

**BOARD OF SELECTMEN & SEWER COMMISSIONERS'**  
**MEETING MINUTES**

*Francis Faulkner Hearing Room*  
*OCTOBER 5, 2009, 7:00 PM*

Present: Chairman Knibbe, Selectmen Rosenzweig, Berry, Gowing and Friedrichs, Town Manager Steve Ledoux . Minutes taken from the recorded CD after the meeting.

**CITIZENS' CONCERNS: NONE**

**I. PUBLIC HEARINGS AND APPOINTMENTS**

**1. CHAIRMAN'S UPDATE**

The Chair would like to encourage visits to the Charlotte Sagoff Garden at the Memorial Library. Almost \$20,000 of donations and materials went into this beautiful effort.

Chairman Knibbe noted that citizens should take advantage of the Flu vaccine now available. The rain date for Oktoberfest, October 10<sup>th</sup> it was announced will be necessary to use.

**2. OPERATIONAL MINUTE**

The Town Manager updated the Board on the Green Committee's initiative for a solar power purchase agreement; the town and schools have both entered into a Memorandum of Understanding with the company NexAmp. The municipal project will be to install solar panels on the roof of the DPW building and the school projects will include solar panels on the high school and junior high (initially) followed by Douglas after the roof has been replaced. This effort was authorized at Town Meeting. Contract details are still under negotiation. In addition, the town will put out a new RFP/Q for solar panels at the landfill and/or sewer treatment plant sites.

The Governor's Office will be making an announcement on October 15<sup>th</sup> in regards to the budget, cuts that are still being made at the state level. In that light the October 14<sup>th</sup> Acton Leadership Group Meeting has been changed to October 21<sup>st</sup> at which time we would hope to have more details on the Governor's budget plan.

**3. REQUEST FOR BOND DOCUMENT SIGNING**

The Town has called in some old bonds for re-financing. This action will cut property taxes without negatively impacting the budget.

Selectmen Rosenzweig read the bond and Mr. Murray went over the general obligations. This action will decrease the budget and revenues by approximately \$234,000 a year through 2018.

**VOTE OF THE BOARD OF SELECTMEN**

I, the Clerk of the Board of Selectmen of the Town of Acton, Massachusetts (the "Town"), certify that at a meeting of the board held October 5, 2009 of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appears upon the official record of the board in my custody:

Voted: that the Treasurer is authorized to provide for the sale and issuance of refunding bonds in the aggregate principal amount of \$2,265,000 under Section 21A of Chapter 44 of the General Laws in order to currently refund the principal of and interest on the Town's General Obligation Municipal Purpose Loan of 1998 Bonds dated May 1, 1998 in the aggregate principal amount of \$2,325,000, and maturing in the years 2010 through 2018, and to pay the redemption premium and costs of issuance related thereto; and that the Treasurer is further authorized to execute such documents and certificates as may be necessary or desirable to carry out this transaction, including any documents or certificates relating thereto.

Further Voted: that the sale of the \$2,265,000 General Obligation Refunding Bonds of the Town dated October 1, 2009 (the "Bonds"), to Corby Capital Markets at the price of \$2,373,077.90 and accrued interest is hereby approved and confirmed. The Bonds shall be payable on May 1 of the years and in the principal amounts and bear interest at the respective rates, as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2010	\$315,000	3.00%	2015	\$205,000	4.00%
2011	335,000	2.00	2016	205,000	3.00
2012	325,000	3.00	2017	190,000	3.00
2013	300,000	3.00	2018	180,000	3.00
2014	210,000	4.00			

Further Voted: that in connection with the marketing and sale of the Bonds, the preparation and distribution of a Preliminary Official Statement dated September 17, 2009 and a final Official Statement dated September 22, 2009 (the "Official Statement"), each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: to confirm the provisions of the Bond Purchase Agreement dated September 22, 2009, including the consent to the purchase of the Bonds by Corby Capital Markets on a negotiated basis.

Further Voted: that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a continuing disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Bonds for the benefit of the holders of the Bonds from time to time.

Further Voted: that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes. I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that notice stating the place, date and time of the meeting was filed with the Town Clerk and a copy thereof posted in the office of the Town Clerk or on the principal official bulletin board of the Town at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the Bonds were taken in executive session, and that the official record of the meeting was made available to the public promptly and remains available to the public, all in accordance with G.L. c.39, s.23B as amended.

Dated: October 5, 2009

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Clerk of the Board of Selectmen

BOS111 12420133.1 **All Voted in favor of the reducing the interest rate of the bonds.**

#### **4. VERIZON NEW ENGLAND HEARING FIOS INSTALLATION**

**Verizon** requests to lay conduit, handholes and fiber distribution cabinet locations at Huckleberry Lane, Partridge Pond and Davis Road for the purpose of system upgrades. All installations will be ground mounted at grade or underground. Verizon representatives stated that Davis Road will have an above grade box.

Selectmen Gowing made a request for citizens asking for a schedule to bring FIOS to the remainder of Acton.

Selectmen Friedrichs made a motion to approve all grade level upgrades at these locations and if the one box is above grade they will need to come back to the Selectmen. No one seconded, Selectmen Gowing made a friendly amendment. He motioned to screen anything that is not grade level. Not seconded.

Selectmen Rosenzweig made a motion to allow Verizon their request for these three locations and Selectmen Gowing seconded. The Selectmen voted 4 yes and Selectmen Friedrichs voted no. **The motion was approved.**

#### **5. HEALTH INSPECTOR, SHERYL BALL WILL DISCUSS HEALTH AND PLANNING OUTREACH ESSENTIALS**

Sheryl Ball gave the presentation for the Health Outreach Program. In collaboration with the Planning and Recreation Departments the Health Department has received a \$15,000. Healthy Community Grant for planning healthy communities from Community Health Networks

Area (CHNA 15). They are calling this new planning process HOPE for Health Outreach Planning Essentials. A steering committee has been established. The steering committee will hold an introductory meeting on October 21, 2009 and hope to be able to apply for implementation monies of \$25,000 from the grant.

## **6. OPEN SPACE OVERSIGHT MEETING**

The Chair of the committee, Peter Ashton gave the presentation; Terry Maitland and Susan Mitchell-Hardt were present. Their mission is to evaluate open space opportunities, be an advocate for other town boards and committees, keep the public informed and keep the goals and accomplishments of the open space and recreation plan updated. Specifically the committee will prioritize opportunities, maintain an active list of Article 61 and 61A offerings, assist the Board with the offers, and be a liaison to private land owners bringing properties to the town. They work as sponsors for proposals and monitor legislative developments. The Committee strongly supports the use of CPC funds to promote open space. They work closely with the Conservation Trust identifying land protection opportunities; Terry has just attended a meeting on Right of First Refusal for Chapter 61 on which they feel strongly the Town should accept a policy towards. Additionally they support Selectman Friedrichs' work regarding land preservation and conservation in villages. Selectman Friedrichs will investigate other towns that have taken this approach and look to do some fundraising. Most recently the committee has brought closure on 2 land offer opportunities, Piper Road and Nagog Road. They monitored and assisted negotiations for 100 acres along Route 2. Former Selectman Magee worked on and received approval for these lands (Route 2 parcel) under Chapter 97 status. They will finalize the "Open Space and Recreation Plan" this fall.

Selectmen Gowing asked about a bill "SP 90" being sponsored, what would be the impact of that bill? The bill would mandate a minimum state match of 75% but it is a double edged sword in that the larger communities can use funds other than "CPC" funds which the state would then have to match. But it would broaden the reach of Community Preservation; in terms of additional communities and what you can do with recreation applications.

Selectman Rosenzweig asked if the committee classifies open space by categories. The committee does not, but we use categories to prioritize. She added the Board will need your committee's help in completing the Master Community Plan. He replied they are planning on offering help. Is there a program for out reach to locate appropriate land opportunities? That is what Susan Mitchell-Hardt does, she sends out mailings, does research, etc.

Selectman Friedrichs noted that the criteria chart is valuable and people should be able to see how the evaluation works (on-line). Her group to protect village land needs help if there are volunteers in the community. Regarding the new bill, if tax money goes to make the match where does it come from? Peter Ashton said from the registry of deeds. She inquired what amount of money are we talking about for land purchases. The reply was \$7M. She will get together with Mr. Ashton regarding funding mechanisms.

Selectman Berry in reference to the bill under consideration stated there will be a MMA Legislative meeting this month and the Selectmen will have input regarding legislation. Please let us hear what you would like us to bring to them in regard to this bill.

Chairman Knibbe inquired about Piper Lane; did we sell the house, what is the status?

Selectman Gowing stated that Conservation Commission reviewed the house and it would not be compliant if separated from the land. Chairman Knibbe asked if there are any specific Warrant articles for the spring. Mr. Ashton replied aside from CPC purchases not at this time.

## **7. PLANNING BOARD OVERSIGHT MEETING**

Selectmen Rosenzweig introduced the Planning Board. Ryan Bettez is the chair and has 3 years on the Board; Jeff Clymer is the Vice Chair. Ray Yacouby who has 20 years on the Board and Roland Bourdon were both present. Mr. Bettez stated it is great to have members with long term history and some with a new fresh look. Town planning staff has contributed greatly to our support and they are present tonight. They do have one opening, which will be filled. To review the Town meeting changes last year; the Planning Board changed the use of

light industrial, clarification and changes to Article 43 to exempt bike paths and sidewalks from zoning, allowed cleaning services in the village and worked on outdoor lighting. At the June Town Meeting they worked to change future Day Care Centers zoning. In June the zoning for working with the Department of Energy in allowing light manufacturing to become a more green community was accomplished. The Master Plan is the priority item for their future meetings. We in Town need to take this seriously as a goal we want to accomplish.

Additionally, for 2010 Town Meeting we would like to talk about sub division regulations.

Selectman Rosenzweig encourages support for the completion of the Master Plan.

Selectman Berry, following up on the legislative part of changing the zoning would ask for details in where you need support from the Board.

Selectman Friedrichs would like a summary of what the Planning Board supports from the Outreach Plan and what they feel they cannot support and why. She asked if the current candidates for the open Board position were architects. She stated the Child Care analysis done by the planning staff was amazing. She noted that of the uses of the buildings in the villages there is not a lot of retail.

Selectman Gowing would like a prioritization of the Master Plan options. Mr. Bettez stated that there is a group currently working on that, the outreach is ongoing. Chairman Knibbe is on the Green Communities act that helped get the wording changed so that it was clear that zoning was changed to allow manufacturing for green energy, since then Green Communities have come out with a Draft of what constitutes a Green Community. The Planning Board should look at that and see if we are still on track with what we have already done. Of the 5 things we need to do to be a green community two items belong in planning. The first we have done with the zoning allowing green energy manufacturing. The second is the expediting of the permitting which there is a draft of and it would be good for the Planning Board again to check if this is in Acton's best interest. Annual Report will need a write up from the Planning Board for the current year and any warrant articles are due in December.

## **8. SOUTH ACTON TRAIN STATION ADVISORY COMMITTEE**

This oversight will be carried over to the following meeting.

## **II. SELECTMEN'S BUSINESS**

### **9. ALG DISCUSSION / BUDGET DISCUSSION**

School committee will lower the regional assessment so there is no need for a fall special town meeting at this time. However, there are very likely to be 9C cuts by the Governor later this fall and then we may need a fall Special Town Meeting again. The Finance Committee has asked the Board of Selectmen to present the high level strategy for FY11. Chair Knibbe presented a strawman priority statement for the board's feedback.

Selectman Friedrichs stated that this strawman budget is too vague. She would like to see a new method, something easier to understand. We need to understand cost associated with initiatives we vote on. She would like a retirement schedule for planning attrition as a budget control method.

Selectman Gowing would like to adopt the State program limits for the Senior Work Program and thus increase the Senior Cap from \$750.00 to \$1000.00. Mr. Ledoux expressed a concern on the impact of buying cases of flu vaccine would have on our budget.

Selectman Berry asked, what is Restorative Justice? Steve Ledoux explained the theory behind that program.

Chairman Knibbe stated we will not be doing a level service budget this year we are doing a cutting budget. So what do we need to protect. That is what the Finance Committee would like to see.

Selectman Friedrichs would like to see the Matrix first; she would like to see the priorities from last year, she would also like to see the Department of Public Works included as part of health and safety.

Selectman Rosenzweig agrees that Health and Safety should be first.

Selectmen Berry and Gowing would like to see bullets instead of numbers as all items have equal importance and will see diminished funding.

## 10. SELECTMEN'S REPORTS

**Chairman Knibbe** – MinuteMan Technical High School will be initiating a building project. There is a breakfast meeting that we would like some representation. Selectman Rosenzweig offered to attend this meeting as a representative from the Selectmen. Green Advisory Board, the Solar Panel Project is moving forward both in the Town and Schools. The Green Communities Act is working towards the five items the Town needs to accomplish to be rated a Green Community. Our Sub-regional Coordinator will be here next month and we need a plan in place.

**Selectman Rosenzweig** - The Transportation Advisory Committee is in the process of selecting a Shuttle Company and a transportation Coordinator. The Committee and Engineering are researching new types of parking meters. If double tracking goes through for MBTA we will lose some of our parking spaces to staging. If anyone with private lots would like to rent those spots to the town we would be interested. Wastewater Advisory Neighborhood Committee has had their first meeting. The group is looking for a consensus solution; it is a wastewater management district that is a priority area. The Water Resources Advisory Committee is working on storm water regulations and they are going to concentrate on the by law regarding pollution. Justin Snair is staffing this committee; he is the deputy Health Director. Matthew Mostoller from the Water District is also participating on this committee.

**Selectman Gowing** - we have a regional mobility training session presented by MITC and have reached out to Concord, Boxborough and Maynard for representatives for a 3 day seminar. The Board of Health is evaluating plans for application of the flu vaccine. CPC has agreed to fund the heating of the house on Piper Lane for the winter.

**Selectman Friedrichs** – Economic Development Committee has produced a Draft survey for the business community.

## 11. DRAFT DECISION, WETHERBEE PLAZA II, SITE PLAN SPECIAL PERMIT #7/21/09-422, 107-115 GREAT ROAD

There is a Draft decision. It is now a finding 2.12A. Selectmen Friedrichs will now make a motion that this language be added to the finding, "because of unique characteristics of the site/location". Selectmen Berry stated just the fact that you have deviated and made a finding from the by-law takes care of the problem. Motion withdrawn. Selectman Friedrichs is proposing rocks as opposed to a sealed driveway. Chairman Knibbe said as long as it is not paint she will go along with staff decision on an alternative that clearly distinguishes the sidewalk from the driveway. It will need to be something that can be plowed in the winter. Selectmen Rosenzweig suggested lighter stone to differentiate from the asphalt driveway. Selectmen Gowing suggests a poured concrete with a walkway without a curb and score the top that way it is not slippery and can be plowed. Selectman Friedrichs asked if the applicant could have a occupancy permit for his son to move into the yellow house. Chairman Knibbe stated he would need to proceed with his permitting process and then apply for his occupancy permit. At 3.1.7 G 3 the stop line at great road also needs a crosswalk, the line is not sufficient.

Scott Mutch stated that we need to extend the stay of eviction; it expires on Oct. 31<sup>st</sup>.

Selectman Friedrichs moves that we approve this site plan with the above changes. Selectman Rosenzweig seconds, **the vote was unanimous for approval of the site plan with the amended changes above.**

Scott recommends that the Board extend the Stay of Eviction notice to May 31, 2010 the date that coincides with the compliance for this decision. Selectmen Friedrichs moved that the extension of the eviction notice be moved to May 31, 2010, Selectman Berry seconds. **The vote was unanimous all voted in favor of the extension.**

## 12. SPRUCE STREET SIDEWALK

Selectman Gowing gave an update. The last discussion at the Board brought a split vote. Since then he has had discussions with the stakeholders, the principal of the school, the bus driver, the Post Office, the neighbors, and the town engineer. The Police, Fire and town Engineer do not want to narrow the street. The Post Office would become a dangerous spot. Other options such as routing the traffic one way becomes an issue for Spruce Street, as then all traffic goes down Spruce Street additionally instead of just 12 of the buses going down Spruce all 25 would need to go down Spruce street. It would cost \$17,000. to move the sidewalk 6" and the curbing height would need to be higher (custom) as it relates to the width of the road. Mr. Klinger realized that the way to solve the problem was with an easement on his property. The town engineer is in talks with him currently to survey the area and find out exactly what area Mr. Klinger would need to be surrender. Chairman Knibbe stated his concern about his garden and town would pick up the expense of moving it to the other side of the sidewalk. The signed easement has not been returned yet. Selectman Gowing moves that we extend the deadline to remove the Tulip Tree to October 31 to give Mr. Klinger time to grant the easement. **Selectman Friedrichs seconded, the vote was unanimous in extending the date to remove the Tulip Tree to October 31<sup>st</sup>.**

## 13. REQUEST TO LRTA FOR SENIOR VAN FOR MONDAYS AND FRIDAYS

The Transportation Advisory Committee requested extended coverage from the Roadrunner van. Current the roadrunner van operates from Tuesday through Thursday. We would like to have coverage from Monday through Friday. The Council on Aging van also runs Monday through Friday. The Roadrunner van used to have those days and then they were withdrawn. We would like to request adding those additional days once again. Selectman Rosenzweig seconded, (Mike noted that this is related to the Road Runner not the Senior Center Van which currently runs 5 days.) **The vote was unanimous all voted in favor of the request for extended coverage.**

## 14. BOARDS AND COMMITTEES DRAFT HANDBOOK

Chairman Knibbe will send out to all boards and committees the draft handbook and there will be two weeks to submit comments or questions. Town Counsel has updated open meeting law changes and ethics changes. Selectmen Berry suggest that Committee and Board members go on line get training and print out the certificate that vouches you have completed the ethics course. The Town manager stated that the town also needs to hire a compliance officer. The League of Women Voters in collaboration with the Board would like to hold a forum. The Board is in agreement to collaborate with the League on the ethics forum.

## 15. OTHER BUSINESS

Selectman Rosenzweig had an update on the revised plans for 93 and 113 Central Street and asking for comments for the ZBA. The main concerns are screening the property, preserve the existing trees, a formal agreement on any shared septic system regarding upkeep, and screening the entire property from the street. Selectman Friedrichs would like to see a street side elevation diagram and a diagram showing the proposed conceptual treatment of the hillside. Maybe it should be one building combined to save some of the hillside. Selectman Rosenzweig stated that ACHC has made this recommendation in terms of what is needed for affordable housing. Selectman Berry stated that this is an instance where ACHC gave specific advice and the builder rejected it so it is not a LIP Project. The developer instead went to the state for funding. Chair said the Sidewalk Committee has asked for sidewalks or funds to be contributed. Selectman Friedrichs stated that she hopes the appropriate staff is looking at the wastewater issues here as the property backs up to Tuttle. Comments will be forwarded to the ZBA.

### III. CONSENT AGENDA:

#16, 17 and 29 held for discussion, all others approved. After discussion (see below) all consent approved.

#### **16. COLONIAL SPIRITS, GREAT ROAD, SITE PLAN MINOR AMENDMENT**

Hold, Selectmen Friedrichs asked was there a Design Review? Chairman Knibbe said yes they were pleased with the results. Selectmen Gowing made a motion to approve. All voted in agreement to allow the amendment.

#### **17. KENNETH SUNDBERG, 253 MAIN STREET, #6/5/07-411, SITE PLAN EXTENSION REQUEST FOR ONE YEAR**

Hold, Selectmen Friedrichs asked if they are asking for something is there something we would like from the applicant? For example outdoor seating, less paved parking and more walkable spaces. The Town Manager stated we have come to an agreement on this already. Selectmen Friedrichs made a motion if we are to relook at this request we she would like to ask to limit the amount of parking. Selectmen Gowing seconded, but stated we should consider this is Kelly's Corner and they are trying to help with the process; we should not be punitive. The Chairman stated we looked very carefully at this site plan initially and made our requirements known there is no reason to reopen. The vote was taken 1vote to reopen 4 not to reopen. Peter Berry made a motion to grant the extension. Selectmen Friedrichs abstained and the other 4 voted in favor of the extension.

#### **18. GREEN ADVISORY BOARD, REVISED TERMS TO STAGGERED APPOINTMENTS**

#### **19. ACCEPT GIFT, NURSING SERVICES**

A gift of \$100.00 from Carol Rodman

#### **20. ACCEPT GIFT, RECREATION DEPARTMENT**

A gift of \$50.00 from the Krajewski's to be used for 2010 events at Nara.

#### **21. ACCEPT GIFT, RECREATION DEPARTMENT**

A gift of \$420.00 from Hybrid Farm to support Recreation Programs offered to the Community.

#### **22. ACCEPT GIFT, CHARLOTTE SAGOFF MEMORIAL GARDEN COMMITTEE**

A gift valued at \$18,795.00 from the Committee for goods and materials used in the construction of the Memorial Garden.

#### **23. DISPOSAL OF OBSOLETE MATERIALS, MEMORIAL LIBRARY**

#### **24. ONE DAY LIQUOR LICENSE REQUEST AT NARA, OLD GOLD RUGBY**

#### **25. CONFIDENTIAL REQUEST FOR BOARD OF SELECTMEN'S APPROVAL TO REFINANCE A LIP HOME**

#### **26. ELLSWORTH VILLAGE REGULATORY AGREEMENT – REQUEST TO HAVE PREVIOUSLY VOTED BOARD MEMBERS SIGNATURES NOTARIZED.**

#### **27. W.R. GRACE SETTLEMENT AGREEMENT**

#### **28. CONFIDENTIAL REQUEST FOR CITIZEN ASSISTANCE – VARNUM TUTTLE FUND**

#### **29. REQUEST FOR APPROVAL, AMEND LIP AGREEMENT, 442 MASS. AVE, LALLI TERRACE**

Hold – Selectman Friedrichs asked, do deed restrictions last forever? Chairman Knibbe stated yes. Selectmen Rosenzweig added as long as they are able to find a qualified

buyer, so it benefits the town to help find qualified buyers. At this time we are only approving the form. Selectmen Rosenzweig made a motion to approve this deed rider as an instrument to be used for this type of housing request. Selectmen Friedrichs voted against, 4 votes in favor. The motion passed.

**III. EXECUTIVE SESSION:** None

  
Recording Secretary

  
Lauren Rosenzweig, Clerk

11/2/09  
Date