

IN BOARD OF SELECTMEN
MONDAY, FEBRUARY 11, 2002

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.

Opening Remarks

Chairman Drobinski extended congratulations to the New England Patriots on their Super Bowl victory, emphasizing how teamwork can produce success.

Selectman Roopenian briefly described the recent HOPEsudbury event held at the Town Hall on February 2 and 3, 2002. She stated emails were sent to military troops around the world, and "flags of hope" were created by participants. Flags will be displayed in various community buildings around town. She urged residents interested in similar events to contact the Town Manager.

Selectman O'Brien stated a recent columnist in the *Sudbury Town Crier* was erroneous in his views about Sudbury's town management. He complimented Town Manager Maureen Valente on her efficient management and professionalism.

Community Coalition to Support An Override

Mr. Tad Mayer, 183 Willis Road, announced the creation of a Community Coalition to Support An Override in the Town of Sudbury. He stated residents can learn more about this issue via the group's website at www.sudburycoalition.com.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of January 28, 2002, as drafted.

Council on Aging Donations

It was on motion unanimously

VOTED: To accept \$108.75 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.

Joyce Endee Productions

It was on motion unanimously

VOTED: To grant a special permit for Joyce Endee Productions to hold two juried Arts & Crafts Shows, one on Sunday, May 5, and one on Sunday, September 8, 2002, at the West Field, Wayside Inn, subject to conditions and permits required by the Fire, Police, Health and Building Departments.

Changed Precincts and Polling Places

It was on motion unanimously
VOTED: To sign a "Notice of Changed Precincts and Changes in Polling Places" to be mailed to each household in the Town.

Eligius Homes Company

It was on motion unanimously
VOTED: To accept the following gifts from Eligius Homes Company in connection with the Willis Woods subdivision, as follows: \$6,000 to be deposited in the Walkway Fund to be expended under the direction of the Director of Public Works, and \$6,000 to be separately accounted for and expended for improvements to Butler Road under the direction of the Director of Public Works.

Walkway Fund Contributions

It was on motion unanimously
VOTED: To accept the following gifts received in FY01 and FY02 for the Walkway Fund to be expended under the direction of the Director of Public Works: (1) \$5,000 from Ed Sears, (2) \$3,000 from Baldwin Estates, Curtin Real Estate, (3) \$2,500 from Woodside Estates, and (4) \$3,500 from Fairbank Estates.

John E. Sylvia Resignation

It was on motion unanimously
VOTED: To accept the resignation of John F. Sylvia dated January 29, 2002, from the Earth Removal Board and Board of Appeals Associates, and to send a letter of appreciation for his service to the Town.

The Wayside Inn – Payment in Lieu of Taxes

Town Manager Valente stated the Town has had an agreement with the Wayside Inn for a lump sum payment in lieu of real estate taxes for more than ten years. The agreement is renewable every five years. She noted the Wayside Inn benefits the Town of Sudbury in many ways besides the payment of taxes. After discussing the situation with Mr. Fred Pryor, President of the Wayside Inn, and Rich Davidson, an annual amount of \$27,000 was agreed upon. Ms. Valente asked the Board approve this agreement.

It was on motion unanimously
VOTED: To approve and sign an Agreement with The Wayside Inn for Payment in Lieu of Real Estate Taxes, dated February 1, 2002, for a five-year term commencing July 1, 2002 in the annual amount of \$27,000.

Cutting Property – Maynard Road

Present: Beth Cosgrove, on behalf of John Cutting; Jody Kablack, Town Planner; Patricia Savage, Director, Francis Logan, Park and Recreation; Brandon Kibbe, Sudbury Valley Trustees.

The Board met with representatives of landowner, town boards and officials and Sudbury Valley Trustees to discuss the proposed Annual Town Meeting article relative to the Cutting property on Maynard Road.

Town Manager Valente stated she, DPW Director Bill Place and Patricia Savage, Park and Recreation Director, have been trying to find more land for playing fields. Simultaneously, Mr. John Cutting has been discussing with Town Planner Jody Kablack land he owns that would make ideal playing fields. Mr. Cutting proposes to sell the development rights, while retaining ownership of the land. Several fields could be developed on this parcel. She stated a Town Meeting article has been bookmarked for the time being while more information is gathered.

The following new information has been received: Report [at meeting], dated February 11, 2002, from the Land Use Priorities Committee, stating this property ranked fourth on the list of parcels evaluated, not for municipal use, but developed for private or public uses. The Committee recommends the following immediate actions: (1) An appraisal must be done by the owner to determine the fair market value of the unrestricted property. The owner desires to reserve a house lot for his own use and development, and any appraisal must take this lot into consideration; (2) The exact terms of the sale must be disclosed, most specifically the price for which the property is being offered; (3) The terms of any restrictions on public use must be disclosed. Will the recreation use be long term or short term? What types of recreation will be allowed? Will structures be allowed to be constructed? Will there be a lease payment for this use? (4) The Town should negotiate with the owner on any future uses that may be allowed. Would he agree to a right of first refusal to the Town on the sale of the property? Would he consider some limited development in order to keep the overall price of the purchase lower? (5) The building envelope for the reserved Cutting lot should be accurately delineated to ensure its buildability, both from a zoning and a conservation point of view. The Committee supports placement of the article on the Warrant.

Jody Kablack, Town Planner, briefly described the property: approximately 45 acres located on Maynard Road, directly across the street from the Willis Hill subdivision, two large surface water bodies, some wetlands, significant upland area suitable for development which could accommodate 32 house lots. Ms. Kablack noted the Land Use Priorities Committee has worked for several years to encourage landowners to approach the Town before selling their land to developers. She noted this property is next to a wildlife refuge, is currently enrolled in Chapter 61A for tax exemption and zoned residential. Mr. John Cutting would like to sell the development rights to the Town while retaining ownership of the land, thus creating a permanent development restriction. He would like to continue to farm some of the land, and also meet some of the Town's needs. Ms. Kablack emphasized Mr. Cutting is offering the rights at approximately 50% of the amount it would typically cost.

Ms. Kablack briefly went through the points raised in the report, dated February 11, 2002, from the Land Use Priorities Committee. Copies were distributed to the Board and Town Manager.

On behalf of Sigrid Pickering, Chairman of the Land Use Priorities Committee, who was unable to attend tonight's meeting, Ms. Kablack stated it is important that this matter be brought to the voters, giving them some say in the Town's economic and/or recreational development.

Mr. Brandon Kibbe, Land Protection Specialist, Sudbury Valley Trustees, stated this parcel has ranked high on the SVT priority list for some time. He described the parcel as a "fantastic value", connectivity to other protected parcels and an outstanding habitat property. He stated SVT would endeavor to work with the Park and Recreation Department on the development project to protect the habitat areas.

Ms. Kablack briefly pointed out the bodies of water and structures on the property. Ms. Beth Cosgrove, representing the landowners, clarified the barn is included in the offered property, but that the house is not. It was confirmed that the area where Mr. Cutting wishes to build a new home is at the rear of the property.

Selectman O'Brien asked if limited development had been discussed. Ms. Kablack stated various things have been discussed, with the offer of development rights being the first choice. Mr. O'Brien stated Mr. Cutting has always been cognizant of the Town's needs and one of the most responsible landowners in the area. He opined the Town might consider not purchasing the development rights, and, later, if the land went up for sale, act on the Right of First Refusal to obtain the land in order to develop it some other way. He clarified this would enable the Town to develop the playing fields and also construct a Senior Residential housing development or some other project that would generate revenue for the Town.

Ms. Kablack responded the voters will have to decide whether to act now or later. She noted there could be some fear that the land will not become available if the development rights are not obtained now. Mr. Kibbe opined market value of land will only increase.

Chairman Drobinski suggested keeping the article on the Warrant for the time being, which would send the message to the landowner that the Town is seriously considering the offer and work toward a mutually beneficial result.

Patricia Savage, Park and Recreation Director, stated the Park and Recreation Commission is indeed interested in securing additional playing fields, but noted concern for the financial position of the Town to accomplish this. She stated the cost of the actual development of the fields must be considered in addition to the cost of the development rights.

There was discussion on the viability of the gravel pit on North Road for recreation purposes. Town Manager Valente opined only half of the gravel has been removed at this time. Ms. Savage stated a field could be created there already. Ms. Valente responded safety concerns of children being around the machinery prevent use for recreation while the gravel is being removed.

Selectman O'Brien calculated that approximately 90 children could potentially reside in homes built on this property, should a housing development be constructed.

It was agreed to keep the article on the Warrant for the time being.

Roche Bros – Site Plan #SP01-362M

Present: Edward Roche, Roche Bros; James Sperber, Counsel, Roche Bros; Bruce Ey, Scofield Brothers of New England; Jody Kablack, Town Planner; Christopher Morely, Planning Board.

At 8:30 p.m. Chairman Drobinski convened a Public Hearing for the purpose of considering Site Plan Application #SP01-362M of Roche Brothers, d/b/a Sudbury Farms, for modification of Site Plan 99-348, by making changes to driveway and parking areas at 439 Boston Post Road, owned by 1776 Plaza Limited Partnership, zoned Limited Business District.

Notice of the Public Hearing was duly posted and advertised in the *Sudbury Town Crier* on January 10 and 17, 2001. Abutters within 300 feet according to the Assessors were provided written notice by first class mail. The Planning Boards of Acton, Concord, Framingham, Hudson, Lincoln, Marlborough, Maynard, Stow and Wayland were provided notice by first class mail. Additionally, the Sudbury Planning Board and other boards and officials were notified and requested to report to the Selectmen.

The reports received are summarized as follows:

- 1) From the Building Inspector dated December 21, 2001, stating the application appears to be appropriate and in order and addresses current inadequacies, such as too narrow parking spaces and inadequate width of driveway adjacent to the front entry.
- 2) From the Fire Chief dated December 18, 2001, stating the Department is in favor of the proposal and in particular the wider travel lane in front of the building which will be much safer.
- 3) From the Town Engineer/DPW Director dated January 2, 2002, commenting: (1) parking calculations should be included on the parking plan; (2) a Notice of Intent is required for the proposed 25 parking spaces on the south side; (3) landscape requirements should be noted on the parking plan; and (4) owners of Sudbury Crossing should review and provide feedback and possible alternative pedestrian and traffic circulation.
- 4) From the Town Engineer/DPW Director dated February 7, 2002, reviewing conditions of Site Plan #99-348 which were not complied with, as follows:
 - (1) Condition 9(c): the addition of trees scattered throughout the parking lot similar to parking lot easement A.
 - (2) Condition 11(c): creation of a formalized walkway along the entire front of the building. He notes that the location of shopping carts and the landscaped area in front of Alden Merrill prohibit pedestrians from using the concrete walk.
 - (3) Condition 17: submission of an as-built site plan. This is required as a condition of the Selectmen's approval and is required before a Certificate of Compliance can be issued.
- 5) From the Planning Board dated February 6, 2002, recommending approval with the following conditions:
 - (1) that the concrete walkway in front of the store remain clear of seasonal products and shopping carts to provide a safe pedestrian area; alternatively, that the walkway be widened and a clear walkway space no less than five feet wide be maintained.
 - (2) that the Board consider removal of approximately 41 parking spaces adjacent to Route 20 along the northern property boundary, and the expansion of the landscape aisle to 20-25 feet in width with inclusion of a 5-6 foot walkway within, in this location with 20 parallel parking spaces, requiring a joint effort of the two plaza owners. The walkway would link to the planned walkway to Osco Drug (now Brooks Pharmacy) and greatly enhance pedestrian movement in the area.
 - (3) that compliance with the increased landscaping standards of the new Zoning Bylaw, section 6300, be attempted. If the landscape and walkway buffer area along Route 20 are not required by the Board, the Planning Board recommends additional landscaping within the parking lot in consideration of removing the four landscape areas, and that in no case should the landscaping be reduced below that required by the previous Zoning Bylaw (5% of the parking area to be landscaped). [Removal of the four small landscape islands creates a landscape shortage of 300 sq. ft. under the previous bylaw.]
 - (4) that Sudbury Farms remove or relocate the planters located at the northeastern corner of the building, adjacent to the new walkway to Brooks Pharmacy.
- 6) From the Conservation Coordinator dated February 6, 2002, stating the Commission has approved the amended parking plan; they have extended the Order of Conditions for six months and approved the new parking area on the south side conditional upon receipt of an acceptable plan to address stormwater runoff from this area.
- 7) From the Design Review Board dated February 6, 2002, reporting the Board is of the opinion the modifications are outside of its authority and it has no recommendation, other than to comment that the plan is fine.
- 8) From the Health Director dated February 6, 2002, stating there are no Health Department issues.

9) From the Treasurer's Office advising there are no overdue taxes by the applicant.

10) From the Safety Officer, Sgt. Anthony Deldon, dated February 11, 2002, citing traffic concerns.

Town Manager Valente stated the Town Planner would become more involved with Site Plan Review, and asked Ms. Kablack to present the reports received to date. Ms. Kablack briefly reviewed the reports received from Town boards and commissions.

Ms. Valente distributed copies of a report, dated February 11, 2002, from Sgt. Anthony Deldon, concerning exiting the Friendly's parking lot with a left hand turn onto Route 20. Sgt. Deldon stated vehicles making such a turn are subject to a motor vehicle citation and fine for crossing a double solid yellow line. He reported he had consulted with Bob Farren, Mass. Highway Dept. (MHD), who suggested sending a letter to MHD Superintendent Thomas Waruzilla requesting the matter be studied.

Mr. Bruce Ey, Registered Engineer, Schofield Brothers of New England, introduced Mr. Edward Roche, Roche Bros. and Mr. James Sperber, Counsel for Roche Bros. He stated applications have been filed to amend current permits for this site plan. He briefly described the construction work done at Sudbury Farms on the original site plan, including drainage issues, parking areas, islands and landscaping.

Mr. Ey stated the striping for the parking lot was not performed according to the plan, which is why some of the new parking spots do not "fit" properly. He noted another supermarket on Route 20 will soon be closing for renovation, increasing the need for additional parking at Sudbury Farms. He stated 298 spaces were required, and 27 were waived by the Board, leaving 271 spaces in the lot. Utilizing a drawing, he pointed out the new striping plan as well as a new employee parking area in the rear of the property, 25 spaces of pervious surface [gravel].

Mr. Ey stated they requested an extension of the Order of Conditions from the Conservation Commission, which was granted. A more detailed plan was filed, showing the drainage from the gravel area actually enters the water quality inlets and goes out to the Route 20 drainage system, not into the wetlands.

The new striping and new employee parking will yield a total of 292 spaces. Mr. Ey stated an attempt is being made to increase the aisle width by 3-4 feet in front of the store to ease congestion. The walkway varies from 7 to 9 feet in width.

Selectman O'Brien asked if landscaping planters in front of the store could be moved to a different location as walking space between them is a little tight. He also asked if the edge of the walking area could be striped to indicate to store workers where the seasonal items could be displayed. Mr. Ey responded both items could be considered.

Mr. Ey stated two pre-existing landscaping islands will be moved, in order to accommodate the new striping pattern. Two lighting standards will also be moved. Roche Bros. would like to remove four 5' x 5' landscape islands that seem to be hit often by cars.

Mr. Ey stated Friendly's has granted permission to restripe the area in front of their restaurant.

Mr. Ey stated landscaping sacrifices parking, which is a major concern for this property. He stated Roche Bros would be willing to grant an easement to the abutting property to realign the parking in front of Osco in order to create room for a walkway down the front aisle to Route 20.

There was brief discussion on the coffee hut and nearby parking. It is still operated by a Sudbury resident and is grandfathered by a previous site plan.

Selectman O'Brien asked if the left hand turn issue was considered. Mr. Ey responded everyone was surprised to see a third lane that far from the intersection at Nobscot Road. There was no announcement or warning from Mass. Highway Dept. Mr. James Sperber, Counsel for Roche Bros., expressed concern for high use times [pre-holiday] and subsequent impact on the only traffic light if no left turn is allowed. Selectman O'Brien opined the Town Engineer has indicated the traffic light can be timed to allow more cars out of the shopping center.

Mr. Ey stated the only legal curb cut Roche Bros. has on Route 20 is the one exiting the Friendly's portion of the parking lot. They otherwise rely on easements to access abutting property and another exit. He expressed concern for the possibility that the agreements and easements will not remain permanent, thereby endangering access and exit to Sudbury Farms. He suggested consulting the State engineers to see if there was some way to provide a left hand turn. There was brief discussion regarding the use of police detail during holiday times of high traffic.

Town Manager Valente opined the double yellow line extending as far as this exit may be because the State has not formally abandoned the railroad crossing. The turning restriction may be in compliance with existing regulations for active rail lines. Mr. Ey concurred, and suggested Mass. Highway be consulted about scaling it back.

Mr. Ey stated they would like to begin work on the employee parking lot as soon as weather permits. He opined the new striping pattern is the best possible one, whatever the left hand turn issue result might be.

Christopher Morely, Planning Board, stated that the concrete in front of the building sufficiently identifies a different space. The Planning Board felt that widening the walkway was more important than striping the blacktop. He reiterated the Planning Board's belief that the easements should be made permanent, and to also look into whether the exit could be moved further east, beyond the double solid yellow line area. He stressed that parking must be coordinated between both sites.

Selectman O'Brien suggested the Town Engineer look at the access and exit issue with respect to the bank across the street. He noted it could be a safety issue if crossings are directly across from each other.

Chairman Drobinski stated the Board has no issues with the rear parking lot but needs more time on the front areas. Landscaping and access are major issues to be resolved.

After discussion, it was agreed that the applicant would contact Mass. Highway Dept. for clarification on the solid double yellow line, double lanes and left hand turn issues. Town Planner Jody Kablack will notify Brooks Pharmacy (formerly Osco Drug) about outstanding items on their site plan, and ask them to consider some suggestions posed by Roche Bros.

It was on motion unanimously

VOTED: To continue this matter until Monday, March 11, 2002, at 8:30 p.m.

Annual Election Ballot Questions and Annual Town Meeting Action

Town Manager Valente stated the Warrant contains matters which could require ballot questions: a Budget Override, Wastewater Feasibility Study and Cutting Property. She reminded the Board of the expenses

of a Special Town Election if questions are not approved for the March election. Selectman O'Brien suggested focusing the discussion on the override and wastewater questions.

As background information, Town Manager Valente briefly updated the Board and attendees on the budget situation. She stated various override amounts were originally suggested, with a final figure of almost \$3 million being chosen. She distributed a spreadsheet showing suggested budget allocations. The Board reviewed a draft ballot question and a memo, dated February 11, 2002, from Superintendent William Hurley outlining per pupil expenses. Discussion on the spreadsheet followed.

Chairman Drobinski thanked all citizens for their concern expressed in phone calls and email. Selectmen O'Brien and Roopenian concurred, expressing their appreciation for community involvement. The Board thanked the Finance Committee and the School Committees for their hard work as well.

Special concern was expressed for costs associated with bussing. Children in grades K-6 who live over 2 miles away from school must be bussed as mandated by the State. Town Manager Valente stated additional Chapter 70 monies may be approved before Town Meeting and, if so, would be allocated to the K-8 system.

Selectman Roopenian emphasized the Board must make decisions for the benefit of the whole community, not just for one group. She stressed the fact that many months have been spent searching for financial solutions, and that this situation will most likely continue for the next few years. She noted other communities are experiencing similar budgeting woes.

Town Manager Valente stressed that the cuts made by Town departments were not small ones nor easy to make. They represent significant cutbacks. She noted that, if the override passes, the overall operating budget for the entire Town would increase by 4%.

Following discussion, it was on motion unanimously

VOTED: To direct the Acting Town Clerk to place the following ballot question on the March 25, 2002 Town Election Ballot:

Shall the town of Sudbury be allowed to assess an additional \$2,999,995 in real estate and personal property taxes for the purposes of funding \$1,599,687 in operating expenses for the Sudbury Public Schools, \$575,100 in operating expenses for the Lincoln-Sudbury Regional District High School, \$715,321 in operating expenses for other Town departments, \$41,887 in operating expenses for the Pool Enterprise, and \$68,000 in capital expenditures for the fiscal year beginning July first, two thousand and two?

It was further on motion unanimously

VOTED: To authorize the Town Manager to represent the Board of Selectmen at the Finance Committee meeting to discuss the distribution of funds to match the Selectmen's vote this evening.

It was on motion unanimously

VOTED: To acknowledge withdrawal by the Planning Board of its article to amend the Official Town Map regarding Highland Avenue, as Town Meeting action is unnecessary.

It was on motion unanimously

VOTED: To accept the following petition articles for the 2002 Annual Town Meeting Warrant:

Amend Bylaws, Art. XV – Building Permit Fees
DPW Mining Revolving Fund
Amend Bylaws, Art. III.2 – Town Report
Amend Bylaws, Art. V.27 – Handicapped Parking
Willis Hill Bond
Amend Zoning Bylaw, s.6390A – Site Plan Appeal
Amend Zoning Bylaw, s.2230D.2 – Research District Lot Site

It was on motion unanimously

VOTED: To refer all petition zoning amendment bylaw articles to the Planning Board for its hearing and reports in accordance with Mass. General Laws Ch. 40A, s.5.

After discussion, it was on motion unanimously

VOTED: To approve the order of the Warrant as presented in the Draft Ordering, dated February 11, 2002.

After discussion, it was on motion unanimously

VOTED: To approve speaker assignments for petition articles as indicated on the Draft Ordering, dated February 11, 2002.

There was general discussion on funding/borrowing approaches, as well as pros and cons of Annual Town Election vs. Special Election on various articles. Town Manager Valente pointed out keeping the Wastewater Feasibility Study article on the ballot puts the issue in front of the voters as something that potentially needs funding. \$31,100 has been contributed toward this matter by outside sources. Conversely, there may not be ample time to adequately educate the voters on the issue.

Chairman Drobinski expressed concern for giving the impression that this study will increase the development of the area, implying a revenue source. The Board suggested the Economic Development Committee amend its report by deleting the words “increased density of use, including” to eliminate this impression, so that the sentence will now read “. . . entail the potential for mixed commercial and residential development.” The Board also requested the words “to facilitate long term sustainability” be added to the end of the last sentence. The report was accepted for the Warrant with such changes being made.

Regarding the Cutting property, it was confirmed to keep this article on the Warrant.

It was on motion unanimously

VOTED: To HOLD action on ballot questions for the articles known as Cutting Property and Wastewater Feasibility Study until after the Annual Town Meeting.

It was on motion unanimously

VOTED: To SUPPORT the following Annual Town Meeting articles: 2, 3, 5, 8, 22, 24, 26, 27, 29, 32, 33, 35, 36, 38, and 40. NOTE: Chairman Drobinski abstained from discussion and vote on Article #40.

It was further on motion unanimously

VOTED: To REPORT AT TOWN MEETING on the following Annual Town Meeting articles: 10, 25, and 28.

It was also on motion unanimously

VOTED: To INDEFINITELY POSTPONE the following Annual Town Meeting article: 9.

Environmental Bond

The Board reviewed a letter, dated February 5, 2002, from the Coalition for the Environmental Bond, currently before the Massachusetts House of Representatives Committee on Long Term Debt and Capital Expenditures. The letter presents information on this matter and urges support.

After discussion, it was on motion unanimously

VOTED: To authorize the Town Manager to write a letter supporting the Environmental Bond (section 2F of H. 4213, An Act Providing for Capital Facility Improvements and Repairs for the Commonwealth), as requested by the Coalition for the Environmental Bond, c/o Mass. Land Trust Coalition, in a communication dated February 5, 2002, on behalf of the Board.

Nextel

Town Manager Valente informed the Board that Nextel Communications has filed suit against the Town [Zoning Board of Appeals] for not allowing a cell tower on the Ti Sales land.

Executive Session

At 11:25 p.m. it was on motion by roll call unanimously

VOTED: To go into Executive Session for the purpose of discussing litigation matter Daly, et als vs. McCarthy, et als, CAS Trust, and Town of Sudbury, et als, Land Court No. 268003 (Codman Dr.). (Chairman Drobinski, aye, Selectman O'Brien, aye, Selectman Roopenian, aye).

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

There being no further business, the meeting adjourned at 11:32 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk