

# BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING

October 30, 2006

Acton Memorial Library  
7:00 P.M.



Present: Chairman Foster, Andrew Magee, Lauren Rosenzweig, Peter Ashton, Dore' Hunter. The Town Manager and Assistant Town Manager were present. The meeting was televised.

## CITIZENS' CONCERNS

Shawn Towey – Expressed his concerns about 40B's and the auditing taking place. He wanted to know if there would be a committee formed to review the financial issues of 40B's. Don reported about the Crossroads Development meeting and noted that they say they can clear their names and are confident they will. Don noted that they have cooperated in the request for documents.

Davis Place 40B - Mr. Towey, is concerned that the local policy allows such aggressive cutting of trees.

18 Brewster Lane – Affordable Unit – The owner's son, Mr. Beddoe explained what they want in the form of the letter to be sent confirming that they have waited the required number of days looking for a qualified buyer. Walter said that we would take it under advisement. After the situation is reviewed the Board will issue a letter within in a week if no other problems arise from the review.

## SEWER COMMISSIONERS' BUSINESS

None

## PUBLIC HEARINGS & APPOINTMENTS

**OPERATIONAL MINUTE** – Don noted that we are receiving complaints about the Water District water quality. It is noted that their concerns be addressed to the Water District.

### DAVIS PLACE LOCAL INITIATIVE PROJECT (LIP)

Don reviewed two things that need to be done tonight, an Regulatory Agreement and a request for some up front payments and the balance over time. Atty. Levine updated the amounts to be paid up front and payments to be made over time. Peter noted that it is not a precedent we want to be setting especially over sewer betterments. Peter is not inclined to support at this time. Peter spoke about the complaint received about their site work. Peter further asked if it would have to go back to the Board of Appeals if a substantive change is made. Don noted that he felt it would have to be sent back to Board of Appeal for site and engineering issues. Peter wanted to know if we could/should sign this Regulatory Agreement in light of the chance it would be sent back to Board of Appeals.

Atty. Levine said that the finals are also reviewed. Dore' asked about the abutter concern. Atty. Levine said that they will move the buildings ever so slightly away from the abutter to accommodate the abutters concerns.

Andy asked about the frontage dispute with the Finnegan's. Atty. Levine said it is a small wedge.

Walter asked for direction on which way the betterment would take. Dore' was concerned that this would create a precedent as this is the first time we have received this type of request.

Atty. Levine asked about the payment at the 7<sup>th</sup> unit completion/occupancy. John Murray said that a ceiling on the date of the 7<sup>th</sup> occupancy should be time specific.

Walter was concerned and wanted to have payments from units on a payment schedule. Dore' suggested that the developer go back to town staff to see if they can reach an agreement reasonable to them and then bring it back before the Board.

Peter also noted the time frame for the 7<sup>th</sup> unit to be completed.

Andy noted that he too was concerned that more people would come in for these types of payment plans.

Atty. Levine suggested that the betterments be made in installments to be made during the year, and all of the amounts paid for by December 2008.

ANDREW MAGEE – Move accept the Regulatory Agreement as presented for the Chairman's signature. DORE' HUNTER - second UNANIMOUS VOTE

**SITE DEVELOPMENT PLAN SPECIAL PERMIT #7/11/06-409, 288 MAIN SREET, EDWARD BRAVO (CONTINUED FROM 10/16/06)**

DORE' HUNTER – Moved to Continue to November 13 at 7:30, PETER ASHTON, second. UNANIMOUS VOTE.

**FIRE DEPARTMENT MANNING AND USE OF OVERTIME REPORT**

Chief Craig introduced Deputy Chief Lyons to the Board. The report outlining Sick time was reviewed reflecting FY 2006. The Chief noted the various types of coverage. Sick time is split into regular Sick Time, extended sick time and extended injury leave.

The Chief spoke about the Overtime which covers training and emergency call back, public education, etc.

The "Swing Man" was discussed and they normally are not paid at overtime. The overtime expenses are not incurred until 2 or more firefighters are out, then one on straight time and one on overtime.

Chief Craig spoke about the Sick time shifts for 2005 and 2006. He noted that extended illness bumped up the need for Overtime Coverage.

Lauren said she wanted to better understand the use of the swing man's time. Chief Craig said that the swing man covers at regular time when the first man is out. This person is no longer being used to fill shifts for dispatching so he/she covers for the first man out.

Andy wanted to talk about the swing man and when was the swing man implemented, Chief Craig responded in the Last week of October or early November.

Walter asked about the sick time buyback. Chief had concerns about buy back. Walter suggested a buy back of sorts, and asked for comparisons of how other cities and town's review this.

Dore' asked about the memo factors contributing to number of times that they are out sick and that we do not have a Wellness Program. Dore' asked why the union rejected this. Chief Craig said that there was not a good set of standards. The Firefighters were concerned about what kinds of standards would be used, and what they would be held to. Dore' said we should pursue this. Deputy Chief Lyons noted that there is renewed interest in the Wellness Program from several fire fighters.

Dore' commented to the Town Manager about the Fire vs. the Police sick time and how the police handle it, and if either has a program to effectively address this, we should review the best policy.

Peter asked whether this year's overtime is the same as last year. Peter noted that it was decided to wait to reduce the Overtime by \$100,000 until this report was complete. Peter asked how much we expended in dollars for the first 3 months of 07 year 06.

Robert Evans- wanted to talk about sick time buyback. He noted that when he was negotiating the school contracts, they said no, that sick time was not to augment retirement and to be used to help those unfortunate enough to need the time.

Allen Nitschelm asked about the percentage used in sick time. Don noted that we can have a person out at any time which could skew the percentage used. Dore' asked how many shifts are not filled. Dore' asked when it is decided to fill or not fill shifts.

### **CONDO CONVERSION, 19 RAIL ROAD STREET, MICHAEL GURTLER**

Walter gave an overview of what the request entailed. The Town Planner noted that many if not all of the tenants are no longer residing there. Michael Gurtler noted the set back problem that he was not aware of when the project started. He needs all units to share in common. The Planner suggested he give notice to former tenants so they could purchase, under the previous site plans one unit is eligible to be low income and the doc's would have to be changed to reflect this. Mr. Gurtler said that he was willing to notify and change the documents.

Andy noted that all the rental tenants moved out on their own accord. Mr. Gurtler had leases with a month to month notice and as people moved out he did not take other tenants in to replace the vacancies. He was asked include the boulders in the document.

Lauren was grateful for the efforts to retain the units in this manner.

Pauline the LWV Observer – asked about where the affordable unit would be. Mr. Gurtler responded that the affordable would be new construction.

DORE' HUNTER - Move the Condominium Conversion subject to conditions listed. PETER ASHTON – second. UNANIMOUS VOTE

Andy noted that it should include the documents the set-back requirements from Wetlands.

## **SELECTMEN'S BUSINESS**

### **STATE OF THE TOWN MEETING**

Walter outlined the subjects to be highlighted at the State of the Town on November 20<sup>th</sup>. Walter noted that they are pleased to find the revenue projections were exceeded by 1 million dollars.

Dore' spoke about Capital Planning and many overlaps in material. He suggested that the two segments be combined.

Peter commented on the Capital Planning issues and that we are prepared to have alternative sources to fund these items. Peter noted the ALG should be looking at ways to minimize increase, or no increase.

Lauren thanked our Legislators for working to obtain the increased State Aid, and noted we need to continue to pursue getting additional State Aid.

Nicholas Zarvoulas asked the State of the Town materials be put on line even if in a Read Only way. Walter said they will be trying to do this in the future with the new Web Master coming on board they will address this.

### **COMMUNITY PRESERVATION ARTICLES**

The committee will receive potential projects that are Town sponsored. Walter outlined the requests submitted by staff. Walter wanted to get an idea of what the Board will support for CPC before November 13<sup>th</sup>

Lauren said it is important to fund things already in process. East Acton Village Green, Piano restoration, and time critical items such as purchasing the bungalow on Main Street as this is a time limited opportunity.

Andy looked at items that were presented for possible funding. He would like to see many of them fleshed out and discussed further.

Dore' discussed the CPA submittal. Dore' said we need to keep Bruce Freeman moving forward. He had various legal questions he wanted reviewed. Dore' wanted to keep looking at the 468 Main Street Bungalow and not to buy it because it is close.

Peter noted that there are some things that are not here such as Housing and he feels they need to be on the list.

Walter feels we need to continue funding the Bruce Freeman Rail Trail. He discussed other items such as the Granite Marker and Elm Street as being projects he could support. He also might be able to support the Archeological Study. The ceiling at Town Hall cannot wait 6

months to reoccupy. Walter noted that one project is reaching the three year limit and noted that some of the past projects are heading toward the three year deadline.

Claire Siska wanted to ask about AART and felt it is good for South Acton. The funds are not at risk. The Federal appropriation is secure and locked in and the local monies for AART will be encumbered by next April and will be committed for design and construction.

Mary Michelman- Thanked the Board for their support of Bruce Freeman Rail Trail and asked that appropriate money gets put towards the BFRT.

Mike Cappolino representing the Regional School District discussed the notice they have received from their Counsel that CPC monies for lighting at the Jr. and Senior High's could be qualified to receive CPC money.

#### **40B ISSUES, CROSSROADS DEVELOPMENT AND FORT POND BROOK PLACE**

Letter from Crossroads Development – Requested production of financial items. The developer is requesting to extend the deadline from Oct 27 to November 17<sup>th</sup>.

DORE' HUNTER – Moved to approve to send a letter to developer of Crossroads requesting he provide financial information not provided to IG. The motion was amended to include and voted to remove ACHC as the auditor at their request, and to hire a professional. The developer asked to extend the deadline to November 17<sup>th</sup>. PETER ASHTON – second.

Fort Pond Brook Place - There is a 2 phase approach, CPA will check if the monies are right, but not what is a reasonable cost for the market place. The developer questioned the cost and has submitted his pro forma. The developer is agreeable to have a cost estimator review his submission. Walter wanted a policy in place for this and future projects.

PETER ASHTON - Move to remove ACHC and monitoring agent for Franklin Place and Fort Pond Brook Place and to have ACHC return \$10,000 to the Town. DORE' HUNTER – second.  
UNANIMOUS VOTE

#### **MAPC STUDY, HYDROLOGIC MODELING FOR THE ASSABET RIVER**

Lauren outlined the modeling project and she feels water is a limited resource and we need to maintain a clean water source. Peter was concerned that they are confident that they are on the right track with this proposal.

#### **COMMUTER PARKING RESTRICTIONS, JONES FIELD**

At the Sept. 11 meeting the restrictions at Jones Field were extended to November. The Board was asked if they can continue the restrictions until June, 2007. The residents of Maple Street talked about the unintended consequence of taking away free spots which then has the commuters migrating back to the Maple Street roadway.

Claire Siska asked the pilot study and what will happen in June. Lauren noted that people were parking at Jones Field with reserved spots. Currently there are reserved and after 10:00 am any one can park there if not occupied already. They intend to keep monitoring this issue and additionally look at what can be done behind the South Acton Fire Station.

Christine Hanley asked that the neighborhood be included in the review. Walter said that the neighborhood would be notified.

ANDREW MAGEE - Moved to extend the pilot parking at Jones Field to June 30<sup>th</sup> 2007. DORE' HUNTER – second UNANIMOUS VOTE

### **COMMUTER PARKING LOT, SENIOR DISCOUNT**

Walter said that we would be looking at a yearly fee for \$25.00 at a qualifying age of 65. Peter noted that this is not going to affect many people. PETER ASHTON – Moved to approve the \$25.00 for yearly Senior Citizen Discount. DORE' HUNTER – second. UNANIMOUS VOTE

### **LIBRARY PERSONNEL**

Don was asked to summarize this request. He noted that this was a request from the Library for additional hours.

DORE' HUNTER - Moved to approve the Library request. PETER ASHTON – second UNANIMOUS VOTE. Peter noted that he does not want to see this folded into a later budget.

### **PRIVATE WAYS PLOWING AGREEMENTS**

DORE' HUNTER - Move to extend the private way plowing requests with the same conditions as last year. PETER ASHTON – second. UNANIMOUS VOTE

### **MEMORANDUM OF AGREEMENT, W.R. GRACE REMEDIAL ACTION PHASE**

The Board discussed the MOA and wanted #4 and #6 eliminated from the MOA.

Walter does not see anything that serves the citizens of Acton. He feels that W.R Grace needs to be held accountable. He finds it distasteful, and noted there is no requirement that a comment be delineated to agree with other comments.

Peter said to streamline the process means they don't want to do their work. Peter was not in favor of MOA as currently written.

Andy noted that in fact, if the process is streamlined it means less protection of the environment and industry gets what they want.

Walter asked about a renegotiated MOA to address our concerns and changes. Dore' wanted to have this redrafted the way we want it. We can make the changes, sign it, and return to them. Dore' noted that this is a draft and is non-binding.

Walter wanted it to go back to the way we used to communicate with the Town, Water District and ACES.

Mary Michelman spoke about them leaving ACES out of some of the meetings. It appeared the only comments they wanted were ones that would benefit Grace, and by making the town and the Water District agree on submittals, they would be controlling the materials.

### **OTHER BUSINESS**

Karen O'Neil, Susan Mitchell-Hardt regarding signing off of a parcel owned by the Kingman's.

Karen outlined the Conservation Restriction that is legal tool to allow landowners to restrict and protect their property. This is a standard Conservation Restriction. Mr. Kingman wanted to put a CR on part of his Farm on Esterbrook Road. They have been working on this for 9 months. The Conservation Trust has done this once before on the Donald's Land on Taylor Road several years ago. The MGL requires that the Municipality sign off on these even though it is between Acton Conservation Trust and the Kingman's.

The parcel is lovely and is part of the watershed.

Walter had a number of questions that have been answered. The area in question is bringing in an area that we don't currently have in this part of town.

Lauren asked if there is a time problem if this needed to be reviewed by Town Counsel. Karen said it needs to get in to the State by November 1<sup>st</sup>. They would like it to get to EOA to be signed by the end of the year.

Mr. Kingman explained the uses of the land that he and his wife have agreed to allow on the land. Mr. Kingman noted that his Real Estate taxes will go down. He gets a percent of the building lot costs. Mr. Kingman also noted his parents had done a similar gift with lands in Concord that they owned, he wanted to continue the history of giving of Land for public use.

DORE' HUNTER - Move to accept the Instrument, and thank the Kingman's for their gift.  
PETER ASHTON – second. UNANIMOUS VOTE

Walter said that the Board of Appeals need coverage and need Alternate members to cover to insure a quorum is obtained.

WALTER FOSTER – Moved to appoint Richard Fallon as an Alternate Member of the Board of Appeals, with a term to expire June 30, 2009 PETER ASHTON – Second.

Lauren noted Don Wheeler's death and sent condolences to Donald Wheeler's Family

Lauren reported on her attendance at the I495 Regional Meeting held for Gubernatorial Candidates. Lauren said that she attended one, and has attended the legislative breakfast.

Dore' asked that the report by Mr. Reetz be sent to the Board in the next packet.

## **CONSENT AGENDA**

DORE' HUNTER – Moved to approve. PETER ASHTON – Second. UNANIMOUS VOTE

LAUREN ROSENZWEIG - Moved to approve the extra consent item for a one day liquor. License for the Church of the Good Shepherd. DORE' HUNTER – second. UNANIMOUS VOTE

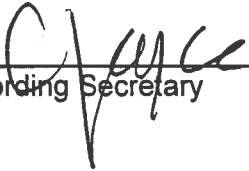
## **TOWN MANAGER'S REPORT**


None

## **EXECUTIVE SESSION**

LAUREN ROSENZWEIG - Moved to go in to Executive Session to discuss strategy in litigation and purchase of real property. Roll was taken All Ayes.

The Board adjourned into Executive Session

  
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Recording Secretary

  
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Clerk, Board of Selectmen  
Date: 4/17/07



**BOARD OF SELECTMEN & SEWER COMMISSIONERS'**

**MEETING AGENDA**

*Acton Memorial Library*

*October 30, 2006*

*7:00 PM*

**I. CITIZENS' CONCERNS**

**II. SEWER COMMISSIONERS' BUSINESS**

**III. PUBLIC HEARINGS AND APPOINTMENTS**

**1. 7:02 OPERATIONAL MINUTE**

The Town Manager will give the Board a brief update on various topics.

**2. 7:15 SITE DEVELOPMENT PLAN SPECIAL PERMIT #7/11/06-409, 288 MAIN STREET, EDWARD BRAVO (CONTINUED FROM OCTOBER 16, 2006)**

The petitioner has requested continuation to November 13 at 7:30.

**3. 7:30 DAVIS PLACE LOCAL INITIATIVE PROJECT (LIP)**

Enclosed please find materials in the subject regard, for Board consideration.

**4. 8:30 CONDO CONVERSION, 19 RAIL ROAD STREET, MICHAEL GURTNER**

Enclosed please find materials in the subject regard, for Board consideration.

**IV. SELECTMEN'S BUSINESS**

**5. STATE OF THE TOWN**

Enclosed please find materials in the subject regard, for Board consideration.

**6. METROPOLITAN AREA PLANNING COUNCIL STUDY, HYDROLOGIC MODELING FOR THE ASSABET AND CHARLES RIVERS**

Enclosed please find materials in the subject regard, for Board consideration.

**7. CONTINUATION OF PARKING AT JONES FIELD**

Enclosed please find materials in the subject regard, for Board consideration.

**8. COMMUTER PARKING LOT SENIOR DISCOUNT**

Enclosed please find materials in the subject regard, for Board consideration.

**9. COMMUNITY PRESERVATION ARTICLES**

Enclosed please find materials in the subject regard, for Board consideration.

**10. LIBRARY PERSONNEL**

Enclosed please find materials in the subject regard, for Board consideration.

**11. ACTON NEIGHBORHOOD NETWORK (ANN)**

Selectman Hunter has asked to address the Board regarding the Acton Neighborhood Network.

**12. OTHER BUSINESS**

**V. CONSENT AGENDA**

**13. PRIVATE WAY PLOWING AGREEMENTS**

Enclosed please find materials in the subject regard, for Board consideration.

**VI. TOWN MANAGER'S REPORT**

**VII. EXECUTIVE SESSION**

There will be a need for Executive Session

**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.

November 13

November 27

December 11

December 18

**GOALS 2006-2007**

1. Morrison Farm Development Recommendation (Foster)
2. Monitor Labor Negotiations (Ashton)
3. Policy Review/Improve Inter-Board Communication (Foster)
4. ALG process to be used for purpose of Budget Planning for FY08 (Foster/Magee)
5. Middlesex Pension Alternatives (Ashton)