

INDEX

SPECIAL TOWN MEETING, MARCH 2, 1998

ANNUAL TOWN ELECTION, MARCH 30, 1998

ANNUAL TOWN MEETING, APRIL 6, 1998

ADJOURNED ANNUAL TOWN MEETINGS:

APRIL 7, 8, 13, 14 & 15, 1998

EMERGENCY SPECIAL TOWN MEETING, APRIL 15, 1998

SPECIAL TOWN ELECTION, MAY 27, 1998

STATE PRIMARY, SEPTEMBER 15, 1998

STATE ELECTION, NOVEMBER 3, 1998

	<u>Article</u>	<u>Page</u>	
Amend Construction and Renovation Articles, Schools	STM 1	1	
Annual Town Election, March 30, 1998		6	
Bond Issue, Conservation Land	7	27	IP
Boundary Change—Framingham/Sudbury	21	61	
Budget Adjustments, FY98	2	10	IP
Budget, FY99	4A	12	
Budget, Pool Enterprise Fund FY99	4C	21	
Budget, Solid Waste Disposal Enterprise Fund FY99	4B	20	
Bus Revolving Fund, Schools	13	53	
Bylaws, Amendments			
Capital Planning	26	75	
Cluster Development—Common Land (Art. IX.IV.D.4)	36	119	
Cluster Development—Dimensional Requirements (Art.IX.IV.D.3.c)	37	121	IP
Flexible Development (Art. IX)	31	107	
Ice Cream Trucks, Allow (Art. V.2)	44	150	Def
Incentive Senior Development (Art.IX.IV.F/I.G/V.O)	30	96	
Intensity Regulations (Art.IX.IV.B)	38	122	
Lot Area Art.IX.(I.C.) & (IV.E.5.a)	35	117	IP
Public Safety (Art. V.15 & V.19)	20	60	
Public Way Access Permit	28	83	
Regulation of Dogs (Art.V.3)	43	137	
Research District Permitted Uses (Art. IX.III.D.i)	32	111	IP
Research District/Residential Care Facilities			
ART.IX. (IV.E.3.b), (III.D.1.i), (III.D.1.k))	33	112	IP
Rezone Parcel K10-010 to Limited Business	39	124	Def
Rezone Parcel K10-010 to Limited Business-Reconsideration	39	153	Def
Senior Residential Community Bylaw—Delete (Art.IX)	40	131	Def
Town Meeting Procedures (Art.II.16)	25	73	
Underground Sprinkler System (Art. V.31)	23	66	IP
Water Pollution Emergencies (Art. V)	22	64	
Water Resource Protection Districts (Art.IX.III.G.5)	34	114	IP
Wetlands Administration (Art. XXII)	24	68	
Wireless Services (Art.IX.V.P.)	29	87	

	<u>Article</u>	<u>Page</u>	
Capital Planning	26	75	
Chapter 90 Highway Funding	19	59	
Character of Sudbury Statement—Resolution	6	23	
Cluster Development—Common Land (Art. IX.IV.D.4)	36	119	
Cluster Development—Dimensional Requirements (Art.IX.IV.D.3.c)	37	121	IP
Conservation			
Designate Portion of Former Unisys and			
Melone Lands as Conservation Lands	10	45	
Land Bond Issue	7	27	IP
Council on Aging Revolving Fund	14	54	
Dogs, Regulation of—Accept G.L.c.140, s.147A	42	136	
Dogs, Regulation of (Art.V.3)	43	137	
Early Childhood Revolving Fund, Schools	12	52	
Elections			
Annual Town Election, March 30, 1998		6	
Special Town Election, May 27, 1998		158	
State Election, November 3, 1998		162	
State Primary, September 15, 1998		159	
Eminent Domain—Weisblatt Property	8	29	
Flexible Development (Art. IX)	31	107	
Framingham/Sudbury Boundary Change	21	61	
Goodnow Library Preservation Restriction	16	56	
Goodnow Library Revolving Fund	15	55	
Hear Reports	1	10	
Highway Funding—Chapter 90	19	59	
Housing Task Force—Resolution	11	48	
Howell Road, Lot 27—Release Town's Right, Title, Interest	41	134	
Ice Cream Trucks, Allow (Art. V.2)	44	150	Def
Incentive Senior Development (Art.IX.IV.F/I.G/V.O)	30	96	
Intensity Regulations (Art.IX.IV.B)	38	122	
Library Preservation Restriction	16	56	
Library, Goodnow—Revolving Fund	15	55	
Lot Area Art.IX. (I.C.) & (IV.E.5.a)	35	117	IP
Permitted Uses—Research District (Art. IX.III.D.i)	32	111	IP
Pool Enterprise Fund FY99 Budget	4C	21	
Powder Mill Road Walkway	17	57	PO
Public Safety (Art. V.15 & V.19)	20	60	
Public Way Access Permit	28	83	
Regulation of Dogs —Accept G.L.c.140, s.147A	42	136	
Regulation of Dogs (Art.V.3)	43	137	
Release Town's Right, Title, Interest—Lot 27, Howell Road	41	134	
Research District Permitted Uses (Art. IX.III.D.i)	32	111	IP
Research District/Residential Care Facilities			
Art.IX. (IV.E.3.b), (III.D.1.i), (III.D.1.k)	33	112	IP
Residential Care Facilities, Research District			
Art.IX. (IV.E.3.b), (III.D.1.i), (III.D.1.k)	33	112	IP

	<u>Article</u>	<u>Page</u>	
Resolutions			
Ouida Bailey		8	
John Bowdoin		8	
Norman E. Burke		9	
Karl E. Clough		9	
Ronald J. Griffin		9	
Hester M. Lewis		9	
Barbara L. McDermott		9	
Margaret F. McQueen		9	
Robert E. Nims		9	
Character of Sudbury Statement	6	23	
Housing Task Force	11	48	
Senior Tax Program	27	80	
Rezone Parcel K10-010 to Limited Business	39	124	Def
Rezone Parcel K10-010 to Limited Business-Reconsideration	39	153	Def
Rollback Taxes from Chapter 61, Special Act	9	42	
Schools			
Amend Construction and Renovation Articles	STM 1	1	
Bus Revolving Fund	13	53	
Early Childhood Revolving Fund	12	52	
Senior Residential Community Bylaw—Delete (Art.IX)	40	131	Def
Senior Tax Program Resolution	27	80	
Solid Waste Disposal Enterprise Fund FY99 Budget	4B	20	
Special Act to Rollback Taxes from Chapter 61	9	42	
Special Act—Wilcox Conservation Restriction Amendment	STM 1	129	
Special Town Election, May 27, 1998		157	
Stabilization Fund	18	58	IP
State Election, November 3, 1998		161	
State of the Town		9	
State Primary, September 15, 1998		158	
Street Acceptances	5	22	
Martin Drive			
Southwest Circle			
Amanda Road			
Bulkley Road			
Taxes—Senior Tax Program Resolution	27	80	
Taxes—Special Act to Rollback Taxes from Chapter 61	9	42	
Town Counsel Opinions		156	
Town Meeting Procedures(Art.II.16)	25	73	
Underground Sprinkler System (Art. V.31)	23	66	IP
Unpaid Bills	3	11	IP
Walkway—Powder Mill Road	17	57	PO
Water Pollution Emergencies (Art. V)	22	64	
Water Resource Protection Districts (Art.IX.III.G.5)	34	114	IP
Weisblatt Property—Take by Eminent Domain	8	29	
Wetlands Administration (Art. XXII)	24	68	
Wilcox Conservation Restriction Amendment—Special Act	STM 1	129	
Wireless Services (Art.IX.V.P.)	29	87	

Def Defeated
 IP Indefinitely Postponed
 PO Passed Over

PROCEEDINGS
SPECIAL TOWN MEETING
MARCH 2, 1998

(the full text and discussion on all articles is available on tape at the Town Clerk's office)

The meeting was called to order by the Moderator, Thomas G. Dignan, Jr. at 8:13 PM. at the Lincoln-Sudbury Regional High School Auditorium, as a quorum was declared present.

A moment of silence was observed, followed by the Pledge of Allegiance to the Flag.

The Moderator examined and found in order the Call of the Meeting, the Officer's Return of Service, and the Town Clerk's Return of Mailing.

Selectman Drobinski Moved to dispense with the reading of the Call of the Meeting, the Officer's Return of Service, and the individual articles.

The motion received a second.

The motion was VOTED.

Various town officials, committee and board members present were introduced to the voters.

ARTICLE 1. AMEND SCHOOL CONSTRUCTION AND RENOVATION ARTICLES

To see if the Town will vote to amend the vote take under Article 4 of the February 24, 1997 Special Town Meeting by adding the words, "and for the purpose of constructing a new middle school or remodeling, reconstructing or making extraordinary repairs and additions to the existing middle school, and to appropriate an additional amount, not to exceed the unexpended and uncommitted funds raised under Article 31 of the 1996 Annual Town Meeting, by transfer of these unexpended and uncommitted funds to raise this appropriation", after the words "existing schools"; or act on anything relative thereto.

Submitted by the Sudbury School Committee.

SCHOOL COMMITTEE REPORT: In February 1997, Town Meeting appropriated funds to build a new elementary school, and to expand, renovate and repair existing schools (Article 4). This new article allows funds from these appropriations to be used to build a new middle school as an alternative to expanding and renovating the existing facility. No additional funding is requested.

This article also allows unspent funds appropriated by Town Meeting in April 1996 for extraordinary school repairs (Article 31) to be used similarly for new construction. The amount of the April 1996 appropriation not spend immediately on urgent repairs was held for use in the schools expansion and renovation project, and was used in the calculation of new funds needed in the February 1997 appropriation.

During the last four months, the architectural firm selected for the middle school project has extensively studied design options and costs. The firm has developed an updated cost estimate for new construction that is lower than that used in the initial options analysis performed in late 1996. The firm recommends building a new middle school behind the existing building, rather than expanding and renovating the old facility.

This article allows the School Committee to pursue the option of a new middle school within the funding limit of existing appropriations. This approach has the potential to reduce the risk of unanticipated costs, shorten the time to achieve full capacity, avoid the difficulty and expense of phased construction, minimize disruption of educational activities, and reduce the size of the building needed for the required educational space.

SHOWN BELOW IS THE FEBRUARY '97 VOTE, AS AMENDED, IN ITS ENTIRETY
(NEW WORDING IN BOLD, ITALICIZED LETTERING)

To appropriate the sum of \$43,604,000 to be expended under the direction of the Permanent Building Committee, for the purpose of constructing a new elementary school, and for remodeling, reconstructing or making extraordinary repairs and additions to existing schools, *and for the purpose of constructing a new middle school or remodeling, reconstructing or making extraordinary repairs and additions to the existing middle school, and to appropriate an additional amount, not to exceed the unexpended and uncommitted funds raised under Article 31 of the 1996 Annual Town Meeting, by transfer of these unexpended and uncommitted funds to raise this appropriation*, and for purchasing additional equipment and furniture, and for landscaping, and for all expensed connected therewith, including costs of demolition, expenses incurred for professional, engineering and architectural services, expenses for the preparation of plans, specifications and bidding documents, expenses related to supervision of work, and expenses for bond and note issuance to authorize the Permanent Building Committee to execute a contract or contracts therefor; and to raise this appropriation the Treasurer, with the approval of the Selectmen, is authorized to borrow \$43, 604,000 under General Laws Ch. 44, s.7 and Chapter 645 of the Acts of 1948; all appropriation hereunder to be contingent upon approval of a Proposition 2 1/2 Debt Exclusion in accordance with General Laws Ch. 59, s.21C.

Bill Braun, 65 Kato Drive, speaking for the School Committee Moved to amend the vote taken under Article 4 of the February 24, 1997 Special Town Meeting by adding the words "and for the purpose of constructing a new middle school or remodeling, reconstructing or making extraordinary repairs and additions to the existing middle school, and to transfer the unexpended and uncommitted funds raised under Article 31 of the 1996 Annual Town Meeting to be added to funds appropriated under Article 4 of the February 24, 1997 Special Town Meeting."

The motion received a second.

SCHOOL COMMITTEE: Bill Braun, Sudbury School Committee, stated that this article amends previously approved school construction and renovation and repair articles so as to allow building a new middle school as an alternative to expanding, renovating, and repairing the existing facility. This article does not change the amount of approved funding. A "Yes" vote allows the Town to spend the already appropriated funds to design and build a new middle school. A "No" vote requires the Town to spend these funds to expand and remodel the exiting Curtis School. The issue is being brought to this Special Town Meeting rather than the April Annual Town Meeting to allow enough time to complete design work by the June 1 SBAB filing deadline. This measure will be placed as well on the March 30 Annual Town Election Ballot. Appreciation was expressed to the Town for convening the Special Town Meeting.

Mr. Braun discussed ongoing school construction projects and state reimbursement policies. He showed a chart listing several projects and costs. He explained that this article would allow use of monies already appropriated for repairs to school buildings to be used for a new construction project. He showed a slide showing the feasibility level design at the concept stage that existed when Town Meeting was approached in February 1997 of the Curtis expansion and renovation for purposes of that appropriation. He showed a cost comparison of the renovation approach with new construction done in October 1996. He explained how the new construction estimates were developed. At that time the option of a new Middle School was not judged to be cost effective.

In August 1997, the architectural firm of Drummey, Rosane, and Anderson, Inc. (DRA) of Newton was awarded the new Loring and Curtis Middle School projects for detailed design development and administration. DRA spent several months mapping program requirements onto space both for the

completed facility and while the facility is in the construction process, as well as studying design options and costs. In December 1997 DRA recommended building a new middle school behind the existing middle school, which remain in full service during construction. This recommendation was based on a recent comparable middle school project on which the bidding was highly competitive as well as the advantages of new construction. Mr. Braun gave several advantages of new construction:

- It reduces the potential for cost overruns. A common problem with renovation projects is the potential for expensive change orders as unexpected conditions are encountered.
- A new building would be completed at full capacity for the school year beginning in September 2000, a year earlier than the best completion estimate for the expanded remodel approach.
- A new school eliminates the expense of temporary space needed as parts of the building are taken out of service for renovation.
- It minimizes the potential for educational disruption, conflicts, delays, and expense likely to occur with contractors working around students.
- A new structure will be smaller, less expensive to operate, and better suited to its purpose.

He presented a slide illustrating logistical difficulties if renovation of common space takes longer than the time available during the summer vacation. He presented the estimates that led the architectural firm and the Permanent Building and School Committees to consider new construction. Present estimates for new construction or the add and renovate approach are somewhat higher than the prior estimate but are closer together than anticipated. The difference is due to increase in average size of classrooms to about 900 square feet, more extensive modification of the existing facility, and greater than anticipated structural costs. The difference between new construction and add and renovate options is due to the size of the building ratio of direct educational space to total space. He explained that opting for addition and renovation over new construction does not automatically free up money because both options are over the original estimate. The \$446,000 difference does not represent a potential savings because it would be offset by the cost of temporary buildings and other phasing expenses that are not presently in the expand and renovate budget. He compared total space and space utilization between the present options. He showed how the new construction approach can be done within the appropriation.

He addressed the option of leaving some of the existing building in place to be used for school administration and town offices. Issues involved include potential other uses of the building, the cost to adapt it, and septic capacity of the site.

He reinforced that this article does not change the amount of approved appropriations, it broadens the prospective use to include replacing the middle school if that continues to appear prudent.

BOARD OF SELECTMAN: The Board of Selectman supports the article.

FINANCE COMMITTEE: The Finance Committee supports the article.

Ralph Tyler, 1 Deacon Lane, asked if we also have to have a vote to pass this, otherwise we have to renovate and expand. Mr. Braun answered that that was correct, that is how we were advised by Town Council and it has been placed on the March 30 ballot. Mr. Tyler stated that this surprised him because it is not how he thought things had been handled in the past. He asked Mr. Kenny to look at the question again.

James Tewhey, Fairbank Road, stated that he did not understand the discussion about the septic system. Mr. Braun responded by re-explaining the septic options should we retain part of the current Curtis building.

Robert Coe, 14 Churchill Street, requested an explanation of the term "innovative alternatives." Mr. Braun responded that Bruce Ey or Bob Leupold could explain it. He said that it is a commonly used set of practices in civil engineering well known to people that practice in that area. Mr. Coe stated that he has spent 3 year on the Oversight Committee of the Wayland-Sudbury Septage Facility and has never heard of "innovative alternatives." He asked for an explanation if there was a civil engineer in the hall.

March 2, 1998

John Baranowsky, Belcher Drive, stated that he thought it was nitrate removal as opposed to just BOD5 removal. It is a removal technique that takes out 90% of the carbon, nitrogen, and phosphorus whereas the conventional treatment only takes out 80%.

Hank Tober, stated that the Moderator had turned down a motion which he had entered because it was outside of the four corners of the article. He asked the motion go on record as having been made and turned down.

Mr. Tober Moved to amend Article 1 to read as follows: to omit the words "including the cost of demolition."

The Moderator requested that a copy be given to the Clerk.

The Moderator DECLARED the motion outside the four corners of the article because Mr. Tober wished to strike from the old vote the words "including the costs of demolition" which would alter the old vote in a way of which the voters were not given notice. The motion is also procedurally out of line because it seeks to amend an article rather than the motion that is on the floor.

Jim Gish, 35 Rolling Lane, asked to see the details on the cost reduction on the Loring estimates between the original estimate and the new one. Mr. Braun responded that he did not have it in tabular form but that they were the normal cost reduction exercises gone through to make the building as cost effective as possible. None of them affected the ultimate quality or durability of the building. He stated that cost per square foot would be the same as that for Curtis.

Tom Travers, Mossman Road, requested to see the site plan for Curtis. Mr. Braun asked that people not react too particularly to the plan because it is just a concept level feasibility plan. Location on the site could change with input as they are able to spend more money on the design. Mr. Travers questioned location of the school in relation to the vernal pool located on the site. Mr. Braun showed that placement of the building would be outside the buffer zone of any wetlands protection. Mr. Travers asked about the cost of demolishing the existing building. Mr. Braun explained that those costs are included in the new construction estimate.

Bob Graham, Tanbark Road, requested that the School Committee address the issue of the anticipated useful life of the new building. Mr. Braun responded that new school structures, in order to qualify for reimbursement, as are additions and renovations, are required to have a 40- to 50-year useful life of the structure.

Martha Coe, 14 Churchill Street, stated that she had also proposed two amendments that had been ruled outside of the four corners of the article. She stated that the total cost of the middle school was not printed in the Warrant and that the *Town Crier* reported that the cost was lower but at the meeting the cost was higher. She expressed concerns over the water supply in regard to the "innovative alternative" for the water supply. For this reason she urged defeat of the article.

George Hamm, urged defeat for reasons of poor planning.

Jeff Bernstein, Blueberry Hill Lane, expressed concerns over loss of playing fields due to construction. Mr. Braun stated that the net amount of field space will exceed what is currently there, it is just located differently. Mr. Bernstein asked how much of the woods would be trimmed back. Mr. Braun stated that the intent is to leave as much buffer as possible. He was advised that there would be almost no removal of existing vegetation.

Steve Silverman, 65 Hemlock Road, commended the School Committee for their work.

Motion for the question.

The motion received a second.

March 2, 1998

The Moderator asked for all in favor of terminating debate.

The motion to terminate debate was VOTED.

The Article was VOTED, the Moderator stated it was a clear majority and declared the motion to have passed.

A count of the hall was requested.

The counted vote was: YES: 197 NO: 26 TOTAL: 223 NEEDED: 149

It was Moved to dissolve the Special Town Meeting.

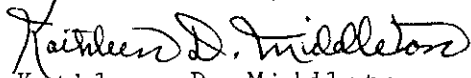
The motion received a second.

The motion was VOTED.

The meeting was dissolved at 9:10 PM.

Attendance: 246

A true record, Attest:


Kathleen D. Middleton
Town Clerk

ANNUAL TOWN ELECTION
MARCH 30, 1998

The Annual Town Election was held at two locations. Precincts 1 & 2 voted at the Fairbank Community Center on Fairbank Road and Precincts 3 & 4 voted at the Peter Noyes School at 280 Old Sudbury Road. The polls were open from 7:00 am to 8:00 pm. There were 2,390 votes cast, including 96 absentee ballots, representing 23% of the town's 10,521 registered voters. There were 5 contested races. The final tabulation of votes was done at the Peter Noyes School.

	PRECINCT				
	1	2	3	4	TOTAL
BOARD OF SELECTMEN (1): FOR THREE YEARS					
HUGH CASPE	207	231	173	222	833
KIRSTEN D. ROOPENIAN	395	397	347	321	1460
WRITE-INS	0	1	1	0	2
BLANKS	20	24	19	32	95
TOTAL	622	653	540	575	2390
BOARD OF ASSESSORS (1): FOR THREE YEARS					
TREVOR A. HAYDON	398	454	330	360	1542
WRITE-INS	1	4	1	0	6
BLANKS	223	195	209	215	842
TOTAL	622	653	540	575	2390
GOODNOW LIBRARY TRUSTEES (2); FOR THREE YEARS					
PHYLLIS A. CULLINANE	338	387	297	305	1327
CAROL HULL	345	384	308	354	1391
MARIE D. ROYEA	229	152	137	158	676
WRITE-INS	4	3	0	2	9
BLANKS	328	380	338	331	1377
TOTAL	1244	1306	1080	1150	4780
BOARD OF HEALTH (1): FOR THREE YEARS					
DONALD C. KERN	409	450	339	377	1575
WRITE-INS	0	1	2	2	5
BLANKS	213	202	199	196	810
TOTAL	622	653	540	575	2390
MODERATOR (1): FOR ONE YEAR					
THOMAS G. DIGNAN, JR.	451	504	384	410	1749
WRITE-INS	9	8	4	5	26
BLANKS	162	141	152	160	615
TOTAL	622	653	540	575	2390
PARK & RECREATION COMMISSIONERS (2): FOR THREE YEARS					
PETER J. BUXTON	412	298	266	275	1251
PETER S. GLASS	176	246	181	196	799
FRANCIS W. LOGAN	287	332	256	254	1129
WRITE-INS	0	3	0	1	4
BLANKS	369	427	377	424	1597
TOTAL	1244	1306	1080	1150	4780

PLANNING BOARD (2): FOR THREE YEARS

	PRECINCT				TOTAL
	1	2	3	4	
CARMINE L. GENTILE	326	395	344	330	1395
JOHN BARANOWSKY	255	225	171	190	841
ELIZABETH D. EGGLESTON	460	405	319	378	1562
WRITE-INS	1	7	1	1	10
BLANKS	202	274	245	251	972
TOTAL	1244	1306	1080	1150	4780

SUDBURY HOUSING AUTHORITY (1): FOR FIVE YEARS

KELLEY A. FRENCH	377	444	326	340	1487
WRITE-INS	1	4	0	0	5
BLANKS	244	205	214	235	898
TOTAL	622	653	540	575	2390

SUDBURY SCHOOL COMMITTEE (1): FOR THREE YEARS

STEPHENIE K. COOK	432	475	372	402	1681
WRITE-INS	3	6	0	2	11
BLANKS	187	172	168	171	698
TOTAL	622	653	540	575	2390

LINCOLN-SUDBURY REGIONAL DISTRICT SCHOOL COMMITTEE (2): FOR THREE YEARS

ELIZABETH B. FARMER	197	256	205	220	878
SHARL L. HELLER	241	246	193	224	904
LESTER HOLTZBLATT	97	141	104	114	456
JOHN J. RYAN, JR.	390	338	272	278	1278
WRITE-INS	1	3	0	1	5
BLANKS	318	322	306	313	1259
TOTAL	1244	1306	1080	1150	4780

(Note: Members of Lincoln-Sudbury Regional District School Committee were elected on an at large basis pursuant to the vote of the Special Town Meeting of October 26, 1970, under Article 1, and subsequent passage by the General Court of Chapter 20 of the Acts of 1971. The votes recorded above are those cast in Sudbury only.)

BALLOT QUESTION-

Shall the Town of Sudbury be allowed to exempt from the provisions of proposition two and one-half, so called, without increasing amounts presently exempted, the amounts required to pay for the bonds issued in order to construct a new middle school and demolish all or part of the existing middle school?

YES	495	458	388	406	1747
NO	114	180	140	150	584
BLANKS	13	15	12	19	59
TOTAL	622	653	540	575	2390

A true record, Attest

Kathleen D. Middleton
Kathleen D. Middleton
Town Clerk

PROCEEDINGS

ANNUAL TOWN MEETING

APRIL 6, 1998

(the full text and discussion on all articles is available on tape at the Town Clerk's office)

Pursuant to a Warrant issued by the Board of Selectmen, March 17, 1998, and a quorum being present, the meeting was called to order at 7:45 PM by Thomas Dignan, the Moderator, at the Lincoln-Sudbury Regional High School Auditorium. Rabbi Boaz Heilman, from the Congregation B'nai Torah, delivered the invocation and Loren Rutherford, an outstanding student from Lincoln-Sudbury Regional High School led the hall in the Pledge of Allegiance to the Flag.

It was announced that the certified Free Cash for the Town Meeting was \$763,419. The Call of the Annual Town Meeting, the Officer's Return of Service and the Town Clerk's Return of Mailing have been examined and were all found to be in order.

Upon a motion by Lawrence L. Blacker, Chairman of the Board of Selectmen, which was seconded, it was

VOTED: TO DISPENSE WITH THE READING OF THE CALL OF THE MEETING AND THE OFFICER'S RETURN OF SERVICE AND TO WAIVE THE READING OF THE SEPARATE ARTICLES OF THE WARRANT.

Various town officials, committee and board members present were introduced to the voters. The Moderator urged all present to complete the form in the Warrant and consider performance of town service. He also addressed League of Women Voters survey on Town Meeting that was being done that night. Foreign exchange students from the Friedrich Harcourt Schula in Germany were introduced.

Selectman Blacker was recognized to read the following resolution in memory of those citizens who have served the town and have passed away during the last year.

RESOLUTION

WHEREAS: A TOWN IS A FAMILY COMPOSED OF ALL THE GENERATIONS WHICH LIVE WITHIN ITS BORDERS, THE PERSONALITIES AND GIFTS OF ITS CITIZENS AND EMPLOYEES, AND ABOVE ALL THE CHARACTER AND DEDICATION WHICH THEY CONTRIBUTE TO THAT FAMILY DEFINE ITS HONOR, ITS STANDARDS, ITS ACCOMPLISHMENTS AND ITS CHARACTER, AND:

WHEREAS: THE PAST YEAR HAS SEEN SOME VERY SPECIAL MEMBERS OF THE SUDBURY COMMUNITY PASS FROM LIFE AND A GRATEFUL TOWN WISHES TO ACKNOWLEDGE THEIR GIFTS:

NOW, THEREFORE, BE IT

RESOLVED: THAT THE TOWN OF SUDBURY, IN TOWN MEETING ASSEMBLED HEREBY EXPRESSES ITS APPRECIATION FOR THE SPECIAL SERVICES OF:

OIDA BAILEY (1915-1997)

Science Teacher—Lincoln-Sudbury Regional High School, 1964-1981

JOHN BOWDOIN (1927-1997)

English Teacher—Lincoln-Sudbury Regional High School, 1959-1970

April 6, 1998

NORMAN E. BURKE (1928-1997)

Moved to Sudbury: 1983

Strategic Planning Committee: 1996-1997

KARL E. CLOUGH (1912-1997)

Sudbury Resident: 1967-1996

Finance Committee: 1971-1978

MMRVTHS—Planning Subcommittee Designee: 1978

Council on Aging: 1985-1991

RONALD J. GRIFFIN (1923-1997)

Moved to Sudbury: 1955

Park and Recreation Commission: 1970-1973

Highway Commission: 1975-1976

Veterans Advisory Committee: 1988-1997

HESTER M. LEWIS (1909-1998)

Moved to Sudbury: 1942

Election Officer: 1968-1991

BARBARA L. McDERMOTT (1926-1997)

Moved to Sudbury: 1950

Election Officer: 1996-1997

MARGARET F. McQUEEN (1925-1997)

Moved to Sudbury: 1961

Goodnow Library Trustee: 1967-1974

Election Officer: 1976-1980

ROBERT E. NIMS (1921-1998)

Moved to Sudbury: 1950

Finance Committee: 1957-1959, 1980

Election Officer: 1972, 1977-1979, 1981-1982

The resolution was seconded and UNANIMOUSLY VOTED.

The Moderator reviewed the order of procedure for a Town Meeting. He then recognized Selectman Blacker who gave his final speech regarding the state of the Town. He stated that the Town is going broke, that we will be asked to approve a proposition 2½ override for school operational expenses. He addressed current issues and attitudes in the Town of Sudbury. Concerns about kinds of development and their effects on the Town were stated. He expressed favor for commercial development in the form of senior retirement condominium communities because of the benefits they would bring to the town while lowering burdens on town services.

ARTICLE 1. HEAR REPORTS

To see if the Town will vote to hear, consider and accept the reports of the Town Boards, Commissions, Officers and Committees as printed in the 1997 Town Report or as otherwise presented; or act on anything relative thereto.

Submitted by the Board of Selectmen.
(Majority vote required)

BOARD OF SELECTMEN REPORT: The Board of Selectmen supports this article.

FINANCE COMMITTEE REPORT: The Finance Committee takes no position on this article.

Moderator Dignan stated that it has long been a tradition in Sudbury to use Article 1 to honor one of our fellow townsmen who has performed outstanding service to the town. Retiring Planning Board Member John O. Rhome was honored for his eight years of service to Sudbury.

John O. Rhome Moved to accept the reports of the Town Boards, Commissions, Officers, and Committees as printed in the 1997 Town Report or as otherwise presented, subject to the correction of errors, if any, were found.

The motion under Article was seconded and UNANIMOUSLY VOTED.

ARTICLE 2. FY98 BUDGET ADJUSTMENTS

To see if the Town will vote to amend the votes taken under Article 6A, FY98 Budget, of the 1997 Annual Town Meeting, by adding to or deleting from line items thereunder, by transfer between or among accounts or by transfer from available funds; or act on anything relative thereto.

Submitted by the Board of Selectmen.
(Majority vote required)

Mr. Blacker Moved to indefinitely postpone.

There are no budget adjustments to be made.

The motion received a second.

The motion to postpone was VOTED.

April 6, 1998

ARTICLE 3. UNPAID BILLS

To see if the Town will vote to raise and appropriate, or appropriate from available funds, a sum of money for the payment of certain unpaid bills incurred in previous fiscal years or which may be legally unenforceable due to the insufficiency of the appropriation in the years in which such bills were incurred; or act on anything relative thereto.

Submitted by the Town Accountant.
(Four-fifths vote required)

TOWN ACCOUNTANT REPORT: Invoices that are submitted for payment after the accounts are closed at the end of a fiscal year or payables for which there are insufficient funds (and were not submitted for a Reserve Fund Transfer) can only be paid by a vote of the Town Meeting, a Special Act of the Legislature, or a court judgment.

Mr. Blacker Moved to indefinitely postpone.

There are no unpaid bills.

The motion received a second.

The motion to postpone was VOTED.

ARTICLE 4A. FY99 BUDGET

To see if the Town will vote to raise and appropriate, or appropriate from available funds, the following sums, or any other sum or sums, for any or all Town expenses and purposes, including debt and interest, and to provide for a Reserve Fund, all for the Fiscal Year July 1, 1998 through June 30, 1999, inclusive, in accordance with the following schedule, which is incorporated herein by reference; and to determine whether or not the appropriation for any of the items shall be raised by borrowing; and to further determine that automobile mileage allowance rates shall be paid in accordance with Federal Internal Revenue Service mileage allowance regulations; or act on anything relative thereto.

Submitted by the Finance Committee.
(Majority vote required)

	Expend FY97	Approp. FY98	Dept. Req. FY99	Sci Comm. Req FY99	Non Override FinCom FY99	Override Request FY99
Sudbury Pub. Schls.(Gross)	13,681,836	15,155,757	16,504,352	16,504,352	15,485,018	16,017,268
Sudbury Pub Schls: Offsets	464,354	449,151	449,345	449,345	449,345	449,345
SUDBURY PUB.SCHLS.(Net)	13,217,482	14,706,606	16,055,007	16,055,007	15,035,673	15,567,923
L.S.R.H.S.(Assessment)	8,115,051	8,298,619	8,981,444	8,981,444	8,701,424	8,701,424
M.R.V.T.H.S. (Assessment)	352,839	318,681	351,385	351,385	353,865	353,865
TOTAL SCHOOLS	21,685,372	23,323,906	25,387,836	25,387,836	24,090,962	24,623,212
100: General Government	1,232,395	1,421,576	1,562,683	1,525,198	1,472,957	1,472,957
200: Public Safety	3,866,304	4,160,130	4,420,099	4,281,166	4,080,283	4,080,283
400: Public Works	1,861,877	1,919,997	2,085,359	1,902,396	1,898,970	1,898,970
500: Human Services	334,762	352,365	432,166	421,425	383,509	383,509
600: Culture & Rec	546,463	547,601	620,990	588,890	581,556	581,556
SUBTOTAL TOWN SERVICES	7,841,800	8,401,669	9,121,297	8,719,075	8,417,276	8,417,276
700: Debt Service	1,695,583	3,416,084	3,050,326	3,050,326	3,050,326	3,050,326
900: Unclassified/Transfer Acct.	2,969,180	3,258,862	3,804,215	3,774,758	3,708,696	3,768,696
TOTAL TOWN	12,506,563	15,076,615	15,975,838	15,544,159	15,176,298	15,236,298
TOTAL OPERATING BUDGET	34,191,935	38,400,521	41,363,674	40,931,996	39,267,260	39,859,510

ARTICLE 4A REPORTS:

SUDBURY SCHOOL COMMITTEE POSITION: Over the last 5 years, the Sudbury Public Schools K-8 enrollment has grown from 1,980 students to 2,551 students - an average growth rate of 5.2% per year. The Town of Sudbury has, over these same 5 years, provided the schools with average annual budget increases of over 8.5%. These significant increases have been required simply to allow the schools to meet negotiated salary increases, to deal with the effects of inflation and to maintain classroom sizes at recommended levels. In these past 5 years, it has been possible to do this without requiring a Proposition 2 1/2 override. That is no longer possible. The Finance Committee has determined that an increase of only 3.8% is possible within the constraints of a non-override budget. A 3.8% increase is enough to provide negotiated salary increases to existing staff but is not enough to deal with the effects of inflation, much less to accommodate the more than 100 new students anticipated next year. The Sudbury School Committee is, therefore, requesting a Proposition 2 1/2 override of \$592,250 which would result in a budget of \$15,567,923 rather than the \$15,035,673 contained in the non-override recommendation. This override budget represents an increase of 7.5% over last year's budget and is required if we are to maintain the current classroom sizes and are to continue addressing on-going maintenance needs.

There were two proposed budgets set forth in the warrant, a non-override budget and a proposed contingent budget, which if adopted, would require an override vote of the town.

FINANCE COMMITTEE REPORT: Steve Stolle, Chairman of the Finance Committee, made the report. He presented the **non-override budget for FY1999**. He said that budget requests are in the 8% increase range and revenues are forecasted to increase approximately only 2%. He announced that unanimous agreement was reached on the non-override budget which is close to level services. It will require some increase in class sizes and some increased fees in both school districts and necessitate

postponement of some critical operating items in the town services department. He used slides to provide an overview of the revenue projections and the budgets.

The first slide illustrated revenue. Local real estate taxes and personal real estate taxes continue to be a significant source of revenue. This is projected to increase 4.4%, state aid is projected to increase 4.3% and local property taxes are going up. The second slide dealt with free cash. Free cash is a problem this year that has been forecasted by previous Finance Committees over the last several years. The Certified Free Cash is at \$763,000. The last several years the average free cash came in around \$644,000 with a ten-year average about \$637,000. The last two years at \$993,000 and \$1.2 million delayed the need for the override. Growth in the town departments over the last two years was accommodated with the abnormally high level of free cash. This year is the drop which is why approval for an override is being requested. Slide three shows budget requests broken down by Sudbury Public Schools, Lincoln-Sudbury Regional High School, Minuteman Science and Technology High School, Town Services, unclassified, debt service, and enterprise funds. The final slide identified several areas of opportunity to minimize risk of being unable to support minimal requests. The revenue from the gravel at the Malone property could be earmarked for capital, collection of back property taxes—including 16% interest which is added to the general revenue, use of shared services by town departments, and efforts to broaden the commercial and industrial tax base.

TOWN BUDGET: Steve Ledoux, Town Manager, stated that Sudbury is a minimum aid community for local state aid because of our demographics. He presented a slide illustrating the gap between expenses and revenue projected into the next century. Slide two showed the revenue “pie”—where percentages of our revenues come from, 78% from property taxes, 9% from cherry sheets, 8% from local receipts, 2% from enterprise fund, and 2% from free cash. The next slide compared Sudbury’s percentages to other towns in the state. He showed a summary of the budget. The 1998 appropriation for town services was a little over \$9 million, departmental requests were \$9.6 million, a 7.4% increase over the 1998 appropriation. After making some changes, he recommended to the Finance Committee a budget of \$9,274,000, a 2.9% increase over the 1998 appropriation. After Finance Committee reviewed, they recommended a general town budget of \$8,968,000, .5% decrease from FY98.

The budget does not fund the vast majority of operational capital requests that were included in his recommendation to the Finance Committee. The next slide showed the items that were deleted and are slated to be purchased by the sale of gravel at the former Malone site. For the first item, a fire brush truck, the budget will be amended to finance that through taxation, not through the sale of gravel receipts. Purchase of the Fire Captain vehicle, the highway mower, Board of Health vehicle, some capital equipment from the MISS Department, renovation for Flynn and the DPW Building, police cruisers, networking equipment, palmtops for the assessors, repair of the Hosmer roof, and some other fire capital equipment have all been deferred with the hope that the sale of gravel will generate enough receipts. Under State law the gravel receipts cannot be expended until they are received so when they are available we will be coming back to a special town meeting to fund these items. Use of non-renewable assets such as the gravel receipts for working capital is a financial warning sign that we are sustaining a financial deficit.

Mr. Ledoux followed Mr. Stolle’s comments regarding pursuit of shared services. The FY99 Budget contains a lot of dollars for shared services. He illustrated those services which include the DPW paving parking lots for the town and the schools, reviewing site plans, roof drains, doing bus route maps for the schools; Accounting Office doing school payroll; Assistant Town Manager managing property liability insurance for all properties within town; Benefits Manager managing all benefits for both the schools and town; Parks and Grounds mowing the school fields; the Library Staff preparing reference and circulation materials for homework assignments; The Council on Aging sharing a van with the schools for special education; MIS system provides information with GIS in accounting software; the Teen Center, Community Social Worker, Public Nurses and Health Coordinators at the schools that work together on youth issues. In the FY99 budget there are proposals for a Youth Coordinator, a Purchasing Assistant, for the Public Schools to share the cost of grounds maintenance with the Town, pursuit of network security and upgrading of the accounting system to better communicate between the town and the schools. Other opportunities to be pursued include joint ventures on e-mail, virus security, procurement, collective bargaining, and personnel classification. The town will continue to work with the administration of the

schools as well as other towns to explore other areas of cooperation. Two of the primary changes in the operational budget are shared services; the first is the position of Youth Coordinator. This is in response to the adolescent survey that was done last year at Curtis Middle School and L-S. The results of the survey showed that 10.2% of those surveyed had attempted suicide in the past 12 months, 9.2% carried weapons to school in the last 30 days, 40.2% consumed at least five drinks in the last 30 days, 48.8% used marijuana, 30.9% have had sexual intercourse, and 40.3% described life as stressful. This position will start out as a half-time position with the goal to expand the resource base for the youth in town. Fifty percent of the time will be for direct services to youth; the other 50% of the time will be for the coordination of programs. The second change that deals with shared services is the creation of a Purchasing Assistant. They will work on the goal of a centralized purchasing system. They will assist town departments and be a resource for the schools as well. It will allow us to achieve economies of scale in purchasing, will ensure that we comply with state bid laws, will assist departments with the development of bid documents, will assist in capital bidding, will assist the Technology Administrator with the purchasing and installation of equipment. The general government budget also includes the purchase of a new ambulance, three police cruisers, and possible additional costs in the Library budget. Mr. Ledoux thanked the Finance Committee, the Assistant Town Manager, and the Finance Director for their help in preparing the budget. He acknowledged Dan Loughlin, who will be leaving town service on May 1.

K-8 SYSTEM BUDGET: Mr. Greg Lauer, Chair of the Sudbury Public School Committee, updated the hall on the status of several school building projects. The non-override budget for FY99 is \$15,035,673. This budget affords no new positions to deal with the 100 new students that are expected. It does allow for negotiated step increases and raises to existing staff and provides a 2% increase in expenses. This increase in expenses is not expected to cover the expected increased costs associated with a 4.3% growth in student enrollment. The major immediate impact is that we will be unable to hire teachers to address the expected growth, most of which is going to occur at Curtis Middle School. Class sizes, which are currently near 25, will rise to 26 to 29, depending on the grade. This is significantly over the recommended guidelines for the Sudbury Public Schools and is higher than the average middle school class sizes in the EDCO communities. EDCO is a collaborative that includes about 20 Metrowest communities. Mr. Lauer thanked the town for its ongoing support of the schools.

LINCOLN-SUDBURY REGIONAL HIGH SCHOOL: Mr. David Wilson, 36 Thunder Road, Chairman Lincoln-Sudbury School Committee, stated that there are 7% more students entering L-S than last year. He put up a chart which showed the actual history of the student population growth at L-S versus the budget increases. It showed that the budget had not grown by student population growth plus inflation, not even by the student population growth. As student population growth continues to increase over the budget growth services to students will be affected. This eventually will come in the form of larger class sizes. He showed an overhead which illustrated cost savings implemented over the past nine years which included an increase from \$100 to \$125 to play team sports and charging students to park. With these cost savings, they have been able to hold services level over the past seven or eight years and have not asked for operating override. Now these cuts have been accomplished and there are no more "big-ticket" items that they can cut money from in the budget so class size must grow. They presented a level services 8% budget increase to the Finance Committees of Lincoln and Sudbury. This results in hiring fewer teachers to service the 7% student population growth. They are not asking for an operating override at this time.

Mr. Wilson introduced Dr. John Ritchie, Superintendent/Principal of L-S. He thanked David Wilson for his support of Lincoln-Sudbury. He spoke about the financial advantage to Sudbury of being part of a regional high school and showed a chart illustrating the benefit. On February 3, 1998 the L-S School Committee voted an FY99 budget which was a slightly below level increase of 7.95%. The proposed increase was, in part, a result of contractual agreements and increased cost of supplies, but the primary reason for the increase was our enrollment growth which has been increasing at a rate of approximately 6 to 7% over the past several years. To serve our students as well as we have been would have required eight additional teachers as well as the other elements on the overhead. L-S is a school that has demonstrated notable fiscal responsibility and sound management over the years; the budget growth has been less than the enrollment growth over the past few years, however, things are catching up and will continue to do so. Discussions with Finance Committees in both towns were positive. The original request has been reduced from 7.95% to 6.6%, roughly a reduction of \$160,000. This involves significant

April 6, 1998

reductions from the original request and the introduction of new revenue sources. Their request is for a budget of \$12,684,000, 71% of which is supported by the Town of Sudbury. This represents an overall increase of 6.6% in a year when enrollment will be increasing by at least that amount. He closed by stating that he feels that Lincoln-Sudbury is the finest high school in the Commonwealth.

MINUTEMAN SCIENCE TECHNOLOGY HIGH SCHOOL: Mr. Glenn Noland, 24 Saddle Ridge Road, Minuteman Representative from Sudbury and Vice-Chairman. He explained how the assessment by town is calculated by the State, with the minimum-funding requirement being \$357,000, due to Education Reform. He gave a brief overview of new proposals that have been presented to Minuteman by the Claremont Corporation.

The Moderator ask if there were any other boards or committees that wished to address the budget. There were none. He recognized the Chairman of the Finance Committee for the limiting motion on the non-override budget. The Council on Aging requested to be heard.

COUNCIL ON AGING: Dan Claff spoke for the The Council on Aging which has in its budget #541 a sum of money that will be expended on the Sudbury Community Work Program. This is the second year of the program. It was funded last year for 10 positions in the sum of \$5,000. It was so successful that the Finance Committee, Selectmen, and Council on Aging recommended and it was approved for triple that amount. Thirty positions and \$15,000. The funding is the same for the third year at 30 positions. This is the program whereby Sudbury homeowners, age 60 and over who will agree to work at a Town department, Town board, Town commission, for up to 100 hours in exchange for a property tax credit. There is no cash that changes hands. There is a maximum of \$500 per household. In this year's program, 33 seniors worked at 21 different locations. The age range of those participants was between 60 and 85 years of age, half were between 60 and 69, half were between 70 and 85. The applicants will be chosen as they were in the past, on the basis of both their abilities and their level of income. Anyone who wants to apply for the program must file an application before April 15, 1998. For more information contact the Senior Center.

Mr. Stolle moved *the amount appropriated under the budget not exceed the sum of \$39,311,147.*

The motion received a second.

The Moderator clarified with Mr. Stolle that the motion was simply to limit the overall consideration, not the various line items. The Moderator asked if anyone else wished to be heard on the limiting motion, which is basically a formal matter. No one wished to be heard.

The motion was VOTED.

Mr. Stolle moved *that the Town appropriate the sums of money set forth in the Warrant under Article 4A in the column non-override FinCom FY99 for fiscal year 1999 except as follows:*

<i>Minuteman Vocational School Assessment</i>	<i>\$357,252</i>	<i>(+ \$3,387)</i>
<i>Public Safety</i>	<i>\$4,089,283</i>	<i>(+ \$9,000)</i>
<i>Public Works</i>	<i>\$1,882,970</i>	<i>(- \$16,000)</i>
<i>Unclassified Account</i>	<i>\$3,756,196</i>	<i>(+ \$47,500)</i>

April 6, 1998

The following items to be raised as designated by transfer from available funds, balances, and inter-fund transfers:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
94 ATM Article 61	100 General Gov.	\$3777
96 ATM Article 6	100 General Gov.	\$303
94 ATM Article 37	100 General Gov.	\$54
92 ATM Article 9	100 General Gov.	\$153
91 ATM Article 16	100 General Gov.	\$1,197
Ambulance Reserve for		
Appropriation Acct.	200 Public Safety	\$233,063
Dog Licenses/State Aid	600 Culture and Rec.	\$6,904
Free Cash	900 Unclassified	\$763,419
Abatement Surplus	900 Unclassified	\$123,063
Retirement Trust Fund	900 Unclassified	\$12,717

And that automobile mileage allowance rates shall be paid in accordance with federal internal revenue service mileage allowance regulations.

The motion received a second.

The Moderator asked Mr. Stolle if he wished to address further the budget on behalf of the Finance Committee. He did not.

The Moderator asked if there were any motions to amend with respect to the schools.

Mr. Ralph Tyler, moved to amend Article 4A by adding \$296,125 to the Sudbury Public Schools and subtracting \$296,125 from the total Town account in the non-override budget as follows:

Net SPS \$ 15,035,693	Total Town \$ 15,176,298
+ 296,125	- 296,125
\$ 15,331,818	\$ 14,880,173

The Moderator stopped Mr. Tyler to get an opinion from Town Counsel because the amount was being taken from the total Town rather than a specific line. He questioned how we will know which lines were "hit." Town Counsel advised that the money had to come out of a specific line item, either 100, 200, 400, 500, 600, 700, or 900 rather than from the total town budget. Mr. Tyler responded that it should be "percentaged out." Mr. Moderator questioned if Mr. Tyler wished to amend to add the money to the total school budget or the K-8 budget.

Mr. Moderator clarified the motion to state *Add \$296,125 to the K-8 budget to be taken proportionately from numbers 100 through 900 as set forth on Page 3 of the Warrant.* He asked Mr. Tyler if that was correct. Mr. Tyler responded in the affirmative.

The motion received a second.

The Moderator recognized Mr. Tyler in support of his motion. Mr. Tyler emphasized that this motion is for the non-override budget. He feels that many people are expecting that there will be an override. He feels that the Finance Committee will be supporting an override, the School Committees will be pushing for an override but there is still another vote before we can get an override for the schools. He believes that it is significant that looking at the report of the Superintendent of the K-8 system that in spite of the fact that they are adding a significant number of students they are not adding to the instructional staff. The purpose of this is to give the schools at least half of what they need. He urged support for this amendment.

April 6, 1998

The Moderator asked if anyone else wished to be heard on the amendment. He recognized Mr. Blacker.

BOARD OF SELECTMEN: The Selectmen are opposed to this. He stated that this motion reduces the amount of money in the classification for debt service.

The Moderator asked if anyone else wanted to be heard on the motion to amend. There was no one.

The motion to amend was DEFEATED.

The Moderator asked for any other motions to amend the main motion. There were none.

The Moderator asked if anyone else wished to be heard on the main motion under Article 4A with respect to the non-override budget. There was no one.

The motion was UNANIMOUSLY VOTED.

The Moderator recognized Mr. Stolle on the **limiting motion for the override budget.**

Steve Stolle Moved that the amount appropriated under the budget not exceed the sum of \$39,903,397.

The motion received a second.

FINANCE COMMITTEE: Mr. Stolle showed an overhead illustrating the impact of this motion. The override coming from the local real estate taxes, instead of 4.4% it is 6.1%. The total revenue instead of 2.2% is 3.4%. They recommended that the override amount go to the Sudbury Public Schools with a portion going to the Town for benefits for additional hires. This is more in line with what we have been able to do over the last several years and how the funds have been distributed. He gave figures from 1967 that illustrated that we have been in the same growth situation in the past. He expressed his appreciation to the Committees for understanding the need for extra money to maintain quality education.

SCHOOL COMMITTEE: Greg Lauer, Chair of Sudbury Public School Committee, thanked the Town for its history of support for the schools as they accommodate enrollment growth. He presented slides showing that the override budget they are presenting is smaller in dollars than the ones they have received in the past two years and is the smallest percentage increase in even longer time. He presented the issue of whether the non-override budget is large enough to not require an override. Is \$15 million the right amount of money to educate the 2,662 students that are expected next year? He presented per pupil regular day spending around the state. This is the net amount that a town spends to educate a regular day student. The latest complete figures are available for FY 1995. Some preliminary numbers are available for FY 96. The ones for FY 97 haven't been collected yet. He showed the per pupil expenditure for four nearby towns. Lincoln was picked because they send their students to Lincoln-Sudbury Regional High School, Concord was selected because their system is about the same size as ours and they send their graduates on to a regional high school. Wayland was selected because it is a nearby town with probably the closest socio-demographic connection to Sudbury. We also included the EDCO statistics as well as those of Lincoln-Sudbury Regional High School.

In FY95 we spent about the State average per pupil and more than \$1,000 less than the other towns listed. He emphasized that this is not due to lack of support from Sudbury but rather reflects the difficulty in keeping up with a situation in which incredibly large percentage increases in the budget are required simply to keep pace with growth. Towns and schools which experience slower growth rates have an easier time supporting larger per pupil expenditures.

He made two points, the Sudbury Public Schools provide a high quality, cost effective education and that Sudbury Public Schools have eliminated programs that might be cut to accommodate growth.

April 6, 1998

We need an override because our level services budget requires an 8% increase to accommodate growth. The non-override budget is less than 3%. In order to continue provide good education we need to maintain the level service budget.

SUDBURY PUBLIC SCHOOLS: Mr. William Hurley, Superintendent showed a slide illustrating ways that they have been seeking to provide funds for the operation of the K-8 System without solely relying on tax dollars. We have received approximately \$400,000, mostly in the form of grants. He expressed his appreciation for the strong community support that the schools receive. He discussed Sudbury's growth compared to the average in Massachusetts from 1992 to 1997. Total statewide average growth for that period was 11.5%, in Sudbury it was 33.5%. He showed slides with projected enrollment figures and with the budget history for the past several years. The next slide showed that the requested funds would be used for direct student services. He compared the average class size in middle schools in other EDCO communities to Sudbury's projected class size if the override does not pass. He showed the most recent figures from the Massachusetts State Department of Education showing the per pupil average expenditure for the 22 EDCO communities. Sudbury is slightly below the state average for the K-8 system and about \$1,500 below the EDCO average at the middle school level and \$500 below for all grades combined.

Marge Wallace, 148 Nobscot Road, asked Mr. Hurley to confirm that the override would result in no increase in taxes the Sudbury taxpayer, as he was quoted in the *Sudbury Town Crier*.

Mr. Hurley responded that there is an additional \$587,000 in State reimbursements coming to the Town over and above what was anticipated for FY99. This unexpected debt exemption money almost balances the override.

Ms. Wallace stated that the money the town is receiving is for debt exemption and has nothing to do with an operating budget. It is money we are receiving early that we always knew we were getting. The override is a permanent increase in the tax base.

Parker Coddington, Plympton Road, is there a relationship between the money spent, the number of students per classroom and the quality of education the student receives.

Mr. Hurley responded that Sudbury has fewer programs than neighboring towns but that we work to keep the student-teacher ratio as low as possible.

Anne McNabb, Lakewood Drive, asked Mr. Hurley about Lincoln-Sudbury costs in relation to class size.

Mr. Hurley responded that because high schools offer more courses there is a chance that some class sizes can be low.

Susan Wald, Cider Mill Road, urged passage of the override budget.

The motion was UNANIMOUSLY VOTED.

Mr. Stephen Stolle Moved that the Town appropriate the sums of money set forth in the Warrant under Article 4A in the column "Override Request FY99," for Fiscal Year 99 expect as follows:

M.R.V.T.H.S.	\$357,252	(+ \$3,387)
Public Safety	\$4,089,283	(+ \$9,000)
Public Works	\$1,882,970	(- \$16,000)
Unclassified Account	\$3,816,196	(+ \$47,500)

April 6, 1998

The following items to be raised as designated by transfer from available fund balances, and inter-fund transfers:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
94 ATM Article 61	100 General Gov.	\$3777
96 ATM Article 6	100 General Gov.	\$303
94 ATM Article 37	100 General Gov.	\$54
92 ATM Article 9	100 General Gov.	\$153
91 ATM Article 16	100 General Gov.	\$1,197
Ambulance Reserve for		
Appropriation Acct.	200 Public Safety	\$233,063
Dog Licenses/State Aid	600 Culture and Rec.	\$6,904
Free Cash	900 Unclassified	\$763,419
Abatement Surplus	900 Unclassified	\$123,063
Retirement Trust Fund	900 Unclassified	\$12,717

And that automobile mileage allowance rates shall be paid in accordance with federal internal revenue service mileage allowance regulations.

The motion received a second.

Ed Kreitsek, 59 Dudley Road, asked if the motion passes, would it then be submitted as a referendum at the polls to authorize the override. He questioned what would happen if the override fails and, therefore, Town Budget is not approved.

The Moderator responded that we had already passed the non-override budget which will be in effect if the override fails at the polls.

The Motion under this article was UNANIMOUSLY VOTED.

April 6, 1998

ARTICLE 4B. SOLID WASTE DISPOSAL ENTERPRISE FUND FY99 BUDGET

To see if the Town will vote to raise and appropriate, or appropriate from available funds, the following sums set forth in the budget of the Solid Waste Disposal Enterprise, to be included in the tax levy and offset by the funds of the enterprise; or act on anything relative thereto.

Submitted by the Finance Committee.
(Majority vote required)

	Expend FY97	Approp. FY98	Dept. Req. FY99	Town Mgr. Req FY99	Non Override FinCom FY99	Override Request FY99
<u>Solid Waste Enterprise Fund</u>						
Total Direct Costs (Appropriated)	346,637	305,523	238,575	238,575	240,381	240,381
Total Indirect Costs (Not Appropriated)	49,080	30,813	31,283	31,283	31,283	31,283
SOLID WASTE DISP RECEIPTS	227,731	269,000	250,686	250,686	250,686	250,686
RETAINED EARNINGS USED	167,986	67,336	19,172	19,172	20,978	20,978

Mr. Steven Stolle Moved to appropriate the sum of \$240,381 for the Solid Waste Enterprise Fund for Fiscal Year 1999, such sum to be raised by receipts from the enterprise and transfer or retained earnings from the Enterprise Fund in the amount of \$20,978; and further to authorize use of an additional \$31,283 of Enterprise Fund receipts for indirect costs.

The Motion received a second.

Steve Ledoux cautioned against depleting the retained earnings and said we will be looking at a rate adjustment either this fiscal year or next.

BOARD OF SELECTMEN POSITION: The Board of Selectmen supports the article.

The Motion under this article was UNANIMOUSLY VOTED.

ARTICLE 4C. POOL ENTERPRISE FUND FY99 BUDGET

To see if the Town will vote to raise and appropriate, or appropriate from available funds, the following sums set forth in the budget of the Pool Enterprise, to be included in the tax levy and offset by the funds of the enterprise; or act on anything relative thereto.

Submitted by the Finance Committee.
(Majority vote required)

	Expend FY97	Approp. FY98	Dept. Req. FY99	Town Mgr. Rec FY99	Non Override FinCom FY99	Override Request FY99
<u>Pool Enterprise Fund</u>						
Total Direct Costs (Appropriated)	296,678	302,610	318,408	316,408	316,408	316,408
Total Indirect Costs (Not Appropriated)	24,242	28,757	31,331	31,331	31,331	31,331
POOL ENTERPRISE RECEIPTS	331,571	331,367	349,739	347,739	347,739	347,739

Myles Nogelo Moved to appropriate the sum of \$316, 408 for the Pool Enterprise Fund for Fiscal Year 1999, such sum to be raised from the receipts of the Enterprise Fund; and further to authorize use of an additional \$31,331 of Enterprise Fund receipts for indirect costs.

The Motion received a second.

FINANCE COMMITTEE: Recommends approval.

Steve Ledoux presented a history of the pool and stated that the good news is in the management of the pool. We have showed significant deficits over the years where the pool was not paying for itself. In the past fiscal year we realized a \$9,600 surplus instead of a deficit. That trend is continuing in FY98.

BOARD OF SELECTMEN: The Selectmen support the article.

The Motion under this article was UNANIMOUSLY VOTED.

April 6, 1998

ARTICLE 5. STREET ACCEPTANCES

To see if the Town will vote to accept the layout of any one or more of the following ways:

Martin Drive	From Maynard Road to a dead end, a distance of 1,097 feet, more or less;
Southwest Circle	From Peakham Road to a dead end, a distance of 314 feet, more or less;
Amanda Road	From Dutton Road to a dead end, a distance of 1,473 feet, more or less;
Bulkley Road	From the end of the 1983 public layout to Amanda Road, a distance of 352 feet, more or less;

as laid out by the Board of Selectmen in accordance with the descriptions and plans on file in the Town Clerk's Office; to authorize the acquisition by purchase, by gift or by a taking by eminent domain, in fee simple, of the property shown on said plans; and to raise and appropriate, or appropriate from available funds, \$500, or any other sum, therefor and all expenses in connection therewith; or act on anything relative thereto.

Submitted by the Board of Selectmen.
(Two-thirds vote required)

Lawrence Blacker Moved to accept the layout of the following ways:

<i>Martin Drive</i>	<i>From Maynard Road to a dead end, a distance of 1,097 feet, more or less;</i>
<i>Southwest Circle</i>	<i>From Peakham Road to a dead end, a distance of 314 feet, more or less;</i>
<i>Amanda Road</i>	<i>From Dutton Road to a dead end, a distance of 1,473 feet, more or less;</i>
<i>Bulkley Road</i>	<i>From the end of the 1983 public layout to Amanda Road, a distance of 352 feet, more or less;</i>

as laid out by the Board of Selectmen in accordance with the descriptions and plans on file in the Town Clerk's Office; to authorize the acquisition by purchase, by gift or by a taking by eminent domain, in fee simple, of the property shown on said plans; and to appropriate the sum of \$500 for expenses in connection therewith.

The Motion received a second.

BOARD OF SELECTMEN: Mr. Blacker stated that it was determined by Planning Board, Conservation Commission and Public Works Department that these roads were built according to specifications and we should make them part of our town ways.

FINANCE COMMITTEE: The Finance Committee supports this article.

PLANNING BOARD: John Rhome addressed issues of completion for these streets and urged approval.

The Motion under this article was UNANIMOUSLY VOTED.

ARTICLE 6. RESOLUTION - CHARACTER OF SUDBURY STATEMENT

To see if the Town will vote to adopt a non-binding resolution submitted by the Strategic Planning Committee, which defines the character of Sudbury. The purpose of the statement is to identify values that Sudbury residents hold dear and would like boards and officials of the Town to keep in mind when they set policy. It will be used as a mission statement in drafting a Master Plan.

"Character of Sudbury

We in Sudbury appreciate our town but are concerned about its future.

We value the Town's essentially residential, low-density nature. A significant aspect of Sudbury's charm and character is derived from its rural/suburban feeling. Becoming more like towns nearer Boston would not be considered "progress". This is not to say that the value and convenience of consumer oriented, commercial activity and development is not appreciated. We remain open to positive change, while zealously safe-guarding historical treasures and traditions.

High value is placed upon Sudbury's natural resources and beauty, its open spaces, wetlands, forests and wildlife. The opportunities which these resources provide for enjoying and appreciating nature, recreation and escaping from our hectic lives is precious. Aligned with these natural resources is the diligent protection of the quality of Sudbury's water and air.

We feel that Sudbury's residential housing should be built in harmony with and in proportion to its surroundings and acreage. Encouragement of this harmony for all construction is highly recommended. Moderation in the rate of growth within the town is also desirable.

Sudbury's people are one of its most valued assets. Maintaining a socioeconomic environment which permits and encourages a diversity of residents (ethnic, religious, young and aged, different degrees of affluence) will perpetuate this important town value. We value the traditions and institutions that create a sense of community. However, to sustain our legacy of helping others and our spirit of volunteerism we need more involvement by citizens.

Maintenance of the quality of Sudbury's public services and recognition and appreciation of the people that provide them is essential to Sudbury's character. The high quality of Sudbury's public schools is particularly valued. We expect that public officials, working in conjunction with others, will keep the sense of Sudbury's character at the forefront in their decision making process. In such undertakings openness, fairness, proactivity and a view to preservation of Sudbury's character and to the common good will be highly valued by Sudbury's citizens.";

or act on anything relative thereto.

Submitted by Petition on behalf of the Strategic Planning Committee.

(Majority vote required)

The vote on this matter is non-binding.

PETITIONERS REPORT: The Process of Defining Sudbury's Character. To determine what we believe are the key elements of Sudbury's character, and to understand how we feel about the Town's character and its future, a task force of the Strategic Planning Committee (SPC) undertook a series of workshops. These workshops were structured by an independent consultant and involved a cross-section of Sudbury residents. Participants were asked to record their immediate feelings and reactions to 25 slides of a variety of scenes in Sudbury. Their input helped to create a mosaic of Sudbury's character.

Four areas of focus emerge representing Sudbury's character:

1. People as individuals, families, and as a community (schools, churches, town government, cultural and recreational activities and service undertakings)

2. Nature and the environment, rural areas
3. Historical landmarks and a sense of tradition
4. Development of both private homes and businesses

Several themes can be identified from the reactions of the participants in the workshops and the SPC members. Among them are the following:

1. Highest value is placed upon:
 - a. Sense of community and family
 - b. Quality of public educational system
 - c. Aesthetic appeal, particularly visual
 - d. Maintenance of socioeconomic, religious, age diversity within the population
 - e. Respect for, and preservation of, Sudbury's natural resources: its rural atmosphere, open land and forest, clean water and air
 - f. Sense of history and tradition, preservation of historical sites
 - g. This is a critical time and decisions being made now will define Sudbury's future and will bless or burden generations to follow
2. Value is placed upon:
 - a. Rights of property owners, Sudbury's youth and its aged, developers, business
 - b. Convenience/economic stability
 - c. Geographic location
 - d. Privacy
3. Areas of serious concern:
 - a. Accelerating pace of change
 - Unplanned/unmanaged development - both residential (loss of open space, house size out of proportion to its acreage) and commercial (lack of standards for construction and maintenance)
 - Threats to Sudbury's natural resources
 - Deteriorating water quality
 - Threat to the diversity of population due to the increasing affluence of the Town
 - b. Lack of leadership/vision/planning/proactivity/citizen involvement
 - c. Diminishing concern for the long-term good of the Town of Sudbury and all of its citizens

Sudbury's character can be developed by reflecting upon these issues and analyzing what we value today and hope for the future.

Introduction. We realize that we live in a special place. Sudbury has much to offer in its quality of life as defined by schools, housing, environment, natural resources, churches, recreation, public services, diversity of population and our rural/suburban location. Each of these elements contributes to Sudbury's character as does our rich sense of history and community. While no longer a truly classic New England town, Sudbury has, to a significant degree, maintained the character of such a town despite pressures on many of our resources and other valued assets. We believe, in recent years, factors have been increasingly affecting the Town, threatening to erode both its character and aesthetic qualities. An uneasiness regarding the community's character has evolved at an accelerating pace. Many people express alarm about uncontrolled housing development, water quality, school capacity, diminishing rural land and vistas, disregard for historical sites, unmanaged commercial growth and lack of housing for senior citizens and young people.

The overwhelming message is the need to improve planning in the Town. Leadership must develop forward-looking rules, regulations and standards which will maintain and enhance the desirable aspects of Sudbury's character. This should be undertaken with a view toward balancing the broad views of the population regarding the future character of the Town with the legitimate interests of property owners, businesses and other parties.

In light of the accelerating pace of change in Sudbury, the fragility of its rich but limited resources, and the sense that the "horse is already out of the barn" regarding some of these issues, many specific protective and proactive measures need to be considered. Not all citizens will agree with each part of the definition of Sudbury's character, however, it is essential that the definition of character represent what is good for all of the Town and that potential conflicting individual interests be put aside if this process is to be meaningful

April 6, 1998

and effective. It is in this spirit that the Strategic Planning Committee submits this definition of the character of the Town of Sudbury.

Gerry Nogelo, 19 Washington Drive, Moved in the words of the article except that the definition of the character of Sudbury, as set forth in the Warrant shall be amended as follows:

Substitute the following for the second sentence, fifth paragraph:

"Maintaining a socioeconomic environment which permits and encourages diversity of ethnicity, religion, age and income will perpetuate this important town value."

The Motion received a second.

Gerry Nogelo was recognized in support of the motion. The wording was changed in response to a letter to the editor. In the spring of 1997 the Strategic Planning Committee established a task force comprised of 13 residents who were all volunteers from the SPC or were recruited citizens at large. They were charged with writing a definition of the character of Sudbury. They presented a final draft to the SPC in January 1998.

FINANCE COMMITTEE: The Finance Committee takes no position on this article.

BOARD OF SELECTMEN: Maryann Clark, the Selectmen support.

PLANNING BOARD REPORT: The Planning Board supports this resolution as the starting point for a comprehensive Master Plan for the Town. The Strategic Planning Committee identified a comprehensive Master Plan as one of its top three priorities. Adoption of this article will demonstrate the Town's desire to proceed with the Strategic Planning Committee's efforts to create a vision for the Town. It is a first step toward a comprehensive Master Plan that is accepted Town-wide and used by all the boards and commissions as a guide to their decisions.

Hank Tober, Ames Road, opposed the resolution.

Helen Casey, Pokonoket Avenue, Moved to amend the resolution to by substituting the word "promoting" for the word "maintaining."

The Motion to Amend received a second.

The Motion to Amend was VOTED.

Robert Coe, 14 Churchill Street, spoke in support of the resolution.

Jody Kablack, Town Planner, speaking as a member of the Strategic Planning Committee, urged passage of the article as a first step in coming to a unified statement of what the Town wants.

The Resolution under Article 6 as amended was UNANIMOUSLY VOTED.

"Character of Sudbury

We in Sudbury appreciate our town but are concerned about its future.

We value the Town's essentially residential, low-density nature. A significant aspect of Sudbury's charm and character is derived from its rural/suburban feeling. Becoming more like towns nearer Boston would not be considered "progress". This is not to say that the value and convenience of consumer oriented, commercial activity and development is not appreciated. We remain open to positive change, while zealously safe-guarding historical treasures and traditions.

April 6, 1998

High value is placed upon Sudbury's natural resources and beauty, its open spaces, wetlands, forests and wildlife. The opportunities which these resources provide for enjoying and appreciating nature, recreation and escaping from our hectic lives is precious. Aligned with these natural resources is the diligent protection of the quality of Sudbury's water and air.

We feel that Sudbury's residential housing should be built in harmony with and in proportion to its surroundings and acreage. Encouragement of this harmony for all construction is highly recommended. Moderation in the rate of growth within the town is also desirable.

Sudbury's people are one of its most valued assets. Promoting a socioeconomic environment which permits and encourages a diversity of ethnicity, religion, age and income will perpetuate this important town value. We value the traditions and institutions that create a sense of community. However, to sustain our legacy of helping others and our spirit of volunteerism we need more involvement by citizens.

Maintenance of the quality of Sudbury's public services and recognition and appreciation of the people that provide them is essential to Sudbury's character. The high quality of Sudbury's public schools is particularly valued. We expect that public officials, working in conjunction with others, will keep the sense of Sudbury's character at the forefront in their decision making process. In such undertakings openness, fairness, proactivity and a view to preservation of Sudbury's character and to the common good will be highly valued by Sudbury's citizens.";

It being after 10:30, the Moderator declared the meeting adjourned until tomorrow evening at 7:30.

The meeting was adjourned at 10:40 PM.

Attendance: 419

PROCEEDINGS

ADJOURNED ANNUAL TOWN MEETING

APRIL 7, 1998

(the full text and discussion on all articles is available on tape at the Town Clerk's office)

Pursuant to a Warrant issued by the Board of Selectmen, March 17, 1998, the inhabitants of the Town of Sudbury, qualified to vote in Town affairs, met in the Lincoln-Sudbury Regional High School Auditorium on Tuesday, April 7, 1998 for the second session of the Annual Town Meeting.

The meeting was called to order at 7:40 PM when a quorum was present.

ARTICLE 7. CONSERVATION LAND BOND ISSUE

To see if the Town will vote to raise and appropriate the sum of \$10,000,000, or any other sum, for the purpose of acquiring land or interests in land within the Town of Sudbury for general municipal, conservation, or resource protection purposes, said appropriation to be raised by borrowing, but each acquisition to be subject to a Town Meeting vote; such appropriation is contingent on a Proposition 2 1/2 override vote in a general election; or act on anything relative thereto.

Submitted by Petition.
(Two-thirds vote required)

PETITIONER'S REPORT: The Town of Sudbury is in a critical period during which its final contours may be determined forever. While other needs are perpetual and, in some cases, postponable, our ability to affect the basic fabric of our community character is time-sensitive and time-limited. As we approach full build-out under current zoning and the Town works to adopt a comprehensive Master Plan, many of our signature landscapes have recently been transformed. While this has a positive effect on our quality of life by attracting wholesome and valuable young families, it also imposes perpetual capital and operating costs on the Town as a whole and diminishes the rural character that attracted many of us here in the first place. Our successful investments in quality schools and other infrastructure have made Sudbury a magnet community, its land a commodity for which developers and home buyers are willing to pay high prices. This article seeks to provide some small means for the Town to include the costs of purchasing key land or interests in land as part of its planning for its future, especially during this critical period. We recognize that the Town cannot absorb the costs of saving even a significant majority of the remaining large tracts, but we hope the Town will be willing and able to plan and provide for some key acquisitions for various municipal purposes, including soccer fields, aquifer protection, and any other municipal needs, in addition to saving open space. The types of interests acquired need not be, as the Meachen purchase required, full ownership. In some cases, it will make sense to allow partial development of a parcel to save a larger piece; in others, purchase of development rights or scenic easements might be possible. Under this article, the Town Meeting would still have to approve each individual transaction and the override must be approved at the ballot box. Thus, the decision-making process will be completely democratic. No money will be borrowed for a single transaction until it has been approved by a Town Meeting vote. A single override that signifies the Town's intention to balance future development with critical public acquisitions is the most efficient way to assure that our municipal land acquisitions are made systematically, with a comprehensive perspective.

April 7, 1998

Kirsten Roopenian, 45 Harness Lane, speaking on behalf of the author of the article, Moved that this article be indefinitely postponed.

The Motion received a second.

Kirsten Roopenian spoke to the motion to indefinitely postpone. Last year Sudbury overwhelmingly passed a land bank initiative at the spring Town Meeting. Massachusetts has yet to definitively pass the statewide land bank bill. In the fall this body voted 5-1 in favor of purchasing the Meachen land for open space. The message sent to the town was clear, Sudbury must do what it can in a planned way to control the rapid development of remaining open land. A sense of urgency as well as support for this initiative prompted this article. The money would be used for the planned purchase of priority properties. The subsequent request for a Land Use Priorities Committee presented to the Selectmen demonstrated an additional opportunity for planned land purchase for the Town. While the authors of this article are committed to a land bond, it appeared that a list of priority properties and an effort to gain consensus amongst the various Town boards would significantly enhance the success of this type of issuance. The committee would consist of representatives from the Town Manager, Town Planner, Conservation Commission, Park and Recreation, a representative from a local land trust as well as citizen input. They would develop and present a list of land use priorities that would include open space, conservation, natural resource protection, recreation as well as future Town needs. This list would be presented to the Town at a future Town Meeting or Special Town Meeting. The land bond would be reintroduced at that time. In keeping with the vision for long-range, thoughtful planning as well as commitment to building consensus amongst the Town Boards, the proponents and I ask for your support for the indefinite postponement.

FINANCE COMMITTEE: The Finance Committee supports indefinite postponement.

BOARD OF SELECTMEN: The Board of Selectmen supports indefinite postponement.

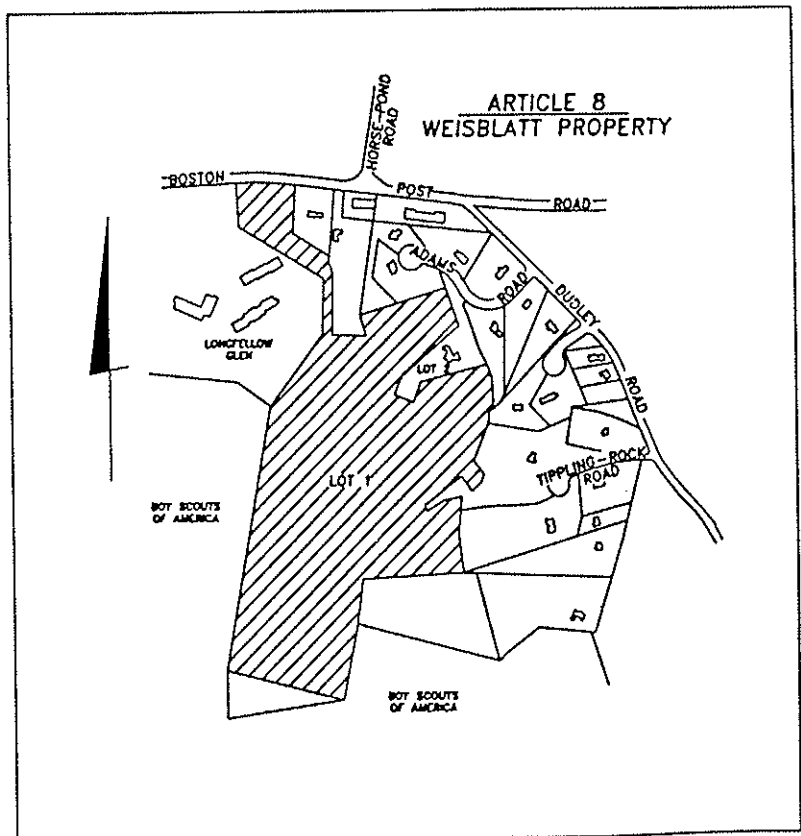
CONSERVATION COMMISSION: Debbie Howell, Victoria Road, the Conservation Commission also recommended indefinite postponement.

The Motion to Indefinitely Postpone was **VOTED**.

ARTICLE 8. TAKE WEISBLATT PROPERTY BY EMINENT DOMAIN

To see if the Town will vote to authorize and direct the Selectmen to acquire the land known as the Weisblatt property located on the northeast slope of Nobscot Mountain, off Adams Road and 641 Boston Post Road, being shown as Parcel 001 on Town Property Map L06, and Parcels 500 and 505, and a portion of Parcels 024, 029 and 502 on Town Property Map K06, or a portion thereof, more particularly shown as Lot #2 containing 42.30 acres on a plan dated January 27, 1998, Owner: A. Weisblatt Realty Trust, on file with the Sudbury Town Engineer and Planning Board Offices, together with a driveway easement over Lot #1 for the benefit of Lot #2, and subject to a driveway easement over Lot #2 for the benefit of Lot #1, all as shown on said plan, by a taking by eminent domain for the purposes of conservation, future pure drinking water potential, resource protection and passive recreation, and municipal use of small house and barn-garage at 641 Boston Post Road, and to appropriate the sum of \$4,900,000 or the Fair Market Value of said land and buildings, whichever is less, and to determine whether said sum shall be raised by borrowing or otherwise, subject to a Proposition 2 1/2 override; or act on anything relative thereto.

Submitted by Petition.
(Two-thirds vote required)



PETITIONERS REPORT (ART. 8): This land is listed on the Town's current open space plan and has been listed on that plan for preservation as open space since the plan's inception in the 1980's. It is a significant and scarce natural resource which at an elevation of 300 feet, is a part of Nobscot Mountain, and abuts over 600 acres of forest at the Nobscot Boy Scout Reservation in use by the Boy Scouts since 1928 and by the public for hiking. This land, as a part of Nobscot Mountain, is an historic landmark where the King Philip Indian Wars occurred and is a part of the Indian trails network. Hikers are not aware of any property lines. The panoramic views and aesthetic vistas from this land are incomparable to any other site in Sudbury, making it an important scenic value for all generations, now and in the future.

Water flows from this land into the aquifer that supplies our citizens with their drinking water from the main Town wells located downslope of this site. The water aquifer, hydrology of the land and sensitivity of the area, make this land a critical piece of open space, unique and not found in other parts of Town. To get the proposed road at the maximum slope of 6% (Planning Board Regulation), the developer has to blast down 55 feet of rock. This will blast the top off this northeast slope of Nobscot Mountain. Nobscot is an Indian term meaning "Fall of the Rocks". The choice is between preserving this fragile and environmentally sensitive parcel or watching the irreparable collapse of Nobscot Mountain, piece by piece with its deleterious effect on the quality of the Town's water resources.

By preserving this land as open space, Sudbury can preserve the characteristics which define our sense of place here in Sudbury and will bless and protect it for generations to follow.

Mark Lewis Moved to authorize the Board of Selectmen, acting on behalf of the Town of Sudbury, to purchase or take by eminent domain the land known as the Weisblatt property located on the Northeast slope of Nobscot Mountain, off Adams Road and 641 Boston Post Road, being shown as Parcel 001 on town property map L06, and parcels 500 and 505, and a portion of parcels 024, 029, and 502 on town property map K06, or a portion thereof, more particularly shown as lot #2 containing 42.3 acres and lot #1 containing 2.07 acres, on "Plan of Land in Sudbury, Mass. Owner: Adam Weisblatt Realty Trust," dated January 27, 1998, drawn by Schofield Brothers of New England, Inc., on file with the Sudbury Town Engineer and Planning Board offices, excluding therefrom lot #1 with the existing pool, garage, septic system and a portion of the driveway, as shown on the "Sketch Plan of Weisblatt Land" dated April 6, 1998, annexed to this motion, said revised lot #1 containing 3.7 acres, together with a driveway easement over lot #1 for the benefit of lot #2, and subject to a driveway easement over lot #2 for the benefit of lot #1, all as shown on said plans, for purposes of conservation, future pure drinking water potential, resource protection or passive recreation, and general municipal use of small house and barn-garage at 641 Boston Post Road; and to appropriate the sum of \$4,950,000 therefor and for all expenses in connection therewith, including bond and note issue expense; and to raise this appropriation the Treasurer, with the approval of the Selectmen, is authorized to borrow \$4,950,000 under General Laws, Ch. 44, Sec. 7; all appropriation hereunder to be contingent upon approval of a proposition 2½ debt exclusion in accordance with General Laws Ch. 59, s. 21c.

The Moderator requested that the Motion reflect that it was handed to the clerk in written form and that revised lot #1 contains 3.07 acres.

The Motion received a second.

Mr. Lewis was recognized in support of the motion. This revised motion is made with the Weisblatt's written support of eminent domain in an amount that will not exceed \$4,950,000. We received this letter earlier today with both Mr. Weisblatt and his wife's signature.

Mr. Lewis introduced himself and informed the hall that he had recently received his degree in Environment Studies from Southern Vermont College. He stated that he has been hiking the trails on Nobscot Mountain for many years.

He began with an introduction to the Weisblatt land and Nobscot Mountain. He asked that people not to make a judgement until all of the speakers had time to present their information.

Perhaps the best vantage point to view the landscape of Sudbury and the Metrowest area is Tippling Rock on the shoulder of Nobscot Mountain. On a clear day you can see the tops of Boston's tallest buildings to the east, Mt. Monadnock to the northwest, Mt. Wachusett to the west, and the Blue Hills to the southeast. For the most part, the beautiful, panoramic view from Nobscot Mountain appears as a continuous forest canopy of mixed stands of conifers and deciduous trees. The same area the bulldozer is about to change forever. Remember, this view is enjoyed by thousands of people who like this oasis, one that can never be duplicated once altered by development. It has been described by Steve Meyers, Chairman of the Conservation Commission as "the most pristine area inside the 495 belt. The Weisblatt land is an important and irreplaceable piece of Nobscot Mountain; it adjoins the Boy Scout Reservation and Tippling Rock. It is a continuum of the same ecosystem. This area is rich in history and is of important ecological significance.

It has towering white pine trees, three vernal pools, a waterfall, wildlife habitat for deer, porcupine, hawks and fox as well as ancient Indian burial grounds, all located either in or within a few feet of this area.

The proposed development will soon be the new shadow overlooking downtown Sudbury. Currently we see one house from downtown Sudbury that will be replaced by many, a shadow that will grow house by house or condo by condo that will forever increase your taxes. Remember, more development leads to larger school populations, higher school budgets, and permanent higher taxes. Conservation leads to smaller school budgets, smaller school populations, and a temporary minor increase in taxes. For those of you who are not familiar with the Weisblatt's Nobscot land area, one view from town is from the set of lights at the corner of Route 20 and Union Avenue. If you look west towards Marlborough and up slightly, the land area about to be altered forever stares you in the eye. I presently know of no city or town in the Commonwealth of Massachusetts that has ever purchased land and ever regretted it any time later. We must all realize that if the Weisblatt land is developed we are cutting the heart and soul out of the Nobscot Mountain. You can think of it this way, people go to Cape Cod for the ocean and beaches, Boy Scouts in Bolton go to Camp Resolute for its pristine lake and the Boy Scouts on Nobscot Mountain are here to stay. If the Weisblatt land and its surrounding environment stays intact this land is key to insure the protection of the complete mountain. Sometimes it takes community involvement and commitment to insure the future of a special place like Nobscot Mountain. The open space imperative is not just a case of newcomers wanting to lock the door behind them nor should it be tied to the debate of the availability of affordable housing. Saving Nobscot Mountain is simply the same impulse that led Boston's founders to set aside the Common and Public Gardens and conservationists to protect Yellowstone. The lands we treasure today were protected by public efforts from the time of the first settlers to the present. Now, let's do our part and continue with the future protection of a very important piece of the pie on Nobscot Mountain known as the Weisblatt land. The decision we make on this important irreplaceable piece of property is of regional importance. It is a decision that will send a message across the Bay State thanks to Channel 5 who will be filming this mountain on Wednesday, April 8 for a future *Chronicle* episode. Let's send a message to the Boy Scouts in Framingham who are doing their own part to protect this mountain. Framingham Town Meeting's Article 35 is to protect their part of the mountain which is taking place within a few days. The waves of growth are pounding Nobscot Mountain and I ask all of you to keep the roaring housing market from devouring the quality of life in our proud community.

FINANCE COMMITTEE: Emil Ragones, the Finance Committee recommends disapproval of this article because of the process of eminent domain and the cost to the Town at this time.

BOARD OF SELECTMEN: Lawrence Blacker, the Board of Selectmen held two positions, a majority and minority. Selectman Blacker will present the majority opinion. In my 28 years of attending Town Meeting this article is the second most irresponsible article that I can recall as coming before Town Meeting. You have to go back 20 years to find the first. It was the proposal that the Town purchase a skating rink and tennis court located on the property that later became Chiswick Park. So many people turned out that it was necessary to set up the Library and Rogers Theater with sound systems so that all of the voters could be accommodated. The petitioner then moved for indefinite postponement and upon the affirmative vote a mass exodus ensued. What we have before the hall is a NIMBY article, proposed by persons who live near the Weisblatt property who are disgruntled by the fact that a private land owner wants to sell his property and the locals will not be able to enjoy its nakedness for free. It has also been brought because of the fear that original proposal for the Weisblatt land, namely senior housing, is just aghast at the thought of that. Unlike the Meachen property where the cost that the town was to pay was a known quantity, the cost to the town will be that which a jury determines in a Court proceeding. Will it be the price that the Green Company is to pay Weisblatt? The answer is no. The price will be the fair market value at the time of the taking. The value of Sudbury land has escalated significantly from the time that Green Company and the Weisblatts put the property under agreement. Therefore, the Town will pay more. How much more? I do not know. If I were Mr. Weisblatt, I would want the Town to take it too. I would very much like it. Why? Because I am under agreement for sale that was made three years ago I would suggest to the Town that the price that will be gotten today is much higher, in addition the project that the Green Company is trying to work needs the approval of Boards and permits and, therefore, more time will ensue before the Weisblatts can realize the money that their property is worth. I have actually been

involved in two eminent domain cases. They are very simple cases. The Town gets an expert and he testifies that the property is worth X, that the highest and best use is whatever, in this case residential, and that the value is \$X. The landowner gets an appraiser and that appraiser testifies that the property is worth 2X or some other amount and then the jury determines what the value of the property is. That's it. Maybe there are two appraisers on one side, two on the other side. It is a game of experts. They get cross-examined to show the weakness of their position. You are leaving it up to a jury to decide how much the Town will pay. We had a debate last night on an override. Should we have a \$500,000 override? What the petitioners here are asking, should we have a \$5 million override, albeit for a period of time, because when the bonds get paid off we don't have to pay anymore. We recently got our tax bills, when will it end? Do you really want a jury to decide what the Town should pay? It is interesting to note finally that the open space plan that was recently put together lists this property as one of secondary interest. Let us use our limited resources to purchase priority interest property and not serve the interests of a few. A majority of the Board strongly urges that you turn this article down.

Selectman Maryann Clark, presented the minority opinion. "Private Property, Keep Out, That Means You." That sign will greet you when you leave the trails on the Boy Scout land and continue on those trails onto the Weisblatt land after it is developed. The developer has already said the public will no longer be allowed on the trails that criss-cross the Weisblatt land. As this photo shows, it is impossible to tell when you leave the Boy Scout land and enter the Weisblatt land. On one side is the Boy Scout and the other is the Weisblatt with a stone dividing it. Can you tell which is which? On the left is the Weisblatt on the right is the Boy Scout land. The next photo is of a stone wall divider. It probably won't be there for long, once construction begins. If we vote No on Article 8 and ignore preserving the Weisblatt land we're voting contrary to this open space and recreation plan which was prepared by the Conservation Commission sub-committee, the Open Space Committee, for 1997-2002, a five-year plan. Their planning report had just been unveiled in the last month or so. Such a plan is required in order to obtain State bonding funds for open space. Much work has gone into this. Set forth in the preface are the authors of this plan who deserve an exceptional thank you. They include Francis Clark, Susan Crane, Debbie Dineen, Richard Hanson, Jody Kablack, Carol Petrow, Sigrid Pickering, Ted Pickering, Pat Savage, and Charles Zucker. With special thanks to Debbie Greeno and Carol Petrow who put it together. What is the Draft Open Space Plan and how does it affect the Weisblatt land? The Weisblatt land is the top priority parcel for protection on the secondary list. Yes, Mr. Blacker is correct, it is the top parcel on the secondary list. The Committee used surveys for community input to determine the needs and goals. Those goals include establishing open space priorities, protection of the Town's water supply, protection of wildlife habitat, active and passive recreation, preservation of the Town's historic character, and trail linkage with the Bay Circuit trail which connects the Women's Federation Forest on Dutton Road to the Wayside Inn to the Weisblatt land to the Boy Scout land on over to the Callahan State Park in Framingham. It is a total continuum. The plan's inventory of private lands is divided into primary, shown as red on this map, and the secondary are green. Notice on the bottom left there is a big red splotch. That is the Boy Scout land. Adjoining that is a green parcel with 1 in it, that is the Weisblatt land. They join each other.

The report says the Weisblatt land would be a primary parcel if the Boy Scout land were protected. This is a case of which came first, the chicken or the egg. The Weisblatt land is for sale now, the Boy Scout land is not for sale. Shouldn't we act when the first parcel is for sale? The Weisblatt land is the key parcel to preserving the mountain. The Boy Scouts have owned the reservation since 1928 and it totals over 600 acres on the Sudbury-Framingham line. The Boy Scouts have adopted a strategic stewardship plan, which has been filed with the Sudbury Conservation Commission, and they are seeking a grant to implement it in 1998.

Results of surveys taken by this committee on a scale of 1-5 show the Town rates acquiring conservation at 4.7, protecting the Town's drinking water by acquiring lands 4.8, and 75% replied "yes" to voting Town funds for acquiring land acquisition. Replies expressed strong feelings about what they like most in Sudbury and the Weisblatt land epitomizes the rural character and the natural beauty everyone wants preserved. Lands already preserved on the mountain are those owned by the Department of Environmental Management and the Sudbury Conservation Commission. Though not formally protected in writing, the Boy Scout land has been open to the public since 1928. It is extremely popular for hiking, dog walking, birding and natural walks. It has a ranger living on site who oversees the trails. It is a truly unique

and special place. In fact, some churches hold Easter services on the mountain. I have a few photos of wild flowers found here. This is a serene pink *Ladyslipper*. The next one is the mysterious Indian Pipe, it is quite unique according to Audubon's pocket guide. When you attempt to pick it, it turns from stark white to ink jet black. It grows only in certain areas, and we are privileged to have that area here in Sudbury. The next one is a photo of Bob Long vernal pool, which is one of three vernal pools on the Weisblatt land. It is a breeding area. My last photo is of Sudbury's only waterfall. This is Brotherhood Falls, it is filled by the streams that flow off the Weisblatt land. With blasting those falls won't be around very long. The Open Space Plan recognizes that development pressures are severe. It says we must develop creative funding strategies but it doesn't say how. When a priority parcel is for sale a taking by eminent domain is a well-established method allowed by law to acquire land and it is being used more frequently to acquire open space. This is the case with the Weisblatt land, which is not subject to any of the Chapter 61s where the Town has first option to purchase. The result is the only methods available to acquire the Weisblatt land are by purchase and by eminent domain. Purchase is impossible. By the time the Town knows the land is for sale, it is under agreement. This leaves eminent domain as the only real method to acquire such land. In the list of 13 priority parcels in this open space plan, 6 are not subject to the Chapter 61s leaving eminent domain as the only real method available to acquire those lands. Nay-sayers will tell you war stories that they've tried a couple of cases and they are an expert in the field, that juries will come in with an exaggerated awards of triple and quadruple the amounts. We don't have that here. We have a willing seller who has put it in to writing. They have indicated that they will agree to a ceiling of \$4,950,000. That means that that is the top price. They are willing to get an appraisal to determine it if it is a lower amount. There is a sense of it being around \$3.5 to \$3.8 million. I don't think that is an unreasonable price to pay for this land. When you translate that into your everyday expenses it comes to about \$1.35 a week—the cost of a small cup of coffee. That is in the first year, in the second year it translates to approximately a \$1.00 Lottery scratch ticket.

Walking up the 300-foot incline on 30 Rod Road with former State Representative Barbara Gray last year, she told me that she couldn't understand why anyone would allow development up here. She has promised to help get funding from the State, State agencies, DEM, and State bond funds. She was Chairman of the Natural Resources Committee in the House of Representatives.

I'm often asked what is happening with the Framingham side of the mountain. This newspaper clipping of April 2, 1998 tells it all. The Framingham Planning Board unanimously supports the Whittenborg deal. Harriet Whittenborg owns 80 acres on the Framingham side of the mountain and she wants to convey her land to the town for conservation purposes. The cost of acquiring it would be split between the town and DEM, the Department of Environmental Management, the successor to the State Parks Commission. I spoke with the acquisition officer at DEM about helping Sudbury with funding this project, they felt they would be interested in it because it abuts the land that DEM already owns. That it could be moved up to the fast track. She wants me to get back to her tomorrow after Town Meeting and she can start the process for Sudbury. Joel Lerner's program on self-help needs Sudbury's application by June 1. That application requires this plan. That is why I am very thankful that this plan has been completed. Sudbury is eligible for a quarter of a million dollars of that money. Some land trusts also have money. I have been given another source by Senator Bob Durand, who is on the Senate Natural Resources Committee. I'm not at liberty to disclose that source at this time, however. I can honestly tell you it is very possible we can find \$1 million of funding that is available. The unique thing about Harriet Whittenborg's land is the well she put in at a depth of 1450 feet. It is yielding 200 gallons per minute, enough to supply the northwest section of Framingham. She believes she has tapped into the aquifer under the mountain. The Framingham Planning Board Chairman Sidney Gorowitz called support for the Framingham article a "no brainer" that will contribute to the preservation of open space. Their vote was unanimous for preservation. The need for all these acquisitions would not be today's problem if one rascal, Henry Ford, who owned all of Nobscot Mountain and its surrounding woodlands would have taken the advice of Arthur Comey of the New England Trail Conference. In this letter dated January 14, 1925, Arthur Comey wrote to Henry Ford in Dearborn, Michigan, suggesting that upon Ford's death this land should be made a state park where our citizens may hike and camp. A whole bunch of organizations endorsed it—The Massachusetts Department of Conservation, The Massachusetts Federation of Planning Boards, The Appalachian Mountain Club. Obviously Ford never took Comey's advice. This letter does show, however, that it was considered

important over 70 years ago. We still can preserve the whole mountain. Everything starts with taking that first little step.

Much has been written on the economics of preserving open land. Studies by the Conservation Law Foundation show that land preservation makes sense. Proximity to open space raises values of nearby properties and increases the tax base without raising expenditures and without changing the community complexion. Preserved open space can improve bond ratings and it can provide additional town income. The next chart shows for every \$1 of tax revenue the Town spends an average of \$1.10 for residential land, irrespective of whether it is single family or multi-family or condominiums as long as it is residential, and 39 cents for open space farmland. According to Hopkinton's Planning Board member who spoke on the cable program for the Strategic Planning Committee, Hopkinton spends \$1.15 for every \$1.00 of taxes received from residential property. Sudbury spends about the same. She made a statement that I totally agree with, she said, "The best way to stop building schools is to buy open space." Last night Superintendent Hurley said we've had a 33.5% growth in the number students between 1995 and 1997. What does all this mean? It means that carving the Weisblatt land out of the mountain will mutilate the mountain and there is no going back. It means this is a high-stakes poker game for a lot of future lives. If you won't preserve it for yourself, preserve it for your son or your grandson so he can be a Boy Scout. It means invest wisely in open space and pay now or let it pass you by and pay forever. This is your last chance to make a difference in your own quality of life and in the destiny of Sudbury's future. Don't let this happen. Vote yes on this article.

CONSERVATION COMMISSION: Steve Meyer, Firecut Lane, Chairman of the Conservation Commission. The Conservation Commission has to look at all properties in town that have ecological values and the kinds of values that Maryann just spoke about—wildlife, passive recreation values related to viewing wildlife and enjoying the natural landscape and preserving natural resources. We have to trade off those values against cost. We made the argument on the Meachen land for you in a Special Town Meeting.

Let me start by saying that the Commission is not going to tell you you should or should not vote for this article because it is a decision you are going to have to make based on your own sense of risk. We say risk because it is not clear what the dollar value is going to be. If we could guarantee that the price of this property was going to be \$5 million or less, I would strongly advocate its taking by eminent domain or purchase. My concern is based on what we have in front of us, we can't guarantee that. Let me address the ecological issues first. There is absolutely no doubt that Nobscot Mountain, and the Weisblatt property, which is about 7% of the mountain, is a fantastic ecological area. The wildlife habitat, the variation in landscape is really amazing, especially for this section of Massachusetts. One doesn't have to have endangered species to have a property that is a real ecological treasure. Nobscot Mountain—which is the Nobscot conservation land that the Town owns, the Boy Scout land of 700 acres, and the Weisblatt property—is clearly that treasure.

This is a section of a USGS map, where it says Nobscot Hill on the lower left, that is crown of the mountain. From there things move down, Tippling Rock, the Weisblatt property is slightly to the right of that. This only shows part of the mountain. The Sudbury Conservation Commission land is actually slightly above where it says Nobscot Hill. Most of it is Boy Scout land and the rest is private property. All the little black dots are homes. This area has amazing rock outcroppings, this may not appeal to most of you, but if there is any place left in this part of Massachusetts that has rattlesnakes, this is the place. The land is quite wild, in fact, it is probably the most wild area here. Debbie Dineen and I did the wildlife study for the Fort Devens annex and I have to say that this property is far more wild than that. It gives you a feeling of being out in the wilderness. I do agree that development of the Weisblatt property will change that look on that section of the mountain. It will not unalterably devastate the ecology of the mountain, no ecologist or wildlife biologist would say that it would. It will carve out that 7% chunk and change that area. The vernal pools that are there will be protected, some of the upland around them will be protected, but not they way they would have been with the original Green Company plan. There will be a clear impact. The rest of the mountain, assuming the Boy Scouts don't develop it, will be spared and its integrity will remain. The wildlife there will be more or less protected and the other 93% of the mountain will remain intact. You need to know that the Boy Scout land is not protected. It is a very important part of understanding the issue. They are currently having it appraised for its development value. The Boy Scout Council claims they would like to have a conservation restriction on the property purchased, at a cost of around \$10 to \$15 million to

April 7, 1998

prevent development. That is not to buy the land, that is only to buy the development rights. From the Conservation Commission standpoint, we want to be sure the Town has the \$10 to \$15 million when the Boy Scouts come around and say "would you like to buy these development rights," because that really is the key to protecting what some folks have called the crown jewel of the natural landscape in this area. The Weisblatt property is not that, the Boy Scout land is.

We have talked with a number of towns that have had hostile eminent domain takings and I emphasize the word "hostile" here because the letter that Mark mentioned may change things. He hoped that someone would read that letter into the record so that Town Counsel could respond to it. He gave examples of hostile takings in several communities, including Chatham, Barnstable and Beverly. This is a risk that we take in an eminent domain taking that is hostile. If the worst thing happens and the amount is increased we will not vote to purchase any land because we won't have the money. It is a concern and something that we have to think about.

Another thing he found about the eminent domain process was that once you are in it, you can't get out. If we could have an iron-clad legal document from the Weisblatt's that would say to us "no more than \$5 million and it's yours." I could support this with no problem but there is another side and since we got this information the Conservation Commission feels that you should be aware of it when you vote.

The Moderator requested that the letter from the Weisblatt's be brought to him if it was available.

The Moderator recognized Charlotte Broussard.

Charlotte Broussard, 30 Adams Road, identified herself as the wife of Adam Weisblatt. Ms. Broussard read a statement that she and her husband had prepared.

Four years ago when Adam and I decided to sell our land we never, ever dreamed that it would take this long and that I would be standing before Town Meeting under the current circumstances. When we initially heard of the taking we were very upset and very much against it. As we've thought about it, we began to realize that our point of view, what we really want, is closure. It's been four long years. We are tired, and still we do not know when we will be able to close on our land. While the Green Company has worked on a variety of alternatives, they nevertheless are not obligated to close until a plan is approved and we do not know how long that will be. More importantly, given the Board of Heath Regulations passed just last week, the opportunity for a senior residential community on our land may have been lost forever. In the end, although it is not our first choice, single family houses may be built. In addition, the Green Company has not been able to answer for us when the Town will approve the permitting. It is within this context that Adam and I decided to change our initial position with respect to this article. All we want is closure and an end to this process. We've enjoyed our land for 30 years and in some ways look forward to it being preserved as open space. If it is the will of the Town we will not object to our land being taken under this article. And, yes, we did sign a document with a ceiling of \$4,950,000.

The Moderator requested of Madam Clerk that a letter signed by Adam Weisblatt and Charlotte Broussard, addressed to whom it may concern, be included in the minutes of the meeting.

We, Charlotte Broussard, as trustee of the A. Weisblatt Realty Trust, and Adam Weisblatt, owners of Lot #2, off Adams Road, Sudbury, consisting of 41.3 acres, more or less, of undeveloped land exclusive of our home, improvements, garages, pool and septic systems, as shown on an Approval Not Required plan dated 1/27/98 on file with the Sudbury Engineering Office, Sudbury, Massachusetts, do hereby agree to support a friendly taking by eminent domain for the fair market value of this parcel of land only, provided that in the event that the Town appraiser appraises the land for greater than \$4.9 million we would accept \$4.9 million without engaging in litigation to contest the eminent domain taking.

April 7, 1998

Signed and Dated: April 6, 1998 by Adam Weisblatt and Charlotte Broussard

The Moderator recognized David Caligaris, speaking as President of the Green Company and not as a resident of Sudbury. For those of you who are not aware of our company, we have been in the business of creating distinctive residential communities for some 30 years. For the last 20 years we have focused on communities that appeal to both empty nest and retired buyers. Mr. Caligaris gave a brief background of the Green Company.

When we were first approached three years ago about getting involved in the Weisblatt land we felt comfortable about Sudbury as a place to build one of our new communities. We knew the town did not have a zoning by-law that would accommodate the type of housing that we do but we did feel that the merits of what we build would prevail. With all the new development being large single-family homes we felt this was an opportunity for the town to choose a form of housing that would generate positive tax revenue, preserve open space and provide an alternative for those residents looking to stay in town with some sort of a maintenance-free type of living. In the end the article was soundly defeated at the 1996 Town Meeting. At that time we decided to proceed with a State level comprehensive permit which would have permitted us to build 96 homes on the property, including affordable housing. At last year's Town Meeting, however, the Town passed a new article that would permit attached housing for those 55 and over. It is referred to as the SRC or Senior Residential Community. After much consideration and because we had committed ourselves to the Weisblatts to pursue a cluster sub-division, we put our comprehensive permit efforts on hold. Presently a cluster sub-division is approved for the property and we have submitted a plan for 57 homes under SRC by-law. We're hopeful that will be approved as well. Unfortunately, we've heard that the opposition that we have faced to date will continue from both the neighbors, the Board of Health and others. At this point we fully understand the position of the Weisblatts, three years is an awfully long time to wait on a final conclusion if you are looking to sell a piece of land. We, on the other hand, as potential future owners of this property are not in favor of the taking. We urge those who have not already made up their minds to vote no on this article.

Lee Swanson, 1 Hunt Road, Chair of the Sudbury Historical Society and Preservation and Management of Town Documents Committee. The Weisblatt land is a very particular type of land and it has a particular history. It is a mountain made of crystalline rocks of two types—quartzite and slate. In the formative years of this planet the two types of rock erupted between the layers which had been formed by deposition under the waters of the sea. This area ranks in age with not only the oldest parts of America but also the world. This is a very old formation of rocks on the Weisblatt land just as it is on Mt. Nobscot.

Mr. Swanson went on to give a detailed history of the mountain. He discussed Native American occupation of the area for 10,000 years and archeological digs. He talked about the important part this land plays in the history of Sudbury. He showed a box turtle, an endangered species, that he had found in the area.

Mr. Swanson noted that Henry David Thoreau had visited this hill and Mt. Nobscot in the 1840's and read a quote from Thoreau's *A Week on the Concord Merrimac River*. He urged support for the article.

Jeff Bernstein, Blueberry Hill Lane, stated that the eminent domain process is a necessary process for Sudbury to move into the future and it can be affordable considering Charlotte Broussard's comments. He hoped that he could convince the hall and the Finance Committee that it is an affordable vehicle for taking this land. He also wanted to be sure that people realized that the acquisition of open spaces is really the only predictable way we have to stabilize the current situation in Sudbury. The Conservation Law Foundation as well as Lincoln Land Institutes have done studies that have shown that the cost of open space and farmland is far below what it costs the Town for residential land. Failure to support this article will have the devastating effect of irreversibly changing the character of this town forever.

He felt that the main problem is with the balance of our population. Some groups require more services, others less. We need to create a balance between different groups so that the tax base can stabilize. He showed a slide illustrating taxes generated versus service costs for an average \$300,000 home. He

April 7, 1998

showed what the tax impact would be if we were bonded for \$3.5 million and for \$4.9 million. He discussed our debt limit and borrowing capacity.

Ursula Lyons, Wayside Inn Road, stated that her main purpose in speaking was to address the rumors about the Boy Scout's lack of commitment toward their 300 acres of land in Sudbury and their 300 acres of land in Framingham. She had been in contact with Dennis Prefontaine, Scout Executive of the Knox Trail Council of the Boy Scouts of America, and presented his letter of response. He said they are committed to Stewardship. She quoted from the Boy Scouts Annual Report "To Do List," "Be ready to acquire land as needed to protect the integrity of the outdoor experience, particularly at the Nobscot site." From another document entitled *A Strategy for Success Through Service 1998-2002* she quoted, "The Council has the responsibility to be a wise and caring steward of two exceptional properties in the Metro West area, Paul Robsham Scout Reservation in Bolton and the Nobscot Scout Reservation in Sudbury." The Plan calls for the preservation of these properties. She quoted Dennis Prefontaine as stating on March 26 "The Boy Scout land is not for sale."

She stated that everyone she had spoken with on Town Boards would rather see the Weisblatt land remain undeveloped but that it didn't seem possible. She urged support for the article.

Wayne Simpson, 84 Dudley Road, made a humorous but sarcastic presentation on the article. Ladies and Gentlemen, fellow citizens of Sudbury, ever since the dawn of time humans have yearned to subdivide the wilderness. For thousands of years our forbears have been surrounded by useless wasteland, not having the technology to exploit it to their useful purposes. By allowing the development of the Weisblatt land we have that chance to strike a blow even if only in a small way against the chaos and ugliness of nature and for the advancement of our species. It is our chance, nay my friends, our duty to help the Green Company with their noble aim of conquering this primitive patch of wilderness. Many of us have seen Nobscot Mountain and Tippling Rock from a distance. Indeed, that is one of its chief flaws. In our otherwise pleasantly flat, uniform landscape it sticks out like a sore thumb. The mountain draws attention to itself in a selfish, unpleasant way as if thumbing its nose at the rest of Sudbury. Call me a dreamer, my friends, but I possess a fond hope that in the future our descendants will have the technology and wisdom to entirely level the mountain, making it blend in more harmoniously with its surroundings. At least we can make a start by taming its slopes with roads, lawns, and fine homes. Let me speak briefly of the brave efforts of the Green Company to help us citizens rid ourselves of this pestilent breeding ground for wild flora and fauna. The Weisblatt property is no disused farmer's field, no undistinguished tract of bottomland, other less courageous developers have taken the easy route and applied their skills to these readily developed tracts which are plentifully available. In the Weisblatt land there are cliffs to be dynamited, ravines to be filled, pools to be drained. The Green Company is truly taking on a challenge and for this they deserve our fervent thanks. The task facing these stalwart upholders of progress is truly awesome. We can be sure that financial gain is an insignificant factor in their quest but let me say now, that they deserve every paltry million they manage to earn. I, myself, have become incensed at the foolishness of certain individuals in Sudbury who claim to actually value this fearsome jungle in its current state. Some have even claimed that the Town could actually open this area for recreation. I have ventured onto the land surrounding the Weisblatt property to see how our civilizing influence can improve this wasteland. When I attained the summit of Tippling Rock a frightening prospect greeted me. I could hear virtually nothing of the familiar sounds of delivery trucks, lawnmowers and other comforting civilized noises. Only the sinister sounds of wind and strange birds met my ears. I gazed out from the terrifying heights over what could have been a forest of 500 years ago. Indeed, I felt as though wolves and saber tooth cats could still be lurking down there in the woods so little could I see of our modern world. I shudder to think of our little children exposed to this awful, primordial scene, so empty of cars, lawns and driveways. I needn't tell you that we citizens of Sudbury will not stand this threat to our civilization in the very back yards such as the Weisblatt land represents. I only wonder how we have allowed it to remain undeveloped for so long. It is a threat to our children and indeed to our civilized way of life. It is a little known fact here in town, but I, Wayne Simpson, am the inventor and sole owner of the world's first time machine. You may gasp with astonishment and wonder, but just last week I traveled 100 years into the future to gaze upon what we have given to our children's children's children. I spoke with some concerned citizens of the future about our small efforts to civilize the Weisblatt property and when they found out it was us, in our time, that had

made the first moves to tame the land I became an instant hero to them. They were shocked to hear that there were people in our time who actually thought that the future citizens of Sudbury would actually appreciate having the land remain undeveloped. Of course, 100 years from now, the entire mountain had been bulldozed, paved, and beautifully decorated with neo-colonial homes but we made the first triumphant stroke, and from that stroke there was no turning back. The glorious process of civilization continued. I can only say that if we want this to be our legacy to our children, as I know all right-thinking voters do, then we should open the gates of the Weisblatt land to the Green Company's bulldozers.

The Moderator stated that he had a long list of speakers and urged presentation of new information rather than repetition of what had already been said.

PLANNING BOARD: Bill Cossart, 419 Concord Road, stated that the Planning Board was unanimously opposed to this article. He stated that the Planning Board had been planning for the future of this property for the past three years because they had been made aware that the owners were interested in selling and had a willing buyer. There have been several meetings and public hearings over the last several years with the owners, the developer and with a group of interested citizens with a strong interest in protecting the property. He stated that there was not a member on the Planning Board that wanted to see the land developed and that they were desperately looking for a way to prevent it from happening. There was a hope that an individual or organization would come along that would purchase the property for protection.

This property has received the most intensive scrutiny ever imposed upon a developer of any property in Sudbury. The developer hired 15 consultants to answer questions that were raised. They learned several things from the extensive research. There was no threat to the Town's water supply if the property was to be developed. There was no interest in using the land as a potential source of drinking water. The Title V requirements regarding sewage disposal could be met. There is no threat to any historical interest in the area. The Planning Board has developed a tremendous respect for the Green Company. They are a high quality and unique organization.

The Planning Board does not want to see single family homes built on the property and are now confident that the senior residential community can go forward. There is no question that the Town wants an SRC and the Weisblatt land is the preferred area. If the eminent domain were to be enacted we would lose that opportunity.

He stated that for several reasons eminent domain is an unwise decision. He finished by saying that the Town of Sudbury does not engage in eminent domain proceeding. It is an over the top, extraordinary type of action which we don't do. It flies in the face of years of planning. He urged a vote against it.

Lindsay Hoag, Horse Pond Road, spoke in favor of eminent domain for reasons including wildlife, school enrollment, and recreation.

The Moderator stated that he had been advised that there were two motions to amend. Mr. Wishner withdrew his motion.

Steve Meyer *Moved to amend the motion under Article 8 to add the sentence, "contingent upon receipt within one week of a mutually acceptable agreement between the Weisblatts and the Town for a friendly taking in a sum not to exceed \$4.95 million."*

The Motion received a second.

Steve Meyer addressed his motion. The Weisblatts expressed their clear intention to sell to the Town their property to be preserved in perpetuity as conservation land, however, their letter contained ambiguous technical legal language that requires clarification. Small but important revisions are required to protect the interests of both the Weisblatts and the Town. The Weisblatts do not have counsel with them so the letter can not be rewritten at this time. They have agreed to have it rewritten within a week to acknowledge the ceiling price of \$4.95 million. The property is worth this amount. We will apply for

April 7, 1998

reimbursement from the State but it is not guaranteed due to limited funds. If this passes, it will have to go to a Proposition 2 ½ override. The Conservation Commission strongly supports this article as amended.

BOARD OF SELECTMEN: Maryann Clark requested that the motion be reread. She stated that the intent was acceptable but questioned whether one week might be too short a time.

Maryann Clark *Moved to amend the amendment to two weeks.*

The Motion received a second.

Larry Blacker requested discussion on the secondary motion to amend. Because we will probably still be in session in one week, if something were to come up we would be able to discuss it. It will be no more difficult to write this document in one week than in two weeks. He urged defeat of the secondary amendment.

Ralph Tyler asked if it would be in order to make a motion that we postpone further consideration until a week from tonight.

The Moderator responded that he could make the motion.

Ralph Tyler *Moved to postpone to Tuesday, April 14, 1998 as the first order of business.*

The Motion received a second.

Ralph Tyler was recognized in favor of the motion.

Ursula Lyons requested clarification and stated she was against postponement.

Robert Coe, 14 Churchill Street, spoke in favor of postponement.

Dave Portney, 32 Adams Road, opposed the motion.

Larry O'Brien, Boston Post Road, posed a question of clarification.

Charlotte Broussard, 30 Adams Road, stated that she and her husband wanted the privilege to vote but that they would be out of town the following week.

The Motion to Amend was **DEFEATED**.

The motion on the floor now is Ms. Clark's Motion to Amend from one week to two weeks.

The secondary Motion to Amend was **DEFEATED**.

We are now on Motion to Amend that Mr. Meyer made.

Ed Kreitsek, Dudley Road, stated that the Weisblatt's letter indicated that they would be satisfied with \$4.9 million but that does not mean that is the ceiling of what the Town may have as liability exposure. The Green Company has invested a great deal. Does the \$4.9 include all liability or will the Town end up before a jury when others who have been damaged bring suit?

The Moderator asked Mr. Kreitsek to clarify his concern. He felt a representative of the Green Company would be an appropriate person to answer the question.

April 7, 1998

The Moderator asked David Caligaris if he wished to answer the question. He declined.

Mr. Kreitsek asked to place a question to the Weisblatts. Was it their intention to include all possible liability to the Town?

The Moderator asked Ms. Broussard if she would choose to answer.

Ms. Broussard responded that she could not answer the question.

The Moderator advised Mr. Kreitsek that he could put the question to Town Counsel. He asked Mr. Kenny if he was in a position to opine as to whether such an agreement could be worked out within a week or two.

Mr. Kenny responded that an agreement could be worked out within that time. With regard to the Green Company, he had no knowledge of the terms of the contract between the Weisblatts and the Green Company so he could not opine what their rights may or may not be. He did not know the extent of what their right in the property might be. If we come to an agreement with the owners of the property within a week and the motion is passed then they will be precluded from filing suit.

Mr. Kreitsek stated that the Town should know something of the range of its financial liability before it votes.

The Moderator responded to Mr. Kreitsek that he was not getting an answer to his question because people did not know the answer.

Pat Kinney, 4 Marlboro Road, asked for clarification of Mr. Kenny's statement regarding passage of the article.

Susan Crane, Old Lancaster Road, addressed her question to Mr. Kenny. If the agreement between the Weisblatts and the Town precludes litigation between the Town and the Weisblatts is the Town still vulnerable to a suit by the Green Company.

Mr. Kenny gave a general answer but stated there may be some contingencies. He restated that he did not know what ownership interests the Green Company has in the property or if they have a right to damages. There is no privity with the Town of Sudbury and they should not have any viable claim against the Town.

Ms. Crane asked if the Weisblatts hold free and clear title to the property or if anyone else holds title to the property.

Ms. Broussard responded yes, as far as she was aware, they held the title to the property.

Russ Kirby, Boston Post Road, asked the Moderator to read the amendment again.

The Moderator reread the amendment.

Mr. Kirby stated that it appeared to him that during the negotiations that will take place over the next week that this issue can be addressed and if it turns out that there is any liability that would take the total sum beyond the limit that it would not be a mutually acceptable agreement and therefore could be passed over.

The Moderator stated that that was correct.

Ralph Tyler urged defeat on the motion to amend.

April 7, 1998

Hans Lopater, Winsor Road, asked Town Counsel if the article passes, would it still be subject to a debt exclusion vote.

Mr. Kenney responded that he was correct.

Mr. Lopater asked if it was defeated at a debt exclusion vote, what liability would the town then have?

Mr. Kenney responded that there would be none.

The Motion to Amend was **VOTED**.

The Motion under Article 8 was **UNANIMOUSLY VOTED**.

ARTICLE 9. SPECIAL ACT -ROLLBACK TAXES FROM CHAPTER 61

To see if the Town will vote to petition the Great and General Court of the Commonwealth of Massachusetts to enact special legislation providing that funds collected as rollback or conveyance taxes, pursuant to General Laws Chapter 61, 61A and 61B, be placed in a fund to be disbursed under the direction of the Board of Selectmen for the purpose of providing funds for the acquisition and management of properties for conservation purposes; or act on anything relative thereto.

Submitted by the Planning Board.
(Majority vote required)

PLANNING BOARD REPORT: This article seeks to earmark funds collected from the payment of rollback taxes from properties taken out of Chapter 61 (61A and 61B) into an account to be used to acquire or investigate the purchasing of properties for municipal purposes. Over the past 5 years, approximately \$570,000 has been collected in the payment of back taxes on Chapter 61 properties. This money is considered windfall for the Town (unanticipated), and is deposited into the general fund. The premise of this article is to establish a bank account, using the periodic deposit of rollback taxes, in order to facilitate the purchase of properties by the Town.

While the annual amount of rollback taxes is small and nearly insignificant in terms of the purchase price of even one property, there are other costs associated with purchasing property. Often, in the process to acquire property, the Town must conduct appraisals of a property, at a cost which can exceed \$20,000. In addition, if an option for limited development exists, funds will be available to work on designs or plans. Having access to funds in order to fully prepare for land acquisition is an important tool in order to evaluate properties for environmental sensitivity and/or cost effectiveness.

Approving this article sends a message that funding for land acquisition is a priority in Sudbury. At the current rate of development, in nearly 10 years there will not be property left to preserve or buy, and the only means to fund operational costs will be to raise taxes. Buying land can slow the growth in Sudbury, thereby reducing future operational costs for services. This article, in conjunction with Article 7, will allow the Selectmen to make better informed decisions on land acquisition, avoiding the last minute rush to gather information on critical properties. We urge your support.

Jody Kablack *Moved to authorize and direct the selectmen to petition the Great and General Court of the Commonwealth of Massachusetts to enact legislation providing that funds collected as rollback or conveyance taxes pursuant to General Laws Chapter 61, 61A, and 61B, be placed in a fund to be disbursed under the direction of the Board of Selectmen for the purpose of providing funds for the acquisition and management of properties for conservation purposes, such Special Act to become effective without further submission to a Town Meeting.*

The Motion received a second.

Jody Kablack presented the article for the Planning Board. This article deals with the fundamental issue of land preservation and community character in Sudbury. Over the last 12 years over 1,000 acres of land have been developed into subdivisions. At the current rate of development most of the available undeveloped land will be gone within 15 years. If the Town desires to preserve open space for a variety of reasons including municipal purposes, to avoid the cost of services required with development, or to maintain the rural atmosphere, critical decisions regarding spending for open space acquisition must be made. Creative means of funding need to be sought out. This article is one such means. The premise of this article is to petition the State Legislature to enact special legislation allowing Town Meeting appropriation of tax monies collected when a property is taken out of Chapter 61 status. Chapter 61 is a tax status that allows the assessment of a property to be greatly reduced if the property is left undeveloped for a specific amount of time. The owner of the property receives a tax break while the property is under Chapter 61, however, when the property is taken out of that, accrued taxes for five or ten years are due to the Town.

Special legislation is required to appropriate money beyond the current fiscal year. Since the Town does not anticipate receiving rollback taxes, passage of this article is necessary. To our knowledge no other town in Massachusetts is earmarking these funds for open space funding, however, we feel that it is a creative and valid approach to this issue. One of the reasons for earmarking taxes collected after a property is taken out of Chapter 61 is quid pro quo. Chapter 61 status allows properties to remain as temporary open space. If a property is removed from this temporary status, the windfall collected should be used to replace that open space. Another reason to collect these funds is to allow the Town to become a player in the real estate market. Land in Sudbury is very expensive and without funds to research properties and do appraisals we will not be able to proactively control the Town's role in acquiring property. The Finance Committee recommends disapproval of this article. Over the past five years approximately \$570,000 have been collected from properties taken out of Chapter 61. In my research of other towns I have discovered that this is a huge amount of money, comparatively. It is not normally tracked in a separate fund but it is collected as it comes in and is considered windfall and is deposited into the General Fund for appropriation the following fiscal year. It is comforting in Sudbury that we have such a reserve fund. It is unsettling that this reserve account will be funded at the expense of funding for open space. From the mid 1970s to 1983 the Town annually appropriate funds for land acquisition into the Conservation Fund. The use of those funds stopped in 1983 due to fiscal constraints. While revenue forecasts for the next several years do not appear bright, we must go back to the basic premise of more development means more need for Town and school services. Permanently preventing development can keep the need for increased services in check. The Finance Committee in general favors bonding for land acquisition due to its near negligible effect on individual tax bills. It is agreed that for very costly purchases that is the sensible process, but having a land acquisition fund will allow the town to actively pursue parcels when the timing and process of Town Meeting does not. This article has the support of the Conservation Commission and the Strategic Planning Committee. We urge your support.

FINANCE COMMITTEE: Emil Ragonese, the Finance Committee recommends disapproval of this article because it would not allow the money to go into the General Fund and would restrict it for conservation purposes. Given the financial condition of the Town they felt it would be unwise to vote approval of the article on the part of the Finance Committee.

BOARD OF SELECTMEN: John Drobinski, the Board of Selectmen unanimously support the article.

CONSERVATION COMMISSION: Dick Bell, 24 Austin Road, member of the Conservation Commission. The Conservation Commission strongly supports the article. We believe that some active mechanism should be in place to allow the accumulation of funds to help with the acquisition of land for conservation purposes. Land purchases will still need to be approved by Town Meeting but there is a fair amount of work, such as appraisals and preliminary plans that needs to be done. This money will allow this process to proceed more smoothly. What could be a more appropriate use of funds from rollback taxes. The article shows that land for conservation purposes is important to Sudbury.

Joseph Klein, Stone Road, *Moved to amend the motion to strike the word "a" in front of the word fund and insert in place thereof "the general" and to strike the balance of the motion.*

The Motion received a second.

Mr. Klein spoke in favor of his motion. Such funds should be under the control of Town Meeting.

Mr. Blacker stated that currently rollback taxes from Chapter 61A and 61B come to the Town and are added to the General Fund. If this motion is defeated then this money goes into the "pot" like every other money. The purpose of this article is to earmark those funds for a specific purpose. If we passed the article, the Town of Sudbury does not have the authority to take rollback monies and put it in a separate fund. It needs the blessing of the Legislature. That is the purpose of the last paragraph. This amendment serves no purpose. If this amendment is passed you have defeated the article. If you defeat the article you end up in the same place as this amendment. By passing this amendment you never give the hall the opportunity to discuss the merits of this issue. He urged defeat of the amendment.

The Motion to Amend was **DEFEATED**.

Robert Coe, Churchill Street, stated that passage of this article would mean we were appropriating the money for conservation purposes.

Seth Kaplan, Douglas Drive, questioned the phrase "a fund to be disbursed under the direction of the Board of Selectmen." What role does the Town Manager play?

Larry Blacker responded that articles of this nature invariably have the Board of Selectmen or other elected officials take charge of this kind of account and not the Town Manager.

Mr. Blacker spoke in favor of the article.

Robert Coe stated that this article was a way of subverting Town Meeting in the decision about how we spend the money.

Ralph Tyler urged defeat of the article because this is money that has traditionally gone to Town services.

Steven Stolle, Finance Committee, supported Mr. Coe and Mr. Tyler's opinions.

Mary Jane Williams, 284 Peakham Road, supported the article. Asked if it was likely that the State Legislature would allow us to do this and if we had their support?

Larry Blacker stated that his past experience was that legislators almost always support this.

Bill Miniscalco, Hemlock Road, supported the article because it will allow purchases to be more consistent with our long-term plans.

Peter Anderson, Landham Road, stated that several people who urged defeat were concerned that we would be running off to buy land without Town Meeting approval. He felt that missed the point of the article since the amount of money designated would not be enough. He quoted the words of the article to demonstrate the intent. He urged support.

Debbie Dineen, 14 Firecut Lane, Conservation Coordinator spoke on behalf of the Conservation Commission in support of the article. She supported Mr. Anderson's remarks. She stated that we don't pursue more state funding for the purchase of land because we don't have the money to do appraisals up front. This fund would allow for that.

Ed Kreitsek, 59 Dudley Road, stated that it is not a windfall because the Town has been denied tax revenue while the property was in Chapter 61A. He supported the article.

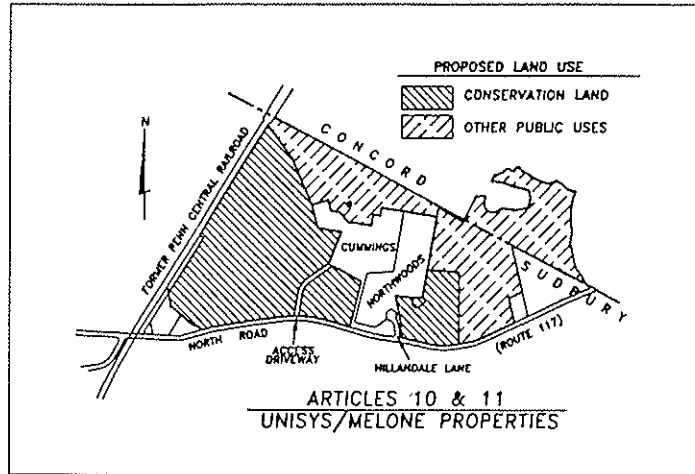
The Motion under Article 9 was **VOTED**.

April 7, 1998

**ARTICLE 10. DESIGNATE PORTION OF FORMER UNISYS AND MELONE LANDS
AS CONSERVATION LAND**

To see if the Town will vote to designate a portion of the former Unisys and Melone properties (a part of which is now referred to as the "Frost Farm Public Trail Area") for Conservation purposes subject to Massachusetts General Laws Chapter 40, Section 8C; or act on anything relative thereto.

Submitted by the Conservation Commission.
(Two-thirds vote required)



CONSERVATION COMMISSION REPORT: This article requests that approximately 67 acres of the former Unisys and Melone properties be designated as Conservation Land.

The former Unisys property now owned by the Town totals 76 acres. Including the adjacent Melone property located in Sudbury and Concord, the Town owns a total of 120 contiguous acres in the northeast corner of Sudbury.

The Conservation Commission has been working to provide public access to a portion of this area since its acquisition in 1992. With a state grant a small parking area was constructed, trails were posted and several well-attended, successful walks were held. The Commission should not use its limited funds for the continued management, maintenance, public access development or trail brochures on property that is not Conservation Land.

The 67 acres the Conservation Commission is requesting total approximately 35 acres of wetland resource areas, including Bear Pond, 12 acres of slopes averaging 12%, 15 acres of a field surrounded by wetlands and 5 acres of land that will not support septic systems as bedrock is within four feet of the surface.

In summary, the Conservation Commission is asking that the mostly non-developable portion of the site be designated for conservation purposes to allow the Commission to fully develop the property for public access and enjoyment.

Debbie Dineen, Conservation Commission, *Moved that the Town designate as conservation land the areas shown on the sketch entitled "Plan of Land for Conservation Designation Frost Farm Public Trail," drawn by the Town of Sudbury Engineering Department, dated April 2, 1998, and shown as wetland resource area, buffer zone/resource area, bedrock within 4 feet of surface, surface slopes over 12%, and upland area, which shall not include the areas designated for other public uses or the white areas designated as Cummings and Northwoods.*

The Motion received a second.

Debbie Dineen was recognized in support of the motion. In 1992 and 1993 the Town purchased 120 acres on the Sudbury/Concord border. To date the only use of the property has been gravel excavation for the sale and use as land fill cover and limited public access on an unmaintained trail network. An opportunity now exists to open 55 acres of this site for public enjoyment and protect significant ecological landscape and wildlife habitat areas. We are asking for a land purchase but we are asking for no money. We have already purchased this and are well into paying the bond for it. The report in the Warrant refers to the designation of 67 acres while the plan on the screen shows only 55 acres. The Commission has reduced the amount of acreage to accommodate a request from the Housing Task Force. Should the Town decide to construct a senior residential community, the zoning bylaw as currently worded requires a minimum of 35 acres. The 12 acres removed from our request could become part of the required 50% open space in a senior residential community plan with easements in place to continue the trail network. The Commission recognizes that the Town has many land use priorities, therefore, we are asking that only the non-buildable areas of the site be designated as conservation land. These areas include wetland resource areas, including the 100-foot wetland buffer zone, areas with bedrock within four feet of the surface, a land-locked upland field, and areas with slopes over 12%. These areas are all shown and indicated on the map on the screen. Existing trails are through open meadows and forested upland with numerous rock outcroppings. Several vernal pools exist on the property. The most notable is Bear Pond, a glacial kettlehole with salamanders, peepers, wood frogs, tree frogs, visiting herons and kingfishers. Red-tailed, Broad-shouldered, and Northern Harrier hawks can be seen circling the meadows. A moonlight cross-country ski or evening walk will be accompanied by the calls of bard owls, great horned owls, whippoorwills and woodcock. In 1994 the Commission obtained a grant in the amount of \$2,350 to enhance public access to this area. Trail signs were made and an Eagle Scout candidate project was approved and completed. The project was the construction and placement of a footbridge over a stream to link two trail areas and the installation of a sign at the entrance on Route 117. With remaining funds in the grant and with the help of the Director of Public works, a small gravel parking area was created. Designation of the 55 acres of conservation land will give the land protection under Article 97 of the State's Constitution. Removal of the land from conservation designation will not only require the approval of Town Meeting but also of the State Legislature. The Conservation Commission would like to continue with plans to create a trailhead, develop trail maps, install signs directing the public to the parking area and manage and maintain the property for maximum public enjoyment while maintaining meaningful wildlife habitat including the existing agricultural fields. We hope to work with the developer of the Northlands Assisted Living Project to construct the first handicapped accessible trail on Town land.

To summarize, this land designation does not require the appropriation of any funds, the Town currently owns the property. The land that we are requesting is not the desirable areas for building and the trail system already exists on this property. All the Commission is asking is that we have the opportunity to enhance that trail system, to maintain it, and to develop trail brochures to make it easier and more enjoyable for people to use the land. A map of existing trails and how they connect to other parcels was shown.

When we purchased this property in the early 1990s part of the presentation at that time included gravel removal on the site to help offset the cost. That program currently is in place, graveling has been done and on the sections of the property that the Commission is asking for the graveling has been completed. Final grading is in process. We are not asking for any land that would preclude the Town from gaining additional income from the gravel removal. I have a letter from the Director of Public works that states that all the graveling that needs to be done in that area has been done and he has no intention to do additional graveling in any of the areas that we are asking for. Slides illustrating the area were shown.

FINANCE COMMITTEE: Emil Ragonas, the Finance Committee takes no position on this article.

BOARD OF SELECTMEN: Larry Blacker, a year ago the Conservation Commission sought support in taking control of a portion of the Unisys property. The land was initially purchased to resolve a lawsuit with the hope that the Town could somehow recover some of their costs or otherwise utilize the land for town needs. This amended proposal satisfies all of the concerns and the Board of Selectmen support the article.

STRATEGIC PLANNING COMMITTEE: Peggy Fredrickson, 170 Haynes Road, the Strategic Planning Committee supports this article. It is part of an overall plan for that land and it is in the best interest of the Town.

April 7, 1998

Hank Tober, Ames Road, felt that the developer of Northwood would take advantage of this conservation land to his own benefit.

Larry O'Brien, Planning Board. The Planning Board has voted unanimously to support Article 10 and the preservation of this land as a conservation area.

Dan Claff, Dutton Road, member of the Housing Task Force. They support this article, having worked out the boundaries of the properties with the Conservation Commission. It should also be noted that the Conservation Commission reduced their request by 12 acres so that there would be a 35-acre count. He assured the hall that the 12 acres would be kept in conservation state.

Ralph Tyler asked if we needed to go to the Town for a vote to change the purpose of the land. He also asked if procedure had been followed with the controlling Board.

Mr. Blacker responded that he did not have an answer to Mr. Tyler's first question. The answer to the second question is that that is what we are doing here. We are asking Town Meeting to authorize the transfer of a portion of this property from general municipal use to conservation use.

Mr. Tyler stated that he thought the Board of Selectmen had to have a formal vote that it is surplus to general municipal use.

Mr. Blacker responded that they do not have to do that for conservation.

Martha Coe, 14 Churchill Street, stated that the parcel was listed as 67 acres in the Warrant and there was no warning given that the status of the land was going to change in order to put a development on it.

Debbie Dineen, spoke to clarify Mr. Tyler's issue regarding the Selectmen declaring the land excess. She has met with Town Counsel on this question. They are not asking for the land to be transferred so there is no need to excess it first. They are requesting that it be designated by the Selectmen as conservation land.

She also addressed the issue of Article 11 and the SRC. Although the Conservation Commission worked with the Housing Task Force on developing an overall plan for the property, the articles are independent. Approval of Article 10 does not mean that you are approving anything to happen on the balance of the property.

Henry Chandonait, 15 Stonebrook Road, spoke in support of the article.

The motion under Article 10 was **UNANIMOUSLY VOTED**.

The Moderator declared the meeting adjourned until 7:30 tomorrow evening.

The meeting was adjourned at 10:45 PM.

Attendance: 461

PROCEEDINGS

ADJOURNED ANNUAL TOWN MEETING

APRIL 8, 1998

(the full text and discussion on all articles is available on tape at the Town Clerk's office)

Pursuant to a Warrant issued by the Board of Selectmen, March 17, 1998, the inhabitants of the Town of Sudbury, qualified to vote in Town affairs, met in the Lincoln-Sudbury Regional High School Auditorium on Wednesday, April 8, 1998 for the third session of the Annual Town Meeting.

The meeting was called to order at 7:40 PM when a quorum was present.

The Moderator announced that Steve Stolle would be leaving the Finance Committee this year. He commended the work that the Committee has done this year with Mr. Stolle as Chairman.

The Moderator announced that Larry Jordan Rowe of 10 Spiller Circle was appointed to replace Mr. Stolle on the Finance Committee. He is a member of the American Massachusetts Boston Bar Association and is Mr. Dignan's law partner.

ARTICLE 11. RESOLUTION - HOUSING TASK FORCE

To see if the Town will vote to pass a non-binding resolution to encourage the Housing Task Force of the Strategic Planning Committee to plan for moderately priced housing for purchase by people over 55, on a portion of the Town-owned former Unisys property and former Melone property; or act on anything relative thereto.

Submitted by Petition on behalf of the Strategic Planning Committee.
(Majority vote required)

PETITIONERS REPORT: Several private developers have proposed condos for people over 55 in Sudbury during the past two years, but all of those units would be priced in the \$300,000-\$600,000 range due largely to the high cost of land. The Housing Task Force of the Strategic Planning Committee has determined that there is a need in Town for moderately priced housing for people over 55. Keeping such older adults in Town is in the Town's interest: such childless households typically pay more in taxes than they use in services and their personal history and knowledge enriches the social fabric of the Town.

In order to address the gap in housing availability for Sudbury's relatively healthy, aging population of modest means, the SPC envisions a Town-sponsored development that would transfer Town-owned land at less than market value to a private developer through a competitive bid process with the stipulation that housing be built there that meets the following specific goals: home ownership for people over 55 years of age; preference for Sudbury residents; and individual selling prices from approximately \$80,000 to \$200,000 (depending upon how much is charged for the land and whether a portion of the development is to "count" toward the goal that 10% of the Town's housing meet state criteria for affordability). Deed restrictions would limit resale prices in perpetuity to prevent the reaping of windfall profits. Such housing would allow these older adults to remain in Town when their houses become too large and expensive to maintain, while simultaneously enabling the Town to collect taxes on land that is currently untaxed, without additional pressure on Town resources.

This plan complements the Conservation Commission's desire to obtain the greatest portion of the former Unisys and Melone properties for preservation in its natural state, and is presented as one component of a comprehensive plan.

If this resolution passes, the group will return to a future Town Meeting with a specific and detailed plan for approval by the voters.

April 8, 1998

PLANNING BOARD REPORT: The Planning Board strongly supports this resolution. The Strategic Planning Committee's Housing Task Force has done its homework, and reconfirmed a long-standing and widely recognized need for moderately priced housing for Sudbury's older residents. The Planning Board has initiated and supported past efforts to provide housing for a wide economic spectrum. This resolution is a straightforward test of general Town sentiment to proceed to develop a plan. Any resulting plan will be presented for acceptance by the Town, after open review and evaluation. The Unisys property has been unused since its purchase by the Town in 1992, while a land use plan which preserves the environment and meets a growing need has been worked out. This article, along with Article 10, will bring that purchase to fruition.

Dan Claff *Moved in the words of the Article.*

Dan Claff, Dutton Road, was recognized in support of the motion. He identified himself as a member of the Housing Task Force. He stated that this is a simple article. It asks first if you want to see moderately priced senior housing built in Sudbury, and second, do you approve of the proposed site as do your Selectmen, the Planning Board, the Finance Committee, the Conservation Commission, the Council on Aging, the Strategic Planning Committee, several clergy and quite a few others. He clarified that this addresses senior housing, for purchase only and moderately priced.

He showed a slide with a comparison of Sudbury to neighboring towns that illustrated that Sudbury has not addressed this need as other towns have. When the Housing Task Force was initiated as one of the spinout groups of the Strategic Planning Committee, it was asked to identify and prioritize Sudbury's housing shortfalls. The Task Force quickly realized a very serious need for both senior housing and for affordable housing for all age groups. We focused on senior housing first for a simple reason—any affordable housing initiative will only further increase school costs while senior housing does not. Sudbury does need to make a decision about housing for younger families of more moderate income. Do you want to see your teachers, firemen, police and town employees be able to live in the town or will they be forever priced out?

What sort of project is being considered? An overhead was shown of the parcel for which a plan could be developed. The parcel would be reserved for clustered senior townhouses and will easily support the building of between 25 and 35 units of one and two bedrooms. These would be designed to sell for between \$160,000 and \$190,000. Should the Town officials feel strongly and should you agree, one quarter of these units could be priced as affordable, that being approximately \$90,000 as presently defined by the State. Why would that be worth consideration? Because Sudbury eventually must meet the State requirement that 10% of its housing stock be affordable by State definition. As of tonight, Sudbury is at 4% and very slowly slipping backwards.

What does a yes vote mean tonight? Will construction begin tomorrow or next week? No, in fact not until we return to a future Town Meeting. Your yes vote tonight only instructs the Task Force to develop a plan for this parcel and then return to a future Town Meeting for your approval.

He listed the advantages of the plan.

- The parcel is almost completely planned out.
- The usage is very nicely mixed and precludes the impact of any more single-family homes.
- A very serious senior need is finally being addressed proactively by our town and a very affirming message is sent to Sudbury seniors.
- More than 100 acres of green space is assured. The proposed senior housing will occupy less than one-half of the parcel, the rest will stay open and natural.
- Revenues will be produced by the Cummings property.
- It will be next to Northwoods.
- There will be sales from the gravel pit. The Town has already capped the landfill at no cost.
- The land, still town owned, later will be available for some use.
- There is a health return on Sudbury's investment for that property.
- There will be no increased school costs.

Mr. Claff urged support of the article.

April 8, 1998

FINANCE COMMITTEE: Emil Ragonese, the Finance Committee takes no position on this article.

BOARD OF SELECTMEN: Maryann Clark, the Selectmen unanimously support this resolution and thank each member of the Housing Task Force for bringing it to Town Meeting.

COUNCIL ON AGING: Carol Oram, 15 Pennymeadow Road, Chairman of the Sudbury Council on Aging stated that the Council strongly endorses the article.

SUDBURY HOUSING AUTHORITY: Bettie Kornegay, 35 Hickory Road, Co-Chair of the Sudbury Housing Authority. They strongly support Article 11, sponsored by the Housing Task Force and the Strategic Planning Committee. Increasing the diversity of housing in our community is very positive because it allows for an increase in the diversity of our population. When a community is composed of seniors and young people, wealthy, poor, and people of moderate means the community is enriched and all can benefit. In the case of this resolution, which would encourage the development of a plan for housing that will allow Sudbury's seniors of moderate means to remain in their own community, the entire town will benefit from the accumulated experience, the vast knowledge and the continuing contribution of these people. Let us not close this group of people out of the Sudbury life they have been a part of for so many years. We ask you to join us in supporting this article.

CONSERVATION COMMISSION: Steve Meyer, Firecut Lane, Chairman of the Conservation Commission. The Commission supports this resolution quite strongly. A properly designed senior residential community would be consistent with the preservation of surrounding open space on this parcel.

PLANNING BOARD: Larry O'Brien, the Planning Board unanimously supports the article.

Henry Chandonait, 15 Stonebrook Road, identified himself as a long-time resident who wants to stay in Sudbury. He spoke in support of the article.

Jeff Bernstein, Blueberry Hill Lane, questioned why is the age of ownership set at people 55 years of age and older? He supported the article.

Dan Claff responded that the article was designed to sit upon the senior residential community article that was passed last year. It calls for a minimum age of 55.

Mr. Claff announced that three more endorsements were delivered to him that he wished to share-- Rabbi Kushner of Temple Beth El, Dr. Doris Hunter of the First Parish of Sudbury and Larry Wolf, the Pastor at St. John's Evangelical Lutheran Church. He asked the Housing Task Force to stand for recognition.

Ralph Tyler Moved to insert the words "rent or" after the word the word "for" and before the word "purchase" in the article as printed in the Warrant.

The Motion received a second.

Mr. Tyler was recognized in support of the motion. He stated his support for this use of the property. He gave reasons why we should not preclude the idea that a rental project might make sense.

- Traditionally, when you sold your home if you didn't rollover the proceeds into another real estate venture you were taxed on the gains. We now have a situation where seniors are able to sell their houses and convert all of that money into cash for their future living expenses without tax considerations up to \$250,000 for an individual and \$500,000 for a couple. There is now no compelling reason that you have to roll your money into a purchase.
- Many seniors are real estate poor in the sense that their assets are tied up in real estate. If they need money for living expenses they are strapped, because their money is in the property. While these are moderately priced houses, the money could go a long way for living expenses.

April 8, 1998

- If the Town were borrowing money at today's interest rates, a project like this could be financed far lower than if someone else needed to get a reverse mortgage to get cash out of the condominium in order to live.
- Another reason we should think about rental is that after the first round of purchases, the Town will lose control over who might go into those properties. When they are turned over the new buyers may have no relationship to Sudbury, they won't necessarily be long-time residents. If we are devoting town land to this project then the town should have a continuing interest in helping to choose the neediest people from our community who might want to live there. We can do that if it is a rental property while it is very difficult to do if they are sold.
- While the intent is to control the price of these properties on resale to make them affordable, over a long period of time we may have a situation where the market might be willing to pay far more than we would say would be appropriate for moderate income families.

There are many reasons to say that we shouldn't preclude the rental option as this program goes forward. He urged support for the amendment because it takes nothing away from the article but allows another option to be considered.

Larry Blacker, stated that he completely agreed with Mr. Tyler's amendment. He asked that the hall support it.

Jim Gish, 35 Rolling Lane, enthusiastically supported the main motion and the amendment.

Larry O'Brien, Planning Board, pointed out that the senior residential community bylaw, as passed last year, only allows for owner occupied units. The Planning Board took no position on the amendment.

Ralph Tyler stated that if it were developed by the Sudbury Housing Authority, not subject to zoning in any case, it would not be an issue. It could also be brought back to Town Meeting to change that provision. He did not feel that it was a reason not to do it.

Henry Chandonait, 15 Stonebrook Road, stated that he was uncomfortable with amendments that come up that don't allow a chance to be looked into. He said no to the amendment.

The Motion to Amend was **VOTED**.

Robert Phillips, 173 Peakham Road, asked if any thought had been given to transportation for these people to get to stores, drug stores, supermarkets, social activities, etc. Since there will be people who don't drive, will the Senior Center provide a bus to take people to the supermarket or to the Doctor, etc.?

Ruth Griesel, Director of the Senior Center, addressed the question of van service. She explained that they have a van that operates Tuesday through Friday from 9:00 a.m. to 3:00 p.m. On Monday the van goes to shopping centers outside of Sudbury. This service would be available to those living on the Unisys property.

Harold Cutler, 163 Landham Road, added two more letters of endorsement, one from Rev. Lisa Schoenwetter of Memorial Congregational Church and one from several members of the Church Council of Memorial Congregational Church. They strongly support this article.

The Resolution under Article 11 as amended was **UNANIMOUSLY VOTED**.

ARTICLE 12. SCHOOLS - EARLY CHILDHOOD REVOLVING FUND

To see if the Town will vote pursuant to Massachusetts General Laws, Chapter 44, Section 53E1/2, to authorize for FY99 a revolving fund for the purpose of providing additional or supplemental early childhood instruction to be funded by user fee collection; or act on anything relative thereto.

Submitted by the Sudbury School Committee.
(Majority vote required)

SCHOOL COMMITTEE REPORT: Over the past several years, the School Department has been receiving payments from the students to offset the cost of early childhood instruction. The amount of offset has been shown each year in the warrant as part of the School Department's budget. In order to continue to use the offset funds, Town Counsel advises that a revolving fund must be authorized each year at the Annual Town Meeting. Passage of this article achieves that purpose.

Greg Lauer *Moved* to authorize for Fiscal Year 1999 the use of revolving fund by the Sudbury Schools for the purpose of providing additional or supplemental early childhood instruction to be funded by tuition collected; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws C.44§53E ½, and expended under the direction of the Sudbury School Committee; the amount to be expended therefrom shall not exceed the sum of \$20,000.

The Motion received a second.

Mr. Lauer, Chairman of the Sudbury School Committee, spoke in favor of the motion. He stated that the School Department collects fees for early childhood education and applies them as an offset against costs. This article allows them to continue with that practice.

FINANCE COMMITTEE: The Finance Committee recommends approval of this article.

BOARD OF SELECTMEN: Mr. Blacker, the Board of Selectmen supports this article.

The Motion under Article 12 was **UNANIMOUSLY VOTED.**

April 8, 1998

ARTICLE 13. BUS REVOLVING FUND

To see if the Town will vote pursuant to Massachusetts General Laws, Chapter 44, Section 53E1/2, to authorize for FY99 a revolving fund for the purpose of providing additional or supplemental school transportation to be funded by user fee collection; or act on anything relative thereto.

Submitted by the Sudbury School Committee.
(Majority vote required)

SCHOOL COMMITTEE REPORT: Since September of 1991, the School Department has been receiving payments from the students to offset the cost of school bus transportation. The amount offset has been shown each year in the warrant as part of the School Department's budget. In order to continue to use the offset funds, Town Counsel advises that a revolving fund must be authorized each year at the Annual Town Meeting. Passage of this article achieves that purpose.

Greg Lauer Moved to authorize for fiscal year 1999 the use of a revolving fund by the Sudbury Schools for the purpose of providing additional or supplemental school transportation to be funded by user fees collected; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, C. 44, §53E 1/2, and expended under the direction of the Sudbury School Committee; the amount to be expended therefrom shall not exceed the sum of \$85,000.

The motion received a second.

Mr. Lauer spoke in favor of the article. The Sudbury Schools currently collect a bus fee from students who live within two miles of their school and use this as an offset to the expenses of providing transportation. This article allows us to continue with that activity.

FINANCE COMMITTEE: Mr. Bayer, the Finance Committee recommends approval of this article.

BOARD OF SELECTMEN: Mr. Blacker, the Board of Selectmen supports this article.

The Motion under Article 13 was **UNANIMOUSLY VOTED.**

ARTICLE 14. COUNCIL ON AGING REVOLVING FUND

To see if the Town will vote to authorize for FY99, the use of a revolving fund by the Council on Aging for Senior Center classes and programs, to be funded by user fees collected; said fund to be maintained as a separate account, in accordance with Massachusetts General Laws, Chapter 44, Section 53E1/2, and expended under the direction of the Council on Aging; or act on anything relative thereto.

Submitted by the Council on Aging.
(Majority vote required)

COUNCIL ON AGING REPORT: Classes and programs at the Fairbank Senior Center are self-funding. The Council on Aging requests Town Meeting approval for FY99 to continue using a revolving account to receive fees and pay expenses related to classes and programs.

Ruth Griesel Moved to authorize for fiscal year 1999 the use of a revolving fund by the Council on Aging for Senior Center classes and programs, to be funded by user fees collected; said fund to be maintained as a separate account, in accordance with Massachusetts General Laws, Chapter 44, Section 53E 1/2, and expended under the direction of the Council on Aging; the amount to be expended therefrom shall not exceed the sum of \$10,000.

The Motion received a second.

Ruth Griesel was recognized in support of the motion. The Council on Aging's budget does not have anything in it for programs but expenses are incurred for instructor fees and other expenses. They do have to collect from users. This fund enables them to do this.

FINANCE COMMITTEE: Ms. Stewart, the Finance Committee recommends approval of this article.

BOARD OF SELECTMEN: Mr. Blacker, the Board of Selectmen supports this article.

Russ Kirby, Boston Post Road, posed a question regarding the limit on the sum to be expended in each of the last three articles. What happens if more monies are collected over and above the limit? What happens to the balance?

Paul Kenny, Town Counsel, responded that the balance gets carried over to the following year. In the event that the revolving fund is terminated then the balance goes into the general fund.

The Motion under Article 14 was **UNANIMOUSLY VOTED.**

ARTICLE 15. GOODNOW LIBRARY REVOLVING FUND

To see if the Town will vote to authorize for FY99, the use of a revolving fund by the Goodnow Library for maintenance and utility charges for the Multi-Purpose Room, to be funded by all receipts from the room reservation charge policy for non-Town (municipal) agencies; said fund to be maintained as a separate account, in accordance with Massachusetts General Laws, Chapter 44, Section 53E1/2, and expended under the direction of the Trustees of the Goodnow Library; the amount to be expended therefrom shall not exceed the sum of \$1,400; or act on anything relative thereto.

Submitted by the Goodnow Library Trustees.
(Majority vote required)

GOODNOW LIBRARY TRUSTEE REPORT: State law requires that Town Meeting approve this fund annually. The revolving fund provides additional funds for Goodnow's Building Maintenance budget. Prior to its existence, the Maintenance Budget often fell short of meeting basic maintenance costs. The Library either requested emergency transfers or delayed maintenance or making repairs. Since the Library is operating out of Town Hall in FY98, it will not generate any funds. The Library plans to be operating at Goodnow again in the second half of FY99.

William Talentino *Moved to authorize for fiscal year 1999, the use of a revolving fund by the Goodnow Library for maintenance and utility charges for the multi-purpose room, be funded by all receipts from the room reservation charge policy for non-town agencies, said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, C.44, §53E 1/2, and expended under the direction of the Trustees of the Goodnow Library; the amount to be expended therefrom shall not exceed the sum of \$1,400.*

The Motion received a second.

Mr. Talentino was recognized in support of the motion. State law requires that Town Meeting approve this fund annually and it has done so every year since the article was first introduced in 1991.

FINANCE COMMITTEE: Mr. Nogelo, the Finance Committee recommends approval of this article.

BOARD OF SELECTMEN: Mr. Drobinski, the Board of Selectmen supports this article.

The Motion under Article 15 was **UNANIMOUSLY VOTED**.

ARTICLE 16. LIBRARY PRESERVATION RESTRICTION

To see if the Town will vote to authorize and direct the Board of Selectmen to grant a ten-year Historical Preservation Restriction on the buildings constituting the Goodnow Library, 21 Concord Road, including the Civil War Memorial statue located on the Library property, to the Commonwealth of Massachusetts or the Massachusetts Historical Commission, or non-profit organization, whichever is appropriate; or act on anything relative thereto.

Submitted by the Board of Selectmen.
(Two-thirds vote required)

BOARD OF SELECTMEN REPORT: The Goodnow Library Trustees have filed an application with the Massachusetts Historical Commission for a grant which would assist in the restoration of the 1862 and 1894 portions of the building. Included in this grant application is work on the Civil War statue. The total cost of this work is estimated to cost \$200,000. The state grant would pay 50% of the costs. The restoration expenses would not add any additional costs to the Town. In order to qualify for the grant, a preservation restriction must be given to the Massachusetts Historical Commission, or a non-profit organization. The Selectmen and Library Trustees ask for your support of this article.

Mr. Drobinski *Moved in the words of the Article.*

The Motion received a second.

Mr. Drobinski was recognized in support of the article. The purpose of the article is to help the Library Trustees receive a grant from the Massachusetts Historical Commission for building the library. As part of that grant we have to grant a preservation restriction to the Massachusetts Historical Commission. This article grants that restriction. He urged support because the library needs the money.

FINANCE COMMITTEE: Mr. Nogelo, the Finance Committee recommends approval of this article.

Hans Lopater, Library Trustee, spoke to provide an understanding of this article. In talking to Susan Pope, our State Representative, to see if there were any State funds available for rehab, she put us in the direction of the Massachusetts Historical Commission. The preservation restriction is a ten-year restriction not to do anything to the outside of the building. He urged support of the article.

Martha Coe, 14 Churchill Street, posed a question to Town Counsel. What exactly is a Historical Preservation Restriction and what does the wording in the article that refers to the Commonwealth of Massachusetts, the Massachusetts Historical Commission, or non-profit organization mean?

Mr. Kenny responded that the Commonwealth of Massachusetts has not determined whether they would accept the restriction in their name, or in the name of the Massachusetts Historical Commission. They have both indicated they would agree to a grant to a non-profit organization that would be established for that purpose. It could be our own Historical Society. It has not been determined at this time who will be the recipient. Any of those organizations would only be the recipient for recording purposes in the Registry of Deeds. There is no difference in how it would be affected by any of those entities.

The Motion under Article 16 was **UNANIMOUSLY VOTED.**

April 8, 1998

ARTICLE 17. POWDER MILL ROAD WALKWAY

To see if the Town will vote to raise and appropriate, or appropriate from available funds, \$63,000, or any other sum, for the planning, engineering, and construction of a walkway along two sections of Powder Mill Road, such funds to be expended in the following manner:

1. \$3,000 for planning and engineering funds, to be expended under the direction of the Town Manager, for walkways along Powder Mill Road, as follows:
From Tavern Circle to Cranberry Circle
From Virginia Ridge Road to Singing Hill Circle
2. \$60,000 for construction funds, to be expended under the direction of the Town Manager, for walkways along Powder Mill Road, as follows:
From Tavern Circle to Cranberry Circle
From Virginia Ridge Road to Singing Hill Circle;

and to determine whether said sum shall be raised by borrowing or otherwise; or act on anything relative thereto.

Submitted by Petition.
(Two-thirds vote required, if borrowed)

PETITIONERS REPORT: Our neighborhood would like the Town of Sudbury to construct a sidewalk on a portion of Powder Mill Road. Powder Mill is narrow, winding and a major cut-through to Maynard, Acton, Concord and Sudbury. Digital Equipment Corp. has their world headquarters housing 1,500 people on the street. No other neighborhood in Sudbury has had such tremendous change. There have been several accidents, some requiring transports to the hospital from Powder Mill Road, in the past three years. The Police Department has issued more than 60 citations. One neighborhood child has already suffered a concussion due to the nature of the road. This road is dangerous for the pedestrian as well as the driver. Please vote yes to authorize the Town of Sudbury to construct a sidewalk running the length of Powder Mill Road from Cranberry Circle to Singing Hill Circle (minus the part that is already built).

The Moderator stated that he had been advised by the petitioner that they wished the article to be passed over. He asked if anyone had any other position. There was no one.

The article was **PASSED OVER**.

April 8, 1998

ARTICLE 18. STABILIZATION FUND

To see what sum the Town will vote to raise and appropriate, or appropriate from available funds, to be added to the Stabilization Fund established under Article 12 of the October 7, 1982 Special Town Meeting, pursuant to Massachusetts General Laws Chapter 40, Section 5B; or act on anything relative thereto.

Submitted by the Board of Selectmen.
(Majority vote required)

BOARD OF SELECTMEN REPORT: This article will allow setting aside any available funds in the Stabilization Fund for future use. A report and recommendation will be made at Town Meeting.

Mr. Blacker *Moved to Indefinitely Postpone.*

The Motion received a second.

Mr. Blacker was recognized on the indefinite postponement. He stated that we have no money to ask for.

FINANCE COMMITTEE: Steve Stolle, the Finance Committee supports the indefinite postponement.

The Motion under Article 18 was **INDEFINITELY POSTPONED.**

April 8, 1998

ARTICLE 19. CHAPTER 90 HIGHWAY FUNDING

To see if the Town will vote to authorize the Town Manager to accept and to enter into a contract for the expenditure of any funds allotted or to be allotted by the Commonwealth, to be expended under the direction of the Town Manager for the construction, reconstruction and maintenance projects of Town ways pursuant to Chapter 90 funding; and to authorize the Treasurer to borrow such amounts in anticipation of reimbursement by the Commonwealth; or act on anything relative thereto.

Submitted by Petition/DPW Director.
(Majority vote required)

PETITIONERS REPORT: Each year the legislature allocates funds to cities and towns for the improvement of their infrastructure, to be expended under the Chapter 90 guidelines. This year, \$150 million was voted and Sudbury's portion will be determined by an existing state aid formula as in previous years.

The current plans are to continue the implementation of our pavement management program.

Bill Place *Moved in the words of the Article.*

The Motion received a second.

Mr. Place addressed the article. This article, if passed, will allow the construction and reconstruction improvements of our public ways.

FINANCE COMMITTEE: Mr. Ragonese, the Finance Committee recommends approval of the article.

BOARD OF SELECTMEN: Mr. Blacker, the Board of Selectmen supports the article.

The motion under Article 19 was **UNANIMOUSLY VOTED.**

April 8, 1998

ARTICLE 20. AMEND BYLAWS, ART. V.15 & V.19, PUBLIC SAFETY

To see if the Town will vote to amend Sections 15 and 19 in Article V, Public Safety, of the Town of Sudbury Bylaws by substituting the words, "Town of Sudbury Director of Public Works" in place of the words, "Highway Surveyor"; or act on anything relative thereto.

Submitted by the Board of Selectmen.
(Majority vote required)

BOARD OF SELECTMEN REPORT: This is a technical amendment to bring the Bylaws into conformance with the Town Manager Special Act, Ch. 131 of the Acts of 1994, as there is no longer the position of Highway Surveyor. The Selectmen support this article. Printed below are the current sections of the Bylaws, with the words to be corrected in italics.

"SECTION 15. No person shall park any vehicle in the Town of Sudbury so that it interferes with the work of removing or plowing snow or removing ice from any way within the Town. The *Highway Surveyor* is authorized to remove, or cause to be removed, to some convenient place, including in such term a public garage, any vehicle interfering with such work. The owner of such vehicle shall be liable for the cost of such removal and the storage charges, if any, resulting therefrom. Violation of this section shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed to be a separate violation."

"SECTION 19. No person shall move or remove snow or ice from private lands upon any public street, walkway, or common land of the Town in such manner as to obstruct or impede the free passage of vehicular or pedestrian traffic upon the street, walkway, or common land of the Town unless he has first obtained a permit therefor issued by the *Highway Surveyor*. Violation of this section shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed a separate violation."

Mr. Blacker *Moved in the words of the Article.*

The Motion received a second.

Mr. Blacker was heard in support of the motion. He explained that this is a "housekeeping" measure. Our Town bylaws make reference to the Highway Surveyor and now we have a Director of Public Works that has that function. All this asks is that the bylaw be changed to reflect that.

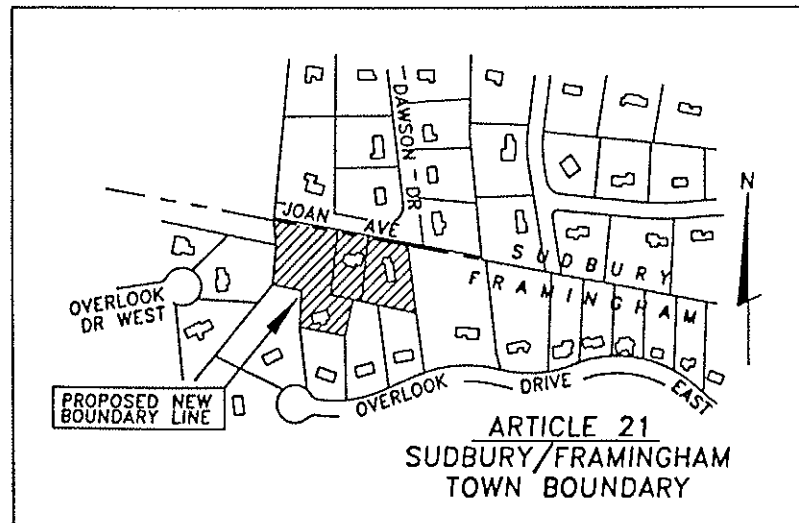
FINANCE COMMITTEE: Ms. Stewart, the Finance Committee recommends approval of this article.

The Motion under Article 20 was **UNANIMOUSLY VOTED.**

ARTICLE 21. FRAMINGHAM/SUDBURY BOUNDARY CHANGE

To see if the Town will vote to approve a change in the boundary line between the towns of Framingham and Sudbury as shown on the sketch plan Exhibit "A," and to authorize and direct the Board of Selectmen to take all actions necessary or desirable to accomplish such change including, without limitation, petitioning the General Court to ratify and accept such change without resubmission to a town meeting. All costs and expenses of such change shall be borne exclusively by Mark Feinberg & Audrey Feinberg of 3 Joan Avenue, Sudbury MA 01776, Peter Netburn and Cathy Netburn of 5 Joan Avenue, Sudbury, MA 01776, and Whitney Calin of 1 Dawson Drive, Sudbury, MA 01776; or act on anything relative thereto.

Submitted by Petition.
(Two-thirds vote required)



PETITIONERS REPORT: This Article is being filed on behalf of three homeowners whose houses are in Framingham but otherwise are oriented toward Sudbury because:

1. Part of each of these three lots is in Sudbury.
2. All of their houses front on Joan Avenue, a street located entirely in Sudbury.
3. Sole access to Joan Avenue is via Landham Road, Ames Road and Dawson Drive, all Sudbury streets. The nearest Framingham street, accessible by vehicle, is Elm Street, approximately one mile from Joan Avenue.
4. Joan Avenue and the lots at issue are part of a Sudbury subdivision and neighborhood and are not a part of a Framingham subdivision or neighborhood.
5. The three homeowners have Sudbury addresses and telephone numbers, are listed only in the Sudbury telephone directories, and use the 01776 zip code.
6. Emergency services are provided by Sudbury, including 911 service. The Sudbury Highway Department plows Joan Avenue.
7. The nearest school will be the new Loring School in Sudbury, which is a quarter of a mile away, while the nearest Framingham school is more than one mile away.
8. The rules of the Sudbury School Department prohibit any children from these homes from attending Sudbury schools, even if these three homeowners pay for such a privilege.
9. The house located on the northerly side of Joan Avenue is situated entirely in Sudbury.
10. The children of Joan Avenue should be able to go to the same school as the children from their neighborhood and subdivision where they live and play.

April 8, 1998

The Moderator stated that vote required would be a majority vote. He explained that there was a misprint in the Warrant stating that it required a two-thirds vote.

Bill Keller, Churchill Street, Moved in the words of the article.

The Motion received a second.

Mr. Keller was recognized in support of the article. He deferred to Mr. Peter Netburn of Framingham. The Moderator explained that Mr. Netburn is not yet a resident of Sudbury and would require the consent of the hall to speak.

Mr. Netburn, 5 Joan Avenue, was recognized in support of the motion. He stated that he was there on behalf of his family and two other families on Joan Avenue. He asked for a vote of support on this Article. He explained that they are three families that live on the south side of Joan Avenue, a small street in the southernmost portion of Sudbury with only four houses. There is one house on the north side of Joan Avenue. It is completely in Sudbury as is Joan Avenue itself. The three houses on the south side of Joan Avenue are located in Framingham. The Framingham/Sudbury line runs across the front of the three properties. They own a small amount of Sudbury land but the vast majority of the properties and the houses are located in Framingham. They are land-locked by Sudbury. The closest Framingham road to which they have access is Elm Street, approximately one mile away from the houses. They are part of a Sudbury neighborhood. Because Joan Avenue is completely a Sudbury street, they have Sudbury addresses, Sudbury telephone exchanges, Sudbury cable, and Sudbury emergency and highway services. There are two children on Joan Avenue. They would like their children to walk to Loring School. They do not believe that Framingham should be sending school buses into Sudbury to pick up their children to bus them miles away to Framingham schools. Their children play with children from the Sudbury neighborhood. The school issue is the most important to them, it is the reason they petitioned for this change. They tried to pay tuition to Sudbury public schools, however, they can not do that because of the Massachusetts School Choice Laws. He stressed that this change would not be a strain on the Sudbury Public Schools because it is only three houses.

He raised the concern that this would "open the floodgates" with others trying to move the Town lines. He stated that this is a unique geographical situation. They checked with the Fire Chief and the Director of the Department of Public Works and there is only one other similar area, on Brimstone Lane in Framingham.

He raised the issue of property values. They will unquestionably go up but that is not the reason for this petition. They want to be part of Sudbury. They are going through the same process in Framingham. They have submitted an article (Article 5) and the annual Town Meeting there begins in two weeks. After that they will have engineering work done and will prepare and submit a bill to the General Assembly and then, hopefully, for the Governor's Signature. They believe that this is the fair and common sense thing to do. He urged support.

FINANCE COMMITTEE: Mr. Ragones, The Finance Committee recommends disapproval of this article.

BOARD OF SELECTMEN: Mr. Blacker, the Board of Selectmen supports the article. They feel that this is "the right thing to do" and, therefore, the Board supports the article. They do not believe that approval of this article will set precedent because there is only one other parcel in a similar situation. They do not believe that the children from these three houses will impact the school system. He asked why the Finance Committee is opposed.

Mr. Ragones responded that there were two reasons. The first is the cost to the Town to educate additional students. The second is that they feel it sets bad precedent to allow citizens of other towns to petition Town Meeting to become residents of Sudbury.

Robert Coe, 14 Churchill Street, stated that Joan Avenue was built the way that it was to allow the subdivision of the plot of land in Framingham that would otherwise be landlocked. He felt that if this

April 8, 1998

petition were passed it would encourage developers to lay out subdivisions in neighboring towns similarly in the future. He did not support the article.

Dan Claff, Dutton Road, asked what the process was that ended with these homes being serviced by the Sudbury Fire, Police and Highway Departments.

Mr. Blacker responded that Joan Avenue was laid out for the Sudbury development, not Framingham. There is a strip of land along the front edge of the property line of the Framingham property that is in Sudbury. Both sides of the street are in Sudbury, when you get beyond the street line you are in Framingham.

Susan Berry, 4 Dawson Drive, identified herself as a close neighbor to the three homes on Joan Avenue. She said that these houses are part of her neighborhood, which is a Sudbury subdivision. She invited people to come and see the neighborhood. She urged support.

Ralph Tyler, 1 Deacon Lane, felt that the reasoning behind this petition didn't make sense.

Bill Keller, Churchill Street, feels that it does make sense because of the sense of community that exists in a neighborhood. He stated that, yes their property value will go up but that their taxes will go up as well. They are asking to come here knowing that they will pay more taxes than they pay in Framingham. He said that one thing he has learned in his service on the Planning Board is that subdivisions are now much more reasonably controlled and regulated and there would not be a street put in with one side in Sudbury and one in Framingham. He urged support.

Joan Yudkin, Stock Farm Road, felt that this is a unique situation and urged support.

Jim Gish, 35 Rolling Lane, agreed with Mr. Keller. This is an opportunity to contribute to community spirit.

Russ Kirby, Boston Post Road, put responsibility on the Framingham for approving a subdivision with no frontage. He urged support.

Myron Fox, attorney from Sudbury, provided actual dollar figures for the cost of this change. He stated that when these families purchased their homes the Massachusetts School Choice Law was not in effect and at that time they could have paid tuition for their children to attend Sudbury schools. He urged to consider the fairness involved and to support the article.

The Motion under Article 21 was **VOTED**.

April 8, 1998

ARTICLE 22. AMEND BYLAWS, ART. V -
WATER POLLUTION EMERGENCIES

To see if the Town will vote to amend the Town of Sudbury Bylaws, by adding to Article V, Public Safety, a new Section 31, entitled "Water Pollution Emergencies", as follows:

"SECTION 31. WATER POLLUTION EMERGENCIES

- (a) No person shall pollute, corrupt, injure or obstruct the water source or water supply serving the Town through the water distribution system of the Sudbury Water District.
- (b) Provided that the Board of Water Commissioners of the Sudbury Water District has declared a water emergency, the Board of Selectmen shall then be authorized to declare water emergencies from time to time as authorized by Massachusetts General Laws Chapter 21G, sections 15, 16 and 17 or through a determination pursuant to Chapter 100 of the Acts of the General Court of Massachusetts of 1934 that a threat of pollution, corruption, injury or obstruction to the water supply exists. The purpose of such a declaration is to conserve and minimize use of water. Following declaration or determination and during such emergency, all outside external use of water from the public water system as supplied by the Sudbury Water District shall be prohibited. Watering lawns, gardens and shrubbery and other landscape watering shall be prohibited. Washing of vehicles shall be prohibited.

Violators of this bylaw shall be subject to the following fines:

- (1) Fifty dollars (\$50) for first offense;
 - (2) One hundred dollars (\$100) for second offense;
 - (3) One hundred and fifty dollars (\$150) for each additional offense.
- (c) This section only pertains to residences, commercial property and industry served by the distribution system to the Town through the Sudbury Water District.";

or act on anything relative thereto.
(Majority vote required)

Submitted by the Sudbury Water District Commissioners and Board of Selectmen.

SUDBURY WATER DISTRICT COMMISSIONERS AND BOARD OF SELECTMEN REPORT: This bylaw gives the Town authority to police and fine those who compromise the quality or quantity of the water supplied in the Town by the Sudbury Water District, a separate chartered entity from the Town itself.

The Sudbury Water District faced a crisis during the summer of 1997, when water supplies in storage tanks and distribution systems were lowered to dangerous levels as a result of using lawn sprinklers so much that the pumps could not keep up with the demand. The Water District was forced to impose restrictions on water users in an effort to reduce consumption and quickly re-establish supplies. Although the Town boards cooperated as much as they could with the Water District, the Town did not have the full legal authority to police or fine residents who were members of the District and who did not follow the restrictions. With this bylaw in effect, the Water District will be able to enlist the full support of the Town during water supply emergencies.

Bob Sheldon, 60 Saxony Drive, Chairman Sudbury Water District Commissioners *Moved in the words of the article.*

The Motion received a second.

April 8, 1998

Mr. Sheldon was recognized in support of the motion. He addressed the issues that arose last summer due to water shortage. This article will allow the Selectmen to use the powers of the Town to impose fines once the Water District has imposed restrictions and identified an emergency. It will allow the use of police power to monitor abuse. He gave a history of the Sudbury Water District. It is a separate entity from the Town, chartered in 1934 by the State Legislature. He discussed usage schedules. He stated that the Department of Environmental Protection won't allow us to have more wells in town because we overuse the water that we have. He showed overheads that illustrated usage by month. He asked for community support when we need to cut back in emergency conditions. He urged approval for the article.

FINANCE COMMITTEE: The Finance Committee has no position on this article.

BOARD OF SELECTMEN: Mr. Drobinski, the Board of Selectmen unanimously supports this article. It is vitally important to protect public health and safety.

Graham Taylor, 221 Goodman's Hill Road, supported the article but does not think the penalties are severe enough.

Helen Casey, Pokonoket Avenue, commended the Water District and the Town for working together on this issue.

Felix Bosshard, 103 Warren Road, *Moved to amend Section B by deleting the words "garden and" which precede the word shrubbery in the next to last line in the Warrant.*

The Motion received a second.

Mr. Bosshard addressed his amendment. He felt people should be able to water their gardens without running afoul of this article.

Robert Sheldon responded. When we are in the middle of a crisis period, we are dealing not only with people's drinking water but also with potential threats to fire fighting. The real answer lies in people not abusing in the first place. Experts were consulted, there was unanimous agreement that people are overdoing the watering. If people can cut back on lawn sprinkling it will be a moot point.

Robert Coe, urged defeat of the amendment and passage of the main motion.

The Motion to amend was **DEFEATED**.

The Motion under Article 22 was **VOTED**.

ARTICLE 23. AMEND BYLAWS, ART. V. 31 -
UNDERGROUND SPRINKLER SYSTEMS

To see if the Town will vote to amend the Town of Sudbury Bylaws by adding to Article V, Public Safety, a new subsection "(d) Underground Sprinkler Systems" to Section 31, as follows:

- "(d) Underground Sprinkler Systems. All underground sprinkler systems, not already connected to the water supply and distribution systems to the Town through the Sudbury Water District, are prohibited from such connection. Expansion of existing underground sprinkler systems is also prohibited.

Exception: Underground sprinkler systems installed on land used primarily and directly for the raising of fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, flowers, trees, nursery or greenhouse products, and ornamental plants and shrubs; or on land to be used in a related manner which is incidental thereto and represents a customary and necessary use in raising such products, may be connected to the distribution system upon approval of both the Board of Selectmen and the Board of Water Commissioners.";

said provision to be numbered by the Town Clerk, if the previous article fails; or act on anything relative thereto.

Submitted by the Sudbury Water District Commissioners.
(Majority vote required)

SUDBURY WATER DISTRICT COMMISSIONERS REPORT (ART. 23): This Bylaw provides the Town with a means to combat the overuse of lawn sprinkling and, in turn, a means to protect the supply of the Sudbury Water District during dry summers. The overuse of water in the Town in recent years can be attributed largely to automatic underground sprinkler systems that can be programmed to run many hours each day, each day of the week. With the desire to irrigate to the fullest and with this programming capability, those who have these systems tend to pay less attention to when their sprinklers are running and are less cognizant of the amount of water being used than those who use systems they have to turn on and off manually. Overuse by many people on a dry summer day can drastically reduce the Sudbury Water District's ability to pump, store, and distribute water to its consumers for normal household and commercial use and, moreover, for fire-fighting emergencies. Virtually all new developments now include in-ground sprinkler systems; and the proliferation of those systems has led to noticeable increases in water use, substantially above the per-capita usage rates that are considered reasonable by state and federal regulatory agencies for residential use. The Town still has the potential for construction of hundreds of new homes. We are further from being built out than one might think. If each new home has an underground sprinkler system, the water supply crisis of 1997 can be expected to be repeated with each new year. This Bylaw, which would also affect those who would like to add sprinklers to their lawns or who would like to expand their current systems, will minimize the use of automatic sprinklers in the Town by eliminating future installation of underground systems. Limiting the number of sprinklers in Town will help avoid overuse and reduce the chances of water supply crises in future summers.

Bob Sheldon, 60 Saxony Drive, Chairman Sudbury Water District Commissioners, *Moved to Indefinitely Postpone the article.*

The Motion received a second.

Mr. Sheldon was recognized for indefinite postponement. He stated that this was a difficult decision to make. They were very concerned over the situation last summer but were heartened by the response they got. They are concerned about enforcement. They are concerned about the lack of support from people in town and some of the boards. They wanted to wait and see what happens in the upcoming summer before they decide whether or not to bring it back.

April 8, 1998

BOARD OF SELECTMEN: The Board of Selectmen supports the Indefinite Postponement.

The Motion to Indefinitely Postpone Article 23 was **VOTED**.

April 8, 1998

ARTICLE 24. AMEND BYLAWS, ART. XXII -
WETLANDS ADMINISTRATION

To see if the Town will vote to amend Article XXII, Wetlands Administration, of the Town Bylaws, as follows:

- I. By amending Section 2. Jurisdiction to read as follows, with the words to be deleted having a line drawn through them:

"Section 2. Jurisdiction

In accordance with this purpose no person shall remove, fill, dredge, build upon, degrade, pollute, discharge into, or otherwise alter the following resource areas: any freshwater wetland; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds; rivers; streams; creeks; lands under waterbodies; lands subject to flooding by ground water, surface water, or storm flow; (collectively the "wetland resource areas protected by this Bylaw"); and ~~lands within 100 feet or otherwise certain adjacent upland areas~~ (collectively "the adjacent upland resource areas protected by this Bylaw") as described in Section 9. Definitions ~~of any of the aforesaid resource areas (the buffer zone)~~ without a permit from the Conservation Commission, or as provided by this Bylaw.";

2. By amending the first paragraph under Section 4. Applications for Permits and Requests for Determination to read as follows, with the words to be deleted having a line drawn through them:

"Written application shall be filed with the Commission to perform activities affecting **all wetland and adjacent upland** resource areas ~~and buffer zones~~ protected by this Bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission as specified in the Bylaw regulations to describe proposed activities and their effects on the resource areas protected by this Bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this Bylaw.";

3. By amending the filing fee schedule under Section 4. Applications for Permits and Requests for Determination to read as follows, with the words to be deleted having a line drawn through them:

"At the time of the permit application the applicant shall pay a filing fee according to the following schedule:

(a) Single minor project -- i.e., house addition, tennis court, swimming pool, or other accessory residential activity.	\$25 per project
(b) New Single Family Dwelling	\$250
(c) Subdivision -- road and utilities only	\$500 plus \$2 per foot of road sideline within the buffer zone or a resource area
(d) Drainage, detention/retention basins	\$500 plus \$2 per 100 cubic feet of basin within the buffer zone or a resource area
(e) Multiple Dwelling Structure	\$500 plus \$100/unit, all or part of which is within the buffer zone or a resource area

April 8, 1998

(f) Commercial and Industrial Projects	\$500 plus \$0.50 per square foot of disturbed buffer zone or disturbance in an undeveloped resource area
(g) Application filed After Enforcement Order	double the above fee
(h) Determination of Applicability	no charge
(i) Remediation of a Contaminated Site or Enhancement of a Degraded Resource (excluding violations)	\$25 per project

4. By amending the last paragraph under Section 4. Applications for Permits and Requests for Determination to read as follows, with the words to be deleted having a line drawn through them:

"The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities affecting ~~the all~~ resource areas ~~or buffer zone~~ protected by this bylaw. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.";

5. By amending the third paragraph under Section 7. Permits and Conditions to read as follows, with the words to be deleted having a line drawn through them:

"Lands within 100 feet of wetlands resource areas **and within 200 feet of perennial streams and rivers** are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands and other resources have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and harm to wildlife habitat. **For this reason these adjacent upland areas are a valuable resource under this Bylaw.** The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover in part or all of the ~~100-foot area~~ **adjacent upland resource area** and set other conditions on this area, unless the applicant provides evidence deemed sufficient by the Commission that the area or part of it may be disturbed without harm to the values protected by the law.";

6. By amending the fifth paragraph under Section 7. Permits and Conditions to read as follows, with the words to be deleted having a line drawn through them:

"The Commission shall, after receiving a written request for a Certificate of Compliance, inspect the resource area ~~and buffer zone~~ where any activity governed by a permit issued under this bylaw was carried out. If such activity has been completed in accordance with said permit, the Commission shall within twenty-one (21) days after such a request issue a Certificate of Compliance evidencing such determination, which may in an appropriate case be combined with a Certificate of Compliance issued under the Wetlands Protection Act. A Certificate of Compliance may specify conditions in the permit which will continue to apply for a fixed number of years or permanently and shall apply to all owners of the land.";

7. By amending Section 9. Definitions by adding thereto a new paragraph three, as follows:

"The term "adjacent upland resource area" shall include all lands within 100 feet of wetland resource areas as enumerated in Section 2, except for perennial streams and rivers for which the adjacent upland resource area extends for 200 feet from the top of bank, and except for vernal pools, ponds under 10,000 square feet in area, and isolated land subject to flooding for which special adjacent upland resource area definitions are described below.";

8. By amending under Section 9. Definitions existing paragraph three to read as follows, with the words to be deleted having a line drawn through them, which shall become the fourth paragraph under said Section 9:

"The term "vernal pool" shall include, in addition to that already defined under the Wetlands Protection Act, G.L. Ch. 131, §40 and Regulations thereunder, 310 CMR 10.00, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries. The presumption of essential habitat value may be overcome by the presentation of credible evidence which in the judgment of the Commission demonstrates that the basin or depression does not provide the habitat functions as specified in the Bylaw regulations. The ~~buffer-zone~~ adjacent upland resource area for vernal pools shall extend 100 feet from the mean annual high-water line defining the depression, or one-half of the distance between the vernal pool and any existing house foundation, whichever is smaller. In either case the ~~buffer-zone~~ adjacent upland resource area for vernal pools shall not extend over existing lawns, gardens, landscaped or developed areas.";

9. By amending under Section 9. Definitions existing paragraph four to read as follows, with the words to be deleted having a line drawn through them, which shall become the fifth paragraph under said Section 9:

"The term "existing" in the determination of ~~buffer-zones~~ adjacent upland resource area shall mean existing as of the date this bylaw becomes effective.";

10. By amending under Section 9. Definitions existing paragraph five to read as follows, with the words to be deleted having a line drawn through them, which shall become the sixth paragraph under said Section 9:

"The term "isolated land subject to flooding" shall include an area, depression, or basin that holds at minimum one-eighth acre foot of water and at least six inches of standing water once a year. Not included are swimming pools, artificially lined ponds or pools, or constructed wastewater lagoons. The ~~buffer-zone~~ adjacent upland resource area for isolated land subject to flooding shall be 25 feet.";

11. By amending under Section 9. Definitions existing paragraph six to read as follows, with the words to be deleted having a line drawn through them, which shall become the seventh paragraph under said Section 9:

"The term "pond" shall include any open body of fresh water with a surface area observed or recorded within the last ten years of at least 5,000 square feet. Ponds shall contain standing water except for periods of extended drought. Not included are swimming pools, artificially lined ponds or pools, or constructed wastewater lagoons. The ~~buffer-zone~~ adjacent upland resource area for ponds under 10,000 square feet shall extend 100 feet from mean annual high-water or one-half the distance from existing house foundation, whichever is smaller, but in no case shall the ~~buffer-zone~~ adjacent upland resource area include existing lawns, gardens, landscaped or developed areas.";

12. By amending the first paragraph under Section 11. Enforcement to read as follows, with the words to be deleted having a line drawn through them:

"No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas ~~and buffer zones~~ protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this Bylaw.";

or act on anything relative thereto.

NOTE: New wording is shown in bold print for informational purposes only.

Submitted by the Conservation Commission.
(Majority vote required)

CONSERVATION COMMISSION REPORT: The amendments proposed to the Wetlands Administration Bylaw are minor in nature. The first amendment removes the term "buffer zone" and replaces it throughout the text with the term "adjacent upland resource area". The purpose of this change is to avoid confusion between the definition of "buffer zone" used in the state Wetlands Protection Act, M.G.L. Ch.131, section 40, and the term used in the Bylaw. Under state law, the "buffer zone (100 ft. from the wetland area)" is not a wetland resource area and no standards can be applied to work or activities in this area. Under the Bylaw, the 100' adjacent to the wetland is recognized for the significant role it plays in contributing to wetland values and interests and is protected by applying site-specific standards to the proposed activities. Clarifying the distinction between expectations of the state law and expectations of local law will avoid confusion for homeowners, contractors and developers.

The second amendment creates a new fee category for hazardous waste clean up and resource enhancement projects and clarifies the fees applied to undeveloped areas for commercial projects. Fees will be kept at a minimum to encourage clean-up projects to occur in a timely fashion. Where fees are used to offset the review of the project, review in hazardous waste clean-up is limited on the local level, limiting local costs for review as projects are reviewed and permitted to state requirements.

The final amendment brings the Bylaw in compliance with the state Wetlands Protection Act by adding the River Front Resource Area as required by state law.

Steve Meyer, Chairman of the Conservation Commission, *Moved in the words of the article.*

The Motion received a second.

Mr. Meyer was recognized in support of the motion. This is a simple, "housekeeping" article. It involves no major change of any kind, but it is a technical change. There are three things taking place under the bylaw that are being changed. The first is a word change, from the words "buffer zone" to the phrase "adjacent upland resources." This change is being made because it has led to some confusion in dealing with State standards.

The second change is adding one more category to the fee schedule. That is a fee of \$25.00 collected with respect to wetlands replications and restorations and environmental cleanups. This fee is being added because there have recently been a number of projects proposed for disturbed land where there was contamination or wetlands restoration was necessary. There was no fee category for this. They could not charge because there was no basis for collecting the revenue. The \$25.00 is based on the average cost for the Conservation Commission to process the applications, taking into account existing State fees.

The third change is another simple "housekeeping" change. Last year the State passed the Rivers Bill creating what is called a riverfront area. This area extends 200 feet out from streams and rivers. State Law requires all town bylaws regarding wetlands regulation to be at least as restrictive as the State law. This is a simple change to the bylaw to incorporate the new Rivers Protection Act and the State law that goes with it.

April 8, 1998

FINANCE COMMITTEE: The Finance Committee recommends approval of this article.

BOARD OF SELECTMEN: Mr. Drobinski, the Board of Selectmen urged support of the article.

The Motion under Article 24 was **UNANIMOUSLY VOTED**.

April 8, 1998

ARTICLE 25. AMEND BYLAWS, ART. II.16 -
TOWN MEETING PROCEDURES

To see if the Town will vote to amend Article II of the Town Bylaws by adding thereto a new Section 16 to read as follows:

"Section 16. The moderator may determine, without a count, that a two-thirds, four-fifths, or nine-tenths vote has been achieved, which determination shall satisfy the provisions of Massachusetts General Laws Chapter 39, Section 15 or any other law requiring a two-thirds, four-fifths, or nine-tenths vote, unless a count is requested in conformance with the procedural requirements set forth in Town Meeting Time.";

or act on anything relative thereto.

Submitted by the Town Moderator.
(Majority vote required)

Mr. Drobinski Moved in the words of the article.

The Motion received a second.

BOARD OF SELECTMEN: Mr. Drobinski, the Board of Selectmen unanimously supports the article.

TOWN MODERATOR: The Moderator declared a recess so that he could address the hall regarding this article. He explained two things. First he addressed some history. The reason that we have to count certain votes if they are not unanimous is because there is an opinion of the Attorney General on the books that said in certain situations there had to be an actual count rather than just a call. There has never been a Supreme Court opinion or a statute that says this. The Moderator's Association has been bothered by this because it results in counts having been taken when nobody wanted them. The Massachusetts Moderators Association has put before the legislature a statute that can be accepted which would do away with that necessity.

Second, this article, if passed, will not result in anybody having less right to have the vote counted. It will do away with calling the vote a second time with those opposed abstaining. This will not change the way a call is challenged. If someone doesn't agree they can challenge the call and request that the vote be challenged.

The recess was declared over.

FINANCE COMMITTEE: The Finance Committee takes no position on this article.

BOARD OF SELECTMEN: The Board of Selectmen supports the article.

Robert Coe, Churchill Street, generally supported the article with one slight concern over the nine-tenths vote.

The Moderator declared a recess to address Mr. Coe's question.

Robert Coe, Moved to insert the word "or" in front of "four-fifths" and strike "nine-tenths."

The Motion received a second.

The Moderator called another recess to clarify calling a nine-tenths vote.

April 8, 1998

Russ Kirby, Boston Post Road, urged defeat of this article. He felt that time taken to count a vote is time well spent because it is difficult for the Moderator to see the back of the hall.

The Moderator declared a recess to address this question. He stated that his view from the stage does not affect vote counting because the brightly colored cards that are handed out are easy to see.

Bob Graham, Tanbark Road, Moved to amend the article to say "*the most recent edition of Town Meeting Time.*"

The Motion received a second.

The Moderator called for a vote on Mr. Coe's amendment

Mr. Coe's Motion to Amend was **DEFEATED**.

Mr. Kenny pointed out that Mr. Graham's amendment was probably unnecessary because we are already governed by the most recent edition of Town Meeting Time by Article II, Section 4 of the bylaws.

The Motion to Amend received a second.

Mr. Graham stated that we must have absolute clarity about which "set of rules" we are going to adopt. He urged support of the amendment.

Mr. Graham's Motion to Amend was **DEFEATED**.

The Motion under Article 25 was **VOTED**.

(NOTE: See April 15th last item of business. Correction—Section 16 should read Section 17.)

ARTICLE 26. AMEND BYLAWS - CAPITAL PLANNING

To see if the Town will vote to amend the Town Bylaws by adding a new section entitled, "Capital Planning", to be numbered by the Town Clerk, which will provide as follows:

"CAPITAL PLANNING

Section 1. The Town Manager shall establish and appoint a committee to be known as the Capital Improvement Planning Committee, composed of three members appointed by the Town Manager, three members appointed by the Selectmen, and one member appointed by the Finance Committee. The Finance Director shall be an ex officio member without the right to vote. The Committee shall choose its own officers annually. The term of office shall be three years. Members of Town boards and committees, as well as Town employees, shall be precluded from membership.

Section 2. The Committee shall study proposed capital projects and improvements involving major tangible assets and projects which 1) have a useful life of at least five years; and 2) have a single year cost of \$10,000 or a multi-year cost of \$100,000 or more. All officers, boards and committees, including the Selectmen, Sudbury Public School Committee, and the Lincoln-Sudbury Regional School Committee shall by October 1 of each year, give to the Committee, on forms prepared by it, information concerning all anticipated projects requiring Town Meeting action for the next six years. The Committee shall consider the relative need, impact, timing, and cost of these expenditures and the effect each will have on the financial position of the Town. The Committee shall inventory the fixed assets of the Town with the assistance of Town staff, prioritize the capital requests submitted by Town boards and departments, and develop a financing strategy for implementation. No appropriation shall be voted for a capital improvement requested by a department, board, or commission unless the proposed capital improvement is considered in the Capital Planning Committee's report, or the Committee shall first have submitted a report to the Board of Selectmen explaining the omission, except if the proposed project constitutes an emergency created by an unforeseen event.

Section 3. The Committee shall prepare an annual report recommending a Capital Improvement Budget for the next fiscal year, and a Capital Improvement Program for the following five years. The report shall be submitted to the Finance Committee for its consideration. The Committee shall submit the capital budget to the Annual Town Meeting for adoption by the Town.

Section 4. Such Capital Improvement Budget, after its adoption, shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, architectural or engineering advice, options or appraisals; but no such expenditure shall be incurred on projects which have not been so approved by the Town through the appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

Section 5. The Committee's report shall be published and made available in a manner consistent with the distribution of the Town Meeting report. The Committee shall deposit its original report with the Town Clerk.

Section 6. The actions of the Town under Article 14 of the September 14, 1986 Town Meeting are rescinded.,"

or act on anything relative thereto.

Submitted by the Board of Selectmen.
(Majority vote required)

BOARD OF SELECTMEN REPORT (ART. 26): The purpose of this article is to provide for the orderly identification of needed improvements and/or additions to the Town's physical infrastructure, and to schedule these in priority order over a five-year period. All of this is contingent upon the Town's ability to pay. Annually, the Capital Improvement Plan will be updated based upon changes in the Town's capital needs and fiscal capacity.

Currently, the Town's capital planning efforts are disjointed. The Long Range Planning Committee, which was created by warrant article does not have the full authority that this Bylaw would establish, namely, review and consideration of school capital requests. In addition, several years ago the Finance Committee established the Investment Priorities Committee, which reviewed projects in excess of \$500,000. This Bylaw would unify the capital process and provide legitimacy for serious capital planning.

The proposed bylaw, in addition to establishing a Capital Improvement Planning Committee, defines capital projects as having a useful life of at least five years, and a single year cost of \$10,000 or a multi-year cost of \$100,000. The Committee will inventory the fixed assets of the Town, consider the need, impact, timing and cost of the anticipated projects and the effects each will have on the Town's financial position.

The Selectmen support this article.

John Drobinski *Moved in the words of the article except: In Section 2 of the Capital Planning Bylaw, delete the words, "and the Lincoln-Sudbury Regional School Committee;" and delete the comma and insert the word "and" before "Sudbury Public School Committee."*

The Motion received a second.

Steve Ledoux was recognized to make the presentation. Article 26 establishes a formal capital planning process for the Town. The purpose of any capital improvement program is to identify the capital improvement needs of the community and the needs of the physical infrastructure and to schedule them in a priority order over a five-year period. All of this is contingent upon the Town's projected ability to pay. Annually a capital improvement plan will be updated based on changes in the capital needs of the community. As this bylaw indicates, a capital bylaw is defined as a physical public betterment or improvement that involves a facility, a parcel of land or a piece of major equipment with a value of \$10,000 on an annual basis and having a useful life of at least five years or a multi-year cost of \$100,000. Expenditures that do not meet these criteria should be included in the annual operational budgets as a capital outlay. This definition is taken from the experience of many cities and towns where more restrictive definitions have resulted in inappropriate items being considered as capital improvements. This recommended system is designed with sufficient safeguards to insure that public funds are expended in a controlled manner consistent with adopted public policy. These items include new public buildings, additions and modifications to existing buildings, including property acquisition and equipment to furnish the buildings; land improvements, including acquisition; development of major improvements such as grading, landscaping and fencing of parks and playgrounds; major equipment replacement and refurbishment; and street reconstruction and resurfacing excluding routine maintenance.

A capital plan prepared according to the above definition allows the town to plan for significant improvements to the infrastructure of the community on a multi-year basis. It serves as a major link in tying together community planning, financial capacity and physical development. For Sudbury it has the following additional benefits:

- It relates public facilities to other public and private development and redevelopment policies and plans.
- It focuses attention on community objectives and fiscal capabilities.
- It coordinates the activities of neighboring and overlapping units of governments reducing duplication.
- It enhances the Town's credit rating, its control of its tax rate and avoids sudden changes in debt service.
- It identifies the most economical means of financing capital projects.

April 8, 1998

- It increases the Town's opportunities for Federal and State aid.
- It facilitates coordination between capital needs and operational budgets.

There are ten steps involved in capital planning.

1. Adopt a capital planning bylaw and appoint a capital planning committee.
2. Prepare an inventory of existing facilities.
3. Determine the status of previously approved projects.
4. Assess the town's financial capability.
5. Solicit, compile and evaluate project requests.
6. Establish a project priority.
7. Develop a capital financing plan.
8. Adopt a capital improvement program.
9. Monitor approved projects.
10. Annual update of the capital program.

In the past we have dealt with capital projects on a crisis basis. This bylaw will be a statement from this Town Meeting that we need to plan our capital expenditures more closely and carefully.

FINANCE COMMITTEE: Mr. Stolle, the Finance committee recommends approval of this article.

Bill Braun, 65 Kato Drive, speaking not for the School Committee but as a private citizen, felt that capital planning and prioritization is very sound but that this a poorly thought out way to do it.

Robert Coe, 14 Churchill Street, questioned the last sentence in Section 2. He Moved to amend the main motion under the article by striking the last sentence of Section 2, beginning "No appropriation shall be voted...."

The Motion to Amend received a second.

Mr. Coe felt that the sentence limits the authority of Town Meeting in an inappropriate way. He urged passage of the amendment.

Russ Kirby, Boston Post Road, supported the Motion to Amend.

Mr. Blacker asked that the amendment be defeated because the purpose of the article is to have some management. The effect of the amendment is to go back to a system where there is no management responsibility, no planning, no master plan. This amendment takes the "teeth" out of the article.

Mr. Coe, responded to Mr. Blacker's statements. He stated that we should not be sacrificing the democratic process.

Mr. Tyler supported Mr. Coe and Mr. Kirby and urged defeat of the motion.

Mr. Blacker clarified the wording.

Mr. Rhome supported the amendment because of wording in the article.

The Motion to Amend was **VOTED**.

Russ Kirby Moved to amend Section 1, the next to the last sentence, to insert after the word "years" the words "not more than three of which shall expire within the same year."

The Motion to Amend received a second.

Mr. Kirby stated that his intention was to ensure that there will be continuity of membership.

April 8, 1998

The Motion to Amend was **VOTED**.

Jim Gish, 35 Rolling Lane, asked if the Long Range Planning Committee and the Investments Priorities Committee are still in existence, and if so, what relationship do they have to this newly proposed committee.

Steve Ledoux responded. This bylaw would abolish the Long Range Planning Committee. This article would change what the Long Range Planning Committee does by including the School Department as part of the planning program. The Investments Priorities Committee hasn't met in about a year.

Steve Stolle stated that this would replace the Investments Priorities Committee.

Mr. Gish asked about the Strategic Planning Committee and how it would relate to this article.

Mr. Ledoux responded that the Strategic Planning Committee was created by the Board of Selectmen and that it has a much different role.

Mr. Rhome asked who are the officers in the third line that aren't already on boards and committees.

The Moderator responded that the answer is found in Article II, Section 2 of the bylaws, they are the Town Officers we elect.

Bob Graham, Tanbark Road, asked the Finance Committee to give some background as to the Investments Priorities Committee's current status. Was it ever formally established as a subcommittee of the Finance Committee?

Mr. Stolle responded that it was a subcommittee made up of several groups. The Finance Committee facilitated it.

Mr. Graham stated that he has served for the last four years on the Long-Range Planning Committee. He urged support.

Martha Coe, 14 Churchill Street, urged defeat because this article defeats the authority of the Finance Committee and the Town Meeting.

The Motion as Amended under Article 26 was **VOTED**.

"CAPITAL PLANNING

Section 1. The Town Manager shall establish and appoint a committee to be known as the Capital Improvement Planning Committee, composed of three members appointed by the Town Manager, three members appointed by the Selectmen, and one member appointed by the Finance Committee. The Finance Director shall be an ex officio member without the right to vote. The Committee shall choose its own officers annually. The term of office shall be three years, not more than three of which shall expire within the same year. Members of Town boards and committees, as well as Town employees, shall be precluded from membership.

Section 2. The Committee shall study proposed capital projects and improvements involving major tangible assets and projects which 1) have a useful life of at least five years; and 2) have a single year cost of \$10,000 or a multi-year cost of \$100,000 or more. All officers, boards and committees, including the Selectmen, Sudbury Public School Committee, and the Lincoln-Sudbury Regional School Committee shall by October 1 of each year, give to the Committee, on forms prepared by it, information concerning all anticipated projects requiring Town Meeting action for the next six years. The Committee shall consider the relative need, impact, timing, and

April 8, 1998

cost of these expenditures and the effect each will have on the financial position of the Town. The Committee shall inventory the fixed assets of the Town with the assistance of Town staff, prioritize the capital requests submitted by Town boards and departments, and develop a financing strategy for implementation.

Section 3. The Committee shall prepare an annual report recommending a Capital Improvement Budget for the next fiscal year, and a Capital Improvement Program for the following five years. The report shall be submitted to the Finance Committee for its consideration. The Committee shall submit the capital budget to the Annual Town Meeting for adoption by the Town.

Section 4. Such Capital Improvement Budget, after its adoption, shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, architectural or engineering advice, options or appraisals; but no such expenditure shall be incurred on projects which have not been so approved by the Town through the appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

Section 5. The Committee's report shall be published and made available in a manner consistent with the distribution of the Town Meeting report. The Committee shall deposit its original report with the Town Clerk.

Section 6. The actions of the Town under Article 14 of the September 14, 1986 Town Meeting are rescinded.";

The Moderator declared the meeting adjourned until next Monday evening at 7:30.

The meeting was adjourned at 10:23 PM.

Attendance: 238

PROCEEDINGS

ADJOURNED ANNUAL TOWN MEETING

APRIL 13, 1998

(the full text and discussion on all articles is available on tape at the Town Clerk's office)

Pursuant to a Warrant issued by the Board of Selectmen, March 17, 1998, the inhabitants of the Town of Sudbury, qualified to vote in Town affairs, met in the Lincoln-Sudbury Regional High School Auditorium on Monday, April 13, 1998 for the fourth session of the Annual Town Meeting.

The meeting was called to order at 7:40 PM when a quorum was declared present.

The Moderator introduced honored guest Nadia Lashenko from Stavropol, Russia who is attending Lincoln-Sudbury as an exchange student.

ARTICLE 27. SENIOR TAX PROGRAM RESOLUTION

To see if the Town will vote to adopt a non-binding resolution requesting the Assessors to utilize guidelines in determining hardship real estate tax exemptions under Mass. General Laws Chapter 59, section 5, clause 18; or act on anything relative thereto.

Submitted by Petition on Behalf of the Sudbury Senior Tax Relief Committee.
(Majority vote required)

REPORT OF SUDBURY SENIOR TAX RELIEF COMMITTEE: There are a number of property tax exemptions that were designed to provide relief to certain individuals who qualify under very strict and limited circumstances. Even when a taxpayer does qualify, the benefit is usually not enough to provide real tax relief. For example, Clause 17D provides a tax exemption of \$175 for property owners over the age of 70 and whose personal estate (exclusive of their home) does not exceed \$40,000. In fiscal 1997, there were 12 applicants in the entire Town who qualified for this exemption. With the average Sudbury tax bill approaching \$5,000, a \$175 exemption is not going to make a significant difference to the typical senior who is on a fixed income. In fact, the total spent in fiscal 1997 for all tax exemptions was \$43,000, which is just over one-tenth of 1% of the Town budget and costs the average taxpayer about \$7.00 a year. In an October 1997 survey of the 700 Sudbury Senior (65 and older) households, over 50% of the respondents said they were anticipating a move from Sudbury in the near future, and 86% gave real estate taxes as their primary reason for leaving.

There is a little used exemption known as Clause 18, which is entitled the Hardship Exemption. It states that the Assessors may grant an exemption in any amount for applicants who in their opinion meet the following criteria:

1. Generally, an applicant must be at least 65 years of age to qualify; however, in some circumstances, a younger person might be eligible.
2. An applicant must have some degree of mental or physical ailment, handicap or disability. Therefore, the Assessors should require submission of documentation which discloses the nature and history of the applicant's infirmity.
3. An applicant must suffer financial deprivation to be eligible for this exemption. Assessors should, therefore, require each applicant to provide all available and relevant financial information.

The above guidelines are taken directly from a Department of Revenue Informational Guideline release dated October 1988. This document also specifies that some flexibility is allowed to Assessors in their application of these criteria to specific cases. It further says, "Assessors cannot be arbitrary or capricious in processing Clause 18 requests."

The purpose of this article is to provide a more precise guideline for the third and most important criteria, financial hardship. By having Town Meeting approval of the proposed guidelines, the Board of Assessors will have a stronger basis for making decisions on Clause 18 applications and yet still have the flexibility it needs to consider special circumstances. Also, because the three members of the Board of Assessors are elected on a rotating basis every three years, guidelines will provide historical groundwork for future boards to consider. It must be understood that the Board of Assessors has the sole jurisdiction to decide Clause 18 applications. The recommendations made here, if approved, are non-binding and have no legal bearing on the Assessors' deliberations or decisions but shall indicate to them a sense of the Town's preference.

The Sudbury Senior Tax Relief Committee was formed at the request of the Town Manager in an effort to come up with possible tax relief scenarios for seniors that are in need. The Strategic Planning Committee and the Board of Selectmen also endorsed the formation of this Committee.

Bill Keller, 31 Churchill Street, Moved that Town Meeting adopt the following resolution:

WHEREAS, the Citizens of Sudbury recognize that many of its senior citizens are experiencing economic hardship and cannot afford to pay what would otherwise be their full fair share of real estate taxes, and

WHEREAS, the Board of Assessors is empowered under Clause 18, known as the Hardship Exemption, to grant real estate tax abatements to taxpayers experiencing financial hardship,

BE IT RESOLVED, that the Citizens of Sudbury urge and recommend that the Board of Assessors grant Clause 18 hardship abatements to deserving senior citizens for whom the payment of their full real estate tax bill would deprive them of sufficient income to maintain their reasonably established quality of life in Sudbury.

The Motion received a second.

Mr. Keller was recognized in support of the resolution. There is a group in Sudbury that has been working for the past year on the tax relief problem for senior citizens. State law only allows real estate classifications to be set up for residential, business and commercial. We can not set up a separate classification for senior citizens. There is, however, Clause 18. A clause in the State law that allows the Board of Assessors to give abatements of taxes to people who can't pay their full fair share. It has been used sparingly throughout the State. We are proposing that Sudbury lead the way in using this clause to give more systematic tax relief to senior citizens.

The presentation was made in three parts. Ed Kreitsek talked about the development of the town and how we arrived in the situation we are now in.

Walter Parfenuk, Concord Road, explained what the Sudbury Senior Tax Relief Committee suggested as a guideline in the determination of financial hardship. It is one of the criteria that are used by the Board of Assessors in their deliberation of Clause 18 hardship exemption. He discussed the results of a survey conducted by the Sudbury Senior Tax Relief Committee and the Sudbury Council on Aging. It indicated that many seniors would move out of town if some relief from taxes were not found for them. He discussed the financial impact on the Town when seniors sell their homes to families with children. He showed slides illustrating this. The Committee suggests that seniors have their real estate tax fixed to a percentage of their gross annual household income.

Bill Keller showed the language of Clause 18. He asked that the Town cap tax rates for seniors.

FINANCE COMMITTEE: The Finance Committee takes no position on this article.

BOARD OF SELECTMEN: Maryann Clark, the Board of Selectmen unanimously supports this resolution. It will not dilute the authority of the assessors, instead it provides a guideline so they can determine qualified seniors who can come under the purview of Clause 18. It also helps the whole community to stabilize our finances.

27. STRATEGIC PLANNING COMMITTEE: The Strategic Planning Committee supports Article

COUNCIL ON AGING: Carol Oram, 15 Pennymeadow Road, the Council on Aging strongly supports this article.

SCHOOL COMMITTEE: Karen Krone, the School Committee strongly supports this article. They are acutely aware of the impact that debt exemptions and Proposition 2 ½ overrides have on the tax rate. The tax structure imposed on us by the State confuses ownership of property with wealth and it confuses the prosperity of a town with the ability of each of its citizens to pay taxes. This ends up pitting people who want to provide services to a growing population of children against people who would like to stay in Sudbury but cannot pay a large and increasing fraction in taxes. The town's forced dependence on real estate taxes, therefore, pits the needs of children against the needs of seniors. The article under consideration breaks out of this trap by recognizing that while Sudbury in the aggregate is a wealthy town, not all people who own property here have an equal ability to pay taxes. By capping the percentage of income that must be paid in real estate taxes this article makes it easier for those who wish to stay in Sudbury to do so. The pressures that have brought this article to Town Meeting are not unique to Sudbury. The Suburban Coalition, which represents many metrowest towns on school-related issues, has as one of its major agenda items the passage of circuit-breaker legislation very similar to that under consideration tonight.

Dorothy McGonagle, 52 Concord Road, discussed the article from the point of view of a senior couple, wanting to stay in their home but dealing with serious illness and the inability to work. She urged support for the resolution.

Ed Rawson, 32 Hollow Oak Drive, identified himself as a Sudbury senior. He talked about the many community programs he has been involved in in the last 41 years. He urged support.

Don Aiken, 92 Maynard Road, urged support.

Henry Chandonait, 15 Stonebrook Road, strongly supported the resolution so that we can keep our seniors in town.

Ann McNabb, Lakewood Drive, a lifelong resident of Sudbury, posed two questions. Do both spouses need to be senior citizens?

Dan Loughlin responded, because Clause 18 guidelines are fairly flexible, the assessors could interpret it to be at least one of the owners as qualifying. Generally in an exemption they like to see both qualifying.

Ms. McNabb asked if this was only for an "empty" nest situation.

Mr. Loughlin stated that under Clause 18 the assessors must look at three criteria—age, health and financial status. Other family members living in the household and contributing financially would be something that the assessors would look at.

The Resolution under Article 27 was **UNANIMOUSLY VOTED**.

ARTICLE 28. AMEND BYLAWS -

PUBLIC WAY ACCESS PERMIT

To see if the Town will vote to amend the General Town Bylaws by adding the following section, to be numbered by the Town Clerk:

"PUBLIC WAY ACCESS PERMIT

- A. Purpose: It is the purpose of this Bylaw to establish requirements for the review of applications for projects which alter public ways in the Town of Sudbury, and to establish procedures for the predictable, timely, and uniform review of such applications so as to ensure public safety. These procedures apply to projects which propose physical modification to existing access to a public way and to projects which propose the construction of new or modification of existing access which serves a building or expansion of a facility or use that generates a substantial increase in or impacts traffic on a public way. Such procedures shall not be construed to apply to State numbered ways according to Massachusetts General Laws, Chapter 81, Section 21, except those State numbered ways that are maintained by the Town of Sudbury.
- B. Applicability: Projects subject to this Bylaw shall include the following: (1) "modification to existing access to a public way" shall mean any alteration of the physical or traffic operational features of the access. (2) "substantial increase or impact on traffic" shall mean that generated by a facility which meets or exceeds any of the following thresholds: (a) Residential, other than single family, including hotels, motels, lodging houses and elderly housing facilities: any increase to the existing certificate of occupancy of more than 25 persons; (b) Subdivisions: 5 lots or greater; (c) Non-residential: 250 trips per day as defined in the ITE Trip Generation Manual, 4th Ed.; (d) Non-residential: 25 new parking places; (e) Non-residential: new construction of 5,000 square feet or more.
- C. Submittal of Permit Application: The Planning Board shall be responsible for the issuance and/or denial of public way access permits for residential uses. The Board of Selectmen shall be responsible for the issuance and/or denial of public way access permits for all other uses. A permit applicant shall request issuance of a permit on a standard form, supplied by the Planning Board or the Town Clerk. A permit application shall be deemed complete only after the following items have been submitted: (1) standard application form; (2) evidence of compliance with the Massachusetts Environmental Policy Act by the Executive Office of Environmental Affairs of the Commonwealth, if determined to be necessary; (3) engineering plans acceptable to the permitting board, where required.
- D. Procedures:
 - (1) Any application for a public way access permit required under this Bylaw shall be transmitted by the permitting Board within five (5) working days to the DPW Director for review and comment. The DPW Director shall, within thirty-five (35) days of receipt of the application, report to the Board in writing its findings as to the safety of the proposed activity and, in the event of a finding that the proposed activity would be unsafe, its recommendations, if possible, for the adjustment thereof. Failure by the DPW Director to respond within thirty-five days of the receipt of the application shall be deemed lack of opposition thereto.

- (2) Where an application is deemed complete, the Board shall render a decision within sixty (60) days of filing of the application. Such decision shall be filed with the Town Clerk.

Where the Board denies said application, it shall state specific findings for the denial of its decision.

E. Powers of the Board of Selectmen and Planning Board

- (1) The Board may deny the issuance of a public way access permit due to the failure of the applicant to provide sufficient roadway improvements to facilitate safe and efficient roadway operations, or when the construction and use of the access applied for would create a condition that is unsafe or endangers the public safety and welfare.
- (2) The Board may, in the alternative, impose conditions upon an access permit to facilitate safe and efficient pedestrian and traffic operations within the access and on adjacent public ways, to mitigate traffic impacts, to maintain level of service of an adjacent public way after projected increases in traffic from the proposed project, and to avoid, or minimize environmental damage during the construction period and throughout the term of the permit. Such conditions may include, but not be limited to: (a) necessary limitations on turning movements; (b) restrictions on the number of access points to serve the parcel; (c) vehicle trip reduction techniques; (d) necessary and reasonable efforts to maintain existing levels of service; (e) design and construction of necessary public way and pedestrian improvements by permittee; (f) reimbursement by the permittee of costs to the Town for inspection of the public way improvement work.
- (3) Variance: Where site or access conditions do not allow the proposed access to meet recognized design standards (hereinafter governed by the Rules and Regulations of the Planning Board Governing the Subdivision of Land, and other standards utilized by the Massachusetts Highway Department), the Board may vary application of the design standards on a case by case basis, upon the finding that there are no reasonable available alternatives which would allow access in compliance with these standards. In this case, the applicant must commit to provide measures to mitigate impacts to traffic and operational safety which the Board determines are necessary.

F. Access Permit Provisions

- (1) Construction under the terms of a public way access permit shall be completed within one year of the date of issue, unless otherwise stated in the permit. The Board may extend the permit for an additional year, at the written request of the permittee, filed prior to the expiration of the original construction period.
- (2) When the Board determines that a permit condition has not been complied with, it may suspend or revoke a public way access permit if, after notice to the permittee of the alleged noncompliance, twenty-four hours have elapsed without compliance.
- (3) The Board may require a performance bond to be posted by the permittee in an amount not to exceed the estimated cost of the work, as determined by the Director of Public Works. The performance bond shall be posted prior to the issuance of the permit.

April 13, 1998

- (4) The Board may issue written orders or regulations to carry out or enforce the provisions of this Bylaw.";

or act on anything relative thereto.

Submitted by the Planning Board.
(Majority vote required)

PLANNING BOARD REPORT: This Bylaw gives the Town leverage to require improvements to public ways if deemed necessary due to new construction which may impact the public way. Improvements may include pedestrian safety enhancements (walkways), intersection improvements, roadway realignment, sight distance improvements, etc. The important point to consider with the Bylaw is that currently the Town has little power to require off-site improvements, even in conjunction with development that impacts the public ways. This Bylaw defines the threshold levels for review of a public way access permit, when the Town would have jurisdiction to require improvements, and lists the design standards that must be met when improvements are made. The authority of this Bylaw has been split between the Planning Board and the Board of Selectmen, depending on the type of application, so that this Bylaw can be administered in conjunction with either a subdivision application, or a site plan special permit application to avoid lengthening the permitting process for a proposal.

Lawrence O'Brien, Planning Board, *Moved in the words of the article.*

The Motion received a second.

Mr. O'Brien was recognized in support of the article. This is the first of three articles that will be presented by the Planning Board that address particular situations for which the Planning Board has no current solutions. The common thread between these articles is that they will provide the town with unencumbered revenue. The purpose of Article 28 is to establish specific requirements for the review of applications which will alter public ways in Sudbury. This bylaw will give the Town leverage to require applicants to make improvements that would provide pedestrian safety, intersection improvements, roadway realignments, site distance improvements, etc. Currently the Town has very little power to require off-site improvements even when a development project will have an impact on the public ways.

He showed examples of some things that the Planning Board has been able to accomplish and some of the things that are on the "To Do" List at the Department of Public Works. He showed a list of projects that had been voluntarily paid for by developers. When the Planning Board approaches a developer and asks for assistance outside the property boundaries, they sometimes get a "yes" and many times get a "no." The town has no other leverage to obtain other improvements, that is the purpose of this article.

He clarified responsibility for issuing the public access way permit, depending on whether it was a residential permit or any other type of permit. Projects that would be subject to this bylaw include any project that would modify the existing access to the existing public way, any project that would have a substantial increase or impact on traffic, or would specifically exceed certain thresholds. Subdivision plans of five lots or greater, a non-residential plan that would involve 250 vehicle trips per day or greater, a non-residential plan that would require 25 new parking spaces, or new construction of 5000 square feet or more in the form of a non-residential project as well as an increase in the existing certificate of occupancy of greater than 25 people, which would include hotels, motels, lodging houses and elderly housing facilities would be affected. The improvements would need to be completed within one year of the date of the issue of the permit unless otherwise stated. The Board responsible for issuing the permit would be able to require that performance bond be posted prior to the permit's issuance. The Director of Public Works would determine the amount of the bond. This bylaw will specifically allow the Board of Selectmen and the Planning Board to be proactive when a development proposal is submitted. The Planning Board urged support of the article.

FINANCE COMMITTEE: Mr. Ragones, the Finance Committee recommends approval of this article.

April 13, 1998

BOARD OF SELECTMEN: Maryann Clark, the Board of Selectmen unanimously supports the article.

The Motion was UNANIMOUSLY VOTED.

**ARTICLE 29. AMEND ZONING BYLAW, ART. IX.V.P. -
WIRELESS SERVICES**

To see if the Town will vote to amend Article IX (The Zoning Bylaw) by adding a new section, IX.V.P - Wireless Services, as follows:

"P. WIRELESS SERVICES

Wireless services (including antennas, transceivers, towers, equipment buildings and accessory structures, if any) may be erected in a Wireless Services District subject to site plan special permit approval pursuant to Section V.A. or V.A1 of the Zoning Bylaw, as may be amended, and upon the issuance of a special permit by the Board of Appeals pursuant to Section VI.C.3 of the Zoning Bylaw, if necessary, and subject to all of the following:

1. **Purpose.** The purpose of this Bylaw is to establish districts within Sudbury in which wireless services may be provided with minimal harm to the public health, safety and general welfare of the inhabitants of Sudbury; and to regulate the installation of such facilities by 1) minimizing visual impact, 2) avoiding potential damage to adjacent properties, 3) by maximizing the use of existing towers and buildings, 4) by concealing new equipment to accommodate the needs of wireless communication in order to reduce the number of towers needed to serve the community and 5) promoting shared use of existing facilities.

For the purposes of this section, "wireless services" shall be defined as "personal wireless facilities" referenced in Section 704 of the Telecommunications Act of 1996. These include, but are not limited to, all commercial mobile services which are for-profit, are available to the public or a substantial portion of the public, and provide subscribers with the ability to access or receive calls from the public switched telephone network or other similar services, and the transceivers, antenna structures and other types of installations used for the provision of personal wireless services. Common examples include personal communications services (PCS), cellular radio mobile service, paging services, unlicensed wireless services, and common carrier wireless exchange access services.

Towers, satellite dishes or antennas for non-commercial use are regulated under section IV.A of the Zoning Bylaw.

2. **Location.** The Wireless Services District shall be constructed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.

Said district shall include those parcels of land owned by the Town of Sudbury, which is held in the care, custody, management and control of the Board of Selectmen, Park & Recreation Commission, and parcels of land owned by the Sudbury Water District, as of the effective date of this Bylaw, as listed below:

- a) Sudbury Landfill property, Assessor's Map No. K12, Parcel 002
- b) Town-owned portion of the former Unisys property, Assessor's Map No. C11, Parcel 300 (part of)
- c) Former Melone property, Assessor's Map No. C12, parcel 100
- d) Sudbury Water District Borrow Pit, North Road, Assessor's Map No. C12, Parcel 004
- e) Raymond Road well field area, including Feeley Park and surrounding Town and Water District land, Assessor's Map Nos. L08, Parcels 001, 002, 008, 009, 010, 012 and M08, Parcel 021
- f) Highway Department property, Old Lancaster Road, Assessor's Map No. H08, Parcel 049
- g) Town of Sudbury Cemetery Land, Concord Road, Assessor's Map No. G09, Parcels 005, 006, 007
- h) Sudbury Fire Station, Hudson Road, Assessor's Map No. G08, Parcel 008

Also included in the overlay district are all properties within Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research districts.

3. Wireless Communication Equipment Allowed As-of-Right. The following are allowed as-of-right in the overlay district, or elsewhere as specified, subject to the design criteria of section 5 of this Bylaw and Site Plan Special Permit review under section V.A and V.A1 of the Zoning Bylaw.

- a) All interior mounted wireless communications equipment is allowed in any zoning district in the Town. In residential districts, interior-mounted wireless communication equipment shall be permitted only in steeples, bell towers, cupolas and spires of non-residential buildings or structures, or in agricultural buildings.
- b) Roof-mounted wireless communications equipment is allowed in the overlay district if it meets the following conditions:

Height of building	Max. height of equipment above the highest point of the roof	Required setback from edge of roof or building
More than 36 feet	12 feet above roof	½ foot for every foot of equipment height, including antenna
10-36 feet	10 feet above roof	1 foot for every foot of equipment height, including antenna

If there is a parapet on any building or structure which does not exceed 36 feet in height and if the roof-mounted wireless communication equipment will be transmitting or receiving in the direction of that parapet, the required setback from the edge or edges of the roof of the building at or beyond the parapet shall be reduced by the height of such parapet. The height of a parapet shall not be used to calculate the permissible maximum height of roof-mounted wireless communication equipment. For the purposes of this section, a parapet is that part of any wall entirely above the roof line.

- c) Façade-mounted equipment within the overlay district which a) does not extend above the face of any wall or exterior surface in the case of structures that do not have walls, b) does not extend by more than 18 inches out from the face of the building or structure to which it is attached, and c) does not obscure any window or other architectural feature.
 - d) *Small transceiver sites which utilize technology that does not require the construction of an equipment building, shelter, cabinet or tower (micro-cells), and have a total power input to the antenna of twenty (20) watts or less, in any zoning district.*
 - e) Changes in the capacity or operation of a wireless service facility which has previously received a special permit under this Bylaw, limited to an increase or decrease in the number of antennae, cells or panels, or the number of service providers (co-locators), shall be permitted, subject to Site Plan Special Permit review under section V.A or V.A1 of the Zoning Bylaw and authorization from the lessor of the property.
4. Wireless Communications Equipment Allowed by Special Permit.
- a) Free-standing monopoles meeting the following criteria:

- i) Free-standing monopoles shall be no higher than 100 feet.
- ii) The setback for a free-standing monopole shall be at least 125 feet from the property line.
- iii) Co-location of wireless communication equipment on existing towers and buildings is encouraged. The applicant for a monopole shall demonstrate that the communication equipment planned for the proposed structure cannot be accommodated on an existing or approved tower or structure or building within a one-half mile search radius of a proposed monopole for one or more structural, technical, economic or other reasons as documented by a qualified engineer or other qualified professional including, but not limited to the following:
 - 1) no such tower or building exists.
 - 2) the structural capacity of the existing tower or structure is inadequate and cannot be modified at a reasonable cost or the proposed equipment will interfere with the usability of existing equipment.
 - 3) the owner of an appropriate building or structure has effectively denied permission to co-locate by unreasonable delay or commercially unreasonable terms or conditions.
 - 4) the height of existing tower or structure is not adequate to permit the proposed equipment to function.
- iv) Every special permit issued by the Zoning Board of Appeals for a new monopole or tower shall be automatically subject to the condition that the permit holder must allow co-location upon the structure by other wireless communication providers upon commercially reasonable terms and conditions and without unreasonable delay, if such co-location is technically feasible. It is expressly provided that any requirement imposed by a permit holder which requires the payment of rent in excess of industry standards or which allows the co-location only if the requesting party provides comparable space on one of its structures to the permit holder shall be deemed commercially unreasonable.

5. Facility and Site Design Criteria.

- a) All wireless communication equipment shall be sited, screened and/or painted or otherwise colored or finished to blend in with the building or structure on which it is mounted or in a manner which aesthetically minimizes the visibility of the devices in the surrounding landscape or on the building or structure to which they are attached. In certain circumstances, additional architectural features or changes to the façade may be necessary to maintain the balance and integrity of the design of the building or structure with building-mounted wireless communication equipment.
- b) Equipment boxes or shelters for wireless communication equipment must either be interior to the building on which it is located, completely camouflaged, and/or completely screened from view from the public way.
- c) No radiating component of a wireless service facility shall be located within five hundred (500) feet of a residential lot line, measured from the horizontal distance from the radiating structure, except small transceiver sites permitted in section 3.d above.
- d) No component of a wireless service facility shall be located within one thousand (1,000) feet of any school building, except small transceiver sites permitted in section 3.d above.
- e) No part of any building-mounted wireless communication equipment shall be located over a public way.
- f) Existing on-site vegetation shall be preserved to the maximum extent practicable. Major topographical changes shall be avoided.
- g) Traffic associated with the facilities and structures shall not adversely affect abutting ways.

- h) There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis.
 - i) Night lighting of the facilities shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
 - j) There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles.
 - k) Applicants proposing to erect wireless communications facilities and structures on municipal properties shall provide evidence of contractual authorization from the Town of Sudbury or the Sudbury Water District to conduct wireless communications services on said property.
 - l) All unused facilities or parts thereof or accessory facilities and structures which have not been used for two (2) years shall be dismantled and removed at the owner's expense. A bond in an amount which shall not be less than the estimated cost to dismantle and remove the wireless communication facility plus twenty-five percent (25%), shall be required to be furnished to the Town prior to construction of the facility.
 - m) Any special permit granted under this section shall expire in five (5) years from the date of issuance. Continued operation of such facility shall be subject to application for and renewal of the special permit by the Zoning Board of Appeals.
6. Submittal Requirements. As part of any application for a special permit under this section V.P, applicants shall submit, at a minimum, the applicable information required for site plan approval, as set forth herein at Section V.A.5, as may be amended, and the following additional information:
- a) A color rendition of the proposed facility with its antenna and/or panels at the proposed location is required. One or more renditions shall also be prepared illustrating the visual effects of the facility from prominent areas.
 - b) The following information prepared by one or more professional engineers:
 - a description of the facility and the technical, economic and other reasons for the proposed location, height and design.
 - confirmation that the facility complies with all applicable Federal and State standards.
 - a description of the capacity of the facility including the number and type of panels, antenna and/or transmitter receivers that it can accommodate and the basis for these calculations.
 - c) If applicable, a written statement that the proposed facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
 - d) A general description of the build-out plan of other wireless communications facilities that the provider plans to install in Sudbury within the next five (5) years, including locations, approximate tower height, the capacity of the facility and the proposed compensation to the Town or Water District.
 - e) Balloon Test: Within 35 days of submitting an application, the applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the

maximum height of the proposed facility. The dates (including a second date, in case of poor visibility on the initial date), times, and location of this balloon test shall be advertised, by the applicant, at least 7 days in advance of the first test date in a newspaper with a general circulation in the Town of Sudbury. The applicant shall inform the Board of Appeals, in writing, of the times of the test at least 14 days in advance. The balloon shall be flown for at least four (4) consecutive hours between the hours of 8:00 a.m. and 6:00 p.m. on the dates chosen.

7. Exemptions. The following types of uses are exempt from this Section P:

- a) Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that the tower operator is not licensed to conduct commercial business on a daily basis from that facility.

8. Selectmen Authority to Lease Town-owned sites. The Board of Selectmen may lease Town-owned property to facilitate the purposes of this Bylaw.";

or act on anything relative thereto.

Submitted by the Planning Board.
(Two-thirds vote required)

PLANNING BOARD REPORT (ART. 29): With the increasing consumer demand for wireless communication service in the Boston metropolitan area, the construction and expansion of cellular networks has become a priority for many companies. The Town has been bombarded by requests from cellular companies, with three applications submitted in 1997, for construction of cell sites to supplement the growing wireless network. Currently the Town has no definitive regulations for reviewing applications for these land uses. The proposed Bylaw has been developed over the past year with the valued assistance of a group of knowledgeable residents on wireless technologies. The intent of the Bylaw is to regulate and restrict the siting of wireless facilities in order to minimize visual impact and to promote the use of Town-owned land for these purposes so as to receive the leasing profits from these facilities.

Lawrence O'Brien, Planning Board, Moved in the words of the article except for the following amendment:

A: Delete paragraph 2.g), "Town of Sudbury cemetery land, Concord Road, assessor's map No. G09, parcels 005, 006, 007," from the overlay district, and re-letter paragraph 2.h to become 2.g); and

B: Add a new paragraph 4.a).i) to read as follows:

"Free-standing monopoles shall be allowed only on those parcels in the overlay district which are listed in a) through g) in Section 2 above.

And renumber existing paragraphs i) through iv) in Part 4.a to become ii) through v).

The Motion received a second.

Lawrence O'Brien, Planning Board, discussed the rapid expansion of the cellular industry. Currently the construction of towers is permitted in Sudbury by special permit from the Zoning Board of Appeals in any zoning district anywhere in town subject to conditions and regulations that may be imposed by the ZBA. Our current regulations cite no other specific criteria to permit these towers which leaves the Zoning Board in a difficult position to deny a petition to construct a tower. With the passage of the Telecommunications Act by the United States Congress in 1996 certain provisions and how to regulate the permitting of these facilities have restricted local governments. Key provisions of this act by Congress include the fact that municipalities cannot prohibit wireless facilities. Competitors must be treated equally.

Health concerns may not be considered. Denials must be based on substantial evidence. Decisions must be rendered within a reasonable period of time.

It is with these factors in mind that the Planning Board has taken the initiative to develop a bylaw that seeks to regulate the location, size and appearance of towers and other wireless communication equipment in Sudbury. This bylaw does not attempt to delve into the technical aspects of the wireless communications industry by permitting or prohibiting certain frequencies, types of equipment or other such factors. The proposed bylaw merely proscribes the appropriate location, size and set backs of communications towers so that the visual landscape of Sudbury is not littered with 150-foot towers.

A second benefit to this by is in defining where the facilities can be located. In the article you will see a list of properties which would be the only properties in town where the monopoles would be permitted. In the business, limited business, village business, industrial, limited industrial, industrial park and research districts only roof-mounted equipment would be permitted. That would only be allowed with a maximum height of 12 feet above the highest point of the roof. He showed a map illustrating areas where monopoles would be permitted.

The key features of Article 29 are that monopoles would be limited to a maximum height of 100 feet in those designated areas only. The setback for a free-standing monopole will be least 125 feet from the property line. Co-location of equipment will be thoroughly encouraged. No radiating component of a wireless facility shall be located within 500 feet of a residential lot line. No component of a wireless facility shall be located within 1,000 feet of any school building. All unused facilities and structures that have not been used for two years shall be dismantled and removed at the owner's expense. All wireless communications special permits shall expire in five years from the date of issue. Continued operation of the facility shall require an application for the renewal of that special permit. This by law has been modeled after bylaws that other Massachusetts towns have adopted.

It is inevitable that the wireless communications companies will attempt to build cellular networks in Sudbury. We can either wait for it to happen with the inferior current regulations offering no real protection to the community and risk litigation if permits are denied or we can proactively regulate these facilities with this bylaw which seeks to minimize visual impacts and generate potential revenue for the town. The Planning Board urges support.

FINANCE COMMITTEE: Mr. Ragonese, the Finance Committee recommends approval of this article.

BOARD OF SELECTMEN: Ms. Clark, the majority of the Board of Selectmen support this article. Ms. Clark stated that she could support it if three items were amended.

Maryann Clark *Moved to amend by changing three items:*

Clause 4. a) i) Change the height from 100 feet to 80 feet.

Clause 4. a) iii) Change one-half mile to one mile.

Clause 5. l) Change two (2) years to one (1) year.

The Motion received a second.

Ms. Clark was recognized in support of the motion to amend. The height of the lighting towers at Feeley Park are 67 to 70 feet above ground. Our maximum trees are approximately 65 feet. An allowance of 80 feet is approximately 10 to 15 feet higher than our mature trees.

With regard to changing the one-half mile to one mile, Ms. Clark specifically asked an AT&T engineer what the range of service from their towers was. He responded that it was one mile.

Towers not being used for one year give the utility ample time to decide whether they will continue or discontinue use.

The Moderator questioned Ms. Clark on the second part of the amendment to be sure that it was technically acceptable. He then asked the Planning Board if they approved of this amendment.

April 13, 1998

The Planning Board responded that it would be more protective for the town if the distance remained at the one-half mile.

Ron Reder, 135 Willis Road, assisted the Planning Committee. The accommodation of reducing the antenna height to 80 feet and requiring that the antenna be moved out of its ideal location by that amount may negatively impact the ability to cover a certain area. He believed that the values in the Warrant article are already compromised and he questioned whether they should be further reduced.

The Moderator asked Ms. Clark if she wished to continue with the amendment in light of Mr. Reder's comments.

There was continued discussion of the amendment.

The Planning Board did not support the amendment.

Ralph Tyler, 1 Deacon Lane, supported lowering the height.

The Moderator asked if there was anyone in the hall that who could offer some technical analysis.

There was no response.

The Moderator expressed concern over the wisdom of this kind of technical amendment being made at this time.

Robert Coe clarified the wording of Clause 4. a), iii) and urged defeat of the amendment.

Several people spoke to help clarify the technical questions.

The Motion to Amend was **DEFEATED**.

Edie Creter, 16 Wildwood Lane, identified her home as next door to the Highway Department, which is a designated site. She expressed concern over health issues not being allowed as a consideration in installation of equipment. She stated that she does not want the towers in town because of radiation dangers. She stated that it is the Town's responsibility to prove to its citizens that wireless towers are completely safe. She urged defeat of the article.

Doug Barth, 286 Old Lancaster Road, saw no compelling reasons to allow this intrusion of towers. Urged defeat.

Chuck Mainville, Willis Hill, stated he has been involved with the issue of cellular communications in Sudbury for 2 ½ years. He opposed the Bell Atlantic 200-foot tower at the landfill. He helped the Planning Board to revise the current article. He stated that it is tremendously needed and protective of both the scenic values and of the residential character in Sudbury. In voting for this article you are voting to substantially limit where towers can be placed. It is essential that we have a zoning bylaw that controls placement of the antennas. He urged support of this article.

Bill Cooper, 11 Cedar Creek Road, asked the Planning Board if the portions of the Unisys/Malone land designated as conservation land could have towers built on them under this article.

Lawrence O'Brien responded that there would be no towers built on conservation land.

Dan Claff, Dutton Road, asked if a tower could be built on the senior housing portion of the Unisys/Malone land.

Mr. O'Brien responded with two answers. If an application came in today, since Article 11 was a resolution to move forward with senior housing there, the Zoning Board of Appeals would have to give that

application consideration for placement of a tower on that parcel. The second answer was that if the supporters of Article 11 were to go to the ZBA hearing and explain the fact that plans were being drawn up and that proposals were being prepared for senior housing and they could show that the layout and the site design would be too close to a tower and not meet the setbacks you might have a good chance of defeating that tower.

Dan Claff Moved to amend Section P. Wireless Services, Section 2. b), to delete this section, "Town-owned portion of the former Unisys property, Assessor's Map No. C1," and re-letter subsequent letters appropriately.

The Motion received a second.

Mr. Claff was recognized in support of his amendment. He pointed out that the property included in Section 2. c), the former Malone property, is located less than one-quarter mile away from the property in Section 2. b) as a potential location. He questioned the wisdom of including the Unisys parcel as a potential site when Town Meeting has asked the Task Force to develop a housing plan.

Mr. Blacker asked the hall to support the amendment.

The Motion to Amend was **VOTED**.

Eddie Creter Moved to amend Section P. Wireless Services, Section 2. e), to delete this section, "Highway Department property, Old Lancaster Road, Assessor's Map No. HO8, Parcel 049," and re-letter subsequent letters appropriately.

The Motion received a second.

Ms. Creter was recognized in support of her motion to amend. She stated that she would like to have this section removed because it is a densely populated area. She expressed concern about long-term health risks.

Lawrence O'Brien stated that the article specifies a 125-foot setback from a property line, regardless of what type of property it is. It also includes a 500-foot setback from any residential property line. It is his understanding that with the limits of this article, the Highway Department would have a very difficult time putting a tower there. If we make the article too constricting we risk suit by a wireless company. He urged defeat of the amendment.

Ed Kreitsek, Dudley Road, pointed out that a television turned on on the stage would completely saturate the hall with microwaves. He addressed the fear of the radiation level. He recommended defeat of the amendment and approval of the main motion.

Chuck Mainville, Willis Hill, recommended defeat of the amendment. This bylaw was crafted to protect the town, without it, as written, we are open to any number of providers placing towers anywhere they can convince a property owner to allow it. It is designed to allow providers to place towers in appropriate places, if we take them out we will be challenged in court.

The Motion to Amend was **DEFEATED**.

Debbie Howell, Victoria Road, asked if the original location for the proposed towers on Willis Hill was listed as a possible location in the Warrant.

Mr. O'Brien responded that it is not.

Ms. Howell asked why it was not included.

April 13, 1998

Mr. O'Brien answered that currently there is a Bell Atlantic facility on top of the Willis Hill water tower, so the site is already being used. The ZBA and the Board of Selectmen denied the application to AT&T because they felt one set of antennas was enough there.

The motion as Amended was **UNANIMOUSLY VOTED**.

**ARTICLE 30. AMEND ZONING BYLAW, ART. IX.IV.F/L.G/V.O -
INCENTIVE SENIOR DEVELOPMENT**

To see if the Town will vote to amend the Zoning Bylaw (Article IX) as follows:

- 1) Insert in Section IV a new subsection F, as follows:

"F. INCENTIVE SENIOR DEVELOPMENT

The Planning Board, acting as Special Permit Granting Authority, may grant a Special Permit for construction of an Incentive Senior Development and accessory structures, in all zoning districts listed below in section 3.a subject to the following:

1. Objectives - The objectives of the Incentive Senior Development Special Permit are to provide a more affordable means of housing for a maturing population; to provide a type of housing which reflects the senior population desire to reduce residents' burdens of property maintenance; which provides a type of development which reduces demands on municipal and educational services; and to promote flexibility in land use planning in order to improve site layouts, protection of natural features and environmental values and utilization of land in harmony with neighboring properties.
2. Planning Board Action - The Planning Board shall grant a Special Permit for an Incentive Senior Development if it finds, after holding a public hearing in accordance with requirements of Chapter 40A of the General Laws, that: (i) the development complies with the objectives of the Bylaw as stated in Sections 1-6 hereof; (ii) the development is in an appropriate location and does not significantly alter the character of the neighborhood in comparison to a single family residential development; (iii) adequate and appropriate facilities will be provided for the proper operation of the development; (iv) the special permit use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances; (v) the special permit use would not cause undue traffic congestion in the immediate area; (vi) the development plan responds to the recommendations of Town Boards and Agencies; and (vii) the granting of the Special Permit would not result in unsuitable development of the land in question.
3. Qualifications - The following qualifications shall apply to all Incentive Senior Developments:
 - a. Zoning District - An Incentive Senior Development shall be located in a Single Residence "A", Single Residence "C", the Wayside Inn Historic Preservation Residential Zone Districts, Limited Business Districts, Village Business Districts and Research Districts.
 - b. Tract Qualification - At the time of granting a special permit by the Planning Board, the property under consideration for an Incentive Senior Development shall be located on a contiguous parcel, not separated by a public or private way, with definite boundaries ascertainable from a recorded deed or recorded plan, having an area of at least 10 acres. For parcels greater than 20 acres, parcels may be separated by a private or public way.
 - c. Age Qualification - An Incentive Senior Development shall constitute housing intended for persons of age sixty-two (62) or over within the meaning of M.G.L. c151B, §4, ¶6 and 42 USC §3607(b)(2)(c), and in accordance with the same, one hundred percent (100%) of the dwelling units in an Incentive Senior Development shall each be owned and occupied by at least one person sixty-two (62) years of age or older per dwelling unit, and such development shall be operated and maintained in all other respects in compliance with the requirements of said statutes and regulations promulgated pursuant thereto. In the event of the death of the qualifying owner/occupant(s) of a unit, or foreclosure or other involuntary transfer of a unit in such a development, a two-year exemption shall be allowed for the transfer of the unit to another eligible household.
 - d. Applicant Qualifications - The applicant for a Special Permit under the provisions of this section shall be the owner of the tract proposed for such Development or be authorized in writing by the owner to apply for and be issued such Special Permit, and shall establish to the satisfaction

of the Planning Board that the applicant has knowledge, experience and financial resources sufficient to construct and complete the Development.

4. Rules and Regulations and Fees - The Planning Board shall adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this Zoning Bylaw, Chapter 40A of the General Laws, and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules and Regulations shall, subject to and in accordance with provisions of section 7 of this Bylaw, prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the Town Boards or Agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a Special Permit under the provisions of this section. The Planning Board shall also specify the fees to be paid in connection with application for a Special Permit for an Incentive Senior Development, bonding requirements to satisfy conditions of approval, and owner/occupancy reporting requirements to satisfy compliance with the age restriction. Other specifications as deemed necessary by the Planning Board shall be included in the Rules and Regulations.
5. Tract Requirements - The following requirements shall apply to all Incentive Senior Developments:

- a. Number of Dwelling Units Permitted - The maximum number of dwelling units shall be computed based on the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations, possessing suitable soils as determined by the Board of Health, and sufficient upland, buildable area to sustain a single family home. In Village Business Districts, Limited Business Districts and Research Districts, a minimum lot area of 40,000 sq. ft. and minimum frontage requirement of 180 feet shall be used to calculate each buildable lot. For the purposes of this section, minimum lot area in every district shall contain no more than 25% of land which is underwater land or wetland resource as defined in Chapter 131, Section 40 of the M.G.L. or in the Sudbury Wetlands Administration Bylaw, excluding adjacent upland resource areas. For each buildable lot calculated, a maximum of 4 units shall be permitted to be constructed.

- b. Minimum Open Space – Open Space requirements shall be set forth according to the acreage of the parcel, as follows:

10-15 acres (total parcel size):	35% open space required
16-20 acres (total parcel size):	40% open space required
21-25 acres (total parcel size):	45% open space required
over 25 acres:	50% open space required

Wetlands and adjacent upland resources as defined in the Sudbury Wetlands Administration Bylaw, as determined and specified by the Conservation Commission shall not qualify as Open Space in the above calculation. The open space areas shall be selected in order to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface area ratio in order to preserve large blocks of undisturbed land. The open space shall be left in an undisturbed, natural state. Landscape plantings shall not be permitted, except in areas where revegetation may be necessary to increase buffering, as determined by the Planning Board.

- c. Ownership of Open Space - The open space shall be owned in common by the owners of the dwelling units in the development, or by an organization or entity owned and controlled by such dwelling unit owners, or can be offered to the Town, or another non-profit organization whose principal purpose is the preservation of open space, for conservation purposes. An enforceable restriction shall be recorded on all open space parcels providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking, roadway or active recreation.

On smaller parcels where conveyance of the open space property is not valuable to the Town or a conservation organization, the required open space as calculated above may be left in the control of the owners of the dwelling units in the development without the granting of a conservation restriction or other perpetual easement, with a notation on the Plan that such property is not available for construction of any structures and removal of vegetation is prohibited.

6. Building and Dwelling Unit Requirements - The following requirements shall apply to all buildings and dwelling units in an Incentive Senior Development:
 - a. Dwelling units can be attached or detached, or a combination of these types.
 - b. No building shall contain more than four dwelling units.
 - c. No dwelling unit constructed in an Incentive Senior Development shall contain more than two (2) bedrooms. No more than ten percent (10%) of the total units in an Incentive Senior Development shall have fewer than two bedrooms.
 - d. Accessory Buildings and Structures - Accessory buildings and structures may be permitted, including clubhouse, swimming pool, tennis court, cabanas, storage and maintenance structures, garages, and other customary accessory structures, however, any common facilities or structures must be constructed on land owned in common by the owners of the dwelling units in the development, or by an organization or entity owned and controlled by such dwelling unit owners. Accessory buildings and structures shall be shown on the development plan, and may not be constructed within any minimum open space required in section 5.b. above.
 - e. Interrelationship of Buildings - The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy and separation between buildings. Buildings shall comply with a minimum setback of twenty (20) feet from other structures in the development.
7. Additional Physical Requirements - The following requirements shall apply to all Incentive Senior Developments:
 - a. Parking - Two parking spaces shall be provided for each dwelling unit (with the exception of one-bedroom units, which shall require one parking space per unit), in reasonable proximity to the dwelling, or in garages. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, shall be provided in off-street parking areas, provided that no single accessory parking area shall contain more than twelve parking spaces, and all such areas shall be adequately landscaped. The Planning Board may authorize a decrease in the number of parking spaces up to 30% of the total number required. The reserved spaces shall be set aside and shall not be intended for immediate construction, but shall be properly designed as an integral part of the overall parking layout. Such spaces shall be labeled as "Reserve Parking" on the plan.
 - b. Roadways - Roads and driveways within the development shall meet such width, grades, radius of curvature and construction standards as the Planning Board shall determine, based upon the standards provided in the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.
 - c. Other Facilities - All facilities for utility services, drainage, lighting and signage shall be in accordance with requirements established by the Planning Board, consistent with applicable provisions of the Zoning Bylaw and the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.
 - d. Project Maintenance - In every development there shall be an organization of the owners of the dwelling units which shall be responsible for the maintenance and repair of common

elements and facilities owned by and serving the residents of the development, and the Town of Sudbury shall not be responsible therefor.

e. Wastewater Disposal - In every development wastewater disposal shall comply with the requirements of the Sudbury Board of Health and applicable Department of Environmental Protection regulations.

8. Price Restrictions

a. Cost per unit – Units developed under this Bylaw shall be sold and resold at no more than 2 times the cost for the sale of 2 bedroom detached or attached homes, whichever is applicable, under the Department of Housing and Community Development guidelines for the Local Initiative Program, or other state or federal affordable housing program that determines purchase price for housing units in the Boston area (plus 25%). Condominium fees are excluded in the cost per unit calculation.

b. Enforcement of Sale and Resale Provisions – Original purchase and resale prices shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability. Sale and resale provisions shall be contained in applicable deed restrictions, covenants, contractual agreements such as limited equity provisions, condominium association Bylaws and/or other mechanisms to ensure compliance. Such restrictions shall not be permitted to be altered without consent of the Town of Sudbury. Annual reporting to the Planning Board is required for all units sold or resold.

9. Procedure - The procedure for issuance of a special permit for an Incentive Senior Development shall be as follows:

a. Application for Special Permit - Any person who desires a Special Permit for construction of an Incentive Senior Development shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:

(i) Identification of applicant; information as to the record title to the tract; identification of applicant's professional and development associates.

(ii) A preliminary subdivision plan showing the development of the tract under the provisions of the Zoning Bylaw without regard to this section, for the purposes of determining density. Such plan shall generally conform to provisions described in section IV.B.4 of the Rules and Regulations Governing the Subdivision of Land for a preliminary plan. Drainage design and calculations are not necessary. Such plan shall be accompanied by a report from a Certified Soil Evaluator, with confirmation that the results have been approved by the Board of Health, stating which lots on said plan contain soil conditions suitable for sub-surface sewerage disposal in accordance with rules and regulations of the Town of Sudbury and applicable laws of the Commonwealth of Massachusetts. Soil testing witnessed by the Board of Health or its agent is required. The preliminary plan shall also contain the boundaries of all wetland resource areas as defined in the Sudbury Wetland Administration Bylaw.

(iii) A Site Plan showing, insofar as pertinent, all of the information required for a definitive subdivision plan, as specified in the Town of Sudbury, Subdivision Rules and Regulations, as amended, and showing the following additional information: soil characteristics as shown on Soil Conservation Service Maps; resource areas as defined by M.G.L., Chapter 131, section 40, (The Wetlands Protection Act), and delineation of the official wetland area boundaries as accepted by the Sudbury Conservation Commission pursuant to the Sudbury Wetland Administration Bylaw; existing floodplain boundary lines; existing and conceptually proposed locations of buildings containing dwellings and other buildings; all setback lines; existing and proposed roads and driveways; lighting;

signs; proposed and existing wells and wastewater disposal systems on the parcel and abutting properties if such systems are within 200 feet of the property line; existing and proposed topography; existing perimeter of trees; proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening); the proposed use of the common land including improvements intended to be constructed thereon; the proposed ownership of all common land; and any other information required by the Planning Board.

(iv) A schedule of the stages or phases of development in accordance with which the applicant proposes to construct the development, including dates.

(v) Sample floor plans of dwellings; elevation drawings or models of dwellings; schedule of building materials.

(vi) Plans showing proposed methods of stormwater management, including drainage calculations.

(vii) Plans showing proposed wastewater disposal facilities;

(viii) Sample copies of the legal structure formed for the operation, maintenance, management and enforcement of this development, including a master deed and Bylaws of the organization. All such documentation shall include a reference to the objectives of this Bylaw and the requirement for 100% of the units to be owned and occupied by at least one person age 62 or over.

b. Reports from Town Boards or Agencies - The Planning Board shall transmit forthwith a copy of the application and plan(s) to the Board of Selectmen, Board of Health, Conservation Commission, Design Review Board, Park and Recreation Commission, Board of Assessors, Historic Districts Commission, Building Inspector, Fire Department, Department of Public Works, Police Department and the Sudbury Water District. Failure of any such board or agency to make a written recommendation or submit a written report within 35 days of receipt of the application shall be deemed a lack of opposition.

c. Special Permit Conditions - In order to implement a Special Permit for an Incentive Senior Development and to assure compliance therewith, the Planning Board shall in the Special Permit set forth requirements and conditions that before a building permit is issued for any buildings (i) the applicant shall have submitted to the Planning Board detailed plans showing the locations, designs and layouts of such buildings and all driveways and accessory structures included in such stage or phase, (ii) the applicant shall have provided security by covenant, bond or other means satisfactory to the Planning Board securing the construction and installation of driveways, utilities, drainage and related services in such phase, and (iii) the Planning Board shall have determined that the detailed plans are in substantial conformity with the conceptual plans approved in the Special Permit.

d. The Planning Board shall have so notified the Building Inspector of its review and approval of each phase.

e. The Planning Board may set forth further requirements and conditions in the Special Permit as the Board shall deem appropriate to accomplish the purposes of this Bylaw, including requirements of recording of plans and documents and report thereof to the Board.

10. Enforcement

a. In accordance with the provisions of M.G.L. Chapter 40, Section 31, Chapter 40A, Section 7, Chapter 41, Section 81U and every other authority and power that may have been or may hereafter be conferred upon it, the Town may enforce the conditions and safeguards imposed

on the exercise of special permits under this Section IV,E in equity or at law and to recover from the applicant, his successor or approved assignee(s) all moneys that may be required to complete the development plan approved.

b. The penalty provisions of these Bylaws may be imposed upon the applicant, his general agent, tenant(s), architect(s), contractor(s), or any and all persons having an interest in the development site.

c. All provisions of the development plan approved shall run in favor of the residents thereof but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to that extent such provisions, whether recorded by plan, easement, covenant, or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through their organization.

d. In the event of a violation of law, an unauthorized sale or lease of the approved development site or any dwelling unit therein, development that deviates from the development plan approved, any use of the property that is not permitted in the development site, the failure to maintain residential land or if the applicant shall otherwise fail or neglect to comply with the conditions and safeguards imposed on the exercise of the special permit, the Building Inspector or Zoning Enforcement Officer may deliver a stop order to the applicant or his agent by certified mail, return receipt requested, and by posting the same in a conspicuous location in said site. The order shall describe the nature of the violation, and the date on which said order shall expire, which date shall not be less than six days later than the date of the stop order. Failure of the Town to deliver a stop order for any reason shall not prevent the Town from pursuing any other legal remedy permitted under law. Any person who shall violate the provisions of a stop order shall be deemed in violation of the Zoning Bylaw.";

2) Amend subsection G of Section I to read:

"Except as provided in Sections IV,E and IV,F, no lot within a subdivision or within the Town shall have more than one building to be used for dwelling purposes."; and

3) Amend subsection O of Section V by inserting at the end thereof the words: "and IV,F";

or act on anything relative thereto.

Submitted by the Planning Board.
(Two-thirds vote required)

PLANNING BOARD REPORT (ART. 30): As developers continue to purchase available land and bring single-family subdivision plans to the Planning Board, the citizens of Sudbury must decide if they are willing to embrace and encourage alternative types of housing. This article will protect open space, decrease the rampant development of five-bedroom, single-family homes, help to slow the ever expanding school budget, provide revenue to the Town budget that is unencumbered by demands for Town services (K-12 education) and most importantly it will answer the need for smaller, moderately-priced homes that can be afforded by senior citizens who currently do not have an option that allows them to remain in Sudbury if they so desire.

The article has been designed to answer the need for moderately-priced housing for people over the age of 62 who no longer wish to maintain a large, single-family home in Sudbury but would like to continue living in Sudbury. The article provides a density incentive on parcels 10 acres and larger by allowing up to four, two-bedroom homes on each buildable lot. Homes can be either attached or detached style construction. In addition, the article requires that a developer must market units at a price equal to or below an established formula that is detailed in the text of the article. When a home is going to be sold by an owner, a resale formula will apply as well. All developments of this type will have a minimum open space requirement,

and wastewater disposal must comply with all state and local regulations. The Planning Board believes that the benefits of this article address many of the concerns that citizens in Sudbury currently have.

Lawrence O'Brien Moved in the words of the article, except:

- A. Delete the words "The Wayside Inn Historic Preservation Residential Zone Districts," from Section 3.a. appearing on page 33 of the Warrant; and
- B. Delete, "excluding adjacent upland resource areas" from section 5.a appearing on page 34 of the Warrant; and
- C. Insert in the second paragraph of part 5.b., appearing on page 35 of the Warrant, after the sentence reading, "The open space areas shall be selected in order to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface area ratio in order to preserve large blocks of undisturbed land," the following sentence: "The open space areas shall be subject to the review and approval of the Conservation Commission."

The Motion received a second.

Mr. O'Brien was recognized in support of the article. He gave a history of the article's origin. As landowners from Sudbury continue to cash in their holdings and developers continue to bring single-family subdivision plans to the Planning Board, the citizens of Sudbury must decide if they are willing to embrace alternative forms of housing. This article will protect open space, decrease the rampant development of single-family homes, help to slow the ever-expanding school budget, provide revenue to the town that is unencumbered by demands for town services, specifically K-12 education, and will answer the need for smaller, moderately priced homes that can be afforded by senior citizens who currently do not have an option that allows them to remain in Sudbury if they so desire. This article has been designed to answer the need for moderately priced housing for people over the age of 62 who no longer wish to maintain a large single-family home in Sudbury but wish to continue living here. It provides a density incentive on parcels ten acres and larger by allowing up to four two-bedroom homes on each buildable lot. Homes can be either attached or detached style construction. In addition, the article requires that a developer must market these units at a price that is equal to or below an established formula that has been detailed in the Warrant. The resale price of the homes is according to an established formula that is also in the Warrant. All developments of this type will have a minimum open space requirement and wastewater disposal must comply with all State and local regulations. The Planning Board believes that the benefits of this article address the concerns that many citizens in Sudbury currently have.

An overview of Article 30, the Incentive Senior Development Bylaw, begins with two objectives. Objective A is to provide a density incentive to developers in return for them building affordable priced housing for a maturing population in Sudbury. Objective B is to have available a reasonably priced two bedroom home that would be appealing to people age 62 and older who are selling their current residences but would like to remain in Sudbury. Without an affordable option and with the added incentive of the Taxpayer Relief Act of 1997 the incentive for someone to sell their home and take up to \$500,000 of capital gains with no tax impact is quite large. If someone is sitting on paper wealth in the form of their home that they could cash out and move, there is a predicament if they want to remain in Sudbury because there is no other form of home ownership that would be available.

The type of construction would be attached, more commonly known as condominiums, or detached, small, single-family homes. The age qualification would be that each home must be owner occupied by one person age 62 or older. The number of homes permitted for each buildable lot that could be calculated out of a parcel would be a maximum of four homes per buildable lot. Open space requirements are based on a sliding scale based on the total acreage of the parcel, excluding wetlands and wetlands resource buffer areas as follows: a small parcel of 10 to 15 acres there would be a 35% open space requirement; 16 to 20 acres would be 40%; 21 to 25 acres would be 45%; and a parcel over 25 acres would have a 50% open space requirement.

Price restrictions on the initial sale and future resale: The homes developed under this bylaw would be sold at no more than two times plus 25% of the cost for the sale of a two bedroom detached home under the Department of Housing Development Guidelines for the local initiative program. That gives us an annual number that is set by the State, a simple formula to follow. It gives us the ability for someone to

own this home at an affordable price and for that price to remain in an affordable range over years and years to come. An approximate price in 1998 would be \$180,000.

He compared development of a twenty-acre parcel as single family homes versus senior incentive housing. He read a letter from the Sudbury Housing Authority supporting the article. He showed a slide listing endorsements from Town boards. The Planning Board asked for support of the article.

FINANCE COMMITTEE: Mr. Ragones, the Finance Committee recommends approval of this article.

BOARD OF SELECTMEN: Ms. Clark, the Board of Selectmen support the article. Ms. Clark asked Mr. O'Brien about enforcement of the resale price.

Mr. O'Brien responded that the price control would be in the form of a deed restriction.

Ms. Clark asked if that would not go against the Prohibition of Alienation Transfer Rights of Land.

Mr. O'Brien deferred to Town Counsel.

Mr. Kenny responded that it would be contained in a deed restriction.

COUNCIL ON AGING: Carol Oram, the Council on Aging strongly supports this article.

SCHOOL COMMITTEE: Stephenie Cook, the School Committee supports this article.

STRATEGIC PLANNING COMMITTEE: The Strategic Planning Committee endorses this article.

Hank Tober, Ames Road, discussed the effect of high density housing on taxes. He showed graphs to illustrate. He felt it would be bad for the town. He did not support the article.

Mike Meixsell, 34 Barton Drive, *Moved to amend by inserting after the words "Board of Health" the following words ", the Sudbury Water Resources and Wastewater Bylaws," in Section F, 7.e.*

The Motion received a second.

Mr. Meixsell was recognized in support of the motion. He stated that this was a technical correction. By omission the wording in the Warrant exempts the developer from complying with Sudbury's Water Resources and Wastewater Bylaws. If the intention is to exempt incentive senior developments from these bylaws then we should explicitly state that fact in Article 30. Otherwise, we should explicitly state that compliance with these bylaws is indeed required. The proposed amendment requires compliance.

Lawrence O'Brien stated that the intention is that all developers are subject to the Board of Health, Title V and EPA regulations. There was no objection to the technical amendment.

The Motion to Amend was **VOTED**.

Ursula Lyons, Wayside Inn Road, *Moved to amend to change the figure 10 as it appears in the fourth line of subsection b at the top of page 34 of the Warrant to the figure 15, in the section 5.b. at the bottom of page 34, delete the first line thereof and change the second line by deleting the figure 16 and making it 15.*

The Motion received a second.

Ms. Lyons was recognized in support of the motion. This opens up blanket approval all over town. Ten acre parcels will allow much more dense development and possibilities for combinations of land.

Mr. O'Brien stated that the Planning Board called attention to the fact that the majority of the sites that they see are for smaller parcels of land. The large subdivisions are not coming up often. While the intent of the amendment would be to "preserve more open space" Mr. O'Brien believed it would actually have a negative impact because by incentive senior developments being limited to 15 acre parcels and above we would have a greater number of small parcels that could be developed. The development of those small parcels would be strictly limited to single family homes which defeats the purpose of trying to provide housing of an affordable nature for seniors. Secondly, single family homes in whatever district they are built in, are built to the absolute maximum allowable tolerances of that parcel with minimal open space, much clear cutting and destruction of any type of habitat for wildlife, etc. The original proposal was to begin with five-acre parcels.

The Motion to Amend was **DEFEATED**.

Jim Gish, 35 Rolling Lane, clarified what a condominium is. It has nothing to do with the style of a building, it is strictly a legal form of ownership. Referring to attached units as condos is a misuse of the term.

Harold Cutler, Landham Road, stated that in recent weeks and months as Town Meeting approached, we have heard all sorts of rhetoric about the resources of the town and how those resources need protection. We have heard about water resources and educational resources. We have heard about the natural beauty resources in discussion of the cellular telephone towers and conservation land. He suggested that this article and the other articles in the Warrant that concerned senior citizens are about a resource that is more important than any of these others—our senior citizens.

Senior citizens are essential to the atmosphere and operation of the Town of Sudbury. In town government we have both voluntary and elected town boards and officials that have always included senior citizens. Even after leaving a position, they provide useful insight into the history of issues and the actions of the town. They have been contributors to the education of our children and to the life of our religious organizations.

Senior citizens may want to move into alternative housing for a variety of reasons—to reduce taxes, to live where they don't have to mow lawns and paint houses, because they want to live nearby their children and grandchildren in Sudbury.

Article 30 is one piece of the puzzle. Musketaquid Village provides one level of housing for persons with lower assets. We have heard from the Housing Authority that not everybody qualifies to be in Musketaquid Village or Longfellow Glen. What do those people that can't qualify do? The proposals under Article 30 and Article 11 would provide our senior citizens with an intermediate level of housing cost. Other market-rate developments such as the senior residential communities are the final piece of the puzzle because some people will be able to afford those.

When we talk about preserving Sudbury's way of life and resources, let's not forget its citizens, including its senior citizens, as its best resource. He urged support for the article.

Parker Coddington, Plympton Road, posed a question to Town Counsel. Referring to the discussion of the covenant in the deed that would restrict the resale price of these homes, could that covenant be so worded as to similarly restrict the value placed upon that home for tax purposes?

Mr. Kenny responded no. The tax placed on that property is based upon what the assessors deem is appropriate. No one but the assessors can establish value for that.

Ralph Tyler, 1 Deacon Lane, did not believe that this is the proper proposal or proper strategy in order to provide the kind of housing needed. He quoted from the "Character of Sudbury" statement passed earlier in Town Meeting. We have before us a fundamental change in Sudbury's housing strategy. We are talking about moving to four housing units per acre. How is that consistent with preserving our essentially low density nature of housing?

He felt that there are other strategies that are more effective to help seniors. In particular, requirements of the accessory apartment bylaw could be loosened so that seniors living in their home could turn part of it into a separate independent living unit to provide income while providing low cost rental for

April 13, 1998

another senior. This would create a better situation for the entire town. Seniors from Sudbury moving into these units would be selling their homes, probably to families with children. This was not taken into consideration in the financial analysis. He felt we are setting up a situation where we are asking seniors to make a poor investment with their financial resources. There is no incentive to maintain the property because there is a zero return. This is only a short-term solution for Sudbury's seniors.

Hale Lamont Havers, 173 Morse Road, stated that this article gives encouragement to the Town. She addressed the issue of density, comparing the proposed units with the new subdivisions that are being built. She invited people to visit neighboring towns like Lincoln, West Concord, Concord and Acton to look at the types of developments they have done there.

Joseph Klein, Stone Road, emphasized Mr. Tyler's point about "exchanging" homes. The town will not benefit financially from erecting these homes because a large house will still be vacated.

Mr. Blacker responded to Mr. Tyler's comments about opening up homes to families with school-age children. The fallacy with this statement is the following—they are leaving any way. On that premise the question is what do you do with the other ten acres? Have nine large houses built or do you do something for seniors? That is what this bylaw is about. He urged support.

Jeff Bernstein, Blueberry Hill Lane, *Moved to amend Section 5.b. to change the open space required to 50% for 10 through 25 acres. Strike 35%, 40% and 45% and make them all 50%.*

The Motion received a second.

Mr. Bernstein spoke in support of the Motion. This section provides incentive for developers. That is what has gotten us into this situation. He agreed with the spirit of the article. By requiring the open space to be 50% it addresses the density issues and compromises the arguments. It allows the town to dictate what we want and not the developer.

Mr. O'Brien responded to the amendment. As you can see, the title of the Article is Incentive Senior Development. Objective A is to provide a density incentive to developers in return for building affordable priced housing for a maturing population. The fact of the matter is that the statement made by Mr. Bernstein is correct, this is an incentive, that's why it's there. With the cost of land and the price restriction on this if we do not curl back the open space requirement, which is by far greater, because there is open space requirement on single-family homes, the town gains something in the form of open space and affordable senior housing. In addition, this is a special permit application. First and foremost, if a ten-acre parcel were to come in front of the Planning Board, they would only have the ability to ask a developer to consider this article. We cannot force it upon a developer, we cannot mandate it upon a developer, we can only ask them to look at it, review it and to see if the incentives are adequate enough for that developer to change their point of view from the single-family home subdivision plan that they are most likely bringing forth to the Planning Board. If they can see their way clear, and they can make money, then they will hopefully take this opportunity and run with it. On the other hand, if they do not wish to examine this opportunity and only build single family homes, once they have said no to the Planning Board the issue is finished being discussed and the Planning Board is then reviewing the single-family homes. As long as the land is dry and buildable and there are no wetlands issues the Planning Board cannot, by law, stop the development of privately owned land. This is an option for the town to use in talking with developers that could be considered as an alternative to more of the same. He asked for defeat of the motion to amend because it would eliminate the viability of this incentive senior housing article.

The Motion to Amend was **DEFEATED**.

The Article as Amended was **UNANIMOUSLY VOTED**.

Mr. Blacker *Moved the meeting be adjourned until Wednesday, April 15 at 7:30 PM.*

The Motion received a second.

April 13, 1998

Mr. Blacker was recognized. He explained that a Special Town Meeting had been called for Wednesday to address the transfer of a sliver of conservation land on an individual's parcel and swapping some land. It was approved at a prior Town Meeting but it was not finalized. In order to clear the title it is necessary to have this vote again. Rather than having Town Meeting tomorrow with the likelihood that we will finish tomorrow and will then require people to come back on Wednesday to get a quorum to go through this, if needed, he felt it would be expeditious to continue the Town Meeting to Wednesday instead of tomorrow and then the same people could constitute the quorum for the Special Town Meeting.

Robert Coe felt there was a risk of not finishing if Town Meeting was not held on Tuesday night.

Mr. Blacker informed the hall that Articles 32, 33, 34, 35 and 37 were going to be moved to be Indefinitely Postponed.

Ralph Tyler supported Mr. Coe's view.

The Motion to adjourn to Wednesday, April 15, 1998 was **DEFEATED**.

The Moderator declared the meeting adjourned until tomorrow evening at 7:30.

The meeting was adjourned at 10:35 PM.

Attendance: 219

PROCEEDINGS

ADJOURNED ANNUAL TOWN MEETING

APRIL 14, 1998

(the full text and discussion on all articles is available on tape at the Town Clerk's office)

Pursuant to a Warrant issued by the Board of Selectmen, March 17, 1998, the inhabitants of the Town of Sudbury, qualified to vote in Town affairs, met in the Lincoln-Sudbury Regional High School Auditorium on Tuesday, April 14, 1998 for the fifth session of the Annual Town Meeting.

The meeting was called to order at 7:45 PM when a quorum was present.

The Selectmen made an announcement with respect to the Weisblatt property. Mr. Blacker said that the Selectmen, the Weisblatts and the Green Company had entered into an agreement such that the question of the expenditure of up to \$4.9 million will be placed on a ballot question for a Proposition 2 ½ debt exemption. He was not sure when the vote would be.

ARTICLE 31. AMEND ZONING BYLAW, ART. IX - FLEXIBLE DEVELOPMENT

To see if the Town will vote the amend Article IX, the Zoning Bylaw, by inserting in Section IV a new subsection to be numbered by the Town Clerk, as follows:

"FLEXIBLE DEVELOPMENT

The Planning Board may grant a Special Permit for a Flexible Development in Single Residence "A", Single Residence "C", and the Wayside Inn Historic Preservation Residential Zoning Districts for the construction of single family detached dwellings and accessory structures, subject to the following:

1. Definition - A Flexible Development shall mean a subdivision of land in which the lots may utilize flexible zoning requirements, as set forth in this section, in an attempt to facilitate sensitive development practices and use of resources.
2. Purpose - The purpose of Flexible Development is to allow development to be sited in the most suitable areas of a property; to allow for greater flexibility and creativity in the design of residential developments; to facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner; to encourage a less sprawling form of development; and to minimize the total amount of disturbance on the site.
3. Rules and Regulations - The Planning Board may adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this Bylaw, Chapter 40A of the General Laws and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. In the absence of dedicated Rules and Regulations for Flexible Development, those Rules and Regulations Governing the Subdivision of Land shall suffice, where applicable.
4. Flexible Development Standards - The following standards shall apply to all Flexible Developments:
 - a. Minimum Tract Size - Flexible Developments shall be located upon a single tract, in common ownership with definite boundaries ascertainable from recorded deed or recorded plan, having an area of at least 10 acres and undivided by land of separate ownership or by a private or public right-of-way.

- b. Number of Building Lots Permitted - The total number of building lots in a Flexible Development shall be equal to the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations, possessing suitable soils for the construction of a single family wastewater disposal system as determined by the Board of Health, and sufficient upland, buildable area to sustain a single family home.
 - c. Dimensional Requirements - Where the requirements of this section differ from or conflict with the requirements of Article IX, Section IV, subsection B (Schedule of Intensity Regulations), the requirements of this section shall prevail. The following minimum dimensional requirements shall be observed in all Flexible Developments:
 - 1) Minimum Lot Area:
Single Residence "A" = 30,000 square feet
Single Residence "C" = 40,000 square feet
Wayside Inn Historic Preservation Residential Zone = 2 acres
 - 2) Lot Frontage:
All zoning districts = 120 feet, except those lots where 100% of the frontage is located along the arc of the circular turnaround of a cul-de-sac, which shall be 90 feet, provided a front building line is designated for such a lot and the width of the lot at the building line is at least equal to 120 feet.
 - d. Other Requirements:
 - 1) Single dwelling per lot - No more than one single family dwelling and its accessory structures and uses may be located on a lot created under this Flexible Development Bylaw.
 - 2) Restriction Against Further Development - No Flexible Development for which a Special Permit has been issued under this section may be further subdivided. A notation to that effect shall be made on the Definitive Plan prior to endorsement by the Planning Board and recording in the Registry of Deeds or the Land Court. In addition, a perpetual restriction, running with the land, and enforceable by the Town of Sudbury, shall be recorded with respect to the land within the Flexible Development. Such restriction shall provide that no lot in the Flexible Development may be further subdivided into additional building lots. Said restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the lots as the Planning Board may deem appropriate.
 - 3) All applications for Flexible Development shall require subdivision approval pursuant to M.G.L. Chapter 41, Section 81, and shall conform to the Preliminary or Definitive Plan requirements, and all design and construction standards in the Rules and Regulations Governing the Subdivision of Land, as may be amended.
5. Special Permit Criteria - A Special Permit for Flexible Development shall be granted only if the Planning Board determines the proposal better serves the bylaw purposes than would development under otherwise applicable requirements by the incorporation into the proposal of one or more of the following elements:

April 14, 1998

- a. Traffic circulation and safety would be improved through a reduction in length of streets or creation of fewer or better located or designed driveways and street egresses from the development onto existing streets.
- b. Visual intrusion would be reduced by preserving some visual buffering between proposed dwellings and previously existing streets.
- c. Protection of natural features by reducing the volume of cut and fill for roads and construction sites; reducing the area of vegetation displaced or disturbed; or reducing the area of environmentally sensitive lands disturbed by construction.
- d. Maintaining water quality within Water Resource Protection Districts by reducing the number of on-site wastewater disposal systems or the amount of impervious surfaces within the development.
- e. Serving recreation and conservation needs by reserving common land in a condition appropriate to meet those needs.";

or act on anything relative thereto.

Submitted by the Planning Board.
(Two-thirds vote required)

PLANNING BOARD REPORT: This Bylaw provides an alternative method for the design of residential subdivisions in order to move away from conventional subdivision or grid designs. The Bylaw does not allow any density incentives – density is determined by submitting a conventional plan conforming to all zoning requirements. However, allowing flexibility in the design of the overall subdivision can result in noticeable differences – more sensitive placement of homes, driveways and streets, preservation of natural site features, reduction in clearing, and minimizing the visual impact of a subdivision on the adjacent road. Passage of this article will give the Planning Board another tool to manage the growth that is occurring in Sudbury.

Jody Kablack, Town Planner, speaking for the Planning Board *Moved in the words of the article.*

The Motion received a second.

Ms. Kablack was recognized in support of the article. The Planning Board is introducing another bylaw to manage residential development in Sudbury. The Flexible Development Bylaw will allow an alternative method of design for subdivisions. Through its provisions of flexible frontages and reduced lot area requirements, the bylaw promotes the preservation of natural features or other natural attributes of the property. The premise of the bylaw is to contour the zoning in order to provide a public benefit. An application for flexible development will require a special permit from the Planning Board and specific criteria must be met in order to receive approval. Those criteria are spelled out on page 41 of the Warrant. They are believed by the Planning Board to be worthy public goals that will help maintain the quality of life in Sudbury. Goals such as increased buffering along public streets, protection of natural features, minimizing forest removal, maintaining water quality or serving recreational or conservation needs.

We have been asked why the Planning Board can't require that all subdivisions meet these criteria and why we need more bylaws. The Planning Board is constrained by current State laws that set forth minimum standards which must be met in order to receive subdivision approval. Planning Boards are required to approve a subdivision if it meets adopted rules and regulations. Under a special permit, such as the flexible development bylaw, they have more discretion in approving an application and generally can require more of the developer. In addition, a developer will utilize this bylaw if it allows for an easier design to fit a specific parcel. She showed overheads illustrating how a flexible development bylaw will change the design of a parcel.

This proposal has the support of the Conservation Commission and the Strategic Planning Committee. These two groups have studied growth issues and have seen bylaws that other towns have

April 14, 1998

adopted to control growth and maintain community character. This bylaw can produce noticeable differences in the development of land for residential homes.

FINANCE COMMITTEE: Mr. Ragonese, the Finance Committee takes no position on the article.

BOARD OF SELECTMEN: Ms. Clark, the majority of the Selectmen supports the article. Ms. Clark presented a minority opinion. She felt that applying and enforcing existing rules and regulations will do more to preserve undeveloped land than this type of zoning will do. She did not support.

The Moderator asked for an explanation of why he was given Ms. Clark's name instead of one of the majority since she was planning to give a minority position that was in direct opposition to the majority of the board. He was concerned because the town heard the minority position in detail before hearing the majority decision. The Moderator recognized Mr. Blacker to give the majority position.

Mr. Blacker stated that it is not true that the flexible zoning gives more ability to develop. This bylaw allows the same number of lots as current zoning but allows flexibility to create a better-looking subdivision.

CONSERVATION COMMISSION: Dick Bell, 24 Austin Road, the Conservation Commission supports the article. The additional flexibility allowed by this bylaw can be used as a tool to minimize environmental damage.

STRATEGIC PLANNING COMMITTEE: Stephenie Cook, the Strategic Planning Committee supports this article as an option to preserve community character when developing land.

John Baranowsky, Belcher Drive, did not support the article because he did not feel the goals were clear. He compared it to the cluster development bylaw. He felt this article would allow exploitation of inappropriate lots. He showed overheads to illustrate. He felt that the article was a "work in progress" and urged defeat.

Ralph Tyler, 1 Deacon Lane, urged defeat.

Gerry Nogelo, 19 Washington Drive, encouraged support. It does not allow development on any land that couldn't be developed right now. She asked the Planning Board to answer two questions. Does Section 4 b. address the problem that Mr. Baranowsky alluded to? Could they elaborate on the size of the house that would be allowed on the lot?

Jody Kablack responded that Section 4 b. specifically states that the total number of building lots in a flexible development shall be equal to the number of buildable lots permitted under conventional subdivision with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations. Possessing soil suitable for the construction of a single-family wastewater disposal system as determined by the Board of Health. She addressed Mr. Baranowsky's concerns about setback requirements. There is no limitation on the size of a house for the majority of town.

Mr. Blacker begged the hall to pass this article. He addressed Mr. Tyler and Mr. Baranowsky's comments.

Mr. Tyler responded to Mr. Blacker's comments about septic systems.

At this time debate was terminated by a clear two-thirds vote.

There was a call for the hall to be counted.

The Motion under Article 31 was **VOTED**. The count was: Yes – 126; No – 44; Total – 170; Needed to Pass – 114.

**ARTICLE 32. AMEND ZONING BYLAW, ART. IX.III.D.i -
RESEARCH DISTRICT PERMITTED USES**

To see if the Town will vote to amend the Town of Sudbury Bylaw, Article IX, section III.D.i (Permitted uses in Research District) by deleting the current paragraph "i" and substituting the following:

"i. Housing for persons age 55 or older";

or act on anything relative thereto.

Submitted by the Planning Board.
(Two-thirds vote required)

PLANNING BOARD REPORT: The Planning Board unanimously supports the concept of senior housing on the former Unisys property. This amendment seeks to alleviate the confusion over definitions that occurred during review of the Northwood project application. While the 1994 Annual Town Meeting vote which initiated the concept of senior housing in the Research District may be unclear, the need for senior housing is widely apparent, as is the economic benefit to the Town. If Sudbury wants senior housing in the Research District, then this zoning amendment puts to rest all the controversy over the current zoning definition. The Planning Board urges support of this article.

NOTE: Currently, this section of the bylaw reads as follows:

SECTION III.D.i - PERMITTED USES, RESEARCH DISTRICT

The following uses only shall be permitted in Research Districts:

- ...
- i. residential care facilities which provide assisted and/or independent living to persons 55 years or older in one or more buildings.

William Cossart *Moved for Indefinite Postponement.*

The Motion received a second.

Bill Cossart, 419 Concord Road, this article was prepared to try to resolve the confusion over allowed uses in the Research District. Since its preparation the Northwood property has been approved using the old definition and this is now unnecessary.

FINANCE COMMITTEE: The Finance Committee takes no position on this article.

BOARD OF SELECTMEN: The Board of Selectmen support indefinite postponement.

The Motion to Indefinitely Postpone Article 32 was **VOTED**.

**ARTICLE 33. AMEND ZONING BYLAW, ART. IX. (IV.E.3.b), (III.D.1.i), (III.D.1.k) -
RESEARCH DISTRICTS/RESIDENTIAL CARE FACILITIES**

To see if the Town will vote to Amend the Sudbury Zoning Bylaw Article IX to enable a Senior Residential Community to be built in the Research District, to clarify Residential Care Facilities in the Research District and to create reasonable density limitations for residential development in the Research District, by:

- 1) revising section IV.E.3.b Senior Residential Community Tract Qualifications, by replacing the words "having an area of at least 35 acres" with the words "having an area of at least 35 acres except in the Research District where the minimum lot area shall be 12 acres.",
- 2) revising section III.D.1.i. Research District Permitted Uses by replacing the words "residential care facilities which provide assisted and/or independent living to persons 55 years or older in one or more buildings" with the words "residential care facilities for persons 55 years or older in one or more buildings which provide assisted and/or congregate independent living with substantial supportive services provided to at least one resident of each dwelling unit",
- 3) revising section III.D.1.k. Research District Permitted Uses to read "Notwithstanding any other provision of this Bylaw, in the Research District the height limitation shall be a maximum of 35 feet and 2.5 stories and residential uses shall be limited to a maximum of 5 bedrooms and 2.5 dwelling units per acre of lot area";

or act on anything relative thereto.

Submitted by Petition.
(Two-thirds vote required)

PETITIONERS REPORT: Sudbury's Zoning Bylaw allows Senior Residential Communities in the Research District but requires a 35-acre site, making it impractical in the Research District where the largest privately-owned vacant lot is 12.4 acres. This Bylaw revision enables a Senior Residential Community on a 12-acre lot in the Research District. It also clarifies residential care facilities in the Research District to more clearly delineate the type of housing intended in the Bylaw. Lastly, this revision places height restrictions and limits Research District residential density to be consistent with the heights and density allowed in other districts.

Ralph Tyler *Moved in the words of the Article except at the end of part three it shall read:*

"And residential uses shall be limited to a maximum of five bedrooms and 2.5 dwelling units per acre of lot area except that an incentive senior development Section 4.f shall not be subject to this limitation."

The Motion received a second.

Mr. Tyler spoke in support of the motion. The purpose of this article is to encourage responsible development in the research district and to encourage either a senior residential community or a senior incentive development. He gave some history of the article and how it was developed. He showed an overhead that illustrated a proposed building for the site. He stated that what has been proposed for Northwoods was not what anybody had in mind when the initial bylaw was passed in 1994. He referenced the transcript from 1994 and quoted Mr. Rhome's report from the Planning Board, "the bylaw that we passed had really done only one very simple thing, it adds a couple of uses to those permitted in the Research District, namely nursing homes and congregate care facilities for those over 55." The project that is going on up there now is not consistent with that vision.

The provision in our bylaw does three things. First, it enables a senior residential community to be developed on that parcel. Second, it defines that every unit of property would have a resident in need of services. Third, it addresses height limitations.

This article gives the developer a very attractive option to proceed in an expeditious manner with a project more in tune with the character of Sudbury in terms of the density and in tune with what this hall has voted on in the past.

FINANCE COMMITTEE: The Finance Committee takes no position on this article.

BOARD OF SELECTMEN: Mr. Blacker, the majority of the Board of Selectmen is strongly opposed to this article. The moving force of this article is to attempt to thwart the Northwoods development. He discussed the background of this development. He strongly urged defeat.

Ms. Clark gave the minority opinion. She stated that confusion has surrounded the definition of the uses permitted in the Research District and this bylaw clarifies what is allowed. She urged support.

PLANNING BOARD: Bill Cossart, 419 Concord Road. Since the printing of the Warrant several events have taken place that have a direct impact on this article. Passage of this article is unnecessary and would add confusion to how things will be implemented.

Mr. Cossart *Moved to Indefinitely Postpone Article 33.*

The Motion received a second.

Mr. Cossart was recognized in support of the Motion to indefinitely postpone. The Planning Board wanted this article indefinitely postponed for three reasons. Because of Articles 10 and 11, the Housing Task force will be putting forth a proposal for the development of housing in the area. Second, this article adds restrictions that were not part of the original bylaw. Third, there is no need for consistency in height restrictions.

Ralph Tyler spoke against indefinite postponement.

Frank Reipe, King Philip Road, identified himself as a member of the Design Review Board. He stated that they have reviewed the Northwoods project and felt it is a nice, well-designed project. It provides a type of housing that we do not currently offer in Town. He stated that since this article is essentially a referendum on the development, he was asking for indefinite postponement.

Hale Lamont Havers, Morse Road, asked for indefinite postponement. She strongly supported the Northwoods project. She stated that Peter Conant, the developer of the project, was not in the hall and it would be unfair to pass this.

The Motion to Indefinitely Postpone Article 33 was **VOTED**.

ARTICLE 34. AMEND ZONING BYLAW, ART. IX.III.G.5 -
WATER RESOURCE PROTECTION DISTRICTS

To see if the Town will vote to amend Article IX, the Zoning Bylaw, Section III.G (Water Resource Protection District Bylaw) as follows:

1. **III.G.5.b.6)** revise to substitute the words "one- or two-family" to "single or multi-family", which appear in the first sentence of that section;
2. **III.G.5.d.7)** delete entire section;
3. **III.G.5.d** add new section 7) to read "Maintenance, repair and enlargement of any existing structure provided no more than 25% of the lot in total is rendered impervious.";
4. **III.G.5.e.6)** revise to substitute the words "one- or two-family" to "single or multi-family", which appear in the first sentence of that section;
5. **III.G.5.e.7)** delete words "{except as otherwise permitted in the Research District}";
6. **III.G.5.e** delete section 8) and replace with new section 8), as follows:

"Permanent removal, or regrading of the existing soil cover, except for excavation for building foundations, roads or utility works, resulting in a finished grade at a level less than eight (8) feet above the historical high groundwater (average for the preceding five (5) years), as determined from the monitoring wells of, and the historical water table fluctuation data compiled by the United States Geological Survey (USGS), and the Board of Health data and monitoring wells, whichever is greater. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Earth removal or earth moving shall be subject to the provisions of subsection 5.g (Earth Removal or Earth Moving Procedures and Conditions).";

7. **III.G.5.f.2)** delete current section and substitute with the following: "Those business, industrial, research and institutional activities permitted in the underlying district which require Site Plan Special Permit approval pursuant to section V.A and V.A1 and which meet the criteria for a special permit subject to section III.G.5.f. of this bylaw.
8. **III.G.5.f** add new section 8) to read "Enlargement or alteration of pre-existing uses prohibited by section 5.e of this Bylaw.";

or act on anything relative thereto.

Submitted by the Planning Board.
(Two-thirds vote required)

PLANNING BOARD REPORT: Over the past 2 years, 11 applications have been submitted to the Planning Board for special permits within the Water Resource Protection District. Several of these applications have been extremely minor in nature, for example, expanding the gravel parking lot at the Wayside Inn, and construction of a 240 sq. ft. building on Sudbury Water District property. The issues associated with these minor applications can and are being taken care of during site plan/special permit review with the Selectmen. The amendments to the bylaw proposed in this article remove the requirement for every site plan application in Zone III to be reviewed under the bylaw, unless thresholds are exceeded. These amendments in no way relax the standards by which proposals are reviewed, but remove the necessity for dual review of minor projects.

NOTE: Currently, the affected sections of the Zoning Bylaw, under III. PERMITTED USES, G. WATER RESOURCE PROTECTION DISTRICTS, 5. USE REGULATIONS, read as follows:

III.G.5 b.6)

b. The following uses are specifically prohibited within Water Resource Districts, Zone II:

....

6) Individual on-site sewage disposal systems (in compliance with Title V of the State Environmental Code) serving one- or two-family residences and serving all uses within Zone II of Well #5, the Rte. 117 Well, which discharge more than 550 gallons per day per 40,000 square feet of lot area; and individual on-site sewage disposal systems (in compliance with Title V of the State Environmental Code) serving business, industrial, research or institutional uses in all other districts which discharge more than 1000 gallons per day per 40,000 square feet of lot area. The replacement or repair of an existing system that will not result in an increase in design capacity above the previously approved design is not prohibited hereunder. In cluster sub-divisions, the total sewage flow allowed shall be calculated based on the number of percolable lots in the entire parcel. Requests to increase the capacity of individual sewage disposal systems and those proposed for undeveloped lots above this limit may be permitted upon a written certification of the Sudbury Board of Health that a valid nitrogen loading analysis approved by the DEP has been completed, which demonstrates that the DEP drinking water performance goal for nitrates of 5 MG/L will not be exceeded in any present or proposed public water supply well, in the relevant water resource protection district, if the capacity of all sewage disposal systems at full build-out in the relevant district were to increase their capacities to the proposed volume. On residentially zoned lots legally in existence as of the effective date of this bylaw, which contain less than 40,000 square feet of area, the discharge rate of any individual sewage disposal system shall be permitted up to a maximum limit of 550 gallons per day;

III.G.5.d 7)

d. The following uses are permitted within Water Resource Protection Districts, Zone III, subject to subsection 5.e, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

....

[7) In the Research District, uses and development to accommodate such uses permitted in the Research District. Such uses shall not be subject to Section III,G,f(i)]**

III.G.e.6), 7), 8)

e. The following uses are specifically prohibited within Water Resource Protection Districts, Zone III:

....

6) Disposal of liquid or leachable wastes, except by individual on-site domestic sewage disposal systems serving one- or two-family residences or serving business, industrial or institutional uses discharging not more than 1,000 gallons per day per 40,000 square feet of lot area in compliance with Title V of the State Environmental Code;

7) Boat or motor vehicle service or repair shops, animal feed lots, car washes, heliports, electronic manufacturing, metal plating, commercial or bacteriological laboratories, [except as otherwise permitted in the Research District]**, and establishments conducting dry cleaning activities on the premises; and

8) Mining of land, except as incidental to a permitted use.

III.G.f.2)

f. The following uses are permitted by special permit within Water Resource Protection Districts, Zone III, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to subsection 5.e:

...

April 14, 1998

2) Those business, industrial, research and institutional activities permitted in the underlying district with a site plan review to prevent any adverse impact on the Water Resources Protection District and the interests to be protected thereunder;

** N.B. The foregoing bracketed amendments were adopted in furtherance of a settlement of Unisys Corporation v. Town of Sudbury, Land Court #141550, and were to take effect only if entry of a final judgment dismissing such case following satisfaction of other conditions precedent to the settlement of the case occurred prior to the approval of such amendments in the manner provided in M.G.L. Chap. 40 section 32. An Agreement for Judgment, for dismissal of the case, was filed with the Land Court on January 31, 1992. The Amendments were approved by the Attorney General on February 5, 1992.

Jody Kablack Moved to Indefinitely Postpone Article 34.

The motion received a second.

Ms. Kablack stated that the article was being indefinitely postponed in order to make further revisions based upon a new state model bylaw for communities which provide their own drinking water. Unfortunately these State regulations were not in circulation until after the Warrant went to print. There has been further discussion of the article with the Water Resource Protection Committee and it was felt that due to the complex and technical nature of the bylaw, one comprehensive revision would be better suited to adoption at a later Town Meeting.

Mike Meixsell, 34 Barton Drive, member of the Water Resource Protection Committee, stated that the Committee supports indefinite postponement.

BOARD OF SELECTMEN: Maryann Clark, the Board of Selectmen supports the motion to indefinitely postpone.

The Motion to Indefinitely Postpone Article 34 was VOTED.

**ARTICLE 35. AMEND ZONING BYLAW, ART. IX.(LC) & (IV.E.5.a) -
LOT AREA**

To see if the Town will vote to amend the Town of Sudbury Zoning Bylaw, Article IX, Section I.C. (Definitions), "Lot Area", and Section IV.E.5.a (Senior Residential Community - Tract Requirements) by adding the following words after the words "Sudbury Wetlands Administration Bylaw" in each section:

" , excluding adjacent upland resource areas";

or act on anything relative thereto:

Submitted by the Planning Board.
(Two-thirds vote required)

PLANNING BOARD REPORT: This minor amendment corrects a problem with the definition of lot area. At the 1997 Annual Town Meeting, an amendment was adopted which excluded wetland area from the minimum lot area of any lot submitted for subdivision. This effectively required an increase in the size of a lot which contained wetlands. In the revised definition, however, the 100 foot buffer (the adjacent upland resource area) around wetlands was not mentioned, and with the passage of the Rivers Act and other changes to the Wetlands Protection Act, buffers are now considered wetland resources and are included in the definition of a wetland. The intent of the local bylaw change was not to be so restrictive as to exclude the entire 100 foot upland buffer from the minimum lot area, but only that area which is wet. This amendment corrects this problem. The Planning Board urges passage of this article.

Printed below are the two paragraphs to be amended, showing new wording in italics:

Section I.C. GENERAL - DEFINITIONS:

Lot Area - Area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which the lot abuts, even if fee to such street is in the owner of the lot; provided, however, when computing minimum lot area for any lot laid out and submitted for approval by the Planning Board, in accordance with Chapter 41 of the Massachusetts General Laws as of the effective date of this bylaw, no land designed for surface collection of storm water or drainage waters (i.e., detention, retention, infiltration ponds or basins, etc.) and no more than twenty-five percent (25%) of the minimum required lot size in any district which is underwater land or wetland resource area as defined in Chapter 131, Section 40 of the General Laws or the Sudbury Wetlands Administration Bylaw, *excluding adjacent upland resource areas*, shall be used in the computation. The above limitation on calculated "lot area" shall not be applied in determining maximum building coverage, maximum floor area ratio or any open space requirement of Article IX.

Section IV.E.5.a. INTENSITY REGULATIONS - SENIOR RESIDENTIAL COMMUNITY

5. Tract Requirements - The following requirements shall apply to all Senior Residential Community tracts:

- a. **Number of Dwelling Units Permitted** - The maximum number of dwelling units in a SRC shall be computed based on the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations for which district the parcel is located within, possessing suitable soils as determined by the Board of Health, and sufficient upland, buildable area to sustain a single family home. In Village Business Districts and Research Districts, a minimum lot area of 40,000 sq. ft. and minimum frontage requirement of 180 feet shall be used to calculate each buildable lot. For the purposes of this section, minimum lot area in every district shall contain no more than 25% which is underwater land or wetland resource as defined in Chapter 131, Section 40 of the M.G.L. or in the Sudbury Wetlands Administration Bylaw, *excluding adjacent upland resource areas*. For each buildable lot calculated, a maximum of five (5) bedrooms shall be permitted. The number of bedrooms shall determine the number

April 14, 1998

of units, pursuant to section 6 below, with the maximum number of bedrooms in any unit being less than or equal to 3.

Jody Kablack *Moved to Indefinitely Postpone Article 35.*

The motion received a second.

Ms. Kablack stated that this article is not necessary due to the adoption of amendments to the Wetland Administration Bylaw in Article 24 of this Town Meeting. As it now stands lots created by subdivision approval may not have wetlands comprising greater than 25% of its total area without compensation with additional upland area. As the definition currently reads, the definition is not included in the definition of wetland resource, therefore, the intent of the article is negated by the recent revisions to the Wetland Administration Bylaw.

BOARD OF SELECTMEN: MaryAnn Clark, the Board of Selectmen support the motion to indefinitely postpone.

The Motion to Indefinitely Postpone Article 35 was **VOTED**.

ARTICLE 36. AMEND ZONING BYLAW, ART. IX.IV.D.4 -
CLUSTER DEVELOPMENT - COMMON LAND

To see if the Town will vote to amend the Town of Sudbury Zoning Bylaw, Article IX, Section IV.D.4 (Cluster Development - Common Land), by deleting the second sentence of the first paragraph of that section and substituting the following sentences after the first sentence of the first paragraph:

"The common open land shall contain, as a minimum and exclusive of land set aside for road area, 17.5% of the upland area of the parcel being subdivided. Uplands shall be defined as those portions of the parcel not defined as wetlands under M.G.L. Chapter 131, Section 40 and the Sudbury Wetlands Administration Bylaw, excluding buffer area. Ledge outcroppings, slopes in excess of 15% grade and Flood Plain (as defined in section I,H of the Zoning Bylaw) shall not be included in the common open land for purposes of calculating the 17.5% minimum upland requirement.";

or act on anything relative thereto.

Submitted by the Planning Board.
(Two-thirds vote required)

PLANNING BOARD REPORT: This minor amendment corrects a problem with the Cluster Development Bylaw which has been brought to the Planning Board's attention by two engineering firms who have attempted to design cluster subdivisions on parcels with significant wetlands. While the overall open space requirement remains at 35%, with 50% of that figure being upland area, this correction does not penalize a landowner for including greater than 17.5% wetlands within the open space, as did the original wording. The Planning Board encourages residents to approve this amendment so that technical difficulties do not preclude developers from designing open space subdivisions.

Printed below is said paragraph as it currently reads:

SECTION IV.D.4. INTENSITY REGULATIONS - CLUSTER DEVELOPMENT

4. Common Land - Not less than 35% of the land area of the tract, exclusive of land set aside for road area, shall remain unsubdivided and shall be dedicated as common open land. Of the 35% required open land, a minimum of 50% must be exclusive of wetlands, floodplain (as defined in section I,H of the Zoning Bylaw), ledge outcropping, and slopes in excess of 15% grade.

Jody Kablack *Moved in the words of the Article.*

The motion received a second.

Ms. Kablack stated that this is basically a technical correction that in past years may have gone on a consent calendar. This amendment corrects a problem with the cluster bylaw which has been brought to the attention of the Planning Board over the past year. It revises the wording for the calculation of open space by setting a minimum requirement for upland open space only. The cluster development bylaw has undergone a series of revisions in the past two years. With those revisions we've seen much greater use of the bylaw. At the 1997 Town Meeting a requirement was adopted to require a portion of open space to be upland area so that there could be wider use and enjoyment of the open space by residents. Previous to that, wetlands could comprise the entire open space area in a cluster development bylaw. In its original context, however, a parcel with significant wetlands physically can not meet the requirement without having to annex a portion of the wetlands as a separate parcel or by compensating by adding additional upland area to the open space. This compromises the intent of the bylaw that seeks to preserve sensitive resource areas intact in order to contribute to the value of the entire ecosystem. It also will deter a developer from using the bylaw if it means that they will lose a substantial portion of their land. The new wording does not reduce the open space requirements in any way, it merely allows for a greater amount of wetland acreage to be included in the open space. Right now the open space requirement is that 35% of a parcel has to be

dedicated for open space, 50% of that 35% has to be upland area. The assumption is that the other 50% will be wetlands or some other type of unbuildable area. There can be a problem when a parcel has large amount of wetlands. Instead of saying 50% of 35% it is being changed to say 17.5% has to be upland area, there still has to be 35% of the total lot area as open space but the requirement will now be that 17.5% will be upland.

FINANCE COMMITTEE: The Finance Committee takes no position on this article.

BOARD OF SELECTMEN: Mr. Drobinski, the Board of Selectmen support this article.

Robert Coe, 14 Churchill Street, questioned the objective of the article. Why are we passing an article that makes it easier on developers by making unfeasible developments into feasible developments?

Frank Reipe, King Philip Road, the cluster bylaw is a very good component of the zoning bylaw. We should be encouraging developers to use it. We need to fine-tune it to make sure that it is a useful tool. Among the things that we get from a cluster development is more conservation of the natural landscape and less asphalt. We will not net anymore houses in a subdivision by enacting the cluster bylaw than we will with conventional development. This makes it a more useful tool. We will get better development.

John Cutting, 381 Maynard Road, this amendment acts as a way of using up the extra wetlands that frequently accompany these parcels.

The Motion under Article 36 was **UNANIMOUSLY VOTED**.

ARTICLE 37. AMEND ZONING BYLAW, ART. IX, IV, D. 3, c -
CLUSTER DEVELOPMENT, DIMENSIONAL REQUIREMENTS

To see if the Town will vote to amend the Town of Sudbury Zoning Bylaw, Article IX, Section IV.D.3.c (Cluster Development – Dimensional Requirements) by deleting the following words contained in the third sentence of paragraph 2, which read, “any area constituting a protected resource under M.G.L. c. 131, s. 40, and the Town of Sudbury Wetlands bylaw excluding the 100 foot buffer contained in the law, regulations promulgated under the law, or the Town Bylaw and”, so that paragraph reads as follows, in its entirety:

“In instances where a tract overlaps Residence Zones “A”, “C” or the Wayside Inn Historic Preservation Zone, the size and number of allowable lots shall be determined independently within each zone as follows: The minimum lot size in the cluster development shall be determined by multiplying the number of lots in Residence Zone “A” by 20,000 square feet, in Residence Zone “C” by 30,000 square feet and in the Wayside Inn Historic Preservation Zone by 2 acres, adding the areas and dividing by the total number of lots. The minimum area of any cluster development building lot which includes a Special Water Resource Area as defined in this paragraph shall be equal to that which would otherwise be allowed in the district in which it is located. For purposes of this section, ‘SPECIAL WATER RESOURCE AREA’ shall include any area used for or suitable for development of a municipal water supply. An area shall be considered suitable for development of municipal water supply if the Planning Board finds, after reviewing the documentation provided under paragraph 5 of this section and after consulting with the Sudbury Water District, that the hydrogeology of the area compared favorable with that of one or more other areas used successfully for municipal water supply in Sudbury.”;

with no change to the remainder of that section; or act on anything relative thereto.

Submitted by Petition, on behalf of the Planning Board.
(Two-thirds vote required)

PLANNING BOARD REPORT: This amendment corrects another problem with the Cluster Development Bylaw which is no longer applicable due to changes in the definition of lot area. The wording proposed for deletion requires that lots which contain any amount of wetlands within their boundaries be prohibited from eligibility for clustering. Due to the recent adoption of changes in the definition of lot area, lot area calculations already compensate for the size of lots which contain wetlands, requiring a minimum of 30,000 sq. ft. of upland in the A-Residential zone. Therefore, in order to eliminate the confusing and contradictory aspects of the cluster development bylaw, the Planning Board urges support of this change so that minor technical difficulties do not preclude developers from designing open space subdivisions.

Jody Kablack *Moved to Indefinitely Postpone Article 37.*

The motion received a second.

Ms Kablack stated that this bylaw would have permitted lots with wetlands within their boundaries in the cluster development bylaw to be reduced in size to equal those of other cluster lots. In conversations with the Conservation Commission, it was decided not to proceed with this in order to keep any developable lot with wetlands on it as large as possible, including those in cluster developments.

FINANCE COMMITTEE: The Finance Committee has no position on this article.

BOARD OF SELECTMEN: Mr. Drobinski, the Board of Selectmen supports indefinite postponement.

The Motion to Indefinitely Postpone Article 37 was **VOTED.**

**ARTICLE 38. AMEND ZONING BYLAW, ART. IX.IV.B -
INTENSITY REGULATIONS**

To see if the Town will vote to amend the Town of Sudbury Zoning Bylaw, Article IX, Section IV.B (Schedule of Intensity Regulations) by revising the front yard setback requirement in Business Districts from 50 feet to: **20 feet (minimum) and 40 feet (maximum)**; or act on anything relative thereto.

Submitted by Petition, on behalf of the Planning Board.
(Two-thirds vote required)

PLANNING BOARD REPORT: This amendment reduces the required front yard setback in business districts from the current minimum setback of 50 feet to a minimum setback of 20 feet, allowing for a maximum setback of 40 feet, as measured perpendicular to the nearest street or way line. The front yard setback requirement in the business districts is in direct conflict with the requirement that parking be located behind buildings. These two provisions do not work in concert together. Most applicants for commercial developments must obtain a variance from one or the other of these provisions. The rationale for locating the buildings closer to the street line is to eliminate expanses of parking along Route 20, giving it a strip development appearance. By bringing buildings closer to the street line, as development and redevelopment occurs along the road, a streetscape can begin to form which will encourage more pedestrian use of the shopping areas.

Jody Kablack *Moved to amend the Town of Sudbury Zoning bylaw, Article IX, Section IV.B (Schedule of Intensity Regulations) by revising the front yard setback requirements in business districts from 50 feet to: 20 feet (minimum) and 40 feet (maximum), and to eliminate the street centerline setback in business districts by replacing the number "70" with the word "none" in the schedule of intensity regulations.*

The motion received a second.

Ms. Kablack stated that this article reduces the front yard setback required in business districts from the minimum current setback of 50 feet to a minimum setback of 20 feet and a maximum setback of 40 feet. This also mirrors the setbacks that are in the Village Business District that was adopted in the 1996 Town Meeting. The current front yard setback of 50 feet is in conflict with another zoning requirement that requires that parking be located behind buildings in commercial districts. The requirement to locate parking behind buildings was adopted in 1986 and was in response to the haphazard and unsightly commercial development that was happening at the time. Our site plan standards have been tightened since that time and the commercial development that we are seeing today is much better than it was 12 years ago. However, there are still many inadequacies and conflicts within the bylaw which send mixed messages to both the developers who are processing applications and to the boards who are enforcing those regulations. In drafting new regulations or amending existing ones, we must make a choice about the type of commercial development that we want to see in Sudbury. Do we want to maintain or even recapture a small-town shopping district feeling or do we want to become more like Route 20 in Marlborough? This amendment does not fix all the problems in the site plan bylaw, however, it does address one fundamental issue—the esthetics of Route 20. The rationale for locating buildings closer to the street with parking behind is to eliminate expanses of parking along Route 20 which give it a strip development appearance. By bringing buildings closer to the street line as development and redevelopment occurs, a streetscape can begin to form which will encourage and permit more pedestrian use of the shopping areas.

In the last year two applications have been made to the Zoning Board of Appeals for a variance from the parking regulations in order to locate parking in the front yard. Both of these sites had difficulty maintaining the 50-foot front yard setback and placing the parking in the rear. Given the choice, both applicants applied for variances from the parking. The message that we send should be clearer, do we want to see parking lots along Route 20 or do we aspire to something better? Several recent developments have managed to comply with both provisions and are examples of what it would look like with parking behind the buildings. Those developments include Dunkin' Donuts, Hitchcock Furniture and Frugal Flower.

April 14, 1998

Continuing to enforce strict compliance with site plan standards will yield quality developments, however, we must make sure that the provisions can be used in concert and not in conflict with each other.

FINANCE COMMITTEE: The Finance Committee has no position on this article.

BOARD OF SELECTMEN: Ms. Clark, the Board of Selectmen support this article.

Robert Coe posed two questions. What is the justification for the 40-foot maximum setback, why is it necessary? What is the street centerline setback?

Ms. Kablack responded that the street centerline setback is an additional setback to the front yard setback. The front yard setback is measured from the front property line and the street centerline setback is measured 70 feet back from the center line of the street. The 70-foot setback actually negates the 20-foot minimum and the 40-foot maximum if it stays in there.

Mr. Coe did not understand the justification for the 40-foot maximum. He pointed out that the more you put buildings right along the street the harder you make it to remove snow. You end up having to haul it away in trucks.

Ralph Tyler asked if 70-foot street centerline setback was within the scope of the article. He stated that he was unable to find reference to it in the Warrant.

The Moderator ruled that it is within the four corners of the article and that the recipients of the Warrant were fully informed.

Mr. Tyler commented that in the future the State may widen Route 20 making what is currently a 20-foot setback into a 3-foot setback. This article creates an inaccessible streetscape that is the back of businesses. He did not support the article.

Martha Coe, 14 Churchill Street, quoted residential and business centerline setbacks from a copy of the Schedule of Intensity Regulations, Section 10.4.b.

Jody Kablack responded that the article as proposed in the motion would just have a 20-foot minimum setback from its front yard line and a 40-foot maximum. Those would be the front yard setback that we would be dealing with, it would be eliminating the street centerline setback.

Frank Reipe, King Philip Road, speaking as Chairman of the Design Review Board, stated that this is an important issue to him as an architect. How we develop the commercial area is very important. We started several years ago with almost no regulations as to how sites would be put together and what their relationship was to each other and to the street. We are slowly developing some real refinement and this is an important part of that. In order to have a coherent business district that does not look like Route 9, we don't make front yards that are filled with asphalt and automobiles. We get the parking away from the street and develop a more humane streetscape. For many years we have heard people complain about the appearance of commercial development on Route 20. Now we are doing something about it but we need the help of this Town Meeting. This article controls the relationship of the buildings to the street and allows creation of a more unified commercial area in town. He urged support.

The Motion under Article 38 was **UNANIMOUSLY VOTED.**

ARTICLE 39. AMEND ZONING BYLAW, ART. IX -
REZONE PARCEL K10-010 TO LIMITED BUSINESS

To see if the Town will vote to amend the Zoning Bylaw by deleting Parcel 010 as shown on Town Property Map K10 from the Residence District and including it in Limited Business District No. 7; or act on anything relative thereto.

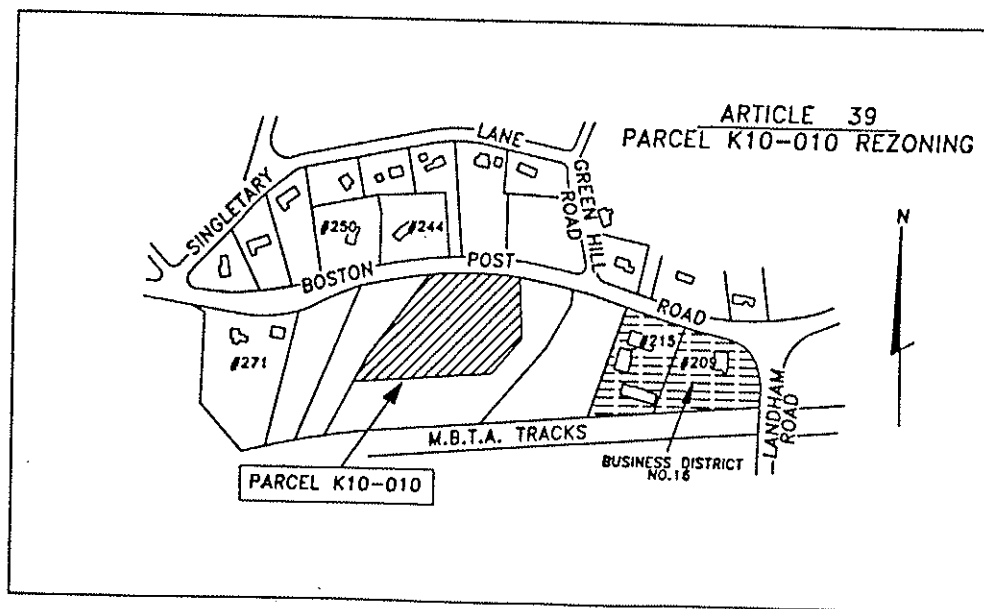
Submitted by Petition.
(Two-thirds vote required)

PETITIONERS REPORT: The purpose of requesting this zoning change from A-1 Residential to Limited Business-7 is to construct a residential display model home with professional offices.

Parcel 010 was originally part of a 7.51 acre parcel located at 225-227 Boston Post Road (approximately 600 feet west of Landham Road). Although residential, the Board of Appeals had granted a variance to this property for a commercial business on October 10, 1939. The variance was issued to operate a gasoline station. This gasoline station operated intermittently for over 40 years at this location until the early 1980s. In granting the variance, the Board of Appeals stated that "... such variance does not affect the character of the district."

The entire 7.51 acre parcel was sold in the mid 1980's, and the new owner subdivided the property into three parcels. This resulted in the property losing its original variance as a commercial location. Consequently, parcel 010 (2.57 acres) does not meet the Sudbury Bylaw requirements to obtain a use variance to operate a business.

This Boston Post Road property is unique in terms of isolation from a residential house. The nearest residential house on the same side of the street to the west is 700 feet +/- away and completely out of view, isolated by trees and an uphill grade. The nearest residential house to the east on the same side of the street is over 800 feet away. The property directly across the street has over 300 feet of vacant land fronting the Boston Post Road. The abutters starting from Landham Road heading west are a gas station, Patti Brothers Lighting, Country Curtains, and a building which includes Chiropractic Associates and an optical store. These buildings are located in Business District 16. Congregation B'nai Torah purchased the remaining two lots from the original 7.51-acre parcel and will start construction of a new temple abutting Parcel 010.



April 14, 1998

Dominic Vingiano, Marlboro Road, *Moved in the words of the article.*

The Motion received a second.

Dominic Vingiano was recognized for in support of the motion. He identified himself as a resident of Sudbury since 1978 and a local businessman. He stated that he represents a company named Lindal Cedar Homes and Sunrooms. He brought this article before the Town to change the zoning so that he could build a display model home. He showed a slide of the model. He stated that he brought the article because the surrounding residential use of the property had changed to the detriment of the land and any future homeowner. He believes that the site is now unsuitable for a residential house. Any new homeowner will have only one residential neighbor to the east, on the other side of Landham Road. The closest neighbor on the same side of the street is over 700 feet away. The main question is this, what district does this property belong to? There is no residential property on the 3.3 mile stretch of Boston Post Road from Wayland to Sudbury that looks like this one. It is virtually cut off from any residential home.

This site has been a gas station since 1939. In 1954 Mr. Peter George purchased the property and operated a gas station and farm stand with a residence in the rear of the farm stand. He operated this business for over 30 years at this location, until 1986. Mr. George tried to rezone his land in 1967 but was defeated.

He showed an overhead of the layout of the site. Three lots existed in 1989 when he purchased his property. There are now only two lots because two of the lots were combined to accommodate the 165-foot long temple and parking facilities. This has changed the intended surrounding use of his property. Any home built on the site would be approximately 75 feet from the temple because of the surrounding conservation and wetlands. This property is protected from any further development because the buildable portion of this 2.57 acre parcel is only .92 acres. This is an extremely limited area in which to put a model home. He discussed zoning and business districts. He stated that in Sudbury the buffer zone between a residence and a business zone is only 20 feet.

He used slides to give an overview of the area. He discussed surrounding lots on both sides of Route 20. He stated that this property is clearly part of the business district and is isolated from any personal residence on the same side of the street. He showed a series of slides illustrating the south side of Route 20 from the Wayland line to his property.

He stated that under Massachusetts General Law 40A, Section 4, the goal of zoning is to create uniform districts with similar types of usage. The placement of a residential model home on this property would create a completely uniform district because of its proximity to the business and total isolation from any residential house.

Mr. Vingiano asked people to consider how this would benefit the town. It will promote the general welfare of the townspeople by increasing the tax base. It would improve and beautify Route 20. The design will complement surrounding structures and will be indistinguishable from a residential house. Making it non-residential will keep students from being added to our already overburdened school system. It is the perfect place to end a business use due to the 700-foot buffer zone. It is the highest and best use of this property for the entire town. The town will know today how the property will be used.

He stated that he would be willing to restrict the use of the property if the hall voted in his favor. He discussed a proposed deed restriction which stated "these particular types of uses on this property will not be allowed: no personal service shops of the barber, hairdresser, manicurist and shoe shiner; no shops with custom work by dresser, furrier, milliner or tailor; no shops for custom work by cabinet maker, job printer, repair of household appliances or furnishings, shoemaker, upholsterer, woodworker; no collection station for laundry or dry cleaning, frozen food locker, hand or self-service laundry, funeral home; no banks, restaurants, adult book stores, liquor or convenience stores; no private club houses, meeting halls or lodge rooms to be used by fraternal organizations." These are all permitted uses in the Limited Business District. Town Counsel is holding in escrow the signed and notarized deed restriction that would be recorded tomorrow at the town if the hall supports this article. He stated that although deed restrictions expire in 30 years, it could be easily extended by the town. He also announced that if and when he were to sell the property, he would give the temple the first option to purchase it.

FINANCE COMMITTEE: Mr. Ragones, the Finance Committee recommended approval of the article.

BOARD OF SELECTMEN: Ms. Clark, the Board of Selectmen oppose this article.

PLANNING BOARD: Mr. Rhome, the Planning Board had considered this very carefully and unanimously opposed the motion under this article. Business or residential zoning is done with a broad outlook that goes far beyond one lot of land. A "spot" should not be rezoned. It is not material to the zoning problem that a church is being built on one side of the lot. A church may be built in any zone in town. We do not encourage businesses being built along the edge of church buildings. The church will be there a long time, but maybe not forever. If the church should move away, that property should revert back to a residential area. They urged defeat.

Pat Delaney, Boston Post Road, talked about the Lindal Company and their interests. He showed a 1996 Securities and Exchange Commission filing from Lindal. It is a company that engages in the speculative purchase of vacant land for the purpose of commercial development. He showed the most recent deed for the property that is the subject of Article 39, dated late 1997. According to the deed, Lindal acquired the property in 1989 for more than \$100,000. In 1997 the property was sold for \$25. He suggested that this was a paper transaction. While the technical ownership of the property changed, the financial stake in the property has not changed. It has remained with Lindal. It appears that it is still Lindal property. Mr. Delaney stated that he believed that this is Lindal's article. If we are to make an intelligent evaluation of the article we need to know why Lindal needs rezoning in Sudbury.

He showed press releases from Lindal Corporation which indicated that the company was in financial trouble. Rezoning their property in Sudbury from residential to business would be to their benefit. They could develop it to the highest density possible. We can't know what their intentions are but we can learn from the experiences of other towns. He showed a newspaper article which described a similar situation to ours in Hawaii that involved Lindal Corporation.

If we were to approve this, the town would end up with a single lot business district entirely surrounded by a residential neighborhood. The people in that neighborhood expect the same protection under the zoning law that people in other neighborhoods expect. That includes protection against spot zoning.

Russell Kirby, 244 Boston Post Road, stated that we are being asked by owner of a residential building lot to enhance the market value of that lot by granting him land use privileges that none of the rest of us in this hall have a right to exercise. Its passage would take a single parcel of land out of a residential zone and make all the uses permitted in a limited business zone available to the present and future owners as a matter of right. Don't be deluded by any promise of a deed restriction to limit any of the uses that would be allowed by zoning. We are being asked to establish a new Limited Business District according to the definition set forth in the Zoning Bylaw of the Town of Sudbury. Nothing more and nothing less. He stated that his experience with deed restrictions showed that they are like a lease. They are valid only for a limited period of time, they can be altered, and their enforcement is a private matter outside the purview of town boards and committees. If their enforcement is neglected or ignored there is little that can be done about it. Before we vote on this article we should consider two things above all others. First, is this parcel suitable for limited business use? Second, would those uses be detrimental to the character of the surrounding neighborhood?

He discussed the suitability of this site for limited business use from the standpoint of its size, topography, and public safety. The total area of the parcel under consideration is 2.75 acres, about half of that is unusable because of a drainage easement that runs diagonally across it. Surface and spring water from the Green Hill area follows a stream bed through a culvert beneath the Boston Post Road, across this parcel and on to wetlands to the south. The elevation of the stream bed is ten feet below that of the roadway pavement and is flanked by steep embankments on both sides. As a result the accessible and, therefore, usable portion of the site is located to the east of the easement and its width at the front line is no more than half the width at its back line. As long as it remains zoned for residential use this is not important. However, the zoning regulations that would apply if it were changed to a limited business zone make it extremely important. The owner of this land has displayed a proposed development site plan that places parking in front of a building that is set far to the rear where the lot becomes wide enough to accommodate the dimensions of the building. The zoning regulations for Limited Business Districts clearly state that parking shall be at the rear of buildings. The site plan would not meet those requirements and it is doubtful that any practical alternative plan could be devised that would comply. The Board of Selectmen does not

have the authority to approve a site plan that does not comply with zoning. The Zoning Board of Appeals, however, has authority to grant variances from zoning restrictions but only under certain conditions. One of those conditions is that the applicant must prove a hardship not of their own making. Since the owner of this property is the one who petitioned Town Meeting to rezone this parcel thereby imposing this restriction, the proof of hardship requirement would be very difficult to satisfy. Passage of this article would, therefore, make development of this parcel a costly and difficult struggle for the present or any future owner.

Another geographical feature that should be considered is the layout of the Boston Post Road between this site and the intersection of King Philip Road and Singletary Lane, a few hundred yards away. The road follows an "S" curve between these two points with a significant change of grade and dense vegetation along the southern edge of the pavement. As a result, any building placed at the rear of this parcel would be virtually invisible to east bound motorists until they were directly in front of the entrance curb cut. This is not a suitable location for the proposed show house. It begs the question "what kind of business might follow this one?" Clear-cutting of the trees and brush on the western inaccessible portion of the parcel would only make the building slightly more visible to passing motorists while removing the only screen standing between this site and its closest residential neighbor. The visibility problem would apply equally to motorists leaving the site as well as potential customers and passing motorists approaching from the west. This is an impediment to normal business operations and a public safety issue.

He discussed the impact that a limited business district would have on the surrounding residential neighborhood and the residents. He urged defeat.

Jessie Cunningham, 17 Singletary Lane, spoke in opposition to this article. She stated that the north side of Boston Post Road is zoned residential from the corner of Massasoit Avenue to Goodman's Hill Road. She talked about the history of rezoning attempts in this area of Route 20. She stated that the voters in Town Meeting have shown their support of the village concept by defeating most of the spot zoning changes that have come up for a vote. She asked that voters consider two questions before voting. First, do we want Sudbury to become another Waltham, Watertown or Marlborough with a congested main street stretching from one end of town to another? Second, do we want Route 20 in Sudbury to become another Route 9?

Melinda Berman, Hammond Circle, supported the article. She responded to some previous comments. She stated that as a real estate attorney she sees paper transactions like this done all the time. She said that Mr. Vingiano identified himself as working for Lindal and that there is nothing clandestine about who was participating in the development of this property. She responded that yes, this is suitable to a limited business and it will be beneficial to the town.

Jim Tewhey, Fairbank Road, identified himself as a friend of Dom Vingiano. Stated that anyone who has driven down Route 20 can see that the parcel of land will never be used for residential use. He asked, in light of this, does the limited use Mr. Vingiano has proposed make sense relative to what else is on that particular section of the road. He said only one conclusion can be reached, that this limited use does make sense.

Eileen Bendoris, 214 Boston Post Road, took exception to the statement that was made that the property is obviously not suitable for a residential home. She asked Mr. Vingiano what his intention was when he bought the property because he knew that it was zoned residential. She stated that Mr. Vingiano's slides showed only the south side of Route 20 and not the north side that is all residential. She asked that decisions like this be made more carefully and urged defeat of this article because it was happening too quickly.

Frank Reipe, 29 King Philip Road, was trouble by the assertion that this is not a viable residential neighborhood. He was troubled that the proponent's presentation only focused on the south side of the road, totally ignoring the presence of an entire residential neighborhood. If the proposed development is as innocuous as the proponent says it is then he wouldn't need a zoning change to make this a business district. He could have gone to the Zoning Board of Appeals and said he was going to build a house and he wanted to have an office there, that it was ultimately temporary, that at some time in the future it would revert to a full-blown residential use and the house would be there waiting for it. That would be an

appropriate and more honest course of action. He did not believe that the proponent intended to leave this as simple and innocuous a development as was being stated. He was opposed to the article.

Dom Vingiano wanted to set the record straight regarding the many things that had been said and answer any questions that people had. He showed a Notice of Intent dated January 9, 1988 issued to Dom Vingiano. His company at that time was Duo Corporation. Plan entitled "Construction of a single family residence with associated landscaping placing topsoil and planting of vegetation." That was a public hearing. He showed the actual order of conditions on file at the Registry of Deeds. There was a DEQ number issued in his name, not Lindal Cedar Homes; the date of the conditions; the signatures of the people from town boards that signed off on it. He showed the General Order of Conditions that anyone could have picked up at the Registry of Deeds.

He stated that he did not consider this a development. He felt that he had addressed the north side of Route 20. He stated that spot zoning is not illegal and that there are eight properties on Route 20 in the same situation--residential properties in business districts. He listed Duckett Funeral Home, the property across the street from Lotus Blossom and Barberry Homes, the property located next to the Police station. All of these properties have variances with the town. Those properties are not taxed at full business rate, they are taxed at a split rate.

He addressed Mrs. Cunningham's concerns. He showed that there was little, if any, view of Boston Post Road from all of the houses on Singletary Lane.

He responded to Mr. Delaney's statements. He informed the hall that he purchased the land in 1989 under a company called Green Mountain Realty Trust for \$150,000. On May 23, 1991 he gave the land to Lindal because he owed them a debt. He repaid the debt over the course of six years. When the debt was paid he received the deed back from Sir Walter Lindal. Lindal Cedar Homes did not ever own the property, it was owned by Sir Walter Lindal. He showed a letter from Sir Walter Lindal verifying this.

He stated that Lindal Cedar Homes does not speculate on land, they encourage all of their dealers to build display models. They will help finance the purchase of the property in order to build model homes. He talked about major changes that had been made in Lindal and the reasons why they showed a loss.

He addressed the issue of accidents in that area of Route 20. He responded that the lot Mr. Kirby said was developable belonged to Mrs. Cunningham and that it is all wet and can never be developed. It is designated as wet on the engineering maps.

John Drobinski, 222 Boston Post Road, spoke as a private citizen. He stated that he had pulled people out of car accidents after hitting the poles in front of his home. He stated that he was personally disturbed to hear it said that this is not a valid residential neighborhood. He addressed Mr. Vingiano's statements about the contamination on the land. He stated that it is not the town of Sudbury's responsibility to bail Mr. Vingiano out of a bad real estate decision. He also addressed Mr. Vingiano's comments about the property value being less because of the location next to a house of worship. This is not a detriment.

There was a Motion for the question.

The Motion under Article 39 was **DEFEATED**.

The Moderator declared the meeting adjourned until tomorrow evening at 7:30.

The meeting was adjourned at 10:55 PM.

Attendance: 226

PROCEEDINGS

ADJOURNED ANNUAL TOWN MEETING AND EMERGENCY SPECIAL TOWN MEETING

APRIL 15, 1998

(the full text and discussion on all articles is available on tape at the Town Clerk's office)

Pursuant to a Warrant issued by the Board of Selectmen, March 17, 1998, the inhabitants of the Town of Sudbury, qualified to vote in Town affairs, met in the Lincoln-Sudbury Regional High School Auditorium on Wednesday, April 15, 1998 for the sixth session of the Annual Town Meeting.

The meeting was called to order at 7:45 PM when a quorum was present.

The Moderator announced that the Town Clerk was in receipt of a proper petition for the reconsideration of Article 39. The reconsideration of Article 39 will, as provided for in the Bylaws, be brought up as the last order of business tonight if the Warrant is otherwise finished. If the Warrant is not finished, it will be the first order of business on Monday.

The Moderator declared the Annual Town Meeting in recess for the purpose of opening the Special Town Meeting which had been noticed for that night.

The Special Town Meeting was called to order when a quorum was declared present. The Moderator stated that he had examined and found to be in order the Call of the Meeting, the Officer's Return of Service and the Town Clerk's Return of Mailing. Chairman Blacker was recognized for a motion to dispense with the reading of the call, returns, notice and the reading of the individual articles.

Chairman Blacker so *Moved*.

The Motion received a second.

The Motion was **VOTED**.

ARTICLE 1. SPECIAL ACT – WILCOX CONSERVATION RESTRICTION AMENDMENT (confirmation vote)

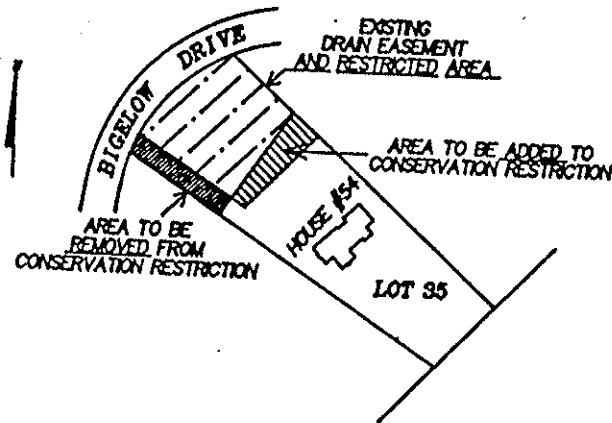
To see if the Town will vote to release a certain portion of a Conservation Restriction located on land owned by Rodger F. Wilcox and Kathy K. Wilcox, 54 Bigelow Drive, Sudbury, MA, containing approximately 3,204 +/- square feet; and to see if the Town will vote to petition the General Court to pass legislation enabling the release of this restriction in return for a grant of a different Conservation Restriction of 3,240 +/- square feet on other land owned by Rodger F. Wilcox and Kathy K. Wilcox at said address, all in accordance with the sketched provided below, or act on anything relative thereto.

Submitted by the Board of Selectmen.

BOARD OF SELECTMEN REPORT: This article was approved by the 1995 Annual Town Meeting under Article 43. Extenuating circumstances caused delay in submitting the special act to the State Legislature for approval. The Legislature (or General Court) has just now informed us it will not accept a vote of Town Meeting unless it is current, and, therefore, we are requesting the Town take a confirming vote to enable the matter to be completed.

April 15, 1998

The reason for the Conservation Restriction amendment is as follows: When the original Conservation Restriction plan for the subdivision was developed, the boundary of the Restriction was drawn in a way that did not leave access to the developable portion of the lot. As a result, the Wilcoxes' driveway passes through the area currently subject to the Conservation Restriction. This error was not apparent until a final survey plan was completed in 1991. The area of the driveway including the side slopes that pass through the restricted area will be eliminated from the Restriction and a slightly larger area located between the wetland and the house will be added to the Restriction. This new area will be allowed to revert to its natural state.



Selectman Blacker *Moved to authorize and direct the Selectmen to petition the Great and General Court of the Commonwealth of Massachusetts to enact legislation allowing the release of a portion of a conservation restriction containing approximately 3,204 square feet in return for the grant of another conservation restriction over 3,240 square feet of land, all on property located at 54 Bigelow Drive.*

The Motion received a second.

Mr. Blacker addressed the motion. This article came before the Town in 1995 and was passed. The Wilcoxes' driveway actually goes over the conservation land and the Conservation Commission and the State has approved the exchange of conservation easements. The Legislature never got it enacted within the allotted period of time. We were advised that the only way to clear the title was for us to come back again and ask for a similar vote. The State House of Representatives has passed the legislation necessary and it goes to the Senate tomorrow and hopefully it will be passed. We feel this is the prudent thing to do.

FINANCE COMMITTEE: The Finance Committee has no position on this article.

Ralph Tyler asked who was paying for the cost of calling the Special Town Meeting.

Mr. Blacker responded that the Town was paying for it.

Mr. Tyler asked the hall to vote against the article because the town has spent too much time and too much money over an issue that was an engineering mistake.

The motion under Article 1 was **VOTED**.

Mr. Blacker *Moved to Dissolve the Special Town Meeting.*

The Motion received a second.

April 15, 1998

The Special Town Meeting was dissolved.

The Moderator declared the recess from the Annual Town Meeting to be over.

ARTICLE 40. AMEND ZONING BYLAW, ART. IX -
DELETE SENIOR RESIDENTIAL COMMUNITY BYLAW

To see if the Town will vote to amend the Town of Sudbury Zoning Bylaw, Article IX, by deleting Section IV, Subsection E, Senior Residential Community, in its entirety; by deleting in Section I.G, Single Dwelling Per Lot, the words: "Except as provided in Section IV,E,"; and by deleting in Section V.O, Common Driveways, the words: ", except as provided by special permit issued pursuant to Section IV,E"; or act on anything relative thereto.

Submitted by Petition.
(Two-thirds vote required)

PETITIONERS REPORT: It is believed that approval of Warrant Article 25 at the 1997 Annual Town Meeting did not reflect the preference of a majority of the citizens, but resulted from considering the subject matter at a time when Town Meeting attendance had dwindled to a point where proponents would have the upper hand.

Hank Tober *Moved in the words of the Article.*

The Motion received a second.

Mr. Tober was recognized in support of his motion. He stated that he was asking the hall to throw out the condo bylaw that was approved last year. The text of the condo law is largely similar to a 1996 version which was defeated at that time. Why the '96 defeat? Just a public relations matter. A buzz word in the label. All attempts by developers in 30 years were marked by slogans. They failed to put that in 1997. He showed examples of public relations stunts. Not that there are so many senior voters but the big thing is intimidation. You would never vote against the elderly, would you? You would not dare vote against anything that brings you in revenue at no cost, would you? No smooth talk has so raised my fury as that Planning Board Report on Article 32. Mr. Tober showed overheads to illustrate his points. Do you really believe that those developers or their buddies give a damn about seniors? I plotted revenue versus development density. The revenue from a single family dwelling is time and one-half that produced by a comparable condo under this bylaw. When looking closer at the graph you may recognize that the condo is depicted at a density of two dwellings per acre. Didn't Steve Meyer have us believe that the underlying density for the senior residential community was the same one unit per acre as always before? Let me tell you about a dirty little secret. There is an innocuous paragraph that contains a clause which I would like to call "Santa Claus" because of a propensity to scandalous giveaway. When the developer has put his privies in place, he may donate half of his leftover acreage to one or the other good cause. So nice. Now he does not have to pay tax on one acre like you and I must, only half of that. That is why on my graph the SRC stacks up as the worst of all worlds. Just imagine what might happen some time when somebody comes in with a quarter acre zoning. What will that do to your tax bill? The advantage of not having to pay tax on half an acre is not that much, only .3% of the value of the property. It is enough to disturb the balance in the choice between owned property or leased property. In my view this article so favors an owner and pushes him into practice of renting out instead of selling his condos. He may have two initially but there will be pressure and in due time all the condos will come back into the property of the realtor who sold them in the

first place. Now, he has them and being the owner and being so favored, he is going to rent out these things. Now what you are going to get is renters which are not always the same people as the population you have in Sudbury. I have seen these properties, a son of mine lives in them. Half of the population, the women, do not speak English. Imagine that, people who by definition are overextended because they are living subsidized housing. Effectively, as I have told you, because of all these favors to the realtors. It so happens in Sudbury they might have come in two places which are topographically isolated as much as you can have that. These people will have trouble blending in in the Sudbury population. You get a lot of difficulties here. The turnover in these apartments will be very high. So high that the realtors will have trouble keeping up with cleaning that has to be done every time you have to take the grime off the walls, you have to vacuum the carpets. Each time there is turnover the quality of that housing will diminish a little bit. Since there is high turnover, what you will have is a gradual neglect and a slide into a slum situation. Not because of the people that come in but predominantly because first of all, they weren't used to Sudbury and second, they are living in a topographically isolated area. That's why I was so scared of the two attempts we had to go to high density housing.

Let me say a word for the ears of the seniors. You may be suspicious here, and I'm sure that somebody will jump on me, and tell me here is Hank Tober and he has said vote against something which goes against the seniors. They may even call me a racist again. I am a senior myself and I am trying to protect our tax level for much heavier loss than we already are suffering.

They have been telling us time and again that we need alternative housing for the purpose of restoring balance in town finances and it just is not so. It doesn't do that. As to the seniors, I'm one of you and I love you.

FINANCE COMMITTEE: Mr. Ragones, the Finance Committee recommends disapproval of this article.

BOARD OF SELECTMEN: Mr. Drobinski, the Board of Selectmen are unanimously opposed to this article. The Board is committed to senior housing in town and we urge the hall to defeat this article.

PLANNING BOARD: Mr. O'Brien, the Planning Board strongly urges you to defeat this article and to leave the SRC bylaw on the books. The Town Meeting this year has spoken quite extensively as to some of the things we are trying to attempt to provide in the way of housing for senior citizens. There seems to be a very conscious awareness of the fact that the town budget is out of line. There is an override for schools. We have placed the town into debt to the tune of \$50 million in the last year—\$43 million for schools, \$8 million for property. All worthy causes, all were given due consideration and will improve the quality of life in Sudbury. Even after the reimbursement for the schools is accomplished, we will still have put \$20 million of debt in the past 12 months. The Planning Board, while trying to address issues of senior housing, has also tried to address ways of generating unencumbered revenue. A few of those items were discussed over the past few evenings.

Without going back through all of last year's SRC presentation, he reviewed a few facts and refreshed everyone's memory. He showed slides from the previous year's presentation. They listed facts and provisions. There is a minimum open space requirement of 50% on a 35-acre parcel or greater. There is a 100% over age 55 restriction in perpetuity. Each unit must be owned and occupied by an individual of age 55 or older. There will be no rental units in an SRC. Wastewater treatment will be limited to septic systems only, with a total maximum discharge of 10,000 gallons which is in compliance with Title V. There will be a limit on the total number of bedrooms for each SRC and that would be 90 bedrooms in total. That would be limited and controlled by Title V regulations. There is a maximum density of 2.751 bedrooms per acre, that's nothing more than 90 bedrooms divided by 35 acres. This is less than a typical subdivision. When we look at the type of development that currently occurs in Sudbury and the type of plans that come in front of the Planning Board, there are only single family homes. Although valued at a very high cost these days, they still do not necessarily pay for themselves. If you were to look at some round numbers, a home assessed at \$375,000 would generate \$6,000 in tax revenue. That is good for the town, it pays for one child in the K-8 school system. It does not pay for a child in the high school. If we take that home and double its assessed value to \$750,000 we would now generate \$12,000 in property tax. That is good for the town, except if there are two children living there it is a break even situation.

The purpose for the recall of this article as stated on Page 50 of your 1998 Warrant states, "It is believed that approval of Warrant Article 25 at the 1997 Annual Town Meeting did not reflect the

preference of a majority of the citizens, but resulted from considering the subject matter at a time when Town Meeting attendance had dwindled to a point where proponents would have the upper hand.”

Last year we spent a little time on Article 25. We weren't quite sure of ourselves so we went back and reconsidered the article. The Planning Board was opposed to the motion for reconsideration. They spent over 4 ½ hours, listened to over 30 members of Town Meeting express their points of view, there were slides, overheads and handouts. Many different aspects were discussed quite thoroughly. They included the land bank article, how many children people over age 55 have, MWRA water, tax gains generated by senior residential communities, tax losses caused by these communities, Title V regulations, septic systems, open space, Strategic Planning Committee, assorted wildlife, the Planning Board, drinking water, other towns that have condominiums, who can afford to live in an SRC and who cannot. The list goes on—property tax exemptions, land use density, the number of bedrooms allowed in an SRC, population growth, the growth of the town budget, the growth of the K-8 school budget, vernal pools, Tippling Rock, comprehensive permits, the Weisblatt property, the charter of the Strategic Planning Committee, we even discussed the number of times that a toilet is flushed by seniors. We thoroughly dissected this article. When the vote was cast the outcome was 263 in support and 124 opposed. As you can see that is 387 people who attended the initial day and a half presentation. In addition to that, the evening of the reconsideration, April 16, 1997, drew 492 people. He showed a transcript of the evening. When the vote was taken, with a two-thirds vote required, the reconsideration failed. There is no notation that a count was required or that it was even reasonably close. Numerous citizens turned out—they thought, they debated, they shared their ideas—and they voted. As you have heard this year, there has been great support for some of the other Planning Board articles and some people have expressed their point of view that we are now starting to get some options and alternatives that can layer the types of housing that would be available for seniors. It fits a need, it brings needed revenue dollars to the town. We can only ask you to vote against this article because it does nothing but take us backwards.

COUNCIL ON AGING: Clay Allen, Deputy Chairman of the Council on Aging. They strongly opposed the article and hoped the hall would disapprove of it.

STRATEGIC PLANNING COMMITTEE: Kirsten Roopenian, the Strategic Planning Committee opposed the article. It negates the objectives identified by the Strategic Planning Committee, including development that generates tax revenue, housing diversity and open space.

Jeff Bernstein, Blueberry Hill Lane, did not want to take a position on the article but wanted to point out some things. He had checked with Town Council to see what implication this article would have on Article 30 that was passed earlier in the week. He was told that they are completely separate bylaws. If the SRC bylaw is repealed the Incentive Senior Development will still be on the books.

He stated that the units under the SRC bylaw are completely unaffordable. He thought that the SRC bylaw does not look far enough into the future. He did not believe that SRCs would bring diversity to the town.

Mary Jane Sanders, 164 Morse Road, stated that many seniors leave Sudbury because they can't afford the taxes. There are others who could stay but there is no housing other than single family available. They leave because of this.

Jim Gish, 35 Rolling Lane, called this “The Sour Grapes Article.” The petitioner claims the reason for bringing this forward was the minority of people voting on it. He stated that he was part of the debate in 1997. He urged defeat.

Richard Vanderslice, Dudley Road, commended the Planning Board for the excellent job they did on Article 30. It does something that the SRC promised—affordable, economic help for our seniors. He stated that he had opposed the SRC last year because of its tie to a particular location. He strongly urged passage.

The Motion under Article 40 was **DEFEATED**.

ARTICLE 41. RELEASE TOWN'S RIGHT, TITLE, INTEREST - LOT 27, HOWELL ROAD

To see if the Town will vote to authorize the Selectmen to execute a deed or deeds, releasing the Town's right, title and interest to property located on Howell Road, shown as Lot 27, Parcel 304, on Town Property Map K06, to Dean Lewis, and to determine price thereof, or act on anything relative thereto.

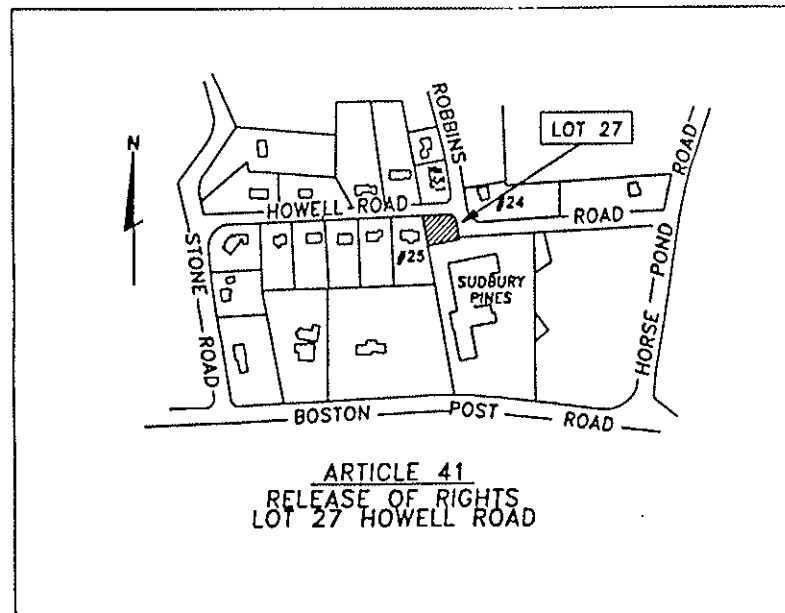
Submitted by Petition.
(Two-thirds vote required)

PETITIONERS REPORT: The property owner, Dean Lewis, would like to clear up the title on a .19 acre lot on the corner of Howell and Robbins Road that was purchased in April of 1995.

The notation on the title is from 1952, indicating that the lot is to be deeded to the Town. However, this never happened. The Town never has had any interest in the property. Further, a letter from Sudbury Town Counsel, dated May 9, 1996, to the property owner, reiterates that the Town of Sudbury still has no interest in the property.

It is also important to note that the property owner has paid taxes on the .19 acre lot each year, as did the previous owner for many years. The property owner's request is supported by all abutting neighbors, some of whom have been residents for over 40 years.

By removing this notation from the title, it will help preserve the quality of the neighborhood.



Mr. Drobinski *Moved* that the Town authorize and direct the Selectmen to execute a deed or deeds releasing the Town's right, title and interest to property located on Howell Road, shown as Lot 27, Parcel 304, on Town Property map K06, to Dean Lewis, for a price not less than \$1.00.

The Motion received a second.

Mr. Drobinski stated that this is to clear up a title and that the Town has no interest in this property.

Dean Lewis, 25 Howell Road, addressed the motion. He asked for support for Article 41. He stated that there is a .19 acre parcel of land located at the corner of Howell and Robbins Road that is unbuildable and undevelopable. The taxes assessed reflect this. He stated that he is trying to clear up a

April 15, 1998

notation on the title from November of 1952 that indicates that Lot 27 is to be deeded to the Town. However, this never happened. He stated that he had researched the matter with the help of Sudbury Town Counsel, Paul Kenny. They were unable to determine how or why the notation came to be. The Town has informed him in writing that they have no interest in the land. He purchased the property in 1995 from a long-time owner, Paul Lavoli Trust, and was fully aware of the notation on the title at that time. Both he and the prior owner have been assessed and paid property taxes on the land. He stated that he had purchased the land because he was concerned that Sudbury Pines Nursing Home would turn it into a parking lot. He stated that his intent was to purchase the land to protect the quality of the neighborhood.

FINANCE COMMITTEE: The Finance Committee has no position on the article.

BOARD OF SELECTMEN: Mr. Drobinski, the Board of Selectmen supports this article.

Matthew Slade, Oakhill Road, in view of the fact that taxes have been paid on this for all these years, he felt that if the property was not released then the Town should pay back the taxes with interest.

Robert Coe, 14 Churchill Street, asked the Moderator if we were in the position of giving up something we never had. If it is true that the Town has no interest in the land and never did, why doesn't the proponent just go to Land Court and get a ruling that the Town has no interest in the land. He questioned why the article was necessary.

Paul Kenny, Town Counsel, responded that the reason for doing this is that there is a cloud on the title. So long as that cloud is there it has an effect on the property. To go to Land Court would be very expensive with regard to engineering and surveying costs plus the cost to remove the cloud from the title.

The Motion under Article 41 was **UNANIMOUSLY VOTED**.

ARTICLE 42. ACCEPT G.L.c.140, s.147A -REGULATION OF DOGS

To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 140, Section 147A, which will enable the Town to enact a bylaw and set and collect fees relative to the regulation of dogs; or act on anything relative thereto.

Submitted by the Board of Selectmen, Dog/Animal Control Officer and Town Clerk.

(Majority vote required)

BOARD OF SELECTMEN, DOG/ANIMAL CONTROL OFFICER AND TOWN CLERK REPORT: Due to the dissolution of Middlesex County and the County Dog Program of which Sudbury was a part, the Town seeks to accept the provisions of Section 147A of Chapter 140 of the Mass. General Laws. Any town which accepts the provisions of this section is empowered to enact bylaws and ordinances relative to the regulation of dogs.

Mr. Blacker *Moved in the words of the article.*

The Motion received a second.

Steve Ledoux made the presentation on behalf of the Selectmen. This article asks the Town to accept the provisions of the General Laws in order to establish our own regulations regarding the control of dogs. Last year Middlesex County was abolished by the State Legislature. One of the things that no one realized was abolished when the County was abolished was the County rules and regulations concerning dogs. Consequently, all the communities that were under the County in terms of dog regulations now do not have any. This article, if passed, will allow us to establish a bylaw that sets rules and regulations for dogs. They are represented in Article 43.

FINANCE COMMITTEE: The Finance Committee takes no position on this article.

Anne McNabb, Lakewood Drive, asked if the Town Manager knew yet what hours the Dog Officer would be working and where the animals would be confined.

The Moderator stated that these questions were relevant to Article 43, not Article 42 which is only to accept the statute. If we do then we get to the provision of a bylaw we may or may not want to pass.

Ms. McNabb said she would wait to pose her questions.

The Motion under Article 42 was **UNANIMOUSLY VOTED.**

ARTICLE 43. AMEND BYLAWS, ART. V.3 -REGULATION OF DOGS

To see if the Town will vote to amend Article V, Section 3 of the General Bylaws of the Town of Sudbury by deleting it in its entirety and substituting the following in its place:

"SECTION 3. REGULATION OF DOGS

s. 3-1 STATEMENT OF PURPOSE

This bylaw is intended to guide those persons owning or keeping dogs in their role as responsible pet owners so as not to adversely affect the residents of the Town of Sudbury.

s. 3-2 REFERENCE TO MASSACHUSETTS GENERAL LAWS

Any reference to a "section" in this bylaw shall mean Chapter 140 of the Massachusetts General Laws, unless otherwise stated.

The provisions of Massachusetts General Law Chapter 140, s.136A through 174D inclusive, as may be amended from time to time and except as modified herein, are incorporated into this bylaw relating to the regulation of dogs.

s. 3-3 DEFINITIONS

Unless otherwise set out in this bylaw, any term defined in s.136A shall have the same meaning in this bylaw, and shall be expressly incorporated herein.

ANIMAL SHELTER - Any premises designated for the purpose of impounding and caring for animals held under authority of this bylaw.

AT LARGE - Off the premises of the owner and not under the control of the owner or authorized person either by leash, cord, chain or other means.

KENNEL - One (1) pack or collection on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes, and including any shop where dogs are on sale, and also including every pack or collection of four (4) or more dogs, six (6) months old or older, owned or kept by a person on a single premises, irrespective of the purpose for which they are maintained.

LICENSE PERIOD - From January 1st of each year to December 31st of the same year.

LIVE STOCK OR FOWL - Animals or fowl kept or propagated by the owner for food or as a means of livelihood; also deer, elk, cottontail rabbits and northern hares, pheasants, quail, partridge and other birds and quadrupeds determined by the Department of Fisheries, Wildlife and Environmental Law Enforcement to be wild and kept by, or under a permit from, said department in proper houses or suitable enclosed yards. Such phrase shall not include dogs, cats and other pets.

OWNER - Any person or persons, firm, association or corporation owning, keeping or harboring a dog within the Town.

PERSON - An individual, partnership, company or corporation.

RESTRAINT - A dog shall be deemed to be under restraint if it is on the premises of the owner accompanied by a person who shall have the dog under control, or is in a suitably enclosed area including an effective electric invisible fence, or is tied, or if outside the premises of the owner, is

accompanied by a person who shall have the dog under control by holding it firmly on a leash no greater than six (6) feet in length.

s. 3-4 DOG/ANIMAL CONTROL OFFICER

The Town Manager shall appoint a Dog/Animal Control Officer under the provisions of s.151 and s.151A to carry out the provisions of this bylaw, and perform such other duties and responsibilities as may be determined. The Town Manager shall determine hours and conditions of work for the Dog/Animal Control Officer. Compensation for persons appointed under this bylaw shall be consistent with other bylaws dealing with salaries of appointed officials.

The Dog/Animal Control Officer shall seek out and notify all owners of all dogs within the Town that have not been licensed within the required time under the provisions of this bylaw; shall seek out, catch and confine any dogs within the Town that are found on public property, or on private property where said dog is trespassing and the owner or person in control of such property wants the dog removed, if said dog is in violation of any section of this bylaw.

No person shall interfere with, hinder, molest or abuse a Dog/Animal Control Officer in the exercise of such responsibilities. The provisions of s.151 and s.151A regarding killing and/or transfer of any dogs shall apply and are expressly incorporated in this bylaw. No Dog/Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture, and no Dog/Animal Control Officer, either privately or in the course of carrying out official assignments as an agent for this Town, or shall any other agent of the Town, give, sell, or turn over any animal which may come into custody to any business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture. Whoever violates the provisions of this paragraph shall be fined as provided in s.151.

It shall be the duty of the Dog/Animal Control Officer to keep, or cause to be kept, accurate and detailed records of the impoundment and disposition of all dogs held in custody; a monthly telephone log of calls regarding dogs; all bite cases reported and the investigation of same.

s. 3-5 HEARING OFFICER

The Board of Selectmen shall act on all matters pertaining to the enforcement of this bylaw and the settling of any disputes between dog owner, the Town and its residents.

s. 3-6 DOG FUND

A Dog Fund is hereby created by the Town under provisions of Chapter 44, s.53E-1/2 of Massachusetts General Laws. Said fund shall be used as a depository for all moneys collected as fees, fines, charges, penalties and other like moneys imposed under this bylaw. It shall be used to make purchases necessary to administer this bylaw and to pay any expenses relating to this bylaw or for any other costs that Massachusetts General Laws require to be paid. Said fund shall be administered by the Treasurer/Collector and may also receive funds through usual municipal financing methods. Receipts allocated to this fund shall be deposited in a special account by the Treasurer.

Expenditures may be charged against this fund without prior appropriation, subject to the approval by the Town Clerk and shall be limited to purposes directly connected to the enforcement of the provisions of the dog bylaw. Said expenditures, or incurred liabilities, shall not exceed the available balance of the fund at any given time.

s. 3-7 VACCINATION REQUIREMENT

(A) Whoever is the owner of a dog six months of age or older shall cause such dog to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Department of Public

Health. Such owner shall produce a veterinarian's certificate that such dog has been so vaccinated setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certification was issued.

(B) Unvaccinated dogs acquired or brought into the Town shall be vaccinated within thirty days after acquisition or entry into the Town or upon reaching the age of six months, whichever comes later.

(C) Unvaccinated dogs shall be re-vaccinated in accordance with rules and regulations adopted and promulgated by the Department of Public Health.

s. 3-8 REGISTRATION, LICENSES, AND FEES

(A) Any owner of a dog which is six (6) months of age or older and is located in the Town of Sudbury shall obtain a license for that dog commencing on January 1st of each year, as required by Massachusetts General Law Chapter 140.

(B) The fee for every license shall be: (EFFECTIVE JANUARY 1, 1999)

Neutered male dogs and spayed female dogs	\$10.00
Unneutered male dogs and unsplayed female dogs	\$15.00

(C) The registering, numbering, describing and licensing of a dog shall be done by the Town Clerk on a form prescribed and supplied by the Town Clerk, and shall be subject to the condition expressed therein that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing live stock, fowl, wildlife, or domesticated animals.

(D) The owner of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which shall be securely attached a tag on a form prescribed by and issued by the Town Clerk when a license is issued. Such tag shall state the following information: (a) Town of Sudbury; (b) year of issue; and (c) tag number. The Town Clerk shall maintain a record of the identifying numbers.

(E) If any such tag shall be lost, the owner of such dog shall forthwith secure a substitute tag from the Town Clerk. The fee for a duplicate tag shall be one dollar (\$1.00).

(F) The Town Clerk shall not grant such license for any dog unless the owner thereof provides the Town Clerk with either a veterinarian's certification that such dog has been vaccinated in accordance with the provisions of s.145B or has been certified exempt from such provision as outlined in s.137 or s.137A, or a notarized letter from a veterinarian that a certification was issued.

s. 3-9 KENNEL REGISTRATION, LICENSES, AND FEES

(A) Any person maintaining a kennel shall have a kennel license. (See s.3-3 for definition of what constitutes a kennel.) The fee for kennel licenses shall be:

Four (4) dogs	\$ 25.00
Five (5) to ten (10) dogs	\$ 50.00
Eleven (11) dogs or more	\$ 75.00

(B) Any person who meets all requirements of the Town of Sudbury Zoning Bylaw and s.137A may apply for a kennel license from the Town Clerk and for a fee as set out in this bylaw. The Town Clerk shall, upon application, issue without charge a kennel license to any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse and for the relief of suffering among animals.

(C) The provisions of s.138 and s.138A shall be expressly incorporated herewith and shall henceforth apply under this bylaw.

(D) The Dog/Animal Control Officer may at any time inspect or cause to be inspected any kennel and if, in her or his judgment the same is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, shall file with the Town Manager a petition setting forth the facts, and the Town Manager shall upon this petition, or upon a petition of twenty-five citizens, setting forth that they are aggrieved, or annoyed to an unreasonable extent, by one or more dogs at a kennel maintained in Town, because of excessive barking or vicious disposition of said dogs or other conditions connected with such kennel constituting a public nuisance, the Town Manager, within seven days after a filing of such petition, shall give notice to all parties in interest of a public hearing to be held within fourteen days after the date of such notice. Within seven days after such public hearing the Board of Selectmen shall make an order either revoking or suspending such kennel license or otherwise regulating said kennel, or dismissing said petition. Within ten days after such order the holder of such license may bring a petition in the district court as outlined in s.137C. Any person maintaining a kennel after the license therefor has been so revoked, or while such license is so suspended, shall be fined as set forth in Section 3-24(A) of this bylaw. The Board of Selectmen may, in the case of any suspension, reinstate such license.

s. 3-10 KENNEL REGULATIONS

The Town Clerk shall not issue a kennel permit pursuant to the provisions of s.137A, unless:

(A) A written report from the Dog/Animal Control Officer has been received certifying as follows:

1. That the premises where the applicant's kennel is located has been inspected.
2. That the premises proposed are appropriate for use as a kennel and that such use will have no significant adverse effect on the peace and quiet of the neighborhood or on the sanitary conditions there.

(B) The applicant for a kennel permit has first obtained a Special Permit from the Board of Appeals pursuant to Section V,H of the Zoning Bylaw of the Town of Sudbury.

s. 3-11 FAILURE TO LICENSE

All owners or keepers of dogs kept in the Town of Sudbury during the preceding six (6) months and who, on the first day of April of each year, have not licensed said dog or dogs, as prescribed by Section 137, Chapter 140 of the General Laws, shall be subject to a penalty of \$25 payable to the Town, in addition to the license fee, for each dog so unlicensed.

s. 3-12 CONTROL OF DOGS

(A) All dogs in the Town of Sudbury shall be restrained, kept on a leash or under the direct and complete control of a responsible person between the hours of 7 a.m. and 8 p.m. No dog in the Town of Sudbury shall be allowed to run at large during these hours. No dog shall be allowed to run at large at other hours on privately owned property without the written permission of the owner of the privately owned land, nor shall any dog be at large during other hours if such dog creates a nuisance as defined in Section 3-13 other than by merely being allowed to roam free or unrestrained. The owner or keeper of a dog who violates this bylaw shall be subject to a penalty as set forth in Section 3-24(A) of this bylaw.

(B) Any dog whose actions result in a complaint filed with the Dog/Animal Control Officer shall be restrained during the entire twenty-four hour period after the third complaint, if in the opinion of the Dog/Animal Control Officer such complaints are warranted and constitute a violation of any provision of this bylaw.

(C) The Dog/Animal Control Officer, may, subject to Section 3-6 of Article V of these bylaws, receive payment of the foregoing fine prior to seeking a complaint therefor under General Laws Chapter 140, Section 173A.

s. 3-13 NUISANCE ABATEMENT

The keeping or harboring of any dog, whether licensed or not, which by habitual, consistent and persistent howling, yelping, barking, or other noise disturbs or annoys any persons residing in the neighborhood is unlawful and is hereby declared to be a public nuisance and each day shall constitute a separate offense. Dogs shall be kept in such a manner that no nuisance is produced regarding sanitary conditions, housing, food, shelter, water, or other factors which may cause a nuisance. Upon determination by the Dog/Animal Control Officer, based on evidence, that a dog is causing a nuisance, the owner of such dog shall be subject to a penalty as set forth in Section 3-24(B) of this bylaw.

Every female dog in heat shall be confined in a building or secured enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding. The owner of any unspayed and unleashed female dog found by the Dog/Animal Control Officer roaming in season (heat) off the premises of the owner shall be subject to a penalty as set forth in Section 3-24(B) of this bylaw.

When the owner of a male dog is notified by the Dog/Animal Control Officer that the dog is a nuisance to residents while attracted to the residence of a female dog in heat, the owner of the male dog shall be required to keep the male dog restrained.

The definition of nuisance dogs includes but is not limited to dogs whose owners repeatedly allow them to:

- Bark excessively;
- Trespass on private property;
- Damage property;
- Molest passersby;
- Chase persons walking, jogging, or riding bicycles;
- Chase vehicles; and/or
- Disturb the peace in any way at any time.

s. 3-14 DOG WASTE DISPOSAL

Each person who owns, possesses or controls a dog walking in any area within the Town other than their own private property is responsible for the removal and disposal of any feces left by the dog. Persons walking dogs must carry with them a device designed to dispose of dog feces. Such devices include but are not limited to plastic bags or "pooper-scoopers." Exempt from the requirements of this bylaw are assistance dogs in the service of their handlers. The owner or keeper of a dog that violates this section shall be subject to a penalty as set forth in Section 3-24(B) of this bylaw.

s. 3-15 QUARANTINE OF DOG THAT BITES

The dog owner shall immediately and within twenty-four (24) hours, notify the animal inspector, agent for the Board of Health, if the dog bites a person. For biting a person, the dog must be quarantined subject to Massachusetts General Law c. 129, s.21. Any and all violations of a quarantine order will be subject to general penalties under Massachusetts General Law ch. 129, s.30.

s. 3-16 VICIOUS DOGS

Vicious dogs are defined as dogs who unprovoked have attacked or bitten a human being or animal, or have a known propensity, tendency or disposition to attack unprovoked, to cause injury or to endanger the safety of human beings or animals.

Potentially vicious dogs are defined as dogs who, when unprovoked, in a vicious or terrorizing manner approach any person or animal in an apparent attitude of attack.

No dog shall be declared vicious or potentially vicious if injury or damage is sustained by a person who was willfully trespassing or committing or attempting to commit a crime or committing other tort upon the premises occupied by the owner of a dog. Also exempted are dogs who were teased, tormented, abused or assaulted by the injured person or animal prior to attacking or biting. No dog shall be declared vicious if the dog was protecting or defending a human being in its immediate vicinity from attack or assault. For purposes of this definition, no child under the age of seven shall be deemed a trespasser.

Dogs who have violated any of the above conditions can be declared to be a nuisance, vicious or potentially vicious by the Board of Selectmen upon written complaint of a citizen, the Dog/Animal Control Officer, Police Department or other public safety agent.

s. 3-17 EMERGENCY TREATMENT

Any veterinarian registered under the provisions of s.55 or s.56A of Chapter 112 who renders emergency care or treatment to, or disposes of any dog or cat injured on any way in the Town shall receive payment of reasonable costs from the owner of such dog or cat, if known, or if not known, shall receive a fair and reasonable sum [not to exceed fifty dollars (\$50) without the approval of the Board of Selectmen] from the Town's Dog Fund provided under this bylaw for such care, treatment and/or disposal; provided, however, such emergency care, treatment and/or disposal shall be for the purpose of maintaining life, stabilizing the animal or alleviating pain or suffering until the owner of such dog or cat is identified, or for a period of twenty-four hours, whichever is sooner. Any veterinarian, who renders such emergency care or treatment to, or euthanizes or disposes of such dog or cat, shall notify the Dog/Animal Control Officer, and upon notification, the Dog/Animal Control Officer shall assume control of any such dog. The Dog/Animal Control Officer shall not assume control of any such cat.

s 3-18 CONFINEMENT OF DOGS

The Dog/Animal Control Officer shall seek out, catch and confine any dog which he/she finds, after a complaint from an identified person or through his/her own observation, has:

- A. Bitten or threatened the safety of any person;
- B. Killed or maimed any domesticated or farm animal or wildlife;
- C. Chased any motor, recreational, or pedal vehicle, or any animal carrying or drawing a person;
- D. Damaged property;
- E. Committed any act which places its owner in violation of a Section of this bylaw.

Any violation shall be fined as set forth in Section 3-24(A) of this bylaw.

s. 3-19 DISPOSITION OF DOGS; STORAGE FEES

(A) Any dog confined by the Dog/Animal Control Officer, unless picked up by the owners, shall be kept for at least ten (10) days.

(B) A storage fee for the boarding of impounded dogs shall be charged at a rate based on contractual agreements between the Town and the contractor.

(C) Any dog confined by the Dog/Animal Control Officer shall not be released to the owner until the owner produces evidence of a current dog license and pays all fines and storage fees.

s. 3-20 DAMAGE CAUSED BY DOGS

Whoever suffers loss in a manner described in s.161 shall inform the Dog/Animal Control Officer of such loss, who shall investigate the circumstances of said loss. In the event it is found that the damage was caused by a dog and the estimate of damages by the Dog/Animal Control Officer is less than fifty (\$50.00) dollars, he/she shall submit a report to the Board of Selectmen. If the estimate is over fifty (\$50.00) dollars, he/she shall have the damage appraised on oath by three persons, one person appointed by the Dog/Animal Control Officer, one appointed by the person alleged to be damaged, and one appointed by the other two. Said appraisers shall act as outlined in s.161 and turn in said appraisal to the Town Manager/Board of Selectmen, who may authorize payment or make such independent investigation as they think proper, and shall issue an order upon the Town Treasurer for any amount they decide to be just and shall notify all interested parties of their decision. The appraisers shall receive payment from the Town in a manner as is authorized in s.161. All funds expended under this section shall come from the Dog Fund provided under this bylaw.

If the Board of Selectmen determine, after notice to parties interested of a hearing, the person who is the owner of any dog which is found to have worried, maimed or killed live stock, fowl, or domesticated animals, thereby causing damages for which their owner may become entitled to compensation from the Dog Fund under this bylaw, they shall serve upon the owner of such dog a notice directing him/her within twenty-four hours to kill or confine the dog. A person who owns or keeps a dog, and who has received such notice and does not within twenty-four hours kill such dog or thereafter keep it on his/her premises or under the immediate restraint and control of some person, shall be fined as set forth in Section 3-24(A) of this bylaw.

s. 3-21 LIABILITY FOR DOGS

The owner of a dog which has done damage to live stock, fowl, or domesticated animals shall be liable in tort to the Town for all damages so done in which the Town has been requested to pay as provided by Massachusetts General Laws Chapter 140 or by this bylaw. Such action may be brought by the Board of Selectmen or by the Dog/Animal Control Officer.

s. 3-22 INFORMAL DISPOSITION PROCESS

The owner of a dog that receives a citation under this bylaw may, within twenty-one days, confess to the offense charged by delivering personally or through a duly authorized agent or by mailing to the Town Clerk said citation along with payment in the amount as authorized under the penalty provisions of the bylaw. The payment to the Town Clerk shall operate as a final disposition of the case.

If such person, when issued a citation, desires to contest the violation through the informal disposition process, he/she may, within twenty-one days of said issuance, request a hearing with the Board of Selectmen, and may present, either in person or by counsel, any evidence he/she may have to refute the allegation contained in the citation. At such hearing, the Board of Selectmen shall make a determination as to the facts, and said determination shall be final regarding the informal disposition process.

s. 3-23 NON-CRIMINAL DISPOSITION OF VIOLATION

If any person so notified by citation desires to contest the violation alleged in the citation notice without availing him/herself of the provisions of the informal process, or desires to contest the decision of the Dog/Animal Control Officer or Board of Selectmen, he/she may avail him/herself of the procedures established in this bylaw. In either of the above cases, or if the owner of a dog fails

to respond to a citation within twenty-one days, the Town Clerk shall forward a copy of the citation to the District Court where it shall be handled under the provisions of c. 40, s.21D, Massachusetts General Laws.

s. 3-24 VIOLATIONS

(A) With the exception of Sections 3-13 and 3-14, [see paragraph (B) below], a violation of any other section of this bylaw shall be punishable according to the following schedule of fines: for the first offense in any calendar year - twenty-five dollars; and for the second or subsequent such offense - fifty dollars.

(B) A violation of Sections 3-13 and 3-14 of this bylaw shall be punishable by a warning for the first offense in any calendar year; a twenty-five dollar fine for the second offense; and a fifty-dollar fine for each subsequent offense.

(C) Any person authorized to enforce provisions of this bylaw shall issue a citation to the owner of any dog violating the provisions of this bylaw. Any such citation shall include, in addition to the violation charge, the name and address of the owner of the dog, the date and location of the alleged offense, and, if not a warning, the amount of the penalty due. Said citation shall be on a form prescribed by and furnished by the Dog/Animal Control Officer.

s 3-25 SEVERABILITY CLAUSE

If any part, section or provision of the bylaw is found to be invalid, the remains of this bylaw shall not be affected thereby. No provision or interpretation of a provision of this bylaw is intended to be either in conflict with or an attempt to change any statutory provision in Chapter 140, Massachusetts General Laws, pertaining to dogs.";

or act on anything relative thereto.

Submitted by the Board of Selectmen, Dog/Animal Control Officer and Town Clerk.

(Majority vote required)

BOARD OF SELECTMEN, DOG/ANIMAL CONTROL OFFICER AND TOWN CLERK REPORT: The proposed dog regulations will be inserted in the Town Bylaws and replace those now in existence. They have been expanded to provide our residents with a clear understanding of the responsibilities of dog owners. Although it is hoped these regulations will act as an educational tool, it must also be understood that enforcement of these regulations is necessary to protect the rights and safety of the public.

It is the Town's obligation to provide the functions performed by the former government of Middlesex County with respect to dogs. The funds received will remain with the Town and will be used to maintain the program.

Printed below is a copy of the Town of Sudbury bylaw as it currently exists:

SECTION 3.

Unlicensed Dogs All owners or keepers of dogs kept in the Town of Sudbury during the preceding six (6) months and who, on the first day of April of each year, have not licensed said dog or dogs, as prescribed by Section 137, Chapter 140 of the General Laws, shall be subject to a penalty of \$25 payable to the Town, in addition to the license fee, for each dog so unlicensed.

Control of Dogs All dogs in the Town of Sudbury shall be restrained, kept on a leash or under the direct and complete control of a responsible person between the hours of 7:00 o'clock

April 15, 1998

A.M. and 8:00 o'clock P.M. No dog in the Town of Sudbury shall be allowed to run at large during these hours. The owner of keeper of a dog who violates this bylaw shall be punished by a penalty according to the following schedule of fines: for the first offense in any calendar year - twenty-five dollars; and for the second or subsequent such offense - fifty dollars.

Payment of Fine The Dog Officer may, subject to Sections 3 and 7 of Article III of these bylaws, receive payment of the foregoing fine prior to seeking a complaint therefor under General Laws Chapter 140, Section 173A.

Mr. Blacker *Moved in the words of the Article, with the amount to be expended from the Dog Fund for FY99 not to exceed the sum of \$40,000.*

The Motion received a second.

Mr. Ledoux was heard in support of the motion. Article 43 establishes a bylaw that deals with the regulation of dogs within the Town of Sudbury. This particular bylaw mirrors a lot of what was in the County rules and regulations as well as deals with some of the statutory requirements in terms of regulation of dogs throughout the State. The County dealt with a number of issues in their regulation of dogs. Those ranged from not only the control of dogs but the licensing, vaccination requirements, kennel regulations, and the establishment of a dog fund to be utilized to administer the program. Now that the County has been abolished, it is incumbent on each community to establish their own rules and regulations concerning dogs. As you read this particular proposed bylaw, there are three particular issues that should be mentioned.

The first is the cost of licensing dogs. Under the County regulations the fee was \$6 for a neutered animal and \$10 for an unneutered animal. Our proposed bylaw changes that to \$10 for neutered and \$15 for unneutered.

Secondly, in the proposed bylaw Section 3-12, Control of Dogs, the Town has already established a leash law that is in effect from 7:00 AM to 8:00 PM. As we had public hearings on this bylaw, the Selectmen had opted to add the following language to the issue to the control of dogs, "No dog shall be allowed to run at large at other hours on privately owned property without the written permission of the owner." This strengthens the leash law somewhat.

Third, Section 3-14 deals with dog waste disposal. That is a feature that we had not had before. This bylaw was put together with a lot of work by Betsy DeWallace, the Dog Officer, Paula Adelson, the Assistant Dog Officer, and the Town Clerk doing research of what other communities were doing.

He urged support of the article.

FINANCE COMMITTEE: The Finance Committee supports the article and recommends approval.

Andy Donovan, 175 Landham Road, wanted to make two small amendments to make the law more palatable because it is quite restrictive.

Andy Donovan *Moved to Amend Section 3-13 Nuisance Abatement to add a paragraph to the bottom of that section that says "The owner of dog so cited for trespassing shall have the right to fence the entire perimeter of his land with an actual fence."*

The Motion received a second.

Mr. Donovan was recognized in support of his motion. He felt that there were three options for control of a dog if it can be seized and arrested for trespassing. First, the dog could be tied up, which is not a good option. Second, there is the electric fence. As an electrician, he did not feel it was acceptable to give a dog electric shocks in the neck. Third, the owner could have the right to fence in the property.

Robert Coe, asked what limitations now exist on the right of the property owner to fence in his property.

Town Counsel advised that there is no limitation at this time.

April 15, 1998

Mr. Coe asked if the amendment would have any effect if passed.

The view of the Board of Selectmen and Town Counsel was no, it would not have any effect.

The Motion to Amend was **DEFEATED**.

Andy Donovan Moved to Amend by deleting Sections s 3-20, Damage Caused by Dogs, and s 3-21, Liability for Dogs.

The Motion received a second.

Mr. Donovan spoke in favor of his motion. He stated that he did not believe it was in the Town's best interest to obligate itself to compensate the victims of criminal activity. With the proliferation of coyotes and foxes, someone could have an animal injured and blame a local dog when the damage was caused by a wild animal. Then the Town would be responsible. He did not feel that was right.

Mr. Blacker stated that he believed that Sections s 3-20 and s 3-21 did nothing but set forth State law. If we didn't include this in our bylaw it would still be part of the rules and regulations regarding dogs. It is Chapter 140 § 161 of Massachusetts General Laws.

Frank Reipe, King Philip Road, said that it sounded like the Town was running an insurance policy to protect our animals from being maimed by other animals. He asked if that was a correct interpretation. He asked if this was, in fact, a public fund managed by the Town to reimburse people for loss and are we required under State law to run this program.

Paul Kenny responded that this is a State law. The law does not require the Town to operate the Dog Fund. The problem is that when Middlesex County was abolished the operator of the Dog Fund was also abolished. The law still applies but there is no one there to enforce it. The money still gets paid but no one knows who is going to collect it which is the reason for the bylaw. If Middlesex County hadn't been eliminated this probably wouldn't be before you tonight.

Mr. Reipe asked if anyone knew what happened to the money that Middlesex County had collected.

Mr. Kenny responded that it was calculated how much money each town was entitled to and it has been sent back to the towns to be used for schools and libraries.

There was discussion about how the responsibility fell on the towns with the dissolution of the County.

Mr. Reipe supported the amendment.

Kevin Meuse, Ruddock Road, addressed his question to Town Counsel. He understood from s 3-21 that the Town has a right of recovery against the owner if money is paid out for damages. Does the ultimate liability for the cost lie with the owner of the offending animal?

Mr. Kenny responded yes, that was correct.

The Motion to Amend was **DEFEATED**.

Andy Donovan Moved to Amend Section s 3-18 by adding the words "excepting small rodents" before the semi-colon in the line headed "B" on Page 57 of the Warrant.

The Motion received a second.

April 15, 1998

Mr. Donovan stated that part of a dog's happy life was to be able to hunt squirrels and mice in the fields and he did not want that to be illegal.

Mr. Blacker stated that he agreed with the proponent. Since squirrel and rodents do constitute wildlife there could be some confusion. He felt it would make sense to adopt this amendment.

The Motion to Amend was **VOTED**.

Frank Riepe Moved to amend by adding after the words "bark excessively" as they appear in Section 3-13 on Page 56 of the Warrant the following line "leave feces in public ways or playgrounds" and to amend Section 3-14 on Page 56 of the Warrant, by deleting the sentences, "persons walking dogs must carry with them a device designed to dispose of dog feces. Such devices include but are not limited to plastic bags or 'pooper scoopers.'" and to insert in place thereof the words "which threaten public hygiene" as ending the first sentence.

The Motion received a second.

Mr. Reipe stated that the intention was to make less severe the act of a dog leaving feces in the world and to identify that as a potential nuisance. Certainly there are dogs and their owners that don't manage that business very well, leaving feces in places that might be a hygiene problem. There are also plenty of people who walk their dogs on rural roads and trails where the dog can 'do his business' without causing a hygiene problem. Also, dogs are allowed to run free for half the day. The way this is written it presumes that the dog can run free all night and 'do his business' but if you are walking him on a leash you had better carry a bag to put it in. He felt the regulation was "heavy handed."

Robert Coe stated that he had anticipated offering a slightly more drastic amendment. He agreed with the previous speaker.

Mr. Coe *Moved to amend the Motion to Amend by striking Section 3-14 in its entirety.*

The Motion received a second.

Mr. Coe stated that he thought the whole "pooper scooper" idea goes beyond the reach of what this town has normally been willing to consider in terms of a dog bylaw. He agreed with Mr. Riepe's statements.

Mr. Reipe stated that he did not believe it was necessary to delete the whole Section 3-14 in order to establish a reasonable modification. He said that there are people in town who are concerned about proper waste disposal and we should respect their concerns. He would not vote for Mr. Coe's amendment.

Anne McNabb, Lakewood Drive, thought the section should be left as it is. She felt people should be responsible for their dogs.

The Motion to amend the Motion to Amend was **DEFEATED**.

The Moderator asked for a standing vote on the Motion to Amend.

The Moderator stated that he believed the Motion had failed and asked if seven people would like the hall counted. The hall was counted.

The Moderator stated that a total of 133 voted which means 67 were needed to pass the motion. The total in the affirmative was 65, the total opposed was 68.

The Motion to Amend was **DEFEATED**.

April 15, 1998

Matthew Slate, Oakhill Road, *Moved to Amend Article 43, s. 3-16 by deleting the last sentence of Paragraph 3 on Page 54, which states "For purposes of this definition, no child under the age of seven shall be deemed a trespasser."*

The Motion to Amend received a second.

Mr. Slate was recognized in support of his amendment. He stated that he does not own a dog but that he was trying to be realistic. Statutes define a legal drinking age. A bartender is required to demand identification of a person whose age appears questionable before taking action that is legal if the person is above that age but incurs a penalty if the person is below that age. Isn't it unrealistic to demand the same behavior of a dog? If retained and enforced, this will condemn one dog but exonerate another for the identical behavior. How do you train a dog to be so careful?

Andy Donovan, Landham Road, stated that it is essential that every dog realize it can never hurt a young child. He stated that even if a young child walked into the yard and poked the dog with a stick the dog can never hurt that child. That is why children under 7 are considered not to be trespassers. He was opposed to the amendment.

Mr. Blacker stated that he believed that this is statutory. The State statutory definition does provide this scenario.

The Motion to Amend was **DEFEATED**.

The Moderator clarified that the only amendment to the article was the one concerning small rodents.

Jim Gish, 35 Rolling Lane, *Moved to Amend Article 43, s. 3-12, Paragraph (A) to change the phrase "between the hours of 7:00 AM and 8:00 PM." to the phrase "between the hours of 6:00 AM to midnight."*

The Motion to Amend received a second.

Mr. Gish said he was tempted to say that dogs should always be under the control of their owner, whether on a leash or with the owner present but that would complicate the amendment too much. He stated that he likes to take early morning and late evening walks and he has frequently been accosted by dogs that are not under their owner's control. Some owners are happy to take care of the nuisance dogs but with others it is difficult to figure out who they belong to.

Robert Coe stated that this bylaw is quite draconian enough as written and that it made no sense to make it even more restrictive. The hours of 7:00 AM to 8:00 PM have been what has been called for by the Sudbury dog bylaw for almost as long as anybody in this hall can remember. He urged defeat of the amendment.

Andy Donovan opposed the motion to amend.

Catherine Rader, 6 Intervale Road, identified herself as the owner of two dogs who are kept under control 24 hours a day. She supported the motion to amend and would support 24 hour control. It reduces the number of hours that your dog is free to be run over and bother runners and pedestrians.

Frank Riepe said he would vote against the amendment because the bylaw is already quite restrictive. He felt the bylaw was fundamentally misguided in that we are developing this enormous body of regulations without the real power to enforce it.

Henry Chandonait, 15 Stonebrook Road, stated that he is vision and mobility impaired. When he walks around his neighborhood there are six or seven dogs. He carries a cane but does not feel he is in any danger. He did not feel it was necessary to restrict the hours anymore than they are now.

April 15, 1998

Dan Claff, Dutton Road, asked that we not be drawn off into a side argument about whether it is enforceable or not.

The Moderator called for a standing vote.

The Motion to Amend was **VOTED**.

Steve Lanzendorf, 43 Hawes Road, *Moved to Amend Article 43, Section 3-12 (A) to strike the words "between the hours of 6:00 AM and midnight" and replace them with the words "at all times" and strike everything from the words "No dog in the Town of Sudbury" which immediately follow thereafter down to and through the word "unrestrained" leaving the last sentence.*

The Motion to Amend received a second.

Mr. Lanzendorf stated that he did not believe that this is draconian. Between midnight and 6:00 AM is when we least want dogs running around. He felt that this amendment was in the interest of responsible pet ownership and public safety and public health. Dog owners who keep their pets on their property won't be affected by this language at all.

Jim Gish, Rolling Lane, supported the amendment.

The Moderator called for a standing vote.

The Moderator stated that he believed the Motion had failed and asked if seven people would like the hall counted. The hall was counted.

The Moderator stated that a total of 113 voted which means 57 were needed to pass the motion. The total in the affirmative was 64, the total opposed was 49.

The Motion to Amend was **VOTED**.

The Motion under Article 43, as amended, was **VOTED**.

ARTICLE 44. AMEND BYLAWS, ART. V.2 -
ALLOW ICE CREAM TRUCKS

To see if the Town will vote to amend Article V, Section 2, of the Town of Sudbury Bylaws, by adding at the end of the first sentence the following words: ", except that vehicles may be used in any district for the sale of ice cream products between the hours of 12:30 p.m. - 4:30 p.m., and 6:30 p.m. - dark, and not more than three times per week to any neighborhood", or act on anything thereto.

Submitted by Petition.

PETITIONERS REPORT: The petitioners are presenting this article because they would like to have ice cream trucks return to Sudbury. We feel that children should be allowed to experience the sense of community that is so sadly missed in today's fast paced society.

NOTE: Currently, this section of the bylaws reads as follows:

Section 2. SALE OF GOODS IN HIGHWAYS. No person shall erect or maintain a stand or otherwise display or sell any articles within the limits of any highway. Violation of this section shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed to be a separate violation.

William Dorfman *Moved in the words of the article.*

The Motion received a second.

Mr. Dorfman was recognized in support of the motion. He started by asking some questions. How many had ever bought ice cream from an ice cream truck? How many have children who have bought ice cream from an ice cream truck? He believes that getting ice cream from an ice cream truck is a rite of passage in childhood. He felt that the town would not be overrun by ice cream trucks any more than it has been overrun by pizza deliveries. We should think about what it is like to be a kid. One of the things kids enjoy doing is eating ice cream. We should be in a position where we can let the trucks come in and we will control them. He didn't think there was more than one vendor who would bother to come to Sudbury. He urged an affirmative vote.

FINANCE COMMITTEE: The Finance Committee advised the Chair that it takes no position on this article.

BOARD OF SELECTMEN: Mr. Blacker, the Board of Selectmen strongly supports this article.

Richard Griesel, 149 Morse Road, was sure that this article was motivated by a desire to return to those wonderful days of yesteryear, to a simpler time and a simpler way of life. At first glance it seems like a very attractive concept. He felt that it should also be viewed in the context of the times that we live in now.

He presented four arguments that he felt were compelling reasons to turn the article down:

- Preservation of the character of Sudbury
- Noise and traffic
- Nutrition
- Protection of children from those who would prey upon them

He urged a "No" vote on Article 44.

Jim Gish, Rolling Lane, stated that Mr. Griesel had made some very good points but he felt that risks need to be balanced against benefits. He said that as a parent he has some of the same concerns that

April 15, 1998

were mentioned and that he is not about to let his children go out into the street by themselves to get ice cream from the ice cream truck. We must exercise reasonable caution. He supported the article.

Jim Gish Moved to Amend by deleting the words "three times" and substituting the word "once."

The Motion to Amend received a second.

The Moderator called for a standing vote.

The Motion to Amend was DEFEATED.

Dan Claff, Dutton Road, Moved to Amend by deleting the words "not more than three times a week" and substituting the phrase "not more than five times a week with the exception of Good Friday."

The Motion to Amend received a second.

The Motion to Amend was DEFEATED.

Betsy Nikula, 25 Marlboro Road, spoke for the Park and Recreation Commission. The Commission is very concerned about having ice cream trucks near recreation land where there are lots of kids who will be tempted to dart out into the street. They took a position against the article.

Mr. Blacker spoke in opposition to the Park and Recreation stance. He said it seemed to him that if an ice cream truck was at Haskell Field or any recreation field in town, it would be sitting there for hours on end because of the constant flow of people. In fact, there wouldn't be any concern for people darting out since the vehicle would be stationary.

Christel MacLeod, Victoria Road, she said she remembered when the ice cream trucks used to come. She made several points. Children all ran home, without looking, to get their money. It was expensive to buy ice cream for four children five days a week. Children now are getting heavier and heavier and, as a nurse, she didn't think it was the right thing.

Pat Burkhardt, 18 Field Road, identified herself as a member of the Park and Recreation Commission. She responded to Mr. Blacker that at Haskell Field the Sudbury Youth Soccer sells snacks. They have applied for a permit and because of that an ice cream truck wouldn't be allowed. The same applies at Featherland and Feeley. The Little League sells snacks and they use those revenues to offset the cost of their programs.

Ralph Tyler said that he thought one of the unintended consequences of the bylaw was that they would use it as a way of parking at locations where there are children. He thought it would be a nuisance.

Pat Brown, Whispering Pine Road, asked if there was anything that said an ice cream truck couldn't be parked in a school parking lot during school hours?

Mr. Blacker stated that he had been informed that an ice cream truck can not park on Town property without permission.

Ralph Tyler was under the impression that was under public access. He asked if we could limit public access? He thought there was a right to go places that had public access.

Mr. Kenny responded that was actually true but that they couldn't sell the ice cream because a commercial activity can't be carried on on town property without the permission of the town.

Parker Coddington, Plympton Road, asked if an ice cream truck could also sell hot dogs, pizza, cigarettes, beer or other soft or hard drinks? What limits the ability to sell?

April 15, 1998

Mr. Blacker responded that this bylaw was limited to ice cream products.

Bob Graham, Tanbark Road, thought we should keep this in perspective. He said he had read a recent article in the paper about a survey of teenagers in middle school and their experiences with drugs, alcohol, sex and suicide. He felt there are serious problems in town and we should lighten up when it comes to ice cream and just vote for it.

The Moderator called for a standing vote.

The Moderator stated that he would not call the vote, he wanted it counted because it was very close.

The Moderator stated that a total of 119 voted which means 60 were needed to pass the motion. The total in the affirmative was 52, the total opposed was 67.

The Motion under Article 44 was **DEFEATED**.

The Moderator asked that the record show that in Sudbury we love children but ice cream and bunnies are in trouble.

RECONSIDERATION OF ARTICLE 39. AMEND ZONING BYLAW, ART. IX -
REZONE PARCEL K10-010 TO LIMITED BUSINESS

To see if the Town will vote to amend the Zoning Bylaw by deleting Parcel 010 as shown on Town Property Map K10 from the Residence District and including it in Limited Business District No. 7; or act on anything relative thereto.

Submitted by Petition.
(Two-thirds vote required)

Mr. Vingiano, Marlboro Road, *Moved to reconsider Article 39.*

The Motion received a second.

The Moderator stated that the motion was properly noticed with the Town Clerk and that it would require a two-thirds vote to pass.

Mr. Vingiano was recognized in support of the motion. He started by saying that democracy is a wonderful form of government. Those in attendance last night chose not to support the use change of his property from residential to limited business for the purpose of building a display model home. He said he accepted the vote and was not here to try and change it. He wanted to present new information that was not available the night before.

The first new item was how the proposed model home would have been used. Had this passed, the model home would have operated from 9:00 AM to 5:00 PM weekdays and 10:00 AM to 4:00 PM on Saturday. It is a professional services business, oriented toward the design of custom homes and sunrooms. The number of visitors per day would have averaged from three to four. The office portion of the model would be complementary type services such as a surveyor or a designer. Generally, a maximum of two people would be working the model home at any time. The office portion might have three to four people Monday through Friday. When people work in offices they usually only leave for lunch. Because this is a service business it generates no odor, no noise, no refuse, no sewage, no excessive lighting or visual nuisances that would have an adverse effect on the district. In fact, the effects of the proposed usage would be less in all those categories than a residential home. That is because there would be no regular nighttime business activity.

He talked about the comments that had been made the previous night regarding the company he represents, Lindal Cedar Homes. It was proposed that this is a large corporation that would take advantage of the Town of Sudbury if they came in. He showed a photograph of the Lindal family. This company was started in 1946 by Sir Walter Lindal. This company is controlled by the Lindal family. They have 66% of the stock.

There was reference made last night that this company is a land speculator in desperate financial trouble and, therefore, would not respect the rights of towns like Sudbury. He showed a press release of the financial results of the company through the year end. He quoted, "Lindal Cedar Homes reports 1997 revenues of \$49 million second highest ever. As expected, difficult wood market leads to first loss in 15 years." He quoted information from the Internet, "Lindal Cedar Homes, the world's largest manufacturer of top of the line cedar homes reported its 1997 revenues of \$48.8 million and a record \$36 million in home sales." He showed a slide illustrating the sales of the last five years.

Last night Mr. Delaney showed a slide with information about a situation in Hawaii where they ended up with a video store on the site. Mr. Vingiano said that he called the Lindal Cedar Homes dealer in Hawaii to ask about the video store. He was faxed a letter from Ted Cormier, the Lindal Cedar Homes dealer in Kona, Hawaii. He read the letter, "Sorry I missed your phone call. This is an e-mail. I just started fooling with the fax, the new way of doing things. With a video store makes me think you saw something that Sherry Barnett, our Lindal Cedar Homes dealer in Maui would have put out as his tenant downstairs is a video store. I remember Sherry telling me that he had zoning problems sometime ago. I have to assume they are taken care of by now. Hope this helps. Say hello to the family." He stated that Ted Cormier has been a Lindal dealer for over 30 years. It was presented last night that Lindal did this. They did not do this.

Apparently what happened was this was a Lindal Cedar Homes independent dealer, there are 180 of us around the country.

His next point was a clarification about the Planning Board regarding their position last night. Mr. Rhome addressed the hall regarding their position. Mr. Vingiano said he believed Mr. Rhome stated that the Planning Board was unanimous in its decision not to support this article. Mr. Vingiano did not think that was correct. He believed Mr. Rhome made an unintentional error and that he could say that because Mr. Rhome is very fair-minded. Mr. Vingiano stated that he had made two presentations to the Planning Board prior to Town Meeting. At the second meeting Mr. Rhome stated "You still haven't convinced me but don't forget to bring your slides." Mr. Vingiano thought that wasn't something someone who was not for you would say. He thanked Mr. Rhome for that comment. He asked someone from the Planning Board to come up to clarify the record.

Mr. Rhome clarified the previous evenings statements. He said that he had stated that the Planning Board unanimously opposed this rezoning because that was his belief and memory. He found out after talking with Jody Kablack that he was in error. It was a majority opinion that they reject the rezoning. If he had stated it correctly he would have said, "The Planning Board urges you to reject this zoning."

Mr. Vingiano's next point of clarification had to do with Mr. Delaney's comment that Lindal Cedar Homes was at all times the owner of the property. He showed a slide illustrating the purchase of the property by himself and his then partner, Bob Newsome.

He gave two new points of information. The first was regarding the issue of his character and motives in bringing this article to the Town. He showed a slide of a Town Crier article dated April 2, 1998, in which Mr. Delaney referred to Mr. Vingiano as "a well-connected individual, a developer with associates that press what seem to be an obviously fabricated case that the parcel would have buildings and maybe a homey office building or two." Mr. Vingiano responded to the quote. He wasn't sure what to make of the term "well-connected." He felt that if he was well-connected with members in the community, he would have won the vote the previous night. He stated that he is not a developer, he is a house designer. He has never developed a piece of property. He has no associates, he is a one-man business.

He stated that he has as much concern about the Town as anyone in the hall. He does not mind fair debate and those disagreeing with him. He felt that some of the comments made last night took away from the real issue at debate.

He talked about his options for the property now. He said he can build a residential property and sell it. All of the following uses will generate more traffic, more activity and substantially increase the use in the area, and it is allowed by right in Sudbury. He could sell it to a nursery and install a greenhouse. He could construct a simple prefabricated box and conduct educational real estate seminars or any other type of educational seminars. He could rent the building to a halfway house for troubled youth in our area and surrounding communities who have alcohol and drug addictions. He could set up a daycare center. He stated that he was continuing to research the allowable uses and would make a decision in the coming months as to the appropriate use for this property in this district.

He thanked the hall for their time and attention and left the hall.

Peter Anderson, Landham Road, was opposed to reconsideration. He stated that the tradition in Sudbury is that Motions for Reconsideration are a very serious matter. He felt that there had been ample debate the previous evening, there were no voting irregularities, the vote was not even close. It required a two-thirds vote to pass but did not even receive a majority. The Town's clear answer last night was no. He urged defeat.

Jessie Cunningham, 17 Singletary Lane, was opposed to spot zoning. She said none of the arguments presented on reconsideration had anything to do with why the article had been defeated.

Anne McNabb, Lakewood Drive, asked Town Counsel if the property was currently a residence or a business.

Mr. Kenny responded that it is presently vacant land.

Mrs. McNabb asked if it was zoned residential or business.

Mr. Kenny responded that it is residential.

April 15, 1998

She asked how he could put a daycare center or any of the other things suggested on the property.

Mr. Kenny responded that they are allowed in a residential zone.

The Motion to Reconsider was **DEFEATED**.

The Moderator stated there was one more piece of business under Section 15 of Article 2 of the bylaws which was to correct an error that had been made in the meeting. According to Section 15 he asked Town Counsel to explain the error to the hall.

Mr. Kenny explained that the vote under Article 25 stated that the bylaw would be amended by adding a new Section 16, it should have read a new Section 17. We assume that because Section 16 was on the next page of the bylaws it was a clerical error. The error does not change the vote or the intent, it is simply a clerical error that is required by Town Clerk so that the vote will correctly address the section.

In accordance with the bylaws, the Moderator requested a motion from the Board of Selectmen to correct the error.

Mr. Blacker so Moved.

The Moderator stated that the Motion is to correct the error by substituting the numeral 17 for the numeral 16 as it appears in the vote under Article 25.

The Motion received a second.

The Motion to Correct was **UNANIMOUSLY VOTED**.

TOWN COUNSEL OPINIONS:

It is the opinion of Town Counsel that, if the Bylaw amendments proposed in the following articles in the Warrant for the 1998 Annual Town Meeting are properly moved, seconded and adopted by a majority vote in favor of the motion, the proposed changes will become valid amendments to the Sudbury Bylaws:

Article 20	Amend Art. V.15 & V.19	Public Safety
Article 22	Amend Art. V.31	Water Pollution Emergencies
Article 23	Amend Art. V.31	Underground Sprinkler Systems
Article 24	Amend Art. XXII	Wetlands Administration
Article 25	Amend Art. II.16	Town Meeting Procedures
Article 26	Amend Bylaws	Capital Planning
Article 28	Amend Bylaws	Public Way Access Permit
Article 43	Amend Art. V.3	Regulation of Dogs
Article 44	Amend Art. V.2	Allow Ice Cream Trucks

It is the opinion of Town Counsel that, if the Zoning Bylaw changes set forth in the following articles in the Warrant for the 1998 Annual Town Meeting are properly moved and seconded, reports are given by the Planning Board as required by law, and the motions are adopted by a two-thirds vote in favor of the motions, the proposed changes will become valid amendments to the Sudbury Zoning Bylaw after approval by the Attorney General:

Article 29	Amend Art. IX.V.P	Wireless Services
Article 30	Amend Art. IX.IV.F/I.G/V.O	Incentive Senior Development
Article 31	Amend Art. IX.IV	Flexible Development
Article 32	Amend Art. IX.III.D.i	Research District Permitted Uses
Article 33	Amend Art. IX. (IV.E.3.b), (III.D.1.i), (III.D.1.k)	Research Districts/Residential Care Facilities
Article 34	Amend Art. IX.III.G.5	Water Research Protection Districts
Article 35	Amend Art. IX.I.C./IV.E.5.a	Lot Area
Article 36	Amend Art. IX.IV.D.4	Cluster Development, Common Land
Article 37	Amend Art. IX.IV.D.3.c	Cluster Development, Dimensional Requirements
Article 38	Amend Art. IX.IV.B	Intensity Regulations

April 15, 1998

Article 39
Article 40

Amend Art. IX
Amend Art. IX

Rezone Parcel K10-010 to Limited Business
Delete Senior Residential Community
Bylaw

The Moderator asked if anyone had any further business.

There was no one.

Mr. Blacker Moved to dissolve the Annual Town Meeting.

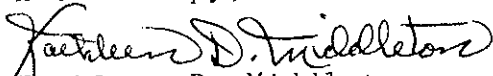
The motion received a second.

The motion was **UNANIMOUSLY VOTED**.

The meeting was dissolved at 10:15 PM.

Attendance: 169

A true copy, Attest:


Kathleen D. Middleton
Town Clerk

SPECIAL TOWN ELECTION
MAY 27, 1998

The Special Town Election was held at two locations. Precincts 1 & 2 voted at the Fairbank Community Center on Fairbank Road and Precincts 3 & 4 voted at the Peter Noyes School at 280 Old Sudbury Road. The polls were open from 7:00 am to 8:00 pm. There were 2,896 votes cast, including 166 absentee ballots, representing 28.7% of the town's 10,082 registered voters.

		PRECINCT				
		1	2	3	4	TOTAL
Question #1 -						
Shall the Town of Sudbury be allowed to assess an additional \$ 592,250 in real estate and personal property taxes for the purpose of an override to provide additional funds for the Sudbury Public Schools operating budget and School-related Unclassified Employee Benefits accounts for the fiscal year beginning July 1, 1998?	BLANKS	3	3	4	6	16
	YES	458	427	424	358	1667
	NO	246	308	310	349	1213
	TOTAL	707	738	738	713	2896

Question #2 -

Shall the Town of Sudbury be allowed to exempt from the provisions of proposition two and one-half, so-called, as a debt exclusion, the amounts required to pay for the bonds issued in order to acquire in fee simple a portion of the land known as the Weisblatt Property consisting of approximately 41.3 acres located on the northeast slope of Nobscot Mountain, off Adams Road and 641 Boston Post Road, shown as Lot #2 on "Plan of Land in Sudbury, Mass. Owner: A. Weisblatt Realty Trust", dated January 27, 1998, drawn by Schofield Brothers of New England, Inc., as amended by "Sketch Plan of Weisblatt Land", dated April 6, 1998, on file in the Town Clerk's Office?	BLANKS	4	8	7	7	26
	YES	409	409	463	437	1718
	NO	294	321	268	269	1152
	TOTAL	707	738	738	713	2896

A true record, Attest:


Kathleen D. Middleton
Town Clerk

STATE PRIMARY

SEPTEMBER 15, 1998

The State Primary was held at two locations. Precincts 1 & 2 voted at the Fairbank Community Center on Fairbank Road and Precincts 3 & 4 voted at the Peter Noyes School at 280 Old Sudbury Road. The polls were open from 7:00 a.m. to 8:00 p.m. There were 2,455 votes cast representing 23.8 percent of the town's 10,305 registered voters. There were 1,476 Democratic votes cast and 979 Republican votes cast. The final tabulation of votes was done at the Town Hall.

<u>DEMOCRATIC BALLOT</u>	<u>Precinct 1</u>	<u>Precinct 2</u>	<u>Precinct 3</u>	<u>Precinct 4</u>	<u>Total</u>
<u>GOVERNOR</u>					
Brian J. Donnelly	34	31	44	32	141
Scott Harshbarger	202	198	187	199	786
Patricia McGovern	112	137	127	146	522
Blanks	7	5	3	9	24
Write-Ins	1	0	2	0	3
<u>LIEUTENANT GOVERNOR</u>					
Dorothy A. Kelly Gay	104	126	99	128	457
Warren E. Tolman	167	162	174	163	666
Blanks	85	82	89	94	350
Write-Ins	0	1	1	1	3
<u>ATTORNEY GENERAL</u>					
Lois G. Pines	154	167	149	204	674
Thomas F. Reilly	188	195	204	176	763
Blanks	14	9	10	6	39
Write-Ins	0	0	0	0	0
<u>SECRETARY OF STATE</u>					
William Francis Galvin	221	257	221	245	944
Blanks	135	114	141	141	531
Write-Ins	0	0	1	0	1
<u>TREASURER</u>					
Shannon P. O'Brien	214	244	217	235	910
Blanks	142	127	145	150	564
Write-Ins	0	0	1	1	2
<u>AUDITOR</u>					
A. Joseph DeNucci	213	248	221	243	925
Blanks	143	121	141	143	548
Write-Ins	0	2	1	0	3
<u>REPRESENTATIVE IN CONGRESS</u>					
Martin T. Meehan	265	293	280	302	1140
Blanks	90	76	83	82	331
Write-Ins	1	2	0	2	5

<u>COUNCILLOR</u>	<u>Precinct 1</u>	<u>Precinct 2</u>	<u>Precinct 3</u>	<u>Precinct 4</u>	<u>Total</u>
Ginny Allan	211	222	209	246	888
Garrett J. Barry	9	3	16	6	34
John W. Costello	16	26	19	12	73
Marilyn Petitto Devaney	12	15	6	12	45
Leonard H. Golder	5	5	6	5	21
Howard I. Goldstein	8	11	13	6	38
Ruth E. Nemzoff	15	12	13	17	57
Francis Thomas "Frank" Talty	2	2	2	4	10
Blanks	78	75	79	78	310
Write-Ins	0	0	0	0	0

SENATOR IN GENERAL COURT

Susan C. Fargo	249	282	257	292	1080
Blanks	107	88	106	93	394
Write-Ins	0	1	0	1	2

REPRESENTATIVE IN GENERAL COURT

Russell A. Ashton	195	217	198	230	840
Blanks	161	153	165	155	634
Write-Ins	0	1	0	1	2

DISTRICT ATTORNEY

Martha Coakley	194	193	203	244	834
Timothy R. Flaherty	54	47	40	48	189
Michael A. Sullivan	47	69	60	50	226
Blanks	61	62	59	44	226
Write-Ins	0	0	1	0	1

SHERIFF

James V. DiPaola	167	164	156	175	662
Edward J. Kennedy, Jr.	65	98	88	90	341
Blanks	122	108	119	121	470
Write-Ins	2	1	0	0	3

REPUBLICAN BALLOT

GOVERNOR

Argeo Paul Cellucci	151	166	121	127	565
Joseph D. Malone	109	94	102	95	400
Blanks	6	2	2	3	13
Write-Ins	0	0	0	1	1

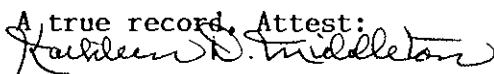
LIEUTENANT GOVERNOR

Janet E. Jeghelian	104	103	106	101	414
Jane Maria Swift	136	140	102	102	480
Blanks	25	19	17	23	84
Write-Ins	1	0	0	0	1

	<u>Precinct 1</u>	<u>Precinct 2</u>	<u>Precinct 3</u>	<u>Precinct 4</u>	<u>Total</u>
<u>ATTORNEY GENERAL</u>					
Brad Bailey	175	170	155	161	661
Blanks	91	87	66	63	307
Write-Ins	0	5	4	2	11
<u>SECRETARY OF STATE</u>					
Dale C. Jenkins, Jr.	167	168	151	150	636
Blanks	99	94	72	76	341
Write-Ins	0	0	2	0	2
<u>TREASURER</u>					
Robert A. Maginn	167	164	151	151	633
Blanks	99	98	73	75	345
Write-Ins	0	0	1	0	1
<u>AUDITOR</u>					
Michael T. Duffy	167	164	147	149	627
Blanks	99	98	76	77	350
Write-Ins	0	0	2	0	2
<u>REPRESENTATIVE IN CONGRESS</u>					
David E. Coleman	158	163	147	142	610
Blanks	108	99	78	84	369
Write-Ins	0	0	0	0	0
<u>COUNCILLOR</u>					
John Henry DeJong	160	159	144	141	604
Blanks	106	103	81	85	375
Write-Ins	0	0	0	0	0
<u>SENATOR IN GENERAL COURT</u>					
Thomas F. Healy	172	165	150	144	631
Blanks	94	97	75	82	348
Write-Ins	0	0	0	0	0
<u>REPRESENTATIVE IN GENERAL COURT</u>					
Susan W. Pope	200	201	166	171	738
Blanks	66	61	58	55	240
Write-Ins	0	0	1	0	1
<u>DISTRICT ATTORNEY</u>					
Lee Johnson	163	157	148	146	614
Blanks	103	104	77	80	364
Write-Ins	0	1	0	0	1
<u>SHERIFF</u>					
Blanks	252	241	210	217	920
Write-Ins	14	21	15	9	59

REFORM BALLOT

There were no candidates on the Reform Ballot and no Reform votes were cast.

A true record. Attest:

Kathleen D. Middleton, Town Clerk

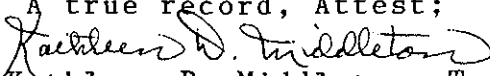
STATE ELECTION

NOVEMBER 3, 1998

The State Election was held at two locations. Precincts 1 & 2 voted at the Fairbank Community Center at 40 Fairbank Road and Precincts 3 & 4 voted at the Peter Noyes School at 280 Old Sudbury Road. The polls were open from 7:00 a.m. to 8:00 p.m. There were 6,492 votes cast, including 335 absentee ballots, representing 62.2% of the town's 10,440 registered voters. The final tabulation of votes was done at the Peter Noyes School.

	<u>Precinct 1</u>	<u>Precinct 2</u>	<u>Precinct 3</u>	<u>Precinct 4</u>	<u>Total</u>
<u>GOVERNOR AND LIEUTENANT GOVERNOR</u>					
Cellucci and Swift	970	893	814	806	3483
Harshbarger and Tolman	658	751	655	783	2847
Cook and Israel	18	29	16	31	94
Blanks	17	13	8	19	57
Write-Ins	2	4	1	4	11
<u>ATTORNEY GENERAL</u>					
Brad Bailey	692	567	548	592	2399
Thomas F. Reilly	899	1046	880	967	3792
Blanks	73	76	63	82	294
Write-Ins	1	1	3	2	7
<u>SECRETARY OF STATE</u>					
William Francis Galvin	885	1010	882	980	3757
Dale C. Jenkins, Jr.	604	486	454	465	2009
David L. Atkinson	53	79	36	77	245
Blanks	123	115	121	121	480
Write-Ins	0	0	1	0	1
<u>TREASURER</u>					
Bob Maginn	793	679	635	635	2742
Shannon P. O'Brien	709	860	722	826	3117
Merton B. Baker	39	40	25	48	152
Blanks	124	111	110	134	479
Write-Ins	0	0	2	0	2
<u>AUDITOR</u>					
A. Joseph DeNucci	750	930	763	835	3278
Michael T. Duffy	661	502	499	535	2197
Carla A. Howell	110	128	102	131	471
Blanks	144	130	129	142	545
Write-Ins	0	0	1	0	1
<u>REPRESENTATIVE IN CONGRESS</u>					
Martin T. Meehan	1006	1170	957	1107	4240
David E. Coleman	589	456	463	475	1983
Blanks	70	64	73	59	266
Write-Ins	0	0	1	2	3

	<u>Precinct 1</u>	<u>Precinct 2</u>	<u>Precinct 3</u>	<u>Precinct 4</u>	<u>Total</u>
<u>COUNCILLOR</u>					
John Henry DeJong	739	626	582	590	2537
Marilyn Petitto Devaney	617	787	639	742	2785
Blanks	307	277	271	311	1166
Write-Ins	2	0	2	0	4
<u>SENATOR IN GENERAL COURT</u>					
Susan C. Fargo	885	1089	879	1046	3899
Thomas F. Healy	719	524	549	529	2321
Blanks	61	77	66	68	272
Write-Ins	0	0	0	0	0
<u>REPRESENTATIVE IN GENERAL COURT</u>					
Susan W. Pope	1180	1146	986	1081	4393
Russell A. Ashton	390	450	421	465	1726
Blanks	95	94	86	97	372
Write-Ins	0	0	1	0	1
<u>DISTRICT ATTORNEY</u>					
Martha Coakley	871	1001	837	966	3675
Lee Johnson	638	530	492	513	2173
Blanks	155	158	164	163	640
Write-Ins	1	1	1	1	4
<u>SHERIFF</u>					
James V. DiPaola	946	1063	884	941	3834
Blanks	709	614	600	691	2614
Write-Ins	10	13	10	11	44
<u>QUESTION 1</u>					
Yes	1075	1130	992	1069	4266
No	502	451	414	478	1845
Blanks	88	109	88	96	381
<u>QUESTION 2</u>					
Yes	1074	1103	1022	1097	4296
No	482	471	364	434	1751
Blanks	109	116	108	112	445
<u>QUESTION 3</u>					
Yes	1444	1387	1248	1374	5453
No	139	186	136	190	651
Blanks	82	117	110	79	388
<u>QUESTION 4</u>					
Yes	1134	1118	989	1049	4290
No	448	483	403	512	1846
Blanks	83	89	102	82	356

A true record, Attest;

Kathleen D. Middleton, Town Clerk

