

IN BOARD OF SELECTMEN
TUESDAY, APRIL 12, 2005

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

The statutory requirement 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

On behalf of the Board, Chairman Drobinski thanked the Town Manager and Town staff, including the Town Clerk, Technology Administrator, and staff at Lincoln-Sudbury High School, for a successful Annual Town Meeting. He also thanked the residents for their participation in this event, noting the Town received good feedback on many issues. Town Manager Valente expressed special appreciation for the efforts of Mark Thompson, Technology Administrator, for keeping all presentations in order and organized.

Earth Removal Board/Board of Appeals Associates – Appointment

Present: Nancy Rubenstein, 57 Winsor Road.

The Board reviewed a memo from the Board of Appeals, dated March 15, 2005, recommending Nancy Rubenstein for appointment to the Earth Removal Board/Board of Appeals Associates to fill a vacancy, as well as Ms. Rubenstein's application and professional credentials. Chairman Drobinski thanked Ms. Rubenstein for volunteering for service.

Ms. Rubenstein stated she has been regularly attending Board of Appeals public hearings since July 2004 in order to gain an idea of the types of projects that would come before the Board of Appeals. She stated she is a registered structural engineer and has a lot of municipal experience in Philadelphia and Boston.

Responding to a question from Selectman O'Brien, Ms. Rubenstein stated she understands the hardship in construction of changing designs, and the financing, leasing and development of projects as well as managing the construction process. She also stated it is sometimes difficult to attend the hearings as a resident in that she was unable to see the drawings and more fully understand the discussion.

Selectman Keller asked if she had experience with Chapter 40B projects. Ms. Rubenstein responded she did not, and clarified she knew what they were, but was unfamiliar with all the regulatory aspects of that type of project. She stated she would certainly learn about them in order to work with the Board of Appeals. She opined it would be interesting to work on one, providing affordable housing, and working on a design different from municipal buildings.

It was on motion unanimously

VOTED: To appoint Nancy Rubenstein, 57 Winsor Road, to the Earth Removal Board/Board of Appeals Associates for a term to expire April 30, 2006, replacing Jeffrey Klofft.

NStar Tree Replacement – Stock Farm Road and Pelham Island Road

Present: Stan Kaplan, 98 Victoria Road.

On November 16, 2004, the Board of Selectmen received a plant list and drawings prepared by NStar for replanting the areas where they removed trees and vegetation which had been planted under a past agreement

and referred the same to staff and Permanent Landscape Committee for recommendation. In response, the Board was in receipt of the following:

- 1) Report, dated April 11, 2005, "Recommendations for NStar Planting on Stock Farm Road", from Deborah Kruskal, Permanent Landscape Committee, Deborah Dineen, Conservation Coordinator, and Bill Place, Director of Public Works; with an addendum, dated April 12, 2005, from D. Dineen, setting forth proposed plant species, general placement recommendation, method of planting and specifying installation to be completed no later than May 20, 2005. Said report is attached hereto and made a part of these minutes.
- 2) Letter [submitted at meeting], dated April 12, 2005, from Stan Kaplan, 98 Victoria Road, on behalf of the neighborhood petitioners, giving support to the recommendations submitted in Town staff reports dated April 11, 2005 and the addendum dated April 12, 2005, specifying size and water source. Mr. Kaplan also requested the following conditions: a) that NStar provide the Board of Selectmen with two illustrations based on Town recommendations, one at planting and the other at maturity; b) that NStar bond for the replacement of any trees that do not survive three full growing seasons; and c) that at least 60 days' advance notice in writing be given to the Town before cutting any trees or vegetation.

Town Manager Valente stated Town staff has submitted recommendations toward replanting the cut area on Stock Farm Road and Pelham Island Road as soon as possible this spring. She reviewed those reports, and clarified that a water source as suggested by the Conservation Coordinator in the addendum would need investigation. As NStar was not present to comment, it is unknown whether NStar would agree to provide that water source or if it would become the Town's responsibility. It was suggested to ask the DPW Director for an estimate of what would be required. For the benefit of viewers, Ms. Valente summarized the staff recommendations aloud.

Mr. Stan Kaplan, 98 Victoria Road, representing the neighborhood, submitted the above-referenced letter, which included a rough sketch drawn by Deborah Kruskal of the Permanent Landscape Committee, and he noted that the trees should be in front of the poles. He opined the suggested placement of plantings provides an attractive covering even in winter when many plants will lose their leaves. Mr. Kaplan also agreed with the conditions suggested in the addendum by the Conservation Coordinator, defining height and water source.

Mr. Kaplan stated the neighborhood is interested in resolving this matter and working toward a mutually acceptable solution. He stated they are particularly interested in getting some vegetative screening back in the area, even if the projected growth takes a while to fill in.

Responding to a question from Selectman O'Brien, Mr. Kaplan stated NStar has access to this area a short distance down the street, and that access will not be impeded by the density of the plantings. Mr. O'Brien suggested sending a cover letter to NStar, indicating the density and distribution of plantings for optimum coverage. He suggested further quantities of each suggested species should be added to the list. Mr. Kaplan stated he could provide the Board with the actual count of the trees that were cut down.

Mr. Kaplan requested the following conditions be imposed in any agreement with NStar: 1) that NStar provide the Board of Selectmen with two illustrations based on Town recommendations, one at planting and the other at maturity; 2) that NStar bond for the replacement of any trees that do not survive three full growing seasons; and 3) that at least 60 days advance notice in writing be given to the Town before cutting any trees or vegetation. Selectman O'Brien suggested waiving the advance notice in emergency situations. Discussion followed on which Board or Town entity should receive the notice, i.e., Board of Selectmen, Town Manager, Tree Warden, etc.

Chairman Drobinski suggested adding an estimate of the water source (to be provided by the DPW Director), either for NStar to commit to it, contract with someone to do it, or decline to do it.

Town Manager Valente suggested a plaque or similar signage be installed on site to indicate the landscaping is required. She opined this would provide information to future area homeowners and avoid potential problems with NStar and other entities.

Selectman Keller suggested adding a condition that contact be made by NStar every couple of years to make sure the agreement is still in force. He opined a major reason this situation happened is that no one had memory of the original agreement until extensive research into original documentation revealed it.

After discussion, Town Manager Valente summarized the points of the proposed communication to NStar as follows: Staff recommendations on plantings (quantities and sizes per addendum) with cover letter including 1) that NStar provide the Board of Selectmen with two illustrations based on Town staff recommendations, one at planting and the other at maturity; 2) that NStar bond for the replacement of any trees that do not survive three full growing seasons; and 3) that at least 60 days advance notice in writing be given to the Town before cutting any trees or vegetation, which can be waived for emergency and/or safety situations, at which time the Town Manager should be notified within 24 hours of event.

Concerning the restorative planting of areas off of Stock Farm Road and Pelham Island Road by NStar, it was on motion unanimously

VOTED: To send a letter to NStar submitting staff recommendations and conditions as follows: Staff recommendations on plantings (estimated quantities added and sizes per addendum) with cover letter including 1) that NStar provide the Board of Selectmen with a detailed planting plan plus two illustrations based on Town staff recommendations, one at planting and the other at maturity; 2) that NStar bond for the replacement of any trees that do not survive three full growing seasons; 3) that at least 60 days advance notice in writing be given to the Town before cutting or trimming any trees or vegetation, which can be waived for emergency and/or safety situations, at which time the Town Manager should be notified within 24 hours of event, and 4) that NStar provide plans for making water available. An estimate on the cost of using the suggested water cannons or other Town water source will be provided by the DPW Director.

Minutes

It was on motion unanimously

VOTED: To approve the regular session minutes of March 29, 2005, and April 6, 2005, as drafted.

Easements – The Arboretum

It was on motion unanimously

VOTED: To accept the following Easements, all as shown on a plan of land entitled “THE ARBORETUM” Cluster Definitive Subdivision of Land in Sudbury, Mass., dated July, 2004, prepared by David E. Ross Associates, Inc.:

- 1) Drainage and Utility Easement on a portion of Lot 7 granted by Webster Cutting, Jr., Lucius P. Cutting, Glenn H. Cutting, Beth Anne Cutting Cosgrove, and Frank J. Cutting and Martha J. Cutting, Trustees of the Cutting Real Estate Trust;

- 2) Drainage and Utility Easement shown as Parcel "C4" and "Prop. Drainage and Utility Easement" on said plan, granted by John C. Cutting and H. Rebecca Cutting;
- 3) Drainage Easement on portions of land on Parcel "C6" abutting Maynard Rd., and shown as "Proposed Drainage Easement" on the northerly side of Arboretum Way, granted by John C. Cutting and H. Rebecca Cutting.

Goodnow Library Sudbury Archives – Grant

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a grant in the amount of \$20,000 from The Sudbury Foundation, to be separately accounted for and expended for continuing the Goodnow Library Sudbury Archives Project under the direction of the Library Director; and to send a letter of thanks to The Sudbury Foundation.

Cable Television Committee – Resignation

It was on motion unanimously

VOTED: To accept the resignation of Michael Daitzman dated October 18, 2004 from the Cable Television Committee, and to send a letter of appreciation for his service.

Rail Trail Conversion Advisory Committee

It was on motion unanimously

VOTED: To accept the resignation of Bryan Semple dated March 29, 2005 from the Rail Trail Conversion Advisory Committee, and to send a letter of appreciation for his service.

FY06 Transfer Station Fees – Disposal of Trash

Town Manager Valente directed the Board's attention to a report, dated March 3, 2005, from the DPW Director/Town Engineer, which stated there will be a projected deficit of \$20,000 for FY05, the reasons for said deficit, an extrapolated deficit for FY06 of approximately \$50,000, and recommendations for increases in consumer trash disposal costs to offset projected expenses. She stated rates for Pay-Per-Throw bags or transfer station stickers have not been increased since 2000. She stated further that the proposed Pay-Per-Throw rates are lower than in Northborough, Lunenburg and Maynard. Ms. Valente clarified that the price of the bags and stickers is designed to cover costs associated with disposal of the trash, and not as a profit-making tool.

Selectman O'Brien asked about reduced rates for senior citizens. Ms. Valente responded residents over 65 with a declared hardship receive reduced rates, and that it is not an automatic age-related discount.

Chairman Drobinski asked if a recycling sticker could be issued to Sudbury residents so that out-of-town residents cannot bring their items to the transfer station. It could be a nominal fee to cover the cost of printing the stickers, or even free. Ms. Valente responded this could be discussed at a later date, and that the pressing item for this evening was the original transfer station stickers and bags.

Selectman Keller asked where transfer station stickers are sold. Ms. Valente stated the stickers are available only at the DPW office, as money is not collected at the transfer station.

Discussion followed on how to let both current and new residents know about the transfer station as well as availability of trash bags and transfer station stickers. It was suggested that a small supply of bags be available for sale at the transfer station as there are few retailers presently enrolled in the program.

It was on motion unanimously

VOTED: To set FY06 fees for disposal of trash at the Transfer Station (reflecting a 50 cents per bag increase and \$25 increase in sticker fee) as follows:

- 1) Price per trash disposal bag: \$1.25 (small) and \$2.00 (large)
- 2) Sticker fee: \$125 annually

Medicare/Ambulance Billing Rates

The Board reviewed a memo, dated April 4, 2005, from Kenneth MacLean, Fire Chief, proposing the rates for private pay patients for ambulance transport be changed to Medicare Allowed Rates plus 40%. Chief MacLean stated this procedure is becoming standard in the industry. He stated further the ambulance is self sustaining and returns significant operating funds to the Sudbury Fire Department budget each year for its operation. As direct ambulance operating costs are rising, he opined it is appropriate that ambulance revenues cover that increase.

After discussion, it was on motion unanimously

VOTED: On the recommendation of the Fire Chief in a letter dated April 4, 2005, to adopt ambulance user fees as specified in a document faxed from Comstar Ambulance Billing & Collection Service dated March 30, 2005, utilizing the rates labeled as "Client Specified Rates" column, being 40% higher than Medicare's allowed fee schedule.

Enchilada, Inc. – Acapulco's

The Board reviewed a letter, dated April 5, 2005, from Attorney Nicholas A. Felici, Feinberg & Felici, representing Enchilada Inc. d/b/a Acapulco's Mexican Family Restaurant, in which he states the client is applying for license approval from the Town of Milton for a location at a mixed-use condominium development in downtown Milton. He asked for a short letter of recommendation reflecting the restaurant's impact on the community and the owner's commitment to quality family dining.

Town Manager Valente stated there are apparently concerns that this restaurant may interfere with the quiet enjoyment of the condominium unit owners above the restaurant late at night. She opined it may not be the Board's position to make either positive or negative statements about any business entity. Ms. Valente stated there have been a few noise complaints from the neighbors, sometimes when the restaurant is not open for business, but staff is working.

Selectman Keller suggested responding with comments that the establishment has followed all bylaws and regulations, business in good standing, pays taxes, etc.

Selectman O'Brien, who lives near that location, stated the restaurant was responsive to those noise complaints. He concurred with Selectman Keller's comments, adding that the property is maintained, and there are no liquor license infractions or any other trouble points. Town Manager Valente opined the business has been open and the liquor license has been in force only two or three years.

Chairman Drobinski suggested that Town Counsel be consulted on appropriate language to use in a case such as this.

It was on motion unanimously

VOTED: To direct the Town Manager, after consultation with Town Counsel, to draft a letter of response to Attorney Felici's query, incorporating tonight's comments, for the Board's review before signing.

Pari Holdings LLC – Sudbury Meadows, 534 North Road

The Board reviewed the following information with regard to an Application for Comprehensive Permit (40B) from Pari Holdings LLC for a proposed project at 534 North Road to be known as Sudbury Meadows: Application documents consisting of a letter from Devin, Barry & Austin, P.C. outlining the project, Waivers List, Option to Purchase Real Estate, Letter from MassHousing determining Project Eligibility, and reports from Sudbury Planning Board, the Town Engineer/DPW Director, and Selectmen's Administrative Assistant.

Town Manager Valente stated the Board of Appeals is requesting any additional comments from the Board of Selectmen in preparation for the public hearing on this matter scheduled for April 28, 2005.

Chairman Drobinski suggested a letter of support, endorsing the staff reports, and adding that the Board would strongly support designating this project as an over-55 community. Selectman O'Brien asked if the Board of Appeals could keep the Selectmen informed of all hearings on this matter.

It was on motion unanimously

VOTED: In response to a communication dated March 21, 2005, from the Board of Appeals soliciting comments relative to an application for Comprehensive Permit (Case 05-19) of Pari Holdings LLC, regarding Sudbury Meadows, 534 North Road, to direct the Town Manager to send a letter strongly endorsing the comments from the Town Planner, the DPW Director and Jan Silva, reiterating the Board of Selectmen's desire to have this project designated as a over-55 community, and asking that the Board of Appeals notify the Board of Selectmen of all hearings on this matter and keep the Board of Selectmen and Town Manager informed of progress on this project.

Rail Trail Conversion Committee – Vacancies

Town Manager Valente asked the Board to consider how it wishes to proceed on filing the vacancies on the Rail Trail Conversion Committee created by resignation of two members. Selectman Keller opined that perhaps no additional members were necessary at this time, as the original suggested membership was seven, and then it was increased to nine. Ms. Valente stated the committee is still in its infancy so perhaps new members could be added once it is up and running.

Selectman O'Brien suggested designating co-chairs might help to maintain balance and direction in the absence of key members due to commitments on other boards.

Selectman O'Brien asked Ms. Valente how attendance has been at recent meetings. She responded that, among the at-large members, the attendance has been good, but the members who were appointed by a board or department have not been attending regularly. She opined it may take time to integrate another meeting into an already busy calendar for some folks.

Town Manager Valente offered to supply the Board with the original interview information for all interested candidates, the minutes from earlier interviews and a list of current members to assist them in moving forward. Selectman Keller asked that the original mission statement be included in this packet of information. Discussion followed. Ms. Valente asked the Board to contact her if there was any other information she should include.

Eagle Scout Recognition – Troop 63

The Board extended congratulations to Andrew Essington, 18 Griscom Road, and Derek Richards, 44 Codman Drive, on the attainment of the rank of Eagle Scout. Selectman O'Brien stated he would be happy to attend the Court of Honor on May 2, 2005, to personally present the Board's letter of congratulation.

It was on motion unanimously

VOTED: To acknowledge the achievement of the rank of Eagle Scout for Troop 63 Scouts Andrew Essington, 18 Griscom Road, and Derek Richards, 44 Codman Drive, and to send letters of congratulation with Selectman Lawrence O'Brien to be presented personally at the Court of Honor on May 2, 2005.

Reverse 911 System

Town Manager Valente stated she and the Police Chief are completing the training on this new system, and will be formulating a policy regarding town-wide implementation and approvals for use by the schools, Board of Health, or Water District, in addition to Police and Fire. She reminded the Board the basic system was purchased with grant monies from the Homeland Fund, and that the maintenance will be free for several years. After that, a fee of \$2,000 - \$3,000 per year will be necessary. The school systems will be contributing to this expense. Ms. Valente stated that, once the policy is drafted, she will forward it to the Board for review.

Reorganization of the Board

It was on motion unanimously

VOTED: To elect Maureen G. Valente, Town Manager, as Clerk of the Board of Selectmen for 2005-2006.

It was further on motion unanimously

VOTED: To elect Lawrence W. O'Brien as Chairman, and William J. Keller, Jr. as Vice-Chairman, of the Board of Selectmen, for 2005-2006.

There being no further business, the meeting adjourned at 8:45 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk

