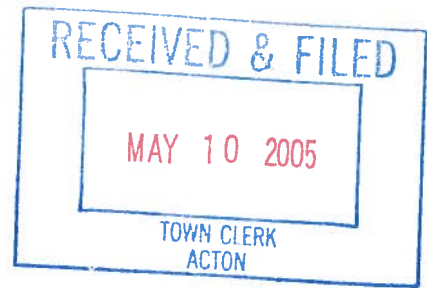


**Selectmen's Minutes
March 28, 2005
7:00 P.M.**



Present: F. Dore' Hunter, Peter Ashton, Robert Johnson, Walter Foster, and Trey Shupert
Town Manager and Assistant Town Manager. Meeting was televised.

CITIZENS' CONCERNS

Mr. Connelly, 57 Hosmer Street – Mr. Connelly was concerned about the landfill and potential reuse. He said that DEP informed him that the landfill is closed properly, and will be ok unless it is redeveloped. He asked that the Town not include the related articles on the June 13th Special Town Meeting Warrant.

Tom Michleman, Friends of Bruce Freeman Rail trail – He noted that CPA approved their request for funds and that it is on the warrant. He wanted to have the Trail members directly contact EOTC to move this project along.

SEWER COMMISSIONERS' BUSINESS

SEWER UPDATE REPORT – Steve Barrett's memo updated the Board on several issues. It was noted that we are right in line with projections.

OPERATIONAL MINUTE – The Town Manager will give the Board a brief update on the computer problems. The Dam on Old High Street almost failed over a year ago. The owner is still trying to repair it. Don was concerned and said that it will be monitored.

MAKAHA RESTAURANT LIQUOR VIOLATION FOLLOW-UP MEETING- Atty. Fenniman outlined the contract he has had his client enter into with a monitoring company. The Police Chief feels that this is a good start. Peter said that he was willing to stay the suspension and that the Selectmen accept the agreement. **TREY SHUPERT** – Moved to accept the agreement after Town counsel has reviewed it. **PETER ASHTON** – second. **UNANIMOUS VOTE.**

ACTON JAZZ CAFÉ LIQUOR VIOLATION – Gwenn Vivian, owner and manager was present and brought Shawn, her head bartender who was not at the Café at the time of the incident.

Fred Rentschler noted that the patron from the Café had been charged with 4 prior convictions dating back to 1984. This offense will carry a minimum 2 year sentence to the House of Correction. The police officers on duty that night in their reports indicated the operator was not moving or coming to when they were trying to wake him. The officer finds the operator could not wake up. Once he partially let the window down, a strong odor of alcoholic beverages came from the vehicle. He failed the field sobriety tests. He failed all tests and was taken into custody and Charged with OUI.

The patron was a regular for a couple of months for 3 nights a week. Gwenn hired a new manager and asked him to follow all rules. Unfortunately he did not and she suspects he over served more than that one time. She has let him go and has hired her ex-husband to be the Thursday night Bartender.

Walter expressed his disappointment with them. Peter asked her several questions. He asked if the Bartender is responsible when she is not there. She replied yes.

Dore' felt that a suspension had to be made as this was a very serious situation. Dore' said that the violation should be a three day suspension, and that the suspension will include a Thursday, Friday and Saturday. PETER ASHTON – Moved for 3 day suspension to cover a Thursday, Friday and Saturday. TREY SHUPERT – second. 4-1 BOB JOHNSON, No

MARC DRAISEN, DIRECTOR OF THE METROPOLITAN AREA PLANNING COUNCIL

(MAPC) - Dore' outlined the situation regarding the CPA Fund. Dore' noted that he received a letter from Hopkinton, and asked if MAPC's position had been run through the Executive Board.

Mr. Draisen outlined the MAPC duties and organization. He said that the situation began when some members expressed interest in the surplus fund. It was suggested that we look into the ways to use the surplus funds from CPA. They discussed a few clear ground rules. Regardless of what was taken from the CPA Trust fund they would have to make a local contribution and any monies made available should be used for the three purposes CPA is supposed to fund, according to the rules. They do have a concern about low to moderate communities to address. They have not yet decided what they will do and expect it will be after the first of next year before they can make that decision.

Dore' asked about the relationship of State Aid to moderate income communities and that they may already be receiving a higher amount of State Aid.

Walter Foster noted he sits on the CPA Committee as the Board's representative. They feel it is quite a successful program and they do have a number of concerns. Walter noted that we have put the money up and do we feel that affordable housing, Open Space and Recreation are worth a 1.5% surcharge, the Town said yes.

Trey Shupert thinks that CPA is far reaching and felt communities voted to tax them selves and then the State would reimburse with matching funds. The Law works and Acton will benefit from this. He would like to see more outreach to communities. He noted that Acton is not a wealthy community, but we get less State Aid.

Peter asked about the surplus notion that people are talking about. Mr. Draisen said that Legislative initiatives are about 5 to 10% of their purpose. Peter said that MAPC take no position.

Bob spoke about Hotel and Motel tax and it is a different tax from CPA.

Peter Berry was glad that they were not planning any legislation. Peter asked about the Study Committee and if we would be able to participate. Mr. Draisen said that no one will be excluded.

Tom Michleman – He felt that we should not be supporting the MAPC. He asked if there were another planning organization we could join.

Terra Freidrichs spoke about low and moderate housing and noted that just because the tenants may be moderate income, their landlord's are not and could afford the CPA Tax.

Sue Kennedy asked about the CPA participation in other communities.

Lauren Rosenzweig spoke about the surplus funds. She asked if he thought that surplus funds should be rolled over. Mr. Draisen agrees.

Jim Salem, He worked for the CPA being passed in Acton. He noted it is a trust fund and it will be there and wanted us to stick with it as we have for the last five years.

Ann Forbes spoke about several issues with regard to study committees.

Bill Mullin felt that just by them investigating this will cause a dissolution of this fund. The impact will be on us and freezing our ability to do business.

Mark Wilson from Brookline spoke about a Town like Westford passing on 3% surcharge and they are looking to pay down a 15 year loan with this money. The study might feel it is a bait and switch.

LOCAL INITIATIVE PROGRAM LIP- WESTCHESTER COMPANY, 139 PROSPECT STREET-

Mr. Marsh and his Engineer were present to brief the Board regarding his plans for filing a LIP proposal at 139 Prospect Street.

Nancy Tavernier said that the ACHC had met with them several weeks ago. She said they encourage the use of the Lip Project. She is pleased that some of the concerns that ACHC have been made, and was glad they were choosing the friendly 40 B. She noted that they are on a fast track and will continue to work with them.

Dore' asked about their time frame, they felt six to eight weeks. They have to work out things with Conservation as they require some variances. It is in the Affordable Housing District and they have resolved many of the issues already.

BOSTON EDISON/NSTAR, POLE LOCATIONS HEARING, ELM STREET - Dore' asked that we look into the issue of abandoned poles after Town Meeting. Call Boston Edison and we will re-hear on April 25, at 7:45 p.m.

SELECTMEN'S BUSINESS

TOWN MEETING/BUDGET/WARRANT DISCUSSION – Peter asked if the Moderator was having his pre-meeting meeting. Mr. MacKenzie will be contacting Mr. Hunter.

DEPARTMENTAL FEE REVIEWS – Don outlined how staff applied fees to this review. They are looking at several ways to develop these reviews. PETER ASHTON - Moved to approve the proposed fee schedule in Doug Halley's Memo. TREY SHUPERT – Second. UNANIMOUS VOTE

SOUTH ACTON COMMUTER RAIL TASK FORCE – Dore' spoke about a short term Committee of six months six meetings. Transportation Advisory Committee (TAC) and Planning will be looking at this UNANIMOUS VOTE

WOODLANDS AT LAUREL HILL – Chairman Hunter discussed questions that have arisen with respect to a second access through the Town Forrest. Every one agreed that they do not want to give a right of way through the Town Forest.

LANDFILL DEVELOPMENT – Peter felt we need to have handouts at Town Meeting. Bob will speak briefly. Abutters will come to the meeting. The committee is trying to make a decision on

the two options for trash. There will be a meeting on April 28 to discuss this further. The field house for the meeting about Home Depot will need to be arranged.

Dore'; asked if they felt a Saturday budget Meeting would be required.

John Chalmers of 16 Piper Road, speaking as a citizen briefed the Board on the development agreement with the State and the Town. It was not a written document. Staff will research this and report to the Board. It was noted that the focus is on trash and what to do with the Landfill.

Mr. Connelly of Hosmer Street asked the Board about the conversation he had with DEP and their contention that the Landfill was properly capped and closed. The Board asked that he produce a letter from the people at DEP who gave him this information.

Rich Coleman of 44 Hosmer Street spoke about using funds to cap the landfill for Open Space. Walter said we could not use the funds for this purpose.

Mary Michelman suggested the pay as you throw option.

W.R. GRACE OMNIBUS MEDIATION – The Board needs two selectmen to attend the Mediation. Dore' and Walter will attend.

FRANKLIN PLACE MARKETING AND OUTREACH PLAN – PETER AHSTON – Moved to approve the plan. BOB JOHNSON – second. UNANIMOUS VOTE

OTHER BUSINESS

Dore' briefed the Board on his meeting at Devens with regard to MBTA issues.

Peter asked about the surplus land along Route 2 near Haartz Auto Fabric and Charter Road. Don felt we should get the land for Open Space. The Town Manager will call the State about the acquiring of this parcel.

Walter spoke about Trey's leaving the Board and commended him on his service to the community.

CONSENT AGENDA

Trey noted he cannot vote on the Site Plan as he was not present at all the meetings, so he Abstains. WALTER FOSTER – Moved to approve the Consent Calendar. BOB JOHNSON – second, motions passes with 1 Abstention.

TOWN MANAGER'S REPORT


HIGH STREET SEWER CAPACITY – Don noted that we have a verbal from DEP which gives us 49,000 capacity.

PRE-TOWN MEETING – The Chairman asked that the meeting be posted for 6:30 pm.

EXECUTIVE SESSION

None Required


Christine Joyce


Clerk, Board of Selectmen


Date

March 25, 2005

TO: Board of Selectmen, Sewer Commissioners
FROM: F. Dore' Hunter, Chairman
SUBJECT: Selectmen and Sewer Commissioners' Report

MARCH 28, 2005
7:00 P.M.

I CITIZENS' CONCERNS

II SEWER COMMISSIONERS' BUSINESS

1. **SEWER UPDATE REPORT** – The Town Manager will update the Commissioners on the status of several aspects of the Sewer Project.

III PUBLIC HEARINGS & APPOINTMENTS

2. **7:01 OPERATIONAL MINUTE** – The Town Manager will give the Board a brief update on various topics.
3. **7:10 MAKAHA RESTAURANT LIQUOR VIOLATION FOLLOW-UP MEETING-**
Management of the Makaha, and their Attorney, will be in to discuss actions implemented to resolve the continued violations.
4. **7:20 ACTON JAZZ CAFÉ LIQUOR VIOLATION** – Enclosed please find materials in the subject regard, for Board consideration.
5. **7:45 MARC DRAISEN, DIRECTOR OF THE METROPOLITAN AREA PLANNING COUNCIL (MAPC)** – The Board will discuss issues concerning MAPC's position with respect to Community Preservation Act Funds.
6. **8:15 LOCAL INITIATIVE PROGRAM LIP- WESTCHESTER COMPANY, 139 PROSPECT STREET-** Mr. Marsh will be present to brief the Board regarding his plans for filing a 40B/ LIP proposal at 139 Prospect Street.
7. **8:30 BOSTON EDISON/NSTAR, POLE LOCATIONS HEARING, ELM STREET** – Enclosed please find materials in the subject regard, for Board consideration.

IV SELECTMEN'S BUSINESS

8. **TOWN MEETING/BUDGET/WARRANT DISCUSSION**
9. **DEPARTMENTAL FEE REVIEWS** – Enclosed please find materials in the subject regard, for Board consideration
10. **SOUTH ACTON COMMUTER RAIL TASK FORCE** – Enclosed please find materials in the subject regard, for Board consideration.

11. **WOODLANDS AT LAUREL HILL** – Chairman Hunter will discuss questions that have arisen with respect to a second access through the Town Forrest.
12. **LANDFILL DEVELOPMENT** – Enclosed please find materials in the subject regard, for Board consideration.
13. **W.R. GRACE OMNIBUS MEDIATION** – Enclosed please find Confidential materials in the subject regard.
14. **FRANKLIN PLACE MARKETING AND OUTREACH PLAN** – Enclosed please find materials in the subject regard, including a draft approval letter, for Board consideration.
15. **OTHER BUSINESS**

V CONSENT AGENDA

16. **SITE PLAN SPECIAL PERMIT #12/23/04-400, 864 MAIN STREET, LLC, 864 MAIN STREET** – Enclosed please find a draft decision, for Board consideration.
17. **ACCEPT DONATION** – Enclosed please find a request from the Recreation Director for acceptance of items for the Recreation Department's Family Fitness Project from One Stop Fun in Westford:
 - 1 Hockey Training Certificate valued at \$60.00
 - 1 Free admission certificate valued at \$25.00

18. **ACCEPT DONATION** – Enclosed please find a Thank You note from Mrs. John Forrest transmitting a gift of \$25.00 for use by the Emergency Management Department, for Board consideration.

VI TOWN MANAGER'S REPORT

VII 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.

April 4

GOALS 2004-2005

1. Produce Morrison Farm Development Master Plan (Bob/Walter)
2. Improving Inter Board Communication (Dore')

GOALS carried forward

3. Monitor Labor Negotiations (Peter/Trey)
4. Improve Communication with Town Boards (ALL)

5. Revisit 2020 planning process for direction to make this process more beneficial towards implementation of long-term vision, and to get a first rough cut of what happens next year before school is out for the summer (Trey/Peter)
6. ALG process be used for purpose of Budget Planning for FY05 (Dore'/Peter)
7. Process Planning for "Life after NESWC" (Bob)
8. Joint IT process-organizational change (Walter/Dore')
9. Middlesex Pension Alternatives (Walter/Trey)