

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, JULY 8, 2008

Present: Chairman Lawrence W. O'Brien, Selectman John C. Drobinski, and Town Manager Maureen G. Valente

Absent: Vice-Chairman William J. Keller, Jr.

The statutory requirements as to notice having been complied with, the meeting was convened at 7:40 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

At 7:40 p.m., Chairman O'Brien opened the meeting. He reminded the community to be cautious when driving, since more pedestrian and bikers are outside enjoying recreation time in the summer.

Chairman O'Brien announced that openings are still available in some Parks and Recreation summer programs, which will begin on Monday, July 14. He encouraged parents to view the Town website and to contact the Commission for further information.

Selectman Drobinski thanked the Chamber of Commerce for sponsoring a successful July 4th parade. He also thanked the Department of Public Works and Town Public Safety departments for preparing the Town streets and parade route so well. Selectman Drobinski stated that he was proud to march in the parade, which brings a great sense of community to Sudbury.

Chairman O'Brien announced that Vice-Chairman Keller is on vacation and will be absent from tonight's meeting. Chairman O'Brien will be on vacation for the Board's July 22 meeting.

Nobscot Boy Scout Reservation - LAND Grant Application

Present: Director of Planning and Community Development Jody Kablack

At 7:45 p.m., Chairman O'Brien welcomed Director of Planning and Community Development Jody Kablack to update the Board regarding the LAND Grant application to help defray the cost of purchasing the Conservation Restriction on the Nobscot Boy Scout Reservation property. Ms. Kablack briefly explained that the LAND grant was formerly known as the Self-Help grant program. The Board was previously in receipt of the Draft LAND grant application to be filed, prior to July 15, 2008, for consideration of a \$500,000 grant to reduce the total cost of the Nobscot Boy Scout Reservation purchase of development rights. Ms. Kablack stated that she has worked closely with the Sudbury Valley Trustees and Sudbury's Conservation Coordinator to prepare the grant application materials.

Ms. Kablack further stated that the Town has applied for the maximum grant amount of \$500,000, which was anticipated as part of the project budget as presented at the 2008 Annual Town Meeting. In response to a question from the Board, Ms. Kablack opined that the Town has a very high likelihood of success with this application. In addition, Ms. Kablack noted that the Town may be eligible to also apply for a second LAND Grant for the Nobscot Phase 2 project at a later date.

Chairman O'Brien noted that there is precedence for the Town's success with the Self Help Grant program, which awarded a \$250,000 grant to Sudbury to defray the cost of the Piper property purchase.

Town Manager Valente thanked Ms. Kablack for the time she has spent with Town staff and the Conservation Commission preparing and coordinating this State grant application on behalf of Sudbury.

Ms. Kablack stated that she has been very grateful for the assistance provided to her by the Sudbury Valley Trustees and Sudbury's Conservation Coordinator Debbie Dineen.

Selectman Drobinski commended Ms. Kablack on the application, which will be used for such a worthy Town project of acquiring the Nobscot land.

It was on motion unanimously

VOTED: To approve the "Conservation Land Acquisition Programs Application Form - FY09 Annual Grant Round" request for \$500,000 towards the purchase of the Conservation Restriction on the Nobscot Scout Reservation and to authorize the signature of Lawrence W. O'Brien, Board of Selectmen Chairman, as legal authority to apply for the grant.

American Legion - Change of Manager

Present: Spencer R. Goldstein and several Sudbury Post #191 Members

At 8:01 p.m., the Board considered a petition dated June 26, 2008, for a Change of Manager for the American Legion, Sudbury Post #191, Inc., 676 Boston Post Road, in connection with its Club License to sell All Alcoholic Beverages, for the Entertainment License and as a Common Victualler, from Linda J. Baldelli to Spencer R. Goldstein. Chairman O'Brien welcomed Spencer Goldstein to the meeting to explain the need for the change of manager.

Mr. Goldstein stated that the primary reason for the request is to abide by district policies that the manager and Board members be members of the American Legion. Mr. Goldstein confirmed that the Post is in dire financial trouble due to inappropriate bookkeeping, and that financial records are in disarray. Mr. Goldstein stated that his primary focus will be to adhere to strict district policies and to accurately determine what income is currently generated. He stated that either more income will need to be generated or costs will need to be reduced. Mr. Goldstein emphasized that he wants the Sudbury American Legion Post to survive and remain a positive contributor to the community.

Chairman O'Brien asked who will manage Post activities when Mr. Goldstein is not on site, since he plans to only spend about 20 hours a week on management responsibilities. Mr. Goldstein responded that the current manager, Linda Baldelli, will likely remain to manage bar and restaurant activities in his absence.

Chairman O'Brien also asked if the Post has proper insurance liability coverage in place. Mr. Goldstein responded affirmatively that all insurance liability coverages have been confirmed as appropriate and current.

Selectman Drobinski noted that any new staff hired must have appropriate TIPS training. Mr. Goldstein responded that he will insist employees have the proper training and certification.

Town Manager Valente stated that the Police and Fire Departments have reported no concerns regarding the petition request.

It was on motion unanimously

VOTED: As the Licensing Authority for the Town of Sudbury, in accordance with MGL c138, to approve a change of manager for American Legion Post #191, Inc., d/b/a American Legion, 676 Boston Post Road, from Linda J. Baldelli to Spencer R. Goldstein, as requested in an application dated June 26, 2008.

Selectman Drobinski advised Mr. Goldstein of occasional Police Department sting operations to ensure laws are upheld, and he wished Mr. Goldstein well in his new role.

At 8:14 p.m., Chairman O'Brien also wished Mr. Goldstein well, and he closed the discussion.

HOME Program - American Dream Downpayment Initiative

Present: Jody Kablack, Director of Planning and Community Development and Beth Rust, Sudbury Housing Specialist

Sudbury Housing Specialist Beth Rust briefly summarized the American Dream Downpayment Initiative (ADDI), which is a component of the Office for Housing and Urban Development's (HUD) HOME Program. This initiative makes grants to the WestMetro Consortium in Newton, of which Sudbury is a member, for the purpose of making down payment assistance available to low-income families who qualify as first-time homebuyers.

Ms. Rust explained that the HOME funds would be secured through a mortgage and note held by the Town, and the deed restriction will be held by the Department for Housing and Community Development or MassHousing. She further stated that two potential recipients, at Maplewood and Old County Road, have been identified for such assistance. Applicants can receive up to \$10,000 per eligible home buyer household as a 0% five-year forgivable loan. If the household still owns the home, at the conclusion of five years, the loan is forgiven with no liability to any party or the Town. In addition, Ms. Rust briefly reviewed a few of the Consortium's guidelines, including that a member community cannot award in excess of \$69,435 throughout the life of the program.

Ms. Rust emphasized that the Town has no liability for this program. However, Ms. Rust further stated that the proper Town officials must review, approve and sign the appropriate loan paperwork provided by the Newton Housing Office. Ms. Rust will work closely with Town Counsel Paul Kenny throughout the mortgage and note-writing process. Ms. Rust further stated that the Sudbury Housing Trust may also be a resource for writing the mortgage and note with the approval of Town Counsel.

Director of Planning and Community Development Jody Kablack noted that this program will assist lower-income applicants who are most needy. She also stated that use of the initiative is expected to be infrequent, possibly helping one potential homeowner a year. Ms. Kablack emphasized that this program will allow the Town to pursue additional financial resources for affordable housing without effecting the usual \$22,000 a year HUD allocation to Sudbury.

It was on motion unanimously

VOTED: To participate in the American Dream Downpayment Initiative (ADDI) component of the HOME program for the purpose of making down payment assistance available to income-eligible households who qualify as first-time homebuyers in accordance with the WestMetro HOME Consortium Downpayment Assistance Guidelines and to secure the HOME funds through a mortgage and note held by the Town of Sudbury.

HOME Program Funds - Villages at Old County Road

Present: Jody Kablack, Director of Planning and Community Development and Beth Rust, Sudbury Housing Specialist

Sudbury Housing Specialist Beth Rust briefly explained the history of the development project to buy-down one unit at the Villages at Old County Road. The Town had previously agreed to contribute \$100,000 towards this project from HOME funds and previously appropriated Community Preservation Act funds. Ms. Rust further stated that the Town of Lincoln has offered their HOME funds, which were due to expire in August 31, 2008, to Sudbury as a loan. These funds would be added to Sudbury's accumulated HOME funds for three fiscal years to fund the subsidy needed towards a Villages at Old County Road buy-down unit. Ms. Rust further stated that a Memorandum of Understanding has been drafted by Lincoln for the loan, which would be paid back in two years from Sudbury's future HOME project funds. This arrangement will also release previously appropriated Community Preservation Act funds for other buy-down projects.

Director of Planning and Community Development Jody Kablack noted that Town Counsel Paul Kenny has not yet reviewed the Memorandum of Understanding provided by the Consortium, and thus, any vote tonight would be subject to his approval. However, Ms. Kablack further noted that the WestMetro Consortium in Newton has stated that this type of loan arrangement is permissible.

Selectman Drobinski and Town Manager Valente both opined that this proposal is an excellent example of regionalization.

It was on motion unanimously

VOTED: To approve accepting additional HOME program funds from the Town of Lincoln as specified in the Memorandum of Understanding and to authorize the Town Manager to sign the Memorandum of Understanding as requested by the Sudbury Housing Specialist, Beth Rust, subject to Town Counsel approval.

Public Hearing: Save-A-Dog, Inc. - Site Plan Application

Present: Director of Planning and Community Development Jody Kablack and Attorney for the applicant Michael Fee

At 8:30 p.m., Chairman O'Brien opened the public hearing regarding Site Plan application SP#08-008 of Save A Dog, Inc. in accordance with Town of Sudbury Zoning Bylaw Section 6300 for property located at 604 Boston Post Road, Assessor's Map K06, Parcel 0014, owned by Lillian McCurrach, zoned Residential A-1, which was continued from the June 24, 2008 meeting.

Chairman O'Brien explained that Town bylaws require a unanimous vote by the Board on this matter. Thus, due to Vice-Chairman Keller's absence tonight, a special Board meeting, advertised for a minimum of two days, will need to be convened to render the Board's vote. Chairman O'Brien further explained that, as per the guidelines of the Mullin Rule, Vice-Chairman Keller can miss one meeting regarding this matter and still vote by reviewing a tape of tonight's discussions. A DVD recording of tonight's proceedings will be provided to Vice-Chairman Keller to enable him to vote on the Site Plan application at a later date. Chairman O'Brien reported that the Board conducted a site visit on July 3, 2008 to gain a better perspective of the application proposal.

Director of Planning and Community Development Jody Kablack reviewed the following materials received to the file since the last meeting, including: the Draft Decision dated July 8, 2008 and a letter from Attorney Michael C. Fee dated July 2, 2008, regarding a kennel license requirement and other matters. She

stated that the applicant has withdrawn their objection of the kennel license requirement, since it is merely an administrative license and will not require Special Permit approval from the Zoning Board of Appeals.

The applicant's attorney, Michael Fee, thanked Ms. Kablack for her cooperation and efficiency in providing the applicant with a copy of the Draft Decision for review and comments. Mr. Fee confirmed that it is the applicant's intention to withdraw the objection to the requirement for a kennel license, although he still believes a kennel license should not be required since that would be a type of use regulation which is not appropriate for an exempt facility under the Dover Amendment.

Mr. Fee presented his objection to the proposed limitation on the number of dogs allowed outside at certain times as presented in condition # 14 of the Draft Decision as overreaching reasonable regulations for the intended exempt use. He noted that at times, an entire litter of puppies will need to be outside and not separated from their mother. Mr. Fee also mentioned that exceptions should be made for when classes are sometimes taught for dog owners to accompany their pets. Mr. Fee requested that language be added to condition #14 to reflect that exception to the number of dogs allowed outside at any one time will be made for litters of puppies and their mothers and for classes where each dog is accompanied by its owner.

Selectman Drobinski suggested that condition #12 would also need to be amended to reflect additional dogs visiting the property for classes. Mr. Fee suggested adding the language to the beginning of condition #12 that exclusive of any dogs attending classes, the maximum number of dogs allowed on the property is 20.

In response to a question from Selectman Drobinski, Mr. Fee responded that the classes will be held within the fenced outside area.

Valerie Alterio, a member of the Save A Dog Board of Directors, stated that classes are not usually offered when the facility is housing the maximum number of dogs.

Chairman O'Brien highlighted language which he requested be added to condition #9 requiring the applicant to maintain adequate sight distance at the driveway intersection with Route 20. Mr. Fee said the amended language seems reasonable and is acceptable to the applicant.

Ms. Kablack noted that she has discussed with Mr. Fee the need to pursue the usual Town process for signage approval. Mr. Fee stated that the applicant has agreed to the sign provisions presented by the Town. Ms. Kablack further noted that she has incorporated into the Draft Decision typical conditions for kennels imposed by the Zoning Board of Appeals.

Mr. Fee reiterated that the applicant is pleased with the Town's position that a Special Permit process with the Zoning board of Appeals is unnecessary. Chairman O'Brien clarified that a kennel license fee will be waived. However, Chairman O'Brien asked Mr. Fee to discuss with his client the consideration of offering a contribution to the Town in lieu of property taxes. Mr. Fee agreed to consider the matter with the applicant.

Martha Keighley, 610 Boston Post Road, read to the Board a letter from a physician at a nearby medical center who opposes the addition of a kennel business at this location due to Route 20 and Horse Pond Road safety and traffic concerns. Ms. Keighley also believes that the site, which has been residential to date, is unsuitable for a kennel. She is concerned that classes will be held at night and will be disruptive to the neighborhood. Mr. Fee stipulated that any class would conclude by sundown.

Ms. Keighley stated she believes her concerns as an abutter do not matter, and that an educational non-profit entity can do whatever it wants in a residential area. She believes that her property value will

diminish. Chairman O'Brien responded that the Board's ability to enforce restrictions on the proposed use is greatly constrained by the law, which allows a non-profit educational facility to be exempt from zoning regulations.

Ms. Keighley also expressed dissatisfaction with the timing of the Board's site visit. She stated that she does not believe July is the best time of year to assess the site's flooding conditions. Ms. Keighley repeatedly stated that her primary objection to the application is the proximity of so many dogs to her property and the use of a residence as a kennel. She does not believe that soundproofing will be adequate to prevent noise from so many dogs. She also believes that kennel-like activity does not constitute a religious or educational mission, and thus, Ms. Keighley views this application as an abuse of the Dover Amendment.

Chairman O'Brien encouraged Ms. Keighley to keep the Board abreast of the applicant's future adherence to the imposed conditions. He noted that the Town has required a kennel license so that some of these conditions can be enforced and monitored. Selectman Drobinski noted that Best Friends is surrounded on two sides by residences. He further noted that Robert Abrams, an abutter of Best Friends, commented at the Board's last meeting that noise is not an issue due to excellent soundproofing. Selectmen Drobinski also highlighted that the million-dollar homes near Best Friends have not seemed to experience a loss in property value. He further stated that the Board must work within the law, and that the decision has been crafted so as to ensure that the dogs will not be a nuisance to the neighborhood.

It was on motion unanimously

VOTED: To close the Public Hearing regarding Site Plan application SP#08-008 of Save A Dog, Inc. in accordance with Town of Sudbury Zoning Bylaw Section 6300 for property located at 604 Boston Post Road, Assessor's Map K06, Parcel 0014, owned by Lillian McCurrach, zoned Residential A-1, and to instruct the Director of Planning and Community Development to revise the Draft Decision to reflect the comments from tonight's discussion and to finalize and post in the Town Clerk's Office and on the Town website a date for a Special Meeting to be held for the Board to render its final decision. (NOTE: A special meeting was scheduled for Wednesday, July 16, at 9:15 a.m.)

Minutes

It was on motion unanimously

VOTED: To approve the regular and executive session minutes of June 24, 2008.

Conservation Commission - Re-appointment

It was on motion unanimously

VOTED: To approve the Town Manager re-appointment of John S. Sklenak, 93 Robbins Road, to the Conservation Commission, for a term to expire April 30, 2011.

Sudbury Cultural Council - Term Expiration Correction

It was on motion unanimously

VOTED: As requested by Bronek Dichter, Chair of the Sudbury Cultural Council Chair, to correct the term expiration of new member Michele H. Latimer, 45 Old Lancaster Road, to April 30, 2011, filling the vacancy occasioned by the term expiration of William Nicholson.

Alcohol, Wine and Malt Licenses - Application Fee Increase

Town Manager Valente noted that these fees have not been adjusted in over 12 years. Town staff recommends fee increases to more accurately reflect the cost associated with the processing of the respective license applications.

It was on motion unanimously

VOTED: As requested by the Selectmen's Office staff, to increase application fees, effective in FY09, for new All Alcohol and Wine and Malt licenses from \$100 to \$150, and all other change applications (such as change of manager or change of premises) from \$50 to \$75 to more accurately reflect the costs of processing these licenses.

Mass. School Building Authority - Accept Schedules, Costs and Findings and Grant Acknowledgment

Chairman O'Brien briefly explained that this agenda item is a result of years of work by Finance Director Andrea Terkelsen, the Permanent Building Committee, and in particular, Elaine Jones. He summarized a letter from the Massachusetts School Building Authority dated July 2, 2008 describing the results of the Town's appeal regarding the ineligible cost findings regarding final grant amounts, which the Town will receive over the next 20 years, for elementary school construction projects from the 1990s. Chairman O'Brien noted that Sudbury construction timing was advantageous since it will reap a 64% reimbursement rate of funds spent on the elementary schools. In contrast, if these schools were constructed today, the reimbursement rate would only be in the 30-40% range.

Town Manager Valente briefly summarized the reimbursement history of these projects. She noted that the Town began to receive a stream of payments in 2000. She is proud of the work of so many through the years which will return approximately \$38 million back to Sudbury.

It was on motion unanimously

VOTED: To accept the schedules, determinations of ineligible costs and findings set forth by the Massachusetts School Building Authority (MSBA) and to acknowledge the following total grant amounts representing 64% reimbursement: \$8,215,251, Josiah Haynes Elementary School; \$20,696,693, Curtis Middle School; and \$10,267,326, Loring Elementary School; further, to authorize the Chairman of the Board of Selectmen to execute the Acceptance Form, that the Town will not seek judicial review of any of the MSBA decisions concerning funding, audit, or determination of ineligible costs.

Ponds and Waterways Committee - Revisions to Constitution of Membership

Town Manager Valente reported that she has discussed the requests of the Ponds and Waterways Committee with its Chair Susan Crane to expand its membership from eight to nine members and how Town board and committee representation should be appointed. Ms. Valente opined that it is difficult to enforce attendance by a committee/board representative when volunteers are so busy. Ms. Valente recommended that the Selectmen appoint an at-large member or designee if a board/committee is unable to fill the position within a certain timeframe. Ms. Valente also recommended that the Ponds and Waterways Committee membership be increased to nine members. Ms. Valente further reported that the Planning Board has accepted Theodore Klein as its representative.

Selectmen Drobinski stated that the requests seem reasonable, and he noted that the Committee's Mission Statement is not being altered. Chairman O'Brien concurred.

It was on motion unanimously

VOTED: To amend the Ponds and Waterways Committee Mission Statement "membership and officers" section as originally voted to increase membership from eight to nine members, and to authorize the Board of Selectmen to fill, by appointment, any vacant position of more than 60 days in the event that the Planning Board, Conservation Commission and/or Park and Recreation Commission are unable to appoint a representative within that timeframe.

It was also on motion unanimously

VOTED: To approve the change of designation of Ponds and Waterways Committee member Theodore P. Klein from an at-large member to Planning Board representative, for a term to expire April 30, 2011, filling a vacancy occasioned by the resignation of Michael C. Fee, and to send a letter of gratitude for his community service to Mr. Fee.

Conservation Commission - Deed Restriction - 192 Dutton Road

It was on motion unanimously

VOTED: To accept a Deed Restriction for conservation purposes, pursuant to Order of Conditions DEP #301-830, granted by Peter Shirley and Suzanne P. Shirley, on that portion of the property located at 192 Dutton Road, Sudbury, shown as meadow in the final as-built plan prepared by Ducharme & Wheeler, Inc., dated December 27, 2007.

Reports From the Board of Selectmen

Selectman Drobinski reported that the July 4th Parade was a wonderful Sudbury celebration of the holiday.

Chairman O'Brien announced that he will visit the Senior Center tomorrow with Sudbury's Housing Specialist Beth Rust to discuss the Small Grants Program.

Further, Chairman O'Brien reported that, as the Board's liaison, he has attended a few meetings with the Sudbury Public School Committee regarding collective bargaining discussions. He will participate in similar discussions tomorrow with the Lincoln-Sudbury Regional High School Committee.

Reports From the Town Manager **Silver Star Banner Day - Proclamation**

It was on motion unanimously

VOTED: To approve and sign a proclamation declaring that the Town of Sudbury is a supporter of the Silver Star Banner Day, which will be May 1st of each year - beginning in 2009 - honoring the return home of wounded and ill service men and women of our Town, State and the Nation.

Annual Town Report - Distribution Survey

Town Manager Valente explained that as a result of Town budget assessments to curtail costs, the future of printing the Annual Town report at a cost of approximately \$9,500 has been questioned. Ms. Valente distributed to the Board, for review and discussion purposes, copies of a draft survey to be posted on the Town website, and placed at key Town locations, to canvass the community's use of the Town Report.

It was on motion unanimously

VOTED: To support the distribution of a Sudbury "Town Report Survey" to collect comments from the community regarding the use of the printed Annual Town Report.

Capital Improvement Planning Committee - Applicants for Membership

Town Manager Valente reported that the Capital Improvement Planning Committee has identified a few candidates for membership. Ms. Valente asked the Board's preference for when the candidates should be scheduled for interviews with the Board. Chairman O'Brien stated that he has no objections to the interviews being held on July 22nd, in his absence, if that is convenient for the candidates. Ms. Valente will coordinate the interviews as candidates are available.

Town Cemeteries and Playing Fields - Dog Ban Discussion

Town Manager advised the Board that discussion of a potential ban of dogs from all Town recreational fields and cemeteries has been added to the July 22, 2008 meeting agenda. Ms. Valente stated that Parks and Recreation Director Dennis Mannone has requested that signs be posted informing the public that dogs are banned in these locations. Town workers have complained that, although the Town does have a leash law, and owners are supposed to pick up dog waste, the reality is that dog owners are not complying with the law. Town staff find it difficult to maintain the cemetery properties properly when having to navigate so many dog messes. Selectman Drobinski asked how the ban will be enforced. Ms. Valente stated that possibly tickets will be issued, and signs will be posted. She further stated that enforcement and other issues can be further discussed at the Board's next meeting.

The Sudbury Foundation - Citizen Academy Grant

Town Manager announced that The Sudbury Foundation has approved a grant to the Town for a Citizen Academy, and in connection with that, she will be looking for a Project Coordinator. Ms. Valente encouraged anyone interested in applying for the Project Coordinator position to contact her office, and to submit an application prior to July 18, 2008.

Executive Session

At 9:20 p.m., Chairman O'Brien announced the close of the regular meeting and it was on roll call unanimously

VOTED: To go into Executive Session for the purpose of discussing litigation and collective bargaining.

Chairman O'Brien 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