

Final

BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING
November 21, 2011

Acton Town Hall
Francis Faulkner Hearing Room
6:30 P.M.

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TOWN CLERK, ACTON

Present: Mr. Gowing, Ms. Harting-Barrat, Ms. Adachi, Mr. Sonner and Mr. Clough. Town Manager Ledoux, Recording Secretary Christine Joyce. The meeting was televised

CITIZENS' CONCERNS

Franny Osman provided information on the Governor's innovation-challenge grant program.

CHAIRPERSON'S UPDATE

Mr. Gowing reminded everyone that the Nursing Service was offering flu shots. He spoke about the Public Utilities Commission hearing on November 16th in Framingham about NStar's performance in the wake of Tropical Storm Irene. The all-boards-and-committee-chairmen met to review the status of committee goals. The Veterans Day ceremony drew 200 people for the dedication of the new Veterans Memorial on the Town Common; the new Veterans Service officer, James MacRae, was introduced at the reception.

OPERATIONAL MINUTE

Mr. Ledoux said he would make no report in order to keep the meeting, already running late, on schedule.

PUBLIC HEARINGS & APPOINTMENTS

CONTINUED DISCUSSION OF CHAPTER 69 OF THE ACTS OF 2011

Mr. Sonner recused himself and left the room. Ms. Harting-Barrat and Mr. Clough recused themselves. Ms. Adachi read the Rule of Necessity Motion. Ms. Harting-Barrat - Move to invoke Rule of Necessity, Mr. Clough – second. UNANIMOUS VOTE.

Representative Cory Atkins, who had met with local officials in her district on Friday, offered comments on the state of the economy, the ongoing efforts of the federal "Super Committee" to reach agreement on \$1 trillion in cuts, and the impact that cuts could have at the state level. Many state employees have taken furloughs and pay cuts. She said that the Town of Chelmsford faced the issue of unsustainable health insurance costs five years ago, and negotiated with employees to give back the savings. Rep. Atkins is in the state insurance plan and thinks it is great.

Peter Ashton read aloud the joint letter from him, Walter Foster, Jonathan Chinitz and Lauren Rosenzweig Morton, who feel there is another way to handle the health insurance plan issue, and urge the Board to pursue a collaborative solution outside of Chapter 69.

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Steve Noone reported on the Finance Committee's recommendations: first, that the Board and Regional School Committee accept Chapter 69; second, that after accepting Chapter 69 the Board and Regional School Committee initiate a 45-day period for discussion, information-sharing and developing a clearer understanding of the issue. Mr. Noone added that the average tax bill in Acton was over \$9,000 and it is time to get serious.

Detective Christopher Prehl, representing the patrolmen, said that pursuant to discussion with Ms. Rosenzweig Morton, et al., the Patrolmen support the approach recommended in the letter from Mr. Ashton, et al.

Ann Chang asked why the Board was rushing into this, given that the Town has the Health Insurance Trust, and if the Town would give up something if it moved to the state plan. She urged that the Board look at the issue more thoroughly before moving forward

Charlie Kadlec asked how many people thought that Acton's finances were in good shape and said the Town was broke.

Shaw Sheridan, representing the firefighters, voiced support for Mr. Ashton's letter.

Sid Levin said that his wife was a former teacher in the Arlington Medicare/Medex plan and thought that the insurer was trying to get rid of Medex, which would mean coverage would cost him a lot more. He said that the system did not save health care costs but simply shifted the burden from the town to employee.

Mr. Gowing apologized if he had offended people in past meetings. He explained that since the Board started discussing Chapter 69, it had been under attack to even consider the issue. There is a need to de-escalate. Mr. Gowing – move to put off the Chapter 69 vote to the Board's February 6th to allow for unofficial bargaining leading to a plan that all units can agree on, with the Board to consider a vote under Chapter 69 at the February meeting in the absence of an agreement substantial progress. Mr. Clough – second for discussion purposes.

Ms. Harting-Barrat does not think that the February deadline will allow enough time, given the intervening holidays, and would propose an extension to April 1st. Mr. Clough did not agree, noting that the April date would conflict with Town Meeting preparation; he would prefer the earlier deadline.

Ms. Adachi said that she had come to the meeting prepared to vote to go forward under Chapter 69 and to recommend strongly the same extended discussions that the letter-writers were recommending. If the Board is going to postpone the vote, she has the same concern as Mr. Clough about going beyond February, when the focus must be on Town Meeting preparation; if more time is needed beyond February, it might have to be after Town Meeting.

Mr. Clough said that FinCom discussions and Rep. Atkins' comments make clear that things are going to get worse, and the longer the Board delays, the worse it will be. He expressed concern about the \$100 million unfunded liability that the Town must address. He, too, was prepared to vote to go forward under Chapter 69, except that there is a lack of trust in the process and the Board therefore needs to build that trust.

Jonathan Chinitz said that the points that Mr. Clough made tipped in favor of delaying the vote. The Board can always come back to the vote. It is important that the Board build trust. Ms.

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Harting-Barrat – move to amend to provide for a 30-day extension past February 6 if there has not been substantial movement. Ms. Harting-Barrat withdraws her motion. Mr. Clough- move to amend to allow for small extension if there is significant progress come February 6. Ms. Harting-Barrat - second. Ms. Adachi said she thought Mr. Gowing's original motion was fine, with the option of the Board's extending time being implicit. Amendment passed, 3-1 (Ms. Adachi not voting).

Mr. Lewis requested clarification of how the process would work, how to measure "sufficient progress." Mr. Gowing said that the Board will review the issue at the Jan 9th meeting. Ms. Adachi said there was a need for ground rules, making clear who will participate, what the proposed goals are, etc. Mr. Gowing said the Board would aim to get something to the units.

Lauren Rosenzweig Morton said that the public still needs to learn about the process and plan design, and asked that the Board ensure that the process going forward allow for public participation.

John Petersen said that the School Committee would be having a public meeting on December 1st and would be glad to add agenda items to cover any additional information people wished to submit.

Town Counsel Steve Anderson noted that the Board had voted only the amendment and needed to vote the original motion. Motion passed, 4-0. UNANIMOUS.

ACTON MEMORIAL LIBRARY ENDOWMENT PRESENTATION

Julia Larkin and Pat Easterly, co-presidents of the Memorial Library Foundation (founded 1991), presented a ceremonial check for \$50,000 to the Town for library use. Two funds support library operations. One is the annual fund; the other is the endowment fund, currently over \$300,000, of which the Library Trustees spend a certain portion of the interest annually. Joe Glannon, President of the Library Trustees, thanked the Foundation and donors for the support.

ACTON CONSERVATION TRUST PRESENTATION OF PROPOSED BUDGET FOR THE STEWARDSHIP OF THE GROENER AND GAEBEL CONSERVATION RESTRICTIONS

David and Susan Hardt presented a proposed budget to cover the Acton Conservation Trust's anticipated stewardship costs for the conservation restrictions on the Groener and Gaebel parcels, as was done earlier for the Caouette parcel. The budget will go toward fixed expenses and an endowment to cover the cost of annual monitoring and provide a legal defense fund. Mr. Ledoux is in the process of working the numbers into the FY13 budget; the funds probably will come out of the Manager's budget. Mr. Gowing – Moved to approve the budget. Ms. Adachi – second. UNANIMOUS VOTE.

COMPREHENSIVE LAND USE REFORM AND PARTNERSHIPS ACT (CLURPA) DISCUSSION WITH SENATOR ELDRIDGE

Senator Eldridge provided an overview of the zoning reform proposal, which would rewrite and update current state zoning law. Certain issues indicate that the current law is outdated: first, Approval-Not-Required (ANR), which some think does not create the best developments due to

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the lack of input from the local planning boards; second, the grandfathering for 7 years of even rudimentary plans, which is how the Route 2 apartment complexes could be built; and third, the lack of a clear formula for determining fees to account for environmental impact. CLURPA would repeal ANR, create a formula for impact fees and reduce grandfathering to 3 years. The bill was filed before the Acton 2020 process, but Acton is a great town for CLURPA. The Massachusetts Municipal Association and some selectmen and planning boards have concerns that the law would take away from the boards.

Mr. Sonner asked with respect to the partnership/incentive side of the bill what number of communities might sign up. Senator Eldridge noted that the law would require the designation of areas for development. Some planners and environmentalist say that that is too much of a compromise, but part of the purpose is to create more affordable housing.

Ms. Adachi asked about smaller communities such as Stow, where the Planning Board told Senator Eldridge that CLURPA would not work for small towns. Sen. Eldridge explained that CLURPA requires that the master plan match the zoning bylaw, so there is some concern that that might take control away from local officials. But he thinks that local officials would have more control. Some towns have old master plans, which can be an issue.

Ms. Harting-Barrat asked whether CLURPA would have changed the outcome with respect to the Next Generation daycare site.

Mr. Gowing asked how much tweaking the Town would have to do to make the Acton 2020 master plan work with CLURPA. Planning Director Roland Bartl said that the Town's zoning would have to be consistent with the 2020 plan, but conforming to CLURPA would not be a hurdle. Mr. Clough asked whether Mr. Bartl supported CLURPA, and whether he saw any potential disasters or unintended consequences; Mr. Bartl said that planners have been trying to reform planning for a long time and that CLURPA is not perfect but is much better than what exists now.

Ms. Harting-Barrat asked how many towns have elected Planning Boards. Senator Eldridge said about one-half.

Mr. Gowing asked about supporters and opponents of the bill. Senator Eldridge said that the Metropolitan Area Planning Commission supports, developers oppose, the responses in his district are mixed. The MMA is concerned about the requirement to match the master plan to zoning. Mr. Gowing asked whether Stow could get funds to do a master plan; Mr. Eldridge said yes.

Senator Eldridge would appreciate the Board's support. He will provide additional information. The Board would need to vote by January 2012

ACTON MEADOWS, 40B 263-265 GREAT ROAD PRESENTATION AND REQUEST FOR TOWN SUPPORT

Ms. Adachi introduced developers Steve Steinberg and Peter Conant, who presented slides about the proposed development. The Acton Community Housing Corporation has voted formally to support the project. The Conservation Commission has issued an order confirming the delineation of the small area of wetlands. The project will include a duplex that the Acton Housing Authority will own; the developers are in discussions with Habitat for Humanity about the existing house at the front of the property. The roadway will be private and maintained by

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the homeowners association. The developers hope to receive the Board's endorsement, in the form of a letter addressed to the state affordable housing office.

Ms. Harting-Barrat asked about the process for designating a home as a Habitat for Humanity project. Mr. Steinberg explained that Habitat would buy the house for a nominal price and then select a buyer in the lower income range. If the arrangement with Habitat does not jell, he will rehabilitate the house himself.

Mr. Clough voiced appreciation for the layout and asked about the crosswalk and sidewalks. Mr. Steinberg said that Senator Eldridge was working on the crosswalk issue. Mr. Bartl said that there will be sidewalks in the development and on Great Road but the focus should be on the crosswalk issue.

Mr. Gowing asked about a mitigation plan for drainage to wetlands. The developers said that the property was almost entirely in Groundwater Zone 3, except for the corner of the lot by Great Road.

Nancy Tavernier expressed support for the project, and noted how cooperative the developers had been, starting with their reading the ACHC's affordable housing guidelines. She asked that the Board support the application.

Bernice Baran of the Acton Housing Authority urged the Board to support the project, as the AHA is pleased with the proposal, which provides an opportunity for a low-income family to have a nice place to live.

Jack Appelmans, Spring Hill, voiced concern about the impact of Chapter 40B projects on the capacity of the schools and the possibility of "wash" sales taking units out of affordable status. Mr. Gowing noted that this project is a local-initiative 40B project, involving collaboration with the town and therefore different from a 40B project whose developer does not work with the town; the housing units also are modestly sized plus the school population is declining. Ms. Tavernier explained that there is a 70% local preference, so homes go first to local residents whose children already would be in the schools. Affordable housing also is heavily regulated to protect the affordable status.

In response to queries of another resident, Ms. Pinto, Mr. Gowing said that the proposed homes would be 1500 – 2200 ft². Mr. Conant added that the affordable units would cost \$169K, the market-rate units in the high 400s, the parcel was 5.75 acre, there would be a group septic system and electrical cables would be underground.

Daniel Factor asked about traffic on Great Road and pedestrian crossing, particularly small children. Mr. Gowing reiterated that that Great Road was a state road and that the Town would be applying to the state for the crosswalk; the proposed units would not add appreciably to the existing traffic.

Mr. Gowing - Moved to support the application. Ms. Harting-Barrat – second. UNANIMOUS VOTE

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ACTON COMMUNITY HOUSING COMMITTEE (ACHC) – REQUESTING THE USE OF HOUSING FUNDS

Nancy Tavernier asked for the Board's approval, which is required under the ACHC's home rule petition, of the ACHC's proposal to give \$250,000 to the Housing Authority for the purchase of the two duplex units at Acton Meadows. Ms. Harting-Barrat – Moved to approve. Mr. Clough – Second. UNANIMOUS VOTE

DISCUSSION OF MUNICIPAL ELECTRICITY

Patrick Mehr, Lexington resident, representative of the Massachusetts Alliance of Municipal Utilities, and member of the Lexington electrical utility formed in 2001, described his ongoing efforts to get the state law amended to enable municipalities to create their own electrical utilities. In doing research on municipal utilities, Mr. Mehr visited Concord and learned that Concord's rates were 40% lower than what Lexington was paying. The existing law, M.G.L. Chapter 164, Section 43, is a century old, sets out the process by which a municipality may acquire the assets of the existing utility; the existing law would work fine except that the Department Public Utilities must determine the fair market value of assets/infrastructure for which there is no readily calculated market value. A century ago infrastructure was simple, small-scale, allowing for multiple small networks even on the same poles; today electricity is ubiquitous, infrastructure has a much higher capital cost and utilities will not sell at the DPU-set price, which essentially gives the current utilities veto power over any effort to create a new municipal utility. The last utility created, aside from Devens, was in 1926. There currently are 4 utilities serving 85% of the state and effectively have a permanent monopoly under the current law. An amendment has been introduced in the past four sessions; the Massachusetts legislature currently is considering HB69, under which the DPU would set the price and the town and utility would have an opportunity to weigh in. If the town happens to be willing to pay the higher price, the utility has to provide the deed to the assets. There currently are 41 municipal utilities. The utilities spend millions on lobbying so the bills die each session.

Mr. Mehr reviewed his slides and addressed a number of misconceptions. First, among the three levels for electrical service--generation, transmission and distribution--municipal utilities concern only distribution. Electrical power starts with generators that travel via transmission lines, which typically are owned by the large utilities, to distributors, which are the substation, poles, wires, etc. that deliver power in the local area. The second issue is NStar's argument that it is one of the largest taxpayers in town, so Acton would lose a lot of money. Although municipal utilities do not pay local taxes, they make a payment in lieu of tax, or PILOT, which is equivalent to the local tax amount. Plus if forming a municipal utility is such a bad idea, NStar should let the towns figure that out for themselves. The third issue is the expense. The current bill, HB 869, would require two Town Meeting votes within 13 months, and an economic feasibility study, vetted by the DPU to assure that the proposal would be feasible. If a town is too small or lacks sufficient land, it is not a good candidate. But the infrastructure purchase would not come from the tax levy but via bonding with repayment via user rate payments. The utility would have to buy power in the marketplace, etc. and set rates; the bottom line would be whether the rates would be lower or higher than NStar's rates. Even if the rates were higher, there still might be other advantages for the town.

Ms. Harting-Barrat asked whether there would be any benefit to joining with contiguous towns such as Littleton. Mr. Mehr said that Acton could look into the option, noting that Concord has opted to stay small, not wanting to become a mini-NStar. For electricity distribution, if not generation or transmission, small is better. Acton has a large enough population to do the

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economics on a stand-alone basis but also could look into working with other towns. Ms. Harting-Barrat asked about the feasibility of a municipal utility's selling its power to others.

Over a 20-year period, Concord paid one-half cent less/kwh for wholesale electrical purchases than NStar has for the entire Boston area. NStar just passes along the higher purchase cost. Over the course of one year, high schools in Concord and two other towns with municipal utilities paid 9 cents/kwh compared with 18 cents/kwh that NStar-served high schools, including Acton-Boxborough, paid. That rate could reduce the budget of the Acton high school by \$350K.

In response to Mr. Clough's query, Mr. Mehr confirmed that Acton's generation and distribution cost is roughly 50-50, which is typical, and the town could realize a 40% savings on the total cost.

Mr. Sonner asked what Acton's total electrical spending would be with 8,000-9,000 households. Mr. Mehr offered a caveat about industrial users, whose usage is different with larger numbers and the some 2010 figures on electrical spending for some towns:

Hudson: \$47M in revenues, 12,400 meters

Littleton: 32M revenues, 6,500 meters

Concord: 24M revenues, 7,600 meters

In response to Mr. Sonner's other queries, Mr. Mehr said he did not know of a ballpark figure for buying the assets, and if the legislation were to pass, setting up a utility would take 3-5 years and require serious engineering studies, which even Lexington has not done yet, and the inclusion of design safeguards.

Ms. Adachi asked about the obstacle that having a municipal utility seemed to be for becoming a "green" community under the Green Communities Act; that supposedly was why Concord did not seek to become a green community; and what the votes in the Legislature were for the proposed amendment. Mr. Mehr said that the current version of the bill would require all new municipal utilities to comply with the Green Communities Act. The proposal has the support of the Massachusetts Municipal Association, Boston Globe, about 180 municipalities. There is tremendous support for this proposal, and the sense is that if it came to a vote it would be overwhelming.

Michele Holland, Houghton Lane, said she would be interested in helping to create support, and asked how many more municipalities were needed for support.

Charlie Kadlec commented that the regional schools currently pay \$700K per year and with savings could reduce the cost to \$350K with the solar panels providing additional savings.

Jack Appelmans, 4 Spring Hill, is in an area where NStar ends and Concord Municipal begins, and had explored getting connected to the Concord service, which a Concord utility representative explained would be challenging, due to NStar. He asked what would happen if NStar refused to sell the lines strung between poles and a municipal utility sought to string its own lines; Mr. Mehr said stringing a second set would be infeasible, and either all of the assets would be transferred or none. The Concord utility representative said that the Spring Hill neighbors would have to pay for stringing additional wires to connect to Concord, which might be worthwhile. Mr. Mehr noted that even with the expense of moving lines underground, Concord's rates are lower than NStar's.

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Barry Breslau, 26 Lincoln, asked what leverage residents had to force NStar to make changes today in the way it operates. Mr. Mehr said that regular publicity about NStar's rates compared to nearby municipal utilities, and NStar's executive salaries and lobbying expenditures would help, as would letters to the House Speaker, Senate President and Governor. Mr. Gowing thanked Mr. Mehr for his presentation.

NURSING SERVICE FUNDING DISCUSSION

Health Director Doug Halley presented slides providing an overview of the Nursing Service, including service updates, recent accomplishments, and areas of financial concern as to which they are working with the Finance Department. In the past, revenues from home care have enabled the Nursing Service to provide its public health services at no cost to taxpayers. FY11 finished on target; 2011 Town Meeting authorized the transfer of \$51K if the Nursing Service needed it, which it proved not to. The Nursing Service currently has an unpredictable revenue stream, low cash receipts, shifting healthcare policy, more at-risk citizens and new restrictions on Medicare reimbursements. The "Tiger Team," consisting of the Finance Director, Town Accountant and the Nursing Supervisor, meets weekly. The Nursing Service is looking at a budget of \$125K for the coming year.

The Service is losing an average of \$30,000 per month, and trying to expend as little as possible while still providing good service, and exploring a variety of options, including subsidization and even what it would mean to close the Nursing Service. Mr. Halley believes that home care will be the future, and said that the Nursing Service is asking for the Town's support in weathering the storm.

Ms. Harting-Barrat said she did not want the Nursing Service to end. She noted that Emerson's new structure has reduced referrals. She suggested a strong marketing campaign and said there were lots of ideas for keeping the service going.

Ms. Adachi asked whether any one factor was contributing significantly to the shortfall, whether reduced Medicare reimbursement rates, etc. Mr. Halley said there's an industry-wide trend among home care agencies for fewer referrals to home care. Agencies also do a lot of cherry-picking of the most advantageous patients from a revenue basis, which the Nursing Service does not do. The payer-mix also is an issue, with a larger proportion of HMO patients being less advantageous than a higher proportion of Medicare-covered patients. The Nursing Service also is seeing more patients that are not just home care patients but need more attention than they are getting.

Mr. Clough asked how long it might take to stabilize the Nursing Service's financial condition. Mr. Halley said it could take until after the next election, and there had been one estimate of up to 12 years. Mr. Clough asked if the loss is \$30K per month, what is the overall monthly cost?: \$60K, with revenues of \$30K. Mr. Clough asked whether the Service had considering having a consultant check the coding. Mr. Halley said the Service had determined that the coding was correct

Mr. Sonner asked for a projection for the year, given the \$30K/month shortfall. Mr. Halley said the Service has a fund balance and revenues but the Nursing Service is looking at a \$150,000 deficit for this fiscal year. Mr. Sonner asked what impact a higher caseload had on the deficit. Mr. Halley said it decreases because the more patients we have the more money we take in. Mr. Sonner asked about regionalization. Mr. Halley said a group of 15 communities had looked into regionalization but the next phase under state requirements would call for a community

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health assessment that could cost \$400-500K. The Nursing Service has been meeting with Lincoln, Concord, Maynard, Carlisle, other towns to apply for grants together and work cooperatively to provide public health services.

Charlie Kadlec would hate to see the Nursing Service disappear and asked whether it evaluated its services by whether they made money. If the Nursing Service is going to promote its services, it should make sure the services make money. Mr. Halley tries to have a model that generates revenues and the Nursing Service now charges for inoculations, but other services are required but do not make money.

Mr. Conboy on behalf of the Board of Health emphasized the importance of maintaining the Nursing Service.

Ann Chang asked whether the Town would dissolve the enterprise fund. Mr. Ledoux said the enterprise fund would remain, and Town Meeting would appropriate funds from the operating budget for the enterprise fund.

SELECTMEN'S BUSINESS

SELECTMEN'S REPORTS

Mr. Sonner reported that the Green Advisory Board was looking at driving down utility rates via technological improvements and changes in behavior over the next five years.

Mr. Clough said that the Finance Committee is looking into setting up a trust to cover the Other Post Employment Benefits obligation and is trying to figure out what the funding should be. The Economic Development Committee meeting with the Historic District Commission about the sign bylaw in West Acton has been postponed

Mr. Gowing reported on the Council on Aging, which is working on a presentation jto the Town Meeting about a new senior center, and would like to speak to the Selectment on January 9th. The Regional Transportation Advisory Commission elected new officers; the MBTA will be adding new cars and locomotives to the commuter rail service. The Historic District Commission is looking into the issue of external heat pumps in the historic districts.

Ms. Harting-Barrat reported on the School Committee meeting, where Peter Ashton provided enrollment projections. Enrollment is declining in the District and public schools, other than for Choice students. Enrollment will decline until 2016-2017, at which point the drops will be larger.

Ms. Adachi reported that the Community Preservation Committee received 10 applications plus the town's administrative-expense request, totaling \$2.4 million. The available funds are only \$1.3 million. The committee has assigned liaisons for the projects and presentations will go into January. The Water Resources Advisory Committee was hoping to appear before the Selectmen but will be rescheduled for a later meeting. Although WRAC still is aiming to get a stormwater bylaw proposal on the 2012 warrant, members are recognizing that they may need more time to make sure that the draft and technical manual are solid and well-vetted by the stakeholders.

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CONSENT

Ms. Harting-Barrat – Moved to approve. Mr. Clough – second. UNANIMOUS VOTE

Move to adjourn 11:15 p.m.


Christine Joyce, Recording Secretary


Janet K. Adachi, Clerk

Date: 23 January 2012

BOARD OF SELECTMEN & SEWER COMMISSIONERS'
MEETING AGENDA

Francis Faulkner Hearing Room

November 21, 2011

6:30 PM

I. CITIZENS' CONCERNS

II. PUBLIC HEARINGS AND APPOINTMENTS

1. 6:30 **CONTINUED DISCUSSION OF CHAPTER 69 OF THE ACTS OF 2011**
Selectmen will Invoke the Rule of Necessity re: Chapter 69
2. 7:00 **CHAIRMAN'S UPDATE**
The Chair will briefly update the Board
3. 7:10 **OPERATIONAL MINUTE**
The Town Manager will provide a brief report
4. 7:15 **ACTON MEMORIAL LIBRARY ENDOWMENT PRESENTATION**
The Memorial Foundation will be presenting a check to the Board
5. 7:18 **ACTON CONSERVATION TRUST PRESENTATION OF HOLDING/CO-HOLDING ACCEPTANCE OF THE GROENER AND GAEBEL PROPERTIES AS CONSERVATION EASEMENTS AS REQUIRED UNDER CPC LEGISLATION**
6. 7:20 **COMPREHENSIVE LAND USE REFORM AND PARTNERSHIPS ACT (CLURPA) DISCUSSION WITH SENATOR ELDRIDGE**
Enclosed please find materials in the subject regard
7. 7:55 **ACTON MEADOWS, PROPOSED FRIENDLY 40B, GREAT ROAD PRESENTATION AND REQUEST FOR TOWN SUPPORT. AND ALSO INCLUDING A REQUEST FROM ACHC REGARDING THE USE OF HOUSING FUNDS**
Enclosed please find materials in the subject regard
8. 8:10 **DISCUSSION OF MUNICIPAL ELECTRICITY**
Presentation by Patrick Mehr from the Massachusetts Alliance for Municipal Electricity

9. 8:40 NURSING SERVICE FUNDING DISCUSSION

Enclosed please find materials in the subject regard

III. SELECTMEN'S BUSINESS

10. SELECTMEN'S REPORTS

IV. CONSENT AGENDA

11. REQUEST FROM AB MONDAY NIGHT QUARTERBACKS FOR THE ANNUAL BON FIRE PERMIT IN CONJUNCTION WITH THEIR PEP RALLY

Enclosed please find materials in the subject regard

12. ACCEPT GIFT, RECREATION DEPARTMENT

Enclosed please find a gift of \$ 500.00 from Acton Teamwork's to be used toward funding for Goward Field Playground

13. ACCEPT GIFT, RECREATION DEPARTMENT

Enclosed please find a gift of \$200.00 from Acton Medical to be used toward funding for Goward Field Playground

14. ACCEPT GIFT, PLANNING DEPARTMENT

Enclosed please find a gift of \$2,000.00 from Robbins Brook to be used toward affordable housing

15. ACCEPT GIFT, NURSING SERVICE

Enclosed please find a gift of \$100.00 from Mary Ann Caouette to the Acton Nursing Service

16. ONE DAY LIQUOR LICENSE, NOVEMBER 28, 2011, SPRIGS, 5 STRAWBERRY HILL ROAD

Enclosed please find materials in the subject regard

17. ONE DAY LIQUOR LICENSE, DECEMBER 5, 2011, SPRIGS, 5 STRAWBERRY HILL ROAD

Enclosed please find materials in the subject regard

18. DISPOSAL OF OBSOLETE MATERIALS, ACTON MEMORIAL LIBRARY

Enclosed please find materials in the subject regard

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.

DECEMBER 5,	DECEMBER 19	JAN 9
2020 Committee	Site Plan 433, Powder Mill Road	No Appt.s at this time
Use Permit, 263 Main St.	Town Manager will Present his Budget	
Common Victuller's License, 263 Main St.	Liquor License, Daniela's Violation Hearing	
National Grid, Gas Installation Permit		
Tax Classification Hearing		
Annual License Renewals		

MINUTES PENDING VOTES

January 8, October 17, November 7

PENDING COMMITTEE APPOINTMENTS:

Dia Chigas, Morrison Farm Committee – sent to VCC for Action

**Motion to Invoke Rule of Necessity Relative to
Chapter 69 Process, Chapter 69 Evaluation and Chapter 69 Vote**

**Board of Selectmen's Meeting
November 21, 2011**

Whereas Chapter 69 of the Acts of 2011 and the Emergency Regulations of the Executive Office for Administration and Finance, 801 CMR 52.00, establish a process to change health insurance benefits under M.G.L. c. 32B, §§ 21-23 (the "Chapter 69 Process").

Whereas, M.G.L. c. 32B, § 21(a) provides that, "Any political subdivision electing to change health insurance benefits under sections 22 or 23 shall do so in the following manner: ... in a town, by vote of the board of selectmen ..." (the "Chapter 69 Vote").

Whereas, M.G.L. c. 32B, § 21(b) provides that, "Prior to implementing any changes authorized under sections 22 or 23, the appropriate public authority shall evaluate its health insurance coverage and determine the savings that may be realized after the first 12 months of implementation of plan design changes or upon transfer of its subscribers to the commission" (the "Chapter 69 Evaluation").

Whereas, Chapter 69 does not give any board or authority, other than the Board of Selectmen ("Board") of the Town of Acton ("Town"), the legal authority to take the Chapter 69 Vote, conduct Chapter 69 Evaluation and/or engage in the Chapter 69 Process for the Town to change health insurance benefits under M.G.L. c. 32B, §§ 21-23 and its implementing regulations.

Whereas the preamble confirms that Chapter 69's purpose "is immediately to authorize municipalities to implement local health insurance changes" and Chapter 69 "is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

Whereas the Board is therefore legally required to act as soon as possible on whether the Town should elect to engage in the process to change health insurance benefits under M.G.L. c. 32B, §§ 21-23.

Whereas two Board members currently have no health or dental insurance benefits through the Town; however one Board member (Ms. Harting-Barrat) currently has dental insurance coverage through the Town; a second Board member (Mr. Sonner) has a spouse who is employed by the Town as a teacher in the Acton public schools and who is a member of the teachers' union; and a third member of the Board (Mr. Clough) currently has health insurance coverage through the Acton-Boxborough Regional School District through his District-employed spouse, and the Town and the District are participating governmental units on health insurance matters under a Health Insurance Trust Agreement.

Whereas, three of the Board's five members therefore have actual or potential conflicts and are disqualified from participation in the Chapter 69 Vote, Chapter 69 Evaluation and/or the Chapter 69 Process conducted by the Board on behalf of the Town; the Board lacks a quorum to act in a timely manner on the Chapter 69 Vote, the Chapter 69 Evaluation and the Chapter 69 Process;

and the lack of a quorum is solely due to members being disqualified by conflicts as set forth above.

Whereas, in these circumstances, Town Counsel has advised that the Board invoke the Rule of Necessity relative to the Town's Chapter 69 Vote, Chapter 69 Evaluation and Chapter 69 Process, and such advice is consistent with the advice provided by the General Counsel of the State Ethics Commission to the General Counsel of the Executive Office for Administration and Finance dated September 2, 2011 on the same subject.

NOW THEREFORE, Ms Harting-Barrat moves that the Acton Board of Selectmen invoke the Rule of Necessity to allow Board members, who would otherwise be disqualified, to participate in the deliberation of and action on the Chapter 69 Vote, Chapter 69 Evaluation and Chapter 69 Process relative to changing health insurance benefits under M.G.L. c. 32B, §§ 21-23 and its implementing regulations; and further moves that the Board's minutes shall reflect that the Board would otherwise lack a quorum to conduct such deliberations, take such action, take such vote, or engage in such process because of such disqualifications, and that the Rule of Necessity is being used to allow the Board to validly deliberate, act, vote and proceed with respect to these matters.

So Moved by Selectman Harting-Barrat
Seconded by Selectman Clough
Record of Vote:

Selectman	Yes	No	Abstaining	Taking No Part
Mike Gowing	✓			
Janet K. Adachi	✓			
Pamela A. Harting-Barrat	✓			
John Sonner				✓
David Clough	✓			

The foregoing is an accurate record of the proceedings of the Acton Board of Selectmen on November 21, 2011.

Janet K. Adachi
Janet Adachi, Clerk

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<input type="checkbox"/>	Type	Title	Owner	Edited	Size	Actions
<input type="checkbox"/>		010 Agenda, Board of Selectmen, November 21, 2011 Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	109 KB	
<input type="checkbox"/>		020 Rule of Necessity Motion - Chapter 69 Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	236 KB	
<input type="checkbox"/>		030 (5) Acton Conservation Trust Presentation of Co-holding, Groener and Gaebel Conservation Easements Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	93 KB	
<input type="checkbox"/>		040 (6) CLURPA Materials for Sen. Eldridge's Presentation Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	732 KB	
<input type="checkbox"/>		050 (7) Acton Meadows 40B(LIP Application) Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	450 KB	
<input type="checkbox"/>		060 (8) Materials from Mass Alliance for Municipal Electric Choice Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	1 MB	
<input type="checkbox"/>		070 (9) Nursing Service Update, Slide Show Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	3 MB	
<input type="checkbox"/>		075 (9) Letter of Support for the Acton Nursing Service From the Friends of Acton Nursing Service, Inc. (FANS) Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	200 KB	
<input type="checkbox"/>		080 (11) Bon Fire Permit, Thanksgiving Pep Rally Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	56 KB	

<input type="checkbox"/>		090 (12) Accept Gift, Recreation Department Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	80 KB	
<input type="checkbox"/>		100 (13) Accept Gift, Recreation Department Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	59 KB	
<input type="checkbox"/>		110 (14) Accept Gift, Planning Department Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	36 KB	
<input type="checkbox"/>		120 (15) Accept Gift, Nursing Service Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	34 KB	
<input type="checkbox"/>		130 (16) One Day Liquor License, Sprig's, 11/28/2011 Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	164 KB	
<input type="checkbox"/>		140 (17) One Day Liquor License, Sprig's, 12/5/2011 Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	164 KB	
<input type="checkbox"/>		150 (18) Disposal of Obsolete Materials Acton Memorial Library Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	11/18/11	40 KB	

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