

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, DECEMBER 1, 2009

Present: Chairman William J. Keller, Jr., Vice-Chairman John C. Drobinski, Selectman Lawrence W. O'Brien, and Town Manager Maureen G. Valente

The statutory requirements as to notice having been complied with, the meeting was convened at 7:34 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

At 7:34 p.m., Chairman Keller opened the meeting. He announced that the Special Primary Election to fill the open State Senate seat will be on Tuesday, December 8, 2009. Polls will be open 7:00 a.m. to 8:00 p.m., and further details are available on the Town website. Absentee ballots are also available at the Town Clerk's Office.

Chairman Keller announced that a Public Hearing, scheduled for this evening, regarding tax classification will not occur, and will only be opened and then immediately continued to December 15, 2009 at 8:00 p.m., to allow for information to be received from the State Department of Revenue.

Reports from the Board of Selectmen

Selectman O'Brien reported that there will be a School Administration Consolidation Working Group meeting held on Thursday, December 3, 2009, at 7:30 p.m. in the Flynn Building. The Trustees of the Goodnow Library will also meet on Thursday, December 3, 2009.

Chairman Keller announced that the public is invited to attend the annual Open House celebrations hosted by the Hosmer House on December 5 and December 6, 2009.

Frost Farm Condominium – Amending Special Permit, Condominium Trust and Master Deed

Present: Director of Planning and Community Development Jody Kablack and Sudbury Housing Specialist Beth Rust

At 7:38 p.m., Director of Planning and Community Development Jody Kablack addressed the Board to review the recommended modifications and amendments requested to the Frost Farm resale procedures, as previously discussed with the Board in March 2009. Ms. Kablack explained that the waiting period for Sudbury residents has increased from 15 to 30 days. She summarized the additional modifications as follows: the waiting list will be maintained by the Trustees of the Frost Farm Village Condominium Trust, a reduction from a 90 to a 30-day exclusive period for Sudbury residents to purchase, removal from the waiting list after the waiting-list person has declined three units, and the Town's Planning Board member will be eliminated as a voting Trustee. Ms. Kablack has fulfilled the role of the designated Town-voting Trustee, but believes she can continue to participate with the Trustees in the future as an effective liaison.

Ms. Kablack emphasized that the resale procedures are currently functioning in ways that were not initially anticipated. Thus, the modifications will correct deficiencies in the current procedures and will be in the best interests of all parties. Ms. Kablack further explained that, in actuality, there is no waiting list. Currently, two units are for sale. She stated that the Town will continue to confirm the eligibility of buyers and to publish annual eligibility criteria.

Ms. Kablack described the next steps to implement any modifications, stating that, upon approval this evening to proceed, the amendment will be voted upon by the Condominium Association at its Annual

Meeting in January 2010, the Selectmen will then vote on modified Trust language, and the Planning Board will need to vote on a modified Special Permit (applied for by the Condominium Association) through the public hearing process. Ms. Kablack opined that she believes the required support by 70% of the Association will be attainable.

Selectman O'Brien stated he has no objections to the proposed modifications, since the recommendations seem suitable. Chairman Keller concurred, since he believes the Town's interests are protected by the Board's ability to vote on all language revisions to the Master Deed and Trust documents.

Chairman Keller asked for what reasons individuals on the waiting list decline the opportunity to purchase a unit. Sudbury Housing Specialist Beth Rust responded that some parties have been interested, but due to the present economy and real estate market, they are unable to sell their current homes. Chairman Keller suggested that information on the Frost Farm properties be posted on the Town's website. Ms. Rust stated that she fields many inquiries in the Community Housing Office. Ms. Kablack will post information in the Community Housing area of the Town website and will provide a link to the Council on Aging and other relevant websites.

Vice Chairman Drobinski recused himself from the vote.

It was on motion

VOTED: To authorize Town staff to work with the Frost Farm Condominium Association to amend the Special Permit, Condominium Trust and Master Deed, for modifications to the resale procedural, as presented.

Sudbury Housing Trust – FY10 Budget Update

Present: Sudbury Housing Specialist Beth Rust

Sudbury Housing Specialist Beth Rust reviewed the copies of the Sudbury Housing Trust (SHT) FY10 Budget and accompanying memo dated November 19, 2009, previously provided to the Board. Ms. Rust explained that the Trust has just completed its third fiscal year, since it was chartered in February 2006. She reported that the Trust, in its five-year plan, has committed resources toward the creation of 16 housing units, at an average subsidy of \$147,000. To date, six units have been created. She further reported that FY09 was productive, resulting in an ending balance of assets of over \$759,000 and two parcels of land (Dutton Road and 278 Maynard Road).

Ms. Rust stated that the FY10 budget plans to increase revenues by continuing the lottery and monitoring agent functions for Sudbury and neighboring communities. Selectman O'Brien noted that Ms. Rust is considered to be an area expert, and thus is hired to perform these services, which helps to generate revenue for the Trust. Ms. Rust has worked to contract 76 units with nearly 200 applicants through these processes. She estimates \$48,000 will be generated for FY10 from performing these functions. Funds will also be expended in FY10 for the development on the Trust-owned property located at 278 Maynard Road.

The budget also accounts for completion of the Habitat for Humanity Dutton Road home, the continuation of the Small Grants Program (which provides grants up to \$3,000 for health and safety purposes), the completion of one additional Home Preservation Unit, and coverage of some salary and miscellaneous administrative expenses. Ms. Rust announced that an information session will be held next week at the Goodnow Library, regarding the lottery to be held in January 2010, for the next Home Preservation unit. Additional information can be obtained by contacting the Community Housing Office and/or accessing the Town website.

Vice-Chairman Drobinski commended Ms. Rust on Sudbury's affordable-housing accomplishments, which were nicely portrayed in the "Municipal Affordable Housing Trust Guidebook" publication. He suggested copies also be made available at the Goodnow Library. Chairman Keller concurred, noting that Sudbury should be proud of its affordable-housing efforts and the recognition of Ms. Rust's work.

It was on motion unanimously

VOTED: As co-trustees of Town funds, to accept, for informational purposes, the FY10 budget of the Sudbury Housing Trust, as provided by Beth Rust, Community Housing Specialist, on behalf of the Sudbury Housing Trust, in a letter dated November 19, 2009.

Sudbury Housing Trust – 10% Allocation

Present: Sudbury Housing Specialist Beth Rust

Sudbury Housing Specialist Beth Rust presented the project application from the Sudbury Housing Trust (SHT), requesting \$180,000 for the FY11 10% Community Preservation Act housing allocation to be appropriated to the SHT for the purposes of preservation and creation of affordable housing in Sudbury for low and moderate-income households. Ms. Rust noted that this request is consistent with the original SHT charter, which stated that a 10% allocation would be requested annually. She noted that this year's request is approximately the same amount needed to fund the acquisition of one Home Preservation unit, and will likely be used for that purpose.

It was on motion unanimously

VOTED: To support an FY11 Community Preservation Committee funding allocation of \$180,000 to the Sudbury Housing Trust, as requested by Beth Rust, Community Housing Specialist.

Public Hearing: Tax Classification

At 8:07 p.m., Chairman Keller opened the Public Hearing to determine what percentage of the local tax levy will be borne by each class of real and personal property relative to setting the FY 2010 tax rate, which was continued from November 17, 2009.

Town Manager Valente announced that the Board of Assessors and Director of Assessing Maureen Hafner have informed the Board that more time is needed to review and process the necessary information from the Department of Revenue (DOR), and to finalize a recommendation to the Board. She explained that every three years, the State requires recertification of property values, and that this information is required prior to a town conducting a tax hearing. To date, the DOR has postponed its review of Sudbury's values. Thus, the Board of Assessors and Director of Assessing Maureen Hafner are awaiting this information prior to convening the tax hearing with the Selectmen. Ms. Valente stated that the process has been frustrating, due to the DOR workload, which is being completed by fewer staff members than in prior years, and that towns have been required to provide supplemental statistical information because property sales have been so infrequent. Ms. Valente opined that it is likely the required information will still not be available prior to the Board's next meeting on December 15, 2009. However, as a safeguard, Ms. Valente recommended that time be held on the December 15, 2009 agenda for a continuation of the hearing.

Town Manager Valente briefly described some impacts the Town will experience as a result of this delay. She noted that it will be nearly impossible to mail accurate property bills prior to December 31, 2009. Instead, it is likely that a third quarter estimated bill will be issued, with an actual bill to follow in the fourth

quarter. This will place the burden on the taxpayer completely, within only the fourth quarter to adjust for any requisite payments or to pursue an abatement. The additional mailing of another tax bill is anticipated to add approximately \$5,000 to the Town's expenses.

It was on motion unanimously

VOTED: To continue the Public Hearing to determine what percentage of the local tax levy will be borne by each class of real and personal property relative to setting the FY 2010 tax rate to December 15, 2009, at 8:00 p.m.

Reports from Town Manager **Street Light Upgrades - Update**

Town Manager Valente stated that, if supported by the Board, Town staff is eager to proceed with this project. She noted that \$20,000 to \$25,000 is estimated as annual savings by hiring a consultant, who will recommend upgrades to be implemented. Ms. Valente emphasized that lights to be converted and/or upgraded will be identified based on public safety needs.

Selectman O'Brien stated that this project is consistent with the Town's goals, and thus believes it is logical to proceed with obtaining available funds from NStar. He also stated that the project is compatible with providing services in a more "green" manner. The Board concurred and supported continuation of this project. Town Manager Valente stated that Building Inspector Jim Kelly and Department of Public Works (DPW) Director Bill Place will oversee the project.

Capital Improvement Planning Committee - Hearing Schedule

Town Manager Valente reported that the Capital Improvement Planning Committee held hearings to review capital projects under consideration for funding. The Town submitted projects including: funds for overall building improvements, DPW equipment and a street sweeper, Senior Center roof, the Nixon School roof, the Fairbanks' asbestos floor, scanning equipment for the Police Station and a study of all roofs on Town and School buildings. Ms. Valente is hopeful that the Committee will successfully deliberate these much-needed projects.

Vice-Chairman Drobinski noted that street sweepers not only provide a nicer aesthetic appearance for the Town, but more importantly, also help to properly maintain stormwater drains. He further noted that Concord was recently fined \$100,000 by the Environmental Protection Agency (EPA) for improper maintenance procedures.

Open Meeting Law – Resolution of Alleged Violation

Town Manager Valente distributed to the Board copies of a letter from the Commonwealth of Massachusetts Middlesex District Attorney's Office, dated November 20, 2009, stating that an anonymous complaint had been received. The letter alleged that Sudbury's Board of Selectmen and some members of the local School Committee had violated the Open Meeting Law on February 3, 2009, by privately discussing override options for Sudbury. Due to the specificity and thoroughness of Sudbury's recorded meeting minutes, the District Attorney's Office found no substantiation for this complaint. Town Manager Valente thanked the Recording Secretary for her conscientious work.

Community Preservation Committee - Public Hearings Regarding Project Requests for CPA Funding

Town Manager Valente will attend tomorrow night's Community Preservation Committee Public Hearing to address questions from the Committee regarding the Town's request for funding to be used to complete a feasibility study of the restoration of the Town Hall. Selectman O'Brien asked if it would be beneficial for a member of the Board to also attend. The Board's liaison to the Committee is Vice-Chairman Drobinski, who has a conflicting meeting, and will be unable to attend the hearing. Town Manager Valente will consider the offer and coordinate attendance by a Board member tomorrow.

Minutes

Due to his absence from the subject meeting, Vice Chairman Drobinski recused himself from the vote.

It was on motion

VOTED: To approve the regular session minutes of November 17, 2009.

Rubbish Disposal - Bid Award

It was on motion unanimously

VOTED: To approve award of contract by the Town Manager for rubbish disposal services for the Town and School buildings to the lowest eligible and responsible bidder, as determined by Town Counsel, for Calendar 2010 and any successive periods at the option of the Town Manager.

Friends of Sudbury Park and Recreation - Donation

In response to a question from Selectman O'Brien, Town Manager Valente explained that Finance Director Andrea Terkelsen and Town Counsel Paul Kenny will work to establish the Trust appropriately.

It was on motion unanimously

VOTED: As co-trustees of Town Funds, to accept a \$5,000 donation from the "Friends of Sudbury Park and Recreation" to be set aside in a Town Trust for the on-going maintenance needs of the Boundless Playground, to be expended under the direction of the Park and Recreation and DPW Directors.

FY11 Town Operating Budget Request - Discussion

Town Manager Valente presented a preliminary summary of her work to date on the FY11 Budget. She is preparing a constrained (no override) budget option, reflecting revenue growth of only 1 %, and a fixed - growth budget, based upon growth up to 4.5%, as recommended by Sudbury's Finance Committee.

Ms. Valente explained that the constrained budget assumes decreases from last year in State Aid and permit receipts. Town Department Heads were asked to submit budgets reflecting a 1.5% decrease from their FY10 budgets. The resulting constrained budget appears to be \$240,000 short of retaining all current Town personnel and maintaining current department services.

In contrast, the preliminary fixed-growth budget of 4.5%, allows for all current Town employees to retain their positions, and for department projects to continue, such as technology and equipment upgrades, filling open police and fire positions, funding an overtime account, adequate funding for annual snow and ice

expenditures, an increase to the tree removal budget and the possible addition of a Hazardous Waste Removal Day. In addition, the fixed-growth budget would accommodate the hiring of a shared facilities manager position for the Town and Sudbury Public Schools. However, Town Manager Valente emphasized that revenues are not foreseen to be available to support this budget scenario.

Selectman O'Brien noted that a decrease in State Aid was also anticipated in last year's budget, but that eventually other funds became available. Town Manager Valente responded that she and Superintendent Brackett have already factored into their assumptions all possible sources of revenue.

Selectman O'Brien further noted it is apparent that the fixed-growth budget scenario would require a recommendation for a tax override vote by the Board. However, he also noted that the Board is clearly on record as stating that it will not support an override vote until all collective bargaining negotiations have been successfully resolved, resulting in significant savings from revisions to health plan choices and contribution levels. Chairman Keller agreed that these issues will need to be further deliberated throughout the budget process.

Town Manager Valente reported that the police, firefighter and supervisory unions have not yet reached a collective bargaining agreement. Ms. Valente emphasized that each month that concludes without a settlement is costing the Town money (the current family health plan option is \$100 more per employee per month than the proposed health plan). She highlighted that, if the remaining Town unions could settle on terms agreed to by the School employees, the anticipated \$240,000 gap could be closed. However, Ms. Valente noted that time is of the essence, since the Town must submit its budget by December 31, 2009.

Vice-Chairman Drobinski asked if the Town can declare a decision to impose the proposed terms on the unions, which have not settled. Town Manager Valente responded, by law, the unions are entitled to a collective bargaining process. However, she further stated she hoped through that process, the unions would recognize job preservation as the highest priority for all parties.

Selectman O'Brien noted that many people have worked within numerous groups, over a 15-month period, to present cost-saving recommendations, which continue to provide quality healthcare coverage for all Town employees, as has already been recognized and agreed to by all School employees. He questioned whether the Board has any other option but to lay off personnel, if the unions do not settle.

The Selectmen asked Ms. Valente to relay the Board's frustration to the unions, which have not yet settled, and to also inform them of the Board's inclination to lay off employees within those unions, which are resisting settlement. Vice-Chairman Drobinski cautioned that tonight's discussion not veer towards discussions which should be part of the ongoing collective bargaining process.

Chairman Keller reiterated that the Board's message to the unions, which have not settled, should be clear, in that reasonable health plan and rate options, similar to those in the private sector, have been recommended and should be adopted to preserve jobs. The Board urged all union members to make the right decision for themselves and for the Town.

Town Manager Valente reported some upcoming meetings are scheduled with these unions and Assistant Town Manager Walker will persist in efforts to schedule discussions. In response to a question from the Board, Town Manager Valente opined that the parties are not yet at a point of impasse, whereby the discussions would be turned over to the Joint Labor Management process. Ms. Valente hopes to avoid the painful consequences of reducing employment positions, with the successful and timely resolution of these discussions.

Energy and Sustainability Green Ribbon Committee - Stretch Energy Code Adoption Discussion

Present: Building Inspector James Kelly; Energy and Sustainability Green Ribbon Committee member William Braun and other members

The Board was in previous receipt of Town Counsel Paul Kenny's opinion, dated November 25, 2009, regarding adoption of the Stretch Code appendix to the Massachusetts Energy Code as established by the Board of Building Regulations and Standards (BBRS).

Upon reading the legal opinion, Selectman O'Brien questioned whether the body that has the authority to accept the Code is Town Meeting rather than the Board of Selectmen. Chairman Keller stated that, although Town Counsel could not find enabling legislation allowing the BBRS to designate the Board of Selectmen rather than a Town Meeting to accept the alternate regulation, and although such acceptance may be challenged by an actual case or controversy, he believes the BBRS can enact an optional section within the building codes passed along to the municipalities. He further stated that it appears the Board can determine if it prefers local builders to abide by the Stretch Code guidelines. Chairman Keller recommended that the Board proceed with scheduling a Public Hearing to further discuss this matter. Vice-Chairman Drobinski concurred, and suggested that a statement be made at the start of the Public Hearing, acknowledging that the Board believes the statute covers its actions and welcomes opponents to present their cases.

Energy and Sustainability Green Ribbon Committee member William Braun acknowledged that Town Counsel stated there is no enabling legislation for this proposal. However, he also stated that, since the BBRS now oversees the State enactment of building codes, even the Town Meeting forum may not be applicable any longer. Mr. Braun emphasized that the risks to the Town are minimal, since a grieved party would need to file a complaint. In support of the Board's deliberation of this matter, Mr. Braun referenced a BBRS section and chapter, which states that a town's Board of Selectmen may approach the BBRS to recommend adoption of a stricter code than the State's guidelines.

Vice-Chairman Drobinski asked if the Building Inspector has concerns about additional workload as a result of adopting this code. Building Inspector Jim Kelly confirmed that he anticipates the adoption of the code might lessen his workload

It was on motion unanimously

VOTED: To duly schedule and duly publicize a Public Hearing on December 15, 2009, at 7:55 p.m., to discuss the impacts of adopting the Stretch Energy Code appendix to the Massachusetts Building Code.

Selectman O'Brien asked if the Board would support Town staff preparing a bookmark article for the Annual 2010 Town Meeting, designating a zoning overlay district of a closed landfill for Green Community-eligibility-status purposes. He also requested that the Town Manager share this information with the Town of Wayland.

Vice-Chairman Drobinski asked if the Green Communities Act allows municipalities to identify only certain locations, or whether the entire Town must be designated as a "Green Community."

Building Inspector Jim Kelly stated that current zoning may already permit the allowable "Green Community" uses. Mr. Braun opined that he believes the required "Green Community" zoning already exists in Sudbury's current zoning bylaws.

Town Manager Valente stated that Mr. Kelly, Town Counsel Kenny and Director of Planning and Community Development Jody Kablack coordinate the bookmark article.

It was on motion unanimously

VOTED: To instruct Town staff to prepare a bookmark article for the Annual 2010 Town Meeting, regarding the creation of an overlay district for energy production on a closed landfill and to advise the Town of Wayland of Sudbury's plans.

At 9:32 p.m., Chairman Keller closed the discussion.

Executive Session

At 9:33 p.m., Chairman Keller 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.

Chairman Keller announced regular session would not reconvene following Executive Session.

There being no further business, the meeting adjourned at 9:33 p.m.

Attest: _____

Maureen G. Valente
Town Manager-Clerk

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, DECEMBER 1, 2009
EXECUTIVE SESSION
(9:34 P.M - 10:09 P.M.)

Present: Chairman William J. Keller, Jr., Vice-Chairman John C. Drobinski, Selectman Lawrence W. O'Brien, and Maureen Valente, Town Manager

Police Chief Assessment Panel Interviews - Update

Town Manager Valente distributed to the Board copies of a memorandum from Assistant Town Manager Wayne Walker, dated November 30, 2009, providing an update on the Police Chief Assessment Panel Interviews. The distinguished panel interviewed the four internal candidates for Sudbury's permanent Police Chief position. The unanimous recommendation of the panel was that Lt. Richard Glavin is best suited to continue fulfilling the role on a permanent basis. The panel also suggested that Lt. Scott Nix be retained as the second-in-command Executive Officer. The panel commended the professional demeanor exhibited by all of the candidates.

The consensus of the Board was that Chairman Keller and Town Manager Valente together interview the candidates, that the Board's preference for Lt. Glavin to be named as Sudbury's permanent Police Chief be stated, and that it be made known that the Board's preference is that Lt. Nix be retained as second-in-command.

Collective Bargaining - Supervisory Union - Update

Town Manager Valente reported that she and Mr. Walker have been recently frustrated by the lack of progress reaching an agreement in the collective bargaining negotiations between the Town and the Supervisory Union. Although the union has agreed to all of the Town-recommended changes to health plans and employee-contribution rates, additional requests continue to surface in discussions. Ms. Valente will continue to strive for a mutual agreement, based on the terms agreed to by the School employees.

Collective Bargaining – Police and Firefighters' Unions - Update

Town Manager Valente reported that the Police and Firefighters' Unions have not rescheduled meeting times. She and Assistant Town Manager Walker will continue their diligent efforts to schedule meetings in the next two weeks and to reach a mutual agreement with these unions. Settlement with these unions will enable the Town to enact health plan and rate changes for these groups as well as the other three groups (representing 110 employees), which have already agreed to these changes, upon acceptance by one of the remaining unsettled unions.

The Board urged the Town Manager to include members from the remaining two major unsettled bargaining groups on preliminary employee lay-off lists produced in efforts to present a balanced budget.

There being no further business, the meeting adjourned at 10:09 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk