

**IN BOARD OF SELECTMEN  
TUESDAY, AUGUST 10, 2004**

Present: Chairman John C. Drobinski, Selectmen Lawrence W. O'Brien and William J. Keller, Jr.

The statutory requirements as to notice having been complied with, the meeting was convened at 7:35 p.m. in the Lower Town Hall, 322 Concord Road.

**Opening Remarks**

Chairman Drobinski announced that it was necessary to postpone consideration of site plan application #SP04-376 of Omnipoint Holdings, Inc., a wholly-owned subsidiary of T-Mobile USA, Inc. scheduled for 8:00 p.m. The hearing was rescheduled to the Board's next meeting, Tuesday, September 7, 2004, at 8:00 p.m. Postponement was necessary as Community Newspapers, Inc., publisher of the *Sudbury Town Crier*, failed to publish legal notices on Thursday, August 5, thereby invalidating the Board's policy of two consecutive notices prior to a public hearing. A representative from T-Mobile, Michael Giery, did attend the meeting as staff efforts to reach him concerning the postponement were unsuccessful. Chairman Drobinski apologized to Mr. Giery for the inconvenience.

Chairman Drobinski urged residents to be alert to the many construction projects within the Town and to the crews working on them. Further, he suggested that everyone keep aware of their elderly neighbors during the warm weather by checking on them occasionally to be sure they are all right during any heat waves.

Mr. Drobinski further announced that there is a continuing need for volunteers on a number of boards and committees. Ideally, the Board likes to have a number of applicants in the volunteer pool to determine the most appropriate candidate for the position available.

Town Manager Valente stated that she would like to convene a brief Executive Session at the conclusion of the public session to discuss possible land negotiations.

**Citizen Petitions – Tree Cutting by NStar**

Present: Stanley Kaplan, 98 Victoria Road.

Chairman Drobinski recognized Stan Kaplan who attended the meeting to present a list of 68 residents' names who request that the Board of Selectmen support them in their petition to NStar. Mr. Kaplan read a prepared letter to the Board outlining what he and the other resident would like to see happen. Earlier that morning, 25 residents met with NStar officials concerning tree cutting on Stock Farm Road, which residents contend was illegally done. They are requesting that NStar attempt to replace the very large trees they destroyed by replacing them with possibly 20' trees, which in time will grow and again become screening trees.

In support of this position, Town Manager Valente read a letter dated January 22, 1971, from then Selectman John Taft, concerning the area of Stock Farm and Pelham Island Roads, and the apparent commitment of Boston Edison to provide screening trees. She further stated that in conversation with Bill Hayes, senior arborist for NStar, it would appear that he will be willing to plant replacement trees— though not necessarily the same height as those removed.

Selectman O'Brien stated that he attended the morning's meeting and actually met with Bill Hayes and he confirms the fact that Nstar would make an effort to work with the neighbors regarding this situation with the tree removal.

After some discussion, it was agreed that the Board of Selectmen would work together with the residents and NStar to try to resolve the matter. The Board further agreed to place this item on its next regularly-scheduled meeting, September 7.

### **Trailer Permit – 42 Dawson Drive**

Present: Donald and Doris Soule, 42 Dawson Drive.

Chairman Drobinski opened discussion on a request by Donald and Doris Soule who seek permission to park a visitors' motor home on their property at 42 Dawson Drive during a one-week period, September 14 to 21, 2004. The mobile home would only be stored on the property, not lived in. A hearing notice was sent out to abutters and the building inspector. There were no objections to this request.

The Police Chief Fadgen reported he had driven by the proposed trailer location and saw no objection or line-of-sight problem. His only comment was that they should refrain from parking the trailer near the fire hydrant located close by.

It was on motion unanimously

VOTED: To grant a permit to Donald and Doris Soule to park a visitors' motor home on their property at 42 Dawson Drive for a one-week period from September 14 to September 21, 2004.

### **Hawker's and Pedler's License – Juniper Farms**

Mr. Drobinski opened discussion on the application of Juniper Farms Ice Cream, Inc. of Hudson, MA for the purpose of operating ice cream trucks within the Town of Sudbury for a one-year period expiring August 10, 2005. A brief discussion ensued and a report from Police Lt. Richard Glavin was read, stating the Police Department completed a background check of the two drivers. The report yielded no derogatory issues.

It was on motion unanimously

VOTED: To grant a Hawker's and Pedler's License, for the purpose of operating ice cream trucks within the Town of Sudbury, to Juniper Farms, Hudson, MA, for a one-year period expiring August 10, 2005, subject to issuance of driver identification cards by the Police Department as necessary throughout the year, and further subject to the condition that the parking of ice cream trucks on Town-owned recreation land is prohibited during the times concession stands are in operation at that location.

### **Minutes**

It was on motion unanimously

VOTED: To approve the minutes of May 19, July 20, and July 27, 2004.

**Grant – U. S. Dept. of Justice/Bureau of Justice Assistance**

Town Manager Valente read a memo from Police Chief Peter Fadgen, requesting the Board accept payment of \$7,350 in grant funds from the U. S. Department of Justice/Bureau of Justice Assistance under the Bulletproof Vest Partnership Grant Act.

Selectman O'Brien questioned Town Manager Valente as to whether this grant would allow vests to be provided for every member of the Police Department. Ms. Valente responded that the grant is in fact a reimbursement for funds already dispersed. Vests have been purchased for replacements of older vests and also for new hires.

It was on motion unanimously

VOTED: To accept a grant of \$7,350 from the U. S. Department of Justice/Bureau of Justice Assistance Under the Bulletproof Vest Partnership Grant Act, to be used by the Police Department for its intended purpose.

**Site Plan #SP04-376 – Omnipoint Holdings, Inc.**

Present: Michael Giery, T-Mobile USA, Inc.

At 8:00 p.m. Chairman Drobinski announced once again that the public hearing would not be opened, and the hearing was rescheduled for Tuesday, September 7, 2004, at 8:00 p.m. Staff was instructed to re-advertise the hearing on August 19 and August 26 to fulfill the Board's notification requirements.

It was on motion unanimously

VOTED: To reschedule public hearing SP04-376 to 8:00 p.m. September 7, 2004

**Conservation Restriction – 14 and 17 Twillingate Lane**

The Board addressed the question of taking an affirming vote of approval and signing of a Conservation Restriction which had been approved by Selectmen Roopenian and Drobinski (Selectman O'Brien abstained), at the Board's meeting on February 24, 2004; said restriction granted by David M. Gordenstein in perpetuity and exclusively for conservation purposes, containing approximately 15,653 sq. ft. of land on property at 14 Twillingate Lane, as shown on a plan entitled "Lot 5 Conservation Restriction Plan in Sudbury, Massachusetts prepared for Trask Inc.", prepared by Schofield Brothers of New England, Inc., dated August 5, 2003.

Town Manager Valente explained that this restriction is now ready for signing. Because the original vote was taken in February, typically it would just be presented now for signing. However, since Ms. Roopenian is no longer on the Board and we now have only one member who was in favor of signing, we now ask that the Board take another affirmative vote before signing the restriction.

Chairman Drobinski asked Selectman O'Brien if he specifically remembered why he abstained on the previous vote. Mr. O'Brien explained the philosophical reason for abstaining was basically due to the number of these restrictions that are voted in the course of a year and the subsequent loss of tax revenue. A discussion ensued surrounding the nuances of restrictions.

It was on motion

VOTED: To affirm the vote of approval and sign the Conservation Restriction granted by David M. Gordenstein in perpetuity and exclusively for conservation purposes, containing approximately 15,653 sq. ft. of land on property at 14 Twillingate Lane, as shown on a plan entitled "Lot 5 Conservation Restriction Plan in Sudbury, Massachusetts prepared for Trask Inc.", prepared by Schofield Brothers of New England, Inc., dated August 5, 2003.

(Chairman Drobinski, aye; Selectman Keller, aye; Selectman O'Brien abstained)

### **Selectmen's Reports/Issues**

**Selectman Keller** reported that those residents living in the Hudson Road/Goodnow Road area might be interested to learn that a walking path has been completed from the end of Goodnow Road to the end of Camperdown Lane. He stated it is a very pretty walk, going off thru the driveway at 92 Goodnow Road, through an opening in a stonewall leading to a woodchip path. He went on to say it is a nice loop that can be made without going onto busy roadways.

**Selectman O'Brien** reported that today he spoke with NStar at the early morning meeting; and last week, he attended a Community Housing Committee meeting. He stated there was a good deal of discussion regarding St. Anselm's potential uses. In addition, they did a little work on the housing plan and forum that is being coordinated by First Parish and the League of Women's Voters. He opined it was a fairly productive meeting.

Selectman O'Brien stated that Town Planner Jody Kablack presented a draft for the Task Force developed to study St. Anselm's. It was suggested at that meeting that a group of between 18 and 25 people would be optimum and allow a good cross section of residents. The bidding process for the property will now be about 90 days, which will give the Task Force more time to study the options available. Selectman Drobinski asked if the Archdiocese was looking for an actual bid.

Town Manager Valente stated if the Town wants to compete with developers then a bid must be submitted along with the Town's intention. The Archdiocese is working to promote affordable housing and this use of St. Anselm's property would be a good opportunity for them to work with the towns and parishioners to accomplish this goal.

**Chairman Drobinski** reported that all three Board members attended the Assessment Center for the hiring process for the new Fire Chief. Town Manager Valente stated that three candidates were put through a grueling process at the Center. From here, two of the candidates will be invited back for an interview with her; they would do further background checks and ask for input from the Board members, and then probably name a new chief by the end of August.

Selectman O'Brien stated there are still positions that need to be filled; namely, the Treasurer-Collector position and the pending retirement of the director of the senior center.

Mr. Drobinski stated that he still needs to work with Town Manager and Town Engineer on some landfill environmental issues. The issue is a notice of a violation at the landfill and the DEP has suggested the Town needs to tidy some things up and do a supplemental environmental project in lieu of a State fine.

**Change of Manager – Bosse Sports & Health Club, LLC**

Chairman Drobinski opened discussion concerning a request dated June 23, 2004, for a Change of Manager for Bosse Sports & Health Club, LLC, 141 Boston Post Road from James P. Bunnell to Dick J. Bosse.

Town Manager Valente reported to the Board that the new manager, Dick J. Bosse, is scheduled for TIPS training on September 1 and, if requested to do so, he would refrain from the sale of alcoholic beverages until after he becomes TIPS certified.

After considerable discussion, it was decided that an opinion was needed from Town Counsel regarding the question surrounding the need for a TIPS-trained manager on the premises if alcoholic beverages were being served.

It was on motion unanimously

VOTED: To conditionally approve the Change of Manager license for Bosse Sports & Health Club, LLC, 141 Boston Post Road, in connection with its License to Sell All kinds of Alcoholic Beverages as a Common Victualler, from James P. Bunnell to Dick J. Bosse subject to their producing documentation that the current manager is TIPS trained.

NOTE: Subsequent to the meeting, Joshua Fox, attorney for Bosse Sports & Health Club, reported that Mr. Bosse voluntarily would cease serving alcoholic beverages until his TIPS training certification on September 1. Town Counsel said that a letter to the effect would suffice and there was no need for them to surrender their license.

**Town Manager Reports**

Town Manager Valente reported that she had completed a draft on the proposed Rail Trail mission statement and suggested that the Board put this on the September 7 agenda, ready for a vote. She would like to send it out to several people for suggestions and inform them of the vote at the upcoming meeting.

She brought up the matter of the St. Anselm's Task Force, as mentioned earlier, and suggested that it also be put on the September 7 agenda. She suggested that inasmuch as it would probably be a long list of candidates for appointment that they would probably not wish to interview each of them Ms. Valente recommended that they review the list of applicants before the September 7<sup>th</sup> meeting.

Selectman O'Brien questioned the Citizen composition of the Task Force and a possible member of the Board on this committee. Chairman Drobinski suggested they ask Town Counsel for his written opinion on this situation as Larry and John are parishioners. Basically, would this present a conflict of interest if one of them sat on this Task Force. Town Manager Valente believes it makes sense for a board member to sit on the committee because of the quick turnaround on decisions and the very intense meeting schedule. This will be an issue for September 7.

A discussion ensued on possible uses of the property; mixed use of municipal and housing, use of CPC funds, etc.

Ms. Valente reminded the Board about Sen. Pam Resor's proposed meeting with Town officials. The meeting is scheduled for Thursday, August 26 from 8:00 – 9:00 a.m. She stated she will be on vacation that week, but she will have the meeting posted since Board members will be attending, albeit informally.

### **Walkway Easements**

Town Manager Valente presented a request to the Board from Town Counsel's office regarding two walkway easements. These easements fill in a gap in the walkway along Concord Road south of the Goodman Hill intersection for which the Town was unable to secure easements in the past. The easements allow walkway construction in a safe location.

It was on motion unanimously

VOTED: To accept and sign a Walkway Easement at 248 Concord Road, Sudbury, granted by Jeanne L. Harney, Trustee of the Bittersweet Trust, said easement shown on a plan entitled "Plan Showing Walkway Easement Over Land of Bittersweet Trust, 248 Concord Road, Sudbury, MA" dated July 29, 2004, prepared by the Town of Sudbury Engineering Department.

It was further

VOTED: To accept, and sign at a later date, a Walkway Easement at 236 Concord Road, Sudbury, upon grant by Eugenia L. Quirk, Trustee of the Aurora Realty Trust, said easement shown on a plan entitled "Plan Showing Walkway Easement Over Land of Aurora Realty Trust, 236 Concord Road, Sudbury, MA" dated July 28, 2004, prepared by the Town of Sudbury Engineering Department.

### **Double Poles – Nstar**

Town Manager Valente reported on the status of double poles within Town and read from a report submitted by residents Jennifer and Jim Gardner. She stated that many cities and towns went to the State Legislature, and asked for help since NStar was not complying with the requirement that they remove old poles within 60 days of setting new poles. Sudbury submitted a great deal of material, including photos, to the State agency and the utilities came back and said there was a lack of information hindering their progress – basically with no way of each utility to tell the other the status of each pole. The utilities then developed a database which was supposed to resolve problems. That was last winter. The Gardners logged into the database and reported that they are continually checking but they are not seeing any progress with the removal of double poles. In fact, there are fewer poles being removed now than before the database was established. The Board thanked the Gardners for volunteering their time on this project.

Selectman O'Brien suggested that this is a situation that perhaps should be brought to Senator Resor, citing the Gardners' tracking and the lack of progress by NStar. Town Manager Valente suggested that it might be a good thing to bring to Pam's attention once the full package is ready. However, she did not see that presentation being ready prior to the 26<sup>th</sup> meeting.

### **Linbrook Properties (The Meadows) – Temporary Construction Access**

Town Manager Valente reported that a confirmation had been received from Attorney Joshua Fox of his client's withdrawal of its request for a temporary construction access through Feeley Park given that there has been an appeal filed.

It was on motion unanimously

VOTED: To acknowledge receipt of the letter dated July 20, 2004, sent by Atty. Fox on behalf of Linbrook Properties, Inc., withdrawing its request for a temporary construction access through Feeley Field, and to take this matter under advisement; and further, to express the Board's regret that this situation has taken its current course.

[NOTE: A letter dated August 9, 2004, was subsequently received from Attorney Fox, revoking the foregoing withdrawal.]

### **One Day Liquor Permit – Buffet Way**

Town Manager Valente reported that a letter was received earlier in the day, requesting a one-day liquor permit to sell beer and wine only, on Thursday, August 26, 2004 from 4:30 – 7:00 p.m., at the Coach House Inn, to accommodate a retirement event for Raytheon.

Chairman Drobinski recused himself from the discussion and vote as he serves as a consultant for Raytheon. He requested that Vice-Chairman O'Brien take over chairmanship of the meeting at this time.

Mr. O'Brien asked Ms. Valente if everything appeared to be in order. She stated that Buffet Way occasionally requests these one-day permits, there have been no problems and their Certificate of Liability Insurance form was included with the request.

It was on motion

VOTED: To grant a one-day permit to Daniel P. Mauro, d/b/a Buffet Way Catering, to sell beer and wine only, August 26, 2004 from 4:30 – 7:00 p.m. at the Clarion House Inn, to accommodate a private retirement party for Raytheon. Vice-Chairman O'Brien, aye, Selectman Keller, aye, Chairman Drobinski, abstain.

### **Lincoln-Sudbury High School Update**

Selectman O'Brien asked if the Town Manager had any updated information regarding the opening of Lincoln-Sudbury High School. Ms. Valente reported she will be meeting soon with Supt. John Ritchie and should have further information shortly. However, she did have word from Acting Fire Chief Ken MacLean that asbestos removal from the old building has slowed progress to some degree, and the L-S School Committee has moved back the Grand Opening Dedication and Tour of the new high school to Sunday, September 19. She stated that she is also concerned about the parking situation but has had no information on this as yet, but she will be meeting with the Building Inspector tomorrow for an update.

### **National Wildlife Refuge Meeting**

Ms. Valente stated that she met with three senior staff members of the National Wildlife Refuge. They have developed their comprehensive conservation plan. To the dismay of some, they will continue to allow hunting. They are confirming that they have reduced the area for firearms hunting and there will be no firearm hunting below Rt. 20 and along the Hudson Road area but will still allow firearms hunting in other areas and will allow archery with permits. They will not allow bicycling as it is not compatible with their goals for preserving wildlife. Further, they will be developing a website to communicate these updates for the public.

Town Manager Valente stated she felt that overall it was a productive meeting, and she encouraged them to come before the Board as the meetings are covered and it would be good for public awareness. Further, she found it interesting that Sudbury is the only town in the state with two wildlife refuges within its borders.

Chairman Drobinski asked if they were planning to move headquarters. She did confirm that National Wildlife headquarters will remain here but they will be trying to site a new visitors' center somewhere in this general area. They anticipate over 100,000 visitors a year will be using the new visitors' center, and they need to be able to accommodate those numbers with comfort stations, etc.

### **Newell Property Notice of Intent**

Present: William Pezzoni, Attorney for the applicant, and James Hanrahan, Bowditch & Dewey, LLP, Attorney for the property owner.

At 9:00 p.m., Chairman Drobinski addressed the question of responding to a Notice of Intent from Bowditch & Dewey Attorney James D. Hanrahan, on behalf of Franklin S. and Judith W. Newell, in accordance with G. L. Ch. 61, section 14, to sell and convert from forestry to residential use approximately 24.95 acres of land shown as Lots 6 and 8 on Town Property Map M07 and also as "Proposed Lot 1" and "Proposed Lot 2" on "Plan of Land: 42 Old Framingham Road, Sudbury, Mass. Scale: 1" – 60' February 17, 2004 Norwood Engineering Co., Inc." Said notice is dated and postmarked April 15, 2004, and was received April 16, 2004.

The 120-day period to exercise the option expires on August 13, 2004.

Town Manager Valente stated there are three reports concerning this Notice of Intent. Both the Conservation Commission and the Planning Board reviewed the plans and proposal and state they believe the development is good for this site and they recommend that the Town not exercise its purchase option; a report from the Conservation Commission states that the Commission voted unanimously that the Town not exercise its purchase option as the biologically important areas of the property will be protected through the wetlands permitting process and trail connections between Old Framingham Road and the CSX railroad can be obtained via easement or nearby town-owned land; and lastly, a report from the Board of Assessors stating they did not take a position on the Newell's Notice of Intent.

Chairman Drobinski opined that the intended use of this property is the Town's preference and in the best interests of the Town of Sudbury.

Mr. Pezzoni took the opportunity to applaud the Town's ISD bylaw, which will allow them to hit their projected price points. Discussion ensued around the need and the growing interest from Town residents. Mr. O'Brien opined their projected price points are very positive and have previously been missing within the community.

Upon questioning by Selectman Keller, Mr. Pezzoni stated it would probably be about six weeks when they expect to come before the Planning Board.

It was on motion unanimously

VOTED: That the Town not exercise its purchase option relative to a Notice of Intent from Bowditch & Dewey Attorney James D. Hanrahan, on behalf of Franklin S. and Judith W. Newell, in accordance with

G. L. Ch. 61, section 14, to sell and convert from forestry to residential use approximately 24.95 acres of land shown as Lots 6 and 8 on Town Property Map M07 and also as "Proposed Lot 1" and "Proposed Lot 2" on "Plan of Land: 42 Old Framingham Road, Sudbury, Mass. Scale: 1" – 60' February 17, 2004 Norwood Engineering Co., Inc."

**Executive Session**

At 9:10 p.m. it was on roll call

VOTED: To go into Executive Session for the purpose of discussing negotiations in real estate where open discussion may have a detrimental effect.

(Chairman Drobinski, aye, Selectman O'Brien, aye, and Selectman Keller, aye.)

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

There being no further business, the meeting adjourned at 9:20 p.m.

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