

IN BOARD OF SUDBURY SELECTMEN  
TUESDAY, FEBRUARY 14, 2012

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 7:32 p.m. in the Lower Town Hall, 322 Concord Road.

**Opening Remarks**

At 7:32 p.m., Chairman O'Brien opened the meeting. He announced the Board signed an agreement with the Public Employees' Committee regarding the Town of Sudbury joining the Group Insurance Commission (GIC). Chairman O'Brien thanked Town Manager Valente and Assistant Town Manager Bilodeau for their efforts to successfully work with the union group representatives and the non-union and retiree groups. Open enrollment will begin in April 2012, and the projected savings are estimated at \$700,000 or more. He stated this is a significant accomplishment for the Town and Sudbury Public Schools (SPS).

Chairman O'Brien stated the Finance Committee has held budget hearings in the past few weeks. He noted the meetings have been taped and can be viewed on cable television and online. Through presentations given at the meetings, Chairman O'Brien highlighted the substantial impact out-of-district placements have on the school budgets.

Chairman O'Brien announced absentee ballots are available at the Town Clerk's Office for the Presidential Primary Election on March 6, 2012. The Town Clerk's Office will be open until 8 p.m. on February 15, 2012, to register to vote at the Presidential Primary on March 6, 2012, and also on March 6 to register to vote at the Annual Town Election on March 26. He also announced Town permits for burning are now available. Chairman O'Brien also reminded residents to return their census forms and to renew dog licenses.

**Reports from the Town Manager**

Town Manager Valente thanked Assistant Town Manager Bilodeau for her work on the municipal health plan changes. She noted a tremendous amount of work will be involved to convert every Town and SPS employee to new health plans.

Town Manager Valente also thanked Finance Director Andrea Terkelsen and the Town Department Heads for their outstanding work preparing financial information for the Finance Committee budget hearings. She noted the Finance Committee has also reviewed the Capital Improvement and Community Preservation Act budgets.

**Emergency Reverse 911 System - Update**

Town Manager Valente reported Sudbury has updated its Connect CTY/Blackboard Connect reverse 911 system. A public test will soon be coordinated. She noted the system will be able to identify differently emergency and informational messages.

**Reports from the Board of Selectmen**

Selectman Drobinski stated he has been discussing the impact of unfunded mandates, in particular regarding stormwater management, with State officials. As Chair of the Environmental Policy Committee for the Massachusetts Municipal Association, he also discussed the need to increase Chapter 90 funds with

the State's Lieutenant Governor today as a way to help create jobs in the Commonwealth and improve the State's infrastructure.

Vice-Chairman Haarde reported the Rail Trail Conversion Advisory Committee has asked him whether public forums can be held to publicly discuss the Town Ballot questions prior to the Town Election, since there will be no discussion allowed at Town Meeting regarding the relevant non-binding resolutions. Chairman O'Brien suggested this be discussed later in the evening when other rail trail agenda items are discussed.

Vice-Chairman Haarde stated the Board received an email from Director of Planning and Community Development Jody Kablack, after the Town Warrant deadline, reporting the Planning Board had decided not to proceed with an inclusionary zoning article at this year's Town Meeting. He had expected after last year's discussion, the additional time requested would result in an article for this year. Vice-Chairman Haarde stated he is disturbed by what he perceives as a breakdown in process and communication.

Chairman O'Brien stated the Planning Board discussed the issue and decided not to bring it forward this year, and that no one from this Board had tracked the issue throughout the year.

Vice-Chairman Haarde stated inclusionary zoning is a critical tool to address the Chapter 40B issues, and without it he believes a town will always run the risk of not meeting its affordable housing quota. He stated Wayland has an inclusionary zoning bylaw. Vice-Chairman Haarde opined this is a critical issue for Sudbury in light of the Johnson Farm proposal, and he does not understand why a zoning article was not prepared for this year.

Selectman Drobinski stated he believes it is inappropriate for any Town board to tell another board how to do its job. He believes Sudbury has been very active in trying to manage its Chapter 40B issues, and this Board sent a strong letter of opposition to State officials regarding the Johnson Farm proposal.

Vice-Chairman Haarde stated other towns have had housing production plans (HPP) for decades, and Sudbury's was filed after the Johnson Farm project application was filed. Chairman O'Brien disagreed, stating the housing production plan completed recently by Sudbury is a new State regulation, and Sudbury was one of the first communities to submit a plan. He also stated the Johnson Farm applicants carefully planned their filing submission date.

Vice-Chairman Haarde opined Sudbury should have done an HPP years ago. He asked the other Board members how they could not also be upset that the Planning Board did not complete the inclusionary zoning bylaw assignment.

Chairman O'Brien stated he believes Vice-Chairman Haarde is presenting an unfair picture, and he noted that no Selectman followed up on this issue during the year. He stated he trusts the members of the Planning Board to have made the best decision as they saw fit.

Vice-Chairman Haarde stated he believed this Board agreed last year that the article would be prepared for this year. Selectman Drobinski stated other priorities arise during the course of the year, adjustments are made, and that this is not the forum for this type of discussion.

Vice-Chairman Haarde stated he believes this is a breakdown in Town processes and communication and it should be discussed publicly.

Selectman Drobinski stated the Town has held Public Hearings regarding Johnson Farm. He further stated he was disappointed by Vice-Chairman Haarde's tone.

Vice-Chairman Haarde defended his tone and belief that this was a process and communication breakdown.

Vice-Chairman Haarde asked if the budget presentations with information on Out-of-District costs for the High School and Sudbury Public Schools are available. Town Manager Valente will ask the Superintendents and/or Finance Committee for copies of their presentations to the Finance Committee.

**Public Hearing: Buddy Dog Humane Society, Inc. – Site Plan Application**

Present: Director of Planning and Community Development Jody Kablack, Schofield Brothers of New England, Inc. Senior Vice President Bruce Ey, and Buddy Dog Board of Directors President Howard Levy

At 7:57 p.m., Chairman O'Brien opened the Public Hearing regarding the Site Plan application by Buddy Dog Humane Society, Inc., located at 152 Boston Post Road, for proposed improvements. Director of Planning and Community Development Jody Kablack reviewed file materials which were previously provided to the Board, including copies of the Application for Site Plan Approval and a letter from Schofield Brothers Engineering dated January 20, 2012 and accompanying plans, a memorandum summarizing Town staff comments and recommendations from Ms. Kablack dated February 7, 2012, a letter from the Planning Board Vice-Chairman Eric Poch dated February 8, 2012, urging the Board to consider requiring a connection between this site and Bosse Sports Club, a memorandum from Asst. Fire Chief John Whalen dated February 6, 2012, pre-application meeting notes dated July 26, 2011, a memorandum from Town Counsel Paul Kenny dated January 5, 2007 regarding the applicant's exempt status, a letter from Director of Public Works (DPW) Director Bill Place dated February 7, 2012, a memorandum from Health Director Bob Leupold dated February 8, 2012, and a memorandum from Building Inspector Jim Kelly dated February 8, 2012. In addition, copies of a memorandum from the Conservation Commission dated February 14, 2012, and an email message from Sudbury resident Bridget Hanson dated February 14, 2012, were also distributed to the Board for review.

Schofield Brothers of New England, Inc. Senior Vice President Bruce Ey explained the proposal includes construction of a roof over an outside dog exercise area, construction of a new pressure distribution septic system, stormwater management system, a new gravel parking area and a minor modification to the building façade. Mr. Ey stated the applicant has negotiated with NStar for additional parking to the west. He noted this area would remain a gravel surface, since there are electrical lines underground. Mr. Ey stated an application has been filed with the Department of Transportation for a street access permit.

Mr. Ey stated this proposal will provide the first formal drainage system for the site. He noted this is appreciated by the Conservation Commission and that a Public Hearing is scheduled with the Commission at the end of February. Mr. Ey stated the stormwater management system was designed to meet State Department of Environmental Protection (DEP) standards and to minimize disturbance. Mr. Ey noted the proposal meets current zoning setback requirements, and that it is subject to the Wetlands Protection Act and Town Wetlands Administration Bylaw. He clarified it does not meet the Town's standards' level, and that a waiver would be requested. Mr. Ey explained the proposed new septic system, stating it is in compliance with State Title V and Sudbury Board of Health regulations. He stated the proposal provides a safer facility for the patrons and animals and that the site improvements are estimated to cost \$165,000 to \$175,000.

Mr. Ey addressed the request by Ms. Kablack for sidewalk enhancements to the area. He explained why a sidewalk could not be constructed over the 20-foot easement area owned by NStar. Mr. Ey has met with

Department of Public Works (DPW) Director Bill Place to address his concerns and to review the proposed drainage system.

Buddy Dog Board of Directors President Howard Levy asked Mr. Ey to address the suggestion made by Mr. Place to widen the road. Mr. Ey stated there is not enough room to create a third turning lane and that District 3 does not want to construct a bypass lane. He also emphasized it is not within Buddy Dog's budget to redesign the intersection.

Selectman Drobinski stated that, with very few exceptions for 25-and 100-year storm events, the proposal improves the stormwater management of the site significantly. He also thanked Mr. Levy for the work Buddy Dog has done, as a no-kill shelter serviced by volunteers, to be a great community asset. Selectman Drobinski asked about curbing on Route 20. Mr. Ey stated a passing lane is not doable.

Vice-Chairman Haarde asked if additional access is planned. Mr. Ey explained the options available for exiting through the Bosse Sports site during non-peak times. Selectman Drobinski provided a brief history of the relationship between the Buddy Dog and Bosse sites regarding vernal pool issues and a conservation easement in the rear of the Buddy Dog parcel.

Vice-Chairman Haarde stated this is a very congested intersection, and he asked if the Buddy Dog entrance could be moved. Mr. Ey stated it is probably unlikely due to a lack of frontage.

Chairman O'Brien asked if low shrubs could be planted to screen the parking area from the street. Mr. Ey stated grass is a better choice, since sight lines are important to maintain in this area. Chairman O'Brien asked about curbing to keep cars from parking along the side of Route 20 during peak hours. He also suggested adding signage to direct customers to exit through the Bosse site.

Chairman O'Brien asked if the improvements will also increase the number of employees or the operations, and it was stated this is not anticipated.

Mr. Levy stated there would be no objections to signs and to keeping the driveway to Bosse Sports open by not striping two parking spaces.

Chairman O'Brien asked about landscaping plans and whether utilities could be installed underground. Mr. Ey addressed both topics. Overhead utilities currently service both Buddy Dog and Bosse and are not proposed for any changes.

Ms. Kablack suggested the front of the site be enhanced, possibly with a fence and plantings to screen the parking area in a way so as not to impede sight lines. Chairman O'Brien concurred, asking that this be considered on both sides of the entrance, citing the example of Carriage Lane. He also suggested upgrading the front sign.

Mr. Ey stated the Board of Directors is working with volunteers to develop landscape sketches which will be submitted to Ms. Kablack.

Selectman Drobinski suggested the Board conduct a site visit at a later date.

A brief discussion ensued regarding widening the shoulder southbound on Route 20. Ms. Kablack will pursue additional information with the Department of Transportation. She asked that a dumpster be indicated on plans, if one is intended for the site.

Vice-Chairman Haarde asked if approval has been given to disrupt the railroad tracks. Mr. Ey stated the tracks are on NStar's property, but that no problems are anticipated and there have been no indications of pollution.

It was on motion unanimously

VOTED: To direct Town staff to prepare an affirmative Site Plan decision based on tonight's comments regarding the Application by Buddy Dog Humane Society, Inc., for Site Plan approval in accordance with Town of Sudbury Zoning Bylaw Section 6300 for property located at 151 Boston Post Road, Town Assessor's Map K11, Parcel 0020, and to continue the Public Hearing regarding the Application to March 7, 2012 at 8:15 p.m.

**Town Center Design and Conceptual Plan Discussion for 2012 Annual Town Meeting Potential Warrant Article**

Present: Director of Planning and Community Development Jody Kablack, Department of Public Works  
Director Bill Place and members of the Sudbury Center Improvement Advisory Committee

At 8:51 p.m., Chairman O'Brien opened a discussion regarding the Sudbury Town Center Design project. The Board was previously in receipt of copies of the Draft January 31, 2012 Meeting Minutes of the Sudbury Center Improvement Advisory Committee (SCIAC) and a map entitled "Alternative 6 With Alignment Shifted Away from Homer House."

Director of Planning and Community Development Jody Kablack summarized recent actions pursued for the project. Ms. Kablack emphasized this project has been under consideration since 2005, and has progressed with the assistance of a very active Sudbury Center Improvement Advisory Committee (SCIAC) and consultant. She displayed plans of the proposal to move the north and south alignment of the intersection eight feet to the west. Ms. Kablack stated the Town consultant has been preparing the final design plans which will be able to go out to construction bid.

Ms. Kablack reported a grant application was submitted to the MassWorks Infrastructure program, but it resulted in no funding. Sudbury will re-apply for the second grant round in the fall of 2012, focusing the application on the project's preservation of the historic district. Ms. Kablack stated proposals have been submitted to the Community Preservation Committee (CPC) and the Capital Improvement Planning Committee (CIPC) for \$200,000 in FY13 for historic landscaping restoration.

Department of Public Works (DPW) Director Bill Place explained the proposal will improve the safety of the intersection. Mr. Place explained the agreement of First Parish to move the pavement eight feet into the front lawn and the plans to alter the green space in front of Town Hall and to install a crosswalk. It was noted a landscape plan is not included at this time, and the traffic light solutions have also not yet been decided.

Vice-Chairman Haarde asked if any turning lanes are to be added. Mr. Place said no. Vice-Chairman Haarde opined that during peak travel times, traffic at the intersection may increase as a result of this proposal. He suggested a passing lane be constructed instead of the median in front of First Parish on Concord Road. Mr. Place and Ms. Kablack stated the median is required for the traffic lights in order to avoid having an overhead masthead like the one in Wayland's Town Center. Chairman O'Brien stated the SCIAC discussed the aesthetics of the traffic lights and opined that the overhead signals would not be Sudbury's preference.

Vice-Chairman Haarde stated the aesthetics of the Town Center are important to consider as is its safety and traffic flow. He asked if a true right-hand lane into Grinnell Park heading eastbound could be added. Ms. Kablack stated the public opinions expressed over several years were that the goal of the Center improvements should be to make the area safer and not to expand the roadways in order to increase traffic flow.

An unidentified gentleman asked for the lighting technology to be further explained. Mr. Place explained currently it is not a digital system, and the proposal would improve the intersection's level of service grade from an "F" to a "C." He explained the new traffic signals will better calibrate vehicle movement and decrease current delays. Vice-Chairman Haarde concluded the technology upgrades to the lights could possibly result in some traffic flow improvements.

SCIAC and First Parish member Deborah Kruskal stated the opinions of both of these groups are that the traffic flow of the intersection is not as important as the historic character of the Town Center. Safety issues are also important and adding pedestrian access. She stated fixing the existing traffic signals will improve the safety of the intersection and the look of the Town Center.

Selectman Drobinski stated the Town is constrained by the character of the Center and the land ownership regarding this project. He believes the character of the Center should be maintained, and that adding more asphalt to the area would be a mistake. Selectman Drobinski stated this proposal seems to balance the historic preservation and character perspective with safe transit options with new traffic signals and walkways. Although it may not be a perfect solution, he believes it serves a purpose of improving existing conditions.

Chairman O'Brien asked Ms. Kablack to review the project budget. Ms. Kablack explained the project cannot be phased because of the location of the traffic lights. She stated the estimated cost is \$1.67 million plus \$200,000 for historic landscaping. Ms. Kablack stated the Town could potentially use \$500,000 of Chapter 90 funds for the project. Selectman Drobinski stated possibly using the Town's Chapter 90 funds for two years might help fund the project, since Sudbury's roads are currently in better shape than many surrounding towns. Mr. Place stated using funds for one year is possible, but two years would need to be further researched.

Vice-Chairman Haarde thanked both residents who spoke tonight. He asked if the one-way road in front of Town Hall could have a different surface to be blocked off, if needed, and whether the road should be two-way. Mr. Place stated the plans include installing a crosswalk in asphalt, and that a two-way road would require sacrificing some of the Town common area.

The Sudbury Foundation Trustee Rich Davison stated The Foundation is housed in the Grange, and thus is an abutter to the project. He stated the Foundation is very interested in the lighting for this project being done correctly for safety and aesthetic purposes. Mr. Davison also stated the Foundation supports the need for a long-term landscaping plan to be included. On behalf of the Foundation, he committed its participation in this project moving forward.

Town Manager Valente stated this project will also be presented to the Finance Committee and the Capital Improvement Planning Committee.

Chairman O'Brien noted SCIAC recommends the article be presented at Town Meeting to provide the opportunity for public comment and to present the final design plan, even if the article is Indefinitely Postponed. Selectman Drobinski stated he believes discussion at Town Meeting would help the Town stand by its principles to preserve the character of its Center.

**Recycling/Transfer Station – User-Incentive Program Proposal**

Present: Department of Public Works Director Bill Place and Sudbury resident Len Simon

At 9:31 p.m., Chairman O'Brien opened the discussion regarding a proposal for a user-incentive program at the Transfer Station. The Board was previously in receipt of a memorandum from Department of Public Works (DPW) Director Bill Place and Sudbury resident Len Simon dated February 14, 2012, regarding the "Sudbury Recycling and Transfer Station (RTS) New User Incentive Proposal."

Sudbury resident Len Simon stated the purpose of the program is to increase usage of the RTS and to improve services. He stated a group of residents have worked voluntarily with the DPW Director and Town Manager to improve and expand the RTS. Suggestions have been made to improve signage, provide handicap-accessible ramps, provide volunteers to assist on site and to provide containers to recycle plastic bags. Mr. Simon stated the goal is to increase usage from 20% to 30% of Sudbury's households. He also commended Mr. Place for being a pleasure to work with to bring this idea to fruition.

The proposal includes free orientation sessions to better acquaint non-users with the benefits of the facility. Stickers would be given to participants for a free three-month trial along with a guide and five pay-per-throw bags. The program would only be available to current non-users and residents can only participate once. Mr. Simon stated the program can help residents save money and provide an opportunity for parents to teach their children how to be "green." He stated future plans include possible composting and Styrofoam recycling. Mr. Simon also reviewed the anticipated costs for the program.

Selectman Drobinski commended Mr. Simon on his work to bring this idea forward for the community. He believes the program can be beneficial in spreading the word about learning to recycle.

Vice-Chairman Haarde thanked Mr. Simon for proposing the program, which he thinks is good, and which he supports.

Chairman O'Brien thinks the program is a great idea. He encouraged Mr. Simon to reach out to the High School for volunteers and possible additional programming avenues and to record the orientation sessions for cable television viewing. Chairman O'Brien also suggested contacting the Sustainable Sudbury group. Mr. Simon plans to meet with the group in March. Chairman O'Brien further suggested working with the Town Assessor's Office and local realtors to find out when properties have new ownership. Mr. Simon stated a guide has been prepared to be distributed to realtors' offices.

Town Manager Valente stated Town Counsel has opined it is permissible to offer the features mentioned for free because it is funded through fees.

It was on motion unanimously

VOTED: To approve the proposal to create a new user-incentive program for the Recycling/Transfer Station and to authorize the free-of-charge and pay-per throw options included.

**NStar Electric Company and Verizon New England, Inc. – Utility Petition #12-03 – 407 Boston Post Road**

Present: NStar representative Christine Cosby

At 9:46 p.m., Chairman O'Brien opened the Public Hearing regarding the request for a grant of location for Utility Petition UP #12-03 from NStar Electric and Verizon New England, Inc. for the purpose of installing conduit at pole 14/1 on Raymond Road, providing underground utilities to 407 Boston Post Road. Vice-Chairman Haarde recused himself from the discussion.

The Board was previously in receipt of a letter from Richard M. Schifone, Supervisor, Rights and Permits, NStar Electric Company, in a letter dated January 24, 2012 and drafts of an "Order For Location for Conduits and Manholes" and an "Order for Pole & Conduit Location," accompanying map and email messages from DPW Director Bill Place dated January 27, 2012, noting a street opening permit will be required and not be available until April.

Selectman Drobinski asked if Verizon and Comcast could collocate in the same trench. NStar representative Christine Cosby stated she would research this issue. Town Manager Valente stated DPW Director Bill Place routinely pursues this coordination as well. Selectman Drobinski noted TD Bank has done precisely what the Town requested.

It was on motion unanimously

VOTED: To close the Public Hearing regarding the application to approve a grant of location for Utility Petition UP #12-03 from NStar Electric and Verizon New England, Inc. for the purpose of installing conduit at pole 14/1 on Raymond Road, providing underground utilities to 407 Boston Post Road.

It was on motion unanimously

VOTED: To approve a grant of location for Utility Petition UP #12-03 from NStar Electric and Verizon New England, Inc. for the purpose of installing conduit at pole 14/1 on Raymond Road, providing underground utilities to 407 Boston Post Road.

**Minutes**

Town Manager Valente noted the Regular Session minutes of January 31, 2012 should not be included in tonight's vote.

Vice-Chairman Haarde placed a hold on this agenda item. He asked that the Regular Session minutes of January 25, 2012 with the Wayland Board of Selectmen be revised on the first line of Page 7 to read "studies will further help to determine if this is a problem, as well as the study of methane gas.," which he believes better reflects the discussion which occurred.

It was on motion unanimously

VOTED: To approve the Executive Session minutes of December 2, 2011, the Regular Session minutes of January 25, 2012 with the Wayland Board of Selectmen as amended tonight, and the Executive Session minutes of January 31, 2012.



**Easement Request – RG Sudbury, LLC - 407 Boston Post Road**

Vice-Chairman Haarde placed a hold on this agenda item to ask who is building the sidewalks – TD Bank or the Town. Selectman Drobinski clarified TD Bank is building the sidewalk, but this easement will give the Town the right to maintain it.

It was on motion unanimously

VOTED: To approve the following easements located at 407 Boston Post Road and granted by RG Sudbury, LLC: Walkway Easement containing approximately 1,866 s.f., and extending along the frontage of Parcel 0007 Assessors Map K08 and Highway Easement, consisting of approximately 74 s.f., both as shown on a plan entitled “Easement Exhibit,” dated January 24, 2012, by Bohler Engineering.

**Election Officers - Appointments**

It was on motion unanimously

VOTED: To appoint 38 Sudbury residents as election officers (see attached list), each for terms to expire on August 14, 2012, as requested by the Town Clerk in an email dated February 9, 2012, and upon their qualification by the Town Clerk.

**Vault Fire Suppression System – Award of Contract**

It was on motion unanimously

VOTED: To approve award of contract by the Town Manager for the Vault Fire Suppression System to service the two Town Hall vaults to Fire Equipment, Inc. of Medford, pursuant to its February 3, 2012, response to the Town’s solicitation in the amount of \$20,725.

**G-R Lexington LLC - Gift**

Vice-Chairman Haarde placed a hold on this agenda item to ask how the \$2,500 gift is determined to be spent. Chairman O’Brien explained the typical process used for earmarked funds.

Town Manager Valente noted the use for this gift would likely be brought before the Board for approval in the future, since this amount is not enough to fund the purpose and because a location has not yet been identified.

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a gift of \$2,500 from G-R Lexington LLC, developer of TD Bank, towards construction of an automobile electrical charging station to be located in the Town of Sudbury, and expended under the direction of the Town Manager.

**Knights of Columbus - Request for a One- Day Wine and Malt Beverages License**

It was on motion unanimously

VOTED: As the Licensing Authority for the Town of Sudbury, to grant a one-day Wine and Malt Beverages License to Bill Kneeland, 41 Pennymeadow Road, representing the Knights of Columbus Council #5188 of

Sudbury, to accommodate a St. Patrick's Day dinner/dance fundraising event at Our Lady of Fatima Parish Hall, 160 Concord Road, on Saturday, March 10, 2012, from 6:30 p.m. to 10:30 p.m., subject to receipt of a Certificate of Liability.

**Picture Donation - John Sklenak**

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a prize-winning picture donation (with a value of \$425) from John Sklenak, 93 Robbins Road, for use on the Town of Sudbury website, as requested by the Town Manager.

**Council on Aging – Appointment**

Vice-Chairman Haarde placed a hold on this agenda item, and he asked that it be taken off the Consent Calendar, since he plans to vote against it.

It was on motion

VOTED: To approve the appointment of John J. Ryan, Jr., 155 Ford Road, to the Council on Aging for a term to expire on May 31, 2013, filling a vacancy occasioned by the resignation of Susan Kasle, as requested by Debra Galloway, Council on Aging Director.

Vice-Chairman Haarde opposed the vote.

**Bruce Freeman Rail Trail – Public Opinion Advisory Ballot Questions**

Present: Rail Trail Conversion Advisory Committee members Dick Williamson and Pat Brown

Chairman O'Brien opened discussion at 10:00 p.m. regarding the Bruce Freeman Rail Trail Public Opinion Advisory Ballot Questions. The Board was previously in receipt of copies of a memorandum from Town Manager Valente dated February 10, 2012, asking for clarification of the draft Town Ballot Questions, and copies of drafts "Non-binding Public Opinion Advisory Question 1, 2A and 2B and accompanying Arguments in Support and Opposition." In addition, copies of a memo from Town Counsel Paul Kenny to Town Manager Valente, dated February 10, 2012, was distributed to the Board by Ms. Valente.

Selectman Drobinski asked if the goal is to have two questions on the ballot. Town Manager Valente reviewed the draft Question #1, and she noted the comment provided by Sudbury resident and Rail Trail Conversion Advisory Committee (RTCAC) member Dick Williamson. She further stated Town Counsel Kenny has opined that the Board can ask for a public opinion, since there is no legal binding aspect to it.

Chairman O'Brien questioned whether the question should include the phrase "non-motorized recreation."

Selectman Drobinski noted that, since the vote is non-binding, the funding source is irrelevant. He also stated State funding for this project may not be available until 2020. Selectman Drobinski stated he has no problem with the language suggested for Question #1, but he recommended adding words to clarify that the Rail Trail would be "more or less" on the old rail right of way. He believes it is important for the public to know that due to information from previous studies, conditions might necessitate the trail be re-routed in certain locations. Vice-Chairman Haarde concurred.

Selectman Drobinski opined that Mr. Williamson's suggested revision seems confusing.

Friends of the Bruce Freeman Rail Trail representative Tom Michelman stated if the route varies off the rail bed then a rail trail is not being constructed.

Chairman O'Brien informed Mr. Michelman the Board is only developing these questions for the Town Ballot to obtain a general gauge of public opinion. He noted previous studies have indicated there are serious challenges in Sudbury of precisely following the rail bed. Thus, Chairman O'Brien believes it is prudent for the Board to inform the public the rail trail may not be in a straight line on the former right of way.

Selectman Drobinski stated it would be disingenuous of the Board to present a different scenario to the public. He also emphasized the Selectmen have jurisdiction to establish the Town Ballot language.

Sudbury resident Dan DePompei, 35 Haynes Road, stated he has no objection to the Board's intent or the suggested language. He asked Mr. Michelman to explain his comment noting "other concepts" considered. Mr. DePompei stated he is unaware of any concepts being disclosed to the public. Mr. Michelman replied the other concepts were developed by the Town of Concord or private individuals.

Chairman O'Brien stated no concepts have been fully developed by Town staff and any relevant information is available on the Town website.

Town Manager Valente noted the Ballot questions must be received by the Town Clerk by 5:00 p.m. on February 17, 2012. The Board will further consider the language of Question #1 and the suggested revision made by Selectman Drobinski and notify the Town Manager of any preferred language for the revision prior to the deadline.

Sudbury resident and Rail Trail Conversion Advisory Committee (RTCAC) Chair Pat Brown, 34 Whispering Pine Road, referenced the draft Summary for Question #1. She suggested the end of the location description in the second sentence be revised to state "...Frost Farm south to the end of the right of way west of Union Avenue near Station Road." The Board agreed with this revision.

Selectman Drobinski stated Question #2A as drafted seems appropriate. He noted that a non-binding resolution does not advise the Board whether to accept a gift but only on the question of whether Sudbury should design a half-mile segment. He further stated that the \$50,000 gift was offered with the caveat that the design would adhere to Department of Transportation standards. Selectman Drobinski stated Sudbury may decide it wants to do something different and design its own trail. He does not believe it is appropriate to give the public the impression the Town has decided on a design. Thus, Selectman Drobinski stated he could support Question #2A as originally drafted, and the Board could discuss the issue of accepting a gift at a later time.

Mr. Michelman strongly disagreed that a 25% design forces the Town down a certain path that cannot be altered.

Selectman Drobinski stated these questions will determine if the Town supports the project, since the residents may eventually need to pay for it, and if so, then the Board can have a subsequent discussion after Town Meeting. He emphasized a discussion now would be premature without the input from Park and Recreation and the Conservation Commission.

It was on motion unanimously

VOTED: To approve the Non-binding Public Opinion Advisory Ballot question #2A, as reviewed tonight, regarding the Bruce Freeman Rail Trail.

It was also on motion unanimously

VOTED: To approve the Non-binding Public Opinion Advisory Ballot question #1, as revised tonight by Selectman Drobinski, unless more preferred language is presented to the Town Manager prior to 5:00 p.m. on February 17, 2012, regarding the Bruce Freeman Rail Trail.

Chairman O'Brien asked if these two questions are also adequate to be presented in the Town Warrant as non-binding resolutions.

Town Manager Valente referenced Town Counsel Kenny's memorandum to her and the possibility that the two forums could provide responses that negate each other.

Vice-Chairman Haarde stated he thought non-binding resolutions are not allowed to have Town Meeting presentations. Mr. DePompei explained a non-binding resolution is allowed a ten-minute presentation, which is followed by a vote without further discussion.

Vice-Chairman Haarde stated the potential result offered by Town Counsel could occur on everything voted on, but is unlikely. Thus, he believes the Town Warrant should include the non-binding resolution questions.

Selectman Drobinski noted the Board will need to prepare the presentations for Town Meeting, and that the Moderator will ensure it speaks only to the resolution language. Chairman O'Brien noted the presentation will need to clearly present the pros and cons of the issue to elicit a reliable vote from the public.

Town Manager Valente stated the Town Meeting questions can be finalized up until March 20, 2012.

Chairman O'Brien asked if the Board is in favor of presenting the same questions in the Town Warrant as it voted tonight for the Town Ballot. Vice-Chairman Haarde stated he cannot think of a reason to make them different.

Chairman O'Brien stated he sees no harm in presenting them at Town Meeting. He asked how to inform the public ahead of Town Meeting of the issues. Ms. Brown suggested a public presentation be scheduled. Selectman Drobinski stated such a forum would need to present a balanced perspective of pros and cons. Ms. Brown stated it would not have taken the RTCAC seven years to study this issue if the answers could so easily be captured in a "yes" or "no" answer. She believes the issue is complex and needs to be discussed with the public in advance of Town Meeting. Chairman O'Brien and Selectman Drobinski stated it would be beneficial for Board members to attend such a meeting. Ms. Brown will ask the RTCAC if it can coordinate the proposed discussion and report back to the Board. Mr. Michelman suggested a larger room than Town Hall be made available.

Sudbury resident Madeleine Gelsinon, 520 Concord Road, asked if opinions from other Town boards and committees will be included in the Town Warrant to help advise the public. Town Manager Valente stated typically reports from the Finance Committee and Board of Selectmen are included.

Town Manager Valente reviewed the process for communication and follow-up of tonight's discussion prior to the Board's next meeting. She stated she would send the Ballot questions to the Board by email for a final review this week prior to submission to the Town Clerk on February 17, 2012.

At the close of tonight's meeting, Mr. DePompei asked the Board to research whether there is an obligation for the Town to complete a concept plan before a design plan, since it voted a money article for a concept plan at a previous Town Meeting.

**Annual Town Meeting Actions**

The Board was previously in receipt of a draft list of the "2012 Annual Town Meeting Warrant Articles," dated February 10, 2012. The Board reviewed the list to accept them and to determine the final order of the articles. It was determined the Board would designate articles for the Consent Calendar and take positions as deemed appropriate at its next meeting.

It was on motion unanimously

VOTED: To refer zoning-related Articles #21, #22, #23 and #24, as noted on the listing below, to the Planning Board for Public Hearings. (NOTE: Revised after re-numbering.)

It was also on motion unanimously

VOTED: To accept the articles submitted for the Annual 2012 Town Meeting Warrant, received as of January 31, 2012, in the order presented, subject to reordering the numbers 1-35, due to Withdrawn article #20.

- #1 - Hear Reports
- #2 - FY12 Budget Adjustments
- #3 - Stabilization Fund
- #4 - FY13 Budget
- #5 - FY13 Capital Budget
- #6 - FY13 Transfer Station Enterprise Fund Budget
- #7 - FY13 Pool Enterprise Fund Budget
- #8 - FY13 Recreation Field Maintenance Enterprise Fund Budget
- #9 - Unpaid Bills
- #10 - Chapter 90 Highway Funding
- #11 - Real Estate Exemption
- #12 - Town/School Revolving Funds
- #13 - Establish Stabilization Fund – Minuteman Regional Vocational School District
- #14 - Town Center Traffic Improvements
- #15 - Fire Department Safety Equipment Purchase
- #16 - Pawnbroker Bylaw
- #17 - Nixon Roof Replacement & Repair – MSBA Program
- #18 - Natatorium HVAC & Associated Roofing
- #19 - Town and School Roofs
- #20 - WITHDRAWN
- #21 - Amend Zoning Bylaw Article IX, Appendix A – B.6 – Update definition of Agricultural Use - Refer to Planning Board
- #22 - Amend Zoning Bylaw Article IX –Appendix A – Sec. 2313 Regulate raising of roosters – Refer to Planning Board
- #23 - Amend Zoning Bylaw Article IX – Section 5331 – Senior Residential Community – Refer to Planning Board
- #24 - Amend Bylaw – Art. V(f) – Stormwater Management Bylaw – Refer to Planning Board

- #25 - Community Preservation Fund –Town Hall Architectural and Design Study
- #26 - Community Preservation Fund – Town Center Landscaping Restoration
- #27 - Community Preservation Fund – Historic Projects
- #28 - Community Preservation Fund – Town-Wide Walkways
- #29 - Community Preservation Fund – Town Clerk Historic Document Preservation
- #30- Community Preservation Fund - Sudbury Housing Trust 10% Allocation
- #31- Community Preservation Fund - Pantry Brook Farm Preservation Restriction
- #32 - Community Preservation Fund – Purchase and Restore Property - 15 Hudson Road
- #33 - Community Preservation Fund - Amend Art. 43 of the 2006 Town Meeting, Sudbury Housing Authority Unit Buy Down
- #34 - Community Preservation Fund - General Budget and Appropriations
- #35 - Resolution – Rail Trail
- #36 - Resolution - Rail Trail

### **Board of Selectmen/Town Manager 2011 Annual Report**

The Board was previously in receipt of a draft copy of the Board of Selectmen/Town Manager Joint 2011 Annual Report for review. Town Manager Valente distributed copies of a revised version to the Board.

Chairman O'Brien suggested adding dollar amounts of the grants received by the Energy and Sustainability Green Ribbon Committee to section III.

Vice-Chairman Haarde stated he thinks Selectman Drobinski is serving his ninth term on the Board and he asked if this should be revised. He also stated he would be remiss if he did not note that the Board did not discuss or set new goals this year, but rather it discussed the status of previous goals.

Town Manager Valente noted that many of the goals on the Town's Master Plan have been achieved and that the ones that remain require significant resources and funding. She suggested the Board meet, possibly in conjunction with other boards and committees, to prioritize the seven remaining goals. Ms. Valente stated the Town needs to evaluate its process for capital improvements.

Vice-Chairman Haarde stated the ultimate goal is to address the structural deficit. He asked that the word "annually" be stricken from the second sentence of the second paragraph, since the Board does not set goals each year. He also noted Master Plans should be updated every ten years.

It was on motion unanimously

VOTED: To approve the Board of Selectmen/Town Manager Joint 2011 Annual Report, subject to incorporating the revisions suggested tonight, referencing to see the Energy and Sustainability Green Ribbon Committee Report and checking the number of terms served by Selectman Drobinski.

### **Executive Session**

At 11:23 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 land acquisition wherein an open meeting may have a detrimental effect on the litigating position of the Board of Selectmen, Chairman Lawrence W. O'Brien, aye, Vice-Chairman Robert C. Haarde, aye and Selectman John C. Drobinski, aye.

Chairman O'Brien announced regular session would not reconvene following Executive Session.

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

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