

IN BOARD OF SELECTMEN
TUESDAY, JULY 8, 2003

Present: Chairman Kirsten D. Roopenian, Selectman Lawrence W. O'Brien. Selectman John Drobinski was absent.

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 Roopenian thanked all Fourth of July parade participants, including Joseph and Jacqueline Bausk, and the Chamber of Commerce. She also thanked the Police and Fire Departments for ensuring a safe parade for residents. Lastly, she thanked Town Manager Valente for representing Town government in the absence of the Board of Selectmen, who were absent due to previous commitments.

Conservation Commission – Interview/Appointment

Present: Greg J. Topham, 19 Dakin Road.

Town Manager Valente stated she had interviewed Mr. Greg J. Topham for the vacancy on the Conservation Commission, and requested the Selectmen approve his appointment, concurring with the unanimous recommendation of the Conservation Commission in its April 15, 2003 memo to the Town Manager.

Mr. Topham stated he has lived in Sudbury for over thirty years, and has seen many changes in the community, some good, some not. He stated he has been attending ConCom meetings for approximately six months, and has learned a lot about the importance of protecting natural resources such as wetlands and endangered species, and water for Town wells, and how development can impact those things. He stated he wants to help improve the image of the Conservation Commission, noting that it is not "bad", but simply trying to follow the guidelines for protecting natural resources while working with people fairly. He opined much of the bad reputation would disappear if residents contemplating projects on their property would learn what they can and cannot do before they begin the project. Mr. Topham opined increased awareness of local bylaws and other regulations would alleviate much of the discord that exists.

Responding to a question from Selectman O'Brien, Mr. Topham stated he would like to see the ConCom meetings televised, as many people have an interest in what various commissions do, yet are unable to attend the meeting or do not feel comfortable doing so. Residents could see how amicable solutions are reached, and begin dissolving the bad reputation the Commission has with some people. Chairman Roopenian agreed that communication from the commissioners is important in an outreach effort to the community.

It was on motion unanimously

VOTED: To approve the appointment by the Town Manager of Greg J. Topham, 19 Dakin Road, to the Conservation Commission for a three-year term to expire April 30, 2006, replacing Judith Sheldon, as recommended by the said Commission.

Utility Petitions – Boston Edison/NStar and Verizon

Present: Christine Cosby, Boston Edison Company; Christopher Parella, Verizon.

At 7:45 p.m. Chairman Roopenian convened a Public Hearing to consider various utility petitions of Boston Edison Co. d/b/a NStar Electric and Verizon New England, Inc. Specific petitions and information received thus far are as follows:

1. Report, dated July 3, 2003, from the Director of Public Works, stating no objections to the proposed work to be done by NStar with regard to Utility Petitions #03-3, 5 and 6.
2. Report, dated July 7, 2003, from the Wiring Inspector, stating no problems with said petitions, however, reminding NStar that double and triple poles still exist in the town, which should be addressed and removed in a timely manner.
3. Request for a Grant of Location, dated June 16, 2003, from Boston Edison Company, d/b/a NSTAR Electric and Verizon New England, Inc. for various poles and anchor guys on Goodman's Hill Road, Hudson Road, and Boston Post Road, accompanied by Work Order #1277431, dated April 8, 2003. Work is necessary to support the existing pole line and new circuit improvements.

Town Manager Valente stated abutters were notified of the hearing by first class mail in accordance with G.L.ch.166, s.21 & 22.

Ms. Christine Cosby, Boston Edison Company, stated she is withdrawing portions (anchor guys) of the two petitions involving Boston Post Road and Hudson Road, as the strain on those poles has been alleviated through other means. She stated the remaining work is necessary to support the existing pole line and new circuit improvements and addressed the following petitions:

UP03-03 – Old Lancaster Road: on the northwesterly side, relocation of pole 153/26 at Green Hill, one existing pole to be removed. This matter was continued from June 10, 2003.

Ms. Cosby brought back the sketch Ms. Eliza Gilmartin had submitted as a proposed solution to the project suggested by NStar. Ms. Cosby stated the existing circuit ends at one pole, then continues down to Lancaster Road. The pole in question is a "side tap pole", and is used by other utilities. The new circuit cannot be connected to this pole, as suggested by Ms. Gilmartin. The new circuit is also a larger, heavier cable, which cannot span large areas, and must go in as straight a line as possible, and not over an intersection.

Chairman Roopenian asked about the sagging cables held up by rope at this intersection. Ms. Cosby stated they are waiting for the other utilities to transfer their wires before the poles can be removed. Three of the six poles will be removed, once all utilities are transferred after new circuit activation. Utilities are removed in the following order: electric, fire alarm, cable television, and telephone. Once NStar has transferred its lines, it notifies the next utility they can remove theirs.

Ms. Cosby clarified the relocation of the pole, fifteen feet from its present location, will lessen the strain on the cable, as well as place the pole farther from the trees.

Mr. Christopher Parella, Verizon, stated once Verizon is notified that cable television has been removed from all poles in question, he can get telephone cable transferred within 60 days. There was

discussion regarding the utility database, which indicates where poles still have utilities waiting to be transferred and the seeming lack of progress on getting double poles resolved. Town Manager Valente stated she was told today she has been given a password so she can check the database to assess progress. If significant progress is not being made, the Town could begin to assess a fine to the appropriate utility.

With regard to Ms. Gilmartin's suggestion of placing the pole across the street from her property, Ms. Cosby stated that would cause the cable to run over private property, which NStar cannot do. Cable must remain in the public way.

Selectman O'Brien opined it would not be prudent to hold up any of these utility petitions, as they are in the same general area of town and are related to the same circuit upgrade.

It was on motion unanimously

VOTED: To approve a Grant of Location on petition UP#03-03, dated May 20, 2003, to Boston Edison Company, d/b/a NSTAR Electric, and Verizon New England, Inc., for relocation of Pole 153/26, located on Old Lancaster Road at Green Hill Road as shown on "Plan of: Old Lancaster Rd., Sudbury Showing: Proposed Pole Relocation", Work Order #1277431, dated April 8, 2003.

UP03-05(a) – **Goodman's Hill Road:** northerly side, approximately 498 ft. east of Walker Farm Road, location of one stub pole (24/59S) with one anchor guy on said pole.

It was on motion unanimously

VOTED: To approve a Grant of Location on petition UP#03-05(a), dated June 16, 2003, to Boston Edison Company, d/b/a NSTAR Electric, and Verizon New England, Inc., for location of Pole 24/59S, with addition of anchor guy, located on Goodman's Hill Road, on the northerly side, approximately 498 ft. east of Walker Farm Road as shown on "Plan of: Goodmans Hill Rd., Sudbury Showing: Proposed Stub Pole", dated April 8, 2003, Work Order #1277431, dated April 8, 2003.

UP03-05(b) – **Hudson Road:** northeasterly side, approximately 400 ft. southeast of Maynard Road, location of one stub pole (6/14S). [withdrawn: one anchor guy at pole 6/17.]

It was on motion unanimously

VOTED: To approve a Grant of Location on petition UP#03-05(b), dated June 16, 2003, to Boston Edison Company, d/b/a NSTAR Electric, and Verizon New England, Inc., for location of stub Pole 6/14S, located on Hudson Road, on the northeasterly side, approximately 400 ft. southeast of Maynard Road as shown on "Plan of: Maynard Rd. & Hudson Rd. Sudbury", Work Order #1277431, dated April 8, 2003, revised July 14, 2003.

UP03-05(c) – **Boston Post Road:** Withdrawn.

UP03-06 – **Goodman's Hill Road:** southwesterly side, approximately 140 ft. northwest of Boston Post Road, relocation of pole 24/70, one existing pole to be removed (anchor guy on private property).

It was on motion unanimously

VOTED: To approve a Grant of Location on petition UP#03-06, dated June 16, 2003, to Boston Edison Company, d/b/a NSTAR Electric, and Verizon New England, Inc., for location of Pole 24/70, located on Goodman's Hill Road, southwesterly side, approximately 140 ft. northwest of Boston Post Road, as shown on "Plan of: Goodman Hill Rd., Sudbury Showing: Proposed Pole Relocation and Anchor Guy", Work Order #1277431, dated May 27, 2003, with the existing pole to be removed.

Waiver of Overhead Utility Bylaw – Verizon, Raymond Road

Present: Christopher Parella, Manager, Right of Way, Verizon New England, Inc.

The Board reviewed the following information: (1) Request, dated May 29, 2003, from Verizon, seeking waiver of the Town's overhead utility bylaw to abandon the underground installation and convert to aerial utility on existing poles 6 through 30 on Raymond Road, as shown on Verizon sketch #9AA33D, dated May 26, 2003; and (2) report, dated July 3, 2003, from the Town Engineer/DPW Director, recommending the Board require service to four houses south of Warren Road be serviced by the relocation via underground installation beneath Raymond Road (boring or jacking).

Town Manager Valente stated that, although a public hearing was not required, abutting residents were notified of this meeting.

Mr. Christopher Parella, Manager – Right of Way, Verizon, briefly described the present situation regarding the current underground installation along Raymond Road. This particular cable is not contained within a conduit and, due to the high water table, has been troublesome many times and causing service outages. Starting at Route 20, Raymond Road is serviced by aerial Verizon lines, then it drops to underground service in this location, and some homes are serviced aerially again from this buried cable near the last poles of the line. Mr. Parella stated Verizon would like to bring it all above ground to reduce maintenance efforts and improve service overall. Poles already exist along Raymond Road, carrying other utilities. No new poles would be added.

Selectman O'Brien asked, for clarification purposes, if all service along Warren Road and south of Warren Road along Raymond would be left as is. Mr. Parella responded the area involving Poles 27 through 30 along Raymond Road is included in their request, but acknowledged that several homes are fed through underground service from the pole.

Mr. Parella stated Verizon tracks which areas require the most maintenance. He stated this area represents the second highest maintenance district in the six communities in his region.

Arlene Epstein, 66 Raymond Road, stated she has lived in her home for 25 years without telephone service interruption, except for a couple times when the pole was struck by a vehicle. Additionally, she asked what costs are involved now compared to new costs of this project. Lastly, she expressed concern that poles present a safety issue, as transformers can drop onto vehicles once the pole is struck.

Mr. Parella responded that no new poles would be added, as poles already carry cable television and electrical service. The telephone service would be added to existing poles.

Jay Atlas, 49 Raymond Road, stated he could not recall any poles south of Warren Road on Raymond Road, and stated his and surrounding homes are serviced underground. Mr. Parella responded the poles may be difficult to see as they are within the trees and shrubbery, but the poles do exist. Pole 27 is on the corner of Warren Road and Raymond Road, with Poles 28 through 30 following 100 feet apart.

Nicholas Felici, 75 Raymond Road, opined the poles south of Warren Road would have to be directly in front of his house, and he does not see them. His house was built five years ago, and is serviced underground. His neighbor's house at 79 Raymond Road is 400 feet back from the road, and Mr. Felici opined running aerial wire that distance would not be wise. Concurring with Ms. Epstein's remarks, he stated there has been no service interruption in those five years.

It was suggested continuing this matter until some photographs can be provided, showing the existing poles and their proximity to homes along Raymond Road. Town Manager Valente suggested a sketch drawn to scale would also be helpful.

Mr. Parella reiterated his earlier comment that homes south of Warren Road would not be impacted by this request. Homes at 75, 79, 85, and 93, Raymond Road will be unaffected. He stated further poles 27 through 30 must be included in this request as they will bring the service to the ground for underground service to the homes. Some homes have underground service for electric and cable television, and the conduit contains space for a third utility, which Verizon can occupy at a later date when resources allow.

David Epstein, 66 Raymond Road, expressed concern for poles dotting the landscape, and stated there has been no interruption in service in the past 25 years, even with the very wet spring. He advised caution in allowing poles to be used, when it is the Town's goal to get rid of poles.

Selectman O'Brien asked how service could be improved or enhanced, when there has been no service interruption, as residents stated.

Chairman Roopenian asked Mr. Parella to obtain photographs of the poles and the location where the aerial service would cross Warren Road, and method of connection to all residences.

It was on motion unanimously

VOTED: To continue this matter until July 15, 2003, at 9:30 p.m., to allow time for the applicant to obtain additional information.

Alcoholic Beverages License Hearing - Victory Cigar, 615 Boston Post Road – Adding Patio

Present: Mark W. Piscillo, Manager.

At 8:40 p.m. Chairman Roopenian convened a Public Hearing to consider the application of Victory Cigar, Ltd., Mark W. Piscillo, Manager, 615 Boston Post Road, holder of a Restaurant License for the Sale of All Alcoholic Beverages, for permission to amend the description of the premises by adding: "14' x 21'4" patio for dining/smoking in front of building (north side)".

The Board reviewed the following information: (1) letter, dated May 22, 2003, received June 13, 2003, from Mark W. Piscillo, Manager, Victory Cigar, 615 Boston Post Road, requesting the addition of a granite patio along with black wrought iron fencing on the north side of the premises as shown on attached sketch. Hours of operation of the outdoor café area will coincide with existing hours as established on current licensing. (2) report, dated July 1, 2003, from the Building Inspector, stating this use is permitted under Section 2242 of the Zoning Bylaw and that there have been no problems or issues with this business, and recommending application be made to the Design Review Board for their input. (3) report, dated July 3, 2003, from the Fire Chief, stating the Fire Department has no objection to the request and there have been no problems with this business. (4) verbal report, dated July 7, 2003, from the Director of Health,

stating this request for outdoor seating meets Health Department approval only if total seating is within the existing seating capacity limit.

Town Manager Valente stated Notice of the Public Hearing was publicized in the *Metrowest Daily News* on June 20, 2003. Abutters were notified by certified mail, return receipt, in accordance with G.L. ch. 138. Ms. Valente reminded the Board that, as the application was received on June 13, 2003, it must act on the request by July 11, 2003.

Mr. Mark Piscillo, Manager, Victory Cigar, briefly described the proposed addition to the premises, noting that it will enhance the appearance from Route 20 (Boston Post Road) as well as offer "al fresco" dining for patrons on weather-appropriate days. He stated several tables and chairs will be brought outside and not increase the seating capacity of 19 seats, seating to be enclosed within a wrought iron fence. Responding to a question from Selectman O'Brien, he stated the area would eliminate the step down into his store.

Mr. Piscillo submitted a letter dated June 26, 2003, from the property owner providing only preliminary approval of the patio, subject to the resolution of various issues before final approval can be granted. Mr. Piscillo stated that, in the event he should close the store, the area of the outdoor patio would be brought back to its original state, at his expense.

Mr. Piscillo presented two letters supporting his application from tenants of Dudley Square. Chairman Roopenian reminded the applicant he should check with the Design Review Board before beginning this project. She explained the DRB's function is to ensure signage is in compliance and make aesthetic recommendations on any changes to exteriors of businesses. Mr. Piscillo responded that he would like to make some changes to the sign to include reference to dining as many people do not realize that food is served.

It was on motion unanimously

VOTED: To approve the application of Victory Cigar, Ltd., Mark W. Piscillo, Manager, 615 Boston Post Road, holder of a Restaurant License for the Sale of All Alcoholic Beverages, for permission to amend the description of the premises by adding: "14' x 21'4" patio for dining/smoking in front of building (north side)", subject to receiving written approval by the property owner, and further subject to approval by the Alcoholic Beverages Control Commission.

Site Plan – 80 Union Avenue

At 9:05 Chairman Roopenian reconvened a Public Hearing for the purpose of continued consideration of application for approval of a site plan on of Union Avenue Realty Trust, in accordance with Town of Sudbury Zoning Bylaw Art. IX.600, Section 6300, to construct a one-story 8,000 sq. ft. storage building, repave the parking lot, construct a storm water management system and resource area improvements on property located at 80 Union Avenue, owned by Union Avenue Realty Trust and zoned Industrial District 2. This matter was continued from June 10, 2003.

Town Manager Valente stated Town staff prepared a Draft Decision on this matter, but due to the absence of Selectman Drobinski, further consideration must be postponed. According to Town bylaws, Site Plan Review requires the full Board of Selectmen in attendance.

It was therefore on motion unanimously

VOTED: To continue this matter until July 22, 2003 at 9:30 p.m.

Hop Brook Protection Association

Present: Frank Lyons, President; Ursula Lyons, Michael E. Melnick, Hop Brook Protection Association.

Mr. Frank Lyons, President, Hop Brook Protection Association, briefly recalled events to date involving the Marlborough Easterly Waste Water Treatment Plant and continued discharge of excess phosphorous into headwaters of Hop Brook. The area affected covers 130 acres of Hop Brook, 90 of which are located in the Town of Sudbury. Mr. Lyons opined the affected areas resemble a cesspool during the warm weather when the excess phosphorous exacerbates excessive algae growth and resulting odor. A new permit defining the allowable percentage of discharge has not been issued since the expiration of the current one over nine years ago, so the existing levels are maintained.

Mr. Lyons continued as follows: Permits are generally issued every five years, but this situation has been ignored. A permit had been issued, but was appealed by the City of Marlborough. Adherence to the new permit would have required significant upgrade to their facility, which Marlborough did not want to finance. Mediation began, without success. The appeal prevented the implementation of a new permit, and all efforts toward resolution have ceased.

Mr. Lyons stated he recently drafted a letter to the Massachusetts Executive Office of Environmental Affairs and the Environmental Protection Agency (EPA), decided it was too stern, and rewrote the letter. The letter urges recipients to issue the overdue permit with revised discharge limits, and requests a public forum to provide citizens with an opportunity to exchange information with the Department of Environmental Protection (DEP) and the EPA. He asked the Board of Selectmen to consider signing the letter, along with officials from the Hop Brook Protection Association, Sudbury Valley Trustees, Wayside Inn Corporation, and Wild and Scenic River Stewardship Council. He would like the letter to go out under Town of Sudbury letterhead. Another possibility is that the Board of Selectmen alone sign the letter, requesting the public forum.

Selectman O'Brien noted the standards of the DEP and EPA are different, and asked which one takes precedence. Mr. Lyons responded the permit is issued jointly in Massachusetts, and may have different standards. The permittee would have to meet the more stringent standard, if different standards were listed. Mr. Lyons opined the DEP is slower to recognize advances in sewage technology.

Selectman O'Brien stated new staff are now in office at the State level, and suggested first bringing these people up to speed on previous events prior to a public forum. He opined a public forum might create animosity and defensiveness and further impact any efforts at resolution. Mr. Lyons stated the letter and public forum is not intended to be the defining moment, but rather part of a campaign. Mr. Lyons stated he is trying to arrange a meeting with a new DEP official, and State Representative Susan Pope is also working on their behalf.

Chairman Roopenian recalled difficulties with the Department of Transportation and road projects were significantly alleviated after Transportation Director Matthew Amorello was able to meet with the Board of Selectmen. She opined inviting new officials to meet with the Selectmen first may be received in a more positive light, instead of potentially embarrassing officials in a public forum. Discussion followed.

Responding to a question from Ursula Lyons, Chairman Roopenian clarified that a meeting with the Selectmen would be of a much smaller scale than the public forum the HPBA wishes, and noted that Board of Selectmen meetings are open to the public. Mr. Lyons stated there are individuals the HPBA would like to invite to such a meeting.

It was agreed the Town Manager and Mr. Lyons would discuss wording of such an invitation, and Selectman Drobinski will be informed of tonight's discussion to allow for his input. Town Manager Valente clarified the letter would present the Town of Sudbury's concerns in this matter, briefly recount the events for historical purpose, politely invite pertinent officials to a Board of Selectmen meeting for discussion, and note that outside groups would be allowed to attend as members of the audience.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular and executive sessions of June 24, 2003, as drafted.

Fire Department Gift Account Donation

It was on motion unanimously

VOTED: To accept a donation in the amount of \$997 from the Stow Lions Club to be deposited into the Fire Department Gift Account and expended under direction of the Fire Chief for the purchase of an Industrial Scientific Gas Detector, Model N6-40.

FY04 Janitorial Services – Goodnow Library

It was on motion unanimously

VOTED: To authorize the Town Manager to contract with Clean Link Janitorial Services to provide cleaning services during Fiscal Year 2004 at the Goodnow Library, in accordance with bid dated June 16, 2003 at the rate of \$12.35 per hour.

Eagle Scout Rank – Bennet Hamilton Leon

It was on motion unanimously

VOTED: To sign and send a letter of congratulations to Bennet Hamilton Leon, 101 River Road, Boy Scout Troop 60, on successfully attaining the rank of Eagle Scout. The Board will notify the Town Manager if they plan to attend the Court of Honor on July 20, 2003.

Walkway Easements – Raymond Road

It was on motion unanimously

VOTED: To sign acceptance of Walkway Easements fifteen feet in depth along the entire frontage of the following properties, necessary to complete DPW work on the walkway along that street. 236 Raymond Road, easement granted by Timothy Walsh and Gail Kessler Walsh dated 7/2/03. 246 Raymond Road,

easement granted by Marjorie R. Drew, dated 6/2/03. 250 Raymond Road, easement granted by Michael A. and Brianne Caso, dated 6/11/03.

Sudbury Day Festival – Sudbury Foundation Grant

It was on motion unanimously

VOTED: To accept a grant in the amount of \$4,500 from The Sudbury Foundation in support of 2003 Sudbury Day Festival activities.

There being no further business to come before the Board, the meeting adjourned at 9:54 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk