

IN BOARD OF SELECTMEN  
TUESDAY, DECEMBER 17, 2002

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

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

**Opening Remarks**

On behalf of the Board, Chairman O'Brien extended condolences to the Richard family on the recent loss of their teenage son Steven.

Chairman O'Brien extended congratulations to the Sudbury Historical Commission for a very successful Hosmer House Holiday Weekend, and, additionally, to the Tall Pines area for their nationally acclaimed outdoor lighting displays and Toys for Tots collections.

The Board wished all residents a happy and safe holiday season.

**Pledge of License – Ho-Tai Sudbury, Inc. (Lotus Blossom)**

Present: Joseph C. Gallo, Jr., Lui & Frasca, P.C., Attorney representing applicant.

The Board reviewed the following information: letter, dated December 12, 2002, from Peter M. Frasca, Attorney with Lui & Frasca, P.C., submitting a Petition, dated December 11, 2002, for approval of the pledge of Liquor License, Copy of Pledge of Liquor License to Banknorth, N.A., related Certificate of Corporate Vote, and appropriate fees check on behalf of client Ho-Tai Sudbury, Inc., d/b/a Lotus Blossom, 394 Boston Post Road.

Town Manager Valente explained approval of the pledge is required by the Selectmen and the Alcoholic Beverages Commission and that no other action is required by the Board. She noted Town Counsel has reviewed all documentation.

Mr. Joseph Gallo, Jr., Attorney for the applicant, was present and stated he had no comments in addition to the information submitted and was available if the Board needed clarification.

It was on motion unanimously

VOTED: To approve a Pledge of the All Alcoholic Beverages License held by Ho-Tai Sudbury, Inc., d/b/a Lotus Blossom, 394 Boston Post Road, to Banknorth, N.A., as collateral for a loan, as proposed in the Petition dated December 11, 2002, subject to approval by the Alcoholic Beverages Control Commission.

**Thai Avenue Restaurant: Common Victualer License – Change of Ownership**

Present: Sahathat Laohalertwatana, Applicant.

The Board reviewed the following information: letter, dated December 9, 2002, from new owner Sahathat Laohalertwatana, 174.5 Main Street, Maynard, MA, requesting a Common Victualer License for Thai Avenue Restaurant, 621A Boston Post Road, and including Application for Common Victualer

License, letter from seller, Lease Agreement with property owner, Deed of Sale of Restaurant, dated December 6, 2002 and Tax Attestation.

Town Manager Valente stated a new license is required due to the change in ownership and Town Counsel had reviewed all documentation.

Mr. Sahathat Laohalertwatana, Applicant, stated there are no changes planned at this time to the restaurant. He added that minor changes may be made in the spring, and appropriate documentation will be submitted at that time.

It was on motion unanimously

VOTED: To grant a Common Victualer License to Sahathat Laohalertwatana, Thai Avenue Restaurant, 621 Boston Post Road.

### **Minutes**

It was on motion unanimously

VOTED: To approve the regular and executive session minutes of December 3, 2002, as drafted.

### **Awesome Aquatics Donation – Roche Brothers**

It was on motion unanimously

VOTED: To accept a donation of \$900 from Roche Brothers, d/b/a Sudbury Farms, to be deposited into the Awesome Aquatics Donation Account for the Atkinson Pool and expended for expenses associated with the Awesome Aquatics Program.

### **Council on Aging Donation – Sudbury Villagers**

It was on motion unanimously

VOTED: To accept Corning Corelle cups and plates donated by the Sudbury Villagers for use by the Council on Aging.

### **Recreation Department Programs Revolving Fund – Expenditure Limit Increase**

Town Manager Valente stated this authorization is necessary as expenditures will soon exceed the amount voted at the 2002 Annual Town Meeting. The original expenditure amount of \$175,000 was an estimated annual projection, but due to new programs, the authorized amount was underestimated. She stated this authorization will not increase costs to the Town as expenditures will be offset by program revenues.

It was on motion unanimously

VOTED: To approve an increase in the FY03 expenditure limit authorized by the 2002 Annual Town Meeting for the Recreation Department Programs Revolving Fund from \$175,000 to a new expenditure limit

of \$320,000, in accordance with the request dated December 11, 2002, from Park and Recreation Director Dennis Mannone.

**Extension of Serving Hours on New Year's Eve – Alcoholic Beverages**

It was on motion unanimously

VOTED: To grant permission to holders of Restaurant and Club Alcoholic Beverages Licenses to extend serving hours on December 31, 2002, New Year's Eve, to 2:00 a.m. on January 1, 2003.

**Proclamation – William Waldsmith Day**

It was on motion unanimously

VOTED: To officially proclaim Tuesday, December 31, 2002, as William "Billy" Waldsmith Day, upon his retirement, and in honor of his long and dutiful service to the community, and to sign a Proclamation so stating.

**Council on Aging – Special Beverages License**

It was on motion unanimously

VOTED: To grant a one-day "Special License for the Sale of Wines and Malt Beverages Only, to be Drunk on the Premises", to Ruth Griesel, Director, Council on Aging, for Tuesday, December 31, 2002, from 2:00 to 4:00 p.m. at 40 Fairbank Road gymnasium on the occasion of the Council on Aging's New Year's Eve Party.

**Historic Districts Commission – Resignation**

It was on motion unanimously

VOTED: To accept the resignation dated December 2, 2002, of Alexander S. Frisch from the Historic Districts Commission, effective upon his replacement, and to send him a letter of appreciation for his many years of service on this Commission.

**Utility Petition #02-3: NStar/Verizon – Goodnow Road**

This matter was previously heard on November 19 and December 3, 2002. The Board reviewed the following new information: (1) Email, dated December 5, 2002, from Peter Crabtree, Northland Residential Development, stating a site walk had taken place with the DPW Director, and representatives from NStar and Nash Development. He reported NStar confirmed no trees will need to be removed when four utility poles are relocated. (2) Report, dated December 12, 2002, from the DPW Director, stating NStar can place the wires between tree branches to avoid removing trees. Mr. Place stated further he met with the Fire Chief to discuss telephone service installation as well as AT&T Broadband cable, and expressed concern that these utilities will necessitate the removal of trees. He further expressed dismay that the road could have been widened to accommodate emergency vehicles, had the plans to relocate utility poles been made known.

The Board questioned why utilities were not being placed underground, in accordance with Town bylaw. It was noted that as this development is an ANR (Approval Not Required) project, the developer is

not required to go through subdivision approval where discussion of utility placement would have occurred. After brief discussion, the Board directed the Town Manager to contact the pertinent parties to request that utilities be underground from the point of Hudson Road and that cost estimates for underground installation be prepared for consideration of the same. The Board asked for a response in order to take final action on this petition on January 7.

### **Town Trust Funds – First Quarter Financial Statement**

The Board reviewed a report, dated November 22, 2002, from Kerry A. Speidel, Finance Director/Treasurer-Collector, presenting FY03 First Quarter Financial information for Town Trust Funds. It was noted that the financial statements are unaudited and subject to change upon completion of the FY03 independent audit.

Town Manager Valente stated she would answer any questions from the Board as Ms. Speidel was unable to attend tonight's meeting.

It was on motion unanimously

VOTED: Acting as Co-Trustees of Town Donations, to accept the FY03 Trust Funds First Quarter Report from Kerry Speidel, Co-Trustee of Town Donations/Finance Director/Treasurer-Collector, dated November 22, 2002, subject to audit.

### **Rubbish Collection Contract – Calendar 2003**

The Board reviewed a report, dated December 13, 2002, from Administrative Assistant Janet Silva, outlining bids for rubbish collection for calendar year 2003. Bids were opened by Town staff in the Selectmen's office in the presence of representatives from BFI and Waste Management contractors. Town Counsel advised accepting the lowest bid (Waste Management of Massachusetts), even though the current servicer's (BFI) bid was extremely close.

It was on motion unanimously

VOTED: To approve a contract for calendar 2003 with low bidder Waste Management of Massachusetts, 4 Technology Drive, Westborough, MA 01581, to provide rubbish removal and disposal for Town and School facilities, in accordance with Town of Sudbury specifications and individual pickup costs, totaling an estimated \$47,376, as stated in the bid dated December 11, 2002.

### **Tax Classification Hearing – FY03**

Present: Maureen Hafner, Director of Assessing; Cynthia Gerry, Assistant Director of Assessing; Trevor Haydon, Chairman; Lee Vesely, Board of Assessors; Ron Stephan, 86 Thunder Road and Chamber of Commerce; Bert Mullen.

At 8:05 p.m. Chairman O'Brien convened a Public Hearing for the purpose of determining what percentage of the local tax levy will be borne by each class of real and personal property relative to setting the Fiscal Year 2003 tax rate.

Maureen Hafner, Director of Assessing, briefly described the tax classification process for all attendees. Information packets were distributed to interested parties. She stated many property values were

increased in an attempt to equalize valuations with current market values and added all properties in town will be re-assessed next year.

While they have not done so previously, Ms. Hafner stated the Selectmen may vote to set a tax discount rate for Open Space. She stated there are 517 properties that would qualify for an Open Space discount. When an agricultural parcel is no longer listed within Chapter 61, it is then taxed at the residential rate, unless a discount is provided.

With regard to a residential and/or small commercial exemption, a total parcel count/valuation is used to determine an average valuation, in this case, \$479,000. This applies to owner occupied properties valued at the average or below. Any exemption impacts the residential rate, shifting the tax burden to the other residential properties, the ones valued above \$479,900. It does not shift the burden to the commercial properties. Ms. Hafner stated the purpose of this exemption was originally to assist homeowners in communities that typically have a lot of tourist or transient residents, or a high percentage of year-round rental properties. While those residents draw on community resources, they do not contribute to the financial base of that community. After brief discussion, the Board decided it would like more information on how this type of exemption might affect homeowners in Sudbury.

The residential factor shifts an amount of the tax burden to the commercial sector by increasing the CIP (commercial, industrial, and personal property) tax rate, which lowers the residential tax rate. At this time residential properties represent approximately 94% of the tax burden in Town. The minimum residential factor the Selectmen can set is 96.6496%. Ms. Hafner directed everyone's attention to a list of the past ten years of tax shift, which indicated how each year's shift impacted the residential and commercial tax bills. FY02's shift was 1.32, which increased residential taxes by 9.81% and commercial bills by 9.72%.

It was on motion unanimously

VOTED: To NOT adopt an Open Space exemption for FY03.

It was further on motion unanimously

VOTED: To NOT adopt a residential or small business exemption for FY03.

Chairman O'Brien reminded business owners to approach the Selectmen any time when they have concerns over Town property tax policy. The Board is the decision-making body for the Town; other boards and commissions provide information but have no part in determining the commercial share of the property tax burden.

Ron Stephan, Chamber of Commerce, stated business owners support recommendations of the Economic Development Committee and the Strategic Planning Committee, yet pay high taxes with every override, designed to assist the schools. Businesses do not add students to the school system. He pointed out that neighboring communities do not tax their business owners as much and, as a result, have more commercial growth. He stated there is a feeling among Sudbury business owners that the Town is "anti-business". He respectfully asked the Board to consider lowering the commercial rate as a high rate prohibits businesses from coming to Sudbury.

Selectman Drobinski asked how the Community Preservation Act and its 3% surcharge will impact residential taxes. Ms. Hafner responded that, because it was not part of the computations for tonight's hearing, she did not include those figures in the handout. Town Manager Valente stated the CPA surcharge is based on both the total levy limit plus the amount of debt the Town has issued, so one could not just assume a 3% addition to the average tax bill presented by the Assessors in their handout. Selectman Drobinski expressed concern that everyone keep in mind this is a financial commitment from homeowners in addition to the rate set at tonight's hearing, which does not affect commercial property owners.

Selectman Roopenian asked if there is hard evidence that the commercial rate is impacting businesses in a negative way. She stated she has not seen businesses leaving the community. Mr. Stephan reported businesspeople at a recent meeting stated the commercial tax factor can propel business owners to look to surrounding communities before even establishing their business/service in Sudbury.

Burt Mullen expressed concern that the Town is "little guy vs. corporate" and that the local business owners are treated differently from large companies (Shaw's, CVS, etc.). He stated every time there is some sort of initiative in Town, the business owners are always approached for financial support. This happened at the recent Business Improvement District (BID) meeting. As a result, the business owners do not feel they are treated fairly. He stated he owns property on Union Avenue, and reported a recent scenario where he increased rents by 3%. The result was that the business moved to Westborough.

There was brief discussion on various tax factors and their impact, researching the benefits of a flat tax rate, philosophy for the Town's future, sustainability of Route 20, lack of state aid, CPA and services provided. The Board acknowledged there is no good answer to the question of taxes, but noted it must consider a decision for the whole Town, from business owners to residents who own large expensive homes to the senior citizen living on a fixed income. Equalizing taxes between the residential and commercial sectors will happen gradually over a period of years. It was suggested to provide a summary of tonight's discussion on the Town website.

It was on motion unanimously

VOTED: To set the residential factor for FY03 at 0.979897, which represents a CIP factor of 1.30.

Later, Ms. Hafner returned to report, based on the votes this evening, that the excess tax levy capacity is \$86,930. The Board signed the appropriate documents for filing with the State.

### **Traffic Rules and Orders: Lincoln-Sudbury Neighborhood**

Present: Safety Officer Ronald Conrado.

Town Manager Valente reminded the Board certain streets around the high school were experiencing a high incidence of illegal parking by students, and in August, the Board subsequently restricted parking to Time Limited to One Hour. While this restriction had been in effect for some time, the appropriate signage was not posted. This is a follow-up to discuss how the parking restrictions are working now that the signs are up.

Officer Conrado reported the construction at the high school continues to impact the amount of available parking for students and opined the problem is temporary while the construction is underway. He stated residents are finding that students park on one street, then move the car to another street an hour later,

and this process continues throughout the day. He has been working with Scott Carpenter at the school, and many letters have been sent home to parents. The residents have expressed concern about accessibility for emergency vehicles on those narrow streets, especially with the presence of snowbanks further encroaching on the available road space.

Officer Conrado requested the Board announce a public hearing where residents can air their concerns, and he would present a formal recommendation at that time. It was set on the Selectmen's agenda for January 7, 2003 at 8:00 p.m.

### **Gift of Land – Lot 6, Raymond Road**

Present: Deborah Dineen, Conservation Coordinator.

The Board reviewed a report, dated December 12, 2002, from the Conservation Coordinator, outlining the circumstances regarding a proposed gift of land on Raymond Road, owned by David Franco. The Board also reviewed a report, dated September 26, 2002, from the DPW Director, in which he reported Mr. Franco's offer of Parcels A, B & C on Raymond Road for street widening purposes, outlining the drainage concerns in those areas, and recommending a drainage easement be secured to allow proper maintenance of the culvert under Raymond Road.

Deborah Dineen, Conservation Coordinator, briefly updated the Board on this matter, a potential gift of land from David Franco. A Conservation Restriction has already been established on Lots 2 and 4. Utilizing colored maps, she outlined the area in question. It is currently taxed as a developable lot until such time as evidence is provided to declare it otherwise. This parcel contains substantial wetlands, rendering its buildability questionable. Mr. Franco has decided to gift the land rather than expend considerable resources determining the parcel's viability for development. Ms. Dineen stated further Mr. Franco is offering a drainage easement to the Town on Lot 6 as well.

Chairman O'Brien expressed concern about placing land in restriction, which renders it unavailable for any type of municipal use, such as small parks, affordable housing, single playing fields, etc. Ms. Dineen responded many times useable land is in the middle of wetlands, and access would disturb natural habitats/vernal pools. She stated further the Conservation Commission is working with the Housing Authority in assessing all parcels for the potential use of affordable housing units. She stated access to the conservation land depends on the availability of parking space, as narrowness of the street does not allow safe parking.

It was on motion unanimously

VOTED: To accept the following gifts of land off Raymond Road in Sudbury from David P. Franco, of Waban, Massachusetts:

- Lot 6, consisting of approximately 3.105+/- acres, shown on "Subdivision Plan of Land in Sudbury, Mas. (Middlesex County) Prepared For: Allowance Grant Realty Tr.," dated May 30, 1990, revised June 18, 1990, prepared by Noonan & McDowell, Inc., granted for conservation purposes pursuant to M.G.L. c40 §8C subject to the right of the Town of Sudbury to maintain and improve the drainage in easement shown on plan entitled "Easement Plan of Land in Sudbury, Mass. Middlesex County Prepared for David P. Franco," dated December 13, 2002, prepared by Noonan & McDowell, Inc.;

- Parcels A (3,694+/- s.f.), Parcel B (3,333+/- s.f.), and Parcel C (3,694+/- s.f.) all as shown on "Subdivision Plan of Land in Sudbury, Mass. (Middlesex County) Prepared for: Allowance Grant Realty Tr.", dated May 30, 1990, revised June 18, 1990, prepared by Noonan & McDowell, Inc., for street right of way and utility purposes;

and to accept a 400+/- s.f. Drainage Easement, as requested by the Town Engineer, located on Lot 6 and shown on a plan entitled "Easement Plan of Land in Sudbury, Mass. (Middlesex County) Prepared for: David P. Franco", dated December 13, 2002, prepared by Noonan & McDowell, Inc.;

and further, to execute the appropriate documents therefor as reviewed by Town Counsel, and to authorize the Town Manager to execute IRS form 8283, Noncash Charitable Contributions in connection therewith.

### **Conservation Restriction – 361 Dutton Road**

Present: Deborah Dineen, Conservation Coordinator.

The Board reviewed a report, dated December 6, 2002, from the Conservation Coordinator, explaining that in 2001 portions of 361 and 347 Dutton Road were extracted and then combined to create an additional building lot which was then developed by Countryside Estates. This development was within the 100-foot wetlands buffer. Mitigation for this intrusion resulted in Conservation Restrictions on the rear of all three lots.

Ms. Deborah Dineen, Conservation Coordinator, briefly described the area in question, utilizing maps.

It was on motion unanimously

VOTED: To accept a Conservation Restriction granted in perpetuity for conservation purposes by Daniel Lee and Doris Lee, on property at 361 Dutton road (Lot 6), shown on "Easement Plan of Land in Sudbury, Mass." prepared for Countryside Estates, Inc., dated August 6, 2001, prepared by R. Wilson and Associates, Littleton, MA.

### **Conservation Restriction – Lot 1 Plympton Road**

Present: Deborah Dineen, Conservation Coordinator.

The Board reviewed a report, dated December 6, 2002, from the Conservation Coordinator, explaining that a buildable lot was created by combining it with land from an abutting parcel. Driveway access for this lot required crossing a vegetated wetland. In exchange the Conservation Commission required wetland enhancement with native plant species and a conservation restriction on the planting area. This prevents future owners from altering the area.

Ms. Deborah Dineen, Conservation Coordinator, briefly described the parcel and circumstances surrounding its creation, and pointed out the area on a map.

It was on motion unanimously

VOTED: To accept a Conservation Restriction granted in perpetuity for conservation purposes by Robert Weishaus, also known as Robert A. Weiss, on property at Plympton Road; said Restriction comprised of two



areas, one 30,956 s.f. and another 45,635 s.f., as shown on "Conservation Restriction Plan Plympton Road Sudbury, Mass. prepared for: Russell Busa", dated August 26, 2002, by Ducharme & Wheeler, Inc., Bolton, MA.

**Comcast – Frost Farm**

Town Manager Valente stated she needs authorization to sign a License which would allow the installation of telecommunications to service Frost Farm Village Condominiums.

It was on motion

VOTED: To authorize the Town Manager to sign a License allowing Comcast of Massachusetts III to install telecommunications to service Frost Farm Village Condominiums. (Chairman O'Brien and Selectman Roopenian, aye, Selectman Drobinski, abstain).

**Purchase and Sale Agreement – Dickson Property**

Town Manager Valente stated the draft document is a standard Purchase and Sale agreement, and stated further she had not yet reviewed it. She requested the Board look it over and forward comments to her. This matter will be placed on the Selectmen's agenda for the January 7, 2003 meeting.

**Board of Selectmen Articles – 2003 Annual Town Meeting**

The Board briefly discussed potential articles for the 2003 Annual Town Meeting. The deadline for submission is December 31, 2002. Town Manager Valente clarified the article for street lighting is necessary in case the Town has to borrow money to cover this expense.

After discussion, it was on motion unanimously

VOTED: To submit the following articles for the 2003 Annual Town Meeting:

Hear Reports

FY03 Budget Adjustment

Street Acceptances

Stabilization Fund

Cutting Property Development Rights Purchase

EPA Storm Water Phase II Final Rule Compliance

Utility Easement – Frost Farm

Drain Easement – Revere Street, Lot 13: Extinguish existing easement in return for grant of new easement

Utility Easement – Sprint Celltower, Melone Property

Purchase Street Lighting

**Middlesex Retirement Board**

Town Manager Valente distributed a copy of proposed legislative changes with regard to the Middlesex County Retirement Board in response to concerns expressed statewide. She asked the Board to review the changes. She indicated she will ask the Board to vote their support/endorsement at its meeting on January 7, 2003. A formal meeting with elected representatives Susan Pope, Susan Fargo and Pam Resor, is tentatively planned for the end of January.

**Water Row Recreational Area**

Town Manager Valente stated Water Row residents have proposed a recreational area in their neighborhood for seasonal events, and she forwarded the proposal to various Town staff, who expressed numerous concerns. She indicated the Town does not have enough staff to adequately handle such events, traffic details, parking, etc., which may mean a high level of volunteer effort on the part of the residents. Ms. Valente asked the Board to forward comments to her.

**Rebecca Circle Donation to Discretionary Fund**

The Board reviewed a letter, dated December 15, 2002, from Lyn MacLean, from the Rebecca Circle at the Sudbury United Methodist Church, contributing \$246.00 to assist needy families in Sudbury upon recommendation of the Town Social Worker. The funds were generated by a silent auction at the Hosmer House.

It was on motion unanimously

VOTED: To accept a contribution from the Rebecca Circle at the Sudbury United Methodist Church in the amount of \$246.00 to be deposited into the Discretionary Fund and expended under the recommendation of the Town Social Worker.

**Executive Session**

At 11:09 p.m. it was on roll call

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

It was announced that regular session would not reconvene following Executive Session.

There being no further business to come before the Board, the meeting adjourned by 11:17 p.m.

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