

IN BOARD OF SELECTMEN
MONDAY, JANUARY 27, 1997

Present: Chairman Lawrence L. Blacker and Selectmen Maryann K. Clark and John C. Drobinski.

The statutory requirements for notice having been met, the meeting was convened by Chairman Blacker at 7:37 p.m. at the Sudbury Town Hall.

Opening Statement

Chairman Blacker announced that on February 3, 1997, the Investment Priorities Committee is going to moderate presentations on the items to be considered at the Special Town Meeting on February 24, 1997. He said that the meeting will be taped and aired on the local cable network. He asked all Townspeople to contact the Selectman's Office if they watched the program. He indicated that the Board desired this feedback to determine how effective the present cable system is in disseminating information as well as how many citizens are viewing the programming. He said that he had some concerns since a programming schedule is not produced.

Minuteman Tech Annual Town Meeting Articles

Present: Glenn Noland, Member of Minuteman Tech School Committee, and others.

The Board was in receipt of communications, dated September 3, 1996, from Ron Fitzgerald, Superintendent of Minuteman Tech, and dated March 1996, from Nyles Barnett, Chairman of the Minuteman Tech School Committee, providing background on the two articles pertaining to Minuteman Tech.

Glenn Noland, of the Minuteman Tech School Committee, informed the Board of the two articles pertaining to Minuteman Tech slated to be considered at the Annual Town Meeting. One article, currently designated Article 31, requests the withdrawal of the Town of Carlisle from the Minuteman Tech Region. He noted that Carlisle is seeking to do so in order to take advantage of the \$5000 CHOICE loophole created by the new educational reform law. He informed the Board that a withdrawal requires the unanimous vote of the other 15 Towns involved and that Boxborough had already rejected the request. Therefore, the issue is moot, and he suggested that the Board may wish to withdraw or indefinitely postpone this article.

Mr. Noland explained that the other article, currently designated Article 30, would reallocate the costs of funding Minuteman Tech. He said that the effect of the article would be to return the allocation among the 16 Towns to that which they had originally agreed. He said that the changes worked as a result of the new education reform law had resulted in a discount to the Town of Arlington. He said that it was an issue of fairness. In order to take effect, he explained that all 16 Towns would have to pass the article.

Chairman Blacker commented that he did not believe that Arlington would vote against its own "self-interests" and suggested that the perhaps the Town's legislative delegation should be approached.

Trustees of Town Donations

Present: Hans Lopater

The Board was in receipt of the following:

1. Notice of Meeting and Agenda, dated January 22, 1997, and invitation to the Investment Advisory Group to attend, issued by Janet Silva, Secretary to the Trustees of Town Donations.
2. Town of Sudbury, Trust Fund, 2nd Quarter Report, December 31, 1996, with accompanying cover letter, dated January 22, 1997, prepared by Mary Ellen Normen Dunn, Town Treasurer and Collector.

Acting as Co-Trustees of Town Donations, it was on motion unanimously

VOTED: To accept the FY97 2nd Quarter Report of Town Trust Funds, ending December 31, 1996, as prepared by Mary Ellen Normen Dunn, Town Treasurer and Collector.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the January 6, January 13, as amended, and January 16, 1997.

Donations - Council on Aging Vans

It was on motion unanimously

VOTED: To accept \$137.55 in miscellaneous donations for deposit into the Council on Aging Van Donation Account and to authorize the Council on Aging to expend the same for purposes of operating and maintaining the Council on Aging vans.

Sierra's Inc. Pledge of License

The Board was in receipt of a communication, dated January 7, 1997, from Anthony M. Ambriano, Attorney for Sierras, Inc., including (1) a petition for license transaction seeking the pledge of all alcoholic beverages license held by Sierras, Inc., to Federal Deposit Insurance Corporation, as Receiver for Guaranty-First Trust Company, whose servicer is Banc One Management and Consulting Corporation, 1717 Main Street, 12th Floor Bank One Center, Dallas, Texas; (2) Action in Lieu of Meeting of the Board of Directors of Sierras, Inc.; (3) Check to Town in amount of \$50.00; (4) Check to ABCC for \$50.00; and (5) Copy of an executed Amendment to Pledge of Licenses.

Selectman Clark inquired if the Town would have any control over subsequent owners if there were a foreclosure.

Chairman Blacker responded that that was not a problem since the license always comes back to the Town in the event of a foreclosure.

It was on motion unanimously

VOTED: To approve a Petition dated January 7, 1997, by Sierra's Inc., to pledge its alcoholic beverages license to Federal Deposit Insurance Corporation, receiver for Guaranty-First Trust Company.

Approval of Fire Chief's Request to Conduct a Fundraiser

The Board was in receipt of a communication, dated January 14, 1997, from Michael C. Dunne, Fire Chief, noting that when the fire station was built at 77 Hudson Road a flag pole had been inadvertently left out of the project. He requests permission for the department to conduct a fundraiser to purchase and erect a flag pole. He anticipates needing approximately \$2,000 and believes that most of funds can be raised through private donations and grants.

It was on motion unanimously

VOTED: To approve a fundraiser by the Fire Chief for the purchase and installation of a flag pole at the Fire Headquarters at 77 Hudson Road.

1997 Annual Town Meeting

On motion, duly seconded, it was unanimously

VOTED: To accept four additional petition articles for the 1997 Annual Town Meeting Warrant, that is, Amend Zoning Bylaw Art. IX.IV.C.3.c and Art. IX.V.D.7.e; and Amend Zoning Bylaw Art. IX.II.C; Special Act - Kaplan Conservation Restriction; and Powder Mill Road Walkway; and to order them as Articles 50-53 respectively.

Chairman Blacker noted that February 10, 1997, was the last day that petitions could be accepted for the Annual Town Meeting.

Selectman Clark suggested that perhaps some articles should be "pulled out of a hat" and then presented during the course of the meeting to ensure a quorum.

Chairman Blacker stated that the Moderator had indicated that such a process did not work well, but the Board could nonetheless consider such.

On motion, duly seconded, it was unanimously

VOTED: To refer the two zoning amendments to the Planning Board under GLc40A, s.5, for a hearing and report.

On motion, duly seconded, it was unanimously

VOTED: To acknowledge the withdrawal of Article 19, Drainage Work, and to approve the revised warrant report for Article 18, Technology Mgmt. Plan.

February 24, 1997 Special Town Meeting

On motion, duly seconded, it was unanimously

VOTED: To accept and order the thirteen articles as set forth and to execute the Warrant for the Special Town Meeting.

Board Meeting Schedule

It was on motion unanimously

VOTED: To convene a meeting at 7:00 p.m., each night of the Special Town Meeting commencing on February 24, 1997, in the Library of the Lincoln-Sudbury Regional High School.

Town Forum - 226th Session

At 8:05 p.m. Chairman Blacker convened the 226th Session of the Town Forum. Reports were presented by the Board, the Town Manager, Chief of Police, Fire Chief, Historical Commission, Conservation Commission, Town Treasurer and Collector, Town Clerk, School Committee, Inspector of Buildings, Council on Aging, Goodnow Library Trustees, Finance Committee, Highway Department, Planning Board.

As a result of the various reports and discussions, Chairman Blacker directed the Town Manager to consider providing chipper services to Town residents on an annual basis each spring, perhaps during the first two weeks in April.

Chairman Blacker announced that the Town Report Committee had been awarded Third Place in the Massachusetts Municipal Association 1995 Annual Town Report Contest for Category I (populations of 12,500 or greater). The Board presented the Committee members with a plaque commemorating the award.

June Allen, of the Permanent Landscape Committee, presented certificates to each of the volunteers who had worked on the Traffic Islands last year.

This Town Forum was televised over the local Cable network and a copy of the video tape is available through 1997 by contacting the Selectmen's Office.

Planning Board Annual Town Meeting Articles

Present: Lawrence W. O'Brien, member of the Planning Board; Jody Kablack, Town Planner; and others.

Lawrence W. O'Brien of the Planning Board advised the Board that it is seeking support of two articles slated to be considered at the Annual Town Meeting. One, which is currently designated as Article 23, would establish a senior residential community special permit category. Mr. O'Brien explained that the Planning Board had taken the suggestions made at the last Town Meeting and attempted to incorporate such into the proposed "senior residential community bylaw". He stated that the proposal would allow for attached-single family housing developments for those 55 years of age or older. He said that such communities would provide revenue to the Town with little impact on Town services, particularly the schools. He said under the proposal 50% of the "buildable" property must remain open space, the roads must be maintained by the development, and the one-to three-bedroom owner-occupied units must be serviced by septic systems.

Chairman Blacker inquired why the wastewater disposal had to be serviced by septic systems.

Mr. O'Brien responded that the Board of Health had concerns about potential failure of sewage treatment systems and for that reason the proposed article would restrict such developments to using only septic systems.

Chairman Blacker stated that he believed that whatever system works under state standards should be permitted and opined that this issue had been raised last year only as a means to defeat the article.

As to the other article, which is currently designated as Article 24, Jody Kablack, stated that it would permit consideration of Town- and Water District-owned land to be used as wireless communication sites. She noted that under the federal communications act of 1996 local communities have limited authority to preclude such installations and envisioned the article as allowing the Town to negotiate revenues for the use of such sites.

Green Company Comprehensive Permit - Boston Post Road

Present: Myron Fox, Attorney, Joe Valle, President, Tony Green, Vice President, of The Green Company, and others.

The Board was in receipt of the following:

1. Document entitled "Fact Sheet: Sudbury Local Initiative Program" and Preliminary Land Plan, from The Green Company.
2. Excerpts of regulations promulgated by the State Department of Community Affairs pertaining to the Local Initiative Program, dated July 1, 1993, and excerpt of the Local Initiative Guidelines, regarding qualifying incomes, prices and rents, dated November, 1996.
3. Communication, dated January 23, 1997, from Robert C. Leupold, Health Director, Board of Health, noting concerns regarding wastewater disposal from the proposed 96-unit condominium development on 45 acres of land off Boston Post Road.
4. Communication, dated January 26, 1997, from Amy Lepak and Catherine Rader, Co-Presidents, League of Women Voters of Sudbury, noting its support of The Green Company proposal and urging the Board to approve the local initiative. The League noted that the proposal would increase affordable housing in the Town and would have less environmental impact than a standard subdivision. The League notes that five years ago 4.2% of Town housing was classified as "affordable" and that today the percentage has fallen to 3.8%. The League contends that Sudbury's seniors need housing alternatives and the Town needs to preserve its open space, both of which concerns are met in The Green Company proposal.

Myron Fox, Attorney for The Green Company, informed the Board that The Green Company will be filing a Comprehensive Permit Project under M.G.L. c. 40 B. He stated such process provides for in essence "one-stop shopping." Local laws and regulations do not apply. Since the plan calls for the inclusion of some "affordable housing" units and the Town has less than 10% "affordable housing", The Green Company only needs to apply to the Zoning Board of Appeals for the comprehensive permit. He explained that cooperation is being sought from the Board of Selectmen for a filing of the Comprehensive Permit Application under the Local Initiative Program, which would allow the developers to obtain private, as opposed to state, financing.

Mr. Fox informed the Board that The Green Company has decided to restrict the development to those 55 years of age and older. He stated that such would lessen the impact on the school system, which he knows the Town desires. Mr. Fox contends that such an age restriction would be enforceable. He said he had reviewed state jurisprudence and found a 1992 appeals decision upholding an eviction of a person who did not meet a similar age qualification. He further informed the Board that should the Board determine not to support the proposed development it only meant that the developers could not obtain private financing; it would not prevent the development from moving forward. He said that he had contacted the Town Assessor who projected that the development would provide a net surplus of \$250,000 annually to the Town. Mr. Fox explained that this was a conservative figure since it included the costs of Town maintained roads when in fact the development will be responsible for such. He stated that under the Local Initiative Program the Board has an opportunity to approve the initial plan. He stated that approval by the Board enables the Town to become more actively involved in the process and allows the developers to obtain private financing. He said that the initial plan is the result of many informal meetings with various Town boards, commissions, and officials. He noted that many of the surrounding towns, including Lincoln, Wayland, and Concord, as well as Lexington, Acton and Wellesley have this kind of housing. He stated that the proposed project would be similar to The Green Company development in Wayland called "The Hills at Mainstone Farms".

Joe Valle, President of The Green Company, said that the company is a family one founded in 1912. He said that they had constructed developments from Maine to Cape Cod. He said in this particular case they proposed 96 homes, 72 at \$400,000 and 24 "affordable homes" at \$90,000. He said that each home would have approximately 1500 square feet of living space and there would be a maximum of three bedrooms. He said that although the proposal this year had more homes than that presented last year, only 20% more of the land would be impacted. He said that they were able to do this by clustering the homes in a tighter configuration and by making the homes smaller. He said that there would be a 100-foot buffer to adjacent single family residences. He said that the wastewater would be treated by a treatment system. He said that the site of the proposed development falls in Zone III area and abuts a Zone II. He said that the effluent from such a treatment system is of "drinking water" quality and is often used to irrigate golf courses. He admitted that there is the issue of the nitrate load and said that although additional study is needed there is less of a "load" from a treatment system than from septic systems. He said that there is a significant market for such a development in Sudbury and opined that with that age group there would be less problems from traffic and wastewater flow. He said that he hoped that The Green Company would be able to accommodate a preference for Sudbury residents to obtain the affordable units.

Chairman Blacker opened the matter for questions from the floor.

Elaine McGrath, 42 Blueberry Hill Lane, inquired of the eligibility and residency preference for the "affordable units".

Mr. Fox responded that the requirements include a maximum annual income of \$40,000 and maximum assets of \$30,000. Regarding the local preference, he said that it would include local residents, as well as parents and children of local residents and Town employees.

Victor Guethlen, a member of the Strategic Planning Committee, inquired if the proposal could be postponed until after the Strategic Planning Committee had done its work.

Chairman Blacker explained that under the Local Initiative Process state law streamlines the permit process and that even if the local community did not want the development there was nothing short of purchasing the land that the Townspeople could do. He said that since the last Town Meeting no-one had

come forward with the \$3,000,000 to purchase the property and it is unreasonable to assume that the owner of the land is not going to sell the property.

David Burke, 10 Old County Road, stated that the development would discharge 14,000 gallons of wastewater a day and that he was concerned that the development would foul the Town's water supply.

Hugh Caspe, of the Board of Health, said that The Green Company had not approached the Board of Health. He said that there were major problems. He said that the Zone II area is directly across the street from the area where the proposed wastewater would drain from the treatment system. He agreed that a treatment system is better than a septic system, but questioned what would happen 30 years down the road. He said there is a treatment plant in Marlborough and look at the ponds near there. He stated that the Board of Health's regulations are more restrictive than the state's and that the developers are trying to get around the Board of Health. He also contended that the developers are asking for approval without providing the necessary technical information. He said that The Green Company had been asked but had never provided sufficient information about ground water flow in conjunction with last year's proposal at the same site.

Chairman Blacker countered that as long as the effluent met state standards what difference does it make what kind of system is used.

Selectman Drobinski said that if the system failed that the developers could be fined \$25,000 per day and that there are bonding requirements to ensure operation of the system.

Mr. Caspe stated that compliance and insurance issues remain.

Selectman Drobinski noted that the Board was merely considering allowing an applicant to go through a process; it was not approving a specific design.

Selectman Clark inquired whether the operable state standards protected the MWRA or wells?

Selectman Drobinski stated: "It is the wells."

Mr. Valle said that he could not answer whether a treatment system would be appropriate. He said that it would take 12-18 months of study. He said that monthly effluent reports are required. He agreed that it is necessary to establish escrow and bond funds and the fines for non-conformance are enormous.

Robert Ventura, 1 Nobscot Road, asked who would be responsible for maintaining the road. Mr. Ventura said that the terrain at the site is very rugged and that the ground water flow is very unusual. He stated that he did not want salt from winter road maintenance leaching into his well.

Chairman Blacker asked Stephen Meyer of the Conservation Commission to explain some of the wetland issues.

Mr. Meyer stated that there were some vernal pools, but that no endangered species had been found on the site. He said that there may be some rattlesnakes on the adjacent Boy Scout property. From the Conservation Commission's perspective, he stated that the proposal is a good one because it preserves more open space than local bylaws require. Also he noted that the wetland buffers are greater than required. He said that the developer could, if he chose, put in 15-20 more houses.

Deborah Dineen, Conservation Coordinator, said that the proposed site had not been given priority status by the Conservation Commission because it did not have much value unless the Boy Scout property is also preserved.

Mr. Meyer noted that the Boy Scouts wanted \$1,000,000 in exchange for a conservation restriction on their property and thus implied that preservation of that parcel is not likely to occur in the immediate future.

Ed Sooper, 47 Churchill Street, stated that he thought The Green Company proposal was the best thing that could happen for the Town. He said that when he turns 55 he plans to sell his home and would like to continue to live in Sudbury at just such a development. He said that the Town was lucky that there is a company willing to consider the Town's concerns.

One resident stated that there was an "over-stock" of children and that the Townspeople should consider the opinions of their elected officials. She asked if the 55 year age requirement was in perpetuity.

Chairman Blacker stated that the age requirement should specify that the person be both the owner and occupant and that he/she hold both the equitable and legal titles. He said that he did not want a situation whereby the person could hold merely a nominal interest.

Steven J. Swanger, of the Sudbury Housing Authority, stated that the Authority had voted to support the Local Initiative proposed by The Green Company. He stated that the Authority was particularly pleased with the "affordable housing" component.

Selectman Clark explained that under the Local Initiative Program the State Department of Community Affairs establishes the guidelines. She said that because there are no state funds developers are using the Local Initiative Program. In lieu of state funds, technical assistance is provided by the state. She stated that she had contacted personnel at the State Department of Community Affairs who indicated surprise that anyone proposed building condos given current poor market conditions. Selectman Clark opined that the affordable units would sell, but doubted that the others would. She noted that the State housing guidelines establish \$73,000 as the maximum for such an affordable unit, and not the \$90,000 proposed. She also noted that the guidelines establish a preference for family occupancy. She noted under the guidelines that age restrictions may be acceptable only if the community has within the past five years established other non-restrictive affordable housing. Finally, she noted that the guidelines specify that the developers may reap a maximum profit of 20% and such must be certified.

Selectman Clark stated that the Board had to act in good faith. She said that much of the land within the Township is wetland. She said that the Board must look at what is best for the community. She related that years ago the United Nations considered building its headquarters in Sudbury and starting buying up land. She said that two farmers held out and the proposal died.

Selectman Clark said that she is both a lawyer and a farmer. She stated that she could not see the merits of this proposal for the Town. She noted that forest and farmland cost very little in community services to the Town. She noted that there were no Sudbury residents, 60 years or older, currently on the waiting list for the Musketahquid Village.

Steven J. Swanger, of the Sudbury Housing Authority, stated that such was the case because people had difficulty getting up the stairs to the units on the second floor.

Myron Fox stated the reason the proposed affordable units are priced at \$90,000 is because new regulations are forthcoming that would raise the maximum to that amount.

Town Planner Kablack informed the Board that the affordable housing recently constructed at Fairbank Circle qualifies under the State guidelines to permit an age restriction for this project .

Amy Lepak, Co-President of the League of Women Voters of Sudbury, stated that the League supported The Green Company proposal primarily due to the creation of diversified housing alternatives in the community.

Chairman Blacker agreed with Selectman Clark's statements. He said that farms and open space require little or no Town services. However, he said that the reality is that this landowner is going to sell his property and it is not going to be open space any longer.

Chairman Blacker moved to approve the Massachusetts Local Initiative Program application of The Green Company, Inc. to construct no more than 96 attached homes ("Units") (25% of which will be affordable) on land located on Boston Post Road, Sudbury, Massachusetts, shown on the attached "Preliminary Land Plan dated January 1997; provided (1) that there be placed upon each Unit, deed restrictions such that at least one person who is both an owner and occupant be age 55 or older ("Age 55 Occupant"); (2) that such Age 55 Occupant be a title holder as to both legal and equitable title and that the ownership interest of such Age 55 Occupant be no less than the number of such Age 55 Occupant divided by the total number of full-time occupants; and (3) that, provided all of the following meet the age 55 requirements, Sudbury residents, their children and parents and Sudbury Town Employees be given preference for the affordable Units, to the extent permitted by State and Federal regulations.

Selectman Clark stated that she wanted the following information from The Green Company: (1) locations of previously developed communities; (2) number of units in those communities; (3) size of the land where such communities are situated; (4) dates when construction started and when completed; (5) if not completed by The Green Company, the name and address of who did complete the project and when such was completed.

Selectman Clark, noting the Board of Health's concerns, stated that the Town needed to take heed.

Chairman Blacker agreed, but stated the wastewater issue will be resolved after 12 to 18 months of testing and study.

Selectman Drobinski noted, that under the process before the Board, the Comprehensive Permit will be considered by the Board of Appeals. He said that testing will be required and that the developers will have to meet State Department of Environmental Protection standards. He suggested that the Board of Health present its case to the Board of Appeals for consideration.

Hugh Caspe, of the Board of Health, suggested that the Board condition its approval on the developers meeting local Board of Health regulations.

Selectman Clark inquired if the Town water system fails whether the Town could make the developers provide remediation.

Selectman Drobinski stated that the Board could not by law insist on local board requirements on this project. He said that all state and federal water quality standards would have to be met.

Chairman Blacker's motion was seconded by Selectman Drobinski and the Board

VOTED: To approve the Massachusetts Local Initiative Program application of The Green Company, Inc. to construct no more than 96 attached homes ("Units") (25% of which will be affordable) on land located on Boston Post Road, Sudbury, Massachusetts, shown on the attached "Preliminary Land Plan dated January 1997; provided (1) that there be placed upon each Unit, deed restrictions such that at least one person who is both an owner and occupant be age 55 or older ("Age 55 Occupant"); (2) that such Age 55 Occupant be a title holder as to both legal and equitable title and that the ownership interest of such Age 55 Occupant be no less than the number of such Age 55 Occupant divided by the total number of full-time occupants; and (3) that, provided all of the following meet the age 55 requirements, Sudbury residents, their children and parents and Sudbury Town Employees be given preference for the affordable Units, to the extent permitted by State and Federal regulations.

(Chairman Blacker and Selectman Drobinski, aye; Selectman Clark, nay.)

There being no further business to come before the Board, the meeting adjourned at 12:00 a.m.

Attest: _____
Steven Ledoux
Town Manager-Clerk