

SELECTMEN'S MINUTES

September 14, 1999

Present: Herman Kabakoff, F. Dore' Hunter, William Shupert, Peter Ashton, Wayne Friedrichs and the Town and Assistant Town Manager's (The meeting was televised)

CITIZEN'S CONCERNS

None were presented

PUBLIC HEARINGS AND APPOINTMENTS

NONE

SELECTMEN'S BUSINESS

RECREATION DEPARTMENT - The Director as asked for Board direction regarding the use of Sponsor Boards at the Little League Ball Fields. Don explained that they are having difficulty with sponsorship and gifts. The Board was concerned that sponsors may gain special treatment for donations. He cautioned the Board about letting sponsors place signs at ball fields. Dore' noted that many little league fields around the nation have these and did not have a problem with them or business signs being placed. Herman was concerned that we may not have leverage if an undesirable group wanted to place signs. Peter was not averse to granting this, and agreed the signs were the same as others he has seen in fields, but he would like to see it limited to local business or businesses doing business in town. Wayne agreed but would like charities and other groups included. Trey too has looked at other community's fields and agrees with the other selectmen. He asked about the sign bylaws and how it would affect the placement. He would not want to see a Dunkin Donuts have a permanent sign and felt that they should be replaced on an annual basis so every one could have a chance to utilize the advertising space. Herman wanted staff to come back with a policy, the sign sizes and periods of placement for a given donation. Don asked for clarification and if he wanted limited sponsorship and Dore' felt that the signs should advertise products or services appropriate for sale to children playing on field.

QUIT CLAIM DEED – Don explained he has had it reviewed by David Abbt and counsel and has replaced a minor section. He would like to see additional language that would return the property to the Town should Acton leave the region. Peter agreed with Don's suggestion and felt it makes sense. Dore' agreed the language is appropriate and it should be discussed with the Supt., but ultimately it is the deed we give them. Herman noted that Dr. Zimmerman has asked him to

sign the deed ASAP. He asked Don if it was in fact that time sensitive. .DORE' HUNTER – Moved that Absent to any objections that we execute the deed but have The Town Manager hold deed in escrow after Dr. Zimmerman reviews it. PETER ASHTON – Second UNANIMOUS VOTE.

SEWER ACTION COMMITTEE/SPECIAL TOWN MEETING

October 25th at 7:00 p.m. Dore' spoke on behalf of the SAC about the need for getting hard numbers. He noted he has tried to put together a package of concept articles. Make a Go –No go decision and move forward. One of the first things he felt should be included in the warrant article for the meeting would address the public question of is there or should there be some vehicle in place to address the costs and share of costs. They feel the trend is away from percentages and looking at costs, which make up the whole project. The vote will have to be 2/3 vote because of bonding. The second article would be as if you adopted the bylaw, does the meeting want to reallocate any costs. Third, go no go vote. If yes, land negotiations need to be made, but it looks favorable. If the vote is no go, they will be passed over. Fourth to address the allocation of design costs for the now failed project. An article which would reduce the borrowing to repay the design monies and estimate a number to give the schools toward their system for the Central Campus which will reduce prior borrowing responsibilities. Regarding gaining the authority to purchase homes without septic solutions, he said that the argument that it would be cheaper for the town to purchase those homes that cannot repaired may well be true, however, he did not want to have to be the one that asks the citizen to leave his home.

He felt an article for purchasing homes that cannot pass Title 5 should be placed on the Warrant.

He said we might want a sense of the meeting resolution as to whether or not the Economic Development Committee should pursue a sewer solution for any new business districts. He also proposed a sense of the meeting to see if the town is willing to have a cut-rate system for Business Districts if the MFPBSD should be voted down.

Wayne agreed with everything said by Dore' said except the turnkey approach. He felt that they would have odor control and an acceptable building. None of these turnkey approaches are anywhere near the NESWC situation. The turnkey approach can be gotten out of unlike NESWC. He noted that there were not limits on where you go with the turnkey system.

Herman noted that he felt we were here to discuss the specific articles that will be addressed at the STM. Herman asked if the board had any other issues for the warrant. Wayne felt that Dore's review was good. Dore' felt we need to come out of this Special Town meeting knowing if we are going to build or not. He wanted to be sure if the vote fails, that we would still need to address EDC and School issues.

Peter was pleased also with Dore's ordering of the articles and content.

Herman noted he had a problem with the sense of the meeting vote to purchase homes with failed systems. He finds that hard to believe in this day and age that we cannot find a solution. He felt the town is stepping in to bail them out and feels that sets a precedent for others. Dore' stated we know we have trouble with systems in Town. Dore' noted it is to protect public health, he reminded everyone we did this not to save people money. He did not want to have to go to someone and say you cannot live in your house any more, your property is worthless. He felt as a community before we put someone out, we should provide financial assistance.

Wayne asked if the authorization was needed to proceed with the Article. Wayne wanted more information as to how many homes might be in this predicament. Doug felt that there are at least 1/2 dozen and a dozen more which would be economically feasible and still a minor group of those that would not be feasible at any cost.

Trey said that at the meetings of SAC and Financial Task Force they raised a number of good questions. He felt staff is trying to get the answers within the next couple of meetings. He would like to leave the articles on and discuss them after more information is gathered.

Herman was concerned with purchasing homes and felt the Town should not do this. Wayne said he felt a sense of the meeting for authorization is good and would give a good idea where town meeting is going.

Trey spoke about the groups of citizens working for a sewer solution. What we have here is a fish and cut bait situation. He wants them to know we cannot as a community walk away, and the process will go forward. He hoped that sewers are approved, but noted we will not know actual cost until the meeting on the 12th.

Charlie Kadlec wanted to know if the Article relating to town's purchase of non-compliant residences were only those in the district or entire town. Dore' responded the entire town. He noted that there are other portions of town that need to be addressed but felt this was good start for the community. He did not want to see it tied to the sewer article for Bond payments article. He felt a revote would need to be taken to cover already spent money and to fund the schools solution, but had a problem with it since it is a regional property.

John said the region was always included in the bonds. He noted that the local and region was mixed on the campus. We are not changing the use of the bonds. The Schools are very confident in their number of 3 million and it won't be increased.

Charlie wanted it to be a separate article for no-go solution. Dore' noted

that might be good point and would leave it to staff to work it out.

Herman wanted a motion with regard to the content of the warrant DORE' HUNTER - Moved that we place articles on special town meeting warrant to amend the bylaw as set forth in his memo of August 26, 1999 (attached) and to see if the town votes to adopt language that will allocate any costs of the project to the general tax payer and third to authorize construction expenditure with Middle Fort Pond based on bids received, the eminent domain taking for pump station and easements or further articles for reducing or previously voted borrowing to cover the design or construction of plant on the central school campus and as part of the article in regard to the borrowing motion that could reallocate those expenses to the general tax payers and further an article to purchase residents homes without viable sewer solution and to see if EDC will/should develop a sewer solution for business development districts, and resolution or guidance whether Town Meeting should vote to design building like US FILTER. As outlined in my e-mails of August 26 and Sept. 12, 1999.- PETER ASHTON – Second. UNANIMOUS VOTE

Dave Tomkins of Nagog Woods voiced his concerns; he represents people that will never use the system in North Acton and was concerned with the costs. Herman agreed that if the cost were added to the tax base it would be more likely to fail. He felt that he was in favor of sewers however, he noted that the costs were to be borne by the district users.

Mr. Probst spoke against the articles and costs.

Sewer Bond Issue - John explained the bonding request before the Board. He recommends 30 year payback. He said the remaining 13 million does not have to be on a 30-year schedule. Dore' asked them to remember that we need the second half of the SRF.

Herman said John Prendiville said it would be a big mistake to vote a 30-year. He is torn and he feels he will support the 30 and the Fincom has put us on notice that they have voted against 30 years.

Trey said the SAC voted to go with the 30-year payment at their meeting and made that recommendation for the good of the district users.

Wayne asked about the percentages of 20 vs. 30. He noted John Prendiville said we could pay back .89 cents on the dollar with the 20 year.

Steve Probst spoke about the issues around the loan and felt it is better for the Town to go with 30 years. He felt the issue was the monthly loan payment effect. He said that people want to pay off liens on homes very early. The numbers show that the average person moves in 6 years and pays outstanding mortgage and liens.

He recommends 30 years and the funds the town generates should go back to the

people who spent the money, and to use it to pay off the bonds.

DORE' HUNTER - move the approval in the words of the paper work. TREY SHUPERT - Second. UNANIMOUS VOTE.

The Board asked that we hold space on the agenda for continued discussion at the Special meeting of BOS on October 14th for discussion on sewers at 7:30. Cable will be notified for televising.

OTHER BUSINESS

TRAFFIC ISSUES - Dore' spoke about the change in traffic patterns. Wayne said he and the CAC will be looking into the issue, and that it could be that the traffic has increased over the past five years.

METRO WEST DEVELOPMENT - Peter spoke about the Metro West Development. Trey would be the excellent choice to represent the Town. Trey will be happy to serve.

BOSTON EDISON - Trey had a question about BECO's letter and was concerned with the communications and their implementation of the new update system. He noticed that the time frame for when it is operational was left out of the letter. Herman let read the number to use when your power is out 800-592-2000.

SEWER MEMO - Wayne spoke about Dore's memo August 17th. Wayne also noted that there were many benefits for using US Filter. He denied that he had any plans for a warrant article. He reiterated that he did not introduce US Filter to the Town. He also disagreed that he was an interruption at the recent SAC meeting and that it was noted in the SAC minutes of the meeting. He talked about the position of speaking at Town Meeting and that every one could give their opinion. He agreed that surprise presentations are not acceptable – He felt that he could present his personal opinion as a resident at Town Meeting not as a Selectman. Dore' responded to Wayne's concerns by stating he would stand by his memo and would not debate this.

ACHC – Herman discussed Nancy Tavernier's letter about giving Treasurer the authority to give properties to ACHC. He felt it could be put on Consent on the upcoming meeting. After discussion they decided that it could be handled at a later Town Meeting but not as consent Article.

Wayne invited the Board to the September 21st meeting to discuss land reuse a Grace. He has asked staff to post it for 1:00 at the W. R. Grace property.

CONSENT AGENDA

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

CROWN RESISTANCE DAY – The Board Proclaimed Crown Resistance Day. PETER ASHTON – Moved the acceptance and proclaims the September 26th 1999 as Crown Resistance Day - DORE' HUNTER- Second. UNANIMOUS VOTE. Peter will represent the Board at the ceremony.

TOWN MANAGER'S REPORT

PUBLIC OUTREACH EDC – Don discussed the memo from Donna Jacobs regarding the cost of obtaining a facilitator. Don will review after Donna gets information on cost. It appears that the Planning Board may be interested in partnering.

Wayne said it would be helpful for getting the word out.

Dore' felt that we should not pay for a facilitator. He felt the community had a lot of talented people in it that might be willing to donate their time. Herman asked that it be noted in the Beacon if at all possible.

Peter felt that he would like to get more information before he could vote.

MS. ELLIS LETTER REGARDING SENIOR TAX RELIEF– Peter noted we are moving forward. He is waiting on having a meeting when the vote at Beacon Hill is made.

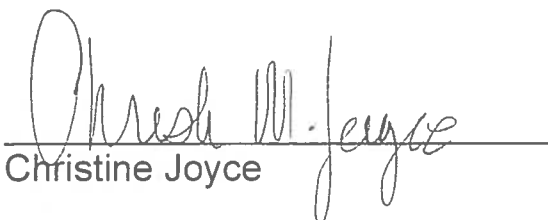
PETER ASHTON - moved to go into executive session for the discussion of Negotiations. DORE' HUNTER – Second. UNANIMOUS ROLL CALL – All Ayes.



Clerk

10/12/99

Date



Christine Joyce

Attachment to
minutes 9/14

John Murray

From: Don Johnson
Sent: Thursday, August 26, 1999 6:57 PM
To: John Murray
Subject: FW: Sewer Warrant Articles

Please get this going.

-----Original Message-----

From: F. Dore' Hunter [SMTP:flanhunt@ma.ultranet.com]
Sent: Thursday, August 26, 1999 1:27 PM
To: Don Johnson; Herman Kabakoff; Wayne Friedrichs; Peter Ashton; Trey Shupert; Doug Halley
Subject: Sewer Warrant Articles

MEMO
1999

26 August

From: Dore' Hunter
To: Town Manager
Board of Selectmen
Subj: Sewer Warrant Articles, my outline for

1. SAC has taken positions that we should have the necessary "go-no go" sewer Articles and, to cover the possibility that the STM votes "no go", an Article to potentially spread the repayment of the Two Million Plus Dollars that have been borrowed and spent on design and putting the project out to bid out over the general tax base, as opposed to allowing it to fall only on the aborted MFPBSD owners. In addition at the SAC meeting last night there was discussion about putting an Article or Articles onto the Warrant which might allow the STM to exempt portions of certain specified cost items from the 100% user funded by-law that seem to benefit the whole Town. This latter matter will be further discussed by SAC at its next meeting, but I suggest that the drafting and discussion with counsel in regard to such an Article, as I have outlined below, go forward in the meantime due to the shortness of time until the Warrant must be adopted and printed.

2. Tentatively I would suggest a cost exemption proposal Article that would, if adopted, add something like the following wording to the end of the Sewer User Fees By-Law, Section D10 b. "except for such specific portions of sewer construction project costs or expenses as might, by a two thirds vote of a Special or Annual Town Meeting, be determined to be appropriately allocated to the taxpayers at large". Thus that section of the by-law, if so amended, would read:

b. The entire cost of laying out, constructing and operating the sewage collection, treatment and disposal facilities in the town shall be paid by a combination of sewer assessment on the land served by such facilities, including municipal and other public land, and by user charges, except for such specific portions of sewer construction project costs or expenses as might, by a two thirds vote of a Special or Annual Town Meeting, be determined to be appropriately allocated to the taxpayers at large.

3. Another Article would then tentatively be put on the Warrant which

2/3 vote
vs majority

would propose something like" "To see if the Town will vote to allocate [e.g. \$xxxx of the costs incurred for police details, \$xxxx of the cost incurred in re-paving all the streets opened for laying pipe, and \$xxxx of the costs of acquiring title to pump station locations] related to the construction of the sewer collection system to serve the Middle Fort Pond Brook Sewer District to the taxpayers at large pursuant to Acton By-laws Chapter D, Section D10.b."

4. Obviously the Article to allocate pursuant to D10.b. would be passed over if the preceding Article to amend the By-law did not pass. I presume that there is a possibility that the Attorney General might not ultimately approve the By-law, but one can't cover all possibilities, after all we might have an earthquake too.

5. Assuming that these tentative recommendations are feasible and do go forward then I would see the order and nature of the Articles at the 10/25/99 STM as:

1. Amend By-Law
2. Allocate any general taxpayer costs under Amended By-law
(to be passed over if #1 fails)
3. Expenditure authorization for MFPBSD project construction
4. Eminent domain takings for pump stations and easements
(to be passed over if #3 fails, or pass over in part for any parcels already acquired or under contract)
5. Allocation of MFPBSD design costs
(to be passed over if #3 passes)

6. I would appreciate Selectmen and staff comments in regard to the by-law scheme and how we could finance any costs that might be allocated to the general tax base, if it might be adopted, as soon as is reasonably practical.

Regards,
Dore' Hunter
Selectman & SAC Co-Chair



ATT00000.html

John Murray

From: Don Johnson
Sent: Friday, August 27, 1999 3:28 PM
To: John Murray
Subject: FW: STM Warrant Articles

-----Original Message-----

From: DORE HUNTER [SMTP:DORE_HUNTER@compuserve.com]
Sent: Friday, August 27, 1999 1:28 PM
To: Don Johnson
Subject: STM Warrant Articles

Don/John,

It occurs to me that in sending in the Memo re sewer warrant articles yesterday I omitted the one we need to petition for a Home Rule from the legislature to obtain relief from the requirement that the Town charge 2 percent on the effective loans to sewer property owners. That should be slotted behind the "go-no go" article I would think.

Regards,
Dore'

EXTRA INFO.

9/14/99 - (3)

Attachments to MINUTES 9/14

Subject: Additional "No Go" Sewer Warrant Articles

Date: Sun, 12 Sep 1999 15:09:08 -0700

From: "F. Dore' Hunter" <flanhunt@ma.ultranet.com>

Organization: Flanagan & Hunter, P.C.

To: Herman Kabakoff <hkabakoff@aol.com>, Don Johnson <tmacton@ma.ultranet.com>

CC: Peter Ashton <pkashton@aol.com>, Trey Shuppert <bshuppert@learningco.com>,
Wayne Friedrichs <info@cotroninc.com>

MEMO

12 September 1999

From: Dore' Hunter

To: Board of Selectmen
Town Manager

Subject: Warrant Articles for 25OCT99 STM; additional proposals

1. I will have additions to the list of Warrant Articles that were the subject of my August 26, 1999 e-mailed Memorandum next Tuesday night. I will move that the BOS place on the Special Town Meeting during our 9/14/99 meeting, in addition to that prior list, the following "no go" Articles, to be rank ordered behind the "go or no go" decision and to be passed over if the decision is "go":

a) Reduction of Borrowing Authority & Town-Wide Repayment - Vote to rescind the prior sewer borrowing authorization votes, except so much as authorized the design moneys that have been spent to get to this STM, or that will of necessity be expended in shutting the project down after the "no go" vote, if any, AND such moneys [I am guessing it will be about Four Million Dollars, Don should ask Bill Ryan for his estimate +25%] as are estimated to be required for the design, permit approval and construction of a waste water treatment facility for the Central School campus to satisfy the existing/pending DEP consent order, both such borrowings to be repaid out of the community wide tax levies notwithstanding any provision of the by-Laws (i.e. not to be paid for solely by the property owners in the then abandoned MFPBSD).

b) Authority to Purchase Residences Without Septic Solutions - Inasmuch as one argument that will have been made in defeating the MFPBSD proposal will have been that it would be cheaper for the Town to buy from the owners the residences which cannot comply with the septic Title 5 Regulations, this will be a Warrant Article which would, if adopted, authorize the Town to take such action. No appropriation, however, will be sought on 10/25 so it would be a "bare" authorization signifying that the Town had approved that course of action in the future. Further annual authorizations and appropriations would have to be voted to carry out such a course of action, but having this STM vote such an authorization for this fiscal year would signify that the "taking" argument was not simply offered to defeat MFPBSD but is actually a course of action that should be pursued following the failure to pursue residential sewerage.

c) Sense of the Meeting Resolution as to Whether or Not the Economic Development Committee Should Pursue a Sewer Solution for Any New Business Districts - Following a defeat of the mixed residential/public/commercial MFPBSD it can be anticipated that the SAC will disband. Inasmuch as sewers have been stated to be vital for economic development there would logically seem to be a question as to whether or not the EDC should pursue sewer construction for the areas it is proposing to have re-zoned as new business districts. Such a resolution would provide the EDC some guidance as to whether it should proceed to attempt to craft a wholly commercial sewerage proposal, to be paid for 100% for the commercial properties to be served.

c) Sense of the Meeting Resolution re Guidance for Potential Economic Development Committee or EDIC Development of Sewering for Proposed New Business Districts - Since it is anticipated that the EDC would/will be heavily lobbied to pursue some form of sewer service along the lines of the U.S. Filter

proposal that Wayne has urged upon the SAC, it seems pertinent for this STM, should it vote down the MFPBSD, provide some guidance as to the future as to whether it is willing to:

- 1) have sewer facilities such as a waste water treatment plant and/or pump stations designed without odor controls or architectural appearance/screening acceptable to nearby residential areas; and
- 2) enter into long term (e.g. 20 years) contracts similar to the NESWC contract for commercial sewers; and
- 3) accept the risk that the regulatory agencies might, after the system goes into operation, impose additional construction and/or operational conditions that the Town might have to fund; and
- 4) have no or limited ability to amend any such contract to add further sewer areas without paying penalty or premium costs.

2. I will, of course, be prepared to speak the the appropriate motions Tuesday evening.

Regards,

Dore'

September 10, 1999

TO: Board of Selectmen

FROM: Herman Kabakoff, Chairman

SUBJECT: Selectmen's Report

AGENDA

**September 14, 1999
7:30 P.M. - Room 204**

I. CITIZEN'S CONCERNS

II. PUBLIC HEARINGS & APPOINTMENTS

NONE SCHEDULED

III. SELECTMEN'S BUSINESS

1. **SPONSOR BOARDS** – Enclosed please find a memo from the Recreation Director regarding the possible installation of Sponsor Boards at the Route 2A/27 ball fields for Board review.
2. **QUIT CLAIM DEED FOR BLANCHARD AUDITORIUM** – Enclosed please find materials from the Town Manager.
3. **SPECIAL TOWN MEETING** – Enclosed please find documentation related to the conceptual Warrant Articles and issues for the October Special Town Meeting for Board discussion.
4. **SEWER BOND APPROVAL** – Enclosed please find bond documents for vote of the Board.
5. **OTHER BUSINESS**

IV. CONSENT AGENDA

6. **ACCEPT MINUTES** – Enclosed please find minutes of July 20, 1999 for Board acceptance.
7. **ACCEPT GIFT** – Enclosed please find backup materials and requests to accept numerous donations for NARA.
8. **CROWN RESISTANCE DAY** – Enclosed please find an invitation to the ceremony to be held on September 26th as well as a Proclamation for Board signature.

9. **SITE PLAN #5/10/90-326 – Now and Then, 29 Great Road** – Enclosed please find a request from the Building Commissioner for release of Bond monies for Board action.

V. TOWN MANAGER'S REPORT

10. **PUBLIC OUTREACH CAMPAIGN** – Enclosed please find a memo from the Asst. Planner for discussion and Board action.

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.

Sept. 28
Oct. 12
Oct. 26
Nov. 9

FY 2000 GOALS

1. Resolve the Audubon Hill problem/issues (Shupert)
2. Establish or reconstitute a Computer Advisory Committee for Municipal issues (Hunter)
3. Review the structure and organization of the ALG and establish a definite, periodic meeting schedule (Kabakoff)
4. Develop a comprehensive Beaver Nuisance policy (Friedrichs)
5. Improve communication among the various boards, particularly Fincom, SC and BOS. This seems to have been lacking to some extent during the last year (especially ALG process) (Kabakoff)
6. Continue to search all alternatives for a viable sewer solution that is timely and fiscally workable (Hunter/Shupert)
7. Form a task force to investigate ways of achieving greater coordination, efficiency and utilization of resources between the schools and the town (Ashton)
8. Continue the work of the Senior Tax Relief task force and also investigate ways of assisting others who may need tax relief (Ashton/Hunter)
9. Develop early on an ALG plan and budget; i.e. have general agreement on budgetary parameters by October/November before formal budgets are developed. Continue to update, refine and modify as needed the five year budgetary plans which we initiated this year (Kabakoff)
10. Work with the Planning Board to implement the goals, objectives and strategies of the Master Plan update (Ashton/Shupert)
11. Conclude the work of the Kelley's Corner working group and bring to the Planning Board a final set of recommendations (Ashton)