

IN BOARD OF SELECTMEN
TUESDAY, SEPTEMBER 2, 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 7:30 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

Chairman Roopenian cautioned motorists to take extra care as school begins tomorrow, and many students will be walking or riding bicycles to and from school.

Chairman Roopenian announced the Annual Sudbury Day festivities will be held on Saturday, September 20, rain or shine, and will feature many multicultural activities for all ages.

Chairman Roopenian stated the dedication ceremony for the September 11 Memorial in Heritage Park will be held on September 11 and that the public is welcome to attend.

On behalf of the Board and Town Manager, Chairman Roopenian extended condolences to the family of Corinne Nichols, a long-time Sudbury resident who recently passed away. Ms. Roopenian noted Ms. Nichols participated in many Town activities, often dressed as Lady Liberty.

Selectman O'Brien announced the F.I.S.H. Pancake Breakfast would be held on Saturday, September 20, at the Fairbank Senior Center.

Conservation Restriction – 10 Brookdale Lane

Present: Deborah Dineen, Conservation Coordinator.

The Board reviewed the following information: (1) Conservation Restriction, granted by Carolyn G. and Marc N. Bacon, 10 Brookdale Lane, on 33,150 sq. ft. of land on Lot 38, 10 Brookdale Lane, shown on "Conservation Restriction Plan In Sudbury, MA", Prepared For Muriel N. Nelson, drawn by Schofield Brothers of New England, Inc., dated April 8, 2003; and (2) report, dated August 21, 2003, from Deborah Dineen, Conservation Coordinator, stating the restriction was originally offered by a former property owner as mitigation for work done in the riverfront area without a permit. A garage had been built by the previous owner within the 200-foot buffer of a riverfront area. The new owners would like to construct a breezeway to connect the house to the garage, and they have agreed to follow through on the Conservation Restriction. She stated that the area subject to Restriction consists of a vegetated, undisturbed slope down to the Sudbury River, a federally-designated Wild & Scenic section of the river, containing estimated habitat areas for several rare and endangered bird species. Preserving this area in its natural state is important for flood plain protection, wildlife habitat, pollution prevention, and aesthetics. A recorded Conservation Restriction is important as it acts as an information document and "red flag" for informing present and future homeowners of activities permitted in close proximity to the River.

Town Manager Valente stated a minor wording revision is in progress, a revision that involves the property description. Town Counsel recommended the change and is awaiting approval by the property owners. It does not involve the Restriction area or the intent of the document. She advised the Board it could vote on the document tonight, given those assurances, or revisit the discussion once the final document has been prepared and approved by Town Counsel and the owners.

Ms. Deborah Dineen, Conservation Coordinator, stated the Restriction has been approved by all appropriate agencies. She stated the property owners wrote their own Restriction, which necessitated the diligent review by Town Counsel. She described the property briefly, and pointed out the area on a drawing. The property is at the end of a cul-de-sac, is approximately three-fourths of an acre, and is along the Sudbury River. She encouraged the Board to accept the Restriction in order to provide appropriate protection along the riverfront.

Selectman O'Brien asked when the garage was built and whether a building permit had been obtained. Ms. Dineen stated the garage was built in 1999, and the Rivers Act was enacted in 1997. She opined the builder simply overlooked the section on the building permit application that instructs builders to contact the Conservation Commission, thinking there was no reason to do so. She opined further the building permit application has been revised to emphasize pertinent Town Bylaws and departments. Homeowners also assume the builder is aware of all procedures to be followed.

Also as part of the mitigation, Ms. Dineen stated the previous owner has agreed to purchase the plantings that will delineate the beginning of the Restriction area.

Mr. Marc Bacon stated that, when he and his wife arranged with a builder to construct the breezeway between the house and garage, the Commission had no record of the garage's existence. While they are more than willing to offer the Conservation Restriction, Mr. Bacon suggested the Town use this experience as a learning tool for revising permitting processes and the permits themselves. He expressed concern that this process has taken a long time to resolve and the possibility that his builder might abandon the project if he is unable to pour the concrete before cold weather sets in.

Ms. Dineen stated the wording revision should be resolved soon. She stated further an outline of the Conservation Restriction process was provided to the Bacons in May. Mrs. Bacon apparently declined the Town's offer to make the wording revision, as she preferred to do it herself. There was some concern over the use of the word "parcel" where the word "premises" was legally appropriate.

It was on motion unanimously

VOTED: To accept a Conservation Restriction, granted by Carolyn G. and Marc N. Bacon, 10 Brookdale Lane, on 33,150 sq. ft. of land on Lot 38, 10 Brookdale Lane, shown on "Conservation Restriction Plan In Sudbury, MA", Prepared For Muriel N. Nelson, drawn by Schofield Brothers of New England, Inc., dated April 8, 2003, subject to final document approval by Town Counsel.

Utility Petition #03-07 – Verizon New England, Inc., Raymond Road

At 8:00 p.m. Chairman Roopenian convened a Public Hearing for the purpose of considering Utility Petition #03-07 of Verizon New England, Inc., for location of 38 feet of conduit in Raymond Road approximately 290 feet north of Warren Road.

The Board reviewed the following information: (1) petition, dated August 4, 2003, of Verizon New England, Inc. requesting permission to lay and maintain underground conduits and manholes under Raymond Road, on the easterly sideline, approximately 290 feet north of the intersection with Warren Road at existing Pole 25, place approximately 16 feet on conduit westerly to a point, then 22 feet of conduit southwesterly to existing Pedestal No. 101; (2) report, dated August 25, 2003, from the Town Engineer/ DPW Director,

stating his office has no objections to the petition, since the utility company proposes to bore under Raymond Road; (3) report, from the Wiring Inspector, stating he has no issues with this petition.

Selectman Drobinski opined the application to be straightforward and saw no reason not to approve it. The rest of the Board concurred.

It was on motion unanimously

VOTED: To approve Utility Petition #03-07, dated August 4, 2003, of Verizon New England, Inc. requesting permission to lay and maintain underground conduits and manholes under Raymond Road, on the easterly sideline, approximately 290 feet north of the intersection with Warren Road at existing Pole 25, place approximately 16 feet on conduit westerly to a point, then 22 feet of conduit southwesterly to existing Pedestal No. 101, as shown on Verizon Work Order No. 9AA33D-1.

Temporary Mobile Home – 25 Clark Road

Present: Cathy and Brian Dingman, Owners.

The Board reviewed the following information: (1) letter, dated August 6, 2003, from Cathy and Brian Dingman, 25 Clark Road, requesting a special permit to place a mobile home on their property for temporary housing while their home is being renovated. The mobile home measures 12' x 60' and will be placed at the rear of their property, as shown on enclosed sketch; (2) report, dated August 28, 2003, from the Health Inspector, stating the only Board of Health requirement for the proposed trailer is an inspection of the sewer line connection to the septic tank; (3) report, dated August 18, 2003, from the Fire Chief, stating the Fire Department has no objection to the placement of a mobile home, and pointed out that because the trailer is residential, it is required to have functioning smoke detectors; (4) report, dated August 18, 2003, from the Building Inspector, recommending approval of the trailer with the requirement the Electrical and Plumbing Permits must be obtained prior to occupancy of the mobile home.

Mr. Brian Dingman stated the renovation includes the addition of a family room, extension of the kitchen and minor revisions to other parts of the house, rendering it unlivable during renovation. He opined the work to last approximately four months. Mrs. Cathy Dingman stated smoke detectors were present in the trailer. Town Manager Valente stated the Fire Chief would have to inspect the trailer once it is placed.

It was on motion unanimously

VOTED: To grant a special permit to Brian and Catherine Dingman for use of a mobile home at 25 Clark Road for dwelling purposes for the period September 1, 2003 to March 1, 2004, while renovations to their home are being made; subject to issuance of a building permit for the renovation work, electrical and plumbing permits for the trailer, Board of Health approval involving connection of the trailer to septic system and water, and approval of the Fire Chief regarding the trailer's compliance with smoke detector laws.

Orders of Taking – Lettery Circle and South Meadow Drive

Present: Deborah Dineen, Conservation Coordinator.

Town Manager Valente stated if the Board does not act on taking these streets before the deadline of September 18, 2003, the process will have to begin again. The deadline is calculated at 120 days after

Annual Town Meeting. She stated all issues have been resolved on Lettery Circle and opined more work may need to be done on South Meadow Drive before the Board can make a decision.

Ms. Dineen stated the Conservation Commission still has an outstanding Order of Conditions (dated 1999) on South Meadow Drive, much of which centers around a 4.66 acre parcel which was to be deeded to either the Water District or the Conservation Commission, for protection of nearby Town wells. The parcel is in tax title now, and at some point the Town may get it by default. She stated, however, Conservation Restrictions are required on Lots 2 and 3, and they will work with the property owners for those. Ms. Dineen stated the as-built plan for the drainage swale does not feature as much detail as the Conservation Commission likes to see. She stated further the area has not been revegetated, nor was the swale built with the appropriate contours.

Ms. Dineen stated the Conservation Commission has no problem with South Meadow Drive being accepted, but reminded the Board the Town would then also accept the responsibility of correcting any problems the developer made by design or inaction.

Responding to a question from Selectman Drobinski, Ms. Dineen stated the detention basin seems to hold the appropriate volume, but it is unknown whether adequate settling of sediment occurs before draining (requiring a circuitous route). With this street so close to the Town wells, it is crucial all petroleum products (vehicle waste) and hydrocarbons settle out before draining.

Ms. Dineen stated sometimes a Planning Board bond and Conservation Commission bond overlap, but that is not the case here. The builder refused to pay the ConCom bond, declaring it to be too high a cost. A bond that would not overlap the Planning Board's jurisdiction would involve habitat or protection of wildlife issues. She opined the Town Engineer estimates the necessary work to cost far more than the Planning Board bond.

Ms. Dineen stated she and the Director of Public Works will visit the site again, and forward any new information or comments to the Town Manager. The Board opted not to take a position on South Meadow Drive until that information is available.

It was on motion unanimously

VOTED: To sign the Order of Taking for Lettery Circle from Woodside Road to a dead end, a distance of 945 feet, more or less, as laid out and accepted under Article 10 at the 2003 Annual Town Meeting.

Draft Comprehensive Conservation Plan – Assabet and Great Meadow Refuges

Present: Deborah Dineen, Conservation Coordinator.

The Board reviewed the following information: (1) letter, dated August 25, 2003, from Deborah Dineen to the U.S. Fish & Wildlife Service with various comments on the Draft Comprehensive Conservation Plan, and recommending Alternative B as it offers the most opportunity for wildlife conservation/habitat management and public access. (2) draft response, prepared for the Board of Selectmen to send to the U.S. Fish & Wildlife, advocating Alternative B, with the exceptions and recommendations: no hunting using firearms, maximum public use to the extent responsible land/wildlife stewardship allows, low-impact active recreation, such as dog walking and bicycle riding, as well as passive recreation, be allowed, active management practices be maintained, and that additional law enforcement and staffing be provided to address the anticipated heavy usage.

There was discussion on opening up many trails, and allowing the greatest possible public use.

Ms. Dineen expressed concern that there will be adequate law enforcement as the area is presently being used by people riding all-terrain vehicles. She related an incident where she had to phone the police to clear the people from the area, as such activity is prohibited. She opined it is already difficult for Fish & Wildlife to adequately patrol the area.

After discussion, it was on motion unanimously

VOTED: To approve the letter, drafted by the Town Manager, with the following additions/revisions: To open up as many trails as possible in the Assabet Refuge, and that low-impact active recreation, such as dog walking and bicycle riding, as well as passive recreation be allowed to as great an extent as possible.

Omnipoint Holdings (T-Mobile) – Boston Edison Tower

The Board opened a Public Hearing to consider Site Plan Application #03-371 of Omnipoint Holdings, Inc., a wholly-owned subsidiary of T-Mobile USA, Inc., in accordance with Town of Sudbury Bylaw Article IX.6000, Section 6300, Site Plan Review, to construct a wireless communications facility consisting of a power mount pole erected through the center of an existing 100'5" Boston Edison/NStar power utility tower, on property located at 163 Boston Post Road, (shown on Town Property Maps K10-014 and K11-402), owned by Boston Edison Company, zoned Industrial District #4 and Residential A-1.

Town Manager Valente reported to the Board that new plans were to be submitted by the applicant, and in order for Town boards and commissions to have time to adequately review them when completed, the applicant has agreed to continue this matter until October 21, 2003 at 8:00 p.m. Ms. Valente reminded the Board the 120-day review period expires on November 5, 2003, but opined the applicant may be willing to grant an extension, given the new plans and data being prepared.

It was on motion unanimously

VOTED: To continue this matter until October 21, 2003 at 8:00 p.m.

Minutes

It was on motion unanimously

VOTED: To accept the minutes of August 12, 2003, as drafted.

United Nations Day Proclamation

It was on motion unanimously

VOTED: To proclaim October 24, 2003 as United Nations Day in the Town of Sudbury, and to urge all citizens to participate in activities related to said Day.

Blue Ribbon Housing Site Selection Committee – Appointment

It was on motion unanimously

VOTED: To appoint Michael C. Fee, designee of the Planning Board, to the Blue Ribbon Housing Site Selection Committee for a term to expire April 30, 2004.

2003-2004 Election Officers

It was on motion unanimously

VOTED: Upon request of the Town Clerk, to approve the corrected appointments and party affiliation of the following Election Officers for the election year 2003-2004, commencing August 15, 2003, as follows:

- 1) Elizabeth Swank – from Democrat to **Unenrolled**, Precinct #1, Inspector;
- 2) Deborah S. McCarthy – from Democrat to **Unenrolled**, Teller;
- 3) Mary Ellen French – from Republican to **Unenrolled**, Precinct #1, Additional Inspector;
- 4) Catherine M. Kuras – from Republican to **Unenrolled**, Precinct #3, Inspector;
- 5) Ursula Lyons – from Republican to **Unenrolled**, Precinct #5, Additional Inspector;
- 6) Deborah M. Hynes – from Republican to **Unenrolled**, Teller; and
- 7) Betsey D. Cutler – from Unenrolled Emergency Inspector to Unenrolled, **Precinct #2, Inspector**

Colonial Fair and Muster of Fyfes and Drums – Wayside Inn

It was on motion unanimously

VOTED: To grant a special permit for the Companys of Militia and Minute of Sudbury to hold a Colonial Fair and Muster of Fyfes and Drums on the grounds of the Wayside Inn from 10:00 a.m. to 5:00 p.m. on Saturday, September 27, 2003 (rain date September 28), subject to meeting the requirements of the Police, Fire and Health Departments and obtaining permits for any tents from the Building Inspector.

Department of Public Works – Dump Truck

It was on motion unanimously

VOTED: To approve a contract with Ballard Mack Sales, 442 S.W. Cutoff, Worcester, MA 01604, for the lease/purchase of a 6-wheel dump truck and accessories for the Department of Public Works for a cost of \$101,862.

Sunday Entertainment License – Bullfinch's Restaurant

It was on motion unanimously

VOTED: To renew a Sunday Entertainment License for Bullfinch's Restaurant, 730 Boston Post road, for the period September 14, 2003 through September 5, 2004, for a jazz trio during the hours of 11:00 a.m. to 2:30 p.m.

Proclamation – Korean War Anniversary

It was on motion unanimously

VOTED: To sign a Proclamation relative to the September 6, 2003 Anniversary of the return of the last known prisoners of the Korean War, as requested by the Veterans Agent.

2003 Transfer Station Rules and Regulations, and Fee Schedule

The Board reviewed Rules and Regulations for the Recycling and Disposal of Solid Wastes at the Transfer Station, updated 2003, and proposed special permit schedule.

Selectman O'Brien suggested rounding the fees up to whole dollars, making it easier for the Transfer Station personnel to make change by eliminating need for coins.

After discussion, it was on motion unanimously

VOTED: To establish the fees in Appendix B of the Rules and Regulations for the Recycling and Disposal of Solid Wastes at the Transfer Station as follows:

Special Permit	½ cu. yd.	\$16.00
	1 cu. yd.	32.00
		<u>Fee for each</u>
Air conditioners		\$20.00
Carpeting (approx. 9'x12')		32.00
Computer Monitors		20.00
Couch (upholstered furniture)	16.00 to	32.00
Gas Grills		5.00
Lawnmower		5.00
Mattresses		
Twin, double, queen & king		16.00
Twin mattress & box spring		16.00
Double queen & king (mattress & box)		32.00
Paint – Water-base		\$4.00 per gal.
Refrigerators		20.00
Sinks		
Ceramic		16.00
Metal (no charge – metal pile)		
Stoves/Ovens		5.00
Television sets		20.00
Tires from Vehicles		
Automobile		2.00
Truck		10.00
(All tires must be off rims)		
Toilets		16.00
Washing machines/dryers		5.00
Water heaters		5.00

It was also on motion unanimously

VOTED: To approve the Rules and Regulations for the Recycling and Disposal of Solid Wastes at the Transfer Station, revised 2003, as amended.

2004 Board of Selectmen Meeting Schedule

It was on motion unanimously

VOTED: To approve the 2004 Board of Selectmen Meeting Schedule, as drafted.

Marlborough Easterly Wastewater Plant Permit – Response to EPA, DEP and EOE

Present: Ursula Lyons, Hop Brook Protection Association.

The Board reviewed the following information: (1) letter, dated August 25, 2003, from Robert Varney, Regional Administrator, Environmental Protection Agency, thanking the Board for their letter, encouraging all parties to follow the process, and promising a public hearing with interested persons in late September. Mr. Varney noted recent activity regarding the Assabet River discharge permit involving a phased permitting approach, indicating similar procedures are being developed for the Marlborough plant. (2) letter, dated July 28, 2003, from Ellen Roy Herzfelder, Massachusetts Executive Office of Environmental Affairs, also referring to recent permitting activity regarding the Assabet River, and noting that Environmental Impact Reports (EIR) for wastewater planning may have an effect on the Marlborough plant. The EIR will provide guidance to DEP in setting the necessary and appropriate effluent limits. DEP recently awarded a contract to collect and analyze data from Hop Brook with regard to the four ponds, new data which will assist DEP in determining a total maximum daily load for both the Assabet River and Hop Brook. (3) letter, dated August 18, 2003, from Robert Gollidge, Jr., Commissioner, Department of Environmental Protection, reiterating the comments of both Mr. Varney and Ms. Herzfelder regarding the Assabet River, and promising to meet with the Board and other interested parties to present the new proposal in late September or early October, when it is complete.

Town Manager Valente asked for the Board's collective response to the letters received, noting that the letters indicate a public hearing is anticipated when the proposal is complete, perhaps in late September or early October. Selectman Drobinski reported to the Board the Assabet River group is encouraged by the recent activity. He opined the result for Hop Brook should be equal or better than that determined for Assabet River, and suggested the Board continue to pursue the process. Chairman Roopenian expressed skepticism that the timeframe is real, that only promises are being made. Selectman O'Brien opined this to be a very positive response, having had more action on this matter in the past few months than in the last ten years. He suggested encouraging the agencies that Sudbury is very interested in their data collection and subsequent proposal when complete. The Board agreed unanimously it should respond to all letters, and was in agreement that the regulations for Hop Brook should ultimately be more stringent than those for the Assabet River.

Town Manager Valente stated she would draft a response for the Board's review, indicating that Sudbury is very interested in how this matter is handled and would like to be notified of the public hearing when that date is determined. The Board suggested providing several dates for Selectmen meetings and indicate the Board is available to meet with agencies as well as at their own public hearing.

Ursula Lyons, Hop Brook Protection Association, expressed disappointment that the Assabet River is getting attention ahead of the Hop Brook situation, but agreed that recent action is encouraging. She opined that promises have been made in the past with little action. Selectman O'Brien opined the Assabet River solution may be what makes the difference, and noted also that a new group of people is involved now. Ms. Lyons thanked the Board for their involvement, and noted that, while a determination for the Assabet River will be encouraging, such a resolution for Hop Brook must be tighter as it is a more sensitive area.

Town Manager Valente summarized the Board's comments to be included in the letters as follows: thanking the agencies for their letters, recognizing significant steps have been done and are taking place, optimistic a solution will be reached this year and look forward to meeting with them in late September or early October. If that public hearing does not take place, the Board would instead like a progress report. Selectman O'Brien suggested offering Sudbury facilities to host a public meeting on this matter. Chairman Roopenian agreed, stating that the resolve to reach a solution this year is good, indicating agreement on the process, yet firmness in reaching a solution.

Comcast T-Shirt Donation

The Board reviewed a letter, dated August 29, 2003, from Jeff Winston, Cable Television Committee, to Frank Foss, Comcast, requesting a \$1,000 donation to purchase t-shirts, which will be circulated at Sudbury Day on September 20. Linda Wade displayed one of the t-shirts for the Board's review. The shirts have small "Sudbury Channel Eight" (front) and "Comcast" (upper back) logos displayed.

It was on motion unanimously

VOTED: To approve acceptance of a donation of \$1,000 from Comcast and to authorize said donation to be deposited into the Cable Television Revolving Fund and used toward the purchase of t-shirts bearing Sudbury Channel Eight and Comcast logos.

There being no further action, the meeting adjourned at 9:10 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk