

**1996 ANNUAL TOWN MEETING  
APRIL 1, 1996**

**ARTICLE INDEX**

<b><u>Article</u></b>	<b><u>Title</u></b>
1	Choose Town Officers
2	Hear and Accept Reports
3*	Council on Aging Enterprise Budget
4*	Nursing Enterprise Budget
5*	Septage Disposal Enterprise Budget
6	Neswc Enterprise Budget
7*	Merriam School Offset Receipts Budget
8	Budget Transfer
9	Town Operating Budget
10	North Acton Recreation Area
11	Acton Memorial Library Expansion
12	Home Rule Petition Goward Field Amendment For Library Expansion
13	Acton Public School Budget
14	Acton-Boxborough Regional School Assessment
15	Minuteman Regional School Assessment
16	Capital Article - Acton Public Schools
17	Capital Article - Acton Boxborough Regional Schools
18	Section 53E1/2 Self-Funding Programs
19	Capital Improvements - Facilities And Equipment, Repair and Renovations
20	Capital Improvements - Vehicle Repairs & Departmental Equipment
21	Capital Improvements - Infrastructure Improvements
22	Grant Writer
23	New Staff
24	Plowing Of Private Ways
25	Cable Television Contract Renewal Funding
26	Mandatory South Acton Center/Mill Corner Sewer Hook-Up
27	Acceptance of Mill Corner Parcels
28	Creation of Sewer Use District
29	Power Conversion Feasibility Study
30	Changes To Kelley's Corner District Use Regulations
31	Dimensional And Design Provisions For The Kelley's Corner District
32	Kelley's Corner Multifamily District
33	Parking And Driveway Requirements In The Kelley's Corner District
34	Walkways And Bike Ways In The Kelley's Corner District
35	Changes to the Kelley's Corner District Boundary
36	Changes to the General Industrial District Boundary
37	Changes to the Office Park 2 District Boundary
38	Changes In Office Park 2 District Dimensional Regulations
39	Changes To Office Park 2 District Use Regulations
40	Petition To Change Zoning Of Land In Acton

**1996 ANNUAL TOWN MEETING  
APRIL 1, 1996**

**ARTICLE INDEX (CONTINUED)**

41	Adult Uses, Sexually Oriented Businesses
42	Nonconforming Lots, Uses Structures And Parking Exemptions
43	Corrections, Clarifications And Minor Adjustments
44	Amend Town Bylaws -Environmental Protections
45	Amend Town Bylaws - Sale Of Tobacco And Smoking Products
46	Amend Town Bylaws - Use Of Tobacco And Smoking Products
47*	Amend Charter - Change Name - Acton Boxborough Arts Council
48*	Amend Charter -Various Section Revisions
49	Earth Day Resolution
50*	Repurchase Cemetery Lot
51*	Street Acceptance
52*	Acceptance of Land Gifts
53*	Strawberry Hill Road Easement - Dunlap, Youngman
54*	Chapter 90 Highway Reimbursement Program
55*	Emergency/Disaster Aid Appropriations
56	Use Of Funds To Reduce The Tax Rate

(\* Consent Article )

## 1996 ANNUAL TOWN MEETING

### Consent Calendar

**\* 2/3 VOTE REQUIRED**

<u>ARTICLE</u>	<u>TITLE</u>
3.	Council on Aging Enterprise Budget
4.	Nursing Enterprise Budget
5.	Septage Disposal Enterprise Budget
7.	Merriam School Offset Receipts Budget
47.	Amend Charter - Change Name - Acton Boxborough Arts Council
<b>HELD</b> 48.	Amend Charter - Various Section Revisions
50.	Repurchase Cemetery Lot
<b>HELD</b> 51.	Street Acceptances
52.	Acceptance of Land Gifts
53.	Strawberry Hill Road Easement - Dunlap, Youngman
54.	Chapter 90 Highway Reimbursement Program
55.	Emergency/Disaster Aid Appropriations

ABSTRACT OF THE ANNUAL TOWN MEETING HELD APRIL 1, 1995 WITH ADJOURNED SESSIONS  
HELD APRIL 2, APRIL 8, APRIL 9, APRIL 10, AND APRIL 11, 1996

#### # OF REGISTERED VOTERS ATTENDING TOWN MEETING

MONDAY	APRIL 1	708
TUESDAY	APRIL 2	653
MONDAY	APRIL 8	870
TUESDAY	APRIL 9	276
WEDNESDAY	APRIL 10	270
THURSDAY	APRIL 11	204

On April 1, 1996, the Moderator, Donald MacKenzie called the meeting to order at 7:35 p.m. After welcoming the attendees, Mr. MacKenzie introduced Father Boyle of St. Elizabeth's of Hungary Catholic Church who gave the invocation.

The Moderator then introduced William Mullin, Chairman of the Board of Selectmen. On behalf of the Selectmen, Mr. Mullin then introduced the members of the Board of Selectmen, Town Manager, Town Counsel, Town Clerk, Assistant Town Manager, Town Accountant and the Finance Director. The Moderator then introduced Sharron Gaudet, Chairman of the Finance Committee. Ms. Gaudet then introduced the members of the Finance Committee.

Mr. MacKenzie gave a brief review of Town Meeting rules and regulations and then explained that he would read the consent calendar and any articles that he would read could be "held" if two or more voters called for them to be held for discussion when he got to that article.

**MOTION: MR. MULLIN** moves that the Town take up the 12 articles as listed in the consent calendar on pages 16 and 17 of the warrant.

The moderator called the individual articles as follows:

**ARTICLE**

**MOTION**

3 Council on Aging Enterprise Budget: Move that the Town raise and appropriate \$41,518 for the purpose of providing van service, and to raise such amount \$41,518 be transferred from the Council on Aging Enterprise Fund.

4 Nursing Enterprise Budget: Move that the Town raise and appropriate \$520,132 for the purpose of providing Public Health Nursing Services, and to raise such amount \$520,132 be transferred from the Nursing Enterprise Fund.

5 Septage Disposal Enterprise Budget: Move that the Town raise and appropriate \$195,355 for the purpose of septage disposal, and to raise such amount \$195,355 be transferred from the Septage Disposal Enterprise Fund.

7 Merriam School Offset Receipts Budget: Move that the Town raise and appropriate \$31,351 for the purpose of maintaining the Merriam School Building, and to raise such amount \$31,351 be transferred from the Merriam School Offset Receipts Budget.

47 Amend Charter- Change Name - Acton Boxborough Arts Council: Move in the words of the Article.

48 Amend Charter- Various Section Revisions: Move in the words of the Article.

50 Repurchase Cemetery Lot: Move that the Town appropriate \$800 for the purpose of this article and to raise such amount \$160 be transferred from the Cemetery Land Fund and \$640 be transferred from the New Perpetual Care Fund.

51 Street Acceptances: Move that the Town accept as a public way the streets listed in the Article, as laid out by the Board of Selectmen according to the plans on file with the Town Clerk, and authorize the Board of Selectmen to take the fee or easements for drainage, utility, or other purposes where shown on said plan or described in the Order of Layout.

52 Acceptance of Land Gifts: Move in the words of the Article.

53 Strawberry Hill Road Easement - Dunlap, Youngman: Move in the words of the Article.

54 Chapter 90 Highway Reimbursement Program: Move the Selectmen are authorized to accept Highway funds from all sources and such funds are hereby appropriated for highway purposes.

55 Emergency/Disaster Aid Appropriations: Move in the words of the Article.

***MOTION CARRIES UNANIMOUSLY EXCEPT ARTICLES 48 AND 51 WHICH WERE "HELD".***

**MONDAY, APRIL 1, 1996**

**ARTICLE 1 CHOOSE TOWN OFFICERS**  
(Majority Vote Required)

To choose all necessary Town Officers and Committees and to fix the salaries and compensation of all the elective officers of the Town as follows:

Moderator	\$20.00 per Town Meeting session
Board of Selectmen	Chairman \$750.00
	Member \$650.00

or take any other action relative thereto.

**MOTION: MR. MULLIN** moves that the Town fix the compensation for elected officers as shown in the warrant.

***MOTION CARRIES UNANIMOUSLY.***

**Frederick A. Harris** nominates **Malcolm S. MacGregor** as a trustee of the West Acton Fireman's Relief Fund, term to expire in 1999.

***MOTION CARRIES UNANIMOUSLY.***

**Joseph A. Conquest** nominates **William Klauer** as a trustee of Actons' Fireman's Relief Fund, term to expire in 1999.

***MOTION CARRIES UNANIMOUSLY.***

**Edwin H. Miller** nominates **John Powers** as a trustee of the Elizabeth White Fund, term to expire in 1999.

***MOTION CARRIES UNANIMOUSLY.***

**Madeleine Kaduboski** nominates **Robert Loomis** as a trustee of the Citizen's Library Association of West Acton, term to expire 1999.

***MOTION CARRIES UNANIMOUSLY.***

**Mabel Grekula** nominates **Shirley Towle** as Trustee of the Charlotte Goodnow Fund, term to expire in 1999.

***MOTION CARRIES UNANIMOUSLY.***

**ARTICLE 2 HEAR AND ACCEPT REPORTS**  
(Majority Vote Required)

To see if the Town will accept reports and hear and act upon the report of any committee chosen at any previous Town Meeting that has not already reported, or take any other action relative thereto.

**MOTION: MR. MULLIN** moves that the Town accept the reports of the various Town Officers and Boards as set forth in the 1995 Town Report and that the Moderator call for any other reports.

***MOTION CARRIES UNANIMOUSLY***

**ARTICLE 3\* COUNCIL ON AGING ENTERPRISE BUDGET**

Abstract of the 1996 Annual Town Meeting

(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$41,518, or any other sum, to operate the Senior Van Service, in accordance with Mass General Laws Chapter 44, Section 53 F1/2, Enterprise Fund Law, or take any other action relative thereto

**CONSENT MOTION: MRS. TAVERNIER** moves that the Town raise and appropriate \$41,518.00 for the purpose of providing a van service, and to raise such amount \$41, 518.00 be transferred from the Council on Aging Enterprise Fund.

*CONSENT MOTION CARRIES UNANIMOUSLY*

**ARTICLE 4\* NURSING ENTERPRISE BUDGET**

(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$520,132, or any other sum, to provide Public Health and Visiting Nurse Services, in accordance with Mass General Laws Chapter 44, Section 53F1/2, Enterprise Fund Law, or take any other action relative thereto.

**CONSENT MOTION: MR. MULLIN** moves that the Town appropriate \$520,132.00 for the purpose of providing public health nursing services, and to raise such amount \$520,132.00 be transferred from the Nursing Enterprise Fund.

*CONSENT MOTION CARRIES UNANIMOUSLY.*

**ARTICLE 5\* SEPTAGE DISPOSAL ENTERPRISE BUDGET**

(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$195,355, or any other sum, for the purpose of septage disposal, in accordance with Mass General Laws Chapter 44, Section 53F1/2, Enterprise Fund Law, or take any other action relative thereto.

**CONSENT MOTION: MR. KABAKOFF** moves that the Town appropriate \$195,355.00 for the purpose of septage disposal, and to raise such amount \$195,355.00 be transferred from the Septage Disposal Enterprise Fund.

*CONSENT MOTION CARRIES UNANIMOUSLY*

**ARTICLE 6 NESWC ENTERPRISE BUDGET**

(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$1,402,178, or any other sum, for the purpose of solid waste disposal, in accordance with Mass General Laws Chapter 44, Section 53F1/2, Enterprise Fund Law, or take any other action relative thereto.

**MOTION: MR. MULLIN** moves that the Town appropriate \$1,402,178.00 for the purpose of solid waste disposal, and to raise such amount \$735,178,00 be transferred from the NESWC Enterprise Fund and \$667,000.00 be raised and appropriated.

*MOTION CARRIES*

**ARTICLE 7\* MERRIAM SCHOOL OFFSET RECEIPTS BUDGET**  
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$31,351, or any other sum, for the purpose of maintaining and operating the Merriam School, in accordance with Mass General Laws, Chapter 44, Section 53E, Offset Receipts Law, or take any other action relative thereto.

**CONSENT MOTION:** MR. ARONSON moves that the Town appropriate \$31,351.00 for the purpose of maintaining the Merriam School, and that the receipts from the rental of the Merriam School be set aside as a separate fund under M. G. L., Chapter 44, Section 53E to meet this appropriation.

*CONSENT MOTION CARRIES UNANIMOUSLY*

**ARTICLE 8 BUDGET TRANSFER**  
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, an amount of money to be used in conjunction with funds appropriated under the current fiscal year's budgets to be used during the current fiscal year, or make any other adjustments to the current fiscal year budgets and appropriations that may be necessary, or take any other action relative thereto.

**MOTION:** MR. FRIEDRICHS moves to take no action.

*MOTION TO TAKE NO ACTION CARRIES UNANIMOUSLY*

**ARTICLE 9 TOWN OPERATING BUDGET**  
(Majority Vote Required)

To see what sums of money the Town will raise and appropriate, or appropriate from available funds, to defray the necessary expenses of the several departments, offices and boards of the Town, exclusive of the school budgets, or take any other action relative thereto.

**MOTION:** MR. MULLIN moves that the Town Budget for the period July 1, 1996 to June 30, 1997 in the amount of \$11,802,714.00 be raised and appropriated in its entirety, except that \$69,435.00 be transferred from Cemetery Trust Fund for Cemetery use, and that \$5,968.39 be transferred from the County Dog Fund for library use, and further that the Town Manager be authorized to sell, trade, or dispose of vehicles being replaced and to expend any proceeds received for such new vehicles.

*MOTION CARRIES*

After Article 9, the moderator recognized the volunteers with the following:

On behalf of the Board of Selectmen, the Town Manager, and of all the citizens of Acton, the Volunteer Coordinating Committee would like to recognize and thank all the people who are currently serving on a Town Board or Committee, or as Acton Representatives on regional boards, as well as those who have completed their terms of service since the last Annual Town Meeting.

Abstract of the 1996 Annual Town Meeting

As I read the name of the Boards and Committees, would the present members, alternates, and associate members, as well as those who have recently completed their service please stand and remain standing until all the names are read. We would like Town Meeting to hold their applause until all the names are read.

Acton/Boxborough Arts Council, Board of Appeals, Board of Assessors, Board of Health, Cable Advisory Committee, Cemetery Commission, Commission on Disability, Conservation Commission, Council on Aging, Fair Housing Committee, Finance Committee, Hanscom Field Advisory Commission, Historic District Commission, Historical Commission, Investment Advisory Committee, Lowell Regional Transportation Authority, Metropolitan Area Planning Council, Minuteman Home Care, Minuteman Vocational School Committee, Municipal Power Organization Study Committee, Personnel Board, Planning Board, Prison Advisory Committee, Public Ceremonies and Celebrations Committee, Recreation Commission, Second Airport/Fort Devens Reuse Task Force, South Acton Revitalization Committee, Town Report Committee, and the Volunteer Coordinating Committee.

Let's thank these volunteers for their many contributions and for the hundreds of hours of time that they have given to this town.

The Town Meeting applauded in recognition of all volunteers.

**ARTICLE 10 NORTH ACTON RECREATION AREA**  
(2/3 Vote Required)

To see if the Town will raise and appropriate, appropriate from available funds or borrow the sum of \$1,600,000, or any other sum, which shall be contingent upon the passage of a Proposition 2 1/2 Debt Exclusion Override, to be expended by the Town Manager for the purpose of constructing a general purpose recreation area on 40.49 acres of town owned land located on Quarry Road in North Acton and shown as Parcel 18 on Town Atlas Map C-5 and to authorize the Town Manager to provide for the disposition of any excess gravel or other excavated materials as part of the construction contract or otherwise, or take any other action relative thereto.

**MOTION: MR. MULLIN** moves that the Town appropriate the sum of \$1,600,000.00 for the purpose of constructing a general purpose recreation area on 40.49 acres of town owned land located on Quarry Road in North Acton and shown as Parcel 18 on Town Atlas Map C-5; that to meet this appropriation the Treasurer, with the approval of the Selectmen, is authorized to borrow \$1,600,000.00 under G.L. c.44, s7(25); that the Town Manager is authorized to take any action necessary to carry out this project; and that the Town raise and appropriate \$211,800.00 for the payment of interest and underwriting costs on such borrowing in fiscal year 1997; provided, however, that this vote shall not take effect until the Town votes to exempt from the limitation on total taxes imposed by G.L. c.59, s21C (Proposition 2 1/2) amounts required to pay the principal of and interest on the borrowing authorized by this vote.

***MOTION CARRIES***

TOTAL VOTE 599      YES 533      NO 66

**MOTION: MR. MULLIN** moves to adjourn the annual town meeting until Tuesday, April 2, 1996 at 7:30 p.m. at the Acton Boxborough Regional High School Auditorium.

***MOTION CARRIES UNANIMOUSLY.***

**TUESDAY, APRIL 2, 1996**

Abstract of the 1996 Annual Town Meeting

The moderator called the meeting to order at 7:35 p.m. He then recognized Mr. Wiltse.

**MOTION: MR. WILTSE** moves to take Article 15 out of order.

*MOTION CARRIES.*

**ARTICLE 15 MINUTEMAN REGIONAL SCHOOL ASSESSMENT**  
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$507,192, or any other sum, to defray the necessary expenses of the Minuteman Science and Technology High School, or take any other action relative thereto.

**MOTION: MR. WILTSE** moves that the Minuteman Science and Technology High School Assessments for the period July 1, 1996 to June 30, 1997, in the amount of \$507,192.00 be raised and appropriated in its entirety.

*MOTION CARRIES*

The moderator then moved back to Article 11.

**ARTICLE 11 ACTON MEMORIAL LIBRARY EXPANSION**  
(2/3 Vote Required)

To see if the Town will raise and appropriate, appropriate from available funds or borrow the sum of \$6,310,000, or any other sum, which shall be contingent upon the passage of a Proposition 2 1/2 Debt Exclusion Override, to be expended by the Town Manager for the purpose of land acquisition, preparing design drawings, renovation of the existing building, and construction and furnishing of a major addition to the existing library; and authorize the Board of Library Trustees and the Selectmen to apply for, accept and expend any federal or other grants that may be available for the project; or take any other action relative thereto.

**MOTION: MR. HUNTER** moves that the Town appropriate the sum of \$6,310,000.00 for the purpose of land acquisition, preparing design drawings, renovation of the existing building, and construction and furnishing of a major addition to the existing library; that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow \$6,310,000.00 under G.L. c.44, s7; that the Board of Library Trustees with the approval of the Selectmen are authorized to apply for and accept any federal or other grants that may be available for this project provided that the amount of the authorized borrowing shall be reduced by the amount of such aid received prior to the issuance of bonds or notes under this vote; and that the Town Manager is authorized to take any other action necessary to carry out this project; and that the Town raise and appropriate \$370,300.00 for the payment of interest and underwriting costs on such borrowing in fiscal year 1997; provided, however, that this vote shall not take effect until the Town votes to exempt from limitation on total taxes imposed by G.L. c.59, s21C (Proposition 2 1/2) amounts required to pay the principal of and interest on the borrowing authorized by this vote.

*MOTION CARRIES*

TOTAL VOTE 217      YES 200      NO 17

**ARTICLE 12 HOME RULE PETITION  
GOWARD FIELD AMENDMENT FOR LIBRARY EXPANSION  
(Majority Vote Required)**

To see if the Town will vote to authorize the Selectmen to petition the General Court to amend Chapter 603 of the Acts of 1985 to permit the land behind Town Hall, formerly part of Goward Field, to be used for an expansion of the town library or any other municipal use, or take any other action relative thereto.

**MOTION: MRS. TAVERNIER** moves that the Board of Selectmen be authorized to petition the General Court to amend Chapter 603 of the Acts of 1985, to permit the land behind the Memorial Library, formerly part of Goward Field to be used for an expansion of the Memorial Library or any other municipal use.

**MOTION CARRIES**

Before Article 13, Mr. MacKenzie introduced Steve Aronson, Chairman of the Local School Committee. Mr. Aronson introduced the Superintendent of Schools, two Assistant Superintendents, the Director of Human Services and the members of the School Committee.

**ARTICLE 13 ACTON PUBLIC SCHOOL BUDGET  
(Majority Vote Required)**

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$11,914,326, or any other sum, to defray the necessary expenses of the Local Schools, or take any other action relative thereto.

**MOTION: MR. ARONSON** moves to raise and appropriate the sum of \$11,914,326.00 for the Acton Local Schools for the period July 1, 1996 to June 30, 1997.

**MOTION CARRIES**

**ARTICLE 14 ACTON-BOXBOROUGH REGIONAL SCHOOL ASSESSMENT  
(Majority Vote Required)**

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$9,605,734, or any other sum, to defray the necessary expenses of the Acton-Boxborough Regional School, or take any other action relative thereto.

**MOTION: MS. STUNTZ** moves that the Acton Boxborough Regional School Assessment for the period July 1, 1996 to June 30, 1997, in the amount of \$9, 290,698.00 be raised and appropriated in its entirety.

**MOTION CARRIES**

**MOTION: MR. MULLIN** moves to adjourn the town meeting until April 8, 1996, 7:30 p.m. at the Acton Boxborough Regional High School Auditorium.

**MOTION CARRIES UNANIMOUSLY**

**MONDAY, APRIL 8, 1996**

The moderator called the meeting to order at 7:32 p.m.

**MOTION: MRS. TOMASEVICH** moves to take Article 40 out of order. Mr. Hunter supported the motion and made a motion that Article 42 be taken out of order before Article 40.

***MOTION CARRIES***

**ARTICLE 42 NONCONFORMING LOTS, USES, STRUCTURES AND PARKING; EXEMPTIONS**  
(2/3 Vote Required)

To see if the Town of Acton will vote to amend Section 8 of the Zoning Bylaw as follows:

A. Delete the title of Section 8 and replace it with the following new title:

NONCONFORMING LOTS, USES, STRUCTURES AND PARKING; EXEMPTIONS

B. Amend Section 8.1 as follows:

1. Delete the first paragraph of Section 8.1 and replace it with a new first paragraph as follows:

8.1 Any LOT which complied with the minimum area, FRONTAGE, LOT width, yard and depth requirements, if any, in effect at the time the boundaries of the LOT were defined by recorded deed or plan, may be built upon or used for single FAMILY, or where permitted two-FAMILY, residential USE, notwithstanding the adoption of new or increased LOT area, FRONTAGE, LOT width, yard or depth requirements, provided that:

2. Delete Section 8.1.1 and replace with a new section 8.1.1 as follows:

8.1.1 At the time of the adoption of such new or increased requirements such LOT was held, and has continued to be held, in ownership separate from that of adjoining land; and

C. Amend Section 8.2 as follows:

1. Delete Section 8.2.2 and replace with the following new section 8.2.2 as follows:

8.2.2 Changing a Nonconforming USE - A nonconforming USE may not be changed to another nonconforming USE except in accordance with the following requirements. The Board of Appeals may authorize by special permit a change from a nonconforming USE to another nonconforming USE provided the Board of Appeals finds that the proposed USE is in harmony with the character of the neighborhood and the applicable requirements of the zoning district, and provided further that in the Residential, Village and Office Districts the Board of Appeals may authorize a change only to one of the following other nonconforming USES (all USES as listed in the Table of Principal USES):

- a) In Residential Districts: Multifamily Dwelling, Retail Store, Business or Professional Office, Financial, Veterinary Care, Personal Services, General Services, Studio, Commercial & Trade School; except that a nonconforming Multifamily Dwelling may not be changed to another nonconforming USE;
- b) In Village Districts: Multifamily Dwelling, Funeral Home, Veterinary Care, Amusement Facility; Light Manufacturing; and
- c) In Office Districts: Hotel, Inn or Motel.

**(CONTINUED- ARTICLE 42)**

2. Delete Section 8.2.3 and replace with the following new section 8.2.3 as follows:

8.2.3 Extending a Nonconforming USE - In a Residential District a nonconforming USE may not be extended in area. In all other Districts a nonconforming USE may be extended in area by special permit from the Board of Appeals.

- D. Amend Section 8.3 as follows:

1. Add at the end of Section 8.3.2 the following sentence:

A vertical extension of a nonconforming BUILDING, which does not expand the BUILDING horizontally so as to violate any applicable yard requirement, shall be deemed not to increase the nonconforming nature of the BUILDING and shall not require a special permit under Section 8.3.3.

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2. Delete Section 8.3.3 and replace it with a new Section 8.3.3 as follows:

8.3.3 A BUILDING, which is nonconforming with regard to any minimum yard requirement may be extended horizontally within the dimension of its existing nonconformity by special permit from the Board of Appeals, provided that the extension otherwise conforms to all the dimensional requirements of this Bylaw, and provided further that the Board of Appeals finds that such an extension is not substantially more detrimental to the neighborhood than the existing nonconforming condition of the BUILDING.

3. Delete Section 8.3.4 and replace with a new Section 8.3.4 as follows:

8.3.4 Restoration - If a nonconforming STRUCTURE, or a STRUCTURE on a nonconforming LOT that cannot be built on under the requirements of Section 8.1, is damaged by fire, flood or similar disaster to an extent greater than 50% of its fair market value before it was damaged, it shall not be rebuilt or reconstructed without a special permit from the Board of Appeals. No such special permit shall be granted unless the application for such special permit is filed within two years from the date on which the damage occurred and the Board of Appeals finds that 1) such rebuilding or reconstruction will not be detrimental to the neighborhood, and 2) to the extent possible the STRUCTURE will be rebuilt or reconstructed in conformity with the dimensional requirements of this Bylaw.

or take any other action relative thereto.

**MOTION: MR. NIEMYSKI** moves to amend the zoning bylaw as set forth in the article.

***MOTION CARRIES UNANIMOUSLY***

Abstract of the 1996 Annual Town Meeting

After Article 42, Mr. Hunter read the following letter that was sent to the Town Meeting from his grandson, Travis Porth.

April 8, 1996

Dear Town Meeting,

My name is Travis Porth. I am 8 years old. I live at 3 Foster Street. I am the grandson of F. Dore Hunter. I do not want the mall, because if the mall is built I can't ride my bike in the street because the cars will be whizzing down my street faster than ever. I will only be able to ride my bike in the driveway in circles and that will be hard because it's a two-wheeler.

It is peaceful down here and I don't want lots of cars whizzing by because it will make a lot of noise. If the mall is built, my bus might not be able to go on the right bus route to my house because some streets will be closed off.

So, please don't let them build the mall.

Sincerely,

Travis Porth

**ARTICLE 40# PETITION TO CHANGE ZONING OF LAND IN ACTON**  
(2/3 Vote Required)

To see if the Town will vote to amend the Acton Zoning Bylaw by amending the Table of Principal Uses contained in Section 3 of the Acton Zoning Bylaw so as to permit by right in the Office Park 2 District (OP-2) a Retail Store as defined in Section 3.5.1 of the Acton Zoning Bylaw, to wit: An establishment engaged in displaying and selling goods or merchandise within a BUILDING to the general public or to business establishments which goods or merchandise are not intended for resale; except that a garden center, florist or commercial greenhouse may have open air display of horticultural products; and, without limiting the foregoing, in connection therewith, amending the Table of Principal Uses contained in Section 3 of the Acton Zoning Bylaw by changing line 3.5.1, Retail Store, under Office Districts, OP-2, from N to Y,  
or take any other action or actions relative thereto.

**MOTION: MRS TOMASOVICH** moves that the Zoning Bylaws be amended as set forth in the article.

***MOTION CARRIES UNANIMOUSLY AGAINST THIS ARTICLE.***

**MOTION: MR. HUNTER** moves to adopt the following resolution:

NOW THEREFORE be it resolved that it is the sense of this Town Meeting that construction of a shopping center should *NOT BE ALLOWED* at 77 Hosmer Street, on the site commonly known as the Concord Auto Auction, for the following reasons:

- a) the proposed shopping center retail use is much less harmonious with the character of the neighborhood than the existing wholesale auto sales use; and
- b) the proposed shopping center retail use is much less harmonious with the applicable requirements of the zoning district than the existing wholesale auto sales use; and
- c) the proposed shopping center retail use is not in harmony with the existing and probable future uses of the area, the character of the surrounding area and neighborhood, or the Master Plan.

***MOTION CARRIES UNANIMOUSLY***

The moderator then moved back to Article 16.

**ARTICLE 16 CAPITAL ARTICLE - ACTON PUBLIC SCHOOLS**  
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$500,000, or any other sum, for the purpose of remodeling, reconstructing and making extraordinary repairs to the Conant, Douglas, Gates, Merriam and McCarthy-Towne Schools and to the Blanchard Auditorium and for the purchase of equipment, including any architects' and engineering fees and other costs incidental thereto and determine whether such appropriation shall be raised by borrowing or otherwise, or take any other action relative thereto.

**MOTION: MR. ARONSON** moves to appropriate the sum of \$500,000.00 to be expended by the Acton Public Schools for the purpose of remodeling, reconstructing and making extraordinary repairs to the Conant, Douglas, Gates, Merriam and McCarthy-Towne Schools and to the Blanchard Auditorium, including the purchase of equipment, architects' and engineers' fees, and to allow the schools to be technologically "networked" for instructional purposes; and that to raise such amount \$500,000.00 be transferred from free cash.

***MOTION CARRIES***

**ARTICLE 17 CAPITAL ARTICLE - ACTON BOXBOROUGH REGIONAL SCHOOLS**  
(Majority Vote Required)

To see if the Town will vote to approve the amount of \$1,335,000 debt authorized by vote of the Acton Boxborough Regional District School Committee for the purpose of remodeling and making extraordinary repairs, including the Americans with Disability Act improvements, to the Regional Junior High School and the Regional High School and for the purchase of equipment, including any architects' fees and other costs incidental thereto, and further to see if the Town will vote to raise and appropriate, or transfer from available funds the sum of \$475,000 to pay principal and interest on the aforesaid debt due in fiscal year 1997, provided that this appropriation shall be contingent on an appropriation by the Town of Boxborough of at least \$25,000 for the same purpose, or take any other action relative thereto.

(CONTINUED- ARTICLE 17)

**MOTION: MS. STUNTZ** moves to approve the amount of \$1,335,000.00 debt authorized by vote of the Acton Boxborough Regional School Committee on March 28, 1996, for remodeling, reconstructing and making extraordinary repairs to Regional School buildings, including architects' fees, and that the sum of \$475,000.00 be transferred from free cash to pay Fiscal Year 1997 debt service, provided that this appropriation shall be contingent on an appropriation by the Town of Boxborough of at least \$25,000.00 for the same purpose.

**MOTION CARRIES**

**ARTICLE 18 SECTION 53E1/2 SELF-FUNDING PROGRAMS**  
(Majority Vote Required)

To see if the Town will vote pursuant to Section 53E1/2 of Chapter 44 of the Massachusetts General Law to continue revolving funds for the Local School system, Historic District Commission, the Building Department, Sealer of Weights and Measures, and Health Inspectional Services, and to initiate such a fund in the Fire Department (Fire Alarm Network), or take any other action relative thereto.

	<u>FUND BALANCE</u> <u>6/30/95</u>	<u>REVENUE</u>	<u>EXPENSE</u>
<b>School Department</b>			
Douglas At Dawn	0	\$20,000	\$20,000
Merriam Afternoons	0	\$20,000	\$20,000
Gates Amazing Mornings	0	\$20,000	\$20,000
<b>Historic District Fees</b>	<b>\$ 445</b>	<b>\$ 250</b>	<b>\$ 250</b>
<b>Building Department</b>			
(Micro Film Fees, Electrical, Plumbing and Gas Permits, Sign Licenses and Periodic Inspection Fees)	\$46,189	\$71,300	\$71,300
<b>Sealer of Weights and Measure</b>	<b>\$ 2,731</b>	<b>\$ 7,000</b>	<b>\$ 6,970</b>
<b>Health Department</b>			
(Food Service Inspections and Hazardous Materials Inspection Fees)	0	\$ 34,500	\$34,115
<b>Fire Department</b>			
Fire Alarm Network	0	\$20,000	\$20,000

**MOTION: MR. KABAKOFF** moves that the revolving funds for the Local School System, Historic District Commission, Building Department, Sealer of Weights and Measures, Health Department and Fire Department be established for FY 1997 in the amounts and for the purposes set forth in the summary of this article.

**MOTION CARRIES UNANIMOUSLY**

**ARTICLE 19 CAPITAL IMPROVEMENTS - FACILITIES AND EQUIPMENT,  
REPAIR AND RENOVATIONS**  
(Majority Vote Required)

To see if the Town will raise and appropriate or appropriate from available funds, a sum of money for the various purposes listed below:

	<u>Estimated Cost</u>
A. Reroof Fire Stations	\$ 75,000
B. Fire Communications System Update	\$135,000
C. Police/Fire Facilities Feasibility Study	\$ 50,000
D. Update Building Fire Alarms	\$ 15,000

or take any other action relative thereto.

**MOTION: MR. HUNTER** moves that the Town appropriate the sum of \$275,000.00 to be expended by the Town Manager for repairs and update of equipment and other purposes as listed in this article; and to raise such amount, the sum of \$275,000.00 be transferred from free cash.

***MOTION CARRIES UNANIMOUSLY***

**ARTICLE 20. CAPITAL IMPROVEMENTS - VEHICLE REPLACEMENTS  
DEPARTMENTAL EQUIPMENT**  
(Majority Vote Required)

To see if the Town will raise and appropriate or appropriate from available funds, a sum of money for the various purposes listed below:

	<u>Estimated Cost</u>
A. Backhoe	\$95,000
B. Turf Mower	\$15,000

or take any other action relative thereto.

**MOTION: MRS. TAVERNIER** moves that the Town appropriate the sum of \$110,000.00, to be expended by the Town Manager to replace Departmental Equipment as listed in this article and to raise such amount \$110,000.00 be transferred from free cash, and further that the Town Manager be authorized to sell, trade, or dispose of vehicles being replaced and to expend any proceeds received for such new vehicles.

***MOTION CARRIES UNANIMOUSLY***

**ARTICLE 21 CAPITAL IMPROVEMENTS -INFRASTRUCTURE IMPROVEMENTS**

(Majority Vote Required)

To see if the Town will raise and appropriate or appropriate from available funds, a sum of money for the various purposes listed below:

	<u>Estimated Cost</u>
A. Hayward Road New Traffic Signal Design	\$10,000
B. New Sidewalks on Town Ways	\$50,000
C. Playground Equipment	\$60,000
D. Kelley's Corner Traffic Study	\$50,000
E. Irrigation 2A/27	\$20,000

or take any other action relative thereto.

**MOTION: MR. FRIEDRICHS** moves that the Town appropriate the sum of \$190,000.00 to be expended by the Town Manager to purchase equipment and make infrastructure improvements as listed in this article, and to raise such amount \$190,000.00 be transferred from free cash.

***MOTION CARRIES***

**ARTICLE 22**

**GRANT WRITER**

(Majority Vote Required)

To see if the Town will vote to raise and appropriate, or appropriate from available funds, the sum of \$50,000, or any other sum, to be expended by the Town Manager for professional grant writing assistance, or take any other action relative thereto.

**MOTION: MR. KABAKOFF** moves that the Town appropriate the sum of \$50,000.00 to be expended by the Town Manager for professional grant writing assistance, and to raise such amount \$50,000.00 be transferred from free cash.

***MOTION CARRIES UNANIMOUSLY***

**MOTION: MR. MULLIN** moves to adjourn the town meeting at 10:55 p.m. until Tuesday, April 9, 1996, 7:30 p.m. at the Acton Boxborough Regional High School Auditorium.

***MOTION CARRIES UNANIMOUSLY***

**TUESDAY, APRIL 9, 1996**

Moderator called the meeting to order at 7:34 p.m.

**MR. MULLIN** was recognized by the moderator and commented that the Town Meeting would continue every night until it is completed. He also announced that a Special Town Election would be held on May 7, 1996 for the debt exclusion overrides.

**ARTICLE 23 NEW STAFF**  
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, a sum of money for new departmental employees as listed below, or take any other action relative thereto.

	<u>Cost</u>
A. Municipal Properties Employee	\$37,500
B. Highway Department Employee	\$37,500

**MOTION: MR. MULLIN** moves that the Town raise and appropriate \$75,000.00, to be expended by the Town Manager to hire new personnel in the Municipal Properties Department and the Highway Department.

***MOTION CARRIES***

**ARTICLE 24 PLOWING OF PRIVATE WAYS**  
(Majority Vote Required)

To see if the Town will vote to raise and appropriate or appropriate from available funds the sum of \$10,000, or any other sum, to be expended by the Town Manager for the cost associated with the plowing of private ways open to public use as designated by the Board of Selectmen, or take any other action relative thereto.

**MOTION: MR. FRIEDRICHS** moves that the Town raise and appropriate the sum of \$10,000.00 to be expended by the Town Manager for the plowing of private ways open to public use as designated by the Board of Selectmen.

***MOTION CARRIES***

**ARTICLE 25 CABLE TELEVISION CONTRACT RENEWAL FUNDING**  
(Majority Vote Required)

To see if the Town will vote to raise and appropriate, or appropriate from available funds the sum of \$42,500, or any other sum, to be expended by the Town Manager for the support costs associated with the review of the Cable TV Contract Renewal process, or take any other action relative thereto.

**MOTION: MRS. TAVERNIER** moves that the Town appropriate the sum of \$42,500.00 for the purpose of renegotiating the Cable Television contract and to raise such amount \$36,000.00 be transferred from free cash, and \$6,500.00 be raised and appropriated.

***MOTION CARRIES***

**ARTICLE 26 MANDATORY SOUTH ACTON CENTER/ MILL CORNER SEWER HOOK-UP**  
(Majority Vote Required)

To see if the Town will vote to adopt the following as Section E58 of the Town Bylaws:

E58.

The owners of all houses, buildings, or properties used for Residential, Business, or other purposes, situated within the South Acton Center/Mill Corner Sewer area and abutting on any street, or right-of-way in which there is a public sewer, are hereby required at their expense, to connect such facilities directly with the public sewer, in accordance with the rules and regulations established by the Sewer Commissioners, within one year after date of official notice that said public sewer system is "approved for use", provided that the public sewer is within one hundred fifty (150) feet of the property line; or within ninety (90) days after receipt of official notice from the Board of Health of the Town of Acton acting under Title 5 of the "State Environmental Code for the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage" or regulations relative thereto. Said connections shall be required in all cases, except that upon application to the Board of Health any property owner who has installed a septic system completely in compliance with 310 CMR 15 since January 1, 1992 may be exempted, as long as such septic system, without further improvement, is operating satisfactorily without violating the standards in 310 CMR 15.303, or take any other action relative thereto.

**MOTION: MR. HUNTER** moves to take no action.

*MOTION TO TAKE NO ACTION CARRIES UNANIMOUSLY*

**ARTICLE 27 ACCEPTANCE OF MILL CORNER PARCELS**  
(2/3 Vote Required)

To see if the Town will vote to authorize the Board of Selectmen to accept as a gift, take by eminent domain or otherwise acquire from Pert Corporation, parcels 1B-1, 2A, 2B, & 2C-1 abutting and adjacent to Nylander Way, being shown on the Town of Acton's Tax Atlas, Map H-2A, as Parcels 11-1, 11-2 & 11-3 and on Map G-2A as Parcel 83 and further shown on a plan recorded in the Middlesex South District Registry of Deeds as plan #206 of 1993 and modified by a plan recorded in said registry as plan #146 of 1994; or take any other action relative thereto.

**MOTION: MRS. TAVERNIER** moves that the Town authorize the Board of Selectmen to accept or reject the gift of, or to acquire by eminent domain, or otherwise, any or all of the parcels described in the warrant, or any part thereof or interest therein, for municipal purposes including sewerage disposal.

*MOTION CARRIES*

*TOTAL VOTE 106      YES 100      NO 6*

**ARTICLE 28 CREATION OF A SEWER USE DISTRICT**  
(Majority Vote Required)

To see if the Town will establish a wastewater collection district for the purpose of collecting sewage waste and treating said wastes at the South Acton Center/Mill Corner Treatment Facility. The area of said district shall be as follows:

Tax Atlas Map H2A  
Parcels; 11-1, 11-2, 11-3, 44, 45, 46, 47, 48, 49, 50

Tax Atlas Map G2A  
Parcels; 81, 82, 83

Tax Atlas Map H3A  
Parcels; 1, 1-2, 2, 3-1, 3-2, 4-1, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 22, 23, 23-1, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 40, 41, 42, 43

or take any other action relative thereto.

**MOTION: MR. HUNTER** moves to take no action.

***MOTION TO TAKE NO ACTION CARRIES***

The moderator recognized Bill Reich for serving as Head Teller for the past 6 years and town meeting showed their appreciation with their applause.

**ARTICLE 29 POWER CONVERSION FEASIBILITY STUDY**  
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$40,000, or any other sum, to be expended by the Town Manager for the purchase of a feasibility study, or any other investigation, of conversion to a municipal power provider for the town and its residents and business, or any other related alternatives. The Acton Municipal Power Study Committee shall be involved in recommending the content of a request for proposal and will be involved in proposal evaluation and contractor selection which shall be conducted through normal town government procedures, or take any other action relative thereto.

**MOTION: MR. HARRIGAN** moves to take no action.

***MOTION TO TAKE NO ACTION CARRIES UNANIMOUSLY***

Abstract of the 1996 Annual Town Meeting

**MOTION: MR. HARRIGAN** makes the following resolutions:

“Whereas the Acton Municipal Power Study Committee (AMPSC) has performed a cash flow analysis associated with its Final Report presented at the Special Town Meeting on 11/15/95, concluding that the best timing to start a municipal electric power conversion project is uncertain because of the investment and the evolution of deregulation;

Whereas the Committee believes that aggregation may be preferred to a municipal distribution system due to the elimination of large investment and risks;

And whereas the Committee believes that it is highly desirable for the Town to entrust a Committee with responsibilities:

(1) to consider alternative methods to reduce the cost of electric power, conserve energy, and improve service in Acton;

(2) to make recommendations, status reports, and provide information to the Town; and

(3) to monitor the status of “electric power deregulation” initiatives at the State and Federal levels;

Now therefore be it resolved that the Town will reconstitute the Committee to be known as the “Acton Power Study Committee” for a term of three years and to consist of three to 11 members who are Acton residents plus a representative from the Board of Selectmen, the FINCOM, and the School Committee, and that the Town will give this Committee appropriate financial support.”

***MOTION LOST -***

***TOTAL VOTE 186    YES - 78    NO - 108***

**MOTION: MR. MULLIN** moves to adjourn the town meeting at 10:25 p.m. until Wednesday, April 10, 1996, 7:30 p.m. at the Acton Boxborough Regional High School Auditorium.

***MOTION CARRIES***

**WEDNESDAY, APRIL 10, 1996**

The moderator called the meeting to order at 7:30 p.m.

**ARTICLE 30 CHANGES TO KELLEY’S CORNER DISTRICT USE REGULATIONS**  
(2/3 Vote Required)

To see if the Town of Acton will vote to amend the Zoning Bylaw, Section 3 as follows:

A. Table of Principal Uses. (*Y = the use is allowed; N = the use is not allowed; SPA or SPS = the use may be allowed by special permit; R in Site Plan column = site plan special permit required*)

1. Delete section 3.5.18 - Motor Vehicle Service Station or Car Wash, and replace with a new section 3.5.18 - Motor Vehicle Service Station as follows:

	PRINCIPAL USES	RESIDENTIAL DISTRICTS			VILLAGE DISTRICTS				OFFICE DISTRICTS	
		R-2, R-4 R-8 R-8/4 R-10 R-10/8	RA	VR	SAV	WAV	NAV	EAV	OP-1	OP-2
3.5.18	Motor Vehicle Service Station	N	N	N	N	N	N	SPS	N	N

BUSINESS DISTRICTS			INDUSTRIAL DISTRICTS					SPECIAL DISTRICTS		
GB	LB	KC	LI	GI	LI-1	IP	SM	ARC	PCRC & PUD (1)	SITE PLAN
SPS	SPS	SPS	N	N	N	N	N	N	-	R

2. Insert a new section 3.5.23 - Car Wash as follows:

	PRINCIPAL USES	RESIDENTIAL DISTRICTS			VILLAGE DISTRICTS				OFFICE DISTRICTS	
		R-2,R-4 R-8 R-8/4 R-10 R-10/8	RA	VR	SAV	WAV	NAV	EAV	OP-1	OP-2
3.5.23	Car Wash	N	N	N	N	N	N	SPS	N	N

BUSINESS DISTRICTS			INDUSTRIAL DISTRICTS					SPECIAL DISTRICTS		
GB	LB	KC	LI	GI	LI-1	IP	SM	ARC	PCRC & PUD (1)	SITE PLAN
SPS	SPS	N	N	N	N	N	N	N	-	R

**(CONTINUED- ARTICLE 30)**

3. Change the KC column under Business Districts for the land uses listed as follows:

*(For reference purposes, the present designation is shown in brackets.)*

	PRINCIPAL USE	BUSINESS DISTRICTS	
		KC	
3.2	GENERAL USES		
3.2.3	Earth Removal	N	[SPA]
3.5	BUSINESS USES		
3.5.7	Lodge or Club	SPS	[Y]
3.5.10	Commercial Kennel	N	[SPS]
3.5.19	Motor Vehicle Repair or Body Shop	SPS	[Y]
3.5.20	Light Vehicular & Equipment Sales	N	[Y]
3.6	INDUSTRIAL USES		
3.6.1	Warehouse	N	[SPS]
3.6.2	Mini-Warehouse	N	[Y]

**B. Business Uses - Definitions**

1. Delete section 3.5.18 and replace it with a new section 3.5.18 as follows:

3.5.18 Motor Vehicle Service Station - Facility for the outdoor sale of motor vehicle fuels and related products and services, provided that all major maintenance and servicing of vehicles shall be conducted entirely within a BUILDING.

2. Insert a new section 3.5.23 as follows:

3.5.23 Car Wash - A facility used for washing passenger cars and vans, and small trucks.

or take any other action relative thereto.

**MOTION:** MR. GAGNE moves that the zoning bylaw be amended as set forth in the article.

***MOTION CARRIES***

***TOTAL VOTE 104 YES 100 NO 4***

**ARTICLE 31 DIMENSIONAL AND DESIGN PROVISIONS FOR THE KELLEY’S CORNER DISTRICT (2/3 Vote Required)**

To see if the Town of Acton will vote to amend the Zoning Bylaw as follows:

A. Section 5, Table of Standard Dimensional Regulations

1. In the Table of Standard Dimensional Regulations delete the line next to KC and replace with a new line as follows (*the current dimensional regulation is indicated in brackets wherever changes are proposed*):

ZONING DISTRICTS	MINIMUM LOT AREA in sq. ft.	MINIMUM LOT FRONTAGE in feet	MINIMUM LOT WIDTH in feet	MINIMUM FRONT YARD in feet	MINIMUM SIDE & REAR YARD in feet	MINIMUM OPEN SPACE in percent	MAXIMUM FLOOR AREA RATIO	MAXIMUM HEIGHT in feet
KC	10,000	100	50	30	NR(6)	NR	.40(15)	36
					[30(6)]	[35%]	[.20]	

2. Add to the Table of Standard Dimensional Regulations the following new footnote (15):  
(15) Subject to certain provisions in Section 5.6, Special Provisions for the Kelley’s Corner District.

B. Section 3, Table of Principal Uses, Principal Use Definitions and Accessory Use Regulations

1. In Section 3.6, Industrial Uses - Definitions, add to Section 3.6.6 the following sentence:  
In the KC District, the maximum NET FLOOR AREA of an establishment that is classified as a Light Manufacturing USE shall not exceed 10,000 square feet.
2. In Section 3.9 - Special Provisions Applicable to Nonresidential USES, insert a new Section 3.9.3 as follows:  
3.9.3 Nonresidential USES in the KC District - On LOTS in the KC District where the FLOOR AREA RATIO exceeds 0.20, only the following USES may be located on the ground floor side of the BUILDING that is facing a STREET: Retail Store; Financial; Restaurant; Hotel, Inn or Motel; Lodge or Club; Veterinary Care; Personal Services; General Services; Studio; Amusement Facility; real estate agencies; insurance agencies; travel agencies; law offices and medical and dental offices. All other USES shall be located on BUILDING floors other than the ground level floor, on the ground level floor in a rear portion of a BUILDING, or in a BUILDING situated in the rear of other BUILDINGS that face one or more STREETS, and be hidden or screened so as to be unobtrusive when viewed from a STREET.

**(CONTINUED- ARTICLE 31)**

C. Insert a new Section 5.6 as follows:

5.6 Special Provisions for the Kelley's Corner District

- 5.6.1 Purpose - In the Kelley's Corner District, the principal goal guiding the regulations set forth herein is to sustain and encourage a vital business center that provides needed goods, services, jobs and increased tax revenues in a manner that is compatible with Acton's historic development pattern and establishes pedestrian accessibility and circulation throughout the Kelley's Corner area. These regulations will provide clear guidance to those who would like to expand or locate businesses in the Kelley's Corner District. They will ensure that future development will help create the form, cohesion, order, and supporting infrastructure that will identify the Kelley's Corner District as an attractive, pleasant, and desirable center for business, shopping and other commercial and community activities.

Pedestrian access and circulation are favored in order to limit vehicular congestion and air pollution. Adjacent residential neighborhoods will be connected to the Kelley's Corner District via pedestrian ways but are otherwise separated with landscape buffers. In order to support the growth and vitality of the center, higher density developments are required to contribute to a fund for the construction of a centralized wastewater collection and treatment system serving the Kelley's Corner District and surrounding areas. The regulations are intended to implement the Kelley's Corner Plan as amended.

It is widely recognized that the mere provision of sidewalks and crosswalks will not encourage pedestrian use of a commercial area unless the layout and design of the sites and BUILDINGS are also conducive to pedestrian use. The leading design principles are therefore to provide convenient and efficient pedestrian access within the Kelley's Corner District and to surrounding neighborhoods and facilities, to provide a safe and comfortable pedestrian environment with walkways, pedestrian conveniences and amenities, and to encourage BUILDINGS with a pedestrian oriented scale and design.

- 5.6.2 The following standards shall apply to all LOTS in the KC District:

- 5.6.2.1 The Site Plan Special Permit Granting Authority shall require sidewalks along the LOT'S FRONTAGE on a STREET or STREETS and walkways between BUILDING entrances and the nearest STREET or STREETS with minimal interruption by driveways. Parking lot aisles, and access and interior driveways do not count as walkways;
- 5.6.2.2 The Site Plan Special Permit Granting Authority shall require driveway and walkway connections to abutting LOTS within the KC District. Where such connections are not available due to current conditions on abutting LOTS, provisions shall be required to connect to such abutting LOTS at a future date in locations determined by the Site Plan Special Permit Granting Authority;
- 5.6.2.3 The Site Plan Special Permit Granting Authority shall require pedestrian connections to abutting neighborhoods and facilities outside the KC District. Where such connections are not available due to current conditions in the surrounding area, provisions shall be required for such connections at a future date in locations determined by the Site Plan Special Permit Granting Authority.

(CONTINUED- ARTICLE 31)

5.6.3 The following standards shall apply on all LOTS in the KC District where the FLOOR AREA RATIO exceeds 0.20:

5.6.3.1 The Sidewalk - A sidewalk shall be provided along the LOT'S FRONTAGE on a STREET or STREETS. The sidewalk shall be at least 10 feet wide. Sidewalks may be located wholly or partially within the STREET layout. The sidewalk shall be separated from the vehicular roadway with a landscaped buffer at least 10 feet wide, which shall consist of shade trees placed at 40-45 foot intervals and other landscaping or STREET design elements, and which may consist in part of on-STREET vehicular parking spaces.

5.6.3.2 The Pedestrian Plaza - A pedestrian plaza shall be provided on any LOT where the NET FLOOR AREA is 30,000 square feet or more and the FLOOR AREA RATIO exceeds 0.35.

- a) The pedestrian plaza shall be an area at the STREET level in front of a BUILDING, on the side of a BUILDING, or in between BUILDINGS, which is to be used exclusively by pedestrians and connects to the sidewalk. For the purpose of this section, a pedestrian arcade located within a BUILDING footprint and open to the outdoors may be counted towards the minimum area required for a pedestrian plaza.
- b) A pedestrian plaza shall contain a minimum of 1,500 square feet in area and shall measure at least 20 feet in width. If the NET FLOOR AREA of the BUILDINGS on a LOT exceeds 100,000 square feet, the minimum area for a pedestrian plaza shall be 3,000 square feet. The area required for a sidewalk shall not be included in the pedestrian plaza.
- c) The pedestrian plaza shall be next to the STREET and sidewalk, and shall be open on one or more sides to the sidewalk.
- d) The pedestrian plaza shall be accented with pedestrian amenities such as benches and kiosks. Shade trees, ornamental trees and other landscaping shall be provided to create a separation between pedestrian and vehicular traffic, to highlight BUILDINGS and pedestrian spaces, to
- e) fumes.
- f) All landscaping shall use species that are tolerant to the climatic conditions in Acton and shall be designed to facilitate ongoing maintenance and watering.
- g) Notwithstanding any other provisions of this Bylaw to the contrary, the serving of foods and drinks at outdoor tables shall be permitted in a pedestrian plaza.

5.6.3.3 Driveways and Parking Lots -

- a) No driveway or parking lot shall be placed in the portion of a LOT that is directly in front of a BUILDING as seen from a STREET, whether or not the BUILDING is located on the same LOT as the driveway or parking lot, except that a driveway and parking lot may be placed in the front of a BUILDING that is located in the rear of another BUILDING when viewed from a STREET. No driveways or parking lots shall be located between a pedestrian plaza and a STREET, nor shall any driveway or parking lot intersect or be mixed with a pedestrian plaza.
- b) Vehicular driveways and parking lots may be located to the side and rear of BUILDINGS or to the rear of a pedestrian plaza.

**(CONTINUED- ARTICLE 31)**

5.6.3.4 BUILDING Design -

- a) At least 60 percent of the front side of a LOT facing a STREET, measured in percentage of linear feet of the LOT FRONTAGE, shall be occupied by BUILDINGS or by a pedestrian plaza that are located within 40 feet of the STREET sideline. A reduction of this requirement to 50 percent of the front side of a LOT may be allowed provided the Site Plan Special Permit Granting Authority finds that the alternative design features are consistent with Section 5.6.1 of this Bylaw.
- b) BUILDINGS shall be of a design similar to the architecture in historic commercial centers of New England in terms of scale, massing, roof shape, spacing and exterior materials. Alternative designs may be allowed provided the Site Plan Special Permit Granting Authority finds the alternative design is consistent with Section 5.6.1 of the Bylaw.
- c) BUILDING facades facing STREETS or pedestrian plazas are also referred to herein as the BUILDING front(s) or BUILDING front facade(s). Such BUILDING fronts shall have a vertical orientation, meaning either that the BUILDING shall actually have a greater height than width, or that the facades and roof lines of the BUILDING are designed to reduce the massing and bulk so that it appears as a group of smaller masses with a distinct vertical orientation.
- d) The BUILDING front facades shall be articulated to achieve a human scale and interest. The use of different textures, shadow lines, detailing and contrasting shapes is required. Not more than 50 feet of a BUILDING front shall be in the same vertical plane.
- e) The BUILDING front facade(s) shall be faced with materials used in historic New England architecture. Alternative materials may be used on the BUILDING front facade(s) provided that the Site Plan Special Permit Granting Authority finds the materials to be consistent with Section 5.6.1 of the Bylaw.
- f) On the BUILDING fronts, the ground floor shall be occupied, or designed to be available for occupancy, by Retail Stores, Financial services, Restaurants, Hotel, Inn or Motel, Lodges or Clubs, Veterinary Care providers, Personal Services, General Services, Studios, Amusement Facilities, real estate agencies, insurance agencies, travel agencies, law offices, or medical and dental offices.
- g) The main business entrance to each ground floor business, identified by the larger doors, signs, canopy or similar means of highlighting, shall be from the BUILDING front.
- h) Grocery retailers with a NET FLOOR AREA larger than 20,000 square feet may have a second main entrance in another location, for instance towards a parking lot in the rear or the side of a BUILDING.
- i) Arcades and canopies shall not be considered part of the BUILDING. Arcades and canopies may not be located within 10 feet of the sideline of a STREET unless the Site Plan Special Permit Granting Authority finds that the reduction in setback to the sideline of the STREET is consistent with Section 5.6.1 of the Bylaw.
- j) The BUILDING front(s) shall contain windows covering at least 15 percent of the facade surface. Windows shall be highlighted with frames, lintels and sills or equivalent trim features. Windows and doors shall be arranged to give the facade a sense of balance and symmetry.

**(CONTINUED- ARTICLE 31)**

- k) Except for ground level display windows, windows shall have a 2:1 ratio of height to width. Alternative window designs may be allowed provided the Site Plan Special Permit Granting Authority finds them to be consistent with Section 5.6.1 of the Bylaw and that they enhance one or more architectural features.
  - l) On the ground level portion of the BUILDING front, the amount of windows in the facade surface shall be at least 20 percent but not larger than 80 percent. Ground floor display windows shall be framed on all sides by the surrounding wall. They shall be highlighted with frames, lintels and sills or equivalent trim features, or may instead be recessed into the wall or projected from the wall.
  - m) Mirror windows and highly reflective surfaces shall not be allowed on the BUILDING fronts.
  - n) Roofs shall be gabled with a minimum pitch of 9/12 (9" vertical for every 12" horizontal) and have overhanging eaves of at least one foot. Two or three story BUILDINGS, or two or three story portions of a BUILDING, may have a flat roof provided that the tops of the BUILDING front facades are treated with an articulated cornice, dormers, or other architectural treatment that appears an integral part of the BUILDING from all visible sides of the BUILDING.
  - o) The main features of the architectural treatment of the BUILDING front facades, including the materials used, shall be continued around all sides of the BUILDING that are visible from a STREET or a pedestrian plaza. The Site Plan Special Permit Granting Authority may approve alternate treatment of side and rear BUILDING walls that is consistent with Section 5.6.1 of the Bylaw and preserves the architectural integrity of the BUILDING as a whole.
  - p) Garage doors or loading docks shall not be allowed in the BUILDING fronts.
  - q) BUILDING service and loading areas shall incorporate effective techniques for visual and noise buffering from adjacent USES.
  - r) Accessory STRUCTURES, air conditioning equipment, electric utility boxes, satellite dishes, trash receptacles and other ground level utilities shall be unobtrusive when viewed from the STREET and adjacent LOTS.
  - s) Rooftop mechanical equipment shall be screened from public view by the use of architecturally compatible materials.
- 5.6.3.5 Wastewater Infrastructure - The Site Plan Special Permit Granting Authority shall require a contribution in the amount of \$2.50 per square foot of NET FLOOR AREA in excess of FLOOR AREA RATIO 0.20. Said contribution shall be made to the Town of Acton for deposit into a fund to be used for the design and construction of a centralized wastewater collection, treatment and disposal system serving the Kelley's Corner District and other areas within the Town of Acton, including the acquisition of necessary land or easements, or for the payment of any debt incurred by the Town of Acton for such purposes. On any LOT where the FAR existing on or before April 1, 1996 exceeds 0.20, the contributions calculated pursuant this section shall be based on the difference between the existing NET FLOOR AREA and the proposed NET FLOOR AREA.
- D. Renumber the current Section 5.6 to become new Section 5.8, including all its sub-sections.
- E. Insert a new Section 10.4.3.10 as follows:
- 10.4.3.10 Special Provisions Applicable to the KC District - In the KC District the site and BUILDING design shall be in compliance with Section 5.6 of this Bylaw.
- or take any other action relative thereto.

**(CONTINUED- ARTICLE 31)**

**MOTION: MR. KOETSCH** moves that the zoning bylaws be amended as set forth in the article.

***MOTION CARRIES***

TOTAL VOTE 103      YES 100      NO 3

**ARTICLE 32    KELLEY’S CORNER MULTIFAMILY DISTRICT**  
(2/3 Vote Required)

To see if the Town of Acton will vote to amend the Zoning Map and Zoning Bylaw as follows:

A. Zoning Map.

Rezone to Residence AA (R-AA) the following parcels of land identified by their map and parcel number as shown in the 1995 Town Atlas. *(Present zoning designations, shown in parenthesis, and street addresses are listed for reference purposes only).*

Map	Parcel	Present Zoning	Street Address
F-3	80	(R-2)	294 Main Street
F-3	86	(R-A)	272-276 Main Street
F-3	87	(R-2)	282 Main Street
F-3	87-1	(R-2)	282 Main Street (rear)
F-3	88	(R-2)	288 Main Street
F-3	99	(R-A)	1-2 Towne House Lane. Only the northerly portion that is at a distance greater than 80 feet from Massachusetts Avenue.
F-3	99-2	(R-A)	Towne House Lane

B. Zoning Bylaw, Section 2.

In Section 2.1, insert under ‘Residential Districts’ the following new district designation:

Residence AA

R-AA

(CONTINUED- ARTICLE 32)

C. Zoning Bylaw, Section 3.

1. In the Table of Principal Uses insert under 'Residential Districts' a new column headed R-AA as follows:

	<b>PRINCIPAL USES</b>	<b>RESIDENTIAL DISTRICTS</b>
		<b>R-AA</b>
3.2	<b>GENERAL USES</b>	
3.2.1	Agriculture	Y
3.2.2	Conservation	Y
3.2.3	Earth Removal	N
3.2.4	Recreation	SPS
3.3	<b>RESIDENTIAL USES</b>	
3.3.1	Single Family Dwelling	Y
3.3.2	Single Family Dwelling with One Apartment	Y
3.3.3	Dwelling Conversions	SPA
3.3.4	Multifamily Dwelling	Y
3.4	<b>GOVERNMENTAL, INSTITUTIONAL &amp; PUBLIC SERVICE USES</b>	
3.4.1	Municipal	Y
3.4.2	Educational	Y
3.4.3	Religious	Y
3.4.4	Nursing Home	SPS
3.4.5	Public or Private Utility Facilities	N
3.4.6	Child Care Facility	Y
3.4.7	Other Public USE	SPS(6)
3.5	<b>BUSINESS USES</b>	
3.5.1	Retail Store	N
3.5.2	Business or Professional Office	N
3.5.3	Financial	N
3.5.4	Restaurant	N
3.5.5	Hotel, Inn or Motel	N
3.5.6	Combined Business & Dwelling	N
3.5.7	Lodge or Club	N
3.5.8	Funeral Home	N
3.5.9	Veterinary Care	N
3.5.10	Commercial Kennel	N
3.5.11	Personal Services	N
3.5.12	General Services	N
3.5.13	Studio	N
3.5.14	Building Trade Shop	N
3.5.15	Commercial Recreation	N
3.5.16	Commercial & Trade School	N
3.5.17	Amusement Facility	N
3.5.18	Motor Vehicle Service Station	N
3.5.19	Motor Vehicle Repair or Body Shop	N
3.5.20	Light Vehicular & Equipment Sales	N
3.5.21	Parking Facility	N

Abstract of the 1996 Annual Town Meeting

3.5.22	Transportation Services	N
3.5.23	Car Wash	N
3.6	<b>INDUSTRIAL USES</b>	
3.6.1	Warehouse	N
3.6.2	Mini -Warehouse	N
3.6.3	Construction Yard	N
3.6.4	Lumber Yard	N
3.6.5	Heating Fuel Sales & Service	N
3.6.6	Light Manufacturing	N
3.7	<b>PROHIBITED USES</b>	
3.7.1	Heavy Manufacturing	N
3.7.2	Storage	N
3.7.3	Amusement	N
3.7.4	General	N
3.7.5	Heavy Vehicular Sales or Repair Garage	N

- In the beginning paragraph of Section 3.3, Residential Uses - Definitions, replace the words “in Residence A Districts” with the words “in the Residence A (R-A) and Residence AA (R-AA) Districts”.

D. Zoning Bylaw, Section 5.

- Amend the Table of Standard Dimensional Regulations by inserting a new line for R-AA as follows:

ZONING DISTRICTS	MINIMUM LOT AREA in sq. ft.	MINIMUM LOT FRONTAGE in feet	MINIMUM LOT WIDTH in feet	MINIMUM FRONT YARD in feet	MINIMUM SIDE & REAR YARD in feet	MINIMUM OPEN SPACE in percent	MAXIMUM FLOOR AREA RATIO	MAXIMUM HEIGHT
R-AA	10,000	100	50	30	10	35%	NR	36

- Delete the first line of Section 5.3.2 and replace it with the following new line:  
“5.3.2 Residence A District, Residence AA District, and Multifamily Dwellings:”
- Insert new Section 5.3.2.2 as follows:  
“5.3.2.2 In the R-AA District, residential USES may be established at a density of up to fifteen DWELLING UNITS per acre, subject to the standards set forth in the Table of Standard Dimensional Regulations.”  
and renumber the current Section 5.3.2.2 to become Section 5.3.2.3.

or take any other action relative thereto.

**MOTION: MRS. TAVERNIER** moves that the zoning bylaw be amended as set forth in the article.

**MOTION CARRIES**

**TOTAL VOTE 126 YES 100 NO 26**

**ARTICLE 33 PARKING AND DRIVEWAY REQUIREMENTS IN THE KELLEY'S CORNER DISTRICT** (2/3 Vote Required)

To see if the Town of Acton will vote to amend Section 6 of the Zoning Bylaw as follows:

A. Delete the first paragraph of section 6.7 and replace it with the following new paragraph:

6.7 All parking lots shall be designed in compliance with the following design standards, except as provided in Section 6.9. In addition, the following standards shall not apply to parking lots serving a single or two FAMILY residential USE or a religious USE, and to parking lots with up to 15 parking spaces serving a Conservation USE.

B. Delete Section 6.8 and replace it with a new Section 6.8 as follows:

6.8 Structured Parking - Except in the KC, WAV and SAV Districts, the accommodation of required off-STREET parking spaces in a garage, deck or other STRUCTURE shall require, in addition to all other OPEN SPACE requirements of this Bylaw, the set-aside of OPEN SPACE of an area equal to the floor area of the structured parking facility in excess of one story. In all zoning districts structured parking facilities shall not be counted in calculating the NET FLOOR AREA of a BUILDING. In the SAV District, structured parking shall only be allowed if incorporated in a BUILDING occupied with other USES, and a separate detached parking STRUCTURES shall only be permitted if it qualifies as a municipal USE.

C. Re-name the title of Section 6.9 to "Special Parking Provisions in the Village and Kelley's Corner Districts".

D. Insert a new Section 6.9.3 as follows:

6.9.3 KC District - In the Kelley's Corner District, no BUILDING or STRUCTURE shall be located on a LOT and no activity shall be conducted upon any LOT unless off-STREET parking is provided in accordance with the following requirements:

6.9.3.1 Required off-STREET parking for a USE may be provided on any LOT within the Kelley's Corner District, but not necessarily on the same LOT as the USE.

6.9.3.2 Connection of Parking - A Site Plan Special Permit Granting Authority shall require that all parking facilities be connected by a common driveway to the parking facilities of all adjacent USES and to all adjacent LOTS within the Kelley's Corner District, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking facility shall be designed to provide for the future construction of common driveways. For the purposes of this section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET or a driveway to a STREET leading to another LOT or a driveway connecting such LOTS with each other. See also Section 10.4.3.3 of this Bylaw regarding common driveways.

6.9.3.3 Number of Parking Spaces - The minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1. In the case of collective use of a parking facility in accordance with Section 6.9.3.4, the minimum number of required parking spaces shall be 50% of the requirements in Section 6.3.1.

**(CONTINUED- ARTICLE 33)**

- 6.9.3.4 Collective Use of Parking Facilities - Off-STREET parking facilities may serve, collectively or jointly, different USES located throughout the Kelley's Corner District where such a collective use of the parking facility is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; 3) assures ACCESS to and maintenance of the common parking facility, and 4) is filed with the Building Commissioner. Any change to such agreement shall also be filed with the Building Commissioner. The number of parking spaces allocated in the agreement to each participating USE shall be counted toward the minimum required number of parking spaces for such USE as determined under Section 6.9.3.3.
- 6.9.3.5 Design Requirements and Landscaping - Off-STREET parking spaces, except spaces serving a single or two FAMILY residential USE, shall either be contained within a BUILDING or STRUCTURE, or be provided in accordance with the design requirements of Section 6.7 including all its subsections. In addition, no parking space or other paved surface, other than walkways and bike ways, shall be located within 20 feet of an abutting residential zoning district.

E. In Section 10.4.3.5 insert a new sub-section 3) as follows:

- 3) In the Kelley's Corner District where a business or industrial USE abuts a Residential District, the Board of Selectmen shall require a substantially opaque landscape buffer of at least 20 feet in depth that is designed to mitigate the impact of the business or industrial USE on abutting Residential Districts.

or take any other action relative thereto.

**MOTION:** MR. CROSWELL moves that the Zoning Bylaw be amended as set forth in the article, except that s. 10.4.3.5, sub-section (3) shall be amended as set forth in the handout distributed to the town meeting.

**Amended Motion to Article 33**

**Replace Part E of the Article with the following:**

**E. In Section 10.4.3.5 insert a new sub-section 3) as follows:**

- 3) In the Kelley's Corner District where a business or industrial USE abuts a Residential District, the Board of Selectmen shall require a substantially opaque landscape buffer of at least 20 feet in depth that is designed to reduce noise and other impacts of the business or industrial USE on abutting Residential Districts.**
- a) Where deemed appropriate and necessary to protect abutting residential USES, the Board of Selectmen may require an increase in the width of this landscape buffer to 30 feet.**
- b) In areas where abutting LOTS in Residential Districts have Single Family Dwellings on them, the Board of Selectmen may require that this buffer shall include a fence, up to eight feet in height, designed to prevent access to the abutting LOTS.**

***MOTION WITH AMENDMENT CARRIES UNANIMOUSLY***

**ARTICLE 34 WALKWAYS AND BIKE WAYS IN THE KELLEY'S CORNER DISTRICT**  
(2/3 Vote Required)

To see if the Town of Acton will vote to delete Section 10.4.3.4 of the Zoning Bylaw and replace it with the following new Section 10.4.3.4:

- 10.4.3.4 Sidewalks - A sidewalk shall be required along the entire FRONTAGE of a LOT. The Board of Selectmen may also require other walkways and paths as it deems necessary to accommodate the safe movement of pedestrians and bicyclists.
- a) Such a sidewalk or other walkways or paths may be located on the LOT or within the layout of the STREET and shall be designed to connect with existing sidewalks on adjacent LOTS, if any.
  - b) If a sidewalk or other walkway or path is authorized under a Site Plan Special Permit to lead onto an adjacent LOT, which is not subject to such Site Plan Special Permit, no separate Site Plan Special Permit shall be required for the adjacent LOT in order to permit the construction of such sidewalk or walkway or path.
  - c) Sidewalks, walkways or paths shall be designed and constructed according to standards established in the Town of Acton Subdivision Rules and Regulations, except when otherwise approved by the Board of Selectmen.
  - d) The Board of Selectmen may waive the sidewalk requirement provided it finds that such a sidewalk is not necessary for the safe movement of pedestrians and bicyclists.
  - e) Sidewalks, walkways or paths authorized under a Site Plan Special Permit and located on a LOT shall be OPEN SPACE.
  - f) The voluntary installation of sidewalks along the FRONTAGE of LOTS in the Business, Village and Industrial Districts shall not require a Site Plan Special Permit, although other permits may be required.
  - g) In the Kelley's Corner District, the Board of Selectmen shall require on-site and off-site sidewalks, walkways, bikeways and crosswalks consistent with the planning objectives set forth in the 1995 Kelley's Corner Plan, as amended. The Kelley's Corner Plan identifies necessary improvements designed to accommodate future growth in the Kelley's Corner District. Off-site improvements hereunder shall be made as determined by the Board of Selectmen to encourage pedestrian circulation and bicycle use within the Kelley's Corner District and to adjacent areas as a direct measure to help minimize traffic impacts from the proposed development. Off-site improvements shall be located on ways and land owned or controlled by the Town of Acton, or in other locations where their owner allows and agrees to the improvements. The cost of the required off-site improvements shall be kept in reasonable proportion to the anticipated pedestrian and vehicular traffic from the development.

or take any other action relative thereto.

**MOTION: MR. CROSWELL** moves that the zoning bylaw be amended as set forth in the article.

***MOTION CARRIES UNANIMOUSLY***

**ARTICLE 35 CHANGES TO THE KELLEY’S CORNER DISTRICT BOUNDARY**  
(2/3 Vote Required)

To see if the Town of Acton will vote to amend the Zoning Map as follows:

Rezone to KC the following parcel of land identified by its map and parcel number as shown in the 1995 Town Atlas. *(Present zoning designations, shown in parenthesis, and street addresses are listed for reference purposes only).*

Map	Parcel	Present Zoning	Street Address
F-3	99 (Only the southerly portion that is within a distance of less than 80 feet from Massachusetts Avenue)	(R-A)	367 Massachusetts Avenue..

Or take any other action relative thereto.

**MOTION: MS. WILLIAMS** moves that the Zoning Map be amended as set forth in the article.

***MOTION CARRIES UNANIMOUSLY***

**ARTICLE 36 CHANGES TO THE GENERAL INDUSTRIAL DISTRICT BOUNDARY**  
(2/3 Vote Required)

To see if the Town will vote to amend the zoning map by rezoning in its entirety to General Industrial (GI) the following parcel of land identified by its map and parcel number as shown in the 1995 Town Atlas. *(Present zoning designation, shown in parenthesis, and street address is listed for reference purposes only).*

Map	Parcel	Present Zoning	Street Address
E-3	101	(R-2 & GI)	79-89 Hayward Road

or take any other action relative thereto.

**MOTION: MS. WILLIAMS** moves that the zoning bylaw be amended as set forth in the article.

***MOTION CARRIES***

***TOTAL VOTE 72 YES 70 NO 2***

**ARTICLE 37 CHANGES TO THE OFFICE PARK 2 DISTRICT BOUNDARY**

(2/3 Vote Required)

To see if the Town of Acton will vote to amend the Zoning Map as follows:

Rezone to Office Park 2 (OP-2) the following parcels of land identified by their map and parcel number as shown in the 1995 Town Atlas. (*Present zoning designations, shown in parenthesis, and street addresses are listed for reference purposes only*).

Map	Parcel	Present Zoning	Street Address
G-3	10	(KC)	360 & 380 Mass. Ave
G-3	11	(KC)	342 Mass. Ave
G-3	11-1	(KC)	344 Mass. Ave
G-3	12	(R-2)	332 Mass. Ave
G-3	65	(R-2)	84 Piper Road
G-3	66	(R-2)	92 Piper Road
G-3	69	(R-2)	80 Piper Road

or take any other action relative thereto.

**MOTION: MR. SUNDBERG** moves that the zoning map be amended as set forth in the article.

***MOTION CARRIES***

***TOTAL VOTE 72 YES 70 NO 2***

**ARTICLE 38 CHANGES IN OFFICE PARK 2 DISTRICT DIMENSIONAL REGULATIONS**

(2/3 Vote Required)

To see if the Town of Acton will vote to amend Section 5 of the Zoning Bylaw as follows:

A. In the Table of Standard Dimensional Regulations, line OP-2, column MAXIMUM FLOOR AREA RATIO, add the following new footnote (16):

(16) Subject to certain provisions in Section 5.7, Special Provisions for the Office Park 2 District.

B. Insert a new Section 5.7 as follows:

5.7 Special Provisions for the Office Park 2 District

5.7.1 Purpose - The purpose of this Section is to set forth specific standards for the development in the Office Park 2 District to ensure that the prime location of this district on Route 2 is utilized to its optimum while ensuring adequate provisions for wastewater collection and treatment and vehicular access and circulation in the general area.

**(CONTINUED- ARTICLE 38)**

5.7.2 On any LOT where a FLOOR AREA RATIO in excess of 0.10 is proposed, the Site Plan Special Permit Granting Authority may require, as a condition of a site plan approval, the following contributions to the Town of Acton:

5.7.2.1 An area of land suitable in size and location for the construction of a centralized wastewater collection, treatment and disposal system serving the OP-2 District and other areas within the Town of Acton. Where such a contribution of land is made, the maximum FLOOR AREA RATIO on the remaining land shall be calculated by including in the DEVELOPABLE SITE AREA the land contributed to the Town; and

5.7.2.2 An area of land suitable in size and location to be used for the construction of a Service Road (as defined in the Acton Subdivision Rules and Regulations) on the south side of Route 2 between Route 111 west of Route 2, and Route 2 just east of Hosmer Street. Where such a contribution of land is made, the maximum FLOOR AREA RATIO on the remaining land shall be calculated by including in the DEVELOPABLE SITE AREA the land dedicated to the Town.

or take any other action relative thereto.

**MOTION: MR. SUNDBERG** moves that the zoning bylaw be amended as set forth in the article.

***MOTION CARRIES UNANIMOUSLY***

**ARTICLE 39 CHANGES TO OFFICE PARK 2 DISTRICT USE REGULATIONS**  
(2/3 Vote Required)

To see if the Town of Acton will vote to amend the Zoning Bylaw as follows:

A. Section 3, Table of Principal Uses.

1. Insert a new Section 3.4.8 - Full Service Retirement Community as follows: (*Y = the use is allowed; N = the use is not allowed; SPA or SPS = the use may be allowed by special permit; R under Site Plan column = site plan special permit required*)

	PRINCIPAL USES	RESIDENTIAL DISTRICTS				VILLAGE DISTRICTS				OFFICE DISTRICTS	
		R-2, R-4 R-8 R-8/4 R-10 R-10/8	R-A	R-AA	VR	SAV	WA V	NA V	EAV	OP-1	OP-2
3.4.8	Full Service Retirement Community	N	N	N	N	N	N	N	N	N	SPS

BUSINESS DISTRICTS			INDUSTRIAL DISTRICTS					SPECIAL DISTRICTS		
GB	LB	KC	LI	GI	LI-1	IP	SM	ARC	PCRC & PUD(1)	SITE PLAN
N	N	N	N	N	N	N	N	N	-	R

**(CONTINUED- ARTICLE 39)**

2. Change the OP-2 column under Office Districts for the uses listed as follows:

*(For reference purposes, the present designation is shown in brackets.)*

	PRINCIPAL USE	OFFICE DISTRICTS	
		OP-2	
3.2	GENERAL USES		
3.2.3	Earth Removal	N	[SPA]
3.2.4	Recreation	N	[SPS]
3.4	GOVERNMENTAL, INSTITUTIONAL AND PUBLIC SERVICE USES		
3.4.4	Nursing Home	SPS	[N]
3.5	BUSINESS USES		
3.5.4	Restaurant	SPS	[SPS(4)]
3.5.15	Commercial Recreation	SPS	[N]
3.5.22	Transportation Services	SPS	[N]
3.6	INDUSTRIAL USES		
3.6.1	Warehouse	SPS	[N]

- B. In Section 3.4, Governmental Institutional and Public Service Uses - Definitions, insert a new use definition as follows:

3.4.8 Full Service Retirement Community - A facility that is designed and operated to provide its infirm or elderly residents with a broad range of accommodations and services to meet primarily the needs of the residents of the facility, including some or all of the following: independent or assisted living in single- or multi-unit dwellings; a Nursing Home; skilled nursing, medical and other health services; recreation and leisure facilities; a community center; and accessory food services, shops, personal care and other services. A Nursing Home by itself shall not be considered a Full Service Retirement Community.

- C. In Section 3.5, Business Uses - Definitions, add the following sentence to the end of Section 3.5.4:

In the OP-2 District, the minimum square footage for an individual restaurant shall be 5,000 square feet measured in NET FLOOR AREA, and no individual restaurant in the OP-2 District shall exceed 25,000 square feet measured in NET FLOOR AREA.

- D. In Section 9A - Planned Unit Development, delete Sub-Section 9A.3 and replace with a new Sub-Section 9A.3 as follows:

9A.3 Special Permit - The Planning Board may grant a special permit for the development and construction of a PUD in the Village, Business and Industrial Districts, and in the OP-1 District in accordance with this Section and M.G.L., Ch. 40A, s.9.

or take any other action relative thereto.

**MOTION: MR. SUNDBERG** moves that the zoning bylaw be amended as set forth in the article.

***MOTION CARRIES UNANIMOUSLY***

**(CONTINUED- ARTICLE 39)**

**MOTION: MR. MULLIN** moves to adjourn the town meeting at 11:00 p.m. until Thursday, April 11, 1996, 7:30 p.m. at the Acton Boxborough Regional High School.

***MOTION CARRIES***

**ARTICLE 40# PETITION TO CHANGE ZONING OF LAND IN ACTON**

(2/3 Vote Required)

To see if the Town will vote to amend the Acton Zoning Bylaw by amending the Table of Principal Uses contained in Section 3 of the Acton Zoning Bylaw so as to permit by right in the Office Park 2 District (OP-2) a Retail Store as defined in Section 3.5.1 of the Acton Zoning Bylaw, to wit: An establishment engaged in displaying and selling goods or merchandise within a BUILDING to the general public or to business establishments which goods or merchandise are not intended for resale; except that a garden center, florist or commercial greenhouse may have open air display of horticultural products; and, without limiting the foregoing, in connection therewith, amending the Table of Principal Uses contained in Section 3 of the Acton Zoning Bylaw by changing line 3.5.1, Retail Store, under Office Districts, OP-2, from N to Y,

or take any other action or actions relative thereto.

**MOTION: MRS TOMASOVICH** moves that the Zoning Bylaws be amended as set forth in the article.

***MOTION CARRIES UNANIMOUSLY AGAINST THIS ARTICLE.***

**ARTICLE 41 ADULT USES, SEXUALLY ORIENTED BUSINESSES**

(2/3 Vote Required)

To see if the Town of Acton will vote to amend the Zoning Bylaw as follows:

A. Section 3 - Table of Principal Uses

Insert a new Section 3.5.24 - Adult USES as follows:(Y = the use is allowed; N = the use is not allowed; SPA or SPS = the use may be allowed by special permit; R under Site Plan column = site plan special permit required)

	PRINCIPAL USES	RESIDENTIAL DISTRICTS				VILLAGE DISTRICTS				OFFICE DISTRICTS	
		R-2 R-4 R-8 R-8/4 R-10 R-10/8	R-A	R-AA <sup>1</sup>	VR	SAV	WAV	NAV	EAV	OP-1	OP-2
3.5.24	Adult USES	N	N	N	N	N	N	N	N	SPS	N

BUSINESS DISTRICTS			INDUSTRIAL DISTRICTS					SPECIAL DISTRICTS		
GB	LB	KC	LI	GI	LI-1	IP	SM	ARC	PCRC &	SITE PLAN

<sup>1</sup> Only if **ARTICLE 32** is adopted, otherwise column R-AA will be omitted.

							PUD(1)			
N	N	N	N	N	N	SPS	N	N	-	R

B. In Section 3.5, Business Uses - Definitions, add new Section 3.5.24 as follows:

3.5.24 Adult USES - An establishment having a substantial or significant portion of its stock in trade or other materials for sale, rental or display, which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct as defined in M.G.L. ch. 272, s. 31, such as but not limited to an adult bookstore, adult paraphernalia store, adult video store, or adult motion picture theater. Also, adult entertainment, which shall be an establishment in which workers or performers appear in a state of nudity or in a manner intended to arouse sexual excitement, as defined in M.G.L. ch. 272, s. 31, for a substantial or significant portion of the time the establishment is open for business, or which derives a substantial or significant portion of its revenues from such occasions. The terms “substantial or significant portion” as used herein shall mean either ten percent or more of the business inventory or stock of merchandise for sale or rental at any point in time; or ten percent or more of the annual number of sales, rentals or other business transactions; or ten percent or more of the annual business revenue; or ten percent or more of the hours during which the establishment is open to the public. No Special Permit for an Adult USE shall be issued to any person convicted of violating the provisions of M.G.L., ch. 119, s. 63 or ch. 272, s. 28. Any Adult USE in existence prior to the adoption of this Section 3.5.24, shall apply for a Special Permit from the Board of Selectmen within ninety days following the adoption of this Section.

C. Section 5 - Dimensional Regulations

Add new Section 5.3.10 as follows:

5.3.10 Adult USES - No Special Permit for an Adult USE shall be granted unless the USE complies with the following standards:

5.3.10.1 No LOT containing an Adult USE shall be located within 750 feet of a Residential District, a Village District, the KC District, or the ARC District.

5.3.10.2 No LOT containing an Adult USE shall be located within 750 feet of the Acton town boundary.

5.3.10.2 No LOT containing an Adult USE shall be located within 1,500 feet of any BUILDING or LOT owned or operated by the Acton Public Schools or the Acton-Boxborough Regional School District, or any public school operated by any abutting Town or abutting Regional School District.

5.3.10.3 No LOT containing an Adult USE shall be located within 2,000 feet of any other LOT containing an Adult USE, and no Adult USE establishment shall be located within 2,000 feet of any other Adult USE establishment.

5.3.10.4 The hours in which Adult USES are open to the public shall be limited as follows: adult bookstore, adult paraphernalia store, adult video store or similar Adult USE between the hours of 9:00 AM and 9:00 PM; adult motion picture theater, adult entertainment or similar Adult USE between the hours of 3:00 PM and 12:00 midnight.

D. In Section 7.3, Signs Prohibited in All Districts, add a new Section 7.3.13 as follows:

7.3.13 Any SIGN that depicts, describes or relates to nudity or sexual conduct as defined in M.G.L., ch. 272, s. 31, and that is visible from the outside of a BUILDING.

or take any other action relative thereto.

**MOTION: MR. SHUPERT** moves that the Town amend the zoning bylaw as set forth in the article.

***MOTION CARRIES***

TOTAL VOTE 74      YES 70 NO 4

**ARTICLE 42 NONCONFORMING LOTS, USES, STRUCTURES AND PARKING;  
EXEMPTIONS  
(2/3 Vote Required)**

To see if the Town of Acton will vote to amend Section 8 of the Zoning Bylaw as follows:

A. Delete the title of Section 8 and replace it with the following new title:

NONCONFORMING LOTS, USES, STRUCTURES AND PARKING; EXEMPTIONS

B. Amend Section 8.1 as follows:

1. Delete the first paragraph of Section 8.1 and replace it with a new first paragraph as follows:

8.1 Any LOT which complied with the minimum area, FRONTAGE, LOT width, yard and depth requirements, if any, in effect at the time the boundaries of the LOT were defined by recorded deed or plan, may be built upon or used for single FAMILY, or where permitted two-FAMILY, residential USE, notwithstanding the adoption of new or increased LOT area, FRONTAGE, LOT width, yard or depth requirements, provided that:

2. Delete Section 8.1.1 and replace with a new section 8.1.1 as follows:

8.1.1 At the time of the adoption of such new or increased requirements such LOT was held, and has continued to be held, in ownership separate from that of adjoining land; and

C. Amend Section 8.2 as follows:

1. Delete Section 8.2.2 and replace with the following new section 8.2.2 as follows:

8.2.2 Changing a Nonconforming USE - A nonconforming USE may not be changed to another nonconforming USE except in accordance with the following requirements. The Board of Appeals may authorize by special permit a change from a nonconforming USE to another nonconforming USE provided the Board of Appeals finds that the proposed USE is in harmony with the character of the neighborhood and the applicable requirements of the zoning district, and provided further that in the Residential, Village and Office Districts the Board of Appeals may authorize a change only to one of the following other nonconforming USES (all USES as listed in the Table of Principal USES):

- a) In Residential Districts: Multifamily Dwelling, Retail Store, Business or Professional Office, Financial, Veterinary Care, Personal Services, General Services, Studio, Commercial & Trade School; except that a nonconforming Multifamily Dwelling may not be changed to another nonconforming USE;
- b) In Village Districts: Multifamily Dwelling, Funeral Home, Veterinary Care, Amusement Facility; Light Manufacturing; and
- c) In Office Districts: Hotel, Inn or Motel.

2. Delete Section 8.2.3 and replace with the following new section 8.2.3 as follows:

- 8.2.3 Extending a Nonconforming USE - In a Residential District a nonconforming USE may not be extended in area. In all other Districts a nonconforming USE may be extended in area by special permit from the Board of Appeals.

D. Amend Section 8.3 as follows:

1. Add at the end of Section 8.3.2 the following sentence:

A vertical extension of a nonconforming BUILDING, which does not expand the BUILDING horizontally so as to violate any applicable yard requirement, shall be deemed not to increase the nonconforming nature of the BUILDING and shall not require a special permit under Section 8.3.3.

2. Delete Section 8.3.3 and replace it with a new Section 8.3.3 as follows:

8.3.3 A BUILDING, which is nonconforming with regard to any minimum yard requirement may be extended horizontally within the dimension of its existing nonconformity by special permit from the Board of Appeals, provided that the extension otherwise conforms to all the dimensional requirements of this Bylaw, and provided further that the Board of Appeals finds that such an extension is not substantially more detrimental to the neighborhood than the existing nonconforming condition of the BUILDING.

3. Delete Section 8.3.4 and replace with a new Section 8.3.4 as follows:

8.3.4 Restoration - If a nonconforming STRUCTURE, or a STRUCTURE on a nonconforming LOT that cannot be built on under the requirements of Section 8.1, is damaged by fire, flood or similar disaster to an extent greater than 50% of its fair market value before it was damaged, it shall not be rebuilt or reconstructed without a special permit from the Board of Appeals. No such special permit shall be granted unless the application for such special permit is filed within two years from the date on which the damage occurred and the Board of Appeals finds that 1) such rebuilding or reconstruction will not be detrimental to the neighborhood, and 2) to the extent possible the STRUCTURE will be rebuilt or reconstructed in conformity with the dimensional requirements of this Bylaw.

or take any other action relative thereto.

**MOTION: MR. NIEMYSKI** moves to amend the zoning bylaw as set forth in the article.

***MOTION CARRIES UNANIMOUSLY***

**ARTICLE 43 CORRECTIONS, CLARIFICATIONS AND MINOR ADJUSTMENTS**

(2/3 Vote Required)

To see if the Town of Acton will vote to amend the Zoning Bylaw as follows:

- A. Delete Section 7.2.5 and replace with a new Section 7.2.5 as follows:

“7.2.5 ERECTING - Any installing, constructing, reconstructing, replacing, relocating or extending of a SIGN, but ERECTING shall not include repairing, maintaining, re-lettering, or repainting of an existing SIGN.

- B. In the Table of Principal Uses of Section 3, add a new footnote (9) to Sub-Section 3.5.4 so that 3.5.4 reads as follows (*Y = the use is allowed; N = the use is not allowed; SPA or SPS = the use may be allowed by special permit; R under Site Plan column = site plan special permit required, footnotes (4) and (8) are existing footnotes*):

Abstract of the 1996 Annual Town Meeting

	PRINCIPAL USES	RESIDENTIAL DISTRICTS				VILLAGE DISTRICTS				OFFICE DISTRICTS	
		R-2 R-4 R-8 R-8/4 R-10 R-10/8	R-A	R-AA <sup>2</sup>	VR	SAV	WA V	NAV	EAV	OP-1	OP-2
3.5.4	Restau-rant	N	N	N	SPS(8,9)	SPS(9)	SPS(9)	SPS(9)	SPS(9)	SPS(4)	SPS(4) <sup>3</sup>

BUSINESS DISTRICTS			INDUSTRIAL DISTRICTS					SPECIAL DISTRICTS		
GB	LB	KC	LI	GI	LI-1	IP	SM	ARC	PCRC & PUD(1)	SITE PLAN
SPS(9)	SPS(9)	SPS(9)	N	N	N	N	N	N	-	R

and insert a new footnote (9) as follows:

(9) No Special Permit shall be required for a Restaurant with 10 seats or less.

C. Delete the last sentence of Section 3.8.1.3 and replace it with the following new sentence:

“In either case, the service shall be operated by a resident owner of the premises.”

D. In the table of Standard Dimensional Regulations of Section 5, change the field in column “MINIMUM OPEN SPACE in percent” of line “OP-1” from 50% to 35%.

or take any other action relative thereto.

**MOTION: MR. PAVAN** moves that the zoning bylaw be amended as set forth in the article

***MOTION CARRIES UNANIMOUSLY.***

<sup>2</sup> Only if **ARTICLE 32** is adopted, otherwise column R-AA will be omitted.

<sup>3</sup> Footnote (4) will be omitted if **ARTICLE 39** is adopted.

**THURSDAY, APRIL 11, 1996**

The moderator called the meeting to order at 7:34 p.m.

Mr. Peter Shanahan introduced Brian Butler who is a non-resident to present Article 44.

**ARTICLE 44 AMEND TOWN BYLAWS - ENVIRONMENTAL PROTECTIONS**

(Majority Vote Required)

**\*\*\*\* SEE CHANGES IN ARTICLE 44 FROM ATTORNEY  
GENERAL'S APPROVAL AT END OF DOCUMENT \*\*\*\***

To see if the town will vote to amend Chapter F of the Town Bylaws by deleting the existing wording and replacing it with the wording as follows:

**CHAPTER F  
ENVIRONMENTAL PROTECTION**

**WETLAND PROTECTION**

Section F1 Purpose

The purpose of this Bylaw is to protect the wetlands, vernal pools, and adjoining buffer zones of the Town of Acton by controlling activities deemed to have a significant impact upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution prevention, fisheries, and wildlife habitat (collectively, the "interests protected by this Bylaw"). The Town of Acton Wetlands Map shows the approximate location of most of the Town's wetlands and shall be used as a guide to wetland location.

Section F2 Provisions

No person shall remove, dredge, fill, or alter any bank, wetland, vernal pool, or land within the 100 foot buffer zone of a wetland, vernal pool, or any brook, stream, river, pond or lake, or land subject to flooding, except as provided in Section 4, without first filing a Determination of Applicability, or a written Notice of Intent under this Bylaw and obtaining and complying with the terms of said Determination or with an Order of Conditions.

Section F3.1 Definitions

The term "person" as used in this Bylaw shall include any individual, group of individuals, association, partnership, corporation, or business organization, trust or estate, the Commonwealth, or any political subdivision thereof, administrative agency, public or quasipublic corporation or body, or any other legal entity or its legal representatives, agents or assigns.

**(CONTINUED - ARTICLE 44)**

Section F3.2

The term "abutter" as used in this Bylaw shall include all property owners, determined by the most recent maps in the Assessors Office, that abut the land on which the proposed activity is to take place and such other persons as the Commission may determine.

Section F3.3

## Abstract of the 1996 Annual Town Meeting

The term "activity" shall mean any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; any form of construction, reconstruction, or expansion of any building, structure, road or other way; or alteration or any changing of the physical, chemical, or biological characteristics of an area of land or water.

### Section F3.4

The term "alter" as used in this Bylaw shall include, without limitation, the following actions when undertaken in areas subject to this Bylaw:

- (a) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (b) Changing of drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns and flood retention characteristics;
- (c) Drainage or other disturbance of water level or water table;
- (d) Dumping, discharging or filling with any material which may degrade water quality;
- (e) Driving of piles, erection of buildings or structures of any kind;
- (f) Placing of obstructions whether or not they interfere with the flow of water;
- (g) Destruction of plant life, including the cutting of trees, which may significantly impact the interests protected by this Bylaw;
- (h) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water;
- (I) Application of pesticides, herbicides, or fertilizers.

**\*\*\*\* SEE CHANGES IN ARTICLE 44 FROM ATTORNEY  
GENERAL'S APPROVAL AT END OF DOCUMENT \*\*\*\***

### Section F3.5

"Buffer zone" shall mean that area of uplands within 100 feet horizontally outward from the boundary of a wetland, vernal pool, brook, stream, river, pond or lake.

### Section F3.6

"Certificate of Compliance" shall mean a written determination by the Commission verifying that work has been completed in accordance with an Order of Conditions.

### Section F3.7

"Commission" shall mean the Acton Conservation Commission, that body of members lawfully appointed pursuant to M.G.L. Chapter 40, Section 8c, for the purposes of administering and enforcing the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Town of Acton Wetland Protection Bylaw.

### Section F3.8

"Determination Of Applicability" shall mean any review and written finding by the Conservation Commission as to whether a site or the work proposed thereon is subject to the jurisdiction of the Bylaw. See also Section F5 of the Bylaw.

### Section F3.9

"Dredge" shall mean to clean, deepen, widen or excavate, either temporarily or permanently.

**(CONTINUED - ARTICLE 44)**

Section F3.10

“Extension Permit” shall mean a written extension of time granted by the Conservation Commission once for a period of up to 3 (three) years, within which time authorized work shall be completed.

Section F3.11

“Fill” shall mean either of the following, whichever is applicable:

- (a) to deposit or place any material so as to raise in elevation, either temporarily or permanently;
- (b) anything that fills or is used to fill - especially earth or gravel used for filling a hole,

Section F3.12

“Notice of Intent” shall be a written notice filed by any person intending to alter, or in any way change, the physical or chemical properties of land subject to protection under the Bylaw.

Section F3.13

“Order of Conditions” shall mean the document issued by the Conservation Commission or the courts containing conditions which regulate or prohibit any activity subject to the Bylaw, which is to be recorded in the Registry of Deeds or Land Court.

Section F3.14

The term “vernal pool” as used in this Bylaw shall include, in addition to that already defined under the Massachusetts Wetlands Protection Act and regulations (310 CMR 10.00), any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways which, in most or all years, is free of adult fish populations and provides essential breeding and rearing habitat functions for amphibian, reptile, or invertebrate vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries. The presumption of essential habitat value may be overcome by the presentation of credible evidence which in the judgment of the Commission demonstrates that the basin or depression does not provide the habitat functions as specified by the Bylaw regulations. The buffer zone for vernal pools shall extend the smaller of 1) 100 horizontal feet from the mean annual high-water line defining the depression, or 2) one half of the distance between the mean annual high-water line and any existing house foundation. Existing lawns, gardens, or landscaped or developed areas are excluded from the buffer zone.

**\*\*\*\* SEE CHANGES IN ARTICLE 44 FROM ATTORNEY  
GENERAL'S APPROVAL AT END OF DOCUMENT \*\*\*\***

Section F3.15

The term “wetland” as used in this Bylaw includes any area where 50% or more of the vegetative community consists of wetland plant species as defined in Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and any non-vegetated area such as a creek, brook, stream, river, pond, lake, or lands under said waters, or certified vernal pools, also as defined in M.G.L. Ch. 131, s.40.

Section F4.1 Exemptions

No Notice of Intent hereunder need be filed in connection with an emergency project necessary for the protection of health or safety of the citizens of Acton to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town. An emergency project shall mean any project certified to be an emergency by the Town of Acton Conservation Commission or its agents within 24 hours. In no case shall any removal, dredging, filling or altering commence prior to such emergency certification nor extend beyond the time necessary to abate the emergency.

Section F4.2

No Notice of Intent hereunder need be filed in connection with maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, or telecommunication services.

**(CONTINUED - ARTICLE 44)**

Section F4.3

No Notice of Intent need be filed in connection with normally accepted maintenance procedures on land in agricultural use. The term "land in agricultural use" shall mean any qualifying wetland within a farm which is qualified or eligible to be qualified under the Farmland Assessment Act, Massachusetts General Laws, Ch. 61A ss. 1 & 2. Any proposed changes to land in agricultural use which may have a significant impact on any of the interests protected by this Bylaw must be submitted to the Conservation Commission for a Determination of Applicability.

Section F4.4                    Septic Systems Meeting State Title V

No Notice of Intent need be filed for the replacement, repair, or installation of a residential septic system that meets the requirements of Title V of the State Environmental Code (310 CMR 15.00), that has received a permit from the Acton Board of Health, and that meets the setback requirements of this Bylaw. Any such septic system replacement, repair, or installation that may have a significant impact on any of the interests protected by this Bylaw must be submitted to the Conservation Commission for a Determination of Applicability.

Section F4.5                    Limited Projects

Notwithstanding the other provisions of this Bylaw, the Commission may issue an Order of Conditions for limited projects listed under Section 10.53(3) of the Wetland Protection regulations promulgated under the Massachusetts Wetland Protection Act (310 CMR 10.53(3)).

Section F4.6                    Waivers

Strict compliance with this Bylaw may be waived when, in the judgment of the Conservation Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing. The waiver shall be presented at the time of filing along with a written justification stating why a waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Bylaw.

Section F5                      Determination of Applicability

Any person may request the Conservation Commission to make a determination as to whether or not a proposed project in the wetland or "buffer zone" is significant to the interests protected by the Bylaw. This request for a Determination of Applicability shall be sent by certified mail, or hand delivered to the Acton Conservation Commission or its authorized representative. A person delivering this request by hand shall be given a dated receipt. The Commission shall make such a determination within 21 days of the receipt of said request, and it shall notify the applicant by certified mail, of the results of the determination. If the Conservation Commission determines that the subject area is significant to the interests protected by this Bylaw, and said interests are not fully protected by the project as proposed, the Commission will require the applicant to file a Notice of Intent, or will attach such Orders of Conditions to ensure protection of the interests of this Bylaw. The Commission, or its agents, may, for the purpose of carrying out its duties under this Bylaw, request such plans or information as may be necessary for its evaluation, may enter upon the subject land, and may make or require to be made such examination or survey as it deems necessary.

Section F6.1                    Filing Procedure for a Notice of Intent

The Notice of Intent shall be sent by certified mail, or hand delivered to the Acton Conservation Commission or its authorized representative, and shall include plans and specifications as required of an applicant by the Commission. A person delivering this Notice by hand shall be given a dated receipt. This Notice shall also include a filing fee to be designated in the rules and regulations of the Commission payable to the Town of Acton. No filing fee is required when the Town of Acton files an application. These plans shall also show the location of the wetland boundaries and shall be at a scale of 1" = 40' or any such scale that adequately depicts the area. The applicant shall also notify the clerk of the Town of Acton by hand delivery or certified mail, that such plans have been submitted to the Conservation Commission. Provided that the Notice of Intent fulfills the requirements of this Bylaw and M.G.L. Ch. 131, s. 40, only one Notice of Intent need be submitted.

(CONTINUED - ARTICLE 44)

Section F6.2 Notification of Filing

Any person filing a Notice of Intent under this Bylaw shall also notify by certified mail all abutters and the owner of the subject property, if different from the applicant, of the filing of such Notice of Intent. Such Notice shall clearly identify the land on which the work is to be done and describe the general nature of the work. Notice shall include the date, place, and time of said public hearing, and where plans may be reviewed. A list of persons so notified and proof of such notification shall be filed with the Conservation Commission prior to the Public Hearing.

Section F6.3 Extension Permits

The Commission may extend an Order of Conditions once for a period of up to three years. Written requests for an Extension Permit shall be made not less than thirty calendar days prior to the expiration of said Order of Conditions.

The Commission may deny an Extension Permit under any of the following circumstances:

- (1) Where no activity has begun on the project, except where such failure is due to unavoidable delay such as appeals in obtaining other necessary permits.
- (2) Where new information not available at the time of the original permit filing has become available and indicates that the Order of Conditions is insufficient to protect the areas subject to protection.
- (3) Where activity is causing damage to areas subject to protection.
- (4) Where there has been activity in violation of the Order of Conditions.
- (5) Where an Extension Permit has been previously granted for the Order of Conditions.

Section F7.1 Public Hearing

Prior to issuing any Order of Conditions (Section 8.2) the Conservation Commission shall hold a public hearing within 21 days of the filing of said Notice of Intent. Notice of the time and place of such hearing shall be given by the Conservation Commission not less than five days prior to the public hearing, by publication in a newspaper of general circulation in the Town and by mailing a notice to the applicant, the Board of Health and the Planning Board. Such hearing may be held at the same time and place as any public hearing required to be held under M.G.L. Ch. 131, s. 40. If the Commission determines that additional data or information is necessary, the hearing may be continued to a future date time certain, agreeable to both the Applicant and the Commission, and shall be posted not less than five (5) days prior to said continuation.

Section F7.2 Failure to Act

If the Conservation Commission has failed to hold a public hearing within the 21 day period as required, or if after holding such a hearing, has failed within 21 days from the date of the close of the public hearing to issue an Order of Conditions, an appeal may be made to the Board of Selectmen, who within ten days, shall instruct the Commission to act within a period not to exceed ten days. If, after this ten day period, no action has been taken by the Conservation Commission, the application shall be considered approved.

Section F8.1 Burden of Proof

The applicant shall bear the burden of proving that the work proposed in the application will not harm the interests protected by this Bylaw. Failure to provide adequate evidence to the Commission that the proposed work will not harm any of the interests protected by this Bylaw shall be sufficient cause for the Commission to deny the application or to grant a permit with an Order of Conditions, or, at the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

(CONTINUED - ARTICLE 44)

Section F8.2 Order of Conditions

The Conservation Commission may impose such conditions on any proposed removing, dredging, filling or altering as it deems necessary to protect and preserve the interests covered by this Bylaw. Such Order of Conditions shall be in writing and may be subject to the same constraints and be identical to any such order issued by the Acton Conservation Commission under the provisions of M.G.L. Ch. 131, s. 40, or successor statutes, and shall be issued within 30 days after the public hearing. Such Order of Conditions will expire three years from the date of issuance, unless renewed prior to expiration. No proposed work governed by an Order of Conditions shall be undertaken until all permits, approvals, and variances required by local Bylaws have been obtained and all applicable appeal periods have expired. The final Order of Conditions issued under this Bylaw shall be recorded with the Registry of Deeds for the district in which the land is located. However, if said Order is identical to the final Order of Conditions issued under the provisions of M.G.L. Ch. 131, s. 40, only one Order of Conditions need be recorded. The Conservation Commission shall have the right to file the Order of Conditions with the Registry of Deeds should the applicant fail to do so within 60 days. If a wetlands replication is required, the applicant will adhere to replication procedures established by the Commission or as set down in the Commission's Rules and Regulations.

Section F8.3 Setbacks for New Construction

The following are the minimum distances (setbacks) of activity from the edge of wetlands or vernal pools. No activity shall be allowed within these setbacks except as provided below. These setbacks are the minimum and may be extended further if deemed necessary for the protection of the interests of the Bylaw by the Commission.

The setbacks shall be as follows:

- (1) 0-foot setback for wetland-dependent structures (drain outfalls, weirs, etc.), fences, and structures necessary for upland access where reasonable alternative access is unavailable.
- (2) 25-foot buffer of undisturbed natural vegetation.
- (3) 40-foot setback to the edge of driveways, roadways, and structures.
- (4) 40-foot chemical-free area within which no pesticides, herbicides, or fertilizers shall be used.
- (5) 100-foot setback for underground storage of gasoline, oil, or other fuels and hazardous materials.

**\*\*\*\* SEE CHANGES IN ARTICLE 44 FROM ATTORNEY  
GENERAL'S APPROVAL AT END OF DOCUMENT \*\*\*\***

When in the opinion of the Commission compliance with these setbacks will result in greater harm to the interests of this Bylaw than would waiver of the setbacks, the Commission is permitted to grant such waivers.

Pre-existing activities or structures not meeting the setbacks set forth above need not be discontinued or removed [but shall be deemed to be nonconforming]. No new activity shall be commenced and no new structure shall be located closer to the edge of wetlands or vernal pools than existing non-conforming like activities or structures, but the Commission may permit new activity or structures as close to the edge of wetlands or vernal pools if it finds that such activity or structure will not affect the interests protected by the Bylaw no more adversely than the existing activity or structure.

Section F8.4 Erosion and Sedimentation Control

Where activities are proposed within the buffer zone, erosion and sedimentation barriers and other erosion controls as necessary shall be installed between the area of activity and the wetlands or vernal pool to prevent the transport of sediment into wetlands or vernal pools. Similarly, erosion and sedimentation controls shall be installed when activities outside the buffer zone create a significant potential for transport of sediment into wetlands or vernal pools.

**(CONTINUED - ARTICLE 44)**

Section F8.5 Storage of Fill or Materials

If any fill is to be stored on site, it shall be stored outside of the buffer zone and/or it shall be surrounded by staked haybales to prevent erosion and sedimentation.

There shall be no storage, disposal or burial of construction debris (for example, scrap lumber, metals, concrete, asphalt, piping, logs, stumps, etc.) within the buffer zone without the express permission of the Commission in an Order of Conditions.

Section F9.1 Wetlands Replacement

Wetlands or vernal pools that are altered shall in all instances be replaced by replacement wetlands of similar character. Replacement wetlands shall include, at minimum, equal area as the altered wetlands or vernal pool in a hydrologically connected location to the unaltered remainder of the wetlands or vernal pool.

Section F9.2 Requirements for Wetlands Replacement

Projects involving the filling and/or permanent alteration of wetlands or vernal pools shall meet the following requirements:

- (1) The proposed replacement area design must be submitted to the Commission for approval as part of the Notice of Intent.
- (2) The replacement area must be shown to duplicate sufficiently the functions of the wetland proposed to be altered.
- (3) The replacement area shall be constructed, to the extent possible, immediately after alteration of the existing wetland and during the same growing season.
- (4) If after three growing seasons, the Commission determines that the replacement area has not satisfactorily developed into a wetland or vernal pool, the applicant or owner may be required to submit new plans to successfully replicate the original altered wetland. No Certificate of Compliance shall be issued until the Commission has determined that a satisfactory replacement area has been completed.

Section F10 Denial

The Conservation Commission may deny permission for any removing, dredging, filling, or altering if, in its judgment such denial is necessary to protect and preserve the interests identified in Section F1 of this Bylaw. Due consideration shall be given to possible effects of the proposal on such interests and to any demonstrated hardship on the petitioner by reason of denial as brought forth at the public hearing.

Section F11 Prior Violation

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of any order pursuant to this Bylaw, shall forthwith comply with any such order, or restore such real estate to its condition prior to any such violation; provided however that no such action, civil or criminal shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.

Section F12 Bond

The Conservation Commission may require the posting of a bond with surety, running to the Town of Acton, and sufficient as to form and surety in the opinion of the Town Counsel, to secure the faithful and satisfactory performance of work required by any final Order of Conditions, in such sum and upon such conditions as the Commission may require. Other evidence of financial responsibility which is satisfactory to the Commission may be accepted in lieu of a bond. Notwithstanding the above, the amount of such bond shall not exceed either the estimated cost of the work required by the final Order of Conditions, or the estimated cost of the work required for the restoration of affected lands and properties if the work is not performed as required, whichever is greater.

**(CONTINUED - ARTICLE 44)**

Section F13 Rules and Regulations

After due notice and public hearing, the Commission may promulgate procedural rules and regulations to effectuate the purposes of this bylaw. However, failure to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

Section F14 Enforcement

Any person who violates any provision of this bylaw or of any condition of a permit issued pursuant to it may be subject to a fine of not more than \$300. Each day during which a violation continues may constitute a separate violation. This bylaw may be enforced pursuant to Mass. General Laws Chapter 40, Section 21D, by the Constable, Police Chief, Police Officer, Conservation Administrator, or other agent allowed by law. Upon request of the Commission, the Board of Selectmen or Town Counsel may take such other legal action as may be necessary to enforce this bylaw and permits pursuant to it.

The following provides a schedule of fines for specific violations.

Alteration of a wetland or vernal pool without an Order of Conditions issued pursuant to this Bylaw - \$300

Work within the buffer zone without prior submittal of Request for Determination or Notice of Intent - \$200

Failure to provide sedimentation controls required by an Order of Conditions - \$200

Disposal of construction debris within the buffer zone - \$300

Failure to construct stormwater or drainage structure according to plans - \$300

Removal of trees designated for protection - \$10 per inch of circumference

Storage of fill within the buffer zone - \$150

Section F15 Appeals

A decision of the Commission may be reviewed by the Superior Court in an action filed within 60 days thereof, in accordance with Massachusetts General Law 249, Section 4.

Section F16 Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

And amend Section E45 of the Town Bylaws schedule of fines for violation of Chapter F, by incorporating the Schedule of fines above, or take any other action relative thereto.

**MOTION: MR. MULLIN** moves to amend Chapter F and Section E45 of the Town Bylaws as set forth in the article, except that Section F3.14 and F8.3 be amended as set forth in the hand out distributed to the Town Meeting.

(CONTINUED - ARTICLE 44)

**Amended Motion to Article 44**

Replace Section F3.14 of the Bylaw with the following:

The term "vernal pool" as used in this Bylaw shall include, in addition to that already defined under the Massachusetts Wetlands Protection Act and regulations (310 CMR 10.00), any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways that meets the certification criteria established in the Guidelines for Certification of Vernal Pool Habitat published by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The buffer zone for vernal pools shall extend the smaller of 1) 100 horizontal feet from the mean annual high-water line defining the depression, or 2) one half of the distance between the mean annual high-water line and any existing house foundation. Existing lawns, gardens, or landscaped or developed areas are excluded from the buffer zone.

and, replace the title of Section F8.3 with the following:

Section F8.3 Setbacks for Activities

***MOTION WITH AMENDMENT CARRIES***

**ARTICLE 45: AMEND TOWN BYLAW - SALE OF TOBACCO AND SMOKING PRODUCTS  
(Majority Vote Required)**

To see if the Town will amend Chapter E Section 51, Subsection B2, of the Town Bylaws by deleting the existing wording and replacing it with the wording as follows:

B2. The vending machine is located within ten (10) feet and in plain view of the regular location of a person designated to supervise the purchase of Tobacco from the vending machine.

or take any other action relative thereto.

**MOTION:** MS. PATTON moves that the Town amend Chapter E, Section 51, Subsection B2 of the Town Bylaws as set forth in the article.

***MOTION CARRIES***

**ARTICLE 46 AMEND TOWN BYLAWS - USE OF TOBACCO AND SMOKING PRODUCTS**  
(Majority Vote Required)

To see if the Town will amend Chapter E Section 30, Subsection B Restaurants, of the Town Bylaws by deleting the existing wording and replacing it with the wording as follows:

**B. Restaurants**

1. Effective on July 1, 1996 no less than 80% of the total seating capacity of a food service establishment shall be a nonsmoking area. Thereafter the nonsmoking area shall increase to 90% on July 1, 1997 and 100% on July 1, 1998. This section when effective shall supersede any and all previous regulations controlling the percent of nonsmoking seats to be provided by establishments.

1.1 Establishments which provide ventilation such that air from a smoking area does not enter or mix with air from the nonsmoking area may remain with no less than 75% of the total seating capacity as a nonsmoking area.

2. This regulation shall also include the lounge/ bar service areas, in a food service establishment, unless ventilation is provided such that air from this area does not enter the restaurant portion of the establishment and the nonsmoking area (including any nonsmoking areas within the restaurant) remains at least 75% of the total seating capacity of the facility.

3. Each restaurant shall conspicuously post signs to indicate nonsmoking areas and the areas where smoking is allowed.

4. The proprietor, manager or person in charge shall ensure that all patrons conform to the conditions of this bylaw.

5. All outdoor seating shall be exempt from the provisions of this bylaw.  
or take any other action relative thereto.

**MOTION: MS. PATTON** moves that the Town amend Chapter E, Section 30, Subsection B Restaurants of the Town Bylaws as set forth in the article,.

***MOTION LOST***

TOTAL VOTE 182 YES 85 NO 92

**ARTICLE 47\* AMEND CHARTER -**  
**CHANGE NAME - ACTON-BOXBOROUGH ARTS COUNCIL**  
(2/3 Vote Required)

To see if the Town will vote to amend the Charter to change the name of the Acton Boxborough Arts Council to Acton Boxborough Cultural Council, or take any other action relative thereto.

**CONSENT MOTION: MRS. TAVERNIER** moves to amend the Charter as set forth in the article.

***CONSENT MOTION CARRIES UNANIMOUSLY***

**THIS ARTICLE WAS “HELD” FROM THE CONSENT CALENDAR**

**ARTICLE 48\* AMEND CHARTER - VARIOUS SECTION REVISIONS**

(2/3 Vote Required)

To see if the Town will vote to amend the Charter as follows:

NOTE: (additions are underlined deletions are [Bracketed])

**SECTION 4-1 Board of Selectmen, (b) Powers and duties:**

“The selectmen ...may make appointments to temporary posts and advisory committees they create for special purposes.”

**SECTION 4-2 Appointment Powers, Selectmen**

	<b>Number of members</b>	<b>Length of Term (years)</b>
<b>Add:</b>		
<u>Acton/Boxborough Cultural Council</u>	<u>7 Acton</u>	<u>1</u>
<u>Board of Assessors (Alternate Members)</u>	<u>1 or more</u>	<u>3</u>
<u>Hanscom Field Advisory Commission</u>	<u>1 (+1 Alternate)</u>	<u>3</u>
<u>Historic District Commission</u>	<u>6</u>	<u>3</u>

**SECTION 5-3 [Operating Manual] Policies and Procedures:**

“The town manager shall be responsible for the development [and publication of a Town of Acton Operating Manual. The manual shall be approved by the selectmen before its initial publication] of policies and procedures, subject to the approval of the selectmen. [The first issue of the manual shall be published within one year of the adoption of this charter. The manual shall be updated by the town manager and approved by the selectmen. The manual] These shall include town goals, policies, operating practices, procedures, and such other information as is [deemed] necessary.”

The town manager shall be responsible for the development of polices and procedures, subject to the approval of the selectmen. These shall include town goals, policies, operating practices, procedures, and such other information as is necessary.

**SECTION 5-4 Organizational Planning:**

“To improve communication, [enhance span of control] and increase operating efficiency, similar functions may be combined into integrated agencies under a single head.”

“The annual report shall contain [a joint report] reports from the selectmen and town manager describing any yearly changes, the reasons for the changes and noting organizational plans for the future.”

**SECTION 7-7 Record Keeping:**

“All agencies shall keep records of meetings which must be filed with the Town Clerk and made available to the public for examination. Copies may be made at individual’s expense.”  
or take any other action relative thereto.

**MRS. TAVERNIER** moves to take no action.

***MOTION CARRIES TO TAKE NO ACTION UNANIMOUSLY***

**ARTICLE 49 EARTH DAY RESOLUTION**

(Majority Vote Required)

Abstract of the 1996 Annual Town Meeting

To see if the Town will vote to support the following Resolution:

Whereas for the past 25 years, Earth Day has been an occasion both to celebrate the Earth and raise awareness of what we need to do to keep our world clean, peaceful, and self-sustaining.

Whereas Acton's Earth Day 1996 Committee plans an Earth Day celebration on April 27, 1996 at the Acton Arboretum, to acknowledge citizen and Town actions, and to challenge ourselves to even greater efforts.

And whereas the Town of Acton and its citizens share in the bounty of, and responsibility to, the natural world.

Therefore, be it resolved that the citizens of the Town of Acton and the Board of Selectmen hereby support the efforts of the Earth Day Committee and endorse the goals and celebration of Earth Day 1996. or take any other action relative thereto.

**MOTION:** **MR. MULLIN** moves that the Town support the Resolution as set forth in the article.

***MOTION CARRIES UNANIMOUSLY***

**ARTICLE 50\* REPURCHASE CEMETERY LOT**  
(Majority Vote Required)

To see if the Town will authorize the Cemetery Commissioners to repurchase a two-grave lot (#54), located in Section 8, Mount Hope Cemetery, said lot having originally been purchased by Mr. and Mrs. John A. Gilbert on May 13, 1988, and to see if the Town will authorize the appropriation of \$160 from the Cemetery Land fund and \$640 from the New Perpetual Care Fund for this purpose, or take any other action relative thereto.

**CONSENT MOTION:** **MR. FRIEDRICHS** moves to appropriate \$800.00 for the purposes of this article, and to raise such amount, \$160.00 be transferred from the Cemetery Land Fund, and \$640.00 be transferred from the new Perpetual Care Fund.

***CONSENT MOTION CARRIES UNANIMOUSLY***

**THIS ARTICLE WAS “HELD” FROM CONSENT**

**ARTICLE 51\* STREET ACCEPTANCE**

(2/3 Vote Required)

To see if the Town will accept as public ways the following streets or portions thereof, as laid out by the Board of Selectmen according to plans on file with the Town Clerk and authorize the Board of Selectmen to take the fee or easement in said streets by eminent domain or otherwise, including easements for drainage, utility, sidewalks, or other purposes where shown on said plans or described in the Order of Layout:

Prescott Road - In the Meadow View Subdivision, from the northeasterly sideline of Robbins Street, a distance of 1371 feet, more or less, in a northerly direction to the southerly sideline of Overlook Drive, this being the entire road.

Overlook Drive - In the Meadow View Subdivision, from the easterly sideline of Prescott Road, a distance of 1237 feet, more or less, in a generally northerly direction to the end, this being the entire road.

Overlook Drive Extension - In the McGovern Estates Subdivision, from the westerly end of Overlook Drive, a distance of 214 feet, more or less, in a westerly direction to the end of the 75 foot radius turnaround (including the turnaround), this being the entire road.

Jay Lane - In the Hearthstone Farm Subdivision, from the northerly sideline of Strawberry Hill Road a distance of 722 feet, more or less, in a northerly and northeasterly direction to the northeasterly sideline of a 70.00 foot radius cul-de-sac (including the cul-de-sac), this being the entire road, or take any other action relative thereto.

**MOTION: MR. FRIEDRICHS** moves that the Town accept as a public way the streets listed in this Article, as laid out by the Board of Selectmen according to plans on file with the Town Clerk, and authorize the Board of Selectmen to take the fee or easements for drainage, utility, or other purposes where shown on said plan or described in the Order of Layout.

***MOTION CARRIES UNANIMOUSLY***

**ARTICLE 52\* ACCEPTANCE OF LAND GIFTS**

(Majority Vote Required)

To see if the Town will vote to accept as gifts two parcels of vacant land from Kavanagh Homes, Inc. located on Prescott Road and shown as parcels A & B on a plan recorded in the Middlesex South District Registry of Deeds as Plan #358 of 1992, said parcels together total 22,035± s.f. of land and are identified on the Town Atlas as map H-2 parcels 7-6 and 7-7, for general municipal purposes; or take any other action relative thereto.

**CONSENT MOTION: MR. HUNTER** moves in the words of this article.

***CONSENT MOTION CARRIES UNANIMOUSLY***

**ARTICLE 53\* STRAWBERRY HILL ROAD EASEMENT - DUNLAP, YOUNGMAN**  
**(Majority Vote Required)**

To see if the Town will vote to accept as a gift from Kathy L. Dunlap and Deborah J. Youngman sidewalk and construction easements on portions of their property located at 105 Strawberry Hill Road. Said easements are up to 15 feet wide and run alongside Strawberry Hill Road. The approximate boundaries of the easements are shown on a plan entitled "Approximate Easement Plan of Land in Acton", dated February 12, 1996, revised February 22, 1996, drawn by Lancewood Engineering, Inc., or take any other action relative thereto.

**CONSENT MOTION: MRS. TAVERNIER** moves in the words of the article.

*CONSENT MOTION CARRIES UNANIMOUSLY*

**ARTICLE 54\* CHAPTER 90 HIGHWAY REIMBURSEMENT PROGRAM**  
**(Majority Vote Required)**

To see if the Town will raise and appropriate or appropriate from available funds a sum of money for highway improvements under the authority of Chapter 90 of the Mass General Laws and any other applicable Laws, or take any other action relative thereto.

**CONSENT MOTION: MRS. TAVERNIER** moves that the Selectmen are authorized to accept Highway Funds from all sources and such funds are hereby appropriated for highway purposes.

*CONSENT MOTION CARRIES UNANIMOUSLY*

**ARTICLE 55\* EMERGENCY/DISASTER AID APPROPRIATIONS**  
**(Majority Vote Required)**

To see if the Town will vote to appropriate any Federal Government and State Government reimbursement for costs incurred as a result of any declared emergencies or other unusual occurrences during Fiscal Year 1997; or take any other action relative thereto.

**CONSENT MOTION: MR. HUNTER** moves in the words of the article.

*CONSENT MOTION CARRIES UNANIMOUSLY*

**ARTICLE 56. USE OF FUNDS TO REDUCE THE TAX RATE**

(Majority Vote Required)

To see if the Town will determine an amount of free cash which shall be used for the purpose of reducing the tax rate for the fiscal year beginning July 1, 1996, or take any other action relative thereto.

**MOTION: MR. MULLIN** moves to take no action.

**MOTION: MR. KADLEC** moves to amend the motion to take no action and substitute them with the words "to appropriate One Million Dollars from Free Cash to reduce the tax rate for fiscal year beginning July 1, 1997."

***MR. KADLEC'S MOTION IS LOST***

***MOTION AS ORIGINALLY READ CARRIES***

**MOTION: MR. MULLIN** moves to dissolve the annual town meeting at 10:03 p.m.

***MOTION CARRIES***

**Tellers for the Annual Town Meeting were as follows:**

April 1, 1996 session:

Belle Choate, head teller; Bill Cady, Dick Swenson, Jack Whittier, Moe Joyal, Don Perkins, Andrea Miller, Margaret Richter, Bill Smith, Charles Husbands, Charles Kadlec, Brewster Conant, Charlene Sotolongo, Midge Brown, Tom Geagan, Ed Ellis.

April 2, 1996 session:

Belle Choate, head teller; Bill Cady, Tony Ammendolia, Jack Whittier, Eldon Fisher, Don Perkins, Andrea Miller, Ed Richter, Bill Smith, Anne Ridley, Charles Kadlec, Brewster Conant, Charlene Sotolongo, Midge Brown, Tom Geagan, Ed Ellis.

April 8, 1996 session:

Belle Choate, head teller; Bill Cady, Connie Huber, Jack Whittier, Eldon Fisher, Al Warner, Andrea Miller, Margaret Richter, Bill Smith, Loretta Roscoe, Charles Kadlec, Brewster Conant, Charlene Sotolongo, Midge Brown, Dick Swenson, Carolyn Gray, Charles Husbands, Tom Geagan, Ed Ellis.

Abstract of the 1996 Annual Town Meeting

(Tellers for the Annual Town Meeting continued)

April 9, 1996 session:

Belle Choate, head teller; Bill Cady, Connie Huber, Dick Swenson, Eldon Fisher, Al Warner, Andrea Miller, Ed Richter, Jack Whittier, Loretta Roscoe, Charles Kadlec, Brewster Conant, Charlene Sotolongo, Midge Brown, Tom Geagan, Ed Ellis.

April 10, 1996 session:

Belle Choate, head teller; Bill Cady, Connie Huber, Dick Swenson, Jack Whittier, Phil Lemieux, Andrea Miller, Ed Richter, Anne Ridley, Loretta Roscoe, Charles Kadlec, Brewster Conant, Charlene Sotolongo, Midge Brown, Tom Geagan, Ed Ellis.

April 11, 1996 session:

Belle Choate, head teller; Bill Cady, Connie Huber, Dick Swenson, Andrea Miller, Ed Richter, Bill Smith, Loretta Roscoe, Charles Kadlec, Brewster Conant, Charlene Sotolongo, Midge Brown, Ed Ellis.

**The Town Clerk's office received approval from the Attorney General's Office on the following articles:**

**Article 30, 31, 33, 34, 35, 36, 37, 38, 42, and 43. Article 44 was approved with amendments.**

**Article 47** - To change the name of the Acton Boxborough Arts Council to the Acton Boxborough Cultural Council will be voted on at the next annual town election - 1997.

Article 44 - Wetland Protection was approved. Except that the following subsection is deleted and disapproved F3.4 (I) .

**The Wetland Protection Bylaw now reads as follows:**

**ARTICLE 44 AMEND TOWN BYLAWS - ENVIRONMENTAL PROTECTIONS**

(Majority Vote Required)

To see if the town will vote to amend Chapter F of the Town Bylaws by deleting the existing wording and replacing it with the wording as follows:

**CHAPTER F**  
**ENVIRONMENTAL PROTECTION**

**WETLAND PROTECTION**

Section F1 Purpose

The purpose of this Bylaw is to protect the wetlands, vernal pools, and adjoining buffer zones of the Town of Acton by controlling activities deemed to have a significant impact upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution prevention, fisheries, and wildlife habitat (collectively, the "interests protected by this Bylaw"). The Town of Acton Wetlands Map shows the approximate location of most of the Town's wetlands and shall be used as a guide to wetland location.

Section F2 Provisions

No person shall remove, dredge, fill, or alter any bank, wetland, vernal pool, or land within the 100 foot buffer zone of a wetland, vernal pool, or any brook, stream, river, pond or lake, or land subject to flooding, except as provided in Section 4, without first filing a Determination of Applicability, or a written Notice of Intent under this Bylaw and obtaining and complying with the terms of said Determination or with an Order of Conditions.

Section F3.1 Definitions

The term "person" as used in this Bylaw shall include any individual, group of individuals, association, partnership, corporation, or business organization, trust or estate, the Commonwealth, or any political subdivision thereof, administrative agency, public or quasipublic corporation or body, or any other legal entity or its legal representatives, agents or assigns.

Section F3.2

The term "abutter" as used in this Bylaw shall include all property owners, determined by the most recent maps in the Assessors Office, that abut the land on which the proposed activity is to take place and such other persons as the Commission may determine.

Section F3.3

The term "activity" shall mean any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; any form of construction, reconstruction, or expansion of any building, structure, road or other way; or alteration or any changing of the physical, chemical, or biological characteristics of an area of land or water.

**(CONTINUED- ARTICLE 44, AS APPROVED )**

Section F3.4

The term "alter" as used in this Bylaw shall include, without limitation, the following actions when undertaken in areas subject to this Bylaw:

- (a) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (b) Changing of drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns and flood retention characteristics;
- (c) Drainage or other disturbance of water level or water table;
- (d) Dumping, discharging or filling with any material which may degrade water quality;
- (e) Driving of piles, erection of buildings or structures of any kind;
- (f) Placing of obstructions whether or not they interfere with the flow of water;
- (g) Destruction of plant life, including the cutting of trees, which may significantly impact the interests protected by this Bylaw;
- (h) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water;

Section F3.5

"Buffer zone" shall mean that area of uplands within 100 feet horizontally outward from the boundary of a wetland, vernal pool, brook, stream, river, pond or lake.

Section F3.6

"Certificate of Compliance" shall mean a written determination by the Commission verifying that work has been completed in accordance with an Order of Conditions.

Section F3.7

"Commission" shall mean the Acton Conservation Commission, that body of members lawfully appointed pursuant to M.G.L. Chapter 40, Section 8c, for the purposes of administering and enforcing the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Town of Acton Wetland Protection Bylaw.

Section F3.8

"Determination Of Applicability" shall mean any review and written finding by the Conservation Commission as to whether a site or the work proposed thereon is subject to the jurisdiction of the Bylaw. See also Section F5 of the Bylaw.

Section F3.9

"Dredge" shall mean to clean, deepen, widen or excavate, either temporarily or permanently.

Section F3.10

"Extension Permit" shall mean a written extension of time granted by the Conservation Commission once for a period of up to 3 (three) years, within which time authorized work shall be completed.

Section F3.11

"Fill" shall mean either of the following, whichever is applicable:

- (a) to deposit or place any material so as to raise in elevation, either temporarily or permanently;
- (b) anything that fills or is used to fill - especially earth or gravel used for filling a hole,

Section F3.12

"Notice of Intent" shall be a written notice filed by any person intending to alter, or in any way change, the physical or chemical properties of land subject to protection under the Bylaw.

**(CONTINUED- ARTICLE 44, AS APPROVED)**

Section F3.13

“Order of Conditions” shall mean the document issued by the Conservation Commission or the courts containing conditions which regulate or prohibit any activity subject to the Bylaw, which is to be recorded in the Registry of Deeds or Land Court.

Section F3.14

The term “vernal pool” as used in this Bylaw shall include, in addition to that already defined under the Massachusetts Wetlands Protection Act and regulations (310 CMR 10.00), any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways that meets the certification criteria established in the Guidelines for Certification of Vernal Pool Habitat published by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The buffer zone for vernal pools shall extend the smaller of 1) 100 horizontal feet from the mean annual high-water line defining the depression, or 2) one half of the distance between the mean annual high-water line and any existing house foundation. Existing lawns, gardens, or landscaped or developed areas are excluded from the buffer zone.

Section F3.15

The term "wetland" as used in this Bylaw includes any area where 50% or more of the vegetative community consists of wetland plant species as defined in Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and any non-vegetated area such as a creek, brook, stream, river, pond, lake, or lands under said waters, or certified vernal pools, also as defined in M.G.L. Ch. 131, s.40.

Section F4.1 Exemptions

No Notice of Intent hereunder need be filed in connection with an emergency project necessary for the protection of health or safety of the citizens of Acton to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town. An emergency project shall mean any project certified to be an emergency by the Town of Acton Conservation Commission or its agents within 24 hours. In no case shall any removal, dredging, filling or altering commence prior to such emergency certification nor extend beyond the time necessary to abate the emergency.

Section F4.2

No Notice of Intent hereunder need be filed in connection with maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, or telecommunication services.

Section F4.3

No Notice of Intent need be filed in connection with normally accepted maintenance procedures on land in agricultural use. The term "land in agricultural use" shall mean any qualifying wetland within a farm which is qualified or eligible to be qualified under the Farmland Assessment Act, Massachusetts General Laws, Ch. 61A ss. 1 & 2. Any proposed changes to land in agricultural use which may have a significant impact on any of the interests protected by this Bylaw must be submitted to the Conservation Commission for a Determination of Applicability.

Section F4.4 Septic Systems Meeting State Title V

No Notice of Intent need be filed for the replacement, repair, or installation of a residential septic system that meets the requirements of Title V of the State Environmental Code (310 CMR 15.00), that has received a permit from the Acton Board of Health, and that meets the setback requirements of this Bylaw. Any such septic system replacement, repair, or installation that may have a significant impact on any of the interests protected by this Bylaw must be submitted to the Conservation Commission for a Determination of Applicability.

**(CONTINUED- ARTICLE 44, AS APPROVED )**

Section F4.5 Limited Projects

Notwithstanding the other provisions of this Bylaw, the Commission may issue an Order of Conditions for limited projects listed under Section 10.53(3) of the Wetland Protection regulations promulgated under the Massachusetts Wetland Protection Act (310 CMR 10.53(3)).

Section F4.6 Waivers

Strict compliance with this Bylaw may be waived when, in the judgment of the Conservation Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing. The waiver shall be presented at the time of filing along with a written justification stating why a waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Bylaw.

**(CONTINUED- ARTICLE 44)**

Section F5 Determination of Applicability

Any person may request the Conservation Commission to make a determination as to whether or not a proposed project in the wetland or "buffer zone" is significant to the interests protected by the Bylaw. This request for a Determination of Applicability shall be sent by certified mail, or hand delivered to the Acton Conservation Commission or its authorized representative. A person delivering this request by hand shall be given a dated receipt. The Commission shall make such a determination within 21 days of the receipt of said request, and it shall notify the applicant by certified mail, of the results of the determination. If the Conservation Commission determines that the subject area is significant to the interests protected by this Bylaw, and said interests are not fully protected by the project as proposed, the Commission will require the applicant to file a Notice of Intent, or will attach such Orders of Conditions to ensure protection of the interests of this Bylaw. The Commission, or its agents, may, for the purpose of carrying out its duties under this Bylaw, request such plans or information as may be necessary for its evaluation, may enter upon the subject land, and may make or require to be made such examination or survey as it deems necessary.

Section F6.1 Filing Procedure for a Notice of Intent

The Notice of Intent shall be sent by certified mail, or hand delivered to the Acton Conservation Commission or its authorized representative, and shall include plans and specifications as required of an applicant by the Commission. A person delivering this Notice by hand shall be given a dated receipt. This Notice shall also include a filing fee to be designated in the rules and regulations of the Commission payable to the Town of Acton. No filing fee is required when the Town of Acton files an application. These plans shall also show the location of the wetland boundaries and shall be at a scale of 1" = 40' or any such scale that adequately depicts the area. The applicant shall also notify the clerk of the Town of Acton by hand delivery or certified mail, that such plans have been submitted to the Conservation Commission. Provided that the Notice of Intent fulfills the requirements of this Bylaw and M.G.L. Ch. 131, s. 40, only one Notice of Intent need be submitted.

Section F6.2 Notification of Filing

Any person filing a Notice of Intent under this Bylaw shall also notify by certified mail all abutters and the owner of the subject property, if different from the applicant, of the filing of such Notice of Intent. Such Notice shall clearly identify the land on which the work is to be done and describe the general nature of the work. Notice shall include the date, place, and time of said public hearing, and where plans may be reviewed. A list of persons so notified and proof of such notification shall be filed with the Conservation Commission prior to the Public Hearing.

(CONTINUED- ARTICLE 44, AS APPROVED )

Section F6.3                    Extension Permits

The Commission may extend an Order of Conditions once for a period of up to three years. Written requests for an Extension Permit shall be made not less than thirty calendar days prior to the expiration of said Order of Conditions.

The Commission may deny an Extension Permit under any of the following circumstances:

- (1) Where no activity has begun on the project, except where such failure is due to unavoidable delay such as appeals in obtaining other necessary permits.
- (2) Where new information not available at the time of the original permit filing has become available and indicates that the Order of Conditions is insufficient to protect the areas subject to protection.
- (3) Where activity is causing damage to areas subject to protection.
- (4) Where there has been activity in violation of the Order of Conditions.
- (5) Where an Extension Permit has been previously granted for the Order of Conditions.

Section F7.1                    Public Hearing

Prior to issuing any Order of Conditions (Section 8.2) the Conservation Commission shall hold a public hearing within 21 days of the filing of said Notice of Intent. Notice of the time and place of such hearing shall be given by the Conservation Commission not less than five days prior to the public hearing, by publication in a newspaper of general circulation in the Town and by mailing a notice to the applicant, the Board of Health and the Planning Board. Such hearing may be held at the same time and place as any public hearing required to be held under M.G.L. Ch. 131, s. 40. If the Commission determines that additional data or information is necessary, the hearing may be continued to a future date time certain, agreeable to both the Applicant and the Commission, and shall be posted not less than five (5) days prior to said continuation.

Section F7.2                    Failure to Act

If the Conservation Commission has failed to hold a public hearing within the 21 day period as required, or if after holding such a hearing, has failed within 21 days from the date of the close of the public hearing to issue an Order of Conditions, an appeal may be made to the Board of Selectmen, who within ten days, shall instruct the Commission to act within a period not to exceed ten days. If, after this ten day period, no action has been taken by the Conservation Commission, the application shall be considered approved.

Section F8.1                    Burden of Proof

The applicant shall bear the burden of proving that the work proposed in the application will not harm the interests protected by this Bylaw. Failure to provide adequate evidence to the Commission that the proposed work will not harm any of the interests protected by this Bylaw shall be sufficient cause for the Commission to deny the application or to grant a permit with an Order of Conditions, or, at the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

(CONTINUED- ARTICLE 44, AS APPROVED )

Section F8.2 Order of Conditions

The Conservation Commission may impose such conditions on any proposed removing, dredging, filling or altering as it deems necessary to protect and preserve the interests covered by this Bylaw. Such Order of Conditions shall be in writing and may be subject to the same constraints and be identical to any such order issued by the Acton Conservation Commission under the provisions of M.G.L. Ch. 131, s. 40, or successor statutes, and shall be issued within 30 days after the public hearing. Such Order of Conditions will expire three years from the date of issuance, unless renewed prior to expiration. No proposed work governed by an Order of Conditions shall be undertaken until all permits, approvals, and variances required by local Bylaws have been obtained and all applicable appeal periods have expired. The final Order of Conditions issued under this Bylaw shall be recorded with the Registry of Deeds for the district in which the land is located. However, if said Order is identical to the final Order of Conditions issued under the provisions of M.G.L. Ch. 131, s. 40, only one Order of Conditions need be recorded. The Conservation Commission shall have the right to file the Order of Conditions with the Registry of Deeds should the applicant fail to do so within 60 days. If a wetlands replication is required, the applicant will adhere to replication procedures established by the Commission or as set down in the Commission's Rules and Regulations.

Section F8.3 Setbacks for Activities

The following are the minimum distances (setbacks) of activity from the edge of wetlands or vernal pools. No activity shall be allowed within these setbacks except as provided below. These setbacks are the minimum and may be extended further if deemed necessary for the protection of the interests of the Bylaw by the Commission.

The setbacks shall be as follows:

- (1) 0-foot setback for wetland-dependent structures (drain outfalls, weirs, etc.), fences, and structures necessary for upland access where reasonable alternative access is unavailable.
- (2) 25-foot buffer of undisturbed natural vegetation.
- (3) 40-foot setback to the edge of driveways, roadways, and structures.
- (4) 40-foot chemical-free area within which no pesticides, herbicides, or fertilizers shall be used.
- (5) 100-foot setback for underground storage of gasoline, oil, or other fuels and hazardous materials.

When in the opinion of the Commission compliance with these setbacks will result in greater harm to the interests of this Bylaw than would waiver of the setbacks, the Commission is permitted to grant such waivers.

Pre-existing activities or structures not meeting the setbacks set forth above need not be discontinued or removed [but shall be deemed to be nonconforming]. No new activity shall be commenced and no new structure shall be located closer to the edge of wetlands or vernal pools than existing non-conforming like activities or structures, but the Commission may permit new activity or structures as close to the edge of wetlands or vernal pools if it finds that such activity or structure will not affect the interests protected by the Bylaw no more adversely than the existing activity or structure.

Section F8.4 Erosion and Sedimentation Control

Where activities are proposed within the buffer zone, erosion and sedimentation barriers and other erosion controls as necessary shall be installed between the area of activity and the wetlands or vernal pool to prevent the transport of sediment into wetlands or vernal pools. Similarly, erosion and sedimentation controls shall be installed when activities outside the buffer zone create a significant potential for transport of sediment into wetlands or vernal pools.

Section F8.5 Storage of Fill or Materials

If any fill is to be stored on site, it shall be stored outside of the buffer zone and/or it shall be surrounded by staked haybales to prevent erosion and sedimentation.

There shall be no storage, disposal or burial of construction debris (for example, scrap lumber, metals, concrete, asphalt, piping, logs, stumps, etc.) within the buffer zone without the express permission of the Commission in an Order of Conditions.

(CONTINUED- ARTICLE 44, AS APPROVED )

Section F9.1 Wetlands Replacement

Wetlands or vernal pools that are altered shall in all instances be replaced by replacement wetlands of similar character. Replacement wetlands shall include, at minimum, equal area as the altered wetlands or vernal pool in a hydrologically connected location to the unaltered remainder of the wetlands or vernal pool.

Section F9.2 Requirements for Wetlands Replacement

Projects involving the filling and/or permanent alteration of wetlands or vernal pools shall meet the following requirements:

- (1) The proposed replacement area design must be submitted to the Commission for approval as part of the Notice of Intent.
- (2) The replacement area must be shown to duplicate sufficiently the functions of the wetland proposed to be altered.
- (3) The replacement area shall be constructed, to the extent possible, immediately after alteration of the existing wetland and during the same growing season.
- (4) If after three growing seasons, the Commission determines that the replacement area has not satisfactorily developed into a wetland or vernal pool, the applicant or owner may be required to submit new plans to successfully replicate the original altered wetland. No Certificate of Compliance shall be issued until the Commission has determined that a satisfactory replacement area has been completed.

Section F10 Denial

The Conservation Commission may deny permission for any removing, dredging, filling, or altering if, in its judgment such denial is necessary to protect and preserve the interests identified in Section F1 of this Bylaw. Due consideration shall be given to possible effects of the proposal on such interests and to any demonstrated hardship on the petitioner by reason of denial as brought forth at the public hearing.

Section F11 Prior Violation

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of any order pursuant to this Bylaw, shall forthwith comply with any such order, or restore such real estate to its condition prior to any such violation; provided however that no such action, civil or criminal shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.

Section F12 Bond

The Conservation Commission may require the posting of a bond with surety, running to the Town of Acton, and sufficient as to form and surety in the opinion of the Town Counsel, to secure the faithful and satisfactory performance of work required by any final Order of Conditions, in such sum and upon such conditions as the Commission may require. Other evidence of financial responsibility which is satisfactory to the Commission may be accepted in lieu of a bond. Notwithstanding the above, the amount of such bond shall not exceed either the estimated cost of the work required by the final Order of Conditions, or the estimated cost of the work required for the restoration of affected lands and properties if the work is not performed as required, whichever is greater.

Section F13 Rules and Regulations

After due notice and public hearing, the Commission may promulgate procedural rules and regulations to effectuate the purposes of this bylaw. However, failure to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

**(CONTINUED- ARTICLE 44, AS APPROVED )**

Section F14 Enforcement

Any person who violates any provision of this bylaw or of any condition of a permit issued pursuant to it may be subject to a fine of not more than \$300. Each day during which a violation continues may constitute a separate violation. This bylaw may be enforced pursuant to Mass. General Laws Chapter 40, Section 21D, by the Constable, Police Chief, Police Officer, Conservation Administrator, or other agent allowed by law. Upon request of the Commission, the Board of Selectmen or Town Counsel may take such other legal action as may be necessary to enforce this bylaw and permits pursuant to it.

The following provides a schedule of fines for specific violations.

Alteration of a wetland or vernal pool without an Order of Conditions issued pursuant to this Bylaw - \$300

Work within the buffer zone without prior submittal of Request for Determination or Notice of Intent - \$200

Failure to provide sedimentation controls required by an Order of Conditions - \$200

Disposal of construction debris within the buffer zone - \$300

Failure to construct stormwater or drainage structure according to plans - \$300

Removal of trees designated for protection - \$10 per inch of circumference

Storage of fill within the buffer zone - \$150

Section F15 Appeals

A decision of the Commission may be reviewed by the Superior Court in an action filed within 60 days thereof, in accordance with Massachusetts General Law 249, Section 4.

Section F16 Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

And amend Section E45 of the Town Bylaws schedule of fines for violation of Chapter F, by incorporating the Schedule of fines above.