

Present: Eric Poch (Vice-Chairman) Joe Sziabowski, Christopher Morely,  
Michael Hunter, Craig Lizotte (Associate), Jody Kablack  
(Director of Planning and Development)

Absent: Michael Fee (Chairman)

At 7:35 p.m., Vice-Chairman Poch called the meeting to order.

**Public Hearing: Stormwater Management Permit – Lot 16 Kato Drive**

At 7:45 p.m., Vice-Chairman Poch opened the Public Hearing regarding an application for a Stormwater Management Permit for Lot 16 Kato Drive, and immediately,

On motion duly made and seconded, it was unanimously:

VOTED: To continue the Public Hearing regarding the application for a Stormwater Management Permit for Lot 16 Kato Drive to May 11, 2011 at 7:45 p.m.

**Metropolitan Area Planning Council – 495/Metrowest Development Compact Regional Study - Presentation**

Present: Metropolitan Area Planning Council representatives Joan Blaustein and Manisha Bewtra

Ms. Kablack introduced Joan Blaustein and Manisha Bewtra from the Metropolitan Area Planning Council (MAPC) to explain the 495/Metrowest Development Compact Regional Study. Ms. Blaustein thanked Ms. Kablack and Conservation Commission Coordinator Debbie Dineen for their assistance in providing data and information. She stated a compact study for the region is being conducted and funded by the State Executive Office of Housing and Economic Development, MAPC, the Central Massachusetts Regional Planning Commission, the Metrowest Regional Collaborative, the 495 MetroWest Partnership and Mass. Audubon. The intention is to create a shared framework of strategies for priority development and land preservation, including transportation and infrastructure investments. The project involves 37 towns.

Ms. Blaustein stated the State is interested in getting towns to think about projects along border lines. She clarified how the State is defining developments for consideration.

Ms. Blaustein also clarified the definition of preservation by the State as looking at natural resources. She noted that Open Space Plans were relied on heavily through the data collection process.

Ms. Blaustein described the anticipated project process, beginning with meetings with local planners and Planning Boards. In addition, two regional forums will be scheduled in June to begin to discuss development trends along town boundaries, what additional areas might need to be protected and which might be good candidates for development. Various town maps will be put together to create a larger framework for discussion.

A preliminary map of Sudbury was displayed, and copies of a handout delineating a map legend and a “Review of Priority Development Areas, Priority Preservation Areas and Regionally Significant Transportation and Infrastructure Investments” were distributed. Ms. Kablack summarized areas designated for potential growth. Mr. Morely suggested the area between Old County Road and Route 20 be designated for development only.

Mr. Poch asked if development includes commercial and residential growth. Ms. Kablack and Ms. Blaustein stated both would be reflected.

Ms. Blaustein emphasized that this project has no impact on local planning initiatives, and she acknowledged Sudbury's work to develop a Route 20 sewer system and to install a traffic light at Landham Road. A traffic light was also suggested for the intersection of Horse Pond Road and Route 20. Ms. Blaustein stated the project process will also include traffic modeling at a later stage.

Mr. Hunter asked if delineating mass transit plans and/or a hub location are part of this project. Mr. Morely highlighted there is no north/south connection crossing Route 20 through Sudbury. Ms. Blaustein will further research this and report to Ms. Kablack.

Mr. Poch asked if there are larger State plans and discussions underway. Ms. Blaustein stated there is a lot of discussion in communities regarding commuter rail access. Ms. Bewtra stated MAGIC is also working on a long-range Transportation Improvement Program.

At 8:15 p.m., Vice-Chairman Poch concluded the discussion and thanked Ms. Blaustein and Ms. Bewtra for their presentation.

**Public Hearing: Maple Meadows Senior Residential Community – Phase 2 – Modification**

Present: Developer Robert Roth

At 8:15 p.m., Vice-Chairman Poch opened the Public Hearing regarding an application for modification to the Maple Meadows Senior Residential Care (SRC) Special Permit dated June 29, 2004, said property located at 35 and 55 Maple Avenue and shown as parcel 20 on Assessor's Map K08 (#35) and Parcel 74 on Assessor's Map K09 (#55) which was continued from March 10, 2011. Since its last meeting, the Board received copies of a "Draft Maple Meadows Modification Senior Residential Community Special Permit," dated April 13, 2011 for review. In addition, copies of a letter from the developer to abutters Mr. and Mrs. Jeffrey Jacobson dated April 6, 2011, and responses from Mr. Jacobson and abutter Harry Ainsworth, both dated March 30, 2011 and conditionally supporting the widening of Maple Avenue were distributed to the Board for review.

Ms. Kablack reviewed the four outstanding requests from the last meeting as: approval of a turn-around at the end of Maple Avenue, modification of Section 11(n) of the Special Permit to allow inclusion of "all or a portion of the Second Parcel to the approved SRC" and by deleting the last sentence of that section, and thus allowing for future development of five units on all or a portion of the 4.07-acre parcel, modification of the boundaries of the SRC and the creation of two Approval Not Required (ANR) lots at the end of Maple Avenue. She stated the developer prefers if the Board approves the ANR lots before road improvements are made.

Developer Robert Roth briefly reviewed the plan for five units and two ANR lots, which he believes reduces the density of the development and preserves the existing home. Mr. Roth also stated the proposed plan would create less disturbance to the area, less traffic than originally suggested and would create a more unified Maple Avenue for the neighborhood when the road is widened.

Ms. Kablack stated the applicant conducted soil tests witnessed by the Board of Health. He also reviewed the road configuration with Department of Public Works (DPW) Director Bill Place and incorporated recommendations into the plan. Mr. Roth stated he perceived the modification of the Special Permit as a clarification. Thus, he requested approval for the ANR lots, stating the road work would be completed in the fall. Mr. Roth further stated that approval of the ANR lots now would enable him to sell the existing house sooner.

Mr. Morely asked what the bond situation is in case the ideal circumstances do not occur. Ms. Kablack stated the Town does not hold a bond on this project and only holds one for Maple Meadows. Mr. Morely asked if a date certain could be established for completion of the road improvements. Ms. Kablack questioned if it is appropriate to put it in the modification. She also suggested it could be conditioned when the applicant requests building the SRC units.

Mr. Hunter expressed his displeasure with Maple Avenue not being completed, and he stated he is not inclined to support delaying completion of the road improvements. He recommended the work be done first and then sell the house.

Mr. Sziabowski stated he would prefer some certainty regarding when the road improvements would be completed.

Vice-Chairman Poch stated the consensus of the Board is that the road improvements to Maple Avenue should be completed. He also suggested a bond be submitted for the project. Mr. Roth stated he was amenable to a bond. It was suggested that the bond be received before the ANR plans are approved. A bond amount could be set and the ANR plans could be reviewed and signed at the Board's next meeting on May 11, 2011.

On motion duly made and seconded, it was unanimously:

VOTED: To extend the time to approve the ANR plan requested by Maple Meadows Senior Residential Care (SRC) by 21 days and to add discussion of this matter to the Board's May 11, 2011 agenda.

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

VOTED: To establish a bond amount for road improvements to be completed on Maple Avenue to the end of the private way by Maple Meadows Senior Residential Care (SRC) and to review the ANR plans for signature at the Board's May 11, 2011 meeting.

Sudbury resident Henry Liebowitz, 50 Maple Avenue, stated he supports the project and has no objections to the proposed plan. Mr. Liebowitz stated he has questions regarding the addition of a second driveway, but he will address those at the appropriate time.

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

VOTED: To close the Public Hearing regarding the application for modification to the Maple Meadows Senior Residential Care (SRC) Special Permit dated June 29, 2004, said property located at 35 and 55 Maple Avenue and shown as parcel 20 on Assessor's Map K08 (#35) and Parcel 74 on Assessor's Map K09 (#55).

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

VOTED: To approve the application for modification to the Maple Meadows Senior Residential Care (SRC) Special Permit dated June 29, 2004, said property located at 35 and 55 Maple Avenue and shown as parcel 20 on Assessor's Map K08 (#35) and Parcel 74 on Assessor's Map K09 (#55).

### **Public Hearing: Zoning Articles for 2011 Annual Town Meeting**

At 8:40 p.m., Vice-Chairman Poch opened the Public Hearing regarding the zoning articles for the 2011 Annual Town Meeting, and he read the public hearing notice. The Board was previously in receipt of a list of 2011

Annual Town Meeting Warrant Articles dated February 16, 2011, and an email from Sudbury resident Carole Wolfe dated April 13, 2011 addressing several concerns regarding the Wireless Overlay District article. In addition, Ms. Kablack read aloud an email received from Sudbury resident and Zoning Board of Appeal member Ben Stevenson dated April 13, 2011, opposing the elimination of setbacks from the Wireless Overlay District Bylaw.

Robert Stein, 7 Thompson Drive, addressed the Board only as a Sudbury resident, and not in his capacity as a member of the Finance Committee. He asked for clarification regarding the proposed elimination of Section 4363 regarding setbacks from the Bylaw. Ms. Kablack clarified that towers constructed in the Overlay District would no longer be required to meet the 500' from a residential property line and 1000' from a school building setbacks. The property line setback of 125' would still apply to all towers.

Mr. Stein asked if the proposed revision would now allow a residential property owner to put a monopole on their property. Ms. Kablack stated that a property owner cannot do so now, and would not be able to do so in the future without applying for a use variance. The removal of the above setbacks does not change the overlay district boundaries where towers are allowed. Mr. Stein stated he is an abutter of Lincoln-Sudbury Regional High School (L-SRHS), and he asked if carriers could install equipment there. Ms. Kablack stated L-SRHS is not owned by the Town and would not be covered by the proposed bylaw revisions. She further stated the School could be approached by carriers and may be exempt from zoning provisions or could request a use variance to install one at the high school. The proposed revisions do not change either of those situations.

Vice-Chairman Poch explained the intent of the proposed revisions is to channel carriers to pursue installation on recommended sites. He highlighted the limited ability municipalities have in altering where carriers choose to locate if they do so by variance.

Mr. Morely emphasized that nothing in the proposed Bylaw revisions is different than what currently exists except for allowing towers on town property.

Sudbury resident Robin Herzog, 42 Bishop Lane, asked why the elimination of setbacks is being proposed. Selectman Larry O'Brien provided a brief history of the Town's efforts to respond to the 1996 Tele-Communications Act, which greatly limited a town's ability to restrain carriers from installing equipment wherever they choose. Selectman O'Brien noted that public and carrier demand for additional bandwidth is increasing and appears it will continue to do so. He further explained that since schools buildings are not applicable as potential sites, the previous setbacks were no longer needed. Additionally, the large setbacks in the original bylaw were in place as a safety net against potential health effects, however that rationale is not legal.

Mr. Stein asked where towers could be located according to the proposed Bylaw revisions. Ms. Kablack stated that the new locations are on any Town-owned property except for schools and cemeteries, such as the Fire Station or in front of the DPW building. The other listed parcels in the overlay district would still be applicable as well. However, she emphasized that use of any Town property would have to be leased by the Board of Selectmen and be placed out to bid before the land could be used for a cell tower.

Ms. Herzog asked if a citizen has any recourse if they live within 500 feet of a tower site. Selectman O'Brien stated there is not any recourse now, and that the setbacks were initially included more as a deterrent. He also stated any property owner could propose a tower in their backyard, and thus the proposed revisions to the Bylaw are an effort by the Town to be proactive about site locations.

Sudbury resident Carol Wolfe, 637 Concord Road, expressed her concern regarding the elimination of setbacks from the Bylaw. Mr. Morely stated federal law considers such large setbacks as illegal, and they are unenforceable. Mr. Poch noted that the revision is intended to allow monopoles on Town-owned properties

within the Overlay District only. Ms. Kablack stated that this revision was considered because the setbacks are routinely waived by the Zoning Board of Appeals. She again stated that the 125-foot setback regarding placement of a monopole in relation to a lot line is not being eliminated for safety reasons.

Ms. Wolfe referenced the proposed Section 4346 language, which provides for 80-foot towers as-of-right on any Town-owned property with the exclusion of school buildings and cemeteries. She asked if school properties should also be excluded. The consensus was that the language should be amended to also exclude school properties. Ms. Wolfe further asked if towers could be installed on Town-owned parks and recreation fields. Ms. Kablack stated yes, however approval would be subject to the Board of Selectmen approving the lease of the parcel and putting it out to bid. Selectman O'Brien noted there has been an installation camouflaged in a light fixture at Feely Field for many years.

Vice-Chairman Poch stated a requested installation would require a Site Plan Public Hearing, and it would be vetted by several Town boards. He emphasized that more requests for cell tower installations will continue to be the norm in the future and that, unfortunately, the law is on the side of the carriers. Vice-Chairman Poch further stated the carriers have more financial resources available to pursue sites than the Town has to deter them. He stated that directing carriers to specific sites within the Overlay District is the Town's best defense against towers being installed anywhere and everywhere. In response to a question from Ms. Wolfe, Vice-Chairman Poch clarified that no changes have been suggested to the Bylaw regarding monopoles except for additional locations.

Ms. Wolfe asked why there is a need to include all Town-owned properties. Selectman O'Brien stated that the previously designated sites in the Overlay District are nearly maxed out. He also stated the Town has noted that carriers have begun to more aggressively pursue residential property owners.

Sudbury resident Katrina Copeland, 17 Oakridge Road, asked how wording could be changed in the article to include the exception of school properties. Selectman O'Brien explained that an amended motion could be presented at Town Meeting.

Mr. Morely clarified for Sudbury resident Bill Francis, 16 Oakridge Road, that there is a 125-foot zoning setback which would remain for safety reasons to protect citizens from a falling monopole. Vice-Chairman Poch reiterated that large setbacks have been deemed as unenforceable and that case law on this subject has evolved from the time the Town initiated the current Bylaw. Selectman O'Brien noted Sudbury has not made any major amendment to its Bylaw since it was originally adopted in 1998.

Mr. Francis noted all roads are Town-property, and he asked if they would also be included in the Overlay District. Ms. Kablack noted the Town typically owns a 50-foot right-of way. She also reiterated that the Selectmen would have to approve specific properties be bid out for leases.

Sudbury resident Matt Copeland, 17 Oakridge Road, asked if there is case law history to be considered for establishing a maximum setback. Vice-Chairman Poch noted only an 80-foot pole is being allowed and the public safety zoning setback is proportionate to this.

Sudbury resident Fred Walker, 18 Thompson Drive, stated that last year when L-SRHS was being considered as a site to add to the Overlay District, it was noted that coverage was deficient at this location. He asked if the site is still being considered. Selectman O'Brien reiterated that L-SRHS is its own entity, and not a Town property, and thus it has probably received inquiries from carriers. He suggested residents from the Thompson Drive neighborhood bring their concerns and interest in this topic to the attention of the new High School Superintendent and ask that they be involved and kept abreast of future decisions.

In response to a question from Mr. Copeland, Ms. Kablack stated the Selectmen do not have a plan for any parcels to go out to bid, and the article was not motivated by an intention to make money. She further noted the Town is still in a reactive role in relation to the carriers and that this article is proposed as an effort to minimize the number of towers installed in Sudbury.

Mr. Copeland stated he hopes future installations will address some “dead” areas in Town. Selectman O’Brien stated passage of the article would provide the Town some defense in trying to steer carriers to certain locations.

Ms. Copeland asked if a resident and L-SRHS would each follow the same process if they wanted to pursue an installation on their property. Ms. Kablack stated a resident would need to request a use variance from the ZBA. She further stated she is unsure what process L-SRHS would follow, and she is not certain if the entity would qualify as a municipal exemption. Mr. Morely stated the High School must also answer to a large constituency of parents.

Ms. Wolfe asked if it is too late for Sudbury to consider incorporating into its Bylaw some of Concord’s and Wayland’s regulations. She questioned if the height should be limited in the Bylaw and whether testing, paid for by the carrier, should be required by Sudbury as is done in Concord. Concord also requires inspection of monopoles.

Mr. Morely stated it could be beneficial to consider some of these suggestions. Ms. Kablack stated that typically, conditions are established as part of the ZBA Special Permit process. Routinely a structural inspection is required for all towers which receive a Special Permit.

Mr. Francis asked if the article published in the Warrant includes the full text of the proposed revisions and deletions. He noted that tonight’s Public Notice did not include the sections proposed for deletion and he suggested this information be made available to the public. It was noted that the full text of the bylaw and the amendments is on the Town’s website.

Selectman O’Brien noted that tonight’s discussion highlights the need for the Town to better clarify the issue of setbacks at Town Meeting.

At 9:45 p.m., Vice-Chairman Poch asked if there was any public comment regarding the proposed Warrant article to Amend Zoning Bylaw Section 2230 (Table of Principal Use Regulations) to permit use #C.11 (retail stores and services not elsewhere set forth) in Industrial and Limited Industrial Districts. No public comments were offered.

On motion duly made and seconded, it was unanimously:

VOTED: To close the Public Hearing regarding the zoning articles for the 2011 Annual Town Meeting.

### **Release of Bond Request – Candy Hill Lane**

Ms. Kablack distributed copies of an email message dated April 11, 2011, from Al Renzi, Sudbury Water District (SWD) Superintendent, requesting a release of bond for Candy Hill Lane. She provided a brief history of the project, and stated the SWD voted on April 5<sup>th</sup>, 2011 to release its \$10,000 escrow account. Ms. Kablack noted a \$20,000 bond is still being held for completion of the driveway.

On motion duly made and seconded, it was unanimously

VOTED: To release the \$10,000 performance bond held to extend the water main on Candy Hill Lane as requested by the Sudbury Water District.

### Minutes

On motion duly made and seconded, it was unanimously

VOTED: To approve the regular meeting minutes of March 10, 2011.

### 2011 Annual Town Meeting – Street Acceptances, Schedule of Public Hearings, Determine Speaker Assignments, and Take Positions on Articles Street Acceptance Layouts – Brookside Farm Lane and Trevor Way

The Board was previously in receipt of a list of 2011 Annual Town Meeting Warrant Articles dated February 16, 2011, maps for proposed Street Acceptances for Trevor Way and Brookside Farm Lane, a letter from Department of Public Works (DPW) Director Bill Place dated April 7, 2011 providing status updates and a memorandum from Conservation Commission Director Debbie Dineen dated April 8, 2011, recommending Trevor Way not be accepted as a public way this year.

The Board was also previously in receipt of copies of an email from Ms. Kablack dated April 13, 2011, summarizing feedback received from the business community at a Chamber of Commerce meeting regarding Warrant Article #20 - Route 20 Sewer System Design and Permitting and copies of a letter sent to Sudbury Business Leaders from the Route 20 Sewer Technical Advisory Committee Chairman Lisa Eggleston, dated April 7, 2011.

Mr. Lizotte stated it is important for the community to understand it is not going to see added value from additional commercial tax revenue from this project for many years to come. Ms. Kablack concurred, and she stated feedback received from Chiswick Park's Ted Pasquarello regarding the potential betterment costs for him and similar office owners is a valid concern. Vice-Chairman Poch stated Sudbury needs to protect its water wells, and that 60% of the septic systems along Route 20 are failing. He emphasized the Route 20 business district is the shopping district for the entire Town, it is everyone's water and there is no capacity for new wells in Town.

On motion duly made and seconded, it was unanimously:

VOTED: To support Warrant Article #20 - Route 20 Sewer System Design and Permitting.

On motion duly made and seconded, it was also:

VOTED: To support Warrant Article #21 – Amend Zoning Bylaw Article IX, Section 4300 – Wireless Services Overlay District.

Mr. Sziabowski voted in opposition to the article.

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

VOTED: To support Warrant Article #23 – Amend Zoning Bylaw Article IX, Use Table Retail Use in Industrial and Limited Industrial.

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

VOTED: To support all the Community Preservation Fund Warrant Articles #28-35.

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

VOTED: To not support Petition Warrant Article #36 to Reduce the CPA Surcharge from 3% to 1.5%.

The consensus of the Board was that a reduction of the CPA surcharge would have a detrimental impact on Sudbury's land preservation program.

Ms. Kablack reported it was determined that Trevor Way would not be laid out for street acceptance this year, but that Brookside Farm Lane has been recommended for acceptance.

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

VOTED: To support Warrant Article #18 for the Street Acceptance of Brookside Farm Lane.

#### **Miscellaneous**

Ms. Kablack announced the Board of Health will conduct a Public hearing regarding Outdoor Hydronic Heaters on April 26, 2011. She and Mr. Morely plan to attend the Hearing, and she encouraged other Board members to also attend.

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

The Board's next meeting is scheduled for May 11, 2011.

The meeting was adjourned by Vice-Chairman Poch at 10:25 p.m.