

**ABSTRACT OF THE SPECIAL TOWN MEETING HELD
TUESDAY, JUNE 23, 2009, 7:00 P.M.
ACTON-BOXBOROUGH REGIONAL HIGH SCHOOL AUDITORIUM
NUMBER OF REGISTERED VOTERS ATTENDING SPECIAL TOWN MEETING
JUNE 23, 2009 - 416**

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The Moderator, Mr. Mackenzie, called the Special Town Meeting to order on Tuesday, June 23, 2009, at 7:05 PM.

Mr. Mackenzie introduced the Chairman of the Board of Selectmen, Paulina Knibbe, who then introduced the members of the Board of Selectmen, Town Manager, Town Counsel, and the Town Clerk.

The Moderator introduced Herman Kabakoff, Chair of the Finance Committee, who then introduced the members of the committee.

Mr. Mackenzie introduced Mr. Ned Perry, Moderator of the Town of Concord, who attended the meeting to observe.

Mr. MacKenzie gave an overview of the process of Town Meeting. He then explained some basic rules and parliamentary procedure of the Town Meeting as found in the back of the warrant.

Debate time limit would remain as was for the Annual Town Meeting which was up to 12 minutes; Pro and Con argument up to 2 min to present argument; Amendments up to 5 minutes to back amendment; Time will be displayed on the screen. Questions will be taken at separate microphones. One question per person, in one part, not in many parts. Answers to question should be directed to a particular Board or Committee or person.

The Moderator explained that motions will be displayed on the screen for the audience as it has been in the past. He explained to Town Meeting that they would be voting on the motions that are read, not the articles as written in the warrant.

The Moderator thanked Mr. Dore’ Hunter, Deputy Moderator, for all his help in preparation for the meeting.

Mr. MacKenzie explained how the CONSENT CALENDAR is voted and proceeded to read the articles on the CONSENT CALENDAR: If a consent article is held, it would be taken up after the completion of the remainder of the consent articles.

Consent Calendar Articles and Motions

Article 6 Amend Zoning Bylaw – Definition of Manufacturing

Move that the Town adopt the zoning bylaw amendments as set forth in the Article.

Article 7 Amend Town Charter – Commission on Disabilities

Move that the Town adopt the Charter amendments as set forth in the Article.

Article 8 Amend Town Bylaws – Corrections and Clarifications

Move that the Town adopt the general bylaw amendments as set forth in the Article.

Article 9 Accept Sidewalk Easement – 442 Massachusetts Avenue

Move that the Town authorize the acquisition of the easement as set forth in the Article.

Article 10 Accept Land Gift – Conant Street

Move that the Town accept the gift of land as set forth in the Article.

Article 11 Transfer of Funds for Overlay Deficits

Move that the Town transfer \$220,000 from Overlay Surplus for the purpose of funding overlay deficits.

CONSENT MOTION: Ms. Knibbe moves that the Town take up the six articles in the Consent Calendar identified on page 3 of the Warrant: Articles 6, 7, 8, 9, 10, and 11

Articles 10 and 11 held from consent.

Remaining consent articles 6, 7, 8 and 9

MOTION CARRIES UNANIMOUSLY

**ARTICLE 1 BORROWING AUTHORIZATION – TUTTLE-FLINT
(Two-thirds vote) SEWER DISTRICT EXTENSION**

To see if the Town will raise and appropriate, appropriate from available funds, or borrow a sum of money to be expended by the Town Manager for the purpose of financing the planning, design, and construction of sewers and related infrastructure for the Tuttle-Flint Extension of the Middle Fort Pond Brook Sewer District including without limitation, all costs and any related expenses thereof, as defined in Section 1 of Chapter 29C of the General Laws; or take any other action relative thereto.

MOTION: Mrs. Rosenzweig moves that the Town appropriate \$1,707,010 for the purpose of financing the planning, design and construction of sewers and related infrastructure for the Tuttle-Flint Extension of the Middle Fort Pond Brook Sewer District, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$1,707,010 and issue bonds or notes therefor under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws; that the Treasurer with the approval of the Board of Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement

and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Town Manager is authorized to enter into a Project Regulatory Agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other actions necessary to carry out the project.

Motion to Amend: Mr. Margolis moves to amend the motion by inserting the phrase “, except that Tuttle Drive and Torrington Lane shall be excluded from such Extension,” after the words “Sewer District.”

Motion to amend Declared lost by moderator

2/3 vote to pass

**Original motion Teller count Favor – 191 Opposed - 162
ORIGINAL MOTION LOST**

**ARTICLE 2 AMEND ZONING BYLAW – CHILD CARE FACILITIES
(Two-thirds vote) IN RESIDENTIAL DISTRICTS**

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

1. In Section 5 – Dimensional Regulations, delete subsection 5.3.9 and replace it with a new subsection 5.3.9 as follows:

5.3.9 Child Care Facilities in Residential Zoning Districts - In addition to the standards set forth in the Table of Standard Dimensional Regulations, the following standards shall apply to Child Care Facilities located in Residential Zoning Districts:

	R-2	R-4	R-8 & R-8/4	R-10 & R-10/8	R-A & R-AA	VR
Minimum OPEN SPACE not including outdoor play areas	35%	35%	35%	35%	35%	35%
Maximum FLOOR AREA RATIO	0.10	0.07	0.04	0.03	0.20	0.17
Maximum NET FLOOR AREA	2500 sq. ft.	3500 sq. ft.	5000 sq. ft.	5000 sq. ft.	5000 sq. ft.	2500 sq. ft.

[Note: Subsection 5.3.9 currently reads as follows:

5.3.9 Child Care Facilities in Residential Districts – In addition to the standards set forth in the Table of Standard Dimensional Regulations, the following standards shall apply to child care facilities located in Residential Districts:

<i>Minimum OPEN SPACE not including outdoor play areas</i>	<i>- 35 percent;</i>
<i>Maximum FLOOR AREA RATIO</i>	<i>- 0.10;</i>
<i>Maximum NET FLOOR AREA</i>	<i>- 1000 square feet.]</i>

2. In Section 6.3 – Minimum Parking Space Requirements by USE, add a footnote (1) to section 6.3.1.5 – Child Care Facility, and place the footnote at the bottom of the table after section

6.3.1.17 as follows:

- (1) The number of parking spaces for a Child Care Facility in a Residential Zoning District shall not exceed the minimum requirement.

, or take any other action relative thereto.

MOTION: Mr. Niemyski moves that the Town adopt the zoning bylaw amendments as set forth in the Article.

**MOTION CARRIES
DECLARED 2/3 BY MODERATOR***

*TOWN OF ACTON HAS EXCEPTED MGL CH 39 SEC 15 AT ITS ANNUAL TOWN MEETING APRIL 2001,
ARTICLE 43 AND THE AMENDED BYLAW 5A WAS APPROVED BY THE ATTORNEY GENERAL ON AUG. 6, 2001.
(THE TOWN MEETING MODERATOR IS NOT REQUIRED TO COUNT A 2/3 REQUIRED VOTE.)

ARTICLE 3 RESOLUTION – SOUTH ACTON COMMUTER RAIL STATION
(Majority vote)

WHEREAS, the MBTA is making improvements to the Fitchburg Commuter Rail line to improve service, including reconstructing the South Acton Train Station; and,

WHEREAS, the Acton Board of Selectmen appointed the South Acton Train Station Advisory Committee to review the proposed Station changes, solicit public comment and make recommendations to the Board; and,

WHEREAS, the Advisory Committee advised the Board of Selectmen that the MBTA's proposed design for changes to the South Acton Station: will create an unsightly system of ramps that are out of character with the Historic Nature of South Acton; will create a Station that will limit accessibility to the disabled; is generally unfriendly to pedestrian and bike riders; cuts off pedestrian access from the South side of the tracks; and will lengthen the commuting time of all MBTA patrons using the station.

NOW THEREFORE, BE IT RESOLVED, as follows:

1. Acton Town Meeting supports the alternative design for the Station reconstruction as presented at the Meeting; and,
2. Acton Town Meeting requests that the Board of Selectmen take every action the Board considers appropriate to have the MBTA revise its design plans for the South Acton Station to have a Station that respects the Historic Nature and Integrity of South Acton and improves the access for all patrons of the MBTA.

MOTION: Mr. Berry moves that the Town adopt the non-binding Resolution as set forth in the article, except that the following phrase replace the last two paragraphs numbered 1 and 2 in their entirety: "Acton Town Meeting requests that the Board of Selectmen take every action the Board considers appropriate to have the MBTA revise its design plans for the South Acton Station in a way that promotes a safe and secure environment, ensures south-side access, improves access for all patrons of the MBTA, and respects the historic nature and integrity of South Acton, as illustrated in the South Acton Train Station Advisory Committee's design study."

MOTION CARRIES

ARTICLE 4 **HOME RULE PETITION – LEASE OF TOWN FACILITIES FOR
(Majority vote) RENEWABLE OR ALTERNATIVE ENERGY**

To see if the Town will vote to petition the General Court for an Act authorizing the Board of Selectmen to lease, for a term of up to 25 years, municipal land, buildings and facilities for the purpose of installing renewable or alternative energy facilities to defray the cost of energy borne by taxation, in substantially the form set forth below, or take any other action relative thereto:

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Notwithstanding any general or special law, rule or regulation to the contrary, the Town of Acton is hereby authorized to lease Town-owned land, buildings or parts thereof, and facilities for a term of not more than 25 years, for the purpose of installing and operating solar, renewable or alternative energy facilities to defray the cost of energy borne by taxation, and to enter long-term power purchase agreements and utility easements in conjunction with and of even term with such leases, on such terms and conditions as the Board of Selectmen may determine.

Section 2. Notwithstanding any general or special law, rule or regulation to the contrary, the Board of Selectmen is authorized to issue a request for proposals for such purposes, to determine the terms and conditions of such request, to accept any proposal or negotiate changes in any proposal, or to reject all proposals, as it determines to be in the best interests of the Town, and to take all other actions as may be necessary or desirable to carry out such project or projects.

Section 3. This act shall take effect upon its passage.

MOTION: Ms. Knibbe moves that the Town take no action.

MOTION CARRIES UNANIMOUSLY

ARTICLE 5 **USE OF TOWN FACILITIES FOR SOLAR, RENEWABLE OR
(Two-thirds vote) ALTERNATIVE ENERGY PROJECTS**

To see if the Town will vote to authorize the Board of Selectmen to enter into any leases, licenses, easements, and/or other agreements allowing the use, for a term allowed by law, on such terms and conditions as the Board of Selectmen may determine, of any Town-owned lands, buildings, facilities, or portions thereof, for the purpose of installing and operating solar, renewable or alternative energy facilities to defray the cost of energy borne by taxation, and to enter long-term power purchase agreements, energy management services agreements, utility easements and similar instruments in conjunction therewith and in furtherance thereof, all on such terms and conditions as the Board of Selectmen may determine, or take any other action relative thereto.

MOTION: Ms. Knibbe moves that the Town authorize the Town Manager, subject to the approval of the Board of Selectmen with respect to municipal buildings, and subject to the approval of the School Committee with respect to school buildings, to enter into any leases, licenses, easements, and/or other agreements allowing the use for up to 25 years, on such terms and conditions as the

Town Manager may determine, of any Town-owned lands, buildings, facilities, or portions thereof, for the purpose of installing and operating solar, renewable or alternative energy facilities to defray the cost of energy borne by taxation, and to enter long-term power purchase agreements, energy management services agreements, utility easements and similar instruments in conjunction therewith and in furtherance thereof.

Motion to amend: Ms Michelman moves to amend the motion by removing “renewable or alternative” from the motion.

AMENDMENT TO MOTION CARRIES

**AMENDED MOTION CARRIES
DECLARED 2/3 BY MODERATOR***

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ARTICLE 6 * AMEND ZONING BYLAW – DEFINITION OF MANUFACTURING
(Two-thirds vote)

To see if the Town will vote to amend the zoning bylaw, section 3.6.3 – Industrial Uses Definition for Manufacturing, by inserting after “... services related to the environment;” the following new phrase:

“development and manufacturing of renewable energy or alternative energy (RE/AE) equipment and systems;”

[Note: Section 3.6.3 currently reads as follows:

3.6.3 Manufacturing – A manufacturing facility, such as a printing or publishing plant; manufacturing of building systems and components; fabrication and assembly of electronic components, precision instruments, or other high technology products; manufacturing of metal products or office supplies; software or hardware development or manufacturing; research or testing of new and emerging technologies and technological devices; establishments engaged in services related to the environment; or similar USES and activities; including office, administrative, laboratory, and support facilities related to the foregoing; but excluding scientific USE as defined in Section 3.6.4. All operations shall confine disturbing smoke, fumes, dust, noise, and other emissions within the premises. No research or testing shall be conducted outside of a BUILDING. In the KC District, the maximum NET FLOOR AREA of an establishment that is classified as a Manufacturing USE shall not exceed 10,000 square feet.]

, or take any other action relative thereto.

MOTION: Mr. Niemyski moves that the Town adopt the zoning bylaw amendments as set forth in the Article.

CONSENT MOTION CARRIES UNANIMOUSLY

ARTICLE 7 * AMEND TOWN CHARTER – COMMISSION ON DISABILITIES
(Two-thirds vote)

To see if the Town, pursuant to Article 8-3(b) of the Acton Town Charter, will vote to amend section 4-2 of the Town Charter by reducing the number of members of the Commission on Disabilities from nine (9) to five (5) and by creating two (2) positions for associate members of the Commission on Disabilities each with a length of term of three (3) years, or take any other action relative thereto.

MOTION: Ms. Friedrichs moves that the Town adopt the Charter amendments as set forth in the Article.

CONSENT MOTION CARRIES UNANIMOUSLY

**ARTICLE 8 * AMEND TOWN BYLAWS – CORRECTIONS AND
(Majority vote) CLARIFICATIONS**

To see if the Town will vote to amend the General Bylaws of the Town as set forth below, or take any other action relative thereto:

1. In Chapter B, renumber the section titled “Commission on Disabilities” as B23.
2. In Chapter N, Section N3, delete Subsection 3.1 and replace it with a new Subsection 3.1 as follows:

3.1 Within seven (7) days of receipt of an application for a demolition permit for a significant building the Building Commissioner shall forward a copy thereof to the Commission. The Building Commissioner shall also notify the Commission (by email or similarly expedient means) when such a permit has been sent to the Commission for consideration No demolition permit shall be issued at that time.

3. In Chapter N, Section N3, delete Subsection 3.2 and replace it with a new Subsection 3.2 as follows:

3.2 Within sixty-five (65) days of receipt of the application from the Building Commissioner the Commission shall conduct a public hearing and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper at least fourteen (14) days before said hearing and also, within fourteen (14) days of said hearing, mail a copy of said notice to the applicant.

MOTION: Mr. Gowing moves that the Town adopt the general bylaw amendments as set forth in the Article.

CONSENT MOTION CARRIES UNANIMOUSLY

**ARTICLE 9* ACCEPT SIDEWALK EASEMENT – 442 MASSACHUSETTS AVENUE
(Two-thirds vote)**

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise and to accept a deed of easement interest for a sidewalk along Massachusetts Avenue (Route 111) for all purposes for which streets, sidewalks and ways are now or hereafter used in the Town, on such terms and conditions as the Selectmen may determine and in a final location as the Selectmen may determine, on, across, over, and/or under the land at 442 Massachusetts Avenue (Town Atlas Map F-2 Parcel 120), n/f of 442 Massachusetts Avenue, LLC of 69 Great Road, Acton, MA 01720; and further see if the Town will raise, appropriate, transfer from available funds or accept gifts for this purpose, or take any other action relative thereto

MOTION: Ms. Knibbe moves that the Town authorize the acquisition of the easement as set forth in the Article.

CONSENT MOTION CARRIES UNANIMOUSLY

ARTICLE 10 * ACCEPT LAND GIFT – CONANT STREET
(Two-thirds vote)

To see if the Town will vote to authorize the Board of Selectmen to acquire on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise and to accept the deed of a fee simple interest in a certain parcel of land on Conant Street shown as Lot 4 containing 41,079 square feet, more or less, on a plan entitled “Plan of Land, Main Street & Conant Street, Acton, Massachusetts, Owned By: Colonial Path, LLC, P.O. Box 2170, Acton, Massachusetts 01720” dated: August 28, 2007, scale: 1”=40 prepared by Foresite Engineering, 16 Gleasondale Road, Suite 1-1, Stow, Massachusetts 01775, recorded at the South District Registry of Deeds as Plan 986 of 2007 and shown on Town Atlas Map I-2 as Parcel 17, for general municipal purposes, and further to see if the Town will raise, appropriate, transfer from available funds, or accept gifts for this purpose, or take any other action relative thereto.

MOTION: Mr. Gowing moves that the Town accept the gift of land as set forth in the Article.

HELD FROM CONSENT

MOTION CARRIES UNANIMOUSLY

ARTICLE 11 * TRANSFER OF FUNDS FOR OVERLAY DEFICITS
(Majority vote)

To see if the Town will vote to transfer from Overlay Surplus a sum of money to fund any overlay deficits in fiscal year 2009 as provided in Massachusetts General Laws, Chapter 59, Section 25, or take any other action relative thereto.

MOTION: Ms. Knibbe moves that the Town transfer \$220,000 from Overlay Surplus for the purpose of funding overlay deficits.

HELD FROM CONSENT

MOTION CARRIES UNANIMOUSLY