

Town of Acton

Special Town Meeting Warrant



Tuesday, October 12, 2010

**The Special Town Meeting will convene at 7:00 PM in the
Acton-Boxborough Regional High School Auditorium
36 Charter Road**

Meeting Notice

**Special Town Meeting
Tuesday, October 12, 2010
7:00 PM**

**Acton-Boxborough Regional High School Auditorium
36 Charter Road**

Article Index

<u>Article</u>	<u>Title</u>	<u>Page</u>
1	Environmental Remediation, Etc. Expenses – Simeone-Caouette Property	4
2	Fund Collective Bargaining Agreement – Police Patrol Officers	5
3	Fund Collective Bargaining Agreement – Highway/Municipal Properties Personnel.....	6
4	Amend Zoning Bylaw – Broaden Exemption for Bikeway and Walkway Facilities.....	7
5	Amend Zoning Bylaw – Signs and Advertising Devices.....	7
6	Amend Zoning Bylaw – Rezone Lot at 22 Esterbrook Road.....	9

Special Town Meeting Warrant



*Town of Acton
Commonwealth of Massachusetts, ss.*

To either of the Constables of the Town of Acton, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the legal voters of said Town of Acton, qualified to vote at Town Meetings for the transaction of town affairs, to meet at the Acton-Boxborough Regional High School Auditorium in said Acton on **Tuesday, October 12, 2010 at 7:00 PM**, then and there to act on the following articles:

ARTICLE 1 ENVIRONMENTAL REMEDIATION, ETC. EXPENSES –
(Majority vote) **SIMEONE-CAOUCETTE PROPERTY**

To see if the Town will vote to raise, appropriate or transfer from free cash or other available funds, or accept gifts for this purpose, the following amounts:

- (a) up to \$200,000 to pay for any environmental assessment, containment, removal and/or remedial actions required, in the discretion of the Board of Selectmen, concerning the property previously approved for acquisition by the Town under Article 25 of the Acton 2010 Annual Town Meeting (the “Property”);
- (b) up to \$34,000 to pay for environmental testing and remediation recommendations for the Property in accordance with the Town’s Request for Proposals issued on August 6, 2010; and
- (c) up to \$22,500 to pay for any extensions of the July 13, 2010 closing date that the Board of Selectmen deem necessary in their discretion as provided under the Fourth Amendment to Purchase and Sale Agreement dated as of July 13, 2010 and executed by the Town of Acton and the owners of the Property or otherwise;

or take any other action relative thereto.

SUMMARY

The acquisition of the Simeone-Caouette Property was approved by Annual Town Meeting in 2010. After that approval, the Town discovered through its due diligence certain environmental issues related to the Property. This article appropriates funds for the Board of Selectmen to complete environmental due diligence activities and to proceed with up to \$200,000 of environmental remediation if and as necessary based on that due diligence information.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631
Selectman assigned: Mike Gowing: bos@acton-ma.gov / (978) 264-9611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Deferred	Deferred

ARTICLE 2 **FUND COLLECTIVE BARGAINING AGREEMENT**
(Majority vote) **POLICE PATROL OFFICERS**

To see if the Town will vote to raise and appropriate, transfer and/or appropriate from available funds a sum of money necessary to fund the cost items contained in Collective Bargaining Agreement(s) between the Town and its police patrol officers union as filed with the Town Clerk, or take any other action relative thereto.

SUMMARY

This article would ask Town Meeting to fund cost items contained in the first year of a collective bargaining agreement with Town police patrol officers union, under the provisions of Massachusetts General Law, Chapter 150E, Section 7. When a tentative agreement is reached with a union, the Town will bring a funding request for the financial elements of the agreement to Town Meeting within 30 days for approval.

This agreement was reached through mediation provided by the Joint Labor Management Committee (JLMC) of the Commonwealth. The purpose of the Joint Labor-Management Committee is to encourage the parties to collective bargaining disputes involving municipalities and their police officers and fire fighters to agree directly on the terms of such agreements or on a procedure to resolve these disputes. In difficult cases the Committee may, in addition to mediation and conciliation also utilize fact-finding, limited arbitration, or other methods of dispute resolution using outside neutrals or members of the Committee. The Committee makes every effort to achieve voluntary settlements and to encourage a constructive long-term relationship between the parties. In fulfilling its mission, the Committee relies on the unique tripartite membership drawn from the leadership of statewide police and fire fighter organizations, municipal management and public neutrals. In a significant sense, the JLMC belongs to the statewide organizations of firefighters, police and municipal management, to assist in the resolution of their disputes. The committee cannot be viewed by these organizations and their members as a distant government bureaucracy. The neutral parties provide proper balance in the public interest.

If the funding is approved for any past fiscal years and FY11, the Town is obligated to fund the remaining years of the contract. If the funding request is rejected by Town Meeting, the parties must return to the bargaining table for further negotiations.

Direct inquiries to: Steven L. Ledoux, Town Manager: manager@acton-ma.gov / (978) 264-9612
Selectman assigned: Lauren Rosenzweig Morton: bos@acton-ma.gov / (978) 264-9611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Deferred	Deferred

ARTICLE 3
(Majority vote)

**FUND COLLECTIVE BARGAINING AGREEMENT
HIGHWAY/MUNICIPAL PROPERTIES PERSONNEL**

To see if the Town will vote to raise and appropriate, transfer and/or appropriate from available funds a sum of money necessary to fund the cost items contained in Collective Bargaining Agreement(s) between the Town and its Highway & Municipal Properties personnel union as filed with the Town Clerk, or take any other action relative thereto.

SUMMARY

This article would ask Town Meeting to fund cost items contained in the a collective bargaining agreement for any past fiscal years and FY11 with the Highway and Municipal Properties personnel union, under the provisions of Massachusetts General Law, Chapter 150E, Section 7. When a tentative agreement is reached with a union, the Town will bring a funding request for the financial elements of the agreement to the Town Meeting within 30 days for approval. If the funding is approved for any past fiscal years and FY11, the Town is obligated to fund the remaining years of the contract. If the funding request is rejected by Town Meeting, the parties must return to the bargaining table for further negotiations.

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Recommendations:

Board of Selectmen
Deferred

Finance Committee
Deferred

ARTICLE 4 **AMEND ZONING BYLAW – BROADEN EXEMPTION FOR**
(Two-thirds vote) **BIKEWAY AND WALKWAY FACILITIES**

To see if the Town will vote to amend the Zoning Bylaw, Section 1.4 – Applicability, by inserting the following phrase after the words “public bicycle, pedestrian, and multi-use paths”:

“, and appurtenances and easements thereto,”.

[Note – Section 1.4 currently reads:

1.4 Applicability - All LOTS and parcels of land in the Town of Acton and all BUILDINGS, STRUCTURES and other improvements thereon shall be subject to the regulations, restrictions and requirements established in this Bylaw. Except when specifically referred to or stated otherwise, this Bylaw shall not apply to STREETS and appurtenances and easements thereto; to railroad rights of way; to public bicycle, pedestrian, and multi-use paths funded, laid out, or constructed by the Town of Acton, the Commonwealth of Massachusetts, or the Federal Government; or to any BUILDING, STRUCTURE or USE of land, including grading, filling, and excavating, which is associated with a public sewer collection system owned or operated by the Town of Acton.]

, or take any other action relative thereto.

SUMMARY

This article expands the zoning exemptions for public bicycle, pedestrian, and multi-use paths that are funded, laid out, or constructed by the Town of Acton, the Commonwealth of Massachusetts, or the Federal Government to include related appurtenances and easements such as restroom facilities, trail access accommodations, or trail parking lots. This makes the scope of the exemption equivalent to the exemptions for streets.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631
Selectman assigned: Lauren Rosenzweig Morton: bos@acton-ma.gov / (978) 264-9611

Recommendations:	<u>Board of Selectmen</u> Deferred	<u>Finance Committee</u> Deferred	<u>Planning Board</u> Recommended
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ARTICLE 5 **AMEND ZONING BYLAW – SIGNS AND ADVERTISING DEVICES**
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw, Section 7 – Signs and Advertising Devices, as follows:

- A. Under section 7.5, Signs which Do not Require a Sign Permit, insert a new sub-section 7.5.19 as follows:
 - 7.5.19 “OPEN” SIGNS - One SIGN, other than a WINDOW SIGN, associated with a PRINCIPAL USE indicating that the establishment is open for business. Such a SIGN shall be either affixed to the BUILDING as near as practically possible to the entrance of the establishment or to a freestanding sign otherwise permitted under this Bylaw. Such a SIGN shall not exceed 6 square feet in DISPLAY AREA. The DISPLAY AREA of such an “OPEN” SIGN shall not count towards the DISPLAY AREA of any other sign on the premises. Notwithstanding section 7.3.6, an “OPEN” SIGN may be a flag or a banner.
- B. Under section 7.4.3, Illumination, delete sub-section 7.4.3.6 and replace it with a new sub-section 7.4.3.6 as follows:

7.4.3.6 In all other Village Districts:

- a) PROJECTING SIGNS and AWNING SIGNS shall not be illuminated.
- b) WALL SIGNS shall not be illuminated except as described in Sections 7.4.3.4 b) or c), or from an external light source with the light projected downward from above.
- c) FREESTANDING SIGNS shall not be illuminated except as described in Sections 7.4.3.4 b) or c) or from an external light source.

[Note: Section 7.4.3.6 currently reads:

7.4.3.6 In all other Village Districts, PROJECTING SIGNS and AWNING SIGNS shall not be illuminated, WALL SIGNS shall not be illuminated except as described in Sections 7.4.3.4 b) or c), and FREESTANDING SIGNS shall not be illuminated except as described in Sections 7.4.3.4 b) or c) or from an external light source.]

C. Under section 7.13, SIGNS Requiring a Special Permit from the Planning Board, delete the leading paragraph in subsection 7.13.1 and replace it with a new paragraph as follows:

7.13.1 The Planning Board, acting as the Special Permit Granting Authority under this Section, may approve, approve with conditions, or disapprove the following SIGNS and the following deviations from the requirements of Sections 7.4, 7.7 and 7.8.

[Note: The leading paragraph of sub-section 7.13.1 currently reads:

7.13.1 The Planning Board, acting as the Special Permit Granting Authority under this Section, may approve, approve with conditions, or disapprove the following SIGNS and the following deviations from the requirements of Sections 7.7 and 7.8.]

, or take any other action relative thereto.

SUMMARY

This article makes minor changes and additions to the Town’s sign regulations.

Part A would allow businesses to display one “OPEN” sign on the outside of a building in addition to all other allowed signs. Although such signs can be seen around Town, the Zoning Bylaw presently allows “OPEN” signs only as window signs.

Part B reorganizes a section on sign illumination in all village zoning districts other than East Acton Village, and adds a phrase to allow exterior sign illumination from above such as a shielded light rail or goose-neck lamps.

Part C: Section 7.13 provides for exceptions from the sign regulations by Planning Board special permit. This amendment clarifies that some of the regulations, from which the Planning Board can presently authorize special permit exceptions, are written in Section 7.4. The subject regulations pertain to the placement, illumination, and materials of signs.

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Selectman assigned: Lauren Rosenzweig Morton: bos@acton-ma.gov / (978) 264-9611

Recommendations:	<u>Board of Selectmen</u> Deferred	<u>Finance Committee</u> Deferred	<u>Planning Board</u> Recommended
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ARTICLE 6 AMEND ZONING BYLAW – REZONE LOT AT 22 ESTERBROOK ROAD
(Two-thirds vote)

To see if the Town will vote to amend Map No. 1 of the Zoning Map (Zoning Map of the Town of Acton) by rezoning from the Residence 10/8 (R-10/8) District to the Residence 8 (R-8) District the parcel of land at 22 Esterbrook Road shown in the 2007 Acton Town Atlas on map F-4 as parcel 13-1, or take any other action relative thereto.

SUMMARY

The subject 2.91-acre parcel lies wedged between the Limited Business District along Great Road and a tract of R-8 zoned parcels along Esterbrook Road. It connects in the rear to other land that is zoned R-10/8. The parcel has a residence on it. The zoning change will not create any potential for additional building lots.

Background: The immediate abutters at 28 Esterbrook Road have a nonconforming lot for insufficient area in the R-8 zoning district. Their existing house is small, has groundwater penetration in the basement, and is mold infected. They want to replace it with a larger house. The zoning bylaw only allows house replacements of equal size on nonconforming lots. Their application for a variance to allow a larger house was denied.

The abutters at 22 Esterbrook Road, who own the parcel that is the subject of this rezoning article, are willing to convey enough land to their neighbors at 28 Esterbrook Road so that they would then own a legal 80,000 square foot conforming lot in the R-8 District. However, they can only convey such land if their lot is rezoned as set forth in this article, which would reduce the minimum required lot area from 100,000 to 80,000 square feet. Also, 22 Esterbrook Road is currently nonconforming for insufficient frontage in the R-10/8 district. In the R-8 district the lot will have legal conforming frontage. With the rezoning and the subsequent proposed land conveyance, both lots would become conforming lots in the R-8 District, and the owners of 28 Esterbrook Road may rebuild their house in the way they wish.

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Selectman assigned: Lauren Rosenzweig Morton: bos@acton-ma.gov / (978) 264-9611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>	<u>Planning Board</u>
	Deferred	Deferred	Recommended

And you are directed to serve this Warrant by posting attested copies thereof fourteen days at least before the time of said meeting, in not less than six public places in Town, to be designated by the Board of Selectmen.

Hereof fail not, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at or before the time of said meeting.

Given under our hands at Acton this twenty-eighth day of September, 2010.

Lauren Rosenzweig Morton, Chair
Mike Gowing, Vice-Chair
Terra Friedrichs, Clerk
Pamela Harting-Barrat
Janet K. Adachi

Board of Selectmen

A true copy, Attest:

Constable of Acton



Town of Acton
472 Main Street
Acton, MA 01720

BULK RATE
U.S. POSTAGE PAID
PERMIT #67
ACTON, MA 01720

POSTAL PATRON
ACTON, MA 01720