

IN BOARD OF SUDBURY SELECTMEN  
TUESDAY, NOVEMBER 1, 2011

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

The statutory requirements as to notice having been complied with, the meeting was convened at 7:33 p.m. in the Lower Town Hall, 322 Concord Road.

**Opening Remarks**

At 7:33 p.m., Chairman O'Brien opened the meeting. He noted the recent snow storm and the power outages experienced in Town. Chairman O'Brien encouraged residents to register their cell phone numbers on the Town website for the reverse 911 communication services. Sudbury has designated Friday, November 4, 2011 for Halloween, and he reminded parents to be careful of road and sidewalk conditions when trick-or-treating. Chairman O'Brien stated fallen power lines and trees are expected to be repaired by the end of the week. He has also asked the Town Manager to coordinate a subsequent meeting time for the Board to meet with the Police and Fire Chiefs, the Department of Public Works (DPW) Director and, if possible, NStar representatives to discuss emergency storm procedures and communications. Chairman O'Brien emphasized the Town's paramount concern during these events is for the safety of residents.

Chairman O'Brien also encouraged residents to support HopeSudbury and its upcoming telethon on November 5, 2011 from 12 noon to 10:00 p.m. He also noted the local television show *Chronicle* recently aired a segment showcasing the work of the Sudbury Food Bank led by Pat Mullen. The program can be accessed for viewing on Channel 5's website.

Chairman O'Brien asked the community to remember and acknowledge the sacrifices made by past and present military personnel during the upcoming Veterans' Day holiday.

Chairman O'Brien stated a bomb scare was called into the Lincoln-Sudbury Regional High School voicemail system, leading to cancellation of classes today. He commended the work of local public safety officials in handling the situation. Chairman O'Brien urged anyone with information regarding the incident to contact the Police Department and School administrators.

**Reports from the Town Manager**  
**Storm Activity – Status Update**

Town Manager Valente reported that approximately 16% of Sudbury households are still without power. She reviewed Town locations which had power restored today, and she noted areas where crews are currently working. Ms. Valente provided answers to frequently asked questions regarding storm procedures and communication protocols with utility companies. She noted municipalities are currently restricted from establishing their own power companies, and she distributed copies to the Board of an article featured in the *Cape Cod Times* on October 30, 2011. She reported schools will be in session tomorrow, and she encouraged parents of children who usually walk to school to consider other options to ensure safety until all streets and sidewalks have been cleared of storm debris.

Town Manager Valente thanked Fire Chief Miles and Police Chief Glavin and their staffs for their work. She also commended the work of the DPW to clear trees and Town staff, who attended to resident concerns. Ms. Valente also thanked the Community Emergency Response Team (CERT) volunteers, who coordinated shelter facilities, and the Town Schools and Library, which have made resources available to residents. In emergency situations, she emphasized the Town will always err on the side of caution, and she thanked the

community for its understanding.

### **Conservation Commission – Membership Update**

Town Manager Valente reported the Conservation Commission has two membership vacancies and notices of interest are posted on the Town website. She encouraged anyone interested in becoming a member attend a few Commission meetings to acquaint themselves with current issues.

### **State Budget – Update**

Town Manager Valente reported the Governor recently signed the State supplemental budget, which restored funds totaling \$85,000 for Sudbury. She noted the funds would likely become part of Free Cash, since there was no appropriation made for the funds. She has discussed the situation with the Finance Committee and will keep the Board apprised. Ms. Valente commended Finance Director Andrea Terkelsen for the excellent job she does monitoring the Free Cash account.

### **Suffolk University - Presentation**

Town Manager Valente reported she was a speaker at a recent conference on “Innovation” held at Suffolk University, which covered a variety of municipal issues, including regionalization efforts.

### **Executive Session - Cancellation**

Town Manager Valente reported an Executive Session meeting scheduled for tonight will not be necessary, since updated information is not available at this time.

### **Reports from the Board of Selectmen**

Selectman Drobinski recently attended a Regional Transportation Agency meeting. He stated Route 20 bus service to Boston, previously provided by a private entity, Cavalier Coach Corp., has been terminated. He encouraged citizens to contact the Board if they have ideas regarding expansion of transportation services through the regional transportation agency.

Vice-Chairman Haarde reported the Route 20 Citizens’ Advisory Committee (CAC) held its first meeting, elected a Chair, established action items and created sub-committees. He stated the Committee is in need of additional members and anyone interested should contact the Board of Selectmen’s Office. Vice-Chairman Haarde also stated the CAC plans to work closely with the Route 20 Sewer Steering Committee.

Vice-Chairman Haarde also attended the Route 20 Zoning Forum. He stated the program focused on design concepts more than zoning, but a lot of useful feedback was offered by those in attendance. Vice-Chairman Haarde hopes this is the first of many similar forums. Chairman O’Brien noted he watched the forum live and also thought it was well done.

Chairman O’Brien noted the Board will meet in Executive Session this Friday morning with the Sudbury School Committee.

Chairman O’Brien stated the Chamber of Commerce has begun its “Shop Sudbury” campaign for the holidays. Additional details are available on the Sudbury Chamber of Commerce website.

**Senior Tax Legislation - Update**

Present: Sudbury resident Ralph Tyler and Senior Tax Advisor David Levington

At 7:59 p.m., Chairman O'Brien welcomed Sudbury Resident Ralph Tyler and Senior Tax Advisor David Levington to the meeting to update the Board on the pending Sudbury Senior Tax Relief Legislation. Mr. Tyler distributed copies to the Board of a draft letter dated November 1, 2011, which he asked the Board to send to the State Senate and House Chairs of the Joint Committee on Revenue.

Mr. Levington reported the bill is still pending with the State, and thus there is not much to report at this time. He and Mr. Tyler have contacted appropriate legislative offices and personnel, but they are concerned another year may be lost in the process as the Legislature is set to adjourn at Thanksgiving for the remainder of the year. Mr. Levington also reported the Town of Hamilton (upon which the Sudbury proposal was modeled) has had problems implementing its senior tax relief program, and it is possible this could impact State opinions regarding Sudbury's pending bill. He further reported the Revenue Department had concerns about a provision within Sudbury's bill which allows for changes to be made. However, Mr. Levington believes he has satisfied the questions and concerns raised. He believes a letter from the Board would help instill a sense of urgency to move the bill through the approval process. Mr. Tyler concurred that a letter could help expedite the process.

Selectman Drobinski stated this proposal was nearly unanimously supported by voters at Town Meeting. He further stated he has spoken to Senator Eldridge in support of the pending bill. Selectman Drobinski believes it could not hurt to send the letter. He suggested Town Counsel also review the letter.

Vice-Chairman Haarde believes the Board should send a letter of support, but he would like to review the language and content for possible revisions.

Chairman O'Brien suggested revisions be submitted to the Town Manager and the Board could sign a revised version at its meeting on November 4, 2011. He also recommended the letter be shared with Town Counsel for review.

It was on motion unanimously

VOTED: To instruct Town staff to receive comments and revisions from the Board and to share them with Town Counsel prior to 12 noon on November 3, 2011, and to prepare a revised letter to be signed by the Board on November 4, 2011, and then to send the letter to the State Senate and House Chairs of the Joint Committee on Revenue, regarding support for the expeditious passage of Sudbury's Senior Tax Relief Bill.

Mr. Levington asked that he and Mr. Tyler be contacted by Town Counsel if there are substantive issues to be addressed.

Mr. Tyler emphasized the importance of each Board member's signature being clearly discernible as original.

Chairman O'Brien closed the discussion at 8:16 p.m.

**Residential Exemption – Discussion**

Present: Maureen Hafner, Director of Assessing, and Cynthia Gerry, Assistant Director of Assessing

At 8:16 p.m., Chairman O'Brien opened a discussion regarding the question of the Board discussing a residential exemption option. The Board was previously in receipt of copies of a letter from Town Director

of Assessing Maureen Hafner dated November 1, 2011 and accompanying Residential Exemption Report, which utilizes data from the FY2011 assessment and tax files. Town Manager Valente briefly explained the genesis for the Report was due to a request that the Board adopt this exemption as a way to reduce the property tax burden on senior citizens. She stated the Board would review the information tonight and only vote to accept the report. The vote on whether to implement a residential exemption would be taken as part of the tax classification hearing on November 15, 2011.

Director of Assessing Maureen Hafner thanked Assistant Director of Assessing Cynthia Gerry and financial analyst Peter Anderson for their help producing this year's report. She explained that a Residential Exemption would provide a mechanism to redistribute the tax burden within the residential class. Ms. Hafner provided examples of the types of properties which are defined as residential, and she emphasized this option does not apply to Commercial, Industrial or Personal (CIP) property classes. She explained the exemption reduces the assessment of a property by a fixed amount of valuation. Thus, the exemption reduces the amount of property taxes due on certain bills and it increases them on others, but it does not change the Town's total tax levy.

Ms. Hafner summarized a few of the criteria for qualification, and she provided examples of certain types of properties which would not qualify (Longfellow Glen). She also noted vacant land would not qualify for a residential exemption. Based on the FY11 data, Ms. Hafner stated property owners who qualify would have an assessment below \$711, 200.

If the maximum allowed exemption of 20% were applied, Ms. Hafner highlighted that a lower assessment value would translate into an increase in the tax rate from \$17.03 per thousand, as voted last year, to \$20.41.

Chairman O'Brien asked the Board if it is inclined to instituting a residential exemption.

Selectman Drobinski noted the option is not means-tested, and it is only based on the home value. Thus, he does not believe it is necessarily an accurate reflection of one's ability to pay property taxes. He also noted, historically, this option has been successful in towns with a lot of rental properties or in second/summer home locations.

Vice-Chairman Haarde stated it appears that the majority of towns which have adopted this exemption have a lot of rental properties. He does not believe this option is a particularly good fit for Sudbury, where most homeowners live in their single-family residences. Vice-Chairman Haarde also noted the program is not means-tested.

Chairman O'Brien reviewed the list of 13 Massachusetts towns which have the exemption, all of which have very different housing profiles than Sudbury's. Philosophically, he does not believe the Board is inclined to adopt a residential exemption. Chairman O'Brien asked if there was an opinion on the issue as it relates to senior citizens.

Sudbury resident Ralph Tyler stated he and Senior Tax Advisor David Levington believe this option would interfere with the Town's efforts to implement the Senior Tax Relief bill now pending with the State Legislature. He believes a residential exemption could have a detrimental effect on sales of homes on both the low and high ends of the assessment spectrum.

Vice-Chairman Haarde stated he believes the Senior Tax Relief bill is better targeted to Sudbury's residents than this exemption option.

It was on motion unanimously

VOTED: To accept the Town of Sudbury Residential Exemption Report dated November 1, 2011 as reviewed this evening, and to instruct Town staff to post the Report on the Town website.

Mr. Tyler noted the Report provided last year and this year were comprehensive and time-consuming for Town staff to prepare. He urged the Board to consider whether such an extensive report is needed annually, and whether a comprehensive report should only be produced possibly every five years.

Town Manager Valente noted she will ask the Board for guidance next year as to whether this report needs to be updated further or a separate discussion is needed next year. Chairman O'Brien stated the Board will consider these comments for future agenda planning.

At 8:40 p.m., Chairman O'Brien closed the discussion, and he thanked Ms. Hafner and Ms. Gerry for the information.

**Public Hearing: TD Bank – 407 Boston Post Road**

Present: Attorney Robert Dionisi, Joshua Swerling from Bohler Engineering, Architect Matt Hyatt and Developer Rick Curtin

At 8:44 p.m., Chairman O'Brien opened a Public Hearing regarding an application submitted by TD Bank to construct a new 2,980 square foot retail bank building and associated improvements, including stormwater management facilities, utility improvements, parking areas, two-lane remote drive-through facility, landscaping and lighting on property located at 407 Boston Post Road, zoned Residential-A, Town Assessor Map K08-0007, which was continued from October 18, 2011. The Board was previously in receipt of a "Site Plan Decision Sudbury Board of Selectmen TD Bank 407 Boston Post Road dated November 1, 2011." In addition, copies were distributed of a memorandum from Director of Planning and Community Development Jody Kablack dated November 1, 2011, regarding conditions related to the lighting plan.

In accordance with the State's Mullin Rule, Selectman Drobinski announced he has viewed a tape of the Board's October 18, 2011 meeting, and he has reviewed the revised architectural drawing. Thus, he is up-to-date on the Public Hearing discussions.

The applicant's attorney Robert Dionisi stated he has reviewed the draft Decision with Ms. Kablack, and the applicant is in 99% agreement with the content. He stated a condition regarding the lighting plan is the only outstanding issue to be resolved. Mr. Dionisi also referenced Condition #8 c., noting the applicant would prefer a 10-foot wide rather than nine-foot wide Bypass Lane.

Chairman O'Brien shared his recollection of this discussion from the last meeting and asked why the small variance matters to the applicant. Joshua Swerling from Bohler Engineering stated the applicant is concerned that a nine-foot wide Bypass Lane would be too constrained and uncomfortable for customers to navigate, and it could result in unsafe conditions. Mr. Dionisi stated the ten-foot width allows for a better flow of vehicles.

Mr. Dionisi also referenced Condition #6, suggesting the condition referenced in the last sentence should be correctly stated as "24" rather than "25." Ms. Kablack concurred.

Mr. Dionisi referenced Condition #27, and he asked for clarification as to why Condition #7 is referenced therein with "(certification)" noted as well.

Chairman O'Brien reviewed the revisions suggested by the applicant to Condition #7. He asked the applicant's perspective regarding how the Board would evaluate whether the lighting plan is acceptable

Mr. Dionisi stated the applicant is asking the Board to approve the lighting plan submitted with the Site Plan subject to the already agreed upon decrease in wattage. He further stated, if the Board were to determine at a later date that lighting construction deviated substantially from the approved plan, then an expert could be consulted to recommend compliant revisions.

Director of Planning and Community Development Jody Kablack stated, although she is not a lighting expert, she believes the unresolved matter is not an issue of whether the correct lighting plan would be built or whether the as-built plan would be in compliance. Rather, Ms. Kablack believes the issue is how visible the canopy lighting would be, and that the Board maintain its right to evaluate the position of the canopy lighting.

Selectman Drobinski stated the Board is concerned with the visual aspect of the lighting.

Chairman O'Brien noted he does not recall the Board previously ever recommending a change in lighting fixtures or bulbs, but rather suggestions have been made regarding the angle and/or shielding of lights to minimize detrimental effects on the area, and to avoid the excessively strong night lighting as was observed at the Wayland TD Bank.

Architect Matt Hyatt stated the applicant previously agreed to address the Wayland night lighting issue so that it would not be replicated in Sudbury. In response to a later question from Selectman Drobinski, Mr. Hyatt stated he is confident the changes made to the proposed lighting fixtures should satisfy the Board's concerns. However, Mr. Hyatt noted the chosen fixtures do not have a shielding component available. He asked for clarification from the Board as to what type of future mitigation regarding lighting might be requested and whether a fixture replacement would be envisioned.

Chairman O'Brien stated the Board would like to maintain its flexibility to evaluate the lighting and its impact on the neighborhood. He asked if there are other locations where the suggested fixtures have been installed which the Board could visit.

Mr. Hyatt provided examples of lighting located at the Wayland and Framingham bank locations which are similar to those proposed for Sudbury. He also stated he understands the issue as presented by Ms. Kablack as relating to the visibility of the lighting lamp source. Mr. Hyatt suggested a proposed future remediation and asked if such an example would be acceptable to the Board. Vice-Chairman Haarde stated that, pending the eventual results, the suggested mitigation seemed reasonable. The Board concurred.

Ms. Kablack suggested the word "canopy" should be appropriately added to the second and next to last sentences of Condition #7 for clarification purposes. Mr. Swerling concurred.

Chairman O'Brien suggested the applicant's team work with Ms. Kablack to craft acceptable language for all parties, which reflects tonight's discussion.

Mr. Dionisi read aloud suggested revised language for Condition #7. Ms. Kablack will review the proposed language and incorporate it appropriately into the Decision. She also noted the funds referenced in Condition #7 would be returned if not needed.

In response to a question from Chairman O'Brien, Mr. Hyatt stated all internal signage is typically shut off at a specified time.

Mr. Swerling noted that, if Condition #7 is revised as discussed, then Condition #27 may not need to reference a required "certification." Ms. Kablack stated this is standard Site Plan Decision language, but she recommended the word "certification" be changed to "inspection." The consensus was the word "inspection" is preferred.

Mr. Dionisi referenced Condition #9, and he asked for confirmation that the mock-up to be prepared of materials is only for the purpose of evaluating colors. Chairman O'Brien confirmed the Board was not contemplating revisions to materials, but wanted to view the color palette for the materials. Ms. Kablack stated she will adjust the wording of Condition #9 accordingly.

Selectman Drobinski asked for confirmation that there is no dumpster on site. Chairman O'Brien asked for confirmation that snow would be hauled off the site. Mr. Swerling confirmed both statements to be true.

Mr. Dionisi asked the Board if it still intended to send a letter of support for an illuminated sign (from the outside) to the Zoning Board of Appeals. Chairman O'Brien suggested Town staff prepare a draft letter for review and signature at the Board's November 4, 2011 meeting (later changed to the November 15, 2011 meeting).

Ms. Kablack referenced Condition #21, and she recommended adding a sentence stating, "The trailer shall be removed prior to issuance of a Certificate of Occupancy." The Board and applicant both concurred.

Selectman Drobinski asked Mr. Dionisi to share with the applicant that the Board appreciates the extensive work TD Bank has done on this proposal, and he hopes it will continue to be a good corporate citizen and support Sudbury philanthropies. Mr. Dionisi stated he expects the Bank would continue to be active within the community.

Vice-Chairman Haarde asked how much new property tax revenue the new building is expected to generate. Mr. Dionisi stated it could increase by approximately \$40,000 for the Town.

The consensus of the Board was to maintain the ten-foot Bypass lane.

It was on motion unanimously

VOTED: To close the Public Hearing on the Site Plan Application of TD Bank, D. Demetri, Trustee of Old South Realty Trust, applicant, and Edward and Linda Davis, Trustees, D&D Realty Trust II, owners, to construct a new 2,980 square foot retail bank building and associated improvements, including stormwater management facilities, utility improvements, parking areas, two-lane remote drive-through facility, landscaping and lighting on property located at 407 Boston Post Road, zoned Residential-A, Town Assessor Map K08-0007.

It was also on motion unanimously

VOTED: To approve the Site Plan Decision for TD Bank dated November 1, 2011, D. Demetri, Trustee of Old South Realty Trust, applicant, and Edward and Linda Davis, Trustees, D&D Realty Trust II, owners, as revised tonight, to construct a new 2,980 square foot retail bank building and associated improvements, including stormwater management facilities, utility improvements, parking areas, two-lane remote drive-through facility, landscaping and lighting on property located at 407 Boston Post Road, zoned Residential-A, Town Assessor Map K08-0007.

It was further on motion unanimously

VOTED: To instruct Town staff, on behalf of the Board, to prepare a letter of support for a freestanding sign on Route 20, with details as previously endorsed, for the proposed new TD Bank facility, to be sent to the Sudbury Zoning Board of Appeals.

#### **Minutes**

It was on motion unanimously

VOTED: To approve the executive session minutes of September 21, 2011, and regular session minutes of September 27, 2011, October 4, 2011 and October 18, 2011.

Selectman Drobinski abstained from the vote on the October 18, 2011 minutes.

#### **Lincoln-Sudbury Regional High School - Pre-Thanksgiving Day All Sports Ceremonial Bonfire**

It was on motion unanimously

VOTED: To approve the annual Lincoln-Sudbury Regional High School Pre-Thanksgiving Day All Sports Ceremonial Bonfire on Wednesday November 23, 2011 from 6:00 p.m. to 9:00 p.m, as requested in a letter dated October 24, 2011 by David McCormick, Treasurer, Lincoln-Sudbury All Sports Boosters Club, Inc.

#### **Sudbury Fire Department - Grant**

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a \$5,000 reimbursement grant to the Fire Department, representing additional funding from the FY2009 Emergency Management Performance Grant Program through the Massachusetts Emergency Management Agency (MEMA), as requested by Fire Chief Miles.

#### **Rail Trail Conversion Advisory Committee – Report**

It was on motion unanimously

VOTED: To accept a report from the Rail Trail Conversion Advisory Committee, concerning the proposed offer from the Friends of the Bruce Freeman Rail Trail, as provided on October 24, 2011.

#### **Executive Session**

At 9:29 p.m., Chairman O'Brien announced there would be no executive session required this evening.

There being no further business, the meeting adjourned at 9:29 p.m.

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