

IN BOARD OF SELECTMEN  
THURSDAY, NOVEMBER 4, 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 7:30 p.m. in the Lower Town Hall, 322 Concord Road.

**Opening Remarks**

Chairman Drobinski expressed appreciation to the Town Clerk and staff, Police Department, Fire Department, Public Works Department and Art Richard (Building Services Department) for an efficient election on November 2, 2004. Mr. Drobinski commented there were no lines at polling places even though there was a record turnout of voters.

Chairman Drobinski expressed appreciation to the Sudbury and Thursday Garden Clubs for their hard work around Town Hall and Heritage Park. He also thanked those individuals who have worked on the plantings on many traffic islands around town.

**Pari Holdings LLC – Proposed 40B Development, 534 North Road**

Present: Robert L. Devin, Attorney, Devin, Barry & Austin, P.C.; Louis W. Mountzoures, Pari Holdings LLC; Ralph Tyler, One Deacon Lane.

Town Manager Valente reported the Town was in receipt of a letter, dated October 4, 2004, from Robert L. Devin, Devin, Barry & Austin, P.C., notifying the Town of Sudbury that an Application for a Site Approval Letter had been submitted to Mass Housing by Pari Holdings LLC relative to a proposed Comprehensive Permit development at 534 North Road.

Ms. Valente stated a meeting was held on October 28, 2004 with the applicant and various Town departments at which time feedback was submitted on the proposed development. She stated written comments from the Board of Selectmen are due to Mass Housing by November 12, 2004.

Mr. Robert Devin, Attorney, Devin, Barry & Austin, P.C., stated the applicant would like to establish a good working relationship with the community, and, wherever possible, will incorporate feedback submitted by department heads thus far.

Utilizing drawings, Mr. Devin pointed out various components of the proposed project. He opined the market value of the units to be in the approximate range of \$370,000. Chairman Drobinski asked if the applicant had considered earmarking the project as an over-55 development. Mr. Devin agreed to consider it.

Selectman Keller stated he was in favor of an over-55 designation, but suggested the applicant consider reducing the density if over-55 was not selected.

Selectman O'Brien asked about a discrepancy in the number of units as two different numbers were presented in documents. Mr. Devin stated there would be 24 units; the number 22 was an error.

Mr. O'Brien asked about the wetlands; Mr. Mountzoures pointed them out on the drawing, noting there was also buildable area that they were not planning to use in the placement of the units.

Responding to a question from Selectman O'Brien, Mr. Devin stated affordable units could be priced in the \$170,000-\$195,000 range, commenting that none of the prices contained within the proposal are fact,

as market fluctuations and constructions costs will be the final determining factors in setting price. Mr. Devin stated further they would like to work with the Community Housing Committee in this regard.

Chairman Drobinski expressed appreciation for the applicant's willingness to work with the Town in developing a project that meets the needs of everyone involved. Mr. Devin stated they would like to make it as simple and straightforward as possible.

Selectman Keller asked if there were any public meetings planned. Mr. Devin responded they must first get the go-ahead from Mass Housing.

Ralph Tyler, One Deacon Lane, questioned whether the senior incentive bylaw would be applicable in this instance. He opined the proposal should be limited to four units per acre instead of six per acre. It was noted the bylaw applies on projects that are ten acres or more. Mr. Mountzoures stated this is simply a starting point, and changes can be made to the project as it moves along, but stated the approval from Mass Housing is the very first step.

After discussion, it was on motion unanimously

VOTED: To direct the Town Manager to send an affirmative letter to Mass Housing, noting the Board of Selectmen's preference for an over-55 designation, and requesting that the applicant continue to work closely with Town staff as more detailed plans are developed.

### **Minutes**

It was on motion unanimously

VOTED: To approve the minutes of the regular and executive sessions of October 19, 2004, as drafted.

### **Lincoln-Sudbury All Sports Booster Club, Inc. -- Annual Bonfire**

It was on motion unanimously

VOTED: To grant permission to the Lincoln-Sudbury All Sports Boosters Club, Inc. to hold a ceremonial bonfire on Wednesday, November 24, 2004, from 6:00 – 9:00 p.m. at the High school, subject to compliance with Police, Fire, Public Works and School Department requirements, and notification of direct abutters by the Boosters Club.

### **Board of Assessors – Resignation**

It was on motion unanimously

VOTED: To acknowledge receipt of the resignation dated October 15, 2004, from David G. Berry from the Board of Assessors, effective no later than December 31, 2004, and a letter dated October 28, 2004, from the Board of Assessors requesting a joint meeting for the purpose of filling said upcoming vacancy; and further, to send a letter of appreciation to Mr. Berry for his many years of service to the Town.

**Rail Trail Conversion Advisory Committee – Appointments**

Chairman Drobinski asked the Board if it would be interested in changing the size of the committee now that all interviews have been concluded. Selectman O'Brien suggested adding two members, keeping an odd number, while not becoming too large to be effective.

After discussion, it was on motion unanimously

VOTED: To increase the membership of the Rail Trail Conversion Advisory Committee to a total of 15 members, consisting of 6 Board and Staff members and 9 at-large members.

The Board briefly discussed various skills and experience that would be important to the mission of this committee. Having increased the at-large membership to 9 individuals, each Board member voted for nine people. Referenced by identification numbers, the list of applicants was subsequently narrowed down by first accepting those with three votes, then with two votes, to arrive at the final 9 people.

It was therefore on motion unanimously

VOTED: To appoint the following individuals to the Rail Trail Conversion Advisory Committee for an indefinite term:

Resident Members – Patricia A. Brown, 34 Whispering Pine Road  
Madeleine R. Gelson, 520 Concord Road  
Robert D. Hall, 30 Possum Lane  
Jennifer K. Pincus, 25 Blueberry Hill Lane  
Nancy Powers, 201 Union Avenue  
Bryan S. Semple, 15 Revere Road  
Allan L. Wallack, 67 Thompson Drive  
Richard C. Williamson, 21 Pendleton Road  
Carole R. Wolfe, 637 Concord Road

Board/Staff Members -	Bridget Hanson	Conservation Commission member
	Gregory W. Hunt	Park & Recreation Commission member
	Eric D. Poch	Planning Board member
	Deborah Dineen	Conservation Coordinator
	Dennis Mannone	Park and Recreation Director
	I. William Place	Director of Public Works/Town Engineer

Chairman Drobinski thanked all applicants for their interest and encouraged those not selected for this committee to investigate other opportunities for service within Town government.

**Site Plan #04-376 – Omnipoint Holdings, Inc., subsidiary of T-Mobile USA, Inc., 16 North Road**

Present: Michael Almada, Project Manager, Michael Giery, Attorney (Zoning Department), T-Mobile; Ralph Tyler, One Deacon Lane.

At 8:27 p.m. Chairman Drobinski reconvened a Public Hearing to further consider site plan application #SP04-376 of Omnipoint Holdings, Inc., a wholly-owned subsidiary of T-Mobile USA, Inc., in accordance with Sudbury Zoning Bylaw Article IX.6000, Section 6300, Site Plan Review, to expand the existing SpectraSite facility for wireless communications on property located in the Research District,

16 North Road, on Parcel C12-004, owned by the Sudbury Water District, by adding a nine-panel antennae attached to a platform at a height of 130 feet plus an E911 antenna at an approximate height of 100 feet to the existing tower, with co-axial cables and base transceiver station (BTS) units mounted on a 6' x 8' concrete pad comprised of three equipment cabinets and power/telephone pedestal, in collocation with CellularOne and Cellco Partnership (Bell Atlantic Mobile). This matter was previously heard on September 7 and October 19, 2004.

The Board reviewed the following new information:

1. Memo, dated October 27, 2004, from Jan Silva, Administrative Assistant, reporting that Town Counsel had reviewed the Board of Appeals Special Permit and the Water District lease agreement for the North Road celltower. She stated his opinion that it is a continuous lease regardless of the fact of a successor lessee and a term has expired. Renewal of terms are automatic unless notice of termination is given; therefore, no additional permit is necessary from the Board of Appeals.
2. Memo, dated November 4, 2004, from Jan Silva, Administrative Assistant, stating Al Renzi of the Water District reported having conversations with SpectraSite about moving the propane tank at the Water District celltower site, and though they are willing to do it or block it with a jersey barrier, there has been no confirmation or any action from SpectraSite. Mr. Renzi indicated the Water District could do it if necessary. It was suggested that a condition to the site plan may be necessary to get action.

Selectman Keller opined he would prefer to see fewer towers with more coverage than the trade-off of less visual impact. He stated he gets calls about dropped calls, but no one complains about the appearance of the towers in Town.

Selectman O'Brien stated he watched the broadcast of the previous meeting which prompted him to review his notes. He opined that, as the Route 117 commuter corridor was listed as T-Mobile's main concern, he did not think the enhanced power provided any additional coverage for that area. He therefore was in favor of the three-antenna application.

Mr. Michael Almada, Project Manager, T-Mobile USA, stated he reaches a different conclusion regarding Route 117. He stated the more powerful antenna array leaves a smaller coverage gap, for which they would not be inclined to seek an additional celltower installation. The flush mount installation may require an additional installation to improve coverage and reduce coverage gaps in the area. This would most likely not be determined until this installation is up and running.

Chairman Drobinski stated his preference for the flush mount as it lessens the visual impact.

Ralph Tyler, One Deacon Lane, stated a bridge on Route 117 in Lincoln is being reconstructed, and it is a beautiful area overlooking the Sudbury River. He submitted a photo showing the celltower, the photo taken from Route 117. He stated he has seen people enjoying the beauty of the valley, artists painting it, birdwatchers walking the area and so forth. He opined the increased height of the installation to be intrusive, and reiterated his concerns that this is a non-conforming use and that the applicant should be forced to submit to full review of the entire facility.

Mr. Tyler further pointed out that an earlier application of T-Mobile in 2002 indicated that an acceptable level of RF (radio frequency) power was -91 dBm (decibels/m) [read from document] and noted the present engineer quoted a different number. He suggested the Board ask the applicant for more information on the standard used.

With regard to the wireless bylaw, Mr. Tyler opined that changes in technology should require applicants to go through a full review process and that renewal of lease terms should not be automatic if equipment has been upgraded or altered. Mr. Tyler stated he was providing the Board with information that could assist them in making their decision on this installation. He briefly reviewed previous Board of Appeals decisions which preceded this application. He stated the original lease was for twenty years and should not be extended. Chairman Drobinski reminded Mr. Tyler the lease was between the original applicant and the Sudbury Water District, and has been referenced in previous decisions. Mr. Drobinski stated further the Board of Selectmen must abide by both the Zoning Bylaw and Town Counsel opinion.

After discussion, it was on motion unanimously

VOTED: To direct the Town Manager to instruct Town staff to prepare a Draft Decision to approve a flush mount antenna installation and add requirements for the placement of a jersey barrier to protect the propane tank and that the new installation be in compliance with Board of Appeals permit(s) and the Zoning Bylaw; and further, to continue this matter until November 16, 2004 at 9:30 p.m.

#### **Park and Recreation -- Renewal of Dock Permit, Willis Lake**

Present: Peter Glass, Park and Recreation.

The Board reviewed a communication, dated October 21, 2004, from Peter Glass, requesting renewal of a permit for the dock at Willis Lake. As the dock is considered temporary as it is not a permanent fixture, the permit is for a period of several months and must be renewed annually.

Mr. Peter Glass, Park and Recreation Commission, asked the Board to renew a permit for the "temporary" dock at Willis Lake, and asked that a longer dock be approved. The dock rolls into the water as needed, and can be dismantled at the end of the boating season.

In accordance with Mass. General Laws Chapter 91, Section 10A, it was on motion unanimously

VOTED: That the Board of Selectmen of the Town of Sudbury hereby grants a one-year permit to the Park and Recreation Department of the Town of Sudbury to place a temporary dock (float) in Willis Lake on Lakeshore Drive where it abuts the Park and Recreation Parcel 011, Map F04; said dock to be no longer than 40 feet and no wider than 6 feet and may be in the water April 1, 2005 through November 1, 2005 only; this permit is conditioned upon approval by the Conservation Commission in regard to compliance with wetlands regulations.

#### **Common Victualler License – Decadence, 365 Boston Post Road**

Present: Brinda Gupta, Gupta Associates, Inc.; Frank Riepe, Architect.

The Board reviewed the following information:

1. Application for Common Victualler License, dated October 20, 2004, from Gupta Associates, Inc., d/b/a Decadence, 365 Boston Post Road, Unit 102, accompanied by plans dated October 19, 2004 drawn by Frank Warner Riepe, Architect, Sudbury, Massachusetts 01776.
2. Application for Entertainment License, dated October 20, 2004, from Gupta Associates, Inc., d/b/a Decadence, 365 Boston Post Road, Unit 102, to be exercised from 6:00 a.m. to 11:00 p.m. seven days a week, for radio/satellite radio and television.

3. Report, dated October 26, 2004, from the Building Inspector, stating all interior renovations comply with the Massachusetts State Building Code Sixth Edition; there are no exterior changes. Mr. Kelly stated further that, prior to opening this restaurant to the public, a Certificate of Occupancy stating the use and occupancy load must be issued by the Building Department.
4. Report, dated October 29, 2004, from the Health Director, stating that, after reviewing an acceptable floor plan for this establishment featuring 19 seats, the septic system is adequate for the proposed use.
5. Report, dated November 2, 2004, from the Fire Chief, with the following comments: 1) a fire suppression system within the hooded cooking area is required and seems to be indicated on the plan; and 2) a fire alarm and detection system shall be installed as per 780 CMR and NFPA 72.

Ms. Brinda Gupta, Gupta Associates, Inc., stated the proposed business will feature gourmet ice cream which will be made on site, gourmet coffees, pastries, sandwiches, salads, and other items. She stated take out business will be offered as all foods will be dispensed in disposable ware. Drinks will be bottled and canned. Ms. Gupta stated she paid close attention to all things requiring water and did not plan to install a dishwasher nor drink dispenser which would increase the use of water. All dishes will be washed by hand.

Mr. Frank Riepe, Architect, stated only one sign will be placed outside which will be in compliance with the sign bylaw.

Ms. Gupta stated her hours may eventually reach the hours requested on the Entertainment License, but acknowledged that in the beginning the hours will be shorter until the staff assesses the amount of business available in expansion of those hours.

After discussion, it was on motion unanimously

VOTED: To grant a Common Victualler License to Gupta Associates, Inc., d/b/a Decadence, 365 Boston Post Road, Unit 102, Mill Village, with hours of operation from 6:00 a.m. to 11:00 p.m., subject to meeting requirements of the Building Inspector, Health Director and Fire Chief.

It was also on motion unanimously

VOTED: To grant an Entertainment License to Gupta Associates, Inc., d/b/a Decadence, 365 Boston Post Road, Unit 102, Mill Village, for radio/satellite radio and television indoors, to be exercised during the hours of operation from 6:00 a.m. to 11:00 p.m.

#### **Deadline Dates for Annual Town Meeting Article Submission**

It was on motion unanimously

VOTED: To approve the following schedule for the submission of Warrant Articles for the 2005 Annual Town Meeting (commencing April 4, 2005). **This submission process shall apply to Town Boards and Committees and Resident Petitioners alike.**

1. Per Sudbury Bylaws and in consideration of the Town Offices holiday on 12/31/04, all articles are due in the Office of the Selectmen by 5:00 p.m. on Thursday, December 30, 2004.

2. Submitters shall have until Friday, January 14, 2005, to finalize any details. Board of Selectmen/Town Counsel will determine if materials added after December 30 are within the four corners of the original submission.
3. Town Counsel shall review all articles by January 24, 2005, and advise submitters of any problems.
4. Submitters will have until January 31, 2005, to correct problems identified by Town Counsel, and make a resubmission as necessary.

**St. Anselm Task Force – Task List**

Town Manager Valente reviewed a task list, prepared by the Town Planner, as discussed at recent meetings of the St. Anselm Housing Task Force. She stated a public hearing is scheduled for November 15, 2004, and asked if members of the Board could attend. Ms. Valente reported to the Board the Task Force's recommendations will likely not be ready until early December.

**Town Report**

Town Manager Valente stated the deadline for the Selectmen's report to the Annual Town Report is November 24. She suggested following the model used in last year's Town Report in which the Selectmen's goals were combined with Town Manager goals. The Board concurred.

**Executive Session**

At 9:40 p.m. it was on roll call

VOTED: To go into Executive Session for the purpose of discussing litigation matters.

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

There being no further business to come before the Board, the meeting adjourned at 10:05 p.m.

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