

**BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING**  
**March 8, 2010**  
**Acton Town Hall**  
**Francis Faulkner Hearing Room**  
**7:00 P.M.**

Present: Paulina Knibbe, Peter Berry, Lauren Rosenzweig, Terra Friedrichs and Mike Gowing  
Town Manager Ledoux, Recording Secretary; Christine Joyce. The meeting was televised.

**CITIZENS' CONCERNS**

Jeff Clymer spoke about retiree's health coverage for Acton Retiree's. The town has already accepted the Statute to move retirees 65 and over to Medicare.

**CHAIRPERSON'S UPDATE**

Ms. Knibbe welcomed everyone and noted it would be a long meeting

**OPERATIONAL MINUTE**

Steve noted that the Town has reached a contract with Superior Officers Union. Steve noted that it took a collaborative effort to reach as settlement on both sides. Steve outlined the contract that was reached. They will be bringing this to Town Meeting for approval of funding for the first year of the contracts.

**PUBLIC HEARINGS & APPOINTMENTS**

**SALERNO'S RESTAURANT, COMMON VICTUALLER LICENSE**

Ms. Friedrichs -Moved to approve. Ms. Rosenzweig – second. UNANIMOUS VOTE

**SALERNO'S RESTAURANT, FULL LIQUOR LICENSE AS A COMMON VICTUALLER**

Ms. Friedrichs asked about number of licenses available in town for Restaurants. Lauren asked about training of staff in regards to serving alcohol. Terra noted that she wanted more restaurants in the villages and she let people know about it being the last one that was available and no one came forward to comment.

Ms. Rosenzweig – Moved to approve. Mr. Gowing – second. UNANIMOUS VOTE

**531 MASSACHUSETTS AVE., LLC, SITE PLAN SPECIAL PERMIT AMENDMENTS AND USE PERMITS.**

Ms. Knibbe outlined how she would be conducting this Hearing.  
Mr. Rosenfeld spoke about the project. He presented a slide show of what they have been designing both currently and in the past. He discussed the time-line and all the public outreach

they had conducted, the process and thought behind the design. He worked extensively with all the Boards and responded to all requests of the HDC as to the elements the HDC wanted in the plan. The Theater group withdrew so they redesigned the interior space with a smaller theater for film, dance, music, etc. and office and studio spaces for artists and small businesses. the exterior is unchanged except for removal of a ramp for persons with disabilities because it was no longer needed.

Traffic and parking study was discussed and how they conducted gathering information.

Stamski and McNary's Engineer George Dimakarakos reported on the existing site conditions, drainage and phase I partial improvement plan of moving houses and drainage infrastructure that will be fully in place. Mr. Dimakarakos analyzed the site and explained how they looked at the site before any thing was done. He noted that they have a high bar to meet the storm water management requirement by the Town and State.

They will have to provide leaching area and reserve areas in the event of a failure. They have been before the BOH and have been approved with conditions as well as the Conservation Commission and reporting approvals.

Mr. Gowing asked about public access bathrooms during business hours can they or could they consider them. There will be outside seating for the restaurant. The traffic Engineer was asked if the review was at the same time of year. He replied yes. Mr. Gowing spoke about a solar speed sign; he recommended that something like that would be a good idea. Mr. Gowing asked if the new bylaw for storm water calculations were used. Mr. Dimakarakos said no, as the bylaw was not approved at this time.

Ms. Friedrichs asked about the tree removal of trees behind the buildings and asked if all of the trees will remain. She also noted massing since the theater withdrawal.

Mr. Berry asked about HDC not being notified in the final staff / board review wrap-up. Mr. Dimakarakos said it was his oversight and was corrected. The HDCs comments were included in the review. Mr. Berry asked about proposed cultural space and if it was open for community functions.

Ms. Rosenzweig noted that her questions and storm water have been addressed in the presentation.

Ms. Knibbe asked about changes to the building once the theater withdrew. They have removed the ramp.

Ms. Knibbe asked about impervious pavement and the applicant noted that they would maintain it.

Katherine Black said that this is an excellent plan and asked if there would be a wood dance floor. She asked about traffic survey.

Dean Cavaretta, Main Street, asked about the number of parking spaces, and asked about the discontinuance process of Mass Ave from State to the town.

Wayne Friedrichs, Windsor Ave. commented on the process that was used and is not happy with this process. He said he could support the project as it appeared that the applicant

addressed screening the massing of the building from the east, with trees and other architectural adjustments. He wants them to settle differences with HDC.

Paul Hoff Nash Road spoke about the parking and use of the playground and pedestrian traffic to go across the street.

Lloyd Simon thanked OMR for the receptivity to suggestions.

Jamie Watt of Central Street comments he acknowledged that this was given much scrutiny and said it was good plan and he supports this.

William Sawyer, Spring Hill Road – Spoke about village character of West Acton Village and HDC should review the new plans. He noted the plan has changed and has heard that the HDC is unhappy they have not been included. He hoped the Board would support their volunteer boards.

Annette Lochrie in support of this “gift” to the entire town.

Amanda Sullivan – She is a tenant of OMR and was inspired to be a tenant by attending the early meetings with the neighbors and the community about the plans. She thought they had done a great deal of outreach, and she had attended meetings in Town Hall as well as at the site itself.

Lynn Parker said she has felt that she has been un-informed about the process.

Bob Miller spoke in favor and encouraged the developer and thanked them for their patience.

Michaela Moran noted that the HDC does not want to interrupt the project. She wanted to remind people that this is not the same project they looked at previously as the theater tenant withdrew.

Anne Cochran has lived in town 46 years and is concerned that we are over scrutinizing the plan. She felt that other developers have not come under such scrutiny. She thinks this will add to the Town.

Andy Sheehan – Felt it is a good plan and urged the board to support it.

Ron Beck said that this an interesting project but that it is sitting next to a large wet land. He wants the rain water garden to be retained in the plan. He asked that the developer and town monitor the water issues.

Ann Sussman, Windsor Ave. was concerned that sometimes things do not come as they present them and what would happened to those houses that need to be kept in good condition.

Bettina Abe noted she is on the Sidewalk Committee and encouraged the development

Joe Pita 544 Mass Ave., neighbor and abutter and wants to see this process moved forward and let it go through.

Ms. Knibbe - Moved to close the public hearing. Mr. Gowing – second. Motion passes, 4- 1 Ms. Friedrichs, Nay.

Ms. Rosenzweig noted that the HDC will review the plan again for the windows, doors and other architectural details as indicated in their certificate when those portions of the plan pull building permits. She feels that the project needs to move forward. She wants to help facilitate the process with Mass Highway to create town control of the road.

Mr. Berry questioned the exteriors impact on the village. He understands that HDC issued a Certificate of Approved and those conditions need to be satisfied before a building permit gets issued.

Ms. Knibbe wanted to see the shared parking and the maintenance of the cutting edge technology items followed for compliance. Ms. Knibbe also noted the Fire Chief's comments about turning and hydrants. She reported that once the HDC has issued a certificate and it has passed the appeals period, it cannot be revoked. The HDC's jurisdiction is the façade visible from the public way. The interior is not within their jurisdiction. The uses and the interior can change, as long as they are within the zoning bylaw and the Board of Selectmen approves the use.

Ms. Friedrichs wanted to state her concern about HDC not reviewing this plan as it has changed, and was concerned with the shared parking. She said she had no problem with phase one items.

Mr. Gowing had safety concerns with regard to pedestrian traffic and suggested that staff take a look at this situation.

Ms. Knibbe moved to close the public hearing. Ms. Rosenzweig seconded. Vote: 4 in favor, 1 against.

## **SELECTMEN'S BUSINESS**

### **ALG/BUDGET DISCUSSION**

Ms. Knibbe spoke about the ALG spread sheet. The ALG met on Friday with updated assumptions and the numbers of the budgets. The budget that the Board of Selectmen agreed to on Thursday is below the ALG allocation and the schools were above their allocation. Ms. Knibbe presented a series of choices that the Board could make with regard to the FY11 budget. . Option 1. we stick with the budget discussed on Thursday and discussed at the ALG on Friday. The town will transfer a portion of its ALG allocation to the schools to cover their budget shortfall in FY11. However, this is intended to be a one year transfer and the split between the town and the school should return to its previous value (30.8) next year. . The Board discussed this and agreed to the one year transfer to support the school budget. The Municipal Operating Budget is \$26,413,753. Mr. Berry commented on Health Trust and we had a 8 ½% increase but wanted to be sure of our numbers.

Ms. Knibbe - Moved to accept the budget at \$26,413,753 and give \$96,000 of the town's ALG allocation to the schools to cover their budget shortfall this year. Ms. Rosenzweig – second. **(check whether this was unanimous) I believe Terra abstained , please verify**

Capital Budget discussion – We have been discussing asking Town Meeting to fund four projects with closely related unexpended warrant article funds: the DPW improvements, the COPs in Schools program, bridge repair and sidewalks. Ms. Knibbe recommended that we cut

this list to two items: the COPs in schools program and the bridge repair program. Funding the COPS in schools program this way helps the school budget and prevents the need to lay off a police officer. Bridge repair is both a long term safety issue and an ongoing infrastructure maintenance issue that tends to get more expensive when it gets delayed.

Ms. Rosenzweig recommended that the DPW project be placed back in the budget with other cuts (as discussed previously) being made to keep the bottom line budget the same.

All unexpended funds will be returned to the original source of their funding (mostly free cash) and the specific articles will allocate their funding from free cash. This is consistent with the Finance Committee recommendations.

Ms. Knibbe – Move to remove from the warrant articles #25 and #26 (DPW Sprinklers and sidewalk funding). Ms. Friedrichs – second. UNANIMOUS VOTE.

Ms. Knibbe – Move that we ask the town manager to add back the DPW sprinklers to the capital warrant article – removing other items as previously discussed – to keep the bottom line budget the same. Ms. Rosenzweig – second. UNANIMOUS VOTE.

Mr. Kong said the School Committee wants to keep the Waterfall proposal as originally proposed.

Mr. Berry is in favor of keeping the Waterfall proposal as it was presented.

Mr. Gowing agrees with Mr. Berry to keep the waterfall as it is.

Ms. Friedrichs stated she is inclined to agree with the Finance Committee, and wanted to know what they wanted restored.

Mr. Berry - Moved to maintain the original Waterfall proposal if there is available money  
Mr. Gowing – second. 3- 2 Motion, Ms. Knibbe Nay, and Ms. Friedrichs Abstaining. Motion passes

## **SELECTMEN'S REPORTS**

Mr. Gowing reported on his conversation with the Nursing Service regarding funding

Mr. Gowing noted that they will have a site walk this Saturday on the Caouette Land.

Ms. Friedrichs reported that EDC has a sub-committee to study new businesses and noted the current illegal sign notification issues.

Mr. Berry noted that the committee set the Health Insurance Rates.

South Acton Train Station, the T may come up with a better design more in line with the proposal from the Town

Community Comprehensive Plan –Margaret Busse of the Planning Board and will begin conducting interviews.

WRAC completed drafting a bylaw regarding storm water and it will be in the Warrant for everyone's review.

**2010 ANNUAL TOWN MEETING WARRANT** Originally it was thought that Acton Town Bylaw E40" Discharge of water on town ways" would need to have a change in order to be in conformity with the new bylaw U. Town Counsel has indicated that there is no conflict, so the Warrant Article to address E40 no longer needs to be brought to Town Meeting. Ms. Rosenzweig moves to remove the proposed Warrant Article regarding changes to bylaw E40. Mr. Gowing - second UNANIMOUS VOTE

Meals Tax – Ms. Knibbe noted that she was in favor of removing this article because of the current economic situation. –

Mr. Berry was opposed to removing it and felt that we could use these meals tax monies to reduce the reliance on the property tax.

Ms. Rosenzweig noted that EDC was against supporting this tax. She would like to see what other town's do and study it further regarding the impacts on local restaurants and hotels.

Ms. Knibbe Moved to remove this article. Mr. Gowing – second. 3-2 Vote, Ms. Friedrichs Abstaining, Mr. Berry No, 3-2 Motion passes

**The Selectmen Moved and seconded the following Warrant Articles to be listed as recommended by the Board of Selectmen in the April Town Meeting Warrant:**

Choose Town Officers, Article 1  
Council on Aging, Article 3  
Septage Disposal Enterprise Budget, Article 5  
Sewer Enterprise Fund, Article 6  
Ambulance Enterprise Fund, Article 7  
Recycling and Transfer Station Enterprise Fund, Article 8  
Self Funding Programs (Revolving Funds), Article 9  
Town Board Support, ABCC, Article 10  
Town Operating Budget, Article 11  
Fund Collective Bargaining Agreement, Article 12  
Fund Collective Bargaining Agreement, Article 13  
Acton Public Schools, Article 17 – Ms. Friedrichs Abstained  
Acton Regional Schools, Article 18, Ms. Friedrichs Abstained  
Minuteman Regional School District Assessment, Article 19, Ms. Friedrichs Abstained  
Minuteman Regional School District, Capital Feasibility Study, Article 20, Ms. Friedrichs Abstained  
Capital Improvements, Article 21  
Cops in Schools, Article 23  
Capital Improvements, Bridge Work, Article 24  
Community Preservation program, Article 27  
6 Piper Lane, Article 28  
Land Acquisition, Bruce Freeman Rail Trail, Article 29 Mike Gowing Abstained  
Community Shuttle, Article 30  
Amend Town Bylaws, Stretch Energy Code, Article 31  
Amend Town Bylaws, Discharges into Municipal Storm Drainage System, Article 32  
Amend Town Bylaws, Non-Criminal Disposition for Chapter U, Article 33  
Amend Zoning Bylaws, Special Event Signs, Article 34

Amend Zoning Bylaws, Flood Plain Zoning District, Article 35 – Ms. Friedrichs, NO  
Accept Sidewalk Easement, 239 Arlington Street, Article 36  
Accept Property by Deed in Lieu of Foreclosure, Nonset Path, Article 37- Ms. Friedrichs, NO  
Accept Land Gift, Ethan Allen Drive, Article 38  
Amend Town Charter, Council on Aging, Article 40  
Hear and Accept Reports, Article 41  
Highway Reimbursement Program, Chapter 90, Article 42  
Insurance Proceeds, Article 43  
Gifts or Grants, Article 44  
Federal and State Reimbursement, Article 45  
Performance Bonds, Article 46  
Sale of Foreclosed Properties, Article 47 – Ms. Friedrichs, NO  
Elderly Tax Relief, Article 48

**The Selectmen Moved and seconded the following Warrant Articles as Deferred:**

Budget Transfer, Article 2  
Nursing Enterprise Budget, Article 4  
Collective Bargaining, Police Patrol, Article 14  
Collective Bargaining Fire, Article 15  
Collective Bargaining Highway Municipal Properties Article 16

**The Selectmen Moved and seconded the following Warrant Articles as Removed:**

Meals Tax, Article 16B  
Sidewalk Work, Article 25  
DPW Sprinklers, Article 26 Moved to Capital Budget  
Elevator at Train Station, Article 22 was voted deferred and (subsequently withdrawn at Mr. Berry's request)

**OPEN SPACE ACQUISITION AND PRESERVATION FUND POLICY**

Mr. Gowing spoke about the set aside to fund land purchases. CPC requested a policy for Open Space Acquisition. They have prepared the policy and Open Space and CPC have voted with changes.

Ms. Rosenzweig - Moved to adopt the policy. Ms. Friedrichs – second UNANIMOUS VOTE

**DRAFT BOARD POLICY WITH REGARD TO STATUS OF WARRANT ARTICLES**

Ms. Knibbe spoke about the policy noted above. Terra wanted a balance of what went in and what went out. Mr. Gowing wanted a list to refer to. Ms. Rosenzweig - Moved to adopt the policy. Ms. Friedrichs – second UNANIMOUS VOTE

**RECORD OF VOTE, REAL PROPERTY, UNDER CHAPTER 61A, EXERCISING THE TOWN'S RIGHT OF FIRST REFUSAL**

The Board discussed the signature sheet and that it was approved but not signed at their Special Meeting on March 5th, and required signatures from the board.

**OTHER BUSINESS**

**CONSENT**

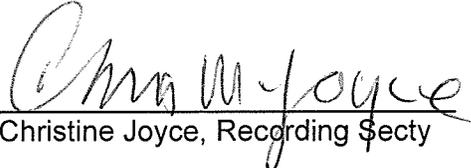
#14 Betsy Ball held by Ms. Rosenzweig

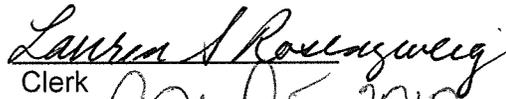
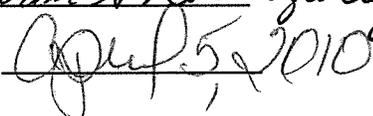
Mr. Gowing – Moved to accept the consent items, except for 14 Ms. Friedrichs – second.  
UNANIMOUS VOTE.

# 14--Ms. Rosenzweig requested the Manager to follow-up with the schools regarding presentation of the Betsy Ball Scholarship on Scholarship Night at the High School. Ms. Rosenzweig cannot attend.

Mr. Gowing – Moved to accept #14, Betsy Ball. Ms. Friedrichs – second. UNANIMOUS VOTE

**EXECUTIVE SESSION**

  
Christine Joyce, Recording Secty

  
Clerk  
Date: 

**RECORD OF VOTE OF THE ACTON BOARD OF SELECTMEN**  
**March 8, 2010**

At a duly called public meeting of the Acton Board of Selectmen on March 8, 2010, the Board voted as follows with respect to the real property (the "Property") containing approximately 15.2 acres classified under Massachusetts General Laws Chapter 61A and consisting of all of Parcel 62 on Acton Assessor's Map H-2A and H-3B and approximately 2.5 acres of Parcel 95 on Acton Assessor's Map H-2:

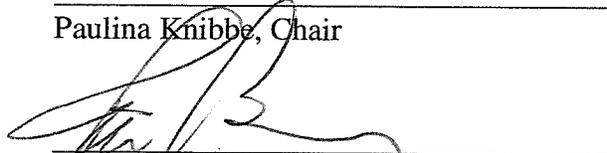
The Board has determined that advertising under Massachusetts General Laws Chapter 30B for the Town's acquisition of all or the majority of the Property will not benefit the Town's interest due to the unique qualities of the Property. Specifically, the Property contains approximately 15.2 acres of land that are uniquely suited for preservation for open space, recreational and agricultural purposes because:

1. The Property consists of farmland that is diminishing in Acton, and the Town is purchasing the Property to protect the historic landscape of the Town.
2. A portion of the Property contains wetlands.
3. Acton has a unique opportunity to purchase the majority of the Property through a first refusal option under Massachusetts General Laws Chapter 61A.

TOWN OF ACTON  
By its Board of Selectmen



Paulina Knibbe, Chair



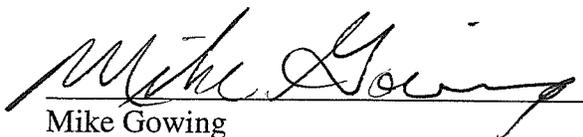
Peter Berry, Vice Chair



Lauren Rosenzweig, Clerk



Terra Friedrichs



Mike Gowling

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

*Francis Faulkner Hearing Room*

*March 8, 2010*

*7:00 PM*

**I. CITIZENS' CONCERNS**

**II. PUBLIC HEARINGS AND APPOINTMENTS**

1. **7:05 CHAIRMAN'S UPDATE**  
The Chair will briefly update the Board on Topics of interest
2. **7:10 OPERATIONAL MINUTE**  
The Town Manager will provide a brief report on topics of interest
3. **7:25 SALERNO'S RESTAURANT, COMMON VICTUALLER LICENSE, 255 MAIN STREET**  
**ISSUE:** Issue Common Victualler
4. **7:30 SALERNO'S RESTAURANT, FULL LIQUOR LICENSE AS A COMMON VICTUALLER, 255 MAIN STREET**  
**ISSUE:** Request to have a Full Liquor as Common Victualler (*Applicant currently holds a Common Victualler and Beer and Wine License in the right hand portion of the building (251 Main Street) and will turn them in once he is approved for the Full Liquor License at 255 Main Street.*) Enclosed please find materials in the subject regard.
5. **7:40 531 MASSACHUSETTS AVE, LLC, SITE PLAN SPECIAL PERMIT AMENDMENT AND USE PERMITS**  
**ISSUE:** Site Plan Special Permit amending and Use Permits under section 3 of the Zoning Bylaw at 525-545 Mass Ave and 3-7 Spruce Street. Enclosed find materials in the subject regard

**III. SELECTMEN'S BUSINESS**

6. **ALG/BUDGET DISCUSSION**  
Enclosed please find materials in the subject regard
7. **SELECTMEN'S REPORTS**

**8. 2010 ANNUAL TOWN MEETING WARRANT**

Vote Selectmen recommendations on Articles. Please find materials in the subject regard

**9. OPEN SPACE ACQUISITION AND PRESERVATION FUND POLICY**

Enclosed please find materials in the subject regard

**10. DRAFT BOARD OF SELECTMEN'S POLICY WITH REGARD TO STATUS OF WARRANT ARTICLES**

Enclosed please find materials in the subject regard

**11. RECORD OF VOTE, REAL PROPERTY, UNDER CHAPTER 61A, EXERCISING OF TOWN'S RIGHT OF FIRST REFUSAL**

Enclosed please find materials in the subject regard

**OTHER BUSINESS**

**IV. CONSENT AGENDA**

**12. APPROVE MINUTES, BOARD OF SELECTMEN, JANUARY 11, 2010**

Enclosed please find materials in the subject regard

**13. GRANT OF SIDEWALK EASEMENT, 239 ARLINGTON STREET**

Enclosed please find materials in the subject regard

**14. BETSY BALL SCHOLARSHIPS**

Enclosed please find materials in the subject regard

**15. PROCLAMATION OF ACTON PUBLIC LIBRARIES' VOLUNTEER APPRECIATION WEEK**

Enclosed please find a Proclamation for Board action

**16. ACCEPT GIFT, RECREATION DEPARTMENT**

Enclosed please find a gift valued at \$1,500.00 from Enterprise Bank to be used to help fund the 4<sup>th</sup> of July activities

**17. ACCEPT GIFT, RECREATION DEPARTMENT**

Enclosed please find a gift valued at \$1,000.00 from Middlesex Savings Bank, to be used to support the 2010 Summer Concerts

**18. ACCEPT GIFT, RECREATION DEPARTMENT**

Enclosed please find a gift valued at \$500.00 from Emerson Hospital to be used to support the Free Summer Concerts at NARA Park

19. **COMMITTEE APPOINTMENT, MARY SPINOSA-WILSON, ACTON BOXBOROUGH CULTURAL COUNCIL**  
Enclosed please find materials in the subject regard
20. **COMMITTEE APPOINTMENT, JOHN SONNER, SOUTH ACTON TRAIN STATION ADVISORY COMMITTEE (SATSAC) TO FILL A VACANCY ON THIS ADVISORY COMMITTEE**  
Enclosed please find materials in the subject regard
21. **APPOINTMENT OF DEENA A. FERRA AS REGISTRAR OF VOTERS, TERM TO EXPIRE 2013**  
Enclosed please find materials in the subject regard
22. **NATIONAL BRAIN TUMOR SOCIETY, REQUEST FOR PERMISSION TO CONDUCT A RIDE FOR RESEARCH THROUGH ACTON**  
Enclosed please find materials in the subject regard
23. **DISPOSAL OF OBSOLETE MATERIALS, MEMORIAL LIBRARY**  
Enclosed please find materials in the subject regard
24. **DISPOSAL OF OBSOLETE MATERIALS, WEST ACTON LIBRARY**  
Enclosed please find materials in subject

## **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

**MARCH 22** – SALERNO'S SPECIAL USE PERMIT, 255 MAIN STREET

**MARCH 29** – (NO AGENDA ITEMS AT THIS TIME)

### **MINUTES PENDING VOTES**

Budget Saturday, January 11, January 25, February 1, February 8, 22

### **PENDING COMMITTEE APPOINTMENTS**

David Lutz – working with the VCC to select a committee he would like to serve on.

Mary Spinosa-Wilson – to fill an unexpired term on the Acton Boxborough Cultural Council (ABCC)

Linda Mayer – interested in ABCC, sent to VCC for interview

John Sonner - SATSAC