

April 4, 2005

PROCEEDINGS

ANNUAL TOWN MEETING

April 4, 2005

(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 11, 2005, and a quorum being present, Myron Fox, the Moderator, at the Lincoln-Sudbury Regional High School Auditorium, called the meeting to order at 7:35 PM on Monday April 4th. Reverend Dr. Richard Harding, United Methodist Church, delivered the invocation and Kevin Snow, a senior at Lincoln-Sudbury Regional High School led the Hall in the Pledge of Allegiance to the Flag.

The Moderator announced that he was in receipt of a letter from the Town Accountant indicating that the certified Free Cash for the Town Meeting was in the amount \$855,226. He has examined and found in order the Call of the Meeting, the Officer's Return of Service and the Town Clerk's Return of Mailing.

Upon a motion by John Drobinski, 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.

The Moderator then introduced the Foreign Exchange Student: Katharina Wenger from Germany.

Selectman William J. Keller 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.

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RESOLUTION

WHEREAS: THE PAST YEAR HAS SEEN SOME VERY SPECIAL MEMBERS OF THE SUDBURY COMMUNITY PASS FROM LIFE; AND

WHEREAS: THESE SPECIAL CITIZENS AND EMPLOYEES HAVE GIVEN THEIR TIME AND TALENTS TO ENRICH THE QUALITY OF LIFE OF THE TOWN

NOW, THEREFORE, BE IT RESOLVED:

THAT THE TOWN OF SUDBURY HEREBY EXPRESSES ITS DEEP APPRECIATION FOR THE SERVICES AND GIFTS OF:

**KATHERINE BARTON (1918-2005)
LINCOLN-SUDBURY REGIONAL HIGH
SCHOOL TEACHER: 1956-1980**

**LEAH CAPUANO (1922-2004)
MOVED TO SUDBURY: 1985
HIGHWAY DEPT. OFFICE SUPV.: 1984-1993
EMPLOYEE GROUP INSURANCE
ADVISORY COM: 1994-2003**

**KENNETH W. CLARK (1912-2005)
MOVED TO SUDBURY: 1985
COUNCIL ON AGING: 1990-1996**

**MARTHA C. A. CLOUGH (1920-2005)
SUDBURY RESIDENT: 1968-1999
SCHOOL NEEDS COMMITTEE: 1968-1969
SUDBURY SCHOOL COM.: 1969-1972
LINCOLN-SUDBURY REGIONAL DISTRICT
SCHOOL COMMITTEE: 1972-1975
GOODNOW LIBRARY TRUSTEE: 1980-1990**

**DANTE GERMANOTTA (1930-2004)
SUDBURY RESIDENT: 1974-2001
LINCOLN-SUDBURY REGIONAL DISTRICT**

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SCHOOL COMMITTEE: 1976-1982

**EDWARD HUGHES (1934-2004)
MOVED TO SUDBURY: 1966
HIGHWAY COMMISSION: 1970-1974**

**RUTH H. JOHNSON (1912-2005)
SUDBURY RESIDENT: 1948-2004
SUDBURY PUBLIC SCHOOLS TEACHER
GOODNOW LIBRARY STAFF**

**SALLY C. JONES (1920-2005)
MOVED TO SUDBURY: 1945
TOWN OFFICES CLERK: 1956-1966
SUDBURY PUBLIC SCHOOLS
BOOKKEEPER, SECRETARY,
PAYROLL CLERK, ACCOUNT OFFICE
SUPERVISOR: 1967-1988**

**BEVERLY ANN MILLS (1936-2005)
MOVED TO SUDBURY: 1965
BOARD OF ASSESSORS CLERK: 1979-2001**

**STANLEY NATANSON (1942-2004)
MOVED TO SUDBURY: 1975
PARK & RECREATION COMMISSION:
1989-1992**

**DOROTHY POLIO (1923-2004)
MOVED TO SUDBURY: 1968
ELECTION OFFICER: 1981-1983**

**PHYLLIS A. SAMPSON (1923-2004)
SUDBURY RESIDENT: 1953-1976
ASST. TOWN ACCOUNTANT, SELECTMEN'S OFFICE ADMIN.
SECRETARY: 1961-1976**

**MARY J. SKINNION (1928-2005)
MOVED TO SUDBURY: 1960
SUDBURY PUBLIC SCHOOLS LUNCH AIDE:
1975-1989
ELECTION OFFICER: 1980-1999**

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FRANCIS E. WHITE (1923-2004)
SUDBURY RESIDENT: 1951-1980
COMMITTEE ON REASSESSMENT: 1957-1959
COM. TO STUDY TAX INEQUITIES: 1958-1959
POLICE OFFICER (FULLTIME): 1958-1963
CIVIL DEFENSE, CO-DIRECTOR: 1959-1963
POLICE OFFICER (PART-TIME): 1967-1975
BUILDING INSPECTOR/ZONING ENFORCEMENT
AGENT: 1967-1979
WIRING INSPECTOR: 1967-1979
CONSTABLE: 1967-1979
SEALER OF WEIGHTS & MEASURES: 1967-1979
DOG OFFICER: 1968-1979
SIGN BYLAW REVISION COMMITTEE: 1973-1975

MARJORIE A. C. YOUNG (1912-2004)
MOVED TO SUDBURY: 1956
BOARD OF HEALTH: 1959-1971
MOSQUITO CONTROL COMMITTEE:
1960-1970

**AND BE IT FURTHER
RESOLVED:**

**THAT THE TOWN OF SUDBURY, IN TOWN MEETING ASSEMBLED,
RECORD FOR POSTERITY IN THE MINUTES OF THIS MEETING ITS
RECOGNITION AND APPRECIATION FOR THEIR CONTRIBUTIONS
TO OUR COMMUNITY.**

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The Resolution was seconded and UNANIMOUSLY VOTED.

The Selectmen's State of the Town address was given by John Drobinski.

**Welcome to the Annual Town Meeting. It is a distinct pleasure to address
the Hall this evening, especially in this wonderful, new building. It's actually quite
cozy in here compared to the other accommodations at the old LS, but this is still a
great building. This school is a credit to the Lincoln Sudbury School Committee**

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and the taxpayers of Lincoln and Sudbury. You should be proud of the structure; it's a tremendous building.

The State of the Town Address is, traditionally, when the Board of Selectmen gives a general overview of where the Town of Sudbury is today, as a Board, and where the Town of Sudbury should go in the future. Input is elicited from a variety of citizens and Town Boards to generally get the feel where the Town of Sudbury would like to go.

The Town of Sudbury is vibrant, financially sound, well managed and emotionally buoyed by the fantastic Patriots and Boston Red Sox. The infrastructure is in great shape with only the Police Station and Town Hall renovations to be completed.

The community spirit is enthusiastic and welcoming as shown by the neighbors and friends at St. Anselm's, with their ongoing vigil, and neighbors and friends at Beth El, with their successful Health Care Programs.

We are very pleased with the passing of the recent Override question and Debt Exclusion. It is with hope that Town Meeting will affirm this vote. However, without the State resuming its share of the costs of education, transportation projects, as well as the general lottery and assistance programs, the Town of Sudbury's current fiscal imbalance will not improve. That is cause for concern. With this in mind, the Board has asked the Town Manager to expand the financial planning and to develop options for the future that will help to alleviate the need, or at least, the size of potential Overrides.

Going forward, the Board will continue to protect the environmental quality, as well as, Sudbury's unique sense of place. We want to retain seniors in the Town of Sudbury and are going to strive for housing diversity. Last year the Town of Sudbury acquired the Cutting and Mahoney properties and, at this Town Meeting hope to acquire the Libby property; thus, preserving the rapidly diminishing open space.

In conjunction with Park and Recreation, the Board does and will continue to provide for playing fields and access to the ponds and streams for the youth in town. At this Town Meeting, Articles 44 and 45 will indeed complete this. In addition, Articles 47 and 48 emphasize the Town of Sudbury's commitment to historic preservation.

Also, the Board will continue to support the educational excellence of our K-8 and LS school systems. It's this excellence, among other excellences in the Town of Sudbury, that brings many people here and what makes the property values what they are.

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Our biggest challenge in the years ahead will be financial. Retaining the Triple “A” Bond Ratings is a commitment of the Town of Sudbury. It’s been heard, loud and clear, about our tax structure but, at the same time, committed to providing essential services for all of the taxpayers.

Sudbury is a tremendous place to live, not only for the natural surroundings, the historic past and excellent schools, but for the incredible talent and dedication of many of the citizens. The Town of Sudbury’s strength is the multi-faceted efforts of volunteers, town staff and numerous organizations, working together that define this community.

Tonight, with this Town Meeting, we proceed forward with great optimism. Thank you.

Myron Fox said that last year was his first year as the Moderator. Before he decided to run for the office he did two things; he thought a lot about Tom Dignan and talked a great deal to him about what a privilege it would be to follow his outstanding 19 years; the second thing he did was to stop at the Loring Parsonage to make sure Jan Silva was still there; she’s the one who prepares us for Town Meeting. This is Jan’s last Town Meeting; she’s retiring at the end of this year. Jan has worked in the Selectmen’s office for 33 years. Without her competent professionalism, this Town Meeting would not run very smoothly. He said he could go on about how valuable her service has been to the Town of Sudbury, but that would only embarrass her he asked the hall to join in thanking Jan for her many, many years of wonderful service to the Town of Sudbury.

The Moderator stated that for many years it has been a tradition at the Annual Town Meeting to honor one of our citizens who has performed valuable service to the Town of Sudbury by asking him or her to make the motion under Article 1 of the Warrant. This year his predecessor, Tom Dignan, is being honored. Tom was the Town Moderator from 1985 to 2003; graduated from Yale University and then went to University of Michigan Law School. He moved to Sudbury in 1979 with his wife, Mary Ann, and two daughters, Kelly Ann and Mary Claire. From the start he had an avid interest in the community and always attended Town Meeting. His active involvement with the Town of Sudbury began in 1982 with his appointment to the Finance Committee, where he served with distinction until 1985 when he was elected Moderator. From 1969, when he moved to the Town of Sudbury, through 2003, there were only three Moderators and Tom was unique among them for three important reasons:

- ❖ He was the longest serving Moderator among the three**
- ❖ He was certainly the tallest**
- ❖ He was absolutely the only one who gave NCAA men’s basketball scores at every single Town Meeting**

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The Moderator continued to say that Tom recently resigned from Ropes & Gray, one of the oldest and most prestigious law firms in the country, after a 36 year distinguished legal career. This allows him to spend more time with his family, move to Florida, and of course, to golf. Tom was Mr. Moderator for 19 years and we were privileged to see his wit, wisdom and wise counsel for every one of those 19 years. He always did everything in his power to make sure everyone was treated fairly and that both sides were heard from equally. He was a terrific role model and the Moderator knows that he has very large shoes to fill. He hopes to emulate Tom, with one very major exception; University of Michigan basketball scores will no longer be heard. He then addressed Mr. Dignan and said "Mr. Moderator the floor is yours."

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 2004 Town Report or as otherwise presented; or act on anything relative thereto.

Submitted by the Board of Selectmen.

(Majority vote required)

Tom Dignan, *moved* to accept the reports of the Town boards, commissions, officers and committees, as printed in the 2004 Town Report or as otherwise presented; subject to the correction of errors, if any, where found.

The motion received a second.

Mr. Dignan responded, as a preliminary matter before his prepared remarks which should not last more than an hour and a half. He said The Moderator started the meeting with a rather small gavel, that wasn't even the regular Town of Sudbury gavel, which is a very historical gavel. Some may not know, John Powers, one of the predecessors, referred to it as holding 350 years of history in his hand because the gavel has wood chips inserted in it from all kinds of historical places from all over the United States. But, Mr. Moderator, during 19 years there are times when the mellow spirit of the Town of Sudbury does not prevail at Town Meeting and I am sure you can sense it when it's coming. Mr. Dignan then proceeded to give Mr. Fox a very, very large gavel to use when things get rough.

Mr. Dignan stated he'd like to begin by thanking the Selectmen for the great honor and privilege of presenting Article 1 at the Annual Town Meeting. He said he was extremely grateful that they viewed his service to the Town of Sudbury as worthy of such recognition. Wholly apart from the honor, it gives him an opportunity to say a public thank you to all the town officials who helped and supported him during his tenure as Moderator. On such an occasion as this, it is dangerous to pick out individuals because by doing so one perhaps is thought to be

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slighting others. At the risk of people forming such erroneous conclusions, he wished to mention four particular individuals with whom he's interacted over the years:

- ❖ The first is their long time Selectman, John Drobinski. He's known John for many years and indeed well before he became a Selectman in Sudbury. His advice and counsel in matters of geology and earthquakes assisted in any number of pieces of litigation in which he was involved. He is a marvelous expert witness. But tonight, he wanted to personally recognize his long and excellent service to this Town of Sudbury; for some 20 years he has unselfishly given of his time.
- ❖ The second person he wished to acknowledge and wrote this before he realized the occasion was her last, is to acknowledge Jan Silva. Every year he used to tell people that the Town Meeting could survive the absence of any number of officials, committees and supernumeraries. It could not survive the absence of Jan Silva and now wonders if it is going to survive another year without her. Her patience with the Moderator was endless and her assistance on many matters irreplaceable.
- ❖ Third he wished to acknowledge the many term member of the Finance Committee, Marjorie Wallace. She never once refused an appointment to this hard working committee and gave her time unselfishly. In acknowledging Marjorie, he also honors many personal friends and others who accepted appointments to the Finance Committee during his run as Moderator. He often referred to these people as former friends because sometimes they felt that he had understated the work and responsibility involved. In connection with that, it is a fact, that any time he talked someone into serving on that committee at a social occasion, often after a libation or two, his wife Mary Ann required that he call the individual in the cold light of day the next morning to be sure they were willing to serve.
- ❖ Finally, he should like to acknowledge Ed Thompson; the former Executive Secretary of the Town, who was one of the people, along with the great, late Jack Murray, that most encouraged him to get into Town Government and Town Affairs. Ed guided the Town of Sudbury through some difficult and changing times with unfailing good humor and prodigious effort.

He said he has been extremely lucky all his life and has been with a wife of infinite patience and two marvelous kids. Professionally, he's practiced for 36 years in a marvelous law firm with a group of the most able people he's ever known. This practice gave him the opportunity to argue in the highest courts of this land and entrée into many professional opportunities and, in turn, some wonderful, if undeserved honors. He wanted all to know that no award or reward he's ever received or will ever receive will exceed in his mind the great honor that the people

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of this town paid him, by allowing him to hold that historical gavel for 19 years. He hopes to return in some measure the trust placed in him and will be forever grateful for having had it and thank you and everyone here for their patience and attention and with that move the question on Article 1.

The motion under Article 1 was UNANIMOUSLY VOTED

The Moderator took a moment to review the procedural matters of Town Meeting for those who may be new to Town Meeting or those who attend and need to be refreshed. He urged all in the Hall to review the procedures in the Warrant and familiarize him or herself with the summary of basic Town Meeting procedures and the Motion Primer in the beginning of the Warrant on pages Roman numeral I and IV.

The Moderator appointed Larry Blacker as the Assistant Town Moderator for the 2005 Annual Town Meeting. He's a distinguished member of the Bar and a recognized expert in Tax Free exchanges. He is a former Selectman of six years; a former member of the Board of Health for three years. He will be managing the Cafeteria.

CONSENT CALENDAR

The Moderator said it now brings us to the Consent Calendar. He asked the Hall to turn to pages Roman numeral III, IV, and V of the Warrant. He said he will call out the numbers of the Articles one by one. If any voter has any doubt about passing any motion or wishes an explanation of any subject on the Consent Calendar, the voter should stand and without a microphone, say the words "Hold", in a loud clear voice when the number is called. He will then inquire of the speaker as to whether the request is to "Hold" for a question or for a debate. If the purpose of the request was merely to ask a question an attempt at that time will be made to obtain a satisfactory answer. If that occurs, the Article will remain on the Consent Calendar absent a further request to "Hold". If the purpose of the request was to "Hold" the Article for debate the Article will be removed from the Consent Calendar and restored to its original place in the Warrant to be brought up, debated and voted in the usual way. No voter should hesitate to exercise their right to remove matters from the Consent Calendar. It is the view of the voters that the need for debate is supreme, not that of Town Officials who have put together the Consent Calendar. It is the hope that voters will remove Articles from the Consent Calendar, only in cases of genuine concern. In past years, it has occasionally happened that Articles were removed from the Consent Calendar and when reached in the normal course, passed unanimously without debate; thus indicating that the initial removal request was perhaps not fully considered before being exercised. He will now read number by number from the Consent Calendar. If you want to

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“Hold”; stand up and yell **“Hold”;** either in the balcony; the floor of the auditorium; or in the cafeteria.

He then read the numbers; Article 3, Article 18, Article 19; Mr. Coe of 14 Churchill Street had a question. He stated that some of the fee increases in this Article are quite substantial. He believes one of them is 100%, from \$50 to \$100 and yet the justification that’s printed in the Warrant seems to be nothing stronger than that these fees haven’t been raised lately and other towns charge comparable amounts. It says that this will bring the fees more in line with the cost of actually providing the service; although not actually cover that cost. He wonders how that is known. Has anyone actually calculated what it cost to provide these services and whether the fees that are being received are sufficient or is it just because the Town of Sudbury can get a little more money so it should be done?

Maureen Valente, Town Manager asked for Jim Kelly, the Building Inspector, to speak on the matter since he was the one who looked into these fees and put forth this Article.

Jim Kelly, the Building Inspector, stated that the fees were last changed in 1982. There is a substantial increase but the State had done some research and provided information on the average fees for providing this service. These were taken from the State’s recommendations. They don’t cover the entire cost of the service; but being a substantial increase it comes very, very close.

Mr. Coe was satisfied with the explanation and The Moderator stated 19 is still on the Consent Calendar; 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33.

Article 33 was questioned by Mr. Coe. The explanation of the Article printed in the Warrant is a little bit confusing and it appears that this matter was passed in last year’s Town Meeting. Can an explanation be given for this or would it be accurate to say that this was not passed by the 2004 session of the Legislature because the Town of Sudbury didn’t get it there on time?

Town Counsel stated the matter was not passed by the 2004 Legislature and the Town of Sudbury did not get it there in time to have it passed not because they were delayed in doing so; but were trying to have this looked at by the Department of Revenue as a Revolving Fund under the statute rather than requiring specific statutory language. Discussions are still on with them but if they do not agree then the Legislature will have to be approached because if the Department of Revenue doesn’t agree with us they will not allow the items to be used on the Tax Recap Sheet.

The Moderator stated that Article 33 will remain on the Consent Calendar. The last item on the Consent Calendar is Article 41 and asked the resident if that was for a question or debate. Article 41 is stricken from the Consent Calendar.

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The Moderator asked if there was a motion to take Articles 3, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33 out of order and consider them together at this time.

There was a motion and it received a second.

The motion was UNANIMOUSLY VOTED.

Is there a motion in the words of the Consent Calendar, motions as printed in the Warrant for Article 3, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33.

There was a motion and it received a second. The motion was UNANIMOUSLY VOTED.

ARTICLE 2 . SPECIAL ACT: SENIOR CITIZEN RESIDENTIAL EXEMPTION

To see if the Town will vote to petition the General Court of the Commonwealth of Massachusetts to enact the special legislation specifically set forth below:

Senior Citizen Residential Exemption – Home Rule Petition

Whereas, the Town of Sudbury at its 2003 Annual Town Meeting voted to provide a senior citizen real estate tax exemption up to 50% of the value of an average Sudbury residential property tax in order to reduce the property tax burden for Sudbury's senior citizens aged 60 and above who applied to encourage them to remain in the community adding to its vitality and character after having determined that high real estate taxes often force and/or encourage senior citizens to sell their homes and move out of Sudbury.

Whereas, the Town of Sudbury after considering the results of a further year of study by the Selectmen and the Property Tax Equity Review Committee, decisively rejected at its 2004 Annual Town Meeting means testing for senior citizen real estate tax exemptions.

Whereas, in 2003 Cambridge joined Boston and Somerville in providing a 30% Residential Exemption to the principal residence of all homeowners in order to encourage home ownership regardless of age and regardless of income or property value (Chapter 90 of the Acts of 2003).

Whereas, Sudbury wants to provide a 30% Residential Exemption to all its senior citizen homeowners, believes that its petition is meritorious, has determined that the household income of Sudbury's senior citizens is far less than the household income of Sudbury's non-senior households, has determined Sudbury's senior

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citizens consume few municipal services, and believes that all Sudbury's senior citizen homeowners should receive at least as much property tax relief as Cambridge, Boston and Somerville provide to all their homeowners.

Therefore, the Sudbury 2005 Annual Town Meeting respectfully requests the Legislature to defer to its understanding of the needs of Sudbury and of its senior citizens and promptly enact a 30% Senior Citizen Residential Exemption for Sudbury as follows:

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding the provisions of section 5C of chapter 59 of the General Laws or any other general or special law to the contrary, with respect to each parcel of real property owned by a person aged 60 or above classified as Class One, residential, in the town of Sudbury as certified by the commissioner of revenue to be assessing all local property at its full and fair cash valuation, there shall be an exemption equal to 30 per cent of the average assessed value of all Class One, residential, parcels within the town of Sudbury; provided, however, that such an exemption shall be applied only to the principal residence of the taxpayer as used by the taxpayer for income tax purposes. This exemption shall be in addition to any exemptions allowable under section 5 and section 5C of chapter 59 of the General Laws; provided, however that in no instance shall the taxable valuation of such property, after all applicable exemptions, be reduced to below 10 per cent of its full fair cash valuation, except through the applicability of section 8A of chapter 58 and clause Eighteenth of said section 5 of said chapter 59. Where, under the provisions of said section 5, the exemption is based upon an amount of tax rather than on valuation, the reduction of taxable valuation for the purposes of the preceding sentence shall be computed by dividing the said amount of tax by the residential class tax rate of the town of Sudbury and multiplying the result by \$1,000. For the purposes of this paragraph, "parcel" shall mean a unit of real property as defined by the assessors in accordance with the deed for such property and shall include a condominium unit.

SECTION 2. A taxpayer to receive this exemption must apply for such Residential Exemption to the assessors in writing on a form approved by the board of assessors within three months after the start of the fiscal year. Once qualified to receive a senior citizen Residential Exemption, a taxpayer is not required to reapply in subsequent years. However, the board of assessors may annually require that a taxpayer verify that the property continues to be the principal residence of the taxpayer as used by the taxpayer for income tax purposes. A timely application filed hereunder shall, for the purposes of this chapter, be treated as a timely filed application pursuant to section 59 of chapter 59 of the General Laws."

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Submitted by Petition.

(Majority vote required)

Ralph Tyler stated, Mr. Moderator, moved in the words of the Article.

The motion received a second.

Mr. Tyler asked the Hall for a leave to spend about thirty minutes before he asks for a vote on this very important issue. Many have gone out of the way to go to Town Meeting when it ordinarily wouldn't be done. This is a very complex issue and is concerned, that just like last year, when the PTERC Committee had ten minutes to present this; they did the work of that committee justice. Ten minutes tonight will not do the importance of this topic justice. He intends to cover some strategic issues; as well as discussing where this Residential Exemption fits into this strategic mix of Sudbury. That's not something that can be given justice in ten minutes. However, it's their call.

The Moderator stated that the Bylaw states a presentation shall be ten minutes. The Hall has the authority to waive that and to give the presenter more time, if they desire, if it is a majority vote.

The Moderator asked for all those who wished to extend the presentation from ten to thirty minutes, please signify by raising your cards; all those opposed.

It's overwhelmingly negative in the Hall and Cafeteria.

Mr. Tyler began his presentation. For those who don't understand the slides on this quick trip to ask the questions later and an opportunity to address them more fully will be given. Sudbury really is facing a lot and has a number of strategic options in front of it.

- How can these Overrides be kept from being a recurring theme, year after year after year? Property taxes, with the exception of the last two years, have recently increased at 10% a year. The Council on Aging makes some projections that over 15 years a senior resident might have a certain tax bill; they're basing that on the assumption that taxes are going to grow about 3% a year from his calculations, not the 10% experienced. What are the strategic options?
- One of which was advocates for that in the Sudbury Town Crier the other day; let's include business development. Frankly, that was the most uninformed piece of journalism he's read in a long time. They don't understand. Sudbury does not have freeway access and has limited capacity on the roads. Until such time a freeway is built coming through the middle between Highway Route 2 and Route 9 there's nothing significant that's being done. Some calculations have been done and would love to go through them but will not have the time. This has been done for the Selectmen. The bottom line is that

there's maybe about \$350,000 more in tax revenue, \$700,000 at the outside for more commercial development; simply stated more commercial development is not the answer to rising taxes.

- **How about increasing the Property Tax Rate Differential? That turns out to be a viable option. They're now collecting about \$1.4M more from commercial property than would be the case if there was a flat tax rate. Through Home Rule Petition, Boston and other communities have a higher ability to go higher than that. That could be jacked up if chosen as a policy matter; say another 50% or even 100%; get another \$700,000. That's a partial solution; it's a small solution but it's something that might work.**
- **How about reducing costs of these services? Well, dedicated Finance Committee's year after year after year have diligently looked at these Budgets and frankly haven't been able to do anything about it. As a result, after all those diligent reviews there have been tremendous increases, what do they say, more of the same; it's likely to be just more of the same unless something is done differently. There are some significant strategic problems in solving the Budget problems. For example, measures of labor input are looked at as the productivity measure. Well obviously, if putting in labor and labor wants to be paid more and more money year by year, nothing will be fundamentally solved when looking at labor inputs as measures of productivity; that could be class size in the schools; that could be the number of patrols out on the streets where technology is not used to supplement them, etc. In other words, there's not much potential to do this. Sudbury parents rightly expect and demand excellent schools for their kids; nobody blames them for that. Further the tax incentives from the Federal Tax Program make it in everybody's interest, basically, to fold all the school costs into the School Budget rather than charging the parents for extra things. Mr. Hollocher, for example, had a nice Article saying a lot of the sports and what not should be extra costs. Parents have to pay for sports; it's not tax deductible so naturally they all want to put it into the tax rate. So, none of that stuff's going to happen.**
- **More Senior Housing can be built; that's another kind of option. What happens with Senior Housing is that new people come into Sudbury, people like Paul Pakos, for example, who's very active in the PTERC Committee as a new resident and moved into Spring House Pond. There are a lot of people from out of the city who moved into Spring House Pond. There are also a lot of people in Sudbury and a lot of residents left their home to go to Spring House Pond; guess what they created; an empty home for a young family to move in who consume educational services. As a practical matter, sort of the current trend let's just build a lot of Senior Housing. This is a mixed blessing because for every student that goes into the home that's vacated by a senior is about \$10,000 more in education costs. Detail**

can be provided where all that comes from; this is kind of a numbers without an Override in this Budget; with the Override it's a little over \$10,000. Seniors are the people who create a surplus in the Town of Sudbury, but if housing is created just for seniors, again, incentives are created for people who already live in town to move into that housing and it's been defeated. This is sort of the methodology used just to demonstrate that; it's the same methodology used by a member of the Finance Committee a couple of years ago speaking against Article 54. Nothing was being invented; he was just sort of following in his footsteps.

- What do they want to do? Let's encourage Senior Citizens in Sudbury to stay in their homes. Well, the other thing that may be able to be done is to provide property tax incentives; that's what Article 2 is about and the other thing is maybe significantly increase the services delivered to seniors to match the tax contributions they're making. There's a whole variety of things that could be thought about; supplemental Medicare premiums could be paid, for example, as a town if decided because seniors, believe it or not, create about \$7M in property tax revenue from their homes. What is spent; \$130,000 or something to that; he forgets the exact number on the Council on Aging. Then they, of course, consume the normal town services too, which represents about 25% of the Budget. All in all, senior's probably use about \$2.5M of town services and yet they're contributing \$9M in terms of tax revenue. There's a net surplus there, plus an even bigger contribution is that they're occupying homes so that there are not even further increases in the growth in students. Look at the Senior Residential Exemption as a strategic solution to the problem of ever ongoing Overrides for the Town of Sudbury.

Let's look at some of the history of the migration. When the work was being done by PTERC as part of the reporting in one of the supplements; the migration studies were being done for many, many months and many of the members of the PTERC dismissed these analyses as being flaky until they hired a demographer who advised the committee and validated this approach. The only qualification of this is that the death rate has not been factored in; that would be the last bar on the display. Anyway, from 2001 to 2002, this was the flow of people by age group in the Town of Sudbury. Basically, starting at about age 45, there is a net loss of people. Think about it; it's not too surprising. Why would they move to Sudbury? It has excellent schools; excellent schools are advertised. When they've become successful in their careers; maybe a couple of teachers; together they've got about ten years experience; they're each making about \$60,000, \$70,000 if they're teaching here in Sudbury; pool their income; move to Sudbury; buy a house; when they are in their 35 to 40 year range, whatever the field. They come into Sudbury; educate their family and a lot of them decide wait a second this value equation changed. He's paying \$8K, \$10K, \$12,000 a year in taxes. He's

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no longer using those educational services. In this normal transition; people are moving in and out of town all the time; there's a very transient population. The people are leaving and not being replaced by new people in that age group. There's a net outflow.

The Strategic Question to the Town of Sudbury is how can this problem be addressed? Until the problem is handled, the problem of high, high property taxes will never be solved. In 2003 to 2005, another study was done. It involves taking about 26,000 Census records; matching the 2003 to the 2005 records; that's by age; by year. This is the flow of the last couple of years when aggregated. He reminded the Hall, this flow happened when property tax deferrals were at low interest rates and available to all senior's 60 and under. Obviously no matter what people think, seniors don't buy the idea of putting a couple of hundred thousand dollars or maybe \$300,000 of tax liability into their property to stay in Sudbury.

BOARD OF SELECTMEN: Unanimously opposes Article 2.

Larry O'Brien, for the Board of Selectmen, stated that this Article, just as Article 54, at the 2003 Town Meeting, has no form of means testing. Article 54 had no form of means testing. Without a form of means testing the Board of Selectmen will not support any initiative brought forward. The Board of Selectmen supports the concept of helping those that need help, but will not support a blanket tax reduction for home owners with the ability to qualify as having reached age 60 and nothing more. Based on the written response to the Board of Selectmen's inquiry to the Department of Revenue; they responded as follows:

- Page 54 in Paragraph 2 states that the Legislature can provide for differential taxation for different classes of taxpayers but the Constitution specifically requires that the classes be based on property usage; not age or other factor. This proposal does not base itself on property usage. In paragraph 3, Mr. Daniel J. Murphy, Chief of the Property Tax Bureau, addresses the subject of exemptions, which is the basis for Mr. Tyler's proposal and says, quote "The Legislature can provide for exemptions from taxation under Massachusetts Constitution, Part 1, Chapter 1, Section 1, Article 4, if the proposal meets Constitutional muster by being considered an exemption, it would have to meet a reasonableness standard". In that regard, the Legislature has in recent years expanded the property tax assistance available to seniors, but has not chosen to provide blanket assistance based on age alone.

As the Board of Selectmen pondered this proposal and worked on it; the Senators and Representatives were spoken to. On March 16th, Senator Pam Resor met at Town Hall with the Board of Selectmen at an Open Meeting of the Board of

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Selectmen and indicated that tax relief for seniors is a priority of the Senate this session. She reported that various ideas are being considered that would provide relief to qualifying senior's statewide. For those of who've read the Metro West News, there was an article in today's edition indicating that various proposals are beginning to be filed with what is now called the Revenue Committee. The Board of Selectmen agreed with Senator Resor that the solution needs to be a statewide solution and not one that is generated town by town.

Two weeks ago in this very room, Representative Pope stated at the Budget Forum that in her opinion no form of Senior Tax Relief would come out of the Legislature without some form of means testing. Just last week, in the Boston Globe, the Governor announced his suggested Senior Tax Relief Proposal that comes in the form of expanding the deferral program. Sudbury took the lead on this subject three years ago and offered a program that is already better than what the Governor had proposed. The Board of Selectmen also felt that this Article, if ever enacted into law, would have a chilling effect on the resale value on all Real Estate in Sudbury. Any senior trying to sell their single family home would be unlikely to find many, if any, potential buyers due to the additional property tax burden that the new home owner would be expected to pay if they were below the age of 60. Potential buyers would consider other comparable towns; Wellesley, Wayland, Concord, Sherborn, Weston, Lincoln; before they decided to pay the additional taxes that would be unique to Sudbury. When a Senior Relief Program passes the Legislature and is signed into law, the Board of Selectmen will examine it and present it to the Town of Sudbury for consideration. Until then, communication with elected Representatives and Senators will continue and the solution will be crafted by them that will be suitable for Sudbury seniors, as well as, all senior's across the Commonwealth. The Board of Selectmen urges a "No" vote on Article 2.

Mr. Jacobsen, from the Finance Committee, stated that members of the Finance Committee believe that in order for it to consider a Home Rule Exemption to aid with the taxpayers economic need requirements must include a means test, an asset test and some minimum residency link. These are not the conditions that exist in the Article being proposed.

FINANCE COMMITTEE: Does not recommend its approval.

Gene Berkowitz, 52 Lincoln Lane, moved to amend Article 2 by changing the wording in Section 1 where it says 30% of the "average assessed value" to 30% of the "median assessed value".

The motion received a second.

The Moderator stated there was a Point of Order from Mr. Tyler. Mr. Tyler thinks that the amendment is outside the four corners of the Article.

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The Moderator told Mr. Berkowitz, the amendment is Out of Order. The first line of Article 2 says “To see if the Town will vote to petition the General Court of the Commonwealth of Massachusetts to enact the special legislation specifically set forth below”. The Moderator stated again that the amendment is Out of Order.

The Moderator asked if anybody else wished to speak in favor or against the Article.

Thomas Young, Stock Farm Road, better known as Tucker, explained that he'll be 80 years old in a month and he's been paying taxes in Sudbury for 34 years; 59 years throughout his lifetime and wants some relief. He's a Senior Citizen and like a Senior Citizen required to be on a fixed income. That's not true; their incomes are going down because the cost of living has gone up faster than Social Security, along with their pension and savings. Help is needed. School taxes are 69% of the Budget and that's a heck of a big portion. If this reduction of about 30% is given that will put us in the situation where the seniors would pay for the rest of the Budget; Fire, Police, Highways, Administration Costs and so forth and still have money left over to pay for the Schools. As was brought out earlier, if seniors move out of Town of Sudbury and if somebody moves into a house with three or more kids; it's another penalty for Sudbury. Although he's in favor of education, his entire family is educated they need some relief from these taxes. His taxes have gone up about 60% in the last ten years; that's 6.9% compounded. What happened to Proposition 2 1/2, not Proposition 2 1/2, but the 2 1/2 % increase. They're paying 6.9% more year by year in reassessments and tax increases. Relief is needed and it's not a gift since taxes will still be paid for the services achieved, but at some point in time seniors should be relieved of the burden of the schools and let the people who get the direct benefits of education from schools pay the cost. Pay as you go is the theory.

The Moderator asked if anybody in the Cafeteria wished to speak.

Paul Pakos, 231 Nobscot Road, responded that everybody is in favor of the concept of Senior Tax Relief. They've been at this for several years and nobody has really been doing anything about it. They try; nothing goes forward. The State says they're trying; nothing really happens. Somebody should start doing something about this. Every single proposal or Article has its flaws. Last year he was a member of the Tax Committee. A means test on income was performed and was told that it was not good enough; something on assets is needed. There are some problems with assets; somebody who's on a pension as income; somebody's who on a 401K has assets. They may be drawing the same amount of money every month but considered to be different. Somebody has to take the step to go forward. Maybe the answer is pressure must be kept on the Legislature. Flawed as it may be pressure must be kept on the Legislature. Something has to be done. Not everybody needs relief; not every senior needs relief, but nothing is going to be perfect. There are some seniors in the Town of Sudbury who are really hurting. He requested that Mr. Tyler explain how the Residential Exemption could work and what the burden shift would be.

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Mr. Tyler responded to Mr. Pakos by stating that, first of all, burden shifting is not a new idea nor is burden shifting without means testing. There is a \$1.4M commercial burden shift that works basically by lowering the tax rate for residential and upping it for the business owners. That characteristic of the burden shift is that the wealthiest people in Sudbury receive the biggest benefit. How is it that without a means test there can be a burden shift and be given to the wealthiest people in the Town of Sudbury? This should be consistent. If burdens are not going to be shifted, except with the means test; this should just be eliminated or take the \$1.4M and use it to reduce taxes for low income people in Sudbury. The current way its being done now just doesn't make any sense. There is a precedent without means testing.

The second point is, if that's accepted, that there's a \$3.4M burden shift from Lincoln to Sudbury just by the way the school district is set up. Look at taxable property in both towns; Lincoln pays \$1.29 for the High School on their tax rate and Sudbury pays \$3.99. If a consolidated school district type tax was done, like they have in many States and many parts of this State, the tax rate for Lincoln would go up \$1.78; it would come down for Sudbury. There'd be a shift in Lincoln; they'd pay \$3.4M. Now that's a burden shift that happens based on the number of kids in school so it's sort of a parallel; seniors don't have any kids in school so maybe they should get a tax break. This is done without means testing; just another example. Let's get to this situation because that's what wants to be heard.

The Residential Exemption is done in other towns; 30%; it applies to everybody that owns homes without a means test; Somerville, Cambridge and Boston. It's the Home Rule Petition that's been done before. Here's the burden shift and here's how this proposal would work. Basically, calculate the 30% Residential Exemption average of residential property; last year was \$563,007; 30% of that is \$168,900 and that comes off basically the assessment of the seniors who apply. By the way this is not a mandatory program; it's a voluntary program; only those who apply participate. Depending on how many participate; depends on the amount of the burden shift. For example, if only one senior applied they would get basically a \$2,274 reduction in their taxes as a result of applying for this and that would have shifted to everybody else in town. If there were, say, 500; it would be about \$1.1 million. Interestingly, there are about 1,300 homes in Sudbury where seniors are living. Presumably, they may have some ownership. If every home in Sudbury applied the burden shift from this proposal, it would be about the same as the tax increase that's being proposed by the Override.

Now, Mr. O'Brien certainly isn't going to stand up and say that if the Override passes, not one single person in Sudbury will be able to sell their home because the Override passed, will he? That is just a phony argument made. The

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burden shift here is comparable to this Override; now is the time to do it; it's kind of a sense of good faith to the seniors that they want to do something about their extreme burden on taxes at a time when the younger generation are asking for further excellence in the schools; further burden on the seniors. There will never be a right time to do it. As Mr. Pakos said, every proposal that's come before this Town Meeting has their critics. Pretend the advertisement is being done which is; where is the Selectmen's proposal for property tax relief for seniors this year. Why don't they spend about ten seconds to try and think what the Selectmen have proposed this year?

A Selectman had a Point of Order. He believed the speaker has answered the question which has now progressed into an argument. The Moderator told Mr. Tyler there are ten seconds left.

Mr. Tyler stated the shift in burden by home value if somebody wants to know that it can be spread out.

The Moderator asked if there was anybody who wished to be heard in the Cafeteria.

Richard Lane, 23 Sunset Path, said he's lived in Sudbury 11 years, didn't grow up here but grew up in another community where this issue of older versus younger is becoming a major conflict in this community. It is not everywhere but one of the issues of this proposal is, as it is heard, more kids are not wanted so let's try to keep the school-aged population down. When talking to his Mom about this issue she had an interesting highlight; her home went up in value; just like the homes here have gone up in value. When she was his age and had him in school she didn't sit there and whine; his grandparents didn't sit there and whine, oh, they're not getting relief. They paid their dues the same way as would be expected when he turns 60 to pay his dues. If society is looked at, everybody contributes differently at different stages of their life. His generation, right now, is funding the social security for most of the seniors in this room. They're not getting the money back; that is known. This is how human society has evolved here in America and thinks a tremendous injustice has been done to the children and setting a very bad rule of: it's okay when he's getting something from these seniors but when he has to give it back; the seniors have to give it back; it doesn't work. Do they understand what this means? His kids can't understand why people who are 70, 80 years old are begrudged paying something for them to get an education when their children got an education and have to get subsidized or it did get subsidized. He encouraged all the seniors who took advantage of their parent's generosity to educate their children to vote against this proposal and is sure all the people of his generation are voting against it because it's fair to give back later not now.

David Levington, 155 Nobscot Road, spoke in favor of the motion. He's lived here for about 30 years. Last year he was Co-Chairman of the Property Tax Equity Review Committee. He'd like to share some of his thoughts and some of what he's

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learned from that. The first thing he thought was interesting was that many states don't have the problem that we have here. There are lots of states where school taxes are frozen when 65 years of age is reached. Wouldn't that be interesting? People have put bills in the Legislature to do that in Massachusetts. There are other places where there are very different kinds of Senior Tax Relief, similar to what seniors get at the movies and early bird specials. The life in the country has been organized many ways to recognize the fact that once they stop working they can't look forward to making more money the next year; things are fixed. Seniors on fixed incomes is a very real thing. He's been retired now for about five years and every year realizes things are more expensive; it's happening and there's no relief for a senior from that. Unfortunately, Mr. Tyler's bill is unconstitutional; that's his opinion. It's based on what was learned last year about Governor Winthrop and Samuel Adams. Governor Winthrop took advice from the King and said that every town in Massachusetts shall support common schools. Samuel Adams wrote to Abigail Adams and said that's a wonderful idea; it was put into the Constitution.

Having a public school in Sudbury is a responsibility of the town; not of parents. It's their obligation to support the schools and all should support them; even those whose children have graduated. He's particularly fond of Lincoln-Sudbury Regional because he was the Superintendent and Principal there for eight years in the 1970's. Many were his students then but he doesn't recognize too many as parents and thinks most of the Senior Citizens support the schools. They're going to ask all to vote to Override the 2 ½ limit later in this Town Meeting. Do they think that's reasonable? Most are here to support that and it is admirable of all who worked to get out the vote. He worked with Joe Meeks earlier on the Property Tax Equity Committee. If recalled, Mr. Meeks spoke in favor of Senior Citizen Tax Relief last week.

What will happen if this motion is passed? Very likely, it will not become law and nothing will happen to affect their taxes. If the sky opened up and it became law, the vote would be to give every Senior Citizen in the Town of Sudbury a \$2,000 approximate reduction in taxes. Mr. Tyler will tell the residents what will happen if 80% accept it; 85%; it's predicted between 99 to 100% of senior's will accept. There's one couple he's not sure about. It should be assumed that this would be a way of giving every senior family a \$2,000 approximate reduction in their taxes. Now what would that cost? Mr. Moderator, please allow Mr. Tyler to explain, in thirty seconds, to explain how much this would cost an average family.

Mr. Tyler explained that for the average house in Sudbury, approximately \$600,000; if a thousand senior's; the cost would be \$425. That was for the average residential property; which was single family residential property; about \$601,000 average value; at \$425 to answer the question.

Carolyn Hannauer, 48 Old Lancaster Road, has been very lucky and managed to avoid the Dot.Com bust. She came to Sudbury in 1979 and was able to tweak both the value of her property and the amount of money she received. She's

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not in favor of any proposal which does not prevent people like herself from benefiting from Senior Tax Relief.

Julia Fitzgerald, 14 Lettery Circle, responded and said there's a broader issue of tax relief here, not for just people 60 and older; there are people certainly under the age 60 who are working very hard in order to make their tax payments; their mortgage payments; to put food on the table and do the best they can to make the best lives for their children. She grew up in the city of Newton and that's where her Dad still lives, but received the benefit of her grandparents and their friends paying taxes so that her sister and she could have an absolutely wonderful, quality education. Educating children is a job of society; it's not just the jobs of the parents. If that was the case, private schools would only be provided; and not public schools. If tax relief is going to be addressed; there should be tax relief for everyone and it should be restructured. In their society, nobody gets a break for anything without proving that it's needed; whether or not college is attended. One can't get a loan for their house without proving that it can be paid back. What is needed if something is going to be passed in Sudbury? It needs to be able to pass Constitutional muster, address Property Tax Relief for everyone and it needs to be something that the legislators can support.

Rich White, 14 Maple Avenue, stated that he's in an interesting position. Being 53 years old and retired on a fixed income according to AARP he's a senior, but according to the Article he's not. Why should he be asked to subsidize people who are seven years older than he, or older, who are making more money than he is; that is not just. A resident asked a question of Mr. White and he responded that he is medically retired and cannot go back to work. He is opposed to this Article as it presently stands.

James Frazer, Moore Road, saw why this is probably unconstitutional and could never make it through the Legislature. Voting for this Act sends an important message to the Town of Sudbury; that this is an unsustainable course with the current policies. The tax rate cannot be raised forever. At some point it's going to destroy the values of their houses, because it's the monthly payment that matters, not the tax rate or the mortgage individually; it's the sum. A message has to be sent to the Town of Sudbury that it's time to come up with some scheme for controlling their expenditures; this cannot go on.

There was a motion for the question.

It received a second.

The Moderator asked for all those in favor of the call of the question please raise your cards; all those opposed. It's clear that it carries in the Hall and Cafeteria.

The question has been called.

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The Moderator asked all those in favor please raise your cards; all those opposed please raise your cards. The question has been called.

The Moderator said it's been moved in the words of the Article; it's in the Warrant.

The Moderator asked for all those in favor of Article 2, please raise your cards; all those opposed.

The Moderator asked again; if you're in favor of Article 2, please stand and hold your cards; everybody opposed please rise and hold up your cards.

The Moderator stated that the vote in this Hall was relatively close; for and against. The count in the cafeteria was at least two to one negative so this Article does not prevail; it FAILS.

A resident said he had a Point of Order and wished the Hall counted; there were five others who wished the Hall counted so the Moderator is going to count the Hall.

Counted Vote: YES – 426

NO – 891

TOTAL – 1,317

The motion under Article 2 was DEFEATED.

ARTICLE 3. REAL ESTATE EXEMPTION

(Consent Calendar)

To see if the Town will vote pursuant to Chapter 73, Section 4, of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, to allow for an increase of up to 100% of the current exemption amounts under Clauses 17D, 17E, 22, 37A, 41C, and 41D of Chapter 59, Section 5, for fiscal year 2006.

Submitted by the Board of Assessors.

(Majority vote required)

PETITIONERS REPORT: The legislature's Joint Committee on Taxation is reported to be working on draft legislation to create new options for senior citizen property tax relief. If the legislature's Joint Committee on Taxation has initiated such legislation or has reported favorably on legislation initiated by others by the time of Sudbury's annual town meeting, this article will enable Sudbury to consider this new legislation at the 2004 annual town meeting rather than being forced to wait until the 2005 annual town meeting.

If and when the Joint Committee on Taxation initiates or endorses any new programs for senior citizen property tax relief, they may be less likely to entertain new home rule petitions that deviate from their proposed legislation. Accordingly it just makes sense to have this option available at the time of Sudbury's 2004 annual town meeting so that, if appropriate legislation is introduced in the legislature, Sudbury can quickly respond.

BOARD OF SELECTMEN POSITION: The Board of Selectmen will report at Town Meeting.

FINANCE COMMITTEE REPORT: The Finance Committee does not recommend approval of this article.

TOWN COUNSEL OPINION: See opinion at the end of this warrant.

The motion under Article 3 was Unanimously Voted on the Consent Calendar.

ARTICLE 4. CURBSIDE PAYT TRASH PICK-UP

To see if the Town will vote to

- 1) **Raise and appropriate, or appropriate from available funds, \$750,000, or any other sum to:**
 - a) **Contract with one waste hauler to collect trash from each Sudbury home where such items are placed at the curb for pick-up and where said trash is in a specially marked and paid for container such as pay-as-you-throw (PAYT) bags.**
 - b) **Contract with one waste hauler to collect recyclables from each Sudbury Household where such items are placed at the curb for pick-up. All**

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recyclables shall be collected under this program and brought to a facility where they may be sorted and recycled as long as market for them shall exist. Items to be considered "recyclables" include but are not limited to: newspaper, paper, cardboard, plastics numbered 1-7, glass and metal.

- c) Provide administrative funds to keep the Town transfer station open for the collection of trash under a PAYT program and for the collection of recyclables.
- 2) Contract with a company to dispose of the trash collected by the municipal trash program. Monies collected and deposited in the Solid Waste Disposal Enterprise Fund by the sale of specially marked PAYT bags (or stickers or tags) shall pay for such disposal.
- 3) Contract with a company to dispose of the recyclables collected by the municipal trash program. Any monies earned by the sale of recyclables or required for the disposal of recyclables shall be deposited or withdrawn respectively from the Solid Waste Disposal Enterprise Fund.

Submitted by Petition.

(Majority vote required)

Peter Glass, *moved* to appropriate the sum of \$750,000 to contract for the collection of trash from each Sudbury household in specially marked Pay-As-You-Throw bags and to contract for the collection of recyclables from each Sudbury household, where Sudbury trash and recyclables are placed at the curb, and for administrative costs of the Town of Sudbury, including the transfer station, said appropriation to be contingent upon the approval of a Proposition 2 ½ Override in accordance with G.L.Ch. 59, s. 21c; and to appropriate the sum of \$500,000 for the Solid Waste Enterprise Fund for Fiscal Year 2006 for the purpose of contracting for the disposal of solid waste collected and the disposal of recyclables, to be offset by receipts received by the enterprise derived from the income received from sale of pay as you throw bags or otherwise, said appropriation to be in addition to the sum to be attributable to the cost incurred hereunder after the funding under Article 8 is met and offset by the income to the enterprise; in the event that the \$750,000 appropriation does not obtain the approval of the Proposition 2 ½ Override as set forth herein the appropriation of \$500,000 shall not be effective.

The motion received a second.

The Moderator asked Mr. Glass to briefly explain the differences between the proposal as seen on the viewgraph and what's in the Warrant.

Mr. Glass explained that in Part 1, Sections A and B, the word "one" has been eliminated; can't specify the number of haulers that it would take to cover the Town of Sudbury; they might, perhaps, put one hauler in one part of the Town of

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Sudbury and one in another; something of that nature. In Part 2, the Solid Waste Disposal part, a number needs to be specified as to what might be considered and how much money would be raised by the sale of bags; a number was required for that. Finally, although money is being raised to keep the Transfer Station open, the Town Manager can't be required to spend it there and that was in Section 3; no Section C in Part 1. That's the basic difference.

Peter Glass spoke quickly on behalf of the Earth Decade Committee, which is why an extra three minutes is requested, so he can speak a little more reasonably paced.

He continued saying they're proposing town run town-wide Pay-As-You-Throw, or "PAYT", a system of trash collection and disposal that would substantially improve Sudbury's recycling rate, while lowering the cost of trash collection for many of the citizen's. It makes sense for the health of the community; the health of the planet; and the health of their pocketbooks. Naturally, for the EDC, the significant environmental benefits that this proposal offers is paramount and hoped that is true. Most people should save or stay even financially when the Town of Sudbury negotiates a contract for the hauler for us. "PAYT" has existed at the Transfer Station for more than ten years; Article 4 extends the program to the entire town. It cannot be funded by taking money from other Budget items so their proposal requires a one time Override of \$750,000. Hiring a hauler according to the figures obtained from haulers in towns will cost around \$675,000. This hauler will pick up trash and recyclables at the curb and at the Transfer Station.

In addition, according to the DPW Department, keeping the Transfer Station open requires \$50,000. Each household would pay an average of \$121 more on taxes; however residents will no longer have to pay an average \$450 for private pick-up. Transfer Station users will no longer pay \$100 for a sticker. That the \$121 is tax deductible should keep the actual cost of the Override close to \$100 per household. All households could use curb or Transfer Station. The Town of Sudbury will be able to provide each resident a necessary service at a reasonable price. Each household would switch to buying "PAYT" trash bags, which are available at Sudbury Farms, Shaw's and elsewhere in town. Money collected from the sale of "PAYT" bags primarily pays the cost of incinerating the trash. The actual cost of incinerating a 30 gallon bag of trash at the Andover incinerator is approximately \$1.50, that's why the bag costs \$1.50 at the store; 15 gallon bags cost .75 cents. Under "PAYT" people can use fewer bags and reduce their cost by recycling more.

Now, all are most interested in how much "PAYT" programs help the environment. He will get to that in a moment. But first to raise \$750,000 for Article 4, each \$100,000 of property assessment would cost \$20.20. The average \$600,000 home is $6 \times \$20.20$; or \$121.20. As with all local taxes paid, their particular assessment, whether it be \$125 or \$200 is tax deductible on their Federal Income Tax. The DEP says that under "PAYT" incentives most households generate two

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bags of trash or fewer each week. Curbside "PAYT" can be compared to the two current alternatives where the administrative or the hauler fee is \$121 or \$103 with tax deduction for PAYT; \$100 for the Transfer Station or \$450 for everything with private subscription.

The average house of \$600,000, with the average two bags at \$259 per year for curbside service should be a savings for most. A deal can be found for \$264 a year for pick-up every other week and no recyclables pick up. But an average house hauler fee being \$103, plus only \$78 for say one bag a week, is only \$181 a year for full curbside service. No private hauler is matching that. Even if they continue to put out four bags after "PAYT", they should be close to even. Most people will save or stay even under "PAYT", and pay for what the system is used. Trying to achieve this increased recycling and cost savings by expanding the Transfer Station's Enterprise Fund for curbside would not work; it does not guarantee enough subscribers to get the lowest possible price from a hauling company; it doesn't guarantee any subscribers at all. That was the determination of the Pay-As You-Throw Committee which studied the Enterprise Fund option extensively at the request of the Board of Selectmen. When the contract with the hauler expires, typically in three years, the program can be reviewed. It would be up to them whether to keep the program; pay for say increases or drop it. A 10% increase in prices would require a new Override of less than \$75,000. Alternatively or in addition a .10 cent increase in the "PAYT" trash bags, for instance, would raise \$50,000.

Now, to be very clear about this Town Government is most worried about this down the line. If, after some years curbside "PAYT" is kept as a town service and most likely will; eventually the price for the contract will go up. The Town of Sudbury will not want to take money from the Schools or anything else to pay the hauler and the Transfer Station; nor should they. More money will be asked to be given with an Override, as it seems every three years, to pay for town services. A separate Override, like this one, would allow a vote on just this service without worrying about whether voting for or against other things at the same time. On the other hand, wrapped in with some larger Override, a trash contract increase will be a very small proportion. Other towns using just the trash program structure that is being proposed handles down the line with equanimity. Haulers are not burning recyclables; that would cost them money when recycling pays cash. Under "PAYT" the Town of Sudbury would have oversight even in choosing the specific recycling facility and the Town of Sudbury receives the cash. Currently a waiver for half the sticker fee; \$50 is available at the Transfer Station for cases of demonstrated hardship for people of any age or situation. Over the years, by word of mouth, many believed it to be a senior discount or exemption; regardless of municipal service on the tax levy cannot be discounted for any particular class.

That said Article 4 is likely to save 750 senior households, who put trash out at the curb, \$100 to \$200. As for those seniors who have been using the waiver, the increase will be small if they, indeed, have smaller assets. A home assessed at

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\$300,000 will only pay \$60 not counting tax deductibility; a \$10 increase. A \$400,000 home is only \$80. While it is acknowledged that no one wants costs to increase for senior's in the Town of Sudbury, the debate and proposed solutions have risen far beyond the town and \$50. It is hopeful that the added convenience of being able to use curbside pick-up will help offset any increase. The Transfer Station is important for the hundreds of households who intend to continue using it, as well as, for collecting hazardous materials, the "Put and Take" and other amenities. It might become a major transfer point for recyclables under Article 4. Although the money raised by this Override to keep the station open could be reassigned by the Town Manager and used for other purposes why deny so many possibilities and upset so many people for so little money. By voting for this Article, let the Town of Sudbury know that the Transfer Station should stay open.

How will Article 4 help save the environment? Time will be saved later if he can quickly answer some questions people have asked.

Questions raised by residents:

- **What if one hauler gives bad advice; bad service? There would be a performance clause; doesn't want a bad reference; wants to renew contract.**
- **Bulky items, like refrigerators and couches, they'd do as they do now. Garage back door services would be an extra charge paid to the hauler.**
- **Bags; they're used to them; bigger sizes can be obtained; options can be reviewed later.**
- **Barrels; the town doesn't require but it's a good idea to have them; they can buy totes for \$45 or other barrels; no reason to suppose their neighbor will be any less responsible about keeping trash safe and contained.**

Mr. Glass said that at last the environmental portion of the presentation. According to Yale and Columbia's latest index of global environmental stewardship out of 146 nations, the United States ranked only 45th for protecting the environment. One other sobering statistic is 5% of the world's population emits 25% of all greenhouse gases. People generally want to help the environment. "PAYT" is a chance for all in Sudbury to cut down on the waste and pollution that is generated. An example can be set for the children and leave a healthier planet for the generations that follow. Conserving resources directly impacts sustainability, global warming and pollution. It's expected that there will be at least a 20% increase in recycling from the 4,000 curbside households. Two bags of trash per week from each household would generate 120,000 lbs. of trash a week.

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The Moderator asked the Hall for those who would like to give another two or three more minutes to Mr. Glass please signify by raising your cards; those opposed.

Per the vote he cannot continue to speak except The Moderator decided to grant Mr. Glass another thirty seconds.

Mr. Glass stated that here at EDC's quarterly plastics collection are forty volunteers and hundreds of households where the plastic is taken to the Transfer Station for recycling. Here's one ton of plastics; how much is twelve tons? Remember the scene from Miracle on 34th Street where they bring in a bag of mail and pile it on the Judge's bench; now imagine volunteers piling from here to the street bringing in 1,600 bags and piling them on the stage. This is an opportunity to bring about a healthier and more sustainable town.

Mr. Jacobson said the Finance Committee does not deem the amount of taxpayer's savings from the proposed Pay-As-You-Throw Program is compelling enough to permanently incorporate it into the tax levy. Approving an Override to support Pay-As-You-Throw and including it in the levy will not ensure that these funds will remain to be used for this purpose in future years. As the future is faced with difficult budgets, the decision might be made to eliminate the program and divert the funds for other uses as is presently being considered in Maynard. In regard to the environmental and health benefits argued by the Article's petitioners, these are not within the purview of the Finance Committee and as such are left to the individual taxpayer to make the determination as to the importance or relevance in the decision making process.

FINANCE COMMITTEE: Does not recommend approval of this Article.

John Drobinski, Chairman of the Board of Selectmen, stated that all are committed to protecting the environment. As a matter of fact, Sudbury has one of the highest recycling rates in the Commonwealth; classification from the DEP is A+. Currently with this system in place there is a very high recycling rate. The proposal comes from the Earth Decade Committee which is not a Town Committee, Board or Commission. A great bunch of people do a lot of wonderful things for the community and work very hard on plastic recycling and that is evidenced at the Peter Noyes School. Their concern with this is they're getting in the area of increasing the tax levy. The tax levy should be for more important things; public safety, education and debt exemption. To raise the tax levy in this matter is really treading on thin ice. The other thing that should be pointed out is that the Transfer Station, right now, which is open, is under DEP purview and DEP is working to make sure it stays open, but it's not clear wood. Back in 2003, the Board of Selectmen actually put together a Pay-As-You-Throw Committee to look at this issue. The Committee came back to us with these recommendations; there are perceived benefits; "Yes", recycle and costs may go down. They suggested two options:

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- **First option is to use the Enterprise Fund, which is being currently used at the Transfer Station**
- **Second option is a user fee or levy tax which Mr. Glass proposed**

In response to this report, the Town of Sudbury through generous donations from the Sudbury Foundation hired a Consultant to look at this issue and a very prominent individual from Mass. DEP has been hired whose expertise was with Pay-As-You-Throw. In his report, the Consultant was asked to do another thing because a lot of feedback was given from people in town to keep the Transfer Station open they were asked to take a look at an additional third option. Three options were looked at and came back with option three:

- **Third option is a town-wide fee based Enterprise Fund with the Transfer Station left open**

The Consultant was ready to develop an RFP and go to Town Meeting. What did the Board decide to do? The Board at that time decided not to take any action and the reason was the Town of Sudbury was going to take ownership of a large operation and it was unclear what the financial impact would be. It wasn't a priority at the time for the Board of Selectmen. More important things had to be dealt with and there are still more important things to deal with. There was not a huge outcry from the general public. The general public seemed to be very happy with the system; the system was not broken and there's a lot of positive feeling about the Transfer Station. If this proposal gets approved it's not clear the Transfer Station would stay open. Why would there be two different mechanisms of disposing of solid waste and recyclables?

The problems with this proposal, while it's thought processes are to do the right thing by the environment it has impacts on the tax levy. As the Vice-Chairman of the Finance Committee said each year, there's a struggle over how these funds should be allocated. They heard tonight from Mr. Tyler on tax relief for senior's that their taxes are high; this would be adding to that tax burden. What this will do also it will force us to really pay for this service first because everyone in the Town of Sudbury is going to need it; but this will be the first thing that's going to be allocated on the levy. To use the levy, is a very bad idea for this purpose, primarily because it really jeopardizes their future balancing of the Budget. Additional surrounding towns; Maynard, Natick, Stoneham and Wellesley have problems with the tax levy; basically if their Overrides don't pass, Pay-As-You-Throw is going to come off their services, so people have to hire private haulers. Just a couple of things on the Warrant; costs won't be fixed; the Warrant says the average cost will be \$125; some people pay more; some people pay less. Basically they'll pay per the value of their home; that's how their tax levy gets assessed; not a straight dollar amount. As their property value increases, they'll pay a greater amount. Right now in the Town of Sudbury there's a choice; haulers can come in and pick up trash; haulers can come to their backyard and pick up trash or recyclables and trash can

be taken to the Transfer Station where it gets handled appropriately. Some people like their trash at the curb; some people like the totes. As said earlier, the system is not broken why does it need to be changed? If unhappy with the vendor then it can be dealt with even though Mr. Glass said there would be a clause in the contract but it's not clear as to how that would be fixed and how a contractor would be fired.

If Pay-As-You-Throw is put on the tax levy it's going to be really hard to track where these costs are going and its right for perhaps increased costs for the taxpayer. Specifically the Town of Concord looked at this and they decided to use a fee based curbside pick-up using haulers. While the Board is interested in this, this situation will continue to be monitored and recommendations will be considered at the Town Meeting to consider the Concord model. The Transfer Station opened and gave residents the opportunity to either use a private hauler or bring items to the Transfer Station. Finally, Mr. Glass wants them to recycle as much as they can to support the environment.

The Moderator asked if anybody wished to speak in the Auditorium.

Ivan Lubash, 25 Barbara Road, supports the Selectmen and Finance Committee on the financial aspects and when it comes to trying to forecast numbers it's awfully crazy. Some minor points which haven't been addressed:

- If residents use a trash container at additional cost who's going to confirm that only the yellow trash bags are in the container; nothing to stop the resident from using whatever he wants as far as going into the trash container
- If a trash container is not used and bags are just put on the street, who's going to patrol the area to be certain the bags are not torn open by cats, dogs, birds, coyotes, raccoons and other animals who do the road recycling
- How can individuals be stopped from doing damage or pranks; whatever term fits
- As some towns found there can be pretty messy streets, and Sudbury does not have it's own Sanitation Department
- What numbers do they have that the trash haulers recycle the recyclables; it seems to be much more labor involved than what they are talking about

It might work if everybody was totally honest, respectful and could control the animals in the street, but it just seems to be a total mess and a waste of time and money.

Debbie Howell, 123 Victoria Road, spoke in favor of having a town-wide curbside pick-up. Without having a lot of statistics and details to debate and argue it seems pretty logical that the vast majority of people in town hire private haulers; whether they hire them for \$300, \$400 a year; they hire private haulers; they put

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their garbage outside. With the curbside pick-up, the garbage is outside like before; same raccoons come as they did before but as a town better rates can be negotiated; more than one hauler wouldn't be coming down their street; different days; there'd be some accountability if there was trash strewn on their street the hauler that must have been responsible or partly responsible; there wouldn't be noise from all the different trucks; there wouldn't be pollution. It just seems that if the group worked together; better rates would be given and money would be saved. What more is needed? The Town of Sudbury hired a Consultant; the Selectmen hired the Consultant; their own Consultant said to do pretty much what Peter is suggesting; to have a Transfer Station open and do curbside pick-up with Pay-As-You-Throw bags. Why aren't they listening to their own Consultant; that doesn't make any sense? Also, if it doesn't work, if it's not liked and the Override is not passed in a couple of years then go back to where they were with nothing to lose, except a couple of years of trying something out that most towns do.

Bruce Langmuir, the Chair of the Threat of the Global Warming Action Group at the First Parish Church of Sudbury stated that in June 2004, the threat of global warming was selected to be a social action issue by the Unitarian Universalist Associations of Congregations in the USA and Canada. As a member of the Northeast Sustainable Energy Association since '76 he's been doing stuff a long time. Today the average American family uses enough energy to release about 50,000 lbs. of carbon dioxide per year; the major contributor of global warming which is creating climate changes worldwide. There are over twenty five simple steps each of them can do to reduce their carbon dioxide producing fossil fuels by taking all these steps it's possible for a family to reduce their carbon dioxide emissions by around 30% or more. Doing all these steps costs us little more than paid now but saves each family. Recycling their trash is one of these steps. In about five years the peak of global oil production will be reached. In the '70's passed the peak of oil production in the USA was passed. While they may never run out of oil it will become increasingly more expensive to extract oil from the ground and thus the more used the faster its price will rise. The so-called energy oil shortage of the '70's showed a significant reduction in oil use for those years and that alone pushed the world peak of oil production ahead by five years. While global warming can no longer be prevented it can significantly be reduced in its severity by reducing their addiction to oil use and by taking many steps recycling their trash is one of those steps. Recycling all their potential recyclable materials such as paper, plastic, glass, metal reduces carbon dioxide greenhouse gas emissions by around 2,400 lbs. per family per year; about a 5% reduction. Composting using minimally packaged goods and choosing reusable products over disposal products should easily reduce their trash by 50% or more; this is part of recycling.

A resident had a *Point of Order*.

The Moderator responded to the resident stating that recycling is a part of this Article so Mr. Langmuir may continue.

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Mr. Langmuir stated by using the additional carbon dioxide emissions can be reduced by 7% more. Recycling one ton of aluminum prevents thirteen tons of CO2 emissions. For a plastic bottle around five times more energy is needed to produce it from virgin plastic as opposed to recycled plastic. Global warming is created around the globe resulting in the extinction of thousands of species and deaths of over 160,000 in the year 2002. It is increasing by thousands every year. It is their moral and ethical responsibility to reduce greenhouse gas emissions. The State has shown the towns where this has been done and looks at roughly a 20% reduction in trash.

People have brought their Pay-As-You-Go bags to this Transfer Station that in itself reduced it by 20% to 30%. The State showed that if town-wide trash pick-up is done the trash total will go down. Please support Article 4 and if not how it is written now but however it may be re-written in the future; should this not pass.

Tom Powers, Union Avenue, stated that Mr. Glass and he were members of the Waste Management Committee that developed the Pay-As-You-Throw Program that has been in progress at the Transfer Station for the past five or six years now. Their committee worked to develop recommendations that were presented that led to the hiring of the Consultant whose report was summarized by the Selectmen tonight. He pointed out that the Committee as a whole did not agree with final recommendations that Mr. Merritt developed. He would like to address a couple of the specifics of the opposition that was presented by the Selectmen tonight. He's sympathetic to the restrictions on down the line financing and \$750,000 is a lot of money to tack onto things forever, but it seems to be no more of a risk than many of the other long term financial bites that are taken in bonding and long term hiring and capital improvements and such. This one has a dead end to it if that's the way it's going to work out. The individual savings are potentially substantial, but will also admit that it will take some self management to handle the trash in ways that keep their trash disposal fees down and recycling rates up. On the whole it will benefit the Town of Sudbury because there will be fewer trucks roaming around. If it's Tuesday for one hauler and Wednesday for another, along the street, trash pick-up will be half as often; that's an element of the system being broken that people generally don't seem to realize. It was mentioned by the woman in the cafeteria that varmints and such are already a risk of tearing their trash open and leaving it on the street. Briefly summarized and said that there is very little to not recommend this proposal because it is a forward looking attitude towards trash management in the Town of Sudbury.

Paul Pakos, Nobscot Road, said the Article tends to ignore a number of Sudbury citizens who are living in condominiums and who are already recycling and paying for recycling through their condominium association fees. From their perspective this would just be an added tax burden with no new benefits either for the environment from their perspective or from the tax burden. Since some of those condominium associations are for citizens 55 years or over this would just reduce it again for any kind of Senior Citizen Tax Relief. Those in condominium associations would then have to pay an additional tax burden; it's inequitable and in the current

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economic climate doesn't seem right at this time. While having said that, he's a strong advocate of the environment.

George Lockhart, 196 Morse Road, said the point was made by Mr. Drobinski that currently with the system that's not broken there's choice; he doesn't feel like he has a choice. He pays for a private hauler to both recycle and pick up his trash and pays about \$500 a year for that service because he doesn't have a choice. It doesn't matter how much he recycles or how much he doesn't recycle; he pays the same fee. If he has Pay-As-You-Throw he can put his trash out on the curbside for a \$1.75 or whatever it is for a 30 gallon bag; that's one bag a week he's going to use because that's how much trash he generates. Right now he's paying for recycling and on this program he won't have to pay for the recycling anymore; it'll just get recycled. He's favors this program.

The question was called and received a second.

The Moderator asked for all those in favor of Article 4 signify by raising your cards; all those opposed.

The motion under Article 4 was **OVERWHELMINGLY DEFEATED.**

The Moderator accepted a motion to adjourn. The Hall voted to adjourn until tomorrow night, April 5th at 7:30 PM. The time was at 10:30 PM.

Attendance: 1,464

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PROCEEDINGS

ADJOURNED ANNUAL TOWN MEETING

APRIL 5, 2005

Pursuant to a Warrant issued by the Board of Selectmen, March 11, 2005 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 5, 2005, for the second session of the Annual Town Meeting. The meeting was called to order at 7:35 PM when a quorum was present.

The Cafeteria was set-up for the overflow of residents attending this Town Meeting. They were able to see and hear what was going on in the main Hall via a screen set-up there. The Assistant Moderator was Larry Blacker appointed by the Moderator, Myron Fox. He announced that the first order of business was the Budget Articles. Before he called on the Finance Committee to make a presentation on the financial state of the Town he reviewed procedural matters for voters who haven't been to Town Meeting. As a result of the election a week ago Monday, it was his understanding that the Finance Committee would present an Override Budget. The Moderator said the first thing we will do is take a motion from the FinCom proposing a budget that would be limited to the amount which would be required to finance the Override Budget proposal. The motion will seek only a declaration from the Hall as to the overall limit on the Budget. A vote in favor of the motion will not mean that you have voted for a particular distribution of the total amount set forth in the Warrant. After the Limiting Motion is finished, we will move immediately to the Budget as a whole in the usual way, then line item by line item. There will be a main motion on the Budget, then a second; this is how we will deal with motions to amend and questions. After explaining the procedure for making an amendment he gave a couple of examples.

ARTICLE 5. FY06 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, 2005 through June 30, 2006, 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; or act on anything relative thereto.

Submitted by the Finance Committee.

(Majority vote required)

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	Appropriated FY04	Appropriated FY05	School Committees/ Town Mgr Request FY06	FinCom FY06 Non-Override	FinCom FY06 Override
Sudbury Public Schools: Gross	\$23,069,516	\$24,104,549	\$26,203,747	\$24,661,611	\$25,809,552
Sudbury Public Schools: Offsets	1,041,597	1,420,896	1,751,121	1,751,121	1,751,121
Sudbury Public Schools: Net	22,027,919	22,683,653	24,452,626	22,910,490	24,058,431
SPS Employee Benefits*	4,119,180	4,626,464	5,107,457	5,107,457	5,107,457
Sudbury Public Schools: Total	26,147,099	27,310,117	29,560,083	28,017,947	29,165,888
LSRHS (Operating Assessment)	12,352,149	12,804,319	14,856,535	13,469,062	14,592,013
LSRHS (Debt Assessment)	1,089,609	1,597,371	2,424,726	2,424,726	2,424,726
Minuteman Regional Voch. Tech. (Assessment)	373,813	293,321	304,640	304,640	304,640
Total: Schools	\$39,962,670	\$42,005,128	\$47,145,984	\$44,216,375	\$46,487,267
100: General Government	1,921,974	1,965,410	2,011,226	1,989,898	2,011,226
200: Public Safety	5,145,242	5,289,182	5,733,642	5,392,251	5,733,642
400: Public Works	2,546,781	2,591,406	2,883,083	2,616,406	2,883,083
500: Human Services	483,672	518,523	537,382	522,737	537,382
600: Culture & Recreation	874,395	931,316	994,242	928,542	994,242
900: Town Employee Benefits	2,688,597	2,879,021	3,124,307	3,124,307	3,124,307
900: Townwide Operating & Transfer Accts.	461,396	355,825	313,345	318,345	313,345
Total: Town Services	\$14,122,057	\$14,530,683	\$15,597,227	\$14,892,486	\$15,597,227
Debt Service	\$7,906,725	\$6,014,574	\$5,589,344	\$5,589,344	\$5,589,344
TOTAL: OPERATING BUDGET (not including Enterprise Funds)	\$61,991,452	\$62,550,385	\$68,332,555	\$64,698,205	\$67,673,838

*to be transferred to 900: Town Employee Benefits

The Moderator announced that Bob Jacobson, Co-Chairman of the Finance Committee would speak first followed by the Town Manager and the two School Committees and then the Limiting Motion would be presented.

Mr. Jacobson said that he first wanted to thank everyone for taking the time to be here tonight. This is your Town Meeting and as the population of Sudbury continues to grow it is important that a decreasing proportion of the town's residents not make these key decisions. For the past two years the Finance Committee has come before you with recommendations for only NO-Override Budgets. For Fiscal Year 06 the Finance Committee strongly recommends approval of the Override Budget being considered, which is \$800,000 less than requested. The FinCom takes its responsibility very seriously and does not offer this

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recommendation lightly or with indifference to the financial impact this might have on some of Sudbury's taxpayers. We have heard loudly from both sides. The FinCom's responsibility though is not to try and make people happy, something that he said he was sure they were being incredibly successful at tonight. He went on to say that their responsibility is to recommend to Town Meeting a Budget, that in their collective opinion provides for levels of service that are in the best interest of the Town of Sudbury as a whole.

How did we get to this point where we feel the need to recommend an Override of this magnitude?

- **In Fiscal Year 04 Sudbury saw a reduction in its overall State Aid. It was level funded then, and in Fiscal Year 05, and is projected to be level funded again in Fiscal Year 06. That means the Town is working with less in revenue from the State in Fiscal Year 06 then it was in Fiscal Year 03.**
- **On the cost side; Pensions, Insurance, and Benefits have been growing at double digit rates annually along with utility rate increases. Salary costs have increased the past two years and will increase in Fiscal Year 06, anywhere from 2 ¼ - 3 ½% in accordance with cost of living adjustments under collectively bargained agreements, exclusive of any applicable step increases. It is important to note however that the town's and schools' employees are not paid above average versus our peer Metrowest towns. As a matter of fact, many are paid below average versus peer towns.**

There are other factors that are having a large impact on the Budget; the percentage of the town's population under the age of 19 is 34% and the percentage of homes in Sudbury with children is 52%. Both of these figures purport to be the highest in the State of Massachusetts. While this is a tribute to the level of education our schools provide and greatly helps to support Sudbury's home valuations, it strains the Budget to keep class sizes from ballooning, meet the demands for extra-curricular activities and course offerings, and provide mandated special education programs. The town's voters also made decisions to undertake a large school construction program not too long ago. While this greatly impacts the budget, the foresight to undertake these projects when we did also allows the town to receive sizeable reimbursement percentages from the State. This is an issue that our neighbors in Wayland, Concord, Wellesley, and Newton are currently struggling with as their schools become insufficient in size and capabilities without concrete knowledge of what financial aid, if any, they will receive from the state for new construction. The increased population in Sudbury, now totaling more than 18,000 residents is also straining town services for public safety, park and recreation, and the library, among others.

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For the past two years the increase in the Non-Pension Insurance and Benefits portions of the Budget had been limited, and in some cases, items were cut. The expected result of the Finance Committee's recommendation of these cuts and limited increases has been to reduce the services provided by the Town, allow class sizes to grow, and limit some class and activity offerings by the schools. Some of you may not have felt these impacts directly, but they have occurred and have affected many people. The tax increases over those two years were .3% and .9% respectively. This year however, we are uncomfortable recommending a Budget that will allow service to erode further.

What is the projected tax impact of the Budget the Finance Committee is representing?

- This year's No-Override Budget is projected to increase the taxes on the average home in Sudbury assessed at \$601,800 by \$249 from \$8,100 to \$8,349.
- The Operating Override if passed is projected to increase that amount an additional \$494 to \$8,843. If the Debt Override for the new fire engine, boiler at Fairbank Senior Center, bucket truck, and repairs to the floors at Fire Station #3 are passed then an additional \$24 would result for a total of \$8,867.

He stated that the Finance Committee realizes this is a large tax increase, but in their opinion the consequences of living within a No-Override Budget after two years of restricted Budgets would have a negative impact on the services provided by the Town and our Schools and is not one they favor.

Therefore, the Finance Committee recommends that Town Meeting approve the Override Budget before you tonight.

The Town Manager, Maureen Valente addressed the Hall stating that she has served in this capacity since late 1999 and wanted to give a brief overview of the budget request for the town operating departments.

A slide was put up on the screen to show their missions:

- Protect Public Safety
- Public Assets and a special quality of life
- Advance the Boards' goals
- Continue meeting service demands
- Retain staff and recognize and reward good performance
- Comply with all regulations and mandates

They fall into five service clusters:

- General Government
- Public Safety
- Public Works

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- Human Services
- Culture and Recreation

The Budget proposed tonight shows that our priority will go to pay Public Safety and Public Works. We're trying to focus on them because they've taken some of the biggest hits and because we've fallen so far behind in terms of budget and service abilities for that. We will also focus and continue on careful use of our resources; again, treasuring our department heads and the importance of Capital, which we'll talk about later in the Capital Articles.

On the efficiencies that we've done, we did purchase the street lights that's saving us from \$20,000-\$25,000 a year on utility costs. We use regional purchasing; and just refinanced some debt to save \$500,000, refunding that over the life of the debt. Unfortunately the State will get 64% of those savings because they gave us the grant originally but that's still worth doing. We're always looking for opportunities to be careful; we self insure for insurance and everything we can do to be careful with costs we do.

She said she was showing by department and cluster where the increases would be and that they're concentrated:

- Public Safety and Public Works
- With some amounts going especially into Culture and Recreation
- Primarily the Library

Shown on the viewgraph for the Police Department, the standard for a suburban community is two officers for every 1000 population. We have twenty-seven sworn officers and that brings us to 1.51 for our officers per 1000 population. It does show staffing is low.

There are three things we're trying to do in this Budget:

- Add one Patrol Officer for half the year.
- Secondly, we're looking to get our overtime Budget back up so we can cover, hopefully, getting back to 75% of the open shifts. Right now we're covering between 55%-60%, it's a lot of shifts not covered.
- Thirdly, to provide specialized training.

For the Fire Department, she referenced a chart on the viewgraph that showed calls for Ambulance and Fire Service continued to climb over a fourteen year period. It's not just population increase, its events happening that we need to respond to. Beyond that, she wanted to talk about the requests they've made for Assistant Fire Chief or Deputy Fire Chief, whichever you call them.

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What's happening in Fire Services is changing rapidly:

- **Hazardous materials recognition**
- **Control and mitigation**
- **Terrorism**
- **Local emergency planning committees' rapid intervention teams**

A whole variety of things are coming and are now being in demand on the Fire Chief and the Fire Department and we need to be able to respond to those.

The Managers in the surrounding towns: Concord, Weston, Wayland and I worked carefully to look through our departments. We compared our fire services among the three and that wasn't easy to do. We found Wayland and Sudbury spent a lot less per- capita for fire services than the other two towns and our staffing is somewhat lower also. The main thing that came out is they have Deputy Chief and Assistant Chief Positions and they spend more on training, prevention, and planning.

Mike Dunne, former Fire Chief, had been asking for this for several years and they had tried between them to see what they could do. It was difficult to do because we kept getting pulled away for operational things. This is a position we very much need; Chief MacLean can address that if anyone has questions.

In the Public Works Department, meaning Public Safety too, they've had the least resources and have been the most impacted by growth, change, and time. We keep adding roads, drainage structures, walkways. State money - Chapter 90 keeps decreasing and our vehicle replacement program is in trouble, we need new vehicles.

On staffing, we not only have less than the towns around us, we have less than we had in 1990.

Goodnow Library, one of the 10 busiest libraries in the State for its population range, yet it has fewer full time equivalent employees and circulates 33% more than a full time equivalent in comparable.

The following are recommendations for some very small increases for departments to give them some additional help when times are tough:

- **The Building Department for Utilities and Maintenance**
- **The Board of Health**
- **The Council on Aging**
- **Information Services**

Ms. Valente concluded by thanking the Hall for their support of town services and staff, and said it was an honor and a challenge to serve them. All the

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town staff pledge to continue providing you with the best services with the resources you choose to allocate.

Bill Braun, 65 Kato Dr., Chairman of the Sudbury School Committee addressed the Hall. Dr. John Brackett, Superintendent of Schools will outline his Budget, but he wanted to preface his presentation with a brief comment about the School Committee's philosophy and their approach to developing the budget.

- **First of all he said they deeply appreciate the importance the community places on schools and the support you unfailingly provide. The schools are the principal assets underlying the town's evaluation and we do not regard it as the mission of the School Committee to advance the interest of the schools single-mindedly. Our job is to provide the best education possible in the context of the values, needs, and circumstances of the town as a whole.**
- **Second, obviously we're all taxpayers, well aware of the growing financial challenge that property taxes in Sudbury comprise. Not only to seniors, but to a wide range of people whose disposable incomes diminishing as costs that are beyond their control continuously rise.**

With those two things in mind, he said he wanted to make it clear that recommending an Override Budget is not something they do casually because we can't or won't control costs or because we think schools have a special entitlement to budget growth. We do it only when we've reached the point where it seems the only reasonable alternative and with careful and often agonizing consideration of all the interests at stake.

The major aim of the Override Budget is to maintain the integrity of the program going forward as it exists now following the last two years of cuts. As costs rise, enrollment continues to grow and the State and Federal governments advocate the responsibilities they undertook in regulating local education in the first place.

When you get down to basics there are only three things that influence education at this level:

- **One is the interest and inabilities of the kids**
- **The second, skills and the tools; the equipment that teachers bring**
- **The third is the number of kids each teacher has to know and understand**

Effective education today is highly interactive, so whether we like it or not, assuming we have good kids and competent teachers, the issue degenerates to class size; with some attention to teaching tools and that's what the Override Budget is about.

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John Brackett, Superintendent of Sudbury Public Schools, referred the Hall to the viewgraph. By themselves they really don't say much, but wanted to call the Hall's attention to these facts:

- **With the Non-Override Budget we're looking at growths and expenditure of about 1%**
- **With the Override Budget, our operating expenditures would grow just a little over 6%. That's over and above the cost of benefits.**

The causes are complex but the problem is really quite straight-forward. In essence the costs of doing the same thing we have been doing are increasing at a faster rate than the available revenues, and this is compounded by our growth.

On the chart, it showed the increases in major expense-drivers for next year, it's not our total Budget, it's just major drivers and their increases.

- **Benefits are increasing about 10.4%**
- **Salaries are increasing about 3.8%, which includes raises and steps for those people who are on that part of the salary schedule.**

These are non-controllable costs. Salary costs can be controlled, but as Mr. Jacobson said earlier, many of our teachers and our salary schedules are at the lowest of comparable districts and we need to be competitive in recruiting and in retaining quality teachers as part of our mission.

- **Our Special Education costs are increasing by about 8%. These are the costs for the students with the most severe needs who are receiving services outside of the district. If you look at per pupil basic, Special Education costs are at or below comparable K-8 Districts, as well as, the percentage and number of special education students that we are educating.**

- **Transportation, which is not controllable, is going up about 5%. We used to get revenue from the State to offset that; the revenue for that mandated service went away two years ago but the mandate didn't.**

- **As for the energy costs, the School District is facing the same kind of impact faced at home and with our cars.**

- **On the Revenue side, again these are increases from Prop 2 ½ in Town and Town Revenues were able to cover the benefits. Grants and offsets have been received from the State, primarily for Special Education services and that will be growing. The town revenues will provide about 1% more to work with under the Non-Override**

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scenario. He added that the Chapter 70 funding, which is the major funding for Schools will be flat for the third consecutive year and this is at the same time that we're being asked to do more from the State and Federal government in terms of services to students. That leaves a short-fall, giving us this expense and revenue increase of about \$561,000 that we will have to find ways of addressing.

He thanked the Hall and said there was a lot more information that they would be happy to provide in answering questions.

Eileen Glovsky, 53 Thompson Drive, member of the Lincoln-Sudbury School Committee referred to the viewgraph and said this shows the difference between the increase in students and teachers. The enrollment continues to grow at 60 – 80 students per year and our funding resources don't allow us to keep pace with that growth. When we don't add teachers every year there really comes a point where the interactive nature of our teaching style is compromised by the size of the classes.

The next slide was displayed and she said the State's commitment to education has really gone down. According to the 2003 National Census records, Massachusetts ranks 41st for our State's contribution to K-12 education.

Federal funding has been cut approximately 11% between 2003 and 2005. State funding to the district was reduced by about 20% three years ago and has not increased since that time and our enrollment during that time increased by about 200 students. Both the Federal and State government are reducing their financial support of our district and continue to impose unfunded mandates on us.

These include:

- Special Education
- Transportation, as a regional district we are required to provide and are legally prohibited for charging for
- The MCAS and No Child Left Behind

Referring to the viewgraph showing our per pupil spending during the last 5 years she stated while our enrollment has gone up 28%, our per pupil spending has decreased by \$500.00 per student in constant dollars. As you can see on the slide they had pulled it out to Fy06 in a Non-Override scenario.

Cuts in a Non-Override Budget:

She addressed the misconception about the funding of the building. Any cost saving on the building project will reduce our debt. We are legally prohibited from spending any Capital Funds on operating expenses. Cutting the entire athletic program and extra-curricular as recommended by some people would only get us half way there. They didn't really consider that to be a viable option and although they didn't know how the cuts would be implemented, teachers and likely an

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Administrator would have to be cut. If all cuts were in Personnel it would require approximately 12 full-time equivalents to be cut in order to balance to a No-Override Budget. Frequently, we are exhorted to live within our means, we don't control our revenue, we don't control the number of students that attend, and we must provide service to all.

We can't control many of our expenses:

- Unfunded mandates
- Utilities
- Pensions
- Insurance

We do the absolute best we can with what we have; we rely on the taxpayers of the community to determine our revenue. We knew the last two years were tough and chose not to ask for Overrides. We made do with less; we need your support this year.

To the challenges the School Committee has dealt with for the last few years we remain strongly committed to quality education for all students. Your support of this Article will validate our mission.

The Moderator recognized Co-Chair of the Finance Committee, Bob Jacobson, for a motion to take up the Budget Limited to the Override Amount.

LIMITING MOTION FOR OVERRIDE BUDGET

Co-Chairman Bob Jacobson *Moved* that the amount appropriated under the Budget not exceed the sum of \$67,710,198.

The motion received a second.

BOARD OF SELECTMEN POSITION: The Board of Selectmen unanimously supports the Override Budget request.

Adam Miller, 1 Nobscot Rd., had a question. He questioned the difference between the sums of \$67,710,198 listed in the motion to the sum of \$67,673,838 listed in the Warrant being greater and wanted to know why.

Mr. Jacobson, Co-Chairman of the Finance Committee addressed the question saying most of that was after the Warrant was published. There was a change in the debt service for L.S., which then required a change in the assessment.

The Moderator asked the Hall if there were any more questions or comments on the Limiting Motion.

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Ralph Tyler, One Deacon Ln., had a question. He wanted to get an understanding from the Finance Committee, as well as, from the School Committee and LSRHS, how this fits into the next ten years. He said when we were involved with PTERC (Property Tax Equity Review Committee) we knew that up until about six years ago the average tax bill was rising about 6% or 7% a year and then it started a steep increase, from approximately about 10% over the last four or five years. The last couple of years these increases were deferred so we had almost "0" inflation. Now we have almost 10% with the Override, so he's wondering what the message is that they should be taking out of here. What he was hearing was we can't control most of the costs in our School system, we can't control benefits; even though it's a negotiated item, we can't ask them to shoulder anything more. From the projections it looks like there's going to be a lot more students. He thought that it was incumbent upon them to tell us how this Override fits into the medium and longer term situation. He wanted to know if we're facing ten years of 6% or 10% increases on the average tax bill in Sudbury or is this a one-time request and then figure out strategies in order to live within the confines of Prop 2 ½ for the next five or ten years.

Bob Jacobson, Co-Chair Finance Committee, said if you're looking for the Finance Committee to tell you that Overrides will not be needed in the future, he couldn't honestly tell him that. Ten years out is quite a distance, a few years out we are going to have to lobby, do the best we can to try to raise revenue, but if we can't raise revenue, hard decisions will have to be made about possibly letting class sizes grow, and limiting benefits unless the towns residents decide to do otherwise.

Bill Braun, Chairman of the School Committee, stated that it was a very good question and that they don't have a lot of control over the rises of some of these costs but are very conscious of the need to look forward, so we're not coming back year after year with Overrides. Some things we do on an ongoing basis are to continue to look at more cost-effective ways of providing education. With the understanding though, that the primary axis of learning is between the teacher and the student. That's where most of our costs actually occur; there is not a lot of opportunity there.

The one thing that we are very active in is lobbying with the State Legislature to have the State Funding formula revised to reflect, as it once did, benefits for communities that have a abnormally high percentage of their population with children in the schools and/or rapid growth.

The third thing that we're going to have to get a handle on, by one of a number of means under consideration is what Mr. Tyler mentioned, which is the rate of rise of benefit costs. So, if you look at the key drivers the key things that raise expenses; those are the things where we think we're going to put our energy to in an effort to look downstream. Not a lot we can do about utilities, which are a bigger problem than all of us. He went on to say that he suspects that the Health

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Care part of benefits, in the large scale, a national problem, he was sure there were some things at the local level they can accomplish.

Those are the things that we're doing to think long term, and we're not oblivious to the fact that this is a structural problem but we also know that we have a short-term thing that we really have to deal with this year.

Eileen Glovsky, LSRHS School Committee, said there wasn't a lot that could be added to this except going back to what had pointed out in her presentation which is that the State and Federal government have reduced their commitment to education significantly over the last few years while touting the fact that they are in support of education. They have truly shifted the burden of funding education down to the property taxpayers. We will work with our State Legislators in looking at the funding formula and hoping to get something. But with the reduction in taxes at the Federal level and in the State Income Tax, there are fewer revenues to come here to support us. She asked the Hall as well, to talk to their State Legislators and to look at the federal side to try to increase those revenues, because we may have had cuts, they're really shifting that burden down to the most regressive tax, the property tax.

Frank Riepe, 54 Newbridge Rd, is against the Override. In addition to all the figures they've heard so far tonight it's important the Hall understands that according to the latest figures from the Massachusetts Department of Revenue there are approximately 254 Towns in Massachusetts that have a lower tax rate than the Town of Sudbury for Fiscal Year 05.

To name a few, they include:

- Concord
- Wayland
- Weston
- Wellesley

This Override that's proposed is an astonishingly large Override. This would drive people out of town and urged the Hall to vote against this Override.

Milton Jones, 29 Moran Circle, wanted to know what the class sizes are in Sudbury?

Bill Braun, Chairman of the Sudbury School Committee, was called on by the Moderator to answer the question; he replied that the average class size in K-5 is about 23 pupils, which is to say that's the average if you divide the total number of students by the total number of sections offered. If you look at a year at a school it will vary around that substantially because we have either four or five class sections at each level in each school. Depending on the enrollment in that particular school, that figure may be significantly different.

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Mr. Jones said that we need to think outside the box and do something along the lines of what FinCom has been recommending for some past years; we need to get creative.

Don Hutchinson, 15 Pendleton Rd, made a comment. He urged the school system in Sudbury to develop a program to make greater use of computers in the classroom for educational purposes.

Thomas Hollocher, 623 Concord Rd, is against this Override and intends to vote against it. He's sympathetic to the fact that many of the Town Departments probably do need additional money, but has less sympathy with the schools. Concerning this matter of becoming creative, he had offered the suggestion that extra-curricular affairs, particularly in the High School should be privately funded and removed from the Town Budget. He's for education and his opinion on extra-curricular activities for the past few years has had nothing to do with education.

He had a question for the two School Committees. He wanted to know the total cost direct and indirect of extra-curricular activities as of last year.

Bill Braun, School Committee, while he's waiting for the figures to be put up on the viewgraph, he said they do access a fee that largely offsets those. He confessed that they do that reluctantly because many of these extra-curricular activities are an important adjunct to education. Although we do it reluctantly, we do it because we have to, in order to make the budgets work.

The figures are as follows:

- | | |
|-------------------------------------|----------|
| • Athletics | \$37,902 |
| • What's paid by the Revolving Fund | \$24,225 |

The Revolving Fund is what we use to manage fees. The total payment on extra-curricular activities are \$13, 677 out of a \$27M budget.

Stipends for teachers who run clubs are \$20,664 and of that about \$14,600 is paid through the Budget. The Revolving Fund pays the remaining \$6,000. Those are approximately the costs of the way they break down in terms of what we pay and what is offset.

He wanted to address the comment made by the prior speaker who may have created some misconceptions. Sudbury has half-day Kindergarten which the speaker implied we did not; Newton has or must have, as we do, Pre-K classes because it is required by Special Education laws. So that's not apples and apples, and as we all know Newton's cost per student is well above Sudbury's.

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Eileen Glovsky, Lincoln-Sudbury School Committee, commented on the question posed by Mr. Hollocher.

This is the information that had been shown on the viewgraph:

Athletics	\$334,000
Fees taken in from the LS students	\$ 85,000

James Gardner, 4 Longfellow Rd., had a question. It concerned the \$36,360 that is in excess and represented by the Limiting Motion over the amount published on page 8 of the budget in the Warrant. He believed the initial answer was that money was in the Debt Assessment for Lincoln-Sudbury and wanted to know where the money is coming from. There was an Override vote last week of over \$3M and the apportionment of that money is very detailed but does not show this \$36,000. Is the Limiting Motion going to end up exceeding the amount authorized by Prop 2 ½ and by the Override Budget?

Maureen Valente, Town Manager, said because the Debt is excluded from 2 ½ when it was voted years ago for the Debt Service, as it goes up or down, depending on if Debt is issued, it's raised outside of that, so it doesn't affect the Override number. That's increasing the amount of levy; this is outside of that amount.

Ivan Lubash, 25 Barbara Rd., made a couple of brief comments. All the curves show that the school population is increasing and wanted to remind the Hall that back in the 1970's we had the same thing; we closed three Elementary Schools and one of the wings of the High School was closed. Therefore, the curve is not going to always go up.

Secondly, he said he had heard on Channel 8 that Lincoln only pays for the number of students who attend the High School, those that go to Private School are excluded. Carrying that number further, Sudbury residents whose children go to Private High Schools should also get a deduction. Going way back Lincoln – Sudbury Systems had agreed it would be proportional, but believed that was proportional to the number of residents or students, not those that attend the High School. He thought that should be corrected.

Kirsten VanDijk, 37 Landham Rd., wanted to remind the citizens here that class size and new schools should not be the focus of your child's education and that Sudbury is going through tremendous change and we have to change with it.

Mark Libby, a resident of Patricia Rd., had a question. He wanted to know about class size, the student to teacher ratio, and the growth issue being shown on the screen and was curious to know if there was more than one teacher in a classroom.

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Bill Braun, School Committee, replied saying that the class sections and our class sizes are based on the number of professional accredited full-time teachers that are considered classroom teachers professionally and it's by actual count. We have part-time Aides that spend a fraction of their time in each classroom, at this point they're only a small part of part-time. So you're going to get erroneous calculations. You can't just divide the number of kids by the number of staff of some sub-staff and end up with an accurate count. The numbers you see on the viewgraph are real; we don't make these numbers up. They're subject to audits, and urged everyone to go by the actual official school numbers.

Secondly, in respect to the growth issue, the whole growth issue is irrelevant at this point, we're not asking you at this point to build a new building, never-the-less, there are some forces that will cause growth to continue and we should be aware of those.

The Moderator called on Superintendent Ritchie for LS to comment on class size. He said he didn't want to take much time because essentially it echoes what Mr. Braun said. He said you come up with a number like 8 if you take all of the adults working in the building and divide that by the number of students.

That includes:

- Librarians**
- Counselors**
- Special Ed Teachers**
- Special Ed Aides**

By watching the classes in the main academic areas and anybody who's a parent here knows the number is nothing like 8 to 1. Student load has increased by 15% - 20% and our class sizes have gone up dramatically. As Mr. Braun said, it's a question of taking the whole aggregate which gives a misleading number.

The Moderator said that the question has been called and we're now going to vote on the Limiting Motion and asked for it to be shown on the viewgraph. He asked the Hall for all those in favor of the Limiting Motion to please raise your card, all those opposed.

The Moderator announced that there was an overwhelming majority, both in the Auditorium and in the Cafeteria.

The Limiting Motion has PASSED.

Mr. Fox said we will now move on to the main Motion on the Override Budget.

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Bob Jacobson, Finance Committee, Moved that the Town appropriate the sums of money set forth in the Warrant under Article 5 in the column "FinCom FY06 Override", for Fiscal Year 2006, except as follows:

LSRHS (Debt Assessment) \$2,461,086; the following items to be raised as designated, by transfer from available fund balances and interfund transfers:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
<i>Ambulance Reserve for Appropriation Acct.</i>	<i>200 Public Safety</i>	<i>\$210,189</i>
<i>Free Cash</i>	<i>900 Uncl/Benefits</i>	<i>\$800,000</i>
<i>Abatement Surplus</i>	<i>900 Uncl/Benefits</i>	<i>\$543,450</i>
<i>Retirement Trust Fund</i>	<i>900 Uncl/Benefits</i>	<i>\$25,000</i>

the sum of \$5,107,457 set forth as Sudbury Public Schools Employee Benefits to be immediately transferred and added to Item 900: Town Employee Benefits, so that the Employee Benefits total will be \$8,231,764, to be expended under the direction of the Town Manager; and to authorize the purchase of equipment funded under this budget by entering into lease-purchase agreements.

The motion received a second.

FINANCE COMMITTEE: Is in favor of this motion.

BOARD OF SELECTMEN: Supports this.

The Moderator reminded the Hall, as he had said at the beginning; we are now on the Budget check-off list.

He said he would proceed to go over the major categories one by one and told the Hall if anyone had a question on that specific area or a Motion to Amend, to please raise their hand, whether in the Hall or in the Cafeteria.

Does anyone have a Motion to Amend or a Question on the schools? Any of the schools: Minuteman, LSRHS, or the local school?

Patrick Noonan, 6 Spruce Ln., said he had just moved to Town from Washington, DC where we had heat pumps and they didn't work very well; this school has heat pumps and currently we're spending anywhere from \$40,000 to \$58,000 a month for electric fees for just the High School. He noticed in the Budget, the Override includes money for utilities and wanted to know how much they expect to spend in the future. What are we doing to change this, what efficiencies are going to be achieved from the system, or the changes at LSRHS?

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John Ritchie, LSRHS Superintendent, replied to Mr. Noonan's question. They are in the process of getting the whole HVAC System balanced which takes almost a full cycle to run through, but have already realized significant efficiencies just from the summer, when in order to get the system commissioned, everything had to be running. The costs have decreased steadily since the summertime. As we get everything balanced, turn the lights off when we want, have a system that is actually finely tuned enough. When that happens we can have classroom lights that are geared to exactly when people are going to be in there. At that time, they're really going to realize more and more efficiencies as the months and years pass.

James Gardner, a resident of Longfellow Rd., wanted to know about the transfer of money from the SPS Employee Benefits line down to line 900. He was concerned that in future years we are going to be hearing that the costs per student we're spending in the local schools has gone down dramatically and would like to understand the benefits to the Town of moving that money around.

Maureen Valente, Town Manager, answered Mr. Gardner's question and concerns about transferring the monies. She explained the reason they do this is so they can get a fuller understanding of the costs of the Elementary School System but all the benefits belong in one line item. You must have a Treasurer to administer a Benefits Program; it's in conformance with State Law. This is a mechanism the way its shown, so that it's more transparent how much of the benefits are attributed to the Schools versus the Town, but it must all be spent out of line 900.

Thomas Hollocher, a resident of Concord Rd, wanted clarification in the High School Budget; the meaning of the estimated receipts, showing \$473,000 roughly.

Eileen Glovsky, Lincoln-Sudbury School Committee, explained that's largely composed of user fees, the fees they charge for the extra-curricular activities, athletics, parking fees and a variety of other fees that we impose upon the students that we can.

Mr. Hollocher asked if he understood correctly that the un-reimbursed extra-curricular activities constitute an expenditure of roughly \$400,000.

Ms. Glovsky replied: "Yes."

Mr. Hollocher started to make a Motion to Amend the High School Budget when the Moderator reminded him of the Town Meeting procedures.

He was asked by the Moderator to write it out, and then he would recognize him in a few minutes.

Ralph Tyler, One Deacon Ln, had a couple of questions for the K-8 system.

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- 1) First, he didn't know what the Lease Purchase was.
- 2) Second, if you spend the \$25,809,552M as you're planning, how many additional unfunded liabilities will be accrued for teacher pensions as a result of those expenditures?

The Moderator asked Mr. Tyler if those were questions for the local schools. Mr. Tyler replied: Yes.

Bill Braun, Sudbury Public School Committee, said the Lease Purchase items are copying machines, we've made a determination that's the most cost-effective way to use them.

With respect to teacher pensions, there is no liability there, the MA Teachers Retirement Fund. As far as benefits go in the Budget, benefits for all staff are included in the benefits amount that you saw up on the viewgraph. One of the reasons it's done this way is so the Town can see what the total cost of School versus Town, versus High School employees are, including their salaries and their benefits.

With respect to the previous question, there has not been, and will not be a change in the trend analysis. The per-pupil expenditures have always been calculated in the same way, they're calculated by the state using adjustments where appropriate, so you're comparing apples and apples when you're comparing Districts. He said he hoped that answered both his questions.

Richard Payne, 15 Thoreau Way, wanted an explanation from LS on the School Committee Expenditure on page FC15 of the Warrant under Operating Budget. He wanted to know what the expenditures were for.

Eileen Glovsky, LS School Committee, explained that those were some legal fees for some Special Education cases that included some settlements for tuition to schools.

The Moderator asked if there were any other questions on the Schools. He addressed Mr. Hollocher telling him that he was running out of time. He had only two of the three copies for his amendment ready, so Mr. Fox told him they'd share.

The Moderator said he was going to propose something, and he could tell him if he liked it, to say so moved; Mr. Hollocher agreed.

The Moderator asked for the Hall's attention. He addressed Mr. Hollocher and asked him if he would like to:

Move to Amend Lincoln-Sudbury Regional High School Operating Assessment by decreasing the Budget Amount there by \$400,000.

Mr. Hollocher answered, So Moved.

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The motion to amend received a second.

The Moderator told Mr. Hollocher he could now explain how that relates to a specific topic.

Mr. Hollocher said the information we received earlier in the evening from the Lincoln-Sudbury High School Committee was that currently the un-reimbursed expenditures for extra-curricular activities amount to some \$400,000. The rest of extra-curricular activities are supported by fees from the students themselves and the point of this amendment is to place all of extra-curricular activities on a fee basis or otherwise on a private basis and remove this from the public funding.

Eileen Glovsky, LS School Committee, said she thought it was important to note everyone on the School Committee really believes that athletics is an intricate portion of education that we provide at this High School. We started with a fee in FY90 of \$100, went to \$125 in FY99 and in FY04 went to \$135. Currently and in the Budget for FY06 we're looking at \$165 per student, per sport. A back of the envelope calculation, if this were to pass and we were required to make these sports fully self-supporting it would be approximately \$550 per student, per sport. Which she thought would make it effectively out of the reach of many of the students within our town and compromise the education we would provide here. If you looked back to your experiences in High School there were teachers you remember, but oftentimes the experiences of working with a team, being successful were extremely important and the ones that you carry forward with you into life. We would definitely be against the passage of this.

Bob Jacobson, Finance Committee, thought it was important that the Hall understands how the School Budgets work. Both the LS and K-8 School Budgets are bottom line Budgets. They are not restricted by any line items like the Town is, although he understood Mr. Hollocher's point, reducing the Budget by \$400,000 does not necessarily mean that athletics would have to be reduced. The School Committee, in its prerogative, could take the \$400,000 anywhere they like in the Budget. The Finance Committee is not in favor of Mr. Hollocher's motion.

John Drobinski, Selectman, said that the Board of Selectmen does not support this motion.

Jan Hardenbergh, 7 Tippling Rock Rd, also thought that the extra-curricular activities were an important part of public school education.

A call for the question was moved and seconded. It was well more than a 2/3 vote in both Halls, so we now move to the Amendment.

Mr. Fox asked for all those in favor of the Amendment, to please signify by raising your card, all those opposed.

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It is overwhelming negative in both Halls, so the Amendment is DEFEATED.

The Moderator was handed another Amendment and asked the person to come forward. He said he would read a motion and you tell me if that's what you'd like to do.

Move to reduce the Sudbury Public School Growth Budget by \$1,147,941 so that the appropriation is \$24,661,611.

The resident replied, So Moved.

The motion to amend received a second.

Fred Boland, a resident of Candlewood Cir, had a comment. He said he thought it was time to send our various boards a message; they can't keep asking for more and more. There has to be a point where the people who are asking for money have to take responsibility for it.

Bob Jacobson, Finance Committee, said that the Finance Committee is not in favor of the motion.

John Drobinski, Selectman, said the Board of Selectmen is not in favor of this motion. He also wanted to reply to the residents comments that the FinCom and Board of Selectmen are somewhat independent of the budgetary process; he said they look at the entire town as a unified town. They look at the schools as entities, and they came to the unanimous decision that this is required. Based on Public Safety concerns, concerns that both School Committee's presented to them, as well as, the Town Manager. He went on to say that they take their job very seriously; they're all citizens of this town also. So the impact that you feel, we feel. This is all of our community and we understand the decisions we make here affect all of us.

The Moderator asked those who are confused, to turn to page 8 in the Warrant. The very first item is Sudbury Public Schools: Gross. If you look at the last column, it's \$25,809,552; that is the Override amount recommended by the FinCom and the Selectmen.

The Amendment is to reduce that amount to the next column to the left for the Non-Override amount of \$24,661,611. That's the Motion to Amend. He then asked the School Committee to comment.

Bill Braun, School Committee, the School Committee obviously doesn't support this amendment for reasons he said they had described pretty much in full. The Budget is developed carefully, responsibly, and urged the residents not to vote for this Amendment.

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Christopher Stubbs, a resident of Weir Hill Rd, was against the Amendment. He said that the schools are one of the quality shared assets we have; it's what made him move here, it's why your housing values go up. He is adamantly opposed to this Amendment.

Jennifer Gardner, Longfellow Rd., wanted some clarity. It seems the Override money is being used to cover increases in costs that the town, in cases, can't control, such as: Increased Benefits and Salaries (to some degree). Is any of this money being used to provide new services?

Bob Jacobson, addressed Ms. Gardner's question. Their understanding is that this budget will keep them a little bit better than level service from FY05 and not get them any where near the level they were at for FY04.

Ralph Tyler, Deacon Rd., said as we prepare to vote on this, he wanted to remind the Hall that this \$1,147,000 is part of a \$3M Override. Last night the Selectmen told us that basically our houses are going to be unsalable if there was a \$3M addition to the property tax bills in Sudbury, so as you contemplate this particular reduction you might think about it in the context that was mentioned last night, which is that your house is going to be a lot less salable when the tax rate goes up as a result of this.

The second point he wanted to make was when you think about this there's no doubt in his mind, if the School Committee wants to maintain those services they could find creative ways to means test the extras given to the students beyond the state mandated levels of service; so that all Sudbury families, who in fact were stretching their budgets in order to pay the fees would be granted exemptions if they applied and went through a lengthy scrutiny of their finances. Whereas those with multi-hundred thousand incomes, would in fact, be paying the bulk of this \$1,147,000. So, let's look to the School Committees to find ways to become creative and find ways to impose fees with means testing so that everyone can participate.

Dave Costello, Balcom Rd., was for the Override Budget. We talk about benefits, but those are mostly health care costs. All of our health care costs are going up at double digits, same for the Town. The Town employs 750 people and we've got to pay along with the employees for those increases. So, to say that everything should be within a 2 ½ ceiling every year is going to be awfully tough.

The Moderator announced that the question has been moved and was seconded.

There was an overwhelming two-thirds majority vote in both Halls.

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Mr. Fox said we will now move to the Amendment, what you see on the viewgraph. All those in favor of the Amendment, please signify by raising your card, all those opposed.

The Moderator announced that it is overwhelmingly opposed. The Amendment is DEFEATED.

At this time he went through the line items.

- 100 General Government
- 200 Public Safety
- 400 Public Works
- 500 Human Services
- 600 Culture & Recreation
- 900 Town Employee Benefits
- 900 Townwide Operating & Transfer Acct.

There was only one question by a resident on 900: Town Employee Benefits. He wanted the Town Manager to describe what cost sharing provisions there were for Town Employees in the Benefits package.

Maureen Valente, Town Manager, addressed the question. The benefits provided for the employees include Health Insurance, and those vary according to the plan. One plan is 75/25 split, the Town picking up 75% the employee 25%, up to the HMO's which can be 90/10 split with the Town. The Benefits also includes the Pension, the benefits depend on when an employee was hired, and the contributions range from 5% of their pay up to nine plus two depending if they were hired in the more recent years. On the viewgraph; you can see it exceeds what Social Security is in terms of a contribution towards the pension. As for the school employees, the teachers contribute to their own pension, and the State picks up the balance; the split is between the State and the employee; With the Town employee, it's between the employees and the Town. There are various other small benefits that are in that Budget, for instance, Medicare, which is required for all new employees that we have to make a contribution towards. Tiny amounts for Life Insurance and small amounts for Dental, are split 75/25.

There were no more questions or amendments so the Moderator announced that we're ready for the vote on the main motion. He asked all those in favor of the main Budgetary Override motion please signify by raising your cards, all those opposed.

The motion under Article 5 was UNANIMOUSLY VOTED.

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ARTICLE 6. FY05 BUDGET ADJUSTMENTS

To see if the Town will vote to amend the votes taken under Article 4, FY05 Operating Budget, of the 2004 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. Fox recognized John Drobinski, Selectman, for the motion.

Mr Drobinski *Moved to appropriate the sum of \$55,000, to be added to the amount appropriated under Article 4, FY05 Operating Budget of the 2004 Annual Town Meeting under Public Works; said sum to be raised by transfer of \$55,000 from Free Cash.*

That motion received a second and the Moderator asked Mr. Drobinski to make the presentation.

He replied saying that Sue Petersen, Finance Director, would make the presentation. She said this Article is really a housekeeping Article, that will remove a deficit from our books which originated in the early 90's when several street projects were not fully reimbursed by the State's Chapter 90 program as had been anticipated. Under Chapter 90 Towns pay for authorized road improvement projects up front out of their own funds, then after the conclusion of the project grant reimbursement requests for these expenditures are submitted. Often these projects continue over several years. To explain now why we're dealing with something that goes back a decade or more she gave the Hall some historical perspective. Any deficit in any funded year-end according to the Department of Revenue has to be raised and the amount of Free Cash certified is negatively impacted dollar for dollar as long as that deficit exists.

However, until recently municipalities were allowed to report the aggregate balance of all Capital Projects at year end. This meant that any deficit in any individual project would be offset by balances in other projects, therefore, we wouldn't have any deficits to report and there would be no negative impact on Free Cash. However, we're now required to report each Capital Project separately showing individual balances for each project. No longer are we allowed to offset deficits with other project balances. We were hopeful that continued research would determine that there had been a recording error that we could have corrected with an adjusting journal entry, but that proved not to be the case

So, this year upon certifying Free Cash the Bureau of Accounts at the Division of Local Services advised that the Town must appropriate funds to clear that deficit. The Bureau has warned that failure to appropriate the necessary funds could result in withholding our Free Cash certification in the future and may delay

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the quarterly State Aid payments in Fiscal 06. Passing this Article will favorably impact the amount of Free Cash that will be certified and available at the close of FY06, as well as, insure that the quarterly distributions will not be delayed. She urged a vote in favor of this Article.

FINANCE COMMITTEE: Is in favor of this Article.

Robert Coe, 14 Churchill St, didn't know if he'd missed hearing why these amounts had not been reimbursed by the State back in the 90's, that was expected to have been, that had caused the original debt in the first place.

Sue Petersen, Financial Director, replied that there were several projects they found, some were cost overruns they had no control over: the Landham Road Bridge project that was closed by the State, as an emergency situation and some of the costs that were incurred that we thought were going to be reimbursed by the State, such as temporary traffic lights, were not covered. All of the people that were involved with this are no longer with the Town and they thought possibly there may have been a situation where they did get reimbursed but it was deposited into the General Fund, which means that money would have closed out to Free Cash in previous years. Nowhere could they prove that they had requested reimbursements and not received them. She said they had spent a lot of time with the auditors and they're satisfied that it was probably either a bookkeeping error or cost overruns they had no control over.

The Moderator asked if anyone else wished to be heard on this motion. Seeing no one, he asked all those in favor of Article 6 to please signify by raising your cards, all those opposed.

The Moderator declared that Article 6 was UNANIMOUSLY VOTED.

ARTICLE 7. 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)

Sue Petersen, Financial Director, Moved to Indefinitely Postpone consideration of Article 7.

The motion received a second.

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The motion to Indefinitely Postpone Article 7 PASSES OVERWHELMINGLY.

ARTICLE 8. FYO6 SOLID WASTE DISPOSAL ENTERPRISE FUND BUDGET

To see if the Town will vote to raise and appropriate, or appropriate from available funds, the following sums set forth in the FY06 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)

	Appropriated FY04	Appropriated FY05	Town Mgr Request FY06	FinCom Recommended FY06
Solid Waste Disposal Enterprise Fund				
Direct Costs (appropriated)	\$214,459.00	\$220,453.00	\$399,843.00	\$399,843.00
Indirect Costs (appropriated in general fund)			\$18,793.00	\$18,793.00
TOTAL: SOLID WASTE ENTERPRISE	\$214,459.00	\$239,246.00	\$418,636.00	\$418,636.00
Solid Waste Receipts	\$236,250.00	\$229,602.00	\$278,636.00	\$278,636.00
Retained Earnings Used	\$0.00	\$9,644.00	\$140,000.00	\$140,000.00

Marty Ragonas Finance Committee *Moved to appropriate the sum of \$399,843 for the Solid Waste Enterprise Fund for Fiscal Year 2006, and further to authorize use of an additional \$18,793 of Enterprise Fund receipts for indirect costs; such sums to be raised by \$278,636 in receipts and \$140,000 in retained earnings of the Enterprise.*

The Moderator asked if anyone needed an explanation as to why this is different from what appears in the Warrant. This motion as read was shown on the viewgraph. He asked if there were any questions on Article 8.

Seeing no one who had a question in both the Hall and Cafeteria he asked all those in favor of Article 8 to signify by raising their cards, all those opposed.

He announced that Article 8 PASSES OVERWHELMINGLY.

ARTICLE 9. FY06 POOL ENTERPRISE FUND BUDGET

To see if the Town will vote to raise and appropriate, or appropriate from available funds, the following sums set forth in the FY06 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)

	Appropriated FY04	Appropriated FY05	Town Manager Request FY06	Fin Com Recommended FY06
Atkinson Pool Enterprise Fund				
Direct Costs (appropriated)	\$395,375.00	\$405,078.00	\$426,212.00	\$426,212.00
Indirect Costs (appropriated in general fund)			\$58,434.00	\$58,434.00
TOTAL: ATKINSON POOL ENTERPRISE	\$395,375.00	\$452,264.00	\$484,646.00	\$484,646.00
Pool Receipts	\$441,356.00	\$400,000.00	\$426,212.00	\$426,212.00
Tax Levy	\$0.00	\$47,186.00	\$58,434.00	\$58,434.00
Retained Earnings Used	\$0.00	\$5,078.00	\$0.00	\$0.00

Marty Ragonas, Finance Committee Moved to appropriate the sum of \$426,212 for the Pool Enterprise Fund for Fiscal Year 2006; such sum to be raised from \$426,212 in receipts of the Enterprise; and further to authorize use of an additional \$58,434 appropriated under Account 900, Town Employee Benefits in Article 5, FY06 Budget, for indirect costs.

The motion received a second.

FINANCE COMMITTEE: The Finance Committee approves this Article and recommends support of this Article.

SELECTMEN: This Enterprise Fund is what keeps the Pool open; the Board of Selectmen strongly supports this Article.

The Moderator asked the Hall if there were any questions.

Thomas Hollocher, a resident of Concord Rd, said each year he rises to address this Article when it comes up. This Enterprise Fund for the pool is supposed to pay for itself and that was the original intention. We are more or less promised every year that that's going to happen but it doesn't. The difference

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between the pool receipts and the tax levy is only 12% and it seems to him that would not be an onerous increase in usage fees for the people that use the pool.

John Donovan, Old Orchard Rd, was curious to know what Town Employee Benefits we're paying, for this essentially semi-private, semi-public pool.

Dennis Mannone, Park & Recreation Director, said the benefits would include three full-time employees at the Management level: Supervisors, and also a Head Lifeguard.

The Moderator seeing no one else, who wanted to be heard on Article 9, asked all those in favor to signify by raising your cards....He was interrupted by Mr. Hollocher who said he wanted to make an Amendment.

Mr. Fox asked him what the Amendment was going to be. Mr. Hollocher said the amendment would be to decrease the Tax Levy of \$58,434 to "0" on Article 9.

The Moderator explained that he was informed by Legal Counsel that your Amendment cannot be heard, and the reason is because this money has already been appropriated under the Budget Article, Article 5. What you can do is move not to use the money that has already been appropriated; but an Amendment couldn't be made at this time because he had already started to ask for the vote. He told him the next time to write it out on a piece of paper and bring it to him.

The Moderator announced that we are now going to move to vote on Article 9. All those in favor of Article 9, signify by raising your cards, all those opposed.

It's nearly unanimous in the Cafeteria and only about a dozen negative votes here in the Hall.

The Moderator declared that Article 9 PASSES OVERWHELMINGLY.

ARTICLE 10. FY06 CAPITAL BUDGET

To see what sum the Town will vote to raise and appropriate, or appropriate from available funds, for the purchase or acquisition of capital items including, but not limited to, capital equipment, construction, and land acquisition; and to determine whether this sum shall be raised by borrowing, lease purchase or otherwise; or act on anything relative thereto.

Submitted by the Capital Improvement Planning Committee.

(Two-thirds vote required, if borrowed)

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CAPITAL ITEMS – NON-OVERRIDE BUDGET COST	ESTIMATED
1. Information Systems – Upgrade Town Telephone Systems	\$45,000
2. Atkinson Pool – Dive Well and Filter Room Heaters, Chemical Monitoring System, Pool Vacuum System	\$21,450
3. Building Inspector – Various Town Building Improvements	\$20,000
4. Department of Public Works – Fleet Replacement Schedule	\$84,240
5. Complete Exhaust System Installation at Fire Stations (To be funded by transfer from available funds)	\$23,000
	TOTAL: \$193,690

CAPITAL ITEMS – OVERRIDE BUDGET COST	ESTIMATED
Items 1-5 above	\$193,690
6. Department of Public Works – Additional Fleet Replacement	\$79,310
	TOTAL: \$273,000

Kirsten Roopenian, Chair of the Capital Improvement Planning Committee (CIPC), *moved to appropriate the sum of \$273,000 for the purchase or acquisition of capital items including capital equipment and construction improvements; said sum to be raised by transfer of \$15,974 from 1995 Annual Town Meeting Article 19, Library Construction; \$1,999.75 from 1990 Annual Town Meeting Article 24, Fire Headquarters; \$1,000 from 1997 Special Town Meeting Article 3, Fire Station 2 Repairs; and \$4,026.25 from 1997 Special Town Meeting Article 1, Purchase Meachen-Meggs Property; and the balance to be raised by taxation; and to allow the purchase of equipment hereunder by entering into a lease-purchase agreement.*

The motion received a second.

The Moderator pointed out to the Hall, before Ms. Roopenian made her presentation, this Article only requires a Majority vote, because there's no borrowing here. If borrowed it would require a two-thirds vote.

Kirsten Roopenian, Harness Lane, Chair for the CIPC, said before she made her presentation she wanted to point out what this committee actually is. The Capital Improvement Planning Committee is required by our Town Bylaw and

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Mass. General Law 41 to make recommendations to the Town for a Capital Budget. They studied the proposed projects and all the major changeable assets which have a useful life of five years or more and a single year cost of \$10,000 or multi-year cost of \$100,000. The Capital Planning preface is that the Capital needs and requests requiring Town Meeting action for this next six years are submitted to the Committee. The meetings are held with staff to gain information and the Capital Investment Committee evaluates and prioritizes these capital requests. Along with the staff, the committee develops a financing strategy and prepares a recommendation which is given to the Finance Committee.

The criteria for the evaluation that we look at is that these projects are either a risk to public safety, they preserve a material asset, such as trucks, improvement of operating efficiency, a coordination of services and planning, systemic replacements, and equitable provision of services, so that one department is not getting more than another. The recommended projects this year total \$273,000.

They include:

- **The upgrade to the Town Telephone systems**
- **The Atkinson Pool**
 - **Dive well and filter room heaters**
 - **Chemical monitoring system**
 - **Pool vacuum system**
- **Town Building Improvements**
- **DPW Fleet replacement**
- **Finish the Fire Department exhaust systems in Station 2 and 3**

If anyone has further questions on these particular items, there are people from the departments that can address them, but those are also in the Warrant on page 11.

The Capital Improvement Planning Committee urges support of this Capital Budget, because the problems typically get worse if they're not addressed. The departments need their equipment in order to get their jobs done to meet, your, the town's expectations. If we delay longer, and the longer we delay we'll have to do a lot of these projects all at once. This will end up costing the Community a lot more than we had intended. The longer we put these things off, the more costly they become. The Committee has thoroughly examined the projects that are before you and they are very important to the community. We urge your support.

David Levington, 155 Nobscot Rd, had a question. He referenced the lease-purchase agreement, was curious and just wanted to know if this could be explained. Is the entire cost of the equipment involved covered by this Article or does a lease-purchase involve a commitment for future Town Meetings for further expenditures?

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Maureen Valente, Town Manager, replied that we have been doing lease-purchase for the really sizable DPW vehicles. If you look in your Warrant under the DPW Budget you'll see an annual amount allocated for a payment of a lease-purchase right now. So the way that works is, if there's a three, four, or five year bill, usually about four years. Each year we appropriate the amount for that years lease installment. At the end of that period the piece of equipment belongs to us. If the Town fails to appropriate in that year then the company can take back the piece of equipment.

Mr. Levington asked if there was an implied expense in the future years that is not included in this budget, that we're not legally obligated to pay.

Maureen Valente answered "Right"; we're not legally obligated right now, where there is a consequence if we don't. It's not like debt, where we pledged our full faith and credit; and we have to make that payment in the next year. We have the option of not making it, but there's a downside.

Mr. Levington asked Ms. Valente if the future amounts were in the Warrant and is there someplace that we can see what they are?

Ms. Valente answered "No"; they're equal increments for each year and said that they didn't have them here at this time.

While the Town Manager was checking the Capital Report the Moderator explained to the Hall that there is no motion. If there's a question you have, raise your hand and he'll recognize you.

Marty Ragonas, Finance Committee, addressed the Hall and said the Finance Committee feels the items in Article 10, including the Override portion, are necessary and critical. The upgrade of the Town's phone system will insure reliable communications, particularly in emergency situations. New Pool equipment is necessary for safety at one of our major assets. Maintenance is important for aging town buildings. Vehicle replacement at the Department of Public Works has fallen far behind schedule and there is an urgent need.

This Article will also accomplish a transfer of existing funds from completed Articles from prior years to finish the exhaust system installation at the Fire Station. Due to legal requirements these existing funds may only be used for other Capital projects for purchases. Part of the operating Override, this was passed at the ballot on March 28th. The Finance Committee recommends approval of this Article, including those items subject to Override approval.

Bill Keller, Selectman, said that this is the first of two Capital Articles that have been submitted and this is for items that are funded within the operating revenues without the need for borrowing. The Town tries to annually allocate

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approximately 1% of its Operating Budget for these Operating Capital needs. Operating Capital are those items that, due to their nature, cost, or frequency with which they need to be replaced, don't lend themselves to debt financing. For the most part, and it's because individually each item is not that expensive or if it is fairly expensive and there are similar items, one is bought each year; DPW truck, might be an example of that, if you need a few of them you'd buy one per year. Debt Capital on the other hand is for items that should last 15 years or more and something by itself would wipe out the entire 1% Budget for the year. That's capitalized, and that you'll see it the next Article, Article 11. The staff and Capital Improvement Planning Committee go through an exhaustive process each year to examine the capital assets of the Town and recommend those projects that contribute to our overall ability to provide critical Town services.

For the past several years we have postponed replacing or repairing many of our assets in an effort to minimize Capital costs. But there are a number of projects that are overdue for attention and to continue to defer them is not recommended for safety reasons because it only increases the backlog of costly projects. Any examination of how the Town handles its capital needs shows that Yankee thriftiness is the order of the day in Sudbury. When possible the Town acquires used vehicles and equipment and uses them long past their expected useful life. When one department is done with an asset they pass it down to another, the phone system is an example of that. When there is no way the asset can possibly be given any more service it might be traded in or used for parts. But even with that approach some funds must be allocated to keep the Capital Assets performing as they should.

Of the items in this group, we feel that funds for the DPW fleet replacements have been delayed much too long and this past winter indicates that without reliable trucks and equipment, timely removal of snow from icy roads and walkways cannot be done. The Board of Selectmen urges support of Article 10.

Bill Place, DPW Director, addressed Mr. Levington's question. He said ongoing leases right now of the six vehicles on lease at four to five years at a total of \$123,628. He came before the Capital Improvement Committee looking for additional vehicles over \$215,000; passage of this Article will give them \$163,000, so we're still going to be short.

Mr. Place explained what's happening. These vehicles are backing up and should have been replaced years ago and now we've got 1982, 1985 vintage vehicles. We do a five year projection on the leases and we'll be looking next year for \$440,000. With the passage of this Article we'll be one step closer to building up the fleet to function properly.

Fred Boland, Candlewood Cir., made a comment about speakers talking clearly and loud enough to be heard by everyone. He said that it was hard to follow

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along in the Warrant when he couldn't hear very well what they were saying. What vehicle was being replaced?

Bill Place, DPW Director, replied that it was plural vehicles being replaced: one being a 1982 Mack truck, a 1984 Snow Plow, and a 1989 Mack truck.

Mr. Boland asked if the Finance Committee intends to finance these replacement vehicle leases for every 20 years.

Maureen Valente, Town Manager, answered "No". The lease period doesn't exceed five years, and we've only been doing that for the last few years to try to get through the financial situation we've been in. Our goal is to get back to doing outright purchases. There are so many vehicles behind them that we almost have an equal amount of money we should be spending every year. This Article is an attempt to lease/purchase some of the bigger ones, but wean ourselves off doing that. Again, we don't do it for more than five years.

Mr. Boland asked if there was a schedule written out or plan for this.

Ms. Valente said we have a Capital Improvement program that lists a variety of things and we do put that on the Town web-site for anyone to look at and thought it had that level of detail in it. There is a two or three page list of vehicles and other capital assets for the Town that we plan six years out.

Hale Lamont Havers, 173 Morse Rd, wanted to know if the Capital Articles were additional Override Articles.

Maureen Valente, Town Manager, explained that there are two Articles here for Capital. The first one, Article 10, which is on the floor right now, does not require an Override. It is built into the levy, so the funds are already there; we're asking Town Meeting to appropriate them.

The next Article, Article 11 which we will ask for an appropriation on, are funds that do have to be raised in excess of Proposition 2 1/2; that was the Debt Exemption question. That would be moved to next. This one, the funds are already there, we are just asking for an appropriation.

Thomas Hollocher, Concord Rd, had two questions. One concerns the apparatus for the Atkinson Pool. Are we to expect that the Atkinson Pool Enterprise Fund will eventually reimburse for that or is this something separate from the Enterprise Fund?

The Town Manager answered that this is separate from the Enterprise Fund. Our recommendation is that the Enterprise Fund, while it can generate their direct operating Costs, does not appear to be able to fund systematic replacement of these pieces of equipment that seem to have a great impact on the safety of the users.

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Mr. Hollocher's second question concerns his puzzlement about the updating of the phone system. He wanted to know if the Town had a special telephone system, separate from, for example, Verizon or some other commercial telephone service. Also, in the written commentary of the Warrant at the bottom of Article 10 where it states that the systems will be moved from the Flynn Building to the Fire Department, the implication earlier was that the telephone systems are not reliable and don't work very well. It seems odd that one would be shuffled over to the Fire Department if it doesn't work very well.

The Town Manager said that the Fire Departments phone system, along with the one at the Community Center, is unreliable. The Flynn Building's system is very reliable. What we're trying to do is put a different line into the Flynn Building because that's where our servers are, a Centrex line provided through Verizon. This makes sense for this new project, to take the reliable system at the Flynn Building and move it to the Fire Department. We're always trying to do this with our equipment, which includes computers, our trucks, to move them around where we see fit.

Steve Blanchette, Bridle Path, was curious about the Meachen-Meggs Property mentioned in this Article that he thought we had purchased four or five years ago.

Maureen Valente replied that when we do Capital Articles, often it's our best guess at the time what the amount is, we need an appropriation for a certain amount. Often we go ahead and borrow for those projects and there's little bits left over, we didn't need to spend to the last bits. Those monies just sit there in those Articles, what we're asking permission for at Town Meeting is to transfer those to the next project; which is the Fire Department continual enhancement of the air exchange systems so that the Firefighters are not breathing those diesel fumes. So you're right, Meachen-Meggs was a number of years ago, small amounts of money left, she thought that one was about \$4,000, from the new Fire Station about \$1,000, Fire Headquarters a little under \$2,000 and the Library construction project. All of those are balances left in Articles; we can't return them to bring down the tax rate because they were voted a certain way in Articles legally but they can be transferred to a similar use. That's what we're recommending to do, close out some of these old Articles and use that to bring down the cost of these projects.

John Donovan, Old Orchard Rd, expressed his concerns also about the Atkinson Pool. He also thought, like a previous speaker commented, that the Atkinson Pool was supposed to be self-supporting.

The Moderator announced that the question has been moved and seconded.

All those in favor of the call to question, please signify by raising your cards, all those opposed.

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The Moderator said it was well over two-thirds in both Halls. He said we are now voting on Article 10.

All those in favor of the Capital Budget as moved and shown on the viewgraph, please signify by raising your cards, all those opposed.

Mr. Fox announced that it was almost unanimous in both Halls. He said that the motion under Article 10 PASSES OVERWHELMINGLY.

ARTICLE 11. CAPITAL ITEMS - Debt Exclusion

To see what sum the Town will vote to raise and appropriate, or appropriate from available funds, to purchase some or all of the following capital items:

	Estimated Cost
Fire Department - Engine 5 Replacement & Assoc. Equipment	\$360,000
Fire Department - Station 3 Floor Replacement & Related Expenses	90,000
Fire Department - Bucket Truck & Associated Equipment	50,000
Building Department - Fairbank Boiler System Replacement & Related Exp.	130,000
Debt Issuance Costs	20,000
Total:	\$650,000

and to determine whether this sum shall be raised by borrowing, lease purchase or otherwise; or act on anything relative thereto.

Submitted by the Capital Improvement Planning Committee.

(Two-thirds voterequired, if borrowed)

Kirsten Roopenian, Chair, of the Capital Improvement Planning Committee, moved to appropriate the sum of \$650,000 for the purchase and installation of the items, or the remodeling, reconstruction and making extraordinary repairs to the buildings, as applicable, set forth under Article 11 of this Meeting, and for all expenses connected therewith, including bond and note issuance expense; and to raise this appropriation the Treasurer, with the approval of the Selectmen, is authorized to borrow \$650,000 under M.G.L. Ch.44, s.7.

The motion received a second.

Ms. Roopenian stated that this Article is the Article that was passed at the Town Election in March. These are the items that are typically too large to be put into the Annual Budget, the big ticket items, the big equipment. The CIPC recommends four projects that total \$650,000 including the issuance cost. The Town will issue a five year bond and the

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first year Debt Service is estimated at \$150,000. These are expensive items but provide a service to the community for many years to come. Each replaces an asset that is well beyond its expected life.

- The first one is to replace Fire Engine #5 which is a 1972 International; it has served well past its expected useful life of 15 years. This will cost \$360,000; the priority here that the CIPC recognized was its Public Safety and impact on costs. It has been repaired and repaired and repaired.
- The second item is to replace Fire Department bucket-truck, this is an estimated cost of \$75,000. Again this was approved at the 2004 Annual Town Meeting, but the used trucks with the needed specifications that we were looking for were not available in the \$25,000 range. This particular bucket-truck was acquired about ten years ago. It has served past its useful life, has maintenance, and safety issues.
- Replace Station #3 floor, this is an estimated cost of \$90,000. This is a 40-year old floor and is needed for the safety of our employee's. She noted this was done to Station 2 in 1997.
- The fourth item is to replace the Fairbank Boiler System for the entire building for \$130,000. The justification here is that the engineering report indicates significant safety issues for aged boilers. The Fairbank Center is our Emergency Shelter. If something were to happen in the Community, and we had to get to the Fairbank Center to find this system wasn't running properly, we wouldn't have anywhere else to go. The Council on Aging, the School Department, the Recreation Programs, would all be affected if the boiler were to fail. Maintenance and Utility costs are extremely high due to the age of this boiler. Savings through the replacement of this boiler would be estimated at \$25,000 annually in utility costs.

The Capital Improvement Planning Committee urges your support.

Bill Keller, Board of Selectmen, stated that the Selectmen unanimously urge your support. These are four expensive items and we don't want to pay for them in one years Budget. That's why we're bonding it over five years. At the end of the five years our tax bills will go down a small amount. The items will continue in service when we have finished paying for the bond, hopefully, for many, many, years to come. We urge a "yes" vote.

Marty Ragonas, Finance Committee, replied that this Capital item Debt Exclusion will be bonded over five years at an approximate cost of \$150,000 per year and will be excluded from the Prop 2 ½ Levy Limit. It's past time to replace

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Fire Engine 5, the bucket truck, and Station# 3's floor, in the interest of Public Safety and the safety of our Firefighters. Fairbank boiler replacement would increase the tax on the average house \$24. The Finance Committee recommends approval of this Article.

Daniel Sack, Nobscot Rd, had a couple of questions. He said on page FC-56, the description of the Stabilization Fund, states that it's used for large equipment purchases like Fire Engines. How much is in the Stabilization Fund now since it's going to be the next Article? His second question depends on the answer.

The Town Manager answered about \$1,600,000.

Mr. Sack said that he sees from Article 12 that we're about to put more money into this fund. If we have \$1, 600, 000 he wanted to know why we're doing Debt Exclusion instead of spending that money.

Maureen Valente explained the intent is in the future to have it so that taking that kind of money out of the fund it wouldn't affect our amount of reserves. We're recommended to have about 5% in reserves; most entities in Government, Towns, should have about that amount in reserves. The Stabilization Fund is our only emergency, rainy day funds that we've been trying to build up over several years, although we haven't been adding to it since about FY03. What we're hoping is that it will get to that level, that it provides our liquidity, our rainy day, our emergency money, and then we can use it to fund these types of acquisitions. We don't feel it's at that level yet.

The Selectmen will be moving to IP any addition to the Stabilization Fund because we don't feel there are any additional funds we can put into it this year. But it is part of our strategic planning to begin adding more funds to that. She thought they were about halfway there in terms of where they'd like that fund to get. It's a key part of our triple-A Credit rating; it's a key part of financial health and stability that we have some reserves.

Adam Miller, Nobscot Rd, had a question. In the presentation the bucket truck was quoted at \$75,000, as it's printed in the Warrant the estimated cost is \$50,000. How do those numbers add up?

Maureen Valente answered and said the total estimated price that the Fire Chief has looked at with the same specifications as the ones he needs for this vehicle are about \$75,000. Last year 2004 Town Meeting voted funds in the amount of \$25,000 for a used bucket truck, with the hope and expectation we could find a used vehicle in that price range. The Fire Chief was unable to find one in that price range; the appropriation we're looking for this year is \$50,000 to add to the \$25,000 to make up the total of \$75,000.

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A resident wanted to know what happens to the money from the sale of those trucks being replaced when sold?

The Town Manager said in general we cannot use them as a trade-in against the cost of a new one. Any assets that are sold, the money has to go into the General Funds. The law dictates that and it then becomes part of our Free Cash at the end of the year and is available for appropriation.

The Moderator seeing no one else who had further questions or comments announced that we are now ready for a vote on Article 11. He reminded the Hall this is a two-thirds vote because there is borrowing involved.

All those in favor of Article 11, signify by raising your cards, all those opposed. The Moderator announced there was well more than a 2/3 vote in both Halls.

He declared that the *motion under Article 11 was UNANIMOUSLY VOTED.*

ARTICLE 12. 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. (Two-thirds vote required)

John Drobinski, Board of Selectmen, Moved to indefinitely postpone consideration of Article 12.

The motion received a second.

John Drobinski reiterated what the Town Manager had explained earlier. Because of Budgetary constraints we don't feel its appropriate to put money into the Stabilization Fund at this time, however, the Board feels in the upcoming Fiscal Year we can put money into this fund. As the Town Manager said it's one of the key elements for us getting a Triple-A Bond Rating, the Town is committed to keeping that Triple-A Bond Rating because we save significant amount of taxpayers money in any Capital Projects we do.

FINANCE COMMITTEE: The Finance Committee recommends Indefinitely Postponing this Article.

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As no one else wished to be heard, the Moderator took a vote. He asked all those in favor of the motion to raise their cards, all those opposed.

The motion to INDEFINITELY POSTPONE Article 12 – Stabilization Fund was VOTED.

The Moderator announced that we were going to discuss Articles 13, 14, and 15 together, but we have to vote them separately. He understands that Michael Fee who'll be making the presentation will be Indefinitely Postponing all three.

ARTICLE 13. WILDLIFE HABITAT STUDY OF HOP BROOK WATERSHED PONDS

To see if the Town will vote to raise and appropriate, or appropriate from available funds, or raise by any other means, the sum of \$7,500, or any other sum, to engage a qualified consultant to conduct a wildlife habitat study of the Hop Brook watershed ponds, or act on anything relative thereto.

Submitted by Petition. (Majority vote required, two-thirds only if borrowed)

Michael Fee, Henry's Mill Ln., *moved to Indefinitely Postpone Article 13. The motion received a second.*

Mr. Fee made a couple of comments about why these Articles are being Indefinitely Postponed. The petitioners who brought forth these Articles are a group of hard-working volunteers who are deeply concerned about the degraded conditions of many of the ponds and waterways in Town. The Hop Brook waterways have suffered extensive damages over the years as a result of the Marlborough Wastewater Treatment Plants dumping of Phosphates up-stream. This allows invasive plants to prosper and ultimately choking off the entire water system from late Spring to early Fall. The Grist Mill Pond and the Carding Mill Pond are the closest to the Wastewater Treatment Facility and are the hardest hit. These are the ponds that face one of Sudbury's greatest assets, The Wayside Inn. In recent months the Town has taken some major steps to remedy these issues. It has elected to engage in the appellant process surrounding the issuance of the federal and state permits forthwith, the Wastewater Treatment Facility in Marlborough.

The Selectmen are peer poised to constitute a Ponds and Waterways Committee whose charge it will be to access the quality of all the Ponds and Waterways in Town, as well as, to come up with a Master Plan to deal with their use and their preservation going forward. It's equally important however that we focus on the near term clean-up and remediation of the ponds that are already so damaged.

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Article 13 sought funds to conduct a Wildlife Study which would be required by the Conservation Commission in connection with any type of permitting or remediation for these ponds.

Article 14 sought funds for an in-depth study of a variety of potentially near-term remediation efforts for Carding Mill Pond.

Article 15 sought funding to conduct a harvesting program which would actually remove unwanted plant growth from Carding Mill.

The group discussed these Warrant Articles with various Town Boards and interested persons throughout town and the Conservation Commission voted unanimously to support all three Articles, as did the Planning Board. In our discussions with the Selectmen it was suggested to us that Community Preservation administrative funds might be available to fund the studies called for under Articles 13 and 14 and in subsequent discussions with that Committee, it appeared to us that seeking CPA funds would be a better method of accomplishing these goals than trying to overburden an already tight Town Budget this year.

Finally, the Hop Brook Protection Association has generously offered, yet again, to fund a significant portion of the expenses associated with harvesting Carding Mill Pond in the summer of 2005 thus eliminating the need for additional funds under Article 15.

He thanked all the committees and individuals that he had just mentioned for their efforts in connection with these Articles and looks forward to working together with them in the future to solve these problems in Hop Brook.

FINANCE COMMITTEE: the Finance Committee supports the motion on the floor to Indefinitely Postpone Articles 13, 14, and 15.

John Drobinski, Board of Selectmen, said that the Board of Selectmen is committed to working with the Ponds and Waterways Committee, the ConCom, the Wayside Inn Trustees, Board of Health, and the Planning Board to move forward in reclaiming the quality of the water and our service for the Town which has been impacted by the Marlborough Wastewater Treatment Plant. We will be working very diligently with these committees and recommend Indefinite Postponement for all three Articles.

Martha Coe, 14 Churchill St, wanted to know if any of the committees, boards, or individuals mentioned were here, where it was now 10:30 pm to present their side of the story.

The Moderator explained to her that the issue is whether or not you want to Indefinitely Postpone these 3 Articles.

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She replied that she thought it would be better to table this to the first order of business tomorrow night so that the people who have worked very hard and put up money and everything can be here to discuss the Articles.

Since there was no one from any of these Committees, or Board of Health who wanted to be heard, the Moderator announced that we were going to move forward with the Articles.

Seeing no one else who wished to be heard on the Indefinite Postponement of Articles 13, 14, or 15 , we'll proceed with the vote; only on the Motion in front of you which is to Indefinitely Postpone Article 13.

All those in favor signify by raising your cards, all those opposed.

The motion to INDEFINITELY POSTPONE Article 13 –Wildlife Habitat study of Hop Brook Watershed Ponds was UNANIMOUSLY VOTED.

ARTICLE 14. STUDY OF NEAR-TERM REMEDIATION OF CARDING MILL POND

To see if the Town will vote to raise and appropriate, or appropriate from available funds, or raise by any other means, the sum of \$4,000, or any other sum, for engaging a qualified consultant to evaluate what near-term remediation program could be a safe and effective option for controlling non-native, invasive plants which are damaging the eco-system of Carding Mill Pond; or act on anything relative thereto.

Submitted by Petition. (Majority vote required, two-thirds only if borrowed)

Michael Fee moved to *Indefinitely Postpone Article 14.* The motion received a second.

As no one wished to be heard on the Indefinite Postponement of Article 14 he asked all those in favor of the motion to raise their cards, all those opposed.

The motion to INDEFINITELY POSTPONE Article 14 – Study of Near-Term remediation of Carding Mill Pond was UNANIMOUSLY VOTED.

ARTICLE 15. CARDING MILL POND HARVESTING OF INVASIVE PLANTS

To see if the Town will vote to raise and appropriate, or appropriate from available funds, or raise by any other means, the sum of \$7,500, or any other sum, to conduct

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a harvesting program to remove water chestnut plants from Carding Mill Pond; or act on anything relative thereto.

Submitted by Petition. (Majority vote required, two-thirds only if borrowed)

Michael Fee moved to *Indefinitely Postpone Article 15.*

The motion received a second.

Seeing no one who wanted to be heard, the Moderator took a vote. He asked that all those in favor of the motion to Indefinitely Postpone Article 15 please raise your cards, all those opposed.

The motion to INDEFINITELY POSTPONE Article 15 – Carding Mill Pond Harvesting of Invasive Plants was UNANIMOUSLY VOTED.

There was a motion to adjourn the meeting until 7:30p.m. tomorrow night.

The motion received a second.

It was now 10:35 p.m. and Mr. Fox declared that the meeting was adjourned until 7:30 p.m. tomorrow evening.

Attendance: 1,222

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PROCEEDINGS

ADJOURNED ANNUAL TOWN MEETING

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Pursuant to a Warrant issued by the Board of Selectmen, March 11, 2005, 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 6, 2005, for the third session of the Annual Town Meeting. The meeting was called to order at 7:35 PM when a quorum was present.

Mr. Myron Fox, Town Moderator, instructed the Hall regarding Town Meeting procedures and decorum. All motions to amend must be given to the Moderator, the Town Clerk and the Selectmen's Administrative Assistant, Jan Silva in advance of making it. Again, the Bylaws state that presenters can speak for ten minutes and speakers for five minutes. When doing a presentation, unless move in the words of the article, please demonstrate to the Hall the difference between the motion on the viewgraph and the difference of the language in the Warrant. Lastly the statement of what the vote is in the Warrant. Assume it's a majority vote unless otherwise stated.

ARTICLE 16. SPECIAL ACT: POST EMPLOYMENT HEALTH INSURANCE LIABILITY FUND

To see if the Town will vote to petition the Great and General Court of the Commonwealth of Massachusetts for legislation to authorize the Town to create a Post Employment Health Insurance Liability Fund for the purpose of funding future financial obligations of the Town for health insurance benefits of retirees, such legislation to take effect without further submissions to a town meeting; or act on anything relative thereto.

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

Selectmen O'Brien, moved in the words of the Article.

The motion received a second.

Selectmen O'Brien stated that Article 16 is known as the Post Employment Health Insurance Liability Fund. This is a forward thinking article that has been submitted by Town Manager Valente and the Board of Selectmen and it is in response to the Government Accounting Standards Board, known as GASB. They have begun to require that Unfunded Liabilities for retiree health care needs to be accounted. There are several steps that have to be undertaken for this to take place. One of the first steps is that a fund must be established. In doing so, the Article asks

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for the General Court to approve it, which means with approval this evening it goes to the Legislature for approval to establish this fund. This fund will be hollow, empty; it will not have any dollars assigned to it at the moment. It is just a measure that is being taken now in preparation for potential future needs. Town of Sudbury pays 50% of the health cost of the retirees. This is the minimum that can be paid and is something that was adopted into the employee benefits package many, many years ago.

There are several steps that are involved; an actuarial study which has already been budgeted for will be contracted and undertaken under the auspice of the Town Manager. The liability will be reported on the balance sheet as another requirement to comply with the standards and then eventually funds will be set aside for this Unfunded Liability. This is being done as a forward item now because it, if nothing else, is something that helps the Town Manager when in contact with the rating agencies. As probably known and heard many times, the Town of Sudbury is the proud holder of a Triple "A" Bond Rating. They worked very hard to maintain that year in and year out. It's successfully been done for four years. The savings that is generated when construction projects are bonded, like the school and the DPW building, etc., is phenomenal because of the ability to obtain the best available interest rates. Therefore, this is another step to show the agencies that constant work is being done on improving the financial condition. As a Special Act, it needs legislative approval and as had been mentioned there is no funding required. Its part of the overall financial planning and funding plans will be worked on if it becomes critical to do so. This is something that currently has been done previously by Brookline and Concord, other communities that have Triple "A" ratings. It will not be anything new for the legislature to approve this. We ask for your unanimous support this evening.

BOARD OF SELECTMEN: Unanimously supports this article.

FINANCE COMMITTEE: Recommends approval of this article.

The Moderator asked if anybody wished to be heard on Article 16.

Martha Coe, 14 Churchill Street, said that usually when the legislature is petitioned for a Special Act the words of the Act are given that are being asked for approval. Here they're just saying that they're going to see if this will be done, vote to do this and such legislation will take effect without further submissions to a Town Meeting. What does this Act say? Why wasn't the text of the Act given the way it usually is?

Town Counsel has the draft of the language and stated that the text of the Act is sometimes included and oftentimes not included. It's not required. The only time it would be required is if that was the exact wording being submitted to the legislature. But oftentimes the exact wording isn't available.

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The Moderator asked “Will the Act be substantively what is before us?”
Town Counsel answered, “Yes”.

The Moderator asked if there were any other questions or comments on
Article 16 or views you’d like to express.

Mr. Tyler wanted to know if there was some idea of what the present
Unfunded Liability is. What is the present Unfunded Liability that they’re trying to
reserve for or set up a fund to cover? Should it be assumed it’s a large number
because there’s a new requirement? Last night the School Committee asked if there
were any Unfunded Liabilities associated with spending the budget last night and
they said “No” that it was covering all these things. He wondered why anything like
this would be needed unless they have huge Unfunded Liabilities that somehow have
been hidden from the taxpayers up to this time.

Maureen Valente, Town Manager responded that this is one of those
interesting things that emerged as an Unfunded Liability. It actually, technically, is
not one now because this doesn’t take effect in towns of this size for another year or
two. It is not known what the Accounting Standards Board will say two years from
now which is now something to look at. A few years ago they decided that all the
fixed assets had to be recorded in the balance sheet. In some ways it’s kind of silly
because they’re taking the private sector models and putting them to the public
sector as if this is an entity that could go out of business. That doesn’t happen to
municipalities. Nevertheless, it is out there, its part of the Accounting Standards
Board. The second part is an actuarial study is needed because the amount is not
known in determining that since it’s never been required or asked for before. It
isn’t a piece of information that is available. With the completion of the study an
actuarially determined amount of Unfunded Liability will be provided. Again, all
this is doing is asking to set up a fund.

Mr. Tyler stated its prudent management of a town and should have waited
for accountants to tell us that these liabilities have to be provided. If they’re
accruing liabilities, future obligations are being shoved under the table in a desire to
mislead the voters as to what the true costs of services are. Are they doing anybody
a favor? So that’s what that answer said is that basically it’s not going to be
reported because it’s never wanted to be reported because nobody required it and
that’s just incomprehensible approach to management.

Mr. Drobinski responded by stating, Mr. Tyler that wasn’t the response by
the Town Manager at all. The response was that once the audit is done the issues
will be known. For you to propose that the Town Manager does not know what the
liability is until the audit is received is disingenuous.

Just to add one more thing to make sure everyone understands the
statements are prepared in conformance with Generally Accepted Accounting
Principles. Extra accounting records are not made up. There’s a standardized

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approach that's followed according to the audit profession and according to the Department of Revenue; that's what's followed.

The question was called and it received a second.

The Moderator asked for all those in favor of the call of the question signify by raising your cards; all those opposed.

The Moderator asked for all those in favor of Article 16, please show your cards, thank you; those opposed.

The motion under Article 16 was UNANIMOUSLY VOTED.

ARTICLE 17. LEASE AUTHORIZATION - CARDING MILL PROPERTY

To see if the Town will vote to authorize and direct the Board of Selectmen and the Town Manager to negotiate a long-term lease not to exceed twenty years to allow the use of the Carding Mill property by abutters, and to authorize and direct the Selectmen and Town Manager to determine the conditions and terms thereof, or act on anything relative thereto.

Submitted by the Board of Selectmen.

(Majority vote required)

Mr. Keller, Selectman, moved in the words of the Article.

The motion received a second.

Paul Kenney, Town Counsel, stated the Carding Mill House and Dam, off Dutton Road was built around 1930 by Henry Ford. It was never a mill house, like a grist mill or that nature. It was simply constructed for aesthetic and environmental purposes. At some point in time the house or a caretaker's house was constructed and added to it with the foundation of one wall of that house as part of the Dam. The Town of Sudbury received a restriction and a deeded easement on this property along with the Dam and Carding Mill House from the developer about 1989. As part of that some maintenance requirements were assumed with respect to the Dam and there were also a substantial amount of conservation land associated with the pond with certain requirements. There is not free access to the property under the terms of the restrictions but did not pay for it either; it was something that was granted to us. The land or the open space has to be mowed twice a year but the problem and the reason for this Article is that the Town of Sudbury has to maintain that Dam and the caretaker's house.

The Town of Sudbury has been leasing that house to individuals since 1989 when the Town of Sudbury bought it but those individuals are not caretakers of the

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Dam, so to speak. There was one individual who rented it and as part of the rent, refurbished the caretaker's house. He hasn't been there for approximately 10 years and it has fallen into somewhat disrepair. The Town of Sudbury can't afford to take care of maintaining and operating the Dam. They've had an abutter who has offered to lease the caretaker's house for a substantial period or long term lease. The Town of Sudbury doesn't know exactly what they are going to do because the only thing this Article is asking for is the right to negotiate a long term lease with. That is going to be negotiated by the Selectmen in conjunction with the Conservation Commission. The reason is the Selectmen have an interest in maintaining the integrity of the Town's Budget and the Conservation Commission, while they want the same; they have oversight of that property as it is conservation property. The Town of Sudbury will negotiate with this individual. What he wants to do is use the caretaker's house for a kind of an in-law apartment or a carriage house, if you will, adjacent to his property. It appears he'll agree to take over, refurbish the caretaker's house and maintain the Dam. If the Town of Sudbury can't come to an agreement with this individual, there will be no lease.

The only thing asked tonight is to authorize a negotiation of the lease that is advantageous to the Town of Sudbury. If that is done a lease will be entered into somewhere in the vicinity of 15 to 20 years. The costs of doing this are substantial and this gentleman is willing to do that in return for the house and that's the best option for the Town of Sudbury. Money cannot be taken as there's no income from the caretaker's house that's sufficient to keep up the caretaker's house at present so something is needed to remove it from the normal budgeting process and give it to someone who will take care of the property. There will be minimal interference with the conservational or environmental attributes of the property. Once again, a long term lease will be entered into if it can be agreed upon.

FINANCE COMMITTEE: Recommends approval of this Article.

The Moderator asked if anybody wished to be heard on Article 17.

Tom Arnold, 20 Kendall Road, has two questions about this Article. The first says that the Selectmen are authorized to negotiate with abutters. Why wouldn't it be put out to bid generally and accept the highest bid from any person who wanted to rent the property?

Paul Kenney, Town Counsel, stated that it will definitely go out to bid. What's out there and what's needed needs to be determined and negotiated with the person that is believed to be the only one that's interested. There's no reason for anyone else to expend the kind of money that would be necessary to fix that up to live in these quarters. The living quarters are very small and not adapted to use by a family or anything, but it will go out to bid.

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Tom Arnold responded that as read in the motion it is limited to abutters. If somebody else said they'd pay more than this particular abutter would you be able to negotiate with them under this Article?

Paul Kenney, Town Counsel, replied the Article was drafted or crafted in that manner to allow us to negotiate and put the Hall on notice that a 20 year lease was wanted. This Article is asking to allow for negotiations for a 20 year lease. This will go out to bid; there is no choice.

Tom Arnold questioned. Do the words abutters limit the people that the Selectmen can negotiate with?

Town Counsel responded, "No".

Tom Arnold said his understanding is that the State will be looking at Dam safety much more rigorously in the next year or two than they have in the past and wondered whether the Selectmen intend to include in the rent that they would negotiate with this particular abutter or someone else an appropriate amount that would be reserved for repairs of the Dam if that became necessary.

Paul Kenney, Town Counsel, responded by saying that a Dam survey was done in 1998. The purpose of this negotiation is to do exactly that. The purpose is not to provide someone with an in-law apartment, a guest house or a carriage house. The purpose of this negotiation is to provide the Town of Sudbury with the ability to take care of that Dam and the guest house which they're required to maintain without cost to the town. If it can't be negotiated, then we'll just put it out to bid the same way it's been done all along.

The Moderator asked if anybody else wished to be heard on Article 17.

Mark Ensign, 44 Bent Road, Chairman of the Conservation Commission explained that the Commission did vote unanimously to support this Article. It's a piece of property that was granted to the Town of Sudbury through the Conservation Commission. Most of the property needs to be retained as open space. It will be, as Paul mentioned, mowed twice a year; it's a very small building and believes the rent is currently \$700 a month. One thing that wasn't mentioned is that currently the State prohibits the Town of Sudbury from entering into a leasing agreement that's beyond ten years. He's also in that field of working with Dams and things like that. These are the sort of things that take a lot of money and somebody that would invest in this property would presumably want to have a long enough term lease so they could actually work on it. Some suggestions were provided by the Board of Selectmen. The first; it does need to go out for public bid for best municipal use. There may be other people in town who are interested in it as well. Certainly the Selectmen have agreed to look at any and all uses of the property. The second it that the natural spaces will be maintained; it's part of the deed; there is no choice.

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The Moderator asked if anybody else wished to be heard on Article 17.

Leigh Dunworth, 78 Old Framingham Road, questioned how large is the area of open space on this property.

Debbie Dineen, Conservation Coordinator, 14 Firecut Lane, responded by stating the open space on the property is 40 acres. More than half of that though is under water. The 40 acres includes two thirds of Carding Mill Pond and one of the islands on the pond. The building itself is small; it's 600 square ft.

John Donovan, 26 Old Orchard Road, was curious as to a couple of issues that haven't been answered to his satisfaction. Who is ultimately going to do the inspection, maintenance, repair of the Dam? Is that part of the lease? Will the Town of Sudbury or the lessee be doing the inspections, maintenance and repairs of the Dam? If the 100 year flood comes and the Dam lets go downstream is the Town of Sudbury or the person who is supposed to be doing the work on it to keep it maintained responsible?

Paul Kenney, Town Counsel, responded to Mr. Donovan's question by saying with regard to doing the work on the property the purpose of this Article is to have someone else do that work under their supervision. Just step back for a minute with regard to the bidding. This is not going out to bid like a normal bid; it will go out as a Request for Proposal. There will be certain parameters. Two of those parameters are that the Dam has to be maintained and the property or the caretaker's house, which is in pretty significant disrepair now, has to be brought up to code. Whoever comes with the best proposal is the person that will be negotiated with. Based upon what's there and based upon what the Dam can be used for, the only logical one would be someone that can use that and the only logical one seems to be an abutter but we're not limiting it to an abutter. If someone wants to live in that two-person apartment and spend all that money on the Dam, money will certainly be taken.

The Moderator then stated there was a question as to who would be liable.

Paul Kenney, Town Counsel, responded that the liability wouldn't change. Their liability wouldn't be increased or decreased. This would be beneficial, negotiate into the proposal and additional insurance would be required that would be over and above what's there. There would be some additional coverage for liability if that happens. It's not clear that there's going to be liability on the part of the town if that Dam broke because of a flooding situation but if there is that wouldn't change in the future.

Robert Coe, 14 Churchill Street, had a follow up question along the same vein. There is not much liability downstream, but if this house is leased to someone then the house is downstream from the Dam. The wall of the house that's common with the Dam couldn't possibly be upstream of it so it must be downstream, so what is the liability to the lessee if the Dam lets go and washes away his possessions?

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How is the liability not being increased by leasing this building under those conditions?

Mr. Kenney responded to Mr. Coe's question by stating the lease will contain such a provision. A lease will not be entered into where they're not held harmless and indemnified as has been the case all along.

Mr. Tyler had a question of a different vein. For many years the need for Affordable Housing for elders has been talked about, Frost Farm is full, with not only residents of Sudbury but also many of the relatives of residents of Sudbury. A two bedroom or a two person apartment about 600 square ft. is possibly developable out of this property. He can't understand why, with the apparent commitment of the Town of Sudbury to do something for Affordable Housing, that this existing resource isn't used for Affordable Housing rather than go from neighborhood to neighborhood and think about developing multi-family complexes in neighborhoods that clearly don't want them. This is ill-advised and the Selectmen should be consulting with the Planning Board, who's in community development or whatever the committee is that's working on Affordable Housing proposals and the Sudbury Housing Authority to figure out a way, that for example, some of these seniors that are going to be forced out of the Town of Sudbury, as a result of this Override, have an opportunity to stay in Sudbury by renting this house on a long term lease from the Town of Sudbury.

Ms. Van Dijk asked the Moderator if she was able to respond to the last person's comment or on the Article under discussion.

The Moderator responded as long as the response is germane to the Article.

Ms. Van Dijk responded it is germane to the Article and can testify as an individual who has purchased a fixer upper in the Town of Sudbury. A fixer upper is certainly not affordable, Mr. Tyler. A fixer upper is a long term project and expenses can flux due to increased costs in construction materials when there are hurricanes in Florida. Materials are very expensive and then decline after awhile. Fixer uppers are not a good candidate for Affordable Housing and to suggest that a less than acceptable dwelling would be one that the Town of Sudbury would support as an Affordable Housing alternative would be irresponsible.

Debbie Dineen responded to Mr. Tyler. When the Conservation Commission acquired the land and the building, this is prior to the Town Manager Act back in 1989; the Commission was responsible for the building. The first thing done was to take the Sudbury Housing Authority members out to the site to look at the building and have been out with them a couple of times between 1989 and now every time it's mentioned they're interested in it until they see it. The reason is that the actual spillway, there are actually two spillways which are adjacent to this building, pose a danger and we're very concerned that this first of all wouldn't get any State funding and would present a problem for some tenants sometime in the future, especially

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tenants who might move in without kids and then have kids. They were really very reluctant because of the Dam to get involved.

Ms. Dineen described a little bit about the liability and the Dam. The Dam is the front wall of the basement of the house, but the area that really needs the work according to the Dam safety inspectors are the two spillways adjacent to that to the west. These spillways take a tremendous amount of water. The entire flow of Hop Brook goes through and down over these two spillways and doesn't think it's been maintained since the 1930's. One of the reasons the Town of Sudbury in 1989 decided that this would be a good piece of property for the Town of Sudbury to own, even though there wouldn't be public access, is because it is a historical structure. The ability would be given to the Town of Sudbury to ensure that there wasn't downstream damage. With really tight budgets, they still want to control what happens there and make sure it's maintained but looking for creative ways to get the funding to have this done. She urges support of this Article.

Selectman Drobinski wanted to let the Hall know that when dealing with dwellings in the Town of Sudbury, the Housing Authority is always spoken to first to see if they're interested. The Housing Authority, the Town Manager, as Ms. Dineen said, brought the Housing Authority there and has no interest in this structure at all. Whenever a structure becomes available the Housing Authority is always brought in. So, Mr. Tyler, the issues are always thought about and are constantly on their minds, but thanked him for the reminder.

The question was called and seconded.

The Moderator asked for all those in favor of the call of the question signify by raising your cards; all those opposed. The call of the question passes.

The Moderator reminded the Hall that Article 17 needs a majority vote.

The Moderator asked for all those in favor of Article 17, raise your cards; all those opposed.

The Moderator announced that the motion under Article 17 PASSED overwhelmingly.

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ARTICLE 18. RESCIND/AMEND BORROWINGS (Consent Calendar)

To see if the Town will vote:

- 1) To rescind authorization voted at a prior town meeting to borrow \$55,000, approved under Article 30, Purchase Street Lights, of the 2003 Annual Town Meeting; and
- 2) To amend the approval under Article 11, Purchase Second Meachen-Meggs Parcel, of the 1999 Annual Town Meeting, by reducing the amount appropriated thereunder by the sum of \$8,000.

Submitted by the Town Treasurer and Town Manager. (Majority vote required)

TOWN TREASURER AND TOWN MANAGER REPORT: The borrowings included in this article were not required to be made, and in order to erase these liabilities from the books, a Town Meeting vote to rescind or reduce the borrowing authorizations is needed. The money to fund purchase of street lights from NSTAR was not needed to be borrowed, because the Public Works Street Lighting budget was able to accommodate the purchase in 2004 at a reduced price of \$15,407.31. Of the borrowing authorization for the purchase of the second Meachen-Meggs parcel, \$8,000 was not borrowed or needed to complete the project.

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

FINANCE COMMITTEE POSITION: The Finance Committee recommends approval.

The motion under Article 18 was Unanimously Voted on the Consent Calendar.

ARTICLE 19. AMEND BYLAWS, ART. XVII.1 - SEALING WEIGHTS AND MEASURES FEES (Consent Calendar)

To see if the Town will vote to delete Section 1, Sealing Weights and Measures, of Article XVII, Fees, of the Town of Sudbury Bylaws in its entirety, and substitute therefor the following:

SECTION 1. SEALING WEIGHTS AND MEASURES. Fees to be paid for the sealing of weighing or measuring devices shall be as follows:

Device	Fee
Scales & Balances	
Over 10,000 lbs.	\$100.00
5,000-10,000 lbs.	\$60.00
1,000-5,000 lbs.	\$40.00
100-1000 lbs.	\$30.00
10-100 lbs.	\$20.00
Under 10 lbs.	\$15.00
Weights (all types)	\$2.00
Measuring Devices	
Gasoline Pumps/Meters	\$20.00
Vehicle Tank	\$50.00
Bulk Storage	\$75.00
Taxi Meters	\$25.00
Fabric Measures	\$20.00
Cordage Measures	\$20.00
Linear Measures (yard sticks, etc.)	\$10.00
Automated Retail Checkout Systems	
Less than 4 units	\$75.00
4 units and not more than 11 units	\$150.00
More than 11 units	\$250.00
Other Devices	
Bottle/Can Redeemers	\$15.00"

Submitted by the Inspector of Buildings.

(Majority vote required)

INSPECTOR OF BUILDINGS REPORT: The last known increase in fees for the services of the Sealer of Weights & Measures was in 1982. The proposed fee schedule will more accurately reflect, although not fully cover, the cost of labor and materials necessary to meet the requirements imposed by the Division of Standards.

The proposed fee structure shows substantial increases for some services, and in some cases, newly invented devices appear on the fee listing for the first time. The proposed fee structure is similar to those of other towns.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

TOWN COUNSEL OPINION: See opinion at the end of the warrant.

The motion under Article 19 was Unanimously voted on the Consent Calendar.

ARTICLE 20. CHAPTER 90 HIGHWAY FUNDING (Consent Calendar)

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 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.

Submitted by the Director of Public Works. (Majority vote required)

DIRECTOR OF PUBLIC WORKS 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. The current plans are to continue the implementation of our pavement management program.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 20 was Unanimously voted on the Consent Calendar.

ARTICLE 21. COUNCIL ON AGING REVOLVING FUND (Consent Calendar)

Move to authorize for Fiscal Year 2006 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; the amount to be expended therefrom shall not exceed the sum of \$20,000.

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

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COUNCIL ON AGING REPORT: Classes and programs at the Fairbank Senior Center are self-funding. The Council on Aging requests Town Meeting approval for FY06 to continue using a revolving account to receive fees and pay expenses related to classes and programs.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 21 was Unanimously voted on the Consent Calendar.

ARTICLE 22. GOODNOW LIBRARY REVOLVING FUND (*Consent Calendar*)

Move to authorize for Fiscal Year 2006 the use of a revolving fund by the Goodnow Library for maintenance and utility charges for the Library's meeting rooms, to be funded by all receipts from the programs utilizing meeting rooms by non-town agencies; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E1/2; the amount to be expended therefrom shall not exceed the sum of \$8,000.

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

GOODNOW LIBRARY TRUSTEES REPORT: This fund was first approved by Town Meeting for FY92 and, as required by state law, approved at each subsequent Town Meeting. The Revolving Fund provides additional funds for the Library's Building Maintenance budget for the Library's meeting rooms.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 22 was Unanimously voted on the Consent Calendar.

ARTICLE 23. SUDBURY SCHOOLS - BUS REVOLVING FUND *(Consent Calendar)*

Move to authorize for Fiscal Year 2006 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 fee collection; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E1/2, and expended under the direction of the Sudbury School Committee; the amount to be expended therefrom shall not exceed the sum of \$300,000.

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

SUDBURY 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.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 23 was Unanimously voted on the Consent Calendar.

ARTICLE 24. SUDBURY SCHOOLS - EARLY CHILDHOOD REVOLVING FUND *(Consent Calendar)*

Move to authorize for Fiscal Year 2006 the use of a revolving fund by the Sudbury Schools for the purpose of providing additional or supplemental school early childhood instruction, to be funded by tuition collection; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 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 \$125,000.

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

SUDBURY 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 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.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 24 was Unanimously voted on the Consent Calendar.

ARTICLE 25. INSTRUMENTAL MUSIC REVOLVING FUND (*Consent Calendar*)

Move to authorize for Fiscal Year 2006 the use of a revolving fund by the Sudbury Schools for the purpose of providing additional or supplemental instrumental music lessons after school hours, to be funded by tuition collection; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E1/2, and expended under the direction of the Sudbury School Committee; the amount to be expended therefrom shall not exceed the sum of \$50,000.

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

SUDBURY SCHOOL COMMITTEE REPORT: This revolving account was established in FY03 to supplement the Schools Instrumental Music Program. Fees collected for lessons will fund the music program. Town Counsel advises that a revolving fund must be authorized each year at the Annual Town Meeting. Passage of this article achieves that purpose.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 25 was Unanimously voted on the Consent Calendar.

ARTICLE 26. YOUTH COMMISSION REVOLVING FUND (*Consent Calendar*)

Move to authorize for Fiscal Year 2006 the use of a revolving fund by the Youth Commission for youth programs and activities, to be funded by user fees collected; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E1/2; the amount to be expended therefrom shall not exceed the sum of \$30,000.

Submitted by the Youth Commission. (Majority vote required)

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REPORT: Programs and activities are self-funding. The Youth Commission requests Town Meeting approval for FY06 to use a revolving account to receive fees and pay expenses related to youth programs and activities.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 26 was Unanimously voted on the Consent Calendar.

ARTICLE 27. RECREATION PROGRAMS REVOLVING FUN (Consent Calendar)

Move to authorize for Fiscal Year 2006 the use of a revolving fund by the Park and Recreation Commission for recreation programs and activities, to be funded by user fees collected; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E ½ ; the amount to be expended therefrom shall not exceed the sum of \$450,000.

Submitted by the Park and Recreation Commission. (Majority vote required)
PARK AND RECREATION COMMISSION REPORT: The Park and Recreation Department offers over 200 programs and activities throughout the year and all are self-funding. The Park and Recreation Commission requests Town Meeting approval for FY06 to use a revolving account to receive fees and pay expenses related to programs and activities by the Park and Recreation Director.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 27 was Unanimously voted on the Consent Calendar.

ARTICLE 28. TEEN CENTER REVOLVING FUND (Consent Calendar)

Move to authorize for Fiscal Year 2006 the use of a revolving fund by the Park and Recreation Commission for Teen Center programs and activities, to be funded by user fees collected; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E ½ ; the amount to be expended therefrom shall not exceed the sum of \$30,000.

Submitted by the Park and Recreation Commission. (Majority vote required)

PARK AND RECREATION COMMISSION REPORT: The Teen Center offers 18 events for middle school youth and two events for high school youth during the school year. All events are self-funded from fees collected. The Park and Recreation Commission requests Town Meeting approval for FY06 to use a revolving account to accept fees and pay expenses related to teen center events administered by the Teen Center Director.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 28 was Unanimously voted on the Consent Calendar.

ARTICLE 29. CABLE TELEVISION REVOLVING FUND (Consent Calendar)

Move to authorize for Fiscal Year 2006 a revolving fund for use by the Town Manager for local access services and Town institutional network (I-Net), to be funded by fees and other income collected with regard to the implementation, use, establishment or maintenance of cable television; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E1/2; the amount to be expended therefrom shall not exceed the sum of \$25,000.

Submitted by the Cable Television Committee. (Majority vote required)

CABLE TELEVISION COMMITTEE REPORT: The Cable Television Renewal License provides that the Town receive a fee of 50 cents per subscriber annually (approximately \$1,900-2,000/year), as well as several thousand dollars in other funds specifically to be used for cable-related purposes. The intent of this article is to continue the revolving fund to direct these funds for their proper purpose, offsetting some of the Town's costs in providing local access programming and I-Net services.

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

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FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 29 was Unanimously voted on the Consent Calendar.

ARTICLE 30. CONSERVATION REVOLVING FUND *(Consent Calendar)*

Move to authorize for Fiscal Year 2006, the use of a revolving fund by the Conservation Commission for the administration of the Wetlands Administration Bylaw, to be funded by application fees collected; said funds to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E 1/2 ; the amount to be expended therefrom shall not exceed the sum of \$35,000.

Submitted by the Conservation Commission. (Majority vote required)

CONSERVATION COMMISSION REPORT: A revolving fund has been established for the purpose of receiving application fees and paying expenses related to administration of the Sudbury Wetlands Administration Bylaw. This fund makes the Wetlands Bylaw self-supporting. State law requires this fund to be authorized at Town Meeting each year.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 30 was Unanimously voted on the Consent Calendar.

ARTICLE 31. DOG REVOLVING FUND *(Consent Calendar)*

Move to authorize for Fiscal Year 2006 the use of a revolving fund by the Town Clerk for the purpose of making any purchases or paying any expenses related to Sudbury Bylaw Article V.3, Regulation of Dogs, or any costs required by the Massachusetts General Laws related to the regulation of dogs, to be funded by all fees, fines, charges, penalties or other like monies imposed under said Bylaw; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E1/2, and expended with the approval of the Town Clerk; the amount to be expended therefrom shall not exceed the sum of \$25,000.

Submitted by the Town Clerk. (Majority vote required)

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TOWN CLERK REPORT: State law requires that a revolving fund must be authorized each year at an Annual Town Meeting. Receipts from dog fees and fines are allocated to this fund and deposited in a special account by the Treasurer-Collector. Expenditures charged against this fund, subject to the approval by the Town Clerk, shall be limited to available funds. Expenses to maintain the program are small; the remaining funds will be used to offset the Dog Officer's salary.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 31 was Unanimously voted on the Consent Calendar.

ARTICLE 32. DPW MINING REVOLVING FUND (Consent Calendar)

Move to authorize for FY2006 the use of a revolving fund by the Department of Public Works for the operation of a mining operation on Town property located off North Road, the former Melone property, to include payment for all costs associated therewith, including salaries and other benefits, purchase and maintenance of capital equipment, and reclamation of the property, and \$100,000 to be deposited into the General Fund to offset the tax rate, to be funded by income from the sale of gravel or other materials; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E ½ ; the amount to be expended therefrom shall not exceed the sum of \$300,000.

Submitted by the Director of Public Works. (Majority vote required)

DIRECTOR OF PUBLIC WORKS REPORT: The purpose of this article is to enable the Town to receive maximum return from the sale of gravel by allowing more flexibility in the manner in which the operation is conducted. Additionally, expenses of the operation and restoring the property for later use can be paid for directly out of the proceeds, thereby eliminating the need for tax levy for this purpose. This revolving fund was approved in 2002 and requires annual authorization by Town Meeting.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 32 was Unanimously voted on the Consent Calendar.

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ARTICLE 33. RENTAL PROPERTY REVOLVING FUND (Consent Calendar)

Move to establish and authorize for Fiscal Year 2006 the use of a revolving fund by the Town Manager for expenditures related to the use of rental houses held by the Town in conjunction with historical value and conservation program, to be funded by rents collected; said fund to be maintained as a separate account, pursuant to Massachusetts General Laws, Chapter 44, Section 53E1/2; the amount to be expended therefrom shall not exceed the sum of \$40,000; and further to authorize and direct the Selectmen to take whatever steps are necessary to establish this revolving fund, including, if necessary, a petition or petitions to the General Court of Massachusetts for special legislation, with such legislation to take effect without further submissions to a town meeting.

Submitted by the Board of Selectmen.

(Majority vote required)

BOARD OF SELECTMEN REPORT: The Town presently maintains three properties with buildings which are rented for income and maintenance purposes. These properties are the Haynes Meadow House, Carding Mill House, and Frost House. This revolving fund will allow those rents to be used directly for normal upkeep and repairs, as well as to build a fund for any major repairs, such as re-roofing. Without the authorization of this revolving fund, rents must be deposited into the General Fund and appropriations for upkeep of these facilities included in the Operating Budget. As a landlord, the Town has the responsibility to provide maintenance of these houses, their grounds and make reasonable repairs as needed. These costs could be significant if a roof or major system should need to be replaced, for example. This revolving fund will allow the Town to retain the rent payments in a revolving fund and apply them against these maintenance and repair costs so that no taxpayer dollars need to be used for that purpose. The Town acquired these houses when it acquired the conservation property the houses are located on, and we are legally required to maintain these houses. Additionally, the tenants perform valuable conservation stewardship activities as a condition of their lease. As it appears, following research and efforts of Town Counsel this past year, that a Special Act to allow Sudbury to set up this fund will need to be filed in 2005 for approval by the State Legislature, this article asks for a repeat of the authorization voted by the 2004 Annual Town Meeting to establish this fund.

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

FINANCE COMMITTEE REPORT: The Finance Committee recommends approval.

The motion under Article 33 was Unanimously voted on the Consent Calendar.

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**ARTICLE 34. AMEND SPECIAL ACT, CH. 40 OF THE ACTS OF 1963 -
HISTORIC DISTRICTS COMMISSION MEMBERSHIP**

To see if the Town will vote to petition the Great and General Court of Massachusetts to amend Chapter 40 of the Acts and Resolves of 1963 by deleting therefrom the words in Section 4: "one member shall be appointed from two nominees of the Sudbury Historical Society whose initial appointment shall be for the term of the remainder of the calendar year in which such appointment is made and two years thereafter; one member shall be appointed from among the voters of the historic district, whose initial appointment shall be for the term of the remainder of the calendar year in which such appointment is made and three years thereafter; one member shall be appointed from two nominees of the conservation commission of the town of Sudbury whose initial appointment shall be for the term of the remainder of the calendar year in which such appointment is made and four years thereafter; and one member shall be appointed from two nominees of the commission on historic structures of the town of Sudbury," and substituting therefor the following:

"where possible, three members shall be appointed from among the voters of the various historic districts, whose initial appointment shall be for the term of the remainder of the calendar year in which such appointment is made and three years thereafter; and one member shall be appointed from two nominees of the Sudbury Historical Commission,"

Submitted by the Historic Districts Commission. (Majority vote required)

Frank Riepe *moved* in the words of the article, with said legislation to take effect without further submissions to a Town Meeting.

The motion received a second.

Mr. Riepe stated first of all this won't cost you any money at all, which should make you feel pretty good. This is a simple matter of changing the method and the composition of the membership of the Historical Districts Commission, which was created in 1963 by Town Meeting and then by an Act of the State Legislature. As a part of that, the Old Sudbury Historic District was created and is, broadly speaking, the Town Center. Since that time other Historic Districts have been created, notably the King Philip District and the Wayside Inn District. In addition, the Old Sudbury District has been enlarged and later tonight further expansions of the Historic Districts will be voted. As it happens, the Act that created this in 1963, which involves the composition of the board, isn't well suited for their needs today. First of all it only asks for one member from the Historic District. Now there are three districts, they'd like to change that to have three members from the three districts; one from each district, if possible, and to allow

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more latitude as to who is selected so they no longer have to involve the Conservation Commission and the Sudbury Historical Society in nominating candidates for offices. The reason they're asking to do this fundamentally is that the process has proved to be so cumbersome that they've been without members for many, many months because of the sort of Byzantine method of selecting members. So, hopefully, with approval, they'll be able, like all committees in town, to appoint new members in fairly short order when vacancies appear. As a volunteer Board they're very anxious to have broad participation from the Town of Sudbury and make it easier for people to become involved. We ask for your supportive vote on this measure.

FINANCE COMMITTEE: Takes no position on this Article.

BOARD OF SELECTMEN: Support this Article.

The Moderator asked if anybody wished to be heard on Article 34.

Carolyn Lee, Mossman Road, questioned if these Articles are in the correct order because this changes the composition of the Town Meeting. She said they are asking to create a new district on Maple Avenue but there's no representation on this. It equals the membership for all the existing three districts. It appears they're greatly expanding the King Philip District so she wondered if it was all thought through well?

The Moderator asked if the Historic District Commission wished to answer the question or address it.

Frank Riepe responded that this Article states that there would be three members who are residents of the districts when at all possible. So actually, it doesn't say that it has to be one from each district. So, there can be more than three districts and have this continue to work the way it should.

Since nobody else wished to be heard on Article 34, the Moderator asked for all those in favor of Article 34, signify by raising your cards, all those opposed.

The Moderator announced that the motion under Article 34 was **UNANIMOUSLY VOTED.**

ARTICLE 35. EXTEND KING PHILIP HISTORIC DISTRICT

To see if the Town will vote, pursuant to Section 12 of Chapter 40 of the Acts and Resolves of 1963, to extend the King Philip Historic District by adding thereto the land:

Beginning west on Boston Post Road from the westerly border of the existing King Philip Road Historic District, including 300 feet on either side of the layout of said road, to the intersection of Concord Road, and north on Concord Road to the southerly boundary of the Old Sudbury Historic District, including 300' on either side of the layout of said road.

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

Frank Riepe, Historic Districts Commission, *moved* pursuant to Section 12 of Chapter 40 of the Acts and Resolves of 1963, to extend the King Philip Historic District by adding thereto the land:

Beginning and running westerly on Boston Post Road from the westerly border of the existing King Philip Historic District, including 300 ft. on either side of the layout of said road, to the intersection of Concord Road and extending 300 ft. beyond said Concord Road; thence running north on Concord Road to a point 150 ft. beyond the southerly sideline of Codjer Lane on the easterly side of Concord Road and to the southerly sideline of Codjer Lane on the westerly side of Concord Road, including 300 ft. on either side of the layout of said road.

The motion received a second.

Frank Riepe made the presentation. The HDC proposes to extend the Historic District in order to preserve an original area of Sudbury that includes several historic homes that provide a sense of Sudbury's past. The Commission feels that any long range view of Sudbury must include protecting these homes which are important to the distinctive character and desirability of the Town of Sudbury. Extending the district would add approximately 25 houses to the district. Property owners whose houses fall within the boundaries would then have to adhere to HDC guidelines when making alterations to their properties. Guidelines are posted on the Town of Sudbury's website. The HDC requires review and approval for exterior alterations not interior modifications. For example, alterations to paint color, windows, doors, roofs, gutters, lighting, signage, fences, walls, porches, decks, exterior siding and landscaping must be approved by the Commission. Additionally, building demolition and new construction must also meet approval. Properties are considered historic if they are at least 50 years old. Non-historic properties that fall within a Historic District are subject to the same guidelines. However, alterations

are to be consistent with the age of the property and existing materials. For example, if a contemporary property already has vinyl siding, it can be replaced with vinyl but a home that has wooden clapboards must have wood siding; not vinyl or another synthetic. Property owners are required to submit an application for a Certificate of Appropriateness or Permit for Demolition and then present project plans before the Commission at a public hearing. The Building Department cannot issue a building permit for work or demolition without these certificates. When there is a proposal that doesn't meet the guidelines, the Commission and applicants work together to find an appropriate solution and come to a mutual agreement.

Owning a property in a Historic District does present an extra step for property owners when undertaking building projects. However, applications are dealt with in a timely manner and the system is reasonable. It is the same system used statewide created by the Massachusetts Historic Districts Act. Historic Districts do not push the pause on progress. Rather while Historic Districts preserve the architectural integrity of existing buildings, they also ensure that any new construction is compatible in style, materials and scale. To give some indication of how many certificates are approved each year; the 2004 Annual Town Report states that in the last 12 months, 16 Certificates of Appropriateness were issued for construction for alterations, landscaping or changes to paint color. There were three Permits for Demolition granted.

Why the expansion at Concord Road? Residents with houses in the proposed area approached the HDC with a petition supporting the creation of a new Historic District. The Commission then considered the presence of existing historic properties in the lower Concord Road area and the fact that Concord Road is one of the most visible and highly trafficked avenues in Sudbury that links Town Center to Boston Post Road. A portion of Concord Road is already a Historic District, the Old Sudbury Historic District. Also, the entire road appears to tell a complete story of Sudbury's physical development because it has kept its historic features while also incorporating new construction over the years, therefore, the Commission felt it was appropriate to proceed with this proposal. Additionally, the Commission felt an expansion was relevant because more than one objective of the Town's Master Plan adopted in 2001 calls for "maintaining the communities traditional historic character by expanding Historic Districts" and for "re-evaluating the Historic District boundaries to assure incorporation of historically significant buildings and properties within the districts".

It is also advantageous for communities to have Historic Districts for economic reasons. National studies show that property values within districts tend to increase more than unregulated neighborhoods. When historic resources are gone, they're gone, and then towns lose their distinctive qualities. The area the Commission proposes districting includes two properties listed on the National Register; a wide variety of styles dating from the 1700's on up through the 19th and 20th centuries. Many of the properties are on record with the Massachusetts Historical Commission and many display date markers issued by the Sudbury

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Historical Commission. Following are images of 15 houses that show the existing historic architecture; this is a brief tour up the street from Post Road to Codjer Lane. This should be familiar to virtually everybody here. The original portion of the library is in front and that was actually not the most original portion. The library has gone through many changes. The residents have been talking about bringing their neighborhood into the district and very pleased to be able to do that. It's long overdue. This house is one of the very oldest in Sudbury. So, these buildings create a sense of place that is uniquely Sudbury. It is urged that you vote "Yes" on Article 35 to support this extension of the Historic District in order to protect the past for the future.

FINANCE COMMITTEE: Takes no position on this Article.

BOARD OF SELECTMEN: Supports Article 35.

Christopher Morely, 321 Old Lancaster Road, spoke on behalf of the Planning Board that supports the extension of the King Philip Historic District as proposed under Article 35. The southern portion of Concord Road and the Village Business Zoning District together make up the residential and commercial heart of 19th century Sudbury. While there are historic houses and sites scattered throughout Sudbury, this area and the Town Center, are the only parts of the Town of Sudbury where there is continuous and often contiguous stretch of historic properties. Together with ancient trees and stone walls, these two areas give all a sense of truly living in the historic place that Sudbury is every time one drives down Concord Road. It doesn't matter that not every property in the district is of particular historic value. All of the aesthetic values of Concord Road contribute to what makes it such an endearing and important part of Sudbury. That is the idea of a Historic District; making sure that an entire area does not lose its special quality. Both Framingham and Marlborough have some beautiful historic homes but most are not noticed when passed by; cluttered as they are by modernity. The Town of Sudbury, the 2001 Master Plan and elsewhere have decided that the past, through historic preservation, is a key component of Sudbury's future. The Planning Board is mindful of the fact that Historic Districts in Sudbury have historically not been established to harshly micro manage every detail of an owner's property as is the case in most Historic Districts in America. The establishment of this district is not an onerous burden upon the affected residents, yet does serve a valuable community purpose. It is strongly urged that you support this Article.

The Moderator reminded the Hall that this is one of four Zoning Articles in the Warrant and each of them requires a two-thirds vote.

The Moderator then asked if anybody wished to be heard on Article 35.

Kathryn Mapstone, Walkup Road, wants a point of clarification. If a historic building is 50 years old, is that 50 years old now or is that a moving target?

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Mr. Riepe responded by stating the age of the structure would be relevant at anytime an application is made for alterations to the property.

Ms. Mapstone in response asked about the businesses in this zone. Will they be similarly affected? There's a church in this zone that has a house as rental property. How are churches affected? Will the library be affected by this as well?

Mr. Riepe responded by stating the library, churches and commercial buildings are affected.

The Moderator asked if there are any other questions or comments on Article 35.

Kathy Jacob, Old Lancaster Road, inquired as to why they're extending it to the south side of Boston Post Road. Mill Village is a new structure and some of the buildings easterly on it are old but it's not included in all the old ones, so what's the reasoning for that?

Mr. Riepe responded to Ms. Jacob by stating that apparently in the earlier presentation there was a very tiny error in the layout and this is the correct layout as shown on the viewgraph. Apparently the error was in the area of Codjer Lane. To answer the question on the South side of the Post Road there are few historic buildings, notably the Enoch Kidder Building, which is right at the foot of Concord Road and immediately to the east there are three historic buildings that are included. It appears they've been captured but if anything was missed we can always come back in future years and make additions.

Ted Pickering, 17 Peakham Circle, noticed that the layout in the Article in the Warrant is different from what is shown on the viewgraph. The Article states it goes to Antique Circle and ending at Codjer Lane. Which one is correct?

Mr. Riepe responded to Mr. Pickering that the layout seen on the viewgraph now is correct. A broader district was originally contemplated but after receiving comments from residents the scope was scaled back because in this area there is, as it seems, only two buildings which most people would not consider to be antique. They're really sort of mid 20th century, whereas from there to the Town Center, the ratio of historic buildings to mid 20th century buildings is quite different. This is just more obviously the historic area.

Robert Coe, 14 Churchill Street, moved to amend the motion under Article 35 to strike therefrom the first instance of the word "either" and to substitute therefore the words "the north".

The Moderator asked to see the viewgraph to see where the district would be extended. Concord Road, it seems is a north, south road. Did you mean to say east or west?

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Mr. Coe replied that he meant to say north. The objective is to remove the portion south of the Post Road. If the motion receives a second he'll elaborate.

The Moderator stated the *motion to amend* stands as requested if it receives a second.

The motion to amend received a second.

Mr. Coe believes that this motion is to bring the district or the proposed district more in line with what the stated purpose of it is in the Warrant. It's to preserve old homes and incorporate Mill Village, there is, at most one building that's arguably of real historical importance and not residential. If the idea is to preserve old homes, this doesn't do it. It's not that there shouldn't be a Historic District south of the Post Road but this is the thin end of the wedge. Obtain a chunk of it south of the Post Road and then start filling in along the Post Road. That may be a good idea or a bad idea but he doesn't think it's the right idea for this particular Town Meeting. The right way to do that is to take a section south of the Post Road and make it a Historic District. This particular case of adding that little section tonight is wrong. He urged acceptance of the *motion to amend* and let the Historical Districts Commission come to a subsequent Town Meeting if they want to broaden this or some other district south of the Post Road.

The Moderator questioned Mr. Coe. What is the purpose of this amendment? Is it to do with respect to the yellow area on the graph?

Mr. Coe responded that it's the green section on the graph. It's the section along Concord Road; the section to be removed is the little section of the new section that extends below Post Road.

The Moderator pointed out the area on the viewgraph to be eliminated.

The Moderator asked if anybody wished to be heard on Article 35.

Mr. Blacker supports this amendment and is familiar with what was Hall's Insurance store. It is certainly a historical building and there may be one or two others. If this encompasses the back buildings in Mill Village, doesn't it go all the way to the end?

Mr. Moderator questioned Mr. Riepe. Does the portion in Mill Village include all of it, part of it or just the front section?

Mr. Riepe used a pointer to designate the area in question on the graph. That's the back building of Mill Village right there. That is the new building, the Enoch Kidder Building, which was mentioned. This group, of buildings, is very old

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buildings. This is the recent building and that's another Mill Building structure; where the bird feeder store is.

Mr. Blacker supports the Article and can't picture putting in a commercial structure that was built ten years ago or even 15 years ago. He's not sure when the fire occurred. Was it 20 years ago? It wasn't even that old, he thinks it was nine years ago as being part of this Historic District. These people have to worry about what color it is and so on and so forth, especially when they built it in such a nice fashion.

Chris Morely, 321 Old Lancaster Road, Planning Board opposes this amendment because there are four antique buildings and one new building in that area. Two of the antique buildings are on the property owned by the owner of the new building. They're not separate properties and the new building was designed, some would argue how much, but the Town of Sudbury oversaw the look of the building and that is what they want to do in the future. Several newer Commercial Buildings that in the future can get torn down sooner than you think. Mill Village is not one of them but a Wal-Mart or some type of store could easily go there. Protection will be needed and the entire district needs to be contiguous.

Hale Lamont-Havers, 173 Morse Road, wants to make certain that if the Article does pass will these houses be protected against being tear downs?

The Moderator asked are you talking about the amendment.

Ms. Lamont-Havers questioned. Will these houses be protected from being torn down?

The Moderator questioned. Is your question with regards to only the buildings located in Mill Village?

Ms. Lamont-Havers stated "No", the whole Historic District.

The Moderator stated the amendment is just to eliminate Mill Village from this Historic District. Are you interested in whether or not Mill Village will be torn down?

Ms. Lamont-Havers responded, well, that would be included, she supposed.

Mr. Riepe explained that one of the goals and benefits of the Historic District is to protect these small older structures from demolition. As the Town of Sudbury has grown, small buildings and small houses are prone to be bought and torn down by developers to be replaced by very large houses. There are a lot of small houses that are very vulnerable that way as market value would be tempting to many developers. That is definitely one of the goals for both residential properties and commercial properties to protect and stabilize this architectural environment.

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Vincent Ventrone, 16 Rice Road, is in favor of Historic Districts. He first visited eastern Massachusetts 20 years ago and made it a point to go to Concord and Lexington. Great towns, both of them, but frankly if given a choice which one to live in it would be Concord and pay a premium to be there because it's done a much better job at preserving it's history. Furthermore, when he tells people he lives in Sudbury, they don't ask about the schools, they don't ask about the taxes, they don't ask about the average property valuations, they always say "what a gorgeous place it is; it's so historic, it's so charming". Expanding the Historic District the way it's laid out is extremely important. Studies have shown houses in and near Historic Districts are worth more; they retain their value. Once that historic character is gone; it's gone forever. It can't be bought and anything that can be done to preserve the look of Sudbury is a good thing.

The Moderator asked if anybody wished to be heard on the amendment which is to eliminate Mill Village from the Historic District.

Jennifer Gardner, from Longfellow Road had a question relating to commercial properties. Have you had any feedback from the owners of the commercial property and how it would affect them? Also, isn't there a commercial property on the corner of Concord Road and Route 20?

Mr. Riepe stated that "Yes", there is a commercial property located there. The purpose of the Historic Districts is not to preclude commercial development but rather when development occurs to have its architectural character compatible with the larger district. In the case of Mill Village, there are a cluster of very historic structures and it is also a very historic site. Some of the deepest history of Sudbury is on that site. Unfortunately, a number of the artifacts have been lost. "Yes", the commercial sites are a part of this.

The Moderator asked if anybody else who hasn't spoken wished to be heard on this issue.

Tom Arnold, 20 Kendall Road, reads that the purpose of the Article is to preserve many fine examples of historic homes of Sudbury's past and agrees with this amendment. The Historic District Commission is over reaching a little bit to include the building for Mail Boxes, Duck Soup and those other businesses down there. Assuming that the people who own the commercial building, the large commercial building also own the historic buildings, is that a reason why they couldn't designate just the small historic buildings even though the commercial building is left out? One of the other speakers said that because it's in common ownership, the argument was that they couldn't, everything that was in common ownership had to be included; the four smaller structures could not just be designated. Whether that's true or whether they would be able to just designate the four smaller historic buildings and exclude the commercial building?

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The Moderator stated that Town Counsel has opined a line can be drawn through the common ownership.

Maxine Yarbrough, 468 Concord Road, said that the Kidder House on Boston Post Road really should be kept. It is with hope that won't be deleted because it is a very historic house. That house is one of the first houses on the underground railroad in Sudbury and another house that was pictured on Concord Road and more information about the underground railroad is available on a video in the library.

Sandy Heiler, from the Historic Districts Commission, commented that a lot of the questions about this come up because the wording of the Article refers to preserving houses. The reason it's worded that way is that most of the properties involved are houses but in fact the Massachusetts Historic Districts Act does include, allow one to include in Historic Districts; commercial properties, public buildings, churches. The whole purpose is to preserve the buildings and the settings around the buildings. There's no reason to exclude these things merely because of their status as commercial.

Kirsten Van Dijk, 37 Landham Road, strongly urged to vote against the amendment to the Article for the following reasons. Primarily on June 23rd of 2004, Christopher Skelly of the Massachusetts Historical Commission visited the Town of Sudbury. She had the very fortunate honor to take Mr. Skelly through the Town Center, up Concord Road, starting at the Mill Village. The walk through was done in the Mill Village area, as well as, Maple Avenue, where recommendations were made regarding Historic District designation; the absence thereof and the possible expansion and creation of new and existing Historic Districts. One question that was posed is "Why is the King Philip Historic District stopping at Boston Post Road and not continuing into the Mill Village area?" They're coming across that very issue right now. Is this perhaps, an unenlightened approach to Historic District designation concerning commercial properties? Using the word enlightened only because this hasn't been done before. Mill Village is one of the oldest Commercial Districts in the Town of Sudbury, historically. There are very old buildings that, as recently as 1978, were in existence and have been taken down. Had a Historic District been in place, protection would have been provided for those historic structures and maybe not have been lost. A commercial property can also be historic. The Kidder House, the Enoch Kidder House, which Ms. Yarbrough is referring to, is very important in Sudbury's history role and on that point, move to make an amendment to the amendment.

The Moderator stated that can't be done because a presentation has been made. You'll have to sit down and then be recognized for a motion to amend. The Moderator reminded the Hall that if you wish to make a motion to amend, a presentation cannot be made first.

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The Moderator then asked if anybody else wished to be heard on the amendment.

Jeff Jacobs, Babe Ruth Drive, supports the amendment. Two good points were mentioned; “Wal-Martization” on Route 20 and Mill Village if the Town of Sudbury wants to address the Mill Village in it’s entirety as a Historic District. The idea that they’re trying to stop “Wal-Martization” of Route 20 is a very good concept and should be addressed separately as a commercial corridor and the Route 20 corridor. But to the gentleman’s point, the amendment then sticks to the residential properties. The residential properties have been talked about. The other issue is that there was a comment about the commercial property owners and whether they supported the motion or the Article.

Mark Collins, Hudson Road, stated but for the fire, five or six years ago, this issue would not be debated. The restoration project was designed to meet the standards of the Historic District initially. One would expect that this initial district will hope to further the objectives of the planning requirements that were initially in place during the reconstruction. It is urged defeat of the amendment in order to maintain the initial character prior to the fire four or five years ago.

A resident questioned when looking at the viewgraph; does the southwest corner of the property go into the Hop Brook land or the railroad right of way? On the viewgraph, is this boundary going to be funny if we vote for the proposed Maple Avenue Historic District? There will be a little house and two little pieces that are real close to each other but not included in the Historic District. The Dental and Office Building across the street on the north side of Boston Post Road is half in and half out of the proposed Maple Avenue Historic District. How are these boundaries going to work for this proposed Maple Avenue Historic District?

Mr. Riepe commented that this district is not contiguous with the proposed Maple Avenue District that will be considered later. It does seem to just touch on the railroad right of way, but don’t imagine that there’s any consequence of that. It’s worthwhile that the Hall understand the Historic Districts are shaped with fairly simple geometry as they are 300 ft. off the roadway. This is the way it’s shaped all the way up the Town Center and the Old Sudbury District, for instance. That’s because this is essentially an easement and what is regulated is those components of the architecture which are visible from the public way. What might be on the rear of the property that can’t be seen from the street is unregulated. That’s why a fairly simple and uniform shape is kept for the district so what is seen from the road is uniform to a depth.

The Moderator reminded the Hall that although the main motion requires a two-thirds vote, this amendment requires merely a majority.

The Moderator asked for the main motion to be shown on the viewgraph.

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Tony Thompson, 34 Alta Road, reads that the southwest corner shown on the drawing wouldn't be included. The Historic District comes to the intersection of Boston Post Road and Concord Road and extends 300 ft. from that intersection. There should be a rounded corner not a square corner down in the southwest area on the drawing. Which is it; is it the language of the motion or is it the drawing?

The Moderator asked for the drawing to be shown on the viewgraph. Where is the drawing inconsistent with the words in the Article?

Mr. Thompson stated that it is inconsistent in the southwest corner; the tiny bit that touches the railroad. As the motion reads is to extend a radius 300 ft. from the intersection of Concord Road and Boston Post Road. So, that would give a rounded corner, not a square corner; down in the southwest corner.

The Moderator stated that we need an Architect to answer this question and it just so happen that Mr. Riepe is one such Architect.

Mr. Riepe responded that he was not prepared for this question and he'd have to study this for a minute.

Mr. Riepe resumed the meeting by explaining that this language was pretty much written by Bill Place, the Town Engineer, pursuant to the layout on the map and it was reviewed by Town Counsel. Some may argue that the language is somewhat tortured but we believe it conforms to the map.

Paul Kenney, stated, the original language accurately describes the layout and agrees it may be a little bit tortured. The only way to get down Concord Road was to use 300 ft. on either side. That brought us beyond the original language that was brought out had the turn onto Concord Road and up Concord Road, which left out the 300 ft. on the other side of Concord Road so you had to bring it down Concord Road on either side; excuse him it's down the Post Road 300 ft. on either side and beyond that and then it went up Concord Road. What Mr. Coe did, it appears, was change either side to the north side, which pulled it back; it went down the 300 ft.; went beyond Concord Road 300 ft. but it didn't go on either side; it just went on the northerly side and then up Concord Road. So, in answer to the question Mr. Moderator, the language on the viewgraph would control not the plan but it's the same thing.

The Moderator confirmed Mr. Kenney's statement; the answer to the question is it's the wording on the viewgraph and not the plan that controls.

The Moderator asked for the amendment on the viewgraph; that's the one changing "either" to "the north".

The Moderator questioned the Hall. Does everybody understand the amendment? A resident said "No". The question has been called but they should

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know what they are voting on. What Mr. Coe is attempting to do is to eliminate Mill Village from the Historic District. Is that correct Mr. Coe? If they don't think that's what he's trying to do then they can vote a certain way; if they think he's doing that they can vote either in favor or against, but that's what he's attempting to do. With that in mind we are now proceeding to a vote.

A resident exclaimed a Point of Information.

The Moderator said we've tried this before and there's actually no such thing as a Point of Information. If something is being done incorrect procedurally or if there's something illegal being done say Point of Order and the floor's yours.

Ted Pickering, 17 Peakham Circle, asked to see the wording on the motion on the viewgraph. He thinks the wording on the motion that has been projected on the viewgraph is different from what's in the Article.

The Moderator responded it is; it is.

The Moderator reminded the Hall that it's incumbent upon the presenter if the language on the viewgraph is different than the Warrant Article to explain to the Hall the difference so you know what you're voting for. All presenters please beware if the Moderator forgets try to remember or anyone in the audience can remind us. You must tell the audience what they're voting on. So, with that in mind we're now going to vote on the amendment. The Moderator asked that the amendment be shown on the viewgraph. This requires a majority vote.

The Moderator asked for all those in favor of the amendment please signify by raising your cards; all those opposed.

The amendment *FAILS*.

The Moderator stated the question has been called on the *main motion*.

The main motion received a second.

The Moderator stated we're now on the *main motion*; it requires a two-thirds vote and reminded the Hall the *main motion* is back on the viewgraph as un-amended.

The Moderator asked for all those in favor of the motion as made please signify by raising your cards; all those opposed.

The motion under Article 35 was *UNANIMOUSLY VOTED*. The Moderator declared *well more than a two-thirds vote*.

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ARTICLE 36. CREATE MAPLE AVENUE HISTORIC DISTRICT

To see if the Town will vote, pursuant to Section 12 of Chapter 40 of the Acts and Resolves of 1963, to create a new Maple Avenue Historic District, located as follows:

Maple Avenue, beginning at the southerly side of the Boston Post Road, extending the entire length of said Maple Avenue, and including 200 ft. on either side of the layout of said road.

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

The Moderator stated that before the main motion is made on Article 36, he's informing the Hall that he's recusing himself as Moderator for this Article as his law firm represents a party whose interests are affected by this proposal. He wishes to avoid even an appearance of a conflict of interest or partiality. Therefore, Larry Blacker has been asked to moderate on Article 36.

Sandy Heiler, Historic Districts Commission, moved in the words of the Article.

The motion received a second.

Sandy Heiler stated, if this Article passes, it is proposed the area suggested as a Historic District be called the Pitts Tavern Historic District because this was the original location of the Pitts Tavern. Old Sudbury's history was told because it's the main reason this is a suitable Historic District. Starting in about 1650, Sudbury residents who lived on the west side of the Sudbury River; the predecessors, began to complain how hard it was to get to Town Meeting or to the Sabbath Meeting because the Meeting House was on the other side of the river in what's now Wayland. They complained and argued about the taxes, if they were to build the new Meeting House, for 60 years. They petitioned the Massachusetts Legislature and they finally got permission to build a second Meeting House on the west side of the river. In about 1720 or 1721, they met at the Pitts Tavern where they decided to build the new Meeting House which was at the site of the current Unitarian Church in the Town Center. They built the Meeting House in about 1723 and for the next 60 years the sides of the river were alternated for Town Meeting until the Town of Sudbury split into two. One side was Sudbury and one side was east Sudbury, which is now Wayland. Many of the houses on Maple Avenue were owned by families that figured prominently in the Town of Sudbury's history. Most of the houses along Maple Avenue were built during high points of agricultural prosperity in Sudbury. The borders would be 200 ft. from Maple Avenue running on either side in the proposed Historic District.

There's new development that's planned for the end of Maple Avenue and that would be almost entirely outside the borders of the proposed district. This first house on Maple Avenue is at the original location of the George Pitts Tavern; Pitts

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Tavern was just south of the current house. The current house, which is the new house, is still about 205 years, was built by Christopher Cutler, the grandson of General John Nixon. During the Revolution in Sudbury many of the farms had been neglected because the farmhands had been drafted to serve in the Army and teamsters and draft animals had been needed to deliver food and ammunition. The Revolution then was followed by a period of agrarian reform that restored agricultural prosperity. This was one of the houses that were built during the building boom resulting from that agrarian reform. The post revolutionary prosperity was short lived. By about the middle of the 19th century, the soil was exhausted because of 200 years of farming in the area and farmers faced competition from Midwest farms. Sudbury farmers responded with a movement they called Scientific Farming. They switched to dairying, egg farming, market gardens, orchards and most importantly greenhouses.

During this period, greenhouses covering about 100 acres were built in south Sudbury alone. The result was a new period of agricultural prosperity mainly due to the success of the greenhouse gardening, during which this first house was built. The house was built by the Goodnows, however, it was occupied by Forrest Bradshaw who held every important position in Sudbury government and in the Town of Sudbury over his years; in fact he kept the Town of Sudbury's records in his basement. This, in fact, was the Goodnow barn which was converted by the Bradshaw's into a house and then connected to their house. Finally, this was another one of these Goodnow houses, all built in this period of agricultural prosperity that followed the middle of the century. These houses were all built prior to World War II, a period when agricultural prosperity continued in Sudbury. This was a time when another 100 acres of greenhouses were built and the Hood Company operated a huge dairy farm in South Sudbury. The houses are small but substantial and typical of successful farming towns. All were built before Route 128 and the suburbanization of Sudbury. Notice #28 has a garage that was owned by Alvin Bradshaw, who was the brother of Forrest. He was a Sudbury School Bus driver and built the garage to house the school bus.

The rest of the houses on Maple Avenue were built shortly after World War II; the latest was built in 1960. This is important because more than 50% of all the houses in Sudbury were built after 1960. The timing of this proposal is somewhat controversial because of the pending legal issues concerning the planned new development at the end of Maple Avenue. In light of the legal situation the Board of Selectmen requested that the Article be withdrawn and postponed until the next Town Meeting. The Historic Districts Commission took the Board's request very seriously and sought the advice of the Massachusetts Historical Commission, which is the State organization that oversees the operations of local Historic District Commissions. In Massachusetts Historical Commission's view the legal situation is irrelevant and it's their responsibility to proceed with the Warrant Article. They had considered the proposed Historic District Commissions strictly on its merits and without knowledge of the nature of any legal issues. The Sudbury Historic Districts Commission certainly intends no disrespect to the Board of Selectmen and

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recommends that you vote in favor of Article 36 to create the Pitts Tavern Historic District.

FINANCE COMMITTEE: Takes no position on this Article.

BOARD OF SELECTMEN: Does not support this Article.

Larry O'Brien, Selectman, explained that litigation has been filed against the Town of Sudbury, specifically against the Planning Board, by the residents of Maple Avenue because they have disagreements with the way the public hearings were run. The decision was made on the development that's been proposed for the end of Maple Avenue. As evidenced by the Board of Selectmen's unanimous support of the two prior Articles of the Historic Districts, is that this is not the right time for this to be brought forth since the Article was brought to the attention of the Historic Districts Commission. It's understood by petition of the residents that just occurred recently after the announcement of the proposed development for the end of Maple Avenue.

Secondly, it's believed that the residents of Maple Avenue if victorious this evening will immediately bring this to the attention of their Attorney and ask their Attorney to use it in any way possible that might be to their benefit. Therefore, potentially pitting the Town of Sudbury in another lawsuit should the developer of the proposed property decide that this might be infringing on their ability to develop the land. In these difficult economic times, funds and resources of the Town of Sudbury that are so delicately stretched are carefully guarded. Putting themselves in positions of potential litigation is something they try to avoid. The Board would gladly reexamine this situation at another time; be it 12, 24, 36 months, whenever the litigation is completely finished with Maple Avenue and would be happy to examine it on it's merits alone as a Historic District and not as something that may potentially get in the way and draw the Town of Sudbury further into this litigation between the neighbors, the residents of Maple Avenue and the Planning Board.

Therefore, at this time please vote against this Article and allow it to come back and stand on its own merit without litigation looming over it and being involved in the discussion.

Michael Fee, 48 Henry's Mill Lane, spoke on behalf of the Planning Board and stated the Planning Board is wildly enthusiastic about supporting Historic District extensions. It's an appropriate method and effective tool for accomplishing some of the very important goals that are set forth in the Master Plan. That is to preserve and enhance wherever possible the historic character of Sudbury, but for the reasons stated by Mr. O'Brien they were unable to vote in favor of this Warrant Article because the defendants are in the litigation. Mr. O'Brien referred to and felt it appropriate not to take any position for or against this particular Article. However, here is some information and background so that a determination may be

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made as to whether or not this legal issue is in fact an impediment to the enactment of the Warrant Article.

The Linbrook Property development, commonly known as “The Meadows”, was submitted to the Planning Board on or about March of 2004. The property is at the end of Maple Avenue, which is a dead-end avenue with a cul-de-sac. A portion of the Meadows development is in fact within the proposed Historic District so there is certainly an interrelationship between the property to be developed and the Historic District perimeter. The Planning Board held seven public hearings on this particular issue and gave it an incredible amount of attention due to the fact the neighbors were highly involved in the process. There were a lot of difficult discussions about whether this development would go forward and how Maple Avenue itself would be impacted. Eventually in June of 2004, the Senior Residential Special Permit was granted and development was slated to go forward. In July of 2004, certain neighbors on Maple Avenue sued the Town of Sudbury. The Planning Board is the defendant and one of the allegations in the complaint “The Board failed to recognize the historic and rural character of the neighborhood and the dead-end status of Maple Avenue. As a result, the development as proposed does not conform to the Zoning Bylaw of the Town of Sudbury or the Rules and Regulations of the Planning Board. In this respect the Board has exceeded it’s authority in granting a Special Permit”. As such this litigation puts in issue the historic nature of Maple Avenue and as a Planning Board and a town it’s not consistent for the Municipal Board to grant a Special Permit and authorize the development only to have Town Meeting take a vote that would render that Special Permit arguably inconsistent with Town Meeting. Because they are the defendants in the litigation it would be appropriate not to vote in favor or against this Article. No position is taken but for the reasons set forth very well by Mr. O’Brien.

Larry Blacker reminded the Hall that this is a Zoning Article and it will take two-thirds majority to pass.

Timothy Coyne, 24 Taylor Road, urged rejection of this Article against his better judgment. He’s in favor of historic properties and invested a lot of his time and effort in living in Sudbury and keeping it going, but tonight thanks to Mr. O’Brien’s presentation decided the residents should shoot this down because it’s becoming a craven sport to sue the Town of Sudbury and the Town’s Boards for doing their job; it’s not fair. The residents of Maple Avenue have over-played their hand and doesn’t approve of that even though he’s had familiar associations with Pitts Tavern and had the good fortune of doing a photographic essay of it, which all are welcome to see. Mark Thompson has this in his files; it’s a beautiful property and it would be the lynchpin of a beautiful Historic District. There’s great relevance to the argument of the Historic Districts Commission; but right now it’s flawed; not the Commission per se, but the activities have been too zealous on the part of the residents. He urged defeat of this Article but think about doing something along these lines some time later.

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Cheryl Salatino, 14 Maple Avenue, is privileged to be able to talk tonight about Maple Avenue as an Historic District because she's been trying for a couple of years to do this. It has not just come up and not a frivolous thought. As you probably remember in the Warrant last year, Maple Avenue was a Scenic Road. She was a mover and shaker on that one and that didn't come because of sponsorship. This is a very valuable Historic District and had nothing to do with this lawsuit. She's just a resident like half of the rest of the residents of Maple Avenue that had nothing to do with suing the Town of Sudbury. Her goal is to protect a very important district. This is the opportunity to do this now and won't have the opportunity to do it again.

She's worked with the Town of Sudbury on a student thesis project where she did some work for the Route 20 Business District. She studied the landscape; studied what possibly could happen in that area and presented the Town of Sudbury with a report that is available at the library. The Town of Sudbury hired a Consultant to do some focus groups with probably people who attended from this room and wanted to understand what was important and wanted about the Route 20 District. One of the most important things was neighborhood because neighborhood added vitalization to an economic healthy Business District. They are the neighborhood and the vital important part of Route 20; people want it; they want it and would like to protect it. It's being protected by historic means as well as looking around and trying to say this is a vital important area that needs to be alive. There's a lot of information that can't be discussed at this meeting tonight. The Selectmen, the Planning Board and she can't go through it; they're not going to get it all. This is critical for a vote tonight and will not come up again. The district is at risk and now they have a chance to say it's okay to make it a Historic District because what was told doesn't have any effect; progress will not stop.

It can be done or not; her vote is to get it done. When she bought her house 13 1/2 years ago she bought 1776 and lives at 14 Maple Avenue, which is one of those old homes. She wants her house and environment to remain as close to the historic area it is. She's had the privilege of working with Lee Swanson to look at Forrest Bradshaw's papers and understands that Route 20 went down Maple Avenue. That's pretty exciting stuff; nobody really knows that; it needs to be protected now. She's counting on all of you to help get this done. She's been trying very hard for this district and can't even believe she's having the opportunity to talk about this tonight; it's thrilling; please support this Article.

Kirsten Van Dijk, 37 Landham Road, urges strong support for the establishment of the Pitts Tavern Maple Avenue Historic District if only because it is consistent with the recommendation from the Massachusetts Historical Commission, Director of Special Projects, Christopher Skelly who toured the property on June 23rd of 2004 and as reported to the Planning Board that very evening was very happy to give the good news that he found that Maple Avenue, indeed qualifies two counts of Historic District designation status; as a local Historic District as is being proposed tonight, as well as, a National Historic Register site; a

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National site such as the Goodnow Library. The Grinding Stone in the Town of Sudbury is also one that could be considered for National Register status. The criteria were based upon the nature of Maple Avenue being basically an architectural historical time line of the development for the Town of Sudbury. The Historic District Commission has very effectively pointed that out with their pictorials.

It's also important to recognize that the actual landscape itself, although some of these trees were not here 200 or 300 years ago, as Mr. Drobinski pointed out in one of the meetings; the trees are here now, have been cherished and are part of the landscape. Perhaps this is one of the reasons why the road was called Maple Avenue. Water Row is called Water Row for obvious reasons. To suggest that voting on this Article should be postponed because of litigation has merit but tends to prefer to suggest that perhaps those members of the Planning Board or the Town of Sudbury that are in litigation with the concerned parties on Maple Avenue may choose not to vote in support of this or may choose to abstain. To suggest to other townspeople who are concerned with historic preservation to vote in the same feeling is a little presumptuous and could cause a detrimental effect down the line in terms of other designations.

She quickly read something that one of her boys wrote in regards to creating a new Historic District. "Think back to the last time you went back to your childhood town and how it has changed; how you may have wished that you could show our spouse or kid what it used to look like; how great it would be if some of that character remained. The Historic District is a way to take a small portion and preserve or be sensitive to the way it has always been so our kids and grandkids can get a sense as to where we grew up even if the rest of this town has to keep pace with progress." They put it so well and urge you to vote in support of the creation of the Maple Avenue Historic District; it's a long time coming.

Carolyn Lee, Mossman Road, directed her question to the Historic Commission and the Town Counsel. She presumes that everybody thinks independent of the intra town lawsuit that if this is created it will end up in a lawsuit with the developer over something to do with this. It's guessed that this is not the first time in history that a Historic District Commission has ever been created in a town in order to thwart a developer. What are the precedents? She agrees with the Town of Sudbury, one more lawsuit gumming up the Budget is not her idea of fun, but also thinks the people who want the Historic District are absolutely correct.

Larry Blacker, interim Moderator, believed the question was "Has there been any history relative to lawsuits having been brought to create a Historic Commission to try to thwart development; success or lack of success?"

Sandy Heiler responded that they are not lawyers, however, when the Selectmen mentioned there was a pending lawsuit, the Massachusetts Historical

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Commission was checked to see whether they were aware of any situations like this and they were not.

Paul Kenney stated that Mr. O'Brien did not say there was a lawsuit pending now with regard to the Historic District. There was a lawsuit pending based upon the decision of the Sudbury Planning Board. What Mr. O'Brien is concerned about is the fallout, if in fact, this is passed and it prevents the developer from developing this property. That may be tantamount, since they're involved in litigation they're not going to say whether it's going to be successful or not but can tell you with regard to zoning changes there is a large body of precedent with regard to that being a taking. If zoning is used to prevent development of major litigation which has ensued with significant damages awarded to the developers. This is not suggesting that this is going to happen here or not. What is happening is, if Mr. O'Brien is correct, this is being used to stop development for a developer who has already achieved a Special Permit. This is clearly a precedent in a regulation by a town with regard to the prevention of development. Whether it will be successful is an entirely different question and whether it has independent merit, which would allow it to stand on its own would take a substantial piece of litigation to make that determination. Does that answer the question? There's no precedent that he's aware of with regard to Historic Districts but there clearly is a large body of precedent with regard to public regulation leading to what is tantamount to a condemnation or taking allowing a developer or an owner of a property to recover damages.

John Donovan, Old Orchard Road, is a little bit confused with this. He's familiar with Maple Avenue and lived in the Town of Sudbury too many years, people say. The Selectmen seem to say why can't litigation be postponed until it is over; 12 months, 16 months, 48 months, 65 months. Can anybody advise what's going to happen to Maple Avenue in that period of time until litigation is finally settled in the courts? Will anything be left to preserve? What will Maple Avenue become? Is it known?

Larry Blacker questioned if this were postponed what impact would it have on the physical presence of Maple Avenue in its current condition?

Mr. Donovan questioned the Hall. Will Maple Avenue be recognized in the future as it is currently? Will it be one of these drive-through developments with square corners and round circles?

Larry O'Brien's impression is that depending on what the individual land owners do on the individual parcels would have the greatest impact on the future look and feel of Maple Avenue. Are you asking about that or are you asking about what impact the proposed development at the end of the street might have?

Mr. Donovan's just trying to find if there is possible litigation coming up; do they actually have it or not.

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Mr. O'Brien said "No" there is litigation that has been filed against the Town of Sudbury that is currently pending in the Superior Court; it's been filed by some of the residents of Maple Avenue against the Town of Sudbury.

Mr. Donovan interjected by saying that pertains to you exceeding your authority, supposedly, something to that affect.

Mr. O'Brien said the comments were made by Mr. Fee since the Planning Board is the defendants in the case.

Mr. Donovan is concerned that if something isn't done now; will it be California Avenue instead of Maple Avenue? Will it be straightened out; de-bend it; take the trees down; change the whole character of Maple Avenue. If it isn't looked at now can it be done in 12 months from now and still have the same road to look at?

Mr. Fee responded that the question that was asked will happen if the litigation is settled or is resolved in favor of the developer and a Special Permit is allowed to be implemented and the developer is allowed to build the development. What would happen is that in certain places Maple Avenue would be widened to a maximum of 17 ft. and 8 or 10 trees would be removed but the look and feel of the road would not change. There would not be any changes to the angles of it. In fact, going out on a limb, the Planning Board took great pains to try and preserve the character of Maple Avenue when it fashioned the Special Permit initially. Does that answer the question?

Mr. Donovan wished somebody from Maple Avenue would take the other side and explain why they filed this thing?

The Moderator asked if anybody else wished to be heard on Article 36.

Graham Taylor, 221 Goodman's Hill Road, exactly on this point, last year at Town Meeting it was voted by a majority to ask the Selectmen to look at a different option for accessing this proposed development off Raymond Road which is a heavily traveled road; the increased traffic on Raymond Road would be nil. He thought that was going ahead, then got a notice that the Planning Board and saw in the Town Crier that the Selectmen rejected that on the grounds that getting access across Feeley Field to this development required legislature. This was cumbersome and did not think it feasible; that's what this is all about. He didn't even know this was subject to a lawsuit until he read the Article and called some people on Maple Avenue. This is the issue, just as this gentleman said, while they wait for this to go to litigation, what have you? He doesn't hear any reassurance there'll be a hold on any development on Maple Avenue. That's what this is about, the Maple Avenue people and many of the residents are not against the development per say; they're against any affect on Maple Avenue that disturbs its present character. That's what this issue is about.

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He spoke to the Planning Board and gave a letter to the Selectmen when they met on this in July that there were obvious advantages to going in through Feeley Field and not disturbing Maple Avenue at all. That's the issue here. That's why this gentleman raised the question as to whether there would be something to come back to. He's absolutely in favor of the Historic District because it's apparently the only way, at this point, to block absolutely denigration of Maple Avenue and as far as he's concerned two trees out of Maple Avenue is a denigration of that avenue. This district should absolutely be voted to block the developer. Maple Avenue residents and Town Meeting suggested the developer goes through Feeley Field, then all of a sudden the developers did not want to go through Feeley Field for reasons that is not fully understood. Maple Avenue should be preserved. Now this is the way to preserve it; vote for this Historic District.

Henry Noer, 55 Goodman's Hill Road, echoed Mr. Taylor because, with due respect to the Board of Selectmen and the Planning Board, the legal issues are that they're being scared at what the developer might do. The merits of this stands on its own and as one of the Maple Avenue residents said this is not an idea that just suddenly came up. A statement was made early in this discussion that it would affect the development that much to have this district. If that's not correct that should be corrected now but the character of Maple Avenue stands as a Historic District. The consequences of not having it are, as the gentleman over here brought up, is that there may not be anything to protect and urged that this Articles passes.

The Moderator asked if anybody else wished to be heard on Article 36.

Joshua Fox has lived in the Town of Sudbury for 30 years; resides on Indian Ridge Road and represents the developer Linbrook Properties. The Selectmen and representatives of the Planning Board have been heard with respect to the inappropriateness of the timing of this Article so no comment will be made on that. One other comment regarding funds, taxation in town and the escalating taxes; this is a Senior Residential Community that's been approved by the town. That means for the residents the deeds will be restricted to those owners and occupants and there must be at least one owner and occupant that's 55 years and older. One of the reasons that the Town of Sudbury is supportive of these Senior Residential Communities is that they're a positive income generator as opposed to most residences in town. Where they're 55 and older deed restricted school-aged children are not likely to live in these units.

A resident had a *Point of Order*.

The Moderator asked Mr. Fox to continue.

Given the fact that these units are age-restricted there are not likely school-aged children going to be living in these developments. As a matter of fact, in the only Senior Residential Community in the Town of Sudbury, Spring House Pond;

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there are no school aged children. In addition there's no tax burden with respect to maintaining the streets for the Town of Sudbury. The Condominium Association maintains the streets; they plow the streets within the condominium development, whereas in front of most of the homes taxes are paid and part of that goes toward maintenance of streets; to plowing.

The Moderator interrupted Mr. Fox and is beginning to agree with what was said by the person who made the Point of Order. Relate this more to the issue before us. Should this be a Historic District?

Well as has been heard as to the inappropriateness from the Planning Board, the elected officials; from the Board of Selectmen so for the greater good of the Town of Sudbury, he respectfully requests that you reject this Article.

The Moderator asked if anybody else wished to be heard on Article 36.

Jennifer Pincus, 25 Blueberry Hill Lane, questioned which houses on the map represent the pictures shown earlier because she really can't get a good feel for where the houses that were built since World War II are on that map. Are they at the end of the road or scattered throughout the street.

Sandy Heiler said the few houses built since World War II tend to be scattered throughout but many of them are more towards the end of Maple Avenue, not the Post Road.

The Moderator asked for the map to be displayed on the viewgraph. Is there anyway to delineate approximately where that begins?

They are not all clustered together. In fact, at the end of Maple Avenue is a barn that was built in 1850, but as mentioned in the presentation the new development planned is almost entirely outside of the proposed Historic District. Ms. Kablack can correct this if it's wrong and believes only the gates to the development and one corner of one building would be within the Historic District.

The Moderator said Ms. Kablack nodded her head in agreement to that statement.

Mr. Drobinski has been on the Board of Selectmen for a long time and the Board of Selectmen has been working with the Maple Avenue folks for many years. When Dunkin' Donuts came into the Town of Sudbury, the Site Plan was turned down; actually Mr. Fox was the Attorney for Dunkin' Donuts, because it was not colonial enough and negotiated the present look of Dunkin' Donuts much to the happiness of the Maple Avenue neighbors. The Maple Avenue folks came to the Board of Selectmen a number of times to discuss the issue. As Mr. O'Brien said it doesn't appear to be the appropriate time. One of the major issues that the Maple Avenue residents were concerned about were the trees; they kept mentioning trees

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and trees. Other than the homes, which are very valuable, trees are very important to them. At the library he got a copy of Laura Scott's pictorial history of Sudbury, which is quite an interesting volume if you haven't seen it. There are a number of pictures of Maple Avenue at the turn of the century and lo and behold there wasn't a single tree on Maple Avenue; in fact Maple Avenue was like most of New England at that time; there were very few trees. The desire to keep every tree is respected but if you want something historic and history is what's wanted; what it used to be like; well that's what it used to be like; there were no trees. Mr. O'Brien's correct; when litigation is settled the Board of Selectmen will re-look at this issue and work with the Historic Districts Commission to make sure that the historic homes in Sudbury are preserved. Notice how this was voted, especially his vote on the Mill Village, they voted in favor of keeping Mill Village historic and they'll still work with that.

Martha Coe, 14 Churchill Street, explained that some interesting facts have come up in this discussion. The gentleman, who is the developer, says that its going to be a gated community; they're going to plow their own roads and so forth which means it's going to be a road that's fairly narrow like the ones in Frost Farm and Spring House Pond. Mr. Fee says that they're talking about a 17 foot wide road. When serving on the Highway Commission, she became more aware of widths of roads. In a lot of development, like for example her street; her neighborhood which was built in 1969 has a 26 foot wide road because there is a space for two cars plus a space either for a parked car, a pedestrian or a bicycle. But some of the older roads, especially the dedicated roads, and those of you who remember Mossman Road walkway and Goodman's Hill Road walkway will remember that these old roads are quite a bit narrower. Some of them are less than 20 ft. wide. One thing that is bothersome when reading about the Maple Avenue issues is what right does somebody who owns property at the end of Maple Avenue has to widen Maple Avenue when he doesn't own that property; that's really the issue. If the gated community development is going to have one of these 17 foot wide roads and they're talking 17 ft. wide from Maple Avenue; a couple of trees may come down but it would not destroy the character of the neighborhood if that's what's really going to be done. There's no reason why allowing these folks to protect their neighborhood should be considered to be obstructing the development at the end of the road. She's kept quiet because these folks that are doing the development for the seniors seem to be behaving responsibly.

A resident stated the proposal that's on the floor has to do with the proposal for a Historic District on Maple Avenue. The merits of the proposal should not be debated for the development at the end of Maple Avenue and the discussion in that regard is out of order and far off field with the motion.

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Rich White, 14 Maple Avenue, who by the way is not a litigant in the court case, wants to address two comments regarding the Article. Mr. Drobinski mentioned the photographs and the lack of trees on the photographs; “Yes” that is true he is a Historian; amateur admittedly and it is true those photographs were taken at the time that this area was a Dairy Farm. If anybody knows about having a farm it’s hard to have a farm when you’ve got trees on it. The trees were planted since the time that the Dairy Farm went out of business.

A question was made earlier as to what might happen to Maple Avenue if this issue is tabled for a year to two years to three years. He apologized to some of his neighbors, there are three homes to his knowledge in which the occupants are seniors and not just very young seniors; they’re very old seniors. His apologies again to them because if we wait three more years they will no longer be living in those homes; those homes are now historical but will not be considered historical because they will not have a Historic District; it will be torn down so a young person can build a Mc-mansion on Maple Avenue. So, there is that affect if this action is delayed.

Jennifer Gardner, Longfellow Road, questioned if this Historic District is passed is that really a guarantee that the development will be impeded; is that a guarantee the trees won’t come down? In what way declaring it a Historic District affects the proposed development?

The Moderator was told the answer is “No”; that it will not necessarily stop the development nor will it necessarily stop the removal of the trees.

Kurt Larson, 95 Water Row, said that is the part that’s still dry. One of the issues asked to be considered here is the affect on creating a Historic District, which is going to partially impinge upon some property that’s going to be developed. Has there been anything that shows us what property actually is going to be developed? What property will be developed, where the property will be located and what portion of it would lie inside of the Historic District? What affect would that have upon the developer’s right to enjoy and develop that property and perhaps what fraction of that property would lose the ability to enjoy it to the fullest extent?

The Moderator pointed out the area in question on the viewgraph to answer the first part of the question.

Mr. Larson said given the diagram that was shown with the laser pointer; to what extent would that impinge upon the developer’s rights to develop and enjoy the property given that now part of that would lie within the Historic District.

Town Counsel said it’s not clear that passage of this Article would impede his right to develop that property. The position taken by the Historic District Commission is they have the right to avoid cutting down trees; that’s not clear either because the statute says the Historic District Commission covers buildings,

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sites, structures and landscaping or trees on a public way aren't necessarily part of that. The next step in that question is what happens if it does; what was not answered in that last question was when he said no it wouldn't necessarily do so; but if it does then we go back to the issue described before with regard to the right of somebody to sue the Town of Sudbury for what's known as a taking because of the regulatory action taken by the Town of Sudbury. It's not certain that's going to happen but it potentially could happen, if in fact, this Historic District regulation precludes them from using their property for a use which is allowed. Then it's opened up, as in Zoning, a regulation which allows damages for an invalid taking or improper taking.

A resident called the question.

It received a second.

The Moderator said we will now vote on terminating debate and its two-thirds majority that's needed. The Moderator asked for all those in favor of terminating debate please raise your cards; all those opposed; well more than two-thirds.

We will now vote on the main motion which is move in the words of the Article as in your Warrant.

The Moderator asked for all those in favor of Article 36 please raise your cards; all those opposed.

The Moderator said it is DEFEATED but if someone wants a count he'll be glad to honor that.

The Moderator asked for the doors to be closed, requested the tellers and reminded the Hall that you must be seated for your vote to be counted.

The Moderator asked for all those in favor of the Article please stand and hold up your cards; all those opposed please stand and hold up your cards.

The Moderator stated the number of votes needed to pass the Article is 157 votes.

Counted Vote: YES - 135

NO - 101

TOTAL – 236

The Article Failed.

The motion under Article 36 is DEFEATED.

ARTICLE 37. AMEND BYLAWS, ART. VIII (B). SCENIC ROADS

To see if the Town will vote to delete Section VIII (B) of the Town of Sudbury Bylaws in its entirety and substitute therefor the following:

**"ARTICLE VIII (B)
SCENIC ROADS**

SECTION 1. ADMINISTRATION

1.1 Purpose

The purpose of this Bylaw is to protect the scenic quality and character of Town roads designated as Scenic Roads by establishing rules and regulations governing local administration of the Scenic Road Act, M.G.L. c. 40, s. 15C. The local authority and jurisdiction of the Planning Board, herein, shall be consistent with the Scenic Road Act. The Scenic Road Act governs the cutting or removal of trees, or the tearing down or destruction of stone walls during the repair, maintenance, reconstruction, paving, or other alteration of roads that have been designated as a scenic road by the Town. The Town has adopted these regulations with the following objectives:

- a) To maintain the natural beauty and scenic qualities along scenic roads in the Town of Sudbury.
- b) To enhance the rural character of scenic roads of the Town and encourage compatibility with existing roadside features.
- c) To implement more fully the provisions of the Scenic Road Act, M.G.L. c.40, s. 15C.

1.2 Procedure to Designate a Road as a Scenic Road

The Planning Board, the Board of Selectmen, the Conservation Commission, the Historical Commission, or the citizens of the Town of Sudbury by petition (consistent with petition requirements to place an article on the warrant) may propose "scenic road" status for any road in the Town of Sudbury, other than a numbered route or state highway.

The Planning Board shall hold a Public Hearing on the proposal or petition, notifying the Selectmen, the Tree Warden, Director of Public Works, the Conservation Commission, the Historical Commission and the Historic Districts Commission and shall advertise the hearing twice in a newspaper of general circulation; the first advertisement at least fourteen days prior to the date of the public hearing. The Planning Board shall make a recommendation to Town Meeting on the merits of the proposed road as a scenic road. No road shall be designated a scenic road by Town Meeting unless such designation is favorably recommended by the Planning Board, Conservation Commission, or Historical Commission.

A majority vote of Town Meeting is required for designation of a road as a scenic road. Such designation shall be effective as of the date of Town Meeting

action. Any work on any portion of the right-of-way of a scenic road, which was not physically commenced at the time the road was designated by Town Meeting as a scenic road, shall conform to these regulations.

1.3 Roads Subject to the Provisions of the Scenic Road Act

1.31 The following roads were designated at Scenic Roads at the 2003 Annual Town Meeting:

Brimstone Lane	Haynes Road	Pantry Road
Bowditch Road	King Philip Road	Peakham Road
Candy Hill Road	Lincoln Road	Plympton Road
Clark Road	Marlboro Road	Powers Road
Concord Road	Morse Road	Rice Road
Dakin Road	Mossman Road	Water Row
Dudley Road	Newbridge Road	Wayside Inn Road
Dutton Road	Old County Road	Weir Hill Road
French Road	Old Framingham Road	Willis Road
Goodman's Hill Road	Old Garrison Road	Woodside Road
Goodnow Road	Old Lancaster Road	

1.32 In determining which roads or portions of roads should be recommended to Town Meeting for designation as scenic roads, the following criteria should be considered:

- a) **The road appears on the 1830 or 1875 maps of the Town of Sudbury;**
- b) **Overall scenic beauty and view from the roadside;**
- c) **Contribution of stone walls to scenic beauty;**
- d) **Age and historical significance of roads, trees and stone walls;**
- e) **Built features such as historic buildings, structures and sites, historic monuments, historic burial grounds, agricultural buildings and fencing;**
- f) **Location in an historic district, or use restrictions on properties in the area; and**
- g) **Road features such as historic layout, surface, carriage width, and non-historic bridges.**

SECTION 2. DEFINITIONS

In the absence of contrary meaning established through legislative or judicial action pursuant to M.G.L. Ch. 40, Sec. 15C, these terms contained in that statute and herein shall be construed as follows:

"Cutting or removal of trees" shall mean the destruction of one or more trees having a trunk diameter of four (4) inches or more measured one (1) foot from the ground, trimming of major branches or trimming of roots sufficient in the Tree Warden's opinion to cause eventual destruction of a tree. Not included in this definition is the routine or emergency maintenance

which removes only permanently diseased or damaged limbs, trunks, or roots, and dead whole trees.

“Repair, maintenance, reconstruction, or paving work” shall mean any work done within the right of way by any person or agency, public or private. Construction of new driveways or alterations of existing ones is included to the extent such work takes place within the right-of-way. Roadside clearing of trees to provide for vehicle clearance or for improvement to line-of-sight shall also be included in this definition. Construction or alteration of water, sewer, electric, telephone, cable TV or other utilities within the right-of-way is also included.

"Road" shall mean the entire right of way of a vehicular traveled way plus its necessary appurtenances including bridge structures, drainage systems, retaining walls, traffic control devices, and sidewalks, but not intersecting streets or driveways. The right of way includes the area on and within the boundaries of the public way. If the boundaries are not officially known, any affected tree or stone wall shall be presumed to be within the public right of way until shown otherwise.

"Tearing down or destruction of stone walls" shall mean the temporary or permanent destruction of more than ten (10) linear feet of stone wall involving more than one (1) cubic foot of wall material per linear foot. Temporary removal of stone walls, to be followed by replacement of the disturbed portion of the wall within a reasonable period of time, not to exceed 90 days, at the same location with the same materials and according to the original character, shall be subject to informal filing and review procedures, set forth under section 3.6.

SECTION 3. PROCEDURES FOR ALTERING A SCENIC ROAD

3.1 Filing

Any person or organization seeking the consent of the Planning Board under M.G.L. Ch. 40, Sec. 15C (The Scenic Roads Act) regarding road repair, maintenance, construction, reconstruction, paving or other alteration that will involve the cutting or removal of trees or the tearing down of stone walls, or portions thereof on a scenic road, shall file a request with the Planning Board, together with the following:

- a) A plan showing the location and the nature of the proposed action and a description of the proposed changes to trees and stone walls (six copies). At a minimum, such plan shall be to scale (preferred scale is 1" = 40') and shall clearly show existing trees and those to be removed, noting the species and diameter (measured one foot above ground). The plan shall indicate the width, height, character and**

dimensions of any stone wall, as well as the proposed methods for the repair or reconstruction of any portion of the stone wall.

- b) A statement of the purpose(s) for the changes.
- c) Photographs of the existing site showing the area to be affected by work and the surrounding area for a distance of at least 100 feet to either side on the scenic road in question. All photographs must be signed and dated by the applicant.
- d) Any further explanatory material useful to adequately inform the Planning Board prior to the public hearing, or as required by the Planning Board.
- e) Except in the case of Town agencies, a deposit sufficient for the cost of advertising and notification; and
- f) A certified list of abutting property owners within one hundred (100) feet of the affected property.

3.2 Notice

Planning Board shall, as required by statute, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area. The Board shall also send copies of that notice to the Selectmen, Conservation Commission, Historical Commission, Town Engineer, Highway Surveyor, Tree Warden, Department of Public Works, and owners as of the preceding January first of property located in whole or in part within one hundred (100) feet of the proposed action.

3.3 Timing

The Planning Board shall hold a public hearing within forty-five (45) days of receipt of a properly filed request, and shall make a decision within sixty (60) days of that receipt, unless a longer time is agreed to by the applicant. The date and time of the public hearing shall be set outside of normal weekday work hours (8:00 AM - 5:00 PM, Monday - Friday) so as to encourage maximum citizen participation.

3.4 Tree Warden

Whenever feasible, Planning Board hearings shall be held in conjunction with those to be held by the Tree Warden acting under M.G.L. Ch. 87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden, or vice versa.

3.5 Emergency Repair

The procedures of this article shall not be required when the Tree Warden or his deputy act in an emergency in accordance with M.G.L. Ch. 87 to remove fallen trees or limbs which cause an obstruction to public travel or a dangerous situation with respect to utility lines.

3.6 Informal Filing and Review Procedures

3.61 Temporary removal of limited portions of a stone wall, to be followed by replacement of the disturbed portion within a reasonable period of time, not to exceed 90 days, at the same location with the same materials and according to the original character, shall be subject to these informal filing and review procedures. Other temporary removal shall not be entitled to these informal filing and review procedures.

3.62 The applicant shall submit a cover letter, sketch plan of the work to be done, photographs of the area for a distance of 50 feet on either side of the work site and a statement of the purpose for the temporary removal. Such purposes may include temporary removal for the purposes of utility connections or gaining temporary access, among others.

3.63 Based upon the information submitted, the Planning Board shall determine if the proposed work is of a limited and temporary nature and may vote to approve the work to be completed without further public process. The Planning Board may require sufficient bond to be posted to ensure restoration of the stone walls.

3.64 Following completion of the work and replacement of the stone wall in accordance with the Planning Board approval, the applicant shall submit a cover letter to the Planning Board confirming completion together with dated photographs of the restored wall.

SECTION 4. DESIGN STANDARDS

4.1 Curb Cuts

Each lot fronting on a scenic road shall generally have one driveway curb cut. The paved width of a driveway for a single family home shall not exceed twelve (12) feet, or eighteen (18) feet for any multi-family dwelling. Subdivision roads and new roads for commercial properties shall be governed by the applicable Town regulations for these types of developments. The use of common driveways is encouraged to preserve and to enhance the visual appearance and rural character of scenic roads in the Town of Sudbury.

4.2 Stone Wall Removal Limitations

- a) The maximum amount of stone wall to be removed shall be the width of the pavement of the driveway or new road at the location of the stone wall plus three (3) feet on either side.
- b) Unless otherwise waived, removed stone shall be used to repair other sections of the wall within the scenic road, in accordance with the Planning Board approval.
- c) No wall shall be cut without construction of an appropriate terminus.

- d) **In no case shall stones be disposed of or used for purposes other than to repair the remaining stone wall within the scenic road without the prior consent of the Planning Board.**
- e) **Any construction of a terminus or repair of a stone wall shall match the method of the existing construction.**

4.3 Tree Removal Limitations

- a) **No tree with a trunk exceeding eight (8) inches in diameter, one (1) foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.**
- b) **No cluster of trees located within six (6) feet of each other, with individual trunks exceeding six (6) inches in diameter, one (1) foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.**
- c) **For each tree with a trunk exceeding six (6) inches in diameter, one (1) foot above ground level, that is removed, a tree in a species, size and location, with advice from the Tree Warden and suitable to the Planning Board, shall be planted, or an equivalent payment into the town-wide tree replacement fund shall be made. This section shall not apply to projects undertaken by the Town of Sudbury.**

4.4 Waivers

The Planning Board may waive the design standards, as set forth under this Section 4 herein, if it finds that the waiver is consistent with the considerations and intent of Section 5. The Planning Board shall consider public safety, sight lines, lot configuration, character of the stone wall and existing vegetation in its deliberation for the granting of a waiver.

SECTION 5. CONSIDERATIONS

In acting on applications for alterations to scenic roads, the Planning Board may take into consideration the following:

- 1. Preservation of natural resources;**
- 2. Environmental and historical values;**
- 3. Scenic and aesthetic characteristics;**
- 4. Public safety;**
- 5. The characteristics of local residential traffic and resident expectations;**
- 6. Relationship of road design to the standards of the Planning Board's subdivisions regulations and of the Massachusetts D.P.W.;**
- 7. Compensatory actions proposed, such as replacement trees or walls;**
- 8. Functional urgency of the repair, maintenance, reconstruction, or paving;**
- 9. Additional evidence contributed by abutters, Town agencies, and other interested parties;**
- 10. Other sound planning consideration.**

SECTION 6. DECISION AND REPORTING

The Planning Board shall within sixty (60) days of receipt of a properly filed request submit a written determination of consent or denial to the applicant and a copy to the Board of Selectmen, Historical Commission, Conservation Commission and the Town Clerk. A report of denial shall include an indication of what modifications, if any, would lead to consent. The Planning Board may require sufficient bond to be posted to ensure restoration of the site.

SECTION 7. ENFORCEMENT

7.1 Filing and Restoration Requirement

Cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, within the layout of a designated scenic road, without prior approval from the Planning Board and in violation of this bylaw will necessitate an immediate filing with the Planning Board, as detailed above, and the area affected shall be subject to restoration of the features, as specified by the Planning Board. This restoration shall consist of replacing/repairing the stone wall as necessary and replacing the trees cut on a square-inch per square-inch basis at locations specified by the Planning Board. A square-inch per square-inch replacement means that the combined area of the replacement trees measured 1 foot above ground level must equal the total area of the original tree trunk as measured 1 foot above ground level.

7.2 Compliance

Failure to comply with the duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures the Planning Board deems necessary.

7.3 Penalty

Cutting or removal of trees or the tearing down or destruction of stone walls within the layout of the scenic road in violation of this Section may be subject to a fine of not more than three hundred dollars (\$300.00), as set forth under the Scenic Road Act, MGL Ch. 40, Sec. 15C. Each day that a violation continues shall constitute a separate offense, until an application is made to the Planning Board, with continued progression toward a good faith effort for restoration. In addition, the Planning Board and Building Inspector may withhold or revoke any current or pending permit on the property associated with said violation.

7.4 Enforcement Authority

The Planning Board, the Building Inspector and the Tree Warden shall have the authority to enforce the provisions of this section, as applicable.";

or act on anything relative thereto.

**Submitted by the Planning Board and Sudbury Historical Commission
and Historic Districts Commission. (Majority vote required)**

Jody Kablack, Planning Board, *moved* in the words of the Article, except delete the words "The Board of Selectmen" in Section 1.2.

The motion received a second.

Jody Kablack, Town Planner, represented the Planning Board on this Article. Along with her presentation, Jim Hill from the Sudbury Historical Commission will also be sharing the ten minutes. The first thing she would like to do is describe the amendment to you. In the research on this Article, Scenic Roads are governed by a Massachusetts Statute, Chapter 40, Section 15C, that governs a few aspects of the Scenic Roads Bylaw but not all of them, but one of them very specifically; it governs who can designate roads as scenic. That section reads that there are only three entities that can designate Scenic Roads; which are the Planning Board, the Conservation Commission and the Sudbury Historical Commission. The Planning Board recently reviewed the statute and realized that the proposed language in the Warrant was not consistent with the State statute. Just this evening the Planning Board voted to remove the Board of Selectmen as a designating authority to provide consistency with the State statute. That being said, here is the presentation on the gist of the Article.

The Planning Board and the Historical Commission began working on the re-writing of this Bylaw after the 2003 Town Meeting that designated the first thirty-two Scenic Roads in Sudbury. At that time, the Bylaw, itself, had been in place for 25 years but had never been used due to a lack of designated streets. Since the designation of these streets the Planning Board has reviewed 13 applications for changes to Scenic Roads. The Planning Board is the permit granting authority for this Bylaw. The Historical Commission has been present at every hearing and has witnessed the problems we've encountered with the Bylaw. Some of the problems stem from the residents lack of knowledge that the roads have this designation but most of the problems stem from the Bylaw language, itself. It's a very short Bylaw and it really didn't cover many of the aspects of the issues that we're dealing with today. The Bylaw has been developed into a much larger Bylaw. You will see it if you read through this.

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To follow are some of the major points of the changes:

- The proposed revisions add a proposed section to the Bylaw that was lacking.
- This proposed section describes the town's objectives in enacting the Bylaw and gives the user information on the State enabling statute, such as the permit granting authority and the State statutes that reference Scenic Roads.
- The revisions also describe the procedure to designate a road as scenic and this is the cause of the revision tonight.
- This provision will educate the Town of Sudbury residents and Boards on how to propose additional streets for designation when appropriate.
- The definition section of the proposed Bylaw includes much more precise criteria for what can and cannot be done on a Scenic Road, which leaves less room for incorrect interpretation and potential violations. The definitions also address the trimming of trees, which was not addressed before, removal of diseased and dead trees, work on Scenic Roads by utility companies and temporary removal of stone walls.

These are all issues that we've actually dealt with in the past two years with the Bylaw in place. These areas, right now, are not explained, whatsoever, under the current Bylaw and they've made the administration and enforcement of the Bylaw very difficult.

In addition, design standards have been added:

- Enables the Planning Board to consistently apply standards on proposed changes to Scenic Roads; some of these include things like minimizing the number of driveway cuts along a scenic road, the requirement to utilize stones that are removed and put them in other places along the same frontage, requiring applicants to look at alternatives to the cutting of trees or moving driveways and also requiring the planting of replacement trees when healthy trees have to be removed.
- Enforcement provisions have been added which provide a consistent method of handling violations, including fines and that was not in the Bylaw at all.

The Planning Board feels that these provisions are necessary and after two years of administrating the Bylaw have made the need for these revisions apparent. As we just heard after two Articles, preservation of Sudbury's historic past is a very important objective of the Town of Sudbury but it's not an easy task. With tools, such as the Scenic Roads Bylaw, the chances for preservation will be much more successful. This Bylaw will also help both the homeowners and the Planning Board by providing clearer standards for what is allowed and how it is permitted. We urge your support of this Article.

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Jim Hill, 199 Concord Road, representing the Sudbury Historical Commission, stated that the Massachusetts State Scenic Road Act was created in 1973. As of 2003, 112 Massachusetts communities had adopted a Scenic Road Bylaw. In 1978, Sudbury adopted its Scenic Road Bylaw. In 2003, thirty-two Sudbury roads were designated Scenic Roads. These first roads were chosen based on appearing on maps of Sudbury from 1830 and 1875, along with meeting the criteria outlined in the existing Bylaw. The Historical Commission, Bill Place in the Engineering Department and Maureen Valente, the Town Manager, have worked together to have special street signs made to inform the public which roads have been designated Scenic Roads. Those roads currently, so designated, will soon have these new street signs, as shown on the slide, to make it easier for everyone to know which streets are subject to the Scenic Road Bylaw. The Historical Commission, working with Jody Kablak, the Town Planner, has worked to streamline the language of the existing Bylaw for efficiency and clarity. We see the changes as a house cleaning type of change to make it easier for people to understand the Bylaw and what the current criteria for designation. It is asked of Town Meeting to approve the substitution of this approved language into the existing Bylaw.

FINANCE COMMITTEE: Takes no position on this Article.

BOARD OF SELECTMEN: Selectmen would like to applaud the fine work done by the Planning Board and the Historical Commission on this proposed Bylaw and urges your support.

George Sharkey, 16 Haynes Road, moved to Indefinitely Postpone Article 37.

The motion received a second.

George Starkey apologized and asked for Indefinite Postponement of this Article because after reading the Town Warrant's five and one-third pages devoted to one Article, it made him wonder why the Budget Article was only one page. It occurred to him that this Article needed more thought, not just by himself but by all the voters whose attention like his may have been focused on the Budget and other Articles concerning fiscal matters, which appeared at that time to need little more immediate attention. He hopes you will give serious thought to the unmentioned financial costs and living effect, the passage of this Article may have on you and your family's life. The Budget may just seem like a walk in the park. The saying "If it sounds too good to be true, it is". With all due respect to the various committees and officials who worked so hard on this Article, trying to preserve the scenic beauty of the community, it is appreciated by himself and all the voters present, but to him the cost is too high and there is no money involved. To surrender what few rights are still recognized in maintaining and preserving homesteads is too high a price in the name of beauty, which the Town of Sudbury already has; it's a beautiful town. To his knowledge, he's never heard of any Sudbury citizen destroying or cutting a tree; the opposite is more the norm. They plant some of the most beautiful trees and flowers, he's ever seen. This Article could require appearance before a

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number of Boards justifying the slightest changes to a home or property. This type of decision should be left to the home owner, not to some group appointed by a Board or a Committee who know what's best. If the law isn't broken, the present rules, regulations and Bylaws have kept the Town of Sudbury beautiful enough to come and live here. Don't micromanage it so much that leaving will be what is wanted. As the gentleman said Monday night, "If it is not broken, don't fix it". He hopes that the voters will vote to give themselves a chance to review and study this Article by voting an Indefinite Postponement.

The Moderator reminded the Hall, for those of you that may not be familiar with Indefinite Postponement; it's another way of killing an Article. So, if you're not in favor of this Article, you want to vote "Yes" on the Indefinite Postponement; if you're in favor of this Article, the main motion, you want to vote "No" on the Indefinite Postponement.

The Moderator asked if anybody wished to be heard on the Indefinite Postponement request.

Eric Truebenbach, 5 Firecut Lane, pointed out to the speaker that this Article clarifies an existing Bylaw that postponing it does not negate the current Bylaw. If he does not like the Bylaw, he should introduce a motion at the next Town Meeting to defeat it. This serves no purpose, whatsoever.

The Moderator asked if anybody else wished to be heard on the motion to Indefinitely Postpone.

Henry Noer, Goodman's Hill Road, echoed what the previous speaker said. There is an opportunity to change this and now is the chance to clarify what should have been taken.

David Missirian, 133 Concord Road, is all for clarification but did review the Article and as it reads, it says something to the affect and in support of what the gentleman said about cutting of trees on a Scenic Roadway. What if you have trees that go down the property line? Are those trees, therefore, on the roadway? How far back does this particular Bylaw affect? So, when he says this ought to be thought about a little bit longer; perhaps that's right. It may be granting much more authority to the control of the landscaping than everyone here particularly understands. If it says just trees that are on the road; that may be one thing, but if it's all the trees that are on the property just because the house happens to be on the road; that would be something entirely different. He supports the motion to reconsider.

The Moderator stated that Town Counsel is looking at it now. It's his impression and he'll get this confirmed, that the Scenic Bylaw only controls those trees in the public layout. That would mean trees on the public land; it would not include trees on the real property.

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Carolyn Lee, Mossman Road, had a question. Does that mean the Town of Sudbury assumes the liability for those trees when they decline to remove them even though they're dead and half falling over or dying?

The Moderator responded that the Town of Sudbury is responsible for the trees on the public land. If there was a tree that was dying, the Town of Sudbury would be responsible for taking it down; not the person who abuts that property.

Stephen Gabeler, 28 Mossman Road, wanted to know if that definition of public land included the easements onto the personal property for the roadways and the walkways.

The Moderator asked Mr. Gabeler to repeat the question.

Does the definition of the public way, where the trees are restricted or management of the trees is restricted by this Article; does that include the trees that are on the easements onto the personal property for the roadways and the walkways as opposed to just the very edge of the roadway that is town land?

The Moderator stated that Town Counsel answered "No".

Mr. Gabeler had a question. How far from the edge of the road is the public land?

Town Counsel responded that it extends to the boundary of the public way. If the walkway goes across private property as an easement it is not part of the public way.

Mr. Gabeler said to find out where that boundary is, a plot plan would have to be found.

The Moderator responded that the Town Engineer's office is where the plot plan can be found.

Mr. Gabeler stated that it is not a consistent distance.

The Moderator responded to Mr. Gabeler that it may be different on different streets.

Dominic Zaia, 818 Concord Road, reviewed this Article that if a driveway is "X" amount of feet wide you're limited to that driveway. For example, his driveway is 30 ft. wide and this law says 15 ft. wide, if he wants to repave his driveway, he'd have to bring it 15 ft. again? Is that what this Article states? His stone wall is 3 ft. off the road. If that stone wall's hit by a car does it have to be rebuilt the way it was?

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Jody Kablack, Town Planner, responded by saying “No”, if you have an existing driveway. To clarify one issue and apologized for not setting the boundaries of this Article because the Planning Board’s just been so familiar with it over the past two years, whereas, before that it was never used; not much was known about it; they’ve really familiarized themselves with it. The only thing that this Bylaw governs is when trees are removed or stone walls are removed from the present day onward on roads that are designated as scenic and only within the public portion of those roads. As it was brought up before, most of the Scenic Roads are old roads; they have varying widths, they range from usually 33 ft., which is about two rods, to 50 ft. wide. They do encompass more than the paved portion of the road so some portion of most people’s lawns are within the public way. It only governs the removal of trees or the removal of stone walls within the public layout of these roads. Existing features that are there now are there. Again though, if you wanted to change, if you wanted to move the driveway and a tree needed to be taken down that was within the public way and on a designated Scenic Road, the Planning Board would have a public hearing.

One further clarification was made that doesn’t speak to the Indefinite Postponement. The genesis of this Bylaw and the designation of trees into the Bylaw was really a way of monitoring the Department of Public Works from taking down trees that were considered significant features in certain neighborhoods. Right now any trees that are taken down on a public way do have to go through a hearing with the Tree Warden. This actually puts just another level of review on it and it puts it in front of the Planning Board. Of the thirteen applications mentioned in her presentation, all but one of them was from the Town of Sudbury or from NStar. Those are the groups that are doing the work in the public ways. One application was for a violation from someone who did not even know they were on a Scenic Road and they removed a stone wall. Hopefully this answered the question.

The Moderator reminded the Hall that the motion to Indefinitely Postpone is being discussed.

Mark Ensign, Chairman of the Conservation Commission, said that the Conservation Commission unanimously recommends approval of the original Article and to defeat the motion to Indefinitely Postpone. As Jody just mentioned, he got a nudge from Deborah Dineen, the Conservation Coordinator, because typically what happens is the Town of Sudbury actually is the one who goes on what you think is the property along the roadway and cuts down the trees. This actually gives teeth to the process. For instance, the Conservation Commission can designate roadways in addition to also the roadways that are already designated. In addition to that, things like stone walls provide habitat for small creatures. Again, we urge the defeat of the motion on the floor.

A resident called the question.

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It was seconded.

The Moderator asked for all those in favor of the call of the question signify by raising your cards; all those opposed; well more than two-thirds.

The Moderator said the motion to Indefinitely Postpone is to be voted and reminded the Hall that it's a majority vote.

The Moderator repeated what the last speaker said if you are in favor of the main motion that was made by Ms. Kablack then you probably want to vote "No" on the Indefinite Postponement. If you're against that Article, you probably want to vote "Yes" on the Indefinite Postponement. The motion to Indefinitely Postpone is what's being voted.

The Moderator asked for all those in favor of the motion to Indefinitely Postpone signify by raising your cards; all those opposed.

The motion to Indefinitely Postpone is DEFEATED overwhelmingly.

The Moderator stated we're back on the main motion of Article 37.

Kirstin Van Dijk, 37 Landham Road, would like to make a motion to amend Article 37; this is not a complicated amendment to this Article. It is simply being thorough upon research. Move in the words that are shown on the viewgraph.

The motion to amend received a second.

Kirstin Van Dijk stated upon some research of the Historical Society's archive of Town Reports; she stumbled upon one of the Town Reports, with a lovely drawing of the Hosmer House on the cover and it's dated to 1962. She's sure no one has it with them but she will just turn to page 205 in regards to the Commonwealth of Massachusetts in 1963 an Act establishing a Historic Districts Commission for the Town of Sudbury in defining its powers and duties; establishing Historic Districts in the Town of Sudbury and providing for Historic Zoning Districts; that was on page 196; she's forwarding now to page 205 Section 13. This is the background to her amendment that's regarding historic zoning. The Town of Sudbury by a two-thirds vote at any Regular or Special Town Meeting called for the purpose may enact additions, changes or amendments to its Zoning Bylaws to assist in carrying out the purpose of this Act. Prior to any such enactment the Planning Board shall hold a public hearing duly advertised thereon and shall report its recommendations to the Town Meeting.

What that is saying is that the Sudbury Historic Districts Commission should be included in these sections. Move to add the word "the Historic Districts Commission" in the following sections;

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- Under Section 1, 1.2 Procedure to Designate a Road as a Scenic Road: in paragraph 1 after the “Historical Commission”;
 - It should read “the Historic Districts Commission”.
 - Again, simply adding and following through from Town Meeting in 1962 to include them in the process of nominating and designating a Scenic Roadway.
- Under Section 1, 1.2 Procedure to Designate Road as a Scenic Road: in paragraph 2, sentence 3 after “Conservation Commission”;
 - Insert the words “the Historic Districts Commission”, again, for the exact same reason.
- Under Section 3, 3.2 Notice section in sentence 2, after the Historical Commission;
 - Simply add “the Historic Districts Commission”.
- Finally under Section 6, Decision and Reporting in sentence 1, after “Historical Commission”;
 - Again, it’s just simply connecting the dots from previous Town Meetings. It doesn’t affect in any way the Bylaw; it actually strengthens it by unifying Town Boards and making it easier for them to work together in a unified cause of preservation and Scenic Roadway designation.

Robert Coe exclaimed *Point of Order*. Mr. Moderator since the purpose of this amendment appears to be nothing more or less than to extend the power of the Historic Districts Commission; questioned whether it’s within the four corners of the Article?

The Moderator, after consulting with Town Counsel, asked Mr. Coe to explain why he thinks it was not in the four corners of the Article.

Mr. Coe responded by saying nothing else in the Article appears to make a major change, except for deleting the Selectmen, which he doesn’t think really falls into the same category. What this does is this inserts the Historic Districts Commission throughout this particular Article. The Historic Districts Commission isn’t even mentioned in the Article printed in the Warrant. Is it?

He was told that it is.

Mr. Coe, thank you for the *Point of Order*. The Moderator ruled that it’s not within the four corners of the Article. Any time there’s something generally spoken about in the Article, you can reduce it; which is what the motion did, take away the Board of Selectmen. What this amendment does is add something that citizen’s who’ve seen the Warrant at their home may not have realized is coming up as an amendment. He rules that it’s outside the four corners. It will not be heard.

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The Moderator asked if anybody wished to be heard on the main motion.

Kathryn Mapstone, Walkup Road, would like to move one very brief amendment, in Section 1.1, Sub-Section b; remove the word “rural” from Sudbury’s character.

The Moderator asked the resident to hold on for a second; motions are made first and presentations second. In 1.1 b, it should read “to enhance the character of Scenic Roads”. The resident responded “Yes”. Move to remove the word “rural” from 1.1 b, is that correct? So, moved.

The motion received a second.

Ms. Mapstone stated this is not a rural town; tractors are not drive here; lawn tractors are driven here. This Town of Sudbury is suburban; a wonderful designation on its own. It’s not needed to pretend they’re something they’re not.

Michael Fee, Henry’s Mill Lane, stated that’s not what the Master Plan says.

The Moderator asked the Hall if they were ready for a vote?

A resident exclaimed that he felt there was an inconsistency.

The Moderator asked the resident what he thought was the inconsistency?

The Moderator asked Paul Kenney, Town Counsel to explain. As he understood the question it refers to the fact that the citizens can petition. It has to be recommended in accordance with the statute.

The Moderator stated that the amendment is going to be voted. This is a vote on whether or not to strike the word “rural” from 1.1 b. All those in favor of the amendment signify by raising your cards; all those opposed.

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The amendment was **DEFEATED**.

The Moderator stated that the main motion is going to be voted as you see it on the viewgraph.

The Moderator asked for all those in favor of the **main motion** signify by raising your cards; all those opposed.

The Moderator said it's **well more than a majority**.

The motion under Article 37 was **UNANIMOUSLY VOTED**

The Moderator accepted a motion to adjourn. The Hall voted to adjourn until Monday at 7:30 PM on April 11, 2005. The time was 10:30 PM.

Attendance: 281

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PROCEEDINGS

ADJOURNED ANNUAL TOWN MEETING

April 11, 2005

Pursuant to a Warrant issued by the Board of Selectmen, March 11, 2005, 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 11, 2005, for the fourth session of the Annual Town Meeting. The meeting was called to order at 7:35 PM when a quorum was present.

The Moderator reminded the Hall of Town Meeting procedural matters and decorum.

ARTICLE 38. ESTABLISH AGRICULTURAL COMMISSION

To see if the Town will vote to establish an Agricultural Commission to represent the Sudbury farming community. Said Commission shall serve as facilitators for encouraging the pursuit of agriculture in Sudbury, and shall promote agricultural-based economic opportunities in Town. The Commission will consist of five members appointed by the Board of Selectmen based initially on the recommendation of the Agricultural Commission's Steering Committee and thereafter on the recommendation of the Agricultural Commission. The Commission shall consist of three or more members from the active farming community of Sudbury and up to two who are interested in preserving agriculture in Sudbury. Two members for a term of three years, two members for a term of two years, and one member for a term of one year, and three years thereafter. The appointing authority shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments based on the recommendations of the Commission. Or act on anything relative thereto.

Submitted by Petition.

(Majority vote required)

Maryann Clark, *moved* in the words of the article.

Maryann Clark, 118 Nobscot Road, said last fall Laura Bartlett McCarthy of Bartlett Greenhouses on Route 20 suggested the idea of forming an Agricultural Commission as a way to give Farmers a voice in town affairs. She's unable to be here tonight so she's being substituted. All over the country people are starting to realize that locally grown products are better for their health, their Farmers, their communities and their land. When a Master Plan for Sudbury was established in 2001 the questionnaire replies strongly supported preserving Sudbury's rural character, which is provided by open land, but not farms. On the viewgraph, are photos of some of Sudbury's farms; including her family farm, which is Blue

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Meadow Farm. It's a U-Pick Blueberry Operation and many have stopped by and picked blueberries. Farmers in Sudbury questioned whether an Agricultural Commission would be useful to them and to the community. Other towns that have already established an agricultural community date back to 1988 and there are several. The Town of Holliston is also considering establishing an Agricultural Commission at this year's Town Meeting.

What would an Agricultural Commission actually do? It would assist Farmers, farm businesses and the community by providing a voice for the agricultural community and would provide visibility of farming in the Town of Sudbury. Many never realized she was a Farmer in addition to the many other hats worn. It would provide a voice for the agricultural community and it would connect farmers to agricultural business development assistance; connecting Farmers to where they can get business assistance in planning, access to capital, business organization advice, access to loans, access to grants and government and non-profit programs. It would provide a network which is important for Farmers for educational opportunities, available farmland, bulk purchasing, estate planning, insurance and other issues.

An Agricultural Commission would serve as a mediator with respect to farming issues; complaints and regulatory process in an advisory capacity only. It would serve as an advocate or negotiator to resolve issues. It would be an advocate for healthy agricultural businesses. It would further assist in farmland protection efforts by accessing State and Federal funding, such as APR and CPR. However, there are no State funds for those programs. It would open lines of communication with other Town Boards, such as the Board of Selectmen; the Planning Board; the Board of Health; the Conservation Commission. It would provide beneficial input at meetings of Town Boards, where there may be agricultural issues. It would assist in coordinating future town planning with Realtors and Builders to preserve open space in Sudbury. It would support zoning regulations that benefit existing and future farming enterprises. The Commission would encourage the pursuit of agriculture as a career opportunity. It would be an advocate for Mass. AG in the classroom, which is a statewide program. The Commission would also be a resource for the general public, the residential community, professional Farmers, as well, as hobbyists, including forage and pony clubbers. If the Town of Sudbury is to retain agricultural land and agricultural business it won't be by chance; it has to be by design and effort. This Agricultural Commission is the beginning of both the design and effort needed. Farmers of Sudbury want to retain an agricultural lifestyle. Farmers want a choice and an opportunity to pursue and retain farming business and farming lifestyles in the Town of Sudbury. The goal is to preserve, revitalize and sustain the Town of Sudbury's agricultural business and its land and to encourage the pursuit of agriculture, promote agricultural based economic opportunities and protect farmland. They ask for your vote on this Article.

FINANCE COMMITTEE: Takes no position on this Article.

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BOARD OF SELECTMEN: Unanimously supports this proposal.

Mr. Keller of the Board of Selectmen said that input from the farming community and agricultural community of Sudbury is important; the information is valued. They're able to provide information as important decisions are made for the Town of Sudbury.

The Moderator asked if anybody wished to be heard on Article 38.

Sheila Cusolito, 28 Maple Avenue, appreciates the endeavors of the agricultural community; her own family has its roots in that community, however, this particular proposal concerns her because this is a business endeavor and interprets that to mean that this is a special interest group. When she looked online at the Committees that represent the people in the Town of Sudbury, it seemed there are ones that are more broadly based and not so concentrated on a business activity. Most of the benefits, both to the Town of Sudbury and the agricultural community, can be achieved without the formation of a Commission. Most of these efforts are internal, it seems and the community can rally itself together to support and benefit each other. Where the Schools or other Outreach Projects are concerned it seems that's called Community Service and it's not necessary to form a Commission that would encourage them to do that. It sets a dangerous precedent of having a Commission with a direct line to Town of Sudbury officials to be able to promote their own activities.

Kathy Jacob, Old Lancaster Road, questioned how this is different from the Grange and does this have the same purposes?

Karen Hodder, 136 Hudson Road, explained that the Grange still meets in their building but have turned it over to the Sudbury Foundation and support them because they figure that the Commission would carry on the ideas of the Grange. In establishing the Agricultural Commission, Mass AG has been encouraged. Mass AG is already established and do have lesson plans, classes, and grants available for Teachers but want to make sure that they knew this was available. There are more things available for Farmers in Sudbury from the State and the Federal Government and by working together this can be found. This is not going to be a Regulatory Committee; we're just there to support each other and to support agriculture in the Town of Sudbury.

Mark Ensign, 44 Bent Road, Chairman of the Conservation Commission, stated one of the goals of the Conservation Commission is to support agriculture and to promote agricultural resources in the Town of Sudbury. The Commission did vote unanimously to support this Article. The folks from the proposed Agricultural Commission presented their ideas and the goals for which they hoped would work. This Commission is yet another way the Town of Sudbury can look at its Natural Resources and hopefully protect them in the long run.

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John Donovan, Old Orchard Road, said as far as this being a targeted Committee or Commission, he could easily starve to death on his $\frac{3}{4}$ of an acre on Old Orchard Road. He's not in farming and probably never will be because he couldn't afford the land necessary. However, one of the reasons, probably the primary reason he moved to Sudbury was because of the atmosphere; because of the rural, semi-rural, and agriculture. However the Town of Sudbury is defined, it's not suburban and not city; that is the nature of the Town of Sudbury. It's very important that this Commission answer the questions. He's been to two Board Meetings pertaining to land use in the Town of Sudbury and there seemed to be a lot of controversy and misunderstanding about what rights and responsibilities the agricultural community has. It's very important to set up this Commission and urged support of this Article.

Charles Detwiller, 54 Moore Road, considers himself a backyard Farmer. He's raised a few pheasants, some fish, a few ducks and has no real ax to grind as far as income is concerned but thinks it would be an absolute sin to go through some of the experiences that some of his neighbors have had to go through in the future with regards to raising chickens and the like. We moved from Wellesley, which is a pretty suburban community, to Sudbury 15 years ago and we can be called newcomers. One of the reasons for the move to Sudbury was because of the agricultural and rural feeling, seeing the horses and smelling the plowed fields in the spring. If these fields are developed into houses, which are what the developer is trying to do, it will add to the tax burden in the Town of Sudbury and to the Schools, also. The key word in this is balance and the Agricultural Commission is a very important entity that is really needed in the Town of Sudbury and asks that everybody vote in favor of this Article.

Kirsten Van Dijk, 37 Landham Road, supports the motion to create this Agricultural Commission primarily because, as was stated before, Sudbury is an agricultural based community historically. The formation of this Commission could be seen as a networking resource for existing and possible future Farmers for the Town of Sudbury. This would also be seen as a good source of information for existing Town Boards, such as the Planning Board, Historical Commission and Historic Districts Commission in terms of issues that come up for future development; for perhaps neighbor disputes regarding the ownership of animals and keeping versus raising of animals in the land lots. When Town Boards can work together and use their intellectual resources the process for planning for future development, keeping and mediating current developments is much easier.

A resident called the question.

It received a second.

The Moderator asked for all those in favor of the call of the question signify by raising your cards; all those opposed. It's overwhelmingly two-thirds.

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The Moderator stated we are now going to move to the main motion which is to establish an Agricultural Commission; it's moving in the words of the Article as printed in the Warrant and reminded the Hall it's a majority vote.

The Moderator asked for all those in favor of Article 38 signify by raising your cards; all those opposed.

The Moderator declared that Article 38; it's OVERWHELMING; it PASSES.

ARTICLE 39. AMEND ZONING BYLAW, ART. IX - MINOR REVISIONS

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

1. Section 7000, Definitions, by deleting the definition of "Business Center Identification Sign" and replacing it with the following definition:

"Business Center Identification Sign: Any sign identifying a building or group of buildings containing two or more businesses. All business center identification signs shall contain only the name and address of the business center, and shall not contain logos, icons or names of individual businesses."

2. Section 2325, Pools in Residential District, replace the last 5 sentences of this section with the following sentence: "Enclosures for swimming pools shall meet the Massachusetts State Building Code requirements. In addition, the minimum fence barrier height shall be five (5) feet." so that section reads as follows:

"2325. In residential zoning districts, private or public swimming pools shall be permitted, provided that a building permit therefore be granted by the Building Inspector under the provision of the Commonwealth of Massachusetts State Building Code. Requirements for set back, side yard, front and rear yard clear distances shall be the same as for a principal building. Pools built for public or semi-public use (including private "clubs" or organizations) require Site Plan approval per Section 6300 of this bylaw and a special permit from the Board of Appeals. Enclosures for swimming pools shall meet the Massachusetts State Building Code requirements. In addition, the minimum fence barrier height shall be five (5) feet."

3. Section 2600, Table of Dimensional Requirements, to delete the Minimum Street Centerline Setback requirement in all districts.

4. Section 6310, Site Plan Review Applicability, by adding a new section 6316 to read as follows:

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“6316. Additions to wireless facilities pursuant to section 4345.”

5. Section 4190, Flood Plain Monuments, to delete this section in its entirety.

or act on anything relative thereto.

Submitted by the Planning Board.

(Two-thirds vote required)

Jody Kablack, Planning Board, moved in the words of the Article.

The motion received a second.

Jody Kablack, Town Planner, spoke on behalf of the Planning Board. Presented tonight are five minor revisions to the Zoning Bylaw in Article 39, which will help both users of the Bylaws and the Town of Sudbury’s enforcement officials administer the Bylaws more effectively. Provisions in the Bylaws are flagged by the Planning Board on a continuous basis and annually for revision by the Town of Sudbury employees such as the Building Inspector, the different Boards who use the Bylaws and other users for updating or correcting. These revisions are typically grouped into two categories; one is minor revisions and those are done in a single Article as is being done tonight. The major policy changes to the Zoning Bylaw typically have their own Article such as Article 40, which will be done after this. These changes are categorized depending on who’s affected and how large the effect is on the citizen’s and residents of Sudbury. Each category is treated differently and the minor changes are grouped in one Article and ask for one vote; major changes are presented individually. The minor changes are all described in your Warrant on pages 33 and 34. The Planning Board feels that the changes are warranted and will produce a better, more defensible Bylaw if the Town of Sudbury is ever challenged on these provisions. Specific questions can be entertained any specific questions, but the reports in the Warrant review each amendment individually. The Planning Board supports this Article and urges passage.

FINANCE COMMITTEE: Takes no position on this Article

BOARD OF SELECTMEN: Unanimously support this Article.

The Moderator reminded the Hall that this requires a two-thirds vote.

The Moderator asked if anybody wished to be heard on Article 39.

Sheila Cusolito, 28 Maple Avenue, looked at the published Zoning Bylaw dated in 2003, the first part of this proposal involves Section 7000 and wondered if this is the wording that is wanted by deleting the definition of a “Business Center Identification Sign”. There is no definition given so it would seem you’re adding a definition rather than deleting, changing and replacing.

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Jody Kablack responded that the revised Sign Bylaw passed in 2004 this Bylaw is slightly outdated. There is a 2004 Bylaw and believes it's on the web but it was just recently referenced.

Ms. Cusolito would like a comment on the fifth change. It's assumed that this delineation with monuments is not a requirement by the State otherwise it wouldn't be removed. However, the justification is that this isn't routinely done and wants to diminish chances of increased liability to the Town of Sudbury. Last week the Town Officials said that risk is always trying to be minimized and here it seems there's a position of risk. Are we just lucky that we've gotten away with it or can you give another explanation?

Ms. Kablack stated that's correct. It's not required and is a privilege in our local Bylaw. The Town of Sudbury receives guidance from FEMA, Flood Emergency Management Act, who enact these local Bylaws. Currently there are no monuments in our flood plains. They do change continuously depending on water levels. The Federal Government produces the maps and the ones who administer the program. A local Bylaw is used to administer the Federal flood maps but because they change on a continuous basis it would be very difficult to monument them permanently.

The Moderator, seeing no one else who wanted to be heard on Article 39, asked for all those in favor of Article 39 signify by raising your cards; all those opposed.

The Moderator declared Article 39 OVERWHELMINGLY PASSED.

ARTICLE 40. AMEND ZONING BYLAW, ART. IX. 4200 -
WATER RESOURCE PROTECTION OVERLAY DISTRICTS

To see if the Town will vote to amend the Zoning Bylaw, Article IX, Section 4200, by deleting the existing bylaw in its entirety, and substituting therefor the following:

4200. WATER RESOURCE PROTECTION OVERLAY DISTRICTS.

4210. Purpose. The purposes of the Water Resource Protection Overlay District (WRPOD) are (a) to promote the health, safety, and general welfare of the community; (b) to protect, preserve and maintain the existing and potential water supply and ground water recharge areas within the Town; (c) to preserve and protect present and potential sources of water supply for the public health and safety; (d) to conserve the natural resources of the Town; (e) to prevent the pollution of the environment; and (f) to provide for monitoring of ground and surface water quality in areas of present and potential water supply sources to accomplish detection of potential contamination at an early stage, thereby minimizing damage to such sources. Review of proposed development by the Town will be performed with the goal of satisfying these purposes and preserving or improving groundwater quality wherever possible. Water Resource Protection Overlay Districts are delineated on the basis of the location of aquifers, aquifer contribution zones and aquifer recharge zones, as defined herein, within the Town. It is intended that this bylaw will serve as a framework whereby additional such areas may be identified for mapping and inclusion within the protection of this bylaw.

4220. Overlay District. The Water Resource Protection Overlay District shall be considered as overlaying other zoning districts. These overlay districts shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses which fall within the Water Resource Protection Overlay District must comply with the requirements of these districts as well as those of the underlying zoning district. Uses not permitted in the portions of the districts so overlaid shall not be permitted in the Water Resource Protection Overlay District.

4221. Definitions

Aquifer

Geologic formation, composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

Best Management Practices (BMPs)

Any structural or non-structural mechanism designed to minimize the impact of nonpoint source pollution on receiving waters or resources, including, but not limited to: detention ponds, construction or installation of vegetative swales and buffers, street cleaning, reduced road salting, and public education programs.

Design Flow

The quantity of sanitary sewage, expressed in gallons per day (gpd), for which a system must be designed in accordance with 310 CMR 15.203 (Title 5).

Hazardous or Toxic Materials

Any chemical, combustible liquid, compressed gas, explosive, flammable aerosol, gas, liquid or solid, health hazard, mixture, organic peroxide, oxidizer, physical hazard, pyrophoric, unstable (reactive) or water reactive, as defined under Title 29 of the Code of Federal Regulations, Section 1910.1200(c) and any other chemical, material or substance identified as hazardous based on available scientific evidence. Hazardous or toxic materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under Massachusetts General Laws (MGL) Chapter 21E, and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use. Hazardous materials shall include any of the above-mentioned substances that may be leached from outdoor stockpiles of manufactured materials including, but not limited to, auto parts or treated wood. Hazardous materials do not include hazardous wastes, tobacco products, wood products, foods, drugs, alcoholic beverages, cosmetics, and any hazardous material used in household quantities as defined below.

Hazardous Waste

Any waste material as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.010 and/or MGL Chapter 21C. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint, and waste pesticides.

Hazardous Material or Waste, Household Quantity of

Any or all of the following:

- a. 275 gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator, and/or**
- b. 25 gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator, and/or**

- c. a quantity of hazardous waste at the Very Small Quantity Generator level as defined and regulated in the Massachusetts Hazardous Waste Regulations, specifically section 310 CMR 30.353.

Impervious Surface

Material or structure on, above, or below ground that does not allow precipitation or surface water to penetrate directly into the soil. This shall include non-paved surfaces that are compacted through regular use of automobiles such as gravel driveways or dirt roads.

Landfill

A facility or part of a facility established in accordance with a valid site assignment for the disposal of solid waste into or on land.

Leachable Waste

Waste materials including solid waste, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to surrounding environment.

Mining of Land

The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

Publicly Owned Treatment Works (POTW)

Municipal wastewater treatment facility, including any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature, which is owned by a public entity. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

Recharge Areas

Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II or Zone III.

Solid Waste

Useless, unwanted, or discarded solid material with insufficient liquid content to be free-flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, landscape refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility as defined by 310 CMR 19.00 and regulated by 310 CMR 30.00.

Stormwater Management

The process of ensuring that the volume and velocity of stormwater runoff does not increase the hazards associated with flooding and that water quality is not compromised by untreated stormwater flow.

Zone I

The 400-foot protective radius required by the DEP around a public water supply well or wellfield.

Zone II

That area of an aquifer that contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated (180 days pumping at safe yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well, and by the contact of the edge of the aquifer with less permeable materials such as till and bedrock. At some locations, surface water features may represent recharge boundaries.

Zone III

That land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. The surface water drainage divides as determined by topography will be used to delineate Zone III. In some locations, where surface and groundwater are not coincident Zone III shall consist of both the surface drainage and the groundwater drainage areas.

4230. Location. The Water Resource Protection Overlay District consists of well head areas (Zone I), aquifer contribution zones (Zone II) and aquifer recharge zones (Zone III) as defined in Section 4221 of this bylaw. The Water Resource Protection Overlay Districts are delineated on a map at a scale of 1 inch to 1,000 feet entitled: "Map of Water Resource Protection Districts, Town of Sudbury, Massachusetts, February 15, 2001", as amended by Town Meeting. This map is hereby made a part of the Sudbury Zoning Bylaw and is on file in the office of the Town Clerk.

4231. If the location of any District boundary in relation to a particular parcel(s) is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority. Any application for a Special Permit for this purpose shall be accompanied by adequate documentation.

The burden of proof shall be upon the owner(s) of the land to demonstrate that the location of the district boundary with respect to their parcel(s) of land is uncertain. The Town may hire a qualified professional to review any technical analyses or documentation provided by the applicant at the applicant's expense. The Planning Board shall provide the owner with a

statement of work performed and the cost thereof when charging an owner hereunder.

For disputes which may arise related to a Zone II boundary, the determination of the location and extent of Zone II shall be in conformance with the criteria set forth in 310 CMR 22.00 and in the DEP's *Guidelines and Policies for Public Water Systems*. In the case of disputing a Zone II boundary, the Special Permit Granting Authority shall not issue approval until DEP issues an official approval of the revised delineation.

4240. Use Regulations - Zone II. Within the Water Resource Protection Overlay Districts - Zone II, these regulations shall apply, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

4241. The following uses are permitted within Water Resource Protection Overlay Districts, Zone II, subject to Section 4242:

- a. Conservation of soil, water, plants and wildlife;
- b. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- c. Foot, bicycle and/or horse paths and bridges;
- d. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- e. Maintenance, repair and enlargement of any existing structure or facility provided no more than fifteen percent (15%) of the lot in total is rendered impervious. Exceeding this threshold for impervious cover may be allowed by Special Permit pursuant to Section 4243 (b);
- f. Residential development, if permitted in the underlying district, provided that no more than fifteen percent (15%) of a building lot is rendered impervious. Exceeding this threshold for impervious cover may be allowed by Special Permit pursuant to Section 4243 (b);
- g. Farming, gardening, nursery, conservation, forestry, harvesting, or grazing provided that agricultural chemicals including, but not limited to, fertilizers, herbicides, pesticides, manure or other leachable materials are not stored or used in any manner which may adversely affect the Water Resource Protection Overlay District and provided that such applicable uses are carried out in accordance with a state approved farm or forestry plan;

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h. Construction, maintenance, repair, and enlargement of drinking water supply facilities, such as, but not limited to, wells, pipelines, aqueducts and tunnels, but excluding underground storage tanks related to such facilities which are categorically not permitted;

i. Stockpiling of snow containing road salt or other deicing chemicals in accordance with current DEP Snow Removal Guidelines.

4242. The following uses are specifically prohibited within Water Resource Districts - Zone II:

a. Solid waste disposal facilities including, without limitation, authorized or unauthorized landfills as defined in Section 4221 of this bylaw, or those that require a site assignment from the Board of Health under G.L. c. 111, 150A, (the landfill assignment law);

b. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, in quantities greater than household use except pursuant to Section 4243(k);

c. Stockpiling of snow containing road salt or other deicing chemicals that are brought into any particular Zone II from outside that particular aquifer district;

d. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate and a Special Permit has been granted pursuant to section 4243(i);

e. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquified petroleum gas;

f. Underground storage tanks;

g. Facilities that generate, treat, store, or dispose of hazardous waste, except where a Special Permit is granted pursuant to section 4243(l);

h. Automobile graveyards and junkyards, as defined in G.L. c. 140B, s.1;

i. Individual on-site sewage disposal systems (in compliance with Title V of the State Environmental Code) shall be prohibited in accordance with the following provisions:

Area	Prohibition
Zone II of Well #5 (Route 117 Well)	Single or Multi-Family Residences discharging greater than 550 gpd per 40,000 square feet of lot area ^{1,2,3}
All Zone II Areas	Business, Industrial, Research or Institutional Uses discharging more than 1,000 gpd per 40,000 square feet of lot area ³

¹ On residentially zoned lots legally in existence as of the original 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.

² In cluster subdivisions, the total sewage flow allowed shall be calculated based on the number of percable lots in the entire parcel.

³ 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 Overlay 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.

j. Permanent removal, or regrading of the existing soil cover, except for excavations for:

1) building foundations; 2) roads or utility works; or 3) the installation of Stormwater BMPs subject to approval by any Town board or committee having jurisdiction, which result in a finished grade at a level less than five (5) feet above the historical high groundwater.

The high groundwater elevation may be determined by: 1) direct observation of subsurface conditions in test pits witnessed by a certified soils evaluator using the current Title V criteria; or 2) calculating the average for the preceding five (5) years, as determined from 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 higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered Professional Engineer.

Earth removal or earth moving shall be subject to the provisions set forth in Section 4260 of this bylaw;

k. Boat or motor vehicle service or repair shops, animal feed lots, car washes, heliports, commercial or bacteriological laboratories, establishments conducting dry cleaning on the premises;

l. Commercial establishments for manufacturing electronics or those for plating, finishing, etching or polishing electronics or metals;

m. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31 and has received a Special Permit under Section 4243(m);

n. Industrial and commercial uses which discharge process wastewater on-site;

o. The use of septic system cleaners which contain toxic or hazardous materials;

p. Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 2.00), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;

q. Any use that will render impervious more than 15% of any lot, or 2,500 square feet, whichever is greater, unless a Special Permit pursuant to Section 4243(b) has been granted.

4243. The following uses and activities may be allowed by Special Permit within the Water Resource Protection Overlay Districts - Zone II, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to Section 4242:

a. Enlargement or alteration of pre-existing uses prohibited by Section 4242 of this Bylaw;

b. Uses that will render impervious more than 15% of any lot, or 2,500 square feet, whichever is greater, provided it is demonstrated that a net improvement to existing conditions is made with respect to water quality and groundwater recharge. All such uses shall be

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subject to the Stormwater Management standards in Section 4280 and the Rules and Regulations for Special Permits in the Water Resource Protection Overlay Districts;

c. The application of pesticides, including herbicides, insecticides, fungicides, and rodenticides, for non-domestic or non-agricultural uses in accordance with state and federal standards, provided the applicant demonstrates to the satisfaction of the Special Permit Granting Authority that other non-chemical means have been proven ineffective. If applicable, the applicant shall provide documentation of compliance with a Yearly Operating Plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 12.00;

d. The application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;

e. Construction of dams or other water control devices including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning upon demonstration that said dams or other water control devices will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;

f. Ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements upon demonstration that said changes, uses or improvements will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;

g. Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate and is carried out in accordance with an approved Natural Resource Conservation Service plan;

h. Storage of commercial fertilizers, as defined in G.L. c. 128, s.64, within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

i. Storage of road salt or de-icing chemicals in quantities greater than for normal individual household use, provided such storage, including

loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

j. Printing or photo processing operations which demonstrate that no hazardous materials or wastes shall in any way be stored or disposed of in a manner that may be dangerous to groundwater resources;

k. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, in quantities greater than normal household use, where storage is for or incidental to:

- (1) waste oil retention facilities required by statute, rule or regulation;**
- (2) emergency generators required by statute, rule or regulation;**
- (3) treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; or**
- (4) replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded providing there is compliance with all local, state and federal laws;**

And provided that storage is:

- (1) above ground level;**
- (2) on an impervious surface; and**
- (3) either in container(s) or above ground tank(s) within a building or outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to contain a spill of 110% of the total volume of the single largest container;**

l. Facilities that generate and store hazardous waste for off-site disposal, by the following:

- (1) very small quantity generators as defined under 310 CMR 30.00;**
- (2) household hazardous waste collection centers and events under 310 CMR 30.390;**
- (3) waste oil retention facilities required by G.L. c. 21, s.52A;**
- (4) water remediation treatment works approved under 314 CMR 5.00;**

m. Storage of sludge and septage, which is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

n. The following treatment works that are subject to 314 CMR 5.00:

- (1) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;**
- (2) the replacement of existing subsurface sewage disposal system(s) with wastewater works that will not result in a design capacity greater than the design capacity of the existing system(s);**
- (3) treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated ground water;**
- (4) Publicly Owned Treatment Works that meet the wastewater management criteria for siting, design and water quality set forth in the latest version of the Massachusetts Department of Environmental Protection's *Interim Guidelines on Reclaimed Water (Revised)*.**

4250. Use Regulations - Zone III. Within the Water Resource Protection Overlay Districts - Zone III, these regulations shall apply, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

4251. The following uses are permitted within Water Resource Protection Overlay Districts, Zone III, subject to section 4252:

- a. Conservation of soil, water, plants and wildlife;**
- b. Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted;**
- c. Foot, bicycle and/or horse paths and bridges;**
- d. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;**
- e. Residential development, as permitted in the underlying district;**
- f. Farming, gardening, nursery, conservation, forestry, harvesting, or grazing, provided that agricultural chemicals including, but not limited to, fertilizers, herbicides, pesticides, manure or other leachable**

materials are not stored or used in any manner which may adversely affect the Water Resource Protection Overlay District and provided that such applicable uses are carried out in accordance with a state approved farm or forestry plan;

g. Construction, maintenance, repair, and enlargement of drinking water supply facilities, such as, but not limited to, wells, pipelines, aqueducts and tunnels provided that all activity is in compliance with state and federal regulations.

4252. The following uses are specifically prohibited within Water Resource Protection Overlay Districts - Zone III:

a. Solid waste disposal facilities including, without limitation, authorized or unauthorized landfills as defined in 310 CMR 19.006, or those that require a site assignment from the Board of Health under G.L. c. 111, s.150A (The Landfill Assignment Law);

b. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, in quantities greater than household use except pursuant to Section 4253(i);

c. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate and a Special Permit has been granted pursuant to Section 4253(h);

d. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas;

e. Manufacturing of hazardous or toxic materials;

f. Facilities that generate, treat, store, or dispose of hazardous waste, except where a Special Permit is granted pursuant to Section 4253 (j);

g. Industrial uses which discharge process liquids on-site;

h. Automobile graveyards and junkyards, as defined in G.L. c. 140B, s.1;

i. Disposal of liquid or leachable wastes, except by individual on-site domestic sewage disposal systems serving single or multi-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.

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 Overlay District, if the capacity of all sewage disposal systems at full build-out in the relevant districts were to increase their capacities to the proposed volume;

j. Boat or motor vehicle service or repair shops, animal feed lots, car washes, heliports, commercial or bacteriological laboratories, and establishments conducting dry cleaning activities on the premises;

k. Commercial establishments for manufacturing electronics or those for plating, finishing, etching or polishing electronics or metals;

l. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31 and has received a Special Permit under section 4253(k);

m. The use of septic system cleaners which contain toxic or hazardous materials;

n. Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 2.00), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;

o. Permanent removal, or regrading of the existing soil cover, except for excavations for:

1) building foundations; 2) roads or utility works; or 3) the installation of Stormwater BMPs subject to approval by any Town board or committee having jurisdiction, which result in a finished grade at a level less than five (5) feet above the historical high groundwater.

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The high groundwater elevation may be determined by: 1) direct observation of subsurface conditions in test pits witnessed by a certified soils evaluator using current Title V criteria; or 2) calculating the average for the preceding five (5) years, as determined from 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 higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered Professional Engineer.

Earth removal or earth moving shall be subject to the provisions set forth in Section 4260 of this Bylaw.

4253. The following uses are permitted by Special Permit within Water Resource Protection Overlay Districts - Zone III, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to Section 4252:

- a. Enlargement or alteration of pre-existing uses prohibited by Section 4252 of this bylaw;**
- b. The application of pesticides, including herbicides, insecticides, fungicides, and rodenticides, for non-domestic or non-agricultural uses in accordance with state and federal standards, provided the applicant demonstrates to the satisfaction of the Special Permit Granting Authority that other non-chemical means have been proven ineffective. If applicable, the applicant shall provide documentation of compliance with a Yearly Operating Plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 12.00;**
- c. The application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;**
- d. Construction of dams or other water control devices including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning upon demonstration that said dams or other water control devices will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;**

- e. Ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements upon demonstration that said changes, uses or improvements will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;**
- f. Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate and is carried out in accordance with an approved Natural Resource Conservation Service plan;**
- g. Storage of commercial fertilizers, as defined in G.L. c. 128, s.64, provided such storage is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;**
- h. Storage of road salt or other de-icing chemicals in quantities greater than for normal individual household use, provided such storage, including loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;**
- i. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, where storage is for or incidental to:
 - (1) waste oil retention facilities required by statute, rule or regulation;**
 - (2) emergency generators required by statute, rule or regulation;**
 - (3) treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; or**
 - (4) replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded providing there is compliance with all local, state and federal laws;****

And provided that storage is:

- (1) above ground level;**
- (2) on an impervious surface; and**
- (3) either in container(s) or above ground tank(s) within a building or outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to contain a spill of 110% of the total volume of the single largest container;**

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j. Facilities that generate and store hazardous waste for off-site disposal, by the following:

- (1) very small quantity generators as defined under 310 CMR 30.00;**
- (2) household hazardous waste collection centers and events under 310 CMR 30.390;**
- (3) waste oil retention facilities required by G.L. c. 21, s.52A;**
- (4) water remediation treatment works approved under 314 CMR 5.00;**

k. Storage of sludge and septage, which is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

4260. Earth Removal or Earth Moving in the Water Resource Protection Overlay District - Procedures and Conditions. No Special Permit involving excavation shall be issued or renewed under this Section 4200 until the applicant has submitted to the Special Permit Granting Authority a plan showing existing grades in the area from which material is to be removed, together with a plan showing the grades as they will be at the conclusion of the operation. The grading plans must indicate maximum groundwater elevation throughout the entire area proposed to be excavated. Maximum groundwater elevation shall be determined by means of monitoring wells, test pits and soil borings during the months of March, April or May. Such tests shall be conducted by a Massachusetts Registered Professional Engineer at the expense of the applicant and shall be observed by a representative of the Special Permit Granting Authority or its designee. Test results shall be submitted to the Special Permit Granting Authority. The plan showing the grades at the conclusion of the operation shall show no grades in excess of one foot of vertical rise in two feet of horizontal distance; 4:1 slopes are preferred.

4261. Conditions. Special Permits granted under this Section 4200 involving excavation must be made subject to the following conditions, said conditions to be written in the permit and made a part thereof:

- a. That proper and reasonable surface drainage of the land shall be provided during and after construction and that all drainage provisions shall comply with the requirements of the Rules and Regulations for Special Permits in Water Resource Protection Overlay Districts;**
- b. That areas that have been compacted by heavy machinery shall be scarified to a depth of at least twelve (12) inches before topsoil is replaced;**
- c. That at the conclusion of the excavation operations, or of any substantial portion thereof, the whole area where excavation has**

taken place be covered with not less than six (6) inches of top soil and seeded with a suitable cover crop, except where ledge rock is exposed, and that all large stones and boulders which protrude above the finished grade are to be removed or buried, if required by the Special Permit Granting Authority;

d. That activities ancillary to the excavation, including, but not limited to, equipment and vehicle maintenance and storage of lubricants, fuels, solvents and other chemicals associated with earth removal operations will be prohibited in Zone II;

e. That the applicant post a bond with the Treasurer of the Town in an amount determined by the Special Permit Granting Authority as sufficient to guarantee conformity with the provisions or conditions of the permit, the amount of the bond to be not less than \$5,000 per acre of land from which earth is to be removed, if required by the Special Permit Granting Authority;

f. Any fill material used in the Water Resource Protection Overlay District shall contain no solid waste, toxic or hazardous materials, or hazardous waste. Adequate documentation shall be provided to the Special Permit Granting Authority to guarantee the chemical quality of the fill. The Special Permit Granting Authority may require testing by a certified laboratory at the applicant's expense.

4270. Special Permit Procedures. The Special Permit Granting Authority under this bylaw shall be the Planning Board. Such Special Permit shall only be granted if the Special Permit Granting Authority determines that the intent of this bylaw as well as each of its specific criteria are fully met. In making such determination, the Special Permit Granting Authority shall give consideration to the demonstrated reliability and feasibility of the use and pollution control measures proposed and the degree of threat to water quantity and quality which would result if the control measures perform at less than design efficiency. The Special Permit Granting Authority may impose such conditions, safeguards and limitations as it deems appropriate. The Special Permit Granting Authority shall document the basis for any departures from the recommendations of the other Town boards or agencies in its decision.

4271. Technical Assistance. To assist its review of applications for Special Permits, the Special Permit Granting Authority may engage a professional geologist, hydrologist, soil scientist, or Massachusetts engineer or other such consultant experienced in groundwater evaluation or hydrogeology or wastewater or toxic and hazardous waste to review the application for completeness and accuracy and shall charge the applicant for the cost of such review.

4272. [Reserved]

4273. Application Contents. All applications shall comply in full with the requirements of G.L. c. 40A, s. 9 and the Rules and Regulations for Special Permits in the Water Resource Protection Overlay District unless the said authority exercises its right to waive any of the requirements therein.

4274. Review by Other Town Boards or Agencies. Upon receipt of the Special Permit application, the Special Permit Granting Authority shall transmit forthwith a copy of the application and plan to the Sudbury Water District, Board of Health, Conservation Commission, Town Engineer, and such other boards, departments or committees as it may deem necessary or appropriate, for their written reports. Any such board or agency to which petitions are referred shall make recommendations or submit such reports as they deem appropriate and shall send a copy thereof to the Special Permit Granting Authority and to the applicant within thirty-five (35) days of receipt of the application by such board or agency. Failure of such board or agency to make a written recommendation or submit a written report with thirty-five (35) days of receipt of the application shall be deemed a lack of opposition.

4275. Special Permit Criteria. After notice and public hearing, and after due consideration of the reports and recommendations of the other Town boards or agencies, the Special Permit Granting authority may grant such a Special Permit provided that it finds that the proposed use:

- a. Will in no way during construction or any time thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Resource Protection Overlay District;**
- b. Will not cause the groundwater quality to fall below the standards established in 314 CMR 6.00 Massachusetts Groundwater Quality Standards or for parameters where no standards exist, below standards established by the Board of Health and, where existing groundwater quality is already below those standards, upon determination that the proposed activity will result in no further degradation;**
- c. Is in harmony with the purpose and intent of the bylaw and will promote the purposes of the Water Resource Protection Overlay District;**
- d. Is appropriate to the natural topography, soils and other characteristics of the site to be developed, and is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation,**

and other water related natural characteristics of the site to be developed;

e. Will not, during construction or thereafter, have an adverse environmental impact on any water body or course in the district; and

f. Will not adversely affect an existing or potential water supply.

4280. Stormwater Management.

All runoff generated on the site shall be managed on-site in a manner demonstrated to assure full protection of the water quality in the Water Resource Protection Overlay District and the health, safety and welfare of residents of Sudbury. The Special Permit Granting Authority may permit off-site disposal of said runoff if it is determined that either on-site recharge is infeasible because of site conditions or is undesirable because of risks to water quality from such recharge. All runoff generated on-site shall be treated prior to recharge or discharge in accordance with the guidelines set forth in the Rules and Regulations for Special Permits in the Water Resource Protection Overlay Districts and in accordance with the NPDES Phase II General Permit if the runoff is piped into a municipal system. Applicants shall integrate stormwater management practices into landscaping plans to the greatest extent practicable to provide surface pre-treatment of stormwater through swales and bio-retention facilities.

4290. Other Matters.

4291. Violations and Enforcement. Written notice of any violation of this section shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violation and preventive measures for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Planning Board, Board of Health, Conservation Commission, Town Engineer and Sudbury Water District. The cost of containment, clean-up or other action of compliance shall be borne by the owner and operator of the premises. The owner and operator of any property for which a Special Permit has been issued hereunder shall notify the Building Inspector and the Board of Health of any known violation of the terms and conditions of such Special Permit. Such notification shall be given immediately (within 48 hours) after knowledge thereof, in person or by telephone, and shall be followed within two (2) weeks by written notice specifying the details of the violation. The owner and operator shall take all appropriate remedial action to cure such violation. Failure of the owner and

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operator to report a violation in a timely manner, or failure to take appropriate remedial action, or failure to otherwise comply with the terms and conditions of a Special Permit, or the requirements of the Board of Health or the Building Inspector, shall be sufficient grounds for revocation of the Special Permit.

4292. Rules and Regulations. The Special Permit Granting Authority may adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this bylaw and G.L. c. 40A and other provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

4293. Severability. The invalidity of any portion or provision of this section regarding Water Resource Protection Overlay Districts, shall not invalidate any other portion or provision thereof, nor shall it invalidate any Special Permit previously issued thereunder.

or act on anything relative thereto.

Submitted by the Planning Board, Conservation Commission and
Sudbury Water District Commission. (Two-thirds vote required)

Lisa Eggleston, *moved* in the words of the Article, except move all definitions in section 4221 to section 7000 of the Bylaw, and substitute the new definitions where these are currently defined in section 7000.

The motion received a second.

Lisa Eggleston, 55 Old Coach Road, representing the Planning Board is joined by Ted Pickering of the Conservation Commission. This Article is being presented jointly by the Planning Board, the Conservation Commission and the Sudbury Water District. Sudbury's Water Resource Protection District Bylaw was enacted in 1988 for the purpose of protecting the Town of Sudbury's ground water resources. Given that Sudbury relies entirely on a ground water supply for its drinking water this was, by no question, a wise thing to do. In accordance with DEP requirements, the Bylaw establishes three Protection Zones for each well:

- The Zone I Well Head Area
- The Zone II Aqua for Recharge Area
- And furthest away; Zone III Aqua for Contribution Area

Differing levels of restriction apply within each Zone. Although the Bylaw has functioned as its intended, several problems have come to light over the years. There are a number of inconsistencies between the Zone II and Zone III provision, with the latter in some cases being more restrictive even though these are the areas

furthest away from the wells. The Bylaw does not reflect the more recent DEP requirements for Storm Water Management and a majority of the business properties in the Route 20, Zone II area already exceed the limits on imperviousness. They are grandfathered and provide minimal Storm Water Management relative to today's standards. These businesses presently have no opportunity for redevelopment and no incentive to improve conditions. Unless something is done the Town of Sudbury wells are at greater risk from degradation of these sites. In the past, several attempts have been made to revise or update certain aspects of the Bylaw but were postponed due to the fact that a comprehensive approach was not taken. At the 2004 Environmental Summit held among various Town Boards, Committees and interested parties, undertaking this comprehensive effort was made a priority. A Committee was formed comprised of representatives of the Planning Board, Conservation Commission, Sudbury Water District and the Board of Health. The consulting firm of Horsley & Witten was hired to assist in the process. In general, the Bylaw revision incorporates more recent State mandates for water supply protection; draws heavily on the components of the DEP model, Bylaw and Storm Water Policy and incorporates several other provisions that have been found to be successful in other Massachusetts towns.

The major changes made to the Bylaw include:

- Adding a definition section
- Providing consistency between the Zone II and Zone III provisions
- Updating the Use Provisions based on new technology
- Moving the administrative provisions into the regulations section
- Significantly beefing up the storm water management requirements; including the preparation of a storm water management plan
- Adding thresholds for Special Permit review to eliminate duplicative review
- Increasing the allowance for impervious services provided there is a net improvement to the site

Additionally, practices are being codified that the Planning Board has been consistently requiring in projects under their review. These are not currently included in the Bylaw or regulations, such as an operations maintenance plan and bonding to ensure compliance.

How will this Bylaw revision solve the problem?

- By providing incentives for implementing storm water management tools
- Upgrading and redevelopment of older business properties will be allowed provided a net environmental benefit can be demonstrated

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- **In its revised form the requirements are clearer to the applicant and those administering the Bylaw, which should facilitate and streamline the review process and ensure consistent application for some of the smaller projects**

Ted Pickering, 17 Peakham Circle, is a member of the Conservation Commission and represents the official position of the Commission on Article 40. The Conservation Commission actively participated in the development of the Bylaw amendments and unanimously supports the passage of Article 40.

To address the concerns that the public might have, questions were answered:

- **Question #1: Will the amended Bylaw result in more development?**
 - **The opinion and answer is “No”. The amendments primarily affect the portion of the Business District that was fully developed prior to any regulation of drainage. Currently, rainfall collects over paved surfaces, drains off to nearby surface water and wetlands and infiltrates into ground water. Along the way there is a problem because it picks up many pollutants, such as oil and grease, road salt, litter, pesticides and so forth. The larger concern is that our Business District overlays an area that could contribute ground water to our drinking water wells. The status quo is unacceptable.**
- **Question #2: What is wrong with the current Bylaw?**
 - **Under the current Bylaw business property owners do not have incentives to upgrade their drainage systems or treat surface water runoff. Their properties are “grandfathered” from the current regulations and exceed the 15% limit of impervious surface. Only site and redevelopment activities will trigger regulations that would require drainage upgrade but property owners are discouraged from investing in their properties because the existing Bylaw is so restrictive. Therefore, the current Bylaw must be changed because it promotes the status quo.**
- **Question #3: How will the Bylaw amendments proposed in Article 40 solve the problem?**
 - **The proposed Bylaw amendments provide incentives to business property owners to invest in their property and upgrade drainage systems to better protect ground water in and around the town well fields. The amended Bylaw requires enhanced storm water pollution controls when commercial sites are redeveloped. Business owners will benefit from increased property values. Sudbury residents will benefit by greater protection of the water supply. Therefore, the net effect**

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of the new Bylaw is more stringent ground water protection and a safer water supply.

Please vote in favor of Article 40.

The Moderator asked if anybody wished to be heard on Article 40.

Thomas Hollocher, Concord Road, thought someone should comment on these incentives.

Ms. Eggleston responded that the incentives would basically be able to add more impervious surface beyond the 15% limit and in exchange Storm Water Management Systems, such as treatment, recharge and so forth would be received. It basically takes away that upper threshold. Under the present Bylaw, businesses that exceed 15% can go up to 25% with a Special Permit. This just eliminates the 25% upper threshold.

Martha Coe, 14 Churchill Street, recently went to a Conservation Commission hearing about mansion-izing a house in her neighborhood and the issue of impervious surface came up. Without the Bylaws, how does this plan compare with the Town Bylaw on the footprint for impervious surface? The answer she received was that's the Planning Board review. There are issues that are reviewed with the Conservation Commission. The Planning Board has issues that are reviewed with the Planning Board. Is this Bylaw going to be a shortcut? Will it allow shortcuts of small projects and not go through all the complete list of reviews? She wondered what each of these Boards review. Do they have you go to the Conservation Commission and Board of Health but not the Planning Board? Are they going to be reviewed for impervious surface or something else? When the reviews are being done are all these Boards looking for the same thing or for different things?

Ms. Eggleston said the short answer to your question is that they're all looking for relatively the same thing. Each has their own Bylaws and the Conservation Commission is obviously looking at the Wetlands Protection Act. The Building Inspector enforces Zoning and would have to look at that. Rarely, if ever, in the Town of Sudbury does residential development exceed 15%. There is one acre zoning and even those big houses don't generally hit that threshold.

Ms. Coe, said actually it probably would be in the Business District area more, which is "grandfathered".

Ms. Eggleston responded that most of the businesses are at present, according to the count, well over 80% of the existing businesses in the Zone II portion of Route 20. They already exceeded that portion so that's why they're looking to provide incentives for them to improve.

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Ms. Coe said the other issue is when Mike Meixsell brought the original Bylaw through. It took him about five years of tries because it's a very complex Bylaw. She's concerned about the one where it says "except move all definitions in Section 4221 to Section 7000 of the Bylaw, and substitute the new definitions where these are currently defined in Section 7000" and hadn't had a chance to review what these definitions in Section 7000 mean.

Jody Kablack, stated the current Zoning Bylaw contains nine definitions that pertain specifically to the Water Resource Protection District Bylaw. Keep in mind this Bylaw exists already and is just being revised. The new proposed Bylaw adds eight new definitions and was placed in a separate section in the Warrant then realized they didn't want them in a separate section; they want them in the general definition section of the Zoning Bylaw. Nine definitions are there already and are being revised. Eight new definitions will be added. Look at pages 33 through 36 in the Warrant; specifically hazardous waste, household waster, quantity of hazardous waste and very specific definitions to the Bylaw.

John Donovan, Old Orchard Road, said the gentleman who spoke, believed to be from the Planning Board, talked about business properties and yet he's almost positive one of those viewgraphs said properties. Is it only businesses or are other properties included; residential properties? Will it be a hardship or just an oversight?

Ms. Eggleston responded it goes back to the issue that it's the business properties that are within this greater than 15% impervious surface or have more than 15% affected by the Bylaw. If anybody wanted to entirely pave their yard then they would also be subject if they happened to be within one of the Zone II areas of Sudbury. It covers all of Zone II; it is by the overlay district not by the type of development.

The Moderator asked if anybody else wished to be heard on this Article.

Kathy Jacob, Old Lancaster Road, if a business in Zone II has 65% impervious surface, can they go to 100%, if they treat everything? What triggers the difference between increasing the impervious surface if there's no upper limit?

Ms. Eggleston responded the upper threshold through our site plan review requirements is 70% so it won't go any higher than that, but it could go from 65% to 70% if Storm Water Management meets the current standard, which is a vast improvement over what is there now.

The Moderator asked if anybody else wished to be heard on this Article.

Ursula Lyons, Wayside Inn Road, is concerned about the "making Zone II and Zone III more consistent". Over the years there's been quite an attempt to

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water down the restrictions in Zone II. Are we being less restrictive in Zone II? Are we being more restrictive in Zone III? What is going to happen?

Ms. Kablack stated there is a handout at the front desk that summarizes all the major changes. What has been talked about in terms of relaxing the standards in the Bylaw is the impervious surface limitation, which is the most prominent one. The reason why this was a collaborative effort between the Conservation Commission, Water District and Planning Board is that they all have the same goal in mind, which was to improve Storm Water Management conditions in the Business District area on Route 20. The existing businesses do pose a threat to the ground water and the only way to get them to clean up their sites and improve their Storm Water Management was to give the businesses an incentive. They are able to do some additional paving of their sites all in accordance with the Zoning Bylaw; none of that is changing with this Bylaw. That's the major change which maybe some would call a relaxation in standards. The consistencies between Zone II and Zone III actually add more restrictions on Zone III, basically making Zone II and Zone III very similar in nature of their restrictions.

Mr. Keller expressed that the Board of Selectmen have been impressed with collaboration of the Planning Board and the Conservation Commission on this Bylaw revision. They've done a lot of hard work on it and it's overall beneficial to the Town of Sudbury and urges your support.

A resident called the question.

It received a second.

The Moderator asked for all those in favor of the call of the question signify by raising your cards; all those opposed. It's overwhelming; well more than two-thirds.

The Moderator reminded the Hall that this Article requires a two-thirds vote.

The Moderator asked for all those in favor of Article 40 signify by raising your cards; all those opposed.

The Moderator declared a two-thirds vote.

**ARTICLE 41. COMMUNITY PRESERVATION FUND
EXTENSION OF SUDBURY HOUSING
AUTHORITY PROPOSAL**

To see if the Town will vote to extend the period authorized under Article 32C of the 2003 Annual Town Meeting, for the Sudbury Housing Authority to obtain permitting and financing approvals as set forth in said Article 32C for construction of community housing on sites owned by, or authorized for transfer to, the Sudbury Housing Authority as of the close of the 2004 Annual Town Meeting, or act on anything relative thereto.

Submitted by the Community Preservation Committee. (Majority vote required)

The Moderator stated that Article 41 was on the Consent Calendar but Mr. Robert Coe asked for it to be pulled off the Consent Calendar for debate.

Christopher Morely, 321 Old Lancaster Road, for the Community Preservation Committee. This is a different motion than that in the Warrant.

Moved to approve the recommendation of the Community Preservation Committee, to extend the period authorized under Article 32C of the '03 Town Meeting, for the Sudbury Housing Authority to obtain permitting and financing approvals as set forth in said Article 32C for construction of community housing on sites owned by, or authorized for transfer to, the Sudbury Housing Authority, which permitting and finance approvals were to be obtained by the close of the '05 TM, which extension shall be for the period of approximately two (2) years ending at the close of the '07 Town Meeting.

Moved to extend the period authorized under Article 32C of the 2003 Annual Town Meeting for the Sudbury Housing Authority to obtain permitting and financing approvals as set forth therein so that the reference to the 2004 Annual Town Meeting is extended to the 2007 ATM and to extend the April 30, 2006 date to the close of the April 2007 Annual Town Meeting.

Christopher Morely stated this is the first of ten Community Preservation Committee Articles. The Community Preservation Act authorized the Community Preservation Committee; there are nine members; two at large and a representative from the Board of Selectmen, Planning Board, Finance Committee, Conservation Commission, Park and Recreation, Historic Commission and Housing Authority. The funding for the Committee comes from the 3% surcharge on taxes and a matching grant from the State.

Those funds are segregated into four different areas:

- **open space**
- **historic district**
- **housing**
- **recreation**

The format that will be used for the next ten Articles is an individual motion for each proposed project. A brief explanation was given why the Community Preservation Committee has endorsed the project for funding and of the source of the funding as well as the funding limitations. A substantial presentation of the actual project will then be made by the project proponents.

Article 41 is not a moneyed Article in the sense that the funds were approved previously and committed to the project in '03. Obviously, as was just read, a two year extension of time has been provided for the Housing Authority to receive permit approvals to obtain the funding.

John Darcey, 82 Cranberry Circle, stated in 2003 the Sudbury Housing Authority proposed a project to construct up to 16 rental units of affordable family housing on scattered sites around Sudbury. The Housing Authority requested \$320,000 in CPA funding. At least 10%, as Chris had mentioned, is segregated; CPA funding is segregated. At least 10% of CPA funds must be directed toward Affordable Housing projects. The Community Preservation Committee unanimously supported the proposal two years ago. The Selectmen unanimously supported it and overwhelmingly passed at Town Meeting. The proposed homes have an appearance similar to many single family homes in town. This design is intentional and is beneficial for both our residents and neighbors.

The selection of specific sites was the next step. Last year's Town Meeting approved transfer of two town owned properties, identified by the Blue Ribbon Site Selection Committee that the Selectmen had established. During the past year testing has determined that one of those sites will not work. Another site approved last year is still on hold as a possible location for a new Police Station. The Selectmen can only consider releasing that after that process has been thoroughly gone through. Also, during the past year one parcel of land, already owned by the Housing Authority, was reviewed and determined to be appropriate as a family housing site. Test results are being obtained and have made preliminary site proposals. Obviously the few sites that are still in the mix will not achieve the full scale of our original proposal. They will only be building what these sites can reasonably accommodate. At maximum, this will be approximately four to five houses. Final determination awaits the percolation tests, architectural renderings,

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discussions with neighbors and permitting. As was voted in 2003, the approved CPA funds will only be allocated on a \$20,000 per unit basis. Article 41 extends the timeframe for us to use the CPA funds that were allocated in 2003. No new funds are being requested by this Article. They respectfully request that the Hall vote "Yes" on Article 41.

FINANCE COMMITTEE: Unanimously recommends approval of this Article.

BOARD OF SELECTMEN: Supports this Article and urges your support as well.

The Moderator asked if anybody wished to be heard on Article 41.

Robert Coe, 14 Churchill Street, moved to amend the motion under Article 41 to change the term of the extension from 2 years to 1 year.

The motion to amend received a second.

Mr. Coe, said if the motion had been made as printed in the Warrant, there was no term of the extension, he couldn't have possibly come up with this amendment ahead of time. It did say in the explanation they were looking for a two year extension but he didn't see anything in the motion, as printed in the Warrant, calls for a two year extension. He's not opposed to giving them an extension but thinks that from one Town Meeting to the next is quite long enough. If next year they come back and did the best they could and still need another year; then another year can be given. What's being done is starting to right an open ended extension or period of time which is basically what is printed in the Warrant Article. It was going to go under the Consent Calendar but if it hadn't been held; it was going to be open ended. What tends to happen is there are some controversial sites and the question of whether or not that site is going to be chosen or not just drags out, drags out and drags out. It's not fair to the people in the area that want it or don't want it to have this sort of Damocles hanging over them indefinitely. What ought to be done tonight is give them another year; let them come back and report at next year's Town Meeting and if they need another year after that then it'll be considered on its merits at that time.

Mr. Darcey responded to Mr. Coe as a point of clarification he would not call this a Damocles because it was printed in the Warrant Article. A two year extension was asked for and the reason is one of the properties that were voted to be released to the Housing Authority at last year's Town Meeting is still pending as a part of the Police Station review. They don't control the outcome and really would prefer to do all of the site planning and construction at the same time and not by piece meal. As most people know there is some savings and to ask for two years seems more realistic to allow the process to play itself out. Unfortunately, sometimes government is very slow; that's reality. It is more realistic to give a two year extension because they can get it all done in that time than taking up the Hall's time a year from now for this or that reason when they couldn't get it done.

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The Moderator asked if anybody wished to be heard only on the amendment to change the extension from two years to one year.

James Gardner, Longfellow Road, is concerned that Mr. Coe hasn't been given an opportunity to see the entire text of the proposed Article on the viewgraph. It seems that there was more than one time period in this Article and wants to make sure a clean amendment is provided in order to vote on this. Please show the second page on the viewgraph for consideration, as well.

The Moderator, after consulting with Town Counsel, explained that the person who made the motion, Mr. Morely, incorrectly read what was an old motion that was not supposed to be read plus the new one, so the wording that you see in front of you is the entire motion. The Moderator asked Mr. Morely if he would like to withdraw the second part which he read and Ms. Kablack, who made the second, do you wish to withdraw your second.

Both responded "Yes".

The Moderator asked do you wish to make another second of this motion.

Ms. Kablack seconded the motion.

The Moderator explained that this is the entire motion and the amendment will apply to it.

Mr. Gardner said this cleared up his question.

Mr. Coe said when this amendment was made what's being displayed on the viewgraph is what was originally seen. He had failed to appreciate that more had been read than what he saw. His amendment as proposed applies to the motion that is actually being made.

The Moderator asked if anybody wished to be heard on the motion to amend that essentially takes the main motion and reduces the extension from two years to one year.

Larry O'Brien, said the Board of Selectmen would be opposed to this amendment simply because of the length of time that permeating, testing and site evaluation takes. One of the primary sites the Sudbury Housing Authority would be interested in is a portion of the main Fire House site on Hudson Road. The evaluation of that certainly could take longer than twelve months and then they'd be discussing this again. Two years is fair and not an extensive period of time. After that period, an additional extension would be asked for at Town Meeting or the

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proposal would just die on the vine. They ask that this amendment be defeated and the two years be permitted in the original motion.

The Moderator reminded the Hall that this Article requires a majority vote.

The Moderator seeing that nobody else wished to be heard on Article 41 asked for all those in favor of the *motion to amend* signify by raising your cards; all those opposed.

The Moderator declared the *motion to amend* is **OVERWHELMINGLY DEFEATED.**

The Moderator asked for all those in favor of Article 41 signify by raising your cards; all those opposed.

The Moderator declared Article 41 **PASSES OVERWHELMINGLY.**

ARTICLE 42. COMMUNITY PRESERVATION FUND - HOUSING UNIT BUY-DOWN

To see of the Town will vote to appropriate an amount not to exceed \$500,000 from Community Preservation Act funds, as recommended by the Community Preservation Committee, for the purpose of purchasing permanent, affordable restrictions on single or multiple family units in the Town of Sudbury, for homeownership or rental, or act on anything relative thereto.

Submitted by the Community Preservation Committee. (Majority vote required)

Christopher Morely, *moved* to approve the recommendation of the Community Preservation Committee, to appropriate \$500,000 from Community Preservation Act funds for the purpose of purchasing permanent, affordable restrictions on single or multiple family units in the Town of Sudbury, for home ownership or rental, in accordance with affordability guidelines set forth by the Department of Housing and Community Development, and such other guidelines as may be established by the Community Housing Committee. Expenditure of said funds shall be limited to an amount not to exceed \$100,000 per unit of housing, based upon binding commitments for purchase of said restrictions by owners or contract purchasers obtained on or before the close of the '07 TM. Expenditures must be made for purchase of said restrictions on or before the close of the '08 TM. No such expenditures may be used to increase density of housing units otherwise capable of being constructed under zoning or the comprehensive permit process. All appropriations shall be allocated to the category of Community Housing and funded from housing restricted reserves, in the amount of \$142,343, from FY06 revenue in

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the amount of \$200,000, and from general unrestricted reserves in the amount of \$157,657.

The motion received a second.

Christopher Morely, Vice Chairman of this Committee, stated he's stepping in for the Chairman. Housing is one of those four areas; three core areas of funding where the State requires us to set aside for later spending or spend 10% of our revenues on Affordable Housing. As heard in the last Article, the Housing Authority proposal is a great proposal but they've been bogged down for a couple of years and many have a couple more years to go. This proposal came to us from the Town Manager and the Community Housing Committee. It proposes a modest Buy-Down Program making the appropriated funds available for affordable individual housing units. It's a perspective proposal; in that there's no actual unit right now that we're saying we're going to buy, so the Committee has said they want commitments by the '07 Town Meeting and expenditures for restrictions by the '08 Town Meeting. It sort of goes with what Mr. Coe was just talking about. We're saying here it is; make it happen and if it doesn't happen by that time they want the money back in the general fund. Article 42 is straight cash expenditure from CPC funds.

FINANCE COMMITTEE: Recommends approval of this Article.

BOARD OF SELECTMEN: Unanimously supports this Article.

Larry O'Brien, for the Board of Selectmen, stated dating back to 1997 and then subsequently in the 2001 Master Plan for the Town of Sudbury, the Strategic Planning Committee, the Board of Selectmen, various Town Boards and Committees have been working on an assortment of initiatives to increase the number and range of housing units available at affordable and moderate price points. The findings of the Community Housing Committee have recently been published in the Housing Plan which clearly indicates there is a need for the development of a range of housing styles and prices to fit the needs of our existing residents and those who might want to relocate in Sudbury; particularly family members of residents and people who work in Sudbury.

The findings in the Housing Plan suggest that the major housing needs in Sudbury are as follows:

- first time home buyers
- family rental units
- special needs housing
- senior home ownership

These major housing needs should be provided at a variety of price points. Sudbury currently has 218 affordable units. In order for the community to meet the

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State goal of 10%, Sudbury needs to add approximately 340 additional units to our current inventory.

Since 1999 Town Meeting has approved many Articles that work toward achieving the objectives that were laid out within the housing section of the Town's Master Plan. The stated goal in the Master Plan is and as quoted "Encourage greater diversity of housing opportunities in Sudbury to meet the needs of a changing and diversified population with respect to age, household size and income". These include adoption of two Bylaws that permit age restricted condominium development acceptance of the Community Preservation Act, supportive Articles that utilize CPA funds for affordable rental housing and the transfer of town owned land for the development of moderately priced senior housing that was just discussed in the prior Article. The Selectmen have been working with the CHC and other Boards and Committees to creatively increase Sudbury's percentage of Affordable Housing. The goal for the '04 Housing Plan is to produce between two and eight units of Affordable Housing per year over the next five years. This number is reflective of the ability of the Town of Sudbury to fund small projects using CPA funds, such as buying down the price of small homes and reselling them with restrictions or buying down the price of condominium units in an existing development or developing a small project on a small parcel of land.

Parcels of land that are offered to the Town of Sudbury as a right of first refusal under Massachusetts General Law, Chapter 61, are routinely evaluated for their ability to accommodate town sponsored housing development. Over the past 12 months, the Selectmen have studied several parcels of land that were put up for sale and at present have not found one suitable for these purposes. However, currently two proposed residential developments may provide the Town of Sudbury with a viable opportunity to increase the number of affordable units within the next 24 months. Recently the Town of Sudbury has been notified of two applications for Comprehensive Permits that are also commonly referred to as 40B Developments. These will provide up to 56 units of attached home ownership housing at two different sites in the Town of Sudbury.

By statute these developments must provide 25% of their units to income eligible households at affordable prices. These proposed developments also present opportunities to create additional affordable units over and above the 25% minimum, if the developers would be willing to work with the Town of Sudbury. While there are no assurances; there have been preliminary discussions and should this Article pass the funding would be available to continue those discussions and allow them to potentially enter into agreements to buy-down additional units to add to our affordable inventory. The pro forma construction submitted with the applications indicate that approximately \$100,000 subsidy would be needed to construct a unit that could be sold within the affordable price range as dictated by the Department of Housing and Community Development; that price point is currently \$170,000. If the two proposed developments are eventually approved, built and five additional units are created with CPA funds, they will see an almost 10%

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increase in the Town of Sudbury's total Affordable Housing inventory. This will exceed the production goals that were identified within the Housing Plan.

Under this Article it is also possible that \$100,000 per unit subsidy could be applied toward small single family homes that currently are known around town as tear downs; developers buy them tear them down and build larger homes in their place. The strategy to buy these houses down; to put a restriction on them is generally favorable to the neighborhood as it preserves the existing smaller homes with little disturbance to the surrounding neighborhood. The timing of when a unit will be ready for sale, either in a new development or an existing home is difficult to predict and the Town of Sudbury is at a disadvantage if Town Meeting approval is needed. The creation of this fund gives the Town Manager, the Town Planner and the Community Housing Committee the flexibility to respond in a rapid format when houses become available; when developments are under construction they don't have to wait for April to come around and certainly would not want to subject the Town of Sudbury to the cost and expense of running a Special Town Meeting for a single Article of this nature.

This proposal looks to alleviate the obstacle by having the funds set aside in advance, so when the unit does become available the Town of Sudbury is able to act quickly and proactively with a potential partner. Initial prospects for buy-down will be screened and recommended by the Community Housing Committee, the Town Planner and the Town Manager would review and conduct final negotiations with the approval of the Board of Selectmen. He closed by reading just a small portion of the third paragraph of the character of Sudbury statement that was published in the 2001 Master Plan and voted unanimously by Town Meeting in 1999. "Sudbury's people are one of its most valuable assets, promoting a socioeconomic environment that permits and encourages diversity of ethnicity, religion, age and income will perpetuate this important town value." The Board of Selectmen unanimously urges your support.

The Moderator asked if anybody wished to be heard on Article 42.

Amy Lepak, 54 Jarman Road, Co-Chairman of the Community Housing Committee presented the Sudbury Housing Plan and second and third Development Action Plans to the Planning Board and the Selectmen in February to buy-down small single family houses and also to buy-down additional units. Whatever Comprehensive Permit or 40B Developments might come into the Town of Sudbury there must be 25% affordability, as was pointed out by the St. Anselm Task Force and at public meetings that were held for the Housing Plan. That really doesn't get very far toward 10% for the Town of Sudbury because they're putting in 75% of those units at market rate. The higher above 25% in those developments the better off for affordability purposes and for the idea of buying-down or taking a deed restriction on a small house in the Town of Sudbury. It wouldn't become a tear down. It might be advantageous to an older person already living here and to a family who needs Affordable Housing in the future. Please support this Article.

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Steve Swanger, 14 Bent Brook Road, the Sudbury Housing Authority unanimously supports this Article. There's a tremendous need in the Town of Sudbury for a variety of Affordable Housing types and this will fill an important need for people who can't afford to buy in Sudbury but would like to live here and oftentimes have grown up here. We unanimously support this Article and urge you to vote for it.

Jeanette Berger, 17 Pondview Road, basically heard that the monies that would be voted in this Article would be used to buy additional affordable units in a 40B Project. Is that correct?

Larry O'Brien responded "Yes" it is.

Ms. Berger then asked; is this money eligible for State matching?

Mr. O'Brien responded to the question by stating that the CPA funds when collected initially before designated or earmarked for any specific use do receive matching from the Commonwealth and then they go for CPA funds. The statute requires that 10% of the monies collected, via surcharge, and or matching, be allocated. Currently there is an average of about \$1M a year in the combination of the two. So, \$100,000 minimum, is what is being told \$2M now; they collect \$1M and there's about \$1M match; 10% is put aside for Historic Conservation and Housing.

The Moderator asked if anybody else wished to be heard on Article 42.

Tom Powers, Union Avenue, said there are ten Articles coming up in a row that regard dispersion of CPA funds. How much money is available to cover those and are they borrowing against anything or is it all liquid available money?

Mr. Morely believes there's a detailed Budget in Article 50. Is there money there to pay for the one's that are straight cash deals? There are some; there's a land purchase that would be bonded. That will be explained when Article 45 is reached, but this is a straight cash deal.

Mr. Powers stated he perhaps misunderstood how this particular item is worded. What keeps these properties affordable after they've been lived in purchased or rented? Can you explain how this deed restriction works? If you buy-down a property for \$100,000 and somebody pays \$170,000 for it, does it now have a market value of \$270,000?

Mr. Morely said there is a very complicated formula that goes into the deed as to how much it can increase. It can increase in value each year.

Mr. O'Brien responded with regards to any of the units that would be purchased; the maximum \$100,000 allocation per unit would bring the price of that

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unit down to the State mandated affordable number. There would be a permanent restriction that the unit could never be resold unless it was under the affordable guidelines. That price does occasionally go up as the State reviews the number and it steps up slightly but it would be in a permanent deed restriction so that would always be resold in perpetuity as an affordable unit.

Mr. Powers questioned if the Town of Sudbury gets any return from it or does it merely keep the price depressed over the course of whatever schedule the State imposes.

Mr. O'Brien said exactly as you just stated.

Michael Garrett, 21 Mary Catherine Lane, questioned if this \$.5M allocation is the most efficient way to gain more exposure for Affordable Housing using it to buy-down Chapter 40B as opposed to looking at other projects in the Town of Sudbury? If it is, about how many units can we buy-down and how many units per acre are built on a Chapter 40B?

Mr. O'Brien responded that's a great multi part question. Under the structure of this Article, the maximum number of units that could be bought down on restrictions would be five units; if we did \$100,000 per unit. If able to do it at \$50,000 per unit, it could be done at 10 units.

Mr. Garrett questioned if the affordable limit was \$170,000.

Mr. O'Brien responded "Yes".

Mr. Garrett stated so \$50,000 one can apply a property in this town at \$220,000.

Mr. O'Brien said "No". The concept is that in a 40B Development some easy numbers will be used; if 16 units are being developed, the State requires that 25%, or in his example four units, must be marketed at the affordable price point of \$170,000. What they're trying to accomplish with this Article is to increase the number of affordable units that would be in that example of developing 16 units by purchasing additional restrictions and bringing the cost of units down to the \$170,000 price point.

The Moderator asked Mr. Garrett if all his questions had been answered.

Mr. Garrett guessed that the estimate of buying-down if the median home in this town is \$600,000 that they may be able to buy-down one unit.

Mr. O'Brien said "No". The units that are being developed under the two proposals sited in his presentation are higher density developments so the price

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point per unit will be much lower than the average single family home. The \$100,000 will allow for additional units to the inventory.

Mr. Garrett asked how many units per acre are build-able in a Chapter 40B Development.

Mr. O'Brien said that goes to the issue of how the soil perks and Title V limitations so the maximum number of two bedroom units would be in the vicinity of 45, two bedroom units. They've successfully been able to work with developers and keep the densities much lower than that because they realize that the amount of resistance received would ratchet it to such a point that they wouldn't want to stay. They'd rather build a smaller development, have some of their units at a higher price and recover their costs that way, than fight with the Town of Sudbury over a much higher density.

A resident called the question.

It received a second.

The Moderator asked for all those in favor of the call of the question signify by raising your cards; all those opposed. It passes overwhelming.

The Moderator reminded the Hall that this Article requires a majority vote.

The Moderator asked for all those in favor of Article 42 as it appears on the viewgraph signify by raising your cards; all those opposed.

The Moderator declared Article 42 PASSES OVERWHELMINGLY.

ARTICLE 43. COMMUNITY PRESERVATION FUND - RAIL TRAIL CONVERSION STUDY

To see if the Town will vote to appropriate an amount not to exceed \$25,000 from Community Preservation Act funds, as recommended by the Community Preservation Committee, for the purpose of conducting a feasibility study on the former Penn Central right-of-way from the Union Avenue entrance at Chiswick Park to the Concord Town Line, or act on anything relative thereto.

Submitted by the Community Preservation Committee. (Majority vote required)

Christopher Morely, *moved* to approve the recommendations of the Community Preservation Committee, to appropriate \$25,000 from Community Preservation Act funds for the purpose of conducting a feasibility study on the former Penn Central

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railroad right-of-way from the Union Avenue entrance at Chiswick Park to the Concord Town Line, consisting of three components:

- i) field investigation and analysis of existing site conditions;**
- ii) trail conceptual design; and**
- iii) development of an implementation plan, in accordance with a more detailed scope of work to be developed and overseen by the Town Manager. All appropriations shall be allocated to the category of Recreation and funded from general unrestricted reserves.**

The motion received a second.

Christopher Morely, 321 Old Lancaster Road, said this is the first of three recreation proposals. The North, South railway line has been recognized for many years as a potential for recreational and open space use providing valuable trail linkages on the North-South corridor across the Town of Sudbury. The proposal is to merely conduct a feasibility study with discreet criteria; current analysis, conceptual design and implementation plan. It does not commit the Town of Sudbury to conduct a conversion of the railroad right-of-way and does not commit the Town of Sudbury to any particular trail type or design. This would be straight cash expenditure from CPC funds.

FINANCE COMMITTEE: Recommends approval of this Article.

John Drobinski, Board of Selectmen and also a member of the Community Preservation Committee, stated this isn't the typical way to show a map in town and being a Geologist he's sort of opposed to doing it this way. North is supposed to be up and not to the West but anyhow he'll try to explain what they're looking at. This is a rotated map of our wonderful Town of Sudbury and it shows the extension of the proposed feasibility study for the Rail Trail and goes from the Concord, Sudbury line down to Route 20. On the viewgraph are some of the recreation areas along the High School, Haynes Meadow, Musketahquid Village, Town Center and Heritage Park. On the North-South version of this figure is the old Massachusetts Central Railway which runs from the Wayland town line to the Marlborough town line. Interestingly enough the other day in Wayland, developers came to the Town of Wayland to redevelop the Raytheon site and proposed, at their own cost, to redevelop the Rail Trail. Further to the South of Rail Trail, the EOTC, which stands for Executive Office of Transportation and Construction, is a little bit more easy to deal with than the MBTA, therefore the reason why parts of the line are going a little bit further. To the South of the Route 20 Commercial area is the old CXS line, which is in process. If you drive through the Town of Sudbury, construction activity can be seen and in the process of being abandoned. This study does not include that section. At a later date, Community Preservation Committee for Community Preservation Act funds may be tapped.

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What about the \$25,000 request? This request came about from a meeting with the Board of Selectmen and on September 7, 2004 the Board instructed the Town Manager to take two actions:

- **Apply for a \$25,000 grant to the Community Preservation Committee to undertake a conversion feasibility study; this is just a study; no construction is being done**
- **Create a new committee to work with the Town of Sudbury staff to develop a process for addressing issues, through the commission of study, through meetings and public hearings; the key thing in this is meetings and public hearings; public input is needed if this is going to be successful**

The objective of this study is actually quite straight forward to determine if it is feasible to construct a public Rail Trail on the former Penn Central Railroad right-of-way; that's the right-of-way from Route 20 North to the Concord line. This study will identify major benefits, hurdles and costs. The study will enable future decisions to be based on factual information specific to Sudbury's needs and desires. This study is only information gathered to determine if public reuse of the railroad right-of-way would benefit the community as a whole.

Why study this right-of-way? This right-of-way for the Rail Trail has been in place since about 1986 and he was actually the first Chairman of the Rail Trail Committee back in 1986 and looked at this railway right-of-way, as well as, the east west right-of-way. There is an interesting story about the east west right-of-way. In 1995 our former State Representative Hasty Evans advocated returning the rail line to active rail use. There was such an outcry in the Town of Sudbury that the Board of Selectmen committed to the abutters along the rail line that the only activity that would be allowed along that rail line would be a Rail Trail. Investigating this alternative was identified as a goal of the Master Plan "Sustainable" Sudbury. It is also consistent with Sudbury's Open Space & Recreation Plan and Trail Linkage Plan. In addition, the Community Preservation Act allows funds for this study without impact on the Operating Budget therefore there'll be no additional tax levy. This fits one of the Community Preservation Act approved uses.

Additionally, why study this right-of-way? As you drive around town, streets and walkways are noticed, except for some of the newer ones. Some are designed with narrow pavements and close to the roadway. If you've driven down Goodman's Hill Road it's right on the roadway in most places. Most streets have no shoulders and present a safety hazard to non-motorized vehicle use. Conversion of the railway right-of-way can provide a safer, and in most cases, a shorter alternative way to navigate through the town without use of cars. Completing this feasibility study will provide the Town of Sudbury with the leverage for future trail funding should the Town of Sudbury decide to proceed.

The Study's Goals are comprised of the following:

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- **Provide a detailed description of the physical right-of-way**
 - 1) **What does it look like?**
 - 2) **What's out there now?**
 - 3) **What are the obstacles?**
- **Identify connections, easements and encroachments**
 - 1) **Have other abutters encroached on the railway?**
 - 2) **What are the easement issues?**
- **Identify bridges, culverts, wetlands and other environmental concerns**
 - 1) **Are the bridges in good shape?**
 - 2) **Are the bridges not in good shape?**
 - 3) **Do we have problems with wetlands?**
 - 4) **Do we have problems with other environmental concerns; critical habitat and vernal pools; things like that?**
- **Identify roadway volumes including traffic volumes**
 - 1) **The key issue about all Rail Trails is the road crossings.**
 - 2) **Is the required appropriate safety in place?**
- **Analyze existing physical conditions**
 - 1) **What's physically out there in the field?**
 - 2) **What does it look like?**
 - 3) **What is the cost to go forward?**
- **Identify facilities and amenities needed**
 - 1) **How are we going to provide public safety and access?**
- **Identify and discuss potential entry points and destinations**
 - 1) **What's the impact on neighborhoods?**
 - 2) **What's the impact on traffic?**
 - 3) **Where are the ideal places for parking? Some of the places could be near Mr. Mullen's Sudbury Lumber and areas similar to that; think about what's appropriate.**
- **Describe alternative surface treatments**
 - 1) **Is it the surface going to be gravel, paved? They've not made up their mind at all; this is a feasibility study.**
 - 2) **What really works for the best interest of the community?**
- **Provide preliminary construction, maintenance and policing costs; these costs are important to the community;**
 - 1) **What will the impact of this type of construction be on the community both long term and short term?**

Issues the community will study are numerous. Some of the one's that come to mind here are, as a member of the Board of Selectmen:

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- **Cost to maintain the trail:** This is a maintenance nightmare and needs to be understood.
- **Security for abutters:** It's important that the abutters to the Rail Trail feel they are secure. The history of the Rail Trail in Weston is known where people were afraid the hordes from the inner city would come and steal the silverware from their tables; let's make sure that's not going to happen.
- **Motorized vehicles:** Do they really want motorized vehicles on the Rail Trail? Probably not, but that's up to the feasibility study.
- **Privacy for the abutters:** They're sensitive to abutter's issues and someone who lives on a major road in town knows that activity in your front yard is something that is not wanted: privacy should be provided as much as possible.
- **Consistency with the Town of Sudbury's Character:** If this Rail Trail is built it should fit into the character of the community and something the community wants.
- **Environmental Concerns:** Are they doing the right thing by the environment? This is something that has to be looked at very carefully.

The Board of Selectmen appointed a Committee composed of a cross section of residents of Sudbury, abutters who are interested in strongly developing the Rail Trail and people have no feeling one way or the other. The Board of Selectmen is making staff available including the Town Engineer, Conservation Coordinator and Park and Recreation Manager to ensure the Committee gets the information they need to develop a factual analysis of what's going on. Like all meetings, every meeting is open to the public and everything is done in the open. There is nothing to hide and the public is invited to attend meetings and give input because that's the whole idea of this process. Public input is needed if this is to go forward. The minutes, as most minutes, will be posted on the Town's website. The Committee will work with staff and the consultant on developing the parameters for the study.

The end result of the study will be a logical, unbiased gathering of information that does not obligate the Town of Sudbury in any way to proceed with a trail of any kind. It is a low cost opportunity to investigate a potential enhancement of citizen's enjoyment of physical and cultural resources within the Town of Sudbury. It is not a green light to proceed. Any future actions must come back to Town Meeting for approval.

The Town of Sudbury believes in fully investigating what the potential stated goals are and plans to do it in a factual, logical and public manner. This is the responsible and diligent course to follow. The Board of Selectmen urges your support.

The Moderator asked if anybody else wished to be heard on Article 43.

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Allan Wallack, 67 Thompson Drive, requests that you vote “No” on Article 43 for the following reasons. Since he has only a few minutes he couldn’t review these issues in detail nor Mr. Drobinski’s issues list but neither has the Town of Sudbury in the last six months. Since the Town of Sudbury hasn’t addressed these issues how do they know they are studying the right ones in the right priority or have the right costs. Is construction feasibility really the key of this study more important than studying yearly maintenance costs?

- 1) **The issues surrounding the Rail Trail have not been researched, discussed, deliberated or prioritized and it should be understood before a feasibility study is started**
 - One time taxpayer expenses
 - Ongoing taxpayer expenses
 - Parking and Amenities issues
 - Conservation and Environmental issues
 - Safety and Crime issues
 - Abutter concerns

- 2) **Article 43 is Incomplete for the following reasons:**
 - Number of steps?
 - Total cost of project?
 - What issues will be covered?
 - What is not covered?
 - Study only includes a portion of the trail

Article 43 states that this study is the first step. It doesn’t state how many other steps are required and it doesn’t identify the cost of each step. Acton just authorized an additional \$75,000 for legal fees; consequences of their project. He doesn’t understand the overall costs. In addition, the CSX line is not included in this study and that’s the connecting Sudbury line below Route 20. Additional funding will be required for that study next year.

- 3) **The proposal is premature for the following reasons:**
 - Issues not researched, reviewed
 - No Town of Sudbury position on the issues
 - No abutter hearings or notifications
 - Limited public hearing on the issues
 - Reliance on lobby groups
 - More time needed to educate the public

The feasibility study was submitted to the CPC before the new Rail Trail Committee ever met and that’s without a detailed scope of work or what the study will or will not cover. No one invited the abutters to express their concern over the

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last six months since the beginning of the discussion. There were no public hearings on the issues because there was no work done on the issues. The Town of Sudbury is relying on well organized lobby groups for information.

4) There is no urgency for this proposal

- No abutting towns have approved the construction of a trail
- Framingham disbanded its Rail Trail task force
- Construction is on hold from Lowell to Westford portion due to costs
- Concord study is being funded by private donations from lobby groups
- It may take several years to negotiate a purchase price for the CSX rail bed

Nothing is critical or essential in this rush proposal and the CPC money could be used for a higher priority and better defined programs like improving our playing fields, building and repairing our run down sidewalks.

5) This proposal is not fiscally responsible at this time

- There is no RFP for this proposal; that's a Request for Proposal given to the vendors so they can estimate the actual costs for the town for the work being requested so you know what they propose; standard operating procedure
- All the one time tax expenditures need to be identified and defined first. If we just examined the construction costs alone we can use the just completed Acton study to determine our expenditures. They estimated construction costs at \$4.4M for 4.6 miles; that's \$1M per mile excluding the Route 2A intersection. After government help, Acton is estimating \$660,000 of one time expenditures; that's a tax override in and of itself for that one item.
- The ongoing yearly tax expenditures are not part of this study. A member of the Rail Trail Committee said the estimated maintenance cost could be \$9,000 per mile per year; that's over \$50,000 a year or at least 23% of the Fiscal 2005 Park and Grounds Budget; that doesn't include increased Police patrols.

Why weren't these things examined first before the study? This is a time of tax override. How can the Town of Sudbury justify such a low priority, nonessential tax expenditure, when they're asking our residents to make sacrifices on critical issues today? Vote "No" and send the Town of Sudbury back to identify and understand the issues, to involve all the abutters and all the taxpayers, to develop Town of Sudbury positions and strategies on the issues, to do a need's assessment as

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stated in the Town Plan and to present the Town of Sudbury with a complete plan before any tax expenditures are allocated.

Some view the CPC money, the \$25,000 as free money; as small potatoes and the taxpayers won't care because it comes from the CPC. What they're voting for is a de facto approval of the Rail Trail regardless of what's being said because this is a construction study and the beginning of a very, very expensive tax burden. Therefore, vote "No" on Article 43.

The Moderator asked if anybody else wished to be heard on Article 43.

Richard Williamson, 21 Pendleton Road, spoke on behalf of the Rail Trail Conversion Advisory Committee. Before the Town of Sudbury undertakes any major project it surely is prudent to find out what is involved and the Board of Selectmen have appointed the Committee to address the issues that Mr. Drobinski covered. The Committee has a whole list of issues to cover, as outlined by Mr. Wallack, and in fact that is their charter to do. A subset of those issues would be addressed in the feasibility study proposed under Article 43. Surely, the Committee urges your support of Article 43. Part of that study will be the cost of the Rail Trail conversion. There are other costs which will be up to the Conversion Committee to assess in cooperation with the Town Boards and from looking at information from other sources.

If the Town of Sudbury should proceed to construct the trail there is the possibility of taking advantage of Federal Transportation Enhancement Funds. Under that program up to 90% of the cost of the trail would be paid by the State and Federal Government. The remaining roughly 10% would be paid by the Town of Sudbury and that 10%, if the Town of Sudbury exercises its option, could be paid out of the CPA funds with no change in the tax rate. It would come out of the funds that have already been set aside. However, in order to qualify for such funds, a study such as that proposed under Article 43 is required. Article 43 is a critical step in carrying out the mission of the Committee. The Rail Trail Conversion Advisory Committee supports Article 43. The vote was nine to four with one abstention.

Erich Poch for the Planning Board and also representative to the Rail Trail Conversion Committee, stated the 2001 Master Plan recommends investigating the reuse of former rail corridors in Sudbury for recreational and transportation uses. Rail Trails have been successfully developed across the country as bike ways and nature trails. A feasibility study of the affected properties is the first step towards assessing the potential uses that may be available to the community. The Planning Board urges your support on Article 43.

Bridget Hanson, 19 Brewster Road, Vice Chairman of the Conservation Commission and the Commission's representative to the Rail Trail Advisory Committee, said the Conservation Commission would very much like to see Rail Trail's developed on both of the railroads. This is the only portion that has been

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looked at this time. They would like to increase trail linkage but one of the goals of the Commission for many years has been to develop trails for people who use wheelchairs. They've tried and tried to find a way to get wheelchair accessible places for people to use and this is one of the opportunities. This railroad bed runs through some very sensitive areas. It goes through wetlands, habitat flora, and endangered species and there are vernal pools next to the proposed trail. The CSX portion goes very near the town's wells. The Commission will be very careful to make sure that any proposed construction will meet the Commission's standards, State and Federal standards including Wetlands Protection and Storm Water runoff.

Finally, the reason to ask for the money now is because we will be able to develop an RFP for a study in the next few months and would not like to have to wait until next year to come back to ask for it.

James Leu, 29 Meadow Drive, has three areas of concern related to the Rail Trail; fiscal, security and environmental:

- 1) **Fiscal concern:** Maureen Valente has told us our resources are stretched. The overrides last week saved the jobs of 15 K-8 staff and 12 High School Teachers. As Maureen explained, Sudbury has 52% of households with school age children; the most in the State. This puts a high tax burden on the Town of Sudbury to maintain the educational services. An override was passed to get a fire engine. They were only able to afford 1.5 Police Officers per 1,000 of population. This is less than the 2.0 ratio of comparable communities. The Rail Trail has construction costs at estimates of \$1M to \$4.5M for the 4.4 mile route. Regardless of the funding of construction costs or feasibility study maintenance costs; policing costs fall squarely on the Town of Sudbury. If the Town of Sudbury is having trouble paying for education, police, fire and services for our seniors how can they contemplate a Rail Trail. When someone asked the Board about additional spending in the next five to ten years, the Rail Trail was not mentioned. It is assumed that the Board felt that taking on this project was not fiscally responsible. He applauded the Board of Selectmen for guiding us through difficult times but sees the Rail Trail project as their fiscal litmus test. He expected them to vote down the Rail Trail proposal given the current fiscal situation. If they were to vote in favor of the proposal he would be left wondering if they're really fiscally constrained or is the Town of Sudbury really flushed with cash after the override has passed. Does the Board feel the 100 vote margin of victory on the override is a mandate to spend or maybe the Board has a set of priorities where recreational Rail Trail takes precedence over an under staffed Police Department or an economically challenged Senior Citizen

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community. He believes the Town of Sudbury cannot afford the Rail Trail based upon the fiscal picture the Town Manager painted at Town Meeting.

- 2) **Safety concern:** The second problem with the Rail Trail is security. The Rail Trail provides an attractive opportunity for crime. The trail provides a discreet access to people's backyards creating the possibility of theft or kidnapping. What is problematic about the trail is that it is difficult to police. As mentioned before, Maureen has told us that the Police Department is understaffed with only 1.5 Police Officers per 1,000 of population. Why would they put additional strain on our Police Department? The threat of serious crime in Sudbury is real. Last year there was a door-to-door rapist and at the last Town Meeting the residents learned of attempted child abduction on Martin Drive. Do they really want to create a discreet place that provides an opportunity for a crime to occur? Some would argue that crime won't occur on the Bike Trail because it is difficult for a criminal to get away and it is tough to commit a crime when people are running or biking. Crime can be prevented by emergency call boxes. The fact is none of these three things have stopped rapes and muggings on the reservoir trail at Boston College or the lake jogging trails at Wellesley College. In fact, the advice to Wellesley students is their trail is dangerous and never bike or jog alone. He recommended that an opportunity for crime should not be created and should not stretch our already stretched Police Department.
- 3) **Environmental concern:** Because it's been over 25 years since a railroad has run through the woods, the woods have filled in nicely around the track. The woods are about 40 feet wide. The track cuts through lots that are $\frac{3}{4}$ of an acre in his area. Clearing 35 feet for the Rail Trail would effectively clear out the woods. One of our Selectmen suggested at the last meeting to the Maple Avenue residents that cutting down the trees brought them back to the way things were when there were lots of farms. He doesn't argue with the pastoral beauty of farmland, however, the Rail Trail cut through in his area wouldn't be a path through farmland. The Rail Trail would actually be a road to the backyards of tightly packed suburban lots. He recommended against cutting down all these trees. The woods are beautiful as they are but the Rail Trail would eliminate the trees and replace them with asphalt. In the words of Joni Mitchell "we would be paving paradise to put up a parking lot".

In summary, the Rail Trail is not affordable, the taxes are already high, the educational resources are not affordable for our burgeoning school population, the Police Department is under resourced and the Senior Citizen's are struggling.

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Secondly, the Rail Trail creates an opportunity for crime that is difficult for our Police Department that is relatively understaffed. Lastly, the woods are beautiful; don't cut down the trees and pave the woods over with tar. He recommended voting against the Bike Trail Feasibility Study.

Mr. Drobinski responded that this is only a feasibility study and is not going to destroy the free world as its known. Basically the issues will be looked at along with the residents concerns. They haven't committed to constructing anything and haven't decided what the trail's going to look like. To say that the Town of Sudbury's committing itself to something is absolutely false and misleading the Hall. He thought it was very clear in his presentation that this is only a feasibility study and nothing is going to happen until the study is completed. Everything the study recommends is going to come back to Town Meeting so they'll all have a chance to talk on it. As for the increase in taxes, the \$25,000 will not increase the levy one cent. The levy has already been set. This \$25,000 would be spent to answer the questions brought forward.

Jim Nigrelli, 21 Pennymeadow Road, understands that this is a feasibility study but he looks at it as buying a home inspection report. You wouldn't go out and purchase a home inspection report without knowing if the home is affordable or not and whether the home is in a good area of town or not. The Town of Sudbury should have a need analysis performed or an assessment done to figure out if the residents even want the trail first before spending any money on doing a feasibility study that we may not even use.

Katherine-Marie Vonbrincken Conover, 11 Ford Road, supports the Rail Trail; it's a great idea. There are far too many venues that are not open to public transportation because there is no public transportation. This is a great way to get from one end of the town to another. It can be a safe place if we choose to make it so. If everyone supported this Rail Trail it's something that could happen and could be a safe place. The reason why places like Boston and Wellesley are not safe is because people have seen it as a venue for which dangerous activities could happen. If you don't give it an opportunity for crime to occur then maybe it won't. If everyone is aware of the fact that this is going to be a great path through the Town of Sudbury then some beautiful sites can be seen. She's gone biking on the railroad herself; it's a little bit bumpy but a beautiful ride.

The Moderator asked Ms. Conover to confine herself to whether or not we should expend \$25,000 from the CPC funds to have a feasibility study.

Ms. Conover stated that a feasibility study will let us know if everyone is onboard because it's a feasibility study, feasible, by nature. The cost may be a little high but it's something that can be used and that's why the study should be done.

A resident called the question.

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It received a second.

The Moderator stated in his opinion this Article has been spoken about for thirty-five minutes so the call of the question is appropriate. This is only if termination of debate is wanted.

The Moderator asked for all those in favor of the call of the question signify by raising your cards; all those opposed.

The Moderator stated it's exceedingly close so rather than continue the count he would allow three more people to speak on this Article.

Carole Wolfe, 637 Concord Road, is on the Rail Trail Committee and was the one abstention. She was very happy to see Mr. Drobinski's list of issues. The issues have not been discussed. Mr. Drobinski's list of issues is wonderful. The \$25,000 was based on the Acton study. She's read the Acton study three times and it doesn't answer those questions. There isn't a hurry for this; Framingham isn't going anywhere on this at the time. The Concord study is being studied now. In Acton, after they did their feasibility study they requested \$75,000 for legal fees and then the Town of Acton has to pay 25% for a design study. The concern is that the \$25,000 will not cover all the issues that Mr. Drobinski has proposed. There's not any hurry to do this study this year. The Committee should study the issues, conduct an RFP and then find out exactly how much the feasibility study will cost.

Debbie Dineen is the Conservation Coordinator, a member of the Rail Trail Conversion Advisory Committee and a citizen of Sudbury, residing at 14 Firecut Lane. This town is always known for doing its homework. They don't jump into things blindly. Everything they do, they study over and over again. All the answers and all sides of the issues are provided. This is an emotional issue and people seem to be very much on one side or very much on the other side. Somebody has to be unbiased to work for the Town of Sudbury and take a real look at what those issues are and how they can be addressed.

Will the town be putting a road through Sudbury? Being very involved in conservation issues, that's a big concern of mine. She wants people to know that one of the things that the feasibility study will study is what are all the environmental issues and how bad are they? Can they be mitigated? Will the trail be paved or not? Will there be a bike trail after all? If you look at the bike trails that you've seen pictures of and envision those maybe that's not what is good for Sudbury. Maybe the Town of Sudbury will do something on a smaller scale. It is unknown what the Bike Trail will become but if we turn our back on it now we're never going to get that opportunity to find out.

She's been coming to Town Meeting since the mid '80's and remembers in the mid '80's, the Town of Sudbury voted to keep all the rail lines in town as transportation corridors, open ended transportation corridors and that's what these

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are. The Town of Sudbury doesn't control this Bike Trail; this is owned and controlled by the Executive Office of Transportation on the State level. The more active the Town of Sudbury is in investigating possible reuses of these areas the more likely it is the State will go along with what the town wants rather than dictate what they want. They can't put their heads in the sand and say okay if this is not studied it will go away. She thinks the answers need to be looked at. Some things may not be overcome but we may find some very creative solutions. It must be looked into or they will never know the answers. Money has been used for lots of other studies. The Town of Sudbury appropriated \$25,000 for a study for a Police Department and spent all kinds of money for studies for the schools. This is a big piece of infrastructure to consider in Sudbury. It could be a great amenity if done right and done now. We'll only find the answers with an unbiased look, present information to the Rail Trail Committee and information from the public at large so she encourages all to vote for the study.

Chip Rye, 45 Thompson Drive, stated he lives where his home abuts the trail. He's got a wife and two little girls at home and appreciates Mr. Drobinski's concern for his silverware but what he's really worried about is strangers looking at his kids when they are running through the sprinklers. Your comment doesn't show me that you're going to be real sensitive to the concerns of the abutters. Security is the primary issue for him. He's worried about his little kids. Also, he moved here seven years ago from Winchester and while there they had the opportunity to visit the Lexington trail every once and awhile. They went there and didn't like it very much because it was crowded. There were joggers, walkers, bikers, stroller pushers, roller skaters, dog walkers of all ages and levels trying to share a strip of pavement as wide as a sidewalk. Not only does he share all the concerns on the list of issues but he doesn't believe reality is going to look like the dream. He urged the Hall not to go forward with Article 43.

A resident called the question.

It received a second.

The Moderator asked for all those in favor of the call of the question signify by raising your cards; all those opposed. It's well more than two-thirds.

The Moderator reminded the Hall that this Article requires a majority vote.

The Moderator asked for all those in favor Article 43 signify by raising your cards; all those opposed.

The Moderator, although it looks like it passes, took a count and declared Article 43 PASSES.

**ARTICLE 44. COMMUNITY PRESERVATION FUND -
CUTTING ATHLETIC FIELD**

To see if the Town will vote to appropriate an amount not to exceed \$80,250 from Community Preservation Act funds, as recommended by the Community Preservation Committee, for the purpose of completing the design, site preparation and construction of the athletic field, parking area, entrance drive and related amenities at the Cutting field property, or act on anything relative thereto.

Submitted by the Community Preservation Committee. (Majority vote required)

Christopher Morely, *moved* to approve the recommendation of the Community Preservation Committee, to appropriate \$80,250 from Community Preservation Act funds for the purpose of partially funding development of the Cutting Athletic Facility, including an athletic field and appurtenant facilities, at the Cutting property in accordance with a certain Site Plan entitled: "Site Plan for Synthetic Turf Athletic Facility, Cutting Property, Sudbury, MA," dated January 6, 2005, prepared by Gale Associates, 163 Libbey Parkway, P.O. BOX 980189, Weymouth, MA 02189-0004, approved by the Board of Selectmen on March 1, 2005 (the "Site Plan"), which funding shall be made available on a matching fund basis with other non-Town related funding sources needed to complete the project and contingent upon the following conditions:

- 1) That the Cutting field project be completed in accordance with the Site Plan;
- 2) that any significant deviation from the improvements as shown on the Site Plan be subject to further Community Preservation Committee review and approval; and
- 3) That the Community Preservation Committee be provided with evidence of the availability of additional non-Town related funds to meet the Cutting Athletic Field construction budget prior to December 31, 2005. All appropriations shall be allocated to the category of Recreation and funded from general unrestricted reserves.

Christopher Morely stated this is the second recreational proposal from the CPC. The Cutting Field project was part of our Cutting Open Space purchased at last year's Town Meeting. Of that money, they allocated money to pay the Cuttings for their land development rights and fee simple portion and then we estimated \$600,000 towards the purchase of a synthetic field. Title to the field in fee simple and restricted rights over the balance of the Cutting farm were completed last summer. Initial site clearing shows that the grading has been done, along with construction of the landscape site design. Permitting approvals have commenced. However, bid

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responses were solicited in open this past February revealing an unexpected shortfall in the estimate of approximately \$195,000. The CPC is committed to this project for two reasons both the active recreational use of the all purpose synthetic turf field and that area, there's going to be a new road, and that's the gateway to us going and parking in the Cutting Land that we purchased restrictions on. The timing of this was unfortunate and tight but between the Park and Recreation Commission and the CPC they were able to redirect some of the funds in the annual budget to this project. It is only a partial fix, however. They've been asked to raise money from outside sources, as Dennis will explain, to get the balance of the funds. They have been given a certain date, December 31st, to do so. This is a straight cash expenditure of CPC funds.

Dennis Mannone, Sudbury Park and Recreation Director, said this is similar to housing that was brought up before. The same permitting process has to be done so it takes awhile but as you can see, Park and Recreation is here to give you an update on the multi-purpose synthetic field project. This is based on the Field Master Plan which was completed in the fall of 2004. This is the site plan from Gale Associates. Money was allocated in July and the site plan review and process began with the various committees who came up with this final schematic. Enter the field off Maynard Road; there will be parking access through here at the loop and then drive out this end as shown on the viewgraph. There'll also be access to the Cutting land for passive and active recreation. This will actually be the synthetic field which is seen here on the viewgraph. It actually being lined for football and will line it for soccer and boys and girls lacrosse, also. Those will be permanent lines. It can be lined for other sporting events with semi-permanent lines. There will be a four foot fence at the front and spectator seating in different locations. A ten foot fence will run along one side of the field, the Maynard Road side of the field and another side of the field to help keep the soccer and lacrosse balls in the field. This is the new sub-development with the existing tree line as shown on the viewgraph. Just about a year ago to date, there were still some shrubs and small trees. The field was site walked with the Selectmen, Conservation and Planning Board many, many times. This is a view of what the site looks like currently a couple of weeks ago when there was still a little bit of snow. The Department of Public Works has done an excellent job with helping out. All the small shrubs and trees have been cleared; stock piled and loomed to be hauled off site. The long view of the graph shows that the tree line is still there, where the field will be and the spot where the parking lot will be.

Why the shortfall as everybody wants to know? Bids were submitted in February that took about a year to review and the lowest bidder was Argus Construction at \$755,000. Some of the major factors were the following:

- **Bidding Climate:** Synthetic fields are really hot these days. A lot of cities, towns, high schools and various colleges are going towards synthetic fields so the bidding climate was really hot.

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- **Site work:** Quite a bit of site work was done. The field had to be brought up eight feet obviously with the water table and also with the existing subdivision next door.
- **Conservation requirements:** He's not aware of when the permitting process started but they have certain requirements that must be abided by.
- **Major drainage system upgrades:** Along with the eight feet elevation there's a lot of run-off which was anticipated from Maynard Road, Route 27. It must be caught, treated and discharged into the wetlands.
- **Permit process:** contains some of the design fees
- **Record snowfall:** Initially it was hoped that the DPW would be able to help and do the work but they were plowing the streets and roads this winter. It was a bad winter unfortunately so they couldn't get a jump start but they're back on track now.
- **High water table**

The current budget is as follows:

CPA Funding FY05:	\$600,000
Less Gale Associate Design Fee:	<u>(\$ 50,000)</u>
Present Total:	\$550,000
CPA Funding FY06:	\$ 80,250
Private Contributions:	<u>\$125,000</u>
Total:	\$755,250

Mr. Mannone urges your support of this Article.

FINANCE COMMITTEE: Is in favor of the motion.

BOARD OF SELECTMEN: Strongly support this Article.

Mr. Drobinski, the Selectman, stated the Selectmen strongly support this Article because this is a unique coupling of private and public funds to develop an incredible playing field for the youth of Sudbury. It gives the Park and Recreation Department additional playing fields. The Board of Selectmen has been hearing continuously from parents that there aren't enough fields in town. This is a good way to rectify that situation with an all purpose field that can be used, not necessarily year round, but after last winter at least the kids can get out on the fields at an earlier time. We urge your support.

The Moderator asked if anybody else wished to be heard on Article 44.

Martha Coe, 14 Churchill Street, stated on the previous slide there was a mention of matching funds. What are these matching funds?

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Mr. Mannone responded to Ms. Coe's question that matching funds will come from private contributions.

The Moderator asked if anybody else wished to be heard on Article 44.

John Forino, 15 Pine Ridge Road, said that when they were discussing this last year the debate went back and forth as to whether to use artificial turf versus natural grass on these fields. With the addition of this \$80,000, he wondered if grass was looked at again to see if it may be little bit cheaper. After all, this field one was a farm and a nursery.

Mr. Mannone responded "Yes" that issue was actually revisited again and unfortunately due to wetland issues parking in the field is a difficult option. The wetlands are right on the property line. The synthetic field, as Mr. Drobinski has mentioned, is basically multi-purposeful, low maintenance and it can be used time and time again. What typically happens on a field of this nature is, as seen with Haskell Field, would be to flip the goal mouths season to season. Unfortunately with this site being so tight they could only really run in one direction and couldn't run much in the other direction. The field really can't be flipped as was pointed out on the viewgraph. What ultimately will happen, they'll get goal wear not only from lacrosse but from soccer goals here and here within the hash marks as pointed out on the viewgraph. It is something that would be a maintenance nightmare. The field would have to be rested for the growing season which would be 60 days either in the fall or in the spring so the field would have to be taken out of play. A synthetic field would allow us to play on it multiple times with less wear and tear.

The Moderator asked if anybody else wished to be heard on Article 44.

James Gardner, Longfellow Road, asked to see Slide 2 on the viewgraph as he is concerned about the wording of this in the first condition. Town Meeting is specifying that the project be completed in accordance with the site plan. In the second condition, it's specifying that the Community Preservation Committee, which if memory serves, is an appointed not an elected committee. This Committee would be able to review and approve significant deviations from the first point. He wondered whether given the appointed committee control to over rule the first point set by Town Meeting is appropriate or whether in fact this should return to Town Meeting if there's a significant deviation from the site plan.

Mr. Morely stated the Committee's point was to keep their feet to the fire as it were and the idea was they were willing to give them some more money. They didn't want them to slip on getting the private funding and then build something less than what Town Meeting and the CPC had expected. That's why it's worded this way.

The Moderator asked Mr. Gardner if Mr. Morely's response answered his point.

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Mr. Gardner said he did not think that answer addressed his point.

The Moderator asked Mr. Morely if he wanted to make a *motion to amend* #1 by adding the word “significantly” in front of the word completed; if you do, say “so moved”.

The motion to amend received a second.

The Moderator, seeing that no one else wished to be heard on the *motion to amend* asked all those in favor of the *motion to amend* signify by raising your cards; all those opposed.

The *motion to amend PASSES.*

The Moderator asked if anybody else wished to be heard on Article 44.

Tom Weiss, 394 North Road, wants the Park Commissioner to know that lots of proposals have been received for synthetic fields and he’s never liked a field he’s played on that was synthetic. He wanted to make sure a synthetic field was going to be tested prior to purchasing to make sure they’re happy with it before they go through a series like the synthetic fields High School proposals. Are you willing to have him tackle you, fall down and show him that you’re happy with the surface? He wants assurances that we’re not diving forward with a synthetic field that we’re not going to be happy with.

Mr. Mannone said the High School fields are up and running and without the two High School fields Park and Recreation wouldn’t have been able to complete the lacrosse, soccer games and practices scheduled this weekend. Right there was a benefit to the community and this will add more benefit especially when we have these long cold winters to be able to get on our fields sooner and earlier.

The Moderator asked for all those in favor Article 44 signify by raising your cards; all those opposed.

The Moderator declared Article 44 *PASSES OVERWHELMINGLY.*

ARTICLE 45. COMMUNITY PRESERVATION FUND -
WILLIS POND DOCK

To see if the Town will vote to appropriate an amount not to exceed \$6,000 from Community Preservation Act funds, as recommended by the Community Preservation Committee, for the purpose of purchasing and installing a dock in Willis Pond at the Lake Shore Drive access point, or act on anything relative thereto.

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Submitted by the Community Preservation Committee. (Majority vote required)

Christopher Morely, moved to approve the recommendations of the Community Preservation Committee, to appropriate \$6,000 from Community Preservation Act funds for the purpose of purchasing and installing a removable dock in accordance with permit approval from the Board of Selectmen in Willis Pond at the Lake Shore Drive access point. All appropriations shall be allocated to the category of Recreation and funded from general unrestricted reserves.

The motion received a second.

Mr. Morely stated that the dock has received permit approval from the Board of Selectmen. It's a non-intrusive removable floating dock and will be removed by the DPW seasonally. It's a vast improvement over what is there now, as you can see but has the benefit that we won't have to keep re-building what is there now in the future. It's a straight cash expenditure of CPC funds.

Mr. Mannone stated that the Park and Recreation Commission would like to improve the fishing and boating access at Willis Pond by providing and maintaining a high quality temporary dock. The dock is temporary because it will be taken out in the winter and returned in the spring. This is a great opportunity to reach out to the community for this project other than playgrounds and playing fields. Currently, you can park at Willis Pond and load your boat and or canoe in the back. It's a nice rolling slope and has a little bit of a turnaround that allows you to drive in, loop around and loop out. This is the current dock situation. Actually word has been received that the dock might not even be there anymore due to the winter. This picture on the viewgraph was taken about last spring. As you can see, it's neither a good dock to fish or boat if you can navigate the limbs. On the viewgraph, Mr. Mannone is showing a replica of what the new dock would look like; it has wheels and a non-slip surface; you would slide it in and roll it out. It's something that Park and Recreation would be working with the newly formed Pond and Waterways Committee to protect, preserve and promote recreation on our waterways. Thank you for your support.

FINANCE COMMITTEE: Is in favor of this Article.

BOARD OF SELECTMEN: Supports this Article. It's a great opportunity to get out on the ponds in Sudbury with kayaks and canoes.

The Moderator asked if anybody wished to be heard on Article 45.

Richard Bell, 24 Austin Road, member of the Conservation Commission, recommends approval of the appropriation to fund the installation of this dock to replace the decrepit one that's there. Willis Pond is a valuable resource for passive recreation. This dock, which is removable, will be stored by the DPW over the

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course of the winter and should last for years. We recommend approval of this Article.

The Moderator asked if anybody wished to be heard on Article 45.

Martha Coe, 14 Churchill Street, questioned if only two people are needed to move this dock, what's to stop them from stealing it?

Mr. Mannone responded that he supposes they could pull it out of the water but they wouldn't get far with it. It would be tough to move it down the street without trailers and various hook-ups.

The Moderator asked if anybody wished to be heard on Article 45.

Jennifer Pincus, 25 Blueberry Hill Lane, wondered who is going to keep the High School vandals, who knock over mail boxes, from pushing it into the lake and leaving it there to rot?

Mr. Mannone, said as with everything in town concerning Park and Recreation, if it's not nailed down they'll try to take it. Some kind of cinder blocks with chains will be placed around the arms of the dock so that it's weighted down. That will serve as a deterrent from people moving it. Once it's in there awhile it will be quite imbedded into the ground.

The Moderator asked if anybody wished to be heard on Article 45.

John Donovan, Old Orchard Road had a question. How big will the dock be by length and by width? Is it handicapped accessible? Fishing is a great sport if you are handicapped and able to get to the dock.

Mr. Mannone responded that he does believe the dock is handicapped accessible, as evidenced on the viewgraph. It would be 4 feet in width and 32 feet in length.

A resident called the question.

It received a second.

The Moderator asked for all those in favor of the call of the question signify by raising your cards; all those opposed. It passes.

The Moderator asked for all those in favor of Article 45 signify by raising your cards; all those opposed.

The Moderator declared that Article 45 PASSES OVERWHELMING.

ARTICLE 46. (WITHDRAWN)

**ARTICLE 47. COMMUNITY PRESERVATION FUND -
HOSMER HOUSE RESTORATION PHASE I**

To see if the Town will vote to appropriate an amount not to exceed \$198,900, from Community Preservation Act funds, as recommended by the Community Preservation Committee, for the purpose of completing certain Phase I restoration improvements to the Hosmer House, or act on anything relative thereto.

Submitted by the Community Preservation Committee. (Majority vote required)

Christopher Morely, *moved* to approve the recommendation of the Community Preservation Committee, to appropriate \$198,900 from the Community Preservation Act funds for the purpose of completing certain Phase I restoration improvements to the Hosmer House. Phase I restoration improvements shall be conducted in accordance with the report entitled: Sudbury's Hosmer House Preservation Plan, Prioritized Repair/Restoration Needs, Drawings and Outline Specifications, prepared by Frederic C. Detwiller, dated October 12, 2004, taking into account recommendations of the Sudbury Historical Commission. All appropriations shall be allocated to the category of Historic Preservation and funded from historic preservation restricted reserves in the amount of \$171,250, and from FY06 revenue in the amount of \$27,650.

The motion received a second.

James Hill, Historical Commission, stated that in 2003 the Sudbury Historical Commission was granted funds to create an existing conditions report for the town owned architectural jewel of Sudbury Center; the Hosmer House. An architectural survey was done of the house, coordinated by Latady Design Associates and completed in 2004. The 86 page survey included the structural report by structural engineers, Siegal Associates, Inc., a mechanical, plumbing and electrical report by consulting engineers Garcia, Galuska and DeSousa, Inc. and a Pest Control Report by Integrated Pest Control, Inc. The Commission then worked with Frederic C. Detwiller, an architect and preservation planner, to assist in prioritizing the repair and restoration needs based on the survey. Mr. Detwiller completed the preservation plan that addresses the urgency of the repairs needed by assigning them to one of three phases of restoration. The Historical Commission is requesting \$198,900 in Community Preservation Act funds to initiate the implementation of the first of these three phases recommended in the preservation

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plan. We believe that the requested funds meet the general criteria and category specific criteria under the Community Preservation Act. On the viewgraph, the water damage that occurred recently is being displayed.

Sudbury's Hosmer House was built in 1793 by Elisha Wheeler and Asher Goodnow for a commercial venture and soon became a center of activity in the Town of Sudbury. Ella and James Willis ran the Sudbury General Store and Post Office on the first floor of the house in the large room on the Concord Road side of the house. The large room upstairs over the general store was a ballroom used for dances and social functions. A storeroom was added next to the general store with a cobbler shop above. In 1897 Edwin Barrett Hosmer with his wife and four children purchased the building. Florence Hosmer was one of these children. Florence was a well known painter of her day and was a local art teacher. Florence Hosmer transferred ownership of the house to the Town of Sudbury in 1959 and bequeathed the contents of the home, including over 400 of her paintings upon her death in 1978 at the age of 98.

The Sudbury Historical Commission is a seven member board appointed by the Town Manager, subject to approval by the Board of Selectmen. The Commission's charter is to oversee the Town of Sudbury historical properties, which includes the Hosmer House with its extensive collection of Miss Hosmer's paintings. The Commission manages building use, maintenance and furnishings. The Hosmer House is considered by many townspeople the "Jewel" of Sudbury's town owned historic buildings. The Hosmer House is currently used as a social gathering place, much as it was first used, for and by the townspeople of Sudbury throughout the year with the assistance of its Docent program and volunteers. It provides a windows-in-time for adults and children to look back on "Old Sudbury" when visiting for holiday concerts, art shows, remembrance days and Open House Day's in support of town activities.

Phase I addresses many of the structural, safety and historical restoration issues. It is our intent that the safety and structural needs will be corrected with a focus on historically accurate restoration. These will be accomplished by coordinating these repairs with the preservation plan outline. There's a need for immediate remedial measures to rectify sight and structural issues. The work program includes site work to accommodate drainage, pest control, accessibility issues, exterior masonry work, carpentry work; including door and window repair. There are temporary support posts in the basement's storeroom area. Around the doorways and sills there has been water damage that needs to be corrected. Because of the number of people coming through the house each year, the plaster on the stairway has been damaged and needs to be repaired. Mechanical repairs will also include an upgrade in wiring, lighting and electrical outlets to meet current electrical codes because the house was built in the 1700's. They plan to also bring in a current fire alarm system, emergency lightning and signage code. Structural work will include resolving the need of certain temporary support columns currently being used for support in the ballroom and storeroom. It's imperative that the

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Hosmer House is restored and enhanced in order that future generations can enjoy this historical asset that graces our Town Center and provides a public window into Sudbury's early days.

As part of the funding, all appropriations shall be allocated to the Historical Preservation Category. The use of CPA funds allows restoration to town owned property outside the Town's Operating Budget. They've also been in touch with some local businesses here in the Town of Sudbury, in particular Raytheon. Raytheon offered to have their electrical staff come and give assistance with the electrical upgrades. In each case, the Historical Commission is looking for any private funds or funds from businesses that are interested in participating in the restoration project. Our phone number is on the website if anybody knows of anyone interested in participating in the restoration project. The Historical Commission asks for the support of Town Meeting in this endeavor.

FINANCE COMMITTEE: Recommends approval of this Article.

BOARD OF SELECTMEN: Recommends approval of this Article, also.

The Moderator asked if anybody wished to be heard on Article 47.

Tom Hollocher, Concord Road, was wondering whether Phase I, II, and there's been mention of Phase III, will sufficiently fix the Hosmer House so that it will not require attention and additional funds for some years? Will they be faced with a situation in which they will need to invest approximately \$100,000 a year or so into this structure in order to keep it viable and functional?

James Hill responded that the funds that are in Phase I, II and III currently projected would restore the house to a newer condition for an old house. The house was built in the late 1700's and this would be the first major money that has been spent on the restoration of the house.

The Moderator asked if anybody wished to be heard on Article 47.

John Donovan, Old Orchard Road, is curious because he has seen this in some of the buildings in town, particularly the Town Hall. Does the Town of Sudbury recognize the word maintenance? It doesn't seem so as he walks by town buildings and water is pouring out of eaves. He wouldn't let his house exist that way. Is there some form of ongoing preventive maintenance in these places once they're restored? Do we have an in house custodian who takes care of maintenance? Do they just fix it up and wait 20 years, 50 years or 100 more years until it rots away again?

Mr. Hill spoke only about the Hosmer House's restoration and maintenance project. Over the past few years a maintenance program has been continued that solves problems on an ongoing basis. The house has been re-sided, painted and

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many other maintenance issues have been done. The structural issues that have gone on for over 50 years are what are being addressed now. The foundation will be shored up in such a way that temporary columns won't be needed and that type of repair. When you talk about a daily maintenance program; "Yes", somebody comes in and cleans the house. This is the volunteer program that does this daily maintenance. Minor repairs have been done over time but "No" there is not a custodial staff assigned to maintain the Hosmer House on an ongoing basis.

Mr. Drobinski said maintenance people do take care of the buildings. Major repair items are addressed at the Town Meeting. In the past, one of the reasons they haven't had overrides was to limit our significant maintenance, but there is ongoing maintenance of town buildings. A maintenance department does exist and just like your own home the highest priority has to be decided. Sometimes the house is painted one year; sometimes the roof is fixed; so its fix as fix can.

The Moderator reminded the Hall that Article 47 requires a majority vote.

The Moderator asked for all those in favor of Article 47 signify by raising your cards; all those opposed.

The Moderator declared that Article 47 PASSES OVERWHELMING.

**ARTICLE 48. COMMUNITY PRESERVATION FUND -
HISTORIC PROPERTIES SURVEY PHASE II**

To see if the Town will vote to appropriate an amount not to exceed \$9,800 from Community Preservation Act funds, as recommended by the Community Preservation Committee, for the purpose of completing a Phase II survey of historic properties in the Town of Sudbury, or act on anything relative thereto.

Submitted by the Community Preservation Committee. (Majority vote required)

Christopher Morely, *moved* to approve the recommendation of the Community Preservation Committee, to appropriate \$9,800 from the Community Preservation Act funds for the purpose of completing a Phase II survey of historic properties in the Town of Sudbury. The survey shall be performed in accordance with guidelines of the Massachusetts Historical Commission taking into account recommendations of the Sudbury Historical Commission. All appropriations shall be allocated to the category of Historic Preservation and funded from FY06 revenue.

The motion received a second.

Mr. Morely stated this is a straight cash expenditure of CPC funds.

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Lyn MacLean, 209 Water Row, 25 year member of the Sudbury Historical Commission, stated the most important goal of the local Historical Commissions is the preservation of the community's historic assets. In order to work towards this goal, historic resources must first be identified and evaluated. To this end, the Massachusetts Historical Commission, a division of the office of the Secretary of State, request all cities and towns of the Commonwealth to complete a historical property survey. In 1996 the first phase of the Sudbury survey encompassing 156 historic homes, buildings and physical historical resources was completed and published in book form, which is at the Town Hall and also at the library for those interested. Thanks to a grant from the Sudbury Foundation that was made possible.

At this time, the Historical Commission is seeking funds to complete a second phase of what is envisioned to be a four phase process. The funds will be used to hire a preservation consultant to complete the Massachusetts's Historical Commission's inventory form, which you see on the viewgraph. This consultant will oversee local volunteers who will photograph and collect information. The consultant will conduct training sessions for volunteers, which will not only save money, but will involve the community in increased awareness of the historical assets and their importance in creating and maintaining the town character. Listing in an historical survey is one of the criteria used by Sudbury's Demolition Delay By-law, therefore the survey is an important tool for protection and preservation planning. Many of Sudbury's oldest and most important properties and landmarks remain unlisted.

The survey is also a basis for the establishment and expansion for Historic Districts and listing in the survey is the first step in nomination to the National Historic Register. The survey locates and describes historical resources and how they relate to events and patents in Sudbury's development as a town. Resources may be public and private buildings, areas of historic activities such as Green Hill, objects such as granite guide posts that you see in the road, archaeology and geological sites, burial grounds, dams, bridges, and historical streetscapes. It is also hoped that the publicity for such a project will capture the interest of Sudbury citizens and heightened sensitivity to the existence of the Town of Sudbury's remaining historical sites and the need for careful consideration of any proposed alteration to our historic fabric. We ask for your vote. Thank you for your consideration.

FINANCE COMMITTEE: Recommends approval of this Article.

BOARD OF SELECTMEN: Urges support for this Article.

The Moderator asked if anybody wished to be heard on Article 48.

Mr. Coe wonders if this money is spent, whether anybody is going to pay attention to it. He can't help realizing and remembering that a few nights ago they went along with letting the Historic Districts Commission put buildings built in the 1990's from Mill Village into a Historical District. He doesn't remember any

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mention being made of a study such as this that was recommending what properties were actually historical and which ones weren't. Is this actually going to have a practical effect or are we just shoveling \$9,800 down a rat hole?

Ms. MacLean said the survey book has been used, as stated, for the Demolition By-law. We research this book all the time when people want signs for their homes. When questioned by the State, we consult the survey book and it's what you would call our Bible.

The Moderator asked if anybody else wished to be heard on Article 48.

Kirsten Van Dijk, 37 Landham Road, urged strong support of this Article. On June 23, 2004, Christopher Skelly visited Sudbury and remarked that the Town of Sudbury and one other town have been earmarked as well behind in our historic asset survey. To support Phase II of a four phase project is indeed one more layer of protection for the homes that are, not only in the newly expanded King Philip Historic District, but other homes in non established Historic Districts. It's important to have these documented. The Planning Board should refer to the old home survey when configuring and getting advice on new developments that may or may not include historically significant sites. It is for them, just as important as it is for the Historical Commission, and for the owners in the town or future owners of these historic properties that do call the Historical Commission and the Historical Society and do use this vital resource for research purposes. It does provide a layer of protection.

The Moderator reminded the Hall that this Article requires a majority vote.

The Moderator asked for all those in favor of Article 48 signify by raising your cards; all those opposed.

The Moderator declared that Article 48 PASSES OVERWHELMINGLY.

ARTICLE 49. COMMUNITY PRESERVATION FUND -
LIBBY PROPERTY OPEN SPACE ACQUISITION

To see if the Town will vote to appropriate an amount from Community Preservation Act funds, as recommended by the Community Preservation Committee, sufficient for the acquisition of fee title or other land interest in all or a portion of that certain parcel of land commonly known as the Libby property, located off Water Row, Sudbury, MA, and identified on the Town of Sudbury Assessor Map No. H11, Parcel 400, containing approximately 30 +/- acres, and to see if this appropriation will be raised by borrowing or otherwise, or act on anything relative thereto.

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Submitted by the Community Preservation Committee. (Two-thirds vote required)

Christopher Morely, *moved* to approve the recommendation of the Community Preservation Committee, to appropriate \$2,690,000 from Community Preservation Act funds for the acquisition in fee title of approximately 24.06 acres of land, comprising a portion of property commonly known as the Libby property, located off Water Row, Sudbury, MA, and identified on the Town of Sudbury Assessor Map No. H11, Parcel 400, and more particularly shown on the plan entitled: "Libby Land Acquisition," dated March 15, 2005, prepared by Sudbury Engineering Dept. for the purpose of acquisition and preservation of open space, and for all expenses connected therewith including bond and note issuance expense; and to raise this appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$2,690,000 under M.G.L. c44B, s.11 and M.G.L. c.44, s.7 (3) or any other enabling authority; that the Board of Selectmen is authorized to take any other action necessary to carry out this project; and that \$269,000 be appropriated from the Community Preservation Act funds to pay Debt Service due on any such bonds or notes during FY06. All appropriations shall be allocated to the category of open space and the appropriation for Debt Service funded first from open space restricted reserves, and second from general unrestricted reserves, as necessary.

The motion received a second.

Mr. Morely stated if the Libby Property Article passed tonight it would be the third open space acquisition under the CPC. The first was the Dixon Property, which abuts the Libby Property at the '03 Town Meeting and the second was the Cutting Farm Property at last years Town Meeting. The Libby Property is located off of Water Row; northerly of Route 27 as one heads toward Sudbury Center out of the Sudbury River Valley. It is in the vicinity of the heavily wooded area as you come up the steep hill; it's on your right behind the King Philip woods. This picture on the viewgraph was taken on top of one of the many rock outcroppings on the Libby Property looking out over what appears to be former pastures, now wooded land. What is extremely valuable to Libby is its location relative to other open space areas of the Town of Sudbury and other Conservation groups that have successfully protected in the past.

On the viewgraph, Mr. Morely is identifying Route 27, Water Row, the King Philip Woods conservation area, the Piper land conservation area, the Dixon property, the Haynes Garrison Historic property, the Wolbach Farm across Route 27, and the Great Meadows National Wildlife Refuge, along the river. This central location is important for a variety of ecological reasons that will be discussed later by the Conservation Commission but from a truly economic standpoint the acquisition of Libby will preserve, protect and enhance, not only the land, but prior commitments made when they spent our hard earned tax dollars on the adjacent land and generous contributions as in the Sudbury Valley Trustees.

To follow is a list of Open Space Criteria shown on the viewgraph:

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- Permanently protect wildlife habitat
- Preserve rural and agricultural character
- Provide opportunities for passive recreation and environmental education
- Protect and enhance wildlife corridors
- Provide connections to existing trails and potential trail linkages
- Preserve scenic views
- Border a scenic road
- Protect drinking water quantity and quality
- Provide flood control/storage
- Preserve surface water bodies

The Open Space and Recreation Plan is one of last three high priority parcels. The Land Use Priorities Report is rated as critical, high or maximum in the Natural Resources, Passive Recreation and links/corridor resource criteria.

To follow is a list of the CPC funding sources shown on the viewgraph:

- CPA funds serve as a tool for funding important benefits
- Dedicated income stream that allows us to budget and plan
 - 3% local surcharge
 - State match is 100% in the out years; we're being conservative in saying that the number will go down starting in year 2009
- CPA funds are part of current tax base and segregated
 - No increase in taxes because it's already collected
 - Not available for general municipal use
- State match incentive (currently at 50% discount/ always will have some discounting factor absent a legislative overhaul)

This is an excellent situation having the CPA as a tool for the Town of Sudbury. This homeowner was in contact with the Town of Sudbury for over a period of several years but instead of doing the route done in the past to have a developer who's ready to build houses in three months and wants a decision from the Town of Sudbury; they worked with the town and the town through the CPA. Administrative funds financed the various studies that needed to be done. PERC tests were done and paid for this study by Avery Associates.

Libby Negotiations; how they arrived at a price:

- Final Agreement Based on: Appraisal by John H. Avery, Avery Associates
- Total valuation of entire 30.86 acres \$4,031,439
 - Less Lot 1 450,000
 - Less Lot 7 950,000
 - Total offer for 24.06 acres \$2,631,439

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- **Plus at no additional cost:**
The Town of Sudbury recorded *right of first refusal* on the retained property. They retained 6.8 acres to have a *restriction in perpetuity* limiting the entire area to two single family residential dwellings, which shall include the existing home or its replacement.
- **Breakdown:**
\$2,631,439 for 24.06 acres =
\$109,370 per acre overall total with the *town funding less than 100% of the cost (\$54,685 if the full 100% State match if applied for the term of the bond)*
OR
\$2,631,439 for six developable lots = \$438,573 overall per lot cost with *town funding \$219,287 per lot (with full State match)*

There are two lots remaining, basically this one house lot next to the red arrow on the viewgraph; the existing Libby house would be a second lot and all of the land around it which could have supported eight additional houses that would be purchased by the Town of Sudbury.

Libby Determination Process:

- Town of Sudbury had to make offer
- No Right of First Refusal
- CPA administrative funds Soils investigation and Appraisal:
 - Schofield Brothers of New England hired to evaluate the soils
 - 21 deep hole and PERC tests
 - 10 areas suitable for septic systems
- Town Engineer Bill Place developed subdivision plan meeting zoning requirements
- Land would support eight lots total (inc. existing house)
- Avery Associates, Inc. of Acton hired to determine market value
- Selectmen did not wish to purchase the Libby house or the lot closest to Water Row at this time (limits on use with CPA funding)

With our appraisal we arrived at a price and negotiated at length between the Town of Sudbury and Mr. Libby.

Libby Negotiation Results:

- Negotiations with Mr. Libby resulted in:
 - FMV for 24.06 acres
 - A no-cost permanent restriction on the remaining 6.8 acres

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- limiting it to a total of two lots; so even though it's almost seven acres it's restricted to just two house lots in the future
- a no-cost purchase option to Sudbury for this remaining land; option to buy those two lots in the future should we decide to do that
- State funding for up to 50% of cost

On the viewgraph is a slide to give you a historical comparison of the average cost per lot and per acre with other properties that were either purchased by the Town of Sudbury or in some cases like the Hodder Property, 61A and the Pritchett Property, 61A the Town of Sudbury chose not to purchase. A lot of them were several years ago so the Libby Property cost may not be a bargain but not a bad deal.

On the viewgraph is a spreadsheet showing the remaining Debt Service capacity for the Community Preservation funds. Look at year 2010, there is \$7.5M remaining. They are asking that this purchase, as has been done with other land purchases, be bonded by the Town of Sudbury for a period of 20 years. There are three main reasons for asking that:

- 1) The equitable aspects of spreading out the acquisition of this land over 20 years is taxpayers who live in the Town of Sudbury today shouldn't have to pay the complete burden of purchasing property that people will actually enjoy for many more than 20 years; bonding allows that to at least be spread over a tax base of people living here in the next 20 years.
- 2) CPC funds are being leveraged; it takes in about \$2M a year that really isn't enough to buy very much but it is enough money to pay on bonding for large amounts of open space which they hope to retain in the Town of Sudbury.
- 3) There is also the time value of money relative to growth and real estate property values so buying now but 20 years from now paying the bond amount it will seem like a very small amount. Bonding is an essential component in order for us to act on these things. If they hadn't bonded they wouldn't have been able to do the Cutting Property. Today we would be able to do the Libby Property because we have almost \$2.9M in the bank as it were, but that would wipe out all of our reserves.

Mark Ensign, Bent Road, Chairman of the Conservation Commission is excited about this purchase and is very happy to be here tonight. He corrected one thing Mr. Morely incorrectly stated. There are eight total lots; six of which the Conservation Commission they'll be buying if this is approved this evening. There's a lot of exciting pictures to show on the viewgraph. Essentially there are existing trails on the property; it connects, if you think, back to the slide with all the green blocks those were already preserved; the red in the middle of the slide was essentially the doughnut hole that we would be purchasing; so it's surrounded by

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the Piper property, King Philip property; in fact there's a little bit of a trail network that kind of just ekes right through a corner of the Libby property currently. Part of that are the existing trails. There's a large ravine and outcrops that run through the property. There are so many different natural wonders on this property and it's really a beautiful site.

An aerial view on the viewgraph shows the Libby Property right in the middle surrounded by the Piper Property, Haynes Garrison Property, King Philip Property, Wolbach Property and Great Meadows National Wildlife Reserve. It's really a key piece of property. Obviously, if property isn't purchased, there can always be a picture of it or possibly a visit to whomever's home that was.

Why Libby?

- Connectivity of Human Trails and Wildlife Corridors
- Preserve functioning and biodiversity of the adjacent protected land; Piper Farm; King Philip Woods; SVT: Wolbach Farm; Great Meadows NWR; wood frogs, bluebirds and mink are present on the property
- Moves Sudbury closer to achieving the goals of the Master Plan; Open Space and Recreation Plan; Trail Linkage Plan; Land Use Priorities and Strategic Plan recommendations; the State's BioMap and Livings Water Core Areas for Protection and the "Sudbury Character Statement"
- The CPA state match up to 100% so cost is substantially reduced in town; the key thing that was an easy sell was that we are buying property here at about \$55,000 per acre; where in Sudbury can you buy that currently; this is a pretty good deal in his mind
- Libby more than meets the criteria sets by multiple Town Plans

What purchasing the Libby Property WILL do for Sudbury:

- Will permanently protect 20 acres of strategically located, biologically important, open space;
- Will significantly enhance and expand an existing public trail system;
- Will require the State to provide up to 100% of matching funds; so you're already setting aside those funds if the State continues to put money aside that will be matched .50 cents on the dollar
- Will maintain integrity of the existing King Philip and Piper Farm Conservation lands; the Libby Property is surrounded by other key properties
- Will protect the area's historic character
- Won't raise taxes!
- Won't add six new "Estate" lots (think carriage houses, swimming pools, gazebos, tennis courts, etc.) in an otherwise pristine area
- Won't increase school population by at least 1/2 a classroom

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- **Won't require never-ending town services (plowing, roadway maintenance, etc.)**

Land is not being bought to create Conservation Land. It is there and is being bought to preserve what is already there and to allow you to enjoy it.

The Conservation Commission unanimously voted to support this Article and we encourage you to do the same.

FINANCE COMMITTEE: Recommends approval of this Article.

BOARD OF SELECTMEN: Urges the passage of this Article as it is a valuable piece of property that we'd like to have preserved.

The Moderator reminded the Hall that this Article requires a two-thirds vote.

The Moderator asked if anybody wished to be heard on Article 49.

Michael Garrett, 21 Mary Catherine Lane, wants to be clear that this would prevent any future use for Affordable Housing or other developments within the property. Would this be deed restricted to conservation land? In the future would it be possible for the Town of Sudbury to develop housing on this land?

Debbie Dineen, Conservation Coordinator, said those are very good questions. When a land is purchased under a motion such as this and purchased for conservation purposes; that restricts the land to conservation use in perpetuity. It subjects the land to Chapter 40, Section 8C, which is the Conservation Commission Act in the Massachusetts General Laws. In order for the land to no longer be used as conservation land in the future the process it would have to go through is as follows:

- 1) The Conservation Commission would have to vote to give it up**
- 2) The Board of Selectmen would have to vote to give it up**
- 3) Then it would have to go to a Division of Conservation Resources on the State level**
- 4) Then Town Meeting would have to vote on it**
- 5) Finally to the State Legislature**

That is about as protected as the land can be but if it were ever going to be changed it would have to be voted at Town Meeting. It's considered conservation land in perpetuity for all purposes.

The Moderator asked if anybody wished to be heard on Article 49.

Carol Atwood, 41 Plympton Road, stated that this property is behind her property and just wanted to say she moved to Sudbury a little over 15 years ago

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because of properties like this and the fact that people are willing to allow both the State and the Town of Sudbury to purchase this kind of land for conservation. She feels strongly that this is what distinguishes them in the Town of Sudbury that they have this kind of support for wildlife, as well as, walking trails. It's a beautiful property; if you haven't been, she hopes you go. For those of you who have been in that area you may not know that some of the trails currently do run through the Libby property and so they would no longer be available to us if we don't purchase the land. She urges you to say "Yes" and vote for the Article.

A resident called the question.

It received a second.

The Moderator asked for all those in favor of the call of the question signify by raising your cards; all those opposed. It passes overwhelmingly.

The Moderator reminded the Hall that this Article requires a two-thirds vote.

The Moderator asked for all those in favor of Article 49 signify by raising your cards; all those opposed.

The Moderator declared it's definitely well more than two-thirds.

Jody Kablack, moved to continue to the end of the Warrant.

The Moderator stated that our Bylaws say that the meeting would have to end at 10:30 PM and it's after 10:30 PM. The last Article was finished unless there's a two-thirds vote of the Town Meeting. If there's not a two-thirds vote we have to come back at 7:30 PM tomorrow.

Article 50 and a reconsideration of Article 36 are remaining. Is there a second to the motion? It's non debatable. All those in favor of continuing to the end signify by raising your cards; all those opposed.

The Moderator declared a two-thirds vote to continue with Town Meeting.

**ARTICLE 50. COMMUNITY PRESERVATION FUND -
GENERAL BUDGET AND APPROPRIATIONS**

To see what sum the Town will vote to appropriate from Community Preservation Act funds, as recommended by the Community Preservation Committee, for the FY06 Community Preservation Act budget, or act on anything relative thereto.

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Submitted by the Community Preservation Committee. (Majority vote required)

Christopher Morely, *moved* to appropriate the sums as recommended by the Community Preservation Committee, in the following Community Preservation budget for FY06, said sums to be raised by FY06 Community Preservation Surtaxes:

\$60,000	Administrative and Operating Costs
\$593,004	Debt Service

And further to reserve the following funds:

\$148,251	for Historic Resources
\$961,295	for Budgeted Unrestricted CPC Uses

The motion received a second.

Mr. Morely said thank you from the Community Preservation Committee for supporting all of our Articles tonight. This is really a housekeeping budgeting Article in which all the various funds are categorized into different categories.

FINANCE COMMITTEE: Recommends support of this Article.

BOARD OF SELECTMEN: Support this Article.

The Moderator asked is anybody wished to be heard on Article 50.

The Moderator seeing that nobody wished to be heard on Article 50 asked all those in favor of Article 50 signify by raising your cards, all those opposed.

The Moderator declared that Article 50 PASSES OVERWHELMINGLY.

RECONSIDERATION OF

ARTICLE 36 CREATE MAPLE AVENUE HISTORIC DISTRICT

The Moderator asked Larry Blacker to handle the reconsideration of Article 36.

The Moderator then stated that he has just received a written motion for reconsideration of Article 43, the Rail Trail, which will be heard after the reconsideration of Article 36.

Mr. Blacker stated that we are here to reconsider Article 36. Before we get started he would like to read something that the predecessor, Tom Dignan, had

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written because over the years he's had this issue come before him. This is being read so everyone understands exactly what will be before the Hall on the *motion to reconsider*.

As announced earlier, the next order of business will be the reconsideration of the action taken by the Hall with respect to Article 36 in the Warrant. The action taken was to defeat a main motion under the Article which, if passed, would have created a Maple Avenue Historic District. Before someone was recognized to make the motion for reconsideration the Veteran attendees and those that may be attending Town Meeting for the first time were advised what the limits are with respect to debate on a motion to reconsider. Our Bylaws state the basic rules succinctly:

- All discussion on the motion must be confined exclusively to merits or demerits of reconsideration
- What that requires of the Moderator is to assure to the greatest extent possible that the debate focuses not on the merits or demerits of the substance of the action taken with respect to this Article but rather on why the Town of Sudbury should or should not reconsider its actions

So that speakers will not be caught unawares, it might be useful to provide a few illustrations of what does and does not constitute proper lines of argument on reconsideration. Arguments which are proper are those which seek to persuade the listener; that in the words of the manual governs Town Meeting "It is reasonable to suppose that the Town of Sudbury might have changed its collective mind". Examples of such arguments would be that the action taken was based on significant misinformation or confusion or that the motion voted on varied so significantly from the Article that people may have not attended because they were unaware of everything that could happen within the four corners of the Article.

Improper arguments are those which speak to address the merits or demerits of the substantive action taken. It is not proper to argue, in essence, that you don't like the prior result or simply want to re-vote for that purpose. It will not be proper to argue why this Article would be good for the Town of Sudbury. The argument must be held in abeyance until, when and if, two-thirds of the Hall votes to reconsider.

He hopes that what he said for those that intend to address the motion to reconsider was helpful and reminded the Hall that the rules apply to everyone; including proponents, opponents and all Town Officials.

Cheryl Salatino, 14 Maple Avenue, *move to accept the motion to reconsider* as follows. We request Article 36 to be reconsidered because the petitioners believe the arguments that were presented at the Town Meeting...

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The Moderator interrupted Ms. Salatino by stating that you need to make a motion and all the motion needs to say is move to reconsider the action taken under Article 36 by this Town Meeting on April 6, 2005. Would that be the motion you'd like to make?

Ms. Salatino, so moved.

The motion received a second.

Ms. Salatino stated on April 6th the presentation of Article 36 was made by the Sudbury Historic Districts Commission on behalf of Maple Avenue. While the presentation was compelling the contents became clouded by an unrelated discussion that had no bearing or effect on the merits of the Article but rather focused on an appeal against a Planning Board decision on an abutting property. The petitioners for reconsideration from across Sudbury believe that the debate was not complete; the merits were not discussed; questions were left unanswered and incomplete data left people confused. Since the last Town Meeting session Maple Avenue has had a lot of visitors. People are very interested in learning more about Maple Avenue's character and historic value. People are talking about this topic and interested in its outcome. The Town Meeting procedures have been followed to make it possible to have an appropriate discussion if the Town of Sudbury is interested in talking more about a historic district for Maple Avenue then please vote for reconsideration.

Mr. Blacker asked if anybody else wished to speak for or against reconsideration.

Kirsten Van Dijk, 37 Landham Road, said there was some misinformation that she will clarify. Selectmen O'Brien suggested that the signatures for petition to create the Maple Avenue Historic District were delivered or given to the Historical District Commission after the appeals court suit was under way. That's not true; she hand delivered these signatures from the residents of Maple Avenue on June 23, 2004 to Mr. Christopher Skelly of the Massachusetts Historic Commission and were received by Mr. Skelly while standing on Maple Avenue and will attest to that.

Mr. Blacker asked if anybody else wished to speak for or against reconsideration.

Henry Noer, Goodman's Hill Road, said the assembly last week voted to approve Article 35 to extend the King Philip Historic District. He is having a lot of trouble understanding why creating a Historic District on Maple Avenue would be opposed. Speaking to the two points about reconsideration; it was suggested by the Selectmen last week that they'd like to wait until the lawsuit brought by some of the Maple Avenue residents is settled. This fails to recognize that with approval of this Article, the lawsuit may be moot and withdrawn.

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Mr. Blacker interrupted Mr. Noer stating that this leans more towards the merits of the Article.

Mr. Noer stated the information presented last week needs clarification.

Mr. Blacker responded to Mr. Noer that his understanding is the Selectman gave his opinion and was simply an opinion. He remembered vividly Town Counsel was asked some questions about this and he couched his answer by saying “in his opinion” based upon certain things; specific cases were not available and doesn’t think that goes to misinformation in the sense of how it reads.

Mr. Noer responded that the opinion that Town Counsel gave also raised the issue that this Article might be seen as taking property and that was never clarified.

Mr. Blacker interrupted and said this is addressing the merits and again, it was an opinion that was expressed and if a question needed to be raised then someone should have raised the question. Debate was terminated at a certain point in time by a call of the question and that was the end of it. This happens all the time. Talk about the merits of reconsideration, only. The issue as to what was said or wasn’t said does not go to the question of reconsideration. People in the Hall have opinions for and against an Article.

Jeanette Berger, 17 Pondview Road, was present during the discussion on Article 37 and recalled before the motion was moved to a question, five people raised their hands in order to speak and wanted to continue discussion. She was one of those five people yet never got to speak and then the question was called again. She had important information to give the audience and was never given that chance. As a result, she believes this should be reconsidered.

Larry O’Brien, on behalf of the Board of Selectmen spoke to reconsideration of the Article. While the issue has been raised as to what’s appropriate and not appropriate, the Board of Selectmen responded last week in regard to why they did not support this Article, at this time. If this is discussed again under reconsideration, they will discuss those merits again as they feel that it’s appropriate. The members assembled here this evening of Town Meeting would like to know clearly and definitively why the Board of Selectmen would not support this Historic District at this time. We urge your defeat of reconsideration.

Sheila Cusolito, 29 Maple Avenue, said if reconsideration is accepted the myth of a lawsuit is not perpetuated.

Mr. Blacker interrupted Ms. Cusolito stating that it’s been asked why it should be reconsidered.

Ms. Cusolito responded by saying that her hand was up and still tired from waiting to be called upon last week so she’d like to be able to contribute to a

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discussion of the merits of Article 36, based upon what you call the four corners of the Article.

Robert Coe, 14 Churchill Street, strongly disputes the contention that the mentioning of the lawsuit is a reason why that was inappropriate in any way in the discussion of the Article and that is a justification for reconsideration. The legal implications of passing a given Article come up...

A resident interrupted Mr. Coe and exclaimed Point of Order. He's arguing the previous question; he's not arguing the motion for reconsideration.

The Moderator asked Mr. Coe to continue as he does not agree with the resident in question.

Mr. Coe believes that the legal implications of passing a given Article are always in order for discussion and sees no reason why that should be given as a justification for reconsideration, which he opposes.

James Gardner, Longfellow Road, spoke for a moment against reconsideration of this Article. Over the past couple of years there have been attempts at reconsideration, as your predecessor Mr. Dignan pointed out. Reconsideration is a very serious matter to reconsider. An example of a good reconsideration was a time when the Town of Sudbury inadvertently attempted to bond the construction of a wooden bridge which happens to be illegal so that motion was needed to be reconsidered to correct a grievous error of Town Meeting. The vote taken the other night was not a grievous error and there have been many votes tonight where any number of people in the audience have had their hands up and yet the call to the question was approved by the Hall and those questions need not be reconsidered either. Sufficient debate was reached the other night, sufficient debate was reached on many questions tonight and reconsideration should not be approved.

Lisa Eggleston, 55 Old Coach Road, spoke against reconsideration purely on the basis that there is about half as many people in the Hall tonight as when the Hall voted on that Article. That's not a representative vote of the Town of Sudbury.

A resident called the question.

It received a second.

The Moderator asked the Hall for all those in favor of terminating debate on this issue so we can vote on the question of reconsideration please raise your cards; all those opposed. It was voted to terminate further discussion under the motion for reconsideration.

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The Moderator stated that we will now move on to question of voting whether to reconsider Article 36 and reminded the Hall that it needs a two-thirds majority to pass.

The Moderator asked for all those in favor of reconsidering Article 36 please raise your cards; all those opposed.

The motion to reconsider Article 36 is DEFEATED. The Moderator declared there was not a two-thirds vote.

RECONSIDERATION OF

ARTICE 43 COMMUNITY PRESERVATION FUND – RAIL TRAIL CONVERSION STUDY:

The Moderator said before motion under Article 43 is called for reconsideration, he has a few announcements to make. He announced the reappointment of Bob Jacobson, Marty Ragonas, Tracy Billig and Norman DeLuca to the Finance Committee. Thanks to them and the entire Finance Committee for their long hours and excellent work during these difficult financial times. A particular thanks to John Nikula of the Finance Committee who is stepping down after 8 years because he and his wife Betsy are moving out of town. He thanked Maureen Valente, Mary Daniels, Elaine Jones, Judie Newton, Mark Thompson, all the checkers who are still checking people in at the gates, all our tellers who have volunteered their time and the Boy Scouts assisting with the microphones. He particularly would like to thank Barbara Siira, the Town Clerk, Jan Silva, who you've heard so much about and Paul Kenney. Lastly, give yourselves a great round of applause for coming here to exercise your right to legislate; it is greatly appreciated.

When this reconsideration is finished if there is any Town Official elected two weeks ago Monday but not sworn in please come see the Town Clerk immediately after this Town Meeting.

The Moderator asked Mr. Wallack if there was a motion to reconsider Article 43, please come to the microphone and say so moved.

Mr. Wallack, so moved.

It received a second.

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The Moderator asked for Mr. Wallack to tell us why Article 43 should be reconsidered that was passed earlier today but not to the merits of why a Rail Trail is good or bad but only why this Article should be reconsidered tonight.

Mr. Wallack responded that reference was made to the Town Master Plan that omitted a statement that would have swayed the vote in the Town Master Plan. The reason for doing it; the impetus for doing it was according to the Town Master Plan to focus on a Rail Trail. The Town Master Plan also says “the Town should resist pressure to build new facilities...”

James Gardner interrupted Mr. Wallack and exclaimed Point of Order. He believes that the gentleman has moved to the merits of the debate rather than the merits of reconsideration.

The Moderator reminded Mr. Wallack to stay with why this Article should be reconsidered.

Mr. Wallack responded to the Moderator saying because this information was not made available by Mr. Drobinski. This information was that “the town should resist pressure to build new facilities until the needs assessment has been completed”.

The Moderator asked Mr. Wallack to advise what page that quote is on in the Master Plan so it can be referenced.

Mr. Wallack said there is another point that should have been made with regards to the Charter of the Rail Trail Committee as stated at the Rail Trail Committee by Ms. Valente. The implication made by Mr. Drobinski is that their role was to discuss the issues and to look at the merits of the issues. The Charter, as stated at the meeting, is to not to debate the issues but to find a way to make the Rail Trail happen.

The Moderator asked if anybody wished to be heard on the motion to reconsider; which is whether or not we should rehear Article 43.

BOARD OF SELECTMEN: Mr. Drobinski, Board of Selectmen, thinks the move to reconsideration is like a seismic shift in Town Meeting. The Board of Selectmen was on the side that they were defeated and there was a reconsideration of the vote. Not being happy with the vote to defeat but was strongly, strongly against reconsideration because even though it's been allowed at Town Meeting, he doesn't think that's the way Town Meeting should vote. This was well debated and doesn't think anything that was said this evening was in contravention of the intent of what was going on; we're only talking about a feasibility study and we're very clear about that. Reconsideration at Town Meeting to his mind is basically a seismic shift in Town Government. To have numerous reconsiderations is basically a slap in the

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face to the folks in the Hall; it's basically saying you didn't know what you were doing. Reconsideration is opposed.

FINANCE COMMITTEE: Opposes Reconsideration.

The Moderator asked if anybody wished to be heard on the Reconsideration of Article 43.

Richard White, 14 Maple Avenue, opposes reconsideration of this particular Article because it was sufficiently and thoroughly discussed, however, does disagree, respectfully, with Mr. Drobinski because the concept of reconsideration should not be dispelled with because sometimes it does work for the betterment but in this particular instance the subject was discussed sufficiently for people to make an accurate choice.

The Moderator reminded the Hall that in order for Reconsideration to pass it requires a two-thirds vote.

The Moderator asked for all those in favor of the Reconsideration of Article 43 signify by raising your cards; all those opposed.

The Moderator declared that the Reconsideration of Article 43 is **OVERWHELMINGLY DEFEATED.**