

IN BOARD OF SELECTMEN
TUESDAY, FEBRUARY 15, 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

Chairman Drobinski announced there will be ballot questions with a potential impact of \$3.2 million on the tax levy at the 2005 Annual Town Election on March 28, 2005. He encouraged residents to educate themselves on all questions as well as those individuals running for office. He clarified that residents can check on their polling places by contacting the Town Clerk's office for more information. Mr. Drobinski stated further that the official Warrant for 2005 Annual Town Meeting will be available in the coming weeks.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular and executive sessions of February 1, 2005, as drafted.

Earth Removal Board/Board of Appeals Associates – Resignation

It was on motion unanimously

VOTED: To accept the resignation of Melinda M. Berman, dated January 28, 2005, effective February 28, 2005, from the Earth Removal Board/Board of Appeals Associates, and to send a letter of appreciation for her service.

Rail Trail Conversion Advisory Committee – Resignation

It was on motion unanimously

VOTED: To accept the resignation of Allan Wallack, dated January 28, 2005, from the newly formed Rail Trail Conversion Advisory Committee, and to send a letter of acknowledgement to Mr. Wallack.

Annual Sudbury Spring Sprint Triathlon – May 15, 2005

It was on motion unanimously

VOTED: To grant permission for the Annual Sudbury Spring Spring Triathlon, a swim/bicycle/foot race event on Sunday, May 15, 2005, utilizing the loop of Fairbank Road, Maynard Road, and Hudson Road for a bicycle race and the loop of Fairbank Road, Butler Place, Willis Lake Drive, Basswood Avenue, Crystal Lake Drive and Hudson Road for a foot race, beginning and ending at the Atkinson Pool, subject to reasonable conditions imposed by the Sudbury Police Department, including provision of three paid police details to direct traffic, and the applicant providing for cleanup of any litter of paper cups or other items used by race participants or staff.

Joyce Endee Productions – Arts & Crafts Shows

It was on motion unanimously

VOTED: To grant a special permit for Joyce Endee Productions to hold two juried Arts & Crafts Shows, one on Saturday-Sunday, April 30-May 1, 2005, and one September 11, 2005, at the West Field, Wayside Inn, subject to conditions and permits required by the Fire, Police, Health and Building Departments.

Annual River Stewardship Award

The Board reviewed a communication, dated February 2005, from the League of Women Voters of Sudbury, announcing the third Annual River Stewardship Award Program. The Call for Nominations included information on the selection process, eligibility and nomination criteria, as well as the application.

Town Manager Valente asked the Board if it wished to nominate an individual, i.e., Sudbury Town employee, citizen or group that has made a substantial contribution to protecting the Sudbury, Assabet, and Concord Rivers and their watersheds. Discussion followed.

It was on motion unanimously

VOTED: To place the name of I. William Place, Director of Public Works/Town Engineer, into nomination for the 2005 Annual River Stewardship Award.

Frugal Flower – Temporary Structure

Present: Craig Wambolt, Owner, Frugal Flower.

At 7:45 p.m. the Board met to continue discussion of a request by Craig Wambolt of Frugal Flower for approval of the placement and use of a temporary greenhouse structure at the front of the property at 736 Boston Post Road until April 30, 2005.

The Board reviewed the following new information:

1. Report, dated November 17, 2004, from the Building Inspector, stating that a temporary greenhouse is permitted for a period not to exceed three months and that the structure shall be removed from the premises prior to February 25, 2005 unless an extension has been requested and received from the Board of Selectmen.
2. Letter, dated December 28, 2004, from the Conservation Commission to Mr. Craig Wambolt, Frugal Flower, serving as a Notice of Violation and Enforcement Order with regard to the installation of a large temporary greenhouse within the riverfront area of the property without applying for and receiving the appropriate wetlands permits. Violations consist of (1) the installation of a 30' x 100' temporary (Oct. through April) greenhouse that is located entirely within the outer riparian area of a perennial stream, even though the owner was notified several times, in writing, that a permit was required; (2) the addition of at least 3,000 sq. ft. of additional impervious surface without drainage review and mitigation; and (3) failure to complete the requirements of DEP file #301-574 prior to proceeding with any new work on site.
2. Two email communications, dated February 2, 2005, from the Conservation Coordinator to Joseph Peznola, Hancock Associates, with lengthy comments/questions regarding the Notice of Intent submitted for Frugal Flower.

3. Email communication, dated February 2, 2005, from the Conservation Coordinator to Administrative Assistant Janet Silva, stating that the Frugal Flower Notice of Intent is not complete, is mainly for the new paved area, and does not address all of the Conservation Commission's concerns. Ms. Dineen stated further the hearing with the Conservation Commission is scheduled for February 28 and recommended the Board wait until the Commission has reviewed both the status of the previous filing, the existing violations and the new work.

4. Email communication, dated February 11, 2005, from the Conservation Coordinator to the Conservation Commission, submitting the findings of her site walk on the Frugal Flower premises, declaring there to clearly be a riverfront, and that some areas will need to be looked at without snow cover. She stated further a second greenhouse has been constructed in the rear of the site over a portion of the storm water leaching trenches and is filled with boxes. She noted a fenced-in area adjacent to the rear greenhouse contained pipes of all sizes plus materials. A required native species meadow was never established. Ms. Dineen stated further the existing parking problem is caused by the tenants, Curves for Women, noting original site plan approvals were not based on parking needs for this use. She opined the tenant space could be used for storage of materials presently in the rear greenhouse and fenced-in area. Lastly, she stated she could not recommend approval of any use, activity, or construction at Frugal Flower until the site is in compliance with the past permit requirements.

Chairman Drobinski stated the Board had received reports from the Conservation Commission regarding the lack of permits for work that was done in a riverfront area. Mr. Craig Wambolt, Owner, stated it had been determined that the area was not that of a river, but rather an intermittent stream. He did not reveal who made this determination.

Mr. Wambolt expressed disappointment that the process of getting the temporary structure approved has become so laborious. He opined the Conservation Coordinator to be continually sending him things that must be done, conditions he claims have been fulfilled or are not necessary. He indicated many of the things incomplete should have been done by the previous property owner.

Mr. Wambolt stated he has spent a lot of money working with Hancock Associates toward resolution of outstanding issues, and now there is again a long list of problems. Selectman Keller asked him if he had seen a copy of the Conservation reports and offered Mr. Wambolt his copy.

In lieu of specific response to various questions from the Board, Mr. Wambolt stated "it's in the site plan." He reiterated his displeasure with the process while having no issues with the Board of Selectmen.

Selectman O'Brien summarized outstanding issues as follows: wetlands issues, drainage and stormwater, and parking. He opined the Board should wait for the outcome of the Conservation Commission hearing on February 28 before voting on this matter. The Board concurred.

After discussion, it was on motion unanimously

VOTED: To extend the time period the temporary structure may remain in place at Frugal Flower, 736 Boston Post Road, until April 1, 2005, in accordance with Section 2324 of the Sudbury Zoning Bylaw; and

It was also on motion unanimously

VOTED: To continue this matter until March 29, 2005, at 7:45 p.m.

Site Plan #SP-04-378 – Sudbury Park and Recreation Department (Cutting land)

At 8:00 p.m. Chairman Drobinski reconvened a Public Hearing for further consideration of Site Plan Application #SP04-378 of the Town of Sudbury Park and Recreation Department, in accordance with Sudbury Zoning Bylaw Article IX.6000, Section 6300, Site Plan Review, for construction of one multi-purpose 230' x 385' synthetic turf athletic field and associated parking, on property located on Maynard Road (former Cutting land), owned by the Town of Sudbury, zoned Single Residence A.

The Board opted to continue this matter to allow sufficient time to review the Draft Decision and receive any comments from the applicant.

It was on motion unanimously

VOTED: To continue this matter until March 1, 2005, at 7:45 p.m. and to consider the Draft Decision at that time.

2005 Annual Town Meeting Action

a) Ballot Questions

Following discussion, it was on motion unanimously

VOTED: To place the following two questions on the March 28, 2005 Annual Town Election Ballot, in the order listed:

QUESTION NO. 1

Shall the town of Sudbury be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued in order to purchase a fire engine and associated equipment for the Fire Department; purchase a bucket truck and associated equipment for the Fire Department; remove and replace the concrete floor at Fire Station 3 including all expenses related thereto; and replace the boiler system at the Fairbank Community Center including all expenses related thereto?

QUESTION NO. 2

Shall the town of Sudbury be allowed to assess an additional \$3,050,000 in real estate and personal property taxes for the purposes of funding \$1,147,940 in operating expenses for the Sudbury Public Schools, \$1,122,950 in operating expenses for the Lincoln-Sudbury Regional District High School, \$699,800 in operating expenses for other Town departments, and \$79,310 in capital expenditures for the fiscal year beginning July first, two thousand and five?

b) Selectmen positions on articles

After discussion, it was on motion unanimously

VOTED: To SUPPORT the following articles at the 2005 Annual Town Meeting: 5 – FY06 Budget and 38 – Establish Agricultural Commission.

It was also on motion unanimously

VOTED: To REPORT AT TOWN MEETING on the following 2005 Annual Town Meeting articles: 6, 7, 12-15, 49-50.

It was further on motion unanimously

VOTED: To direct the Town Manager to draft and send a letter to the Historic Districts Commission explaining the Board's position on Article 36 – Create Maple Avenue Historic District.

Establishment of Ponds and Waterways Committee

Present: Michael Fee, Chairman, Planning Board; Mark Ensign, Chairman, Conservation Commission; Frank Lyons, President, Hop Brook Protection Association.

Mr. Michael Fee, Chairman, Planning Board, briefly outlined the proposed Ponds and Waterways Committee. The Board reviewed a copy of the proposal and the Draft Mission Statement for the proposed committee. Mr. Fee suggested the Board consider establishing such a committee in order to address water quality and use issues throughout the Town, assessing, strategizing and implementing remediation efforts, develop long-term recreational use plans and improve wildlife habitat and aesthetics for all ponds and waterways throughout Sudbury.

Mr. Mark Ensign, Chairman, Conservation Commission, stated the Conservation Commission wholeheartedly supports the concept and establishment of such a committee, and opined it would be very helpful in handling conservation issues regarding wetlands and riverfront areas in an advisory capacity.

Mr. Fee described the proposed membership of the committee and qualifications of members. The Conservation Commission, Planning Board and Park and Recreation Commission would all appoint one of their members to serve, while additional members would come from the Hop Brook Protection Association, Earth Decade Committee, Sudbury Valley Trustees, and the Wayside Inn as well as several citizens-at-large.

Mr. Frank Lyons, President, Hop Brook Protection Association, stated the HBPA is in full support of the proposed committee, as it would help them in their efforts to control impact on water in Town, i.e., to help bring the Marlborough Easterly Wastewater Plant into compliance with DEP regulations.

The Board indicated its support of the proposed committee and will review the Draft Mission Statement. Town Manager Valente stated she would draft some language to be posted on the Town website for parties interested in serving. This matter will be considered at a later date.

Site Plan #04-375 – St. Elizabeth's Episcopal Church

Present: David Wallingford, Gifford Perry, Church Building Committee; Jim Cavanaugh, 9 Codman Drive; Joseph Tratnyek, 476 Concord Road; Dean Yarbrough, 468 Concord Road.

The Board reviewed the following new information:

1. Planting Plan, St. Elizabeth's Episcopal Church, dated January 21, 2005, revised January 28, 2005, drawn by Joan Dillon Ferguson, Landscape Architect, 62 Nashoba Road, Concord, Mass.

2. Site Lighting Details on the poles, fixtures and photometrics of the fixtures, in accordance with Condition No. 7 in the Site Plan Decision of the Board of Selectmen dated July 27, 2004.
3. Report, dated February 2, 2005, from the Conservation Coordinator, stating the Conservation Commission does not have jurisdiction over the landscaping associated with the reconstruction at St. Elizabeth's Church, but opined the Commission would be pleased to see that the majority of the plants, except for a few at the front entrance, are native species.
4. Report, dated February 4, 2005, from the Historic Districts Commission, stating the HDC has reviewed and unanimously approved the Landscape and Lighting Plans of St. Elizabeth's Episcopal Church at its meeting on February 3, 2005.
5. Report, dated February 10, 2005, from the Design Review Board, with the following comments and recommendations: (a) the arborvitae on the western edge of the property be changed to Swiss Stone Pine so as to discourage deer; (b) the Design Review Board approves the plan; and (c) advises the Selectmen and the Building Inspector ensure the applicant has satisfied Condition #7 of the July 27, 2004 Site Plan Decision.

Mr. David Wallingford, representing St. Elizabeth's Church, reviewed the planting plan and stated the Design Review Board had given its approval with one exception, to change the arborvitae at the edge of the parking lot to Swiss Stone Pine to discourage deer coming onto the site. He stated all shrubbery would be planted as soon as weather permitted.

With regard to lighting details, Mr. Wallingford stated all lighting will be pointed down, and that fixtures would utilize 400-watt bulbs in recessed openings. The light will shine white for minimal visual impact. He stated the closest light to the western edge of the property was 63 feet from the edge of the parking lot and 75 feet away from the property line. He stated further there would also be eight 4-foot lighted markers along the driveway and front of the entrance which would utilize 70-watt bulbs. These were to ensure safe entrance and exit of the church building during evening events.

Mr. Joseph Tratnyek, 476 Concord Road, submitted a photo that was to represent the view from his front door, across the street and north of the church. He stated that all landscaping in the area of the new driveway had been removed prior to construction and asked that plantings be added to shield the new driveway from his view. He pointed to the area now labeled as Drainage Pond on the Planting Plan, with only four small junipers proposed. Mr. Wallingford responded their budget will only allow the proposed plantings as shown, but if finances improve by the time planting begins, they would consider additional planting in that area.

Mr. James Cavanaugh, 9 Codman Drive, reiterated his concerns from the previous hearing that the value of his property is reduced by the reconstruction of the parking lot. He stated the parking lot has been raised at least ten feet at the side closest to the building and now slopes downward toward his property. He expressed concern about drainage.

Mr. Cavanaugh also expressed concern that the trees in the woods are still very small and provide little screening. He asked that additional plantings be considered. Mr. Wallingford reiterated his earlier comment about financial constraints and stated they are willing to continue discussing solutions with Mr. Cavanaugh.

Mr. Gifford Perry, St. Elizabeth's Church, suggested the Selectmen walk the site to get a better idea of how things look. It was agreed to do so and also walk the site six months after occupancy, three to four months after planting.

Mr. Dean Yarbrough, 468 Concord Road, stated St. Elizabeth's Episcopal Church has always been a good neighbor, and that his family had no objections to the renovations being done. His home is located directly across Concord Road.

After discussion, it was on motion unanimously

VOTED: To approve the lighting details and Planting Plan, last revised January 28, 2005, for St. Elizabeth's Episcopal Church in connection with Site Plan #04-375, with comments noted this evening, and to schedule a site visit following 2005 Annual Town Meeting to view the site with regard to landscaping details.

The Applicants were advised to submit mylars of the plans for signature by the Board.

Executive Session

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

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

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

There being no further business, the meeting adjourned at 9:55 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk