

IN BOARD OF SELECTMEN
TUESDAY, AUGUST 12, 2003

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

The statutory requirement for notice having been met, the meeting was convened at 7:35 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

Chairman Roopenian welcomed new staff in the Sudbury Public Schools, Water District, and Park and Recreation Department, as well as welcoming Police Dispatcher John Mitchell back from his tour of duty in Iraq.

Chairman Roopenian announced that Sudbury Day would be held on Saturday, September 20, rain or shine.

Selectman O'Brien stated the memorial stone for the September 11 Memorial Garden will be installed on August 13, and the date for dedication ceremonies will be September 11, with exact hours to be announced soon.

Selectman O'Brien announced that in the past few weeks at least three dozen citizens have become involved in Town Committees, including Property Tax Equity Review Committee, Community Housing Committee and the Blue Ribbon Housing Site Selection Committee. He noted these individuals had previously not been involved in Town government, and expressed appreciation for their willingness to serve and commit long hours in these endeavors.

Conservation Restriction – Lots 2 and 3, Boston Post Road

Present: Deborah Dineen, Conservation Coordinator.

Utilizing a plan, Deborah Dineen, Conservation Coordinator, pointed out the Conservation Restriction area on Lots 2 and 3 on Boston Post Road, west of the Shaw's Plaza, containing a pond area. In addition to ecological reasons (wetlands and habitat control), the restriction was necessary to limit roadside plantings, which would block view of the plaza when traveling east on Route 20. It also prevents these areas from being developed into additional housing at a later date. Passive recreation use will permit ice skating, fishing and walking. Ms. Dineen added that, as this land is undevelopable and is without frontage, there may be a small tax break for the owner.

It was noted that Town Counsel had reviewed and approved the documents.

After discussion, it was on motion unanimously

VOTED: To accept a Conservation Restriction granted by Sean Quinn Curran and Kelley Khozozian Curran, on 37,417 sq. ft. of land on Lot 3 at Boston Post Road, shown on "Plan of Easements Sudbury, Massachusetts" prepared for M. C. Harrington Development, drawn by Hannigan Engineering, Inc., Leominster, MA, dated March 20, 2002, revised October 22, 2002.

It was further on motion unanimously

VOTED: To accept a Conservation Restriction granted by Michael D. Harrington Development, Inc., on 36,615 sq. ft. of land on Lot 2 at Boston Post Road, shown on "Plan of Easements Sudbury, Massachusetts" prepared for M. C. Harrington Development, drawn by Hannigan Engineering, Inc., Leominster, MA, dated March 20, 2002, revised October 22, 2002.

Conservation Restriction – 35 Stone Root Lane

Present: Deborah Dineen, Conservation Coordinator.

Utilizing a plan, Deborah Dineen, Conservation Coordinator, pointed out the proposed Conservation Restriction area between Minuteman Lane and Stone Root Lane. This wetland area will tie into the former Meachen property, an adjacent Conservation area. This Restriction was required as part of the Order of Conditions allowing the construction of a single-family home within the 100' wetlands buffer at the time of the Stone Root Lane subdivision approval.

Responding to a question from Selectman O'Brien on why a Conservation Restriction is needed on land that is already considered a wetland area, Ms. Dineen stated a Conservation Restriction protects the land from damaging actions that might be taken by property owners who are unaware of the wetlands requirements. It creates a "red flag" that specific activities are prohibited. She acknowledged that new homeowners sometimes do not know what they can and cannot do with their property, and a Conservation Restriction will be reflected in their deed. She stated that wetlands laws may change in the future, and having the Restriction in place, protects the property under the laws as written today.

It was noted that Town Counsel had reviewed and approved the document.

It was on motion unanimously

VOTED: To accept a Conservation Restriction granted by David I. and Amy L. Rose in perpetuity on 3.39 acres of land located at 35 Stone Root Lane, shown on "Plan of Conservation Restriction Area in Sudbury, MA", dated May 24, 2000, prepared by Central Mass. Engineering & Survey, Inc.

Draft Comprehensive Conservation Plan – Wildlife Refuges

Present: Deborah Dineen, Conservation Coordinator; Karen Riggert and Grosvenor Wadman, Friends of the Assabet River.

The Board reviewed the following information: (1) report, dated August 11, 2003, by Deborah Dineen, Conservation Coordinator, offering a summary and comments on the Draft Comprehensive Conservation Plan and Environmental Assessment for the Eastern Massachusetts National Wildlife Refuge Complex. The Plan covers the Assabet River, Great Meadows and Oxbow Refuges. Portions of the Assabet River and Great Meadows Refuges are located within Sudbury. The comment period closes September 3, 2003. (2) letter, dated August 11, 2003, from Richard and Carole Wolfe, 637 Concord Road, asking if the Town was planning to comment on proposed user fees for visitors to the refuge areas, suggesting that Sudbury might wish to support bicycling, an activity proposed at a recent public hearing but not in the draft plan, and noting that shotgun and bow hunting at Great Meadows is being proposed in the plan, whereas it is not currently allowed.

Deborah Dineen, Conservation Coordinator, distributed copies of the three alternative plans for management of the Assabet River, Great Meadows and Oxbow Refuges. She briefly described where the Assabet River and Great Meadows areas were located within Sudbury, the basic conservation plans and recreational uses in these sites. She stated the proposed plans are merely alternatives, and not necessarily what the resulting plan will be. Overall, Alternative B appears to be her favored choice at this time, as it allows more recreational use and offers effective wildlife habitat management, yet public hunting on this land is a contentious issue.

Ms. Dineen introduced Karen Riggert and Grosvenor Wadman, members of the Friends of the Assabet River organization. She stated Karen's primary responsibility for this organization is to monitor how the refuge area is used and make recommendations for change or improvement. Mr. Grosvenor Wadman is monitoring the hazardous materials cleanup necessary on behalf of the Friends.

Ms. Dineen expressed concern that some proposed public uses are consumptive, i.e., consuming resources. Selectman O'Brien expressed his preference for limiting hunting to only bow hunting to reduce public impact on the area. Ms. Dineen concurred with Mr. O'Brien's position on hunting. Another issue raised was dog walking and that revised management plans would prohibit dog walking. Ms. Dineen stated she has no objection to bicycling on the trails as the activity has little impact on habitat.

Chairman Roopenian stated there is concern among residents for the proposed user fees. Ms. Dineen stated that user fees can be directed into revolving funds by the Refuge and used for law enforcement, etc.

Ms. Dineen clarified that the Refuge does pay revenue to the Town based on the value of the land. She stated the current annual payment in lieu of taxes (PILOT) revenue from Assabet River Refuge was \$10,179, and Great Meadows generated \$29,331 in PILOT revenue.

Chairman Roopenian summarized the Board's comments as follows: Recommend no hunting using guns, maximum public use, active management practices, low impact active recreation, such as dog walking and bicycle riding, as well as passive recreation, additional law enforcement. Additional comments from Board members can be forwarded to the Town Manager for compilation. A letter from the Board will be drafted and reviewed on September 2 in order to meet the September 3, 2003 deadline for comments.

Community Housing Committee

Present: Jody Kablack, Town Planner.

The Board reviewed a memo, dated August 4, 2003, from Jody Kablack, Town Planner, relative to Housing Certification under Executive Order 418. Receipt of such certification provides the Town advantage in receiving discretionary grant funds from the State, including Self-Help funds for open space purchases. Ms. Kablack requests the Board to adopt interim housing goals for the next 12 months to attain "provisional certification" toward development of an acceptable housing strategy. This would give the new Community Housing Committee time to produce a full housing plan. Ms. Kablack submitted criteria for an acceptable housing strategy plan, as well as four proposed interim goals for Fiscal Year 2004.

Ms. Kablack stated the Community Housing Committee is willing to take on the project of producing a full housing plan within 12 months that will meet the state's requirements.

Selectman O'Brien stated the Community Housing Committee has met twice thus far and expressed optimism the group can accomplish the aforementioned task.

It was on motion unanimously

VOTED: To accept and adopt FY2004 Interim Housing Goals as outlined in the August 4, 2003 memo from the Town Planner, to be incorporated in an application for Executive Order 418 provisional Housing Certification, and to assign the task of completing a housing strategy plan to obtain full certification to the Community Housing Committee.

Sidewalk Easement – Willow Hill School, 98 Haynes Road

Present: Jody Kablack, Town Planner.

The Board reviewed a report, dated August 8, 2003, from the Director of Public Works, stating Condition 13a of the Board of Selectmen's Decision for the Willow Hill School contained a condition based on no defined right-of-way along Haynes Road. Since that time, right-of-way has been determined on a plan titled "Partial Plot Plan", dated May 27, 2003, drawn by Judith Nitsch Engineering. The DPW Director requests that Condition 13a be amended accordingly, from a 20-foot wide walkway easement to a 10-foot wide walkway easement.

Ms. Kablack stated some of the difficulty in locating the right-of-way is due to Haynes Road being a long-established road, with little documentation. She stated a recent survey has determined precisely where the right-of-way is located.

At the request of the Director of Public Works, it was on motion unanimously

VOTED: To accept a Walkway Easement, dated June 19, 2003, from the Willow Hill School on property at 98 Haynes Road, and to amend the Board's approval, dated July 22, 2002, of Site Plan #02-367, by modifying Condition 13a to require a 10-foot wide walkway easement, instead of a 20-foot wide walkway easement.

Site Plan #03-370 – Sudbury Valley Trustees

Present: Ellen Sturgis, Director of Operations, Ron McAdow, Director, Sudbury Valley Trustees; Jody Kablack, Town Planner.

At 8:45 p.m. Chairman Roopenian reconvened a Public Hearing for continued consideration of Site Plan Application #03-370 of Sudbury Valley Trustees, a non-profit organization, for approval of a site plan in accordance with Town of Sudbury Bylaw Article IX.6000, Section 6300, Site Plan Review, and Section 2130 Exempt Uses (educational), for a change in use from residential to business for location of the Sudbury Valley Trustees headquarters involving minimal exterior renovations to the existing structures, construction of a parking lot and other site improvements on property at 18 Wolbach Road, owned by the Sudbury Valley Trustees, and zoned Residential C-2. The Board also considered a Public Way Access Permit application dated July 11, 2003. These matters were previously discussed on July 22, 2003.

The Board reviewed the following new information: (1) letter, dated August 1, 2003, from Ellen Sturgis, Director of Operations, Sudbury Valley Trustees, clarifying items regarding work on Wolbach Road as determined at a site walk by the applicant and the Town Engineer, specifically, the "westerly shoulder of the road will be widened up to 3 feet wherever possible, using gravel and loam (no paving required); where ledge comes up to the road, no change is required; no trees along Wolbach Road need to be removed; in the area in front of the house, gravel up to the landscaped bed is sufficient; the guard rail requested can be of

wood, and should be a minimum of 2.5 feet high; at the corner of Old Sudbury Road and Wolbach Road, digging out the fallen stone wall and vegetation should be sufficient for stopping sight distance; and SVT will contact the Safety Officer regarding possible signage on Route 27 coming down the hill to warn drivers of turning traffic.” (2) Draft Decision prepared by Town staff.

Town Manager Valente stated a requirement for a bicycle rack was deleted from the Decision. Ms. Jody Kablack, Town Planner, stated the applicant indicated bicycles would be parked in the barn.

Selectman Drobinski stated he was present on the site walk with the Town Engineer and is satisfied all issues have been resolved. Selectman O’Brien concurred.

Based upon a determination that the foregoing evidence, together with the plans submitted, conformed to the intent and purpose of the Zoning Bylaw requirements, a motion was made and unanimously approved as follows:

VOTED: To approve Site Plan Application No. 03-370 of Sudbury Valley Trustees, for a change in use from residential to business for location of the Sudbury Valley Trustees headquarters involving minimal exterior renovations to the existing structures, construction of a parking lot and other site improvements on property located at 18 Wolbach Road, owned by Sudbury Valley Trustees, as shown on site plan drawings comprised of Sheets: S1 Existing conditions Plan, S2 Site Modifications Plan (last revised July 18, 2003), S3 Site Details, S4 Septic System Upgrade Plan, SE1 Site Electrical Plan (last revised July 22, 2003), FF101 First & Second Floor Furniture Layout, A200 Exterior Elevations, all dated January 29, 2003, and ASK-1 Exterior Light Fixture Elevation dated July 22, 2003, all drawn by Sterling associates Incorporated, Architects, subject to compliance with all governmental laws and regulations including, but not limited to Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, zoning, building and health laws and regulations, and further subject to the following conditions insofar as they apply to the property:

1. Approval of the drainage system, including traps, catch basins, and periodic maintenance as required by the Town Engineer. Drainage calculations shall be submitted as required by the Town Engineer.
2. Placement of all new utilities underground.
3. The grant of an earth removal permit by the Earth Removal Board, if applicable.
4. Approval of signs or advertising devices as required under the applicable provisions of the Zoning Bylaw. The proposed sign at the intersection of Old Sudbury Road and Wolbach Road shall be a minimum of 10 feet from the edge of the pavement, and its placement shall not impair sight distance for vehicles exiting Wolbach Road.
5. Approval by the Historic Districts Commission of final lighting design which is appropriate for both a historic property and its proposed use.
6. No use of salt or chemical de-icers on the site unless approved by the Conservation Commission.
7. No storage or use of chemicals on site except in conformity with guidelines and requirements of the Board of Health and the Fire Chief; the owner or operator of the site shall comply with the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G.L. Chapter 21E, as amended, and all regulations issued thereunder.

8. Any disposal or removal of effluent and wastes generated on the site shall conform to the requirements of the Board of Health, Town Engineer and/or Conservation Commission, as appropriate.
9. If required by the Board of Health, Conservation Commission and/or Board of Selectmen, the applicant shall install one or more monitoring wells, or other protective device, on the site, including the Town's right of access for periodic testing and monitoring thereof.
10. If the north parking lot is paved at any time, drainage shall be provided in accordance with the requirements of the Town Engineer/Director of Public Works, with consideration being given to the Planning Board's preference for a system of vegetated swales at the edges of the parking lot instead of the proposed basins shown on the plan.
11. Sight Distances:
 - a) At the intersection of Wolbach Road and Old Sudbury Road (Route 27), stopping sight distance for the existing posted speed limit (currently 45 miles per hour) shall be maintained at all times by Sudbury Valley Trustees (SVT) to the satisfaction of the Town Engineer/Director of Public Works. To accomplish this, SVT shall remove the fallen stone wall and vegetation at the intersection. Sight distances shall be verified and approved by the Town Engineer/Director of Public Works prior to issuance of the occupancy permit, and additional work performed if required by said DPW Director.
 - b) Sudbury Valley Trustees shall contact the Police Safety Officer regarding possible signage on Route 27 on the hill approaching the SVT site to warn drivers of turning traffic.
12. Wolbach Road improvements to be made by Sudbury Valley Trustees:
 - a) To accommodate emergency vehicles, the westerly shoulder of the road from Old Sudbury Road to the southerly entrance to the existing barn shall be widened by up to three (3) feet wherever possible, using a minimum of 12 inches of gravel and 3 inches of loam (no paving required).
 - * Where ledge comes up to the road, no change is required.
 - * No trees need be removed.
 - * In the area in front of the former house, gravel shall be put down up to the landscaped bed.
 - b) A guard rail shall be installed along the easterly side between utility poles UP4-2 and UP5-22. This guard rail should be a minimum of 2.5 feet high and may be of wood.
13. SVT shall be responsible for posting Fire Lanes along Wolbach Road, as designated by the Fire Chief.
14. Grant by Sudbury Valley Trustees of roadway easements to the Town to include the existing roadway where it exceeds the boundaries of the street layout in two locations (at the Old Sudbury Road intersection and in the vicinity of the house and barn).
15. Addition of the following to the site plan:
 - a) Existing sight distances at the intersection of Wolbach and Old Sudbury Roads.
 - b) Zoning District designation.
16. As the permitting authority, the Board of Selectmen hereby approves a Public Way Access Permit for the proposed access to the new parking lot, in accordance with the above referenced plans as conditioned above.

17. Submission of an "as built" site plan. Any change in the physical condition of the site, including changes in the location or design of structures or systems, following approval of the site plan, will require approval of the Board of Selectmen.
18. No Building Permit shall be issued until this Decision has been recorded in the Middlesex South Registry of Deeds, the plans are approved and signed, and certain items noted above [1 and 15], as specified by the Board, are complied with.
19. No Occupancy Permit shall be issued until certain items noted above [2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 14 and 17], as specified by the Board, are complied with.
20. This approval shall lapse if construction and a substantial use thereof have not commenced except for good cause within two (2) years from the effective date of said approval.

Cingular Wireless – Sanitary Landfill Site, 20 Boston Post Road

Present: Jody Kablack, Town Planner.

The Board reviewed the following information: (1) email communication, dated July 31, 2003, from Eric Campbell, Cingular Wireless, submitting a revised proposal for antenna to be added to the AT&T wireless facility at the Sanitary Landfill site on Boston Post Road. Mr. Campbell stated the antenna can be "wrapped", giving the appearance of being inside the pole and not directly in view. (2) email communication, dated August 6, 2003, from Eric Campbell, Cingular Wireless, submitting revised photo simulation and Site Plan reflecting proposed changes previously discussed, and offering to discuss the Police Department's transmitter needs. Cingular is willing to install the police equipment in its equipment space and hang their antenna on top of the pole, provided such work is done at the same time as the Cingular installation.

Ms. Jody Kablack, Town Planner, briefly reviewed the revised proposal, and stated Eric Campbell of Cingular is working with his engineering group to enclose the coaxial cable as well as the antenna. Selectman Drobinski expressed appreciation for Cingular's willingness to consider the Board's concerns over aesthetics and act appropriately.

Town Manager Valente stated the Town does not have all the necessary equipment for the Police Department's needs at this time, but noted Cingular's offer to help install such equipment when procured, will save the Town a significant amount of money.

It was on motion unanimously

VOTED: To approve a revised proposal, dated August 6, 2003, to that approved on July 22, 2003, from Eric H. Campbell on behalf of Southwestern Bell Mobile Systems LLC, d/b/a Cingular Wireless, for the addition of Cingular Wireless antennae and coax to the existing AT&T Wireless cell tower and a 10' extension of the equipment building, located at the Sanitary Landfill site, 20 Boston Post Road, with revisions consisting of modified antennae configuration and to accept the offer of assistance in mounting the Town's equipment on the monopole and storing Town equipment in its storage building.

Minutes

It was on motion unanimously

VOTED: To approve special meeting minutes of June 9, 2003, regular and executive session minutes of July 15, 2003, and regular and executive session minutes of July 22, 2003, as drafted.

Sudbury Youth Boys Basketball Donation

It was on motion unanimously

VOTED: To accept a donation in the amount of \$6,580.33 from Jerry Kazin, on behalf of Sudbury Youth Boys Basketball, and to authorize its deposit into a special revenue fund and expenditure for expenses associated with recreation programs, sports equipment and scholarships that will benefit the youth of Sudbury.

Fire Department – Grant for EMT Training

It was on motion unanimously

VOTED: To accept a grant in the amount of \$2,000 from Tenet Healthcare Foundation to be separately accounted for and expended by the Fire Department for EMT Training.

Walkway Easement – 98 Robert Best Road

It was on motion unanimously

VOTED: To accept a Walkway Easement granted by Lawrence A. and Joanne M. Lief, dated July 16, 2003 on property at 98 Robert Best Road, for purposes of a walkway on Peakham Road.

Site Plan #02-363 -- Department of Public Works Building

It was on motion unanimously

VOTED: To approve Landscape Plan (Sheets L-1 and L-2, dated May 2002) for the Department of Public Works Building, 275 Old Lancaster Road, relative to Site Plan Application SP02-363.

Blue Ribbon Housing Site Selection Committee

Town Manager Valente briefly explained the Town Planner's recommendation to eliminate one position on this Committee in order to make it an odd number of members. Members serving as representatives of other boards or commissions need to be approved as well. Ms. Valente stated further she has prepared a revised mission statement to follow the format of other mission statements, and asked the Board's approval.

It was on motion unanimously

VOTED: To eliminate the appointment of an individual from the Land Use Priorities Committee to the Blue Ribbon Housing Site Selection Committee.

It was also on motion unanimously

VOTED: To approve appointment of the following individuals to the Blue Ribbon Housing Site Selection Committee, each for a term to expire on April 30, 2004:

Stephen B. Shugrue
Joseph D. Bausk
Mark C. Ensign

Sudbury Housing Authority
Council on Aging
Conservation Commission

It was further on motion unanimously

VOTED: To approve a revised mission statement as prepared by the Town Manager.

Special Municipal Employee – Recording Secretary

Town Manager Valente briefly explained that it would be in the Town's best interest to declare the position of Recording Secretary for all boards and committees as a Special Municipal Employee so that such individuals may hold other employment with the Town as well as part time employment in the capacity of recording secretary. It is difficult to recruit recording secretaries, and preventing dual employment would significantly impact proper functioning of various boards and committees.

In accordance with a communication dated August 7, 2003, from Dianne M. Meibaum, General Counsel for the Commonwealth's State Ethics Commission, and the recommendation of Sudbury Town Counsel Paul L. Kenny, it was on motion unanimously

VOTED: In accordance with Chapter 268A of the General Laws of Massachusetts, any person performing the duties of the position of Recording Secretary shall be classified as a Special Municipal Employee of the Town of Sudbury.

Marlborough Easterly Wastewater Plant Permit

Town Manager Valente stated the Town has just received a response from Ellen Roy Herzfelder to the Board's invitation to DEP and EPA to meet to discuss the issue of the overdue permit of the Marlborough Easterly Wastewater Treatment Plant and the high phosphorous discharge into Hop Brook. She stated the invitation was politely declined, though additional information was presented that progress is being made, and on track, according to the DEP timetable.

Selectman O'Brien suggested working with Senator Susan Fargo to see if progress can be enhanced from the "inside." Selectman Drobinski offered to research agreements reached regarding the Assabet River.

The Board directed the Town Manager to respond to Ms. Herzfelder's letter, thanking her for her letter.

There being no further business, the meeting adjourned at 9:25 p.m.

Attest: _____

Maureen G. Valente
Town Manager-Clerk