

Special Town Meeting Warrant



Monday, October 25, 2010

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

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 Meeting for the transaction of town affairs, to meet in the Acton-Boxborough Regional High School Auditorium, 36 Charter Road, Acton, on October 25, 2010 at 7:00 PM for a Special Town Meeting, by posting a copy of this Warrant by you attested, at each of the places as directed by vote of the Town, fourteen days at least before the twenty-fifth day of October, 2010, then and there to act on the following article:

ARTICLE 1 SUPPLEMENTAL APPROPRIATION –
(Two-thirds vote) **SIMEONE-CAOUCETTE PROPERTY PURCHASE**

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 difference between one million dollars and the maximum allowable amount of Community Preservation Act Funds previously appropriated under Article 24(K) of the Acton 2010 Annual Town Meeting and which can permissibly be used for the Open Space Acquisition of the Caouette Land (the "Property"), together with such additional funds as may be necessary to effectuate the closing on the purchase of the Property, 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 (a) environmental issues related to the Property, and (b) the Property contains less acreage than originally anticipated because of issues related to the delineation of lot lines in the Mill Pond (i.e. the property line did not encompass the entire Mill Pond but rather extended only to the middle of Mill Pond). As a result, the Town commissioned a supplemental appraisal of the Property which found the value to be less than one million dollars, the Sellers' minimum sale price under the Chapter 61A process pursuant to which the Town has the right to purchase the Property. Under Article 24 of the Acton 2010 Annual Town Meeting, the Town had appropriated up to one million dollars of Community Preservation Act ("CPA") funds to purchase the Property. However, under that act, G.L. c. 44B, § 5(f), "no ... real property, or interest therein, shall be acquired by any ... town [using CPA funds] for a price exceeding the value of the property as determined by such ... town through procedures customarily accepted by the appraising profession as valid." Accordingly, given the limits the use of the CPA funds, this article appropriates from the general fund the difference between the Chapter 61A sale price of the Property and the maximum allowable CPA funds that can be used for the purchase. The Community Preservation Committee has recommended that the maximum amount of CPA funds that can be used for the purchase of this Property, based on the updated appraisal for the Town, is \$830,000. The balance of the purchase price (\$170,000) would be appropriated under this article. Accordingly, subject to any updates at the Town Meeting, the appropriations from general revenues to be requested at the October 2010 Special Town Meeting are as follows:

Cost	Use of CPA Funds	Amounts to be Appropriated from the General Fund	Total
Purchase Price	\$830,000 *	\$170,000	\$1,000,000
Environmental Remediation	\$0	\$200,000	\$200,000
Environmental Testing	\$0	\$34,000	\$34,000
P&S Extensions	\$0	\$22,500	\$22,500
Total	\$830,000 *	\$426,500	\$1,256,500

* The 2010 Annual Town Meeting appropriated \$1,000,000 of CPA funds for the purchase of this property. Please see the Article's summary for a detailed explanation.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 264-9636
 Selectman assigned: Mike Gowing: bos@acton-ma.gov / (978) 264-9611

Recommendations: **Board of Selectmen** **Finance Committee**
 Recommended **Deferred**

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 eighth day of October, 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

Note to Town Meeting Members

The acquisition of the Simeone-Caouette Property was approved by Annual Town Meeting in 2010. The \$1,000,000 purchase price was to be paid from CPA funds. After that approval, the Town discovered through its due diligence activities that (a) there are environmental problems at the Property that will require remediation, and (b) the Property contains less acreage than originally anticipated because of the delineation of the lot lines in the Mill Pond.

The Selectmen initially called a Special Town Meeting for October 12, 2010, to consider the appropriation from general funds toward environmental testing and remediation costs and other transaction costs associated with the property. However, after receiving a supplemental appraisal report of the property, the Selectmen are now calling a Special Town Meeting also to consider a supplemental appropriation from general funds toward the purchase price of the Property.

The reason for this is that CPA funds above \$830,000 cannot be used to purchase the property by virtue of the updated appraisal results. The Selectmen are recommending that both appropriation articles be considered by Town Meeting on the same evening (October 25, 2010) to simplify and expedite consideration of these matters.