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## Selectmen's Minutes November 7, 1995

**Present:** William C. Mullin, Nancy C. Tavernier, F. Dore' Hunter, Wayne L. Friedrichs, Herman Kabakoff, Town Manager Don Johnson and Assistant Mgr. Murray. (The meeting was televised)

### Citizen's Concerns

None expressed

### PUBLIC HEARINGS AND APPOINTMENTS

#### Boston Edison/New England Telephone Petition School Street at Piper

MR. HUNTER moved to approve. MRS. TAVERNIER- Second. UNANIMOUS VOTE.

#### Boston Edison/New England Telephone Petition School Street at Chadwick Street

MR. HUNTER moved to approve. MRS. TAVERNIER- Second. UNANIMOUS VOTE.

#### Boston Edison/New England Telephone Petition Maple Street

MR. HUNTER moved to approve. MRS. TAVERNIER- Second. UNANIMOUS VOTE.

#### Boston Edison/New England Telephone Petition Main Street at School Street

MR. HUNTER moved to approve. MRS. TAVERNIER- Second. UNANIMOUS VOTE.

### PIZZA HUT - LIQUOR LICENSE MANAGER CHANGE GREGORY S. CLOSE

Mr. Close gave a brief outline of his experience in the food service business and his work with Pizza Hut. He has reviewed the liquor serving policy written by the previous manager Mr Spencer with his supervisor and will be amending and augmenting it. The Board expressed its policy of reviewing policies with new managers and the seriousness of any violations. Mr. Close will be filing his amended policy with the Town within a week for placement in Pizza Huts Liquor file. He was asked to be sure that his policy was posted within the establishment for staff and suggested attendance at the TIP Program. MRS. TAVERNIER - Moved to approve Mr. Gregory Close as Manager to replace Mr. Spencer. MR. HUNTER- Second. UNANIMOUS VOTE.

### NYLANDER WAY STREET ACCEPTANCE PUBLIC HEARING

Mr. Hunter updated the Board on the progress with Mr. Sweeney with regard to an agreement as it relates to the acceptance of Nylander Way. It was hopeful that an agreement could be reached. It was noted that the acceptance before Town Meeting would not include acceptance of the school bus turnaround. That would have to be done at a later Town Meeting. The Planning Board has held their required hearing and have submitted their comments for the

file. They too suggested resolution to several outstanding issues before acceptance as outlined in their memo to the Board dated November 7, 1995.

Mr. Tolley representing the residents of Mill Corner urged the Board's recommendation be favorable to Town Meeting.

MR. HUNTER - Moved to approve the Order of Street Layout of Nylander Way dated November 7, 1995. MR. KABAKOFF - Second. UNANIMOUS VOTE.

### **POWER STUDY COMMITTEE PRESENTATION**

Mr. Gil Orsborn of the MPSC introduced a panel of three people involved in municipal power. Mr. Savos Danos of the Littleton Municipal Light Company, Mr. Walter McGrath of Braintree Municipal Light and Power and Mr. Kenneth Barna an attorney representing private power companies. Mr. McGrath spoke about the positive benefits that Braintree receives by supplying their own power. Braintree has 80 employees, is autonomous and not under the restrictions of Proposition 2 1/2, the department was established in 1892 and currently has no debt. They recently paid off a 25 million dollar debt. Braintree has 40,000 residents and the budget for power is approximately 3.7 million/yr. They currently employ 27 people in the generation portion of the Department and charge 8.5 cents per kilowatt hour at the meter to residents. Mr. McGrath is a member of the Northeast Power Companies and American Public Power Association and speaks to communities about going public and obtain local control of power. He feels that it has worked well in Braintree and supports power being handled by Local authorities because of the local control it offers.

Mr. Friedrichs asked about the number of communities involved in public power and why more communities had not broken away from private providers. Mr. McGrath said that currently there are 30 systems operating and estimated that in the last 15 years 5 communities/regions had become public power providers mostly in the mid-west, none in Massachusetts. Mr. Friedrichs also asked why more communities had not broken from Edison and other providers? Mr. McGrath felt that the rates had been low, then the oil embargo hit.

Mrs. Tavernier asked Mr. McGrath if he was a lobbyist or was paid to speak about public power. He said no he was not a lobbyist and was speaking tonight at the request of the Power Study Committee on behalf of the organizations he is involved in. He had not reviewed the Local Power Study Committee report as he had only become involved last week. He felt that the Stranded Cost issue is Boston Edison's way of scarring people from forming their own companies, much like what happened when Maine communities were seeking to leave.

Mr. Barna was asked to speak about stranded costs. He presented the board with his firms client list as they are representing local power providers and feel they have been very successful in doing so. He outlined their success with the MBTA which estimates a 25 million dollar savings and paid no stranded costs. He cited the US Court of Appeals ruling that stranded costs are illegal. The US Court of Appeals D.C. Circuit has ruled it is in violation of Anti-trust laws. He said that there has been much debate on stranded investment costs and that now is the time to make the move before more options disappear. He said it is a matter of options and beginning before those options weren't available. He indicated that no one knows what will happen in the industry in the upcoming years. There is much debate on stranded costs and he felt that the DPU may not allow for more than five years, however, the DUP will take a period of time to make the decision.

Mr. Hunter asked Mr. Barna to forward the cases notes to him for his review. Mr. Hunter also asked for clarification of the Town Codes listed on the bar graph submitted to the Board. Mr. McGrath said that Mr. Danos has provided the graph and therefore he could not provide them.

## ISAC WAN PRESENTATION

Mr. Samuel Schwatz and ISAC Members were present to present their findings to the Board. Mr. Schwatz said that after much review including looking at other communities experiences they had come to the conclusions listed in the final report. They decided on the INET System, because of the price and service it could provide. He felt that they could add up to five more networks due to nature of the technology. The Town's that had chosen the INET all felt it was the right decision and were very happy with the type of technology it provided. The Committee suggested a lease purchase which would allow them to obtain all the equipment up front and spread the payment out over the term.

Mr. Kabokoff asked about reliability of the INET since he had experienced outages of cable service frequently at this residence. Mr. Schwatz, while not a cable subscriber has experienced outages of power and telephone, and felt that was a problem that could be addressed by using the "Sneaker Network". He has spoken to the Cable provider and they currently have a commitment/policy of a two hour repair and service restoration to customers. The Committee has addressed these situations with a dial back-up link and line sharing with B34 Modems to connect into the LAN. It is felt that the commitment to service will remain if the cable provider is changed. It was noted that we would have the same rights under the Telecom Act of 1996 which would carry language that Town's still maintain right over the use of the right of way to maintain the right to use the INET free. The committee was asked the cost of not implementing the WAN over the next five years.. Mr. Hunter suggested, and it was agreed that the analysis of those costs should be done by Fin Com. Mrs. Tavernier said she learned a lot from the report and commended them for the fine job, and noted the report revealed a \$40,000 less than expected figure. Mr. Friedrichs complemented the committee on the report and asked that a copy be sent to the Fin Com and Library. Mr. Kabakoff too complemented them on the quality of the report.

The Committee was again thanked for bringing the Board their report on time and will distribute the report to the Finance Committee and Library.

## MEMORIAL LIBRARY OVERVIEW MEETING WANDA NULL

Wanda Null, Director, made a presentation on the history and services that the Memorial Library offers to its patrons. The original portion of the library was gift to the Town in 1890 as a Civil War Memorial. They enlarged in 1967 and in 1968 entered into a Eastern Region access of interlibraries. In 1989 they entered the Minuteman Network and have access to 30 public and academic libraries with over 3 million items. They have on-line service and 5 divisions each staffed with personnel. They are open 64 hours per week with 12 FTE's and participate in peer groups through the Minuteman Network. They are open on Sundays through a gift from the foundation and average 300-400 patrons on those Sundays. They estimate 270,000 loans per year with 50% of those being Children's materials.

Mr. Hunter asked about rules for using the internet. Ms. Null is in the process of developing them, but had not experienced any problems yet as they do not have graphics. They currently have no backlog of users.

Mrs. Null noted she looks forward to updating the Board on the Library Expansion as plans firm up.

## ELIZABETH GOLDEN CAMP ACTON

Mrs. Golden was present to answer questions from the Board. She indicated that the Conservation Commission has recommended the purchase if 132A funds are reasonably available. She has determined that 5 million in Self-Help Funds are currently available. The

Conservation Commission will be reviewing this proposal tomorrow evening and she had a meeting scheduled with the Finance Committee later this evening.

Mr. Friedrichs expressed his feeling that the Town's efforts had been undermined by the action taken by her committee. He was distressed that the issue was being played out in the press with no forum for the Town to answer the charges. The Town was not at a standstill. He questioned her relationship to the BayState Circuit Trail. He sees her involvement with that organization as a conflict. He also reminded her that the Master Plan was a "guideline" He further noted that the 6IA committee rated this parcel at 13 out of 34. He was distressed with the funding problem created by the article's language and the stipulations attached.

Mr. Hunter too expressed his disappointment with the procedure being ruined by third party individuals. While he could support the acquisition of the land, he was displeased with the way it was presented with the proposing of free cash spending. The impact the special town meeting puts on staff with the hours of time to get the house in order for setting the tax rate and such. The appropriateness of the majority vote vs. a 2/3 vote required for bonding was discussed. The overall bad precedent these Special Articles presented along with the strong belief these issues could have waited until an Annual Town Meeting. It was felt that it was a good cause, however, it was handled poorly.

Mrs. Tavernier felt that since the Town did not have the option to bond, that she could not support the article. She asked Mrs. Golden who the Committee was comprised of, and if a list of the members could be forwarded to the Board. She asked if the neighbors will buy and form a conservation trust if the Town does not purchase? Mrs. Tavernier asked how she knew details about the negotiations with the Boy Scouts, who told her the negotiations were stalled and the amounts discussed?. Mrs. Tavernier further stated she would be moving forward to release the Board of Selectmen's executive session minutes of September 12 and 24th pertaining to the negotiations for the public review. Mrs. Tavernier stated the neighbors of the Boy Scout land approached the Board and asked them to negotiate for the purchase. The neighborhood meeting gave feedback of expenditure up to \$150,000. The Town was negotiating in good faith with the representatives of the Council of Boy Scouts, which will be shown in the Executive session minutes and expressed her displeasure with the third party intervention which has driven the price up and could require a free cash expenditure instead of bonding alternatives.

Mr. Kabakoff too agreed with Mr. Friedrichs comments and wishes the procedure had been different.

Mrs. Golden regrets not convening the urgency of this to the Board before moving forward and hopes it won't hurt the purchase.

Mr. Roop, a neighborhood representative who had brought this potential issue to the Board for resolution and also a member of Mrs. Golden's committee felt that a outstanding possibility was slipping away he had heard that the Boy Scouts were at a negotiation standstill and so they solicited outside the process originally arranged with the Board four months ago.

## **SELECTMEN'S BUSINESS**

### **SPECIAL TOWN MEETING ARTICLE DISCUSSION AND FINALIZATION**

Article I - Power Feasibility Study - Mr. Kabakoff felt we should support the \$40,000 expenditure since the study committee had done so much review and thought it was a wise investment.

Mr. Hunter felt that an RFQ and RFP like the one used for Mill Corner would have been more appropriate. He was uncomfortable with the change in usual town procedure expressed in the Article.

Mr. Mullin said that it was an issue better reviewed in 3-5 years after all the effects of deregulation were realized. He urged the Town not to "Throw away" \$40,000 on this feasibility study.

Mr. Friedrichs felt it was an issue better addressed at the Annual Town Meeting.

Mr. Hunter felt troubled by the language and would feel more comfortable if the language could be changed at the Meeting.

MR. HUNTER - Moved at the discretion of Mr. Mullin as authorized by the Board of Selectmen if he feels appropriate, to move the article to delete the last sentence. MR. KABAKOFF - Second. Motion Withdrawn

MRS. TAVERNIER - Moved Not Recommend Article 1. MR. HUNTER- Second. UNANIMOUS VOTE.

Article Four - Camp Acton - Mrs. Tavernier asked if wording could be changed to reflect Bonding. She could not support the article if the funds were not to be bonded.

MR. FREIDRICHS - Moved to recommend - No Second.

MR. HUNTER - Moved to Recommend with procedural Reservations - MR. FRIEDRICHS - Second. 3 to 2 Motion Passed - Tavernier and Kabakoff voting No.

Article 7 - Douglas At Dawn - MRS. TAVERNIER - Moved to Recommend. MR. HUNTER - SECOND. UNANIMOUS VOTE. (Mr. Hunter noting his family involvement, felt no conflict existed)

Article 8 - Merriam Afternoons - MRS. TAVERNIER - Moved to Recommend - MR. HUNTER - Second. UNANIMOUS VOTE.

Article 9 - Gates Amazing Mornings - MRS. TAVERNIER - Moved to Recommend - MR. HUNTER - Second. UNANIMOUS VOTE.

Article 12 - South Acton Center/Mill Corner Sewer Design - MR. HUNTER - Moved to Recommend. MRS. TAVERNIER - Second. UNANIMOUS VOTE.

#### **MAPC REPRESENTATIVE**

MRS. TAVERNIER- Moved to appoint Christopher Tolley as the Alternate Representative. MR. FRIEDRICHS- Second. UNANIMOUS VOTE.

#### **ASSABET RIVER RAIL TRAIL**

MRS. TAVERNIER - Moved to appoint Martin Gratz as Acton's Representative. MR. HUNTER - Second. UNANIMOUS VOTE.

#### **DEBT MORATORIUM**

Mr. Mullin reviewed his memo regarding the possible debt moratorium to be enacted if any of the Power Study Citizen Petitions are passed. This would include future projects of sewers, library expansion and NARA. He planned on seeking the sense of the meeting at the Special Town Meeting.

Mr. Kabakoff remarked that he thought that Mr. Mullin's moratorium was an emotional reaction, threatening and a political overreaction, and could not support it.

Mr. Mullin feels it is political in contrast to other items, but we need to be able to lay out a capital plan.

#### DUMP PICKING

Mr. Freidrichs noted his complaint of the week is the dump picking exclusion. It was noted that the town had received various complaints and will be modifying the rules to allow the residents to review the items left. The Town Manager noted that we are still having trouble with those people staying for long periods of time.

#### ARTICLE 14

Mr. Kabakoff asked about the implications of opening up the 50+ acres with the proposed land transfer. It was noted that the wells would be situated in the area which would preclude over development of the parcel.

#### LEGAL BILLING

Mr. Kabakoff was curious to the sense of the Board. Mr. Hunter felt that the issues should/might need to be addresses in Executive Session since they were confidential in nature. Mr. Kabakoff asked about going out for bids for Town Counsel. Mr. Hunter stated that he felt that we had done RFP's in the past but to go out to Bid, would be the wrong approach.

Middlesex County Selectmen's Association - Mr. Kabakoff asked if the Board wanted to join. Mr. Mullin was not inclined to join. Staff was asked to send the \$50.00 membership fee.

BETH ELOHM SIGN - Mr. Kabakoff asked about the status of the temples request. It was briefly discussed and will be put on the December 5th agenda under Selectmen's Business.

#### CONSENT AGENDA

MR. HUNTER - Moved to Approve the Consent Calendar - MRS. TAVERNIER - Second. UNANIMOUS VOTE.

#### TOWN MANAGER'S REPORT

SOUTH ACTON BRIDGE - The Town Manager reported that the State wanted to arrange a date and time for the Ground Breaking at the SA Bridge Project. It was decided that November 22nd and or 29th would be good.

2001 LEADERSHIP GROUP - The Town Manager asked the Board for a date for the Leadership Social to be held at Town Hall. The Board discussed December 14, 18 and 20. Mr. Freidrichs was not available on the 20th. Mr. Kabakoff was not available on the 18 due to the holidays and it was decided that the 14th would be good.

Meeting Adjourned.

  
Christine Joyce, Recording Secretary  
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Clerk

Date:

  
12/5/95

NOVEMBER 3, 1995,

**TO:** Board of Selectmen

**FROM:** William C. Mullin, Chairman

**SUBJECT:** Selectmen's Report

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**AGENDA  
Room 204  
NOVEMBER 7, 1995**

**I. CITIZEN'S CONCERNS**

**II. PUBLIC HEARINGS & APPOINTMENTS**

1. 7:31 **BOSTON EDISON/New England Telephone** - School St .at Piper Rd. - Enclosed please find Petition and Staff comment for Board Action
2. 7:32 **BOSTON EDISON/New England Telephone** - School Street at Chadwick St. - Enclosed please find Petition and Staff comment for Board Action.
3. 7:33 **BOSTON EDISON/ New England Telephone-** Maple St.- Enclosed please find Boston Edison Petition and Staff comment for Board action.
4. 7:34 **BOSTON EDISON /New England Telephone** - Main St. at School St. - Enclosed find Petition and Staff comment for Board action.
5. 7:35 **PIZZA HUT - MANAGER CHANGE- Mr. Gregory Close** - Enclosed please find a request from Pizza Hut of America, Inc. to replace Mr. Spencer with Mr. Gregory S. Close as the Manager for the store located at 273 Great Road for Board action.
6. 7:45 **PUBLIC HEARING NYLANDER WAY STREET ACCEPTANCE** - Enclosed please find the back up materials outlining the process of accepting Streets as public ways.
7. 8:00 **POWER STUDY COMMITTEE** - The Power Study Committee has requested an opportunity to discuss this subject with the Board.
8. 8:15 **ISAC** - Enclosed please find a report from ISAC regarding the WAN. Representatives from the Committee will be in to discuss the report and answer any questions the Board may have regarding the report.
9. 8:30 **MEMORIAL LIBRARY OVERVIEW** - Mrs. Null will be in to brief the Board on the functions and activities of the Memorial Library.

10. 8:45 **ELIZABETH GOLDEN** - Mrs. Golden will be in to discuss Camp Acton.  
Enclosed please find materials that she has forwarded for Board review.

**III. SELECTMEN'S BUSINESS**

11. Special Town Meeting - Enclosed please find the warrant for the November 15 Special Town Meeting along with other pertinent materials for final votes/action by the Board.
12. MAPC Representative - Enclosed please find a request from the Planning Board to appoint Mr. Christopher Tolley as Jim Lee's Alternate to MAPC for Board action.
13. ASSABET RIVER RAIL TRAIL - Enclosed please find a request from CTPS and recommendation from Kathryn Garcia, ARRT volunteer, for the appointment of an Acton representative to the Advisory Committee that will provide guidance and review for the Assabet River Rail Trail Feasibility Study being undertaken by CTPS, for Board action.

**IV. CONSENT AGENDA**

14. SECTION 8 RENEWAL CONTRACT - Enclosed please find correspondence from the Acton Housing Authority for Board action.
15. ACCEPTANCE OF GIFT - Enclosed please find a request for Board acceptance of a Soil Evaluators Review Session seminar donated by ABC Cesspool to be used by Board of Health staff for Board action.
16. SITE PLAN SPECIAL USE PERMIT DECISION - INDOOR SPORTS -Enclosed please find the Decision for Board signature.
17. USE OF TOWN HALL - Enclosed please find a request and staff comment regarding the use of the Town Hall lobby for the Friends of the Acton Libraries' Annual Book Sale for Board action.

**V. TOWN MANAGER'S REPORT**

18. SOUTH ACTON BRIDGE - Enclosed find a request for the Board's preference as to a Ground Breaking Ceremony date.
19. 2001 LEADERSHIP SOCIAL - Enclosed find a memo from the Town Manager seeking the Board's preference with regard to scheduling a "2001 Leadership Social" in December.

**VI. EXECUTIVE SESSION**

**MEETINGS**

**Special Town Meeting - November 15, 1995**

**ADDITIONAL INFORMATION**

Enclosed please find additional correspondence that is strictly informational and requires no Board action.



## **FUTURE AGENDAS**

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This IS NOT a complete Agenda.

- Nov. 21 - Acton Beverage Pledge Change  
Classification Hearing
- Dec. 5 - Budget  
Annual License Renewals(tentative)
- Dec. 19 Library Designer Presentation

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