

IN BOARD OF SELECTMEN
MONDAY, NOVEMBER 9, 1992

Present: Chairman John C. Drobinski, Judith A. Cope, Lawrence L. Blacker.

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

Public Hearing - Class 2 Second Hand Motor Vehicle License

Present: John S. Hunter, President, Ferraris, Etc., Ltd.

The Board convened a public hearing to consider an application received October 26, 1992, for a Class 2 Second Hand Motor Vehicle License from John S. Hunter, President, Ferraris, Etc., Ltd., to be exercised at 103 Boston Post Road, for a period to expire January 1, 1994.

The Board acknowledged receipt of an application for a license to buy, sell, exchange or assemble second hand motor vehicles or parts thereof from Mr. John S. Hunter. In addition, the following communications noting approval of said application were acknowledged by the Board: 1) Communication dated November 4, 1992 from Fire Chief Michael C. Dunne, 2) Communication dated November 3, 1992 from Police Chief Peter B. Lembo, and 3) Verbal communication dated November 4, 1992 from Building Inspector John B. Hepting.

At the request of Selectman Cope, Mr. Hunter briefly gave the Board some background information, and noted he was ready to comply with the provisions outlined by the Board of Appeals for the previous operator at this location.

On the recommendation of Executive Secretary Thompson, it was on motion unanimously

VOTED: To approve an application received October 26, 1992, for a Class 2 Second Hand Motor Vehicle License from John S. Hunter, President, Ferraris, Etc., Ltd., subject to approval of a Special Permit by the Board of Appeals and conditions imposed thereunder.

Utility Petition - Emergency Approval - 202 Wayside Inn Road

Present: Brinda Gupta, homeowner at 202 Wayside Inn Road.

In response to request of Ms. Brinda Gupta, who required electrical service to move into her new home, it was on motion unanimously

VOTED: To grant emergency approval to Boston Edison Company and New England Telephone and Telegraph Company to proceed immediately in advance of receipt of petition and public hearing to install approximately 20 feet of conduit within the public way on the northerly side of Wayside Inn Road, from pole #128 (to be renumbered 194/37), to service a new home at Lot 1, 202 Wayside Inn Road.

Secretary Thompson noted that the immediate abutters were notified, and the grant of location will be confirmed at a formal hearing when all abutters will receive notice.

Minutes

It was on motion unanimously

VOTED: To approve the regular session minutes of October 26, 1992 as amended by Selectman Cope.

Council on Aging - Van Donation

It was on motion unanimously

VOTED: To accept \$116.99 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.

Department of Environmental Protection - Recycling Equipment Grant Program

In response to a communication dated October 20, 1992 from Department of Environmental Protection (DEP) Commissioner Daniel S. Greenbaum, it was on motion unanimously

VOTED: To accept a grant in the amount of \$6,900 from the Mass. Department of Environmental Protection under its Recycling Equipment Grant Program for the purchase of two roll-off containers, and to sign Agreement for the same.

Proclamation - Honoring Alicia "Lee" D. Haartz

In honor of Alicia "Lee" D. Haartz's devoted service to the Town and community, it was on motion unanimously

VOTED: To sign a Proclamation in honor of Alicia "Lee" D. Haartz on the occasion of her retirement as Administrative Secretary for the Sudbury School Department.

Annual Town Report - Printing Bids

The Board acknowledged receipt of a list of five bids received for the printing of the Annual Town Report. Secretary Thompson acknowledged a communication received today from Administrative Assistant Janet Silva recommending, in concert with the Town Report Committee, that the Board award the printing to the low bidder, Crane Duplicating of West Barnstable. Mr. Thompson further noted that this year's cost is approximately \$10 less per page than last year.

On motion by Chairman Drobinski, it was unanimously

VOTED: To accept the low bid of Crane Duplicating, 1611 Main Street, West Barnstable, MA 02668, dated October 30, 1992, for printing the Sudbury 1992 Annual Town Report on recycled paper at the price of \$45.65 per page, per specifications dated October 14, 1992.

Sudbury Advisory Group Application - Sudbury Foundation

It was on motion unanimously

VOTED: To support the application (second submission) of the Fairbank Advisory Group to The Sudbury Foundation for a new kitchen at the Fairbank Community Center.

Drainage Easement - Raymond Road

It was on motion unanimously

VOTED: To accept on behalf of the Town a Drainage Easement granted by Lawrence F. and Nicole Fleming, dated September 14, 1992, on Lot 1, on the southeasterly corner of Boston Post Road and Raymond Road, as shown on "Plan Showing Drain Easement Over Land of Lawrence F. & Nicole Fleming, 250 Raymond Road, Sudbury, MA", drawn by the Town of Sudbury Engineering Department, dated September 2, 1992.

Resource Recovery Committee - Appointment

In response to an application dated October 21, 1992 from Mark A. Kablack and on the recommendation of the Resource Recovery Committee, it was on motion unanimously

VOTED: To appoint Mark A. Kablack, 46 Poplar Street, to the Resource Recovery Committee, for a term to expire April 30, 1995.

Town Report Committee - Appointment

In response to an application dated November 8, 1992 from Cora Holland and on the recommendation of the Town Report Committee, it was on motion unanimously

VOTED: To appoint Cora Holland, 26 Silver Hill Road, to the Town Report Committee, for a term to expire April 30, 1993.

Haynes Meadow House - Lease

Present: Conservation Commission Chairman Frances Clark.

The Board acknowledged receipt of a lease for rental of the dwelling located on the property known as the "Haynes Meadow Conservation Land", 489 Peakham Road, Sudbury. The Conservation Commission acts as the "Landlord" for said dwelling. Ms. Clark briefly discussed the new tenants, Gregory Sobel and Elizabeth Altman, saying they will be moving from Boston. Significant improvements and changes have been made to the house, and it has been renovated to the extent that it is a quality rental building. According to Ms. Clark, the Haynes Meadow House is very much a benefit to the Town--not only will the Town realize a gain of about \$3-\$4,000 per year with the rental income, but additional funds will be available for its maintenance.

On the recommendation of the Conservation Commission, it was on motion unanimously

VOTED: To sign an agreement with Gregory Sobel and Elizabeth Altman relative to lease of the Haynes Meadow House for the term of November 15, 1992 - November 14, 1993 with a rental fee of \$750 per month; and to authorize the Conservation Commission Chairman Frances H. Clark to sign the lease agreement.

Group Health Insurance Consultant - Arthur Bomengen

Selectman Blacker reported that the most recent letter received with regard to Mr. Bomengen's employment status is that he will now, once again, be a representative for Cook & Company and Mr. Blacker requested the Board table this discussion until the next scheduled Board meeting on November 23, 1992.

Mr. Blacker commented he attended a meeting on health insurance held at the Kennedy Library and learned that someone from Cook & Company is working with Budget and Personnel Officer Terri Ackerman to finalize the MEDEX portion of the health insurance, attempting to either save money or keep the rates at a constant level.

Mr. Thompson explained that efforts are being undertaken to realize some improvements in the health insurance program and also the Town has requested new proposals for health insurance consulting services once again.

On the recommendation of the Executive Secretary, it was on motion by Chairman Drobinski unanimously

VOTED: To rescind the Board of Selectmen's vote of October 13, 1992 as stated below and to readdress this issue at the next scheduled Board of Selectmen's meeting on November 23, 1992:

VOTED: To contract with Arthur Bomengen individually, to provide group health insurance consulting services for the Town of Sudbury for a period of six months beginning October 1, 1992, with the six months' fee not to exceed \$2500; and to request that a subcommittee of the Long Range Planning Committee act as intermediary with the insurance consultant, subject to concurrence by Town Counsel.

Public Hearing - MGL Ch.148,s.13 and 527 CMR 9.25(2) -Inflammable Liquid Storage License -
470 Boston Post Road

Present: Fire Chief Michael C. Dunne; Richard Longton, representing land owner Bay Colony Realty Associates; Cumberland Farms representatives, David Alger, Frederick Lopez and Kenneth Schwab.

The Board convened a public hearing, pursuant to G.L. Ch. 148, s.13 and 527 CMR 9.25(2), to consider revocation of Inflammable Liquid Storage License for the storage of 24,000 gallons of gasoline in three underground storage tanks (License Document No. 83067) and order for removal of underground storage tanks, at 470 Boston Post Road (Cumberland Farms, Inc.). The reason for this hearing is abandonment of the storage tank, as defined and regulated by 527 CMR 9.02(1), 9.22(2).

The Board acknowledged receipt of a communication dated September 24, 1992 from Kevin C. Sheehan, P.E., Associate, Senior Project Manager at Environmental Compliance Services, Inc., stating Cumberland Farm's intent to reopen the station at 470 Boston Post Road and outlining their schedule for testing the tank systems for compliance. In addition, the Board noted four communications from Fire Chief

Michael C. Dunne as follows: 1) Communication dated September 17, 1992 issuing an Order for removal of the underground storage tanks within 30 days of said notice, 2) Communication dated August 26, 1992 requesting the Board hold a public hearing for revocation of license and removal of tanks, for reason of lack of response by Cumberland Farms, 3) Communication dated March 23, 1992 to Cumberland Farms reminding them that their underground tanks have been out-of-service for a period in excess of six months which constitutes abandonment, and 4) Communication dated March 16, 1992 to Cumberland Farms Regional Office asking them to advise of their schedule for compliance and reminding them that their tanks have been out-of-service for a period in excess of six months which constitutes abandonment.

Secretary Thompson explained that the facility had been abandoned for an extended period of time, during which the Fire Chief had sent several communications to Cumberland Farms, but received no response as to their intent for compliance. Recently, the tanks have been filled and the station is operating. Mr. Thompson noted that the Board sought counsel from Attorney Paul Kenny and Fire Chief Dunne, and in view of the circumstances, made a decision to go ahead with the public hearing in order to clarify some of the issues and come to a resolve tonight.

Mr. Richard Longton noted that property owner Bay Colony Realty Associates has a good working relationship with Cumberland Farms, and that the landowner would like to preserve the equity it feels it had in the privilege of maintaining its underground storage permit. The tanks are relatively new and of non-corrosive construction and have not fulfilled their useful life according to Mr. Longton.

In May, 1992, Cumberland Farms filed Ch.11 for reorganization. This facility was closed just prior to this filing, continued Mr. Longton. Bay Colony Realty Associates has actively pursued disposing of the property or soliciting a tenant to operate it on a full-time basis. Cumberland Farms is operating the facility every day from 6:00 a.m. - 6:00 p.m., while the landowner pursues a longer term arrangement. Several negotiations have taken place, and there are some marketers who have expressed an interest in a lease arrangement. It is the property owner's hope to preserve the underground privilege that was allotted to the site and continue an active marketing relationship in the community, reported Mr. Longton.

There was discussion on when the tanks were rendered inert, and when notification was given to Cumberland Farms with regard to their non-use. According to State regulations, removal of underground tanks has to be accomplished after a six-month period, and the tanks have been empty for longer than six months.

Selectman Cope noted that there is a concern with the close proximity of the tanks to one of the Town's well fields, and precautions need to be taken with these types of installations. Mr. Longton responded that the Fire Chief witnessed the installation and prior to refilling the tanks, his office was also notified and witnessed a test on the facility. Mr. Longton also commented that Bay Colony or Cumberland Farms did not intend to criminally abandon the facility, but may have been thinking that a permanent regulation could be as long as 12 months, with a temporary regulation lasting 6 months.

Selectman Cope questioned why there was no response to the Town, and Mr. Longton suspected it may have been due to the chaos prior to and during the decision to file Ch.11.

Chairman Drobinski asked about Stage 2 vapor recovery, and what type of onsite monitoring of the pumps is done. It was noted that the original site plan requires monitoring. Mr. Drobinski questioned if all State and Federal regulations have been complied with, and commented that it was not the Town's intent to

have the tanks removed, and reminded the parties that it is a privilege to possess a permit. The tanks were emptied in 1991, which is long past the six-month period, and there have been communications from the Town to Cumberland Farms.

Fire Chief Dunne presented the report of the testing to Chairman Drobinski that was completed on October 5, 1992, prior to reopening the station. The report indicated that the tanks were tested, the lines were not, but two leak detectors were. Chief Dunne noted that if the lines remain in service, they can be tested as well. Mr. Blacker concurred, particularly since they have been idle for a long period of time.

Mr. Longton remarked that the leak detectors have been tested and one replaced, which does insure that there is not an ongoing leak, but that they will be happy to provide the Board with the necessary data for the testing of the individual lines. Chairman Drobinski stated he would like to have them tested.

Fire Chief Dunne mentioned that a few people have stopped by his office relative to working out some sort of arrangement to use this site, and he believes something is going to happen.

After further review of the report of the testing, and on the recommendation of Chairman Drobinski, it was on motion unanimously

VOTED: To continue the public hearing, pursuant to G.L. Ch. 148, s.13 and 527 CMR 9.25(2), to consider revocation of Inflammable Liquid Storage License for the storage of 24,000 gallons of gasoline in three underground storage tanks, at 470 Boston Post Road (Cumberland Farms, Inc.) at the Board of Selectmen's next scheduled meeting on November 23, 1992 at 9:15 p.m., in order to obtain results from testing the lines. The results will be given to Fire Chief Michael C. Dunne, who will inform the Board of the results.

In addition, Chairman Drobinski asked for the results of water samples from the well near this location. Mr. Thompson noted that he would talk with Health Director Robert C. Leupold to obtain those results.

Public Hearing - Continued - Prime Plus Two Realty Trust - Site Plan Application #92-315

Present: J. Owen Todd, Legal Counsel for Prime Plus Two Realty Trust (Nancy Taylor Trustee); Project Manager James G. Crowther, Colburn Engineering, Inc.; Architect Robert Dion; Town Planner Jody A. Kablack; Town Engineer I. William Place, and Building Inspector John B. Hepting.

The Board convened the continuation of a public hearing at 8:30 p.m. to consider the application of Prime Plus Two Realty Trust, Nancy Taylor Trustee, for a Site Plan Special Permit in accordance with Sudbury Zoning Bylaws Art. IX.V.A., for construction of a two-story office building consisting of 5400 sq. ft. in floor area, at 348 Boston Post Road, Limited Business District #3; also involving removal of structure in the King Philip Historic District.

Executive Secretary Thompson reported that there have been at least two meetings in the interim to discuss the outstanding issues involved in approval of this site plan. A communication was received tonight from Fire Chief Michael C. Dunne with regard to 1) clearance of extension of roof line to accommodate the fire vehicles, and 2) turning radius at the rear of the building for the fire vehicles.

Town Planner Jody Kablack reported a meeting was held with the property owner Nancy Taylor, to discuss the possibility of moving the building closer to Rt. 20, thereby, conforming more to the Sudbury Village Concept; and in addition, helping the applicant solve the issue of the Wood-Davison House and negotiate with the Historic Districts Commission. Ms. Kablack noted that the Planning office recruited Design Review Board Chairman Kaffee Kang to draw a new sound engineering plan that would place the building closer to Rt. 20.

Mr. J. Owen Todd reviewed this plan with the Board and his comments regarding the plan were as follows:

1. It requires Prime Plus Two to utilize the land of others for the driveway--a shared driveway. Mr. Todd noted that the Realty Company does not own the land and it has not been offered to them, and they have not tried to buy it--they cannot be required to use someone else's land nor can the other party be required to allow them to use it.
2. Part of the Plan's concept requires a 20 ft. setback between the business and the residential districts, and inadequate setbacks are shown.
3. The Town bylaw requires that parking be located behind the building, and the plan violates the bylaw in that it is not all behind the building.
4. The configuration of the building causes it to go against the topographical incline, thus, requiring greater trenching and excavation of the land. Because of the placement, it would require a corridor to extend from 152 ft. in the front to 163 ft. in the back, and would render the entire first floor unusable. In addition, it would place about 2/3 of the first floor underground.
5. The retaining wall at the rear of the building would be a 9 ft. drop from the parking lot because of the additional trenching and could possibly be a liability.

Mr. Todd did comment, however, that the new plan accomplished two things:

1. It puts the building closer to Rt. 20 by approximately 50 ft.
2. It puts the building end on instead of horizontal.

Mr. Todd further explained that the plan gave them the idea to move the alcove from the right back of the building to the right front of the building. The alcove consists of about 400 sq. ft. and would bring the structure closer to Rt. 20 and would give it more of an end on appearance.

Selectman Cope asked if the whole building could be flipped from front to back and vice versa. Mr. Dion explained that by moving the alcove from the back to the front would accomplish that suggestion, because of changing the roof line to a gabled roof on the alcove section and adding a porch over the entrance. In addition, the appearance can be changed to a more traditional look by adding clapboard siding and double hung windows.

Mr. Todd asked the Board to approve the site plan subject to reconfiguring the alcove to the front.

Town Planner Ms. Kablack commented she did not understand the negative comments with regard to the disadvantage of changing the position of the building on the property because of the already existing engineering problems that need to be resolved for either plan, and believes they could be worked out in either case. Ms. Kablack noted that Mrs. Taylor has not voiced a strong resistance to a change in the plan. In addition the domination of the driveway is a strong objection, according to Ms. Kablack and she remarked that there is no pedestrian access from the street.

Mr. Thompson mentioned that in the previous meeting there was mention of an extended walkway from the building to the road. Mrs. Kablack remarked that if the Selectmen make a decision to approve the original site plan, that they vote to remove the extended roof over the drive and let the dumpster area stand alone.

With regard to the Fire Chief's concern relative to the clearance of the roof being only 10 ft., it was noted that 10 ft. is adequate for fire vehicle clearance, but other delivery vehicles may not be able to clear it. A sign was suggested to warn those with possible clearance problems.

Building Inspector John B. Hepting noted he can only address zoning issues, and reminded that there is a 20 ft. buffer zone required between business and residential, and both plans meet the setback requirements. Mr. Hepting continued that the bylaws state that parking should be to the rear of the building; however, the building does not have to screen it--there are many ways of screening it. He noted that there are a lot of grade change problems on the site and the architecture is affected by these problems.

Town Engineer I. William Place, noted he has also attended a couple of meetings and the shared driveway concept was discussed. He also mentioned the retaining wall to the rear of the building possibly needing regrading and the fact that both plans will require steep foundations.

Mr. Todd noted that an additional 9 ft. will have to be excavated in the Design Review Board's plan, and mention was made to Nancy Taylor that the building could not be constructed according to Ms. Kablack's plan because of what the requirements are and the fact that the first floor would be lost.

Selectman Cope commented that joint use of a driveway would reduce curb cuts and make the building more acceptable.

It was noted by Ms. Kablack that the abutter to the east of the property with the driveway has not been reached for comment, so at this time, it is not known how they might respond to this idea. Selectman Blacker replied that he cannot see how plans can be made to include a shared driveway, when the land belongs to someone else, and when there is sufficient land on the site. Selectman Cope responded that no one is suggesting buying someone else's land, but rather to ask if there may be a joint interest in sharing the driveway.

Chairman Drobinski asked if joint ownership poses problems, since part is business and the other residential. Mr. Place noted the only concerns would be who maintains and plows it.

In summary, Selectman Blacker commented he prefers the staggered look rather than a straight line in the front of the building, and would vote to approve the site plan, but would still like to see a continuation of a path from the building to Rt. 20.

Selectman Cope noted that the fate of the Wood-Davison house has to be dealt with and asked what might happen to it should the site plan be approved. Mr. Todd responded that building would have to begin within two years of the approval at which time they would submit an application to remove or demolish the house. The Board agreed that this was a separate issue from the site plan to be dealt with by the Historic Districts Commission; that nothing could be resolved at this junction.

Chairman Drobinski asked if Fire Chief Dunne was satisfied with his concern with regard to the turn around space in the parking area. Chief Dunne responded that he had conversation with Mr. Place, and it was determined that it can be done with a few maneuvers.

The main concerns, according to Ms. Kablack are that the building be in keeping with the Sudbury Village Concept and additional traffic density concerns. Other concerns of the Planning Board include the close proximity of the facility to Zone II relative to what type of facility it will be; the Planning Board would not approve use of the facility to include use of toxic and hazardous materials.

According to Town Engineer I. William Place, the traffic light at the Concord Road and Rt. 20 intersection needs upgrading to handle additional traffic and prevent backups.

Chairman Drobinski voiced the concerns of the Board that this is not the best site for development based on the topography, but they are trying to put together the best solution and address the Town's concerns at the same time, but may not arrive at acceptable solutions for all the issues.

Secretary Thompson recommended the Board approve the site plan and ask Town Counsel to draft a decision in accordance with the Board's concerns that have been expressed tonight and previously. Mr. Thompson noted there are special site plan guidelines and these will be incorporated into the draft that Town Counsel constructs, in addition to all the concerns.

The walkway along Rt. 20 was mentioned, and it was noted that it would have to be upgraded to connect with the proposed walkway from the new building. Mrs. Cope asked about the elimination of the extended roof on the original plan. Attorney Todd indicated no problem in agreeing to do so.

On motion by Chairman Drobinski, it was unanimously

VOTED: To approve Site Plan No. 92-315 of Prime Plus Two Realty Trust, and continue the Public Hearing to November 23, 1992 at 9:30 p.m., for construction of a two-story office building consisting of 5400 sq. ft. in floor area, at 348 Boston Post Road, Limited Business District #3; subject to the incorporation of comments made at the meeting tonight and in previous meetings, and incorporating recommendations received from the Board of Health, Town Engineer, Fire Chief, Building Inspector, Town Planner, Planning Board, and the Design Review Board; and to request Town Counsel to draft a Decision to accomplish the aforementioned.

Warren Property - MGL Ch.61A s.14 - Sudbury Valley Trustees

Present: Sudbury Valley Trustees Executive Director, Stephen T. Johnson; Mr. and Mrs. Kenneth Moore; Mr. Albert Ira Gould, Legal Counsel for Moores; Mark and Susan Frankel, 17 Carriage Way; Kathy Vernon; Mr. and Mrs. Dean Yarbrough; Legal Counsel for Elizabeth Warren, David W. Fitts.

The Board convened a public hearing to consider the question of exercising and assigning to Sudbury Valley Trustees the Town's first refusal option to purchase approximately 9.2 acres of land at 452 Concord Road, Sudbury, a portion of Parcel 300 on Town Property Map G10 and also shown on plan entitled, "Walter Warren (Plan of Land of), Sudbury, Mass., Scale 1" = 60 ft., October 23, 1944, by E. W. Pettigrew, C.E.", owned by Elizabeth Warren, pursuant to Massachusetts General Laws Chapter 61A, Section 14, and notice of intent postmarked July 24, 1992, to sell said land, currently assessed on the basis of agricultural or horticultural use, for residential use. **The 120-day option expires November 21, 1992.**

The Board is in receipt of a draft vote prepared by Town Counsel and submitted for approval by the Selectmen, and in conjunction with this vote, a copy of the "Notice of Intent to Exercise Option and Notice of Assignment of Option under MGL Ch. 61A, S. 14" and "Assignment and Assumption Agreement". Executive Secretary Thompson informed the Board that copies of this draft have been sent to all parties involved.

In addition, the Board acknowledged receipt of a communication dated October 30, 1992 from Sudbury Valley Trustees, Inc. Executive Director Stephen T. Johnson proposing its own draft vote authorizing the Town's exercise of first refusal option and assignment with conditions to Sudbury Valley Trustees, Inc. pursuant to Ch. 61A, S. 14. Also noted were conversations on October 28, 1992 with Mr. Dick Danosky, son-in-law of the Warrens with regard to the possibility of the house and barn being on separate lots, and a conversation with the Assessor's Office with regard to their consideration of only 8.85 acres being under Ch. 61A.

Mr. Stephen Johnson added that the draft presented tonight is a clarifying vote that describes conditions that were discussed at the meeting two weeks ago. It also addresses the questions regarding the Ch. 61A statute to assign the Town's option to SVT and additional action required to exercise this option.

Selectman Blacker asked if Attorney Fitts was satisfied with the proposed action, and his response was that he was.

Mr. Kenneth Moore stated once again that it was not his intent, as the prospective buyer of this entire parcel, to develop the property. He mentioned the fact that he believes there exists a conflict of interest because Selectman Cope is a voting member of Sudbury Valley Trustees. It was noted that Mrs. Cope is a trustee and a member of SVT, but the other Board members in their opinion did not feel this constitutes a conflict of interest.

Mr. Johnson stated, with regard to the development of one lot by SVT, that SVT is offering to assist the Town to conserve the property and develop no more than one new lot, while at the same time preserving the majority of the property for protection of the scenic corridor, wild-life habitat and water resources. SVT has presented a sound physical and environmental plan for the property and has bound themselves to the plan. Mr. Johnson further stated he has had many conversations with Mr. Moore about protection of the property, and could not acknowledge a pledge by Mr. Moore to protect any part of the property except for the wetlands.

Mr. Moore suggested the Town put the property back in Ch. 61A and not develop it at all. Mr. Johnson's response was that SVT is ready and willing to provide a conservation solution through the purchase and sale agreement via assignment.

Chairman Drobinski noted that these issues mentioned are old ones and have been discussed previously. He commented that there is a real concern that the land may be developed in the future, and

clarified the fact that the Board did not say Mr. Moore intended to develop the property. The Board is trying to do what is in the best interests of the Town and it is unanimous in what it is trying to do, continued Mr. Drobinski.

Mr. Albert Ira Gould, Attorney representing the Moores, explained that Mr. Moore has represented no development intentions. He does not think the Town has any options at this point because the provisions of Ch. 61A say that if a property is being converted for residential development or sold for such purposes, an option arises. Since Mr. Moore does not intend to develop the property for residential use, there is no option to the Town, and according to Mr. Gould the statute is quite clear on it.

Secretary Thompson explained that the draft has been approved by Town Counsel and recommended that the Board proceed. Mr. Thompson stated that Town Counsel will be informed of Mr. Gould's position tomorrow to determine if the Board is acting in accordance to their authority. Selectman Blacker commented that he does not believe the courts would interpret the statute as stated by Mr. Gould.

Mr. Gould continued by saying the statute says that if the property is sold for or converted to residential, then the option arises. The option does not arise at a point in time when the individual says he is buying the parcel in its entirety for his own personal use or the same use to which it is presently being used. The option would arise if in turn that individual were then to subdivide and sell off land. The option does not accrue merely because an offer occurs. The option accrues because of a change of use. The option may come to pass as a result of an offer to purchase where it is clear that the intention is to develop or that option may come to pass without an offer to purchase just by any intention to convert from agricultural to residential.

Chairman Drobinski remarked that this is not the time or place to argue the merits of the statute; Town Counsel will review the vote, and if it is incorrect, it will be amended through the appropriate channels.

Selectman Cope noted that it is the interest of the Board to keep as much land open as possible, and asked Mr. Moore if he would consider a restriction even more firm than Ch. 61A to develop no more than one lot. Mr. Moore responded that he is not sure if he is open to discuss this possibility here, but that SVT led him to believe that his original plan of restrictions would not be enough.

Chairman Drobinski explained that to sit down and negotiate some acceptable solution at this point seems discomfoting, as the Board heard his previous presentation and remembers what Mr. Moore was willing to restrict for conservation purposes, which was very limited and not suitable to the Board.

Executive Secretary Thompson recommended the Board vote the assignment as presented and give copies to all parties involved including Stephen T. Johnson, Elizabeth Warren and David W. Fitts.

On the recommendation of Executive Secretary Thompson, it was on motion unanimously

VOTE: To clarify the vote of October 26, 1992 with respect to the Town's first refusal option on the Warren property at 452 Concord Road, for purposes of ensuring compliance with the requirements of Section 14 of Chapter 61A of the General Laws and more accurately stating the conditions on the assignment of said option, it is hereby voted as follows:

VOTED: To exercise the Town's first refusal option to purchase certain property described below (the "Property") classified under Massachusetts General Laws Chapter 61A,

pursuant to a notice of intended sale dated July 21, 1992 (the "Notice") from Elizabeth Warren ("Seller") as owner of the property.

The property described in the Notice which is subject to the Option consists of approximately 9.2 acres of land located at 452 Concord Road, Sudbury, which is a portion of Parcel 300 on Town Property Map G10 and also is a portion of the land shown on a plan entitled "Walter Warren (Plan of Land of), Sudbury, Mass., scale 1" = 60 ft., October 23, 1944, by E. W. Pettigrew, C.E."

VOTED: To assign said Option to Sudbury Valley Trustees, Inc. ("Assignee"), a Massachusetts non-profit corporation having its principal place of business at 215 Boston Post Road, Sudbury, MA 01776, and organized for the purpose of conservation, subject to the following conditions:

1. The assignment is for the purpose of continuing the agricultural and horticultural use of the major portion of the property;
2. The Assignee shall offer the Seller, for no consideration whatsoever, such land as may be necessary for the Seller's retained lot to conform with current zoning requirements for minimum acreage and frontage, configured to encompass both the existing house and barn, provided that the land to be retained by the Assignee shall also conform to the zoning requirements for no less than one (1) Approval Not Required frontage lot;
3. The Assignee shall offer the Seller, for consideration based on the pro rata value of \$235,000 for 9.2 acres, additional land abutting the Seller's retained lot as defined in condition #2 above, except that such conveyance shall not cause the Seller's retained lot to exceed 2.0 acres in total, nor shall such conveyance cause the Assignee's land to fail to meet the minimum requirements for no less than one (1) Approval Not Required frontage lot;
4. The Assignee shall not create and convey more than one (1) Approval Not Required (ANR) building lot, in addition to that retained by the Seller and described in conditions #2 and #3 above. If the Assignee submits an Approval Not Required (ANR) plan, so called, to the Sudbury Planning Board for the purpose of identifying the one building lot described herein, said plan shall be in approximate accordance with the plan on file in the office of the Board of Selectmen entitled "Annotation & Schematic Plan by Sudbury Valley Trustees, October 26, 1992, Stephen T. Johnson, Exec. Director". If the Assignee does proceed with a conveyance of such an ANR lot, the scenic character of the property will be maintained by the placement of a Conservation Restriction, pursuant to M.G.L. Ch.184, Sections 31-33, on the hay field portion of the property most visible from Concord Road, provided that the Town agrees to said Conservation Restriction in a timely manner;
5. The Assignee agrees to assume the Town's obligations under the Option.

VOTED: To execute, by signature of the Chairman, a Notice to Elizabeth Warren of the exercise and assignment of the option, in accordance with M.G.L. Chapter 61A, Section 14, and an

Assignment and Assumption Agreement between the Town and Sudbury Valley Trustees, Inc., (SVT) and to deliver said Notice to Town Counsel, pending execution of the Assignment and Assumption Agreement by SVT, and upon such execution, and not otherwise, Town Counsel is hereby authorized to deliver said Notice to Elizabeth Warren and record said Notice with the Middlesex South District Registry of Deeds, as required by M.G.L. Chapter 61A, Section 14.

Board Openings

Selectman Cope requested a list of all the openings available on the different Boards--she has some very interested retired citizens willing to serve.

Polling Location

The Board acknowledged receipt of six letters from Sudbury citizens giving comments on the change in location for voting on election day November 3, 1992. Most comments were unfavorable for various reasons. Executive Secretary Thompson suggested the Board send an answer to these letters explaining that the Town is working toward solving the problems that occurred with this location, by possibly establishing more than one voting location and dividing the precincts, which would involve an article for Town Meeting to obtain funds for new voting equipment.

Selectman Blacker asked why additional costs would be necessary to go to precinct voting when all that need to be done is divide the machines and move them to the different locations. Selectman Cope pointed out that it does cost money to move the machines, and the more they are moved the more they become disrupted as to the accuracy of their function.

Mr. Blacker commented he would like to try Nixon School again in March. Mr. Thompson noted that the weather and Concord Road closing had not been in the Town's favor.

Audit Recommendations

Selectman Cope acknowledged receiving an update from the Town Accountant dated October 27, 1992, on the status of the recommendations for the past Town audit and asked who the resident CPA volunteer was and would like a letter of thanks be sent to him.

Rt. 117 Walkway - Safety Issue for School Children

In response to a communication received October 22, 1992 from Drs. Elizabeth and Carl Bozler, with regard to a stretch of Rt. 117 walkway being unsafe for passage of school children particularly in the winter months, Mr. Blacker agreed that this is a concern that should be addressed, because someone could feasibly get hurt. It was noted that the Selectmen are responsible for public safety, but at the same time, the schools are the busing authority.

Chairman Drobinski asked if the Board could respond by acknowledging their letter and say the Board is doing the best they can under the circumstances with limited funds. Mr. Thompson stated he would talk with the Town Engineer and the School Department before responding.

Time Log - Secretary/Legal Secretary

Selectman Cope expressed concern that the Board is being criticized for not cutting back on Selectmen's operating budget expenditures. In response to Janet Silva's communication dated November 3, 1992, relative to hours logged by the legal secretary, it is Mrs. Cope's opinion that the legal clerical work be removed from the Selectmen's office and be included in Town Counsel's expense. According to Mrs. Cope, most towns' Legal Counsel comes with legal clerical help.

One of Selectman Cope's frustrations is that it is difficult to understand how the legal time is spent. Mr. Thompson responded that it would be very difficult for the office to cut back on help. Selectman Blacker noted that more time is spent on issues than is realized, and most attorneys always estimate low in terms of time spent. Chairman Drobinski concurred with Mr. Blacker's statement that it is difficult to determine the exact number of hours for this type of work.

Alcohol and Drug Free Weekend - Meeting

In response to a communication dated October 31, 1992 from Andrea J. Fonte, Intergenerational Program Coordinator for the Council on Aging, relative to a meeting scheduled for November 19, 1992 from 11:00 - 12:00, to discuss an Alcohol and Drug Free Weekend sponsored by the Council, Selectman Cope noted that she will be attending.

There being no further business, the meeting was adjourned at 10:20 p.m.

Attest: Richard E. Thompson
Richard E. Thompson
Executive Secretary-Clerk