

IN BOARD OF SELECTMEN  
MONDAY, SEPTEMBER 11, 1989

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

Calling of Special Town Meeting/Special Town Election

Present: Town Clerk Jean M. MacKenzie; Schools Superintendent David Jackson; Sudbury School Committee Chairman James W. Flanagan.

The Board considered the question of calling a Special Town Meeting and setting the Warrant closing time for same.

Town Clerk Jean M. MacKenzie voiced her opposition to holding a Special Town Meeting prior to the Special Town Election, stating that it is very important that the voters of the Town fully understand the value of every vote they give to the Town. Ms. MacKenzie reported that she has spoken with a representative of the State's Department of Revenue, which concurs with her feeling that to have a Special Town Meeting prior to a Special Town Election may not be the appropriate way to go.

In support of her position, Ms. MacKenzie stated that the vote at Special Town Meeting would only be qualified and conditional upon the ballot vote at Special Town Election. It is Ms. MacKenzie's concern that the townspeople would perceive the Special Town Meeting vote as having a much stronger voice than it would have.

Ms. MacKenzie further pointed out cost considerations, stating that between her department and the Selectmen's office, the costs for holding a Special Town Meeting would be approximately \$5,000.00; and a Special Town Election would run her department alone approximately \$6,000.00. Ms. MacKenzie outlined a scenario where Special Town Meeting is held, the vote passes; it goes on the ballot at Special Town Election, where it is defeated; then it can go back to another Special Town Meeting. Ms. MacKenzie stated that she believes this is an unnecessary expenditure of the Town's money and the process would only serve to confuse the townspeople.

Schools Superintendent David Jackson stated that he had been unaware of Ms. MacKenzie's concerns until this evening. Dr. Jackson explained that this sequence was requested because a number of events over the past several years has caused the School Department and Committee to commit to resolving the schools' issues for the Town. If one of the proposals being proposed at Special Town Meeting passes, it will go to Special Town Election. Dr. Jackson reported that the School Committee has indicated that if there is a "yes" vote at Special Town Meeting and a "no" vote at Special Town Election, they will not pursue it further and would look toward presenting something at the next Annual Town Meeting. Thus, he concluded, he does not believe extra costs would be involved.

Dr. Jackson further pointed out that if the procedure were reversed, it would mean placing two ballot questions at Special Town Election; and it is his belief that this would only serve to confuse the voters.

Executive Secretary Richard E. Thompson informed that this matter has been exhaustively discussed among many individuals and included the Town Moderator, Town Counsel, Selectmen, School Committee, Town Clerk, etc. It is Mr. Thompson's recommendation that the Special Town Meeting be called for Tuesday, October 17, 1989, and that the Warrant closing time be set for Friday, September 22, 1989. Chairman Drobinski recalled that in discussions the date of Monday, October 16th was the concurred date and wondered why the change was made to October 17th. Mr. Thompson explained that because of legal time constraints, changing the date to October 17th would obviate any Town bylaw sequence problems.

Ms. MacKenzie made a final statement that it is her belief that it is in the best interests of the Town to have the election first.

It was on motion of Selectman Wallace unanimously

VOTED: To call a Special Town Meeting to be held on Tuesday, October 17, 1989, at 7:30 p.m., in the Lincoln-Sudbury Regional High School Auditorium; and to set the Warrant closing time on Friday, September 22, 1989, at 5:00 p.m.

The Board next considered the question of setting the date for Special Town Election and Executive Secretary Thompson informed that the concurred-upon date was November 13, 1989.

Town Clerk MacKenzie stated emphatically that there is no way her department can conduct an election in that short a space of time. Ms. MacKenzie pointed out that one of her staff will be on vacation the first weeks in October, and she has already informed the Selectmen she herself will be on vacation for two weeks; two other staffers are new and thus inexperienced in running an election; and the many new election officers will need to attend a training session. Ms. MacKenzie further pointed out that unlike past years, she will not have the assistance of school custodians to move the voting machines, and she thus has the added problem of finding competent individuals to take care of this. Ms. MacKenzie added that since the week before is a long holiday weekend, she doubts if she can get anybody to give that up to prepare for the election on the 13th. Thus, Ms. MacKenzie stated that the earliest reasonable date for the election would be November 20, 1989.

Sudbury School Committee Chairman James W. Flanagan stated he has no concerns with setting the election date for November 20th; but pointed out that this falls just prior to Thanksgiving week. The Executive Secretary opined that he did not believe that would be a problem.

It was on motion unanimously

VOTED: To set the date of Special Town Election for Monday, November 20, 1989.

Special Town Meeting Article 10 - Affordable Housing Planning Resolution

Present: Sudbury Neighborhood Planning Association Spokesperson Gordon Tucker; Sidney Wittenberg; Sudbury Housing Authority Chairman Steven J. Swanger and members; Sudbury Housing Partnership Committee Chairman Thomas P. Sokol and members; approximately fifteen residents.

At 7:50 p.m., Chairman Drobinski convened a meeting with Gordon Tucker, Spokesperson for the Sudbury Neighborhood Planning Association, and Sudbury Housing Authority relative to Special Town Meeting Article 10, Affordable Housing Planning Resolution.

The Board acknowledged receipt of draft Resolution attached to memorandum dated August 4, 1989, to Sidney Wittenberg from Assistant Town Counsel David J. Doneski; and Mr. Tucker handed out copies of "Summary of Proposal From Sudbury Housing Authority to Federal Government to Develop High-Density Housing Project at Former Fort Devens Training Annex - Sudbury, Mass.", dated September 7, 1989, prepared by the Sudbury Neighborhood Planning Association.

Executive Secretary Richard E. Thompson stated that he has talked with several people over the weekend concerning the Resolution and he expressed his hope that there can be some type of "temporary marriage" of the groups involved at least until after Special Town Meeting. Mr. Thompson stressed the importance of keeping the commraderie and community spirit alive that was exemplified during the 350th Anniversary Celebration this past weekend. With that in mind, Mr. Thompson stated he believed the purpose of this meeting was to hopefully reach a consensus that could be presented to the Special Town Meeting.

Sidney Wittenberg, a member of the Sudbury Neighborhood Planning Association, stated that he not only concurs with Mr. Thompson's hopes for unanimity but stated that he has been personally working to reach some accommodation among the parties involved. Dr. Wittenberg referred the Selectmen to the draft Resolution and highlighted some of the points contained therein.

Dr. Wittenberg stressed that the intent of the Resolution Article is to ensure a dialogue, or at least to make it possible or probable that a dialogue will exist, between the Housing Authority and the other agencies involved with affordable housing issues and the community as a whole. Dr. Wittenberg commended those agencies for having done "a pretty good job"; however, he believes that since things are changing it is important that these authorities know the sense of the Town. Thus, Dr. Wittenberg reiterated that the purpose of the article is to establish and ensure communication; and the article should not be interpreted to mean anything more than what it says.

Dr. Wittenberg wished to make two points concerning the Resolution:

1. these authorities come to Town with plans for a large development. Those plans tend to have a large impact on the community. Dr. Wittenberg stated that it would therefore seem to him that both for the information of those responsible for long-range planning of the town and the community financing it, the townspeople should know the plans. The Resolution does not mean to be inhibitory in any sense. Dr. Wittenberg stated that in many cases, where the authorities have been required to come before Town Meeting and have been turned back, they have come back secondarily with a better, stronger and more effective proposal.

2. since affordable housing is a reality, there ought to be a long-range plan. It is important to know how a particular proposal is going to affect the

Town long range. Dr. Wittenberg opined that this is something that the State itself realizes, since the legal structure that has been used in developing low-cost housing is under investigation.

Dr. Wittenberg pointed out that this is not a binding Resolution; that indeed, it cannot be such by law. The purpose is to have those agencies involved know that the Town wants to know and the townspeople want to know specifically what the plans are. Dr. Wittenberg opined that as agencies of the Town, they should be willing to present its plans to the Town; and he stated his belief that historically earlier agencies willingly came before the Town to make its plans known.

Dr. Wittenberg concluded by pointing out that two hundred residents have signed the petition in twenty-four hours, representing a large segment of the community; and he requested the Selectmen to support this Resolution article. Dr. Wittenberg expressed his opinion that to oppose this article would mean that someone is trying to hide what is going on. Dr. Wittenberg acknowledged that this would not necessarily be true; but that would be the perception.

Steven J. Swanger, Chairman of the Sudbury Housing Authority, responded by stating that the agency is very disturbed about this article because, although the Resolution as worded may be legally technically correct, the agency believes it borders on illegality. Mr. Swanger noted that Town politics being what they are, he believes the Resolution places great pressure on the Housing Authority to comply "voluntarily" with the so-called non-binding Resolution, where if it were openly demanded of the Authority, it would clearly be illegal. Mr. Swanger went on to say that to the extent that the illegality arose out of Massachusetts General Laws and a reading of the purposes of Town Meeting and the purpose of the Housing Authority, it seems to him that although the Resolution may meet the "letter of the law", it does not meet the "spirit of the law".

Mr. Swanger stated that the agency's concern is that it is a public body, elected by the Town's residents; it holds public meetings, and has a track record of having bent over backwards to include the community in what the Authority is doing and to listen to every point of view. As an example, Mr. Swanger stated that in a period of one year, in addition to regular meetings, the Authority held thirty meetings concerning a particular project. Mr. Swanger further pointed out that since May or June, the Authority has held four or five meetings concerning the Fort Devens land, and the Authority's proposal has been dramatically altered as a result of those meetings and input.

Mr. Swanger reiterated that the Authority employs a public procedure and does not hide behind executive session to exclude the community; and has a proven track record of not overriding community concerns. Thus, Mr. Swanger opined that "if it ain't broke, it doesn't need fixing"; and that whether the intent is there or not, the net effect of such a Resolution would be to discriminate against the Housing Authority and the Housing Partnership Committee in their ability to develop affordable housing. Such a Resolution would, Mr. Swanger believes, put them in the position of having to call a Special Town Meeting or have to wait for a regularly-scheduled Annual Town Meeting. Either way, this would not be feasible or fair, since private developers will not be covered by any such limitations. Mr. Swanger went on to

say that those private developers will be able to move forward quickly, while the Authority's projects will be impeded by having to wait.

Mr. Swanger concluded by reiterating that private developers, whether developing market-rate housing or affordable housing, will not be covered by this Resolution, only the Town's agencies, which are already accountable to the Town. Mr. Swanger stated that the potentially-discriminatory effect of this Resolution raises serious questions in his mind, and he would think in the minds of State government, of the Town's compliance with Executive Order 215. Mr. Swanger expressed his belief that passage of such a Resolution would call negative attention to the Town and could raise eyebrows as to how committed the Town is to affordable housing when it places these kinds of impediments on the Town's public agencies, and he fears it could ultimately jeopardize the State's discretionary funding.

Thomas P. Sokol, Chairman of the Sudbury Housing Partnership Committee, stated that he strongly shares the same feelings expressed by the Sudbury Housing Authority. Mr. Sokol explained that, while the Authority accomplishes its goals through public funding, the Committee's program is privately funded through developers. Mr. Sokol also pointed out that the families involved are not subsidized families, but rather first-time home owners that will become permanent residents of Sudbury; and that affordable housing is a very small number of housing within the Town. Thus, Mr. Sokol expressed his confusion as to what the Neighborhood Planning Association is after: the out-of-control development of the Town of Sudbury, or is it really after affordable housing?

Mr. Sokol went on to say that since the Committee's projects are privately-funded, the developers involved do not have the time to wait for Town Meetings. Mr. Sokol stated that to develop a project is a very complex process.

Mr. Sokol also pointed out that every time the Committee has had a proposal come before it, notice of meetings concerning same have been made known to the public. To Mr. Sokol's recollection, the Committee has never had more than one next-door neighbor attend a meeting on a particular project. Mr. Sokol stated that the Committee has always and will always welcome attendance at its meetings.

Mr. Sokol stated that he recommends not bringing such a Resolution to the Town floor, and expressed his belief that it is an internal problem that can be addressed, a problem sparked by the Fort Devens land situation. At the very least, Mr. Sokol suggested extending presentation of such a Resolution to the October Special Town Meeting, and expressed his hope that prior to that time a better understanding may be reached among the parties involved and the problem resolved.

Mr. Sokol concluded by stating that he believes in the best interests of home ownership and in the best interests of municipal form of government, it would be wise to table the issue for Special Town Meeting tomorrow night and extend it to the next Special Town Meeting in October. Mr. Sokol pointed out that Fort Devens is not going to have a thousand houses built between now and October, and he believes a rational discussion among the parties can achieve more than presentation of the Resolution tomorrow night.

Chairman Drobinski pointed out for informational purposes that the balance of the Fort Devens land is being actively pursued through the National Park Service to have that parcel declared park land. Mr. Drobinski assured that everyone is very sensitive about that parcel of land and the Selectmen have been actively involved in keeping apprised of the situation.

Selectman David A. Wallace opened his comments by stating that he believes it is the Fort Devens land situation that brought this discussion concerning such a Resolution to the floor tonight. Mr. Wallace added, however, that he believes that whatever the initial reasons, it is good that the concerns are publicly brought out, as it is obvious that what happens to the Fort Devens land will have an enormous impact on the Town, no matter what the use. Also, any project puts pressure on our Town services, schools, etc., so Mr. Wallace stated that it is easy to understand the concern with regard to any development.

However, Mr. Wallace continued, he feels the way the Resolution is written with regard to the number of units ("over 15") may severely hamper the agencies' ability to work efficiently on a day-to-day basis. Mr. Wallace went on to say that if the agencies had been so tightly constrained in the past, as proposed in the Resolution, he does not think the Housing Authority could have accomplished as much as it has in pursuing a beneficial use of the Fort Devens land on the Town's behalf. Mr. Wallace pointed out it was the dogged determination of the Housing Authority that will hopefully prevent that land from being used for a huge project. Mr. Wallace further commended the Housing Authority for its courageous actions and stated his personal opinion that it is working with the best interests of the Town in mind.

Mr. Wallace stated that although he does not believe that the agencies need to be too precisely tied down, since any development is going to affect the Town, it would be wise to see the proposal come before the Town. Mr. Wallace suggested that it might be a good idea to postpone the Resolution article for a month so that the issues might be addressed and resolved.

Mr. Wallace concluded by voicing his personal support of the last part of the Resolution concerning long-range land use planning.

Selectman Judith A. Cope opined that long-range planning may be very difficult for the Housing Authority to do. However, Ms. Cope stated that the petitioners have honest concerns, as development of such parcels as the Fort Devens property can affect the way of life in Sudbury.

Ms. Cope concluded by stating that she respects the Housing Authority for its efforts to save Sudbury from "Tent City"; and she expressed her wish that everyone try to get together on the issue. Ms. Cope further concurred with Selectman Wallace's opinion that the figure of 15 units is far too low.

Chairman Drobinski commented that as a past member of the Planning Board, he knows many of the issues being raised have been wrestled with a lot. Mr. Drobinski stated that he feels it is somewhat unfair to tie up the hands of a public entity and yet allow the private developer to run around free from those constraints.

Mr. Drobinski stated that it might be helpful to keep in mind that unlike private developers, who for the most part come from outside the community and come in merely to make a profit, these agencies are comprised of residents of Sudbury and are neighbors to all present.

Mr. Drobinski acknowledged valid concerns on both sides; yet admitted that the language of the Resolution gives him an uneasy feeling.

Mr. Drobinski concluded by stating that he believes the Housing Authority needs to know what the townspeople feel and stated that the agencies should listen to them. Mr. Drobinski expressed his feeling that if the residents do not attend the meetings of these agencies and tell them what they feel, the agencies will proceed with its plans, believing there is no opposition.

Dr. Wittenberg stated that he believes some very cogent points had been made, and hopes that people on both sides of the issue can bend a little, as he believes there is nobody without fault.

Gordon Tucker, spokesperson for the Sudbury Neighborhood Planning Association, stated that it should be kept in mind that the Resolution goes beyond just the Fort Devens land-use issue; and he pointed out that there are developments being fostered by elected Town officials, such as twelve units of housing on Fairbank Road; thirty units of housing coming from a private developer that would incorporate some association with the Housing Authority on Concord Road; forty units being proposed by the HOP Committee located behind Tighe Sales on Route 27; and 100 units of housing on the Fort Devens land, 70% of which units he believes are going to go for market-rate housing.

Mr. Tucker pointed out that whether for or against affordable housing, a lot is happening concerning it, and he expressed his opinion that nothing is being discussed as a whole.

Mr. Tucker spoke specifically about the Fort Devens land use and expressed his displeasure with the feedback and lack of communication with the Housing Authority. Mr. Tucker further opined that he could not go along with the suggestion of delaying the issue another month, since it is his understanding that when the Resolution was first proposed, the Housing Authority was given the opportunity to respond and give input and it made itself clear that it wanted nothing to do with it.

Mr. Tucker concluded by stating that all that is being asked for is a dialogue with elected Town officials in a democracy before Town Meeting; and the Association is asking for a plan for the future of the Town. Mr. Tucker informed that the State has recognized that there are major problems with the whole process that must be gone through in approaching this issue; and it is his understanding that there is a report that there may be a change in the State laws which will say that if a Town comes up with a plan that meets with affordable housing goals, and it is a plan that the Town will rally around, the spectre of a comprehensive permit would be removed, for private developers as well as housing boards.

Susan Berry, a member of the Sudbury Housing Partnership Committee, stated that she believes part of the problem is that the Resolution is perceived as having been written merely to address the Fort Devens situation; which she

feels is a unique one. Ms. Berry pointed out that if any Town agency or private developer wished to develop private property within the Town, that entity would have to go before Town Meeting; and she does not believe anyone would think it would make better sense not to.

The other point Ms. Berry wished to make was that the reason the agencies believe the Resolution would be discriminatory is because a private developer could buy some land from a resident, choose to develop it as affordable housing, and would not have to work within the constraints placed upon the agencies by the Resolution.

Resident John B. Cochran of 63 Stearns Lane commented that common sense should tell everyone that State funds are going down while community costs are going up; thus, he believes the great majority of townspeople are interested in what is going on and want to know.

Selectman Wallace reiterated his suggestion to table the Resolution article to the October Special Town Meeting. Mr. Wallace stated that if this was unacceptable, he then suggests that the Resolution be revised to say, in effect, that the agencies be requested to present at Town Meeting "a detailed long-range plan before it proposes to develop any plan for development of land."

In answer to inquiry by a resident, the Executive Secretary stated that the State mandate for affordable housing is 10%, or more particularly, about 450 homes in Sudbury; and that it is his belief that the Town is approximately 1/3 of the way towards achieving that goal.

Chairman Drobinski thanked all for their attendance and input and the discussion was concluded.

Special Permit Application No. 89-312 - 421 Boston Post Road - Bank of Boston

Present: Bruce Thomas of Schofield Brothers, Inc.; Steven Fox, Bank of Boston; Marc Margulies of Margulies & Associates; Building Inspector Joseph Scammon.

At 9:00 p.m., Chairman Drobinski convened the continued Public Hearing to consider application for Special Permit number 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; which application was received June 15, 1989; and which hearing was continued by mutual agreement from August 14, 1989.

The Board acknowledged receipt of the following:

1. Letter dated August 21, 1989, from Fire Chief Michael Dunne advising that he has no objection to approval of the plan;
2. Letter dated September 5, 1989, from Town Engineer I. William Place, offering the following comments:



A. a permit will be required from the Massachusetts Department of Public Works, District 4, Arlington, for any construction within the right-of-way of Route 20;

B. suggestion that the bituminous concrete curb proposed along Route 20 be continued and made part of the rounding to the Sudbury Police Department entrance;

C. observation that since there appears to be no increase in the amount of impervious cover, there will be no increase in the rate of runoff;

D. topography shown on the site plan at one foot intervals has not been shown as required under Sections IX,V,A,5; however, this information has been provided on the landscape plan, sheet L-2;

E. the handicapped parking spaces numbered 12, 21 and 30 are remote from the bank entrance and 100' and 130' from the nearest handicapped ramp. Mr. Place therefore suggests these spaces be relocated closer to the entrances;

F. the maneuvering aisle adjacent to the parking spaces numbered 4 and 5 is approximately 16' at variance to Section IX,Vc,5. A 19' vehicle will find it very difficult to access these parking spaces. Mr. Place therefore recommends either a designation of small cars only or the total elimination of these two spaces;

G. the aisle width for the drive-up teller scales 12'. Mr. Place is concerned with the possibility of cars parked in spaces 2-21 having the front bumper extend into the drive-up aisle causing the aisle width to be narrowed to 7-8', and recommends the painted lane stripes be a minimum of one foot wide;

H. Mr. Place was unclear as to how the refuse disposal is to be handled.

3. Letter dated September 5, 1989, from Design Review Board Chairman Joyce Wells Fantasia informing that at its meeting of August 29, 1989, the August 14th revised architectural and landscape plans were reviewed and she submits the following comments:

A. changes made in the exterior design of the building are in general conformance with suggestions made during earlier review sessions, and the Design Review Board recommends approval;

B. the Design Review Board voted to recommend the addition of a third shade tree, to be planted outside the (northwest) corner of the brick walkway from the parking lot to the entrance. It was further recommended that there be plantings around the tree of low-growing shrubs, bulb plants and annual flowers to provide year-round visual interest.

4. Letter dated September 8, 1989, from Design Review Board Chairman Joyce Wells Fantasia, following up her letter of September 5 (see Item 3 above); the Design Review Board asks that the following condition be placed

upon the Site Plan, in order to assure conformance with the elevation drawings as shown on sheets A-2 and A-3 of the Plan:

"No building permit shall be issued for the structure located at 421 Boston Post Road until the final building plans have been submitted to the Design Review Board for review and approval."

5. Letter dated September 7, 1989, from Inspector of Buildings Joseph E. Scammon, making the following comments:

A. the parking in the area to the rear of the building has been reconfigured to accommodate the flow of traffic to the drive-up window but maintains the number of spaces approved on the prior site plan;

B. Plan L-2 shows a handicapped parking space at space number 1 adjacent to the brick walk and the nearest one to the building. This building of 1300 square feet would need seven spaces under the bylaw and only one space under the handicapped regulations is required for the first fifteen spaces in a parking lot; therefore, the plan complies with the intent of the regulations. Mr. Scammon noted that the handicapped parking space at number 12 could be moved to space 2 and would be more accessible to the walk;

C. landscaping appears to be adequate and he is sure it was reviewed by the Design Review Board;

D. applicant had a petition before the Board of Appeals (Case No. 89-43) to alter a non-conforming building and for a second sign;

E. no means of rubbish disposal is shown;

Subject to the above, Mr. Scammon recommends approval of this site plan.

6. Memorandum dated September 8, 1989, from Health Director Robert C. Leupold recommending approval and stating the proposed use is compatible with the building square footage and septic system design flow.

7. Letter dated September 11, 1989, from Town Planner Lee Newman, advising that the Planning Board at its September 11, 1989 meeting voted to recommend approval of the site plan, subject to the recommendations of the Design Review Board as outlined in their correspondence dated September 5 and 8, 1989; and subject to an on-site approval of the final shade tree location by the Village Center Design Committee prior to actual tree planting.

The Board further reviewed draft site plan vote prepared September 11, 1989, by Town Counsel's Office.

Bruce Thomas of Schofield Brothers, Inc., displayed the revised plans and pointed out the changes made. Chairman Drobinski concurred with the concern expressed by the Fire Chief regarding access and Mr. Thomas outlined the traffic pattern that would be employed for the drive-in teller access.

Chairman Drobinski complimented the Bank of Boston for its cooperation in working with the various Town boards in achieving a mutually-satisfactory plan.

There was a discussion concerning the Planning Board's request that on-site approval of the final shade tree location by the Village Center Design Committee prior to actual tree planting be a condition of approval. Mr. Thompson explained that since this committee is not an officially-designated or legally recognized committee of the Town, it would not be appropriate to attach such a condition. However, Mr. Thompson pointed out that such approval may be required by the Design Review Board, which can certainly entertain input from the committee.

Selectman Cope announced that her husband's company is a large receiving stockholder of the Bank of Boston, and although she assured this would have no bearing on her decision, she wished that fact to be known in the event anyone believed this would present a conflict-of-interest problem. Chairman Drobinski inquired of the public if anyone wished Selectman Cope to remove herself from taking a vote of this matter, and there was no response.

It was on motion unanimously

VOTED: To grant a Site Plan Special Permit to the Bank of Boston in accordance with Site Plan Application #89-312, for property located at 421 Boston Post Road and owned by C. G. Investment Group, Inc., for changed use from real estate office to banking facility involving construction of drive-through teller station and revised parking and landscaping, as shown on the plans entitled:

- L-1 "Site Plan of Land in Sudbury, Mass., prepared for the The Bank of Boston", dated June 27, 1989, revised August 14, 1989, by Schofield Brothers, Inc.;
- L-2 "Landscape Site Plan of Land in Sudbury, Mass. prepared for Bank of Boston", dated August 14, 1989, by Schofield Brothers, Inc.;
- A-1 "Schematic Plan", dated March 24, 1989, revised June 6, 1989, August 7, 1989, and September [sic] 14, 1989, by Margulies & Associates;
- A-2 "Front and West Side Elevation", dated March 24, 1989, revised June 6, 1989, July 20, 1989, August 7, 1989, and September [sic] 14, 1989, by Margulies & Associates;
- A-3 "Rear and Side Elevation", dated March 24, 1989, revised June 6, 1989, August 7, 1989, and September [sic] 14, 1989, by Margulies & Associates;

and subject to compliance with all governmental laws and regulations including, but not limited to, zoning, building and health laws and regulations, and further subject to the following conditions:

- 1) approval of the drainage system, including traps, catch basins, and periodic maintenance as required by the Town Engineer;
- 2) approval of signs or advertising devices as required under the applicable provisions of the zoning bylaw;

- 3) no use of salt or chemical de-icers on the site;
- 4) no storage or use of chemicals on site except in conformity with guidelines and requirements of the Board of Health and except with written notice of the same to the Board of Health and the Fire Chief; the owner or operator of the site shall comply with the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, G.L. c.21E, as amended, and all regulations issued thereunder;
- 5) final approval by the Selectmen of an accurate architectural rendering of the proposed building or change, showing the front and side features as they will appear from the public way or private access;
- 6) approval of the final landscaping plan by the Board of Selectmen;
- 7) exterior lighting to be directed away from adjacent residences and have shields, and shall comply with the standards of Bylaw Article IX.V.A.7.f and be approved by the Inspector of Buildings;
- 8) submission of an "as built" site plan - any change in the physical condition of the site, including changes in the location or design of structures or systems, following prior approval of the site plan, will require approval of the Board of Selectmen;
- 9) as stipulated, and agreed to, in written reports as follows:
  - review of final building plan by the Design Review Board and landscaping requirements as designated by the Design Review Board in its letters of September 8 and September 5, 1989, respectively;
  - recommendations of Town Engineer, dated September 5, 1989, numbers 1, 2, 5, 6, 7 and notation on plan relative to provision for rubbish disposal;
- 10) no building permit shall be issued until items 1, 5, 6, and 9 of this approval are satisfied;
- 11) no occupancy permit shall be issued until items 2, 4, 7 and 8 are satisfied;
- 12) this Special Permit shall lapse if a substantial use thereof has not commenced, except for good cause, within one (1) year from the effective date of said Permit.

Town Counsel was directed to prepare the site plan decision for signing by the Board of Selectmen.

Executive Secretary Thompson further requested applicant to submit to Building Inspector Joseph Scammon original mylars of the revised Site Plan and Landscaping Plan for signing by the Selectmen simultaneously with the Decision; and Mr. Thomas assured that he would do so.

Kenbo, Inc. d/b/a Ephraim's - Transfer of License to JFW Restaurant Group, Inc., d/b/a Joslyn's

Present: Daniel S. Casper, Esquire, representing applicant JFW Restaurant Group, Inc.; John F. Walter, President, JFW Restaurant Group, Inc.

At 9:15 p.m. Chairman Drobinski convened a Public Hearing to consider the application filed on August 18, 1989, for transfer of the Restaurant License for the Sale of All Alcoholic Beverages from Kenbo, Inc., d/b/a Ephraim's, Federal Bankruptcy Court Case No. 88-12316, to JFW Restaurant Group, Inc., d/b/a Joslyn's, for property located at Eight Village Green, Hudson Road; and for consideration of application for Common Victualler, Entertainment and Sunday Entertainment Licenses.

Executive Secretary Richard E. Thompson advised that all papers are in order and he recommends approval, subject to payment of any outstanding fees and taxes and conditions outlined by other Town departments.

The Board acknowledged receipt of the following:

1. Memorandum dated August 23, 1989, from Health Director Robert C. Leupold, advising that based upon a Board of Health inspection of the premises on June 29, 1989, the premises were not acceptable for operation as a restaurant; and further stating that a transfer approval is recommended, subject to a satisfactory inspection by the Board of Health prior to re-opening of the premises;

2. Memorandum dated September 8, 1989, from Fire Chief Michael Dunne, advising that on August 30, 1989, the Fire Department attempted to inspect the premises but could not due to ongoing renovations. Chief Dunne stated that he could therefore not make a recommendation for approval at this time.

Selectman Cope asked for a brief history of the restaurant. John F. Walter, President of JFW Restaurant Group, Inc., stated that to the best of his knowledge and belief the restaurant has been through two reorganizations. It is Mr. Walter's understanding the restaurant opened ten years ago and was reorganized pursuant to Chapter 11 under the name Kenbo, Inc; about eighteen months ago, Ray Johnson purchased the stock from Mr. Kennedy, which brings the present bankruptcy situation up to date.

Daniel S. Casper, Esquire, Casper & DiGiulio, 299 Edgewater Drive, Wakefield, advised that he is counsel for JFW Restaurant Group, Inc. and presented the Board with a summary of facts with supporting documents concerning the corporation's application for an Alcoholic Beverage License. Attorney Casper advised that this is a new venture by Mr. Walter and that Mr. Walter has had no prior business relationship with any of the other principals involved in the Village Green or the restaurant.

Mr. Walter further explained that "Ephraim's" is no longer in existence; that he purchased some assets from the bankruptcy proceeding and negotiated an individual lease with Village Green Realty Trust through the Trustee in Bankruptcy for operation of a restaurant to be known as "Joslyn's".

Mr. Walter assured that there was no structural work being done to the premises; and that the restaurant is expected to open in October 1989. In answer to inquiry by Executive Secretary Thompson, Mr. Walter that he understands that there can be no structural changes to the inside of the building (such things as doorways, number of rooms, etc.).

Upon inquiry, Mr. Walter stated that he has fifteen years of restaurant experience and has been a consultant in the industry for the past two years.

Selectman Cope queried about the situation with regard to payment of the long-standing water bill due on the premises. Mr. Thompson stated that he would consult with Town Counsel concerning this matter; but it is his remembrance that when this issue was raised in the past, it was determined that this matter is in the hands of the property owner and Water District, who has indicated that if the bill is not paid, it has the right to, and will, shut the water off. Mr. Walter commented that it is his understanding and belief that his rental payment covers the restaurant's proportionate share of the water bill; and that if it comes down to such a drastic move by the Water District, he would simply pay the bill and deduct that amount from his rent.

With regard to outstanding taxes due the Town in the amount of \$159.43, Mr. Walter stated that although this is not a legal obligation of his, he will pay same in order to clear the way for issuance of the licenses.

In answer to inquiry by Chairman Drobinski, Mr. Walter confirmed that the only requested change with regard to the entertainment licenses is to extend the Sunday hours by commencing earlier (11:00 a.m.) so that a harpist or similar entertainment might be enjoyed by the restaurant's patrons.

It was on motion of Selectman Wallace unanimously

VOTED: To approve application filed on August 18, 1989 for transfer of the Restaurant License for the Sale of All Alcoholic Beverages, under G.L. c. 138, §12, from Kenbo, Inc., d/b/a Ephraim's, William Gabovitch, Trustee in Reorganization, Federal Bankruptcy Court Case No. 88-12316, to JFW Restaurant Group, Inc., d/b/a Joslyn's, John F. Walter, Manager, for property located at Eight Village Green, Hudson Road; subject to approval by the Board of Health, Building Inspector and Fire Department.

It was understood that the Executive Secretary would consult with Town Counsel regarding any outstanding water bills and the Selectmen's involvement, if any, in enforcing the same. Later, after consulting with Counsel, it was learned that a Selectman's vote cannot be subject to payment of water bills since the Water District is a separate entity with separate statutory enforcement powers.

and it was on motion further unanimously

VOTED: To grant Common Victualler, Entertainment and Sunday Entertainment Licenses, as applied for;

all licenses to be held until payment of all taxes due and owed the Town in the total amount of \$159.43.

Special Town Meeting Article 1 - Old Meadow Road Street Acceptance

Present: Laura B. McCarthy, Harold and Patricia King.

Although not on the Selectmen's agenda, the Chairman recognized Laura B. McCarthy, who wished to discuss Special Town Meeting's Article 1, Old Meadow Road (portion) Street Acceptance.

Mrs. McCarthy informed the Board that there is growing controversy concerning this matter and she and other interested parties are not getting satisfactory answers to their many questions and concerns about the Housing Authority land leaching field and runoffs and other problems.

Executive Secretary Thompson reminded that the issues raised do not affect the article regarding the street acceptance; however, he informed Mrs. McCarthy that if she wants to request postponement of the article to the October Special Town Meeting, the procedure would be for her or someone to make a motion for same at the Special Town Meeting.

Mr. Thompson strongly recommended to Mrs. McCarthy that she speak with the Town Engineer directly and he would also attempt to speak with him about the situation prior to tomorrow evening's Special Town Meeting.

Special Town Meeting - Assignments and Consideration of Warrant Articles

The Board considered their positions on Warrant Articles and the assignment of speakers; and decisions were made as follows:

As to Article 1, Street Acceptance - Old Meadow Road (portion): Chairman Drobinski was designated to speak;

As to Article 2, Special Act - Barker Real Estate Tax Refund: Selectmen support; Executive Secretary Thompson was designated to speak on behalf of the Selectmen;

As to Article 3, Special Act - Symington Real Estate Tax Refund: Selectmen support; Executive Secretary Thompson was designated to speak on behalf of the Selectmen;

[As to Articles 2 and 3, Executive Secretary Thompson informed that there is an area of disagreement with the Finance Committee; the Committee feels that although they believe the money is due, they believe it can wait until Annual Town Meeting. Mr. Thompson voiced the concurrence of the Selectmen that the individuals should not be made to wait any longer.]

As to Article 4, Amend FY90 Budget - Use of Abatement Surplus: Selectmen support; Chairman Drobinski designated speaker;

As to Article 5, Amend FY90 Budget - Use of Stabilization Fund: Selectmen support; Chairman Drobinski designated speaker;

As to Article 6, Amend FY90 Budget - Reduction of Appropriations: Selectmen support, subject to review of final motion; Chairman Drobinski designated speaker;

As to Article 7, Amend Bylaws, Article III.2 - Town Report: Selectmen support; Selectman Cope designated speaker;

As to Article 8, Amend Bylaws, Article V.3 - Unlicensed Dogs (Penalty): Selectmen support; Selectman Wallace designated speaker;

As to Article 9, Amend Zoning Bylaw, Article IX.III.C.1.c - Permitted Uses, Limited Industrial Districts: Chairman Drobinski designated speaker;

As to Article 10, Resolution - Affordable Housing Planning: Selectman Cope designated speaker.

Unisys Property

Present: Ralph Tyler.

Although not on the Selectmen's Agenda, the Chairman recognized Ralph Tyler, who presented the Board with copies of a draft article for the October Special Town Meeting, with explanatory memorandum.

The Selectmen indicated that they would review same and requested the Executive Secretary to place this matter on their agenda for September 18, 1989, for discussion with Mr. Tyler.

Town Counsel

Executive Secretary Thompson informed the Board that Town Counsel Paul Kenny is unable to attend due to illness.

It was therefore on motion unanimously

VOTED: To table consideration of the question of setting the hourly billable rate for matters involving litigation for Town Counsel and Assistant Town Counsel; and the review of pending legal matters, and to place same on a future agenda.

Fairbank Building - Change Order Re: Roofing

Upon review, it was on motion of Selectman Wallace unanimously

VOTED: To authorize the Chairman to sign Change Order #1 (insulation of decked-over skylights) amending the Roofing Contract between Titan Roofing, Inc. and the Town by the addition of \$825.70 for the work at the Fairbank facility, as recommended by the Architect and Permanent Building Committee.

Housing Partnership Committee - Resignation

It was on motion of Selectman Wallace unanimously

VOTED: To accept the resignation, dated August 30, 1989, of Carol E. Smith, 32 Intervale Road, from the Sudbury Housing Partnership Committee; and to request the Executive Secretary to forward Ms. Smith a letter of thanks for her service to the Town.



Wayside Inn - Sale of Antiques

The Board considered request dated August 28, 1989, of Nan Gurley, Plain & Fancy, The American County Store, Kezar Falls, Maine, to hold a show and sale of antiques on the grounds of the Wayside Inn, and acknowledged receipt of the following:

1. letter dated September 7, 1989, from Francis Koppels, Innkeeper, Wayside Inn, confirming approval of use of the Wayside Inn grounds for the antique show on Sunday, September 17, 1989; subject to full compliance with the requirements of the Board of Selectmen, Fire Department, Board of Health, Police Department and the Building Inspector;

2. Memorandum dated August 31, 1989, from Health Director Robert C. Leupold advising approval is not recommended until the Board of Health receives a copy of Belissimo Foods' food service license.

It was on motion unanimously

VOTED: To grant permission to Nan Gurley, Plain & Fancy, The American Country Store, Kezar Falls, Maine, to hold a show and sale of antiques on the grounds of the Wayside Inn on Sunday, September 17, 1989, from 7:00 a.m. to 4:00 p.m., subject to approval by the Police Chief, Fire Chief, Health Director, and Building Inspector.

Council On Aging - Van Donations

It was on motion of Selectman Cope unanimously

VOTED: To accept \$270.09 in miscellaneous donations for deposit into the Council On Aging Van Donation Account; and of authorizing the Council On Aging to expend the same for purposes of operating and maintaining the Council On Aging van.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the meeting held August 28, 1989, as corrected.

Wood-Davison House - Donations

It was on motion unanimously

VOTED: To accept \$1,395.77 in various donations, to be deposited into the Wood-Davison House Restoration Fund.

350th Anniversary Celebration Committee

Chairman Drobinski expressed the concurrence of the Board for the wonderful and memorable 350th Anniversary Celebration that took place this past weekend.

It was on motion unanimously

VOTED: To request that the Executive Secretary forward letters of thanks to Beverly Bentley, Chairman, 350th Anniversary Celebration Committee, and all other groups who contributed to the successful 350th Anniversary Celebration.

[N.B. Selectman Cope asked specifically that the Boy Scouts be sent a letter of thanks for the great work they did in cleaning up after the celebration activities. Later this evening, Selectman Cope further requested that a letter be forwarded to the Thursday Garden Club of Sudbury for their lovely float in the Parade].

#### Five-Year Financial Plan

The Executive Secretary provided the Selectmen with copies of Dr. David Jackson's proposed expansion plan for the schools.

#### Board of Assessors

The Board acknowledged receipt of letter dated September 6, 1989, from the Board of Assessors, suggesting the Selectmen consider a Payment in Lieu of Tax agreement with the Wayside Inn.

It was on motion unanimously

VOTED: To request Town Counsel to negotiate with the Wayside Inn concerning its tax situation; and to request that Town Counsel give this matter high priority and report back to the Selectmen at the earliest possible time.

Selectman Cope requested the Executive Secretary to inform Town Counsel that Stephen J. Small, Esquire, Powers & Hall, Boston, is an expert in the field of tax issues, and that he has offered his services.

#### Petition Re: Elementary School Bus Service To Longfellow Glen

The Board acknowledged receipt of petition of residents of Longfellow Glen concerning the changed route for bus service to their elementary school children.

It was on motion unanimously

VOTED: To request the Executive Secretary to communicate with the School Department in an attempt to accommodate the request of the Longfellow Glen residents to change the bus stop for their elementary school children to a location off Route 20.

#### Fort Devens - Meeting of Selectmen and Mayors

Chairman Drobinski acknowledged receipt of invitation by Richard W. Hoover, Colonel, U.S. Army Commanding Officer, to attend the meeting of Selectmen and Mayors on September 21, 1989, at the Fort Devens Officer & NCO Club.

Chairman Drobinski will attend if his schedule permits.

SuperFund Response

Executive Secretary Thompson reported that the Office of U. S. Senator Chester Atkins has informed that the Selectmen should be making some sort of timely response to the SuperFund designation regarding the Fort Devens land.

The Board concurred that it would like to have a single representative from the Town on the review evaluation committee established by the EPA, if allowed. If this is done, and based upon that individual's recommendation, the Town would send an official letter requesting that those items south of Hudson Road be deleted from the list.

Selectman Cope recommended that Health Director Robert Leupold be asked to be the Town's liaison because of his thorough knowledge of the area.

Council On Aging - Bingo Games at Senior Center

At the request of Selectman Cope, Executive Secretary Thompson will make certain the Senior Center is in compliance with State regulations concerning the conduct of Bingo games.

Curb Cut at Sudbury Farms

Selectman Cope reported that she has been contacted by the Traffic Management Committee, requesting that the curb cut at Sudbury Farms be permanently closed. In order to effectuate this, it is the TMC's belief that they require a letter from the Selectmen in favor of such a proposal. Similar letters are being requested from the Police and Fire Departments; and the Executive Secretary suggested the Town Engineer also be contacted.

The Executive Secretary suggested that the proper way to proceed is to have the Traffic Management Committee put their request in writing to the Selectmen, and they may act on it accordingly.

There being no further business to come before the Board, the meeting was adjourned at 10:45 p.m.

Attest:

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Richard E. Thompson  
Executive Secretary-Clerk