

IN BOARD OF SELECTMEN
WEDNESDAY, JANUARY 10, 1996

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

The statutory requirements as to notice having been met, the meeting was convened at 7:30 p.m. by Chairman Drobinski in the Town Hall.

Change in Manager - "99" Restaurant

Finding that the documentation was in order, upon the recommendation of the Interim Town Manager on the petition of 99 West, Inc., dated December 17, 1995, it was on motion of Chairman Drobinski unanimously

VOTED: To approve a change in manager, in accordance with G. L. Ch. 138, for 99 West, Inc., d/b/a "99, 694 Boston Post Road, holder of a Restaurant Alcoholic Beverages License, to Scott J. Falzano.

Utility Petitions 96-1 (a), Peakham Road and 96-1 (b, c, d), Boston Post Road

The Board convened a public hearing to consider Utility Petitions 96-1 (a), Peakham Road, and 96-1 (b, c, d), Boston Post Road, submitted by Boston Edison Company and New England Telephone and Telegraph Company in order to accommodate grading plans at the intersection of Boston Post Road and Peakham Road. The petition requests three new pole locations and the abandonment of four pole locations.

Interim Town Manager Thompson noted that all appropriate abutters had been notified and approval had been recommended by the Inspector of Buildings and the Wiring Inspector under date of January 2, 1996.

It was on motion of Chairman Drobinski unanimously

VOTED: To approve Utility Petition 96-1(a) from Boston Edison Company and New England Telephone and Telegraph Company for permission to abandon the existing location of pole 1/139 and relocate pole 1/139 on the easterly side of Peakham Road, approximately 80 feet north of Boston Post Road, as shown on Boston Edison Company "Plan of: Boston Post Rd. & Peakham Rd., Sudbury," dated September 28, 1995; and

VOTED: To approve Utility Petition 96-1 (b, c, d) from Boston Edison Company and New England Telephone and Telegraph Company for permission to: abandon the existing location of pole 18/158, and to relocate pole 18/158 on the northerly side of the Boston Post Road, approximately 60 feet east of Peakham Road; erect pole 18/158S on the southerly side of the Boston Post Road, approximately 60 feet east of Peakham Road; and to remove 18/159 and stub pole 18/159, abandoning the existing location of those poles, all as shown on Boston Edison Company "Plan of: Boston Post Rd. & Peakham Rd., Sudbury," dated September 28, 1995.

Minutes

It was on motion unanimous

VOTED: To approve the regular session minutes of December 11, 1995, as amended.

Council on Aging - Van Donation

It was on motion unanimously

VOTED: To accept \$159.20 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.

D.A.R.E. Program Donation

It was on motion unanimously

VOTED: To accept with gratitude \$100 from Berlin Auto Parts, Inc. to be deposited into the D.A.R.E. Program Account, and to authorize the Police Chief to expend same for the D.A.R.E. Program.

Northland Water Main/Pedestrian Path Donation

It was on motion unanimously

VOTED: To accept \$15,000 from Northland Residential Co. to be placed into a separate account and expended under the direction of the Town Engineer for installation of a water main and construction of a pedestrian path between the Carding Mill and Southwest Estates subdivisions and other incidental work as needed on this location.

Rebecca Circle Donation

It was on motion unanimously

VOTED: To accept with gratitude \$185 from the Rebecca Circle - Sudbury United Methodist Church to be placed in the Town's Discretionary Fund.

Cutting - Walkway Easement

It was on motion unanimously

VOTED: To accept on behalf of the Town, a Walkway Easement dated December 7, 1995, from Webster Cutting, Jr., Frank J. Cutting, Lucius P. Cutting and John C. Cutting, as shown on "Plan Showing Walkway Easement over land on Fairbank Road, Sudbury, MA, owned by Webster Cutting, Jr., John C. Cutting, Frank J. Cutting and Lucius P. Cutting, dated November 3, 1995, drawn by Town of Sudbury Engineering Department.

Carding Mill and Haynes Meadow House Leases

It was on motion unanimously

VOTED: To approve and sign in conjunction with the Conservation Commission, an annual lease with 1) Michael Stiller and Gregory Poole for the Carding Mill Building, 102 Dutton Road, to expire November 30, 1996 and 2) Gregory and Elizabeth Sobel for the Haynes Meadow House, 489 Peakham Road to expire November 14, 1996.

1996 Annual Town Election/Meeting

It was on motion unanimously

VOTED: To approve the required action for the 1996 Annual Town Election, Annual Town Meeting and March Presidential Primary as set forth by the Assistant Town Clerk in communications dated December 12, 1995, as follows:

1. To set the 1996 Annual Town Election for the four precincts in Sudbury for Monday, March 25, 1996, from 7:00 a.m. to 8:00 p.m. Precincts 1 and 2 at the Fairbank Facility and Precincts 3 and 4 at the Loring School;
2. To establish that the Annual Lincoln-Sudbury Regional School District Committee Election shall be combined with and held as part of the Annual Town Election of Sudbury, and that the ballot for the Annual Lincoln-Sudbury Regional School District Committee Election shall be included with and prepared as part of the ballot for the Annual Town Election;
3. To establish that the listing of the offices shall be the same as set forth in the warrant for the Lincoln-Sudbury Regional School District Committee Election and shall be printed as the last office on the ballot;
4. To set the opening session of the 1996 Annual Town Meeting for Monday, April 1, 1996, at 7:30 p.m. in the auditorium of the Lincoln-Sudbury Regional High School;
5. To approve allowing the Board of Registrars to hold a special voter registration session prior to the Annual Town Election and Town Meeting in the Town Hall, on Tuesday, March 5, 1996, until 8:00 p.m., according to Chapter 475 of the Acts of 1994.

Presidential Primary

It was on motion unanimously

VOTED: To set the time and place of the polls for the Presidential Primary at 7:00 a.m. to 8:00 p.m. on Tuesday, March 5, 1996, in the Fairbank Community Center gymnasium for Precincts 1 and 2 and in the Loring School gymnasium for Precincts 3 and 4; and it was further

VOTED: To approve use of Town Hall for a special voter registration session for the Presidential Primary on February 14, 1996 from 9:00 a.m. to 8:00 p.m.

E. B. Hosmer Memorial Fund

It was on motion unanimously

VOTED: To authorize expenditure of \$3,707.50 from the E. B. Hosmer Memorial Fund to pay Pairpoint Crystal Co. for cup plates.

Sudbury Water District Water Resource Protection Committee

It was on motion unanimously

VOTED: To reappoint James F. Occhialini as Selectmen's representative to the Sudbury Water District Water Resource Protection Committee for a term for expire May 31, 1997.

Rubbish Removal Contract

It was on motion unanimously

VOTED: To approve the contract for rubbish removal for the 1996 calendar year with Reliable Rubbish Disposal, Inc. at the total bid cost of \$18,824.

Stop Loss Insurance Contract

It was on motion unanimously

VOTED: To approve the contract for stop loss insurance for the 1996 calendar year with Boston Mutual Life Insurance Company, brokered by Anderson Crosby Insurance Agency, Inc. at a cost of \$12.16 per individual plan and \$29.47 per family plan.

1996 Annual Town Meeting - Accept Articles

It was on motion on Chairman Drobinski, unanimously

VOTED: To accept forty-nine articles submitted for the Warrant for the 1996 Annual Town Meeting; and

VOTED: To refer all zoning bylaw articles to the Planning Board for its hearings and reports in accordance with G.L. Ch. 40A, s.5; and further, to refer all walkway articles to the Planning Board for its consideration and report.

It was noted that articles submitted by petition may be accepted until the time the Warrant is signed by the Selectmen, and that deliberations relative to the merits of the articles will take place at a future Selectmen's meeting.

Interim Town Manager Thompson suggested that the Selectmen individually advise the office staff of their preferences on ordering the Warrant.

Joint Meeting - Housing Authority Appointment

Present: Chairman Steven J. Swanger, Sidney Wittenberg and Bettie H. Kornegay, Sudbury Housing Authority; Sudbury Housing Authority Executive Director Jo-Ann Howe; candidates John R. Heerwagen, Janet M. Meaney and Kathleen Phillips.

Chairman Drobinski opened the joint meeting of the Board of Selectmen and the Sudbury Housing Authority for the purpose of interviewing and electing by roll call vote one member to the Housing Authority to serve until the effective date of the next Annual Town Election to fill the vacancy left by the resignation of Virginia L. Howard, in accordance with G.L. Ch. 41, s. 11, as amended. Interim Town Manager Thompson stated that by statute the vote must be public and by roll call. All present agreed that Interim Town Manager Thompson should serve as clerk for taking this vote.

Housing Authority Chairman Steven Swanger stated that although only one of the three well-qualified candidates could be chosen to fill the position, the Authority hopes that the other two will choose to assist the Authority on an informal basis. Based on the fact that Mr. Heerwagen had submitted an unsolicited application approximately nine months ago, Mr. Swanger advised that it was the recommendation of the members of the Sudbury Housing Authority that Mr. Heerwagen be appointed to fill the vacancy.

After each of the candidates were introduced and made brief statements as to their background and interest, the following nominations were made and seconded: John R. Heerwagen, nominated by Steven Swanger; Kathleen Phillips, nominated by John Drobinski; Janet Meaney, nominated by John Drobinski.

The following roll call vote was recorded:

Lawrence L. Blacker - John R. Heerwagen
Maryann K. Clark - John R. Heerwagen
John C. Drobinski - John R. Heerwagen
Bettie H. Kornegay - John R. Heerwagen
Steven J. Swanger - John R. Heerwagen
Sidney Wittenberg - John R. Heerwagen.

Selectman Drobinski declared John R. Heerwagen to be duly unanimously elected to fill the vacancy on the Sudbury Housing Authority, left by the resignation of Virginia L. Howard, to serve until the effective date of the Town Election in accordance with G.L. Ch. 41, s. 11, as amended.

Mr. Heerwagen was welcomed and the Board, in thanking the other candidates, expressed its hope that the other candidates would allow the Housing Authority to utilize their considerable expertise, relevant experience, and interest. Ms. Meaney and Ms. Phillips stated that they intended to do so.

Site Plan Special Permit - Bell Atlantic/NYNEX Mobile Present: Leonard P. Belli, President, C.M.C. Managements, Inc.

At 8:00 p.m., the Board convened the public hearing continued from November 6, 1995 to consider application SP95-325, dated September 21, 1995, and received September 25, 1995, of Bell Atlantic/NYNEX Mobile (BA/NMCC), 600 Unicorn Park Drive, Woburn, MA, for a Site Plan Special Permit for erection of a communications tower, an 11' by 27' radio equipment building, and a 30' by 36' two-bay garage for the Town, on property located at 20 Boston Post Road, Sudbury's Sanitary Landfill, LID5.

The continuance was rescheduled from December 20, 1995 to January 8, 1996 and so advertised on December 7 and December 14, 1995. Because of the forced closing of Town offices due to the snow emergency on January 8, the continuance was rescheduled by mutual consent of the parties to January 10 and advertised by radio.

Recognizing that the applicant had failed to receive the necessary Special Permit under the provisions of Section IV,A,4 of the Zoning Bylaw at the hearing of the Board of Appeals held on December 12, 1995, Interim Town Manager Richard E. Thompson recommended that the Board approve the site plan in the hope that something can be worked out with the Town.

Selectman Blacker stated that the process allows the applicant to apply for the zoning permit before obtaining site plan approval; the Site Plan Special Permit is a separate issue and can move forward independent of the permit from the Board of Appeals and appeal of that denial.

Mr. Belli stated that he did not know the intention of NYNEX but would appreciate approval of the Site Plan, leaving some flexibility to change the tower design which they are willing to do if desired, noting that construction of a monopole is an option. Mr. Belli pointed out that the specific location is required and, for the record, clarified that a Wayland site was never explored and never will be, advising that Wayland does not need coverage since it is covered by a site located in Weston. Further, Mr. Belli advised that the extant tower location is one which was carefully researched and is the only location possible which will accomplish its purpose. The tower height shown on the plan revision has been reduced to a height of 125'.

Selectman Blacker expressed his belief that the economic benefit for the Town far outweighs the perceived loss of aesthetic beauty which is, in his opinion, questionable because of the location of the Landfill. Selectman Blacker recommended that the Board move forward with the approval reserving some flexibility in design. Selectman Blacker suggested that the approval be structured so that the tower height be no greater than 125, the design of the tower can be worked out at a future time, and the tower base be no larger than 16' so as to allow for design flexibility.

It was on motion unanimously

VOTED: To direct the Interim Town Manager to draft a decision of approval incorporating Selectman Blacker's stipulations as noted, and to continue this hearing to January 22, 1996, for the purpose of voting on said decision.

Street Layouts for 1996 ATM

It was on motion unanimously

VOTED: That the Board intends to lay out the streets of Codman Drive (from Morse Road to a dead end, a distance of 1,108 feet, more or less); Brownstone Lane (from Old Lancaster Road to a dead end, a distance of 563 feet, more or less); Bowker Drive (from Ford Road to Elsbeth Road, a distance of 1,195 feet, more or less; Saunders Road (from Bowker Drive to a dead end, a distance of 500 feet, more or less); and Ruddock Road (from the end of the 1975 public layout of Ruddock Road northerly to Willis Road, a distance of 963 feet, more or less), at its meeting of March 11, 1996, and to refer the aforementioned layouts to the Planning board for its report prior to said hearing on March 11, 1996.

Keno License - Jezebel's Restaurant, 29 Hudson Road

The Board took notice of a communication dated December 15, 1995 from the Massachusetts State Lottery Commission advising that Jezebel's restaurant has applied for a Keno license. Interim Town Manager Thompson advised that no local approval was necessary. The Selectmen voiced no objection.

Trustees of Town Donations - Asset Transfer and Investment Approval

In accordance with a January 4, 1996 communication from Town Treasurer and Collector Mary Ellen Normen Dunn on behalf of the Investment Advisory Committee and the Town Treasurer, it was on motion unanimously

VOTED: To amend the October 23, 1995 vote of the Trustees of Town Donations to include the approval of the transfer of \$20,000 from cash to T. Rowe Price Capital Appreciation Fund, said vote inadvertently omitted from the recorded minutes; and

VOTED: To approve an additional transfer of \$20,000 from cash to T. Rowe Price Capital Appreciation Fund; and further

VOTED: To approve the transfer of Trust Fund assets from Advest, Inc. to Charles Schwab, Inc. for the purpose of closing the Advest Account.

Land Management Reports - Surrey Lane and Raymond Land Management Assignment

It was on motion unanimously

VOTED: To accept the 1995 Land Management Reports submitted by the Conservation Commission, under date of December 11, 1995, pertaining to the Surrey Lane parcel, the Raymond Land, and the Parkinson Land; and to extend the assignment of the management of the 72-acre and 38-acre portions of the Raymond Land and of the Surrey Lane parcel for a one year period to expire on January 1, 1997.

The position of the Selectmen remains the same as previously expressed relative to transfer of the Surrey Lane parcel to the control of the Commission.

Recodification of the Zoning Bylaw

The Board acknowledged receipt of the December 7, 1995 communication from Patrick J. Delaney, III, Chairman of the Zoning Board of Appeals, proposing that he rewrite the Zoning Bylaw with Board of Appeals membership review, rather than incurring the cost of recodification by an outside consultant. Mr. Delaney's proposal will be taken under advisement until after consideration of the Town Meeting article to fund recodification.

Interim Town Manager Thompson stated that he would recommend that, in conjunction with the proposed recodification by an outside consultant, the Board of Appeals membership act in an advisory capacity.

Selectman Blacker stated his position favoring use of an outside consultant as proposed in the Town Meeting article.

Group Health Insurance Consultant Contract

The question of authorizing the Interim Town Manager to enter into a contract for calendar 1996 with a group health insurance consultant, pursuant to the recommendation of Benefits Coordinator Christine Gundling under date of December 6, 1995, was tabled to the Selectmen's meeting of February 12 as a timed agenda item in order for the Insurance Advisory Committee to attend.

Woodard & Curran Contract - Engineering Oversight, Tank Removal

Upon the recommendation of the Interim Town Manager based upon input from Health Director Robert Leupold, it was on motion unanimously

VOTED: To approve the contract with Woodard & Curran for engineering oversight of underground storage tank removal at the Town Hall and preparation of an Immediate Response Action Plan to support the removal, as proposed by Woodard & Curran on January 2, 1996.

Service Agreement for Disposal of Municipal Solid Waste

Noting that the contract had received Town Counsel's approval, and upon the recommendation of the Interim Town Manager, it was on motion unanimously

VOTED: To authorize the Town Manager to enter into the proposed Service Agreement for disposal of solid waste with SEMASS Partnership subject to no objections being raised by the Selectmen in their review of the document within the next seven days.

Site Plan Special Permit, SP95-324 - Star Market Expansion

Present: Stephen E. Grande, III, Esq., representing Star Market; James G. Jacobs, Philip F. Paradis, Jr., and Thomas C. Houston of C.I.D. Associates, Consulting Engineers; John Bierschenk, Project Manager, ENSR Consultants; John C. Civilinski, Gravestar; Star Markets Co.; Conservation Coordinator Deborah Dineen; Reed Lowry, Ralph Hawes, Agnes Hawes, Richard Vanderslice, T. P. Murphy, and others.

At 8:30 p.m., the Board convened the public hearing continued from November 6, 1995 on the application, SP95-324, dated August 15, 1995, and received September 8, 1995, of Sudbury Plaza Trust, c/o Gravestar, Inc., for a Site Plan Special Permit for expansion of the Star Market Co. store, located at 509 Boston Post Road. The continuation of the public hearing to January 8, 1996, rescheduled from December 4, 1995, was advertised in the Sudbury Town Crier on December 28, 1995. Because of the forced closing of Town offices due to the snow emergency on January 8, the continuance was rescheduled by mutual consent of the parties to January 10 and advertised by radio.

Attorney Stephen Grande presented an overview of the changes to the plan since the last meeting. ENSR, hired by Gravestar to deal with the contamination issue with the DEP, has been working diligently on their design efforts to remove the contamination on site. Star Market and CID Associates have been working on other groundwater issues on site, e.g. drainage and septage. Numerous meetings with the Conservation Commission have resulted in various plan changes. Mr. Grande noted that there are various intertwined areas of concerns in connection with site development -- aquifer protection addressed by the Planning Board, wetlands issues addressed through the Wetlands Protection Act administered by the Conservation Commission, and contamination issues addressed through the DEP and Board of Health.

Mr. Grande advised that a pump system is being installed to pump PCEs from one well to another well to a treatment system. Clean water will then be drained into the drainage system on site. The new main drain to be built will prevent any existing contamination from getting into the pipe and nothing can get out of the pipe, so that only clean water goes from this system to the storm system. The site must also handle water from Raytheon which comes across the road and enters the drain system. At the request of the Conservation Commission, the system to be installed at the northeast corner of the property will address the so called "first flush", which occurs when initial rainfall removes contaminants from ground surfaces. Oil will be separated from water which will go into a multi-tiered basin for further separation before discharge into the wetland. Mr. Grande advised that the septic design has been greatly improved: the system to be installed will handle a larger volume and will be constructed higher from the groundwater and further from the wetland. Mr. Grande informed the Board that only a couple more issues need to be resolved with the Conservation Commission concerning point source discharge in back of CVS, dealing mostly with roof drain water, and behind the new addition at the rear of the site. Some potential contamination will be reduced, since no truck parking will take place at the rear of the site; however, roof drainage will need to be addressed. The Commission is meeting with the engineers on January 22 to finalize the designs and plans and Mr. Grande is hopeful that at that time the Commission will make a recommendation to the Board for plan approval.

Mr. Grande expressed his appreciation to Selectman Clark whose concerns led to the formation of a sub-group to review the contamination issues. Conservation Commissioner Ted Pickering and Dr. Chiang, consultant for the Water District, are members of this group. ENSR's initial design work, commissioned by Gravestar two years ago, and the system for removal have been found to be fundamentally sound; therefore, there have not been a lot of design changes. That initial work over the past two years has been checked and rechecked by the sub-group members who appear to be satisfied that the right thing is being done relative to the contamination. Mr. Grande reminded the Board that this is a Phase I project and that there are more phases to come. Mr. Grande stated that it is the recommendation of Star Market and Gravestar that Sudbury may want to bring in an independent individual to look at how the work is being performed. As a Phase I project it will be monitored some by the DEP but not on a constant basis. He does not believe the design work requires further review by anyone for the Town beyond the experts who dealt with it.

Mr. Grande indicated that the Conservation Commission has approved an emergency order and work is expected to begin on the remediation system and the main drain. This order will permit remediation to stop the seepage of contaminants which has been discovered from the existing underground pipe which has broken in places.

Mr. Grande advised that Star Market has addressed the question as to whether Star Market should become involved in digging the foundation for a 10,000 sq. ft. addition in an area in proximity to contaminants. Extensive testing has been done in the adjacent area, where the septic system is sited, and under the slab of the building which show that no contamination has migrated to these areas and, in fact, is prevented from doing so because of the direction of water flow away from the area and other topographical features of the site. The applicant is confident that it is safe to proceed with construction and intends to continuously test during the building period.

Selectmen Drobinski reported that he had spoken with the Town Planner after the Planning Board meeting on the application. Ms. Kablack advised that the meeting went very well and it was inferred that the Planning Board was reasonably happy with the manner and details of the presentation which allowed them to have a better understanding from the standpoint of a layperson.

In response to Selectman Drobinski's query concerning the contamination as to the scoring of the classification form submitted to the DEP, ENSR's engineer informed the Board that the score was a Tier 1B. This means that the LSP (licensed site professional) will basically make the decision and not DEP. The IRA (immediate response action) plan submitted to the state was approved and is basically the current plan. Mr. Houston confirmed that all the documentation has been and will be submitted to the Board of Health and the Chief Municipal Officer. No public response has been received to Mr. Houston's knowledge relative to the Notice for Public Participation. As to whether Mr. Houston feels that they have a understanding of the transport of the PCE, Mr. Houston cited the data on hand taken from cross sections and ten new test wells, and expressed his opinion that the bulk of the contamination is moving with a fluctuating water table and not uniformly distributed in the aquifer. Selectman Drobinski stated that even with the LSP in charge, the Town would be looking at it. Selectman Drobinski indicated that he has no other issues or questions concerning the contamination because that is a statutory process, noting that the Conservation Commission and the Town have to work with the DEP.

Conservation Coordinator Deborah Dineen reiterated that the Commission has approved the replacement of the pipe under an Emergency Certification in order to stop the flow of contamination. The Commission is working with the applicant on the design to mitigate the existing parking lot runoff as an offset to allowing some work in the buffer zone. Ms. Dineen stressed that the Commission is not looking at the plan proposed for the cleanup which has been approved by the DEP. Since the Commission's expertise does not fall in this area, the assumption is being made that the Board of Health and DEP are the responsible agencies.

In response to Selectman Drobinski, Mr. Grande informed the Board that the shed containing the pump and filter systems would be approximately 10 ft. X 20 ft.

Mr. Grande stated that the first response of Town officials to this project when first introduced by him, was that a traffic control signal was required. Consequently, Star and Gravestar agreed to provide and pay for one. Raytheon Company, when approached, reacted favorably to the concept. Both from the standpoint of traffic flow and service to clients, it is agreed that signalization is desired. However, the State Highway Department has indicated to the applicant by letter that, having studied the matter, they would like the Plaza renovation work to be completed so that they can study the traffic patterns coming out of the market. In fact, the Department further advises that, without signalization at Star Market, if conditions for a left hand turn onto the Boston Post deteriorate, movement off site could be "restricted and relocated" via the Nobscot Road site drive. Therefore, left hand turns could be made only at the intersection of the Boston Post Road and Nobscot Road where future signalization is proposed. Mr. Grande informed the Board that forty percent of the market clients originate from the westerly direction. This is significant enough that, in and of itself, the failure to allow left hand turns at the Star exit could stop the project entirely except for the contaminant remediation activities and perhaps some septic revision. Mr. Grande suggested that the Town and Star should take a concerted approach to this issue so as not to lose all the beneficial upgrades to the existing site.

C.I.D. consultant Thomas Houston explained the various traffic improvements created by the project including the reconstruction of the Boston Post Road along the entire site frontage and extending some distance beyond, widening the street to provide for additional turning lanes, providing traffic signalization at a common location to be shared by Raytheon which now employs a traffic officer at the existing easterly drive. The traffic signalization system would be interconnected with the proposed signal, when and if it is installed, at the Nobscot Road/Boston Post Road intersection. Also proposed is emergency vehicle

preemption for the Fire Department sub-station. To support the applicant's desire to solve the traffic problems, in August C.I.D. submitted to Mass Highway and to the Town a comprehensive traffic study of this area. The initial response from Mass Highway was that the study, although comprehensive in scale, did not address in sufficient detail justification for installation of the signal. To support the prior analysis, C.I.D. performed 12-hour turning movements at the site and discovered that even without the building addition the current volume of traffic would support a traffic signal using State criteria. This report was submitted to the Mass Highway in October which replied that technical justification does not mandate permission. The Department philosophy ascertained in discussions with Mass Highway personnel is to minimize signalization on State highways and allow them only at locations where there is a public intersection, not a private driveway. C.I.D. pointed out that this proposed location is a common access for both the Plaza and for Raytheon Company, which has to now employ a traffic officer, and that if Star is to participate in solving this common problem it would benefit the Town as a whole. C.I.D. believes that the signalization is technically justified and would impose no public cost since Star is proposing to bear 100% of the cost. C.I.D. has many problems with the position stated by Mass Highway relative to the site. Additionally, it was noted that the Town is having difficulty in securing land necessary for the signalization of the Boston Post Road/Nobscot Road intersection. Mr. Houston requested that the Town assist the applicant in further discussions with the State.

Selectman Blacker agreed with Mr. Houston that it does not make common sense to go east to go west and noted that one of the concerns expressed relative to the Star Market expansion was that it might cause traffic to go out onto the more residential Nobscot Road. Mr. Blacker recommended that the Selectmen strongly respond to the Mass Highway letter by stating that the community would be adversely affected.

Selectman Clark suggested that the State has no authority to direct traffic onto Nobscot Road since its jurisdiction only pertains to Route 20, which is the State road. Selectman Clark opined that it makes no sense to force on a business the expense of putting in the center entrance, widen the road, and then not allow the core ingredient of the traffic flow management plan.

Attorney Grande suggested that the applicant is seeking approval of the Site Plan Special Permit and then would need some time to work on the traffic control problems with the Town and the State before it would implement the plan. It was noted that the approval of the Special Permit plan conditioned upon signalization, rather than simple approval, would mean that the Town would not benefit from site improvements unless the signalization were to take place and would preclude other options for Star. Selectman Blacker indicated that if the Plaza exit was required to be onto Nobscot Road, which is minimally impacted today, the aesthetic improvements and septic repair might not balance with the burden placed on the Nobscot Road residences. It was acknowledged that safety problems exist now with the Nobscot Road access which would be exacerbated by vehicles forced to make a left-hand turn at that location if that was the State's mandate. The Board expressed consensus that it could not support a left hand prohibition onto Route 20, nor could it support the use of Nobscot Road as an alternative for any such prohibition.

After an explanation of the traffic flow at the entrances and exits, Selectman Clark stated her opinion that the plan as drawn violates the Parking Standards Bylaw (Art. IX.V.C.1.a. and b.) relative to interior driveways because the easterly exit onto Route 20 connects with the interior driveway adjacent to the CVS parking area. Selectman Clark opined that a backup of cars in the travel lane would prohibit cars from backing out of those parking spaces. After further discussion as to interpretation of the Bylaw and the applicability of the Bylaw definition to the CVS pre-existing parking area, all agreed that a determination will be requested of the Zoning Enforcement Agent and Town Engineer.

Selectman Clark requested clarification as to how a truck with a large wheel base will be able to turn left given the radii at both the southerly and northerly ends of the main entrance. Mr. Houston opined that there would be no problem based upon C.I.D.'s calculations and suggested that, if the concern persists, C.I.D. would review that aspect of the plan with the Town Engineer for confirmation. Mr. Houston indicated that the plan has been revised relative to No. 9 of the Town Engineer's September 28 letter which referred to the island at the northwesterly corner of the building and has accommodated several other concerns raised.

Mr. Grande clarified that approval is requested with the light and/or with left hand turns out of the site. Chairman Drobinski reiterated the consensus of the Board that they would not support a left-hand turn prohibition, or the use of Nobscot Road as an alternative for such a prohibition.

The Board concurred with the suggestion that the Town send a letter to Mass Highway and Selectman Clark suggested that Raytheon be requested to do so also.

In regard to Chairman Drobinski's query as to the perimeter landscaping plans, Mr. Grande noted the fence adjacent to Highland Avenue to keep any blowing debris from the street and pond, and also the pine plantings at the rear which are dense and resistant to snow and ice damage. Mr. Grande advised that rear plantings in the wetlands buffer may not be allowed by the Conservation Commission. He noted that the rear facade wall will serve to hide utilities and quieter rooftop units will be installed. It is also intended that all snow be removed off the site.

Selectman Clark suggested that cleaning of the area between the existing septic system and Nobscot Road should be done now and added as a condition.

It was noted that the applicant intends to use up to twenty-one of the reserved parking spaces to compensate for the flush basin installation.

On the recommendation of Chairman Drobinski, it was unanimously

VOTED: To continue the hearing on Site Plan Special Permit Application 95-324 for Sudbury Plaza Trust until February 12, 1996, to allow opportunity for the applicant to finalize the plan and to address issues of concern to the Conservation Commission and other Boards.

The Board directed Interim Town Manager Thompson to draft a letter to the Mass Highway Department.

Selectman Blacker suggested that a draft decision be available for review at the February 12 meeting indicating plan approval with a condition that a left-hand turn be allowed from the main entrance and subject to the determination of the appropriate parties that the plan is not in violation of the Bylaw with regard to interior drives.

Comments and questions from residents were received as follows:

- Mr. Lowry (Dudley Rd.) was advised that Mobil Oil did not deed the property necessary for the traffic signalization at Boston Post Road and Nobscot Road;
- Mr. Murphy (Woodland Rd.) indicated that traffic would be greatly increased on Nobscot Road, and commenting on purified water opined, that it may be technically drinkable by virtue of drinking water standards, but is not necessarily drinkable.

Residential Assisted-Living Facility, Boston Post Road

Present: Clifford Hughes, David A. Wallace, Esq., Edward Sokoloff, Esq., Geraldine Nogelo and others.

Interim Town Manager Richard E. Thompson informed the Board of a telephoned communication from the Executive Office of Communities and Development seeking the Board's position on the residential assisted-living facility proposed by Sunrise Development, Inc. off the Boston Post Road, the EOCD being in receipt of a recommendation only from Selectman Blacker.

Attorney David Wallace, representing the applicant, brought the Board up to date on the status of the project, advising that in August the Zoning Board of Appeals voted 3-2 against issuance of a Special Permit for a 77-unit residential assisted-living facility in a residential zone. The developer maintained that the facility could be permitted by special permit since it was, in fact, a residence and was like in use to a nursing home for which only a special permit was required. Acting on an appeal filed in the Land Court, in a motion for Summary Judgment on December 19, the Judge upheld the ZBA decision, ruling that the Town lacked jurisdiction to issue a Special Permit for an assisted living facility in a residential zone, having specified in its Zoning Bylaw that it was specifically permitted in the Research Zone. Consequently, with the availability of other sites, Sunrise Development, Inc. made a business decision to discontinue the project. Since then, Clifford Hughes has left his employ with Sunrise Development, and is pursuing the project on a smaller scale with his own company. Mr. Hughes plans a 42-unit facility and has scaled the project back from 50,000 sq. ft. to 30,000 sq. ft. -- a smaller development, residential in environment, with non-obtrusive building. The twenty percent affordable units will be at \$1,400 per month. At this point, the options for the developer are for a change in zoning to allow the use or through the Comprehensive Permit process. The Comprehensive Permit process requires Town input, but site approval is required from the EOCD together with funding approval from the Massachusetts Housing Finance Agency before the comprehensive permit process can be initiated. Mr. Wallace requested that the Selectmen endorse the concept so that approval can be sought from the EOCD and MFHA to go forward with the Comprehensive Permit process.

Attorney Edward Sokoloff, representing the neighborhood, stated that although the project has been substantially reduced in size, there are concerns relative to the building, the buffer screening from area residences, the potential noise from sirens on emergency vehicles, the entrance problem and the high incidence of accidents in the area. Mr. Sokoloff asked that the project be turned down as the site is both inappropriate and unsafe and safeguards do not exist. Mr. Sokoloff suggested that the use is more appropriate for a business zone. He suggested further that the Townspeople through the Town Meeting process should indicate its desirability, thus departing from the single-family residence mandate, by rezoning the proposed location or by acting favorably upon the Warrant article which he submitted by petition to allow the use in all zones. Mr. Sokoloff took issue with Selectman Blacker that such a facility would profit the Town through taxes, stating that the proposed facility would lessen property values, would provide less tax revenue than originally proposed, and could go non-profit at a later time. Mr. Sokoloff recommended that the Selectmen deny the project outright.

Selectman Clark suggested that the Board wait to take action until Town Meeting has acted upon the Warrant, since the request is coming at a time when the Court says a Special Permit cannot be granted.

Chairman Drobinski stated his inclination to agree, expressing hope that the parties could agree and work to accomplish a zoning change which would allow the project to go forward rather than through the Comprehensive Permit process.

Selectman Blacker clarified that the sole function of the Zoning Board of Appeals in the Comprehensive Permit process is to negotiate conditions which can be appealed to the State by the applicant. Selectman Blacker indicated that he was inclined to approve the project at this time rather than wait until after Town Meeting.

Interim Town Manager Thompson expressed his opinion that there would probably be no agreement of those present since Attorney Sokoloff believes that the site is wrong.

It was on motion

VOTED: To table project approval until such time as the 1996 Annual Town Meeting has taken action on the zoning change. (Selectmen Drobinski and Clark in favor; Selectman Blacker opposed.)

The EOCD will be informed of this decision by the Interim Town Manager.

Town's Option to Purchase Land Assessed Under G.L.c.61A - Meachen/Meggs Family Trust /and Harvard College, Land off Marlboro Road

Present: Robert F. Dionisi, Jr., Esq., John W. Meachen Jr., Conservation Commission Chairman Steve Meyer and Coordinator Deborah Dineen, and Stephen Johnson, Sudbury Valley Trustees.

The Board acknowledged receipt of the December 1, 1995 Notice under M.G.L.c.61A, s.14 from Attorney Robert F. Dionisi, representing John W. Meachen, Jr., Brown Moore Meggs, Trustee of Meggs Family Trust, and the President and Fellows of Harvard College, relative to the intent to sell approximately 12.1 acres of land currently assessed on the basis of agricultural or horticulture use, situated on the southerly side of Marlboro Road.

Responding to Selectman Blacker's comments relative to the excessive value placed upon the land and the validity of an offer so structured upon the ability to develop a certain number of lots, Attorney Dionisi represented that the raw lot value of roughly \$200,000 reflects that these lots, most of which are on the public way, require very little construction and that the agreement represents a bona fide arms-length contract. Attorney Dionisi represented further that the terms of the Collateral Agreement protect the owner of the rear land without frontage, providing for access and for slope and construction easements. Attorney Dionisi advised that testing has been done and in all probability the lots will perc.

Conservation Coordinator Deborah Dineen informed the Board that in her opinion the determination of real value of the acreage must be made through the subdivision process. However, since Town funding is just not available, her recommendation to the Commission will be not to exercise the Town's option to purchase but to seek clarification from the State as to what constitutes a bona fide offer.

Stephen Johnson, Executive Director of the Sudbury Valley Trustees, expressed his concern as to the convoluted manner in which the option was presented, and discouragement in learning that the Town has no money for land conservation. Mr. Johnson represented that the Sudbury Valley Trustees have no interest in the purchase of 12+ acres for \$1,920,000 and recommended that the Town of Sudbury waive its option.

Interim Town Manager Thompson noted that recommendations have been previously received and noted from the Assessors and the Planning Board for waiver of the option.

It was on motion of Selectman Blacker unanimously

VOTED: To decline to exercise the Town's option to purchase land as set forth in the Notice of Intent: from Robert F. Dionisi, J., Esquire, on behalf of John W. Meachen, Jr., Brown Moore Meggs, Trustee of Meggs Family Trust, and the President and Fellows of Harvard College, postmarked December 1, 1995, to sell to Briarwood Development Corporation for residential use approximately 12.1 acres of land currently assessed on the basis of agricultural or horticultural use, situated on the southerly side of Marlboro Road, shown on "Sketch of Land in Sudbury, MA Prep. for: John Meachen", drawn by Thomas Land Surveyors & Engineering Consultants, Inc., dated October 19, 1995, and being a portion of Parcel 400 on Town Property Map E08.

Meeting with Finance Committee - Severance Payment

The Board acknowledged receipt of a communication from the Finance Committee Chair requesting that the Board meet with them to discuss the method of severance payment for Mr. Thompson. At this time it is not clear that the Selectmen will be able to attend.

Supervisory Association - Town Manager Selection Process

The Board acknowledged receipt of a communication dated January 3, 1996 advising that Town Engineer I. William Place has been elected as the President of the Supervisory Association and that the Supervisory Association wishes to participate during the interviewing process for the Town Manager and to meet the candidates before the final selection.

There being no further business, the meeting was adjourned at 10:45 p.m.

Attest: _____
Richard E. Thompson
Interim Town Manager-Clerk