

IN BOARD OF SELECTMEN
MONDAY, AUGUST 14, 1989

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

The statutory requirements as to time and place having been fulfilled, Chairman Drobinski called the meeting to order at 7:15 p.m., at lower Town Hall.

Appointment of Executive Secretary Pro Tem

It was on motion unanimously

VOTED: To appoint Janet Silva as Executive Secretary Pro Tem for the purposes of this meeting.

Tax Anticipation Notes

Present: Town Clerk Jean A. MacKenzie; Town Collector/Treasurer Chester Hamilton.

Upon review of memorandum dated August 10, 1989, from Town Treasurer/Collector Chester Hamilton, advising that the winning bids on the \$3,000,000 Tax Anticipation Notes, dated August 18, 1989 and due November 17, 1989, were as follows:

Guaranty First Trust Co.	5.99%	\$200M
	6.04%	\$300M
	6.07%	\$500M
	6.09%	\$ 1MM
BayBank Middlesex	6.05%	\$ 1MM

it was on motion unanimously

VOTED: To sign Tax Anticipation Notes in the amount of \$3,000,000.00, as set forth above.

As requested by the Town Treasurer as stated in his communication dated August 10, 1989, advising that the winning bid on the \$500,000 Bond Anticipation Note Renewal was Guaranty First Trust Co. at 6.06%, it was on motion unanimously

VOTED: To sign \$500,000 Bond Anticipation Note Renewal, dated August 25, 1989 and due February 23, 1990, for School Architectural Fees according to 1988 Special Town Meeting Article 4.

Public Hearing - Old Meadow Road

Present: Residents Susan Bistany; Harold E. King; Patricia King; Frederick McCarthy; Laura McCarthy.

Chairman Drobinski convened a public hearing for citizen input on the question of the Board voting to lay out a portion of Old Meadow Road, from

Elliot Road, southerly to a dead end, a distance of an average of 197 feet, more or less, to be submitted to the September 12, 1989 Special Town Meeting for acceptance as a public way.

Executive Secretary Pro Tem Janet Silva informed that the plan before the Board was developed through negotiations with and the cooperation of the property owners Frederick and Laura McCarthy.

Chairman Drobinski noted that the purpose of this public hearing is to receive questions, comments and suggestions from the abutters or other interested parties; and opened the floor for discussion.

Frederick McCarthy of 11 Elliot Road made inquiry as to when Lot A, as shown on the Plan prepared by the Town Engineering Department (located at the southerly end of Old Meadow Road) was perked and believes this information could affect his property. Chairman Drobinski assured that this information would be obtained and forwarded to Mr. McCarthy. Mr. Drobinski added, however, that he would assume the Board of Health and Town Engineer's Office made certain all Title V Sanitary Code issues were satisfied before approving the proposed Sudbury Housing Authority plan.

In answer to inquiry by Patricia King of 41 Old Meadow Road, Ms. Silva responded that she believes that as the plan indicates, the street will be extended beyond what is already paved, as voted at the 1962 Town Meeting.

Harold King of 41 Old Meadow Road pointed out that there is a stone marker which he just uncovered, which is located on the southeast corner of his property, that is missing from the plan. Mr. King believes this is important, since the Sudbury Housing Authority has had the area surveyed and he believes those markers are "off" five or six feet. Mr. King believes the Town surveyors missed this marker because it had become covered with sand.

Susan Bistany of 21 Old Meadow Road inquired as to when answers to these questions may be received, and Ms. Silva stated that the information will probably be received by the end of the week.

Laura McCarthy of 11 Elliot Road concurred that the plan is correct in showing that the street will extend beyond the existing paving, because she believes the original deed stated that it was not paved to the end.

Chairman Drobinski asked the McCarthys if they were in agreement with the proposed article to be presented at Special Town Meeting with regard to the layout as shown on the proposed plan. Mr. McCarthy stated that they are in agreement with the plan, but only if Town Counsel's Office will provide them with written assurance that their lot will not become a non-conforming lot below the 30,000 square feet requirement. Mrs. McCarthy stated that they did not wish to become an "illegal" lot.

Assistant Town Counsel David Doneski stated that the proposed acceptance of the layout would not make the McCarthy lot "illegal"; but it may make it a non-conforming lot. Attorney Doneski pointed out that the McCarthy lot may already be a non-conforming lot and he sees no problem with the acceptance of the layout as proposed. Selectman Wallace stated that it is his opinion that if the McCarthys plan to expand their home or otherwise make changes on their

property at some future time, they would have to go to the appropriate Town board for a request for non-conforming use, or special permit, regardless of whatever taking by the Town is made with regard to this layout.

[The subject was tabled and hearing continued in order to allow Attorney Doneski the opportunity to research the law regarding when a vote need be taken by the Selectmen concerning this street acceptance. Following Attorney Doneski's return the hearing continued as follows.]

After further discussion, it was on motion unanimously

VOTED: To postpone taking a vote on the question of establishing a layout for a portion of Old Meadow Road for presentation at the September 12 Special Town Meeting concerning its acceptance as a public way, to August 28, 1989, at 9:00 p.m.; and to obtain the following information prior to said date:

1. Date of the last "perk" tests, and the results thereof, of the lot designated as Lot A on the proposed plan;
2. Clarification as to the length of extension of the road, as shown on the proposed plan;
3. Communicate to the Town Engineer the missing marker designation on the proposed plan, as pointed out by resident Harold King of 41 Old Meadow Road on the southeastern corner of his property; and to request the Town Engineer to make any appropriate changes to said plan, if confirmed.

And it was further unanimously

VOTED: To request Assistant Town Counsel David Doneski to communicate with the attorney for Mr. and Mrs. McCarthy relative to their concern that acceptance of this layout will cause their property to become an "illegal" or "non-conforming" lot.

Dixon Restaurant Associates, Inc. - Transfer of License to Sierras, Inc.

Present: Applicants Samuel J. Cannarozzi and John Ouellette; Robert E. Dyson, Esquire; Deputy Building Inspector Earl Midgley; resident Ralph Tyler.

Chairman Drobinski convened a public hearing to consider the application dated July 27, 1989, for transfer of the Restaurant License for the Sale of All Alcoholic Beverages, under General Laws, c. 138 §12, from Dixon Restaurant Associates, Inc., George Dixon, Manager, d/b/a Alfredo's, to Sierras, Inc., Samuel J. Cannarozzi, Manager, d/b/a Sierras, for property located at 470 North Road; and for approval of the pledge of said license as collateral.

Executive Secretary Pro Tem Janet Silva stated that advertisement and notice of this hearing was done in accordance with applicable law. Ms. Silva noted receipt of the petition for transfer and application, and noted that all required documents have been received and said petition and application are in order.

The Board acknowledged receipt of the following:

1. Memorandum dated July 31, 1989, from Health Director Robert C. Leupold recommending approval of the license transfer subject to certain conditions;
2. Letter dated August 9, 1989, from Inspector of Buildings Joseph E. Scammon recommending approval;
3. Verbal report on August 11, 1989, from Fire Chief Michael Dunne stating he has no problem with the approval of this transfer;
4. Memorandum from Deborah Montemerlo on behalf of the Conservation Commission dated August 14, 1989, informing that no response has been received by the Commission concerning their October 18, 1988 letter relative to its issue of non-compliance with the State Wetlands Protection Act.
5. Verbal report from the Tax Collector advising that \$172.34 is still owed the Town in personal property taxes by Dixon Restaurant Associates.

Ms. Silva pointed out that the floor plan submitted with the application indicates the existence of a deck, which does not appear to be a part of the original premises. Applicant John Ouellette explained that the deck was already there when they purchased the building and is not planned to be used for seating.

Robert E. Dyson, Esquire, 113 Great Road, Bedford, Massachusetts 01730, legal representative for Sierras, Inc., stated that Messrs. Cannarozzi and Ouellette have been involved in the restaurant business through their successful operation of Michaels Restaurant and Rossinis, both located in Concord, and they look forward to operating Sierras in Sudbury. Attorney Dyson further assured that the unpaid taxes and Conservation Commission concerns will be immediately addressed and resolved by the corporation.

Ms. Silva pointed out that because of changes to the premises which were discovered after this application was filed, involving number of rooms and exits, another hearing will need to be held; however, since it appears that the changes were done by the previous owner, she recommends waiver of any additional filing fees by the new owners.

In response to inquiry by Selectman Wallace, it was confirmed by Attorney Dyson that the transaction was a sale of assets; and that former owner Dixon Restaurant Associates is currently operating under the name of Sierras until the transfer can be achieved.

Selectman Cope noted that the replacement of the septic system caused some of the pavement to have been lifted; and she was assured that the pavement is being returned to its original condition.

Resident Ralph Tyler of One Deacon Lane suggested that in their zeal to improve the lighting conditions outside the restaurant, the owners may be using improper lighting because of the glare created. Deputy Building Inspector Earl Midgley assured that he will visit the property at night and will communicate his determination to Sierras and to the Selectmen.

It was on motion unanimously

VOTED: To approve application dated July 27, 1989, for transfer of the Restaurant License for the Sale of All Alcoholic Beverages, under General Laws c. 138 §12, from Dixon Restaurant Associates, Inc., George Dixon, Manager, d/b/a Alfredo's, to Sierras, Inc., Samuel J. Cannarozzi, Manager, d/b/a Sierras, for property located at 470 North Road; and to approve the pledge of said license as collateral; subject to the following:

1. Compliance with Board of Health conditions as follows:
 - A. Seating remains at 62 or less;
 - B. The new owners must notify the Board of Health within 48 hours of the ownership change and file an application for a new food establishment permit;
 - C. Areas within the parking lot exposed to gravel during the recent septic system replacement, must be repaved during this paving season;
2. Payment of unpaid taxes owed to the Town of Sudbury in the amount of \$172.34, as agreed by the corporation;
3. Approval by the State Alcoholic Beverages Control Commission;
4. Payment of pro-rated license fee.

And it was further unanimously

VOTED: To waive the Town's filing fee for a Change in Premises application, as recommended by the Executive Secretary Pro Tem, to correct the described premises on the liquor license.

Chairman Drobinski read Information Sheet prepared by the State ABCC for Buyers, Selllers and Applicants For Licenses, regarding the approval process which Applicant Cannarozzi had signed acknowledgment of on behalf of the corporation.

Upon review of applications for Entertainment License and Common Victualler License, both dated August 9, 1989, submitted by Sierras, Inc., it was further unanimously

VOTED: To approve and sign a Common Victualler's License and Entertainment License (seven days) to Sierras, Inc., which licenses expire December 31, 1989.

Site Plan Special Permit Application #89-312 - Bank of Boston

Present: Bruce Thomas of Schofield Brothers., Inc.; Deputy Building Inspector Earl Midgley.

Chairman Drobinski opened a public hearing to consider application for Special Permit Application No. 89-312 of Bank of Boston for a Site Plan Special Permit for changed use from real estate office to banking facility, at 421 Boston Post Road, Limited Business District #6, owned by C. G.

Investment Group, Inc. of Brookline; application received June 15, 1989. This application requested approval of two drive-through teller stations with canopy, a covered ramp for the handicapped and revised parking and landscaping, shown on Plans drawn by Schofield Brothers, Inc. received June 15, 1989, and consisting of the following:

- A. Schematic Layout dated March 24, 1989;
- B. Front & West Side Elevations dated March 24, 1989;
- C. Rear & East Side Elevations dated March 24, 1989;
- D. Site Plan dated April 1989;
- E. Landscape Plan dated April 21, 1989.

The Board was in receipt of a letter dated July 25, 1989, from Bruce Thomas of Schofield Brothers, Inc., engineer for the applicant, explaining changes being made to said application.

Mr. Thomas, representing applicant, stated that they are asking for a continuance of this public hearing because all approvals from various Town boards have not yet been received and they do not believe they are ready to come before the Selectmen at public hearing at this time. As a result of meeting with Town boards, several changes have been made, reducing the extent of the project, which have been redrawn on plans entitled:

- L1 - Site Plan dated June 27, 1989, revised August 14, 1989;
- L2 - Landscape Plan dated August 14, 1989;
- A1 - Schematic Plan dated March 24, 1989, revised June 6, 1989, August 7, 1989, and September[sic] 14, 1989;
- A2 - Front and West Side Elevation dated March 24, 1989, revised June 6, 1989, July 20, 1989, August 7, 1989, and September[sic] 14, 1989;
- A3 - Rear and East Side Elevation dated March 24, 1989, revised June 6, 1989, August 7, 1989, and September[sic] 14, 1989.

Mr. Thomas presented the Selectmen with fourteen sets of the revised architectural prints and site plans and displayed a conceptual plan for review. Mr. Thomas explained that the discussions that have been held with the Planning Board mainly focused on the issue of parking. Using the architectural drawing for reference, Mr. Thomas showed that there is no intent to change the "footprint" of the building to any material degree and they propose to basically add just one covered-over drive-through teller window at a location that will take the traffic patterns in that area into consideration and make the vehicle circulation as "slick" as possible.

Mr. Thomas went on to state that the site plan has gone through a lot of changes and he believes the result has been to create something that is a first step toward the "Village" concept that is being designed. Mr. Thomas explained that the bank will have a brick sidewalk; and the first floor of

the building will be lowered, which will mean easier handicapped access and eliminate the need for a ramp. Mr. Thomas further pointed out that the front of the building will be basically lawn, keeping the existing trees and adding a few shade trees; and they intend to extend the berm along Route 20 to the property line to discourage parking on the street.

The Board was in receipt of a letter dated August 8, 1989, from the Planning Board in which it expressed its approval of the conceptual plan and that it would submit a final report following review of the detailed plans.

Selectman Cope commended the applicant for keeping the Village Concept in mind; and in answer to inquiry, Mr. Thomas stated that an Automatic Teller Machine will be located inside the front entrance.

It was thereupon on motion unanimously

VOTED: At the request of applicant, and by mutual consent, to continue public hearing to consider application for Special Permit Application No. 89-312 of Bank of Boston for a Site Plan Special Permit for changed use from real estate office to banking facility, involving construction of drive-through teller station and revised parking and landscaping, at 421 Boston Post Road, Limited Business District #6, owned by C. G. Investment Group, Inc. of Brookline; application received June 15, 1989, to Monday, September 11, 1989, at 8:00 p.m.

Investigation of Zoning Violations - Union Avenue

Present: Deputy Building Inspector Earl Midgley.

Selectman Cope asked if the investigation of possible zoning violations have proceeded down Union Avenue, because she has received a number of complaints concerning the presence of a bad odor emanating from the Sears and Schofield property, which she personally can confirm spread to the Codjer Lane area. Ms. Cope further advised that she observed a lot of "stuff" stored behind Sears and Schofield, right along the side of that brook; e.g., barrels, 10,000-gallon holding tanks for septage, etc.

Deputy Building Inspector Earl Midgley stated that he has not been advised of this situation, but would be happy to immediately check into the matter to see if there is any non-compliance with the zoning bylaws for that property.

Minutes

Upon review, it was on motion unanimously

VOTED: To approve the minutes of July 31, 1989, as drafted.

Willis Lake Drive - Parcel 140

The Board considered communication dated June 30, 1989, from Royce and Barbara Greenwood, abutters to Parcel 140, Willis Lake Drive, expressing interest in purchasing a portion of Parcel 140 abutting their property, since the Town's paved walkway bisects the parcel.

By way of background, Executive Secretary Pro Tem Janet Silva reminded the Board that this parcel was voted at the 1987 and 1988 Annual Town Meetings to be placed for sale to abutters and bids were solicited accordingly. Ms. Silva further informed that no formal bids were received for purchase of the entire parcel; however, as evidenced by the aforementioned letter from the Greenwoods, they have expressed an interest in purchasing a portion of said parcel.

Ms. Silva stated that the Town Engineer sees no problem in selling that portion the Greenwoods are interested in to them; and suggested perhaps the abutters on the other side would be interested in acquiring the portion on their side.

Assistant Town Counsel David Doneski opined that even though the Town Meeting votes related to the entire parcel, since there were no formal bids received, he believes the Town can negotiate with an individual expressing interest in only a portion thereof.

It was therefore on motion unanimously

VOTED: To request the Executive Secretary to negotiate with Royce and Barbara Greenwood for their purchase of a portion of the property known as Parcel 140, Willis Lake Drive; and to request the Executive Secretary to communicate with the other Willis Lake Drive abutter to the property that the Town is willing to negotiate the sale of the remaining portion of Parcel 140.

Board of Assessors - Resignation

It was on motion unanimously

VOTED: To acknowledge receipt of the resignation of Robert Tellis from the Board of Assessors, dated August 4, 1989; and to request that the Executive Secretary forward a letter of thanks to Mr. Tellis for his service to the Town.

Permanent Police Sergeant - Interview of Allan C. Houghton

Present: Applicant Allan C. Houghton; Chief of Police Peter B. Lembo.

The Board interviewed Police Officer Allan C. Houghton for the position of Permanent Police Sergeant in the Sudbury Police Department; and acknowledged receipt of Officer Houghton's letter dated July 24, 1989.

Police Chief Peter B. Lembo called the Board's attention to his memorandum dated July 6, 1989, in which he set out the criteria he followed in making his recommendation for the positions of Police Sergeant.

Chief Lembo stated that Officer Houghton is one of his best officers and he performed well for the short time he was made Acting Sergeant by Chief Lembo in 1986. Chief Lembo pointed out the many duties Officer Houghton has performed within the Department, including organizer of an Auxiliary unit since dissolved, Firearms Training Officer, and now Parking Clerk and court prosecutor. Chief Lembo concluded his assessment of Officer Houghton by

stating that his attendance has been good, his attitude excellent-plus and there is nothing bad to say.

Chief Lembo explained that the reason he could not recommend Officer Houghton to the position of Permanent Police Sergeant is because he feels a duty to name the men already in the position on a temporary basis. Chief Lembo went on to say that because of possible retirements in the Fall and the growing need for more supervision over the weekends, he may be in a position to consider the addition of another Sergeant. Chief Lembo concluded by stating that the Civil Service list Officer Houghton is on is "good" for two years from the date it was received.

Officer Houghton highlighted the points covered in his letter to the Selectmen and Selectman Wallace commented that his credentials are very well spelled out.

Chairman Drobinski stated that he is very pleased with the quality of personnel in the Police Department in general; and acknowledged that selection becomes very difficult.

Officer Houghton made a closing comment that he would prefer the format followed in the past be implemented in this selection process.

It was on motion unanimously

VOTED: To make its decision regarding appointments to the position of Permanent Police Sergeant in the Sudbury Police Department on Monday, August 28, 1989.

Engineering Department - Transfer of Automobile to Building Department

Upon review of letter dated August 8, 1989, from Inspector of Buildings Joseph E. Scammon and concurrence with the Engineering Department, it was on motion of Selectman Cope unanimously

VOTED: To approve, in accordance with Town of Sudbury Bylaws, Article XII, the transfer of a Chevrolet Cavalier station wagon from the Engineering Department to the Building Department.

Lubriderm Women On A Roll Bicycle Tour

Present: Police Chief Peter B. Lembo.

The Board reviewed letter dated August 1, 1989, from Susie Hunter, Project Manager, City Sports Magazine's "Lubriderm Women on a Roll", requesting permission to bring the bicycle tour through the Town on Sunday, September 17, 1989.

Upon inquiry to Police Chief Peter B. Lembo, the Chief stated that he has met with representatives of the bicycle tour and has worked out details concerning the tour's passing through Sudbury.

Chief Lembo wished to take this opportunity to state that, although in the past he has taken a liberal view to requests from organizations and

groups desiring to have bicycle, running and similar events in or through the Town, he has been forced to take a stricter look at these requests due to the increasing number of accidents that have occurred. Chief Lembo believes the increase in injuries is due to the greater numbers of participants in these events. For this reason, one of his conditions is usually the presence of paid details.

It was on motion of Chairman Drobinski unanimously

VOTED: To approve the Lubriderm Women on a Roll bicycle tour, sponsored by City Sports Magazine, traversing Sudbury on Sunday, September 17, 1989, as requested by letter dated August 1, 1989, by Susie Hunter, Project Manager; subject to compliance with requirements of the Police Department.

Unisys Property on Route 117 - Meeting with Ralph Tyler

Present: Ralph Tyler, representing Unisys, Inc.

The Board reviewed communication dated August 7, 1989, from Ralph Tyler, representing Unisys, suggesting the Selectmen sponsor an article for the September Special Town Meeting relative to the Unisys property on Route 117.

Chairman Drobinski invited Mr. Tyler to open the discussion, and Mr. Tyler stated he felt the Selectmen should know that since the joint meeting with Unisys, the Planning Board and the Selectmen on May 8, 1989, he is distressed to report that the progress has been "zero" and he has found it impossible to create a constructive dialogue with the Planning Board when there has been no feedback. Mr. Tyler stated that the purpose for his request to meet with the Selectmen this evening is to get some perspective to see what the Selectmen feel and what direction they may suggest in going forward.

Mr. Tyler also wanted the Selectmen to be aware of a memorandum he forwarded to Assistant Town Counsel David Doneski, with cases cited therein, pointing out that Unisys has a very serious issue with the Town regarding zoning, liability for what amounts to a temporary taking, etc. Mr. Tyler explained that he felt the necessity to bring this to the Town's attention because he believes many people are operating under the assumption that as long as they can delay the process, the Town is getting a "free lunch"; i.e., the property remains undeveloped. Based on his readings and interpretations of current laws, Mr. Tyler believes these delays will cause problems for the Town as well as Unisys.

In response to inquiry by Selectman Cope about the proposal for a golf course, Mr. Tyler responded that although there was some initial interest by a potential developer, that interest quickly dissipated because of the zoning problems that would have to be overcome.

Mr. Tyler commented that at the May 8th meeting, Planning Board Chairman Russell Kirby had made quite a point about Unisys providing the Town with a price for consideration for Conservation purchase of the property. Mr. Tyler reports that although this was supplied, neither Mr. Kirby nor anyone else has done anything with that information, and to Mr. Tyler's knowledge, nothing is going on with any of the boards concerning this site.

Mr. Tyler cited what he believes the options for that property to be:

1. going forward with plans utilizing the present Research District Zoning;
2. residential alternative, which from what he hears from the townspeople and neighbors he has spoken with, is preferred.

Mr. Tyler also pointed out that the portion of the property located in Concord is presently being developed for thirty-four house lots on its forty acres.

Selectman Cope asked Mr. Tyler why Unisys did not submit an article for Special Town Meeting. Mr. Tyler stated that, based on what occurred at the last Town Meeting, the Town is under the mistaken belief that the longer they just say "no", the longer nothing will happen on that site. Thus, Mr. Tyler believes any article he proposes would be doomed.

Chairman Drobinski concurred with Mr. Tyler's opinion that a developer submitting a rezoning article to Special Town Meeting would be unsuccessful. As far as the Selectmen submitting such an article, Chairman Drobinski stated that he feels presenting such a major rezoning article before a Special Town Meeting with such quick notice to the townspeople would not be a wise course of action.

Mr. Drobinski went on to say that he believes Unisys should protect its rights; and he believes it would be unfortunate if something could not be worked out that would prove beneficial to all sides. Mr. Tyler responded by stating that he believes it is the lack of any kind of dialogue with the Planning Board that has caused this situation. Mr. Tyler stated that he had expected an initial turn-down because that appears to be the way the Board works. However, Mr. Tyler continued, the fact that no meaningful discussion was able to go forward, and it is his belief that Town Planner Lee Newman's only contribution has been to come up with new reasons for stopping the development. Mr. Tyler stated these factors are what has made "working" with the Planning Board what he considers to be a lost case.

Mr. Tyler suggested that the Selectman might discuss this situation with Town Counsel's office and request Counsel to research to determine the Town's position relative to liability. Mr. Tyler believes there are consequences for unreasonable delays. Mr. Tyler stated that it is his observation that the Planning Board's approach appears to have been to wait until everyone gets to the "steps of the courthouse" and then work something out, feeling that everyone will be so grateful to have a solution, everyone just walks away with no consequences. Mr. Tyler wants the Selectmen to know that he does not believe that Unisys will allow this to happen without seeking recourse for the unreasonable delays and actions.

Chairman Drobinski commented that it is his opinion that everyone would rather not wind up in court and stated he personally would prefer not to go that way.

Selectman Cope stated that in defense of the Planning Board a great deal of what they do is constructive and the Town has seen a great deal of

progress because of their working so closely with the developers. Selectman Cope stated she believes each and every member of the Planning Board cares a lot. Mr. Tyler stated that what he takes exception to is their approach.

Chairman Drobinski stated that the most important thing is for the Town to keep communications open; and he suggested an internal discussion among the various boards and departments of the Town might be helpful.

Selectman Wallace stated that he can appreciate the frustration being felt by Mr. Tyler and Unisys; but suggested that if the Town had a definite idea as to which way Unisys wishes to go, that might be helpful. Mr. Tyler responded that he has attempted to make it clear very early on to the Planning Board that Unisys would be willing to go along with a cluster development if they got the residential zoning. Selectman Cope reminded that the Special Town Meeting has a reputation for not being happy to have an article like this. Mr. Tyler stated he understands this and that is why Unisys is not pushing it. But he also pointed out that Town Meeting overwhelmingly voted not to have a research park there, and that is exactly what is allowed there.

Selectman Wallace stated that he believes the Planning Board is aware of the possible court challenge and he believes the Town would rather negotiate something that could also be beneficial to the Town. Mr. Wallace stated that he would be prone to helping to get a consensus of the Town if Unisys could come up with something that would look good. Mr. Tyler responded that although the Town has said it does not want a research park, Unisys cannot begin to put any other plan out to the townspeople, who he believes would want residential zoning. Thus, he concluded, how could Unisys be expected to spend, say, six months and several hundred thousands of dollars in obtaining architectural sketches, etc., without the zoning even in place.

The meeting concluded with Chairman Drobinski thanking Mr. Tyler for his information and noting that the Selectmen will arrange an informal discussion with appropriate boards for input and possible recommendations for resolution of this matter.

Permanent Police Sergeant - Interview of Jeffrey F. Gogan

Present: Applicant Jeffrey F. Gogan; Police Chief Peter B. Lembo.

The Board interviewed Police Officer Jeffrey F. Gogan for the position of Permanent Police Sergeant in the Sudbury Police Department.

Chief Lembo advised the Board that Officer Gogan is a "top notch" officer and has taken on the difficult task of taking charge of computer installation and all data processing for the Department. It was Chief Lembo's opinion that no one in the Department could have handled the computer set-up and operation better than Officer Gogan and he has done an excellent job.

Officer Gogan stated that he has thoroughly enjoyed the challenge of setting up the computer system and predicts that in two years the Department will be completely automated.

Officer Gogan continued by reminding that this is the second time he has been on the Civil Service Police Sergeant's list and has been before the Board before. Officer Gogan stated that he believes Temporary Sergeants Peter Langmaid and William Carroll are both deserving of the position and would be excellent choices.

Officer Gogan concluded by stating that he believes this list is active for two years and is aware that changes may occur. In the meantime, he stated, he is very happy with the work he was doing. Chief Lembo also pointed out that Officer Gogan has received his B.S. Degree.

Selectman Wallace reiterated his feelings of pride in the Department and its five candidates and encouraged Officer Gogan to pursue his goals.

Chairman Drobinski stated that he was very impressed with Officer Gogan's attitude and the statements he made concerning his fellow officers. Mr. Drobinski concluded by stating that people like Officer Gogan are a credit to the Force.

Permanent Police Sergeant - Interview of Anthony M. Deldon

Present: Police Chief Peter B. Lembo.

Police Chief Peter B. Lembo advised that Officer Deldon would not be present this evening; but commented that this officer, as all the others interviewed, is a worthy candidate.

Chairman Drobinski thanked Chief Lembo for his comments and the Board reiterated its intent to make a final decision on Monday, August 28, 1989.

September 12, 1989 Special Town Meeting - Acceptance and Ordering of Articles

The Board considered acceptance of ten articles submitted for the September 12, 1989 Special Town Meeting.

Ms. Silva called the Board's attention to Article 7, Amend Bylaws, Art. III.2 - Town Report, and informed that this article was prompted because additional research revealed that it appears unlikely that anyone will deliver the Reports. Thus, it means a town-wide mailing, which will mean an expenditure of \$1,500-\$1,800, which is double the normal cost of distribution. Ms. Silva concluded by stating that because this is an ongoing expense that appears will only get greater instead of smaller, the Board might consider this course.

Selectman Cope concurred with the article and stated she believes there is a lot of waste involved with the present system.

Ms. Silva pointed out that since this year is the 350th Anniversary Celebration of the Town, a good number of Reports will be available in any event because it is hoped that this will be a special one.

Selectman Wallace concurred with the article; Chairman Drobinski did not support or oppose, but rather felt that this is something the townspeople

should vote on, and they will have the opportunity to speak at Special Town Meeting.

Ms. Silva next pointed out the Reports under the budgetary articles (numbers 4-6), and stated that the figure will be put in tomorrow on the use of past year's abatement surplus accounts; she stated that the Executive Secretary wished the Board to know that he believes the figures look positive that the Town is headed toward making the balance.

Ms. Silva concluded by stating that Town Counsel has reviewed all the articles and no changes are anticipated unless some slight changes in the wording of the articles that will not materially affect the intent.

Upon inquiry of Selectman Wallace, Ms. Silva stated that the balance in the Stabilization Fund is \$600,000+.

Ms. Silva informed that the Warrant consists of twelve pages. The Town Clerk has requested that some kind of notice be inserted concerning the new dog licensing regulations and change in fees; subject to the Board's approval, this has been placed on the last page. She displayed cover pages and the completed Warrant for the Board's review and suggested the Board could sign the Warrant this evening subject to insertion of the Abatement Surplus figure.

After further discussion, it was on motion unanimously

VOTED: To accept the ten articles submitted for the September 12, 1989 Special Town Meeting.

And it was further on motion unanimously

VOTED: To order the warrant for the Special Town Meeting as presented.

And it was further on motion unanimously

VOTED: To refer the Zoning Bylaw amendment article (numbered 9) to the Planning Board for its hearing and report in accordance with General Laws, c. 40A, §5.

And it was further on motion unanimously

VOTED: To sign the September 12, 1989 Special Town Meeting Warrant as prepared, subject to insertion of the missing figure in the Warrant Report under Article 4.

Town/School Audit

The Board considered the question of taking action relative to the conduct of a Town/School Audit, per communication dated August 8, 1989, from the Executive Secretary.

Selectman Cope asked why the Executive Secretary, in his communication, is proposing elimination of any audit work relating to verifications dealing with prior years' Federal Revenue Sharing requirements, and any other federal

or state verifications not required. Ms. Silva responded by saying that it is her understanding that this action will no longer be necessary, but was part of the audit package when the Town was receiving revenue sharing.

In response to inquiry by Selectman Cope, Ms. Silva stated that all proposed action will be done in conjunction with Town Accountant James Vanar. Selectman Cope stated that she wished it be made clear that the Selectmen want to know that Mr. Vanar agrees with the proposed clarifications and deletions.

After further discussion, it was on motion unanimously

VOTED: To approve interline transfer from Unclassified Account 950-813 Retirement Fund to 950-799 Town Audit in an amount not to exceed \$4,793.35 to provide the remaining funds necessary to fully fund a Town/School Audit for Fiscal Year 1989.

And it was further on motion unanimously

VOTED: To approve audit proposal as submitted subject to modification and amendment at a later date as approved by the Executive Secretary, with notification to the Selectmen; subject to Selectmen Cope's comments regarding Item No. 1 of the Executive Secretary's Memorandum dated August 8, 1989, as outlined above.

Save Our Streets Association - Powder Mill/Powers Roads Area

The Board reviewed communication dated August 8, 1989, from representatives Sandra Bell and Patricia Simmons of the Save Our Streets Association, requesting implementation of four petitions for traffic improvements in the Powder Mill Road/Powers Road area.

The Selectmen asked why a blanket approval could not be given by them at this time so that work could proceed immediately.

Executive Secretary Pro Tem Janet Silva pointed out that when the package is taken as a whole, there are conflicting areas and therefore all of the items proposed may not be able to be implemented.

Ms. Silva reminded the Board that Town Engineer I. William Place has submitted a report, dated March 1, 1989, to the Board concerning these issues and she gave an example concerning the four-way stop sign on Powder Mill Road. Mr. Place said this could be done; however, there would be no need to do that if that section of Powers Road were made one-way. If Powers Road is made one-way, however, there is then a conflict with the request for a "Do Not Enter" sign.

It was on recommendation of the Executive Secretary and on motion unanimously

VOTED: To acknowledge receipt of letter dated August 8, 1989, from the Save Our Streets Association; to request the Town Engineer to proceed with plans for implementation of the recommendations he believes are feasible, and to bring such plans back to the Selectmen for final review and approval; and

to request that the Executive Secretary advise the Save Our Streets Association of the date of said meeting should they desire to attend.

Upon inquiry by Selectman Wallace as to a possible time-frame, Ms. Silva opined that one or two of the recommendations could probably be implemented quickly. However, others will require extensive study and coordination with the Police Department.

Selectmen's Priorities and Goals for 1989

The Board reviewed Selectman Cope's Priorities List for 1988-1989.

Ms. Cope reiterated her concern that the Union Road/Codjer Lane area be analyzed for zoning violations on the Sears and Schofield property. It is Ms. Cope's understanding that Health Director Robert Leoupold and Deputy Building Inspector Earl Midgley will return to the site and check compliance.

Chairman Drobinski suggested that an addition to Selectman Cope's list would be continued involvement in reaching a beneficial resolution of the Ft. Devens Annex land; and also having the Landfill operation run as efficiently as possible.

Selectman Wallace stated that he believes a priority should be added concerning getting more involved with the Unisys property situation and doing all that can be done to bring this matter to a beneficial, equitable and speedy resolution.

The discussion concluded with Chairman Drobinski stating that the Selectmen should continue to review the list and see if there are certain "pet" projects any of the Selectmen would like to take on and start action on.

Drainage Easement - 19 Washbrook Drive

As recommended by the Town Engineer, and upon review of plan, it was on motion unanimously

VOTED: To accept a Drainage Easement given by Theodore Athanassoulis and Ashild Athanassoulis on property located at 19 Washbrook Road, said easement to supersede all previous drain easements of record.

Rubbish Disposal For Town And School Departments

Executive Secretary Pro Tem Janet Silva reported that bids for furnishing rubbish disposal for Town and School Departments were opened August 10, 1989, and the only bid submitted was from the company that has been servicing the Town in the past.

Upon review of bid, it was on motion unanimously

VOTED: To accept the bid dated August 7, 1989, of Sandra J. Grierson, President, R. G. Trucking, Inc., 11 Great Road, Sudbury, for rubbish disposal pickup at Town and School buildings at the prices indicated as based on the Town's specifications for volume and frequency of pickup.

State Local Aid Shortfall

Upon review of draft memorandum prepared by the Executive Secretary to all departments, boards and commissions regarding State Local Aid Shortfall, it was on motion unanimously

VOTED: To authorize the Executive Secretary to send the draft memorandum to all departments and boards regarding fiscal constraints resulting from the State Local Aid shortfall.

Ft. Devens Property - Joint Filing with Town of Hudson

Present: Conservation Coordinator Deborah Montemerlo.

The Board reviewed Application For Federal Surplus Property For Public Park and Recreational Purposes relative to the Fort Devens Training Annex property off Hudson Road, to be filed jointly with the Town of Hudson.

Conservation Coordinator Deborah Montemerlo presented the Board with Draft No. 2 of said Application and reported that on August 1, 1989 representatives from several towns got together at Senator Kennedy's Office with representatives from MAPC and MAGIC, as well as representatives from some legislative offices; and it was agreed that the best way to proceed is to pursue an application for acquisition at 100% public benefit discount (i.e., no cost) of 219 of the 289 acres of GSA property for park and recreational purposes. A subsequent meeting to confirm said action was held in Hudson last Wednesday. Ms. Montemerlo reminded that 70 acres are being set aside for the Housing Authority. Upon inquiry by Chairman Drobinski, Ms. Montemerlo stated that the 70 acres have been delineated on a U.S.G.S. map; thus, it is not specific, but it does give a good idea of the area we want.

Ms. Montemerlo informed that the National Park Office has said that they would entertain a joint application for acquisition of the parcel if we could document benefit for public park purposes; and Ms. Montemerlo commented that this was very easy to do since documentation has been ongoing since 1964, the most recent study being a 1988 comprehensive outdoor recreation plan which states that this particular region of the State has a lack of hiking and camping facilities.

The Selectmen reviewed the application with Ms. Montemerlo who explained certain portions in more detail; and she laid out and explained a map of the area and proposed uses.

Ms. Montemerlo further informed that they are also looking at the site for its value as a water supply in addition to its use for park and recreational purposes. Ms. Montemerlo explained that there is a Maynard municipal well located nearby the property line.

Ms. Montemerlo went on to say that the major cost would be demolition of the buildings on the property, which would include asbestos removal.

Selectman Cope pointed out to Ms. Montemerlo that that property has been extensively used in the past by the Boy Scouts and it was suggested this might be a factor to be included in the application.

Ms. Montemerlo stated that the deadline for filing is thirty days from the meeting at Senator Kennedy's Office; i.e., August 31, 1989. However, Ms. Montemerlo informed that the goal is to have it in by Friday, August 25, 1989.

Selectman Cope suggested that Health Director Robert Leupold be involved since he is very knowledgeable about that land.

It was on motion unanimously

VOTED: To approve an Application for Surplus Federal Real Property for Public Park and Recreation Purposes relative to the Fort Devens Training Annex property off Hudson Road, to be filed jointly with the Town of Hudson and submitted to the National Park Service, U. S. Department of the Interior; and to authorize the Chairman to sign said application and any documents related thereto.

Special Permit Application 89-311 - Paris Realty Trust (Chiswick)

Present: Frank Vana; A. J. Nickerson; Theodore Pasquarello; Andrew D. Magee, Project Manager/Hydrogeologist of Rizzo Associates, Inc.

Chairman Drobinski called to order a continued public hearing to consider application #SP89-311 of Paris Realty Trust (for Chiswick Trading Company) for a Site Plan Special Permit for revision of Site Plan Special Permit #85-293-2 relative to the Phase II portion, involving reduction by 30,000 square feet of approved building construction for mixed limited industrial use and new construction of an 11,450 square foot 500-seat theatre club, at 490 Boston Post Road, Limited Industrial District No. 1.

The Board acknowledged receipt of memorandum dated August 2, 1989, from the Executive Secretary advising that Frank Vana suggested a group be appointed to resolve the outstanding theatre issues so that the project might go forward, and naming recommendations for the group.

The Board further acknowledged receipt of memorandum dated August 8, 1989, from Conservation Coordinator Deborah Montemerlo, informing that the Conservation Commission supports the proposal for the theatre use as an alternative to the approved light industrial use, to the extent the plan is legally permitted by zoning; and stating that the proposed theatre use is compatible with the goals of the Water Resource Protection District and is an environmental and public benefit improvement over an already approved plan.

Applicant's representative, Frank Vana, informed that they have just come from a meeting with the Planning Board, which has not yet received a copy of the memorandum from the Conservation Coordinator as outlined above.

Mr. Vana reiterated the many benefits to siting a theatre on the property versus an industrial business use. Mr. Vana further advised that

the Conservation Commission will again more closely scrutinize the area and establish a new order of conditions.

Mr. Vana concluded his presentation by stating that it is his sincere hope that the Board will unanimously grant the Site Plan Special Permit so that a year from today the zeal of the 350th Anniversary of Sudbury will usher in the grand opening of the Nickerson Theatre.

Chairman Drobinski stated he wanted to review the technical details of the plan and asked for comments on the following:

1. Plan for use of the back Chiswick parking lot - how will the theatre patrons get from the back to the front of the theatre? Applicant Theodore Pasquarello stated that the notation is only made to show the parking is available if needed. Mr. Pasquarello stated that they do not anticipate ever having to use that area, since the other parking areas are more than adequate.

2. Wetlands - it was brought out that the Conservation Commission will address those issues and their recommendations will be incorporated into the new Order of Conditions.

3. Proposed Sign on Route 20 - Mr. Vana stated the sign would be positioned 75 feet off Boston Post Road, and there have been good discussions and feedback with the Design Review Board.

Selectman Wallace stated that his prior concern about the zoning issue and knowing just what the townspeople would prefer at that site appears to have been resolved because of the petition article to be presented at Special Town Meeting. Mr. Wallace further observed that it seems that a lot of the original questions and concerns are being resolved with positive results. Mr. Wallace questioned whether the Board might consider making a vote this evening with appropriate "subject to" clauses and wondered what would be accomplished by putting this decision over to another date. Mr. Wallace added that he would like to see the seating limited to 450 (keeping in mind the seating arrangement of the applicant's other theatre is approximately 369), rather than the 500 seats proposed. Mr. Wallace's view is that this could be put into effect for a year to see how things work out and then the applicant could come back for an amendment up to 500 seats.

Upon inquiry by Selectman Cope, Mr. Vana stated that the Planning Board closed its hearing after receiving public input, so he cannot say what will be decided. Mr. Vana commented that during the public portion of the Planning Board's hearing there were no negative comments. It is Mr. Vana's feeling that the Planning Board will probably conclude that this project, as far as aquifer protection is concerned, is more positive. With regard to its Water Resource Protection District hearing, Mr. Vana stated that it was explained to him that the Planning Board did not have to reach a determination until September 15, 1989. Since Special Town Meeting will address the zoning use issue on September 12, 1989, Mr. Vana is hopeful that a positive vote at Special Town Meeting will moot that issue.

Selectman Cope again expressed her concern about groundwater and extent of drainage flow, and commented that she cannot see how a theatre can have

less of a wastewater flow than a warehouse. Andrew D. Magee, Project Manager/Hydrogeologist of Rizzo Associates, Inc., explained that Title V factors were used in determining the calculations and the conclusions confirm use as a theatre would generate less than the 40,000 square foot building as presently approved. Mr. Magee pointed out that the building is for a "mixed use" and would not necessarily be just a warehouse. Mr. Magee further pointed out that a performance theatre is not the same as a movie theatre; and that they are aware that all State regulations and guidelines mandate certain systems designs.

Selectman Cope stated that she is cognizant of the immense support for the theatre and she herself is really keen to have such a theatre in Town. However, she went on to say, she believes this Town has a history of granting just a little bit of a dispensation for a plan that eventually deviates from the Town's wish for a real downtown, rather than the "strip zoning" that the Town has. Selectman Cope believes there have been a lot of complaints about this from the townspeople over the years. Selectman Cope stated that she believes this Board has an opportunity to correct some of these problems, and she is agreeable to the idea as proposed by Mr. Vana for a committee to sit down and resolve these problems. However, Ms. Cope's review of the suggested committee members causes her to believe that there would not be many persons who can adequately address the questions; and she recommended a more comprehensive and balanced group.

Selectman Cope concluded by stating that because of her serious concerns about the environment, the "club" designation, the increased traffic flow; aesthetics and the Town's general goals, she would not feel comfortable in voting this evening. Ms. Cope believes the proposed committee should be implemented and they can then come back to the Selectmen one more time for a final review; however, she would have to be assured that the committee would be evenly balanced. Whatever happens, Ms. Cope stated, she hopes that Mr. Nickerson will continue to work with the Town. Ms. Cope further stated that she would like the committee to prepare a more detailed analysis before Special Town Meeting so that it may be presented at that time.

In answer to inquiry by Selectman Wallace, Assistant Town Counsel David Doneski stated that a decision must be rendered by the Board within ninety days after the close of the hearing.

Chairman Drobinski suggested that as a way to facilitate the process, he would like to have Town Counsel's Office draft a preliminary decision so the Selectmen can be working on that. Mr. Drobinski concurred with Selectman Cope's suggestion that rather than take a vote this evening, the better way to go is to get the committee working and working with Mr. Vana and Mr. Nickerson to address all the concerns so that we may go ahead in a positive vein.

Notwithstanding prior comments about parking in the rear not being anticipated for use by the theatre, Chairman Drobinski still believes that some type of walking access should be considered.

Selectman Wallace summarized by stating that the theatre will either "fly" at Special Town Meeting or it will not; and thus he does not feel it

would be beneficial to run the risk of having a split vote of the Selectmen this evening.

Selectman Cope stated that there are real concerns about traffic expressed by the Traffic Management Committee and the Village Concept Association. In addition, Ms. Cope would like to see a better analysis of the water drainage, surface and subsurface, with input from the Wastewater Advisory Committee. Lastly, she would like the zoning issue better discussed. Selectman Wallace pointed out that the zoning issue is a moot one, because if the article does not pass at Town Meeting, he would not vote in favor of the Special Permit.

Mr. Magee informed that he has dug holes on the site and he can undeniably state that this is not typical aquifer material and is not a primary discharge area.

Chairman Drobinski mentioned he was not wholly in favor of creating another committee when there were already so many groups involved. Mr. Vana agreed and explained that continuous meetings were being held almost nightly and that Selectman Cope might prefer to attend these meetings herself and bring with her anyone she wished to get her questions answered, as an alternative to forming a new group.

Selectman Cope expressed her concurrence with Mr. Vana's suggestion and there was a consensus of the Board not to form a new group. Mr. Vana invited Ms. Cope to attend a meeting scheduled for August 17 to include himself, Richard Brooks, Frank Riepe and James McKinley; which meeting Selectman Cope indicated she would attend.

After further discussion, it was on motion unanimously

VOTED: To continue, by mutual consent, public hearing to consider application #SP89-311 of Paris realty Trust (for Chiswick Trading Company) for a Site Plan Special Permit for property located at 490 Boston Post Road, to September 18, 1989, at 8:00 p.m.

Walkway Easement - Chapel Hill Trust

Upon review, it was on motion unanimously

VOTED: To accept a walkway Easement given by Thomas J. Sheridan, Trustee of Chapel Property Trust, on property located off Mossman Road, Sudbury, and shown on a plan entitled "PLAN OF LAND IN SUDBURY, MASS. Prepared for Record Owner and Applicant CHAPEL PROPERTY TRUST, Zero Walker Street, Maynard, MA 01754" dated July 27, 1989, drawn by Lancewood Engineering, Inc.

Fuel Oil Bids

The Board reviewed Memorandum dated August 11, 1989, from Thomas J. Houlihan of The Education Cooperative. Chairman Drobinski stated that since his company does consulting work for Global Petroleum Corp., he will abstain from consideration and voting on the question of acceptance of bid for fuel oil for the Town.

Upon review of the aforementioned Memorandum, it was on motion of Selectman Wallace, seconded by Selectman Cope, with Chairman Drobinski abstaining,

VOTED: To accept bid awarded by The Education Cooperative for supplying fuel oil for Town buildings during the 1989-1990 heating season, commencing September 1, 1989, as follows:

1. Global Petroleum Corp., 800 South Street, Waltham, Massachusetts 02254, at the following rates for #2 and #4 Fuel Oil:

#2 Oil: +\$0.0401/gallon, to be added to the lowest price posted daily in the New York Journal of Commerce for Boston;

#4 Oil: -\$2.97/barrel, 1% sulphur to be deducted from the lowest price posted daily in the New York Journal of Commerce for Boston;

Additional cost for metered truck for #4 fuel oil, add \$0.50/bbl.

Selectmen's Meeting of September 12, 1989

Due to Special Town Meeting being held Tuesday, September 12, 1989, it was on motion unanimously

VOTED: To call a Selectmen's meeting at 7:00 p.m., on September 12, 1989, at the Library of the Lincoln-Sudbury Regional High School.

Wellesley Recycling Guided Tour

Selectman Cope reported that there will be a guided tour of the Wellesley Recycling Center if anyone is interested in attending. Ms. Cope stated that she and Susan Primm are planning on attending the tour, which will be held next Saturday at 10:00 a.m.

There being no further business to come before the Board, the meeting was adjourned at 11:00 p.m.

Attest:

Janet Silva
Executive Secretary Pro Tem