

IN BOARD OF SELECTMEN
MONDAY, AUGUST 9, 1999

Present: Chairman John C. Drobinski, Kirsten D. Roopenian and Maryann K. Clark, Selectmen.

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

Chairman Drobinski opened the meeting by apologizing for any inconveniences that occurred as a direct result of the phone system being disabled by a lightning strike last week. Town Manager Ledoux stated the phone system has since been repaired and updated at a cost of approximately \$18,000, which will be covered by the town's insurance.

Hawkers & Pedlers License – Juniper Farms

The Selectmen put this item on hold until more information was received from Juniper Farms to complete their application for a Hawkercs & Pedlers License.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session of July 26, 1999, and special session of August 4, 1999.

Council on Aging Donations

It was on motion unanimously

VOTED: To accept \$121.37 in miscellaneous donations to be deposited into the Council on Aging Van Donation Account, and to authorize the Council on Aging to expend same for the purposes of operating and maintaining the Council on Aging vans.

United Nations Day

It was on motion unanimously

VOTED: To proclaim October 24, 1999, as United Nations Day.

Sudbury History Sequel

The Selectmen received a communication from Town Historian Curt Garfield dated July 22, 1999, asking for permission to publish for one time only, photographs that appeared on prior Sudbury Town Report covers between the years 1950 and 1967 in his new book regarding Sudbury's History. This book, as Town Manager Ledoux explained, is a sequel to and formatted the same way as Hudson's History of Sudbury.

Town Manager Ledoux clarified that Mr. Garfield is also president of Porcupine Enterprises, a publishing company that Mr. Garfield established himself, apart from being the Town's Historian. Therefore, he stated it was actually Porcupine Enterprises that is requesting permission to use the photos.

It was on motion unanimously

VOTED: To give permission to Town Historian Curt Garfield, as president of Porcupine Enterprises, for one time use of photographs from the Sudbury Town Reports between the years 1950 to 1967 in a sequel publication covering the 100 years of Sudbury's History between 1890 and 1989.

Town Manager Ledoux further explained to the Board that Mr. Garfield would like to establish an agreement with the Town authorizing Porcupine Enterprises to publish and market the work. And in return, the Town would receive a royalty of 5% of the retail price of the finished book, which results in the receipt of \$1.00 per book for as long as the book remains in print. Town Manager Ledoux suggested that he and the Town Counsel prepare an agreement for the Selectmen's review. The Selectmen agreed.

Town Manager Ledoux then stated Mr. Garfield is also suggesting the Town use the royalties in conjunction with grants for historical projects approved by representatives of the Historical Society, Library, Historical Commission and the Town Historian. Selectman Roopenian suggested that Mr. Garfield look to the Sudbury Foundation for funds needed for historical projects. Selectmen Roopenian then suggested that Mr. Garfield contact Mr. Michael Fitzgerald, who expressed an interest in marketing this type of project. Chairman Drobinski added that Mr. Fitzgerald was a venture capitalist. Selectmen Clark suggested seeking additional funds through the Massachusetts Historical Society. Town Manager Ledoux stated that Mr. Garfield was hoping for some pre-sales proceeds for the book before its November 1, 1999 official publishing date. Chairman Drobinski stated the book and the royalties would benefit the Town.

It was on motion unanimously

VOTED: To direct the Town Manager and the Town Counsel to prepare an agreement with Porcupine Enterprises to: 1) publish and market the new book *Sudbury's History*; and 2) to enable the Town of Sudbury to collect the royalties from the sale of such book to be used in connection with historical projects.

Town Manager Ledoux added that the Wood Davison Fund monies were going to be made available pending the completion of the Probate Court process. He stated that Town Counsel Paul Kenny met twice with the various historical entities in town and mentioned some of this money could be made available to the Town Historian as well as used toward a Town museum.

Quilted or Not – As-Built Site Plan

The Selectmen put this item on hold, as the Quilted or Not's as-built site plan was not ready for signature.

Selectmen's Policies and Procedures

Town Manager Ledoux stated that it took two years of work by Jan Silva and himself to review, update and prepare changes for the Board's review to the Selectmen's Policies and Procedures. Chairman

Drobinski stated that he would like more time for review. The Selectmen unanimously decided to continue their review of the remaining changes and updates to their policies and procedures and to make their votes at a future meeting. The Board then decided to vote on one change in Section Y.

It was on motion unanimously

VOTED: To approve *Section Y – Purchase Contracts*, of the Selectmen’s Policies and Procedures, which changes the last sentence of the Board’s previous directive from, “The Town Manager shall provide a list of such awards to the Board of Selectmen on a quarterly basis”, to “The Town Manager shall provide a list of such awards to the Board of Selectmen on an annual basis.”

Selectman Clark questioned whether they should choose a particular month in which to review the purchase contracts each year. Town Manager Ledoux suggested the month of July and the Board agreed.

Town Manager Ledoux also questioned the Board as to whether they would like to add the “BYOB Policy” recently submitted by the Town Counsel to the Selectmen’s Policies & Procedures. Selectman Roopenian stated her concern regarding the “limbo” period, the period of time between which approval from the ABCC has been granted and the receipt of the actual license. Mr. Ledoux stated that the Town Counsel was concerned because the ABCC considers the actual license as the final approval and it could present a problem. Selectman Roopenian recommended that the Town Counsel do further research with this subject, as she did not feel as though the Town should prohibit, if they did not have to, a business’ ability to serve liquor during this “limbo” period. Town Manager stated one reason for waiting could be the discovery that an establishment has not paid back taxes. He also stated he would present this question on the MMA’s local net and gather responses for the feedback Selectman Roopenian requested. Selectman Roopenian stated they could discuss the matter at greater length during their next meeting.

Sudbury, Ontario, Canada – New Millennium Celebration

The Board of Selectmen received a letter dated July 26, 1999, from Mayor Jim Gordon from Sudbury, Ontario, Canada requesting a video taped message from the Town of Sudbury, Massachusetts to be included in their New Millennium Celebration to be held on January 1, 2000.

Town Manager Ledoux suggested working with Technology Administrator Mark Thompson and Nathan Cantino of Cablevision on a video presentation of the Town. Selectman Roopenian suggested developing a video that includes historical scenes such as the Grist Mill and the Wayside Inn and also to get other departments involved, such as the School Department, Fire Department and Council on Aging.

Selectmen and Town Manager Reports

Selectman Roopenian reported on the correspondence received from the Wayland Board of Selectmen concerning two dogs, a Rottweiler and an Akita, owned by Mr. Michael Cohen of Framingham. She stated that the decision of the Town of Wayland was to permanently ban Mr. Cohen’s dogs from their town because of an incident in which the Rottweiler killed a Toy Poodle belonging to the Prang family of Wayland. She further described that these dogs were proven to have been involved in aggressive attacks in other towns and that the owner, Mr. Cohen, is walking his dogs in neighboring towns. Selectman Roopenian referred to the order by the Wayland Selectmen and questioned whether or not Sudbury should also prohibit

these dogs from entering Sudbury. She expressed concern over the fact that in the month of July alone, Sudbury had 122 dog calls.

Chairman Drobinski stated the Board could not vote on such an order without having a public hearing. Selectman Roopenian stated she thought the Board should incorporate a similar order, including the prohibition of dogs from neighboring towns to roam untethered in Sudbury, into the bylaws. Town Manager Ledoux did not think that would be an issue to work into the Sudbury bylaw. Selectman Clark agreed and stated she thought that the Town could incorporate something similar into the bylaws only after a similar incident actually took place in the Town of Sudbury. Chairman Drobinski believed the Town of Sudbury was sent a copy of this decision from Wayland to keep Sudbury apprised of what was happening.

Chairman Drobinski and Selectman discussed how Sudbury's Dog Bylaw was prepared and incorporated. Town Manager Ledoux stated that we basically took the statutory language from the county regulations. Selectman Clark stated that the legislature can amend and adopt new laws. Chairman Drobinski asked that the Dog Officer be given a copy of this order and suggested that the Town Counsel do some research into this matter. Selectman Clark stated she thought we needed an amendment to the dog bylaw that includes a "three strikes and you're out" process. Chairman Drobinski said the Town could communicate with our state representative regarding any suggestions for amending state statutes.

July 12 Minutes

Selectman Clark said she had changes to the July 12 minutes regarding the Conflict of Interest discussion. She stated she was not at the last Selectmen's meeting when the minutes were approved. Selectman Roopenian stated she had a copy of a word-for-word transcript of a portion of this discussion, which could be made available to Selectman Clark. It was agreed to put a hold on changes until Selectman Clark has reviewed the transcripts.

Marlboro Wastewater Treatment Plant – DEP Records

Selectman Clark reported that she and Chairman Drobinski and Conservation Commissioner Chairman Stephen Meyer went to the Department of Environmental Protection (DEP) this morning in Worcester and met with Ken Foley to review their files on Hop Brook and the Marlboro Easterly Wastewater Treatment Facility regarding the problems that have been going on for the last 20 years. She referred to the problem as a disgrace that is being made into a political football when it is really a substantive problem that cries for an immediate solution. Selectman Clark expressed frustration with the fact that the DEP held back some of their documents which were declared off-limits to public view. She stated she thought the DEP was ignoring the Freedom of Information Act and also appeared to exhibit favoritism. Chairman Drobinski agreed.

Pine Lakes Traffic Safety

Selectman Roopenian acknowledged the research done by Town Engineer Bill Place on the Pine Lakes intersections. She stated the list was very comprehensive and extraordinary and that the homeowners will be very surprised to see all the detail.

Middlesex County Selectmen's Association

Town Manager Ledoux stated he received notification concerning payment of dues to join the Middlesex County Selectmen's Association. Selectman Roopenian asked what we get out of the membership. Mr. Ledoux explained there is an annual meeting, and it costs \$75.00 per year for membership. The Board agreed to discontinue the membership at this time.

Hawes Property – Chapter 61A

Present: Myron Fox, Esq.; Sudbury Green, LLC President David Caligaris; Bruce Ey from Schofield Bros. Engineering; Mrs. Agnes A. Hawes; Director of Park and Recreation Patricia Savage, and Francis Logan of the Park and Recreation Commission.

Chairman Drobinski explained that the question to the Board is of exercising the Town's right of first refusal option, in accordance with MGL c.61A, to purchase approximately 21.02 acres of the Hawes family land on Highland Avenue, Dudley Road and Nobscot Road, shown on Assessors' plan L07 as lots 4, 5, 6, 300, 301, 302, and 303, pursuant to Notice of Intent to Sell, dated June 16, 1999, from owners: Agnes A. Hawes and the Ralph E. Hawes Family Trust and the Ralph E. Hawes Revocable Trust, received June 23, 1999.

The Board was in receipt of the following reports:

1. A communication from Park and Recreation Commission Chairman Peter J. Buxton dated July 22, 1999, recommending the purchase of the land by the Town for recreation purposes.
2. A communication from Town Engineer, I. William Place to the Park and Recreation Commission dated July 26, 1999, with an attached topographic plan showing the Hawes property identifying the existing buildings, pond, wetlands, and areas to locate two soccer fields and two baseball fields. He also supplied an estimate of \$855,000 for demolition and field construction.
3. A communication from Conservation Coordinator Deborah Dineen stating the Commission's vote of July 26, 1999, was "to recommend against the town exercising its option to purchase the Hawes land as the plan presented protects the wetland and adjacent upland and preserves connectivity for passive trails and wildlife corridors".
4. A communication from Assistant Assessor Cynthia Gerry dated July 26, 1999, stating the vote of the Board of Assessors recommended the Selectmen not exercise the Town's right of first refusal on the Hawes property because of the anticipated tax revenues to be generated by the proposed SRC.
5. A communication from Planning Board Chairman Lawrence W. O'Brien dated July 14, 1999, stating the vote of the Planning Board recommended the Selectmen not exercise its option to purchase the property because developments such as the proposed SRC have been a priority of the Planning Board, are strongly recommended in the draft Master Plan, and will have positive financial and social impacts.

Myron Fox, Esq. stated he was representing Sudbury Green, LLC, who is the purchaser of this land and stated there was a purchase and sale agreement that the Hawes family has signed as the seller and Sudbury Green as the buyer that was sent to the Selectmen for their review. He described the land as being

25.4 acres that are fairly flat and located behind Star Market, bordering Nobscot Road and Dudley Road, with Highland Avenue also leading up to this property. Mr. Fox stated that as required by the statute, notices were sent to the Selectmen, Conservation Commission, the Assessors and the Planning Board, resulting in the review and unanimous conclusion of each of these departments recommending the Selectmen not to exercise their right of first refusal.

Mr. Fox explained each department reached their conclusions for different reasons because of their different jurisdictions. He stated that 1) The Planning Board, in their findings, believed this land to be a good location for a Senior Residential Community (SRC); 2) The Conservation Commission, in their findings, believed the ecological importance for this land will be preserved by the nature of the cluster development of an SRC; and 3) The Board of Assessors, in their findings, concluded from their financial and tax point of view, that the Selectmen should not exercise their right of first refusal. He added that the Park and Recreation Commission was also notified and, in its point of view, has now concluded that the Town does not need to purchase land at this cost for playing fields, nor have playing fields so close to busy Route 20.

Mr. Fox recommended that the Selectmen not exercise their right of first refusal as the Town would be paying millions of dollars for a piece of land it could not use to generate tax revenue. He also reviewed the Fiscal Impact Assessment prepared by the Town Planner that looks at what would happen if the Town allowed a 45 unit SRC with the average selling price of \$375,000 per townhouse. This impact assessment, he continued, is a very detailed study including school costs, highway costs, police and fire costs. However, Mr. Fox illustrated the assessment shows that the net revenue, not gross revenue, after subtracting all costs to the Town, would be approximately \$200,000 annually. This figure, he stated, was in fact low because this was a very conservative study.

Mr. Fox went on to discuss a comparison study the Town Planner prepared using a subdivision plan having 16, single-family, five-bedroom homes, on 1-acre lots. This impact, he concluded from this study, would result in the Town having a \$1,500 net loss in revenue. He said the major difference in the comparison is directly related to school costs, as a sub-division with single family homes will obviously bring extra students into the school system as opposed to having an adult community with people at a minimum age of 55 years old. This, he stated, clarifies why it is favorable for the Town to have an SRC.

Mr. Fox reviewed the recent history of how the Planning Board came to suggest to the Hawes Family that an SRC would be an option to take under consideration. He explained the Hawes Family did like the suggestion and approached the Green Company with the SRC development idea and worked out a purchase and sale agreement that was signed by both parties. He also referred to the lists of the primary and secondary priority parcels the Town has made for future purchases and noted that the Hawes property was not on either list prepared by the Town. Mr. Fox opined this land would be a perfect place for a SRC, as it is in walking distance of Star Market, CVS and the U.S. Post Office.

Upon her review of the structure of the purchase and sale agreement, Selectman Clark asked Mr. Fox what price the Town would be obliged to offer, in the 120 days allowed, to the Hawes Family if the Town decided to exercise its right. She stated she did not think this agreement included a sum certain and it was being based on 45 SRC units being built. Mr. Fox replied that in this particular case, a sub-division plan was filed over one year ago to include 15 single-family homes (as opposed to the 45 units in an SRC with two bedrooms per unit) and that the purchase price then was figured to be at approximately \$3.7 million.

Selectman Clark also questioned Mr. Fox about the rendering to the Park & Rec. Commission submitted by Town Engineer William Place regarding the sub-division plan that showed some wetlands and a pond. She asked Mr. Fox if he saw this rendering and if he knew if the Conservation Commission was aware of the wetlands and pond located on the 15-lot sub-division plan. Mr. Fox replied that the Conservation Commission did not have any comments on the sub-division plans. Selectman Clark asked if the distances were honored on the site plan as far as wetlands were concerned. Mr. Fox stated they were honored. Selectman Clark concluded that Mr. Fox was stating that the price would be \$3.7 million. Mr. Fox responded that this was the minimum price. Selectman Clark stated the problem she has with this is that when a purchase and sale agreement is made, there is a sum certain included. She stated this purchase and sale does not include a sum certain, as it could maybe be this price or that price, subject to approval here or approval there. Mr. Fox stated \$3.7 million was a starting point where the Selectmen could hypothetically state that they would pay this price and not more than \$4.4 million if so decided.

Selectman Clark additionally expressed her concerns regarding drainage. She knew that there has historically been a problem with drainage coming off and crossing Nobscot Road when there is heavy rainfall. She stated she assumed best management practices would be followed and that there would be sufficient drainage contained within the land area itself. Mr. Fox confirmed. Selectman Clark stated she had another concern regarding Dudley Road. She stated the entrance to the SRC on Dudley Road would be too narrow at 16 ½ feet wide and suggested they consider entering and exiting onto Nobscot Road through the driveway that is currently being used. Mr. Fox replied this was a good point and the idea would definitely be considered.

Chairman Drobinski questioned whether the option was for 25.4 or 21.02 acres. Mr. Fox explained that this issue of acreage is brought up on any Chapter 61A issue that has a house involved with it. He explained that it is assessed at 25.4 acres and the number of acres under Chapter 61A is 21.02. Mr. Fox explained that the assessors cut out the property with the house on it because you cannot have a house that is used for agricultural purposes. He stated that the developer would tear down the houses at their cost in order to build the development. Selectman Clark asked Mr. Fox to consider moving those houses to another site as potential affordable housing.

Chairman Drobinski questioned Town Manager Ledoux if the Board had a communication from Town Counsel stating his opinion that this was a bona fide offer. He replied that the Town Counsel has not submitted his opinion as of this date. Chairman Drobinski explained that before the Board can render a decision, they would need to receive a letter from Town Counsel stating this is a bona fide offer.

Selectman Clark also asked for clarification from Mr. Fox that the property was assessed at \$1.4 million dollars. Mr. Fox stated that was correct. Selectman Clark further questioned, if in fact the 15-lot sub-division were not approved, as it could be, then would the price or the value range between \$1.4 million and \$3.7 million. Mr. Fox explained that was true, as a statement, but the price, however, would never be \$1.4 million because it was not the fair market value; it was merely an assessment. Selectman Clark stated she could not, as of today, as a Selectman, for instance, buy this property and sell off the lots for a half million dollars each within the 120 day time period. Mr. Fox replied that he did not think the Selectmen were in the real estate business of buying and selling building lots to developers and did not think the Board had the authority to do that.

Selectman Clark replied an option could be to submit an amendment to the legislature to try to change the Selectmen's authority for the future or the Selectmen could give it to the Sudbury Valley Trustees (SVT) to sell off some of the lots. She summarized by stating she did not think that the price of \$3.7 million

dollars was a reliable figure. Mr. Fox stated that, short of getting the SVT to take this over, \$3.7 million is what the Town would have to pay according to the purchase and sale agreement. He stated the Board, in turn, could sell the Chapter 61A property to the SVT, but did not think this would work under the statute. He explained the Town could assign rights to the SVT, but the SVT could only use the land for which the restriction is for, which is agricultural use, or Chapter 61A restrictions.

Selectman Roopenian was concerned about the reference to Mrs. Hawes' home in the purchase and sale agreement and questioned what was going to happen to her. Mr. Fox replied that Mrs. Hawes will have her choice of any one of the new SRC units and that she was going to be fine pending the completion of the project. Mrs. Hawes stated that she will not have to pitch a tent.

Mr. Richard Vanderslice of 96 Dudley Road was in attendance and expressed his concern about the extra traffic on Dudley Road. Even though he has not seen a plan, he stated that the idea of entering and exiting on Nobscot Road was a good idea. He also wanted to know if a perc test was completed. Chairman Drobinski stated that a definitive plan of the sub-division was submitted and typically at the definitive stage, a perc test was performed. Chairman Drobinski then directed the question to the Planning Board Chairman Larry O'Brien. Mr. O'Brien stated that the definitive plan was approved for 15 lots and the perc testing was completed and added that because the land was agricultural land, it was very sandy and actually tested very well. Mr. Vanderslice wondered if this precluded an egress onto Boston Post Road and in general, stated he was in favor of an SRC. Chairman Drobinski stated Mr. Fox has probably done some research on Highland Avenue and knows that it is a private way and that all these items, including an egress, will probably be covered in the real estate transaction.

Mr. Francis Logan of the Park and Recreation Department commented that the Park and Recreation Commission did not think the Town should spend this much for land to use as playing fields. However, he stated that the Commission appreciates being informed of property that is being made available and for thinking of the recreational needs in town. Mr. Logan stated that the Commission would like to continue being informed of what land will be made available and how the Park and Recreation could use that land to fill a need.

Patricia Savage, Park and Recreation Director, stated there continues to be a tremendous need for field space. She continued that she researched the statistics, finding that over the past five years there have been an additional 1,200 participants in the Town's programs.

Selectman Roopenian stated she was well aware of the need for playing field space and has met with Town Engineer Bill Place to talk about the Melone Property as a possible site, which is 37 acres. She stated she asked Mr. Place to prepare a summary for the meeting the Selectmen are going to have with the Park and Recreation Commission on September 13, 1999. She explained they would have a joint review of the inventory of available field space that the Town currently owns, along with the discussion of how much it costs to maintain the current field space. Selectman Roopenian added that this would initially be more cost effective than going out and purchasing more space at this point in time. She continued that she also spoke with Mr. Place about the possible availability of having land off Taintor Drive being made available through Mr. John Cutting to be used for a soccer practice field, as well as the Nobscot and Feeley Field areas, which are also soccer fields. She summarized that the discussion on September 13 will center around overall field space needs for every sport, as this was one of the Selectmen's short-term goals for the year, and they would like very much to be able to get the Park and Recreation Department what they need. Ms. Savage stated the Commission appreciates the work the Selectmen are doing and was glad they recognized the need for some of the fields to be rested from overuse.

Selectman Roopenian summarized that she believed this to be a timely proposal. She stated she thought the Town had a revenue opportunity with the Green Company coming in and developing an SRC, the kind of development the Town has been asking for in the past.

Selectman Clark stated she would like to hear from the Town Counsel. Chairman Drobinski stated he thought this development was what the Town needs and that he would also like to receive the needed communication from the Town Counsel. Mr. Fox asked the Board if it would be possible for them to take a vote pending receipt of the Town Counsel's opinion concerning the bona fide offer. The Board agreed.

It was on motion unanimously

VOTED: Not to exercise the Town's first refusal option, in accordance with M.G.L. Ch. 61A, to purchase 21.02 acres of the Hawes family land on Highland Avenue, Dudley Road and Nobscot Road from owners Agnes A. Hawes and the Ralph E. Hawes Family Trust and the Ralph E. Hawes Revocable Trust, subject to the opinion of the Town Counsel as to whether or not this notice of Intent received June 23, 1999, is deemed to be a bona fide offer under M.G. L. Chapter 61A.

Park and Recreation Meeting – Feeley Park

Present: Patricia Savage, Park & Recreation Director; Francis Logan, Park & Recreation Commission; Peter Cooke of Omnipoint, and Maple Avenue residents.

Chairman Drobinski stated the Board had a meeting this past May to discuss the potential for the installation of a cell tower at Feeley Field and had invited the Maple Avenue residents to express their concerns. He stated the Board did authorize the Town Counsel to draft a Request for Proposal for an installation of a wireless communications facility. He added the major concern from the neighbors that arose from the last hearing was that of noise and lighting.

Selectman Roopenian stated the neighbors were concerned about the height of the lights and the volume of the PA system. A few of the neighbors present said the music is too loud and that they sometimes play the music until 10:00 p.m. Mr. Logan of the Park and Recreation Commission stated the volume on the PA system could be turned down and that the music currently played could be turned off completely. Ms. Savage explained that it was not the Park and Recreation Department playing the music, but the Park and Recreation Department will surely help in stopping the music.

A few of the residents in attendance explained that when the lights went up at Feeley Field, there were many trees cut down, trees that could have been used as a buffer for any noise or lights. Mrs. Judith Finerty of 28 Maple Avenue was concerned about the compliance with the zoning bylaw regarding lights that shine into residential areas and stated that Maple Avenue was especially sensitive to this issue, as they also have Mill Village close by. She stated it took ten years to have shields put on the lights at Feeley Field and was concerned that Omnipoint wants to have wireless communications on a light that reaches 100 feet, as opposed to the Featherland Field lights that are 45 feet, well below the tree line. Mrs. Finerty also asked for a clarification of the bylaw where it states that a cell tower provider has to submit a five-year build-out plan showing location and height among other things. She wondered why lights with shields could not be uniformly kept at 45 feet.

Park and Recreation Director Patricia Savage replied that the height of the lights could not change and that the proposal Omnipoint presented was originally for placement by the tennis courts. She stated their second proposal was next to the new field, which happened to be in the center of the field, but this would have an adverse impact of the aesthetics and on recreation. Finally, she stated Omnipoint's third choice was to replace one light pole, while continuing to have the light remain at 75 feet. Ms. Savage also explained that Featherland Park has a 60-foot baseball diamond, resulting in the installation of 45-foot lights and Feeley Field has a 90-foot baseball diamond, resulting in the installation of 75-foot lights. Mr. Finerty expressed that the neighbors were upset because they were not told the lights were going to be installed at Feeley Field. Ms. Savage estimated that the lights have been there since 1988. Mr. Logan stated that the lights have actually been there since 1982, which is 17 years.

Selectman Roopenian stated, as Ms. Savage mentioned, the Park and Recreation Commission had met with the neighbors before installing the basketball court and lights at the Community Center. Selectman Roopenian acknowledged that Mrs. Finerty's main concern was that the buffer had been taken away when the trees were cut down, resulting in brighter lights. Ms. Savage stated that an alternative to the trees might be to install a windscreen along the tennis courts to diffuse the light.

Chairman Drobinski stated that the lights have been there a long time and the change of landscape is what has caused a problem, and now is the time to figure out how to resolve the problem. After discussion related to the engineering aspects of the field and how and where lights should be placed, Chairman Drobinski suggested having the Town Engineer look at the issue of shields or screening and report back to the Board with some recommendations. He stated, if the engineering report came back with recommendations that cost money, the Board would support the funding, and he would like to see all the residents at Town Meeting to put in their vote.

The residents inquired about the pole that would hold the actual antenna. Mr. Logan stated the single antenna would be located inside the pole and out of view, with the light remaining at the same height. Chairman Drobinski stated the pole will look similar to a flagpole and that the Town will be getting revenue from Omnipoint as a result of this installation—revenue that can be used to correct the landscaping at Feeley Field. He stated this could be a win/win situation for the Town and the residents.

Selectman Clark stated it was clear to her that no notice was given to the neighbors when the Friends of the Park and Recreation Commission decided to have a fund raiser to get the funds to put up the tall, 75-foot lights at Feeley Field. She stated, whether or not the Town is exempt, notice to abutters has not been given. Ms. Savage explained that was back in 1982 and pointed out that the people who were on the Commission in 1982 are not on the Commission today. Selectman Clark stated the year was actually 1985 and that she had the 1985 Town Report with her and stated this issue never went to town meeting. Ms. Savage responded by stating that the current Board of Selectmen asked the current Park and Recreation Commission for an analysis on the impact of recreation if a cell tower was installed at Feeley Field. She clarified that Park and Recreation was not looking to have a cell tower installed, but the Board has the Commission's report, as requested.

Chairman Drobinski summarized that the Town has an opportunity to generate some money and to fix the problems or let the problems stay as is or can go to town meeting for a vote for additional funds. Selectman Clark clarified she thought something ought to be done with the lights, referred to the 45 foot height limitation in Town, and would like an opinion from Town Counsel on the matter. She stated she believed the Town always makes every effort to abide by its bylaws and mentioned again that the lights were installed without notice to abutters.

Selectman Roopenian added she did not think the neighborhood wants to be accused of trying to stop sports in Town but they, in fact, have a valid concern about light and noise pollution. She believed residents were here asking the Town to remedy the light situation because of the trees that were taken down and that it was incumbent upon the Board to find a solution. Additionally, what was being proposed on the other side of this situation, she explained was a cell tower and she reiterated Chairman Drobinski's suggested win/win scenario. Selectman Roopenian continued by stating that residents, cell tower companies and the Town can be happy with a shared resolution and added that the Park and Recreation can take away the message that they should notify abutters. Selectman Roopenian stated the issue was to fix the neighborhood's problem working with Park and Recreation, because they cannot lower their lights.

Selectman Clark opined the glare from unshielded lights at 75 feet was offensive. She suggested that Park and Recreation needed to compromise with the 75-foot lights, and Chairman Drobinski stated this was the reason for obtaining an engineering analysis. Ms. Savage stated that 75 feet was the standard and Selectman Clark stated that might be so, but only in the right place.

Chairman Drobinski questioned if the lights were actually 75 feet above Maple Avenue, as he did not think they were. Ms. Savage answered by stating she was not sure of the elevation of the field, but defended and reassured that, during her tenure, Park and Recreation has always worked with abutters regarding lighting.

Chairman of the Planning Board Lawrence O'Brien opined he thought the engineering report would be the only solution. He stated that it would be a good idea for the Town Manager to suggest having the Town Engineer make a daylight visit as well as a night visit to help in making his determinations. Mr. Peter Goodrich of 10 Maple Avenue suggested a possible change in the playing schedules by making the last game end at least a half hour earlier. He stated this could make a big difference, especially in the summer. Selectman Roopenian added the Board could discuss the report at their September 13 meeting, if completed by that time.

A resident of Maple Avenue, in regard to abutter notices, stated she missed the last meeting because she was not notified until after the meeting had occurred. She stated she found out about the meeting from one of her neighbors. Therefore, she stated, she requested that the minutes of the meeting be sent to her house and asked the Town Clerk for a list of the neighbors who had been notified, but the Town Clerk had no such record. Chairman Drobinski stated the first meeting was an informational hearing to receive input from the neighbors. He stated the notice of this informational hearing was in the local paper. Selectman Roopenian stated if there was a formal hearing, a hearing in which a decision was going to be made, each abutter would receive notice in the mail or, in the future, on-line.

Mr. Gary Finerty of 28 Maple Avenue stated he needed to understand why the tower has to be at Feeley Field specifically. Peter Cooke of Omnipoint explained the tower needs to be placed at Feeley Field to fill a service area on Route 20, which covers the area between their towers on the Wayland town line and Nobscot Hill in Sudbury. Mrs. Finerty asked Mr. Cooke if there was a five-year plan for other structures or other types of wireless antennas. Mr. Cooke explained that Omnipoint has asked the Town to issue a Request for Proposals (RFP) for Wireless Communications Facilities for Town-owned property. He further explained this allows Omnipoint to place a bid to the Town where the Selectmen can vote to accept or reject the proposal. He stated, if the Selectmen accept the proposal, it will be subject to the Selectmen's site plan approval process.

Another resident questioned the health risks of a cell tower. Mr. Cooke explained that the emissions from a cell tower are highly regulated by Federal Communications Commission. He stated the emissions from a cell tower were 100 times less than the minimal acceptable standards. Chairman Drobinski recalled testimony from engineering experts at past cell tower hearings and stated the radio frequency emissions were not a risk and well below the standard criteria listed in the 1996 Telecommunications Act. He also recalled that the Town was not able to grant or deny a proposal for a cell tower based on health issues.

When questioned how old the technology was, Mr. Cooke explained the technology was 5 to 10 years old and the frequency they broadcast at was actually the old UHF frequency. He stated the old channels are being used as the frequency ban for this technology by Omnipoint and other PCS carriers.

Selectman Roopenian summarized by stating there are many steps to the approval process and the Town is trying to locate antennas in the most appropriate places with the least amount of adverse impact. The residents questioned the Board regarding tower requirements in a RFP, and Chairman Drobinski clarified that the RFP was also subject to a lease agreement and any other issues, such as co-location or height, will be stated in a lease pursuant to review of the lease's compliance with Town bylaws.

In summary, Chairman Drobinski stated that the Board will have the Town Engineer file a report with the Town Manager entailing mitigating ideas concerning a buffer for the Feeley Field lighting and noise. Chairman Drobinski also invited the Maple Avenue residents the Board's September 13 meeting where they will discuss the findings with the Park and Recreation Commission. He also explained to the residents that a draft RFP has been prepared for various Town sites, and that the Board was hoping to finalize the RFP shortly and send it out to the various companies.

Chairman Drobinski thanked everyone for coming.

Request for Proposals Draft – Wireless Communication Facilities

Present: Peter Cooke of Omnipoint and Ruth H. Silman from the office of Anderson & Kreiger, representing AT&T Wireless.

Selectman Clark suggested adding the five-year build out plan referenced in the bylaw into the RFP as discussed with the Maple Avenue residents, and the Board agreed. Town Manager Ledoux explained that the draft RFPs for the Landfill and the Fire Station were very generic and suggested adding the five-year build-out plan to the Exhibit B questionnaire and the Board agreed.

Selectman Clark suggested waiting to put out a RFP for Feeley Field until the Town Engineer comes back to the Board with his findings. Selectman Roopenian questioned why the Town should wait. Mr. O'Brien of the Planning Board responded that some of the findings could be written into the RFP as part of the request. Selectman Clark clarified, if the Town wants to include specific terms, the Town could include them in the proposal.

Town Manager Ledoux stated this draft RFP was made from different documents he and the Town Counsel had collected. Selectman Clark noticed the rental and percentage section was left blank, and Chairman Drobinski thought this was because the Town wants the applicants to fill in their respective bid price and percentage.

Town Manager Ledoux stated the Town will be advertising notice of the RFP in the Central Register. Ruth Silman, a representative from Anderson & Kreiger, the legal firm representing AT&T Wireless, PCS, stated that AT&T Wireless has been waiting for a long time for the issuance of an RFP. She stated she had been working very closely with Stephen Anderson, Esq. and Town Counsel Paul Kenny to try to rush the process along. She continued that the Fire Station site in particular would obviate the need for the water district site, based on what they know now, and this could settle a piece of ongoing litigation rather than the Town and AT&T Wireless continuing to spend money needlessly.

Chairman Drobinski agreed and stated the Town will get the Fire Station RFP out right away, and Selectman Clark stated the RFP should go out with the five-year build-out plan included as discussed. There was a very lengthy discussion relating to waiting to send out an RFP on Feeley Field and Ruth Silman of Anderson and Kreiger suggested that the detailed terms and conditions can be negotiated in the lease rather than the RFP itself.

Mr. Cooke suggested changes could be made to a given proposal relative to the needs of the neighborhood during the approval process following acceptance of the proposal. He explained the reality is there are only about six companies who will be submitting proposals to the Board. Mr. Cooke stated Omnipoint has also been waiting since February of this year, and he would rather take the next step in the process. Selectman Clark stated she preferred to negotiate up front and felt she would be negotiating through the back door if she did not first see the results of the Town Engineer's report.

Chairman Drobinski suggested adding to Section 5.1 of the RFP "The Selectmen also reserve the right to incorporate mitigation measures as appropriate at the expense of the server." The Board agreed and Selectman Roopenian stated the Town should get all three RFPs out right away.

It was on motion unanimously

VOTED: To finalize and send out the Requests for Proposals for the Fire Station, Landfill and Feeley Field, subject to Town Counsel's approval of the incorporated changes.

Cemetery Lot

Town Manager Ledoux stated the Town had received a letter from Mrs. Irene Guthrie requesting permission to sell back to the Town one grave in the New Town Cemetery Lot 49A, Section 2A, Deed #104.

It was on motion unanimously

VOTED: To grant the Town of Sudbury permission to buy back New Town Cemetery Lot 49A, located in section 2A, Deed #104 from Mrs. Irene Guthrie at a total price of \$50.00, (Sale of Lots \$12.50; Perpetual Care for \$37.50).

Executive Session

Town Manager Ledoux requested an Executive Session at 9:45 p.m. to discuss the Frene matter. The Selectmen granted his request.

It was on motion, by roll call vote

VOTED: To enter into an Executive Session at 9:45 p.m. for the purpose of discussing the Frene v. Town of Sudbury matter. Chairman Drobinski announced open session would not reconvene following the executive session. (Chairman Drobinski *aye*, Selectman Roopenian *aye* and Selectman Clark *aye*)

There being no further business, the Board adjourned at 10:05 p.m.

Attest: _____
Steven L. Ledoux
Town Manager-Clerk