

BOARD OF SELECTMEN & SEWER COMMISSIONERS'
MEETING MINUTES

Francis Faulkner Hearing Room

JANUARY 25, 2010

7:00 PM

EXECUTIVE SESSION – 6:30 P.M. Room 126

Present: Chairman Knibbe, Selectman Rosenzweig, Barry, Gowing and Friedrichs, Town Manager Steve Ledoux and Recording Secretary Maryjane Kenney

EXECUTIVE SESSION – 6:30 – 7:00 TO DISCUSS LABOR NEGOTIATIONS

The meeting was opened and a roll call vote was taken to move into executive session. All voted aye and the Board entered Executive Session. At 7:00 PM the Board came back into regular session with a roll call vote.

CITIZENS' CONCERNS

None

PUBLIC HEARINGS AND APPOINTMENTS

1. 7:05 CHAIRMAN'S UPDATE

- Jan 30: The South Acton Train Station Advisory Committee will hold a public meeting for a site evaluation.
- Feb 1: The Zoning Board will meet to consider support for a new by law on the warrant regarding Stretch Code.
- Feb 2: The Planning Board will meet to consider a new by law for temporary signs.

2. 7:10 OPERATIONAL MINUTE

Manager Steve Ledoux attended the Massachusetts Municipal Association Annual Meeting. The highlight was hearing Governor's address and that in the house budget he has level funded non-chapter 70 local school aid. This would mean that Acton would receive close to \$300K more in Chapter 70 funds. Steve commented that we don't know if he can hold this as the budget goes through the legislative process to be adopted. The entire legislative package would need to be adopted for this to come to fruition. For Acton we would look at about \$1.6M of local aid we did not anticipate. Quinn Bill was discussed on a closing session on Saturday with all the gubernatorial candidates, (Baker, Mihas and Cahill) and they are committed in trying to fully fund this bill and give help to the towns on issue. The Governor is introducing legislation that is very similar to what our contracts read in that if there is a 50/50 split between the town and the state and the state only kicks in 9% of their 50%, then that 9% is the additional that the town will need to match. Selectman Berry also gave a seminar on this topic.

Chairman Knibbe doesn't think this money will be forthcoming; she would like to move forward with the zero% budgets, pull the meals tax off the table and not use more reserves. Most important if factors are more favorable than currently indicated would be to patch the hole of about \$400K in our budget for level services.

Selectman Rosenzweig would agree not to tax meals and restaurants.

Selectman Berry would not want to vote the meals tax on the warrant unless it is absolutely necessary. He would want to maintain the zero budgets and not add any meals tax.

Selectman Friedrichs would agree to zero budget or less and no meals tax. She would not like to go into our reserves at all.

Selectman Gowing believes it is a political ploy and the money will not be there. He supports the zero percent budgets and believes the meals tax will hurt businesses. For items in the budget that were cut he would like Steve L. to have a list that could be added back in if a miracle happens.

3. **7:25 CROSSROADS CAFÉ – ALLEGED LIQUOR OVER SERVICE**

Jay Manning in for an over serve at Cross Roads Café. Someone had been pulled over in Stow and she reported that Cross Roads was the last place she had been. Police offered to have her call someone to drive her home and let her go but she became uncooperative and was arrested. No tests were taken. Mr. Manning stated that this is his business, he is a fourth generation in restaurant business, and he is very concerned that no one leaves his restaurant over served. The restaurant has serve safe programs in which the employees are certified. They split the program and the remainder will be certified later this week.

Selectman Berry asked if this is a first. Mr. Manning replied, No, it is the second. On the first occasion someone was at a party in the restaurant but had left at 9PM and then was picked up at 1AM. Selectman Berry stated the police report says this person was smashed. Mr. Manning noted he had spoken to her early that night and she seemed fine and in fact had left early.

Selectman Rosenzweig stated that he should require that the safe serve program happens every year given turn over in restaurants. She would like to see more in depth training.

Selectman Gowing asked if the restaurant has a written serving policy. Does it detail when you should cut someone off or escalate the problem to a manager? Mr. Manning replied he did and will take steps to reinforce those efforts.

Selectman Friedrich asked if someone can be posted to keep an eye on the door. Mr. Manning said that he is usually the one to do that and has called for or had some one give a patron a ride home. It becomes difficult on busy nights.

Selectman Rosenzweig noted the busy nights are most important to have someone directed to monitor the doors.

4. **7:35 BUDGET DISCUSSION**

Chairman Knibbe presented an overview of what the Town Manager was initially directed to come up with in this year's budget; a 3% budget and a 0% budget and explain the steps it would take to make that happen. We asked that he protect public safety, protect or increase services to those most vulnerable, invest in strategic initiatives such as energy efficiencies, postpone capital expenditures, postpone hiring and postpone routine maintenance. The Finance Committee Point of View asked for these additional conditions; target a 0% budget, operations should continue the hiring restrictions, no bonuses, some service reductions including layoffs and identify cost savings. Use not more than \$2M of the reserves. The Town Manager's Budget has accomplished these requests. It includes a 0% cost of living increase for employees, a cut of 4.25 FTEs, capital cuts of approximately \$500K and additional cuts of approximately \$50K. This is a total of \$950K in cuts from our level service budget. There were some investments that the Town Manager left in at the request of the Board. Community Service Coordinator who serves as outreach to those in need in the community went to full time and a Green Advisory Consultant at \$10K for an investment in energy savings and reductions and to comply with state demand for grant money. This budget continues with subsidies for Nursing Services in the Enterprise Fund and subsidies to the Senior Citizen Van enterprise fund. It increases the Senior Work Program from \$750. to \$1000 a year.

Ms. Knibbe would like to further compliment staff on the Serve Program in which donations are made by staff for redistribution by our Community Service Coordinator to those in need. Future budget savings include possibly merging financial office back office functions, merging recreation and community ed catalog distribution and enrollment, merging regional dispatch, and the energy efficiency effort.

Selectman Berry stated the one item he is extremely concerned about is cutting the overtime for dispatch. He feels that the town needs to add that \$30K back in.

Selectman Friedrichs asked how far is the zero budget from our actuals last year, what is that figure.

Steve L. replied we cut off spending before the Governor gave 9C cuts-- last year shows budget cuts not our planned FY09 budget. The actuals from the previous year go into the budget book and are considered in budget planning.

Selectman Gowing in sticking to a zero percent budget he does not want to take dispatch overtime out.

Selectman Rosenzweig stated dispatch overtime needs to go back into the budget. Additionally the firefighter's protective equipment should be added back if possible. Something that is extremely important she would like to see the town incorporate is to institute a policy or adopt the statute that will pay the differential between military pay and town base pay for those town employees called to active duty.

Chairman Knibbe agrees with the dispatch overtime, we need them available. We hope to find monies in the budget which means we won't be at zero but very close.

Peter Berry requested the list of what was cut from 3% to 0%. Steve L. yes, I will get that to you.

Chairman Knibbe moves that we send our Budget to Finance Committee. Selectman Friedrichs seconds the motion, all voted in agreement.

5. **8:25 WASTEWATER RESOURCES ADVISORY COMMITTEE (WRAC)**

Presentation on Warrant Articles Regarding By-law on Storm-water, or surface water run-off - Selectmen Rosenzweig wanted to be certain it was clear that this is the Water Resources Advisory Committee dealing with storm-water, not the Wastewater Committee. We need to be in Compliance with EPA requirements. Concord has already been fined \$50K and we are trying to avoid a similar situation in Acton. Ron Beck and Carol Holley attended from the Committee for this presentation. The proposed By-law will be a new by-law "U"; it will deal with the collection of storm-water through the Municipal Separate Storm Sewer System referred to as MS 4. The MS 4 collection system needs a permit; the old one is expired at this point. It requires that a plan be put in place to get permitted that would include Mapping (which is done but needs updating), the by law itself, and the program dealing with detection, public information and education. The Board of Health has tried to put it off until we can qualify for grants, but the EPA is now fining towns so we need to get it done. It was assigned last July to this committee to complete. The costs of permitting are relatively small \$50/100 for a one time permit. Commercial entity might be a bit more costly to permit. A new owner would need to re-permit. The cost to the town is considerable, staff time to map, discover, enforce and report. The new by-law will define illegal discharge, clean permitted discharge, what will be exempted, what the requirements are to permit and Consequences. Selectman Gowing stated this by law is only about the MS 4 storm drains, not something in your yard just running off. Ron stated the target is really not residential; it is more for commercial usage and education. The map locating the collection systems would be important education for residents. Selectman Friedrichs thought the Economic Development Committee should be able to comment. The Chairman would like to see a Public hearing on this issue as education ahead of Town Meeting would be important. They already had a heavily advertised public outreach session and are going to town boards and committees as well as staff for further input. Selectman Gowing suggested that they run the presentation on Cable. The Chair thought that was an excellent idea. Ron stated that they recorded the Public hearing and it could be rerun. An additional suggestion for town meeting was for a hand out including a map. This would be helpful for residents. Selectman Rosenzweig stated the BOH needs to set up the education piece; they can start by sending the presentation out to staff and then to Boards and Committees. Ron stated this had been done and they were looking for feed back.

SELECTMEN'S BUSINESS

6. **BRUCE FREEMAN RAIL TRAIL - CPC PROJECT**

Roland presented the request for Board Support for Community Preservation funds. Selectman Gowing as an abutter is recused himself. All discussions tonight will focus on the 25% design Phase 2A. The Trail travels through a small portion of Westford, a small portion of Carlisle and the largest part through Acton to East Acton. The numbers here only relate to Acton's Phase 2A. For design the town has gone 3 times to CPA for a total of \$452k and the town has spent \$267K that leaves \$184K. The monies were spent on 25% design which was \$245K and \$20K for an enhancement grant application; that we received for Phase 2A of \$500K. Acton's portion of that is \$464K. We then spent a small portion on a HPP funding application we submitted to Congresswomen Tsongas to see if she can get additional funding. We now have a final design

cost of \$713.5K. That leaves a gap of \$249.5. We have that \$185K left, leaving a shortfall of \$65K. The \$65K is one part of the number requested from CPC. The other is \$50K of funds to cover acquisition issues and legal costs for right of way owned by Mass DOT where the title is not clear enough. This is a best guess. Construction not scheduled until 2021. It is important to have the design ready so that when funding is available Acton is ready; this could even be one for stimulus funds.

Chairman Knibbe asked if these funds are necessary to continue. Mr. Bartl replied definitely.

Selectman Rosenzweig stated it is important to keep design moving along for federal funding.

Selectman Berry questioned the 25% for the Assabet River Rail Trail. Roland stated they were different funds from different pots, you cannot mix.

Selectman Friedrichs clarified the total you are asking of CPC monies, \$115K is for the shortfall and acquisitions funds. Yes, Roland replied.

The Chairman stated there is an enormous demand for this trail, very positive support for the town.

The Community Preservation Committee has asked the Board to prioritize the projects. The

Chairman requested that of the eight projects each Board member star the four most important to them. The Town Manager took the tally.

CPC PROJECT	COST	Selectmen Votes				
HISTORIC PROJECTS						
Town Hall Windows	\$100,000	PK		PB	MG	TF
468 Main St Windows	\$22,000					TF
Restoration - Windsor Bldg.	\$168,000		LR	PB	MG	Recused
Test House Preservation	\$54,100					
OPEN SPACE PROJECTS						
Open Space Acquisition Funds	\$25,000	PK			MG	
Open Space Set Aside	\$500,000		LR		MG	
UNPRIORITIZED RROJECTS						
Open Space Purchase	\$1.2M	PK	LR	PB		TF
Bruce Freeman Rail Trail	\$115,000	PK	LR	PB	Recused	TF

HISTORIC PRESERVATION

Town Hall Windows 1111
 468 Main Street Windows 1
 Restoration of Windsor Building 111
 Preservation of Test House

OPEN SPACE PROJECTS

Acquisition Fund 11
 Open Space Set Aside 11

OPEN SPACE PURCHASE 1111

BRUCE FREEMAN RAIL TRAIL 100% DESIGN 1111

7. **ALG DISCUSSION** - The Chairman spoke to what in the current budget will need to be adjusted. The Board does not want to initiate the meals tax, the hole in the budget will need to be filled and there is a reluctance to go any further than the \$1.9 into reserves.

Issues to be resolved before the ALG Meeting would be moving part-time employees from Social Security to **Omnibus Budget Reconciliation Act (OBRA)** this is a self-funded retirement account. In the case of OBRA there is no matching from the employer. It is the way that private industry operates and many cities and towns have adopted it. The schools have already voted approval of this at the regional level for their part-time employees. They are asking the Board to approve municipal employees that are part-time to join as that in order to have the local school employees enrolled the town employees need to be enrolled, (another words all municipal employees). Steve L. stated it would save the town \$25K the first year. His guess is that it would be considerably more for the schools. The industry is moving towards OBRA.

Selectman Friedrichs asked what the downside is. The Town manager replied it is a social contract issue; you would need to decide if it is OK not to pay into SS. We have to contribute to SS but not to OBRA, we are not helping with quarters.

Selectman Gowing inquired if this will apply with the union contracts. The manager replied not in the town, Xuan Kong of the School Committee stated not in the schools either according to their legal counsel. Selectman Berry sees a lot of this it is basically switching employees to an IRA. This program requires a 7.5% contribution and SS requires a 6.5% contribution which the town matches. But in the OBRA program the monies are pre taxed so that makes the difference that the town would contribute. He feels it is a good plan. He noted it might not include all the benefits of SS such as disability benefit. Selectman Berry seconds the motion. Ann Chang has questions about how this will leave people years from now and what happens to earned social security, some people will be left without. Selectman Berry stated that unless you have earned enough quarters you do not get any social security. Ann stated it may be unfortunate for a group of people. Selectman Friedrichs moves to approve. The Chair called for a vote 4 voted approval Selectman Friedrichs abstained.

The history of the **Community Oriented Policing Services (COPS)** in schools program is that the Town has always paid for a police officer in the Schools. Then the town received a grant which enabled the town to add 2 additional officers. As the grant went away the Town and the schools have continued to split that and each entity funded one officer. Currently there are 3 officers in the schools of which the town funds two and the schools one. The schools no longer feel that they can maintain this program. The town is also unable to fund this additional position. In looking at other towns three officers seem like a lot. Police officers have many functions one is being sent to homes if children do not show up, the Chair feels this is inappropriate. Selectman Rosenzweig attended the meetings at school when this was discussed. And it was felt it was extremely important to have this type of person in school. According to the principals, teachers and students there are issues that students are going through and the relationship they develop with the police can mean there is an adult to turn to that is not a teacher and not a parent. The police are attuned to issues such as suicide, mental health, bullying, substance abuse, etc. They are there teaching drug prevention, internet safety and bully prevention. She urges the continuation of the funding until you can strategize how to fill this need. It is a high priority. Selectman Berry stated it is an important service and police can get to needed services that you can only receive through the court system. It is imperative to have the police who are familiar with the system. Selectman Friedrichs stated as society is spread apart this is important. The questions arise about the three, how many students do the other towns have that we are saying have fewer officers in the schools? If we did not fund the 3 would someone get layed-off? Chairman Knibbe replied yes that would be the result. She fully supports this program. The question before us is if the schools don't fund do we pick it up? Selectman Gowing stated Community Oriented Policing Services at this time when we have such economic upset it is critical to maintain that service. The concern is having three when other towns have fewer.

School debt issue we strongly feel we will not go into reserves to further fund. Given what the Governor says money will go to local aid. Additionally, we will go to ALG with the thought that we do not want **meals tax** at this point in time. Businesses do not need the extra burden of more tax. Selectman Rosenzweig stated we still need to keep the community safe and healthy. It would be better to work together, support each other and not go any deeper into reserves.

8. SELECTMEN'S REPORTS

Selectman Berry spoke of the Site visit with the MBTA and South Acton Train Station Advisory Committee meeting to be held on January 30th. He would encourage all interested parties to come and support the alternative design. Selectmen Rosenzweig and Gowing will be there for support. He attended the Fitchburg Line Working Group that has been meeting for 10 years on the entire line to present Acton's hope for the new station. Comments were positive.

The School Committee has not officially presented their budget yet. Dr. Mills presented an overview of the budget considerations. They are making all efforts to avoid charging fees for buses. They have appointed School Committee liaisons to different schools. Also discussed were possible cost savings measures and proposed cuts.

Selectman Rosenzweig stated that on February 2nd the Wastewater Advisory Neighborhood Task Force will hold a meeting to discuss and explain Title V Regulation meeting at the Senior Center.

Chairman Knibbe reported that the Green Advisory 1st results of benchmarking. They will be showing current energy use and efficiencies of our municipal buildings. There is a great potential for savings here. Usually energy is the 3rd or 4th largest expenditure item in a municipal budget.

9. MINUTEMAN REGIONAL TECHNICAL SCHOOL

Dore' Hunter, the Board's liaison to the Minuteman School gave the presentation. The Regional Technical High School is looking for funds to do a feasibility study in FY 2011/2012. They have been trying to save monies and accomplish the study. The warrant article is moving along. A handful of people have come to the informative meetings. In recent years the school has lost students due to bad recruiting processes and has needed to pare staff when student enrollment went down. They took longer than they should have to accomplish those savings. The assessment to Acton is 17% less than last year about \$65K. About 650 students are enrolled and they have let 19 staff go this year. A feasibility proposal must be passed by all towns at Town Meeting, if it is not presented for vote it passes. The Warrant article approves authorizing the bond for the budget. A committee has been formed to review the various regional town agreements. The project will cost approximately \$1.4M. Selectman Gowing felt we should not fund as enrollment is declining and those going forward to college is declining. Dore' stated they are turning these items around, there is new leadership and the spending is down. Chairman Knibbe shares the concern regarding the construction project at this point in time. It is a very hard time to ask for such expenditure. Selectman Rosenzweig stated this is a population with very little alternative and there are many students who go on to engineering school and MIT. Many of the issues with enrollment have to do with the building itself. Chairman Knibbe would like to have a public hearing before town meeting. She would prefer a large group rather than several smaller groups.

10. STREETLIGHTS REQUEST AT ROBBINS BROOK

Residents of Robbins Brook have requested that additional lights be added on Main Street at Eastern Road, Hartland Way and John Francis Road. Municipal Properties has reviewed the request with the Town Manager and the Town Manager recommended new stronger 100 Watt Metal Halide Lights at Eastern Road and Main Street (Pole 31/288), at Carlisle Road and Main Street (Pole 31/291) and at Hartland and Main Street (Pole 31/293). There does not appear to be a necessity for a light at John Francis Road.

Installation of the pole for the lights is about \$750.00 and electricity cost about \$100.00 a year.

Chairman Knibbe stated that as a policy we don't put lights in private ways. She made a motion to accept the Town Manager's recommendation, placing all poles on Main Street locations, seconded by Selectman Rosenzweig. All voted in agreement to approve.

11. OTHER BUSINESS

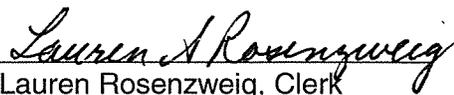
CONSENT AGENDA

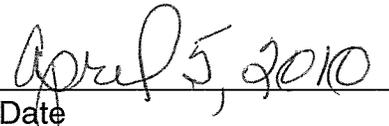
Chairman Knibbe read the consent agenda and moved to approve all items that had not been held. Selectman Berry seconded and 4 Selectman voted in agreement, Selectman Friedrichs abstained as she did not have a chance to read the minutes. Three items were held, #13, 19 and Extra Information Consent. Hold 13, Selectman Berry explained what ACHC was asking for is a consultant to make an existing conditions inventory, a survey and an analysis report which is a section of the Housing Element being required for the Comprehensive Community Plan (CCP). Selectman Friedrichs stated that this request should exclude analysis as that input can be skewed; and the consultant should be hired by the Town Manager and not the ACHC itself. Chairman Knibbe has the opposite point of view. Having an outside person would be great and she would like to expand the request to include how to get to our 10% quota. Selectman Gowing would like to use a consultant to put a fresh look on the survey and the analysis. Selectman Rosenzweig wanted a clean look at what are the housing needs are in Acton in general. It is not as global as the Comprehensive Community Plan, just one section of the Plan. Michaela Moran, as chair of Historic District Committee, stated when they were given the outline of requirements for the Existing Conditions Inventory and Analysis from Roland Bartl they were overwhelmed. The town of Belmont's HDC had to complete an inventory and it took six months. She feels it is at least a six month project. Housing has managed to pull CPC funds and this puts the Historic Commission at low level, why? In the Comprehensive Community Plan some are going to be

professional and some are not, this will show an unbalanced or unequal plan. Chairman Knibbe we will take what time it takes because we need to do it right. It will be a plan we live with for 10-15 years. With the controversy surrounding housing in this community it benefits us all to get outside help. Historic preservation gets a lot of support in this town. This request is a good idea. Chairman Knibbe made a motion to accept this request with the exception the hiring be done by the Town Manager through recommendation from the CCP. Selectmen Gowing seconds and the vote was 4 approved the motion and Selectman Friedrichs abstained. She asked for it to be noted she abstained due to wanting matching funds available to other groups who need to input reports to the CCP. Selectman Friedrichs had held # 19; she wanted to track if the request was for transitional housing or if it is people that really can't afford housing in Acton. Selectman Rosenzweig stated it is a confidential request for someone in need. She made a motion to accept and Selectman Gowing seconded. Four voted in favor and Selectman Friedrichs abstained. Extra Information Consent - Le Lyonnais's request to be open on Monday, February 8th. The request was approved by all 5 Selectmen.

12. ACCEPT MINUTES, DECEMBER 7 AND 21, 2009.
13. ACTON COMMUNITY HOUSING CORPORATION (ACHC) REQUEST FOR CONSULTANT FOR THE COMPREHENSIVE COMMUNITY PLAN, PHASE 2, HOUSING ELEMENT.
14. GEORGIA WHITNEY MEMORIAL FUND, 2010 ROBERT CREELEY AWARD \$1000.00 FUNDS REQUEST.
15. AMERICAN CANCER SOCIETY'S RELAY FOR LIFE EVENT, REQUEST FOR FEE WAIVER FOR USE OF NARA.
16. ACTON GARDEN CLUB PLANT SALE USE OF THE COMMON AND 468 MAIN STREETS.
17. ONE DAY LIQUOR LICENSE, FOR AUCTION AT CONGREGATION BETH ELOHIM
18. ACCEPT GIFT, CONSERVATION DEPARTMENT \$160.00 FROM IAN WHATCOTT, TO BE USED TO FUND FUTURE PROJECTS IN THAT AREA.
19. ACCEPT GIFT, TRANSITIONAL HOUSING A GIFT OF \$2,500.00 FROM THE ACTON COMMUNITY HOUSING CORPORATION TO BE USED TO HELP FUND TRANSITIONAL HOUSING NEEDS FOR ACTON RESIDENTS.
20. ACCEPT GIFT, DOMESTIC VIOLENCE ASSISTANCE A GIFT OF \$1,000.00 FROM S.K.BARTH-KEMBEL & DAVID ALLEN KEMBEL TO BE USED TO ASSIST IN DOMESTIC VIOLENCE ASSISTANCE.
21. ACCEPT GIFT, SERVE OIL FUND, GIFTS TOTALING \$2,200.00 FROM VARIOUS INDIVIDUALS TO BE USED TO HELP FUND THE SERVE OIL PROGRAM.
22. ACCEPT GIFT; SERVE FOOD ASSISTANCE, A GIFT OF \$150.00 FROM SUSAN OHIDAL AND VICKI LITZINGER TO BE USED TO HELP SUPPORT THE SERVE FOOD ASSISTANCE PROGRAM.
23. ACCEPT GIFT, RECREATION DEPARTMENT, A GIFT OF \$1,500.00 FROM SALERNO'S RESTAURANT, TO BE USED TO FUND THE T.J. O'GRADY SKATE PARK ANNIVERSARY EVENT
24. DISPOSAL OF OBSOLETE MATERIALS, MEMORIAL LIBRARY


Recording Secretary
Maryjane Kenney


Lauren Rosenzweig, Clerk


Date