

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, NOVEMBER 15, 2011

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

The statutory requirements as to notice having been complied with, the meeting was convened at 7:30 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

At 7:30 p.m., Chairman O'Brien opened the meeting. He congratulated David Levington for being awarded the Klempner Community Service Award this year. Chairman O'Brien stated clean-up efforts of fallen Town-owned trees on roadways by the Department of Public Works (DPW) continue around Town. He reminded residents they are responsible for clean-up on personal property, and that the Transfer Station will accept yard debris until the end of the month.

Reports from the Town Manager

Snow Removal Services – Disclosure of Financial Interest by Municipal Employees

The Board was previously in receipt of "Disclosure of Financial Interest by Municipal Employee, Certification by Head of Contracting Agency and Approval as Required by G.L.C. 268A Section 20 (b)" as submitted by Kevin Cutler and George W. Taylor of the Sudbury Fire Department. Town Manager Valente explained the two men would provide snow removal services for the Highway Department, and that the exemption is required by law.

It was on motion unanimously

VOTED: To approve the Exemption under MGL ch. 268A, sec. 20(b) of the Disclosure of Financial Interest by Municipal Employees of Kevin Cutler and George W. Taylor for the purpose of snow removal services for the Highway Department.

State Utilities Department – Public Hearing Regarding Storm Services

Town Manager Valente stated the State's Utilities' Department will conduct a public hearing at 7:00 p.m. on November 16, 2011, at Framingham's Middle School located at 301 Brook Street. The hearing will address issues and concerns regarding services provided by the utility companies during the recent power outages.

Noyes Elementary School Repairs – Issuance of Permanent Bonds

Town Manager Valente stated the Town will present the permanent bonds for the Noyes Elementary School Repairs project to the Board at the December 6, 2011 meeting for vote and signature. She thanked the Permanent Building Committee and, in particular, Mike Melnick, for their work coordinating the project, which is expected to be completed for between \$100,000 to \$150,000 under the estimated budget. Finance Director Andrea Terkelsen will present only the Town's portion as bonded on December 6, 2011.

CSX Rail Corridor - Update

Town Manager Valente reported the Town has been granted an extension by the State's Service Transportation Board to continue consideration of the purchase of the CSX rail corridor parcel.

Energy and Sustainability Green Ribbon Committee - Update

Town Manager Valente reported the Energy and Sustainability Green Ribbon Committee has received a draft report stating Sudbury's landfill is a feasible location for solar-array panels.

Finance Committee - Update

Town Manager Valente reported budget instructions have been distributed to the Sudbury Public Schools (SPS), Lincoln-Sudbury Regional High School (L-SRHS) and the Town from the Finance Committee, and the guidelines have been distributed to Town Department Heads.

Reports from the Board of Selectmen

Selectman Drobinski attended a Massachusetts Municipal Association Board of Director's meeting today in Boston.

Vice-Chairman Haarde reported the Route 20 Sewer Citizens' Advisory Committee held its second meeting, which included a presentation by Technical Advisory Committee Chair Lisa Eggleston. Vice-Chairman Haarde further stated a few new membership applications have been received, and they will be reviewed by the Route 20 Sewer Steering Committee.

Vice-Chairman Haarde also reported there have been a few meetings related to the proposed Minuteman Regional Vocational High School and the intended capital improvement project. He emphasized the inequities which exist for member communities, given there is a 43% out-of-district student population. Vice-Chairman Haarde explained the out-of-district students only pay a pre-established tuition by the State which is less than the tuition paid by member towns. In addition, he emphasized the out-of-district students do not contribute to capital project/improvements costs. Thus, Vice-Chairman Haarde stated the member towns are subsidizing the out-of-district students. He and Town Manager Valente have discussed whether the Board should draft a letter to be sent to State legislators and to the Chair of the State's Joint Commission on Education. Vice-Chairman Haarde believes the problem may require a legislative/regulatory solution. Chairman O'Brien suggested perhaps there should be a requirement for towns to join a vocational district. Vice-Chairman Haarde opined the Minuteman administration and School Committee are eager to achieve an enrollment of 800 students, and thus they may not be in agreement with policy changes for out-of-district students. He suggested the next step is for the Board to invite Minuteman representatives to a meeting for further discussion. Town Manager Valente suggested it might be helpful for the Board to consider scheduling this discussion in combination with a joint meeting of the Wayland Board of Selectmen to provide strength to the arguments in numbers.

Chairman O'Brien attended a function in honor of former SPS Superintendent John Brackett. He also participated in the Veteran's Lunch, which was well attended. Chairman O'Brien reported that the HopeSudbury telethon raised over \$63,000, and he thanked everyone who participated for their generosity, helping to make the event a success. He also thanked Sudbury TV for its excellent coverage of the event.

Sudbury Cable Access Corporation - Discussion and Annual Performance Evaluation

Present: Sudbury Access Corporation President Jeff Winston and Executive Director Lynn Puorro

At 7:53 p.m., Chairman O'Brien welcomed Jeff Winston and Lynn Puorro to the meeting to update the community on the activities of the Sudbury Cable Access Corporation (SAC) during the past year. The Board was previously in receipt of copies of the "Sudbury Access Corporation 2010-2011 Financial &

Operating Reports dated November 8, 2011” and its quarterly reports from the previous fiscal year, an email from SAC President Jeff Winston dated November 8, 2011, and accompanying draft “Agreement Between the Board of Selectmen of the Town of Sudbury, Massachusetts and Sudbury Access Corporation.” The reports also detailed notable accomplishments during the past year.

Sudbury Access Corporation President Jeff Winston introduced fellow SAC Board members Marty Greenstein, Bill Powell, Nancy Brumback and Terry Lockhart who were also in attendance. He displayed a graph indicating 20-30 people were viewing the Hope-Sudbury telethon during every hour of the event. Mr. Winston reported SAC improved its website during the past year and successfully launched live Internet streaming. He further reported more programming was put on the channel, and that SAC has expanded its production workshops and training in one-on-one sessions and structured workshops. In addition, Mr. Winston reported SAC reviewed capital improvement needs and replaced equipment accordingly. SAC also implemented live feed to the Curtis Middle School, and it is working to equip the Silva Conference Room in the Flynn Building for video recording and presentation.

Executive Director Lynn Puorro provided examples of some new programs, including a cooking show by children, and for children.

Selectman Drobinski asked what the statistics of viewers for programming represents. Mr. Winston stated the statistics reflect the On Demand population. He further stated statistics indicate 25% of Sudbury’s households (1,463) have watched from one to five shows on SudburyTV during the past ten months. Mr. Winston and Ms. Puorro stated coverage has been implemented for the Zoning Board of Appeal and Conservation Commission hearings in response to requests from residents for more information regarding the Johnson Farm Chapter 40B proposal.

Selectman Drobinski thanked SAC for its report, and he suggested it be posted on the Town website. Mr. Winston stated it would be put on the website. Selectman Drobinski asked how much of Sudbury has cable capability. Mr. Winston stated the Town has had 100% capability with Comcast since 2002, and Verizon is in the process of installing its FIOS network. He estimated approximately 90% + of Sudbury is serviced by either Comcast or Verizon. Selectman Drobinski asked how many households have FIOS service. Mr. Winston stated some statistics are available, but he is not at liberty to disclose this information. However, he further stated he believes Verizon and Comcast provide comparable and acceptable services. Mr. Winston noted Verizon has until February 2012 to complete its underground work.

Town Manager Valente thanked Mr. Winston for serving as the Town’s cable advisor and fielding questions from residents.

Mr. Winston explained SAC performs its duties for the Town under a contract which has expired. He has worked with Town Counsel Paul Kenny to draft a renewal of the contract which includes no substantive revisions. Mr. Winston stated Town Counsel has approved the draft, and SAC hopes the Board will vote tonight to renew its contract for another three years.

Vice-Chairman Haarde stated he appreciates the work done by SAC to help provide information to the community. He asked what the procedure is for someone who wants to start their own cable show.

Ms. Puorro stated anyone interested in having a cable show should call or email SudburyTV and share their idea. She stated the staff of three will help train and produce the show initially and provide assistance for as long as needed. Ms. Puorro emphasized the show must be non-profit in nature, and not engage in any on-air sales.

Chairman O'Brien stated he had no objections to the renewal contract as presented.

It was on motion unanimously

VOTED: To approve the three-year contract as revised and reviewed by Town Counsel, based on the annual performance evaluation for Sudbury Access Corporation, for a term to expire November 15, 2014.

Public Hearing: Tax Classification

Present: Liam Vesely, Chairman of the Board of Assessors, Trevor Haydon and Joshua Fox, members of the Board of Assessors, Maureen Hafner, Director of Assessing, and Cynthia Gerry, Assistant Director of Assessing

At 8:09 p.m., Chairman O'Brien 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 2012 tax rate. The Board was previously in receipt of copies of the "Town of Sudbury Fiscal 2012 Classification Hearing dated November 15, 2011." He stated the Board had discussed a report regarding the residential exemption option at its prior meeting but took no vote on the matter.

Chairman of the Board of Assessors Liam Vesely explained the purpose of the Classification Hearing is for the Board tonight to decide its position on whether or not to allow a residential property exemption, a small commercial exemption, or an open space exemption. In addition, the Board could select a minimum residential factor for what percentage of the local tax levy would be borne by each class of real and personal property relative to setting the FY 2012 tax rate.

Chairman O'Brien commended the group on the excellent information booklet provided to the Board. Mr. Vesely thanked Ms. Hafner and Ms. Gerry for the great jobs they do collecting and tracking the information and working with the Board of Assessors.

Chairman O'Brien asked for an update regarding Sudbury's proposed Senior Tax Relief legislation.

Sudbury resident Ralph Tyler, One Deacon Lane, stated the letter sent by the Board to State legislators seemed to have gotten the intended attention. However, due to the upcoming holiday recess which begins tomorrow and lasts through the end of the year, Mr. Tyler does not believe any action will be taken on the bill until next year. He stated efforts to pass the bill would resume in January 2012. In addition, he and Dave Levington will discuss with Town Counsel whether the Town could proceed to a vote in advance of action from the State.

In response to a question from Chairman O'Brien, the Board stated it needed no further discussion regarding the residential exemption option.

Mr. Vesely next summarized the small commercial exemption option to grant up to 10% of the property valuation to commercial (not industrial) property which qualify as having no more than ten employees during the previous calendar year and is housed in a building with a valuation of less than \$1,000,000. He further noted the Board has not voted to approve this option in the past, and that only ten communities in the State have adopted this exemption.

Mr. Vesely next briefly described the Open Space exemption option. He referenced a chart on page 6 of the Report, which indicates only one community in the State, Bedford, has adopted it. Mr. Vesely stated a maximum exemption of 25% may be adopted for all property that is classified as Open Space as determined

by the Board of Assessors according to the law. However, he noted the Assessors have not identified any property in Sudbury as qualifying for this exemption, and thus the exemption is not applicable.

Chairman O'Brien opened the floor for citizen comments. Mr. Tyler asked the Board to consider approving a small commercial exemption tonight as a means to help small businesses. He asked for clarification regarding eligibility of commercial buildings comprised of condominiums.

Mr. Vesely explained how the individual businesses within a condominium building would be evaluated. He stated most businesses which would qualify are home businesses and they are assessed on a residential basis rather than commercial.

Mr. Tyler reiterated his urging of the Board to consider granting this exemption.

Mr. Vesely emphasized the Board of Assessors has taken no position on the options presented tonight. However, he noted it is important to consider these issues from all sides and to try to make the most equitable decisions possible.

Board of Assessors member Joshua Fox stated this exemption would only apply to commercial properties and not industrial uses. Thus, he believes the impact on all properties of adopting this option would need to be further researched.

Selectman Drobinski stated he is uncomfortable voting to adopt a small commercial exemption quickly tonight without the presentation of additional data to review similar to what was provided regarding the residential exemption option.

It was on motion unanimously

VOTED: To not grant a residential exemption, small commercial exemption or an open space exemption in FY12.

At 8:28 p.m., a discussion ensued regarding aspects of setting the residential factor for the residential class, including discussion of the amount to be shifted this year to the Commercial, Industrial and Personal Property (CIP) classes. Chairman O'Brien referenced a chart on Page 7 of the Report, noting the maximum share of levy for CIP is 150%.

Director of Assessing Maureen Hafner referenced pages 14 and 15 of the Report and explained examples of how factors effect different rate options.

Chairman O'Brien stated the shift voted last year was 1.28, resulting in a rate of \$17.03 for residential properties and \$22.27 for commercial properties.

Mr. Vesely stated the Board has voted for a tax shift since 1981, and that the focus has been in recent years on equalizing the average tax impact for both commercial and residential properties

Selectman Drobinski stated he supports the concept of tax equity, and he believes the Town has worked through the years to its current fair shift point.

Vice-Chairman Haarde believes the Board should approve a shift similar to last year or move closer to a CIP shift factor of 1.

Chairman O'Brien reviewed a few various rate scenarios, as did Ms. Hafner. He noted the average home value used for the data as \$621,410.

Mr. Tyler urged the Board to implement a tax shift similar to those approved in 1995, 2004, 2005 and 2007. He believes the low-and moderate income senior citizens in Town have been severely impacted by the increases to residential property taxes. Chairman O'Brien stated the Board must consider all property owners, and that deciding these issues fairly is a very difficult balancing act. He also stated businesses often tell the Board they need a reduction in their tax burden to remain vibrant. Selectman Drobinski emphasized no one is receiving a tax decrease, and the intent is to implement increases equitably.

Mr. Tyler asked what percentage of the CIP are small, local businesses rather than the large, national chains. Chairman O'Brien stated information indicates that more people are employed by small businesses in Sudbury than by large companies. Mr. Tyler reiterated it would be helpful to know these statistics.

Vice-Chairman Haarde stated that, even if the Board had this information, it could not implement different commercial tax rates for local businesses versus the larger and/or national chain stores. Mr. Tyler suggested the commercial properties be assessed a higher rate and that the funds collected be used by the Town in other creative ways.

Vice-Chairman Haarde asked how many communities in the State have a split tax rate. The consensus was that several large cities have a split tax rate because they have an imbedded commercial market. Vice-Chairman Haarde stated Sudbury does not have a vibrant commercial base, and the last thing the Town should do is make decisions which could drive this type of unencumbered and beneficial revenue away.

It was on motion unanimously

VOTED: In accordance with General Laws Ch. 40, sec.56, as amended, the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2012 tax rate and set the Residential Factor at 97.8938 with a CIP shift of 1.2766, pending certification by the State Department of Revenue.

Ms. Hafner noted that she would need to come before the Board at a future meeting to report the excess levy capacity once the information is available from the State and to ratify the residential factor voted this evening. She stated only 51 communities in the State have been certified to date.

Town Manager Valente stated the ratification process would be added to the December 6, 2011 meeting agenda. She also acknowledged and thanked Town staff for the considerable work and numerous hours spent preparing this material for tonight's discussion.

Selectman Drobinski suggested the informational booklet be posted on the Town website.

Public Hearing: First Colony Northwood LLC – Request for Site Plan Modification

Present: Petitioner First Colony Northwood LLC owner Jon Delli Priscoli and representatives Stan Gordon, Kevin Lobsser, Project Engineer Arthur Borden, Attorney Mark Kablack and approximately 15 residents of Northwoods at Sudbury

At 8:57 p.m., Chairman O'Brien opened the Public Hearing regarding the request for an amendment to an approved Site Plan Modification decision dated March 23, 2010, for revisions to the Site Plan including minor alterations to the building elevations and interior floor plans of the townhouse units and relocation of

two duplex buildings, and he read aloud the public notice. The property is located at Northwood Drive, Town Assessor's Map C11, Parcel 302, zoned research District.

Selectman Drobinski recused himself from the discussion. Chairman O'Brien noted a letter has been received for the file from Director of Planning and Community Development Jody Kablack, who has recused herself from discussion of this agenda item, since her husband represents the applicant and the Northwoods Condominium Board of Trustees. He noted Town Counsel would be asked to prepare any subsequent decisions or correspondence needed.

The Board was in previous receipt of copies of two letters from Attorney Mark Kablack, dated October 12, 2011 and October 18, 2011 respectively (with accompanying plans), the Board of Selectmen Public Hearing Notice for tonight, the Sudbury Board of Selectmen Notice of Decision dated November 14, 1997 and its Site Plan Modification Notice of Decision for Northwood at Sudbury Site Plan #SP97-337 dated March 23, 2010, "Decision Stormwater Management Permit Northwoods at Sudbury dated June 9, 2010," an email from DPW Director Bill Place dated November 8, 2011, requesting drainage calculations be rerun, and a letter from Sudbury's Planning Board Chairman Michael Fee dated November 10, 2011, noting the Board's opinion regarding proposed amendments to the approved Site Plan, which it deems to be significant in nature, Design Review Board Meeting Minutes of October 26, 2011, a letter from Sudbury's Assistant Fire Chief John Whalen dated November 4, 2011, noting conditions for final approval, an email from Sudbury Building Inspector James Kelly dated November 9, 2011, stating no issues with the proposal, an email from Board of Health Director Bob Leupold dated November 10, 2011, stating no objections to the proposed modifications, the Notice of Decision filed by Sudbury's Board of Appeals on July 2, 2010, and its Meeting Minutes of June 7, 2010. In addition, copies of a memorandum from Building Inspector James Kelly dated March 8, 2010, two email messages from Department of Public Works Director Bill Place dated November 8, 2011 and November 15, 2011 respectively, an email message from Arthur Borden to Mr. Place dated November 15, 2011 and accompanying supplemental plan and hydrographs, a letter from the Project Architect for Cummings Properties, Michael Aveni, dated November 11, 2011, requesting additional plantings as buffer screening and accompanying photographs.

Attorney for First Colony Northwood LLC Mark Kablack introduced the applicant's team and the Northwoods' Trustees in attendance tonight.

First Colony Northwood LLC owner Jon Delli Priscoli stated he has been a Sudbury resident for 30 years and is very active with local organizations, including as a Trustee of the Wayside Inn. He purchased the rights to the development from the bankruptcy court, and he stated he feels good about completing the last 19 townhome structures and helping to provide the Northwoods residents with some revenue relief and the Town with additional property tax revenue.

Mr. Kablack summarized the history of the Condominium development, which was originally approved for 66 units, in multi-story buildings, in 1997. He stated the previous developer was granted approval for plan modifications in March 2010. Mr. Kablack stated Mr. Priscoli has worked with the Condominium Trust in the past year, and he now proposes a minor modification request for slight re-working of the building layout and architectural design approved last year. Otherwise, he noted the proposed plan is very similar to the plan approved last year.

First Colony Northwood LLC representative Stan Gordon stated he was a Sudbury resident when this development originated in 1997. Since becoming involved with First Colony Northwood LLC, Mr. Gordon stated he has reviewed the original plans on file with the Building Department. He concluded that construction of multi-story buildings is not economical in the present market. Mr. Gordon displayed exhibits of the original plan and the proposed modified plan. He explained First Colony plans to retain the proposed

construction of 19 new condominium units, with the exception of the location of two duplex buildings on each side of the clubhouse. First Colony proposes to relocate the units to the north side of the clubhouse, allowing more open area to be retained south of the clubhouse. Mr. Gordon also stated a series of meetings have been held with the Condominium Trustees and residents. In addition, he stated residential housing marketers were consulted regarding the design, and minor revisions were made based on feedback received. Mr. Gordon noted the proposed plan has streamlined the unit driveways, resulting in less impervious surface area than what was approved last year.

Mr. Gordon stated the team has met with DPW Director Bill Place, who requested additional drainage calculations be run, which have since been submitted. The applicant also met with the Planning Board, and its requests for modifications to the Stormwater Management and Water Resource Permits were conditionally approved, and a final decision is anticipated by the Planning Board at the end of November. Mr. Gordon referenced the letter received from the Cummings Properties, and he stated the applicant has agreed to plant additional trees as a buffer. In addition, the applicant met with the Design Review Board (DRB), which expressed concerns regarding the landscaping, which the applicant is working to address.

First Colony Northwood LLC representative Kevin Lobsser distributed copies of the building plans and briefly reviewed them for the Board. He explained the roof lines were shrunk and the proposed models were scaled back to two-bedroom units. Mr. Lobsser explained the middle units were lengthened on the first floor to provide an additional half-bath. Mr. Kablack noted the DRB also suggested changes be made to the dormer locations.

Chairman O'Brien referenced concerns expressed by Sudbury's Fire Chief. Mr. Gordon stated he would discuss the issues further with the Fire Chief. Mr. Kablack emphasized the units would be built in compliance with all safety regulations. However, he noted the applicant's belief that all property owners in the area should share in the cost to install a two-way radio receiver as requested by the Fire Chief, but the applicant is willing to further discuss this matter. Chairman O'Brien requested additional information from the Fire Chief be submitted to the Board regarding condition #4 of his letter dated November 4, 2011.

Chairman O'Brien asked what the plans are for exterior finishes and how it would tie in with existing structures. Mr. Lobsser stated fiber cement board would be used for siding, and the trim would be Azek-type materials. He noted the new windows would be similar to the existing ones.

Concord lawyer Adam Costa, representing Northwoods' residents Mr. And Mrs. Sidney Bourne, 20 Northwood Drive, addressed the Board to oppose the modified plan. He emphasized his clients' concerns that the modified plan does not include a required residency restriction on all units, and that the required residential care facility (RCF) component was diminished in the 2010 plan modification approval. Mr. Costa stated he and his clients believe the proposal does not comply with Sudbury's Bylaws or with the original approved 1997 plan. He referenced two documents, i.e., the March 8, 2010 letter from Building Inspector James Kelly, noting similar concerns and a Letter to the Editor written by Ralph and Barbara Mazza, indicating the development was not treated as a RCF during the recent storms and power outages, and that no back-up generator systems exist.

Mr. Costa referenced the 1997 Site Plan Decision, and he noted that the importance of the facility to be treated as a RCF was paramount throughout the document.

Chairman O'Brien stated, in its deliberations last year, the Board decided it was appropriate to allow a 20% variance regarding the age restriction limits for the units so as to fall within the Federal definition guidelines. Mr. Costa agreed the allowance complies with Federal standards, but he does not believe it is allowed by Sudbury's Bylaws or that it is supported by the content of the 1997 Decision.

Mr. Kablack stated the arguments presented tonight by Mr. Costa were presented to the Board last year. The Board at that time determined the arguments were not applicable. Mr. Kablack emphasized the issues broached by Mr. Costa tonight are not germane to the application under review. He stated Northwoods is clearly an age-restricted development, must be marketed as such, and that all the Condominium documents reflect the care component. In addition, Mr. Kablack stated the Condominium Trust is required to submit an annual report to the Board.

Catherine Rowan, 10 Northwood Drive – Unit 103, stated she supports the new proposal. Ms. Rowan further stated she moved in expecting the development would be built out. She stated the condominium fees are a hardship for her and many others and she told the Board the residents “need your help.” Ms. Rowan’s comments were seconded by another unidentified female resident of Northwoods.

Northwoods resident Richard Presty urged the Board to consider the source of the arguments made by Mr. Costa on behalf of his clients, Mr. and Mrs. Sidney Bourne. Mr. Presty stated the Bourne’s have a history as obstructionists, whose primary goal is to push back on all former and current developers for their own personal gain. He fears condo fees will continue to rise and Trust funds will continue to be depleted by needless litigation. Thus, he urged the Board to approve the proposed plan. In its current condition, Mr. Presty stated the condominiums are considered unsellable, and he urged the Board to allow construction to go forward.

Chairman O’Brien noted it was the opinion of last year’s Board that the conflicts described were within the Condominium Association to handle, and that they were out of the Board’s control.

Elaine Waxler, 20 Northwood Drive – Unit #302, stated it is an increasing hardship for residents to keep the community at Northwoods financially sound. She emphasized that a majority of the residents have voted to support the proposed plan to move construction forward. Ms. Waxler stated the sooner the development is built out the better it would be for the current residents.

Vice-Chairman Haarde stated he has reviewed the 1997 Site Plan Decision, and he asked if the applicant is seeking to modify this plan or the 2010 Modified Site Plan. The applicant’s team stated their minor revisions are to the March 2010 Plan. Vice-Chairman Haarde questioned if it is possible to modify a plan that never happened due to the bankruptcy filing of the previous developer.

Chairman O’Brien opined he believes Mr. Delli Priscoli assumed the March 2010 Castagna Plan when he purchased it through the bankruptcy auction last year and that he could build it if he chose to do so. Mr. Kablack clarified that through the bankruptcy auction process Mr. Delli Priscoli assumed the rights to build the former Castagna units as approved. Although the proposed revisions to the Plan are minor in nature, and a stamped approval is in hand, he explained the applicant decided to request a formal modification.

Vice-Chairman Haarde asked if it is the intention to build only age-restricted housing. Mr. Delli Priscoli stated it is. Vice-Chairman Haarde then questioned whether conditions 22A and 22B of the original 1997 Decision need to be changed to reflect 80% rather than 100% of the units as age-restricted. He also noted that Sudbury’s Building Inspector had previously expressed concern regarding inconsistencies with the Town Bylaws. Mr. Kablack explained that the revision to 80% allows reasonable flexibility, for example, in the case of a spousal death, when the surviving resident is under age 55. He reiterated the development is for all intents and purposes age-restricted. Mr. Kablack also stated Building Inspector Jim Kelly is now comfortable with the proposed modifications as evidenced in his November 9, 2011 email stating he has no issues or concerns regarding the minor revisions.

Vice-Chairman Haarde stated he would be more comfortable if the Board's actions followed its intent. He highlighted there was a lot of discussion in 1997 as to the importance of these issues, and he believes at that time, tonight's proposal would not have been approved. Vice-Chairman Haarde stated Sudbury needs more senior housing, and he believes this development needs less litigation. He urged all parties to try to reach consensus on a mutual agreement. Vice-Chairman Haarde stated he appreciates the applicant's intentions. However, in the spirit of the original Decision, he believes the development was intended to be 100% age-restricted.

Mr. Delli Priscoli stated that the RCF and 80% age-restriction issues broached tonight have nothing to do with the position of the Bournes, and he believes they are presented as smoke screens. Mr. Delli Priscoli stated he is new to this situation, and he tried to approach the Bournes with the intent of reaching a reasonable agreement. However, he found them to be only interested in "extorting" millions of dollars from him. He believes the Bournes are not motivated by what is in the best interests of Sudbury, the Northwoods community and their neighbors, but they are only interested in their own gain.

Vice-Chairman Haarde stated he is also new to this discussion, and he was not part of last year's deliberations. He reiterated his hope that the Northwoods community can reach closure for the good of all parties. Mr. Delli Priscoli stated the majority of residents have agreed upon their common good, and they are tired of this negative energy. He believes his minor modifications will make this development more appealing for the residents, and they will make the new units sell quicker, bringing much needed financial relief to the current property owners.

Mr. Kablack noted a 67% super majority supports the new proposal. He opined that he does not believe conciliation will occur between the Northwoods opposing parties. Mr. Kablack stated the Bournes will have their opportunity to appeal decisions in the Land Court.

Chairman O'Brien asked what the expected price point would be for the new 19 units. Mr. Gordon stated between \$425,000 to \$500,000.

In response to a question from Chairman O'Brien regarding the next steps in the process, Mr. Kablack stated approvals from the Planning Board are expected to amend the Stormwater Management and Water Resource Permits, the Board of Health Permit does not need to be modified, all appeals need to be resolved and then construction can move forward.

Chairman O'Brien stated this has been a project stalled for a long time, and he is inclined to believe that giving the developer a little flexibility would be in the best interests of the Town and the development.

Vice-Chairman Haarde stated he would be inclined to support tonight's proposal, with Condition # 22A of the original Decision changed to reflect 100% age-restriction for occupants, with a waiver in the case of the death of a spouse.

Mr. Kablack stated the applicant is not prepared tonight to consider its position on Vice-Chairman Haarde's suggestion because it has not been voted on by the residents, and thus they do not have the authority tonight to consider re-visiting decisions made and agreed upon 18 months ago.

Vice-Chairman Haarde recommended asking Town Counsel for an opinion on whether a plan that never happened can be modified, and the other concerns expressed tonight. Chairman O'Brien suggested he and Vice-Chairman Haarde prepare a list of issues for Town Counsel to consider. He summarized the options for the Board as approving the proposal, denying it or the application being withdrawn without prejudice.

Mr. Kablack responded to Vice-Chairman Haarde's concerns, noting Sudbury's Building Inspector now has stated he has no objections to the minor revisions proposed, and that the applicant will work with the Fire Department to reach an equitable agreement regarding the two-way receiver for all the properties in the immediate vicinity. He reiterated the applicant is in possession of a stamped approval from the Board, and he reviewed the limited scope of tonight's request.

Vice-Chairman Haarde acknowledged the proposed revisions are improvements to previous plans.

Mr. Delli Priscoli stated he was not part of the 2010 discussions, and that he has accepted the outcomes from those proceedings. He believes the Board should do the same, and that it should affirm his proposed minor revisions which correct previous plan defects.

Mr. Kablack suggested that, if an impasse has been reached tonight, perhaps the Hearing should be continued to the next meeting to allow time to consider the limited scope of tonight's request, and to gather feedback from Town Counsel and the Building Inspector.

Barbara Murphy, 20 Northwood Drive – Unit #402, has lived in the development for ten years. She believes the complex is not appealing to families, and it clearly presents as age-restricted. Ms. Murphy urged the Board to not hold up the process for the residents based on the small variance in units represented by the variance between the 80% and 100% language in the documents.

Mr. Presty urged the Board to change with the times and appropriately re-think the 1997 Decision, and to not be unnecessarily tied to its content and/or language in its entirety.

It was on motion unanimously

VOTED: To continue the Public Hearing regarding the amendment request by First Colony Northwood LLC to the Site Plan Modification decision dated March 23, 2010, for property located at Northwood Drive, Town Assessor's Map C11, Parcel 302, zoned Research District to December 6, 2011 at 8:15 p.m.

Minutes

It was on motion unanimously

VOTED: To approve the regular session minutes of October 20 and November 1, 2011.

Route 20 Sewer Citizens' Advisory Committee – Resignation

It was on motion unanimously

VOTED: To accept the resignation of Martha Ragonas, 15 English Road, as a member of the Rt. 20 Sewer Citizens' Advisory Committee, as requested in an email dated November 2, 2011, and to send a letter of appreciation for her service to the Town.

SAI Communications – Gift

Vice-Chairman Haarde asked for more information regarding SAI Communications, which Chairman O'Brien provided.

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a gift of \$2,500 from SAI Communications towards public safety communications in the Town of Sudbury, to be deposited into the Cell Tower Communications-Donation account and expended under the direction of the Town Manager.

Massachusetts Interlocal Insurance Assn. (MIIA) Loss Control – Grant

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a Massachusetts Interlocal Insurance Assn. (MIIA) Loss Control Grant in the amount of \$5,000 for the purchase of a Traffic Control Trailer, as outlined in a letter dated October 27, 2011.

Unaudited FY12 First Quarter Financial Reports - Acceptance

It was on motion unanimously

VOTED: As co-trustees of Town funds, to accept the unaudited FY12 first quarter Financial Reports for the Town Trust Funds for the period ended September 30, 2011, as requested by the Finance Director, Andrea Terkelsen.

Proclamation – Major Dennis Ford

It was on motion unanimously

VOTED: To sign a proclamation for Major Dennis Ford, an active duty Army soldier, who has returned to his Sudbury family from a tour of duty in Afghanistan, and to proclaim Friday, November 18, 2011 as Major Dennis Ford Day in Sudbury.

The proclamation was read aloud by Vice-Chairman Haarde.

Eagle Scouts - Boy Scout Troop 63

It was on motion unanimously

VOTED: To enter into the Town record and sign letters of congratulation for Matthew Barnes, 49 Hobart Road, and Jack Walker, 21 Kendall Road, of Boy Scout Troop 63, on achieving the high honor of Eagle Scout, at a ceremony to be held on Thursday, December 15, 2011 at 7:30 p.m. at Our Lady of Fatima Parish.

HOLDERS OF RESTAURANT AND CLUB ALCOHOLIC BEVERAGES LICENSES - SERVING HOUR EXTENSION - LAVENDER ASIAN CUISINE AND BAR AND BISTRO 20

It was on motion unanimously

VOTED: To approve the extension of the closing hour and the serving of alcoholic beverages for any licensed holders who make application, in advance, to the Town Manager's Office; and for Lavender Asian Cuisine & Bar, 519 Boston Post Road, and Bistro 20, 120 Boston Post Road, on Wednesday, November 23, 2011 until 1:00 a.m. on Thursday, November 24, 2011, (Thanksgiving Day) on the condition that the kitchen remains open and food is served.

Towns of Wayland and Sudbury - Intermunicipal Agreement for Shared Recreation Services

The Board was previously in receipt of copies of a memorandum from Town Manager Valente dated November 10, 2011 requesting permission to enter into an amended agreement with Wayland to extend the current agreement to share a Recreation Director and to now include sharing additional services and a draft "Intermunicipal Agreement" Between the Towns of Wayland, Massachusetts and Sudbury Massachusetts. "

Town Manager Valente explained the agreement now includes shared recreation services of the Wayland Recreation Director, the Wayland Assistant Recreation Program Coordinator, and the Sudbury Recreation Program Coordinator. She stated both towns expect to increase administrative efficiency, reduce redundancies, and save money. Ms. Valente also stated the two towns offer similar programming and work with the same vendors. The expected implementation date would be December 1, 2011. Ms. Valente corrected an earlier estimate regarding savings, stating Sudbury anticipates saving approximately \$20,000-\$25,000 with this arrangement. In response to a question from Vice-Chairman Haarde, she clarified that, if the Town covered the cost of Ms. McShea's position and benefits completely, it would likely cost Sudbury \$50,000-\$60,000 more.

Selectman Drobinski stated he supports the agreement because it cuts costs and moves in the desired direction of consolidation.

It was on motion unanimously

VOTED: Under the provisions provided in M.G.L. c.40, s4A, to approve the execution by the Town Manager of an "Intermunicipal Agreement" between the towns of Wayland, MA and Sudbury, MA for shared recreation services of the Wayland Recreation Director, the Wayland Assistant Recreation Program Coordinator, and the Sudbury Recreation Program Coordinator, as set forth in said Agreement.

Executive Session

At 10:41 p.m., Town Manager Valente and Chairman O'Brien announced there would be no executive session required this evening.

Town Manager Valente noted the Board's next meeting is scheduled for Monday November 21, 2011 at 7:30 p.m., preceded by an Executive Session regarding collective bargaining scheduled at 6:30 p.m., wherein strategy discussion with respect to collective bargaining in an open meeting may have a detrimental effect on the bargaining position of the public body. The location for these meetings is yet to be determined.

There being no further business, the meeting adjourned at 10:48 p.m.

Attest: _____

Maureen G. Valente
Town Manager-Clerk