, which was agreed to by the Board.

Vice-Chairman Haarde asked if this was the first time the Board had approved a closing extension to 1:00 a.m. on weeknights, and if a precedent existed. Chief Glavin stated that, in the past, establishments

would periodically request a special one-day exception, but the overall approval is more accommodating for establishments so they do not have to come before the Board for each exception.

Mr. Stein stated he attended the Board meeting when Lavender Restaurant requested the closing time extension, and he recalls the request was specifically for karaoke nights only and he asked if the videotape of the meeting could still be reviewed. Mr. Stein also asked a hypothetical question regarding whether there is any kind of over-serving law which would be enforced if someone were to leave an establishment and have an accident.

Vice-Chairman Haarde stated there is no specific law which governs over-serving. However, he did state that, if the Board were to become aware of a pattern of accidents, which involved patrons from the same establishment, then it would likely want to further investigate the matters.

Mr. Stein stated he attended another Board meeting where an underage serving violation for another Town restaurant was discussed and action was decided by the Board. He asked if there is a Town protocol for when and what alcohol violations come before the Board.

Mr. Stein asked Police Chief Glavin how the Sergeant who responded to the scene at 1:46 a.m. responded to Chairman O'Brien when Chairman O'Brien stated, "Can I help you?" Chief Glavin stated he does not know for certain what was said.

Vice-Chairman Haarde stated he had read the Board's meeting minutes when the extension of the closing hour was voted. He believes the intent of the Board's vote was to approve the extension for the requested karaoke/special event nights only. However, Vice-Chairman Haarde noted this distinction is not codified in the restaurant license or in the Town rules and regulations. He emphasized the Chief of Police is the top law enforcement authority for the Town, and that the Chief does not have to come before this Board before taking action. However, he further stated the Chief has chosen to come before the Board in the past to discuss violations of serving minors. Vice-Chairman Haarde emphasized it is within the Chief of Police's right and authority to have independently issued the warning letter to the restaurant, and he believes the Chief handled the situation appropriately. He opined the matter was complicated by the presence of a Town official, and Vice-Chairman Haarde respects the Police Chief for doing the right thing in a challenging situation.

Mr. Stein asked that, if the Board thought the letter issued by the Police Department was insufficient, could it do something in addition. Vice-Chairman Haarde responded that, if the Board became aware of additional relevant information, it could issue a follow-up letter.

Vice-Chairman Haarde asked if Officer Espinosa had further conversation with Chairman O'Brien, and if Officer Corey spoke to anyone when she arrived at 1:18 a.m. Chief Glavin stated Officer Corey did not speak to anyone, and he cannot speculate on a conversation between Officer Espinosa and Chairman O'Brien.

Vice-Chairman Haarde stated Sudbury does not have a "police state," and he believes the flexibility the Police Department gives businesses is appropriate.

Sudbury resident Siobhan Hullinger, 55 Washington Drive, stated she had always believed there is an over-serving law, and she asked if a homeowner is liable if someone overdrinks on their property. It was noted that one is always open to a civil suit. Vice-Chairman Haarde stated it is a different matter as to

whether someone has broken the law. Ms. Hullinger stated she thought bartenders and establishments had liability laws. Chief Glavin stated there are liability laws. Vice-Chairman Haarde clarified there is liability involved with many things people do, but, in this instance, no statute was broken.

Sudbury resident Dan DePompei, 35 Haynes Road, stated the event occurred on May 9, 2012, and the report was written on May 9, 2012. He asked why the matter did not come up for discussion at a Board meeting until May 22, 2012.

Vice-Chairman Haarde noted it would have been beyond the usual practice for the Police Department to issue anything more than a written warning, which it did. To do otherwise, would possibly put the Town in the position of its decision being appealed by the ABCC as inconsistent. Vice-Chairman Haarde stated the presence of Town officials complicated matters, as did the appearance of a conflict. He reiterated it was not easy for the Police Chief to write the warning letter, but he believes it was the proper thing to do.

Chief Glavin stated the Department works to maintain consistency in how it handles similar situations with different businesses, no matter who is present.

Mr. DePompei stated he has no problem with the actions of the Police Department, but he does have concerns regarding the Town's lack of transparency with discussing the issue.

Vice-Chairman Haarde stated it is not the duty of the Board to investigate or penalize its members. He noted there might be another venue for this action, but it is not at a Board meeting. Vice-Chairman Haarde stated the goal of tonight's discussion is to help the community move forward on this matter.

Sudbury resident Mike Troiano, 342 Lincoln Road, asked if other Town officials were present other than Chairman O'Brien. He also asked that, if Chairman O'Brien has recused himself, is he available to personally be interviewed for additional information regarding the incident.

Vice-Chairman Haarde repeated the proper conduct of leaving the room after one has recused themselves. He stated he does not know if Chairman O'Brien could participate in public conversation, but he assumes he could if he wanted to.

Town Counsel Paul Kenny stated Chairman O'Brien cannot be investigated by this Board, but anyone could ask him anything elsewhere.

In response to a question from Vice-Chairman Haarde, Chief Glavin stated Officer Corey did not notice any other Town officials. However, he further noted she might not have recognized most officials even if they were there.

Sudbury resident Jan Haardenbergh, 7 Tippling Rock Road, asked if the Town Manager is involved in the liquor licensing for the Town. Vice-Chairman Haarde stated the Town Manager and her staff help administer communications and paperwork for the licenses, but the Town Manager does not vote to approve licenses. Selectman Drobinski stated the Board of Selectmen is the licensing authority.

Sudbury resident Pat Brown, 34 Whispering Pine Road, referenced a letter sent from the Assistant Town Manager to the ABCC, and a response received from the ABCC stating it does not investigate a matter already handled by the Town and its Police Department. She asked if the Board and/or Town Manager had asked Town Counsel for advice regarding next steps.

Vice-Chairman Haarde stated he understands the position of the ABCC not to investigate whether local Police Departments have acted appropriately. He further stated he believes Town Counsel was contacted, and the Board is conducting its next steps now through these discussions. Vice-Chairman Haarde noted there is no other active investigation going on regarding the violation by Lavender restaurant.

Town Counsel Kenny confirmed he was contacted, and that he did offer a few suggestions.

Assistant Town Manager Bilodeau referenced the ABCC's response, adding it also noted that the Lavender restaurant did not violate the liquor license regulations under the Massachusetts General Laws.

Sudbury resident Brian Mahoney, 29 Harvard Drive, asked for clarification regarding the importance and variance between posted operating hours and liquor license hours for serving.

Chief Glavin stated the posted hours note the typical hours an establishment is open, but a business can decide to alter this on its own. Vice-Chairman Haarde later stated that, if a liquor license allows a business to stay open and serve alcohol until a certain time, the establishment can choose to do so. He further stated that any establishment can request approval of an extension of its closing time.

Vice-Chairman Haarde asked if the Chief believed the extended 1:00 a.m. closing for Lavender was for special events only. Chief Glavin responded this had been his assumption.

Sudbury resident Anthony Fortunato, 101 Moore Road, asked if a playoff game could be considered a special event. The consensus was that it could.

Vice-Chairman Haarde reiterated that he believes the words of the motion by the Board approving the extension of the closing time to 1:00 a.m. was for special events only, but this is not codified within the official license. He believes clarifying these points is something the Board can improve upon for the future.

Sudbury resident Kirsten Roopenian stated she believes most people have been in similar situations when restaurants have remained open for special events. Ms. Roopenian emphasized no one in the Hall is perfect, and no one here should be acting as "judge, jury and executioner." She emphasized the residents of Sudbury voted for each member of the Board to represent what is in the best interests of the community. Ms. Roopenian stated she appreciates how tonight's discussion has been conducted, she appreciates the work done by the Board, and she hopes people can continue to move in the direction described tonight by Vice-Chairman Haarde.

Sudbury resident Rick Johnson, 38 Bent Road, asked why the Board grants licenses beyond the posted hours of operation. Vice-Chairman Haarde reiterated it is up to each business to decide when they want to close, and businesses should have this flexibility for numerous reasons. Mr. Johnson believes Sudbury has problems related to alcohol. Thus, he also believes a business should clearly state its hours of operation and be given a corresponding license for the same hours. Mr. Johnson also suggested the business be told that, if they wish to stay open later for any reason, it can present the Board with a request. Vice-Chairman Haarde stated the suggestion is a reasonable one, but Sudbury is not the only Town with this inconsistency.

Sudbury resident Laura Abrams, 48 Horse Pond Road, asked how the time after Town Meeting would qualify as a special event. Ms. Abrams also asked how this topic can move forward and be resolved if the two sitting Board members are at odds.

Selectman Drobinski stated he does not believe he and Vice-Chairman Haarde are at odds because they both support the actions of the Police Chief, and they are committed to transparency. He emphasized what is

most important to him is that the Board discuss the matter in a fair and equitable manner, with no other underlying agendas.

Ms. Abrams stated she believes the two Board members are at odds because unanswered questions remain. She noted there is a missing person's report on record with the Police Department filed for Selectman Drobinski at approximately the same time of the violation.

Vice-Chairman Haarde cautioned the questioning seemed personal in nature. He noted Selectman Drobinski could have recused himself, but chose not to do so, and that he has filed a statement at the Town Clerk's Office, which has been vetted by the State Ethics Commission.

Selectman Drobinski told Ms. Abrams he would be happy to contact her to personally answer her questions as to his whereabouts.

Ms. Hullinger asked for clarification regarding why the Board approved a license for more hours than were requested by the restaurant last year when it asked for an extension for special events.

Vice-Chairman Haarde stated he believes the restaurant's license has remained the same in 2011 and 2012, and that the extended hours were approved in 2009. He explained the liquor license states the closing time as 1:00 a.m., and thus there is no legal issue.

Mr. Stein asked Town Counsel Paul Kenny for more information regarding his opinion that the Town Manager and Selectman Drobinski did not have to recuse themselves.

Town Counsel Kenny stated he has nothing more to offer than what he stated in his opinions. Vice-Chairman Haarde stated the Town Counsel opinions are a matter of public record on file at the Town Clerk's Office.

Sudbury resident Bryan Semple, 15 Revere Street, asked if there are any records of other restaurants staying open for 45 minutes beyond their closing times.

Vice-Chairman Haarde stated there have been other occasions as explained earlier tonight by Chief Glavin, but typically one drive through by a Police Officer clears the scene. Chief Glavin confirmed this statement.

Mr. Semple opined that he believes the larger issue is being ignored: that Selectmen were present and it took two visits from the Police Department to clear patrons. He also does not understand when the Board became aware of the Police issuing its warning letter. Mr. Semple stated the timeline presented does not make sense to him. He believes there are behavioral issues involved, and he asked if they will be discussed.

Vice-Chairman Haarde stated this is a hearing to discuss the liquor license violation, and the next Board meeting will include a discussion with the manager of Lavender Restaurant. He reiterated this is not the venue for some of the other topics raised to be broached.

Mr. Semple opined that he believes the Town is owed an apology for what happened, and for how long it took for the facts to come out.

Selectman Drobinski stated Chairman O'Brien was clear as to what happened when he read his statement.

Vice-Chairman Haarde stated he is sorry for what has occurred, but he does not think further resolution on some of these questions will be found in this venue. He emphasized the Police Chief is the Town's Chief Law Enforcement Officer, and he did not, nor did he have to, consult with anyone before taking action.

Chief Glavin confirmed he did not consult with anyone when deciding how to handle the situation. He contacted Assistant Town Manager Bilodeau and told her what he was going to do, and then he proceeded to issue the warning letter the day following the incident. Chief Glavin also informed the Town Manager, and she told him Chairman O'Brien would inform his fellow Board members as to what occurred.

Vice-Chairman Haarde stated the information about this issue was not made as public as it should have been, but he hopes the Town can learn from this experience.

Mr. Hardenbergh clarified the Police Chief had stated letters are usually issued for non-minor violations. He questioned whether it is really the business of Town government to care when people were at, or left, a private gathering.

Vice-Chairman Haarde stated it is likely there will not be full agreement on whether it matters who was present and when they were there, but people should be able to still be neighbors.

Sudbury resident Robert Abrams, 48 Horse Pond Road, referenced the ABCC response, stating it would not conduct an investigation of a closed Police case. Mr. Abrams stated he has no issue with the actions of Sudbury's Police Department. However, he stated Chapter 138 of the relevant liquor laws notes that an establishment cannot stay open beyond 15 minutes following its closing time. Mr. Abrams asked if the ABCC stated, in writing, that no liquor license violation occurred. He also asked if the State Ethics Commission has provided an opinion, in writing, regarding Chapter 268A and whether Selectman Drobinski should have recused himself. Mr. Abrams stated there can be a violation if a member of the Licensing Authority places a Licensee under inherently exploitable conditions. He asked if the State Ethics Commission has made a formal ruling about a member of the Licensing Authority being present after the published closing time.

Vice-Chairman Haarde stated the Commission had issued an opinion in writing regarding Selectman Drobinski not needing to recuse himself. The Assistant Town Manager read the specific statement from the ABCC letter and said she would be happy to give him a copy. Mr. Abrams requested a copy of the communication, and he was told it would be provided to him.

Vice-Chairman Haarde stated Selectman Drobinski left the restaurant well before 1:00 a.m., and thus he has no liability. It was confirmed with Town Counsel that it was suggested to Selectman Drobinski and Town Manager Valente that they file disclosure statements, which they both did.

Mr. Mahoney thanked the Police Chief for attending the meeting. He believes the timeline is important. Mr. Mahoney will not be able to attend the next Board meeting, so he asked if the Board could ask the restaurant manager if he felt any pressure to stay open.

In response to a question, Selectman Drobinski stated the only talk done in the parking lot of the High School following the Town Meeting was about what a successful Town Meeting it had been for Sudbury.

Vice-Chairman Haarde commented that, if this were the purpose of the get-together, why was he also not told the group would convene at Lavender.

Selectman Drobinski stated he would have mentioned it to Vice-Chairman Haarde in the High School parking lot when he became aware, but Vice-Chairman Haarde had already left the premises.

Mr. Troiano stated tonight's meeting has had a more positive tone than the last one. However, he still questions if Town officials were acting as if they were above the rules and regulations which apply to everyone else. Mr. Troiano asked if the Police Department knows that no liquor was being served after hours.

Vice-Chairman Haarde reviewed the police process and timeframe. Chief Glavin stated that no alcohol was being consumed when the officers arrived.

As a local business person, Ms. Abrams opined that she believes it was wrong to put a business person in this awkward situation. She suggested that, if the group had wanted to convene, it should have met at a personal residence. Ms. Abrams asked what can be done regarding Chairman O'Brien being a spokesperson at D.A.R.E. graduations, since he has recused himself.

Vice-Chairman Haarde stated the Superintendent of Schools, principals and/or school committees decide who is invited to participate in the D.A.R.E. program ceremonies. He suggested residents express their concerns to these officials.

Mr. Johnson asked if Chairman O'Brien had recused himself as a member of the Board or personally. Vice-Chairman Haarde stated he recused himself as a member of the Board.

In response to a question, Town Counsel Kenny stated he had an informal conversation with Chairman O'Brien, and he told him that, if he were in a similar situation, he would probably recuse himself, but he was never asked to provide an official opinion regarding Chairman O'Brien. In response to another question, Town Counsel Kenny stated Selectman Drobinski and Town Manager Valente specifically asked him for written opinions regarding conflict.

It was noted that Chairman O'Brien stated in his prepared statement that he was "recusing himself on the advice of Town Counsel," but it appears he did not have a formal opinion. Vice-Chairman Haarde stated he believes the informal discussion qualifies as advice of Town Counsel.

Sudbury resident Mike Curry, 32 Stonebrook Road, asked how the Board members would have known Lavender would be open that night and whether it was a Town function. It was stated it was not a Town-sponsored function.

Sudbury resident Jack Kaiser, 66 Willow Road, opined there has been a lack of transparency because perhaps it was a celebration of not changing the Chairmanship of the Board earlier that night. Mr. Kaiser finds it odd that a wife places a missing person's report for a Selectman on the same evening. He asked if this is a common occurrence for the Police Department to respond to two calls involving two Selectmen, and he stated people find the circumstances frustrating.

Vice-Chairman Haarde cautioned the discussion is taking an inappropriate personal turn rather than addressing the business noted on the agenda, and he opined it is a peculiar coincidence. He also stated the Board will do the best it can to get as much information out to the public.

Sudbury resident Phil Conners, 33 Dudley Road, is a former Police Chief in Ayer. Mr. Conners stated, overall, Sudbury performs well regarding liquor license regulations, as opposed to other towns which

experience far more dangerous situations. He emphasized there are no perfect human beings, and Sudbury should be grateful it is only discussing this type of violation.

Vice-Chairman Haarde stated all residents are fortunate to live in Sudbury and to be able to complain about these types of problems compared to others with far more serious ramifications. He stated the Board will hold another meeting on this matter, and the Police Chief does not have to attend it. Vice-Chairman Haarde repeated the penalty phase is over, and that the resolution phase will continue. At 10:09 p.m., he thanked everyone in attendance for their conduct tonight, and he closed the discussion.

There being no further business, the meeting adjourned at 10:10 p.m..

Attest: _____
Marianne Bilodeau
Assistant Town Manager
Clerk Pro Tem