

Present: Michael Fee (Chairman), Joe Sziabowski, Christopher Morely,  
Michael Hunter, Eric Poch, and Jody Kablack  
(Director of Planning and Development), Lisa Eggleston (Associate)

At 7:36 p.m., Chairman Fee called the meeting to order.

**Public Hearing: Frost Farm Special Permit Modification**

Present: Representatives for the Frost Farm Trustees, Frank Chiodo and Judy Aufderhaar

At 7:36 p.m., Chairman Fee opened the Public Hearing regarding the application of the Frost Farm Village Leasehold Condominium to modify conditions 9(b), 9(c), 9 (d), and 9(f) of the Original Special Permit, dated May 3, 2000, property located at 150 North Road, and he read the public notice.

Mr. Hunter recused himself from the discussion and vote, due to a conflict of interest.

On motion duly made and seconded, it was unanimously

VOTED: To appoint Planning Board Associate Member Lisa Eggleston as a voting member for participation in the Public Hearing regarding the application of the Frost Farm Village Leasehold Condominium to modify conditions 9(b), 9(c), 9 (d), and 9(f) of the Original Special Permit, dated May 3, 2000, property located at 150 North Road.

Ms. Kablack explained that the modifications have been previously discussed informally. She summarized the proposed revisions to the resale process, noting that the 90-day waiting period will be reduced to 30 days, and that the Town of Sudbury will be removed as a voting member of the Condominium Trust. Although the Trustees will now maintain a waiting list (if needed), the Town will still verify income eligibility. Ms. Kablack reported that the Condominium Trust is well run and maintains a good working relationship with the Town. She further reported that the Original Special Permit, and any Modification voted tonight, would be recorded.

Chairman Fee asked for, and received, clarification regarding the percentage of Condominium Association members needed to vote affirmatively to amend the Condominium Trust and Master Deed. Given the current economic conditions, Chairman Fee stated that the requests to remove restrictions, which make it more difficult to sell units, seem appropriate.

At 7: 45 p.m., on motion duly made and seconded, it was unanimously:

VOTED: To close the Public Hearing regarding the request by Frost Farm for Modifications to its original Special Permit.

On motion duly made and seconded, it was also unanimously:

VOTED: To approve the draft of the “Frost Farm Incentive Senior Development Special Permit Modification dated March 10, 2010,” as reviewed and amended this evening to replace Michael Hunter’s name on pages one and three with Lisa Eggleston’s name.

**Public Hearing: Scenic Road – 68 Old County Road –  
Herb Chambers Boston Post Road, Inc.**

Ms. Kablack reported that the Scenic Road Public Hearing regarding Herb Chambers Boston Post Road, Inc. intended for tonight’s agenda would be postponed to a future date, since it was not properly noticed. The applicant has granted the Town an extension until April 29, 2010, since the review process has exceeded the allotted 60-day timeframe.

**Minutes**

On motion duly made and seconded, it was unanimously

VOTED: To approve the regular meeting minutes of February 17, 2010.

**Stormwater Management Bylaw Permit – Willis Hill Realty Trust  
Lots 47A/48A, 54B/55B Widow Rite's Lane**

Present: Thomas DiPersio, Sr., Thomas Land Surveyors

At 7:55 p.m., Chairman Fee announced that he and Ms. Kablack were notified today by the Town Treasurer that the applicant is delinquent in payment to the Town for property taxes in excess of \$40,000. He stated that Article 18 of Sudbury’s bylaw allows for denial of licenses and/or permits by granting authorities until the tax liability is cleared. Today, Chairman Fee and Ms. Kablack discussed with Town Counsel the ramifications of enforcing the bylaw, and requested and received documentation detailing the tax delinquencies. In addition to the tax liability, and although irrelevant to tonight’s agenda item, Chairman Fee also noted that a “cease and desist order” letter was sent to the applicant last week regarding violations on another lot on Maynard Road.

At 7:58 p.m., Chairman Fee opened the Stormwater Permit Public Hearing regarding two applications submitted by the Willis Hill Realty Trust to construct four (4) new single-family dwellings on Lots 47A/48A, Widow Rite's Lane ( Assessor’s Map #E07, Lots 146/147/148) and Lots 54B/55B Widow Rite’s Lane (Assessor’s Map #E07, Lots 149/154/156). He read the public notice and summarized the materials received to the file to date.

Chairman Fee informed Thomas DiPersio, Sr., representing the applicant, that the Board is not inclined to grant the applicant any new permits and/or relief until the tax delinquencies have been paid, and he noted that the applicant's actions have displeased Town officials and neighbors.

Ms. Eggleston questioned whether any active permits previously approved should be revoked, noting that the recently issued Stormwater Bylaw-related erosion and sediment control conditions should not be revoked. Ms. Kablack responded that, currently, there are no open permits under the applicant's name.

Mr. Dipersio stated he was previously unaware of the tax issue. He requested that the applications be withdrawn without prejudice. The Board granted the request to withdraw the applications. Ms. Eggleston questioned whether the Stormwater Permit Fee should be credited. Chairman Fee stated he is not inclined to refund the fee, since the Public Hearing was duly noticed, and the Board concurred.

On motion duly made and seconded, it was unanimously:

VOTED: To close the Public Hearing regarding two Stormwater Permit applications submitted by the Willis Hill Realty Trust to construct four (4) new single-family dwellings on Lots 47A/48A, Widow Rite's Lane ( Assessor's Map #E07, Lots 146/147/148) and Lots 54B/55B Widow Rite's Lane (Assessor's Map #E07, Lots 149/154/156.

Glenn Migliozi, 32 Widow Rite's Lane, requested to address the Board on the subject properties. Mr. Migliozi shared with the Board his frustration, which has grown over the past several years, living across the street from the withdrawn lot sites. He has waited for the opportunity to arise, when the applicant would need something, to bring his concerns to the forefront, hoping remediation could be conditioned. Mr. Migliozi stated that the applicant has not been a good nor responsible neighbor in caring for his property, and in fact, the area is unsafe, and an "eyesore resembling a strip mine." He referenced the numerous trees, which were removed, and the lack of proper stump removal or proper re-planting to vegetate the hill. He stated that the result has been a very dangerous drainage situation into the road below. Mr. Migliozi urged the Board to consider imposing strict restrictions on the applicant, including placement of performance bonds and liens on future lot requests, to ensure the applicant completes projects responsibly and in accordance with all applicable regulations.

Laura Rippi, 61 Cudworth Lane, stated that she lives opposite the withdrawn lots, and has felt powerless to improve the dangerous construction practices she has observed. She suggested that approval of future projects require that plantings of the lots and hillside be

done from a proper conservation perspective. Ms. Rippi further expressed that she is encouraged by the firm position she has heard stated by the Board this evening against reported and repeated violations by the applicant.

Ms. Eggleston clarified that the physical subdivision of the lots was approved long ago. She further stated that, last year, the Town passed the Stormwater Bylaw, which will help regulate developments so that drainage, erosion and sediments can be better controlled and soils can be stabilized and re-vegetated.

Mr. Hunter asked what the process is regarding the cease and desist order for the other lot. Chairman Fee stated that, if the applicant were still in violation, the Town would go to court to force compliance. Later in the meeting, Mr. Morely reported that the applicant is still in violation of the cease and desist order and he urged the Board to encourage Town staff and Town Counsel to proceed with immediate legal action.

Chairman Fee assured the residents in attendance that the Board has been aware for many years of the scope of the applicant's violations, and thus, is extremely cautious and precise when deliberating any requests submitted. Mr. Migliozi asked if there is anything further neighbors can do to assist the Board in its efforts to improve and hasten correction of these problems. Mr. Poch and Mr. Morely responded that the Board and Town staff closely monitors the transgressions, which do not always ascend to the magnitude requiring penalties. Mr. Migliozi circulated photos of the lots under discussion and also stated that he had additional photos on his computer to share with the Board, if needed.

On motion duly made and seconded, it was unanimously:

VOTED: To instruct Ms. Kablack, on behalf of the Board, to draft a letter to be sent tomorrow to Blue Sky Construction, noting that it is in violation of the Stormwater Permit conditions issued for 19 Widow Rite's Lane house under current construction, and stating that there are gullies in the driveway and the silt fence has been breached.

On motion duly made and seconded, it was also later unanimously:

VOTED: To instruct Ms. Kablack, on behalf of the Board, to draft a letter to be sent tomorrow to Willis Hill Realty Trust, noting that it is in violation of the Town's cease and desist order dated March 3, 2010 and is still in violation of the Stormwater Permit conditions issued for the lots on Maynard Road, and that the Town will pursue legal recourse, as necessary.

### **Public Hearing: Zoning Articles for 2010 Annual Town Meeting**

Ms. Kablack reviewed the Planning Board sponsored articles for the Annual 2010 Town Meeting. The presentation speaking assignments were agreed to as follows:

Article # 19 – Amend Bylaws - Illicit Discharge & Connection – Lisa Eggleston  
Article # 20 - Minor Amendments to Zoning Bylaw Article IX – Jody Kablack  
Article # 21 – Amend Zoning Bylaw Article IX, section 4300 – Wireless Services  
Overlay District – Eric Poch

**Design Review Board – Planning Board Representative Member Vacancy**

Ms. Kablack reported that the Design Review Board (DRB) would be invited to a future Board meeting. Three candidates have expressed interest in the DRB vacancy, and copies of the Application for Appointment received from Andrew Mayo were distributed to the Board for review. The other two applications will be circulated at a later date. Chairman Fee asked that Ms. Kablack remind Frank Riepe that he should also submit an Application for Appointment, since his term is expiring.

**Northwoods Development - Site Plan Modifications**

Ms. Kablack recused herself from the discussion, since her husband represents the Northwoods Development Trustees.

The Board was in previous receipt of the materials regarding the application of Castagna Construction Corporation to the Board of Selectmen for a Modification to an Approved Site Plan and decision dated November 13, 1997. The applicant would like to revise condition 22A to allow 20% of the Condominium units to be owned and/or occupied by persons under 55 years of age; to revise condition 22B to remove the requirement to provide home health services and residential care; and to revise the Site Plan to reduce the total number of units from 66 to 42, construct the remaining units as townhouse style buildings, remove the existing pool and solarium/gazebo, construct a new gazebo and modify exterior parking areas to accommodate additional spaces, as shown on the Proposed Site Plan, Northwoods Townhome Condominiums, prepared by Gienapp Design Associates, LLC, dated February 10, 2010. The property is located at Northwood Drive, Town Assessor's Map C11, Parcel 302, zoned Research District. The Board of Selectmen will hold a Public Hearing on March 16, 2010, for which the Planning Board can provide feedback for consideration.

Ms. Eggleston wondered if current residents would consider these modifications as removing amenities they were expecting to utilize.

Mr. Hunter stated he has spoken with the applicant, who explained that the proposed changes are to make the units more sellable with a townhouse style and more two-bedroom units. Mr. Hunter considers the proposal a radical change from what was originally approved. He is also concerned that the Town might be perceived as sanctioning modifications, which could cause current occupants to lose some property

value. Chairman Fee noted that the Selectmen would likely address these economic factors.

Mr. Sziabowski and Ms. Eggleston opined that additional information should be requested regarding the amount of impervious surface. Ms. Eggleston further noted that the Selectmen should be advised that the application is subject to the conditions of the Stormwater Permit Bylaw and will need to be reviewed accordingly. Mr. Sziabowski further noted that the Design Review Board should be asked to provide feedback on the proposal.

Ms. Eggleston expressed concern that precedent could be established, with ramifications impacting other senior housing developments in Sudbury, by eliminating the age limitations for 20% of the units. Mr. Morely opined that many developers are seeking relief during these challenging economic times.

Later in the meeting, on motion duly made and seconded, it was unanimously

VOTED: To authorize Director of Planning and Community Development Jody Kablack, on behalf of the Board, to draft a letter to be sent to the Board of Selectmen, expressing the comments and concerns of the Planning Board as expressed this evening, regarding the application of Castagna Construction Corporation to the Board of Selectmen for a Modification to an Approved Site Plan and decision dated November 13, 1997.

### **Public Hearing: Zoning Articles for 2010 Annual Town Meeting**

At 8:45 p.m., Chairman Fee opened the Public Hearing regarding the zoning articles for the 2010 Annual Town Meeting. He referenced the public informal discussion held on February 17, 2010 and stated the minutes of that meeting were approved tonight and are available in the Planning Office.

Wireless Overlay District Bylaw - Chairman Fee summarized the decisions made at the last meeting regarding the Wireless Overlay District Bylaw-related article, which included the withdrawal of the Goodman's Hill Water Tank, Willis Hill Water Tank and the Musketahquid Village sites from the proposed article. He also noted that the last meeting revealed a technical inconsistency between the setback requirements proposed with some of the recommended sites and the relevant language contained in the Wireless Overlay District Bylaw. Thus, Chairman Fee questioned whether sites should be proposed, which clearly do not meet the setback requirements of the bylaw. Ms. Kablack noted that the three remaining site recommendations would all have difficulty meeting the 500-foot setback requirement from a residential property line, with the exception of the Lincoln-Sudbury Regional High School parcel, if the tower location were to be proposed for the wooded-hill area rather than playing-field area.

On motion duly made and seconded, it was unanimously:

VOTED: To remove the following parcels from the proposed 2010 Annual Town Meeting wireless overlay district article: Town of Sudbury land located behind Ti-Sales (Assessor's Map No. G09, Parcel 0200) and the Sudbury Water District land off East Street, West Street, Center Street and Hollow Oak Drive, (Assessor's Map No. Map H07, Parcel 240; Map H06, Parcel 0800; and Map G06, Parcel 0001).

Chairman Fee asked if the hill location at the Lincoln Sudbury Regional High School is at least 1000 feet from the High School. Ms. Kablack responded affirmatively, but also stated that most of the current cell tower locations have received dimensional variances from the Zoning Board of Appeals.

Chairman Fee stated that it is in the Town's best interest to designate viable locations or it will be at the mercy of the choices made by providers. Ms. Eggleston noted that the LS School Committee has expressed its support for a tower on the property. She further stated that towers might be erected no matter what the Town decides.

Mr. Poch asked if the L-SRHS parcel has been designated as a priority coverage gap area. Ms. Kablack reviewed the gap locations identified by the Town's independent study and answered in the affirmative.

Chairman Fee clarified that the purpose of the article and bylaw is not to improve coverage or to increase Town revenues, but rather to establish some element of control for the placement of the cell towers. He also emphasized that Federal law mandates that local boards cannot restrict construction of the towers based upon health concerns. Thus, the Planning Board attempts to balance the needs of all parties by identifying areas where the towers will do the least harm.

Rebecca Chizzo, 21 White Tail Lane, stated that her volunteer group has intensively studied the invasive species of plants on the L-SRHS property. She further stated that any soil disruption could cause the invasive species to spread, leading to a larger problem than already exists. Ms. Chizzo recommended that providers be asked to provide an impact statement or invasive management plan for assessment. She also questioned whether a wetlands study should be performed.

Robert Stein, stated that most abutters prefer the leach-field hill location to the football field location, which would present setback violation issues to his home and others. He also stated that he is disappointed that this meeting could not have been scheduled prior to the publication of the Town Warrant.

Carol Wolfe, 637 Concord Road, stated she has read the independent coverage study commissioned by the Town, which she referenced, and she asked what location the consultant recommended. Ms. Kablack responded that providers would prefer higher

locations, such as the hill, for better coverage. Ms. Wolfe asked if distributed architecture, which is a “technology of the future,” using bandwidth more efficiently, has been researched. She noted that this technology has been used effectively on Nantucket and Beacon Hill. Ms. Wolfe also questioned whether future technology would make cell towers obsolete, and therefore unnecessary. Mr. Hunter responded that Sudbury’s topography is not as conducive for that type of technology as in those other locations.

Sarah Hubble, 5 Hollow Oak Drive, stated that during the discussions with Omnipoint a few years ago, the provider determined that other technologies were too expensive. She asked for, and received, confirmation that the East Street proposed location has been withdrawn by the Board.

Tom Hollocher, 623 Concord Road, stated that he supports the leach-field, hill location.

Matt Copeland, 17 Oakridge Road, asked how many sites were considered by the Board. He does not believe the Town’s premier school should be a primary location for a cell tower. The Board informed him that about 12 sites were initially proposed. Mr. Morely noted that there are not many Town-owned parcels from which to choose, and L-SRHS wanted to be on the list. Ms. Eggleston reiterated that the setback requirements have never been enforced. Mr. Poch opined that, if the Town does nothing, then it will control nothing. Mr. Morely stated that, the reality is no one wants the towers in Town, but they will be built, like it or not.

Chairman Fee encouraged the public to access the independent coverage study on the Town website. Ms. Eggleston, noted that it has become clear through recent discussions and communications that many citizens are unaware of how many towers already exist in Sudbury. Ms. Kablack read the list of current cell tower locations.

Katrina Copeland, 17 Oakridge Road, asked if there are currently any cell towers on residential lots, and she was informed there are none. However, Mr. Morely noted that placement on residential properties is not uncommon in other communities.

Roanna London, 46 Hudson Road, reported that the tower located on the Ti-Sales property was recently voted to be increased from 100 feet to 110 feet.

Allan MacLellan, 28 Thompson Drive, asked what the bylaw limit is for tower height. He was informed that it is 100 feet, although the ZBA can grant a height variance. He also asked if design can be controlled.

Chip Herzog, 42 Bishop Lane, asked if the U.S. Fish and Wildlife Department could be approached about placement on its land, since there is so much open space, where setback requirements intended to protect the public would not be compromised.



Mr. Morely reiterated that health concerns cannot be discussed per Federal law, and he noted that recent studies show that the cell phones humans hold and use perhaps pose more of a danger than the towers do at a distance.

Bill Francis, 16 Oakridge Road, stated that he can control the use of his handset, whereas, the tower will radiate over the school property 24 hours a day, seven days a week.

Chip Ryan, 45 Thompson Drive, asked why the football field is preferred over the hill location. Chairman Fee explained that School staff proposes to install the tower within replacement football-field lights, which are already needed. Mr. Ryan referenced Section 43-10 of the bylaw, which he believes sets the criteria for site selection in direct opposition to the football field site. Mr. Morely suggested that abutters visit Feeley Field to view the existing cell tower installed in a light pole. Ms. Eggleston, noted that installing towers in existing structures, such as light poles, is preferred. Mr. Ryan countered, noting that the bylaw specifies "existing towers," not existing structures.

Fred Walker, 18 Thompson Drive, asked who initiated the idea of adding sites to the overlay district. He was informed that the Planning Board initiated the discussion.

Robin Herzog, 42 Bishop Lane, referenced an article, which suggests that the current safe standards are based on 1985 research, and she proposed a moratorium on the suggested L-SRHS site until further research is completed. Chairman Fee asked that the Board be provided with a copy of the article. Mr. Poch stated that Federal laws are in place, which prohibit the consideration of health issues. He further noted that the Federal agencies have an interest in the success of the telecom industry.

Ian Springsteel, 34 East Street, stated that the Sudbury Water District rescinded its interest in a lease with Omnipoint, based upon the parcel's proximity to Town wells, that the area was heavily used for recreational purposes and that an increased in traffic would be created. He expressed his satisfaction that the Board has decided to withdraw the East Street location from the list.

Jim Gregory, 18 West Street, asked what the process will be for the determination of the remaining L-SRHS site as an addition to the overlay district. Chairman Fee responded that the article will either be presented for a two-thirds-majority vote or indefinitely postponed at Town Meeting. Ms. Kablack clarified that the Town Warrant went to press, indicating three parcels, for consideration, two of which have been withdrawn earlier this evening.

Dick Wolfe, 637 Concord Road, noted that the proposed L-SRHS site is within 200 feet of the football field. Chairman Fee stated that, if the article were to proceed, the article language would be amended.

Ms. Eggleston, asked if anyone had alternative ideas which would be more acceptable than those proposed by the Board.

Robin Merrill, 35 East Street, stated she considers viewing a tower from a distance, while driving, to be a lesser evil than living next door to it and viewing it all the time. She also asked if providers are required within the bylaw to dismantle the towers, when no longer needed, and was told yes.

Ian Springsteel stated that he supports pursuing the placement of a tower on Federal-owned land. Matt Copeland concurred with that strategy, stating that preserving the L-SRHS campus should be a priority.

Steve Thompson, 22 Briar Patch Lane, asked if he could view examples of cell towers in light poles. The Board recommended that he visit Feeley Field.

Mr. Poch noted that, even if no site locations are proposed at this year's Town meeting, the coverage issues and requests from providers will remain.

Chip Herzog, 42 Bishop Lane, stated he has not experienced lack of coverage, and he questioned if the need for new installations exists, and further asked if residents complain about no coverage. Chairman Fee referred him to the independent coverage study posted on the Town website. Ms. Kablack noted that the Town received requests routinely from providers to pursue new installations, and there is a Verizon proposal currently pending. Mr. Morely noted that the demand and requests may increase in the future, since consumers are using cell phones more as land lines, and data needs are expanding.

Carol Wolfe, 637 Concord Road, ask if any research has been done regarding how tall the tower would need to be if placed on the leach-field hill location. She also asked if there is a reason the Town must present this article this year, rather than taking more time to study alternative options.

At 10:05 p.m., Chairman Fee closed the discussion regarding this proposed article.

Minor Amendments to Zoning Bylaw - Ms. Kablack noted there have been no revisions to the proposed article. There was no public comment.

Illicit Discharge and Connection Bylaw - Ms. Kablack noted there have been no revisions to the proposed article. There was no public comment.

On motion duly made and seconded, it was unanimously:

VOTED: To close the Public Hearing regarding zoning articles for the 2010 Annual Town Meeting.

Mr. Sziabowski opined that, with the potential of presenting only one location to be added, the Wireless Overlay District proposed article no longer seems to accomplish what the Board initially intended. He suggested that the article be withdrawn and further reviewed for next year. Chairman Fee concurred. Mr. Poch questioned how the Board can not propose the L-SRHS location, if it complies with regulations.

Chairman Fee opined, that whenever proposed, this type of article will always be strongly opposed for health and aesthetic reasons. Chairman Fee suggested that the article be indefinitely postponed at the 2010 Town Meeting, and that the Board uses the opportunity to present the rationale and benefits for the Town choosing to add sites to the wireless overlay district. Ms. Eggleston suggested that the list of existing cell towers in Sudbury be included in the Town Meeting presentation.

On motion duly made and seconded, it was unanimously:

VOTED: To indefinitely postpone the Annual 2010 Town Meeting zoning article to add the Lincoln-Sudbury Regional High School (noting specific locations on Assessor's Map No, F11, Parcel 0014) parcel as a Wireless Overlay District site.

#### **Upcoming Planning Board Meeting Schedule**

The Board's next meeting is to be announced.

Chairman Fee adjourned the meeting at 10:20 p.m.