

IN BOARD OF SUDBURY SELECTMEN  
TUESDAY, JULY 27, 2010

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

The statutory requirements as to notice having been complied with, the meeting was convened at 7:34 p.m. in the Lower Town Hall, 322 Concord Road.

**Opening Remarks**

At 7:34 p.m., Chairman Drobinski opened the meeting. He noted the hot weather lately and reminded residents to be mindful of senior citizens needing assistance. He encouraged anyone needing help to contact public safety personnel.

Chairman Drobinski thanked the members of the Thursday Garden Club who helped beautify the Town with their recent work near the Route 20 and Landham Road intersection.

Chairman Drobinski announced that a bulletin board has been placed behind Town Hall, which now posts meetings and events of interest. He encouraged citizens to avail themselves of the information posted.

Chairman Drobinski welcomed a new reporter, Ben Terris, to tonight's meeting. Ben will be covering Sudbury news for *Sudbury.patch.com*. Anyone interested in submitting news items for coverage, should contact Ben at this website.

**Reports from the Board of Selectmen**

Selectman Haarde stated he has been working on solving the Town's budget problem for next year in his off time. He further stated that he hopes the Town can take advantage of the attrition in connection with upcoming and recent retirements. Selectman Haarde questioned the recent hiring of Park and Recreation employees while the Town is facing a budget crisis.

Town Manager Valente explained that the new position of Teen Center Director/Adaptive Therapy will be completely funded from fees collected from services provided. She further explained that the part-time Teen Center position was cut from funding for FY11 because of budget constraints. Town Manager Valente clarified that now the position is not paid for from the tax levy or General Fund. She further explained that the Program Coordinator position is also to be half funded by fees.

Selectman Haarde noted that it is important to have these public conversations according to Open Meeting laws. He further noted that parents pay a lot of school fees, and he questioned if fees could be used to pay for teachers. Town Manager Valente responded that the School Committees would be best able to respond to whether public educators can be paid for through charging fees.

Chairman Drobinski reported that he and Town Manager Valente developed a draft agenda for an upcoming Financial Summit to be held with the Sudbury Public Schools, Lincoln-Sudbury Regional High School and the Finance Committee. Copies have been distributed for review. They also met with the Department of Environmental Protection to discuss the Town's wastewater issues and received positive feedback. Chairman Drobinski stated that later this evening he will suggest that this topic move forward soon as a Town goal.

**Reports from Town Manager**  
**Boy Scout Troop 60 – Eagle Scout Ceremony**

Town Manager Valente distributed copies of an announcement of an Eagle Scout ceremony to be held Sunday, August 8, 2010 at 6:00 p.m., honoring the achievements of Stephanos Sheridan Calliga, Merrit Connor Hall and Matthew Vincent Wurm. She asked the Board to check their schedules and notify her soon if a Selectman can attend the event.

**Sudbury Trust Program – Draft Discussion**  
Present: Finance Director Andrea Terkelsen

Town Manager Valente introduced Finance Director Andrea Terkelsen to explain the premise for establishing a Sudbury Trust Program, enabling citizens to contribute to Sudbury entities and/or endeavors. She noted that the genesis for this project was a recommendation from the Budget Review Task Force.

Ms. Terkelsen explained that the program would be posted on the Town website to introduce potential donors to ways they can contribute to the Town through a variety of programs, services, or an individual memorial and honor item. The program would encourage contributions of monetary gifts, endowments, trusts, tangible and real estate property, services and personal time.

Ms. Terkelsen emphasized that the Town has long benefited from the generosity of its residents and businesses. She summarized restricted gift accounts in existence. Ms. Terkelsen also noted that donors could make unrestricted gifts, allowing the Board to address areas in greatest need. She stated that a list of priority projects ready to go upon receipt of sufficient funds would be available to help donors select a target for contributions. A list of existing Town and School Trusts would also be made available. Citizens would also be given the option to contribute personal time by volunteering and supporting local events and initiatives. Businesses could also choose to contribute services to the Town.

Ms. Terkelsen further highlighted the memorial and honor gift program, including the Heritage Tree and Park Bench Program, allowing for a lasting gift to be made which will beautify the Town. She noted that a draft brochure has been developed.

Selectman Haarde commended Ms. Terkelsen on the draft. He read aloud the suggestions for restricted gifts and encouraged the community to support these worthwhile projects and others. Selectman Haarde asked how someone could possibly endow teaching positions. Ms. Terkelsen responded that, if in Massachusetts it is legal to do so, those interested could contact the Schools to learn more about the procedures required. Selectman Haarde stated that he believes it is legal in Massachusetts.

Town Manager Valente suggested that information be obtained from other school committees and communities such as Arlington, which recently raised over \$200,000 from similar programs. She also noted that the Sudbury Public Schools (SPS) receives many gifts from parents. Ms. Terkelsen noted that the Town's Trust website would provide a link to the SPS program.

Vice-Chairman O'Brien stated that SPS accepted a series of gifts at a recent meeting he attended. He suggested that the program be prominently displayed on the Town website and that a form or email system be created which would protect the confidentiality of anonymous contributions. Ms. Terkelsen stated these ideas are being developed and finalized.

Chairman Drobinski stated that the program is in place and anyone wishing to make a donation can contact Ms. Terkelsen's office.

Ms. Terkelsen stated that past donations have been used to acquire equipment, recreational items, and to assist departments to implement projects.

Town Manager Valente noted that it is important to keep operational costs in mind when establishing new programs. The Town now requires that maintenance funds be set aside for operational costs as well.

Resident Tim Coyne, 24 Taylor Road, stated that documentation of a \$150 donation for perpetual care in the Wadsworth Cemetery was recently found in the Hosmer House, confirming that there is a long tradition of gifting in Sudbury.

It was on motion unanimously

VOTED: To approve the Sudbury Trust Program as discussed tonight, at the request of Andrea Terkelsen, Finance Director/Treasurer Collector, and to incorporate the suggestions made this evening.

**Public Hearing: The Residences at Johnson Farm - Chapter 40B Proposal - 189 Landham Road – Discussion – Letter for MassHousing**

Present: Developer Bob Moss, Moss Development Inc. and his attorney Steven Schwartz

At 8:29 p.m., Chairman Drobinski opened the public hearing discussion to obtain public comments to assist the Board in writing a letter to the Massachusetts Housing Finance Agency regarding the proposed development located at 189 Landham Road, known as The Residences at Johnson Farm, submitted by Moss Development, Inc. Chairman Drobinski advised the estimated 200 to 250 citizens in attendance for the Hearing to keep exits clear in case of an emergency and to be respectful in their remarks and comments and to fellow citizens. Chairman Drobinski stated that the Board is not the deciding authority, but rather is gathering public feedback for a response letter to be submitted to the State by August 4, 2010. He informed the audience that Sudbury's Zoning Board of Appeals (ZBA) would be the Board to decide on the issuance of a Comprehensive Permit later in the process, and encouraged the public to remain informed and involved regarding the status of the application.

The Board was previously in receipt of project description materials; a memo from Director of Planning and Community Development Jody Kablack noting Town staff comments regarding the project, including uncertainty regarding the feasibility of the project regarding wastewater and stormwater, concerns regarding wetlands, vernal pools, flood plain and riverfront area; wastewater concerns, and concerns regarding the resulting traffic and school impacts; and a letter from the Sudbury River Neighbors' Association dated December 1, 2008, stating its vehement opposition to a project of this magnitude.

At 8:32 p.m., developer Bob Moss, Moss Development Inc. presented an overview of the project, with the use of exhibits. He described the location of the property as 36.4 acres on Landham Road, known as the Johnson Farm. He further described approximately 21 acres of the site as upland, and approximately a third of the parcel as wetlands. Mr. Moss summarized his proposal to build 120 rental apartments within ten buildings (each containing 12 units), to be clustered in the center of the parcel, approximately 700 feet off of Landham Road. He briefly described the proposed sewage treatment system. Mr. Moss stated that the development would be serviced by Town water and by natural gas. He noted that the wetlands areas have been identified and accepted by Sudbury's Conservation Commission in its approval of an Abbreviated Notice of Resource Area Delineation (ANRAD) Plan.

Mr. Moss further explained that 194 parking spaces are proposed, with the total impervious surface ratio estimated at 11% of the total parcel, or approximately four acres. He also estimated the total disturbed area

to be 18% of the total parcel, or the equivalent of approximately 6.3 acres. Mr. Moss opined that the construction proposal would allow for 82% of the site to remain as is.

Mr. Moss stated that the Comprehensive Permit process with ZBA would follow the conclusion of the State application process. He also noted that a Sewage Treatment Permit would be required by the Department of Environmental Protection (DEP). Mr. Moss later noted that the Chapter 40B process allows the ZBA to grant zoning waivers, with the exception of public safety, sewer and water-related issues.

Mr. Moss stated that 60 one-bedroom and 60 two-bedroom units are proposed, and that these types of developments do not usually attract families with a lot of children. Thus, he stated that, based on statistical comparisons to similar developments built by Avalon in Westborough, the development is expected to only add 27 school-aged children to the Town's schools, of which only 20 would be new. Mr. Moss also stated that, based on State traffic figures, he estimates that the development would generate 7.35 extra car trips per day, per unit, for an estimated total of 882 additional trips per day.

Mr. Moss stated that he has proposed 25% of the units as affordable. He stated that the one bedroom market rate rents are proposed at \$1,375 per month and the two-bedroom rental rates are expected to be \$1,750 per month. Mr. Moss further stated that the project is estimated to provide \$266,000-\$300,000 in annual tax revenues to the Town. He also noted that all units would be fully sprinklered.

On behalf of the Sudbury Conservation Commission, Conservation Coordinator Debbie Dineen read a memorandum sent to the Board of Selectmen dated July 27, 2010. She reviewed the limitations of the Commission's jurisdiction imposed through the Chapter 40B process. The Commission stated that it has been involved with the proposal through the issuance of a Wetlands Protection Act (WPA) Order of Resource Area Delineation in December 2009. The Commission noted the wetland resource areas on the parcel are subject to State WPA regulations and the local Wetlands Administration Bylaw, some of which could also be subject to Federal jurisdiction. These areas included: bordering vegetated wetland; two riverfront areas (one being a Cold Water stream resource); vernal pools; bank; intermittent stream; 100-year floodplain; and the 100' buffer zone to most of these resource areas. Additional resource areas under the Wetlands Administration Bylaw included upland resource areas and isolated land subject to flooding. The Commission questioned the applicant's intention to file the project as a "limited project," and is concerned this project allows the developer to circumvent regulatory performance standards.

Ms. Dineen referenced the sequencing process the Commission uses to evaluate a project so as to avoid, minimize and or mitigate environmental impacts. The Commission would request that the applicant perform a comprehensive "alternatives analysis" regarding the proposed riverfront area alterations, which the Commission perceives as significant, and a justification for the "limited project" status. Local wetlands regulations would require that this analysis include an evaluation of a reduced scale of development, redesign to minimize wetland impacts, and an assessment of other properties in Town where the development could be constructed for similar costs. The Commission does not believe the ZBA is adequately equipped to assess detailed environmental alterations and extremely technical performance standards. Thus, Ms. Dineen stated that the Commission has requested that the Board consider recommending that the developer file a Notice of Intent under the local Wetlands Bylaw. She further noted that all previous large Chapter 40B Sudbury projects have been willing to file as recommended.

Ms. Dineen reported that the Commission does not view this project as sustainable and believes the project does not respect the surrounding landscape and would negatively impact the local natural resources and wildlife. Thus, based on information provided to date, the Commission does not view the project as enhancing the area and encourages the developer to seek other, more appropriate properties for a project of this scale.

Chairman Drobinski thanked the citizens in attendance tonight for coming to the meeting and being involved in the discussion. He welcomed Daley and Witten, LLC attorney Jonathan Witten, to address the Board on behalf of the Sudbury River Neighbors' Association. Copies of a letter from Mr. Witten to the Board dated July 27, 2010 were distributed. Mr. Witten summarized the content of the letter, which presents examples of the Association's substantive opposition to the proposal. Mr. Whitten stated that the Association recommends that the Board ask MassHousing to deny the application. However, he also stated that, if MassHousing were to issue project eligibility approval for the project, the Association has also provided several conditions it would request be required, at a minimum.

Mr. Witten stated that the Association members question whether there is sufficient evidence that the applicant controls the site. He noted that the Purchase and Sale Agreement links approval to the construction of 120 apartment units, and thereby allows the developer to walk away if he is denied that number of units. The Association further questions the purchase price claimed of approximately \$2 million, when the Town has only appraised the property for \$798,000. Thus, Mr. Witten suggested that the purchase price is based not on the land's fair market value as required. The Association members also believe the proposal is grossly dense and inconsistent with basic land-planning principles and historic development patterns in Sudbury. He also noted that, historically, MassHousing has disclaimed appraisals not based on underlying zoning.

Mr. Witten highlighted that this parcel is identified in Sudbury's 2009 Open Space and Recreation Plan and is prominently displayed as a priority parcel for acquisition and protection on a Five-Year Action Plan map. He explained that this previous designation by the Town is important, since it "creates the presumption that the site is needed to preserve open spaces," which would likely outweigh any other claims.

Mr. Witten further suggested that the proposed budget has underreported the anticipated profit and "grossly understates the costs required to permit and construct the on-site wastewater treatment plant." The Association recommends that detailed pro forma budget documentation be requested and provided by the applicant. Mr. Witten noted that the budget included nearly \$700,000 of claimed contingency costs, which he believes is disguised profit.

Mr. Witten also noted the Association's objection to local wetlands bylaws being disregarded. He noted that the ZBA has no obligation to waive such compliance. In addition, Mr. Witten noted that current plans indicate that the proposed roadway crosses a jurisdictional wetland. Thus, he believes that the project would have difficulty meeting the DEP standards for a "limited project," and if approved, such a decision could be appealed.

Mr. Witten also noted the Association's concern regarding the proposed wastewater disposal information provided. He noted that there are homes in direct proximity to the proposed location for the treatment facility, which he believes cannot be placed anywhere else on the site due to the density of the project. Mr. Witten stated that he believes the estimated 20,000 gallons to be treated each day would not actually be sufficiently treated and would result in raw wastewater, with no mounding analysis performed.

Mr. Witten reiterated that the Association members urge the Board to inform MassHousing that the project proposal is unacceptable, request denial of the site eligibility application, state that this is an isolated parcel being used for the wrong purposes, and that Sudbury is very familiar with appropriate Chapter 40B proposals, but this project is not one of them.

Resident Stan Kaplan, 98 Victoria Road, asked the Board to consider the impacts to the environment. He stated that he is unaware of any precedent in Sudbury for a project of this scale, with the potential for impacting such a sensitive wetlands area. Mr. Kaplan questioned the 1.5 parking space per unit calculations

presented by the applicant, noting there is no visitor parking mentioned in the proposal. He also believes that 882 additional vehicle trips in the area present a serious public safety issue in the Rt. 20/Landham Road area, which is already challenging. Mr. Kaplan further questioned the statistics presented tonight by the applicant regarding potential school-aged children, since the comparables are from towns not as well known as Sudbury for educational excellence.

Resident Kirsten Roopenian, 45 Harness Lane, opined that she questions much of the information presented tonight by the applicant. She stated that she views the proposed project as threatening to Sudbury's way of life. Furthermore, Ms. Roopenian believes this project is of no benefit to the Town, and that it is an unwelcomed development in Sudbury. She asked if the Board has considered taking the property by eminent domain. Chairman Drobinski noted that the Town has only taken property by eminent domain once in its history. He also stated that the Town had been in negotiations for the property with the previous owner, which were unsuccessful prior to the owner's death. Chairman Drobinski cautioned that even though the property value is assessed at \$800,000, taking the property by eminent domain would add additional legal costs to the price for the Town. Ms. Roopenian further asked if the Town could consider purchasing the land with Community Preservation Act funds, if the developer is denied site eligibility approval.

Resident Scott Ritter, 14 Russet Lane, questioned the estimated water usage presented tonight, when compared to the State average. Mr. Ritter asked what the percentage increase to Sudbury's total water usage would be and whether expected usage is within the Town's consumption capacity. Mr. Ritter also asked what entity, and by what standards, the applicant's traffic estimates would be verified. He also asked how and what scenarios define an unsuitable traffic impact. Chairman Drobinski noted that the Town has been studying improvements to the Landham Road intersection.

In addition Mr. Ritter questioned the number of potential school-aged children in the development presented tonight. He noted that the applicant presented statistics based on similar developments from five other towns, none of whose elementary schools are rated as highly as Sudbury's. Mr. Ritter suggested that the developer provide student estimates from towns with similar educational reputations. Chairman Drobinski stated that additional student information for comparison could be requested. In closing, Mr. Ritter questioned the developer's list for requested relief from local bylaws. Chairman Drobinski reiterated that the Chapter 40B process allows for only three areas of local bylaws to not be exempted, i.e., public safety, sewer and water.

Vice-Chairman O'Brien suggested that Mr. Ritter share his questions with the ZBA, since his concerns would be appropriate for its deliberations.

Resident Josh Cheron, 30 Robert Frost Road, implored the Board to ask MassHousing to deny this application. He also asked Mr. Moss how many Chapter 40B developments are located in his neighborhood or those of directors of his corporation. Mr. Moss stated there is a Chapter 40B development within a mile of his home.

Resident Susan Crane, 34 Robert Best Road, addressed the Board as a member of the Sudbury Valley Trustees (SVT). She too thinks it is important that the parcel was identified by the Town in its Open Space Plan as a priority conservation-related parcel. The SVT believes the proposal presents important environmental impacts because the project is very dense and abuts SVT conservation land. Ms. Crane stated that the SVT has numerous concerns regarding stormwater and wastewater issues. She also noted that there is a National Heritage Rare and Endangered Species area upstream from this property, making it a key parcel for habitat protection. Ms. Crane reported that the SVT views the project as too dense, inappropriate for the community and believes it would have significant negative impacts to the surrounding ecosystem.

At 9:37 p.m., Chairman Drobinski suspended the discussion for the Board to address another agenda item. At 9:41p.m., Chairman Drobinski resumed the discussion.

Resident John Donovan, 26 Old Orchard Road, asked if there was ever an agricultural tax restriction on the property. He was informed that the property is not, and was not ever believed to be, under Chapter 61 jurisdiction. Mr. Donovan also questioned the estimated number of cars per unit quoted tonight by the applicant, noting that most households have two to three cars. He questioned that, if this is such a great development for Sudbury, then why has the applicant chosen to construct a Chapter 40B project. Mr. Donovan stated he perceives this approach as a way to avoid local rules and regulations.

Resident and property owner Peter Johnson, 37 Witherell Drive, stated that his family has lived in Sudbury since 1903. He does not believe the traffic increase of an estimated 10% would be significant to the area. Mr. Johnson opined that traffic was worse years ago, when two Raytheon plants were operating in the surrounding area. He urged his fellow residents to not view the project negatively, stating that he believes the development would not impact any one person significantly. (Reactions of disagreement were audible from the audience.) Later in the meeting, resident John Donovan, 26 Old Orchard Road, stated that it is not appropriate to compare Landham Road traffic and road conditions of today to what it was years ago because the Town has since made significant improvements to the road.

Resident Deborah Howell, 123 Victoria Road, stated that she understands a property owner has the right to develop their land. However, she asked what alternatives other than the 120-unit proposal the applicant considered, in case the Chapter 40B application is not approved. Mr. Moss responded that he had considered a joint project a few years ago with Avalon for 200 units, but that he has not considered any other alternatives at this time. Ms. Howell asked if he has analyzed a project consisting of single-family homes. Mr. Moss responded that he has not, but that Ms. Howell, if she would like, could analyze that possibility herself.

Resident Jay Corcoran, 56 Landham Road, stated he is very concerned about more traffic in the area, noting his concern for the safety of his own and other children. Mr. Corcoran noted that, in places, the sidewalk is only inches away from the street, and traffic was backed up for nearly a mile on Landham Road during the recent storms the Town experienced. He noted that his father was a developer, and therefore he understands the goals of the applicant. However, Mr. Corcoran also stated that it is inherent to that type of work that projects might be rejected by neighbors and/or the community.

Resident Carol Englander, 56 Victoria Road, expressed concern for the environmental impact of the project. She is concerned that snow would be pushed back into the soil, which would eventually lead to the wetlands. She wondered what the costs would be for the Town if Landham Road had to be widened to accommodate this development. Ms. Englander stated that she does not wish for her tax dollars to be spent on helping to pollute the area watershed, but would rather they be used to help protect the National Wildlife Refuge from becoming contaminated. Mr. Moss stated that snow removal areas would be designated at a later date as part of the ZBA hearing process. Chairman Drobinski responded that it would be unlikely that Landham Road would ever be widened, since the idea was unsuccessfully discussed by residents in the past.

Resident Andrew Donovan, 175 Landham Road, stated he is a direct abutter to the property. He expressed concern that the huge volume of water proposed to be discharged from the treatment facility would significantly impact the creek running through his property. Mr. Donovan requested that no preliminary approvals be granted until the applicant demonstrates that there would be no adverse impact to his creek and property. Mr. Moss stated that Mr. Donovan's property would be considered in future studies.

Resident Jonathan Danielson, 37 Landham Road, stated that he believes a comprehensive traffic study should be completed before the State considers granting any approval. Mr. Danielson further stated that a detailed traffic study would provide a context for him and others to more accurately assess the traffic estimates and statistics quoted tonight.

Resident Eugene Willette, 5 Dawson Drive, noted that the applicant has referenced the Avalon project in Westborough several times this evening. Mr. Willette believes Avalon no longer owns that property, and that the development has had a recent fire. Mr. Moss confirmed that Avalon sold the property in November 2009. However, Mr. Moss further stated that the statistics he presented for potential school-aged children in the development do not change depending on ownership. Mr. Moss also clarified that the Westborough development did experience a fire caused by lightning, but that residents were inconvenienced for only a day or two.

Mr. Willette also questioned the validity of the market rate rents presented tonight by the applicant. When asked by Mr. Moss whether they were too high or too low, Mr. Willette responded that they are very low and significantly below average rents in Sudbury.

Resident John Malone, 27 Blackmer Road, asked the developer a few questions regarding percolation and soil testing results, which Mr. Moss answered. Mr. Moss also stated that he plans to build and maintain ownership of the development.

Resident Baron Roth, 19 Old Orchard Road, expressed concern regarding the overflow of traffic leading to the Loring School, which is already a busy area.

Resident Mark Andolina, 8 Hawthorne Drive, is new to Town, and he is concerned that more children living in this development could cause more school redistricting in the future. Chairman Drobinski assured him that the Board is also concerned about future populations in the Schools.

Resident Tom Jeffry, 2 Brookside Farm Lane, views this as an opportunity for the Board to put an end to what he perceives as an abuse of properties, when greed supercedes need. He believes the property has the capacity to be developed without affecting the surrounding wildlife habitat. He urged the Board, as the guardians of the community, to put an end to this project, since it is not in the best interest of the Town.

Resident and property owner Nels Johnson, 71 Clifford Road, stated that his family has not received purchase offers from the SVT or anyone else.

Resident Pat Siff, 195 Woodside Road, stated that an offer to build three homes was made when the elder Mr. Johnson was alive.

Resident John Malone, 27 Blackmer Road, stated an offer was made to the Johnsons for four single family homes to be built.

Selectman Haarde thanked the public for attending tonight's meeting. He reminded the audience that this situation and discussion is occurring because of the Chapter 40B structure, which does not abide by the many zoning bylaws Sudbury has in place to disallow this type of development. Selectman Haarde reported that there is a significant amount of Chapter 40B activity currently in Sudbury, and he referenced planned and existing projects totaling approximately 300 units in a radius of one mile. He reiterated that the ZBA would either approve or deny the Comprehensive Permit, but that the State could still approve the project if it is denied by the ZBA. Selectman Haarde noted that only 25% of the units would be designated as affordable and that developers can inflate their profit on the remaining 75% market-rate units. Thus, he believes this



type of project results in reducing the overall affordability of State and local housing. Selectman Haarde acknowledged a few positive aspects of the proposal, such as the intention to construct only one and two-bedroom units and offering them as rentals to improve Sudbury's housing diversity options. However, he also stated that the proposed location is problematic and that he would prefer if the units were age-restricted. At a time when the community is struggling to maintain the needs of its Schools, Selectman Haarde opined that he does not view the proposal as a good fit for Sudbury.

Vice-Chairman O'Brien stated that he believes there are a lot of remaining unanswered questions regarding the project. He opined that he is uncomfortable submitting a letter to MassHousing stating the Town is comfortable with the application after hearing the issues raised tonight by neighbors and reviewing the comments presented by the Conservation Commission and Town staff. Vice-Chairman O'Brien is inclined to request more information from the applicant and the opinion of Town Counsel. He suggested that a project much smaller in scope, perhaps for 30 to 60 units, might be possible, but that it is apparent 120 units is too many given the wetlands constraints of the property. Vice-Chairman O'Brien noted that this project has elicited the most extensive feedback for any Chapter 40B project considered during his tenure. He recommended that the Board request an extension to provide the Town's comments in a thorough manner to MassHousing.

Chairman Drobinski noted that one extension was already granted to August 4, 2010. The applicant's attorney Steven Schwartz concurred that one extension has already been granted, and that the applicant is not inclined to support another. Mr. Schwartz emphasized that the applicant has exceeded the standards of time invested, and information provided, at this stage of the process, given that only a concept plan is required.

Vice-Chairman O'Brien opined that it is the Board's responsibility to fully perform its due diligence regarding the suitability of what is intended for this parcel, and if it does not perform those duties to the best of its ability it is doing a disservice to the community.

Mr. Schwartz reiterated that the applicant has more than met the required standards at this point of the process. He assured the Board that the applicant is willing to cooperatively work with the Town and abutters, but that engineering-related documentation is not required at this time.

Vice-Chairman O'Brien suggested that, if the State does not grant an additional extension, then the Board should begin to prepare its response for the August 4, 2010 deadline, noting the concerns expressed by citizens and staff, requesting that specific conditions be addressed and officially taking no position on the project.

Chairman Drobinski asked that the developer consider rectifying that there are no elevators planned in any of the buildings and that measures be taken to ensure that there are no residual effects to residents from herbicides and pesticides due to the history of farm use on the property, even though these standards are not required by DEP. He emphasized that the developer should fulfill those responsibilities for the Town's benefit. Chairman Drobinski acknowledged that he could understand the reluctance of the applicant to spend significantly more money without the assurance of a permit.

Mr. Moss stated that he and his attorney have heard a lot of issues this evening, many of which are valid, which he will process and further analyze. He plans to enlist the assistance of experts to address issues and present solutions in the future. Mr. Moss stated he looks forward to working with Town boards, and that he realizes there is a lot of work yet to be done.

Chairman Drobinski asked Town Manager Valente to instruct staff to draft a letter to MassHousing as soon as possible to request an extension for providing Sudbury's comments.

Vice-Chairman O'Brien suggested that the letter include the concerns about the number of outstanding issues and ask the State Agency how it recommends the Town proceeds. If an extension is not granted, he suggested instructing Town staff to draft a letter providing a detailed itemization of the issues and concerns, including those mentioned in Attorney Witten's letter, and stating the Board's neutral position on the project, so that the Town is not perceived as combative by the State.

Selectman Haarde stated that he would find it difficult to sign his name to a letter that presents his position as neutral on this project. (His statement was followed by applause from the audience.) Selectman Haarde believes it is important to tell MassHousing clearly how the Town perceives this project. He asked who grants the extension, and Chairman Drobinski responded that the request is sent to MassHousing. Selectman Haarde requested that he review the draft letter before it is sent to MassHousing. Town Manager Valente and Chairman Drobinski stated that the draft letter would be circulated to each Board member for review.

Selectman Haarde opined that he does not believe the Town should feel rushed to finalize the letter. He also stated that he would like to have more information regarding the contingencies presented in the Purchase and Sale Agreement and whether they would constitute a challenge to the application. Mr. Schwartz asked for clarification of what contingencies were in question. Selectman Haarde mentioned the contingency of being approved for 120 units. Mr. Schwartz stated that he believes that condition is acceptable and would not be cause for the application to be denied. Chairman Drobinski stated that the Board would request the opinion of Town Counsel, since two lawyers this evening have presented contrary opinions on the matter.

Chairman Drobinski advised the public that the Board has to be sure its actions and opinions do not jeopardize the Town's long-term interests and that they do not incite future litigation. He believes the first step is to request the extension for comments. Chairman Drobinski emphasized that the Board has significant concerns regarding a very challenging proposal and will solicit the opinion of Town Counsel as to how best to proceed for what is in the Town's best interest.

Town Manager Valente stated that she should have an indication of the response to the request for an extension by the end of the week. Chairman Drobinski stated that, if the extension is denied, the Board could convene an emergency meeting to finalize its comments and official position regarding the application. Vice-Chairman O'Brien suggested that Town Manager Valente canvas the Board tomorrow for potential meeting times next week, if needed.

It was on motion unanimously

VOTED: To instruct Town staff to request an extension to provide comments to MassHousing regarding the application for a comprehensive permit pursuant to M.G.L. c 40B to construct 120 rental units located at 189 Landham Road, known as the Residences at Johnson Farm, submitted by Moss Development, Inc., and to also instruct staff to draft a letter to be sent at a later date to MassHousing noting the comments, concerns, and issues raised by Town citizens, staff and Attorney Jonathan Witten on behalf of the Sudbury River Neighbors' Association.

### **Sunday Sales of Alcoholic Beverages – Request**

Present: Longfellow Wayside Inn Innkeeper John J. Cowden, Jr.

At 9:37 p.m., Chairman Drobinski welcomed Longfellow Wayside Inn Innkeeper John J. Cowden, Jr. to the meeting. Mr. Cowden has requested to begin serving alcohol as of 10:00 a.m. at the Inn and at The

Wayside Carriage House Inn, as is now allowed by the State, if authorized by the Local Licensing Authorities.

Vice-Chairman O'Brien and Selectman Haarde stated they had no objections to the requests.

Mr. Cowden clarified that currently he is serving alcohol at 12 noon and is requesting to revise his license to begin serving alcohol at 10:00 a.m.

It was on motion unanimously

VOTED: As the Local Licensing Authority for the Town of Sudbury, in accordance with MGL c 138, S. 12, and in response to a new law passed by the State legislature on July 1, 2010, to approve to "opt into" the law that grants an additional one hour of sale of alcoholic beverages on Sundays; and

It was also on motion unanimously

VOTED: As the Local Licensing Authority for the Town of Sudbury, in accordance with MGL c 138, S. 12, to approve a change in the Sunday serving hours of alcoholic beverages from 12 noon to 10:00 a.m. on the Innholder's Licenses for Longfellow's Wayside Inn, 72 Wayside Inn Road, John J. Cowden, Jr., Innkeeper, and The Wayside Carriage House Inn, LLC, 738 Boston Post Road, John M. O'Brien, Manager, as requested in letters from John J. Cowden, Jr., Innkeeper dated July 9, 2010.

#### **Energy Efficiency and Conservation Block Grant - Presentation**

Present: Energy and Sustainability Green Ribbon Committee Chair William Braun

This agenda item was postponed to a later date as yet to be determined.

#### **Minutes**

It was on motion unanimously

VOTED: To approve the amended regular session minutes of June 24 and the regular and executive session minutes of July 6, 2010.

#### **State Primary – Service of Warrant**

It was on motion unanimously

VOTED: To sign the Service of Warrant for the September 14, 2010 State Primary, which must be posted no later than Tuesday, September 7, 2010, as requested by the Town Clerk.

#### **Election Officers - Appointments**

It was on motion unanimously

VOTED: To appoint Election Officers for a one-year period commencing August 15, 2010 as recommended by the Democratic and Republican Town Committee Chairmen and the Town Clerk.

#### **"Bike Sudbury" – Special Permit**

It was on motion unanimously

VOTED: To grant a special permit to Catherine "Cate" Dill, 7 Birchwood Avenue, for a "Bike Sudbury" recreational ride from approximately 8:00 a.m. to 1:00 p.m., on Sunday, October 3, 2010, following a route submitted and subject to Police Dept. safety requirements, proof of insurance coverage and the same route as in previous years, subject to Police Department safety requirements, proof of insurance coverage, and the assurance that all litter will be removed at the end of the race.

### **Tree Replacement Account - Contribution**

It was on motion unanimously

VOTED: To accept a \$3,500 gift from Herb Chambers BMW into the Tree Replacement Account, as requested by Jody Kablack, Director of Planning and Community Development, said funds to be expended under the direction of the DPW Director.

### **Board of Selectmen – FY 11 Goal Setting**

Town Manager Valente summarized a report prepared of the goals established by the Board in its recent goal setting session. She explained that the report presents information in terms of "Near-Term Goals recommended for adoption in FY11, Near-Term Goals needing further discussion, the summary of the goal suggestions and votes from June 24 sorted by most votes received and as presented in the list of goals, and a Draft FY11 Goals Statement."

As a result of the positive feedback received from the Department of Environmental Protection, Chairman Drobinski suggested that a Citizens' Advisory Committee be established to help facilitate the Town's wastewater treatment efforts. He explained that this group could evaluate implementation ideas from a non-technical perspective, which would be a requirement for approval to qualify for relevant grants. Chairman Drobinski recommended, and the Board concurred, that Town Manager Valente and Director of Planning and Community Development Jody Kablack be instructed to develop, publicize and recruit for the Committee as soon as possible.

Vice-Chairman O'Brien asked if the Citizens' Advisory Committee would also consider zoning changes. Chairman Drobinski stated that the Committee could work with the Planning Board on such issues.

Selectman Haarde stated that he believes solving the Town's budget problem should be the Board's most important goal, but noted that it is not specified on the list. Town Manager Valente noted that she is awaiting feedback on information regarding a pending Financial Summit which was circulated to the Finance Committee and Sudbury Public Schools (SPS). Selectman Haarde reiterated that solving the budget problems should be a Board goal included in the FY11 list. Chairman Drobinski stated that the budget issue is important, but that the Town should work collaboratively with others to address the problem.

Selectman Haarde emphasized that solving the Town's budget issues is not listed as a goal, and that he believes the issue needs a fresh perspective. He questioned what would be accomplished in a Financial Summit other than discussion, similar to what occurred with the Consolidation Working Group. Selectman Haarde believes new approaches need to be taken so that the public is not faced each year with voting on tax overrides.

Chairman Drobinski reiterated that the Board is concerned about the Town's budget issues, but that the best approach is to work with the cost centers towards an understanding that overrides are not financially

viable for the Town, and informing them of this as the Board's position. He emphasized that the Finance Committee and SPS cannot be told by the Selectmen how they should operate. However, he did also state that the Selectmen could recommend what it believes to be best for the Town.

Selectman Haarde questioned the intellectual basis for solving the budget problems if the Board is not willing to list it on its goal sheet.

Vice-Chairman O'Brien noted that, unfortunately it is not within the Board's power alone to solve the budget problems. He stated that the Schools comprise 75% of the Town's budget and that they are autonomous entities. Vice-Chairman O'Brien stated that the Board has to work collaboratively with the other cost centers and that the public would let its position known at election time if it does not wish to increase property taxes.

Selectman Haarde stated that he disagrees that the Board cannot solve the budget problem. He also stated that by not listing this issue on the goal sheet, he questions what message that sends to the other cost centers about the importance of the issue. He further noted that Route 20 should be a thriving commercial district, but because of the lack of sewer and wastewater treatment capabilities, land along Route 20 is being bought for potential Chapter 40B projects, which will put more children into the school systems. Selectman Haarde stated that he had suggested an Economic Development Committee be established to look at issues in combination to each other, and from both the revenue generation and expense reduction perspectives.

Chairman Drobinski agreed that the Town does need to analyze where it is headed financially, but needs to do so working with all parties involved.

Selectman Haarde further stated that the Town should also address its Chapter 40B development problem. He recommends that 200 age-restricted housing units, which are 100% affordable, be pursued so that the Town can achieve the State-mandated quota to establish, if needed, better leverage with the Massachusetts Housing Appeal Board. Selectman Haarde believes that addressing the Town's budget issues and affordable housing Chapter 40B issues should be prominently presented as part of the Board's FY11 goals.

Chairman Drobinski noted that the list of goals presented tonight has not been ranked in order of importance. He further stated that the Town should conduct appropriate analyses to see if there is a market in Sudbury for the type of housing Selectman Haarde proposed.

Chairman Drobinski asked the Board how it should instruct Town staff to proceed with the goals presented. Selectman Haarde stated that he supports the 24 goals presented, but believes two goals should be added regarding addressing the Town's budget issues and the Town's Chapter 40B affordable housing issues.

Chairman Drobinski stated that he views the Financial Summit as a starting point to the process to look at the Town's budget issues with SPS and the Finance Committee for the next three-year period. He also believes the Board can work with the Zoning Board of Appeals on ways Sudbury can effectively get to its 10% affordable housing inventory quota.

Town Manager Valente stated that the two goals proposed by Selectman Haarde had been noted in the report as needing "Further Discussion" because staff did not have enough information and/or direction from the Board regarding the next steps to pursue for the projects. She suggested Selectman Haarde work with Ms. Kablack to draft language to reflect his recommended goals. Selectman Haarde stated he would work with Ms. Kablack to finalize the list.

Vice-Chairman O'Brien suggested that goal #12 be revised to incorporate discussion about an Economic Development Committee to determine the Town's level of interest for Route 20 zoning issues and wastewater treatment system issues.

Chairman Drobinski recommended that the draft listing of 24 goals reviewed tonight be provisionally accepted and that Selectman Haarde work to finalize incorporation of his two recommended goals for addition to the list.

Selectman Haarde asked what the expected outcome or goal is for the Financial Summit session. Chairman Drobinski stated that he envisions it as a pragmatic evaluation of where the Town is headed financially and how the cost centers will deal with the challenges ahead. He further stated that the Board would need to inform the other cost centers and Finance Committee that it is concerned about how Sudbury will be able to continue to afford to offer the same services it currently does.

Selectman Haarde opined that the Financial Summit should have a tangible goal.

Town Manager Valente stated that her goal would be that a multi-year financial plan for FY12-FY14 would be developed. She also envisions discussions of preliminary revenue and spending forecasts for the next three years, in order to identify the anticipated funding gaps.

Selectman Haarde asked if the Financial Summit would occur before the next Board meeting on August 24, 2010. Chairman Drobinski and Town Manager Valente noted that the Board is available to meet, but they are awaiting scheduling information from others.

It was on motion unanimously

VOTED: To provisionally accept the draft listing of 24 goals reviewed tonight and to instruct the Town Manager and Town staff to work with Selectman Haarde to finalize the language for incorporation of his two recommended goals to the list.

**Granco Realty, LLC – Drain and Access Easement**

Chairman Drobinski and Town Manager Valente stated that the request is for a standard drain easement.

It was on motion unanimously

VOTED: To approve a Drain & Access Easement granted by Granco Realty, LLC, 60 Union Ave, shown On "Plan Showing Proposed Drainage Easement over Land of Granco Realty, LLC, 56 Union Avenue, Sudbury, MA," dated June 1, 2010, drawn by Town of Sudbury Engineering Department.

There being no further business, the meeting adjourned at 11:23 p.m.

Attest: \_\_\_\_\_

Maureen G. Valente  
Town Manager-Clerk