

BOARD OF SELECTMEN & SEWER COMMISSIONERS' MEETING

MINUTES

REGULAR SESSION

Room 204 Town Hall

March 5, 2009

7:00 PM

Present: Chairman Rosenzweig, Selectmen Knibbe, Magee, Berry and Friedrichs, Town Manager Steven Ledoux, and Recording Secretary Maryjane Kenney

The Chair gave her condolences to the family of Leo Hayes a firefighter who died in an accident this week and wished a speedy recovery to Firefighter Rautenberg.

Selectman Friedrichs handed out extra information to members of the audience.

CITIZENS' CONCERNS

None

PUBLIC HEARINGS AND APPOINTMENTS

None

SELECTMEN'S BUSINESS

1. PRIORITY DISCUSSION, ECONOMIC STIMULUS PROJECTS

The Chairman read the initial list discussed by Selectman. Selectman Friedrichs said it was not her list. Tonight's goal is to prioritize the Board's list to present to our legislature. Selectman Knibbe stated the main categories are Transportation, Energy and Municipal Projects. Paulina Knibbe will copy to the Board details of municipal Projects. Steve Ledoux described a letter received today on clean water projects which needs a response by August 1st stating we will need to have all the bonding done to submit for money regarding the Town's sewer project. Further all documentation for a schedule is due by March 13, 2009. Selectman Magee noted it is interesting how unknown and little unified this stimulus package is. We need to focus on our priorities, not how to apply at this point. Not being certain of her priorities Selectman Friedrichs wants to know ahead of time the method by which the Board plans to vote on priorities, like whether it's top 5, or whether there are categories each of which get top 3. It is difficult to reprioritize on the fly without any guidance ahead of time. She would like to have our high priorities be the items which we already have a commitment to maintain, such as bridges and town-owned buildings that are already in great need of repair, as opposed to new buildings, which we aren't sure we need. She suggested that the Finance Committee is in agreement and has the opinion that they would like to provide for projects that have been waiting for a long time, too. She does want to be aware of deadlines; and made decisions in this way, capital list promised to staff and then whether things can pass Town Meeting.

Terra Friedrichs

1. Senior Center that is really a community center with ambulance bay and shelter room
2. Bridges repair
3. Heating system renovation
4. Fire station renovation
5. Windsor Building

Peter Berry

1. Stay with the same 5 he had proposed previously.

Andy Magee

1. Stick with the rail trails
2. Sewer projects have to stay on the list
3. Fire Station in North Acton

4. Senior Center
5. Transportation projects

Paulina Knibbe

1. Rail Trail would like to distinguish between Acton and regional trail, so take Bruce Freeman off her list. Keep Assabet River Rail Trail, which will increase train use.
2. Sewers, couple the project with west Acton Sewers. It is one of the most common requests to the state for funding.
3. Senior Center very important
4. Transportation projects.
5. Towne Building

Lauren Rosenzweig

1. Bruce Freeman Rail Trail - lots of public support. Reduce car use and carbon footprint and stay fit and access for the handicapped. Assabet River Rail Trail
2. Sewers in the West Acton / Tuttle Flint
3. Senior Center
4. Towne School Project - people are waiting for it to be finished.
5. Historic Projects.....Bridges....energy solar farm
6. North Acton Fire Station

Selectmen Magee would like to send a general letter to our legislature. We don't need more time to discuss this: all 5 say the Senior Center, all 5 said Transportation project, and 4 wanted sewers. There is enough consensus, 3 wanted Rail Trails etc.

We can make a decision, let's get the letter out and get the conversation going. Selectman Friedrichs said we should fill each category with one of our projects. Selectman Knibbe agrees and for example: **Energy** - heating system and solar farm, **Municipal** - Jamie Eldridge's group-Public safety and senior center, water and sewer treatment, (continue with the rest of Jamie's list)

Transportation - so that is all our bridges and road repair.

Andy Monroe from Acton sewer committee is concerned that Spencer Road be included. Wayne Friedrichs from Windsor Ave is a supporter of Sewers but has grave concerns about the village, more information about impacts is required. He is afraid that unintended consequences will adversely affect to the village. A Lothrop Road resident asked if we have looked at all the affordable solutions for sewers.

Selectman Friedrichs made a motion to put renovations of the Fire Station on the list that Selectman Knibbe will finalize. Selectman Magee is not in agreement, we need a new station - don't spend money on renovations on a station that may be closed. Terra moved not to add the Fire Station to the list. Three voted not in favor and Chairman Rosenzweig abstained.

Chairman Rosenzweig made a motion to draft a letter to the legislature to support the following projects for the recommendation to our state and local representatives.

BFRT Acton, Westford Carlisle Portion/ARRT

Sewers, West Acton and Tuttle/Flint

Transportation, Town Road and Bridge Repairs

Heating systems Fire Stations - Energy

Municipal Building- Senior Center

Towne Building (Affordable Housing/Reuse of Historical Building)

Selectman Magee seconds, Selectman Knibbe questioned if we should add the Towne School as it has a funding source. Selectman Berry said that is not an accurate analysis of the project; it is designed and ready but held back because they can't get funding. Mr. Ledoux added that the town has extended for a year the cycle to try to get funding. The decision was to keep the Towne Building on the list. Selectman Friedrichs made a friendly amendment to exclude West Acton sewers. No one seconded the motion.

Chairman Rosenzweig asked for a vote and the approval of the list was unanimous.

2. DISCUSS FINANCE COMMITTEE VOTE ON FINANCE COMMITTEE RESERVE POLICY

Selectman Magee stated that the policy was well put together and made a motion to support the Reserve Policy as described by Finance Committee. Selectman Knibbe stated the policy was a

prudent policy regarding reserves. Selectmen Berry seconded, 4 voted in favor, Selectman Friedrichs abstained.

3. FINANCE COMMITTEE 3 YEAR PLAN, BOARD ADVICE TO ACTON LEADERSHIP GROUP

Steve Noon gave a background of how the 3 year plan was formulated; which is a description of the assumptions for the reserves. \$2M will be adjusted for growth. The town will need to find a way to maintain a stable level of reserves while operating within our budget. Finance Committee is looking for the Board to go back to ALG and give a vote of general agreement of the concept. Fincom still needs to detail the plan more and refine the numbers. Ann Chang stated that this plan is predicated on a list of cost savings which must be explained in the warrant and makes assumptions about union negotiations. Steve Noone stated it is not completely dependent upon union negotiations. Selectmen Magee supports the effort but not voting total agreement; it is definitely a plan in the right direction. 3 abstentions and 2 yeses

4. BOARD GUIDANCE ON VOTING LEGISLATION RELATED TO THE MUNICIPAL PARTNERSHIP ACT AND TRANSPORTATION LEGISLATION

As it was too late for discussion the Chairman asked to have it pulled for Monday' meeting Selectman Knibbe made the motion Selectman Magee seconded.

CONSENT AGENDA – Selectman Friedrichs held #5, she did not have time to review the minutes. Selectmen Magee moves to approve all other consent and Selectmen Knibbe seconds. # 5 was pulled to a later date.

5. ACCEPT MINUTES, BOARD OF SELECTMEN, FEBRUARY 18, 2009

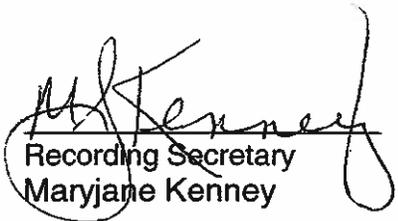
6. ONE DAY LIQUOR LICENSE, ST. ELIZABETH'S FUND RAISER

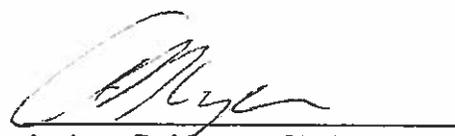
7. APPOINTMENT OF BRENT REAGOR TO THE ACTON COMMUNITY HOUSING CORPORATION, AS AN ASSOCIATE MEMBER, TERM ENDING JUNE 30, 2009.

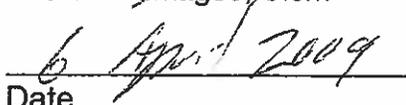
8. APPOINTMENT OF CORRINA ROMAN-KREUZE, TO THE ACTON COMMUNITY HOUSING CORPORATION, ASSOCIATE MEMBER, TERM ENDING JUNE 30, 2009

9. CHAIRMAN ROSENZWEIG, LETTER TO THE BEACON REGARDING TOWN MEETING, FOR BOARD CONSIDERATION.

There will be a need for Executive Discussion to discuss Litigation/mediation - WR Grace Settlement. A roll call vote was taken to go into Executive Session and go back into regular session only for the purpose to adjourn; all ayes were given.


Recording Secretary
Maryjane Kenney


Andrew D. Magee, Clerk


Date

BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING

**March 9, 2009
Acton Town Hall, Francis Faulkner Hearing Room
7:00 P.M.**

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

CITIZENS' CONCERNS

Tom Michleman – Magnolia Drive. Spoke about the Stimulation Plan Draft as regards BFRT.

Tom of the OLAC – Thanked the Board for declaring their support of Earth Hour.

CHAIRPERSON'S REPORT

Lauren spoke about Leo Hayes our firefighter that had lost his life in an auto accident. The Board sends it condolences to his family.

Lauren wants to remind candidates. March 31, 2009 is Town Election Day. Candidate's Night is scheduled for March 16, and sponsored by the League of Woman Voters.

Lauren wanted to remind candidates that they are allowed one sign on private property and no signs in the town or State's Right of way without permission.

Lauren announced the upcoming walking tour of Acton Historic Districts sponsored by the HDC.

Historical Commission – a spot light on Acton Architecture program at the Library on April 22.

Charlie Kadlec stated that they needed to check the constitution and noted the town has very little authority over the placement of candidate's signs.

OPERATIONAL MINUTE

Steve spoke about the retirement of the Boxboro Police Chief in the near future, and the possible opportunity for regionalization to combine the services.

Anderson and Krieger, our Counsel has been voted the law firm of the year.

SELECTMEN'S REPORTS

Terra apologized for her derogatory references to certain groups of citizens at the last selectmen's meeting.

Terra noted that Cable Advisory Committee needs information from Steve for cable license negotiations. The Design Review Board has gotten the process for Site Plan policy and are reviewing. COD asked about the raised dots and Steve said the Bruce will look at this. It is

expected that the West Acton raised dots can be accomplished this year. EDC - New work groups have been formed. Farmers Market is being discussed for Pearl Street. Green Advisory Board will meet on March 11th for first meeting and will elect a chair and a time to meet regularly. HC Demo Delay articles and noted the HDC dropped their Town Meeting Articles. Senior Tax Relief they spoke about the process. VCC committee every thing is going smoothly.

Peter finalized the Health Insurance rates with the trust: good result and frees up \$120,000 for town use.

South Acton Parking Deck Structure. Peter noted the letter from State and wants to talk about this with them. CPA finalized the articles for Town Meeting

Paulina spoke about the Senior Center Expansion Committee's last meeting. COA met today and is working on plans for improvements to existing Center.

Side walk committee is continuing to work on the issues in the warrant

Andy reported on WRAC and the meeting held to discuss their future. He is pleased that so many want to take part and stay on the committee. Andy will take a poll to look at the future of the committee.

PUBLIC HEARINGS & APPOINTMENTS

SITE PLAN SPECIAL PERMIT, 01/23/09-417, 107-115 GREAT ROAD, WETHERBEE PLAZA EXTENSION

Leo Bertolami was at the hearing to represent himself in the absence of his engineer who he indicated was out of town. He outlined the site and location of the various buildings. He feels that Staff has asked questions he may be able answer. Terra remarked that the list of comments from Staff is very long. They will start with the pergola issue. The applicant is leaning toward the new zoning. Instead of moving the structure the applicant wants to install a pergola so it will meet the 14 foot setback from the street.

Pergola issue – Andy asked about in this particular case language, the building was built to zoning, and how do you get there so we don't have to deny the project. The Building was not built according to old zoning and/or the new zoning the front set back requirements are under the new zoning.

They could try to get a variance with Board of Appeals, putting both lots together, removing the lot line between One and two.

Paulina asked about the retention basin. They can put a structure in front. She was concerned about the lot line and understands why he doesn't want to combine the lot.

Peter Berry said that he did not think the BOA would grant a waiver for a building already built.

Terra suggested that we extend the eviction notice to April and reschedule the meeting.
TERRA FRIEDRICHS - Moved to extend the eviction notice to May 31, 2009 for Mr. Bertolami's tenant. ANDREW MAGEE- second. UNANIMOUS VOTE

ANDREW MAGEE - Move to continue to April 27, at 7:40. LAUREN ROSENZWEIG – second.
UNANIMOUS VOTE

The Board will need to determine their wishes with regard to allow stack parking or not as well as find out about the State's curb cut rationale.

JIM SNYDER-GRANT – GREEN ACTON

Debra Simes and Jim Snyder-Grant presented Green Acton recommendations and asked that the Board consider several requests such as the letter they have drafted to the President and several other public officials. They ask that the Board sign these letters that have been prepared.

Andy said he would support the letter.

Peter said he understands the seriousness of Climate Changes and is in favor to change and stop it before it happens. He did not feel comfortable signing this letter because of the technical issues.

Lauren is comfortable signing. Paulina is also comfortable signing.

Terra agreed and researched it and could sign this letter.

Clint Seward – Spoke about his job and how interesting it is. He urged the Board Sign the letter
TERRA FRIEDRICHS – Moved to sign the prepared letters. ANDREW MAGEE – second.
UNANIMOUS VOTE

WARRANT DISCUSSION

Ambulance revolving fund	Defer
Acton Public Schools Budget	Defer
Acton Boxboro Regional School Budget	Defer
Minuteman School District Assess	Defer
Town Stabilization Fund	Not Recommended
Transfer Funds to Reduce the Tax Rate	Not Recommended
Finance Committee Budget	Not Recommended
Resolution to Adopt a Reserve Policy	Not Recommended
Resolution to present debt and Interest Costs	Not Recommended
Resolution to Present new capital Projects to Town M.	Not Recommended
Amend Town Bylaws-Non Criminal Disposition	Recommended
Redemption of Parcels in Tax Title Foreclosure	Recommended
Amend Town Bylaws, Redemption of Parcels in tax Title	Recommended
CPA Articles	Recommended
Amend Bylaws, Chapter S	Recommended
School Street Playing Fields	Recommended
School Street Playing Field Mitigation	Recommended
Amend Bylaws Demolition of Historically or Architecturally Significant	Recommended
Quorum for the Commission on Disability	Recommended

Lauren asked if any selectmen had articles they wanted. Andy, School Street, Peter, CPA and Terra, Sale on Foreclosed properties

SELECTMEN'S BUSINESS

ALG UPDATE

Lauren updated the Board on the ALG Meeting this morning. They have a 3 year plan subject to volatility and change. Assumption we will be that State Aid stays flat and 2 1/2 % that they balance out to FY11 and FY12 to hold to 3% growth. ANDREW MAGEE – Moved to have the board support this plan at ALG. PAULINA KNIBBE – second. 4-1 Terra Nay, motion passes.

STATE REVOLVING FUND, SEWER FINANCING LETTER

Steve said this is to assure the State that we will have an article and will call a special town meeting to get this done. Andy noted it was Spencer Flint and not West Acton. It was noted that they will need to do community outreach for West Acton. They can apply by August to the SRF. ANDREW MAGEE – Moved to approve. PAULINA KNIBBE – second UNANIMOUS VOTE

DISCUSSION OF GOVERNOR'S MUNICIPAL PARTNERSHIP ACT

The Board reviewed the Governor's Municipal Partnership items.
The board supported all except for:

REVISED PROVISIONS FOR TRANSFER OF MUNICIPAL RETIREMENT
SYSTEMS INTO PRIT
PRO-RATING OF INSURANCE FOR PART-TIME EMPLOYEES
PROVISION OF GIC COMPARABLE HEALTH INSURANCE
RETIREMENT SYSTEM FUNDING RELIEF
AMORTIZATION OF FY09 REVENUE DEFICIT

EAGLE SCOUT COURT OF HONOR, GREGORY MARGOLIS

EAGLE SCOUT COURT OF HONOR, ANDREW REED PETERMAN

APPOINTMENT OF REGISTRAR OF VOTERS

Lauren spoke about Clint Seward's appointment and it is permitted unless he is elected as Selectmen, then he will have to resign. ANDREW MAGEE – Moved to appoint Mr. Seward as Registrar of Voters. TERRA FRIEDRICHS – second. UNANIMOUS VOTE

BUDGET DISCUSSION

DISCUSSION OF ECONOMIC STIMULUS PRIORITIES

OTHER BUSINESS

CONSENT

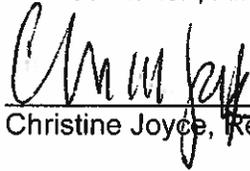
Extra Consent Representative Jen Benson has given her recent raise to her communities, including \$400.00 to the Acton Senior Center.

ANDREW MAGEE – Moved to accept the Consent Calendar with the edition of Jen Benson's gift. . LAUREN ROSENZWEIG – second. UNANIMOUS VOTE

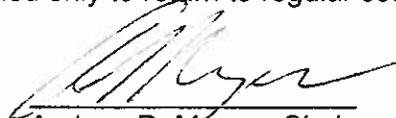
EXECUTIVE SESSION

ANDREW MAGEE - Move to enter in to executive session to discuss litigation and real estate negotiations

Roll Call taken, All Ayes, Regular Meeting adjourned only to return to regular session to adjourn.



Christine Joyce, Recording Secty



Andrew D. Magee, Clerk
Date: 13 April 2009

pk

BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING

March 23, 2009

Acton Town Hall, Francis Faulkner Hearing Room

7:00 P.M.

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

CITIZENS' CONCERNS

Mr. Calendrella, Notre Dame Road spoke about a letter from Senator Eldridge. He wanted to go on record he does not agree with the contents of this letter.

CHAIRPERSON'S REPORT

Town Meeting will begin at 7:00 April 6, and to probably continue to April 7th. Town Meeting will be continued to April 13th so as to address W.R. Grace Articles.

Staff has met with the proponents of Next Generation Day Care regarding their proposal for the Kennedy nursery parcel.

West Acton Office of Michael Rosenfeld (OMR) will be expanding on their property.

Lauren reminded every one that we are one town and that spirited debate is encouraged if it is respectfully done.

OPERATIONAL MINUTE

Steve wanted to report on his meeting with Lauren and Steve Joncus. We have agreed to extend the lease to 2010. They offered to set up meetings with banks that may be interested in investing in the project and community.

ESP is a new funding program for Police (CHIPS); it is like the Cops Fast Grant. It would pay the base salary for three years and any steps or other costs we would pay. We are obligated to hire the person after the third year. He and the Chief are looking into this and they have questions on how this will impact Acton as we have the Quinn Bill.

SELECTMEN'S REPORTS

Andy reported that WRAC is a now a new 7 person board and will be meeting Wednesday to get a mission statement prepared.

Paulina noted that there will be a public information meeting on potential negotiations with W.R. Grace.

Terra noted the Green Advisory Board is scheduled to meet April 1. She reported on EDC.

South Acton Parking Deck Committee - Peter noted that the committee will gather information regarding the parking deck; they have met and they have put together a lot of questions. There will be representatives from MBTA attending the meeting in this room on Thursday.

PUBLIC HEARINGS & APPOINTMENTS

SCHOOL COMMITTEE BUDGET PRESENTATION

Jon Chinitz, Heather Hare and Bill Ryan were present to discuss the School budget. Bill went through the handout of assumptions they had prepared. Bill discussed the budgets, Stimulus money and that Chapter 70 money may be increasing. They are hoping that the money from SPED will become a base for the Grant and that it will be for the base moving forward. Bill also went over the structural improvements. Bill asked that the Board recommend their budget.

Lauren thanked Bill for his years of service.

Peter asked about the enrollment and Boxboro's keeps going down.

Andy asked about SPED assessment and the Level one reductions.
Andy asked about Slide 23 - proposed increase for SPED Grant.

Terra doesn't feel it is the BOS role to recommend School Budgets. She said she cannot vote to recommend the budget unless she does more work.

PAULINA KNIBBE – Moved to Recommend the Acton Public Schools Budget. **ANDREW MAGEE** – second. 4-1 Terra Abstained, Motion Passes. Paulina said that Town Meeting expects us to vote on Article 16 School Budget. Terra wanted to begin in May discuss long range planning.

ABRSD BUDGET – **PAULA KNIBBE** – Moved to recommend the Acton Boxborough Regional School District Budget. **ANDREW MAGEE** – second. 4-1 Terra Abstained. Motion passes.

Andy commented that to answer every question we would need to be a School Committee Member and we need to trust their decision. There have been many discussions regarding the budget.

Peter said we have the best school system with the size of our budget.

Douglas Roof Project - **PAULINA KNIBBE** – Moved to recommend. **ANDREW MAGEE**-second. **UNANIMOUS VOTE**

SPECIAL USE PERMIT, 02/09/09-418, 30 SUDBURY ROAD, SUDBURY ROAD REALTY TRUST

Lauren read the notice and opened the hearing. She had asked the applicant to let the meeting with the School continue and that they would take up his appointment at the conclusion of that meeting. Mr. Orcutt agreed.

Mr. Orcutt outlined the request for a Special Use Permit at the proposed Training facility. Andy spoke about hours of operation for the proposed facility. Mr. Orcutt said that he did not want to tie the hands of the tenant by limiting hours at this time, but noted it would be mainly an early morning operation. Lauren said we could address this and amend latter if it became an issue. TERRA FRIEDRICHS – Moved to close the hearing and take under advisement. ANDREW MAGEE – second. TERRA FRIEDRICHS – Moved to have a draft for the Consent Agenda on April 7th for signature. ANDREW MAGEE – second. UNANIMOUS VOTE.

TREE REMOVAL HEARING, SPRUCE STREET

Lauren read the hearing notice and asked Dean Charter to outline the purpose of the hearing. Dean said that the initial hearing is held by the Tree Warden. If any objections are raised it gets turned over the Board of Selectmen for disposition. There was an objection on the removal of a tulip tree, so the Board is to make the final decision.

Lauren said that we need to have safety. The Sidewalk Committee reviewed this last year and it was decided that it needed to be the made safe. She encouraged people to ask the land owner to let the sidewalk be built behind the tree.

Elizabeth Franklin said the side walk violates ADA regulations and it needs to be fixed. The Commission on Disability is in support of the repair.

Mike Klinger said it would be too close to their house if the sidewalk was removed behind the tree. He spoke about the Mr. Doolittle's review of the situation. Mr. Smith asked about any other alternatives to make improvements to the sidewalks. Dean said they had discussed this with Bruce Stamski. Mr. Smith asked that they research any ways.

TERRA FRIEDRICHS – Moved to continue this until more alternatives can be researched and to continue to May 4th at 7:30. ANDREW MAGEE. UNANIMOUS VOTE

Peter asked Dean for a cost for the removal. He said it would cost \$500.00

Andy noted that he supports that we look at the different options.

Paulina is in support of continuing the research into exploring whether we can keep the tree.

SITE PLAN SPECIAL PERMIT, 02/20/419-2/20/09-419, 59 GREAT ROAD, BELLA FAMIGLIA

Lauren read the legal announcement and opened the hearing. It was then rescheduled at the Applicants request to April 27, at 8:40. ANDREW MAGEE – Moved to approve. PAULINA KNIBBE – second. UNANIMOUS VOTE.

MINUTEMAN REGIONAL VOCATIONAL SCHOOL ASSESSMENT PRESENTATION

Charles Olmstead presented the Minutemen Vocational School Assessment Article for Board's vote. The Assessment will go down this year because of lower enrollment. The assessment is expected to be \$710, 730.00. They have reduced their budget by trimming the budget. The ESCO contract for Boiler and windows will be an agreement with Sieman's and we will not have to pay for these replacements and improvements.

Peter asked if any stimulus monies for regional schools have been received. Mr. Olmstead said no.

PAULINA KNIBBE – Moved to Recommend the Minuteman Budget. ANDREW MAGEE-
second. UNANIMOUS VOTE

FARMERS MARKET REQUEST TO USE PEARL STREET

Jennifer Taylor spoke about starting a Farmers Market and has chosen West Acton as their primary location. She asked about fees and possibility of tiered fees. She felt it will bring the town together.

Lauren spoke about Doug Halley's comments from the Board of Health's standpoint.

Paulina said it was a great idea. She said that looking at it as a Selectman, she asked about the farmers coming to Acton? Jennifer said that they have received a lot of interest in working with the group.

Andy noted a concern from farmers in Acton. He is also concerned with Haymarket effect. Jennifer said the rules state that you have to grow it.

Peter said it is an asset to the community. He supports this proposal to keep us sustainable.

Terra spoke about parking on Sunday and people are not expecting all the detail to be figured out and that they feel comfortable letting it go forward. She has draft motion to present and discussed it. Lauren said it is a good start and we can make a recommendation regarding Board of Health fees after further review. Lauren said one thing we need to do is see rules and regulations. She asked that a list of Board members be submitted to us. Lauren asked about the liability insurance and can the town be named on the policy. Jen said they have insurance and they require at least one million to participate in the market and it includes the Town of Acton the have the insurance through the Organization for Farmers Markets.

Sean Toweey supports this and commented this is a very well researched.

Lauren spoke about the need for police details. Lauren asked if they had spoken with the business owners in W. Acton in regard to parking. They have reached out and have spoken to the businesses. Lauren said the Board of Health fees concern her. ANDREW MAGEE – Moved to Recommend in principal and approve this farmers market for the start up dates with Terra's amendment to close Pearl Street. TERRA FRIEDRICHS – second. UNANIMOUS VOTE

Suburban Mobility Grant Application – Lauren discussed the application proposal to MAPC, and the main object is for cleaner air and how we will reduce pollution.

Terra wanted to hear about carbon foot print and calculations of how much we are saving.

Paulina said that it is a project that has been in the works for years and has no concerns in supporting this. PAULINA KNIBBE – Moved to submit ANDREW MAGEE –second. 4-1 Motion Passes, Terra abstained and she does not believe the claims in the application.

WARRANT DISCUSSION

SELECTMEN'S BUSINESS

ALG UPDATE

BUDGET DISCUSSION

OTHER BUSINESS

WATER DISTRICT INTERDEPARTMENTAL AGREEMENT

This request reflects a change in the State Law which allows us to enter in to Inter-Municipal Agreements. This agreement is for the use of the Town's Automated Call system so that the District could give notice of water outages and repairs. The cost has been negotiated to \$5,000 per year, and would have the Town receiving no payments until the fourth year as we have outstanding liability of \$15,000 with the Water District. ANDREW MAGEE – Moved to approve. TERRA FRIEDRICHS – second. UNANIMOUS VOTE

CONSENT

ANDREW MAGEE – Moved to approve. PAULINA KNIBBE – second.

Terra noted that she wanted #18 held. She noted that the DRB objects to the statement in the decision saying the site plan was in compliance with the Master Plan. PAULINA KNIBBE – Moved to approve with #18, and the inclusion of Terra's comments. PETER BERRY – second. 4-1 Motion passes. Terra Abstained.

Extra Consent ANDREW MAGEE – Moved to appoint Conor Nagle to the Design Review Board with a term to expire 6/30/11. TERRA FRIEDRICHS – second. UNANIMOUS VOTE

EXECUTIVE SESSION

ANDREW MAGEE - Move to enter in to executive session to discuss Collective Bargaining negotiations

Roll-Call taken, All Ayes, Regular Meeting adjourned only to return to regular session to adjourn.


Christine Joyce/Recording Secty


Andrew D. Magee, Clerk
Date: 17 Apr. 7 2009

BOARD OF SELECTMEN & SEWER COMMISSIONERS' MEETING

MINUTES

INFORMATIONAL SESSION

Room 204 Town Hall

March 24, 2009

7:00 PM

Present: Chairman Rosenzweig, Selectmen Knibbe, and Friedrichs, Town Manager Steven Ledoux, Assistant Town Manager John Murray and Recording Secretary Maryjane Kenney, Town Counsel Stephen Anderson and Health Director Doug Halley,

Agenda: Proposed Settlement of Lawsuit Regarding the Betterments Owed by WR Grace

Presentation by Paulina Knibbe:

The Sewer Betterment Assessment

297.5 units valued at \$3.66 M which they chose to pay off over time.

Why now are we dealing with this now at this town meeting? The deadline to go to trial is this summer; the court will not extend the deadline again. The Board has tried to run a substantial public informational session.

Settlement

Acton will reduce Grace's SBU by \$1.5 M

Grace will give Acton a conservation restriction on 15.3 acres of Grace's land in Acton that will not need to have surface remediation.

No development will occur on this land and all liability remains with Grace. The parcel is adjacent to the North lagoon area.

The Issue for Town Meeting is that \$1.5M in Infrastructure Costs Need to be Covered.

Option 1 Article 49

The cost would be \$163K for a period of 3 years or \$73K a year until 2031. The average homeowner would pay \$22 annually for 3 years or \$10 annually until 2031. It is recommended by the Board and Finance Committee that payments come out of the General Fund and not the Sewer district. Avoiding going to trial at a cost of approximately \$200K means that settling will save the town money. The Town will also limit our risks of a trial where the outcome might not be to our advantage.

The Benefit to the Town is this option gives us sewer betterments for other areas of town which can be sold to other users and help pay down some of the costs by being transferred back into the general fund.

Option 2 Article 50

This option would call for a redetermination of the "per SBU" cost to approximately \$66 SBU annually until 2031. Returning 140 SBU's for future use.

The major problem with this option is the complexities of the issues. People in the district that have already paid in full would possibly be responsible if betterments were redetermined and, for those houses subsequently sold, the original owner now has to pay the delta of the determination. Then there is the question as to how would the town pay off new infrastructure costs and it's share of the new cost for a sewer plant.

If both options fail at Town Meeting then the case will proceed to trial. The proposed conservation restriction will not occur and W.R. Grace will be able to develop those 15.3 acres in addition to their other land. Given the possible trial outcome, the town would be responsible for a six figure number to pay Grace their overage amount that they have paid to date on their betterment fees. For additional information please direct questions to Paulina Knibbe.

Collin Young of Lexington Drive asked for an explanation of the method that will be used to determine how and to who we sell the unused betterments to, as CWRMP has some expressed some thoughts on the subject.

Sean Towey, 143 Prospect Street, stated that the betterment is coming out of his mortgage. Why can't our utility fee (which already comes to his house once a month) have the betterment fee or redistrict the area of the betterment as other payment options? Town Counsel spoke on Operation and Maintenance law: it is not legal. Betterment and usage charges for operations and maintenance need to be kept separate. Will he need to pay more if the town adds SBU's to the district? Why are we in the district charged for Grace? Selectmen Knibbe replied that Grace is part of that district. If the expansion is outside of that district it would be divided by a different group of users. The problem is since Grace is not using all their betterments a smaller group is paying for that district's use. The additional housing coming in now is paying for the additional use or the super sizing. Later Mr. Towey asked will they use technology zoning; Counsell replied the property zoned for industrial. They can claim it as their open space, but Grace can only use the betterments they have or they can buy more from the Selectmen. In assessing their SBU's the Sewer by-law is valid; the zoning by-law has not been challenged. It is the application of that by-law on the undeveloped superfund site with a landfill, a toxic lagoon, a sink hole, a non remediated pond and groundwater plum with only access being secondary roads of Parker, Independence, and Lawsbrook and no access or emergency access to Route 2 or to Route 62 through Concord with a railroad across the property that makes evaluation of this property complex.

Hillary Dorner Tenney Circle. She does not want and did not hook up to the sewers even though she is paying the fee. Why can't she sell her units like Grace if she wants to stay on septic. She was told every house on the line must be able to hook up, but may choose not to. Her hope is for the town to pay Grace's overage with the general fund and resell the betterments, but in truth she feels the district is not a large enough to have a fair vote. Selectmen Knibbe stated that with a 2/3 vote at Town Meeting the town can fund it from general revenue and that is the Board's recommendation. We can't just make it happen because of how the sewer by-law is written; it must go to Town Meeting.

Maria Cox Olde Surrey Road. If our district is too big can we re-sell our overage and make our betterments smaller. Selectmen Knibbe stated after paying for the infrastructure costs to get the lines elsewhere there is a possibility to do a redetermination of your betterment.

Steven Serabian Gerald Circle. Why is the feeling if we go to trial we are going to lose. Town Counsel stated that they likely will challenge how they paid betterments on undevelopable land. What would the deal look like without the restriction on building? Counsel stated it could be more expensive if Grace put in a dense development. They are going to get the most out of the losing land they have left. Grace has spent thousands of dollars to remediate that land; in time they want the most back from it. Why is the town

benefiting, shouldn't that be separate from the sewer question. Reality is I (the district) am paying so no one builds on that land. Town Counsel spoke of the process of mediation.

Paul Gaboury Assabet Crossing. How much in total will the district pay? Most of us will sell our property before 22 years. That total will have to be paid in full, looking more like \$14K for each owner not the \$66.00 a year. Selectmen Knibbe stated correct. The owner is responsible for hook up into the system. Is it the same for Grace? How can they sell their betterments? Steve Anderson stated that the Title V application for hook-up is different for residential and commercial property.

Virginia Travers Silver Hill Road., How was the SBU cost determined? The rationale was based on the level of development that could better the property with the addition of sewers. What was determined by the town and determined by Grace 2 different figures. 297.5 acres was used to determine the betterments. There is a common formula used to estimate potential, converting future home building and what the worth as commercial units would be. It did not come to pass; it was undeveloped and the potential was not ever realized. The town is getting betterment payments on property that cannot be developed.

Dore Hunter of Foster Street. As a former Selectmen and second career trial litigator, this as Steve Anderson says, is a good way to settle by mediation. Mr. Hunter is in favor of saving cost to the town. He has always preferred Option 1 use of the general fund as the Town as a whole benefits from sewers.

Curt Cannata Gerald Circle. Value of the restriction, what would it be? What is the value of the conservation land: 15 acres of forest land in Acton with frontage both ways? Counsel responded the restriction can be appraised for those who question the value. But now remember we cannot develop the land, we are just restricting it. We will lose some of that tax base which was about \$10K. Mr. Cannata questioned if Option 2 has a possibility to open litigation against the town. Counsel stated that Option 2 is there because it is the default of how the by-law is currently written.

Mary Michelman Magnolia Drive. As a member of ACES, it is her job to review technical documents for the projects. The North Lagoon has had a good deal of soil remediation; but the wetland has high levels of arsenic. Grace is only promised cleaning to an average of the standard, this means some areas will be higher in toxicity and some will be lower. It is good that there be as little use as possible of this land as it is dangerous and trespassing would be dangerous. Everything we can do to limit the land use would be a benefit to Acton. Her understanding is the delta increase is \$66 and that delta might get reduced but not the original district betterment fee; \$13,700 is the new cost per betterment. Will this set precedent that we are no longer user funded. Selectman Knibbe stated, no.

Helen Probst, 9 Putter Drive She has served on the Water Resources Advisory Committee, CWRMP, and the Sewer Action Committee. This topic is covered at Town Meeting on Monday the 13th. This is a time-certain and the judge from the mediation will come to speak to the town. Ms. Probst asked if this passes are we done with Grace? Counsel responded, no just on this issue of Sewer Betterments. Ms. Probst asked if there will be Public Access easement. That is not clear at this point; we are under negotiations. We will know the answer to this question by Town Meeting.

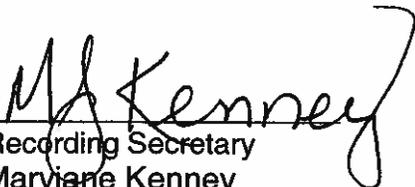
Charlie Kadlec, Paul Revere Road. Can you guarantee that this deal will go through, as it is historically likely but not positive. Steve Anderson, every recommendation to bankruptcy court has been approved. Is the town liable for legal expenses or is the sewer district. Judgement of court must be paid for by the Town.

Allen Nitshcelm, Merriam Road. Grace brought their betterments current in fall of last year when litigation said they must, November 14, 2008. Does the town have any insurance? No, according to the Town Counsel, we do not for this kind of suit. The bankruptcy filing stays the Town taking action for ownership.

Ann Chang. We need to get people to come to town meeting.

Dore Hunter. April 2 pre-town meeting that people should be encouraged to attend.

Gerald Circle. The land is dangerous. No signs no fences it is really bad and the town needs to do due diligence.


Recording Secretary
Maryjane Kenney


Andrew D. Magee, Clerk
13 April 2009
Date

CONSENT (54)
4/13/09

BOARD OF SELECTMEN MINUTES

April 6, 2009

6:00 P.M. – Room 115 North ABRHS

Present: Chairman Rosenzweig, Selectmen Knibbe, Magee, Berry and Friedrichs, Selectman Elect Mr. Gowing, Town Manager Steve Ledoux, and Recording Secretary Maryjane Kenney

CITIZEN'S CONCERNS

SEWER COMMISSIONERS' BUSINESS

PUBLIC HEARINGS & APPOINTMENTS

None

SELECTMEN'S BUSINESS

1. GENERAL PRE-TOWN MEETING DISCUSSION AND MATERIALS

The Selectmen voted to approve the operating budget of \$25,973,422. Town Manager Mr. Ledoux wanted it clear that it is actually \$165K less than the budget voted in February. If Article 49 fails to appropriate \$165K to the Sewer Enterprise Fund then the funds remain an unexpended amount of money. Chairman Rosenzweig asked of the \$165K, if removed where is it being held. Selectman Berry clarified in free cash. Selectman Friedrichs moved to approve and Selectman Magee seconds. The vote on the operating budget was 4 in favor, Selectman Friedrichs abstained.

If Article 10 fails, appropriation of the \$542,478 should be moved back into the operational budget. If an Ambulance Enterprise Fund is not set up so the fees can be generated, the eight firefighters listed in that fund will be paid for by the general fund. (4) \$271K will be raised from taxation and (4) \$231 paid by free cash. Motion to recommend approval of the transfer of funds if the Ambulance Enterprise Fund fails. Selectman Friedrichs moved and Selectman Magee seconds, all voted in favor.

CONSENT AGENDA

3. ACCEPT MINUTES, BOARD OF SELECTMEN MINUTES, NOVEMBER 12, 2008, MARCH 5, 2009, MARCH 23, 2009 AND MARCH 24, 2009

Selectman Friedrichs asked for the Minutes of the 23rd to be held. Selectman Knibbe had not had a chance to look at them either. Chairman Rosenzweig moved to pass the others, Selectman Friedrichs made the motion, seconded by Selectman Magee, all voted in favor.

4. APPROVE GIFT FUND TRANSFER TO FUND LAND ACQUISITION, ARTICLE 44, 2009 ANNUAL TOWN MEETING WARRANT

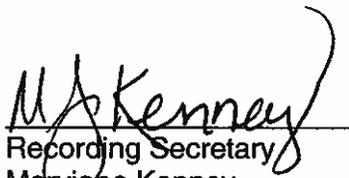
Selectman Berry pulled, Selectman Friedrichs seconds. Town Manager, Steve Ledoux explained the Easement for Brewster Conant will cost \$5K. This request is to take the money for the Easement out of the sidewalk gift fund if the easement Article (44) is passed. Selectman Knibbe moved to approve, Selectman Magee seconds, all voted in favor.

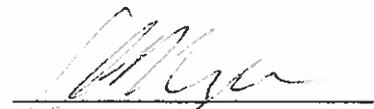
TOWN MANAGER'S REPORT

None

EXECUTIVE SESSION

There was to be a need to have an Executive Session to discuss Collective Bargaining Agreement, Article 12. The contract did not get ratified so it will be going to mediation. There will be no need for an Executive Session.


Recording Secretary
Maryjane Kenney


Andrew D. Magee
13 April 2009
Date

BOARD OF SELECTMEN AGENDA

April 6, 2009

6:00 P.M. – Room 115 North ABRHS

I. CITIZEN'S CONCERNS

II. SEWER COMMISSIONERS' BUSINESS

III. PUBLIC HEARINGS & APPOINTMENTS

None

IV. SELECTMEN'S BUSINESS

1. GENERAL PRE-TOWN MEETING DISCUSSION AND MATERIALS

Enclosed please find materials in the subject regard, for Board consideration.

2. OTHER

V CONSENT AGENDA

3. ACCEPT MINUTES, BOARD OF SELECTMEN MINUTES, NOVEMBER 12, 2008, MARCH 5, 2009, MARCH 23, 2009 AND MARCH 24, 2009

Enclosed please find materials in the subject regard, for Board consideration.

4. APPROVE GIFT FUND TRANSFER TO FUND LAND ACQUISITION, ARTICLE 44, 2009 ANNUAL TOWN MEETING WARRANT

No materials enclosed.

VI. TOWN MANAGER'S REPORT

VII. EXECUTIVE SESSION

There will be a need to have an Executive Session to discuss Collective Bargaining Agreement, Article 12.

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.

NEXT MEETINGS: April 27, 2009
May 4, 2009
May 18, 2009