

IN BOARD OF SELECTMEN  
MONDAY, SEPTEMBER 18, 1989

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

The statutory requirements as to time and place having been fulfilled, the meeting was called to order at 7:30 p.m. by Chairman Drobinski at lower Town Hall.

Bond Anticipation Notes

Present: Town Treasurer Chester Hamilton; Assistant Town Clerk Kathy Middleton.

It was on motion unanimously

VOTED: To sign Bond Anticipation Notes in the amount of \$200,000, at a rate of 6.65% for the period from September 25, 1989 to August 15, 1990, as requested by the Town Treasurer/Collector in a communication dated September 12, 1989, and in accordance with authorization of the Board granted August 28, 1989, for borrowing in connection with 1989 Annual Town Meeting Articles 8, 9, and 10 for Fairbank facility renovations, new construction, roof repairs and asbestos removal.

It was noted that this is only a portion of the borrowing authorization.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular meeting of September 11, 1989, and the special meeting of September 12, 1989, as presented.

Republican Town Committee - Appointment of Emergency Inspectors

It was on motion of Chairman Wallace unanimously

VOTED: To appoint Kathleen and John Paderson of 15 Lynne Road as Republican Emergency Inspectors for the election year commencing August 15, 1989, as recommended by the Republican Town Committee Chairman Robert Holzwasser in his memorandum dated August 2, 1989.

It was noted that Mr. Holzwasser will inform the Board of any further nominees as they are received.

Flynn Building - Petition Relative to Parking Problems

Present: Town Treasurer/Collector Chester Hamilton.

The Board acknowledged receipt of a petition received September 12, 1989, relative to parking problems encountered by employees and occupants of offices at the Flynn Building.

Executive Secretary suggested that a procedure be employed that had been effectively used a number of years ago; i.e., to institute assigned parking. In

answer to inquiry by Chairman Drobinski, the assigned spaces would go first to full-time employees of the Flynn Building, then part-time.

Town Treasurer/Collector Chester Hamilton opined that he does not believe this would be an effective solution since school employees ignore the fact that those spaces are for Flynn Building personnel only. He also pointed out that during the winter months, the markers would be obliterated by snow.

Mr. Hamilton further expressed what he has heard to be a concern of the female employees of the Flynn Building with respect to going to their cars after dark. Chairman Drobinski commented that when he attended meetings at the Flynn Building as a member of the Planning Board, he recalls a problem in going to one's automobile late in the evening because of little or no lighting.

Selectman Cope expressed her opinion that the parking situation was made worse by the installation of the barriers, as parking spaces were eliminated and created a no-turnaround possibility.

Executive Secretary Thompson noted the concerns, but stated he still believes, as does the Town Engineer, that assignment of spaces is the only alternative. Mr. Thompson stated that the lighting situation was caused by neighborhood complaints of the lights being intrusive; however, Mr. Thompson was not aware that the present lighting is a problem to the Flynn Building occupants. Mr. Thompson further stressed that it will clearly be made known that anyone parking in an assigned space that should not be there will be towed at their expense; and he will see that this is strictly enforced.

At the suggestion of Chairman Drobinski, Executive Secretary Thompson will contact School Committee member James W. Flanagan to request his assistance in seeing that the school employees give their full cooperation to this situation.

It was on motion of Chairman Drobinski unanimously

VOTED: To request the Executive Secretary to coordinate with the Town Engineer and other appropriate departments in implementing assigned parking spaces at the Flynn Building exclusively for use by Flynn Building employees, the public, and occupants.

Route 20 - Route 20 Improvements between Union Avenue/Nobscot Road

The Board acknowledged copy of internal communication dated September 6, 1989, from District Highway Engineer Peter Donohue requesting upgrade of Route 20 railroad crossing at Nobscot Road as soon as financially possible.

It was on motion unanimously

VOTED: To request the Executive Secretary to forward a letter of thanks to Department of Public Works for their efforts in implementing the proposed improvements at the earliest possible time.

At the request of the Selectmen, Executive Secretary Thompson will forward a copy of said internal communication to the Traffic Management Committee for its information.

Chapter 90 Highway Reimbursement Requests - Recordation of Action

It was on motion of Selectman Wallace unanimously

VOTED: To sign Chapter 90 Highway Reimbursement Requests and related Project Final Reports for the following:

M.A. (FY87) #32930 - Plympton Road  
Amount: \$1,832

M.A. (FY87) #33625 - Lincoln Road, Old Garrison Road, Old Lancaster Road, Goodman's Hill Road, Pokonoket Avenue, Station Road, Old Lancaster Road, Poplar Street, Hemlock Road, Willow Road, and Metacommet Way.

Selectman Cope inquired about the continuing drainage problem at the Plympton Road area and asked if the Highway Department would go back and check it. Executive Secretary Thompson stated that he would look into the matter and report back to the Board.

Ephraim's Restaurant - Tax Issues

Executive Secretary Thompson informed the Board that he has spoken with Superintendent of the Sudbury Water District Richard Carroll concerning the tax issues raised at last meeting's hearing concerning transfer of license to Joslyn's Restaurant. Mr. Thompson reported that Mr. Carroll will be looking into the matter and will advise Mr. Thompson of what action, if any, the Water District intends to take relating to bills owed the Water District by Kenbo, Inc.

Willis Lake Drive - Deed to Barbara A. Greenwood

Upon the recommendation of the Executive Secretary and review by Town Counsel, it was on motion of Selectman Wallace unanimously

VOTED: To sign a deed granted by the Town to Barbara A. Greenwood, 50 Willis Lake Drive, Sudbury, for Parcel 111, Willis Lake Drive, prepared pursuant to acceptance of a bid in the amount of \$5,025 by the Board on July 31, 1989, and Article 32 of the 1988 Annual Town Meeting.

Police Department - Retirement Vacancy/Requisition for Appointment

Pursuant to letter dated September 15, 1989, from Chief of Police Peter B. Lembo, and upon the recommendation of the Executive Secretary, it was on motion of Selectman Wallace unanimously

VOTED: To authorize the Executive Secretary to file a requisition with the Department of Personnel Administration for appointment of one Permanent Police Officer to fill the vacancy occurring by the retirement of Officer John R. MacLean, effective September 28, 1989.

Executive Office of Communities & Development - Letter Re: STM Resolution

The Board reviewed letter dated September 11, 1989, from Joseph L. Flatley, Assistant Secretary to the Executive Office of Communities & Development,

regarding Article No. 10, the non-binding Resolution concerning the Sudbury Housing Authority and Affordable Housing.

It was on motion unanimously

VOTED: To request the Executive Secretary to respond to letter dated September 11, 1989, from the Executive Office of Communities & Development, by making it clear that in no way has Sudbury changed its firm commitment to achieving the goals of affordable housing; that said Resolution, which was passed at Special Town Meeting, was a petition article for a non-binding resolution intended to assure open dialogue between the Town's agencies and the townspeople; and enclosing a copy of the Resolution as voted.

The Executive Secretary further pointed out that the EOCD should also be aware of the fact that although this was a petition article, the Selectmen were instrumental in achieving a revised resolution which satisfied not only the petitioners but the housing agencies of the Town as well.

#### Town Housing Forum

The Board acknowledged receipt of letter dated September 12, 1989, from Gordon M. Tucker, representative of the Sudbury Neighborhood Planning Association, requesting a Town Housing Forum be scheduled in the hopes of facilitating discussion and focusing future direction on affordable housing issues.

After discussion as to various dates, it was on motion unanimously

VOTED: To request the Executive Secretary to schedule a Town Housing Forum during the November Town Forum; and to assure that same is carried on the local cable television channel for maximum exposure to the residents of Sudbury.

#### Fort Devens Property - National Park Service Letter

The Board reviewed communication dated September 3, 1989, from James W. Coleman, Jr., Regional Director, National Park Service, United States Department of the Interior, to the General Services Administration, requesting assignment of the Fort Devens Annex property applied for by the Towns of Sudbury and Hudson to the Department of the Interior for conveyance to Sudbury and Hudson at 100% public benefit discount.

The Board expressed its wholehearted support of said letter and it was on motion unanimously

VOTED: To request the Executive Secretary to forward a letter of thanks to James W. Coleman, Jr., Regional Director, United States Department of the Interior for making his request dated September 3, 1989, to the General Services Administration, for assignment of the Fort Devens Annex property for conveyance to Sudbury and Hudson; and to further request the Executive Secretary to forward a letter to the General Services Administration, encouraging them to support the request of the United States Department of the Interior's National Park Service.

Site Plan 89-312 - Bank of Boston - 421 Boston Post Road

The Board reviewed Decision and plans relative to Site Plan 89-312 of Bank of Boston, approved by the Board on September 11, 1989, for property located at 421 Boston Post Road.

The Board acknowledged receipt of the following since its meeting of September 11, 1989:

1. Memorandum dated September 15, 1989, from Building Inspector Joseph E. Scammon suggesting that the following be added as a condition of approval:

That handicapped parking spaces comply with Section 23, Parking Lots, Garages, of the Rules and Regulations of the Architectural Barriers Board, in particular the height of the required Handicapped Parking sign.

Executive Secretary Thompson explained that following further discussion with the Building Inspector, Mr. Scammon agreed with Mr. Thompson's opinion that this would not be appropriate to be added as a condition; however, applicant is herein put on notice of these Rules and Regulations, and the Selectmen expect applicant to comply with same in the same spirit of cooperation they have exhibited during this approval process.

Executive Secretary further informed that Town Engineer I. William Place has suggested changing Item 9 of the Decision by omitting number 5 of his recommendation, dated September 5, 1989. Mr. Place believes, and Mr. Thompson concurs, that deletion of this would allow maximum flexibility in solving the handicapped parking situation.

It was therefore on motion unanimously

VOTED: To amend the Selectmen's vote of September 11, 1989, by changing Condition Item 9), second subsection, by omitting the number "5", so that said subsection reads as follows:

- recommendations of Town Engineer, dated September 5, 1989, numbers 1, 2, 6, 7, and notation on plan relative to provision for rubbish disposal; applicant is directed to work with the Town Engineer to resolve parking issues;

And it was further unanimously

VOTED: To sign the Decision granting a Site Plan Special Permit, and Site Plan Sheet L-1 entitled "Site Plan of Land in Sudbury, Mass., prepared for The Bank of Boston", dated June 27, 1989, revised August 14, 1989, by Schofield Brothers, Inc. relative to Site Plan 89-312 of Bank of Boston, approved by the Board on September 11, 1989, to include the above-noted condition Item 9, for property located at 421 Boston Post Road.

SP89-311 - Paris Realty Trust(Chiswick Trading Company) - Nickerson Theatre

Present: Theodore Pasquarello; Arnold J. Nickerson; Frank Vana; Andrew D. Magee of Rizzo Associates, Inc.; Building Inspector Joseph E. Scammon.

The Chairman convened a continued Public Hearing to consider application SP89-311 of Paris Realty Trust (for Chiswick Trading Company) for a Site Plan Special Permit in accordance with Sudbury Zoning Bylaws, Article IX.V.A, for revision of Site Plan Special Permit No. 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 (received May 31, 1989; and which was continued by mutual agreement from July 31, 1989 and August 14, 1989).

Executive Secretary Richard E. Thompson informed that from informal discussion with the Selectmen during this past week, it was determined that the purpose of this evening's meeting would be to discuss the site plan again as far as what is available to the Board with regard to data and information; and whether they would require anything further in order to render their Decision.

Mr. Thompson acknowledged receipt of the following since the hearing held August 14, 1989:

1. Letter dated September 15, 1989, from Fire Chief Michael Dunne, informing that the proposed changes relative to parking spaces and fire lanes are satisfactory; and
2. Letter dated September 14, 1989, from Joyce Wells Fantasia, Chairman of the Design Review Board, taking exception to what was reported at the August 14, 1989, meeting; i.e., on page 19 of the minutes, paragraph 3, implying that a freestanding sign had been proposed to the Design Review Board by the applicant and that there had been discussions about same. Ms. Fantasia wanted it understood that the Design Review Board is requesting that no approval for the Special Permit application be granted without explicit exclusion of anything other than a sign mounted on the theatre building.

Frank Vana, representing applicant, acknowledged receipt of the letter from the Fire Chief; and he was given a copy of the September 14 Design Review Board letter for review. Mr. Vana read said letter and stated that it required no further comment or discussion and acknowledged it was a misunderstanding.

Mr. Thompson pointed out that this is a complex site plan, in that it is attempting to revise a site plan previously approved with conditions. The Selectmen are continuing to review the previous conditions, together with any proposed new conditions, and the Decision is in the process of being drafted for final review by the Board.

Applicant's representative Frank Vana stated that they were aware of the fact that this continued hearing was for the purpose of discussion; but he wanted to take this opportunity to thank those who directly supported the theatre proposal and who facilitated their coming before Special Town Meeting with the bylaw amendment article.

By leave of the Chairman, Mr. Nickerson directly spoke to the Selectmen and the public, expressing his sincere thanks for the support of the Town; and Mr. Nickerson promised that if the theatre in fact becomes a reality the Town of Sudbury will benefit from it as much as the Town of Norwell has.

Mr. Vana provided copies of a "clarifying letter" dated September 18, 1989, from Andrew Magee of Rizzo Associates, Inc., responding to questions and concerns relative to compliance with numbers 12 and 19 of the August 25, 1986 Chiswick Trading Company "Notice of Decision, Sudbury Board of Selectmen". This concerned specifically the issues of the site hydrogeologic character, site soil and groundwater quality, and project-related health and safety.

Mr. Vana informed that he has recently been in contact with former Health Director Michael Sullivan regarding his recommendations as contained in a written report dated August 7, 1986 he made. Mr. Vana stated that Mr. Sullivan would be willing to speak with any member of the Board of Selectmen, either in writing or personally, to make a very clear statement that the situation that he got involved with went back to as early as 1971. It is Mr. Vana's understanding that Mr. Sullivan's feeling is very strong in support of the original site plan which he recommended back in 1986. Mr. Vana further stated Mr. Sullivan indicated to him that he believes the abatement plan approved is proceeding on track and that the Town of Sudbury is very fortunate to have Mr. Pasquarello working with it.

Chairman Drobinski stated that it was his hope that this meeting would result in a resolution of any outstanding issues so that there is a concurrence regarding this property.

A discussion followed with the Selectmen and Andrew D. Magee, Project Manager of Rizzo Associates, Inc. relative to his report. Among other things, Mr. Magee reiterated the review procedure concerning the December 31, 1986, report, and pointed out that it had been approved by DEQE (now DEP), the Sudbury Board of Health and the Environmental Protection Agency (EPA). Mr. Magee further explained that some issues, by necessity, had to be left open; e.g., the groundwater treatment issue.

Mr. Magee continued by stating that the issues are not new problems; and added that he sincerely believes many of the contaminant problems were caused by the upgrading of a neighbor's property. Mr. Magee further pointed out that it was not until Mr. Pasquarello started to do some work on the site that cleanup was started.

Mr. Magee went on to say that he has been involved with this property for approximately 4½ years and throughout the whole process, he believes everything done has been done with the cooperation of the Board of Health, DEP, and current law.

Upon inquiry by Chairman Drobinski, Mr. Magee explained that with regard to the MCP pipeline, they have just requested a review of same; and that although they are listed as Phase 1, they are in reality halfway through Phase 2. The last communication with DEQE, approximately three months ago, in response to a request by Rizzo Associates as to what to do next, resulted in their being advised by DEQE that review will probably be done in about two years, as the property has been classed as non-priority. Mr. Magee further informed that they have requested to go to Phase 5.

In response to inquiry by Chairman Drobinski, Mr. Pasquarello advised that he has not been sampling wells on a quarterly basis, as there is no requirement to do so; but that they have been doing some testing on their own.

Chairman Drobinski stated that most of his other concerns are those that will undoubtedly be considered by the Planning Board relative to the issuance of a Special Permit under the Water Resource Protection bylaw and will also be addressed by the Sudbury Water District.

Selectman Cope also brought up the question of the abatement program connected with this project, and it was pointed out that the process has already begun with the installation of oil and grease traps and, to some extent, the decrease in sewage flow. In any event, it was pointed out that this, too, is an issue that will be addressed by other Town agencies.

In response to Selectman Cope's questions to the area being designated as Zone 2, Mr. Magee felt compelled to state that as a pure technicality of a half-mile radius, he would have to concede that it is considered Zone 2. However, Mr. Magee stressed that it is not a typical prime aquifer or recharge area and he believes a determining factor for Zone 2 analysis is dependent upon the geology of the aquifer, the pumping rate of the well and the extent of the more porous or permeable material. In other words, he explained if you only have a small area of permeable material, then you are more likely to extend to the clay area, and under those conditions it is possible it may be considered a Zone 2 area. A comprehensive analysis of the drainage pattern could be very costly.

There followed a discussion precipitated by Selectman Cope concerning contaminants on the property; in particular, TCE. Mr. Magee stated that although some of such contaminants have been found, the level of same fluctuates "all over the place". Mr. Magee did point out that it is obvious TCE has come from other sources.

In answer to inquiry by Selectman Cope, Mr. Magee informed that there was no soil that had to be disposed of; however, the soil was stripped underneath the foundation area. At any rate, Mr. Magee stated that that part of construction has been completed and any soil stripped will be used in the finishing processes, such as paving, etc.

Selectman Cope also inquired about the conditions placed upon the plan received by the Planning Board back in 1986; and Mr. Magee opined that these were incorporated into Nos. 12 and 19 of the Notice of Decision, as explained earlier.

Mr. Pasquarello queried, based on certain questions being posed, whether anyone feels that he is going to walk away from his obligations to the Town and to the site. Selectman Cope stated that she needs to satisfy herself that she and the other Selectmen are legally upholding the conditions placed by the former Board of Selectmen. Ms. Cope stated that if she can be shown that some of those conditions are not "upholdable", she would not place an impossible burden on applicant. To this end, Ms. Cope stated she would like to have heard earlier from someone, such as the Building Inspector, that some of these conditions are hopeless and cannot be dealt with at all. Thus, she is attempting to sort out in her mind issues concerning, for example, the Water District and has discussed various matters with Assistant Town Counsel in order to make certain her actions will be correct.

Chairman Drobinski asked if soil samples were taken under the "footprint" of the proposed theatre, and Mr. Magee answered affirmatively that samples had



been taken. Mr. Pasquarello reiterated that all soil has been excavated, removed and graded to cover both construction phases; thus, no additional soil will be excavated.

Chairman Drobinski raised a question regarding the parking situation, and Mr. Vana reiterated that there was ample parking in the lower section. If there is a special need, for instance during the holiday season, additional parking is available in the upper section. Mr. Vana stressed that this was only an overflow situation. Mr. Drobinski stated that he believes it would be wise to entertain the possibility of constructing a connecting walkway between both parking areas, since in its present condition it is not pedestrian-friendly. Mr. Vana opined that this might perhaps be something to look at after a year of operation to see if the problem materializes.

Mr. Pasquarello suggested that there is another place for siting a walkway and he believes it would be in keeping with the desires of the Village Concept people. That walkway, Mr. Pasquarello explained, could be placed along the driveway, facing the theatre, looking east. Mr. Drobinski stated that would be a great idea, because he firmly believes this will become a pedestrian area.

Chairman Drobinski next brought up the question of traffic control on Route 20. Mr. Vana explained that it is their intention to employ the same system that has proven successful in Norwell; i.e., to have a half-dozen monitors that stay in the lot from beginning to end. Mr. Vana stated that these monitors also provide an atmosphere of security.

Mr. Vana pointed out that the traffic signals in that area change to "flashing" at 11:00 p.m., and suggested that it might be wise for the Town to keep the regular traffic signals until a later time, such as 11:30 p.m. to allow the exit parking to be completed.

In response to inquiry by Chairman Drobinski, Mr. Pasquarello stated that although he believes the area is adequately lit, he will probably add some additional lighting.

Chairman Drobinski next brought up the issue previously raised by Selectman Wallace concerning the number of seats for the theatre. The application requests a 500-seat theatre, but he believes the number originally was for 450 seats.

Mr. Vana and Mr. Nickerson explained that a 500-seat theatre adds to the financial success of the theatre; and Mr. Pasquarello pointed out that to reduce the seating from 500 to 450 would not affect the "footprint" of the building, and that what it equates to is, statistically, an additional sixteen automobiles. In conclusion, it was pointed out that the average theatre has a 10% no-show rate.

Selectman Wallace reiterated his position that he wants to hold the number of seats to 450, leaving the question open to the Board of Appeals to increase the number after the first year of operation. Mr. Wallace expressed his desire to proceed cautiously without roping the theatre in for infinity; he therefore suggested that the Selectmen recommend this arrangement to the Board of Appeals.

Chairman Drobinski asked if applicant would be seeking a liquor license; Mr. Pasquarello stated that since the theatre would like to serve the traditional wine and champagne during intermission, a license would be sought for this limited purpose.

Chairman Drobinski raised the suggestion of Town Engineer to change the hours of the matinees, and expressed his opinion that if the matinee started later, thus necessitating a later starting time for the evening's performance, that might allow patrons a better opportunity to have dinner prior to attending the evening performance. Mr. Vana stated his belief that the worst traffic on Route 20 is between Noon and 1:00 p.m., and further pointed out that the majority of theatre-goers prefer to attend the performance and have a late dinner following same.

At the recommendation of the Executive Secretary, and with the expressed agreement of the applicant, it was on motion unanimously

VOTED: To continue the Public Hearing to consider application SP89-311 of Paris Realty Trust (for Chiswick Trading Company) for a Site Plan Special Permit in accordance with Sudbury Zoning Bylaws, Article IX.V.A, for revision of Site Plan Special Permit No. 85-293-2 relative to the Phase II portion, for property at 490 Boston Post Road, Limited Industrial District No. 1 (received May 31, 1989), to October 16, 1989.

Chairman Drobinski informed the applicant that he has been contacted by the Village Concept Committee concerning its ongoing interest in the development of this project, and suggested to the applicant that it might be wise for them to keep communications open with them.

Unisys Corporation - Submission of Article for October 17 Special Town Meeting

Present: Ralph Tyler, President, Cold Brook Development, Inc.

The Chairman convened a meeting requested by Ralph Tyler, President of Cold Brook Development, Inc., and representative for Unisys, Inc. concerning submission of an article at the October 17 Special Town Meeting to rezone Research District No. 1 to Residential.

The Board acknowledged receipt of the following:

1. Letter dated September 11, 1989, from Mr. Tyler, enclosing a draft article to delete Research District No. 1 from the Zoning Bylaws, and draft report;
2. Letter dated September 15, 1989, from Gary A. Greenberg, Vice President, Real Estate, Unisys Corporation.

Executive Secretary Thompson stated that since there is a Special Town Meeting scheduled for October 17, 1989, it might be worthwhile to allow Unisys to come before the Town to get some feeling of what the townspeople want. Mr. Thompson opined that although caution is advised regarding submission of anything but "emergency" type articles at a Special Town Meeting, he believes the Unisys property is a very important parcel and its use can really affect not only the neighborhood, but the whole Town itself.

For that reason, Mr. Thompson recommended to the Board that they not sponsor the article, but submit same on behalf of Unisys Corporation. Mr. Thompson suggested to Mr. Tyler that the draft "Selectmen's Report" he prepared may be modified for the Petitioner's Report. It is Mr. Thompson's belief that it would be inappropriate for the Selectmen to take a position at this time.

Mr. Thompson does not believe that the Town Moderator would be too critical of such an article being presented because of its importance to the Town. Mr. Thompson pointed out that over the past few years, there has been a desire to have a regular Fall Town Meeting in order to address issues of this nature absent the complexities of Annual Town Meeting.

Ralph Tyler of Cold Brook Development, Inc., representative for Unisys Corporation, stated that he believes Mr. Thompson's point is well taken for the timeliness of presenting such an article to Special Town Meeting, since as evidenced by the letter from Unisys referred to above, there is a sense of urgency on their part to resolve the issue and proceed to develop the property.

Mr. Tyler reiterated his beliefs as stated in prior meetings that, at least prior to the downzoning of that property, the tradition of this Town was that if they did not want to see industrial or commercial property developed, Annual Town Meeting would vote the industrial zoning be changed to residential. By way of example, he cited the 1978 and 1984 Town Meetings as having done this.

Mr. Tyler reminded the Board that he, on behalf of Unisys, has been attempting to create a meaningful dialogue with the various Town boards; and he has also been working hard to convince Unisys to work with the Town to accomplish a mutually-satisfactory development of that property. It is Mr. Tyler's belief now that working with the Town boards is not going to achieve this.

Mr. Tyler stated his firm belief that residential development would be more in keeping with the neighborhood and would be the best use of that land for the Town. Mr. Tyler believes that Unisys would need the leadership of the Selectmen to show their support for changing the zoning to residential. Mr. Tyler expressed his concern that unless there is some Town leadership supporting this proposal, it will be looked upon by the townspeople strictly as being for the benefit of Unisys, since it will appear that it is only sponsored by Unisys.

For these reasons, Mr. Tyler encouraged the Board of Selectmen to take more of a leadership role than that suggested by Mr. Thompson.

Mr. Tyler quoted former Selectman Myron Fox, Town Moderator Thomas Dignan when he was a member of the Finance Committee, and Russell Kirby, all of whom had indicated during the 1984 Annual Town Meeting, that the tradition of the Town was not to rezone property where it results in substantial economic loss to owners without compensation, and that was not to become a policy of the Town.

Mr. Tyler handed out analyses he prepared showing the impact of various uses on such things as traffic, taxes, etc.

Chairman Drobinski agreed with the recommendation of Mr. Thompson; and he wondered, in light of the letter from Unisys, if the Selectmen were to submit an

article on behalf of Unisys, what the legal implications of the Selectmen's actions might be. Mr. Tyler expressed his hope that the Unisys letter be taken in the light that Unisys wishes to effectuate something that the Town would want, but that it has to protect its legal and financial interests in the property.

Mr. Tyler opined that the townspeople are worried about peak-hour traffic in that area of Route 117; and pointed out that his analysis shows to the townspeople that the Unisys proposal would create far less traffic.

Selectman Cope reminded that the parcel was originally zoned for research at the request of Sperry, the former owners, and she believes they knew very well what they were getting into. Mrs. Cope stated that she does not want to recommend support or otherwise take a position without sufficient research that the Town do one thing or the other.

Mrs. Cope informed that she has heard from the Planning Board that they will have insufficient time to adequately address the issues concerning this proposed article at the October Special Town Meeting.

In summary, Selectman Cope expressed her belief that the Selectmen should act as an "enabler" for presentation of the article before the Special Town Meeting, but that Mr. Tyler and Unisys present it to the townspeople.

After further discussion, it was on motion of Selectman Wallace unanimously

VOTED: To submit an article on behalf of Unisys, petitioner, to be placed on the Warrant for the October 17, 1989 Special Town Meeting.

Selectman Wallace confirmed that this vote is not to be construed as the Selectmen having taken a position one way or the other concerning this article. He explained that at a later time, the Selectmen may elect to take a unified position or speak as individuals.

#### Town Counsel - Discussion Relative to Fees and Pending Legal Matters

The Board met with Town Counsel Paul Kenny to consider the setting of hourly billable rates for matters involving litigation for Town Counsel and Assistant Town Counsel; and for the purpose of reviewing pending legal matters.

Executive Secretary Thompson recommended that Town Counsel's and Assistant Town Counsel David J. Doneski's hourly fee be increased \$10 per hour as to each, effective July 1, 1989. Mr. Thompson noted that the last increase of this hourly rate was discussed July 1, 1988; and that it has been a past practice to keep the rates for Labor Relations counsel and Town Counsel's office in line with one another. To this end, Mr. Thompson reported that as of March 1989, Labor Relations Counsel's fee is \$90 per hour.

Selectman Wallace stated that he has no concerns with the increase, since as a practicing attorney himself, he believes the fees to be in line with surrounding communities and falls well below the fees charged in private practice.

Selectman Cope made several inquiries as to the differentiation between the retainer amount and hourly fees, and questioned the volume of work related to each. A dialogue took place among the Selectmen and Attorney Kenny, who attempted to explain same. In essence, Attorney Kenny explained that the retainer fee is to assure Town Counsel and/or Assistant Town Counsel's office hours in Sudbury; attendance at night meetings, when requested; availability for telephonic conferences, etc.; whereas the hourly billable rate is solely for litigation matters including court time.

There followed a review of the list prepared by Town Counsel's Office of pending legal matters. Following discussion, it was agreed that Town Counsel should continue to submit on a quarterly basis a list of pending legal activities and an in-house update of Town Counsel's Office by a so-called daily logbook.

Attorney Kenny wished the Selectmen to fully understand that, as he has stated before, it is almost impossible to fully list all legal activities he and Attorney Doneski perform on behalf of the Town; and he therefore points out that the list and daily logs may not be totally complete.

Attorney Kenny further reiterated that it is impossible to estimate the cost of a pending project, since there are so many variables that can affect the amount of time of same.

After further discussion, it was on motion of Selectman Wallace unanimously

VOTED: To increase Town Counsel's hourly billable rate for matters involving litigation from \$75 to \$85 per hour; and to increase Assistant Town Counsel's hourly billable rate for matters involving litigation from \$45 to \$55 per hour.

#### October Special Town Meeting

The Board considered various matters relating to the October Special Town Meeting/Special Election.

Upon review of draft articles and reports prepared by the Executive Secretary's Office, and following discussion it was on motion unanimously

VOTED: To approve Selectmen's articles and reports for Special Town Meeting submission and to approve a draft order subject to submission of new articles, as follows:

<u>Article</u>	<u>Submitted By</u>
1. Street Acceptance - Old Meadow Road (Portion)	Board of Selectmen on behalf of SHA
2. Special Act - Barker Real Estate Tax Refund	Board of Selectmen
3. Special Act - Symington Real Estate Tax Refund	Board of Selectmen
4. Sudbury Schools Expansion - \$9,220,000(est.)	School Committee
5. Sudbury Schools Expansion - \$4,100,000(est.)	School Committee

6. Delete Research District #1

Board of Selectmen  
on behalf of Unisys  
Corp., Petitioner

It was further on motion unanimously

VOTED: To table action concerning approval of ballot question(s) for Special Election until after Special Town Meeting votes on those articles concerning school construction. It was pointed out that this would involve only one question being placed on the ballot; if any.

Following discussion concerning the Warrant preparation schedule, the Selectmen agreed that they would make themselves available over the weekend for the purpose of approving the Warrant.

Space Study Steering Committee

Executive Secretary Thompson reported to the Board that he attended an early morning meeting with the Space Study Steering Committee.

Mr. Thompson informed that a consensus was reached to support the schools in their short-range plan to locate its central administrative offices through lease of the former Horse Pond Road School. To that end, Mr. Thompson explained, he has scheduled a meeting with the State Department of Capital Planning and Operations Office for Tuesday, October 3, 1989, at 11:00 a.m., to discuss the same.

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

Attest:

\_\_\_\_\_  
Richard E. Thompson  
Executive Secretary-Clerk