

IN BOARD OF SELECTMEN
MONDAY, OCTOBER 23, 1995

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

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

Fort Devens Sudbury Annex

Present: Juliet Gibbs, Fort Devens Task Force; Chairman Stephen Meyer and Coordinator Deborah Montemerlo of the Conservation Commission; Stephen Johnson of the Sudbury Valley Trustees; and interested citizens Sharron Balaban and David Manjarrez.

The Board acknowledged receipt of a motion voted by the Fort Devens Sudbury Annex Task Force, recommending that the Board support the transfer of all the Fort Devens Annex property to U. S. Fish and Wildlife Service, and further encouraging the Board that in the event that Fish and Wildlife obtains the land: 1. The Board of Selectmen encourage Fish and Wildlife to work with the town so as to allow the use of the property for passive recreation such as hiking, cross-country skiing, horseback riding, mountain biking, nature-interpretive trails and similar uses, and that loop trails of various lengths be developed, and that some or all of the trails be handicapped accessible. 2. The Board of Selectmen, or their appointees, work with Fish and Wildlife to explore the possibility of obtaining from them one or more small sites at the periphery of said land in Sudbury, not deemed by Fish and Wildlife to be critical for wildlife habitat or corridors, for affordable housing development. Use of these sites would be contingent on the land passing normal water, conservation and setback restrictions as required of a private developer. 3. The Board of Selectmen strongly encourage Fish and Wildlife to participate in the management coalition headed by Sudbury Valley Trustees for management and policing of the abutting public open space areas.

Selectman Blacker stated that he and the Task Force have met three times, and all but one member of the committee voted to approve the above statement of recommendation, which he then read verbatim. Two or three days ago he received a call from Sharron Balaban of 2 Run Brook Circle, regarding Craven Lane, which connects Hudson Road with Rte. 27. Ms. Balaban had stated that this is the only such connecting road except for Fairbank Road; however, Craven Lane was closed to traffic in 1945. She also had said that if Craven Lane could be re-opened, it would alleviate east/west commuter traffic and take it off Fairbank Road.

Interim Town Manager Thompson mentioned that this matter had come briefly before this Board in the past, and it is not on the agenda tonight. He asked for time to review this. Selectman Clark asked if this proposal is to be introduced as a caveat to the motion just read by Mr. Blacker and he answered in the affirmative. Ms. Clark queried if right now Craven Lane goes through the north side of the annex and Mr. Blacker answered in the affirmative.

Ms. Balaban addressed the Selectmen at this point. She submitted information to the Board in support of reopening Craven Lane and two maps of the area in question. The Selectmen asked for clarification on the exact number of acres in our portion of the Annex; Deborah Montemerlo stated that there are 254 acres on the south side and 80 on the north side. Ms. Balaban made the following statement: There is only one major road used for traffic cut-through from Hudson Road to Rte. 27 and this is Fairbank Road, a road heavily used by children and families (especially with the recreation facility

and fields at the Hudson Road end) and by senior citizens (Fairbank Community Center). In recent years there have been three new developments built off Fairbank Road, a road which was already extremely dangerous, without sidewalks. There is a posted speed limit of 35 m.p.h. but observation has shown the usual speed used by motorists on the road is in reality 40 to 55 m.p.h., with hundreds of cars using the road at rush hours. Although traffic was diverted to Fairbank since 1945, since that time there has been much development, and no formal initiative to change traffic pattern. Ms. Balaban stated that she sees the current Agenda Item as a window of opportunity to consider a position change on this matter.

Chairman Drobinski stated that the Board would take Ms. Balaban's request under advisement. Selectman Blacker proposed calling another meeting of the Task Force to add this Craven Lane question to the statement already endorsed by the Task Force. Mr. Drobinski suggested that Town Counsel and the Town Engineer become involved. Selectman Clark inquired if part of Craven Lane was in Maynard and received an affirmative answer. Interim Town Manager Thompson stated that he supports the idea of re-opening Craven Lane, but that this issue requires a lot of study, especially since there is another town involved. Mr. Blacker reiterated that he would like to add the re-opening of Craven Lane as a fourth caveat in the already-prepared statement.

David Manjarrez of 47 Firecut Lane asked for clarification of the Craven Lane issue as to when it was closed, exactly where it is located and whether or not it parallels Fairbank Road. Deborah Montemerlo asked why this issue is being brought up just now and Mr. Thompson responded that the Town Engineer did recommend this one month ago.

Chairman Drobinski stated that he would like a Town interest in soccer fields added to the already stated passive recreational uses. Selectman Clark said that one acre would not be enough land for affordable housing; Selectman Blacker said that Jo-Ann Howe of the Housing Authority was on the Task Force and had agreed with the wording of the motion. Mr. Drobinski recommended that the Task Force meet to study the Craven Lane issue and the item be put on the agenda for the Board meeting two weeks from tonight.

Stephen Meyer stated that if Craven Lane exists through the middle of a refuge, traffic will be a big problem; it would be like proposing a hospital in the middle of a jungle! Selectman Blacker asked Mr. Meyer how the wildlife survived army maneuvers all through the years and Mr. Meyer responded that any such maneuvers were many less than the Board has been led to believe. Mr. Meyer reiterated that he believes this kind of proposal makes no sense.

Selectman Clark asked that an amendment to Selectman Blacker's motion be added on Item 2 as to the "periphery" of said land as to include diverse housing options including residential condominiums and affordable housing. Chairman Drobinski added his idea of other "active" recreational use; Mr. Drobinski said the vote of the Task Force cannot be changed but his and Ms. Clark's suggestions can be given to the Task Force for the proposed additional meeting.

Selectman Blacker stated that his fear is that to the extent that contingencies being added are unrealistic, the "powers that be" may possibly say the land should be given to another agency other than Fish and Wildlife--the Task Force felt the best option was to put in its statement activities as compatible as possible to the goals of the Fish and Wildlife Service. Mr. Drobinski said that the Board could send a letter to Fish and Wildlife stating that we recommend transfer to that organization, but we have other uses in mind also.

Stephen Johnson, Executive Director of the Sudbury Valley Trustees, said that the Board of Selectmen carries a lot of influence; he said that he supports Selectman Blacker's position and that it is very important to send to Fish and Wildlife the statement read by Mr. Blacker tonight. He said that other issues added to the statement would weaken and confuse this strong recommendation.

Chairman Drobinski recommended the Board vote to accept the Task Force's recommendations, based on adding an Item 4, as there is no deadline on this.

Interim Town Manager Thompson said that recently he received a call from Fort Devens advising that Fish and Wildlife had just expressed interest in this property; Deborah Montemerlo informed that an October 11, 1995 letter from J. Rogers, Acting Director of Fish and Wildlife, had been sent to the Army Director of Real Estate.

Selectman Clark again stated she wanted to see in the letter from the Board some indication of the issues she and Chairman Drobinski raised tonight. She noted that the report of the Task Force was not on the agenda for this meeting, but only the presentation of the citizen petition regarding the future use of the Fort Devens Annex. Interim Town Manager Thompson suggested the Board vote to recommend the Task Force's conclusions but also direct him to draft a separate letter to Fish and Wildlife which addresses the concerns of Mr. Drobinski and Ms. Clark. He cautioned that if Fish and Wildlife acquire the property only they can then entertain the possibilities suggested by Mr. Drobinski and Ms. Clark. At this point Selectman Clark stated that all the issues should be incorporated into one letter, saying that several letters would confuse the issue and weaken chances of acceptance.

Mr. Thompson recommended the Board send Fish and Wildlife its endorsement of the Task Force's strong support for a transfer to them and then another message that there are other uses being considered by the Board that might be feasible. Mr. Thompson opined that the major issue is transfer to Fish and Wildlife with minor interests being those such as housing and recreation. Mr. Blacker reiterated his fear that some other agency may get the property. Ms. Clark said the Selectmen could work with Fish and Wildlife to explore other possibilities aside from wildlife habitat; simply adding the words "explore the possibilities" would include the idea of other elements that would not be detrimental to the natural habitat of wildlife on the site. Mr. Drobinski agreed that the key point in the letter should be that we seek the transfer to Fish and Wildlife; a lesser point could follow that the Board would like to explore other possibilities.

At this point Selectman Blacker moved that the Board table this discussion for another two weeks until the Task Force has had a chance to meet again.

Steve Meyer stated that at least there was more agreement on this issue than previously thought and that Mr. Thompson's suggestion is important for strategy. He said that if Congress sees that local people do want a transfer it will be more apt to endorse it, but if we put conditions on this transfer, the issue will not be so clear relative to Fish and Wildlife.

Chairman Drobinski stated again that he prefers that Mr. Thompson draft a letter for the Board's approval. He then moved that the Board accept the recommendations of the Task Force subject to Interim Town Manager Thompson drafting a letter incorporating this evening's discussion, listing key points but with a strong statement that the Board supports a transfer to Fish and Wildlife. Selectman Clark asked for

a clarification as to whether Mr. Thompson will include the points made by Chairman Drobinski and herself. She received an affirmative answer from Mr. Thompson.

At this point Selectman Blacker stated that he would like to wait two weeks to draft one letter which will allow the Task Force to give input on the Craven Lane issue.

Ms. Montemerlo asked if there is tonight at least a vote to approve a transfer to Fish and Wildlife and she received an affirmative answer. Selectman Clark stated that the Craven Lane issue still must be resolved. Selectman Blacker asked if the Board could direct Town Counsel to give a legal opinion on the Craven Lane issue and Mr. Thompson said he would see what he could do to get such an opinion.

Juliet Gibbs of the Task Force addressed the Board and thanked the Selectmen for their time and consideration of the issue and for appointing a Task Force, having Selectman Blacker head up the Task Force and having Steve Meyer and Debbie Montemerlo work with them. She stated that there are many issues involved for the Town, but it is apparent to the Task Force that it is a transfer to Fish and Wildlife that an overwhelming number of townspeople desire. Ms. Gibbs presented a "Petition to Save the Sudbury Annex" signed by Town residents resolving: "that the residents and voters of the Town of Sudbury, Middlesex County, Massachusetts, instruct our Board of Selectmen, Town Manager, and other Town Boards, and through them, our representatives in the United States Congress, that all of their efforts on behalf of the Ft. Devens Sudbury Annex be directed to advocating for: complete and efficient environmental remediation; preservation and protection of the Sudbury portion of the Ft. Devens Annex, by actively advocating designation as a National Wildlife Refuge under the care of the U.S. Fish and Wildlife Service; and preservation and protection of Sudbury's water resources, natural environment, and wildlife for the benefit and enjoyment of our current and future generations."

Ms. Gibbs said that the purpose of the petition is to open up the issue to a town-wide discussion rather than only to neighboring abutters. Ms. Gibbs said there is absolutely overwhelming support for a transfer to Fish and Wildlife: 98% of those contacted by the Petition volunteers ended up signing the petition; 1,075 signatures were collected, of which 840 are registered voters; citizens who live on 264 roads in town have signed the petition. Ms. Gibbs hoped that the Board would show strong support; she opined that the more contingencies added to the Town's position, the weaker and more diluted becomes our statement. She further said that the petition signed by so many people is in harmony with the positions of the Sudbury Valley Trustees, the Fort Devens Sudbury Annex Task Force, the Conservation Commission, the Lake Boone Association, and many other groups.

It was on motion unanimously

VOTED: To accept the petition by citizens concerning the future use of the Fort Devens Sudbury Annex presented to the Board by Juliet Gibbs.

And it was further unanimously

VOTED: To accept the recommendations of the Fort Devens Sudbury Annex Task Force, dated October 19, 1995; to support the transfer of the entire Fort Devens Annex to the U.S. Fish and Wildlife Service; to refer the matter of re-opening Craven Lane to the Fort Devens Sudbury Annex Task Force; and to direct the Interim Town Manager to draft a letter to the U.S. Fish and Wildlife Service, incorporating the above recommendations of the Board on housing and active recreational use and any further recommendations of the Task Force, for the Board's approval on November 6, 1995.

Quarterly Meeting of the Trustees of Town Donations

Present: Mary E. Normen Dunn, Town Treasurer; Dave Pettit and Dave Wilson, of the Investment Advisory Board.

Chairman Drobinski opened the quarterly meeting of the Trustees of Town Donations to accept Town Trust Fund Reports of June 30 and September 30, 1995 and to approve requests for distribution of income from Town Trust Funds for FY96.

Interim Town Manager Thompson gave to the Board three corrected sheets to add to those already received: copy of Town Trust Fund FY96 1st Quarter Investment Report, September 30, 1995; copy of Town Trust Fund Distribution Expense Report, September 30, 1995; and copy of Town Trust Fund 1st Quarter Report, September 30, 1995.

Chairman Drobinski asked if the Board had any questions for Ms. Dunn and there were none.

Upon recommendation of Town Treasurer and Co-Trustee Mary Ellen Normen Dunn, it was on motion unanimously

VOTED: To accept Town Trust Fund June 30, 1995 and September 30, 1995 reports as submitted
and unanimously

VOTED: To approve requests for distribution of income from Town Trust Funds for FY96, as follows:

Fund	FY96 Distribution
Gertrude Farrell	\$150
Forrest Bradshaw Memorial	\$150
Goodnow Library	\$14,200
Lydia Raymond	\$150
Rhodes Memorial	\$200
Discretionary/Charity	\$6,000
Raymond Mausoleum	\$1,000

Maillet & Sons, Inc. v. Board of Appeals

Present: Myron Fox, Attorney for Maillet & Sons, Inc.; Town Counsel Paul Kenny; Chairman Stephen Meyer and Coordinator Deborah Montemerlo of the Conservation Commission; and Board of Appeals members: P. Delaney, M. Karol, T. Phelps, L. Shluger and E. Stevens.

The Board acknowledged receipt of the following:

1.) Letter to Myron Fox, dated October 13, 1995, confirming that a meeting has been scheduled at his request on October 23, 1995 to be attended by the Board of Selectmen, Board of Appeals and himself.

2.) Letter from Mary G. Corley, Secretary of the Board of Appeals, dated September 29, 1995, advising the Selectmen that at its meeting of September 28, 1995, it was the consensus of the Board of Appeals, regarding Maillet & Sons, Inc. v. Board of Appeals of the Town of Sudbury, et al; Land Court Civil Action No. 215586 Misc. that there is a viable, proper procedure through M.G.L., Chapter 40A, Section 16 - Repetitive Petitions.

3.) Letter from Myron Fox, dated September 15, 1995, stating that he represents Maillet & Sons, Inc. and is taking the unusual step of requesting a joint meeting with the Board of Selectmen, the Board of Appeals and himself. Accompanying Mr. Fox's letter is a copy of the Complaint, dated February 28, 1995, that he has filed at the Land Court on behalf of Mr. Maillet; a copy of the decision, filed February 14, 1995, on Case 95-9, by the Board of Appeals, to deny a special permit to Maillet & Sons, Inc.; a copy of the related minutes of the public hearing of the Sudbury Board of Appeals, of Tuesday, January 31, 1995, at which it was voted to deny the petition of Maillet & Sons, Inc. for a special permit to build a single family residence on a lot within the Flood Plain Overlay District; a copy of a Memorandum of Law, dated September 15, 1995, which provides a legal analysis of the consequences of the Board of Appeals' denial of the Maillet application; a copy of a letter to Mr. Maillet from I. William Place, Town Engineer, dated November 1, 1994, stating that Mr. Place has reviewed the plan of Mr. Maillet's proposed septic system as revised and that it appears that the house, driveway and septic system have been relocated as far as possible from the flood plain; a copy of a letter to Mr. Maillet from Robert C. Leupold, Director of the Board of Health, dated December 15, 1994, stating that the proposed septic design meets existing Board of Health regulations; a copy of a letter to Mr. Patrick Delaney, of the Board of Appeals, dated January 23, 1995, from I. William Place, Town Engineer, stating that the driveway proposed for Lot 5 will not endanger the health, safety and welfare of the public; and a decision of the Board of Appeals, filed on July 18, 1986, granting the application of Stanley and Carol Kanakaris for a special permit with regard to their lot at the corner of Lincoln and Water Row Roads, along with the minutes of the public meeting of the Sudbury Board of Appeals of Tuesday, July 8, 1986, at which the special permit for the Kanakaris property was granted.

Selectman Clark questioned holding this meeting in open session; because of the nature of the particulars in the case and ongoing litigation, she stated that the Board should consider going into Executive Session before beginning discussion. Chairman Drobinski asked an opinion of Town Counsel, Paul Kenny, who stated that either an open or closed session may be held in this case. Interim Town Manager Thompson opined that the matter could be decided at the discretion of the Board of Selectmen. Ms. Clark made a motion that the Board go into Executive Session; Mr. Drobinski seconded the motion. A poll was taken of the two Town Boards present: Chairman Drobinski - aye; Selectman Clark - aye; Selectman Blacker - indifferent; Mr. Delaney - opposed; Mr. Karol - indifferent; Mr. Shluger - indifferent; Mr. Stevens - indifferent; Mr. Phelps - indifferent. Town Counsel stated that since this is a meeting of the Board of Selectmen, it is up to the Selectmen to vote; he said that the Board of Appeals is present only to provide input to the Selectmen. Interim Town Manager Thompson recommended a re-vote and Mr. Drobinski queried as to whether, if the Board were to go into Executive Session, Mr. Fox would be allowed to remain. Mr. Kenny responded that since Mr. Fox requested this meeting, he would be allowed to attend same. At this point, Selectman Clark retracted her motion; she stated that the intent of

the Executive Session is to discuss litigation, so that the Town's position would not be compromised; she said that in light of this purpose, having Mr. Fox present makes the calling of an Executive Session a moot point.

Mr. Fox then addressed the Board as follows: The Board of Appeals denied a petition by his client, Mr. Alderice Maillet, "to allow for construction of a single-family residence at 971 Concord Road, on a lot within the Flood Plain Overlay District, in accordance with a plan entitled 'Proposed Septic System Lot 5 Concord Road, dated December 30, 1992, revised September 28, 1993' including an alarm system to alert the homeowner in the event of a septic system failure, and including a ten (10) year renewable contract for pumping of the septic system every two years." He said that this came before the Board of Appeals some years ago, which denied it; the appeal was taken to Superior Court. However, in the meantime a plan revision moving the house and driveway, as mentioned in the Board of Appeals decision, was submitted. He said that the Planning Board endorsed the changes made to the plan and all issues had been addressed within the stipulated two-year time frame. The Board of Appeals reviewed the petition as revised and with all evidence as to modifications made by the petitioner, but chose to deny the petition again. Mr. Maillet chose to take the appeal to the Land Court in January of 1995; unbeknownst to Mr. Fox, a decision came down in the Land Court in March, 1995, on Lopes v. City of Peabody, a case which is amazingly like the details of Mr. Maillet's case. Since this Lopes case occurred two months after the Sudbury Board of Appeals denied Mr. Maillet, Mr. Fox suggested this meeting to see if agreement can be reached and the Town avoid litigation and the threat to its bylaw. Mr. Fox stated that he is aware that the Conservation Commission had spoken in opposition, but that the Commission should keep in mind that there is a real possibility that since the Lopes case was decided, if these facts that are so similar to the case in Peabody are again brought before the same Land Court, other cases for many other lots in Sudbury will be affected; this is a chance the Commission takes if litigation is undertaken. In terms of the Selectmen, there is a real possibility that if the Judge decides against the Sudbury bylaw, he can instead decide on a "taking" ruling, based on a long line of Supreme Court cases. The Supreme Court guidelines say that bylaws must be the minimal necessary to carry out their objectives; but the Sudbury bylaw states no risk of pollution. In Mr. Fox's opinion, this bylaw is over-broad; if a person only walks on a piece of land there is possibility of pollution. Mr. Fox said that the bylaw will be struck down anyway and if the bylaw is struck down, not only Mr. Maillet but many others will be able to build below the 125' line. Another possibility would be requiring compensation for a straight taking, which could result in costing the Town over \$200,000, a serious risk to the Town in terms of monetary possibilities. Mr. Fox said that the Town should agree with the Town Engineer and the Board of Health that approval be given to Mr. Maillet to build that single-family home. In his opinion, the Town does not want this to be the case that tests the Sudbury bylaw. Mr. Fox went on to mention the Kanakaris case, decided when two current Board of Selectmen members were serving on the Board of Appeals. In that case, the same Land Court, after the case having been bounced back and forth between it and the Board of Appeals three times, allowed the building in the Flood Plain.

Selectman Blacker inquired if there is any filling going on at the present time and Mr. Fox replied in the negative. He said that there is an Order of Conditions by the Conservation Commission in effect.

Deborah Montemerlo addressed the Board: She agreed with Mr. Fox that the Federal Flood Plain elevation is an arbitrary number; FEMA is redoing Sudbury's flood plain figures; preliminary review has shown that anything on the other side of Concord Road is probably lower and on the Pantry Brook side probably higher than 123-124 (this information from FEMA). If this is to be the case, perhaps the Town Flood Plain Bylaw should be stricken (125 really does not represent anything other than a taking) and the

new Federal Flood Plain Guidelines be adopted; this would really protect areas only susceptible to flooding. It is irrelevant if the Town loses the Flood Plain bylaw if the bylaw is not based on fact. Mr. Blacker inquired if there is filling within the Plain allowed by the Town's bylaw and Ms. Montemerlo replied that filling is allowed below 125 but above 122.

Mr. Blacker asked what the difference is between this and the Kanakaris situation, in which the Land Court said the Board of Appeals was wrong for denying the petition. Mr. Karol, of the Board of Appeals, responded that there is a big difference: on the Kanakaris case there was no running body of water. Mr. Karol said that with this Maillet case, the Conservation Commission guidelines say that salt and fertilizer cannot be used on the site and he had said at the Board of Appeals meeting that there is no way to police these prohibitions. The Board of Appeals cannot take a risk of allowing the polluting of a waterway. Selectman Clark stated that there was standing water at the Kanakaris site; she said that she herself had observed this water, but at the Maillet site, the Board of Health says there is no standing water between the road and the location of the site. Mr. Karol stated that there is standing water, putting the Sudbury River at risk; pollution is the issue. Mr. Stevens said that the Order of Conditions stated that no salt or fertilizers could be used, but it is a problem as to how the Town can stop homeowners from using these agents. Mr. Shluger mentioned a similar case on Peakham Road; the Board of Appeals took a stand because a brook there was filling up, but the court ruled against them and he suspects that it will rule against them again in this case. He said there are no informational studies that say a particular waterway has a finite capacity above which you cannot go; he said also that we have no information on what an ecological system can handle--the study does not exist. Mr. Phelps stated that he cannot believe that there is no way of monitoring individual property owners who are polluting; there is an Order of Conditions that the Town must enforce. Mr. Blacker responded that in his opinion the Board of Appeals said in this case, since it cannot enforce the Order of Conditions, it will deny the permit. He asked, if the only basis in turning down the permit is because the Town cannot enforce the Order of Conditions, why was this not done for every other homeowner in Town? Mr. Blacker opined that this ruling is arbitrary and capricious. He stated he sees no difference between this permit and the one applied for by Mr. Kanakaris; other lots in the same subdivision have been approved, because they are not on the River or there were no conditions put on them prohibiting use of salt, etc.

Mr. Delaney stated that because these hearings in question were held years ago the Board does not have the benefit of reviewing all the plans as presented, but to his recollection the plans themselves were somewhat vague. He stated his concern that the Maillet petition is different from the Kanakaris one. Selectman Clark queried as to what would happen if a break-out occurs in high water; Mr. Delaney responded that the answer to this question was the basis for the Board of Appeals' 1993 decision. He said that the Board of Appeals reheard the case with an open mind, but its concerns were not addressed to its satisfaction. Selectman Blacker said that the figure of 125 is arbitrary and has no basis in reality. He said that FEMA's figure of 122 is being rechecked and may go up or down in different areas of Town but the 125 foot figure is an arbitrary number. If a building is above 122 and we throw out 125, this concern of a break-out in high water will not even come into play. Mr. Delaney said that we all know that there is water above ground on that site several times a year. Mr. Blacker responded that for a court purpose we still must use some figure. He mentioned that the Kanakaris home has never had water in the basement; Mr. Karol said this is because the house was built up so high, so much fill was added it put the home up at least ten feet. Selectman Blacker said that the key here is a rational, somewhat scientific determination of the Flood Plain. He asked if there is any credible evidence in this case of risk of pollution to the Sudbury River. He asked what was the evidence presented that when a homeowner puts salt on his driveway or fertilizer on his lawn it will go to the River; he asked what exactly is the pollution issue?

Mr. Blacker said that the Board will never satisfy everyone; he said that in his opinion Sudbury will be ruled against by the Land Court. Mr. Phelps said that the question before the Selectmen is whether or not they recommend going ahead with the case or will they recommend an alternative. Mr. Drobinski responded that his personal opinion is that if a Town Board makes a decision, the Selectmen must stand behind that decision. He said that if the Board of Appeals has additional information, it may choose to change its stand, but in his view, it is not up to the Selectmen to tell the Board of Appeals how to proceed. Mr. Phelps added that the problem now before the Selectmen, is the Board's responsibility to say whether or not it feels that the case that has been cited here (Lopes) represents new information. Mr. Phelps said that some alternative should be investigated to see if there is any basis for another hearing.

Deborah Montemerlo stated that the Conservation Commission did issue an Order of Conditions back in 1993 prior to the Wetlands bylaw; when the Maillet permit was denied a letter was sent to Mr. Maillet that the Conservation Commission supported the Board of Appeals in its denial. Ms. Montemerlo said that if the plan came back to Conservation today, the Commission would first look at what information FEMA has for the area and then see if they could design around that elevation or assuming they cannot, the Town could issue a permit, but the point is we do not have a plan based on actual flood elevation on the site now; it was based on FEMA figures that were not based on fact.

Selectman Clark stated that the buffer is 100 feet from the wetlands line.

Mr. Fox stated that his client did go before the Conservation Commission before and now is grandfathered for new plans; the Sudbury bylaw states he does not have to go back before the Commission. He stated that Ms. Montemerlo was hypothesizing as to what would happen if he did go back. Selectman Clark inquired as to when Mr. Fox would have to go back before the Commission and Ms. Montemerlo said that only a change in plan would require that he come back before Conservation. Steve Meyer spoke here, saying that the fact is because of the additional ability of the bylaws to address certain conditions (example being protection of the waters), the bylaws can force a plan to become a much better plan.

Chairman Drobinski asked when the new FEMA elevations will be available and Ms. Montemerlo said they were expected about eight months ago! Mr. Shluger asked what the Selectmen will decide on this issue and Mr. Stevens said that the applicant is in the driver's seat here. Mr. Blacker said that if it is assumed that the actual FEMA figures come in at 120, 121, 122, and the applicant says "I'm building at 123 and above," he still hears the Board of Appeals saying that because it is wet on the site no building can occur. Mr. Blacker said the 122 figure is very, very close. Mr. Blacker said that the Board of Health decided that Mr. Maillet had an acceptable design for a septic system for that site and had approved it; the Board of Appeals is second-guessing the Board of Health in denying the permit. Mr. Blacker said he is trying to understand the legal rationale for the Board of Appeals' decision, and that if he does not hear any rationale that satisfies him, he would recommend that the Town not pay for Town Counsel to defend this case. He did not want to see a taking or our wetlands bylaw thrown out.

Selectman Clark stated as follows: She sees a difference between the Kanakaris case and the current set of facts. Further, the Board is now aware of these two new cases. The first, in the Lucas case in South Carolina, the Supreme Court came down in favor of the landowner in relation to land bordering the ocean; the ruling was tantamount to a taking and allowed the landowner to build. The second case is the Lopes case in Peabody; the ruling was tantamount to a taking also; the Court said either Peabody pays for it or allows the owner to use the land for which it is zoned. Steve Meyer interjected here that he

disagreed with Selectman Clark's interpretation, but she reiterated that they were talking about the owner's rights being taken away by restrictive conditions.

Selectman Blacker stated that Mr. Fox called the Boards of Selectmen and Appeals together to try to decide if there is a rational basis to continue this litigation. Interim Town Manager Thompson stated that another meeting is necessary to continue this discussion. Chairman Drobinski said that at least the Board of Selectmen got to hear information from Mr. Fox and from the Conservation Commission; he said he still believes that the Selectmen should not try to change the minds of those on the Board of Appeals. Mr. Drobinski then recommended that an Executive Session be held between the Board of Selectmen and the Board of Appeals at a future date to further explore all options. Mr. Fox stated that he had hoped the problem could be solved at this level; the only solution he sees is for his client to be allowed to build without taking the Town to court. He read from Board of Health Director Robert Leupold's letter dated January 31, 1995: "At the time of failure, the ground above the trench may become saturated (soft and soggy) or back-up in the system tank and dwelling may occur. Current septic systems are designed with adequate distances to side slopes so that the above signs of failure are obvious before effluent breakout from the side slopes occurs. Overall, a system for a four bedroom dwelling with proper maintenance does not represent an environmental hazard to the Sudbury River Watershed." Mr. Fox said that he has repeatedly heard the request this evening for scientific evidence and the statement he just read is the scientific basis he and his client are providing to the Boards. He asked that the Boards make the decision reasonably soon so that he can inform Mr. Maillet. Mr. Drobinski said that obviously this problem will not be decided this evening and that Atty. Fox must do what is appropriate for his client.

Chairman Drobinski then recommended that the Board set a date for a joint meeting with the Selectmen and the Board of Appeals. He asked if Mr. Fox should be present and the other two Selectmen felt that he should not. Mr. Fox concluded his presentation by saying that the only resolution for his client is that he be allowed to build without taking the Town to court.

Town's Option to Purchase: Meachen Parcel

Present: Robert Dionisi, Jr., Attorney for Mr. John W. Meachen and the Meggs Family Trust; Chairman Stephen Meyer and Coordinator Deborah Montemerlo of the Conservation Commission; Stephen Johnson of the Sudbury Valley Trustees; and interested citizens and abutters of the Meachen property.

The Board acknowledged receipt of the following:

1.) Letter to the Board, dated and postmarked September 21, 1995, from Robert F. Dionisi, Jr., attorney for Mr. Meachen, advising that his client intends to sell certain real property owned by them situated on the Southerly side of Marlboro Road and which is currently valued, assessed and taxed on the basis of its agricultural or horticultural use under M.G.L. Chapter 61A. The letter further stated that the Town has a first refusal option to meet a bona-fide offer to purchase his client's land. Accompanying the letter were the following:

- a. Copy of Purchase and Sale Agreement (P&S), dated September 15, 1995, showing an offer to purchase Mr. Meachen's property for \$4,558,000 by Briarwood Development Corporation, a Massachusetts corporation.

- b. Copy of P&S Exhibit "A" delineating area under Ch.61A.
- c. Copy of P&S Exhibit "B", Plan of Land in Sudbury, Mass., prepared for John W. Meachen, dated January 24, 1994, by Schofield Brothers of New England, Inc.
- d. Copy of P&S Exhibit "C", Rider to Purchase and Sale Agreement between Mr. Meachen and Briarwood Development Corporation, dated September, 1995.
- e. Copy of P&S Exhibit "D", Order of Conditions of the Massachusetts Wetlands Protection Act from the Conservation Commission, issued April 20, 1994.

2.) Letter to the Board from Mary H. Walsh, Assistant Assessor from the Board of Assessors, dated October 3, 1995, advising that at their meeting on October 2, 1995, the Board voted unanimously to recommend that the Board of Selectmen not exercise the Town of Sudbury's first refusal option on the Meachen property. The letter further stated that the parcel being removed from the provisions of M.G.L. 61A consists of 12.1 frontage acres located on Marlboro Road. The remaining acreage on this parcel has not been taxed under the provisions of M.G.L. Chapter 61A and therefore the Town does not have a first refusal option on it.

3.) Letter to the Board from Jody Kablack, Town Planner, dated October 20, 1995, recommending that the Town not exercise its option to purchase the Meachen property. However, the Planning suggested that the Selectmen should consider assigning their right of first refusal to the Sudbury Valley Trustees, as they have expressed an interest in the land. The letter further noted that the Purchase & Sale Agreement submitted may overestimate the value of the property due to the fact that the layout sketch does not represent an approved subdivision and clearly violated the Planning Board regulation regarding length of dead-end streets. After subdivision approval is granted, the lot count and property value will likely be lower. The Planning Board also expressed its opinion that there is need for time for public consideration of this proposal.

Chairman Drobinski stated that the Board will continue discussion on this matter, based on a need to receive input from Town Counsel Paul Kenny, and input from several Town Boards, especially the Conservation Commission and the Sudbury Valley Trustees, but that since several interested parties were present, the Board would entertain comments and take them under advisement. In an honest effort to have a better understanding of the property being excessed, values, etc. more investigation will be done. Selectman Blacker said that from September 21, 1995, when the letter from Mr. Dionisi was postmarked, 120 days would give the Board a date in January, 1996 as deadline for review of this property.

Mr. Dionisi then addressed the Board as follows: Two weeks ago, he met with the Conservation Commission and at that time there was some confusion as to exactly how much land Mr. Meachen owns on the south side of Marlboro Road. At that meeting Mr. Meachen's representatives agreed to give the Commission a layout of the 12 or so acres; Mr. Dionisi did give this information to Deborah Montemerlo this afternoon and a copy to the Board this evening. The enlarged copy shows how many buildable lots could be made from the 12 acres. As clarification, Mr. Dionisi stated that there are 6 exterior and 5 interior lots. Mr. Dionisi stated that the information is important because the Conservation Commission has trouble as to how to arrive at a fair value of the 12 acres; the Commission feels that the contract submitted as Notice of Intent was a bit disingenuous and not an accurate reflection of what the land is

worth. Mr. Meachen has shown exactly what he has been offered and is presenting same to the Town to see if it will exercise its option. The offer made to Mr. Meachen is \$4,558,000. Without this parcel, Mr. Meachen could not get to his remaining land, as his frontage would be cut off, but using the figures in the contract, he believes the land's value to be somewhere in the vicinity of \$2,000,000.

Selectman Blacker asked for a clarification as to which side of Marlboro Road is in question. Selectman Clark asked if the interior lots would be landlocked and Mr. Dionisi responded that they would not be if a substantial crossing is made across the wetlands. Mr. Blacker opined that this would never be allowed to happen; Ms. Clark opined that no one would sell property and lock themselves in. Mr. Dionisi responded that a subdivision is not being proposed; Mr. Blacker acknowledged that a hypothetical situation is being stated in order to be able to determine value.

Selectman Blacker called for the opinion of the Sudbury Valley Trustees. Steve Johnson, Executive Director for the Trustees, answered that under Ch. 61A a price to be paid must be spelled out, since the Town has granted an abatement for many years, but clearly the Purchase and Sale Agreement presented to the Board does not spell out the price to be paid; this is not a bona fide offer to the extent that it is based on a lot yield which can only be determined after the Planning Board process.

Interim Town Manager Thompson stated that Town Counsel Paul Kenny expressed the opinion that this issue is a gray area; it appears that an offer has been given to the Board under the 61A statute, but he recommends continuing this hearing in order to study the matter.

Deborah Montemerlo stated that the Town does not have a true figure on what it would cost to exercise its options. Mr. Thompson said that Mr. Kenny also recommended that independent appraisal may be necessary for the parcel if the Town is interested in pursuing its option. Ms. Montemerlo continued the Town has no proof of there being 10 lots possible. Mr. Dionisi responded that there have been soil tests done, and a plan for 10 lots is exactly what could go to the Planning Board. His client has appraisals for 18 comparable sales on comparable lots near his land. Ms. Montemerlo said that the Town Appraiser thinks 250' per frontage is too high a figure; Mr. Dionisi responded that the correct figure is 215'.

At this juncture, Chairman Drobinski opened the matter to public comment:

Steve Wilcox, 36 Canterbury Drive, asked for more clarification as to what constitutes adequate notice, and suggested that the Town get an answer.

Tom Mackie, 12 English Road, thought that to exercise our right of refusal we should have something against which to bid.

Chairman Drobinski said that this is the first occasion that he can recall in which the price is such a clouded issue; Interim Town Manager Thompson agreed with Mr. Drobinski.

Conservation Coordinator Deborah Montemerlo said that the assessed value of this parcel is approximately \$1,127,600, and Mr. Meachen has been taxed under the 61A program for about seven years. Rollback taxes total approximately \$71,000. Selectman Blacker clarified here that upon a sale, the Town would recover the \$71,000 and therefore, all that the Town lost as a result of 61A is the time use of money.

Interim Town Manager asked if the Board wants an opinion from Town Counsel regarding proper notice and he received an affirmative answer.

Jan Ryan, 6 Canterbury Drive, asked the Board if it has a map showing where the proposed development is in relation to homes already nearby; Mr. Blacker responded that the Board of Assessors has it. Ms. Ryan asked that if there is no intent to build, why is the land all surveyed out already? Mr. Dionisi denied that it was surveyed, but Ms. Ryan said she had seen the orange and blue markers.

Mr. Wilcox spoke again and asked if he understood correctly that, if the Town exercised its right of refusal, it would cut off all access to the land behind the parcel in question. Selectman Blacker asked how many feet were between the parcel and the pond, then opined that perhaps the figure is 40 feet. Mr. Dionisi stated the pond was in fact a "vernal pool".

Selectman Blacker stated that while there is an opportunity here, it is not the Town's. If the Board went to Town Meeting and asked for three to four million dollars for a Bond issue to buy up private land, it would surely be refused. However, the Sudbury Valley Trustees or a similar organization could work on a plan to buy the land for the Town, to minimize the amount of development and preserve the pastoral setting.

Chairman Drobinski stated that concerned parties should work together; for a Sudbury Valley Trustees effort like the one suggested above, it would take a large grass-roots effort.

After further discussion, it was on motion unanimously

VOTED: To continue to November 20, 1995 the consideration of the Town's option to purchase land as set forth in the following Notice of Intent: From Attorney Robert F. Dionisi, Jr., on behalf of John W. Meachen, Jr., Brown Moore Meggs, Trustee of Meggs Family Trust, and the President and Fellows of Harvard College, postmarked September 21, 1995, in accordance with G.L.c.61A, s.14, of intent to sell to Briarwood Development Corporation for residential use approximately 12.1 acres currently assessed and taxed on the basis of agricultural or horticultural use, situated on the southerly side of Marlboro Road, shown on Exhibit "A" accompanying Purchase and Sale Agreement dated September 15, 1995, and also described as a portion of Parcel 400 on Town Property Map E08.

Town's Option to Purchase - Cutting Parcel

Present: Chairman Stephen Meyer and Coordinator Deborah Montemerlo, of the Conservation Commission; Stephen Johnson, of the Sudbury Valley Trustees.

The Board acknowledged receipt of the following:

1.) Letter from John C. Cutting, Frank J. Cutting and Louise C. Dorian, dated and postmarked September 29, 1995, stating that they have received an offer for the sale of a parcel of land on Fairbank, portions of which are currently assessed for horticultural use pursuant to MGL Chapter 61A. The parcel consists of ANR lots, identified as portions of Parcel F06 400 and parcel F06 006 on town Assessors Maps. The letter lists a closing date of February 15, 1996. Accompanying the notification was an accepted Offer to Purchase Real Estate by Greenspire, Inc., (\$185,000 for Parcel F06-006 and \$635,000 for Parcel F06-400).

2.) Second Notice to Board from John C. Cutting, Frank J. Cutting and Louise C. Dorian, dated October 13, 1995, and postmarked October 14, 1995, as amendment to letter of September 29, 1995, adding notification that a portion of the land under agreement previously indicated as being under Ch. 61A, is actually classified under 61B.

3.) Note to File, dated October 18, 1995, stating the opinion of Town Counsel that the 120-day time period for land under c.61A starts running from September 29, 1995, while for the land under c.61B, time period starts running from October 14, 1995 (the postmarked date of the amended letter).

4.) Memo to the Board from the Conservation Commission, dated October 16, 1995, stating that the Commission does not recommend the Town exercise its option to purchase the above referenced land and commending the owners for working with the town boards in the preliminary design phase of this project.

5.) Memo dated October 23, 1995, from the Town Planner, stating that the Planning Board has not yet reviewed this item.

6.) Copy of land map provided by Assessors and Engineering Departments, showing 4 lots over 61A and B, the land in question (4.68 acres in Ch. 61A and 1.2 acres in Ch. 61B).

No report had been received from the Board of Assessors to date.

Interim Town Manager Thompson recommended that the Board express no interest in this property, in accordance with advice received.

It was on motion unanimously

VOTED: To decline to exercise the Town's option to purchase land as set forth in the following two Notices of Intent: From John C. Cutting, Frank J. Cutting and Louise C. Dorian, in accordance with G.L.c.61A, s.14 and 61B, s.9, postmarked September 29, 1995 and October 14, 1995, respectively, of intent to sell to Greenspire, Inc. for residential use approximately 4.68 acres currently assessed and taxed on the basis of agricultural or horticultural use and approximately 1.20 acres currently assessed and taxed on the basis of recreational use, situated on Fairbank Road, being portions of parcels 400 and 006 on Town Property Map F06.

Minutes

It was on motion unanimously

VOTED: To approve the regular and executive session minutes of October 10, 1995, as drafted.

Council on Aging - Van Donation

It was on motion unanimously

VOTED: To accept \$104.91 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.

Eagle Scout Michael J. Pierson

It was on motion unanimously

VOTED: To send a letter of congratulations to Michael J. Pierson, 37 Hilltop Road, for attaining the rank of Eagle Scout.

Site Plan Signing - Sudbury Lumber Company and Middlesex Savings Bank

The Board acknowledged receipt of a letter, dated October 19, 1995, from Bruce L. Ey, P.E., Senior Vice President of Schofield Brothers of New England, Inc., regarding Site Plan Special Permit Application 95-323. Mr. Ey stated that the following items pursuant to the Board Decision of October 10, 1995 have been addressed: (Item 2.) Town Engineer has agreed to work with the owner to resolve drainage improvements at the existing catch basin, resolution to take place when construction begins; (Item 8.) Plans now incorporate the Design Review Board's and Town Engineer's landscaping requests; (Item 9.) Lighting issues have been reviewed by the Architect and adequately address concerns of the Board; Written approval by the abutter already submitted to the Board; Architectural drawings have been revised to conform with Schofield Brothers' Site Plan.

The Selectmen signed site plans: (a). SP95-322 - Sudbury Lumber Co., Inc., 28 Union Avenue, and (b). SP95-323 - Middlesex Savings Bank, 19 Concord Road.

Sale of 1964 Fire Alarm Truck

The Board acknowledged receipt of a letter, dated October 12, 1995, from Fire Chief Michael C. Dunne, regarding disposal of a 1964 Chevrolet 363, VIN 4C363T-140366, for which the department no longer has any need. The vehicle has already been offered to both Highway and Park and Recreation Departments and they have declined the offers. Since the Town of Stow has indicated it would like the vehicle, Mr. Dunne would like permission to sell it to Stow for a token amount to effect a transfer, or to include the vehicle on the next auction list.

It was on motion unanimously

VOTED: To approve the sale of a Fire Department 1964 Chevrolet 363 (Fire Alarm Truck) to the Town of Stow or alternatively, include the vehicle in the next town vehicle auction.

Walkway and Utility Easement: Willis Lake Woods Subdivision

The Board acknowledged receipt of a memo, dated October 17, 1995, from Jody Kablack, Town Planner, which was accompanied by a Deed of Easement, dated October 3, 1995, from Maillet & Son, Inc., 321 Boston Post Road, to the Town of Sudbury, for perpetual right and easement to use the walkway portion of the "30' wide driveway, utility and walkway easement as shown on a plan of land entitled "Willis Lake Woods at Sudbury, Massachusetts" drawn by Thomas Land Surveyors & Engineering

Consultants, Inc., dated January 25, 1995, revised April 7, 1995 and May 30, 1995. Accompanying the Deed of Easement was a Subordination of Mortgage, dated October 5, 1995 from Henry Cormier, holder of a Mortgage from Maillet & Son, Inc., dated August 25, 1995.

It was on motion unanimously

VOTED: To accept and sign, on behalf of the Town of Sudbury, the above-referenced Easement.

1996 Health Insurance Contracts and Rates

The Board acknowledged receipt of a letter, dated October 19, 1995, from Arthur Bomengen of Sterling Administrators, 71 Heywood Road, Sterling, MA, informing the Board of the Sudbury Employees Group Insurance Advisory Committee's recommendation related to the evaluation of the health insurance proposals received by the Town for a January 1, 1996 effective date, from Blue Cross and Blue Shield, Harvard Community Health Plan, Pilgrim Health Care, Tufts, and Fallon. It is the Committee's recommendation to continue to offer Healthflex and Network Blue through Blue Cross and Blue Shield as well as Harvard HMO. The Committee also recommends that based upon a healthy insurance trust fund, that both the Healthflex and Network Blue rates should remain the same for the period January 1, 1996 through December 31, 1996. Accompanying Mr. Bomengen's letter was a summary of quotes received and recommended contribution rates.

Interim Town Manager Thompson tonight gave to the Board an updated copy of premium quotes for Family and Individual Plans of Healthflex, HMO Blue, Dental and Harvard Plans, as the Harvard figures were revised from the quotes received with Mr. Bomengen's letter. Mr. Thompson brought up the question of the Town's picking up 50% of retirees' future dental plan. Selectman Blacker asked that Mr. Thompson get the figures for the Board on how many retirees will be electing to have this plan and what the cost would be to the Town; as of now, the Board's vote stands that retirees pay 100% of the cost when the dental coverage becomes available to retirees (1/1/96).

It was on motion unanimously

VOTED: To approve award by the Interim Town Manager of contracts with Blue Cross/Blue Shield and Harvard Community Health Plan for town employee retiree/health insurance coverage for the calendar year 1996.

It was further, on motion unanimously

VOTED: To establish the proportional shares for health insurance contributions to be paid into the Sudbury Health Trust Fund under its self-insured program for Calendar 1996, as follows:

PLAN	MONTHLY PREMIUM	TOWN SHARE	EMPLOYEE SHARE	RETIREE
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Family Plan:

Healthflex	\$659.70	\$494.78	\$164.92	\$329.85
HMO Blue	613.50	552.15	61.35	306.75
Dental	45.77	34.33	11.44	45.77

Harvard	459.04	367.23	91.81	229.52
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Individual:

Healthflex	\$248.78	\$186.59	\$ 62.19	\$124.39
HMO Blue	231.30	208.17	23.13	115.65
Dental	16.64	12.48	4.16	16.64
Harvard	173.22	138.58	34.64	86.61

with the stipulation that Interim Town Manager Thompson further research the cost of providing a Town contribution (50%) for dental plan for retirees.

League of Women Voters Study on Economic Health of Rte. 20 Business District

The Board acknowledged receipt of a letter, dated 19 October 1995, from Marianne D'Angelo and Catherine A. Rader of the League of Women Voters with which they submitted information about a forum held by their organization at the Goodnow Library on September 27, 1995. The forum was attended by approximately two dozen people, who heard a panel of five speakers present the problems associated with commercial decline and residential growth in the Town. Causes for concern agreed upon at the forum are costs of town services and a reluctance to pass budget increases along to the community through increases in the residential real estate tax; however, reduction of town services was not thought to be an option. The letter goes on to cite an idea of establishing (or revitalization) of an active economic development committee to pursue attracting targeted business to Town and "well-planned development" (of which examples are given); and zoning changes to allow for more diverse housing options on the fringes of the area (examples also given here) even though such changes will eventually require improvement in the septic capacity of the area. Finally, another idea mentioned at the forum is the purchase of large parcels by the Town, which would cost less than services required for developed land and help preserve the "rural atmosphere" of Sudbury. The forum participants noted the lack of a Master Plan that sets out a Town vision, the ineffectiveness of Town Meeting for achieving zoning changes and the prevalence of the NIMBY attitude in the community, but the League will spend the next months trying to educate the public on some of the ideas discussed at the forum. Enclosed with the letter are copies of newspaper articles describing what Concord is doing in the face of a situation similar to Sudbury's.

Selectman Clark commented on the letter from the League of Women Voters: The letter fails to report an idea, well-received at the forum, and reported in a local newspaper, of creating another business area which would be located on Rte. 117, to relieve the Rte. 20 corridor (business area). Two attendees at the forum called Ms. Clark on this issue. Selectman Clark also stated a personal observation as to traffic gridlock in Concord Center as being very bad, as witnessed by her on Sunday, October 22, 1995; traffic was at an actual standstill. Ms. Clark mentioned this situation in reference to the letter's citing of Concord as an example of effective coping with issues similar to those in Sudbury. She also noted that the forum in question was attended by only two dozen persons. Finally, Selectman Clark stated that development of housing options on the fringes of the business district amounts, in her opinion, to undesirable commercial sprawl and should not be endorsed by the Board.

Cellular One - Donation

It was on motion unanimously

VOTED: To accept a donation from CellularONE in the amount of \$30,000 to upgrade the Police radio systems, said funds to be deposited to a special fund and dispersed under the authorization of the Town Manager for said purpose.

Dog Complaint - Anderson/Echouafni - Update

The Board acknowledged receipt of a letter to Chairman Drobinski, dated October 11, 1995, from Pamela Anderson, 316 Goodman's Hill Road, in which she asks that a bill she incurred associated with the removal of her sheep to Sherborn be paid by the Echouafnis, and failing that, be paid by the Town through fees generated from licensing. Mrs. Anderson listed her reasons for her belief that it is fair that her bill be paid. Accompanying the letter is a copy of a bill, dated October 3, 1995, to Mrs. Anderson from Lightning Ridge Farm, Sherborn, MA, for \$172.00.

Selectman Blacker suggested that Interim Town Manager Thompson draft a letter to the Echouafnis, stating that it has just come to the Board's attention that another bill was incurred by the Andersons for the removal of the sheep to Sherborn while they awaited a hearing. Mr. Blacker also recommended sending Mrs. Anderson a copy of the minutes of the hearing held on October 10, 1995, in response to her verbal request to Chairman Drobinski for "something in writing" as to the Board's definition of "off leash" in the restraining order issued on the Echouafnis' dogs.

Town Manager Search Update

Chairman Drobinski reported that he had received a call from Mark Morse and that the MMA Consulting Group has received approximately 12 resumes to date; at least six are very good.

Town Hall Storage Tanks

Interim Town Manager Thompson reported that he had received a call from Bob Leupold on the leaky storage tanks problem, estimating that it would cost \$18,000 to evaluate and monitor the situation, as the tanks would have to be dug up. Selectman Blacker questioned the high figure; this item will come back to the Board in the near future.

Interim Town Manager Severance Package

Chairman Drobinski mentioned that Town Counsel Paul Kenny is looking into the issue of whether it is legal to use the special Town Retirement Funds for the severance package recently approved for Mr. Thompson by the Board.

Voter Information Bill Meeting Follow-up

Selectman Blacker reported that he sent a letter to the Legislature concerning the Town's Voter Information Bill and enclosed our timetable for submitting articles, which expires on January 2, 1996. He noted that he had sent a copy to the Selectmen's Office. Mr. Thompson responded that he would make sure the Board members receive a copy of same.

Hosmer Fund

Interim Town Manager Thompson recommended that the Board approve a \$1000 expenditure from the Hosmer Fund in order to restore paintings.

It was on motion unanimously

VOTED: To approve an expenditure of \$1000 from the E. B. Hosmer Memorial Fund to pay Theresa Byington Carmichael for restoration of three Florence Hosmer paintings.


Scenic Road Bylaws

The Board noted receipt of a copy of bylaws pertaining to scenic roads as requested by Chairman Drobinski, who noted that of all surrounding towns, only Sudbury and Marlborough do not have any roads designated as "scenic." Selectman Blacker responded that after reading the bylaws, he understands why this is so.

Race Unity Prayer Vigil

Interim Town Manager Thompson presented the Board with a letter, dated October 23, 1995, from Dean Yarbrough, Jr., of the Sudbury Race Unity Committee, asking that permission be granted for them to hold a Prayer Vigil on the Town Common on Sunday, November 19, 1995 from 6 to 7:30 p.m., (or another date and time decided by the Committee) to be a candlelight service in prayer for race unity. All three Selectmen approved this request.

There being no further business to come before the Board, the meeting was adjourned at 10:10 p.m.

Attest: 
Richard E. Thompson
Interim Town Manager-Clerk