

IN BOARD OF SELECTMEN
MONDAY, MAY 6, 1996

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

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

Organization of the Board of Selectmen

It was on nomination of Selectman Drobinski,

VOTED: To elect Lawrence L. Blacker as Chairman and Maryann K. Clark as Vice Chairman of the Board of Selectmen.

It was further on motion of Selectman Drobinski unanimously

VOTED: To designate Town Manager Steven L. Ledoux as Clerk to the Board, retroactive to April 1, 1996, and to set the meeting time and place as set forth in the proposed Board of Selectmen 1996-97 Meeting Schedule, on Monday evenings at 7:30 p.m., two per month or as needed.

In response to Selectman Drobinski, Selectman Clark stated her belief that the fact that she is running for State office does not mean that the Selectmen should be abandoning the custom of Chairmanship rotation nor does the time commitment preclude her from serving as Chairman of the Board of Selectmen. Further, the failure to nominate her is in violation of long-standing custom which, although unwritten, over time has become law, she opined. In suggesting a rationale for reconsideration, she stated her belief that she has the time to devote to both efforts as she is semi-retired and not busy with family responsibilities. Also, she would regard it as a privilege to serve as Chairman and would like to lead the charge in formulating a Growth Management Plan for the Town as she had proposed six months into her first term. Further, Selectman Clark stated that she would not have pursued the State office had she known that it would cause the Board to bypass her in the Chairmanship rotation.

Chairman Blacker and Selectman Drobinski affirmed that she would be able to lead the Growth Management Plan effort with the full support of the Board.

In standing by his nomination Selectman Drobinski expressed his belief that it was made in the best interest of the Town and Selectman Clark, as he believed performing dual roles would preclude a focus on the community of Sudbury.

Minutes

It was on motion of Chairman Blacker, unanimously

VOTED: To approve the minutes of April 10, 1996, as corrected, and the minutes of April 22, 1996, as drafted.

Council on Aging - Van Donation

It was on motion of Selectman Clark, unanimously

VOTED: To accept \$111.51 in miscellaneous donations for deposit into the Council on Aging Van Donation Account and to authorize the Council to expend same for purposes of operating and maintaining the Council on Aging vans.

Police Department Bicycle Donation

Pursuant to the April 24, 1996 request of Police Chief Lembo, it was on motion of Selectman Clark, unanimously

VOTED: To donate the lost bicycles stored by the Police Department to an Eagle Scout project which will repair and distribute the bicycles to the needy.

Walkway Easements

It was on motion of Selectman Clark unanimously

VOTED: To accept the Walkway Easement granted by George W. and Maureen S. Smith, dated March 27, 1996, shown on "Plan Showing Walkway Easement over land of George W. Smith & Maureen S. Smith, 137 Fairbank Road, Sudbury, MA", dated June 27, 1995, drawn by the Town of Sudbury Engineering Department; and further

VOTED: To accept the Walkway Easement granted by William N. and Laura T. Johnson, dated August 7, 1995, shown on "Plan Showing Walkway Easement over land of William N. Johnson & Laura T. Johnson, 6 Phillips Road, Sudbury, MA", dated July 12, 1995, drawn by the Town of Sudbury Engineering Department.

Keno License - American Legion Post 191

On the question of responding to the April 26, 1996 notice from the Massachusetts State Lottery Commission relative to the application of the American Legion Post 191 for a Keno license, Town Manager Steven Ledoux informed the Board that Jezebel's was granted a license by the Lottery Commission and there have been no apparent problems. The Town Manager confirmed that if there were any problem with a Keno license, the Town would have to complain to the Lottery Commission.

Chairman Blacker commented that the Lottery Commission is not obligated by law to publish notification, but does so in order to receive input from local licensing boards for consideration in the licensing process.

In response to a query from Selectman Drobinski, Mr. Ledoux informed the Board that some of the revenue generated by the Lottery Commission from the Keno licenses comes back to the Town.

Board members concurred that they have no concern with the grant of license.

Meeting of the Trustees of Town Donations

Present: Mary Ellen Normen Dunn, Town Treasurer and Collector; David Wilson and Kenneth Ritchie, Investment Advisory Group.

In regard to the policy language proposed by the Town Treasurer and Collector on the use and granting of advances on investment income, which limits authorization for advances to no more than 10% of the income earned to date on the Town Trust Fund Investment Portfolio not to exceed 15% of the prior year actual annual apportioned investment income for the individual trust, Ms. Dunn explained that the limitations force the departments to request and use the advance at the end of the year rather than an earlier withdrawal which would affect the total interest earnings. In response to Goodnow Library Trustee Hans Lopater's query as to how this policy would affect use of Library funds, Ms. Dunn clarified that the Library funds are invested in the Town Trust Fund from which a withdrawal may be made during the year, whereas the Highway request was for an advance on investment income.

Agreeing that the policy as proposed is reasonable, it was on motion of Chairman Blacker unanimously

VOTED: To adopt the amendment to the Accounting Policies and Procedures section of the Town Trust Fund Investment Policy, as proposed by Town Treasurer and Collector in her memorandum of May 2, 1996, pertaining to the use and granting of advances on investment income by beneficiary.

Ms. Dunn stated her intention to add a definition of "advance" to the Glossary.

Relative to the re-establishment and investment of the Tercentenary Fund originally established pursuant to the Board of Selectmen's vote of June 6, 1977, which accepted a gift of \$100 to create a fund to be used by the Town for its celebration of the Tercentenary of the United States, in accordance with the resolution of intent passed at the 1977 Annual Town Meeting, Ms. Dunn stated that it had been inadvertently confused with the 350th Fund in the FY94 audit and closed out to the General Fund on October 17, 1994. The matter had been brought to her attention by former Selectman John Powers.

Selectman Blacker suggested that the balance be placed in a separate account, such as T. Rowe Price, by share rather than into the pooled investment portfolio by percentage.

After discussion and with the concurrence of the Investment Advisory Group, it was on motion of Chairman Blacker

VOTED: To re-establish the Tercentenary Fund in the amount of \$263.35; and further, to separately invest the total amount in equities, either T. Rowe Price or any other fund chosen by the Investment Advisory Group.

Selectman Clark suggested that an aggressive growth fund might be appropriate.

It was also on motion of Chairman Blacker unanimously

VOTED: To authorize the FY96 expenditure of an additional \$3,227 from the Town Cemeteries Trust Fund Income Account to refurbish cemetery lawns, utilizing FY97 funds.

Selectman Drobinski opined that this was an unusual situation and one which is not likely to be repeated.

Town Manager Steven Ledoux noted that the total expenditure for the repair of the cemetery lawns, destroyed by grubs, in preparation for Memorial Day is \$21,328 (\$13,000 from the FY96 budget; \$5,101 from the FY96 Town Cemeteries Trust Fund Income Account; and \$3,227 from the FY97 Town Cemeteries Trust Fund Income Account).

It was also on motion of Chairman Blacker unanimously

VOTED: To accept the Town Trust Fund March 31, 1996 Report.

Longfellow Glen Complaint

Present: Mrs. Mina Dole, Apt. 3106, Longfellow Glen.

Mrs. Dole stated that she was present to meet with the Selectmen pursuant to her request sent previously by registered mail.

Town Manager Steven Ledoux informed the Board that, upon receipt of the letter, he had attempted to arrange a meeting with Mrs. Dole to discuss the issues prior to going to the Board, but had been unable to arrange such a meeting.

Mrs. Dole informed the Board of the various issues which are of concern to her and to other residents at Longfellow Glen which the management and owners have not addressed, in particular: the contamination of her apartment which has caused her health to deteriorate, has occasioned two trips to the hospital emergency room, and has resulted in her dependence upon medication to enable her to live where she does; the unlawful entry of management persons into her apartment; safety issues resulting from drug dealing and alcohol abuse on the premises, secondary smoke problems, and other health hazards. Mrs. Dole also advised the Board that the tenants had no secure place to meet to discuss the issues which affected them.

Chairman Blacker suggested that she and the Town Manager meet to go over the various issues whereupon he would get the appropriate persons involved in an effort to find solutions.

Site Plan Special Permit No. SP96-326 - Brunjes, Inc., d/b/a The Hitchcock Store, 348 Boston Post Road

Present: Walter W. Jabs, Jr., Esq., representing Brunjes, Inc.; Christopher Brunjes, President, Brunjes, Inc.; Bruce Ey, P.E., Schofield Brothers; Architect Robert Dion, Dion & Sokol, Inc.

At 8:00 p.m, Chairman Blacker convened a public hearing under Article IX.V.A. of the Town of Sudbury Bylaws, to consider the application of Brunjes, Inc., d/b/a The Hitchcock Store, Norwell, MA 02161, dated March 20, 1996, received March 25, 1996, for a Site Plan Special Permit for property at 348 Boston Post Road, for renovation (including moving/squaring on lot) of the existing building, known as the Wood-Davison House, construction of a two-story showroom and warehouse addition, parking lot, landscaping and drainage work. Upon completion, the total building will comprise 7,401 s.f. of retail space

and 4,613 s.f. of storage space. The property is owned by Nancy Taylor, Trustee, Prime Plus Two Realty Trust, and is located in Village Business District No. 1.

Notice of the public hearing was duly posted and advertised in the Sudbury Town Crier on April 11 and April 18, 1996. Parties of interest, being abutters within 300 feet according to the Assessors, were provided written notice by first class mail. Additionally, the Planning Boards of Acton, Concord, Lincoln, Maynard, Framingham, Marlboro, Stow, Wayland and Hudson were provided written notice by first class mail.

The Board acknowledged receipt of the following:

1. Communication, dated April 30, 1996, from John B. Hepting, Inspector of Buildings, observing that the use is permitted in a Village Business District; the single occupancy does not exceed 10,000 s.f. after basement storage/warehouse area is excluded; all intensity regulations for a Village Business District have been met except for the street centerline setback requirement of 50 ft., however, the existing structure being pre-existing and non-conforming is legal as such; when the existing structure is moved and rotated about the existing southwest corner, its new street centerline deficiency will be no more non-conforming than the current deficiency; structural alteration to an existing non-conforming structure is permitted under Section I.D.3. of the Town Zoning Bylaw by Special Permit by the Zoning Board of Appeals.
2. Communication, dated April 8, 1996, from Town Engineer I. William Place, stating that a curb cut permit will be required from the Massachusetts Highway Department District 3; the bituminous concrete sidewalk should be reconstructed for the entire length of the lot frontage; refuse disposal area has not been delineated; a variance will be required from Section IX.III.B.3. for single occupancy of more than 10,000 s.f. (Note: the opinion of the Inspector of Buildings takes precedence); a variance will be required from Section IX.IV.B., Intensity Regulations, with regard to street centerline deficiency (Note: the opinion of the Inspector of Buildings takes precedence); the proposed utility pole at the southeast corner of the site will require a waiver from the Board of Selectmen under Article XX: Prohibition and Regulations of Overhead Utilities; a permit from Massachusetts Highway Department District 3 will be required to allow for the proposed drainage system to connect into the State system.
3. Communication, dated May 1, 1996, from Planning Board Chairman Carmine L. Gentile, stating that, on April 30, 1996, the Planning Board had voted to recommend approval of the Site Plan Special Permit subject to the following: the installation of all utilities underground, recommending that the Board support the applicant's application to Boston Edison for extension of electrical service underground from the existing pole on Route 20 so that no additional overhead wires or poles are installed; denial of the free-standing sign; addition of the total coverage proposed for the site to be designated on the plan; reconstruction of the walkway along the property frontage, noting the requirements of the Village Business District under section V.A.7.i.6. of the Zoning Bylaw; consideration of a grant of covenant which mandates regular cleaning and maintenance of the stormwater control system proposed for the site (reference: April 18, 1996, letter of Town Engineer, I. William Place to Jody Kablack, Town Planner); grant of a Water Resource Protection District Special Permit.
4. Communication, dated May 3, 1996, from Health Director Robert C. Leupold, stating that the septic system design plan approved in 1993 is adequate for the use intended on the site and recommending approval subject to Board of Health approval of a septic system plan incorporating the revised site plan.

5. Communication, dated April 26, 1996, from Design Review Board Chairman Frank W. Riepe stating that the Board believes the proposal to be a "sensitive treatment of the site and commendably in the spirit of the Village Business District bylaw" and setting forth the following comments and recommendations: the planting of tall shrubs between the north elevation windows and/or construction of a porch roof over the north entrance; lilac planting at the house corner; the planting of at least two street trees; a pedestrian connection between the Hitchcock parking lot and N. B. Taylor office property; upgrade of the walkway material shown on the plan to conform with Village Business District requirements; the denial of a freestanding sign; Town support of a request to Boston Edison for underground electrical service from the existing Route 20 pole; and suggesting that rectangular vents placed lower in the wall rather than the use of gable louvers would be more in keeping with the period.
6. May 2, 1996 communication from Fire Chief Michael C. Dunne stating concern with regard to the turnaround space for trucks on the site; suggesting that, if possible, there should be a connection to the easterly abutting property driveway for emergency vehicles; and recommending that a dumpster location should be indicated on the plan if one is intended. Chief Dunne concurs with the Planning Board relative to the underground placement of utilities.
7. May 2, 1996 communication from Historic Districts Commission Acting Chairman Louis Hough recommending approval and advising that the plan is historically correct and the Town is very fortunate to receive this proposal.
8. Verbal comment from Police Chief Peter B. Lembo stating no objection.
9. Verbal comment from the Conservation Commission stating no concern.

Attorney Walter W. Jabs, Jr. made a presentation to the Board of Selectmen on behalf of Brunjes, Inc., d/b/a the Hitchcock Chair Store. Attorney Jabs represented that Hitchcock, an upscale Colonial-style furniture outlet, has had a place of business at the Village Green in Sudbury in excess of eighteen years where it is open seven days a week from 10:00 a.m. to 5:00 p.m. and is open on three evenings. The furniture itself is manufactured in Connecticut and is a style that was developed by Hitchcock Chair Corporation in the early 1800's.

Referring to the plan, Attorney Jabs described the unique features of the site including the fact the site itself sits in the Village Business District with the existing house sited within the King Philip Historic District. Topographically, the site has a gently sloping back area, then a fairly steep knoll, then a flat area approaching Rt. 20. It is bounded by Rt. 20, and by a property to the east, used as an office, which is bisected by the Village Business District and Residential District A-1. The property to the rear is residential and the abutting westerly properties are in the Village Business District. The plan meets the side and rear setback requirements.

Attorney Jabs informed the Board that Hitchcock proposes to add an approximately 10,000 s.f. addition in the rear and then off to the west of the Wood-Davison house. The Wood-Davison House itself will be jacked up and squared and a new foundation poured in order to maintain structural integrity. The current house is in serious condition and is degrading. The existing foundation is 1 1/2' too short on each side so that the house timbers rest on earth. It is also believed that squaring the house by moving it about 1 1/2' will be a much more appealing view from Route 20, rather than any other way of handling the house.

Attorney Jabs advised that both the interior and exterior of the house will be renovated to maintain the character of the old house. The exterior will be done with clapboards with wood windows. Both the first and second floors of the old house will be used for retail purposes, and it is the intent of Brunjes, Inc. to bring it back to near condition of an early 1800's house in order to duplicate the setting for the kind of furniture being sold. The top level of the new addition will be showroom, the secondary level will be warehouse, shipping and receiving.

The site, because of its unique character, has only one particular problem which would require a variance from the Water Protection Resource Bylaw; that is, the rear of the site is almost all clay and silt and will not percolate water. Other possible locations on the site to percolate water are in the location of the septic system, the driveway, and the house -- all of which are unsatisfactory. Therefore, the engineers have designed the drainage system as a series of basins which will detain the water under the rear parking lot. The system is designed to maintain the current water flow off the property or lessen it during any period of a storm. After detention, water will run through a PVC pipe at the side of the property and tie into the Route 20 storm detention basin. In addition, there is a secondary tie-in from the driveway into that same basin.

Attorney Jabs informed the Board that the Board of Health has approved the septic system located at the front of the property, and there is a current septic permit in place and usable.

Relative to site access and egress, Attorney Jabs pointed out that the center driveway will require an expanded curb cut. It was explained that the driveway design allows for 60' and 70' trucks to come into the property, to deliver furniture to the loading dock, turn around on location at the rear by means of a three-point turn, and pull out onto Route 20 head on. There will be no blocking of Route 20, nor will there be any major inconvenience to the traffic flow caused by the property; also, truck deliveries are made early in the morning avoiding the peak traffic period. Because Hitchcock is a destination shop it has a very small amount of traffic, usually less than six customers at any one time.

The Board was advised by Attorney Jabs that the Historic Districts Commission Certificate of Appropriateness will be conditioned upon the removal of the planting in the front of the house and that the Commission will require that the new foundation be constructed with a stone fascia to duplicate the original historic look of the house. Accordingly, the plan will be revised to show removal of the foundation planting.

Architectural elevations were reviewed. The rear addition is designed to look like a wood barn or further addition of an historic structure integrated by wooden doors and windows of Colonial period design. The loading dock will appear to be a double wooden barn door. In attempting to lower the height of the rear structure to make it less conspicuous from Route 20, and to lower it from the perspective of the rear abutters, the design requires removing a substantial amount of earth from the site for which an application has been made to the Earth Removal Board. The total design attempts to satisfy the Town needs and the needs of Hitchcock; therefore, the rear view, which is not visible by the abutters, is designed to look like Hitchcock Chair Stores in other locations. The easterly side is designed as fire access for the second floor retail space and also maintains the integrity of the Wood-Davison House interior stairway.

At the conclusion of the presentation, the hearing was opened to comment and questions.

Selectman Drobinski commended the applicant for a design sensitive to the community, the historic value of the house, and aesthetics.

On Selectman Drobinski's query regarding the free standing sign, which the Board agreed would be a Zoning Board of Appeals (ZBA) issue, Attorney Jabs stated that the sign on the building is allowed under any conditions in the Zoning Bylaw which also allows for a secondary side entrance sign as determined by the ZBA; however, if there is more than one entity occupying the building, such as the holding company for Hitchcock, there is an option to place a freestanding sign in the front. The present plan provides for both options. Attorney Jabs noted that, if the ZBA allows the freestanding sign, the plan will be amended to show placement of that sign in compliance with the setback requirements of the Zoning Bylaw.

With regard to the undergrounding of utilities, Attorney Jabs explained that, for commercial property on Route 20, Boston Edison rules require pole to pole delivery, thence underground. Brunjes will make application and negotiate with Boston Edison for direct placement underground; however, approval is discretionary. Brunjes is prepared to try to put the utilities underground, and would prefer to do so, if they are able to do so. Selectman Drobinski suggested that the Board support the application to Boston Edison and strongly advocate on their behalf. The Board agreed to do so.

Noting that this is the first or second time this type of drainage system has been used in Sudbury, Selectman Clark voiced her concern with the storm water detention basin pipe sizes and the potential for ground level (basement) building flooding due to backup into the outlet control manhole. Bruce Ey, Schofield Brothers, Inc., the design engineer, explained that the drainage system is designed to back up into the chambers under the parking lot which is where the storage is and enables mitigation of the peak flow which is generated by the impervious surface. The chambers are a new type which snap together and may be collectively described, as Selectman Drobinski pointed out, as a subterranean holding tank. The water backs up to a particular elevation, the control outlet will then meter the outgoing flow into the Route 20 drainage system. This system was designed so as not to increase the peak flows for all storms up to and including the 100-yr.-storm. Selectman Drobinski noted that with the drainage calculations submitted with the application, there were a number of computer models which demonstrated system operation under various peak flow storms. Simply stated, because of the pipe sizes specified, water will back up into the detention chambers faster than it will be released. The control system is contained in one structure which is easily accessed for observation and maintenance. Yearly cleaning is the recommended non-emergency maintenance for the two oil and grit separators in the system, located in the upper parking lot.

With regard to the recommendations of the Fire Chief as cited by Chairman Blacker, Mr. Ey stated that they did explore the possibility of a connection to the easterly abutting property for emergency vehicles, but the grades were prohibitive, an agreement would have to be reached with the residential abutter, and the radius for a curb cut to make that possible would infringe twenty-five feet upon the neighboring property. Attorney Jabs added that any other means of developing emergency access was precluded by the Historic Districts Commission's opinion on maintaining the placement of the house.

Additionally, it was also indicated by Mr. Ey that there was no practical pedestrian access to the N. B. Taylor property.

In response to a query, Mr. Ey stated that in addition to the twenty-seven required parking spaces, there was one extra large space which will be designated for the dumpster location. This space is located at the rear corner in a protected area against the retaining wall and cannot be seen from the residential area to the back.

With regard to setting aside an area of parking to accommodate emergency vehicle turnaround and designating it as such, the Board indicated that it was agreeable to waiving the three parking spaces required to accomplish this, as permitted in the Site Plan Special Permit Rules and Regulations.

Relative to truck sizes, Attorney Jabs advised the Board that mostly 45-foot trailers would be delivering to the site, one from Hitchcock in Connecticut once a week and one upholstery truck every other week, both 10-wheelers, and indicated that it would be unusual to have an 18-wheeler. He further advised that Hitchcock intends to try to dictate to its vendors what size trailers can enter the lot. As to a question regarding truck traffic to the site in the future, Attorney Jabs opined that as the business becomes more upscale, the lower volume required will actually result in a decrease in truck traffic; however, there is no guarantee. Selectman Drobinski added that if there was a public safety hazard either the Fire or Police Chief could bring it to the attention of the Board to effectuate a change.

Relative to the request by the Design Review Board for two street trees at the front, Attorney Jabs pointed out the existing two trees at either edge of the property and noted that they purposefully avoided landscaping with other trees and shrubs in order to preserve the expansion area for the septic system and to insure adequate sight lines for traffic safety. Selectman Drobinski opined that the addition of the trees would also take away from the architectural design. Board members expressed their agreement, indicating that they would not require the trees for the reasons stated.

In response to Selectman Clark's query as to what they were proposing to do about the sidewalks, Attorney Jabs indicated Brunjes' intention to improve and renovate the street walkway as it was. What is there now is granite curbing and sand over buried bituminous material. He said that Route 20 has been paved over so many times that it is difficult to determine the condition of what is there; additionally, there is no connection on abutting properties to further that determination. Attorney Jabs stated that what they would like to do is put in a bituminous sidewalk across the front, and, with regard to the interior walkways, they are proposing granite stairs and a granite walk into the building at the front door. Additionally, there is another concrete sidewalk at the side which will be used as access from the parking space designated for the handicapped when shipping and receiving is closed during normal operation hours. There is also a small sidewalk at the rear main door entrance.

At the conclusion of the question period, Chairman Blacker stated his belief that the plan would result in a real asset to the downtown area. On the subject of procedure, it was noted by Attorney Jabs that the Board of Appeals decision would be rendered on Tuesday, and to continue this public hearing to June 10 would put Brunjes in the position of delaying the work until after July or August.

It was, therefore, on motion of Selectman Blacker, unanimously
VOTED: To continue the public hearing to May 20, 1996, at 9:45 p.m., for the purpose of making a decision on the application of Brunjes, Inc. for a Site Plan Special Permit at 348 Boston Post Road.

A draft decision will be prepared for Selectmen review at that time.

Labor Relations Counsel Appointment

It was on motion, unanimously

VOTED: To approve the reappointment by the Town Manager of Richard W. Murphy, Esq. as Labor Relations Counsel for a term to expire April 30, 1997.

FY97 Transfer Station Sticker Fee

Town Manager Steven Ledoux informed the Board that during the time of Finance Committee budget deliberations, in projecting anticipated expenses and revenues given the fact that the Town was going from a landfill operation to a transfer station, it was calculated, based upon the number of stickers sold, that the annual sticker fee should be increased from \$85/yr. to \$155/yr. Additionally, it was proposed that the fee for the second sticker should remain the same at \$10/yr. and that the permits for miscellaneous items/building debris should be increased from \$16.50/c.y. to \$31.50/c.y. and that the fee for other items, i.e., car and truck tires and items with freon, should remain the same. Mr. Ledoux noted that the breakdown of sticker sales indicates that the bulk of the stickers are sold between July and September. He voiced his concern that with the transfer station not in operation at this time, it is difficult to know what the hauling fees and trash flow are actually going to be. Given this and the fact that the proposed increase to \$155 is a substantial increase, he suggested that the Board consider giving a six-month sticker beginning July 1 for \$85 and review midterm, making a decision regarding the second period fee based upon experience. It would be expected that the Highway Department would incur more administrative work with the issuance of two stickers. Mr. Ledoux stated that the Town is expecting a surplus in FY96 landfill funds which will provide cash flow buffer when the transfer station is operational, expected in a few weeks. Depending upon the financial situation, it may be necessary to request, through a Special Town Meeting, use of retained earnings to pay for some of the physical work involved with the transfer station. It was noted also that it was the intent of the Town to set up and run the transfer station for a year and then determine what options are available at that time.

Noting past experience, the Town Manager requested guidance on the issue of hardship waivers, explaining that the past policy is that no questions are asked and no proof of income is required. The Board expressed its opinion that the discretion for grant of waiver should be left to the Town Manager.

At the conclusion of discussion, it was on motion of Chairman Blacker, unanimously

VOTED: To set the landfill sticker price at \$85 for the six-month period beginning July 1; to set the second sticker price at \$5 for the six-month period beginning July 1; to set the permit for miscellaneous items/building debris at \$31.50/c.y., car tires at \$2.00, truck tires at \$5.00, and items with freon at \$20.00.

The Town Manager will ascertain whether miscellaneous debris are included in the SEMASS contract.

Town Manager Report - April 1 to May 3

The Board acknowledged and discussed the report of the Town Manager for the period April 1 to May 3, 1996, which informed the Board of various legislative issues involved in the State budget process which will affect funding to the Town, reported on Town Manager intended appointments and meetings, and

updated the Board on MBTA issues and the status of the Town's Cops Fast grant. Chairman Blacker expressed his extreme frustration with legislative budgetary action and the failure of the Legislature to "play by the rules", suggesting that the Towns should band together particularly where so many are affected to effectuate change.

Appointments

Town Manager Steven Ledoux advised the Board of his intention to reappoint all the Department Heads under his jurisdiction for a period of one year, during which time he intended to set up an evaluation procedure.

In regard to the reappointment of the Personnel Board, given the Town Charter change, Town Manager Steven Ledoux stated his intention to appoint an advisory Personnel Board and to retain its role in the Town's grievance procedure. The Board concurred.

With regard to Selectman Drobinski's suggestion that the Board formalize the appointment of Town Counsel for a six-month period which would serve as an evaluation period for the Town Manager, Board members declined to change the "at will" status.

Appointment - MBTA Representative

It was on motion of Selectman Clark, unanimously

VOTED: To appoint Town Manager Steven L. Ledoux as the Town's representative to the MBTA Advisory Board.

Dog Hearing - Echouafni

Present: Dog Owner J. R. Echouafni of 47 Brewster Road; Mr. and Mrs. David White of Hudson; Dog Officer Betsy DeWallace; Mr. and Mrs. Lincoln Anderson, 316 Goodman's Hill Road; Ms. Patricia LeBlanc-Gedney, 238 Goodman's Hill Road.

Based upon reports that there has been a violation of the Board of Selectmen's Order of October 10, 1995, relative to the confinement of three Siberian Husky dogs owned by Mr. and Mrs. J. R. Echouafni, 47 Brewster Road, Chairman Blacker opened a public hearing for the purpose of hearing evidence and to make a determination regarding the disposition of said dogs pursuant to that Order.

Those persons expecting to give testimony in the matter were sworn in by Chairman Blacker: Mr. J. R. Echouafni, Mr. and Mrs. David White, Dog Officer Betsy DeWallace, Ms. Pamela S.C. Anderson, and Ms. Patricia LeBlanc-Gedney.

Chairman Blacker noted for the record that notices had been served upon and acknowledged by the parties: Mr. and Mrs. J. R. Echouafni, Ms. Patricia LeBlanc-Gedney, and Ms. Pamela S. C. Anderson.

Chairman Blacker stated that a dog complaint public hearing was held on September 11, 1995, pursuant to a complaint of Pamela S. C. Anderson against two of the dogs for attacking livestock owned by the Andersons. This hearing had been continued on September 26, 1995, and on October 10, 1995 it was

voted to place all three Siberian Husky dogs owned by Mr. and Mrs. J. R. Echouafni of 47 Brewster Road under a permanent Restraining Order (leashed or confined) at all times (24 hours per day), to take effect as of October 10, 1995; and to take action to remove the dogs from Sudbury if there is any future violation of such order.

Dog Officer Betsy DeWallace expounded on her report verbally transmitted to Administrative Assistant to the Board of Selectmen Janet Silva of April 22, 1996, stating that she had been called on Sunday evening, April 21, and advised that the dogs were loose. Shortly thereafter, a second call was received by her advising that two or three dogs were loose. About ten minutes later, about 8:30 p.m., she placed a call to the Echouafni home and reported that in direct response to her question, "Do you have your dogs?", Mrs. Echouafni replied "No". They talked a little bit about where the dogs could be and during the course of the conversation Mrs. Echouafni informed Mrs. DeWallace that one of the dogs had returned. As it was dark outside, Mrs. DeWallace did not personally initiate a search for the dogs. Mrs. DeWallace reported that the next morning the dogs were home by 8:00 a.m. At that point, Mr. Echouafni called her to inform her that the dogs were home and stated that the dogs that had been seen loose were not his dogs but those of his in-laws who had been visiting. During the time the dogs were loose she had received reports of two Huskies running deer and being around the Lettery's rabbit cage.

Ms. Patricia LeBlanc-Gedney of 238 Goodman's Hill Road testified that, at 8:15 p.m., her eleven-year-old son had seen three Huskies running loose and was unsuccessful in his attempt to catch them. Her son had identified the dogs as belonging to the Echouafnis. Ms. LeBlanc-Gedney stated that her son is familiar with the dogs since the LeBlanc-Gedney property abuts the Echouafni property and he sees them regularly in their pens. Ms. LeBlanc-Gedney stated that she had called Ms. Anderson and advised her that the dogs were out. Mrs. LeBlanc-Gedney reported seeing the male dog on her porch about 5:00 a.m. Ms. LeBlanc-Gedney also reported that the dogs were chasing deer and a fox.

Ms. Pamela Anderson of 316 Goodman's Hill Road testified that she was aware that the two dogs were still out at 9:00 p.m. on Sunday evening. At approximately 6:15 a.m. on Monday, April 22, Ms. Anderson was called by Ms. LeBlanc-Gedney who informed her that the male dog was still out. At 9:10 a.m., Mrs. DeWallace reported to her that the dogs were in.

Mr. J. R. Echouafni of 47 Brewster Road stated that he owns two black and white Siberian Huskies and one red Siberian Husky, and wanted to know the color of the dogs seen as he questioned the ability of anyone to recognize his dogs as he himself has seen three black and white dogs running in the neighborhood.

Mrs. LeBlanc-Gedney responded that she did not know the color of the dogs seen by her son.

Mr. Echouafni informed the Board that his in-laws' dogs went out at dinner and that the Echouafni dogs were restrained at home, although one went out and came right back in after being called by his wife. In support of his statement that the loose dogs were not his dogs, he offered his opinion that rather than going to the Anderson property, as had been implied they would have a propensity to do, the dogs went in the direction of Route 20 as reported by Mrs. DeWallace as an indication of where he should search. He reported that Mrs. DeWallace had called and had spoken with his wife informing her that the dogs were out and she would do what she had to do, which his wife interpreted as the Echouafnis were responsible for any dogs which were out. He reported that he had spoken with Mrs. DeWallace the next day when Mr. White had told him that he had gotten his dogs back; Mr. White had one dog and his wife the other.

Mr. David White of Hudson stated that he and his wife brought their Husky dogs with them to visit with the Echouafnis on Sunday evening. They had unleashed the dogs upon entering the Echouafni home and about five to ten minutes later became aware that the dogs were gone and noticed that the back door had been left open. One of the dogs, the Echouafni dog, came back and the Whites' two black and white Huskies remained loose. Mr. White stated that he went looking for the dogs before returning to Hudson that evening to wait there in case anyone would call, having identified the owner through the information on the dog tag. He informed the Board that although he has an answering machine, it had not been on. Mr. White stated that, in fact, he was called around 7:30 a.m.- 8:00 a.m., and was informed that the dog was in the locale of Goodman's Hill Road, whereupon he went to Sudbury and picked up the female dog which was sitting on Goodman's Hill Road. He did not get the caller's name, but the man indicated that he did not have time to confine the dog or take the dog anywhere. Mr. White stated that the male dog returned in the morning, about 6:00 a.m, by itself, to the Echouafni home where his wife had stayed overnight.

In response to a question from Selectman Clark as to how the dog would know to return to the Echouafnis' home, Mrs. White responded that the dogs are related to the Echouafni dogs and know the area from having been there on other occasions, and also may have followed their scent.

Mr. White affirmed that he had seen two of the Echouafnis' dogs in the pen and the other in the house before it left with his two dogs through the open door.

Mr. White admitted that he made an error in judgment by not alerting the Dog Officer to the fact that it was his dogs that were out since he was aware of the restraining order and the potential for mixing the identities of the dog given the situation. Mr. White stated that he did not call the Dog Officer because his dogs have no history of attacking another animal and he was of the belief that he could get them in by himself. Mr. White stated his opinion that Ms. LeBlanc-Gedney's son could not be that familiar with the Echouafni's dogs in response to Selectman Drobinski's query as to how, if the dogs were so different as Mr. White had stated, the dogs were identified as belonging to the Echouafnis. He also stated that his dogs have never been known to run after other animals such as deer.

Mr. Echouafni maintained that there is a distinct difference between the character of the White and Echouafni dogs, but stated that the difference in the physical appearance of the animals is hard to determine, opining that this could be confirmed by the Dog Officer. He stated his belief that Ms. LeBlanc-Gedney's son had obviously made a mistake in identification and that it could have even been another dog with the White's Huskies which was seen in the neighborhood. He stated that the red dog which had been in the house had been out only for approximately five minutes. He informed the Board that the usual routine is that the dogs are brought from the pen to the house each evening at approximately 9:00 p.m. and are taken back into the pen in the morning by him on his way to work or later by his wife. On the morning of April 22, he did not return the dogs to the pen.

Mr. Echouafni indicated that, although it might not be fair to Ms. Anderson, his first inclination would be to try to get the dogs in first before calling the Dog Officer. The first action taken was to search for the dogs.

Mrs. DeWallace testified that she had first called the Echouafni home at about 8:50 p.m. and the dogs had been lost since approximately 8:15 p.m., which was confirmed by Mr. White. Mr. White stated that they were out looking for the dogs when Mrs. DeWallace called the Echouafni home.

Mrs. DeWallace affirmed that Mrs. Echouafni never mentioned that the dogs belonged to the Whites and remonstrated Mr. White for not apprising her of the fact that his dogs were loose upon the discovery that they were gone from the house.

Ms. Anderson testified that she had had a long conversation with Mrs. DeWallace at about 9:10 p.m. during which Mrs. DeWallace had informed her of the conversation she had had with Mrs. Echouafni. It seemed very clear to Ms. Anderson that Mrs. Echouafni had made no reference to the dogs belonging to someone else and, in fact, was very upset because they were out and the possible consequences.

Mr. Echouafni stated that Mrs. Echouafni could not be present this evening because she had to care for their baby and young son and reported later that the children were sick. Speaking for her in her absence, Mr. Echouafni stated that Mrs. Echouafni believed the restraining order applied to all of the Huskies. Mr. Echouafni reiterated emphatically that the dogs that were loose were the Whites' dogs.

Upon Mr. Echouafni's reiterated statement that if the Echouafni dogs had been loose, they would have gone to the Andersons, Ms. Anderson opined that she can't say that, in fact, they didn't.

At 8:35 p.m. the period for obtaining testimony was closed, whereupon the Board began its deliberations.

Chairman Blacker expressed his opinion that the dogs which were out did, in fact, belong to the Eschouafnis based upon the conversation between Mrs. Echouafni and Mrs. DeWallace and the failure of Mrs. Echouafni to deny that the dogs were hers which, in his opinion, would have been the natural reaction. The failure of Mrs. Echouafni, a material witness, to appear to give testimony lent further credence to his opinion since the in-laws apparently were available to babysit. Mr. Blacker thereupon moved to order the dogs removed from Town within a reasonable length of time. The motion was seconded by Selectman Drobinski.

Selectman Clark stated that she was in agreement with the motion because from the time the family moved to Sudbury in December of 1994, despite Mr. Echouafni's statement at the October 10, 1995 public hearing that "there is only a one in a billion chance of the dogs getting loose again", the dogs had been out in August and October.

At the close of the public hearing, it was on motion unanimously
VOTED: To order Mr. and Mrs. J. R. Echouafni, 47 Brewster Road, to remove the three Siberian Husky dogs owned by them from the Town of Sudbury within a ten-day period.

(Chairman Blacker: aye; Selectman Clark: aye; Selectman Drobinski: aye.)

Mr. Echouafni was advised that the order can be appealed through the court whereupon he indicated his intention to do so.

Future Agenda Subjects

The following subjects were proposed for future agenda scheduling:

- Minutes (3 sessions) of Town Manager interviews, as drafted by Selectman Clark;
- Policy on contract funding as proposed by Selectman Clark for review by Town Counsel;

- Meeting with State Representative Hasty Evans and Georgette Heerwagon to discuss issues and procedure with the regard to proposed Sudbury train service (tentative date: June 10).

With regard to meeting on Growth Management goals and priorities, establishment of format, and appointment of Committee/Task Force, it was agreed that this discussion would be a part of a broad goal-setting session which should be scheduled independent of the regular meetings. The Town Manager indicated that the initial goal setting should be accomplished with the aid of a facilitator. The Selectmen agreed that they have to identify their goals and get their act together, before they can tackle the growth management issue.

Sudbury Foundation Grant - Computer Advisory Committee

It was on motion unanimously

VOTED: To accept \$500 from The Sudbury Foundation, on behalf of the Computer Advisory Committee, to supplement funding to disseminate the Technology Management Plan.

Executive Session

At 9:45 p.m., at the request of the Town Manager, it was on motion unanimously

VOTED: To enter into Executive Session to discuss collective bargaining matters, specifically negotiations with the International Association of Fire Fighters concerning the use of EpiPen.
(Chairman Blacker, aye; Selectman Clark, aye; Selectman Drobinski, aye.)

Chairman Blacker indicated that the regular meeting would not reconvene at the close of the Executive Session.

There being no further business, the meeting was adjourned at 9:50 p.m.

Attest: _____
Steven L. Ledoux, Town Manager-Clerk