

IN BOARD OF SELECTMEN  
TUESDAY, NOVEMBER 22, 2005

Present: Chairman Lawrence W. O'Brien, Selectmen William J. Keller, Jr. and John C. Drobinski.

The statutory requirement for notice having been met, the meeting was convened at 7:30 p.m. in the Lower Town Hall, 322 Concord Road.

**Opening Remarks**

Chairman O'Brien announced that Town offices in the Flynn Building will be closed on the Friday following Thanksgiving.

Chairman O'Brien advised residents to keep their pets and children under careful supervision and to bring them indoors before darkness falls, because of recent problems with coyotes in north Sudbury.

Selectman Keller welcomed members of Boy Scout Troop 63 to tonight's meeting. Scouts are working on their Citizenship badges and are observing town government in action.

**Minutes**

It was on motion unanimously

VOTED: To approve the minutes of the regular session of November 8, 2005, as drafted.

**Board of Appeals – Appointments**

It was on motion unanimously

VOTED: To appoint Constantine Athanas, 317 Old Lancaster Road, to the Board of Appeals and Earth Removal Board Alternates, for a term to expire April 30, 2006, filling the vacancy occasioned by the resignation of Tom Phelps, as recommended by the Board of Appeals in a letter dated September 22, 2005, and to send a letter of thanks to Mr. Phelps for his many years of service to the Town.

**Child Safety Seat Program**

It was on motion unanimously

VOTED: To approve the establishment of a separate donation account for the purpose of accepting donations received in connection with a Child Safety Seat Program and authorizing the expenditure of these funds by the Fire Chief and the Police Chief for the administration of the Child Safety Seat Program; and further, to authorize the Town Manager to accept these donations on behalf of the Board.

**FY06 First Quarter Trust Funds Report**

It was on motion unanimously

VOTED: Acting as Co-Trustees of Town Donations, to accept the FY06 Town Trust Funds First Quarter Report, dated September 30, 2005.

### **Skate Park**

The Board reviewed the following information: (1) report, dated September 26, 2005, from Dennis Mannone and Jessica Bendel, Park and Recreation, recommending the skate park be closed and dismantled; (2) report, dated November 8, 2005, from the Sudbury Youth Commission, submitting a unanimous vote to close and remove the skate park facility; (3) report, dated October 24, 2005, from the Police Chief, stating that the structure appears to be in a constant need of repair, posing a safety hazard and a place for unsupervised youth activities and recommending the structure be removed; (4) report, dated October 6, 2005, from the Fire Chief, concurring with Mr. Mannone's recommendation to remove the facility; and (5) report, dated October 18, 2005, from the Town Engineer/DPW Director, stating the wood structures were in constant need of repair, and recommending the structures be removed, but retain the fencing and pavement. Mr. Place suggested the area could be used presently for storage of soccer goals, but not for parking, and future use could be for a tennis court, street hockey or other such recreational sport.

After discussion, it was on motion unanimously

VOTED: To approve closing the skate park facility and removing the structures, based on reports received from Town staff and commissions.

### **Easements – 126 Marlboro Road**

The Board reviewed a letter, dated August 16, 2005, from Paul Kenny, Town Counsel, to the owners of record of 126 Marlboro Road, regarding easements needed by the Town for purposes of a walkway, stormwater management and installation of underground utilities. Town Manager Valente stated the Board's vote on accepting the easements is a simple housekeeping matter.

It was on motion unanimously

VOTED: To accept the following easements granted by Blanca M. Adams, 126 Marlboro Rd., in connection with the Summerfields Subdivision off Marlboro Road, shown on "Definitive Subdivision Plan of Summerfields at Sudbury, Mass." dated April 29, 1996, last revised November 20, 1996, by Thomas Land Surveyors & Engineering Consultants, Inc., recorded with the Middlesex South Registry of Deeds as Plan No. 1269 of 1996: Drainage Easement on the area of Lot 3 shown as "Drain Easement"; Walkway and Utility Easement on the area of Lot 3 shown as "20' Walkway & Utility Easement."

### **Conservation Commission – Interview and Appointments**

Present: Rebecca Corkin; John Sklenak.

The Board reviewed applications for appointment to the Conservation Commission from John Sklenak, 93 Robbins Road, and Rebecca Corkin, 179 Nobscot Road, and a report, dated November 16, 2005, from the Town Manager, asking for the Board's approval of these appointments. Town Manager Valente stated she had interviewed both candidates at great length and found both candidates to be enthusiastic and qualified applicants.

Ms. Rebecca Corkin stated she has no technical experience but wants to see the Conservation Commission be more user-friendly. She opined the ConCom has a reputation of being harsh, and she expressed her opinion that she could adequately serve as a buffer for residents and the Commission.

Mr. John Sklenak stated he has previous experience with the Commission as an Associate member, and that he is interested in the proper use and preservation of natural resources. He stated he would also like to see the process more streamlined, comparing the experience of his daughter who bought a home in Southbridge and the situations encountered there.

The Board thanked the candidates for their willingness to serve.

It was on motion unanimously

VOTED: To approve the following Town Manager appointments to the Conservation Commission: Rebecca Corkin, 179 Nobscot Road, for a term to expire April 30, 2007, replacing Bridget Hanson; and John S. Sklenak, 93 Robbins Road, for a term to expire April 30, 2008, replacing Mark Ensign.

### **Clark Road Hearing – Postponed**

It was announced that the Clark Road Hearing scheduled for 8:00 p.m. was postponed at the request of the petitioners.

### **Draft License for Verizon**

The Board reviewed a “red-line” version of the Comcast License, now edited for Verizon providing cable television service to the Town of Sudbury. Town Manager Valente stated the Issuing Authority Report in response to Verizon’s application for a franchise license must be finalized in January, and she asked the Board for their comments and questions which she could forward to the Cable Television Committee.

The Board expressed concern about the following: equipment ownership and portability of filming equipment, additional broadcast of Town board meetings other than the Selectmen with more video drops in Town buildings, increased municipal programming, training of additional film staff, financial contribution and delivery of services by Verizon equal to that of Comcast, and the ability to air Comcast-taped programs on the Verizon service. The Board also requested it have the opportunity to see any amendments to the draft before it is submitted to the Board for final approval in January.

### **Community Preservation Fund Applications**

In preparation for 2006 Annual Town Meeting, the following individuals presented reports on the applications they have submitted for Community Preservation Act funding.

Exterior Restoration of Loring Parsonage, Sudbury Historical Commission – Jim Hill and Lyn MacLean  
Historical Ironwork Restoration (Cemeteries), Sudbury Historical Commission – Jim Hill and Lyn MacLean  
Hearse House Restoration, Sudbury Historical Commission – Jim Hill and Lyn MacLean  
Purchase Condos for Rental, Sudbury Housing Authority – Beth Rust

Harvesting Carding Mill Pond, Hop Brook Protection Association – Frank Lyons and Mike Fee

(Note: Mr. Fee originally submitted this article, but turned it over to the Hop Brook Protection Association, due to its experience in this matter.) The Board indicated its support of the project provided all funds would be under the Town Manager’s control, \$32,000 to be appropriated, but expended in annual increments of no more than \$8,000.

LS Field Improvements, Park and Recreation/LSRHS School Committee – Paul Griffin, Mark Collins, Dennis Mannone

Walkways, Town Manager – Town Manager Valente  
Mahoney, Melone & Parkinson Properties, Town Manager - Town Manager Valente

The Board reviewed specific points with various presenters, having previously read the submitted application materials.

It was on motion unanimously

VOTED: To support the following Community Preservation Committee applications, at the requested amounts:

Exterior Restoration of Loring Parsonage	\$ 75,000
Historical Ironwork Restoration (Cemeteries)	\$136,000
Hearse House Restoration	\$ 24,000
Purchase Condos for Rental	\$360,000
Harvesting Carding Mill Pond	\$ 32,000
LS Field Improvements	\$960,000
Walkways	\$100,000
Mahoney, Melone & Parkinson Properties	\$ 75,000
Feasibility Studies	
Wayside Inn Site Study-Landscape Preservation	\$ 85,720

Note: Chairman O'Brien noted Wayside Inn proponents could not attend the meeting and will be available at the Board's next meeting.

**SP05-381 – Frugal Flower**

Present: Craig Wambolt, Owner; Jody Kablack, Town Planner.

At 10:05 p.m. Chairman O'Brien reconvened a Public Hearing for the purpose of approving and signing Decision relative to Site Plan application SP05-381 of The Frugal Flower, Craig Wambolt, owner, in accordance with town of Sudbury Zoning Bylaw Art. IX, Section 6300, Site Plan Review, for expansion of the parking lot to include parking in front of the building, drainage/stormwater management improvements, landscaping, and sign relocation on property located at 736 Boston Post Road, Parcel K05-011, owned by Big Daddy Realty Trust, zoned Business District 6, Residential Zone A, Water Resource Protection District Zones II & III.

Mr. Craig Wambolt, Owner, opined that all outstanding issues have been addressed in the Decision.

Selectman Keller asked how the parking situation was resolved. Ms. Jody Kablack, Town Planner, responded the two removed spaces were created elsewhere on the site to maintain 36 spaces. She stated a variance was granted for 41, a reduction of 5 spaces from the required 41 spaces, and any future use requiring more parking will need another variance, as specified in Condition #14. Ms. Kablack stated further the Fire Chief signed off on the revised plan after the parking situation was finalized.

Based upon a determination that the foregoing evidence, together with the plans submitted, conformed to the intent and purpose of the Zoning Bylaw requirements, a motion was made and unanimously approved as follows:

VOTED: To approve Site Plan Application No. SP05-381 of The Frugal Flower, for approval of a site plan for expansion of the parking lot to include parking in front of the building, drainage/stormwater management improvements, landscaping, and sign relocation, on property located at 736 Boston Post Road, owned by Big Daddy Realty Trust, as shown on site plan entitled "Site Plan Proposed Parking Lot Expansion, 736 Boston Post Road, Sudbury, Massachusetts 01776 for The Frugal Flower", drawn by Hancock Associates, Sheet 1 dated August 17, 2005, revised September 29, 2005, and November 4, 2005; Sheet 2 dated January 25, 2005, revised June 14, 2005 and August 15, 2005; Sheet 3 dated August 17, 2005, revised October 7, 2005, October 18, 2005 and November 4, 2005; Sheets 4 & 5 dated August 17, 2005, revised September 29, 2005 and November 4, 2005; and Sheet 6 dated August 17, 2005, subject to compliance with all governmental laws and regulations including, but not limited to Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, zoning, building and health laws and regulations, and further subject to the following conditions insofar as they apply to the property:

1. Final approval of the stormwater management and drainage systems, including traps, catch basins, and periodic maintenance as required by the Town Engineer.
2. Placement of any new utilities underground.
3. No wells for drinking water supply to be installed on the site.
4. The grant of an earth removal permit by the Earth Removal Board, as applicable.
5. Compliance with the Order of Conditions approved by the Conservation Commission September 12, 2005.
6. Compliance with all conditions of Board of Appeals variances granted under Cases 05-42, 43, 44, 45, 46, approved October 18, 2005, which are incorporated herein.
7. A sign conforming to the Zoning Bylaw, or compliant with any variance granted by the Zoning Board of Appeals, shall be installed in the southeastern corner of the property in the location shown on the plan. If the existing sign is replaced, approval of the sign by the Design Review Board is required.
8. Landscaping which effectively shields the front parking area from the public way, subject to sight distance and traffic safety concerns, shall be installed along the frontage of the property. Said landscaping shall be subject to review by the Board or its representative after installation to assure that it meets the performance standards required by this condition. If additional screening vegetation is required, the applicant will be required to supplement the area with additional vegetation.
9. All exterior lights shall have shields and be arranged to avoid glare and minimize light spilling over to neighboring properties. The Board of Selectmen or its representative shall inspect the premises prior to release of the bond to certify the intent of this provision has been met. If, in the opinion of the Board, the lighting is not shielded from the adjoining properties, the applicant shall forthwith rectify such complaint to the satisfaction of the Board. Lighting, except for security lighting, shall be turned off when the building is not in use.
10. No use of salt or sodium based de-icers on site unless approved by the Conservation Commission.

11. No storage or use of chemicals on site except in conformity with guidelines and requirements of the Board of Health and the Fire Chief; the owner or operator of the site shall comply with the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G.L. Chapter 21E, as amended, and all regulations issued thereunder.
12. Any disposal or removal of effluent and wastes generated on the site shall conform to the requirements of the Board of Health, Town Engineer and/or Conservation Commission, as appropriate.
13. If required by the Board of Health, Conservation Commission and/or Board of Selectmen, the applicant shall install one or more monitoring wells, or other protective device, on the site, including the Town's right of access for periodic testing and monitoring thereof.
14. It is understood that approximately 2600 sq. ft. of interior space presently used for assembly, greenhouse, and cold storage is not included in the parking calculations for the site. If any future use is contemplated for this building which requires greater than 41 parking spaces, additional parking, or a further variance from the Board of Appeals, will be required.
15. The two parking spaces located against the western side of the building shall be relocated to the eastern side of the property near the trellis area. This area shall be paved to form a continuous surface with the existing parking. Relocation of these parking spaces shall allow for a cleared fire lane around the building which is no less than 18 feet wide in all locations.
16. The existing fence behind the rear row of parking shall be maintained, and the encompassed area shall be labeled "snow storage area only" on the plan.
17. Directional signage shall be installed on the premises indicating a one-way traffic flow. At a minimum, entrance and exit only signs shall be installed at the driveways, and one-way arrows shall be painted on the pavement.
18. The trash receptacle shall be completely enclosed by an 8-foot high wooden stockade fence and vegetation.
19. Site Plan revisions shall include:
  - a. Revised location of parking spaces (Condition #15)
  - b. "Snow storage area only" designated (Condition #16)
  - c. Directional signage (Condition #17)
  - d. An 8' wooden fence and vegetation around trash receptacle (Condition #18).
20. A bond securing the drainage improvements, landscaping, paving, fencing, signage and other improvements that will affect the visual and environmental aspects of the site shall be deposited with the Board of Selectmen prior to the commencement of the construction of the front parking area. Items contained in the Conservation Commission bond shall be excluded from this bond. Said bond shall be subject to the review and approval of the Board prior to its acceptance. Said bond shall not be released until an as-built plan showing conformance with the requirements of the various town board approvals has been submitted and approved.

21. Submission of an "as built" plan. Any change in the physical condition of the site, including changes in the location or design of structures or systems, following approval of the site plan, will require approval by the Board of Selectmen.
22. No construction of the proposed parking area shall commence until the Decision has been recorded in the Middlesex South Registry of Deeds, the plans are approved and signed, and certain items noted above [1, 4, 19, and 20], as specified by the Board, are complied with.
23. This approval shall lapse if construction and a substantial use thereof have not commenced except for good cause within two (2) years from the effective date of said approval.

The site plans will be updated and submitted for signature.

### **Easements – The Meadows on Maple Avenue**

Present: Myron Fox, Rollins, Rollins & Fox, attorney for Maple Avenue Meadows LLC.

The Board reviewed easement documents for The Meadows on Maple Avenue, specifically, a Temporary Construction Access License and an Easement to the Sudbury Water District. Chairman O'Brien asked for an update on the litigation surrounding this project.

Mr. Myron Fox, Rollins, Rollins & Fox, stated a summary judgment was delivered to the neighborhood group, and that decision was appealed. He opined there to be no risk factor to the developer or Town in the Board signing these easement documents and noted the vote granting the access license and water easement had been previously made subject to Town Counsel approval of the wording.

Regarding the construction access, Mr. Fox stated the license does not start running until construction vehicles begin using the access, and that cannot happen until the building permit is issued. The license stipulates a time period of 22 months. Mr. Fox clarified the access is for construction vehicles only, not developer vehicles bringing plants and other materials once construction is complete.

Chairman O'Brien asked what might compel the Building Inspector to issue a building permit before the litigation is over. Mr. Fox opined a resolution could be forthcoming within months, not years.

On the construction access easement, Selectman Drobinski suggested a police detail be required to direct traffic when heavy construction vehicles are coming in, as a measure for public safety. He suggested that Item 10 be amended to state that only water shall be employed to help control dust clouds.

In the easement areas, Selectman Drobinski asked about trees being taken down and then replanted. Ms. Kablack stated the developer is required to mark trees before doing any cutting, but unfortunately, some cutting has already occurred. She stated she does not anticipate further tree cutting, but the developer did not follow appropriate procedure in contacting the Tree Warden and marking the trees before the first tree cutting was done.

Ms. Kablack stated her position that neither of the easements should be released by the Board until the litigation is cleared up. Though a Building Permit has not been issued, construction trailers and machinery are already on the site, and the site has been graded. She opined some control over use of the property will be lost once access to Town property is authorized.

Mr. Fox stated developers typically ask for these types of easements to be in place so that things can move as quickly as possible. Presently the developer has a Special Permit which directs him to get the easements in place. He suggested approving the easements, but the Town holding the documents until the litigation has been completed. He opined the Water District may direct the developer to do the work laying the water pipes, or possibly hire a third party to do it.

Selectman Drobinski recalled an earlier situation in this neighborhood regarding a potential Historic District designation, and that the matter would be revisited once the construction project was complete. He cautioned against sending the wrong kind of message to the court, by approving things before litigation is settled. Mr. Fox responded the court will only be considering whether the summary judgment should be upheld.

Regarding the trees that were cut down before approval was granted, Mr. Fox stated the contractors were told not to use the Feeley Park access, but one operator was fearful that his piece of equipment would damage things along Maple Avenue and used Feeley instead, and in the process the trees were removed. Mr. Fox opined the Town may be entitled to some sort of restitution. Town Manager Valente stated she would get a cost estimate from the Tree Warden.

The Board discussed signing and holding the documents, as there did not seem to be any hurry, given that winter is upon us and the ground will soon be frozen. Selectman Drobinski stated he would like to see pre-and post-construction surveys to determine how many trees would be removed, their size and variety.

Ms. Kablack reiterated her concerns about issuing any documents before litigation is complete, or while there are questions about previous action.

It was agreed to revise the documents to reflect tonight's comments and bring them back for review and possible signature on December 6, 2005.

After discussion, it was unanimously

VOTED: To table this matter until December 6, 2005.

### **2006 Annual Town Meeting – Warrant Article Submission Process**

Town Manager Valente asked for the Board's approval of a Public Announcement she would like to publish in the Town Crier on December 1, 2005. This announcement would lay out the schedule for the submission of Warrant Articles for the 2006 Annual Town Meeting.

Specifically, articles would be due no later than 5:00 p.m. on January 3, 2006, though earlier submission is always encouraged and appreciated.

It was on motion unanimously

VOTED: To accept the Public Announcement defining Warrant Article Submission Process for the 2006 Annual Town meeting, as drafted, for publication in the Sudbury Town Crier on December 1, 2005.

### **Homeland Security Grant – Fire Department**

It was on motion unanimously

VOTED: To accept a grant to the Fire Department from Homeland Security for the purchase of emergency shelter materials, such as 30 blankets, 50 cots, emergency generator, and lights, at a total amount of \$14,000, and authorize expenditure by the Fire Chief for the purposes of the grant.

**Friends of Bruce Freeman Rail Trail**

Town Manager Valente stated there had been a letter sent to the Executive Office of Transportation regarding the Bruce Freeman Rail Trail, and she wanted to announce that the Town has not been involved in the proposal contained in that letter. She stated she would send a letter clarifying Sudbury's non-involvement to EOT.

**MAPC Request**

The Metropolitan Area Planning Council asked the Board to comment on the sub-regional groups that currently existed. The Board directed the Town Manager to report to MAPC that they felt Sudbury was most similar to the following communities: Concord, Lincoln, Wayland, Weston and Stow.

**Executive Session**

At 11:22 p.m. it was on roll call

VOTED: To go into Executive Session to discuss strategy with respect to litigation and collective bargaining. (Chairman O'Brien, aye, Selectman Keller, aye, Selectman Drobinski, aye).

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

There being no further business, the meeting adjourned at 11:40 p.m.

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