

IN BOARD OF SELECTMEN  
MONDAY, OCTOBER 22, 2001

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

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

**No Place For Hate Program**

Selectman O'Brien announced a special event at 7 p.m. on Thursday, October 25, 2001, featuring Stephen Ross, a Holocaust survivor. Mr. Ross will speak on his experiences with regard to intolerance, acceptance and other civil rights issues. Mr. O'Brien urged all residents to attend, as well as participate in the rest of the committee's activities.

**Health Insurance Premium Rates**

Present: Assistant Town Manager Wayne Walker.

The Board reviewed a report, dated October 17, 2001, from Assistant Town Manager Walker presenting proposed group health insurance rates for policy year 2002. Town Manager Valente distributed a report showing health insurance costs for the past four years.

Assistant Town Manager Wayne Walker briefly described the current economic conditions which dictate health insurance rates, i.e., level of enrollment, claims records, and new contracts of carriers. Discussion followed.

It was on motion unanimously

VOTED: To approve a contract with Blue Cross/Blue Shield of Massachusetts, Boston, MA to serve as third party administrator for Blue Choice and HMO Blue self-funded health plans, and, further, to establish health insurance monthly working rates as shown below, and to establish that the Town contribute 75% of Blue Choice and 90% of HMO Blue for active employees, and 50% of both plans for retirees, with the employee/retiree to pay the remainder, effective January 1, 2002:

	<u>Family</u>	<u>Individual</u>
Blue Choice – self-funded	\$1,318.00	\$510.00
HMO Blue – self-funded	\$ 818.00	319.00

It was also on motion unanimously

VOTED: To approve a contract with Blue Cross/Blue Shield of Massachusetts, Boston, MA to provide dental insurance and Medex coverage at monthly rates as shown below, and further to establish that the Town contribute 75% of employee dental, 50% of Medex, and 0% of retiree dental, with the employee/retiree to pay the remainder, effective January 1, 2002:

	<u>Family</u>	<u>Individual</u>
BCBS Dental Blue – premium	\$54.51	\$ 21.64
BCBS Medex – premium	N/A	\$295.30

It was further on motion unanimously

VOTED: To approve a contract with Harvard Pilgrim Health Care, Dedham, MA to serve as third party administrator for its self-funded health care plan, and, further, to make this plan available to all eligible employees, and to establish monthly health insurance working rates as shown below and to establish that the Town contribute 80% for active employees and 50% for retirees, with the employee/retiree to pay the remainder, effective January 1, 2002:

	<u>Family</u>	<u>Individual</u>
HPHC HMO – self-funded	\$962.00	\$370.00
HPHC First Seniority – premium	N/A	\$140.00

**Trust Fund Investments – Investment Advisory Committee**

Present: Kerry Speidel, Finance Director/Treasurer-Collector; David Wilson, Investment Advisory Committee.

The Board reviewed a memo, dated October 17, 2001, from Kerry Speidel, Finance Director/Treasurer-Collector, presenting recommendations with regard to trust fund investments. Specifically, (1) The Treasurer should purchase a 5-year, \$100,000 Treasury Note. The purchase should be paid for through the maturing \$50,000 Treasury (matures 11/15/01) and \$50,000 from Charles Schwab One Account; (2) Cash account should be brought back in line with the Town's Investment Policy which states that cash (liquid investments) should be maintained at 5% of portfolio. After FY02 disbursements are made and additional \$50,000 is used to purchase a Treasury, cash will equal about 5.4% of portfolio; and (3) The Treasurer should move \$100,000 from the T. Rowe Price Capital Appreciation account to the T. Rowe Price Value Fund. This is being suggested as there is a new fund manager for Capital Appreciation, whose "track record" is not yet proven.

Mr. David Wilson briefly described the items contained in Ms. Speidel's memo. He also reported to the Board that Ken Ritchie will be retiring from the Investment Advisory Committee, and stated the committee has recommended Mr. Fred Pryor be appointed to the committee to replace Mr. Ritchie.

The Board expressed thanks to the committee for their consistent good efforts on behalf of the Town.

After discussion, it was on motion unanimously

VOTED: To accept the recommendations of the Investment Advisory Committee, as presented in the memo, dated October 17, 2001, from Kerry A. Speidel, Finance Director/Treasurer-Collector.

**Minutes**

It was on motion unanimously

VOTED: To approve the minutes of the special meeting of September 19, 2001, and the executive session minutes of October 9, 2001, as drafted, and the regular session minutes of October 9, 2001, as amended.

**Council on Aging**

It was on motion unanimously

VOTED: To accept \$116.00 in miscellaneous donations, to be deposited into the Van Donation Account, and to authorize the Council on Aging to expend said funds for the purpose of operating and maintaining the Council on Aging vans.

**Waterfowl Hunting**

It was on motion unanimously

VOTED: To grant permission to Andrew J. Fay, 30 Philemon Whale Lane, to hunt waterfowl on property owned by the Town of Sudbury, "Tax Possession Parcel #172" (parcel 013 on Property Map G12) during waterfowl hunting season (October 10, 2001 – November 24, 2001 and December 14, 2001 – January 5, 2002) within 50 feet of the shore line of the Sudbury River, one-half hour after dawn to one-half hour before sunset.

**Featherland Park – Ball Field Fencing Contract**

It was on motion unanimously

VOTED: To approve an award of contract to the lowest eligible bidder to supply and install fencing for five ball fields at Featherland Park, or portions thereof, with all associated work, and to authorize the Town Manager to execute a contract therefor subject to advice of Town Counsel.

**Drainage Easement – W. James and Karen Hodder**

On approval of Town Counsel, it was on motion unanimously

VOTED: To accept, on behalf of the Town, a Drainage Easement granted by W. James and Karen Hodder, dated October 17, 2001, on Lot 2, Twillingate Meadows subdivision, on the north side of Hudson Road, shown on "Definitive Plan with the Town of Sudbury", dated May 24, 2001, last revised September 13, 2001, drawn by Schofield Brothers of New England, Inc.

**Drainage Easement – Peter M. Walsh**

On approval of Town Counsel, it was on motion unanimously

VOTED: To accept, on behalf of the Town, a Drainage Easement granted by Peter M. Walsh, dated October 19, 2001, for Twillingate Meadows subdivision, on the north side of Hudson Road, shown on "Definitive Plan with the Town of Sudbury", dated May 24, 2001, last revised September 13, 2001, drawn by Schofield Brothers of New England, Inc.

**Highway Easement – 275 North Road**

On approval of Town Counsel, it was on motion unanimously

VOTED: To accept, on behalf of the Town, a Highway Easement granted by Caron K. Goldberg, dated October 3, 2001, at 275 North Road, Sudbury, shown on Parcel E-1 on “Plan of Easement in the Town of Sudbury, Massachusetts”, dated August 7, 2001, prepared by Vanasse Hangen Brustlin, Inc. [*This easement is required in connection with Rt. 117 traffic improvements.*]

**Access Easement – 347 Dutton Road**

On approval of Town Counsel, it was on motion unanimously

VOTED: To accept, on behalf of the Town, an Access Easement to conservation land, granted by Linda R. Sellier, trustee of L. R. Sellier Trust No. 1 dated July 5, 1990, said easement dated October 2, 2001, at 347 Dutton Road, shown on “Easement Plan of Land in Sudbury, Mass.”, dated August 6, 2001, drawn by R. Wilson and Associates.

**Thanksgiving Ceremonial Bonfire – LSRHS**

It was on motion unanimously

VOTED: To grant permission to the Lincoln-Sudbury All Sports Boosters Club to hold a ceremonial bonfire on Wednesday, November 21, 2001 from 6-9 p.m. at the High School, subject to compliance with Police, Fire, Public Works, and School Department requirements, and to request the Boosters Club to notify direct abutters of the event.

**Settlement Funds – Sudbury Water District/AT&T Wireless Litigation**

It was on motion unanimously

VOTED: To accept grant or gift of funds received from the Sudbury Water District, pursuant to the settlement and final judgment entered in the case of AT&T Wireless PCS v. Board of Selectmen, Board of Appeals, and Sudbury Water District, to be separately accounted for and expended for the purpose of natural resource management and public works management under the direction of the Town Manager; this acceptance to be effective for all past and future payments made for that purpose.

**SP01-361 Sudbury Research Center/Cummings Properties – Part I**

Present: Marc Knittle, Director of Development, Cummings Properties; Myron Fox, Rollins, Rollins & Fox; Susan F. Brand, Clerk and General Counsel, Sudbury Research Center; Jody Kablack, Town Planner; Ruth Griesel, Director, Council on Aging; Hale Lamont-Havers, Frost Farm Housing Task Force; Ralph Tyler, One Deacon Lane.

Chairman Drobinski again recused himself from this matter and turned the gavel over to Vice Chairman Lawrence O’Brien. Chairman Drobinski left the room for the duration of the public hearing.

At 7:53 p.m. Vice Chairman Lawrence O’Brien reconvened a Public Hearing for the purpose of continued consideration of Application SP01-361 of Sudbury Research Center, LLC, for site plan review in

accordance with Zoning Bylaw Article IX.V.A1, to construct a three-story addition of approximately 63,700 sq. ft. to the existing 69,358 sq. ft. mixed-use commercial building located at 142 North Road, Town Property Map C11-300, owned by Sudbury Research Center, Inc., f/k/a Cummings Properties, Sudbury, MA zoned Research District. This public hearing was continued from October 9, 2001.

The following information has been received:

1. Letter, dated October 19, 2001, from Susan F. Brand, Clerk, Sudbury Research Center, LLC, granting an extension of time to the Board of Selectmen, allowing them the deadline of November 6, 2001, in which to act on the Site Plan Review for 142 North Road.
2. Letter, dated October 17, 2001, to the Town Manager from Town Counsel, providing a joint opinion and recommendations of the Building Inspector, Town Engineer, Town Planner and himself as Town Counsel, in relation to questions raised concerning SP01-361, as follows: (1) the map to be used in determining the location of the Zone II and Zone III demarcation line is the Water Resource Protection Districts map last amended April 27, 1993\*; therefore, the plan that Cummings has submitted, in fact, accurately reflects the demarcation line between Zone II and Zone III. (2) it is appropriate to locate parking on the leaching field area according to the DEP and from a civil engineering standpoint; (3) reserve parking is allowed in the Research District under the Zoning Bylaw; (4) opining that using the meadow between Cummings and the Frost Farm project to develop screening, coupled with the cooperation of Cummings in rearranging the reserve parking, would bring the leaching field area into compliance with the District; and (5) construction under this new proposal will take place entirely in Zone III, and, therefore the Zone II restrictions do not apply. However, prior approvals on this site may have permitted the installation of impervious surface in Zone II over that which is allowed. It is their recommendation that the amount of impervious surface in Zone II be reduced to the maximum allowed (25% of the lot area within Zone II) and that Cummings apply for a Water Resource Special Permit from the Planning Board.

Note: Letter later corrected: *Last revision date of the Water Resource Protection Districts map is February 1, 1994.*

3. Memo, dated October 18, 2001, from Robert H. Yelton, Bay Avary Associates LLC, noting issues of (1) the access road for Frost Farm Village Condominiums and recommending a separate entrance road for Frost Farm, (2) HVAC equipment noise and recommending screened, soundproof walls for existing and proposed equipment, and (3) parking in foreground of southerly view from Frost Farm and recommending any parking (if essential) be visually minimized by land contouring and landscaping. Memo was accompanied by area drawing and information on HVAC equipment.

Vice Chairman O'Brien informed the assembly the hearing may be suspended until after the Town Forum in order to allow the Town Forum to proceed at its scheduled 8:30 p.m. time slot.

Town Manager Valente briefly described new information received on this matter.

Vice Chairman O'Brien acknowledged a great deal of effort and time has been invested in this project by all parties in the past two weeks, in an effort to bring this matter to a successful conclusion.

Marc Knittle, Director of Development, Cummings Properties, submitted an additional drawing, labeled "P-A", dated October 22, 2001, drawn by Griffin Engineering, showing revised reserve parking spaces. He stated his belief that they have developed a plan that would eliminate any parking in the leaching

field area. He stated several additional spaces had been omitted from previous drawings and noted 11 spaces have been rearranged in Zone III. Total number of parking spaces required by the Zoning Bylaw to support the development is 435 spaces. Mr. Knittle presented a listing of existing permitted uses on the property, citing educational use is calculated differently from other uses, lowering the total number to 435 from 444 (straight calculation). He stated 456 spaces have been placed on the site.

With regard to the access road to Frost Farm, Mr. Knittle stated the width of the access road has been increased to 28 feet wide in order to accommodate vehicles slowing down to make the turn into Frost Farm. A 4-ft. wide "reaction strip" has been added to the shoulder of the road. He reported the Town Planner had reviewed these drawings and raised no objection to this revision.

Mr. Knittle stated compact car spaces have been re-allocated throughout the site, moving regular spaces closer to the buildings. This was in response to a concern raised by Vice Chairman O'Brien on October 9, who opined many Sudbury residents drive large sport utility vehicles.

In the event they are required to remove impervious surface from Zone II, Mr. Knittle stated they would agree to first seek a variance from the Zoning Board of Appeals to reduce the parking by 12 spaces. The granting of the variance would eliminate the need for additional reserve parking in the leach field area. He stated research into projects approved since 1993 showed no reserve parking spaces had ever been constructed. He noted the data on the present building would indicate the same.

Mr. Knittle submitted another drawing, labeled "P-F", dated October 22, 2001, which illustrates the potential future parking plan showing the impervious surface that may have to be removed (13.8%) and new reserve parking spaces near the leaching field, which would be 14, not 12, as the square footage of two spaces would be used as access to the parking area. Mr. Knittle agreed to pave parking areas in sequence, the first being the 16 spaces to the south of the new addition; second, the 9 spaces next to the existing building; third, the 24 spaces south of the south access road; fourth, the 49 spaces shown to the west of the west access road; and last, the 14 spaces near the leaching field. In the unlikely event this latter reserve parking must be paved, the distance from the corner of the reserve area to Unit 33 of Frost Farm is 205 feet, with the elevation ranging from approximately the same to 4 feet lower. The distance from the Frost Farmhouse is 250 feet; the elevation is 8 feet lower.

Mr. Knittle stated they would be willing to construct a 3-4 foot high berm around the parking area, in addition to planting evergreen trees or some sort of natural screening. Vice Chairman O'Brien suggested planting the screen and building the berm sooner rather than later, to block the view of the construction. Mr. Knittle opined it would be no problem to do so.

Mr. Knittle noted a condition of the Frost Farm site plan was to plant pine trees around various groups of units on that site. He stated a combination of the efforts of both Cummings and Frost Farm should eliminate all issues regarding screening and buffers.

Selectman Roopenian requested the dumpster be screened from view and also asked about HVAC noise from the existing building. Mr. Knittle stated physical sound barriers can be added to lessen the noise. He noted the new cooling tower for the new addition will be located on the roof of the existing building with a monitor. A sound barrier will be placed on the north side of the tower to block sound heading toward the residential area. He acknowledged, however, that these efforts will not totally eliminate the sound but will significantly diminish it.

Barbara Bahlkow, 8 Tanbark Road, stated she and her husband are owners of a Frost Farm unit and asked if Cummings owned the present school facility at 142 North Road. She noted the noise from that air conditioning unit to be quite loud, and would not be pleasant during the warm weather when residents at Frost Farm will be utilizing their screened porches and yards. Vice Chairman O'Brien reiterated Mr. Knittle's comments regarding HVAC enhancements and stated the drawings would be available for viewing during Town Forum. He noted further the lighting will also be reviewed so that residents are not disturbed.

Ralph Tyler, One Deacon Road, stated noise and lighting can be designated as performance standards and reflected as such in the decision. Mr. Tyler briefly reiterated his earlier concerns that the lines of the Water Resource Protection District are inaccurate, the reserve parking numbers are incorrect and should not be considered, and the existence of zoning violations. He noted the public should have ample time to review the newly received documents and drawings in order to appropriately respond.

With regard to drainage, Mr. Tyler opined the owners lost the non-conforming status when the property was subdivided, at least for the area that was added. He opined the drainage was not recharged and is being discharged on the surface and not underground. Mr. Tyler alleged the drainage calculations are incorrect.

Jody Kablack, Town Planner, stated the Planning Board reviewed many issues at its recent meeting and its recommendations included parking lot mitigation with use of reserve parking, parallel parking, and somewhat wider pavement isles. She stated further the Planning Board was sensitive to the concerns of the Frost Farm residents and decided the last parking spaces to be paved should be the ones on the leaching field.

Myron Fox stated the drawings submitted tonight are so new that revised drainage calculations have not been prepared. He suggested the Board condition their vote subject to the Town Engineer's approval of the drainage calculations.

Selectman Roopenian responded to Mr. Tyler's comments, noting that much of what he states is his personal opinion, and the Board must consider facts in reaching its decision.

It was on motion

VOTED: To suspend the hearing until approximately 9:15 p.m. in order for Town Forum to proceed as scheduled.

### **Town Forum**

At 8:35 p.m. Chairman Drobinski convened Town Forum. Presentations were made by Jim Carlton and Don Hutchinson of the Finance Committee; Paul Lynch, Sudbury's representative on the Minuteman Regional Technical School District; Eileen Glovsky, Lincoln-Sudbury Regional School Committee; and Richard Robison, Sudbury School Committee, and William Hurley, Superintendent.

Reports concluded at 9:30. Refreshments were served.

### **Cummings Site Plan Review – Part II**

Chairman Drobinski recused himself from this matter and left the room.

At 9:40 p.m. Vice Chairman O'Brien reconvened the public hearing to continue consideration of Site Plan 01-361 of Cummings Properties for 142 North Road.

Myron Fox, attorney for the applicant, briefly responding to Mr. Tyler's comments, stated the drainage calculations will naturally be affected by the changes in parking and impervious surface, but for the better. He noted the drainage calculations will have to be approved by the Town Engineer. He stated the new addition is located in Zone III of the Water Resource Protection District, while the old building is in Zone II. Mr. Fox opined any alleged deficiencies in Zone II is not relevant in Zone III projects. He noted Cummings has made changes in response to the Board's concerns regarding the reserve parking, and opined that the Frost Farm owners in attendance reviewed the revision and are happier due to the proposed plan changes.

Mr. Fox stated any alleged deficiencies were unknown to anyone as the Board of Appeals, Planning Board, Board of Selectmen and other Town officials approved a monopole on this lot just a few years ago, which added more impervious surface to Zone II. Applicants must go before numerous boards and officials to get appropriate permits. He clarified the Building Inspector is the individual who recommends whether any of the reserve areas are to be paved, and those recommendations would be forwarded to the Board of Selectmen, who make the final decision.

Selectman Roopenian restated her concern for lighting standards being observed and that reserve parking on the old leaching field be avoided.

Vice Chairman O'Brien asked Cummings to provide some sort of noise measurement with regard to the noise level from the HVAC equipment. Mr. Fox suggested making the vote subject to the Town Engineer's approval. Selectmen Roopenian stated she would prefer seeing some information in addition to the Town Engineer's assessment. Vice Chairman O'Brien suggested such a condition could be considered, and indicated some kind of information can be obtained while the decision is being drafted.

Mr. Tyler opined conditioning the vote on unknown and unseen submissions circumvents the public process. He suggested Cummings could initiate a carpool or flex-time for workers on the property so that the parking levels never reach the one that demands the reserve parking be paved.

Vice Chairman O'Brien noted the Board of Selectmen is aware there is a question of the inconsistencies of the Water Resource Protection District lines. He opined he would opt for the expertise of the Town Engineer, Town Planner and Building Inspector. Mr. Tyler responded with his belief the Town Engineer is using a more recent map as reference, a map which has not been approved by Town Meeting.

Mr. Tyler alleged the Board to be requiring more of a public project [new high school] with respect to abutter concern, yet a project of this nature does not receive the same level of scrutiny. Selectman Roopenian stated the Board is prohibited from requiring specific things due to the difference in the nature of the projects.

Vice Chairman O'Brien informed Mr. Tyler he can challenge whatever data he chooses in a public forum, but he would not allow Mr. Tyler to insult the members of the Board and accuse them of not doing their jobs.

For purposes of clarification, Vice Chairman O'Brien summarized the following: (1) the Town Engineer and Building Inspector will submit performance standards with regard to HVAC noise; (2) the applicant will submit revised drainage calculations; (3) the applicant will submit a written description of the phase-in approach to paving the reserve parking, if such parking should be required; (4) the applicant will



provide adequate screening for the trash dumpster; and (5) the applicant verbally agreed to begin building a berm and vegetative screening with respect to Units 33 and 35 of Frost Farm Village.

Selectman Roopenian asked about the existing screening near Units 32 through 36 (Sheet P-F). Mr. Knittle responded a substantial amount of vegetation is in that area and utilized the landscape plan for illustration purposes. He pointed out the area where pine trees are to be planted by Bay Avary as part of the Frost Farm project.

The Vice Chairman stated suggestions for types of plants/shrubbery to be placed on the berm, and recommended size of the berm, etc., could will be provided by the professional Town staff, as well as the performance standards for lighting, parking, and drainage.

At this time, the Vice Chairman stated his belief that adequate information has been received on this matter and suggested the hearing be closed. It was therefore on motion and subsequently unanimously

VOTED: To close the public hearing on this matter, to direct the Town Manager to instruct Town Counsel to prepare a Draft Decision, and to continue this matter until 8:30 p.m. on November 5, 2001 at the Fairbank Senior Center [due to the Town Election taking place in Town Hall].

### **Annual Budget Requests – Contributions**

The Board reviewed a memo, dated October 18, 2001, from the Town Manager submitting requests for the contributions for SuAsCo Watershed Community Council and the Sudbury Cultural Council. The MetroWest Growth Management Committee, July Fourth Parade, Hop Brook Weed Harvesting are presently receiving funds. Ms. Valente asked the Board if they would like to fund all requests, some or to possibly create a “pot” of funds from which to draw funds, perhaps on a rotating basis.

Ms. Valente noted that once a donation is made, the recipient tends to regard that amount as an annual amount, not a one-time contribution. The exception is MetroWest Growth Management Committee, whose request is actually an annual assessment. She asked for the Board’s input on whether they felt these funds supported groups with some kind of “return”. Discussion followed.

The Board suggested tentatively earmarking \$1,000 each for SuAsCo and the Sudbury Cultural Council and see how things look at budget time.

### **2002 Annual Town Meeting**

Town Manager Valente asked for the Board’s input on a list, dated October 22, 2001, of potential articles for the 2002 Annual Town Meeting. New to this list are Flynn Building Renovations, Moving Expenses for Town Offices, DPW Furnishings, Excess Library Borrowing, Veterans Services, Amend Bylaws for Double Utility Pole Removal, and Community Preservation Act (new authorization). Discussion followed.

Ms. Valente asked for the Board’s input in the form of a motion so that work can begin on articles on this list, and to make known what the Board is considering as its submissions.

It was on motion unanimously

VOTED: To direct the Town Manager and staff to begin gathering information on the articles on the Draft List of Potential Articles for 2002 Annual Town Meeting, dated October 22, 2001.

**Proclamation – Korean Veterans**

It was on motion unanimously

VOTED: To sign a proclamation in honor of Korean War veterans on occasion of the 50<sup>th</sup> anniversary of the Korean War.

**Executive Session**

At 10:40 p.m. it was on roll call unanimously

VOTED: To go into Executive Session to discuss litigation matters. (Chairman Drobinski, aye, Selectman O'Brien, aye, Selectman Roopenian, aye).

Chairman Drobinski announced regular session would not reconvene following Executive Sesssion.

There being no further business, the meeting was adjourned at 10:55 p.m.

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