

Final

BOARD OF SELECTMEN AND SEWER COMMISSIONERS MEETING

**August 5, 2013
Executive Session, 6:30 p.m.
Francis Faulkner Hearing Room
REGULAR SESSION 7:00 p.m.**

RECEIVED
SEP 24 2013
TOWN CLERK, ACTON

Present: Ms. Adachi, Mr. Gowing, Ms. Green, Mr. Clough, Mr. Sonner, Town Manager Ledoux, Recording Secretary; Christine Joyce. The meeting was televised.

EXECUTIVE SESSION – 6:30 p.m.

Ms. Adachi explained that the Executive Session was for the purpose of discussing the Town Manager's contract

Chair: "I'll entertain a motion to enter executive session in accordance with the Open Meeting Law to: conduct strategy sessions in preparation with nonunion personnel and conduct negotiations with nonunion personnel.

- a. Mr. Sonner "So moved."
- b. Mr. Gowing "Second."

Chair: The Board will return to open session for balance of meeting. Would the Clerk call the roll call. Roll call taken, all AYES.

CITIZENS' CONCERNS

None

CHAIRMAN'S UPDATE & OPERATIONAL MINUTE

Ms. Adachi – Attended updated the board in the events and meetings she has attended.

Mr. Ledoux – Posted Asst. Town Manager position and has received 5 internal applications. They will begin interviewing the candidates shortly.

Mr. Ledoux noted that our Local Aid number will remain intact.

Mr. Ledoux up dated the Board on the money the Town borrowed for the schools. It was noted that we could refinance these bonds which would reduce the cost to the taxpayers. They will present the bonds at a special meeting.

We will be providing more training on OML in September and board/committees will have a choice of two meetings with Town Counsel.

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PUBLIC HEARINGS & APPOINTMENTS

FY 14 TRANSFER STATION STICKER RATES

Mr. York, Public Works Director explained the operations of the Transfer Station and Recycling Facility.

The Sticker program gives you full access to the transfer Station but you need to pay for other items left.

After reviewing the sticker prices, he feels we do not need to raise the fees for FY14.

Mr. Sonner asked about what we are doing currently and are we trucking solid waste to Ohio. Mr. York said we are trucking to Deven's and Deven's is trucking to Ohio.

The Board was happy with the hard drive and compost programs. Mr. Gowing asked about a drop stop shed. Mr. Ledoux said the will be meeting with Green Acton to discuss this and other items later this week.

Mr. Sonner – Moved to keep the fees level funded for FY14. Mr. Gowing – second.
UNANIMOUS VOTE

SEWER PRESENTATION

Mr. Halley spoke about the future of sewers and we need to consider changes for now and in the future. He spoke about the purpose of sewer regulations. He noted it will continue to protect the town. Mr. Halley outlined the authority under the regulations. He noted that we have a permit process and what is required under that Permit process.

He outlined the billing issues and situations. The town has expanded the service area, and noted to expand it must be voted by the Sewer Commissioners. Infill needs to be addressed.

Mr. Halley noted the policy will be drafted and presented to the Board mid-fall.

Mr. Gowing asked about outstanding debt and would it reflect in the rates at that time or would it flow towards a capital program. Mr. Halley noted O&M is separate and not under the Bonds.

Mr. Sonner asked about a detailed plan. Mr. Halley said they review every five years with Woodard and Curran the firm that operates the plant. Rules and Regulations are being reviewed.

Ms. Green asked about how we will come to rules and regulations and whose input would be noted.

Ann Chang, Billings St. asked about the capacity inside and outside the district.

Al English asked about capacity and how it is used. Mr. Halley replied it will be a function of the BOS making a decision and WRAC reassessing need.

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PANERA SITE PLAN #3/5/13-441, 252 MAIN STREET – Continuation Request to September 9, 2013 @7:15

SELECTMEN'S BUSINESS

BOARD AND COMMITTEE REAPPOINTMENTS

Mr. Sonner – Move to approve, Mr. Gowing – second. UNANIMOUS VOTE

AUDUBON HILL NORTH CONTINUANCE OF THE DISCUSSION WITH THE SELECTMEN REGARDING THEIR SEPTIC SYSTEM

Mr. Ledoux noted that Counsel's review and recommendation was we had no obligation to them. They noted \$20,000 funds in sewer costs were paid to them from the Town. The amendment to the lease allowed us to make changes. We did make a payment of \$20,000, we have lease and we can change the building use under the amendment in 2009. Mr. Ledoux spoke with Mr. Halley and Mr. York about connecting to the sewer at Faulkner Hill Road and going cross country. The cost would be \$80,000 if we went up pavement it would cost more. If we go cross country easements would be need to effectuate going cross country.

Mr. Ledoux presented two recommendations, the Town pay the \$40,000, amend the lease to clarify that the town's contribution is one time and will not be liable for any other charges.

Commence negotiations for easements with the two associations.

Mr. Sonner asked about the \$80,000 and it would be just the senior center alone. The center is in need of more water usage, and to tie in they would get more water usage.

Ms. Adachi said she thinks we should pursue the options and make it clear the town has no further obligations. Counsel and the Town Manager have reviewed the lease.

Ms. Green was comfortable with the payment if the lease amendment is made.

Sid Levin, citizen said the Town needs to resolve the future of the senior.

Stacy Angle is confused by the wording of the restrictions on future payments. It was noted that it would be addressed in negotiations.

Mr. Cook 130 Audubon Drive commented on the negotiations. He feels the Town should contribute and the additional language in the lease regardless of its legality will make it impossible to contribute even if we should.

Bill Wormer, Treasurer said that he will have a problem going forward to obligate someone 40 years down the pike and did not think it was fair.

Mary Angel spoke about the board's view that we need to pay this and not to tie the hands of the people in the future.

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Mr. Sonner - Moved to have the Town pay \$40,000 to repair the system and amend the lease to reflect it was a onetime occurrence, and the Town is not liable to pay any future costs to maintain, repair or replace the septic system and to commence negotiations by the Town Manager with the condo association to secure easements for future tie in to Town sewer. Ms. Green – second. 4-1 Mr. Gowing NAY – Motion passes

DISCUSSION AND VOTE ON THE TOWN MANAGER’S CONTRACT

Ms. Adachi outlined the need for the change in the contract. They will leave the car allowance as is and award a 2% increase.

The Board vacates their decision of the last meeting and instead will increase base of 2% and add an additional one year to his contract. UNANIMOUS VOTE

DISCUSSION OF NEW SENIOR CENTER DEVELOPMENT COMMITTEE

Mr. Gowing wants to move this forward; we need to do our due diligence in the public eye. He feels they can update the report from 2010. Because of the nature of what was done in 2010 we recommend the disbanding 2010 committee and address the skill sets needed. Mr. Gowing – Moved to disband original senior center committee. Mr. Sonner – second UNANIMOUS VOTE

Charlie Kadlec asked about the starting point are we looking to see if we need one. Should we build or look for commercial space.

Mr. Gowing would like the vetting to be done through the VCC. Request for skill sets and make it around 9 people. Ms. Green asked about a charge and guidelines, the town manager will develop them.

Mr. Sonner asked if the Community Center is part of this or separate and we need to be clear if we are going to get it through Town meeting.

Barbra Willson served on both committees the charge was narrow. She endorses disbanding of this committee as well as supporting looking for different skill sets.

Sharon Mercurio Director of COA asked how to present it to Town Meeting. Mr. Sonner said we need to know the cost in order to get town meeting to commit to the money as a whole package.

Mr. Gowing - Move we charge the Town Manager reevaluate all options from the 2007 study and come back to the Board with recommendations of what we need to do move forward to Town Meeting. Mr. Sonner – second UNANIMOUS VOTE

PROPOSED VOTE OF THE BOARD – ANDERSON LAND- NOTICE OF EXERCISE AND PROPOSED PURCHASE AND SALE AGREEMENT

Mr. Sonner - Move to approve Purchase and Sale on the Anderson land. Mr. Clough – second UNANIMOUS VOTE.

Final

RE-VOTE AND SIGN THE REVISED CAQUETTE CONSERVATION RESTRICTION DOCUMENTS

Karen O'Neil presented the updated version suggested by the state. She asked the Board to vote the State's revisions.

Mr. Gowing – Moved to accept the revisions submitted by the State and approved by our town counsel. Mr. Sonner – second. UNANIMOUS VOTE

SCHOOL COMMITTEE SUBCOMMITTEE ON FINANCIAL OVERSIGHT FOR REGIONALIZATION – APPOINTMENT OF SELECTMEN'S REPRESENTATIVE

Ms. Adachi outlined her decision on who to appoint. She felt that the Chair should be on the committee at least for the first year and asked the Board to support her as the member of the Sub-Committee.

Mr. Clough asked why the school board liaison should not be on the committee and feels we need to look at the numbers and be able to reach consensus, he feels it should be a third person. Ms. Green said she would not feel slighted by not being on the committee she feels it is beneficial to have ALG representative on the committee, and maybe the Vice-chair is the person that is the representative.

Mr. Sonner felt it is more helpful to have member of ALG as part of sub-committee.

Mike Coppelino thanked the board and citizens for the positive results of Regionalization effort. The purpose is to engage the citizens and make good on promises that were made to them. They may look at budgets, and don't know if the committee would be advisory. He wants to make sure both communities are engaged. They will make a broader charge as the committee reviews what they wish to include. Mr. Gowing – Moved to nominate Ms. Adachi to represent the Board on the Sub-Committee. 4-1 Mr. Clough Nay, Motion Passes

SELECTMEN'S REPORTS

Mr. Sonner – Reported on SATSAC the contractor is working on Montori property and the committee was concerned that they might not have any input. The Town Planner has been working on this and all want a say.

Mr. Clough – Segal report on OPEB with blended discount rate and total of 54Million

Ms. Adachi – Noted her attendance at the new Housing project and named after Mr. Whittlesey.

ALG Wednesday. Attended OARS meeting and heard the storm water issues and what we are doing in this regard. She discussed the issue of changing the polling places.

Mr. Gowing - WAVE Project house is being dismantled and reused. He noted there are people still interested in saving the Asa Parlin House. Mr. Gowing will have the 2 new members of HDC ready for next meeting. The transportation modes are getting more use. MFC scheduling walks on the property. He has been thinking about MPO seat.

Ms. Green – attended BOH Meetings updated rules and regulations. No Place for Hate to form a broader scope of what is proposed.

Final

CONSENT

Mr. Sonner held Ellsworth Village

Mr. Sonner was not clear on our options and feels that this is not a good arrangement for the town and affordable housing plan. The unit to be purchased by an affordable buyer has not sold in over two years. The builder has been working with the Planning Board to determine a price to have this unit released into the fair market price. Planning Board determined that \$50,000 contribution be given by the Developer. He feels that is not enough money. However, we do not have the authority to overturn a Planning Board vote. Ms. Adachi spoke about the determination of the fee and too felt it should have been more.

Ms. Adachi suggested we have a formal formula to determine a better outcome for future situations.

Mr. Ledoux noted we could ask the Planning Board to reconsider we could ask, but they are not under an obligation to reconsider their vote.

Mr. Sonner asked to have Town Counsel to look at better options going forward.

Mr. Gowing noted that we need to have rules of the road for the future. Planning is aware they need for this in place along with ACHC. Other towns have a standard.

Mr. Fenton Developer of Ellsworth Village came to discuss his understanding of what happened. He noted that he was paying \$50,000 for one unit and for the three at Robbins Brook the town only received \$60,000 in total; he felt it was not fair to him.

Ms. Adachi felt we should approve this and move forward to address it in the future.

Ms. Green was not comfortable voting for this tonight.

Mr. Sonner wants to clarify that he just did not find it was a good deal for the town.

Mr. Gowing thinks it was not fair and we need to resolve it going forward.

Mr. Gowing - Moved to approve #14 36 Ellsworth Village Regulatory Agreement – Mr. Clough – second. Ms. Green and Mr. Sonner – NAY - Motion passes 3-2

Mr. Gowing - Moved to approve the Consent Items - Mr. Sonner - second. UNANIMOUS VOTE

Chair: I'll entertain a motion to enter into Executive session to discuss strategy with respect to litigation.

Chair: Before the roll call vote to enter Executive Session, let me state:

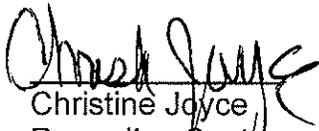
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- a. in the executive session, the Selectmen will discuss with Town Counsel (1) the Walker Realty Trust litigation involving Next Generation Day Care, and (2) potential litigation to enforce Town Bylaw Chapter R relative to the proposed imminent shutdown and removal of WR Grace Northeast Area Remedial Action.
- b. An open meeting may have a detrimental effect on the litigation position of the town in both matters.

Chair: Would the Clerk please call Roll. Roll Call taken, All Ayes

Chair: At the conclusion of the executive session, the Board will reconvene in open session (for the purpose of Adjourning)

Ms. Adachi - Moved to adjourn. Mr. Clough – second. Roll call taken, All Ayes.


Christine Joyce
Recording Secretary


Clerk
September 23, 2013
Date

010

BOARD OF SELECTMEN & SEWER COMMISSIONERS'
MEETING AGENDA

Francis Faulkner Hearing Room

August 5, 2013

EXECUTIVE SESSION (1) 6:30 PM

REGULAR SESSION 7:00 PM

**EXECUTIVE SESSION (2) AT CONCLUSION
OF REGULAR SESSION**

**EXECUTIVE SESSION (1) 6:30 - DISCUSSION AND NEGOTIATION OF
THE TOWN MANAGER'S CONTRACT**

**EXECUTIVE SESSION (2) WALKER REALTY TRUST LITIGATION
STRATEGY;**

W.R. GRACE LITIGATION STRATEGY

I. CITIZENS' CONCERNS

II. PUBLIC HEARINGS AND APPOINTMENTS

1. 7:05 **CHAIRMAN'S UPDATE/OPERATIONAL MINUTE**
The Chairman will briefly update the Board. The
Town Manager will provide a brief report.
2. 7:25 **TRANSFER STATION STICKER FY14 RATES**
See enclosed materials
3. 7:30 **THIRD AND FINAL IN THE SERIES ON SEWERS PRESENTED BY
DOUG HALLEY, HEALTH DIRECTOR**
4. 8:10 **PANERA SITE PLAN #3/5/13-441 CONTINUANCE 252 MAIN
STREET FROM JULY 22 (THE APPLICANT HAS ASKED FOR A
CONTINUANCE TO SEPTEMBER 9TH at 7:15)**

SELECTMEN'S BUSINESS

5. **COMMITTEE/BOARD REAPPOINTMENTS FOR FY14**
See enclosed materials
6. **AUDUBON HILL NORTH, CONTINUANCE OF THE DISCUSSION WITH THE SELECTMEN REGARDING THEIR SEPTIC SYSTEM**
7. **DISCUSSION AND VOTE ON TOWN MANAGER'S CONTRACT**
8. **DISCUSSION OF NEW SENIOR CENTER DEVELOPMENT COMMITTEE**
9. **PROPOSED VOTE OF THE BOARD – ANDERSON LAND – NOTICE OF EXERCISE AND PROPOSED PURCHASE AND SALE AGREEMENT**
See enclosed materials
10. **RE-VOTE/SIGN THE CAQUETTE CONSERVATION RESTRICTION DOCUMENTS**
See enclosed materials
11. **SCHOOL COMMITTEE SUBCOMMITTEE ON FINANCIAL OVERSIGHT FOR REGIONALIZATION - APPOINTMENT OF SELECTMAN REPRESENTATIVE**
See enclosed materials

SELECTMEN'S REPORTS

III. CONSENT AGENDA

12. **ACCEPT MINUTES, BOARD OF SELECTMEN, JULY 8, 2013**
See enclosed materials
13. **SITE PLAN #5/6/13-443, 531 MAIN STREET, PETER PIPPOS KARATE MINOR AMENDMENT – *Amend Hours of Operation***
See enclosed materials

14. **36 ELLSWORTH VILLAGE ROAD, REGULATORY AGREEMENT AMENDMENT REQUEST, AUTHENTIC HOMES**
See enclosed materials
15. **ONE DAY LIQUOR LICENSE BRADLEY LIQUORS SUMMER SERIES AT NARA, AUGUST 10 AND 24TH.**
See enclosed materials
16. **ONE DAY LIQUOR LICENSE BIRTHDAY PARTY AT NARA**
See enclosed materials
17. **DISPOSAL OF OBSOLETE MATERIALS, MEMORIAL LIBRARY**
See enclosed materials

EXECUTIVE SESSION

There will be a need for Executive Session to discuss the Walker Realty Trust litigation, Next Generation Day Care and W. R. Grace Litigation

ADDITIONAL INFORMATION

See enclosed correspondence that is strictly informational and requires no Board action

FUTURE AGENDAS

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This is not a complete agenda

September 9

Panera Site Plan Continuation from August 5, 2013
Tentative Asa Parlin House Discussion (tentative)
Dog License Fees

September 23

PENDING MINUTES

May 13, July 22

PENDING COMMITTEE APPOINTMENTS

Renato Nakagomi - Green Advisory Committee - JS
Ronald Regan - HDC - MG
Aaron Goff - HDC - MG

AWAITING VCC REVIEW AND RECOMMENDATION

Leslie Johnson - Com, On Disabilities - sent to VCC
Stephen Baran - Com. On Disabilities -sent to VCC

Peter Balkus, NA Fire Station Task Force – sent to VCC
H.W. Flood – NA Fire Station Task Force – sent to VCC
Paul Motyka – NA Fire Station Task Force – sent to VCC
Robert Puffer – NA Fire Station Task Force - sent to VCC
Robert Ingram – NA Fire Station Task Force –sent to VCC
Dale Chayes – NA Fire Station Task Force – sent to VCC
Suzanne Buckmelter – Design Review, Planning, and Board of Appeals (will attend mtgs. of the boards she has interest in and come back for review)

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<input type="checkbox"/>		025 (3) Sewer Presentation	manager	08/02/13	2 MB	
<input type="checkbox"/>		030 (4) Panera Site Plan Continuation to Sept. 9, 2013	manager	08/02/13	20 KB	
<input type="checkbox"/>		035 (5) Committee Reappointments	manager	08/02/13	181 KB	
<input type="checkbox"/>		040 (9) Proposed Vote Anderson Land, Right of First Refusal	manager	08/02/13	37 KB	
<input type="checkbox"/>		050 (10) Simeone Caouette Land Conservation Restriction	manager	08/02/13	145 KB	
<input type="checkbox"/>		060 (11) Financial Oversight for Regionalization	manager	08/02/13	21 KB	
<input type="checkbox"/>		070 (12) Selectmen's Minutes, July 8, 2013	manager	08/02/13	87 KB	
<input type="checkbox"/>		080 (13) First Amendment, Peter Pippas Site Plan #05.06.13-443	manager	08/02/13	75 KB	

<input type="checkbox"/>		090 (14) Amendment of Regulatory Agreement, 36 Ellsworth Village 	manager	08/02/13	211 KB	   
<input type="checkbox"/>		110 (15) One Day Liquor License, NARA Park 	manager	08/02/13	52 KB	    
<input type="checkbox"/>		120 (16) One Day Liquor License, NARA Park 	manager	08/02/13	66 KB	    
<input type="checkbox"/>		130 (17) Disposal of Obsolete Materials, Memorial Library 	manager	08/02/13	13 KB	    

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