

IN BOARD OF SUDBURY SELECTMEN  
TUESDAY, JANUARY 31, 2012

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

Absent: Selectman John C. Drobinski

The statutory requirements as to notice having been complied with, the meeting was convened at 7:35 p.m. in the Lower Town Hall, 322 Concord Road.

**Opening Remarks**

At 7:35 p.m., Chairman O'Brien opened the meeting. He announced Selectman Drobinski has the flu and will be absent tonight. Chairman O'Brien welcomed six Boy Scouts from Troop 60 and their leader, Steve Kurtz, to the meeting. The Scouts introduced themselves and stated they are working towards their Citizenship in the Community badge.

Chairman O'Brien reviewed announcements from the Town Clerk's Office reminding residents to return their census forms and to renew dog licenses. He stated February 7, 2012, is the deadline to return nomination papers to the Town Clerk's Office for those planning to run for elected positions. Chairman O'Brien also stated the Town Clerk's Office will be open until 8:00 p.m. on February 15, 2012, which is the deadline for registration to vote in the Presidential Primary Election on March 6, 2012.

Chairman O'Brien reviewed the upcoming meeting dates of the Finance Committee, which will conduct public budget hearings on February 6, February 9, February 13 and February 16, 2012. Presentations will be given regarding budgets for the Town and Schools, and the meetings will be taped and available for television and online viewing.

**Reports from the Town Manager**  
**Neighboring Public Safety Retirements**

Town Manager Valente announced the upcoming retirements of the Fire Chiefs from Lincoln and Wayland. Both individuals have worked well for several years with Sudbury's Fire Department and provided mutual assistance. Thus, Town Manager Valente prepared a note of well wishes to be sent to both Fire Chiefs, on behalf of Sudbury, and to be signed by the Board tonight. The Board concurred with this recommendation.

**The Coolidge at Sudbury**

Present: B'Nai B'rith Housing of New England Project Manager Holly Grace

The Board was previously in receipt of a draft letter of support to be sent from the Board to the Department of Housing and Community Development dated January 31, 2012, regarding The Coolidge at Sudbury project. Town Manager Valente explained this is a requirement for the requested funding sources.

It was on motion unanimously

VOTED: To authorize the Chairman of Sudbury's Board of Selectmen to sign a letter of support dated January 31, 2012, to be sent to the Department of Housing and Community Development, regarding The Coolidge at Sudbury project.

**Reports from the Board of Selectmen**

Vice-Chairman Haarde has attended the continuing Sudbury Public Schools (SPS) collective bargaining meetings. He also stated the Board held a joint meeting last week with Wayland's Board of Selectmen.

Chairman O'Brien attended a recent Energy and Sustainability Green Ribbon Committee meeting. He stated the Committee is conducting an energy analysis regarding solar panels for future use on the landfill.

Chairman O'Brien stated the joint meeting with Wayland's Selectmen was productive. He also has attended the ongoing Lincoln-Sudbury Regional High School collective bargaining meetings.

**Public Hearing: Pongal II Restaurant – Request for Change of Premises**

Present: Pongal II restaurant manager Falgun Pathuk and the applicant's attorney Stephen J. Lentine

At 7:45 p.m., Chairman O'Brien opened the Public Hearing regarding the application for a change of premises by Pongal II Restaurant, 103 Boston Post Road, for a 450 square foot addition to accommodate a 20-seat increase to the floor plan. The Board was previously in receipt of copies of a letter from Attorney Stephen Lentine and accompanying petition paperwork, an email request from Fire Chief Miles for the applicant to schedule a final fire alarm inspection dated January 25, 2012, and email messages from the Board of Health Director and Building Inspector stating no concerns. Chairman O'Brien explained the Alcoholic Beverages Commission requires a new application be submitted by any license holder for all modification requests.

The applicant's attorney Stephen J. Lentine confirmed that the State requires a new Public Hearing be held for any requested alterations. Mr. Lentine briefly described the proposal to add 20 new seats to the existing restaurant, and to relocate the existing bar to the new addition.

Chairman O'Brien noted the proposal is acceptable to the Board of Health.

In response to a question from Chairman O'Brien, Mr. Lentine stated the additional seats will bring the restaurant total seats to 54.

Vice-Chairman Haarde referenced a request from the Fire Chief for a final fire alarm inspection to be scheduled, and he asked if this has been completed.

Pongal II restaurant manager Falgun Pathuk stated it will likely occur next week. Mr. Lentine stated the applicant has been in contact with the Fire Department and will comply with all requests.

Chairman O'Brien asked if there are plans to hire new staff. Mr. Pathuk hopes to hire new staff, and he plans to advertise locally for the positions.

Chairman O'Brien emphasized all bartenders must be TIPS-certified. Mr. Pathuk stated he is aware of this requirement.

In response to a question from Chairman O'Brien, Mr. Lentine reviewed the restaurant's hours of operation, stating they would remain the same.

Town Manager Valente noted tonight's Public Hearing was duly noticed and advertised.

It was on motion unanimously

VOTED: As the Licensing Authority for the Town of Sudbury, in accordance with M.G.L. c138, s.12, to approve a change of premises for the Sales of All Alcoholic Beverages, issued to Sangam Restaurant Corporation, d/b/a Pongal II Restaurant, 103 Boston Post Road, Falgun Pathak, President and Manager, for a 450 sq.ft. addition to accommodate a 20-seat increase to the floor plan and within the Board of Health's permitted seating limit of 50, subject to any requirements outlined by the Fire Chief, Director of Health and Building Inspector.

Chairman O'Brien noted the variance in the stated seating limit of 50 to the proposed 54 seats. Mr. Lentine stated he will further research the requirement and adjust the seats accordingly.

### **Minutes**

It was on motion unanimously

VOTED: To approve the Regular Session and Executive Session minutes of January 17, 2012.

### **Presidential Primary Election Ballot**

It was on motion unanimously

VOTED: To sign the Service of Warrant for the March 6, 2012 Presidential Primary, which must be posted no later than Tuesday, February 28, 2012, as requested by the Town Clerk.

### **Commission on Disability – Donation**

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a \$2,500 donation from the Sudbury Commission on Disability to the Adaptive Sports & Recreation Program at the Park and Recreation Department, as requested by Anna Wood, said funds to be expended under the direction of the Adaptive Sports & Recreation Specialist.

### **Relay for Life – Date Change**

It was on motion unanimously

VOTED: To approve a date change for the annual "Sudbury Relay for Life," previously approved for May 19-20, 2012, to Friday, May 18 at 4:00 p.m. to Saturday, May 19 at 9:00 a.m. to avoid a scheduling conflict with Lincoln-Sudbury Regional High School, as requested by Marisa Lutz, Relay for Life of Lincoln-Sudbury Chair, in an email dated January 17, 2012, subject to compliance with conditions outlined by the Peter Noyes School, the Police and Fire Departments, as well as Park and Recreation and the Presbyterian Church.

### **First Parish Church - 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 Reed Shilts, 293 Concord Road, representing First Parish Church in Sudbury, 327 Concord Road,

to accommodate a Member's Service Auction fundraiser on Saturday, March 31, 2012 from 7:00 p.m. to 11:00 p.m., subject to receipt of a Certificate of Liability.

**NStar Electric Company and Verizon New England, Inc. – Utility Petition #12-02 – Great Road and North Road**

It was on motion unanimously

VOTED: To approve Utility Petition UP #12-02 for joint petition by NStar Electric Company and Verizon New England, Inc. to relocate pole 78/256 and anchor guy to accommodate road reconstruction at Great Road and North Road, as requested by Richard M. Schifone, Supervisor, Rights and Permits, NStar Electric Company, in a letter dated January 11, 2012.

**Town Trust Funds - FY12 Unaudited Second Quarter Financials**

It was on motion unanimously

VOTED: Acting as Co-Trustees of Town Trust Funds, to accept the unaudited FY12 second quarter Financial Reports for the Town Trust Funds for the period ended December 31, 2011, as requested by the Finance Director, Andrea Terkelsen.

**Walkway Account – Gift**

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a \$16,250 gift from Grouse Hill, LLC to be placed into the Walkway Account for construction of walkways on either Nobscot Road or Old Framingham Road in conjunction with the Grouse Hill Incentive Senior Development Special Permit, said funds to be expended under the direction of the DPW Director, as requested by Jody Kablack, Director of Planning and Community Development.

**Energy and Sustainability Green Ribbon Committee – Appointments**

It was on motion unanimously

VOTED: To appoint two new members to the Energy and Sustainability Green Ribbon Committee: Joseph F. Martino, Jr., 109 Maynard Farm Road, for a term to expire on April 30, 2012, filling a vacancy occasioned by the resignation of Dean Holden; and Kurt Reiss, 33 Briant Drive, for a term to expire on May 31, 2014, filling a vacancy occasioned by Jeff Beeler, who declined reappointment in 2011.

**Articles for 2012 Annual Town Meeting & Ballot Questions – Take Positions**

At 7:54 p.m., Chairman O'Brien opened a discussion regarding the Selectmen's 2012 Town Meeting articles. The Board was previously in receipt of a memorandum from Town Manager Valente dated January 27, 2012 regarding suggested Rail Trail Ballot and/or Town Meeting questions and options, draft warrant articles for the following articles: Hear Reports, FY12 Budget Adjustments, Stabilization Fund, Stabilization Fund Establishment – Minuteman Regional Vocational School District, Town Center Traffic Improvements, Street Acceptance, Town and School Roofs, Cable Television Revolving Fund, Rental Property Revolving Fund, and a draft list of the "2012 Annual Town Meeting Warrant Articles," dated January 27, 2012. Town Manager Valente distributed copies of language for three potential articles which

have been submitted as bookmarks for the Town Meeting Warrant prior to today's deadline at 5:00 p.m., regarding rail trail interest.

Chairman O'Brien referenced discussion from the Board's January 17, 2012 meeting regarding how to gain a better sense of what the community thinks about proceeding with construction of a rail trail(s). He also referenced Ms. Valente's January 27, 2012 memo. He asked what the deadline is for determining the language for ballot questions. Town Manager Valente stated she will further research this information.

Town Manager Valente referenced tonight's handout, stating all three options were submitted before the 5:00 p.m. deadline for the Warrant, but the Board can decide whether to proceed with some or all of the articles. She emphasized any changes in language would need to be reviewed by Town Counsel to opine as to whether the revisions fall within the "four corners" of what was submitted.

Chairman O'Brien summarized the three ideas have been put forth to solicit the interest of the community for a rail trail: 1) a Town Ballot question, 2) a Town Meeting Warrant article, and/or 3) a telephone survey to include up to five questions. He opined that the combination of posing a ballot question and conducting a telephone survey might capture the broadest audience response.

Vice-Chairman Haarde stated his initial reaction was not keen to a telephone survey, because it would not provide as much of an opportunity for responders to provide feedback on the issue.

Chairman O'Brien noted none of the three options would actually provide public feedback because the Town Meeting article would be presented as a non-binding resolution, which does not include public comment, and nor is feedback available through the ballot process. It was noted placeholders have been submitted for three articles for Town Meeting. Town Manager Valente drew the Board's attention to the draft list of the "2012 Annual Town Meeting Warrant Articles," dated January 27, 2012.

Chairman O'Brien suggested that language be added to provide cost information so a responder can assess if they support a rail trail if it is not built to Department of Transportation specifications, and thus Sudbury taxpayers would bear the expense for construction and maintenance.

Vice-Chairman Haarde stated he liked Option A the best from Ms. Valente's memo to be presented as a ballot question and as a Warrant article. He suggested proponents and opponents of the rail trail be solicited to present strong arguments for and against the project for public consideration. Vice-Chairman Haarde stated public opinion should be solicited on a full rail trail and on the smaller portion suggested by the Friends of the Bruce Freeman Rail Trail, and he noted that none of the options provided explain the "Friends" proposal.

Town Manager Valente stated her understanding from the Board's last meeting was that the public had never been asked whether it wanted a rail trail, and that this question is what the Board wanted to pose to the community. Thus, she drafted some possible choices, which she distributed tonight to address the Board's request.

Vice-Chairman Haarde reiterated his belief that public input should be solicited for both a section of a rail trail and a full rail trail. He also stated he recalls requesting this at the last meeting, when the proposal for a smaller portion of the trail was discussed.

It was noted that it is too late to add a Warrant article regarding a smaller section of a rail trail, since the deadline to do so was today at 5:00 p.m.

Vice-Chairman Haarde expressed his dissatisfaction with this outcome. He stated there is no point in reviewing this as an agenda item tonight, if the deadline has already passed for input and revisions. Vice-Chairman Haarde questioned the integrity of the review process of this information.

Town Manager Valente noted this information was provided to the Board last Friday in the meeting packets. Since she had not received feedback from anyone regarding the information being incomplete, Ms. Valente worked with Town Counsel to develop the three possible bookmark articles for the Warrant to submit prior to the deadline.

Chairman O'Brien stated there is time to include a question to reflect the "Friends" proposal on the Town Ballot.

Vice-Chairman Haarde reiterated that there is no integrity in the process to discuss these options tonight, if the deadline has passed to propose any changes. He stated it was not clear to him from the packet information that the options for a smaller rail trail and a full rail trail would not both be presented in the Town Warrant and on the Town Ballot. Thus, Vice-Chairman Haarde believed he had no questions regarding the information, and had no reason to pursue their inclusion. He stated it is a surprise for him to discover tonight that the "Friends" proposal would not be presented in some form at Town Meeting.

Chairman O'Brien stated there is time to include a question to reflect the "Friends" proposal on the Town Ballot, but unfortunately, the deadline is closed for the Town Meeting Warrant.

Vice-Chairman Haarde read aloud two paragraphs from page 7 of the Board Meeting Minutes of January 17, 2012, indicating he specifically requested referendums be prepared for the Town ballot and the Town Warrant to present both options of a small portion of a rail trail and an entire rail trail to the public.

Chairman O'Brien stated this is not an issue of integrity. He emphasized that there has been nothing deceptive done in the preparation of this information, and that there has been no deliberate intent to not include the option. However, he stated that, if Vice-Chairman Haarde had wished additional options be included, he had time since receiving his meeting packet last Friday and the responsibility to bring this to the attention of Town staff.

Vice-Chairman Haarde reiterated that he did not see anything in the meeting packet to lead him to believe that his request from the last meeting would not be addressed, and thus he did not see any call to action required on his part. He believes the Board meetings are where the Town issues should be publicly discussed, and he questioned that this is apparently not the case.

Town Manager Valente stated she may have inadvertently misunderstand the direction given by the Board at its last meeting. She had understood the Board to want a non-binding resolution to be drafted for Town Meeting for a rail trail because it had been stated that Sudbury residents had never been asked this question before, and that a Town ballot question should also be prepared.

Vice-Chairman Haarde thanked Ms. Valente for her explanation. He suggested that, in order to avoid this confusion in the future, the Board should discuss potential Town meeting articles in advance of the deadline for the Warrant. Town Manager Valente stated this could be considered, and she noted the date that the Warrant closes is established in the bylaw.

Vice-Chairman Haarde stated he prefers Options A and C from Ms. Valente's memo for the Town Ballot. He reiterated that proponents and opponents of a rail trail should be asked to draft the arguments for and against the project. In addition, he stated conducting a phone survey would be possible too.

Chairman O'Brien stated Options A and C could be put on the Town Ballot and then a phone survey could be prepared to include up to five questions to be conducted with the public at a later date. He noted that only the summary portion of the explanation would appear on the Town Ballot. Chairman O'Brien also reviewed that for Town Meeting, the non-binding resolution could be one or all of the three placeholders submitted today.

Town Manager Valente stated the Board is set to order the Town Warrant at its next meeting.

Vice-Chairman Haarde stated the review process of Warrant articles seems to be done in reverse order. He referenced the January 27, 2012 draft list of articles, and he noted several blank articles and none designated for rail trail issues. He is frustrated by the fact that the draft seems incomplete, yet it has been stated that no changes can be made to anything. Vice-Chairman Haarde questioned why the Warrant is approached in this manner.

Chairman O'Brien reviewed the Town Ballot would include Option A with accompanying pro and con arguments. He further suggested Option C could be adapted to reflect the italicized paragraph within the January 25, 2012 letter from the Friends of the Bruce Freeman Rail Trail.

It was on motion unanimously

VOTED: To prepare and include a question on the Town Ballot adapting Option C to reflect the italicized paragraph within the January 25, 2012 letter from the Friends of the Bruce Freeman Rail Trail.

It was also on motion unanimously

VOTED: To prepare and include a question on the Town Ballot adapting Option A from Town Manager Valente's memorandum dated January 27, 2012 to also include input from relevant stakeholders regarding arguments for and against a rail trail, subject to review by the Board at a future meeting.

Chairman O'Brien reviewed three article placeholders for the Town Warrant were submitted today regarding the rail trail, and the language can be refined until the end of February.

Vice-Chairman Haarde stated, if revisions can be made until the end of February, he would like one of the placeholders to be modified to reflect the proposal made by the "Friends" for a small section of a rail trail. Town Manager Valente stated she will ask Town Counsel to satisfy this request, if it is possible within the procedural parameters allowed. Vice-Chairman Haarde stated he would appreciate pursuing this result.

The Board reviewed the three placeholders, commenting none seem ideal at this time and all are in need of revision. Chairman O'Brien noted that a Town Meeting resolution allows for a ten-minute presentation, wherein more information can be displayed and shared with the public.

Town Manager Valente stated the Conservation Commission Coordinator has suggested that the question posed to the public include environmental issues to be considered because it may alter how someone votes regarding construction of a rail trail. Chairman O'Brien stated the question should also address financial implications, which could also alter how someone votes on the issue.

Vice-Chairman Haarde stated his preference for the first placeholder article presented on tonight's handout to be incorporated into a Town Meeting resolution. He suggested a second article be drafted which reflects the "Friends" proposal for a limited rail trail. Town Manager Valente summarized Town Meeting may present two questions to the public for consideration, since residents have never been asked before to

weigh in on whether the Town wants a rail trail. She also cautioned that the language needs to clarify issues in such a manner so as to result in meaningful answers for what a “yes” and “no” vote really mean.

The Board briefly reviewed the draft list of warrant articles dated January 27, 2012. Vice-Chairman Haarde noted there is not an article listed regarding an inclusionary zoning bylaw. He recalls that, last year, more time was requested to further research presentation of this information. Town Manager Valente noted the date of the draft list, and she stated she does not know what other articles may have been submitted prior to today’s deadline.

#### **Board of Selectmen Appointments – Review of Term Expiration**

The Board was previously in receipt of a copy of the relevant “Appointment Policy” section of the Selectmen’s Policies and Procedures. Town Manager Valente explained the 2010 ATM Article 6 changed the ATM month from April to May, necessitating a change in term expiration, currently stated as April 30.

It was on motion unanimously

VOTED: To change the appointment term expiration date from April 30 to May 31 for all boards and committees and to amend Section D (Appointment Policy) of the Board of Selectmen’s Policies and Procedures.

#### **Sudbury’s 375<sup>th</sup> Anniversary – Establish Committee**

Town Manager Valente has asked Executive Assistant Mary McCormack to develop a mission statement for a 375<sup>th</sup> Anniversary Committee, and to research how other towns have celebrated such milestones. She stated it is possible some events may be scheduled in conjunction with Wayland, since the two towns have a shared history.

It was on motion unanimously

VOTED: To direct Town staff to develop and establish a committee to celebrate in 2014 Sudbury’s 375<sup>th</sup> anniversary of incorporation which occurred in 1639.

#### **Executive Session**

At 8:43p.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 collective bargaining wherein strategy discussion in an open meeting may have a detrimental effect on the bargaining position of the public body, and discussion of ongoing litigation wherein an open meeting may have a detrimental effect on the litigation position of the public body, Chairman Lawrence W. O’Brien, aye and Vice-Chairman Robert C. Haarde, aye.

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

There being no further business, the meeting adjourned at 8:43 p.m.

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