

IN BOARD OF SELECTMEN
MONDAY, MAY 10, 1993

Present: Chairman John C. Drobinski, Judith A. Cope and 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.

Reorganization of the Board

On motion by Chairman Drobinski, it was unanimously

VOTED: To elect Judith A. Cope Chairman of the Board of Selectmen, and it was further

VOTED: To elect Lawrence L. Blacker Vice-Chairman of the Board of Selectmen, and it was further

VOTED: To designate Executive Secretary Richard E. Thompson Clerk for the Board of Selectmen.

With regard to meeting times and place, on motion by Chairman Drobinski, it was unanimously

VOTED: To continue meeting twice monthly at 7:30 p.m. at the Fairbank Senior Center.

Long Range Planning Committee - Appointments

Present: William Katz, Chairman, Long Range Planning Committee; Candidates Kathleen C. Precourt and Richard S. Bryant.

The Board acknowledged receipt of a communication dated March 11, 1993, from Robert J. Cusack stating his intentions to not continue to serve on the Long Range Planning Committee, or the Five Year Financial Planning Committee.

In addition the Board acknowledged receipt of two applications for appointment to the Long Range Planning Committee from Richard Bryant and Kathleen Precourt.

Mrs. Precourt noted that she is volunteering for a position on this Committee because she wants to be involved with what is happening in the Town, and wants to be kept abreast of these happenings. She believes her background and experience will be beneficial to the Committee.

Mr. Bryant offered information about his background and experience, and noted he has experience regarding land development projects and would like to contribute his professional skills to this Committee.

Mrs. Precourt asked what the Board's expectations are for the LRPC. Selectman Drobinski commented that the Board expects the Committee to make honest evaluations of long-term financial expenditures in the Town and determine what expenditures are reasonable and viable for the Town. Chairman Cope stated that the Committee evaluates the five-year needs of the various boards and

committees, and prioritizes these needs for presentation to the Finance Committee and ultimately at Town Meeting. Mr. Katz further explained other important functions of the LRPC.

Selectman Drobinski commended the candidates for their willingness to contribute their time to the Town by serving on this Committee and thanked them for volunteering.

On motion by Chairman Cope and on the recommendation of former LRPC Chairman Robert J. Cusack, it was on motion unanimously

VOTED: To appoint Kathleen C. Precourt, 32 Intervale Road, and Richard S. Bryant, 3 Washbrook Road, to the Long Range Planning Committee, each for a 3-year term to expire April 30, 1996, replacing Robert J. Cusack and Robert A. Cala.

Board of Selectmen Liaison Assignments 1993-1994

It was on motion unanimously

VOTED: To approve the Board of Selectmen liaison assignments for 1993-1994 as drafted in a communication dated May 10, 1993.

Minutes

It was on motion unanimously

VOTED: To approve the following regular session minutes and one emergency meeting:

Monday, April 26, 1993, as amended by Selectman Cope.
Tuesday, April 27, 1993
Wednesday, April 28, 1993
Emergency Meeting - Saturday, May 1, 1993

Council on Aging - Donation

It was on motion unanimously

VOTED: To accept \$99.31 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.

Utility Petition 93-9 - Joint Ownership of Pole - Haynes Road

In response to a request from Denis J. Deagle, Supervisor - Rights, Permits & Survey - Western District, Boston Edison Company, dated April 23, 1993, and receipt of a joint petition, dated April 23, 1993, filed by New England Telephone and Telegraph Company and Boston Edison Company for joint ownership of existing pole #30/40 on Haynes Road, currently owned solely by Boston Edison Company, it was on motion unanimously

VOTED: To grant joint or identical locations to petitioners New England Telephone and Telegraph Company and Boston Edison Company for the maintenance of said existing pole and such other fixtures as may be necessary to sustain or protect the wires of the line, said poles and fixtures to be used in common by them and to be located substantially as shown on plan of Haynes Rd., Sudbury, dated March 24, 1993, along and across the following public way of the Town:

Haynes Road - westerly side approximately 107 feet north of Wadsworth Road.
One (1) existing solely owned Boston Edison Company pole #30/40 to become jointly owned with New England Telephone and Telegraph Company.

MacKinnon's Liquors - Pledge of License

The Board acknowledged receipt of the following communications:

1. A petition, dated April 30, 1993.
2. An authorizing vote of the Board of Directors, dated April 30, 1993 signed by Michael S. MacKinnon, and John S. MacKinnon, Jr.
3. Alcoholic Beverages Control Commission (ABCC) Form C.

The above communications were received from Sudbury Super Market, Inc., d/b/a MacKinnon's Liquors, relative to its intent to pledge its liquor license as collateral for a line of credit with Bank of Boston, in order to stay competitive and take advantage of cash discounts and to enable the purchase of merchandise in larger quantities.

On motion by Chairman Cope, it was unanimously

VOTED: To grant permission to Sudbury Super Market, Inc., d/b/a MacKinnon's Liquors, to pledge its All Alcoholic Package Store License as collateral to the Bank of Boston.

Edwin B. Hosmer Memorial Fund - Telephone Expenses

In response to receipt of a departmental bill voucher, dated May 3, 1993, from the Sudbury Historical Commission, it was on motion unanimously

VOTED: To approve an expenditure from the Edwin B. Hosmer Memorial Fund in the amount of \$39.79 to pay telephone expenses for the months of March and April.

Reserve Fund Transfer No. 93-18

At the request of the Police Department, it was on motion unanimously

VOTED: To approve Reserve Fund Transfer #93-18, dated May 4, 1993, Account #320-151, Police Sick Leave Buyback, in the amount of \$5,049.49 to pay sick-leave buyback to Allan C. Houghton upon his retirement.

Fiscal Year 1992 Town Audit

In response to a memo, dated April 29, 1993 from Finance Director/Town Accountant James Vanar, it was on motion unanimously

VOTED: To accept the Fiscal Year 1992 Town Audit prepared by Asadoorian & Company of Concord, Massachusetts, comprised of: "Town of Sudbury, Massachusetts General Purpose Finance Statements Year Ended June 30, 1992 with Report of Independent Public Accountant", dated January 17, 1993; and Management Letter, dated March 12, 1993.

Annual Appointments

During discussion, it was on motion unanimously

VOTED: To make the following annual appointments (all appointments are subject to acceptance):

- Kenneth W. Clark, Anne W. Donald, Patti M. Wilde to the Council on Aging, each for a three-year term to expire April 30, 1996;
- Patrick J. Delaney, III to the Board of Appeals, for a five-year term to expire April 30, 1998;
- Ronald E. Myrick, Derek J. Gardiner, Jeffrey H. Jacobson, and Marshall A. Karol to the Board of Appeals (Associates) and Earth Removal Board, each for a one-year term to expire April 30, 1994;
- Ronald B. Conrado to the Bike Trail Committee;
- John B. Hepting as Inspector of Buildings, for a one-year term to expire April 30, 1994;
- Earl D. Midgley as Deputy Inspector of Buildings, for a one-year term to expire April 30, 1994;
- Jacqueline Fergione, Michael Gonnerman, R. Christopher Trimper, Jeffrey Winston, Mark Thompson, and Frederick Walker to the Cable Television Committee, each for a one-year term to expire April 30, 1994;
- Robert A. Noyes as Superintendent of Cemeteries, for a one-year term to expire April 30, 1994;
- Michael C. Dunne as Director of Civil Defense, for a one-year term to expire April 30, 1994;
- Robert A. Noyes as Assistant Director of Civil Defense, for a one-year term to expire April 30, 1994;
- Marvis M. Fickett as Radio Operator, Civil Defense, for a one-year term to expire April 30, 1994;
- Steven C. Roderick to the Conservation Commission, for a three-year term to expire April 30, 1996;

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- Richard E. Thompson as Executive Secretary, for a one-year term to expire April 30, 1994;
- Virginia M. Allan to the Fair Housing Committee, for a three-year term to expire April 30, 1996;
- John C. Drobinski, Judith A. Cope and Lawrence L. Blacker, as Fence Viewers, each for a one-year term to expire April 30, 1994;
- Michael C. Dunne as Fire Chief and Forest Warden, for a one-year term to expire April 30, 1994;
- Winifred C. Fitzgerald and Clayton F. Allen to the Sudbury Historical Commission, each for a three-year term to expire April 30, 1996;
- Richard E. Thompson as Town Agent, Industrial Accident Board, for a one-year term to expire April 30, 1994;
- Michael Freundlich, Arthur A. Walker, Rosalind R. Gurtler, Nancy Schaffer, and Frank M. Vana, to the Juvenile Restitution Program Committee, each for a one-year term to expire April 30, 1994;
- N. Jane West Young to the Juvenile Restitution Program Committee (Alternate), for a one-year term to expire April 30, 1994;
- Peter B. Lembo, as Keeper of the Lockup, for a one-year term to expire April 30, 1994;
- Richard W. Murphy as Labor Relations Counsel, for a one-year term to expire April 30, 1994;
- Richard E. Thompson as Designee to the Massachusetts Bay Transportation Authority, for a one-year term to expire April 30, 1994;
- Richard E. Thompson as Legislative Liaison to the Massachusetts Municipal Association, for a one-year term to expire April 30, 1994;
- Mary Jane Hillery and Pat Nelles to the Memorial Day Committee, each for a three-year term to expire April 30, 1996;
- Lawrence L. Blacker as Designee to the Middlesex County Advisory Board, for a one-year term to expire April 30, 1994;
- Marjorie R. Wallace, Charles R. Schwager, Roy T. Sanford, Wilfred T. Benoit, Jr., Edward S. Campbell, Richard E. Thompson, Ex-officio, and Richard W. Murphy, Ex-officio, to the Negotiating Advisory Committee, each for a one-year term to expire April 30, 1994;
- Bruce Ey and Michael E. Melnick to the Permanent Building Committee, each for a three-year term to expire April 30, 1996;
- I. William Place as Planning Board General Agent, for a one-year term to expire April 30, 1994;

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- Russell DiMauro, 588 Peakham Road, as Pound Keeper, for a one-year term to expire April 30, 1994;
- Victor J. Guethlen to the Committee for the Preservation and Management of Town Documents, for a three-year term to expire April 30, 1996;
- Robert A. Noyes as Sanitary Landfill Agent, for a one-year term to expire April 30, 1994;
- Courtney W. Atkinson as Sealer of Weights and Measures, for a one-year term to expire April 30, 1994;
- Robert A. Noyes as Street Lighting Agent, for a one-year term to expire April 30, 1994;
- Susan Berry and John Thurber to the Sudbury Housing Partnership Committee, each for a one-year term to expire April 30, 1994;
- John C. Drobinski as Sudbury Visiting Nurse Association Representative, for a one-year term to expire April 30, 1994;
- Russell DiMauro as Surveyor of Lumber & Measurer of Wood, for a one-year term to expire April 30, 1994;
- Paul L. Kenny as Town Counsel for a one-year term to expire April 30, 1994;
- I. William Place as Town Engineer for a one-year term to expire April 30, 1994;
- Curtis F. Garfield as Town Historian, for a one-year term to expire April 30, 1994;
- Z. Stanley Taub and Melvyn W. Kramer as Town Physicians, each for a one-year term to expire April 30, 1994;
- Patricia A. Guthy, Cora Holland, and Patricia Huston to the Town Report Committee, each for a one-year term to expire April 30, 1994;
- Thomas W. H. Phelps to the Traffic Management Committee for a three-year term to expire April 30, 1996;
- Robert A. Noyes as Tree Warden for a one-year term to expire April 30, 1994;
- Guy L. Dietrich, Elizabeth M. Foley, Ronald J. Griffin, and Vincent P. Surwilo to the Veterans Advisory Committee, each for a one-year term to expire April 30, 1994;
- Mary Jane Hillery as Veterans' Agent and Director of Veterans' Services for a one-year term to expire April 30, 1994;
- Mary Jane Hillery as Veterans' Graves Officer for a one-year term to expire April 30, 1994;

- Robert A. Gottberg to the Wayland-Sudbury Septage Facility, Operational Review Committee for a one-year term to expire April 30, 1994;
- Warren E. Boyce as Wiring Inspector, for a one-year term to expire April 30, 1994;
- Arthur J. Richard as Deputy Wiring Inspector for a one-year term to expire April 30, 1994;
- John B. Hepting as Zoning Enforcement Agent for a one-year term to expire April 30, 1994;
- Earl D. Midgley as Deputy Zoning Enforcement Agent for a one-year term to expire April 30, 1994;
- Joseph D. Bausk as a (Paid) Special Constable for a one-year term to expire April 30, 1994;
- Earl D. Midgley, John B. Hepting, Warren E. Boyce, and Michael C. Dunne as (Non-Paid) Special Constables, each for a one-year term to expire April 30, 1994;
- George T. Burney, Peter J. Walsh, Wesley M. Woodward, and George A. Moore as special Police Officers, each for a one-year term to expire April 30, 1994;
- Richard Brackett and Barbara Greenwood as School Crossing Guards, each for a one-year term to expire April 30, 1994;
- Barbara A. Greenwood, Carol Ann Greenwood, and Rosemary A. Langmaid as Police Matrons, each for a one-year term to expire April 30, 1994.

Special Constables - Raytheon

It was on motion unanimously

VOTED: To reappoint the following Special Constables Non-Paid, for Traffic Duty only at Raytheon Company, for terms to expire April 30, 1994:

Frank J. Gonsalves, Janet D. Kelley, Brian C. O'Halloran, Brian A. Stetson, James S. Vandénakker, and Thomas Boulos.

Handicapped Compliance Coordinator

It was on motion unanimously

VOTED: To dissolve the Handicapped Compliance Coordinator position which has been replaced by the Americans with Disabilities Act Coordinators.

Legal Services Review Committee

On the question of whether or not to dissolve the Legal Services Review Committee, on motion by Chairman Cope, it was unanimously

VOTED: To keep this Committee intact, even though they are not currently active for another year.

Resignations

Upon motion of Chairman Cope, it was unanimously

VOTED: To acknowledge with regret resignations from the following persons not wishing to serve beyond their term expiration of April 30, 1993; and further, to request Executive Secretary Thompson to send letters of thanks for past service to such persons:

Robert J. Cusack	-	Long Range Planning Committee
Robert A. Cala	-	Long Range Planning Committee
Philip Ferrara	-	Long Range Planning Committee
David A. Palmer	-	Long Range Planning Committee
Christine C. McLeod	-	Sudbury Housing Partnership Committee
Arthur W. Hall	-	Sudbury Housing Partnership Committee
Lora B. Vail	-	Town Report Committee
Barbara Herman	-	Town Report Committee

Mass. General Laws Ch. 61A, sec. 14 - Kathleen G. Cook Property - Pelham Island Road

Present: Attorney Robert D. Abrams, representing Colburn Development Corporation; Carlton B. Colburn, President, Colburn Engineering; Lynn Remington, Colburn Development Team; Sudbury Valley Trustees Executive Director Stephen T. Johnson, and Attorney Greg Buesing, representing Sudbury Valley Trustees (SVT).

The Board convened a public hearing, continued from March 1, 1993, to consider the question of exercising and assigning the Town's first refusal option to purchase approximately 32.49 acres of land owned by Kathleen G. Cook off Pelham Island Road, as shown on town Property Map L10 as Parcels 700 and 701, pursuant to Mass. Gen. Laws Ch.61A, sec. 14, and Notice of Intent postmarked January 13, 1993.

At the conclusion of the hearing on March 1, 1993, it was agreed to allow SVT time to work out arrangements with U.S. Fish & Wildlife to purchase this property from SVT, should the Board assign the Town's option to SVT. Executive Secretary Thompson reported that he has been in contact with SVT Executive Director Stephen Johnson, and SVT Associate Director Whitney Beals with regard to the realization of this arrangement.

Mr. Thompson informed that Town Counsel's office received a communication dated May 7, 1993, from SVT Associate Director Whitney Beals, requesting that the Town exercise and assign the Town's first refusal option to Sudbury Valley Trustees, and including a proposed vote for the Selectmen. Mr. Thompson continued that SVT has indicated to him and Selectman Drobinski that SVT is serious and would like the assignment made this evening, May 10, 1993. SVT will continue to work with U.S. Fish & Wildlife, but if an agreement cannot be reached with them, SVT is willing and able to take the property on their own, reported Mr. Thompson.

According to Secretary Thompson, the Water Department is not interested in this property at the present time.

Mr. Stephen Johnson explained that SVT is seeking assignment for several reasons: 1) frontage property to Landham Brook; 2) Wetlands protection, and 3) Floodplain protection, which includes 1/3 of all the resources for the wildlife habitat. According to Mr. Johnson, SVT had expected to now have a letter of commitment from U.S. Fish & Wildlife. SVT is working alone at this time, since there is no contract with the Water District or U.S. Fish & Wildlife. Fundraising is not in place at this time, and they are willing to work with any partners who have an interest in helping SVT achieve their end results, continued Mr. Johnson. SVT hopes to keep the major part of the property in use--the use being farming, which has been done on this particular property for 300 years.

Mr. Kevin Legere, who has farmed this property, commented that close to 35 acres are farmed and that he is interested in continuing to farm this property.

Mr. Johnson remarked that SVT is prepared to go ahead with the assignment and seek financing; however, they presently have the resources available to close no later than November 1, 1993, and most likely sooner.

Chairman Cope asked what might be holding up U.S. Fish & Wildlife. Mr. Johnson responded that it is a long process, and that SVT is prepared to go forward. There was some question as to whether or not U.S. Fish & Wildlife is actually pursuing this particular piece of property. Mr. Johnson noted that either the SVT or U.S. Fish & Wildlife is actively pursuing various lands for wildlife refuge, including this property.

Selectman Blacker commented that his concern is the closing. Blacker stated that since no permits are needed to be obtained by SVT, and since they will not be meeting with the Planning Board, why delay closing on the property to November 1, 1993. Mr. Blacker believes that there is no basis for delaying the closing.

SVT Attorney Greg Buesing commented that he has discussed the closing date with the seller's attorney. Time is needed for a title search because there is an outstanding mortgage on the property.

Selectman Drobinski stated that the agreement is pretty straightforward and if SVT does not come up with the funds for the property, the contract will not be exercised.

Attorney Abrams, representing Colburn Engineering displayed a sketch of the property in question, pointing out Landham Brook, the wetlands, and the Federal Emergency Management Agency's (FEMA) elevation designation. Mr. Abrams explained that it is their understanding that, previously, the

Board acknowledged that the Town does not have the funds to purchase this property, and is considering whether or not to assign this property to SVT, the only non-profit conservation organization in this area.

On behalf of Colburn Development, Mr. Abrams asked that the Town not assign these rights to SVT because Colburn Development wishes to develop the property in question, and they are motivated by economic considerations. These economic considerations will also benefit the Town in several ways:

1. Materials purchased for building
2. Employment of local contractors
3. More affordable housing
4. Additional tax base.

In addition, Mr. Abrams pointed out the rollback tax payment to the Town if the property were sold to Colburn Development, and the continuing tax revenue that the property would generate. With regard to protection of the wildlife habitat that exists, Mr. Abrams mentioned that a major portion of the property is already protected by the State and conservation restrictions because of the wetlands and the flood plain.

Attorney Abrams noted that the Selectmen need to consider the limitations placed on this assignment. Mr. Abrams suggested that this assignment is not for conservation purposes, and protection of wetlands, but rather is to be assigned for the continuation of agricultural use. The reason that U.S. Fish & Wildlife may not have responded thus far, according to Mr. Abrams, is because the requirements of the Statute are inconsistent with the obligations of the Department of U.S. Fish & Wildlife and the protection of the wildlife habitat. According to information received from the Massachusetts Conservation Commission that speaks on the protection of wetlands, Mr. Abrams stated that agricultural use is not consistent for conservation purposes.

Mr. Abrams informed that Colburn Development will develop the property consistent with Town bylaws and will address abutters' concerns, specifically, they will leave a large portion of the property as open space.

Selectman Drobinski asked if perk tests were done on the property, and where the development might occur on the property. Mr. Colburn pointed this out on the sketch, stating that his Company has done extensive testing. Also mentioned was the fact that SVT approached Colburn Development for solutions to avoid litigation by both parties. A limited development of 5 lots rather than 8-10 was proposed, but negotiations for this proposal have been closed off by SVT, according to Mr. Colburn.

Jeffrey Jonas, an abutter at 99 Pelham Island Road, commented that he likes the open space that exists now, and can understand that an additional tax base would be beneficial for the Town at this time, but in the long run would hurt the Town because people like open space.

Chairman Cope asked about the compatibility issue between U.S. Fish & Wildlife and farmers. Mr. Johnson responded that agricultural and conservation are very compatible, and in fact U.S. Fish & Wildlife have several cooperatives with farmers--in large part because wildlife will forage for food on agricultural property.

William Smith, 78 Pelham Island Road, concurred with his neighbor, Mr. Jonas, regarding the open space, stating that one of the reasons for locating here was because of the woods and the wildlife.

He believes the openness makes Sudbury very special. Mr. Smith did express his concern regarding runoff, stating that half of the field was covered by water this spring.

John Baranowsky, 103 Belcher Drive, asked about the FEMA line. It was noted that FEMA has set the elevation line at 123 ft. in Zone A.

Mr. Ralph Tyler, Deacon Lane, commented that according to Town Engineer, I. William Place, the FEMA line is under review. There is some question that the FEMA line does not represent the actual flood plain line, and that the flood plain line is actually larger. This information was determined from a flood, according to Mr. Tyler.

Floyd Stiles, 105 Pelham Island Road, a resident of more than twenty years, did not agree with the comments stated with regard to incompatibility of agriculture with wildlife habitat, and cited several examples of farm property that has been purchased by U.S. Fish & Wildlife.

Mr. Legere, the farmer, discredited the comments with regard to pesticides and fertilizers finding their way to the resources, by noting that all fertilizers and pesticides, if handled properly and with care, do not cause contamination problems.

Selectman Blacker referenced another hearing relative to property on Concord Road, and expressed concern about the compromise issue, stating that he is swayed somewhat by both parties, with regard to economic issues and land protection, and finds it to be a difficult issue. Mr. Blacker questioned why SVT had a problem with Colburn Development's proposal for a limited development of 5 lots. Mr. Johnson responded that SVT's goal is to protect the entire parcel, and continue with the agricultural use because it works well to enhance the wildlife habitat. The area to the front of the parcel becomes increasingly important, if the agricultural use has to be moved farther to the front. The agricultural use is not serving directly to protect the wetlands and flood plains--there are Statutes that do that, stated Mr. Johnson. Each additional house and activities that naturally go along with owning a home will upset the wildlife that already exists, added Mr. Johnson, and this is the only opportunity the Town will have to protect this piece of property.

Selectman Blacker noted he agrees with this statement, and cannot pass judgment on that aspect of it, but mentioned it as a consideration. Mr. Tyler concurred with Mr. Blacker, and suggested that perhaps the Town should exercise this opportunity to keep open the space, because there will be other open spaces that the Town will not have the option of deciding whether to keep it open or have it developed.

On motion by Selectman Drobinski, it was unanimously

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 January 13, 1993 (the "Notice") from Kathleen Cook ("Seller") as owner of the property.

The property described in the Notice which is subject to the Option consists of approximately 32.49 acres of land located on Pelham Island Road, Sudbury, which are Parcel 700 and Parcel 701 on Town Property Map L10 and also are portions of the land shown as Parcel "A" on a plan entitled "Plan of Land in

Sudbury, Mass., scale 1" = 80 FT. - May 29, 1961, A.E. Sanderson, Reg. Land Surveyor", said plan being recorded with Middlesex South Registry of Deeds, Book 9828, End.

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 agrees to assume the Town's obligations under the Option.

VOTED: To execute, by signature of the Chairman, a Notice to Kathleen Cook 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 Kathleen Cook and record said Notice with the Middlesex South District Registry of Deeds, as required by M.G.L. Chapter 61A, Section 14.

Cummings Properties Sudbury, Inc. - Board of Appeals Cases 93-32 and 93-33

Present: Michael H. Pascavage, AIA, Vice President, Cummings Properties, and Attorney William J. Gustus.

The Board convened a joint meeting with Cummings Properties Vice President Michael H. Pascavage, and Attorney William J. Gustus, representing Cummings Properties, to provide input to the Board of Appeals as requested by them in a communication, dated May 3, 1993, relative to:

Case 93-32 of Cummings Properties Sudbury, Inc. for a use variance under Sec. III.D of the Zoning bylaws, to allow for use of the property located at 142 North Road, Research District #1, as a congregate elderly housing and nursing facility with associated medical and allied health uses.

Case 93-33 of Cummings Properties Sudbury, Inc. for a variance under Sec. IV.B of the Zoning Bylaws, to allow for an addition to the existing structure which would increase the building height to approximately 63 ft., and which would contain six stories, also on property located at 142 North Road, Research District #1.

The Board acknowledged receipt of a communication dated May 5, 1993, from Town Planner Jody Kablack on behalf of the Planning Board to the Board of Appeals expressing the Planning Board's concerns with regard to the variances requested, contamination clean-up, proposed method of wastewater disposal and/or treatment for the site, use, storage and disposal of toxic and hazardous materials (medical waste), and requesting further postponement of this public hearing to allow ample time for all Town boards to adequately review the application and address the issues.

Mr. Michael Pascavage, representing Cummings Properties, reviewed what has been happening with the property since Cummings Properties purchased the Unisys parcel in August, 1991. Despite Cummings' efforts to heavily market this property for commercial use consistent with current zoning, there has been no response. Mr. Pascavage stated that Cummings' alternative plan for this property was to consider a congregate elderly facility much like the New Horizons project they developed at Choate in Woburn.

The purpose of meeting with the Board tonight is to inform the Board about their plans and to explain why the variances are being requested. A site plan of the 25 acre parcel was displayed and the plans for the parcel were explained by Mr. Pascavage. The use variance will allow Cummings to proceed with their plan for a congregate elderly facility. The height variance requested will allow Cummings to extend the building to six stories in a specific part of the building. Mr. Pascavage explained that height lends itself better to elderly functions in that the elderly will not have to go very far--everything will be more central and less spread out. Other reasons for extending upward rather than outward as stated by Mr. Pascavage include: 1) environmental--less impervious surface created; 2) limited roof area; 3) less land excavated; and 4) more advantageous for construction and marketing purposes.

Chairman Cope asked if Cummings could explain what their future plans are for the parcel's full and best use--if they intend to expand and become more dense. Mr. Pascavage informed that the total development will be limited to the capacity of the septic system, for which they are currently considering 15,000 gallons. Cummings has been in contact with Health Director Robert C. Leupold relative to septic system location.

In response to Selectman Drobinski's request for a definition of congregate elderly living, Mr. Gustus explained that it would be very similar to the New Horizon facility at Choate in Woburn. Their plans at present describe the facility as an independent living facility where people are able to care for themselves, but it would include call buttons in rooms and a congregate area for meals and other activities. Mr. Pascavage described the living units--their size and what might be included, and emphasized that there would be no cooking done in the rooms.

Mr. Gustus commented that the concepts that they are describing may or may not precisely meet the needs of Sudbury residents, and this is the reason for obtaining input at this time because their intent is to have the concept meet the needs. Cummings is in the process of determining these needs now, and will be talking with the Council on Aging and other elderly service providers.

Selectman Drobinski remarked that there is a definite need in Sudbury for elderly housing--housing for people who no longer wish to be burdened with caring for a home, but who want to afford to remain in Sudbury. Mr. Gustus responded that Cummings is interested in determining what these needs are and intends to obtain input from several committees and boards in Town before detailing any final plan.

Selectman Drobinski asked what Cummings means by associated medical and allied health uses, as stated in their application for the use variance. Mr. Pascavage noted that it might be part of what the menu of services would be, but will depend on how care related the facility will be; however, Mr. Pascavage does not visualize a nursing care component in this facility.

Mr. Drobinski also asked about the height variance and if the request for 6 floors and extension to 63 ft. is an absolute hard number for them, because he believes this is an issue that will have to be dealt with. Mr. Gustus reported that he has talked with Fire Chief Michael Dunne and noted that the Chief stated it would be acceptable because they have a ladder truck and also because of the grade of the property and the location of the height addition.

Executive Secretary Richard Thompson commented that the ladder truck is not able to be garaged in the North Sudbury fire station, and this may be a consideration with regard to the height extension.

Mr. Ralph Tyler reiterated a similar situation that was presented at the 1989 Town Meeting, in which a proposal for four stories was defeated, because studies indicated extra Fire Dept. costs, and other problems with increased height, and he also suggested that this may be a zoning issue rather than a variance issue which will have to be settled at Town Meeting.

Mr. Gustus expressed his opinion that Cummings believes this is the best use of the environment in terms of the existing property. With regard to appearance because of the extended height, Mr. Gustus noted that the nearest abutter is 3/8 of a mile away and because of all the trees and being surrounded by conservation land, the extension will not be seen. Because of the delay in realizing a use for this property, Cummings made the decision to apply for a variance rather than re-zoning. Waiting for Town Meeting would mean delaying any development until the Spring of 1995, rather than the possibility of one year sooner, explained Mr. Gustus. The longer development of the property is delayed, the longer the Town will have to wait to receive income from this property.

Selectman Drobinski concluded that the Board definitely agrees with the concept, but pointed out that the height variance will most likely be an issue.

Reports

July 4, 1993 Parade

With regard to funds for the July 4 parade, Secretary Thompson reported that he and Parade Chairman Roger Bump submitted an application to the Sudbury Foundation asking for the Foundation's financial support and sponsorship for the parade, and asked that the Board of Selectmen support their efforts. The Board agreed to support this action.

Concord - League of Women Voters

Secretary Thompson mentioned he received a letter from the Concord League of Women Voters inviting anyone that may be interested to attend their May 25, 1993 meeting, at which time the topic of conversation will be "Where Their Town is Going".

Additional Names for Committee Openings

Chairman Cope suggested Thomas Spencer, businessman with insurance experience, and Keith Veren, water treatment specialist, as two possible persons to consider for openings on appropriate committees.

Interstate Cleanup

Chairman Cope reported that Interstate is doing a great job with their cleanup--they are removing some tanks and not bringing them back.

League of Women Voters - Rt. 20 Sewering Study

Chairman Cope reported that, following a meeting she and Marilyn Novak, from the Hop Brook Ponds Study Committee, had with the Sudbury League of Women Voters, it was learned that the Sudbury League of Women Voters may do a study of sewerage of Rt. 20 this year.

Override Concerns - John Baranowsky

The Board agreed to extend the courtesy of allowing Mr. Baranowski to voice his concerns with regard to issues relative to the schools and the impact of the override and the reopening of Nixon School, even though he was not on the agenda. Selectman Drobinski noted that it is the Board's policy to not disallow anyone the opportunity to speak. Mr. Baranowsky requested the Board members to sign a petition to support an alternative plan to try to solve the School Committee's problems. Selectman Drobinski responded that approaching the Selectmen at a public meeting relative to such a school matter is somewhat unusual, and that a more appropriate move would be to take his concerns to the School Committee.

Investment Advisory Committee

Executive Secretary Thompson reported that in talking with members on the Investment Advisory Committee, they expressed some displeasure with recent actions taken by Town Treasurer/Collector Mary Ellen Normen Dunn to engage an investment manager and make reinvestments without discussing her actions with the Committee. Mr. Thompson stated that Mrs. Dunn had her reasons for taking this action when she did. The Board asked Secretary Thompson to resolve the matter by clarifying that it is the Board's desire that the Investment Advisory Committee, which consists of David Pettit, Kenneth Ritchie, and David Wilson, should be consulted on any and all Town investment matters and their recommendations reported back to the Board of Selectmen by the Treasurer/Collector.

Transfer Station

Selectman Drobinski reported that he spoke with Resource Recovery Committee member Craig Blake relative to visiting certain area transfer stations. Selectmen Drobinski and Blacker expressed interest in doing so. Chairman Cope and Mr. Thompson stated they have already visited other community transfer stations.

Talisman Study

Chairman Cope returned to Mr. Thompson her comments with regard to the scope of services for the Talisman Study of the Town. Mrs. Cope commented that she had altered the objectives in the scope as drafted.

Road Repairs

Chairman Cope stated that she has received several calls with regard to the condition of the roads, and asked about the computer printout that indicates when the roads are to be repaired. Secretary Thompson reported that there is a contract for road repairs to be accomplished by June 30, 1993, and another contract for late summer/early fall, and stated he would supply the list of roads and timing on repairs to the Board.

Nitrate Study

Selectman Blacker expressed concern over the wording under Water District Article #8 relative to who will be performing the nitrate study, an outside consultant or the water district staff, and stated he wants assurance that this will be performed by an outside consultant. Mr. Thompson stated he would consult with Water District Superintendent Richard Carroll and report back to the Board.

Chairman Cope - Goals for Coming Year

Chairman Cope outline her goals for the coming year as follows:

1. Town Green - Improving the appearance
2. Apartments and Condominiums - Encouraging the construction
3. Rt. 20 - Move forward with this study
4. Negotiating Advisory Committee - Implement their recommendations
5. Bylaw recodification
6. Dog Officer - Decision regarding this position
7. Strengthen volunteer core
8. Establish Town Park at 378 Boston Post Road (proposed Dunkin Donuts site) if property offered for sale again
9. Examine zoning issues and construct Articles to address these issues, i.e. HilCo property and Lewis property.

Secretary Thompson suggested the Board begin meeting with both the Board of Appeals and the Planning Board early in the fall to begin to address these zoning concerns.

There being no further business, the meeting was adjourned at 10:30 p.m.

Attest: _____
Richard E. Thompson
Executive Secretary-Clerk