

Final

**BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING
September 26, 2011**

**Acton Town Hall
Francis Faulkner Hearing Room
7:00 P.M.**

Present: Mr. Gowing, Ms. Harting-Barrat, Ms. Adachi, Mr. Sonner and Mr. Clough, Town Manager Steven Ledoux, Recording Secretary Christine Joyce. The meeting was televised.

CITIZENS' CONCERNS

None

CHAIRMAN'S UPDATE

Mr. Gowing reported that National Grid representatives have evaluated the gas leaks around town and presented the Board with a list of the leaks by rank and the proposed remediation: Grade 1 leaks require immediate repair, Grade 2 leaks repair within 18 months, and Grade 3 leaks monitoring. The Board discussed the leak reports at three locations. The Ethan Allen Drive leak has been repaired. Ms. Harting-Barrat – Moved to grant permission to National Grid pursuant to a previous request to install a gas line from Robbins Street to Beacon Court. Mr. Sonner – second. UNANIMOUS VOTE

Mr. Gowing mentioned the groundbreaking ceremony for the Old Towne School and looks forward to its completion. The League of Women Voters held a meeting about the proposed Congressional redistricting.

OPERATIONAL MINUTE

Mr. Ledoux reported on an e-mail tonight from Stephanie Banos, Esq. of Town Counsel's office regarding 6 Piper Road. The Massachusetts Historical Commission finally located the file and has concluded that the property is eligible for a historic preservation restriction. Mr. Ledoux also reported on the International City Management Association conference he attended last week in Milwaukee, where discussions included value-added management, employee benefits, skillsets in the "new normal" and millennial employees. .

R E C E I V E D
NOV - 8

Board of Selectmen Minutes
September 26, 2011

TOWN CLERK, ACTON

Final

PUBLIC HEARINGS & APPOINTMENTS

CLASS 1 CAR DEALER'S LICENSE, 60 POWDER MILL ROAD, ACTON FORD FLEET LEASE, INC.

Mr. Leo Bertolami appeared on behalf of his request for a dealer's license. Acton Ford Fleet Lease would operate on the second floor. The site would remain unchanged as to number of parking spaces, etc.

Ms. Adachi noted that the plan with the application did not include a date, but appeared to show the site as it was in 2010 when Mr. Bertolami requested modifications to the Special Permit. Mr. Bertolami said the plan depicted the current parking spaces. She asked whether the current Quick Lane business was related to the Fleet Lease business; Mr. Bertolami said Quick Lane is a subsidiary.

The Board discussed the history of Special Permit decisions respecting the site. Ms. Adachi - Move to Issue the Class 1 car Dealer's License which will permit up to 31 cars subject to Planning Director's confirming the spaces on the plan presented are accurate. Ms. Harting-Barrat - second. UNANIMOUS VOTE

MASS AVE. CROSSING - PROPOSED CURB LINE CHANGE

The MBTA presented a revised design for the proposed Mass. Avenue train crossing in West Acton. At the Selectmen's 6/20 meeting, the Board and residents criticized the original proposal for a cantilever design. On 9/9, the MBTA met with Town staff in the field and at Town Hall to discuss an alternative proposal for a flasher on opposite sides of the track, which would require kicking the curb out 6' to provide visibility to drivers at 400 feet. The new DPU Inspector has "second train coming" concerns that if the gates stay down for an approaching second train, motorists may be tempted to go around the gates. So the MBTA is recommending the addition of a median barrier in the street. The median will not block turns into the pharmacy lot or onto Windsor Avenue.

Ms. Harting-Barrat asked how the proposed configuration differs from others, and about outreach to businesses. She suggested that there be educational meetings to let people know about the double track; the MBTA will provide updates.

Mr. Sonner asked about the granite curbing and the quiet zone.

In response to questions from Ms. Adachi, the MBTA said that the trains travel at 79 mph and do not slow down at intersections where there is no stop; and if the arms are able to be placed where they propose, the pizza parlor will lose 1-2 spaces and the beauty parlor 1 space. Town Engineer Corey York noted a parking area in front of the pharmacy, though it might not be legal. Mr. Clough - Moved to Accept Mass Ave Crossing Curb Line Changes. Mr. Sonner - second UNANIMOUS VOTE

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SELECTMEN'S BUSINESS

PRIVATE WAY PLOWING FEE RECOMMENDATION

Town Engineer Corey York spoke about the costs and fees to plough private ways. Private roads must meet certain criteria in order for the Town to agree to plow. The Town currently has two agreements, in effect since 2005, to plow two small streets.

Ms. Harting-Barrat – Moved to approve the Plowing Fee Recommendation. Mr. Sonner – second. UNANIMOUS VOTE

DRAINAGE EASEMENT, 689-705 MAIN STREET

Mr. Sonner – Moved to accept the Drainage Easement as presented. Ms. Adachi – second. UNANIMOUS VOTE

DISCUSSION, ALL BOARDS CHAIRMEN'S MEETINGS

Ms. Adachi would like to have the meetings open to whoever wants to attend. She had shared her concern with Mr. Gowing about the July meeting, which was not posted and had no minutes, and which other Selectmen, other than Mr. Clough, were not allowed to attend. Mr. Sonner expressed similar concerns at the last Board meeting.

Ms. Harting-Barrat noted that in the past other boards had come before the Board. She did not see why Board members could not attend the all-chairmen meeting.

Mr. Sonner felt that the all-chairmen meeting was efficient way to enable other boards to meet and talk, but he also felt that the meeting should be posted under the Open Meeting Law.

Mr. Clough said that the all-chairmen meeting was helpful to committee chairs in enabling interaction. He felt all Board members should all be able to attend.

Town Counsel Stephen Anderson presented three options:

- 1) Status quo – chairmen meet, not a formal committee, no posting, no minutes. It still could raise OML issues. And the downside was the discomfort of excluding Board members.
- 2) Selectmen host meeting – other board chairmen attend, BOS posting and BOS minutes; other boards could post, as well, to address possible OML issues.
- 3) Subcommittee of board chairmen – with posting and minutes. One issue, however, is if a board chairman cannot attend, may an alternate attend?

Mr. Sonner asked about having a substitute represent a board chairman. Mr. Anderson said it was possible but the substitute could only communicate the message of the chairman.

Ms. Adachi found the third option appealing. She does not want it to be all about the BOS and liked the idea of an alternate, acting as an associate member. She is open to Options 2 and 3.

Ms. Harting-Barrat agreed not to support Option 1.

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Mr. Clough felt the meeting could be casual and posted as a Board of Selectmen meeting with its being less formal.

Mr. Gowing said the Selectmen could host under Option 2. Under Option 3, the subcommittee, he felt only specific participants should be permitted, and there might be problems if a committee chairman could not attend.

Ms. Adachi addressed an advantage of Option 2. Each Selectman is liaison to a number of other boards, so we have information as liaisons that we could share. She added that Option 2 should allow only one person to speak for a board.

The Board discussed whether the meeting should be BOS-hosted or a new subcommittee. Mr. Anderson suggested that committee chairmen provide input as to which option they preferred. Mr. Gowing agreed to send a notice to the board chairmen asking which option they prefer.

Ms. Harting-Barrat – Moved to host the meeting in November with only chairmen attending and have committee chairmen decide under which option to move forward. Ms. Adachi – second.
UNANIMOUS VOTE

**MUNICIPAL HEALTH INSURANCE REFORM ACT SECTION 19 AND 23 DISCLOSURES
MR. LEDOUX, MR. MURRAY, MS. FLECKNER AND MR. GOWING**

Mr. Ledoux updated the status of the report by Segal Consultants due out next week. We have to resort to the Rule of Necessity under Chapter 64, Section 19, as Ms. Adachi is the only member without a conflict of interest.

Mr. Anderson provided background on the need for the Rule and the proposed procedure. Mr. Gowing is in the employees' health plan, Ms. Harting-Barrat is in the dental plan, Mr. Sonner's wife is an officer in the school employees union, though not in the health plan, and Mr. Clough's wife is an employee of the Acton-Boxborough District, which together with the Town composes the Health Insurance Trust. The four with conflicts must recuse themselves, but the Selectmen also are obligated to make a timely decision as to whether the Town should switch to the state health insurance plan, and Ms. Adachi lacks authority under the Town Charter to act alone. The Board must decide whether to recuse and, if so, whether to invoke the Rule of Necessity. After that, the Board needs to address the conflicts disclosures of Mr. Ledoux, Assistant Town Manager/Treasurer John Murray, and Human Resources Manager Marianne Fleckner. Before the invoking of the Rule, Mr. Gowing and Mr. Sonner must stand down. The remaining three Selectmen must decide whether to invoke the Rule, with the non-recused member running the meeting, and the motion and second to be by the two recused members.

Mr. Gowing and Mr. Sonner recused themselves and left the room, with Mr. Gowing turning over the chairing to Ms. Harting-Barrat as Vice Chair; Ms. Harting-Barrat and Mr. Clough recused themselves but remained in the room, with Ms. Harting-Barrat handing over the chairing to Ms. Adachi.

Ms. Adachi read the Motion to invoke the Rule of Necessity. Ms. Harting-Barrat - Moved, Mr. Clough – second, all Ayes. Ms. Adachi recorded the vote and signed the Motion with guidance from Mr. Anderson. Ms. Adachi also signed Mr. Ledoux's disclosure.

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SELECTMEN'S REPORTS

Mr. Sonner reported on Sidewalk Committee and noted that in 2011 we built no sidewalks. Acton 2020 has started the next round of meetings, looking at next level of detail of the Master Plan. They have several meetings upcoming in October. Mr. Sonner attended the Open Meeting Law training and thought it was excellent and well done.

Mr. Clough noted his attendance at two Acton 2020 meetings, including one focusing on Kelley's Corner businesses. The first of three informational meetings in West Acton about the sign bylaw was today; the second will be tomorrow at West Acton Village Ecology and the final one on Friday at Theatre III. The Historical Commission had a discussion about buildings in Town that it would like to protect. The Finance Committee continues to work on "white papers."

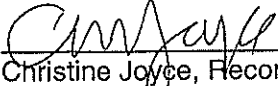
Ms. Harting-Barrat reported that the Planning Board meeting was cancelled and that she attended the Board of Assessors meeting and noted the availability of tax abatement, of which residents may be unaware. She viewed the televised School Committee meeting discussion of possible K-6 regionalization with Boxborough; she has heard from Boxborough residents who are enthusiastic about regionalization. She still is concerned that no Selectmen are on the regionalization review committee.

Ms. Adachi reported that Acton Community Housing Corporation was reviewing a Chapter 40B proposal at 263-265 Great Road, and will hold a public information session on 10/6, 6:30, Room 126. The proposal is for 26 small homes, including two existing houses, and one duplex. She attended the Conservation Commission site walk of the Great Road property on 9/16. The Community Preservation Committee held its public information meeting on 9/22, heard a number of potential proposals from Kathy Acerbo-Bachmann of the Historical District Commission, and elected a new chairman. She met with Planning Director Roland Bartl and Natural Resources Director Tom Tidman to discuss the proposed Route 2 crossing for the Bruce Freeman Rail Trail; Concord representatives are focused on one configuration. The Water Resources Advisory Committee continues to chip away at the draft bylaw. She plans to attend the upcoming Acton 2020 forum about affordable housing on 9/28.

Mr. Gowing reported that the Cable Advisory Board met with Verizon, whose contract is up 10/3 and which was supposed to provide coverage to all of Acton within 5 years; that will be completed by the end of October except for some multi-family residences. He attended the RTAC meeting in Boston; the Assabet River and Bruce Freeman rail trail projects still are on the Transportation Improvement Project list. The Council on Aging Building Committee has met and visited several senior centers in other towns; the West Acton Village Ecology principals, the Rosenfelds, have offered space for the new COA at WAVE and will return to the Building Committee later with a redesign.

CONSENT

Mr. Gowing withdrew Item 12, which was listed in error. Ms. Adachi – Moved to approve the Consent Calendar. Ms. Harting-Barrat- second. UNANIMOUS VOTE


Christine Joyce, Recording Secretary


Janet K. Adachi, Clerk

Date: 7 November 2011

BOARD OF SELECTMEN & SEWER COMMISSIONERS'
MEETING AGENDA

Francis Faulkner Hearing Room
September 26, 2011
7:00 PM

I. CITIZENS' CONCERNS

II. PUBLIC HEARINGS AND APPOINTMENTS

1. **7:05 CHAIRMAN'S UPDATE**
The Chair will briefly update the Board
2. **7:10 OPERATIONAL MINUTE**
The Town Manager will provide a brief report
3. **7:25 CLASS I CAR DEALER'S LICENSE, 60 POWDER MILL ROAD,
ACTON FORD FLEET LEASE, INC.**
Enclosed please find materials in the subject regard
4. **7:35 MASS AVE. CROSSING – PROPOSED CURB LINE CHANGE**
Enclosed please find materials in the subject regard

III. SELECTMEN'S BUSINESS

5. **PRIVATE WAY PLOWING FEE RECOMMENDATION**
Enclosed please find materials in the subject regard
6. **DRAINAGE EASEMENT – 689-705 MAIN STREET**
Enclosed please find materials in the subject regard
7. **DISCUSSION, ALL BOARDS CHAIRMEN'S MEETINGS**
Enclosed please find materials in the subject regard
8. **MUNICIPAL HEALTH INSURANCE REFORM ACT SECTION 19 AND 23
DISCLOSURES, MR. LEDOUX AND MR. MURRAY, MR. GOWING, MS.
FLECKNER**
Enclosed please find materials in the subject regard
9. **SELECTMEN'S REPORTS**

IV. CONSENT AGENDA

**10. ACCEPT MINUTES, BOARD OF SELECTMEN, AUGUST 8, 2011
REGULAR AND CONFIDENTIAL**

Enclosed please find materials in the subject regard

**11. ACTON WOMEN'S CLUB BUILDING, 504 MAIN STREET,
PRESERVATION RESTRICTION, BOARD SIGNATURE REQUIRED
UNDER CPC FUNDING**

Enclosed please find materials in the subject regard

12. ACCEPT GIFT, RECREATION DEPARTMENT

Enclosed please find a gift of \$500.00 from Hybrid Farm, to be used to support Recreation programs

**13. COMMITTEE APPOINTMENT, JOHN COVERT, CABLE ADVISORY
BOARD, ASSOCIATE MEMBER, TERM EXPIRES 6/30/12.**

Enclosed please find materials in the subject regard

14. ONE DAY LIQUOR LICENSE- IRON WORK FARM

Enclosed please find materials in the subject regard

V. 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

OCTOBER 3

OCTOBER 17

Will be asking for a Continuance to 12/19/11
Site Plan #7/6/11-433
60 Powder Mill Road

Veteran's Memorial

nationalgrid – Beacon Court

MINUTES PENDING VOTES

January 8, 2011 and September 12

PENDING COMMITTEE APPOINTMENTS

NONE

Motion Regarding Rule of Necessity
Section 19 Determinations - Municipal Health Insurance Matters

Board of Selectmen's Meeting
September 26, 2011

Whereas the Town Manager (in his official capacity), the Town Treasurer (in three capacities), and the Chairman of the Board of Selectmen (in his capacity as an appointed member of the Board of the Health Insurance Trust) have submitted disclosure forms to the Acton Board of Selectmen (the "Board") under General Laws Chapter 268A, Section 19 requesting the Selectmen's written determination that their respective interest in Town health insurance benefits is not so substantial as to be deemed likely to affect the integrity of the services which the Town may expect from these employees in their respective appointed positions in the event the Town elects to engage in the process to change health insurance benefits under Chapter 69 of the Acts of 2011, M.G.L. c. 32B, §§ 21-23 (the "Section 19 Requests").

Whereas the Board is the appointing authority for the positions of Town Manager and for the Town-appointed members of the Health Insurance Trust Board; and whereas the appointment of the Town Treasurer and the Temporary Town Manager are also subject to the Board's approval.

Whereas the Board is legally required to act on the Section 19 Requests in a timely manner and no other board or legal authority has the power to act in place of the Board on the Section 19 Requests.

Whereas two Board members currently have health (Mr. Gowing) or dental (Ms. Harting-Barrat) insurance coverage through the Town; a third Board member (Mr. Sonner) has a spouse who is employed by the Town as a teacher in the Acton public schools and who is a member of the teachers' union; and a fourth member of the Board (Mr. Clough) currently has health insurance coverage through the Acton-Boxborough Regional School District through his District-employed spouse, and the Town and the District are participating governmental units on health insurance matters under a Health Insurance Trust Agreement.

Whereas, to the extent that up to four of the Board's members have actual or potential conflicts and are disqualified from participation in the particular matter concerning Chapter 69, the Board lacks a quorum to act in a timely manner on the Section 19 Requests, and the lack of a quorum is solely due to members being disqualified by conflicts as set forth above.

Whereas, in these circumstances, Town Counsel has advised that the Board invoke the Rule of Necessity to act on the Section 19 Requests.

NOW THEREFORE, Pamela Harting-Barrat moves that the Acton Board of Selectmen invoke the Rule of Necessity to allow Board members, who would otherwise be disqualified, to make the determination on the Section 19 Requests; and further moves that the Board's minutes shall reflect that the Board would otherwise lack a quorum to make a determination on the Section 19 Requests because of such disqualifications and that the Rule of necessity is being used to allow the Board to take a valid vote.

So Moved by Selectman Harting-Barrat
 Seconded by Selectman Clough
 Record of Vote:

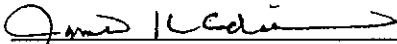
Selectman	Yes	No	Abstaining	Taking No Part
Mike Gowing				√
Janet K. Adachi	√			
Pamela A. Harting-Barrat	√			
John Sonner				√
David Clough	√			

Having invoked the Rule of Necessity, Pamela Harting-Barrat moves that the Acton Board of Selectmen determine that the financial interest set forth in the Section 19 Requests submitted by the Town Manager (in his official capacity), the Town Treasurer (in three capacities) and the Chairman of the Board of Selectmen (in his capacity as an appointed member of the Board of the Health Insurance Trust) with respect to their respective interest in Town health insurance benefits or otherwise is not so substantial as to be deemed likely to affect the integrity of the services which the Town may expect from these employees in their respective appointed positions in the event the Town elects to engage in the process to change health insurance benefits under Chapter 69 of the Acts of 2011, M.G.L. c. 32B, §§ 21-23.

So Moved by Selectman Harting-Barrat
 Seconded by Selectman Clough
 Record of Vote:

Selectman	Yes	No	Abstaining	Taking No Part
Mike Gowing				√
Janet K. Adachi	√			
Pamela A. Harting-Barrat	√			
John Sonner				√
David Clough	√			

The foregoing is an accurate record of the proceedings of the Acton Board of Selectmen on September 26, 2011.

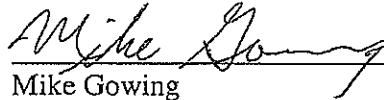

 Janet Adachi, Clerk and Non-Recused Member

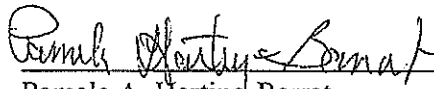
RECORD OF VOTE OF THE ACTON BOARD OF SELECTMEN

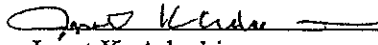
Sept 26, 2011


At a duly called public meeting of the Acton Board of Selectmen on 9/26, 2011, the Board voted unanimously to acquire by gift and to accept the grant of drainage easements for drainage and drainage-related purposes from Devashish S. Chintamani and Nirupama V. Chintamani f/k/a Nirupama V. Padalikal and Cheekiong NG and Sokchin Chong, over Lot 13 and Lot 17 (said lots are numbered 689 and 705 Main Street and are shown on a plan entitled "Plan of Land in Acton, Massachusetts (Middlesex County) Being a Subdivision of Lot 12 as shown on L.C. Plan 10385E, Scale: 1"=40'" dated March 12, 1998, prepared by Stamski and McNary, Inc., which plan is filed as Land Court Plan Number 10385F in the Land Registration Office in Boston), to execute the Grant of Drainage Easements for such purposes that was delivered to the Board in conjunction with the Board's public meeting for approval, and further to authorize the Town Manager to take any actions or to execute any documents that are necessary, in the Town Manager's discretion, to complete the acquisition of easements referenced herein.

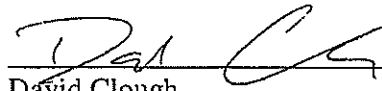
TOWN OF ACTON
By its Board of Selectmen


Mike Gowing


Pamela A. Harting-Barrat


Janet K. Adachi


John Sonner

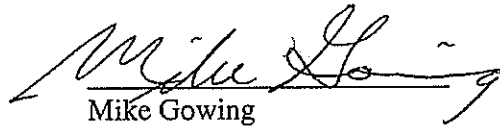

David Clough

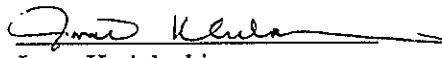
9/26, 2011

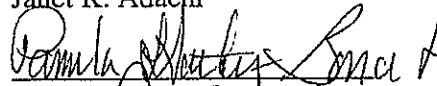
RECORD OF VOTE OF THE ACTON BOARD OF SELECTMEN
September 26, 2011

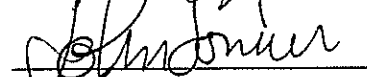
At a duly called public meeting of the Acton Board of Selectmen on September 26, 2011, the Board voted unanimously to accept the grant of a preservation restriction (the "Preservation Restriction") from the Acton Woman's Club, Inc. ("AWC") with respect to the premises at 504 Main Street, Acton, Massachusetts, in connection with the Town's appropriation of a grant to AWC under the Community Preservation Act for the restoration of historic elements within and related to the building located on said premises, to execute the Preservation Restriction for such purpose that it was delivered to the Board in conjunction with the Board's public meeting for approval, and to authorize the Town Manager to take any actions and to execute and deliver any documents that are necessary, in the Town Manager's and Town Counsel's discretion, to complete the acceptance of the Preservation Restriction with whatever modifications, deletions or changes to the Preservation Restriction or any other documents executed in connection therewith that Town Manager deems necessary or advisable.

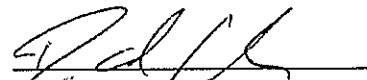
TOWN OF ACTON
By its Board of Selectmen


Mike Gowling


Janet K. Adachi


Pamela Harting-Barrat




John Sonner


David Clough





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










































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Agenda

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













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<input type="checkbox"/>	Type	Title	Owner	Edited	Size	Actions
<input type="checkbox"/>		<u>010 Agenda, Board of Selectmen, September 26, 2011</u> Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	09/22/11	80 KB	    ▼
<input type="checkbox"/>		<u>020 (3) Class I Car Dealer's License, 60 Powder Mill Road, Acton Ford Fleet Lease, Inc.</u> Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	09/22/11	2 MB	    ▼
<input type="checkbox"/>		<u>030 (4) Mass Ave. Crossing - Proposed Curb Line Change</u> Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	09/22/11	286 KB	    ▼
<input type="checkbox"/>		<u>040 (5) Private Way Plowing Fee Recommendation for 2012 Season</u> Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	09/22/11	472 KB	    ▼
<input type="checkbox"/>		<u>050 (6) Drainage Easement - 689 & 705 Main Street</u> Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	09/22/11	72 KB	    ▼
<input type="checkbox"/>		<u>060 (7) Discussion, All Board Chairmen's Meetings</u> Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	09/22/11	56 KB	    ▼
<input type="checkbox"/>		<u>070 (9) Accept Minutes, Board of Selectmen, August 8, Regular and Executive Session</u> Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	09/22/11	401 KB	    ▼
<input type="checkbox"/>		<u>080 (10) Acton Women's Club Building, 504 Main Street Preservation Restriction, CPC (Large Document)</u> Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	09/22/11	4 MB	    ▼
<input type="checkbox"/>		<u>090 (11) Disclosure Statement, Municipal Health Insurance Reform</u>	admin	09/22/11	633 KB	    ▼

Act, Sec. 19 & 23

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-  **110 (12) Accept Gift, Recreation Dept.** admin 09/22/11 143 KB     ▼
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-  **120 (13) Committee Appointment, John Covert, Associate Member of the Cable TV Advisory Committee** admin 09/22/11 24 KB     ▼
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-  **130 (14) One Day Liquor License, Iron Work Farm** admin 09/22/11 72 KB     ▼
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