

IN BOARD OF SUDBURY SELECTMEN
WEDNESDAY, JUNE 25, 2014

Present: Chairman Charles C. Woodard, Selectman Lawrence W. O'Brien, Selectman Robert C. Haarde, and Town Manager Maureen Valente

Absent: Selectman Leonard A. Simon and Vice-Chairman Patricia A. Brown

The statutory requirements as to notice having been complied with, the meeting was convened at 7:33 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

At 7:33 p.m., Chairman Woodard opened the meeting. He announced the ballot questions for purchases of a new ambulance and fire truck passed at yesterday's Special Town Election. He also reminded residents to renew Transfer Station stickers. Chairman Woodard stated the Sudbury Celebrates 375 Committee is sponsoring a presentation tonight at the Goodnow Library. He also stated volunteers are needed for the Zoning Board of Appeals and Sudbury Housing Trust.

Reports from the Town Manager

Town Manager Valente thanked the Wayside Inn for handling the administration of the Fox 25 News Zip Trip event last week. She also thanked Fire Chief Miles and his department for their participation. She stated Police Chief Nix coordinated a presentation yesterday on the Navigate Prepared program, which was well attended.

Town Manager Valente attended a meeting coordinated by the Town of Needham yesterday regarding the status of the Minuteman Regional School project and proposed revisions to the Regional Agreement. She will provide her notes to Board liaisons Selectman Haarde and Vice-Chairman Brown as they work to evaluate recommendations for Sudbury.

Town Manager Valente stated the Strategic Financial Planning Committee for OPEB Liabilities held its first meeting this morning, and Selectman O'Brien was elected as its Chairman. Chairman Woodard briefly described the Other Post-Employment Benefits (OPEB) obligations, which will be evaluated by the Committee.

Town Manager Valente thanked the Town Clerk's Office, the Board of Registrars and all Town staff who helped coordinate yesterday's Special Town Election.

Reports from the Board of Selectmen

Selectman Haarde attended a Fairbank Building Committee meeting regarding roof options. He also attended the Navigate Prepared program, which is being implemented at the schools to better enable Public Safety Departments to address issues.

Selectman O'Brien stated there will be a lot of work ahead for the Strategic Financial Planning Committee for OPEB Liabilities to complete in what will likely be a multi-year commitment.

Chairman Woodard stated he and Selectman O'Brien held Selectmen's Office Hours on June 18, 2014, and several residents expressed interest in a noise control bylaw. He also attended the Finance Committee meeting on June 16, 2014. Chairman Woodard also met with Tom Friedlander, the new Chairman of the Conservation Committee. He encouraged citizens to keep abreast of the work of the Strategic Financial

Planning Committee for OPEB Liabilities, noting it may impact the Town and Sudbury Public School (SPS) budgets next year, and the upcoming contract negotiations.

Citizen's Comments

At 7:43 p.m., Chairman Woodard recognized Sudbury resident Robert Stein, 7 Thompson Drive.

Mr. Stein expressed his concern regarding the fiscal management of the Town by the Town Manager and some Selectmen. He stated Selectmen Woodard, Simon, and O'Brien attended Finance Committee meetings to lobby for support of appropriations for Department of Public Works (DPW) equipment with the use of Free Cash. He believes this is an activist position intended to maintain the tax levy at its current level, and does not fulfill the promises which have been made to taxpayers. He believes taxpayers need to better understand the source of Free Cash and that massive budget excesses need to be stopped.

Selectman O'Brien noted Mr. Stein had supported the recommendation for capital spending on the Strategic Financial Capital Improvement Committee. Mr. Stein asked if he could conclude his remarks, and Chairman Woodard asked him to continue.

Mr. Stein stated the DPW requested six trucks and two pieces of equipment from the Capital Improvement Planning Committee (CIPC) on January 29, 2014. On February 4, 2014, Mr. Stein stated Town Manager Valente presented a request for 13 trucks and two pieces of equipment, which had not been requested by the Town departments. Mr. Stein and others voted against using Free Cash as a funding source, and he believes this is why he and others were removed from the Finance Committee. He believes taxpayers were promised tax relief as Town debt expired. Mr. Stein stated that just because something is done legally, does not mean it should be done, and he characterized some of these doings as "shell games."

Chairman Woodard asked Mr. Stein to make his points without adding negative and nasty remarks.

Mr. Stein believes Sudbury has a leadership problem, and voters want change. He also believes Town leadership has an integrity issue, and people do not believe the budget is strapped. Mr. Stein believes the mechanism of spending at Town Meeting is wrong, and he would give the leaders a failing grade in financial transparency. Mr. Stein left the Hall stating he needed to attend a SPS School Committee meeting.

Chairman Woodard stated the Town's approach to capital spending was discussed at many public meetings. He also stated the Strategic Financial Planning Committee on Capital Funding determined the Town had woefully underspent on capital spending in recent years. Thus, a plan was developed to catch-up on capital projects over a ten-year time period without raising taxes, and he noted this recommendation was initially supported by Mr. Stein. Chairman Woodard also stated that Mr. Stein's comment that the budget has been overstated is "flat out wrong."

Selectman Haarde stated the Strategic Financial Planning Committee on Capital Funding agreed that capital planning and spending was needed. However, he further stated he believes members of the Finance Committee voted against using Free Cash as the funding source, and then they were removed from the Committee.

Chairman Woodard stated there is not necessarily a correlating cause and effect between those actions.

Selectman O'Brien stated he views Mr. Stein's current position as ironic because Finance Committee members Mr. Stein and Mr. Sullivan were part of the Strategic Financial Planning Committee meetings where it was thoroughly explained where the Free Cash was coming from and how Free Cash would be used.

Thus, he believes it was understood by them when a unanimous vote was taken by the Committee to present the recommendations to the Finance Committee. Selectman O'Brien stated the Town's new involvement in the Group Insurance Commission (GIC) resulted in budget surpluses which had not been anticipated based on projections of rate increases.

Selectman Haarde stated the Finance Committee's timing of its review of the Town's Comprehensive Annual Financial Report (CAFR) may have also factored into how members voted on appropriation requests.

Selectman O'Brien stated the Board requested the CAFR be made available to the Board and Finance Committee earlier in the budget process in the future, which should help. Selectman Haarde concurred. Selectman O'Brien also stated he does not believe there are any "shell games" going on with the Town finances.

At 7:59 p.m., Chairman Woodard concluded the comment period.

Public Hearing: Sierra's Restaurant – Tax Delinquency Discussion

Present: Sudbury Finance Director Andrea Terkelsen and Sierra's Restaurant Owner Samuel Cannarozzi

At 8:00 p.m., Chairman Woodard opened a Public Hearing regarding the tax delinquency of Sierra's Restaurant. The Board was previously in receipt of copies of a letter from Town Manager Valente to owner Samuel Cannarozzi dated June 5, 2014, a letter from Mr. Cannarozzi to the Board dated May 20, 2014, an email from Town Counsel Paul Kenny dated May 6, 2014, two memoranda from Ms. Terkelsen dated April 11, 2014 and May 14, 2014 respectively, Article XVIII Licenses and Permits Subject to Unpaid Taxes and Fees, a Memorandum of Agreement between the Town of Sudbury and the owners, relevant sections of the Board's Meeting Minutes of April 8, 2014 and December 3, 2013, and a State Corporations Division Business Entity Summary.

Mr. Cannarozzi stated his letter of May 20, 2014 outlined the situation he has faced with his restaurant. He emphasized he has been in business in Sudbury for 23 years, and for 19 of those years he had no problem paying taxes on time. Mr. Cannarozzi also stated he had entered into, and complied with, three previous installment payment agreements with the Town. He noted the restaurant was closed on April 13, 2013, and it remained closed until September 13, 2013. Mr. Cannarozzi stated he and his wife have re-directed their attention to Sierra's success, and he believes they are slowly making progress. He explained that, with a struggling economy and the past winter conditions, he was unable to fulfill the obligations of the most recent payment plan with the Town. Mr. Cannarozzi asked for a new agreement which would give him more time to catch up on payments. He reiterated he had paid taxes for 19 years as agreed to with the Town, and he also stated he understands the seriousness of the current situation.

Selectman O'Brien asked what amount is due to bring the taxes owed under 12 months in arrears as noted in the Town's bylaws.

Sudbury Finance Director Andrea Terkelsen stated \$15,873 would be due to comply with the bylaw.

Selectman O'Brien summarized the options available to the Board, including suspending, revoking or modifying the terms of the license. He noted the Town has a better chance of collecting the money owed if the business is given a chance to be successful. Selectman O'Brien asked if the owner could pay \$15,873.

Mr. Cannarozzi stated he was hesitant to commit to a figure and possibly not be able to keep the promise to the Town. He stated a safe estimate would be to pay \$1,000 per month plus the current taxes due.

Chairman Woodard asked how far back the tax delinquency goes. Ms. Terkelsen stated it covers a remaining balance for FY12. She also stated there is nothing left for her office to do legally to protect the Town's position that has not already been done, and that it is now a matter of what the Board wishes regarding the license.

Chairman Woodard expressed concern that the owner has had problems paying the taxes for a number of years. Mr. Cannarozzi respectfully disagreed, reiterating he complied with three prior payment agreements. He also emphasized these are very difficult times for restaurants.

Chairman Woodard expressed his preference for the \$15,873 to be paid.

It was noted this is the only Sudbury business currently in tax title. Ms. Terkelsen stated the Town typically does not foreclose on a property unless it is the last option available.

Selectman Haarde asked if he is correct in assuming the Town already has a lien on the property. Ms. Terkelsen confirmed this to be true. She also stated the Town receives 16% interest on amounts due in tax title.

In response to a question from Selectman Haarde, Mr. Cannarozzi stated "every spare nickel" will be put towards the outstanding debt to extinguish it as soon as possible and to hold onto the license.

Ms. Terkelsen suggested Sierra's could be put on notice at this time, noting that when the 2015 licenses are up for renewal, the Board will want the oldest taxes paid. Town Manager Valente stated the annual license renewal letters are usually distributed in late October/early November.

Selectman O'Brien suggested Ms. Terkelsen should provide the Board with a monthly payment update, and for the Board to schedule another discussion with Sierra's before the 2015 license renewal letters are mailed.

Chairman Woodard asked if the owner's mortgage payments are up-to-date. Mr. Cannarozzi stated he believes they are, but it is a matter that is currently being disputed.

Chairman Woodard expressed his concern that there seems to have been a payment compliance issue for a number of years. He also stated he will have concerns regarding renewing the license for 2015 if the taxes are not paid. Mr. Cannarozzi repeated he had paid taxes faithfully for 19 years before entering into his first payment plan.

It was on motion unanimously

VOTED: To not suspend, revoke, or modify the terms of the All Alcohol Beverage License held as a Common Victualer by Sierra's at 470 North Road pursuant to Art. XVIII of the Sudbury Town Bylaws and M.G.L. c. 138, s. 16B and 64 at this time, and to schedule a meeting with Sierra's ownership in November 2014 to consider an update of the tax delinquency situation and to consider the renewal of its license for 2015.

It was also on motion unanimously

VOTED: To close the Public Hearing regarding the tax delinquency of Sierra's Restaurant and whether to suspend, revoke, or modify the terms of the All Alcohol Beverage License held as a Common Victualer

by Sierra's at 470 North Road pursuant to Art. XVIII of the Sudbury Town Bylaws and M.G.L. c. 138, s. 16B and 64.

Public Hearing: Weekday Outdoor Entertainment License – Bullfinch's - Discussion with Police Department

Present: Owner/Manager of Bullfinch's Restaurant Peggy Richardson

At 8:32 p.m., Chairman Woodard opened a Public Hearing regarding the application of Bullfinch's Restaurant, 730 Boston Post Road, for a special outdoor entertainment permit to conduct weeknight soft jazz performances from 6:00 p.m. to 9:00 p.m. on July 23, August 20 and September 17, 2014. The Board was previously in receipt of copies of an email from Bullfinch's owner Peggy Richardson dated May 30, 2014, emails from Sudbury Fire and Police Chiefs dated June 18, 2014 and an email from Sudbury's Building Inspector dated June 23, 2014, all stating no objections to the request.

Bullfinch's Restaurant Manager Peggy Richardson stated the dates may vary from what was requested on the application, but it will be for a total of three evenings between July and September.

Chairman Woodard and Selectman Haarde asked if any feedback was received from abutters and whether they were notified. Town Manager Valente stated abutters were duly notified, and no feedback was received. She also stated Town staff expressed no objections to the request.

It was on motion unanimously

VOTED: As the Licensing Authority for the Town of Sudbury, to approve the concept presented in the application of Bullfinch's Restaurant, 730 Boston Post Road, for a special outdoor entertainment permit to conduct weeknight soft jazz performances on three evenings before September 30, 2014, with the dates to be specified at a later time by Town staff for final approval as a Consent Calendar agenda item by the Board at its next meeting.

Agreement between Town of Sudbury and Lincoln-Sudbury Youth Baseball - Gift Proposal for Upper Featherland Upgrades

Present: Park and Recreation Director Nancy McShea and Sudbury Youth Baseball President Mike Walsh

At 8:37 p.m., Chairman Woodard opened the discussion regarding proposed improvements to Upper Featherland Field located at 491/503 Concord Road, and the draft agreement between the Town of Sudbury and Lincoln-Sudbury Youth Baseball. The Board was previously in receipt of copies of a memorandum and relevant section of the Park and Recreation Commission Meeting Minutes of May 12, 2014, two emails from Michael Walsh both dated June 20, 2014 regarding proposal support from the Temple Beth El Men's Softball team and the Congregation B'Nai Torah's Men's Softball Team, a letter from Lincoln-Sudbury Director of Activities & Athletics Peter Elenbaas, an email from Sudbury Men's Softball dated June 19, 2014, and a draft Agreement Regarding Upper Featherland Field. In addition, copies of an email from Mike Walsh dated June 24, 2014 and a letter from Sudbury Girls' Softball Nancy Kimble dated June 24, 2014 were distributed tonight.

Town Manager Valente explained the two last changes made to the draft agreement since the Board received tonight's meeting packet. She noted that, in the event the project cost is less than what has been estimated, the balance remaining will be put into the Trust Fund for replacing the infield turf maintenance. Town Manager Valente also stated all user groups have provided statements of support for the project, and the agreement is ready for signature tonight. She also stated Mr. Walsh is prepared to also offer the Lincoln-Sudbury Youth Baseball gift tonight.

It was on motion unanimously

VOTED: To approve the agreement between the Town of Sudbury and Lincoln-Sudbury Youth Baseball as reviewed tonight, and to accept the gift as specified in the Agreement to fund improvements to Upper Featherland Field located at 491/503 Concord Road.

Mr. Walsh presented a mock check in the amount of \$232,000 from Lincoln-Sudbury Youth Baseball to the Board, and a photograph was taken of the presentation.

Fairbank Study Committee – Membership Change

Chairman Woodard stated he requested being replaced as a member of the Fairbank Study Committee. by Selectman Simon, since three Selectmen had volunteered for the assignment.

It was on motion unanimously

VOTED: To approve the designation of Selectman Simon to replace Chairman Woodard as a member of the Fairbank Study Committee.

Regional Wastewater Treatment Agreement – Discussion

Present: Route 20 Sewer Steering Committee Co-Chairman Eric Poch, Route 20 Sewer Citizens' Advisory Committee Chairman Craig Blake and Director of Planning and Community Development Jody Kablack

The Board was previously in receipt of copies of a memorandum from Town Manager Valente dated June 20, 2014, and an accompanying draft letter to the Marlborough City Council regarding Sudbury's interest in a regional wastewater treatment agreement.

Town Manager Valente stated the letter summarizes the benefits of an agreement between Sudbury and Marlborough, which have been discussed with Marlborough's mayor. Because Marlborough has had unfavorable experiences collaborating with other towns, Town staff suggested adding a legal defense fund for Marlborough's benefit as an incentive to partner with Sudbury.

Route 20 Sewer Steering Committee Co-Chairman Eric Poch stated the legal defense fund is a good idea, and it is in line with other concepts supported by the Committee. In response to a question from Chairman Woodard, Mr. Poch provided a few scenarios in which a legal defense fund might come into play, and he emphasized its use would be determined by the language in the inter-municipal agreement (IMA) signed.

Chairman Woodard stated the fund would let Marlborough know Sudbury is willing to take on some ownership for the project's risk.

Director of Planning and Community Development Jody Kablack stated it is hoped that the inclusion of this option in the letter will help to alleviate some of Marlborough's initial concerns regarding entering into a new IMA. Ms. Kablack suggested the Town might want to consider establishing a sizeable amount in the fund, since an IMA with Marlborough would potentially save millions for Sudbury taxpayers.

Chairman Woodard stated this idea is an economical option for Sudbury. Selectman O'Brien concurred, stating it may help to stimulate the project to move forward.

It was on motion unanimously

VOTED: To instruct Town staff, on behalf of the Board, to include the provision for a legal defense fund in the letter to be sent to the Marlborough City Council regarding Sudbury's interest in a regional wastewater treatment agreement as reviewed and discussed tonight.

IRS Tax Dispute – Discussion

The Board was previously in receipt of relevant information provided at the Board's June 17, 2014 meeting. At 8:52 p.m., Town Manager Valente updated the Board that the Town and Sudbury Public Schools (SPS) are working with a Certified Public Accountant to respond to the IRS. The Town and SPS will next meet with the IRS agent in approximately two weeks. In response to a question from Chairman Woodard, Town Manager Valente explained the timeframe for responses.

Minutes

It was on motion unanimously

VOTED: To approve the Regular Session Meeting Minutes of May 20, 2014.

Livery and Limousine Licenses

It was on motion unanimously

VOTED: To renew the Livery and Limousine Licenses for AAA Limousine, Inc., 39 Union Avenue, and Sudbury Limousine and Taxi Service, Inc., 26 Shadow Oak Drive, and to approve rate schedules as provided, subject to approval of individual driver licenses and satisfactory vehicle inspections by the Police Department, said licenses to expire on June 30, 2015.

Sudbury Villagers for Sudbury Community Emergency Response Team (CERT) – Donation

It was on motion unanimously

VOTED: To accept a donation of \$100 from Sudbury Villagers for Sudbury Community Emergency Response Team (CERT), as requested by Bill Miles, Fire Chief.

Town Center Intersection Project - Special Municipal Employee Designation

Selectman Haarde asked for clarification regarding why the designation is needed and for how long the designation is effective.

Director of Planning and Community Development Jody Kablack explained the consulting engineer is fulfilling dual roles before the Conservation Commission on the same evening. Ms. Kablack believes the designation would lapse at the conclusion of the Town Center Intersection Project.

Town Manager Valente stated she will check with Town Counsel regarding the timeframe for the designation.

It was on motion unanimously

VOTED: To designate the following position as Special Municipal Employee under M.G.L. c. 268A: Consulting Engineer, for the purpose of engineering consulting on the Town Center intersection project, and to the extent that there is an exemption required under the statute, such exemption is approved, as requested by Jody Kablack, Director of Planning and Community Development.

There being no further business, the meeting adjourned at 9:00 p.m.

Attest: _____

Maureen G. Valente
Town Manager-Clerk