

IN BOARD OF SELECTMEN
MONDAY, NOVEMBER 30, 1987

Present: Chairman Anne W. Donald, David A. Wallace and John C. Drobinski.

The statutory requirements as to notice having been fulfilled, the meeting was called to order at 7:30 p.m. by Chairman Donald.

The Board welcomed members of Troop 61, Boy Scouts of America, and their leaders David Roddy and Thomas Boak. Mr. Boak informed the Board that the Scouts were working on Communications and Citizenship in the Community merit badges.

Sherman's Bridge Design Work - Renew Borrowing

Present: Town Clerk Jean MacKenzie and Town Treasurer Chester Hamilton.

In accordance with the Selectmen's vote of November 23, 1987, reimbursement anticipation renewal notes were signed in the amount of \$9,680 with Bay Bank Middlesex, holder of the current note, at an interest rate of 5.75%, effective December 11, 1987, and due June 8, 1988, relative to the design of Sherman's Bridge reconstruction pursuant to Article 11 of the 1984 Annual Town Meeting.

Interview Candidates - Park and Recreation Commission

Present: Park and Recreation Commissioners Jane A. Neuhauser, Rosalyn J. Drawas, Alan J. Williamson; applicants Alfred I. Priest, Jr. and Kimberly Kinsella.

Executive Secretary Richard E. Thompson stated that the Board of Selectmen and Park and Recreation Commissioners were meeting in joint session in accordance with statute for the purpose of interviewing candidates and jointly electing a fifth member to the Commission to fill the vacancy occasioned by the resignation of Peter Berkel from the Park and Recreation Commission. He noted that the Board was in receipt of three applications, two of which had been previously forwarded to the Commission and one which had been received this day.

On the recommendation of Mr. Thompson, since, due to an emergency, the Chairman of the Park and Recreation Commission was unable to attend the joint meeting and time did not permit the third candidate to be scheduled for interview, it was on motion

VOTED: To interview the two candidates present, and continue the joint session for the purpose of interviewing the third candidate and electing a fifth member of the Board of Park and Recreation Commissioners to December 14, 1987, at 7:30 p.m.

(A unanimous vote of all members of the Board of Selectmen and the three Park and Recreation Commissioners present was recorded.)

It was on motion by Commissioner Drawas

VOTED: Effective this evening the period for receipt of applications is closed.

(A unanimous vote of all members of the Board of Selectmen and the three Park and Recreation Commissioners present was recorded.)

Interviews of the two candidates present took place. Mr. Priest stated that he has been involved in various athletic endeavors in the Town and would combine his professional experience in the field of physical education with his interest in the development of new recreation resources and programs as a Commissioner. Ms. Kinsella indicated that her recent service as co-chair of the Sudbury Toddler Playground Committee, which in conjunction with the Park and Recreation Commission had successfully completed the development and funding of the program and installation of the equipment at Haskell Field, provided her with experience and familiarity with the Commission's function in the Town which would be valuable as a Commissioner. Both candidates stated that they understood the time commitments involved.

At the request of Ms. Kinsella, Mr. Thompson briefly described the voting procedure which would take place at the continuance of the joint session on December 14.

Local Arts Council

The Board acknowledged two vacancies on the Local Arts Council: 1) that of Claire Ravi, appointed June 2, 1986, who moved from Town, and 2) that of Barry Marchette (original appointment August 10, 1982) who has not responded to notices or attended meetings for a significant period of time.

On the recommendation of the Local Arts Council it was on motion of Selectman Donald unanimously

VOTED: To appoint Ann I. Person, 66 Washington Drive, and Lois Z. Toepfner, 58 Meadowbrook Circle as members of the Local Arts Council, each for a two-year term to expire November 30, 1989.

Minutes

After review, on motion it was unanimously

VOTED: To approve the minutes of the regular session of November 16, 1987, as amended, and the executive session of November 16, 1987, the regular session of November 23, 1987, and the Town Forum of November 23, 1987, as presented.

With regard to the Executive Session minutes of November 23, 1987, Mr. Thompson brought to the Board's attention the necessity of correcting a mathematical error; therefore, it was on motion of Selectman Wallace unanimously

VOTED: To establish the salary range for the Assistant Assessor position in the Sudbury Supervisory Association contract for FY88, amending the vote of October 19, 1987, at \$32,950 minimum to \$38,199 maximum, and correct the vote of November 23, 1987 accordingly.

Articles for Submission at the 1988 ATM

Mr. Thompson noted that relative to the proposed Town Bylaw regulating open burning to be jointly submitted by the Fire Chief and the Board, Chief Dunne had recommended a range of \$10 - \$15 as the non-criminal penalty for violation; however, it was Mr. Thompson's recommendation that the penalty be set at \$25.

It was on motion of Selectman Donald unanimously

VOTED: To approve and submit the proposed Bylaw article and report relative to open burning and to set the penalty for violation of said bylaw at \$25.

It was noted by the Selectmen that, if passed by Town Meeting, the open burning bylaw will supersede the current bylaw which also includes a provision relative to littering. The new proposed bylaw deletes this provision, as the subject is more fully addressed in the General Laws, which set both a criminal and non-criminal penalty for violation. Under an article previously approved by the Selectmen for submission, upon approval by Town Meeting, the Town's Director of Public Health will be designated as the enforcement agent under M.G.L. c.270, §16 and 16A, relative to littering. Mr. Thompson stated that Health Director Michael Sullivan had agreed.

With regard to the articles submitted by the Board, drawn by Assistant Counsel David Doneski, to amend the Bylaws to establish penalties to enable non-criminal enforcement of the Town's Bylaws, it was on motion unanimously

VOTED: To establish the penalty for bylaw violation at \$50 under the following articles:

- Amend Bylaw, Article V, Public Safety - Designate Penalties
- Amend Zoning Bylaw, Article IX,V,L, Special Regulations, Unregistered Motor Vehicles - Establish Penalty
- Amend Zoning Bylaw, Article IX,VI,D, Administration - Penalty
- Amend Article V, Public Safety, Enforcement Procedure.

On the recommendation of the Town Engineer, Highway Surveyor, and the Planning Board reported by the Executive Secretary, it was on motion unanimously

VOTED: To add Guzzlebrook Drive and Douglas Drive to the list of streets to be accepted by Town Meeting which were approved for submission on November 23.

The Board noted receipt of Proposed Amendments to the Agreement Establishing The Lincoln-Sudbury Regional School District, initiated by vote of a majority of the Lincoln-Sudbury Regional School District Committee and duly received by its Clerk for forwarding to the district Towns, for submission to Town Meeting by the Board of Selectmen pursuant to Section 8 of the Agreement, as amended.

It was on motion of Selectman Donald unanimously

VOTED: To accept the proposed Amendments and request Town Counsel to prepare an article for the Board's submission to the 1988 Annual Town Meeting.

License Transfer (Restaurant All Alcoholic Beverages)/Common Victualler and Entertainment Licenses - Sudbury Landing, Inc. to Bistro Management, Inc., 394 Boston Post Road

Present: Robert Dionisi, Esq. and applicant Frank P. Bell.

Chairman Donald convened a public hearing to consider the application dated November 2, 1987, for transfer of Restaurant All Alcoholic Beverages License from Sudbury Landing, Inc., Thomas E. Shea, Manager, to Bistro Management, Inc., d/b/a The Bistro, for property located at 394 Boston Post Road, involving a pledge of stock and pledge of license as collateral; and to further consider the granting of Common Victualler and Entertainment Licenses to Bistro Management, Inc.

In conjunction with the application for transfer of the alcoholic license, all abutters had been duly notified and notice of this hearing duly published, and the following documents had been received:

1. Application dated November 2, 1987, filed by Robert F. Dionisi, Esq., on behalf of Bistro Management, Inc.
2. Certification of "No Criminal Record" from the Commissioner of Probation, dated November 12, 1987, and a birth certificate verifying U. S. citizenship, regarding the proposed manager, Frank P. Bell.
3. Floor plan of the former Kaffe Stuga Restaurant, modified for submittal with current application.
4. Copy of Articles of Organization for Bistro Management, Inc., filed with the Secretary of the Commonwealth on October 20, 1987, signed and dated October 20, 1987 by Jonathan Levin, Ottenberg and Levin, 60 State Street, Boston, Massachusetts 02109, as Incorporator.
5. Vote of Frank P. Bell, as president and sole stockholder of Bistro Management, Inc., designating Frank P. Bell as Manager.
6. Tax Attestation signed by Frank P. Bell for Bistro Management, Inc., certifying that all required state tax returns have been filed and state taxes have been paid.
7. Business Certification filed by Frank P. Bell, dated November 12, 1987, that a business under the title of The Bistro is conducted at 394 Boston Post Road, Sudbury, MA.
8. Statement of Authorization and Assent relative to the transfer of license signed by Thomas Shea (Sudbury Landing, Inc.).
9. Application For Common Victualler License dated November 2, 1987, signed by Frank P. Bell.
10. Application For Entertainment License dated November 2, 1987, signed by Frank P. Bell.

11. Letter dated November 23, 1987, from Collector of Taxes Isabelle K. Stone, reporting the tax status of properties located at 400 Boston Post Road, 394 Boston Post Road and off Boston Post Road owned by Sudbury Landing, Inc., for fiscal years 1987 and 1988.
12. Communication dated November 25, 1987, from Town Accountant James Vanar, recommending that the transfer of the license be contingent upon payment of all back taxes owed the Town, amounting to a total of \$18,829.
13. Communication dated November 25, 1987, from Fire Chief Michael Dunne offering no objection to the transfer.
14. Letter dated November 25, 1987, from Inspector of Buildings Joseph E. Scammon stating that he had inspected the premises, noting that a dead emergency light battery needs replacement, and has no objection to the transfer of the licenses.

Executive Secretary Richard E. Thompson informed the applicant that the Board was in receipt this day of a communication dated November 30, 1987, from Board of Health Director Michael J. Sullivan, stating no objections to the transfer, conditioned upon: (1) the maximum seating capacity remaining unchanged; (2) submission to and approval by the Board of Health of an "as built" engineered plan for the subsurface disposal system repaired in 1985; (3) scraping and repainting of the kitchen ceiling; (4) repair of the refrigerator doors on both the four-door basement refrigerator and the two-door refrigerator under the preparation table; (5) installation of thermometers in all refrigerators; (6) thorough cleaning, both inside and outside, of all large appliances; (7) cleaning and sanitizing of wall and table mounted can openers and slicers; (8) repair of the water leak in the walk-in basement refrigerator; and (9) approval by the Board of Health of any proposed alterations in the kitchen. A copy was provided to the applicant.

Attorney Dionisi provided the Board with the Consent of Directors and Stockholders (Sudbury Landing, Inc.) authorizing transfer of the liquor license to Frank P. Bell and authorizing Thomas E. Shea, President of Sudbury Landing, Inc., to execute any documentation required.

Attorney Dionisi introduced Mr. Bell to the Board and provided the members with Mr. Bell's resume and a menu similar to that proposed for The Bistro. He informed the Board that Mr. Bell has owned and operated restaurants before and is most recently associated with the Back Bay Bistro in Boston; however, with the operation of The Bistro, he will no longer be the Manager of the Back Bay Bistro. Mr. Bell contemplates no changes in the premises by way of renovation except for cosmetic work including that required by the Board of Health; the seating capacity will remain unchanged. A Purchase and Sale Agreement between the parties has been executed and the closing is scheduled for January 15, 1988. Attorney Dionisi represented that adjustment will take place at the closing which will enable payment of all taxes outstanding and due to the Town.

In addition to the request for transfer of the liquor license, Mr. Thompson brought to the Board's attention Mr. Bell's applications for Entertainment and Common Victualler's Licenses, entertainment to be provided in the form of background music, TV, and a pianist. Mr. Bell expressed agreement

with the suggested revision of hours for entertainment to conform with State Law and local practice.

It was then on motion of Selectman Donald unanimously

VOTED: To approve the transfer of the Restaurant License for the Sale of All Alcoholic Beverages, with concurrent pledge of stock and license as collateral, from Sudbury Landing, Inc., Thomas E. Shea, Manager, to Bistro Management, Inc., d/b/a The Bistro, Frank P. Bell, Manager; to approve the application for Common Victualler license; and to approve the application for Entertainment License (entertainment to be limited to: television and taped background music Monday through Thursday and Sunday, Noon to Midnight, and Friday and Saturday, Noon to 1:00 a.m.; pianist Monday through Thursday and Saturday, 3:00 p.m. to Midnight, and Friday, 3:00 p.m. to 1:00 a.m.); all licenses to be effective January 1988 and exercised at property located at 394 Boston Post Road; issuance of all licenses is subject to satisfaction of the conditions outlined by the Board of Health communication dated November 30, 1987, and to payment of all taxes outstanding and due the Town of Sudbury.

Public Hearing Continuation: Transfer of Franchise -- Adams-Russell to Cablevision Systems

Present: Associate Counsel Marti Green, Director of Public Relations Donna Garafano, and Regional Program Director Mark Minasian, representing Cablevision Systems Corporation; General Manager Pennie Contos representing Adams-Russell; Cable Television Committee Chairman Jeffrey Winston and Committee members Michael Gonnerman and Wayne Keseberg.

Chairman Donald convened the public hearing, continued from November 16, 1987, to consider an application for transfer of the cable television franchise for the Town of Sudbury from Adams-Russell Company, Inc. (Adams-Russell) to Cablevision Systems Corporation (Cablevision). It was noted that the proceedings were being tape-recorded for the official record.

Executive Secretary Richard E. Thompson read into the record a communication from Cablevision Associate Counsel Marti Green, dated November 24, 1987, which confirmed Cablevision's representations at the November 16, 1987 public hearing and stated Cablevision's agreements as follows:

- " a) Cablevision will, within 90 days after the transfer of the franchise, hire a part-time access co-ordinator who will devote at least 20 hours per week to Sudbury access;
- b) Cablevision will review the current use of the mobile vans and establish a formal procedure for advance scheduling of such vans. Although other communities will still have priority use of the vans, it is hoped that the van will be more accessible to Sudbury residents when advance scheduling is implemented.

In addition, Cablevision recognizes the concerns expressed by the Town and its residents to be able to videotape sporting and other events which take place outside the studio. In order to accommodate those needs Cablevision agrees [to] provide the Town with portable

video equipment valued at \$5,000.00, for access purposes."

Mr. Thompson reported that he had sent a copy of the communication to the Cable Television Committee and had spoken with Mr. Walker, at the Lincoln-Sudbury Regional High School, an ex-officio Committee member, who expressed his feeling that the hiring of a part-time access Coordinator for the studio is a good step forward and shows a good faith effort on the part of Cablevision.

Mr. Thompson commented upon agreement (b) relative to mobile van use, which he had discussed with Town Counsel: the terms of the original license require that a van be available; therefore, the expression of "hope" is not acceptable to the Town of Sudbury. It is desired that there be some verbal agreement by which a van would be available through a scheduling mechanism.

Attorney Green stated that a van is and always has been available for use by Sudbury residents; however, the problem occurs when use is requested for a specific day -- usually a weekend day when use is most desired by many towns -- a van is not necessarily available on that day. Ms. Green opined that with Cablevision's agreement to provide portable video equipment, residents should have the capability of taping weekend events as desired without the concern of scheduling, but that a van will be available, and it is hoped that with implementation of advance scheduling the van will not just be available but will be available on specific dates as desired.

In response to a query by Mr. Thompson, Ms. Greene stated that the \$5,000 for the purchase of portable video equipment would be available within ninety days of the transfer. The Board agreed that it would delegate the Cable Television Committee to work out the details of the equipment to be purchased with Cablevision, with the understanding that any problems which might develop would come back to the Board for resolution. Ms. Green stated that Cablevision is willing to provide whatever the Town requests through whomever the Town delegates and that Cablevision would be happy to work with the Committee.

Selectman Wallace commented that he was glad to see Cablevision's response and believed it signaled a good faith effort to address concerns, hopefully which would result in improved local programming and use of facilities and equipment. He emphasized that he would like to see the scheduling of van use become more concrete and worked out with the Cable Committee.

Selectman Drobinski stated that his main concern involved working out the scheduling details with the Committee to alleviate some of the problems.

Selectman Donald expressed her desire that by whatever scheduling method is used and advance time required, once scheduled, the van use would not revert to use by the Town where it is housed if it had a conflicting need, but would be available for Sudbury's use as scheduled. Selectman Donald noted that in 1989 Sudbury would be celebrating its 350th Anniversary and would therefore desire use of the van for activities related to that celebration.

Cable Television Committee Chairman Jeffrey Winston clarified the Committee's standing on this issue. There are activities such as those proposed for Sudbury's anniversary where use of the van would be desirable and appropriate and indeed use was promised in the license; however, there are sporting events which take place regularly, perhaps two or three or times a

week, where use of a van could not be realistically expected. Therefore, the Committee has been focusing its attention on building an independent mobile capability in Sudbury which has certain advantages over van use in that it does not require Adams-Russell personnel in attendance, nor is it involved with the schedule of an Adams-Russell employee. One point that the Committee would like to emphasize is that the license promised more mobile capability than the Town has received and, while use of the van is considered, it is not the only solution. The Committee has been developing a list of equipment which would provide this mobile capability, which at this point totals a cost of approximately \$15,000; while the Committee appreciates the \$5,000 commitment from Cablevision and will make good use of it, it feels that is a good start. What the Committee is looking forward to is the support of Cablevision in the use of this mobile equipment which is what the Town feels would provide important local access. Mr. Winston asked for confirmation of his prior conversation with Ms. Contos and Mr. Minasian just before this meeting at which they expressed their feeling that this money will provide additional equipment that is suitable for mobile use and that they will allow qualified residents to take the equipment, not limited to one camera, but perhaps two or three, out of the studio for use at various events without Adams-Russell personnel being in attendance. Representatives of Adams-Russell and Cablevision indicated their agreement.

Mr. Winston indicated that heretofore what has limited local access is not the availability of qualified residents, but the fact that the only equipment available is so crucial to the studio that Adams-Russell felt they could not send it out of the studio without providing their own staff to go with it, so the Town was limited by the available staff of Adams-Russell. The local access Coordinator will alleviate the situation somewhat and will be able to train and qualify more people for use of the equipment and \$5,000 will enable us to get more equipment that we can send out. Along with this must go a commitment from Cablevision/Adams Russell that they will permit the equipment to go out of the studio with qualified residents and not require their own personnel in attendance and also that this represents a start in building up a potent mobile capability.

In response to a query from Dr. John McGovern, 107 Goodman's Hill Road, concerning the poor reception of Channel 2, Ms. Contos stated that this is a problem they are aware of and certain trunk lines were being checked for a loose fitting causing the transmission leak, and hopefully the problem would be corrected within two weeks.

There being no further discussion, on the recommendation of Executive Secretary Richard E. Thompson, it was on motion by Selectman Wallace unanimously

VOTED: To transfer the Cable Television License presently held by Adams-Russell Company, Inc. to Cablevision Systems Corporation of One Media Crossways, Woodbury, N.Y., in accordance with the Cablevision letter of November 24, 1987, the Board's understanding with regard to Item b) relative to the van as noted in the recorded minutes, and the comments of Associate Counsel Green.

Sign Violations

Individual members of the Board reported that they had taken notice of various signs which they believed to be in violation of the Sign Bylaw, specifically an N. B. Taylor "Open House" sign on the Common, and a free-standing sign advertising a new fitness salon in the Town Crier complex.

Mr. Thompson was directed to request the Zoning Enforcement Agent to investigate these instances and check Route 20 for additional sign violations.

Meeting Cancellation

It was on motion of Selectman Donald unanimously

VOTED: To cancel the Selectmen's meeting of December 21, 1987.

Peirce Property - C.61A Option

Regarding the Peirce property Environmental Notification Form (ENF), Mr. Thompson reported that the scoping session will be December 1, at 11:00 a.m., starting in the Conservation Commission meeting room and moving to the site. Comments are due December 2. The Board of Health and the Planning Board have received copies of the ENF and the Planning Board will respond.

MAGIC and County Charter Meetings

The Board was in receipt of a notice relative to a MAGIC meeting December 3, 1987, at 7:30 p.m., in Marlborough. Selectman Drobinski stated that he would try to attend.

The Board noted that the Middlesex County Charter Commission will be meeting on December 2, 1987, at Concord District Court.

Executive Session

At 9:15 p.m., it was on motion by roll call unanimously

VOTED: To go into Executive Session for the purpose of discussing matters relating to expenditures from the Charity Fund and litigation.

(Chairman Donald, aye; Selectman Wallace, aye; Selectman Drobinski, aye.)

The Chairman announced that public session would not reconvene following Executive Session.

There being no further business to come before the Board, the meeting was adjourned at 9:45 p.m.

Attest:

Richard E. Thompson
Executive Secretary/Clerk