

## BOARD OF SELECTMEN AND SEWER COMMISSIONER'S MEETING

March 19, 2018

Francis Faulkner Room 204

Special Meeting 7:00 PM

*To view the full meeting, please [click here](#)*

Present: Janet K. Adachi, Katie Green, Joan Gardner, Chingsung Chang, Town Manager Steve Ledoux, Lisa Tomyl, Recording Secretary

Absent: Peter Berry

### **Citizen Concerns**

Terra Friedrichs, West Acton – getting questions about the parcel at Kmart for an appraisal – it is for an appraisal only. Mentioned about a questionnaire on her election website.

Bob Sekular, Parkland Lane – received notification about public hearing, and hopes the BOS will not wait until the last deadline on the open meeting law to post the modified decision. Understands that they are not under obligation to post it earlier, but hopes it will be available due to the amount of time and energy residents have given.

### **Chairman's Update/Operational Update**

Ms. Adachi – Longtime resident Brewster Conant passed away last night. Obituary online on Acton Funeral Home. Celebration of Life will be in June.

Mr. Ledoux – Weather forecast will be extending the brush drop off again. Reached a 1 year extension for police patrol union, visit from LT. Gov tomorrow to meet with town staff tomorrow afternoon. DOT put out a study of 200 worst intersection – Acton has 191 at Piper Road at Rt. 2. Brewster Conant will have flag at ½ mast in town for all the years of service for the town until Wednesday.

### **Public Hearings**

Common Ground 40B, 446 Massachusetts Ave– Representing Common Ground is Steve Joncus. Mr. Joncas gave an overview of his proposed project on Mass Ave for a 40B development for 1 bedroom apartments low income over (60% median income) age 62 and disabled residents. Also present is Nancy Tavernier chair of ACHC. It would be a DHCD project not a LIP – no vote is required by BOS and signature. Dan Barton is architect (who both worked on the Old High School project). 31 units, 1 bedroom, affordable rentals at 60% median income (1031 per month). Fixed income on SS at 30% median income the project would work with the individual with assistance. DHCD does request comments from the BOS. Mr. Barton gave a description of the project and the architectural explanation of the building. Showed a preliminary architectural rendition of the building.

Ms. Green appreciates it being 100% affordable and accessible. Using heat pumps vs. natural gas. The square footage on each unit it would be a perfect use for heat pump and cooling – flat roof also open for solar panels. Tenants will pay their own utilities. Mentioned using COA and Nursing Services in the common room for podiatry services. There is an on-site manager off common mail area – possible on a

part-time basis. Currently have one at the Old High School. Could be used for both properties. There will be 41-42 parking spaces.

Danny Factor, 11 Davis Road – wonderful to hear the update especially regarding the COD. Regarding the 30% or below – does that refer to SS disability or SSI and is the 62 year old requirement waived – Mr. Brem commented that if someone is legally defined as disabled it is waived.

Terra Friedrichs – support concept seem coming close to the streets – wondering if they were going to design for it to fit better with the housing in the area. Mr. Brem commented that it fits within the zoning – what people will see is the farmers porch.

Ms. Green moves to authorize the chair to submit a letter of support for 446 Mass Ave application to DHCH, Ms. Gardner second, all ayes.

### **Selectmen's Business**

Acton Cleanup Week, April 21-29, 2018 – Jim Snyder-Grant Green Acton is working with Asian American something alliance. Brian Lee, Kate Chong, and Shelly - all students from ABRHS. Mr. Lee gave a description of the planned event. [www.actoncleanup.info](http://www.actoncleanup.info)

Ms. Green thanks both Green Acton and AACA for joining in the event and the students getting involved in cleanup week.

Ms. Green moves to approve the town support for cleanup week April 21-29, Mr. Chang second. All Ayes.

Town Manager search: Board Authorization for Negotiation of Agreement with Consultant and Development of Process/Schedule for Finalist Candidate Screening – Ms. Adachi commented about the consultant of MRI and utilizing the consultant to guide the BOS when the final list is ready to come to the BOS. Mr. Chang moves to approve Ms. Green and Ms. Adachi to work with the consultants, Ms. Gardner second. All Ayes.

Article 26, Water Supply Agreement, Great Road– Special Counsel Jeffrey Roeloffs presented the agreement and explained the agreement and where it came from and why you are seeing the agreement right before town meeting and that it is unfortunate but found us in this position. Gave a background regarding the modified decision last year. Explained the history regarding the remand hearing and negotiations – whether to focus on litigation or to get to the point if additional settlement efforts were worth it. A number of Executive Sessions have been held. The special sessions focused on the modified decision and a water supply agreement. Timing was very tight with Selectmen Chang term ending at the end of March with Town Meeting coming up. Mr. Roeloffs went over the terms of the agreement to be sure that people understood that Acton still could exercise their rights after some time to draw from Nagog Pond, Acton Water District feels that there is no substantial evidence that they would need that at this point.

Ms. Green stressed that this is not addressing the permit for the water treatment plant and conditions are still being discussed and in litigation. This is a separate agreement that needed to be addressed now and not part of the modified decision. We don't see an eminent need to need the water right now. If in 5 years from now we see a need, the BOS could make that request and that the agreement could be

nullified (as a triggering event). This puts us in a more secure situation along 2A for residents and business. For those reasons she is supporting the agreement.

Ms. Gardner questioned if Littleton wants to withdraw then this agreement will not work? Mr. Roelofs stated that Littleton is currently working on withdrawing from Nagog Pond, feels this would take years for approval, at the top DEP staff. If they go with a legislative change, then it could turn into a triggering event.

Mr. Chang emphasized the confined nature of the agreement and that it doesn't limit the BOS or the AWD regarding Nagog Pond and water supply. If this agreement does not go forward, we are back to where we are today (regarding water supply to 2A).

Ms. Adachi – looking out for all residents and business that rely on the water supply on rt 2A. Commissioner Len Phillips since 1992 read statement of respect for (the late) Brewster Conant for gifting land for the Conant wells. Stated that the agreement does not reflect the support of the Acton Water District, however does support to withdraw from Nagog if it is needed. To testify that we don't need the water for 20-25 is not exactly correct. Supports the monitoring of the withdrawal even if Concord does not. AWD does not support the article. Ms. Gardner if AWD is responsible to supply water to 2A what would be the timeline and the cost. Cost would be 1 million per mile to install a water main according to Chris Allen. Over time it would take several years. Ms. Green questioned if they (AWD) have a plan in place to build the water main if the need arises as the BOS is just trying to protect people and business along 2A. If Concord terminates then we would have to go to court to stop terminating supply until AWD has a plan for the build out.

Len Phillips, AWD Commissioner –have had conversations and have guesstimated, but hopes that Concord would not put Acton in that position and would be a good neighbor - if an agreement was made it was prior to him as a Commissioner, and if discussions have been made in the past and perhaps "quid pro quo". AWD is fully prepared to provide water service to that service area.

Mr. Chang questioned about a need for accessibility for Nagog Pond – yes due to possible loss of 2 wells (40%) due to potential 1-4 dioxane plume (without an exact time frame) but cannot foresee when this need could be.

Mr. Chang commented that the representative from AWD in previous hearings stated that AWD has additional resources to draw from before attempting withdraw Nagog Pond and if Acton needs to develop a new water resource would Nagog Pond be fairly high on list – Len – we would work through Concord for supply and not build a new plant (to avoid overdraw). Would make arraignments (temporary) to assist to cover the depletion.

Mr. Chang questioned if Acton needed to access a new water resource what is the plan – Len – to access the deep bedrock, but is not financial responsible as previously thought of 20+ years ago.

Ms. Green stressed that the agreement is not about limiting the access of Acton Water District – not asking AWD to not seek our rights to Nagog pond in 20 years, which is why AWD is not part of this agreement. Check Katie's question about AWD voted to support your statement and to not support the agreement.

Ms. Adachi mentioned that there have been wells that have not been explored fully, but you stated that you would go to Concord to take advantage of their high tech filtration system, but this may take quite a bit longer if this goes into litigation – if there was a long term issue would you still go to Concord for

either a short term and possible long term – Len – was not prepared to answer a question like that as he is not prepared to answer on behalf of the Commissioners, just to read a statement regarding the agreement.

Bob Sekular – missed his comments

Kim Kastens – page 7 Expansion on Service – “TBD” is below 61K (per JR) Would urge the BOS to think about what happens after 20 years - concerned about Concord ceasing providing water service due to the growth in Concord specifically the superfund site redevelopment. Concerned about the future after the 20 years.

Maryllynn Miller, West Acton – thinks tripling the amount of withdrawal is dangerous for the environment. Spoke about Littleton drilling a well to close to Nagog Pond and Concord suing the Town of Littleton

Basil Chigas, Nagog Hill Road – hearing about the planning going on in Concord and the lack of planning the Town of Acton is doing. #1 user of water is the prison. Concord is running a business and invested a lot of money – feels as though they will not want to share their water with Acton. Only bargaining ability is to have a determination what in fact Acton’s legal right is to the Pond now. Ms. Green explained that the topic of discussion is about the agreement and not the SPSP.

Marty Patraetus, 1 Hazelnut Street – section 4B – does this forbear bypass the current conditions for permitting – Ms. Green stated that it is a separate permitting process (through the Planning Department)

Jim Engell, Breezy Point Road – glad of preceding speakers and their comments. According to the agreement Concord has been supplying water for 109 years and have never contracted an agreement in previous years. They are essentially threatening to shut of water supply. If something has been in agreement for years now is requiring a bargaining chip. Page 5 item 2 section A read from the print from the agreement. Wanted an explanation of the term listed.

Barry Rosen – no one knows when the need is going to happen, but the AWD knows it will happen – it is just a matter of time. Has been at meetings when they have tried to talk to Concord (government) and the only time they have come to meetings is when they want something – possible misunderstanding or not. Feels that Acton Water District does make attempts to reach out to Concord that he has witnessed. Feels if we (Acton) have worked with the Town of Littleton we may not be in the position we are in today. Feels as though we are avoiding the inevitable and need to do something about the 2A service. Water Commissioners and staff don’t know what the need is going to be for the future. MWRA is a possibility as Maynard and Stow are looking for alternative water supply and could connect in Marlborough.

Mr. Chang commented on the lack of strategic planning for present and future needs – thinks it’s an issue and should consider it for the future, thanks Mr. Phillips taking this back to the Acton Water District and hopes to have better conversations and answers in the future about the future of water supply in Acton.

Ms. Green commented about the need to think about the future of water supply on 2A – AWD and the town need to think about it now. Concerned about the Town of Concord’s unreliability. Supportive of the agreement.

Ms. Gardner noted her concern that one of the triggering events is if Littleton asserts their rights to Nagog Pond

Ms. Adachi noted that the solution is going to come down to what the three towns interpret what the language means about asserting rights and the legislation really is.

Mr. Roelofs confirmed moving forward with the draft agreement as is for Acton. Concord was reviewing the document tonight as well. The motion would be to authorize the Chair to sign the agreement on behalf of the Board of Selectmen.

Ms. Green moves to authorize the Chair to sign the Intermunicipal Agreement subject to minor revisions subject to town meeting approval, Ms. Gardner seconds. All Ayes.


**Consent Agenda**

Ms. Green moves to approve consent items 5-9, Ms. Gardner seconds. All Ayes.

Ms. Green move to adjourn, Ms. Gardner second. All Ayes. Meeting adjourned at 10:45 PM.

Respectfully submitted,

  
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Lisa Tomyl, Recording Secretary

  
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Joan Gardner, Clerk