



## SELECT BOARD AND SEWER COMMISSIONERS

Meeting Minutes

Monday, April 4, 2022

7:30 PM

Room 204, Acton Town Hall and Virtual

**Present:** David Martin, Dean Charter, Jim Snyder-Grant, Fran Arsenault, Himaja Nagireddy, Town Manager John S. Mangiaratti, and Assistant Town Manager Mark Hald

**Absent:** None

Mr. Martin called the meeting to order at 7:30 PM.

### I. Regular Business

#### 1. Resident Concerns

John Covert, Flagg Road – Looking forward to the Bruce Freeman Rail Trail bridge over Rte 2. Concerned that there will be a lot of people trying to cross Great Road at Wetherbee Street when the bridge is completed, recommends adding a painted crosswalk on Great Road there for safety, and perhaps an extra sign as well.

Concerned about the 30 cents / kWh charged by the Town at their Chargepoint stations: thinks it's too high compared to other available options.

Terra, West Acton – Noted that the Board is agreeing to add new users to the Sewer District when the remaining capacity is not enough to serve the land and building owners that are already in the district and have already paid betterment fees, and concerned that the Town will be facing a multimillion dollar liability if there is no capacity left when those building owners ask to connect. Also concerned that people were not offered a chance to speak at some of the agenda items at the last meeting.

#### 2. Chair Update/Town Manager Update/Members Minutes

Mr. Martin noted at the April 25th meeting, up to a five-minute comment/presentation has been offered to sponsors of the 12 Citizens' Petitions appearing on the Annual Town Meeting Warrant. The Town Manager had no update for the Board. Mr. Charter attended the 2022 Spring Manufacturing Summit at Minuteman Tech High School that was co-sponsored by Mass Hire and several other entities, including the Town of Acton for what can be done for workforce development including Haartz Corporation, and was largely put together by the Economic Development Director, Julie Pierce Onos. Mr. Charter noted the excellent job that Ms. Onos did in organizing the event, and noted that he learned that a major obstacle for potential new manufacturing workers at places like Haartz in Acton is a lack of affordable housing and a lack of transportation options. Mr. Snyder-Grant mentioned an event taking place at Gardner Field (which is being reconfigured to add a universally accessible playground this Spring) to remove invasive Burning Bush plants this Saturday beginning at 10:00 AM and looking for volunteers. Ms Nagireddy appreciated the



efforts of the Town Hotline and email group assisting renters looking for resources in town, and noted that the Housing and Climate Justice for Acton group had a big outreach event last weekend where they reached out to renters and let them know about these resources.

### **Public Hearings**

#### **3. Gas Main Petition, National Grid, 100 Powder Mill Road**

Representing National Grid was Mary Mulroney. National Grid is requesting to install and maintain 2-inch plastic piping from the existing 4-inch plastic piping on Powder Mill Road from High Street at 76 Powder Mill Road to the Acton Water District treatment plant property. Mr. Snyder-Grant outlined a letter just received from Chris Allen of the Acton Water District, in which he noted that the District uses the natural gas in a heating phase of the water treatment, and that this would not increase the supply of gas, just replace the existing line by routing it through a better location.

Judy Hodge, High Street – didn't know what the hearing was about but encouraging not to approve new service for natural gas and to move away from using it.

Judith Aronstein, Gregory Lane – asked if there were other options other than natural gas for the Water Treatment Plant. Mr. Snyder-Grant has a future meeting with the Acton Water District to explore energy alternatives and to discuss reducing their carbon footprint.

**Mr. Charter moved, seconded by Ms. Arsenault to close the public hearing, and voted unanimously. It was moved and seconded to approve the gas main petition for National Grid and voted unanimously.**

## **II. Sewer Commissioners**

#### **4. Discuss Tiered Fee Structure for Sewer Privilege Fees**

Mr. Martin recapped that at a previous Sewer Commissioners' meeting, the Commissioners discussed adding additional tiers for the privilege fees. There is currently a two-tiered system, with 1-2 bedrooms paying \$20,000, and 3+ bedrooms paying \$30,000. Mr. Martin is looking for the Board's input into a payment system with three (or more) tiers. Mr. Charter generally supports more tiers in the fee structure. Mr. Snyder-Grant mentioned that the fees may be more for the larger bedroom houses being constructed. Mr. Martin commented that they could make the fee less for the two-bedroom units, and cap the fee at \$45,000, but increase the fee to an additional \$7,000 per bedroom for up to six bedrooms or more. Ms. Arsenault agrees with adopting a tiered system and feels a fee of \$10,000 for a one-bedroom unit is appropriate. Mr. Martin noted that a one-bedroom unit is not charged per person. Ms. Nagireddy is comfortable setting \$15,000 for a one-bedroom unit. Alissa Nicol, School Street – urges not to go down to \$10,000 for a one-bedroom unit, and not increase for over a six-bedroom unit since bedrooms are being used as home offices as well.



Mr. Snyder-Grant suggested a compromise proposal: \$14,000 for a one-bedroom, \$22,000 for a two-bedroom, \$30,000 for a three-bedroom, \$38,000 for a four-bedroom, and \$46,000 for a five-bedroom.

Terra, West Acton – questioned what the \$30,000 is being used as for the betterment fee for new houses, and would prefer the Board wait for the price documentation in writing before they vote and approves the higher amount for more bedrooms, concerned the town is taking care of developers and increasing the population and not taking care of current residents and adding liability to the town.

**Mr. Charter moved, seconded by Mr. Snyder-Grant to approve the change to the privilege fees to \$14,000 for a one-bedroom unit and increase \$8,000 for each additional bedroom unit with no cap and approved unanimously.**

5. Discuss Request for Parker Street Sewer Connection

Representing the request for 68 Parker Street sewer connection is Attorney Lou Levine. The owner has been discussing with town staff and the ACHC the notion of tying the 76 apartments into the sewer district for a reduced privilege fee in exchange for deeding some of the apartments as affordable. 100% of the units would be deeded to be affordable for those earning 60% of the Area Median Income (AMI) for 10 years, and 8 of the units would be deed restricted for 80% of the AMI for 30 years. Only the 8 units restricted for 30 years would be eligible for the state Subsidized Housing Inventory (SHI), which is the list that keeps track of our state-defined affordable housing count. Keeping that count above 10% is what allows the Town additional flexibility in dealing with future 40B housing proposals. It would be a condition of this deal that the state DHCD would approve these 8 units before the sewer connection could be made. Tenants pay electricity which costs tenants approximately \$60-200/month depending on the time of year (the heat is electric). The electricity costs plus the rents mean that most tenants are paying total housing costs that would be reasonable (by state definitions) for people earning 50% of the AMI. There is very little rental housing available in the area for people that earn at these levels. There is a treatment plant on-site that is close to failing. Tenants have been residents in the units for 30 years and the owner is looking to avoid having to increase rent for the low-income apartments by connecting to sewer. The owner would construct a pump station and would turn it over to the town. Mr. Martin noted that for comparison, with 40B housing, where 25% of the units are deeded affordable, the Board has in the past waived 25% of the privilege fee. For AHA constructed apartments, where all units are affordable, the Board has typically waived all of the privilege fees. Mr. Martin asked Board Members if they are interested in waiving part of the privilege fee in this situation, which is neither a 40B nor an AHA project. Mr. Snyder-Grant commented that he is in favor of the general idea of creating additional affordable housing without having to construct new units, but asked if the cost in lost privilege fees is reasonable to create this affordable housing, which will be time limited (10 years for most of the units, and 30 years for 10% of the units). He is also concerned that adding 76 units to the sewer system, in a situation where we are



not required to provide a connection, will not leave enough capacity for those already in the sewer district but not connected yet, where we are required to provide a connection. What we saw in the recent sewer commissioner's presentation is that adding an extra onsite rapid infiltration basin (RIB) would probably be just enough to serve those that we are required to provide connections to. Adding these 76 units may end up requiring adding more capacity to the existing WWTP beyond that onsite RIB, and that will be very expensive for those currently connected to the system, since it would require gaining control of land elsewhere to put in additional RIBs, and adding the infrastructure to connect to that RIB. Mr. Levine suggested that the applicant was willing to pay for twice the cost of any inflow and infiltration (I&I) work that would be needed to compensate for the load of adding 76 additional units into the sewer system, and suggested that this would be a good approach for any future requests by applicants outside of the Sewer District to connect to the system. Ms. Arsenault questioned what would be the restriction putting the units on the Subsidized Housing Inventory – Mr. Levine noted that they cannot predict the time frame. Ms. Nagireddy asked if we were required to add the 76 units to the sewer district. Mr. Martin explained that we did not: we are only required to add units that are already in the sewer district, in a first-come first-served basis. Ms. Nagireddy commented on her concern about putting pressure on the current capacity of the Waste Water Treatment Plant. In response to a query from Ms. Nagireddy, Mr. Martin suggested that a rough calculation is that the 76 units might represent between one tenth and one fifth of our remaining capacity. Mr. Martin noted that one important benefit of this arrangement is adding units to the SHI, and that we are currently just under the 10% threshold that the state uses to regulate the level of control we have over 40B projects. Mr. Charter noted concern about capacity levels, and feels that at a previous meeting the Board approved a private development for a sewer connection with multiple expensive houses, and feels that the Board should approve this arrangement that would help preserve affordability of housing. Mr. Martin noted that the Board can approve a fee in lieu of privilege and net more capacity because of the proposed funding of I&I work.

Alissa Nicol, School Street – came to the meeting concerned about the capacity issue, and glad to learn that the proposed I&I work may resolve the capacity issue, expressed concern about the maintenance of the affordable units, and noted that the sewer rates in Acton are the highest in the state, and thus connecting the property to sewer will make the housing costs go up to the point where they will not be affordable any more. Even more concerned that connection to the sewer will incent the owner to demolish the affordable apartments to create luxury apartments in the future.

Rick Benderson, owner of the apartment complex for the past 35 years commented on working to keep the apartments affordable, and is in jeopardy of having the current septic system failing. If he has to spend the money to update a new system he may have to increase the rent, and does not want to make the units unaffordable. He notes that all but one of his tenants already would qualify for the 60% AMI limits.



Kim Kastens, Pope Road – questioning the location of the property located next to Fort Pond Brook and an AWD wellfield downstream of that, and noted the risk to the public water supply and that connecting to the sewer could help protect the waters of Fort Pond Brook.

Lara Plaskon, Regional Housing Services Office – commented on the requirements for the units to be considered as part of the Town’s SHI, and that to be marketed through DHCD affirmative fair housing marketing standards they would have to be vacant, and appliances with 10 years of life or less would need to be replaced by the owner, and to meet the standards there would have to be eight vacant units.

Terra, West Acton – questioned if the two houses that are along the proposed new sewer line would have to pay a betterment, and if they did want to connect it would need a town meeting vote to extend the district, encourages to keep the units affordable, would like to see it in writing to keep units affordable in perpetuity or provide a right of first refusal, commenting that the town has an obligation to first provide capacity to those who have paid their betterment fee. Mr. Martin explained that there would not be a betterment for those two houses, but that if they wanted to connect they would need to pay a privilege fee, and that no Town Meeting vote would be required.

Mr. Snyder-Grant questioned about the size of the units being under the minimum for DHCD regulations. Mr. Levine explained that he spoke with the DHCD about the size issue, and learned that these are not hard and fast rules, but instead are guidelines to help ensure that developers don’t build overly small units. This case is different because these are existing units, but there is no promise in any case that these units will be accepted by the DHCD. This issue, or other issues, may create problems at the DHCD. Mr. Levine is committed to working with the DHCD and the owner to do what can be done to resolve any issues. Mr. Levine is reasonably confident based on his experience and his conversations with the DHCD that these units will be able to end up on the DHCD. Mr. Snyder-Grant suggested that a better use of staff time might be having town staff help encourage the creation of a package treatment arrangement for other neighboring buildings and houses to connect which could assist with capacity issues. Mr. Levine asserted that any treatment plant would be more expensive than a sewer connection with reduced privilege fees, regardless of how many additional units connected. Mr. Martin agreed that his analysis is the same: that the carrying costs of a package treatment plant would be much higher than ongoing sewer fees.

Ms. Nagireddy questioned if the sewer rates would impact rents, Mr. Levine noted that sewer fees (and package treatment maintenance costs) are paid for by the building owner and not the renters directly; but that if they had to replace the septic system it would end up effecting the rents to cover that increased cost, but waiving the privilege fee would assist in keeping the units affordable.

Mr. Charter feels that the Board could direct the Town Manager to put together a Memorandum of Understanding. Mr. Martin noted that the Board can give the Town Manager general or specific limits and goals, and then let the Town Manager and staff work on negotiating an MOU. Ms. Nagireddy is generally in favor of proceeding



with this plan. She wondered how much impact I&I work could have and is looking forward to staff developing this analysis. Mr. Martin suggested that the Town use a two-to-one standard, where the cost of sufficient I&I to offset the extra usage would be calculated, and then the charge to the applicant would be twice that. Mr. Snyder-Grant commented that the I&I is not the way to go in general because there is a limit to how much can be done with I&I and it is unclear to him that there is even enough I&I capacity to cover the 76 units. In any case, the Town has been funding its own I&I work, and seeing benefit from it, and that's a better way to pay for it than trading off I&I work for adding new users. Mr. Snyder-Grant noted how wonderful it's been that there has been naturally affordable housing there for the last 35 years, but that period may be coming to an end. He noted that the owner could have seen the potential for the septic to fail, and should have been funding a replacement reserve. He is sad that this naturally affordable rental situation may not be able to keep going, but he thinks we should not give up sewer capacity in attempt to preserve the rent structure. Mr. Martin wondered in response what we are saving this capacity for – that the existing owners in the sewer district have had 20 years to hook up, and it seems unlikely to him that most of them will. We have an opportunity to improve the water quality here: why wouldn't we take it? Mr. Snyder-Grant noted that there are a number of places we have discussed using our remaining capacity for, and that keeping us from the extremely high costs of major system expansion seems an important goal. He also expressed his unhappiness with any of the ways forward, and suggested waiting until a subsequent meeting to take a vote, to allow staff and the applicant more time to develop key missing information.

**Mr. Charter moved, seconded by Ms. Nagireddy to ask the Town Manager to produce a Memorandum of Understanding with Parker Street Apartments to allow them to hook into the sewer system with all infrastructure provided by them and a fee in lieu of privilege to cover twice the rate of Inflow and Infiltration (“I&I”) of the expected discharge dependent upon the Department of Housing and Community Development certificate accepting units into the subsidized housing and voted 4-1 (nay – Mr. Snyder-Grant).**

### **New/Special Business**

6. Consider Including an Archaeological Bylaw Article in Town Meeting Warrant  
Presenting the Historical Commission request for an Archeological Bylaw is Bill Dickenson and Bob Ferrara. The proposed bylaw is intended only for large parcels of undisturbed land, and not for current residential existing parcels for minor work for earth removal. The bylaw is triggered when an application intends to disturb greater than 15,000 square feet for high sensitivity areas and greater than one acre in moderate sensitivity areas.

Mr. Snyder-Grant questioned if it passes at Town Meeting when would the bylaw take effect and would it affect projects already in progress, especially the solar project at the WR Grace property. Mr. Dickenson commented that any plans that have not been permitted may be affected if their project falls on the sensitivity scales, but would defer that to the Planning Division.



Mr. Charter questioned what deems land undisturbed if has been previously disturbed due to ground clearings in the past.

Mr. Martin questioned what year time frame would be considered for disturbed land, for post-contact map and what the appeal process would be, Mr. Dickenson and Mr. Ferrara will follow up how the appeal process if it would go through the Massachusetts Historical Commission and will follow-up with questions from the Board.

**Mr. Charter moved, seconded by Ms. Arsenault to add the Archeological Bylaw Article to the warrant and was voted unanimously.**

7. Initial Review of Town Meeting Article List

Mr. Martin previewed the upcoming process, including the plan to vote on recommendations at the upcoming meeting on the 25<sup>th</sup>. Mr. Snyder-Grant inquired when warrant articles would be assigned to Select Board members. Mr. Martin explained that's usually done as articles are voted on.

Mr. Hald gave an overview of the proposed warrant articles for the Town Meeting which will start on May 16 and is anticipated to last two nights, May 16 and May 17. A spreadsheet was reviewed that listed each article. Mr. Martin noted if the Community Preservation Committee does not plan on funding the Woodlawn Chapel rehabilitation, the related Citizens' Petition might be removed by the petitioner. Jo-Ann Berry, Town Moderator, agrees that the division of the articles in to two nights is helpful, and asks for the Board's support in holding to that plan. She will hold a coordination meeting, including the citizens' petitioners, the week before Town Meeting and encourages filming the warrant articles with Acton TV two weeks before Town Meeting. On inquiry from Mr Kadlec, Mr. Hald explained that because there was no standard protocol developed by the Town for sanitizing the clickers, the current plan was to not use the clickers to support people feeling safe at Town Meeting. Mr. Hald noted that this was the plan even though there was no requirement from the state to NOT use clickers. Mr. Kadlec noted the difficulty of getting tellers recently, and recommended the use of clickers to keep the moving along, especially with the large number of citizen petitions and articles that require two-thirds votes. Mr. Charter requested to reconsider the plan to not use electronic voting, as he feels more people are honest in their voting choice under anonymity. On the safety issue, he thinks we should have had a protocol for some time, since even though Covid is unlikely to spread via handling objects, there are other diseases that can. On query from Ms. Arsenault, Mr. Martin explained that Acton TV would film videos for each warrant article, and Mr. Half explained that by agreement with Acton TV, there are three dates in late April and one in early May. Mr. Mangiaratti and Mr. Martin will work on a tentative assignment of articles to Select Board members before the next meeting.

8. Discuss Adding an Electric Vehicle Charger to the North Acton Fire Station, 68 Harris Street and Discuss Rate of Charge



Mr. Mangiaratti announced the installation of an electric vehicle charger and is requesting the rate to be set to be the same as the ones in the municipal lot at \$0.30/KhW hour.

Mr. Charter noted that our plan has been to set rates that cover the operating costs for the Town, and that we do not have an obligation to have rates that are lower than provided elsewhere. In answer to query from Mr. Snyder-Grant, the Town will revisit the rate after Acton Power Choice electricity rates re-set in the Fall and there are fees to be paid to ChargePoint There was a brief discussion of charging by the hour versus charging by kWh.

**Mr. Charter moved, seconded by Ms. Arsenault to approve the charging rate at 30 cents/KhW hour and was voted unanimously.**

9. Board Members to Announce Nominees for the Colonel Francis Faulkner, Sr. Exemplary Volunteer Award and Date of Volunteer Ceremony and Reception

Board Members announced their nominees for the annual Colonel Francis Faulkner, Sr. Exemplary Volunteer Award. Mr. Martin nominated Kyra Wilson Cook, Mr. Charter nominated Charles Kadlec, Mr. Snyder-Grant nominated Xuan Kong, Ms. Arsenault nominated David Honn, and Ms. Nagireddy nominated Leela Ramachandran.

10. Eagle Scout Court of Honor

The Board received a request for a Member to attend three upcoming Eagle Scout Court of Honor ceremonies at NARA Park on three separate dates. Mr. Snyder-Grant will attend the ceremony for Tyler Robb and Sidharth Diwidi on May 15<sup>th</sup>, Mr. Martin will attend the ceremony for Sidharth Krishna on May 22<sup>nd</sup>, and Ms. Arsenault will attend the ceremony on June 12<sup>th</sup>.

11. Discuss Change of Town Meeting and Town Election Dates

The Board discussed changing the Annual Town Meeting date to the first Monday in May, which would be one week before the Boxborough Annual Town Meeting, and moving the Annual Town Election to the Tuesday immediately preceding the first Monday of May. A warrant article is necessary for Town Meeting to vote on the changes. Some discussion about when Town Election would NOT be the last Tuesday in April (which is when the first Monday in May is May 7, and the proceeding Tuesday would be May 1). **Ms. Arsenault moved, seconded by Mr. Snyder-Grant to adopt the language in the article to move the Town Election and Town Meeting by one month and voted unanimously.**

12. Consider Approving Charge for Human Services Committee

Ms. Arsenault outlined the proposed charge for the Human Services Committee stemming from recent discussions including tenant advocacy. Mr. Charter questioned the problem that is arising that requires the proposed committee. Mr. Arsenault would like to consult with several town agencies for the members of the committee for any issue that arises and would be vetted through the Volunteer Coordinating Committee.





Mr. Charter feels having a Committee available to help people connect to the available resources would be helpful.

Charlie Kadlec commented on being concerned that the committees listed as members of the Human Services Committee be sent the proposed charge for their comment, and concerned about adding additional meeting dates and time for the large committee membership to make a quorum.

Mr. Snyder-Grant commented that in the last year the Volunteer Coordinating Committee has had more new committee members appointed than have left committees, and suggested having a tenant included as a committee member to help connect the goal of the charge and the tenant work. Mr. Martin suggested listing within the charge the goals and priorities addressing issues for renters or tenants.

**Ms. Arsenault moved, seconded by Mr. Snyder-Grant to approve the charge establishing a Human Services Committee with the addition of stating that a quorum will be satisfied with the majority of members currently appointed and voted unanimously.**

13. Discuss Plan for Printed Legal Advertisements and Potential Home Rule Petition

Mr. Mangiaratti announced that the Beacon will cease print circulation in May, and the backup publication for Acton is now the Lowell Sun. Massachusetts General Laws require a publication for legal notices in a circulated paper and an online searchable digital posting for the same paper, which the Lowell Sun provides. A challenge is that the Lowell Sun is more expensive. There is also the Boston Globe and the Action Unlimited, but the Action Unlimited does not appear to satisfy all requirements because of the limited searchability of their database, and the Globe is much more expensive. Mr. Mangiaratti announced that he is working with Town Counsel on a Home Rule Petition to allow the Town to advertise exclusively on electronic platforms. Mr. Charter questioned if the Town could have a link on the town website for public hearing notices, Mr. Mangiaratti is looking into that option as well.

**Mr. Charter moved, seconded by Ms. Nagireddy to add an article to the warrant to request a Home Rule Petition to allow us to advertise digitally only and was voted unanimously.**

14. Discuss Wastewater Solutions for Great Road

Mr. Mangiaratti updated the Board regarding the discussion of wastewater solutions for Great Road, especially with the Economic Development Committee. The Board allocated \$100,000 in 2022, and started working on an Request for Qualifications (RFQ). A few years ago, Town Meeting approved a town-wide water study, and \$40,000 was allocated to the Water Resources Advisory Committee (WRAC) to get started on this work. The manager met with WRAC to discuss combining these efforts by modifying the RFQ to include a water study focused on Great Road as an alternate bid item. The WRAC presented this idea to the Board earlier this year, with a favorable disposition from the Board. Since then, there has been active discussion between members of the WRAC and the Town Manager on the details of the RFQ,



and so Mr. Mangiaratti wanted to affirm that the Board was OK with this approach, and is planning to meet with the WRAC later this week to review the final RFQ.

Mr. Snyder-Grant questioned how the RFQ works for the amount of money available and if it is public, Mr. Mangiaratti noted that in the RFQ it can be phrased that funding is available for up to \$100,000 for one project, and up to \$40,000 for the other project.

**Ms. Nagireddy moved, seconded by Ms. Arsenault to support the study with the alternate wastewater in Great Road and water quality issues study, and voted unanimously.**

### **III. Consent Items**

**Ms. Arsenault moved, seconded by Mr. Charter to approve consent items 15-18 inclusive and voted unanimously.**

**Ms. Nagireddy moved, seconded by Mr. Snyder-Grant to adjourn and voted unanimously at 11:15 PM**

### **Documents and Exhibits Used During this Meeting**

- Agenda, April 4, 2022
- Gas Main Petition, National Grid
- Parker Street Housing Unit Chart
- ACHC Letter of Support for 68 Parker Street Sewer Connection
- Archeological Bylaw Presentation
- Draft Archeological Bylaw Warrant Article
- Eagle Scout Court of Honor Email Notification Dated March 17, 2022
- Draft Humans Services Committee Charge
- Meeting Minutes, March 15, 17, and 21, 2022
- Executive Session Minutes, March 17, 2022
- Accept Gift Memo, Planning Division Dated March 24, 2022