

Jeffrey Bannon, Chair person  
Jonathan Anderson, Vice Chair  
David Hall, Clerk  
Jesse Limanek  
Wendy M. Mead



Sutton Town Hall  
4 Uxbridge Road  
Sutton, MA 01590  
Telephone (508)865-8727  
Fax :( 508)865-8721

James A. Smith, Town Manager

Town of Sutton  
Select Board

Meeting Minutes

**Minutes Accepted and filed with the Town Clerk 1/17/2023 by a roll call vote of 5-0**

6:00 p.m. – January 3, 2023

Roll Call vote taken:

Members in Attendance in person:

Chairperson Jeff Bannon, Vice Chair Jonathan Anderson, Clerk David Hall, member Jesse Limanek in person, member Wendy M Mead by zoom

Also in attendance in person: Town Manager James Smith, Town Accountant Tim Harrison & Deb Jacques, secretary

Chairperson Bannon recites the following: Pursuant to Governor Baker's March 12, 2020 Order suspending certain provisions of the Open Meeting Law, this meeting of the Sutton Select Board is in a hybrid format with both in-person and Zoom component. To join the meeting visit [www.zoom.us/join](https://www.zoom.us/join) and enter Meeting ID 836 9867 0226/Passcode: 348076. The meeting will be broadcast and recorded on local public access station (Verizon 31 & Charter/Spectrum 191) and live streamed on the Towns YouTube channel when available.

Public Forum – Dave Pizzi 55 Fairway View Drive is requesting to obtain a copy of the 40B Presentation being given tonight to share with neighborhood groups.

Select person Hall motions to accept as presented the December 20, 2022 Select Board meeting minutes Select Person Limanek seconds passes 5-0 with roll call vote.

Public Hearing – 61A 236 Central Tpk. Debra Kuchinski- Select Person Hall reads the public notice as advertised in the Dec. 15, 2022 Millbury Sutton Chronicle- Town Manager Smith requests this be continued to a future meeting as there were changes made to the P&S which we were notified of last week. Select person Limanek motions to continue The Public Hearing for the 61A property at 236 Central Turnpike (owner Debra Kuchinski) to the January 17<sup>th</sup> 2023 Select Board meeting providing all required paperwork is received by the Select Board office in a timely manner for review Vice Chair Anderson seconds passes 5-0 with roll call vote

The Dudley Gendon American Legion Riders have requested to be removed from agenda.

40B Local Initiative Program (LIP) presentation with KP Law- present is Atty Amy Kwesell (KP Law)- Town Manager Smith states there are 4-5 possible affordable housing projects potentially moving forward in town- these developments prefer to file LIP's (friendly 40B). Sutton currently has 55 units or 1.7% of year round housing- the state requires 10%. Atty Kwesell begins her presentation (attached to final minutes). Chapter 40B enables developers to obtain one comprehensive permit from the ZBA for residential development with ZBA acting on behalf of all local boards. To allow a friendly 40B the Select Board/Town Manager sign the application to endorse it and then can also negotiate an MOA. The ZBA would act on their issues as well as all other local boards with peer reviews when necessary. Development is usually at a greater density than normally permitted- these projects are usually a mixture of market rate and below market rate. In order for Municipalities to be considered "consistent with local needs" there must be certain thresholds (10% units are affordable- 80% AMI) are met relating to housing units & housing production as well as low or moderate income housing, 1.5% of the towns land area (General Land Area Minimum -GLAM), if the town is certified as being in compliance with a Housing Production Plan (Sutton's is valid until 12/15/24) or there is a large scale project (200 units) planned- the town could then request the safe harbors act. If Sutton is consistent with local needs the ZBA may deny a permit, if town not consistent with local needs and ZBA denies application- the applicant can appeal to Housing Appeals Committee. To begin process, the developer must submit a project eligibility letter to the Town Clerks office- there are 3 requirements, public agency, nonprofit, or limited dividend

organization, project fundable by subsidizing agency under low or moderate income and site control. Once letter submitted- there needs to be notices sent to local boards within 7 days, open a public hearing within 30 days and close the public hearing within 180 days then offer a decision within 40 days forwarding a copy to DHCD. Outside consultants should be hired at the expense of the developer and all votes pass by majority. A site visit will also be planned with DHCD, the developer and local officials. The decision should be based on some of the following criteria- reasonability and consistency with local needs, the balancing test (need for affordable housing outweighs valid planning objections to details of proposal- health, open space and safety. The ZBA cannot deny based on meeting local regulation conditions, uneconomic conditions, infrastructure concerns- the applicant can appeal denial or conditions to the Housing Appeals Committee- if there are abutter issues- they would appeal to Superior or Land Court. Select person Hall asks who determines if the project is uneconomic- Atty. Kwesell replies if the applicant says conditions will make the project uneconomical during the Public Hearing- ZBA puts the application on hold- there are certain conditions that make it uneconomical- size, health & safety, whether infrastructure can handle it. The applicant may then go to the Housing Appeals Committee (HAC)- they usually side with the developer. If it is a traffic issue, ask for a traffic peer review. Select person Hall questions if the board should they move forward with a letter of support – the Atty. replies you are not obligated to sign onto a LIP application- the benefit of a LIP is if it is a good well designed project. Its beneficial to the town if you can get an MOA and address things such as reducing the density. If the Select Board does not sign on they still submit the application to the Town Clerk. Select person Limanek asks about the comprehensive permitting process- ZBA can only waive the local regulations- not state- Jesse asks how often does ZBA win if appeals are filed- Atty. Kwesell replies never- concerns have to be significant and a real concern. Jesse is concerned as some of the 40B projects are detrimental to communities. HAC's major concern is affordable housing and that outweighs any other concern. What if a 40B comes in and it was determined after the fact there was an issue with wells or septic in the area- what actions retroactively can the town take- Atty. Kwesell replies if the Comprehensive Permit is out of compliance that is enforced by the Building Inspector under the ZBA regulations. Jesse also has concerns with the windy narrow roads in town adding increased traffic. Select person Mead (Zoom) re: the project eligibility letter- if the developer cannot meet the thresholds can they reapply – Atty. Kwesell replies yes they go back in front of MA housing. The ZBA is stepping into the shoes of the local boards- if they approve with conditions that's when the developer can go to the HAC- yes that is correct. Wendy asks if we enter into an MOA and they are not holding up their end who do we go to- that would be a breach of contract claim in court. Once we sign the MOA does the Select Board lose control over the project– Atty. Kwesell replies yes unless the Select board has control over things such as curb cuts. Vice Chair Anderson is frustrated and feels this disproportionally impacts small towns – our population can grow by 10% with one large project- but acknowledges we do have the need for affordable housing but the only path to deal with this is thru growth. Jonathan asks if developers have to go before the Select board- Atty. Kwesell replies no- only obligation is that MA Housing sends notice to the Chief Operating Officer of the town- you have 30 days to comment. Regulations define local need- ZBA cannot consider the impact to municipalities or schools as a reason to deny. Chairperson Bannon says there is a limitation what the Select Board can do- if we vote not to go the favorable route it will not impact the development- the developer will go to the ZBA- if we have a MOA showing we are in favor the project moves on and then they go to ZBA- once the comprehensive application is submitted- ZBA can put on added conditions- density is always an issue.

#### **Town Manager Update:**

- Out of District Special Ed costs- continue to increase at an unsustainable level. The State Dept of Elementary Ed & Secondary Ed recently approved a 14% increase on out of District Spec Ed costs. Last year's budget was presented at \$1,930,000 which we appropriated \$700,000 in free cash to help cover. At that time- we expected to appropriate an additional \$700,000 in FY24 and in FY25 that would drop to \$500,000. Currently the FY24 projection is \$2.54 million.
- Hiring Freeze- do to the uncertainty with the school budget- we have instituted a hiring freeze effective immediately- the school is implementing a similar policy.
- Fire Dept. grant- Sutton Fire received a \$15,439. Grant from Exec. Office of Public Safety & Security and the Dept. of Fire Services for safety equipment.
- Sutton Center Cemetery sign- has been installed next to the Hearst house on Boston Road. The cemetery restoration work was led by Ross Weaver along with Brian Stevenson, Dave Pizzi and John Belculfine. The town contributed \$2300.00 for the sign, bracket and granite post.
- Marion's camp sign- a sign at Marion's camp was damaged- Creative Sign works in Millbury removed, remade and reinstalled pro bono. We thank Creative Sign

#### **Announcement's/Round Table:**

- Select person Hall says no one believes students do not deserve the Special Ed. but the funding is not sustainable. New Year wishes to everyone.
- Select person Limanek reads the list of needs for the Sutton Food Pantry.
- Select person Mead says to take New Year wishes forward and share- make Sutton a happy place to be.
- Vice Chair Anderson feels frustrated after the 40B presentation and feels there is not a lot of options but in the end maybe we will be a better community.
- Chairperson Bannon says the Board has received correspondence from the Villas Condo Trust outlying concerns with the 40B project- we will take it under advisement.

**Select person Limanek motions to adjourn, Vice Chair Anderson seconds Roll Call vote taken- passes 5-0 adjourned 7:59pm**

