

Town of Acton

Special Town Meeting Warrant



Wednesday, November 12, 2014

**The Special Town Meeting will convene at 7:00 PM in the
Acton-Boxborough Regional High School Auditorium
36 Charter Road**

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* Article is on Consent Calendar

Article submitted by Citizens' Petition

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Free Transportation to Town Meeting

Don't miss Town Meeting because you can't get a ride!



The Town of Acton is offering free door-to-door van rides to the Special Town Meeting. The Town Meeting starts at 7 PM.

The MinuteVan Dial-A-Ride will have a driver available to provide rides from 6:15 PM to 10:30 PM for each night of Town Meeting.

The Dial-A-Ride dispatch service will be open until 4:00 PM on the day of each meeting for anyone that wants to book a ride to/from Town Meeting that night. They will be able to book a reservation with the Dispatcher at (978) 844-6809.

The service will run even if there are no reservations, as we will take walk-ons from Town Meeting that would like a trip home. There will be no charge to passengers for any of these Town Meeting trips.

When the van is not in use from 6:15 PM to 10:30 PM, it will be parked in a visible location in the Acton-Boxborough High School Parking Lot where Town Meeting is being held. The van's engine will not idle; interested riders may approach the vehicle at any time during the evening and the driver will give them a ride.

MinuteVan Dial-A-Ride is a unique transportation service offered by the Town of Acton. It is available to all citizens Monday through Friday, except holidays, for rides around town and to nearby locations. Hours of operation are 8 AM - 11 AM and 1:15 PM - 6:15 PM.

Trips within Acton cost \$2/trip, \$1/trip for seniors and disabled.

Out-of-town trips (within 3.5 mile radius of Acton Town Hall) are \$4/trip, \$1.50/trip for seniors/disabled. Locations served include: West Concord Center, Emerson Hospital, Maynard Center, Skating Rink and Food Pantry in Boxborough, and more. Policies may be reviewed on-line at www.minutevan.net.

Board of Selectmen's Message

This Special Town Meeting Warrant is sent to all the households in the Town of Acton to inform the citizens of important decisions to be made for the town. Acton has an Open Town Meeting form of municipal government. The Town Meeting serves as the legislative body. This warrant contains proposals for the Town to vote on. The proposals are called Warrant Articles. Please read through this Warrant thoroughly. Any inquiries you may have in the days ahead of the meeting may be answered by contacting the person listed at the end of the article.

The Special Town Meeting will be held on Wednesday, November 12 at 7:00 PM in the Acton-Boxborough Regional High School Auditorium. The Special Town Meeting will be led by our Town Moderator, Don MacKenzie. He will explain the Town Meeting process. Articles are presented, and Town Meeting attendees may ask questions, ask for clarifications, and offer their opinions on the article, for and against. The Moderator follows Town Meeting procedures, and keeps the debate moving in a fair, orderly, respectful, and civil fashion.

You must be a registered voter in the Town of Acton to vote, but all members of the community are welcome to attend.

At times, articles have been passed or defeated by only one vote. Truly, at Town Meeting every vote counts.

Please take the time to review this important document, and attend the Special Town Meeting.

Mike Gowing, Chair
Katie Green, Vice-Chair
Peter Berry, Clerk
Janet K. Adachi
Franny Osman

Board of Selectmen

Consent Calendar

In an effort to streamline Town Meeting, the Board of Selectmen and Town Moderator use the concept of a Consent Calendar. The use of Consent speeds the passage of articles which the Selectmen feel should generate no controversy and can be properly voted without debate. Its purpose is to allow motions under these articles to be acted upon as units and to be passed without debate.

When the Consent motion is read, the Moderator will call out the article numbers one-by-one.

Articles on Consent are distinguished from other articles by the asterisk (*) notation following each article number in the index above, as well as in the title of each article.

If **two or more** voters object to any particular Article being included in the Consent Calendar, they should say the word “**hold**” in a loud voice when the number is called. The Article will then be removed from the Consent Calendar, to be debated and voted in the usual manner, **immediately following** the vote on the Consent motion.

After the calling of the individual items in each Consent Calendar, the Moderator will ask that all remaining articles be passed **as a unit** by the voters.

Please carefully review the articles and motions. Summaries are also included with each article printed in this Warrant. Motions for consent articles are included under the text of each article.

If you have any questions about the Consent articles, motions or procedure, please feel free to contact the official listed in the summary of the article or to contact the Town Manager’s Office, by e-mail at manager@acton-ma.gov or by telephone at (978) 929-6611, before Town Meeting.

Donald MacKenzie
Town Moderator

“I served with General Washington in the Legislature of Virginia before the Revolution and, during it, with Dr. Franklin in Congress. I never heard either of them speak ten minutes at a time, nor to any but the main point which was to decide the question. They laid their shoulders to the great points, knowing that the little ones would follow of themselves.”

– Thomas Jefferson

Special Town Meeting Warrant



*Town of Acton
Commonwealth of Massachusetts, ss.*

To either of the Constables of the Town of Acton, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the legal voters of said Town of Acton, qualified to vote at Town Meetings for the transaction of Town affairs, to meet at the Acton-Boxborough Regional High School Auditorium in said Acton on **Wednesday, November 12 at 7:00 PM**, then and there to act on the following articles.

One or more of the following symbols may appear following an Article number:

*	This article is on the Consent Calendar
#	This article was submitted by Citizens' Petition

One or more of the following recommendations may appear at the end of an Article's summary:

Recommended	This board voted to <u>recommend</u> passage by Town Meeting.
Not Recommended	This board voted to <u>not recommend</u> passage by Town Meeting.
Deferred	A recommendation will be made by this board when the Article is considered at Town Meeting.
No Recommendation	This board voted to make no specific recommendation to Town Meeting.

Article 1 # Resolution of the Town of Acton Related to the
(Majority vote) **Operation and Funding of the Acton Nursing Service**

Whereas, the Acton Nursing Service has been part of the Town’s municipal government since 1923.

Whereas, the Acton Nursing Service has a distinguished record of providing highly professional, compassionate and sustained care recognized for its excellence, including being chosen in 2013 as one of the top 500 home care providers in the nation.

Whereas, the operation of the Acton Nursing Service within Town Hall enhances the availability of the state-mandated public health services.

Whereas, in addition to the mandated public-health services the Acton Nursing Service provides a full range of home care services including skilled nursing, home health care assistance, medical social services, and physical, occupational and speech therapy.

Whereas, the demographics of the Acton population indicate a growing number of older residents, many living alone, who are more likely to need home care.

Whereas, the national and state healthcare systems are undergoing unpredictable changes which are likely to adversely affect the financial viability of those healthcare providers who rely solely on revenue from insurance reimbursements and donations.

Whereas, the trend is to limit hospital stay and to rely more on home care.

Whereas, continuing to maintain full local support and control of the Acton Nursing Service assures that it can provide care for all residents regardless of ability to pay, and that it can coordinate closely with other Town departments, especially Fire and Police.

Whereas, re-creating the Acton Nursing Service would be extremely difficult if not impossible should its present operation be terminated or transferred to an outside organization.

Now, therefore be it resolved that :

1. the Acton Board of Selectmen direct the Town Manager to provide for the continuation of the operation of the Acton Nursing Service as part of the town municipal government.
2. the Acton Nursing Service continue to operate as a CMS certified home care provider.
3. the cost of operating the Acton Nursing Service be included in the Town of Acton yearly municipal budget starting with Fiscal Year 2016, and the Nursing Service Enterprise Fund be terminated at the end of Fiscal Year 2015.
4. the Town of Acton Finance Department set up an account to accept donations designated for the Acton Nursing Service.
5. the Board of Selectmen direct the Town Manager to develop and implement a business plan for the Acton Nursing Service.

————— **Summary** —————

This Resolution is being offered to allow this Special Town Meeting to reaffirm the voters’ support of the Acton Nursing Service (ANS). For the last three years, voters at the Annual Town Meeting have overwhelmingly approved appropriations needed to continue to operate this important service, unique to Acton, and now in danger of being terminated because “it is losing money”. Although this service ranks among the best and most important of the Town services, and the subsidy is relatively small compared to the total town revenue, closing the ANS has become a current issue, unknown to most Acton residents.

The ANS receives reimbursements for its service if those it serves have the appropriate insurance. For the last several years, the healthcare system has been undergoing substantial changes which have reduced payments to providers and generally made “making a profit” much more difficult even for organizations structured for that purpose, which the ANS is not – it is focused on providing the best possible care.

The home care business has become extremely competitive, with many providers identifying and competing for those “clients” who are likely to produce a profit, or at least break-even, and avoid cases which are clearly money-losers. The ANS does not do any “marketing” and therefore has been at a great disadvantage, financially, in this environment. This was recognized more than two years ago, with the recommendation that at the very least, the municipal administration should make sure that Acton residents know that ANS exists, and even more importantly, that they know that they – nobody else – have the right to decide which home care service they want when the need arises.

This recommendation has not been implemented, as confirmed at the September 22, 2014 meeting of the Board of Selectmen. Even simple steps, such as giving the ANS some visibility on the Town website have not been taken. Not surprisingly, the ANS financial situation has deteriorated, requiring a supplemental subsidy for the current fiscal year, per another Article for this Special Town Meeting. The recommendation is still valid, and implementing it would reverse the ANS financial problems. First, however, the ANS has to be kept under local control and its finances stabilized by including the cost of its operation in the yearly municipal budget – that is the purpose of this Resolution.

The consultant hired by the Town to evaluate the ANS noted that although there are many home care providers in this area now, most of them will probably be out of business in a year or two. When that happens, the importance and value of the Acton Nursing Service will increase for all Acton taxpayers.

Direct inquiries to: Charlie Kadlec: ANS.2014.STM@stolab.com / (978) 263-4361

Selectman assigned: Katie Green: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Recommended	Not Recommended

Article 2 **Nursing Service Enterprise Fund**
(Majority vote) **Supplemental Appropriation to Continue to Operate**

To see if the Town will vote to raise and appropriate, appropriate from available funds, and/or transfer to the Nursing Service Enterprise Fund an amount of money for Fiscal Year 2015, above the amount appropriated under Article 7 at the 2014 Annual Town Meeting, to continue to operate the Acton Nursing Service, or take any other action relative thereto.

————— **Summary** —————

The Nursing Service operates as a Medicare Certified Home Care provider. Annually its budget is balanced between expenses for providing home care with reimbursements from Medicare and Third Party Insurance Providers, augmented by the use of the Nursing Service Enterprise Fund balance. Recent changes required by the Affordable Care Act have severely affected reimbursement rates and the referral base of the Nursing Service. These changes have contributed to a revenue shortfall in FY 15.

This Article will appropriate the necessary funds to ensure that the Nursing Service will continue to operate as a Medicare Certified Home Care for the remainder of FY 15. The Nursing Service has been recognized by Home Care Elite as in the top 25% of home care providers in 2009 and 2011, one of the top 500 in 2012 and 2013, and one of the top 100 in 2014. Approval of this article will continue the quality care for Acton patients through this fiscal year. Budget planning for the Nursing Service in FY 16 will take into account the vote on this Article and be presented at the 2015 Annual Town Meeting.

Direct inquiries to: Doug Halley, Health Director: dhalley@acton-ma.gov / (978) 929-6632

Selectman assigned: Katie Green: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Recommended	Not Recommended

Article 3
(Majority vote)

**Nursing Service Enterprise Fund
Supplemental Appropriation to Implement Health Navigator and
Wind Down Nursing Service**

To see if the Town will vote to raise and appropriate, appropriate from available funds, and/or transfer to the Nursing Service Enterprise Fund an amount of money for Fiscal Year 2015, above the amount appropriated under Article 7 at the 2014 Annual Town Meeting, to implement a Health Navigator program, to continue public health nursing services, and to wind down the other operations of the Acton Nursing Service, or take any other action relative thereto.

————— **Summary** —————

This Article will be considered if the previous Article fails (or is passed over) or will be moved to be passed over if the previous Article passes. This Article will wind down the Medicare Certified Home Care operations of the Acton Nursing Service. During that wind-down period, patients will either be given care until discharged, or will transition to Parmenter Community Health Care (Parmenter) or other qualified service. In addition, Nursing Service employees providing the home care services would be provided an opportunity to transition to Parmenter or other qualified service. The Article will appropriate necessary funds to cover expenses related to the transition of patients and employees.

Part of the services currently provided by the Nursing Service is to act as a health navigator for its patients and Acton residents to ensure that they are connected to appropriate health services. With the winding down of the Nursing Service’s Medicare Certified Home Care these health navigator services would also be lost. This Article will appropriate the necessary funds for FY 15 to continue Health Navigator services to the Senior population and expand Health Navigator services to all ages.

The changes implemented by the Affordable Care Act are making it more difficult for some of Acton’s residents to access health care. The Health Navigator program would assist residents in bridging the gap in much the same way as the Community Services Coordinator, Veterans’ Service Officer and the Council on Aging Outreach Coordinator assists in bridging the social gap needs of the residents.

The Public Health Nursing services, which were dependent on the administrative assistant support provided by the Medicare Certified services, will be supplemented with additional administrative assistant hours to ensure Monday through Friday coverage but will otherwise continue as approved at the 2014 Annual Town Meeting. This Article will appropriate necessary funds for FY 15 to continue the level service of Public Health Nursing.

Direct inquiries to: Doug Halley, Health Director: dhalley@acton-ma.gov / (978) 929-6632

Selectman assigned: Katie Green: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Deferred	Not Recommended

Article 4 **Nursing Service Enterprise Fund**
(Majority vote) **Supplemental Appropriation to Wind Down Nursing Service**

To see if the Town will vote to raise and appropriate, appropriate from available funds, and/or transfer to the Nursing Service Enterprise Fund an amount of money from Fiscal Year 2015, above the amount appropriated under Article 7 at the 2014 Annual Town Meeting, to continue public health nursing services and to wind down the other operations of the Acton Nursing Service by a date certain to be determined by Town Meeting, or take any other action relative thereto.

————— **Summary** —————

This Article will be considered if the previous two Articles fail (or are passed over) or will be moved to be passed over if either of the previous two Articles passes. This Article will wind down the Medicare Certified Home Care operations and the health navigator services of the Acton Nursing Service. During that wind down period patients will either be given care until discharged or will transition to Parmenter Community Health Care (Parmenter) or other qualified service, no later than February 1, 2015. In addition, Nursing Service employees providing the home care services would be provided an opportunity to transition to Parmenter or other qualified service. The Article will appropriate necessary funds to cover expenses related to the transition of patients and employees.

The Public Health Nursing services, which were dependent on the administrative assistant support provided by the Medicare Certified services, will be supplemented with additional administrative assistant hours to ensure Monday through Friday coverage but will otherwise continue as approved at the 2014 Annual Town Meeting. This Article will appropriate necessary funds for FY 15 to continue the level service of Public Health Nursing.

Direct inquiries to: Doug Halley, Health Director: dhalley@acton-ma.gov / (978) 929-6632

Selectman assigned: Katie Green: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Not Recommended	Recommended

Article 5 **Nursing Service Enterprise Fund**
(Majority vote) **Authorization to Revoke**

To see if the Town will vote, effective as of the close of Fiscal Year 2015, to revoke the provisions of Chapter 44, Section 53F½ of the Massachusetts General Laws as to the Nursing Service Enterprise Fund; to close the Nursing Service Enterprise Fund balance to the General Fund and transfer any assets, debts and long-term liabilities of the Nursing Service Enterprise Fund to the General Fund; and to authorize the Town Manager and the Board of Selectmen to take all steps necessary to combine, reorganize, or discontinue any remaining operations of the Acton Nursing Service, or take any other action relative thereto.

————— **Summary** —————

This Article is required if the Town votes not to continue to fund the Nursing Service as a Medicare Certified Agency (that is, if Article 2 fails, or if Article 3 or 4 passes). The Nursing Service Enterprise Fund’s purpose is to receive reimbursements for care provided and to pay for the services providing that care. If Town Meeting votes to wind down those services within FY 15, this Enterprise Fund will no longer be required as of the end of the fiscal year.

This Article will also be considered if the Town votes to continue to fund the Nursing Service as a Medicare Certified Agency (that is, if Article 2 passes). Under the current provisions of the Affordable Care Act, the Nursing Service is unable to function as a self supporting enterprise. However, those same provisions delineate the need of nursing services to bridge the gap for residents seeking to access quality home health care services. Revocation of the Enterprise Fund (if Article 5 passes) combined with the continued funding of the Medicare Certified Agency (if Article 2 passes) would transition the funding of these nursing services from the Enterprise Fund to the General Fund. This transition would recognize that the Nursing Service is needed, but it can no longer operate as a self-supporting enterprise fund.

Direct inquiries to: Doug Halley, Health Director: dhalley@acton-ma.gov / (978) 929-6632

Selectman assigned: Katie Green: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Recommended	Not Recommended

Article 6 **Home Rule Petition – Exempt Police Force from Provisions of the**
(Majority vote) **Civil Service Law**

To see if the Town will vote to (a) rescind the acceptance of Chapter 212 of the Acts of 1954, entitled “An Act Placing the Positions of the Regular or Permanent Members of the Police Force of the Town of Acton under the Civil Service Laws” effective upon the enactment of the special legislation referenced below, and (b) authorize the Board of Selectmen to petition the General Court to enact special legislation in substantially the form set forth below to exempt all police patrol officers and superior officers in the Acton Police Department from the provisions of Chapter 31 of the General Laws relative to Civil Service contingent on an affirmative vote under Articles 7 and 8 of this Special Town Meeting Warrant, or take any other action relative thereto.

An Act Exempting Town of Acton Police Patrol Officers and Superior Officers from the Provisions of the Civil Service Law

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 the provisions of any general or special law to the contrary, all positions of police patrol officers and superior officers within the police department in the Town of Acton shall be exempt from the provisions of Chapter 31 of the General Laws.

SECTION 2: Section 1 shall not impair the Civil Service status of any person holding the position of police patrol officer or superior officer in the Town of Acton on the effective date of this act.

SECTION 3: This act shall take effect upon its passage.

————— **Summary** —————

The article asks Town Meeting to vote on items contained in the Memorandum of Agreement with Town of Acton Police Patrol Officers union and Superiors union. Under the provision of Chapter 212 of the Acts of 1954, the Town placed the positions of regular or permanent members of the police force of the Town of Acton under the Civil Service Laws. At a May 17, 1954 Special Town Meeting, the Town voted affirmatively to accept Chapter 212 of The Acts of 1954. This article proposes to rescind that acceptance effective upon the enactment of the above special legislation and authorize the Selectmen to seek the above special legislation exempting the Acton police patrol officers and superior officers from the Civil Service Laws. The adoption of this article is contingent on an affirmative vote under Articles 7 and 8.

Direct inquiries to: Frank Widmayer, Police Chief: fwidmayer@acton-ma.gov / (978) 263-2911

Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**
 Recommended **Recommended**

Article 9 **Amend Zoning Map – Brookside Shops**

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw, Map Number 1, by changing the zoning district designation for Town Atlas parcel F-4/37 (145 to 149 Great Road) from Residence 8 (R-8) to Limited Business (LB), or take any other action relative thereto.

————— **Summary** —————

The property at 145-149 Great Road is the site of Brookside Shops, currently the location of Staples, Trader Joe’s, Talbots, and others. Originally zoned for General Business, the site was rezoned to single-family residential (R-8) in 1990 as part of a comprehensive zoning plan for Great Road. The then-owners of the subject site objected to the rezoning of their property and availed themselves of statutory grandfathering protection devices to freeze the pre-1990 General Business zoning for their property. Brookside Shops was built about ten years ago under these freeze protections in conformance with pre-1990 General Business District zoning requirements.

Today, the freeze protections for the subject property have expired, and the site is subject to R-8 zoning regulations. Severe non-conformity restrictions result from the mismatch between the established commercial use and the residential zoning regulations. This makes it often impossible for the existing businesses to implement changes to their establishments, or to change business establishments in the plaza, without frequent involvement by the Board of Appeals for special permits or variances. This article is intended to acknowledge the commercial nature of the property that now exists.

The General Business District no longer exists in Acton. The proposed LB zoning is consistent with other business properties along Great Road. LB zoning for the site will not eliminate all non-conformities, but will reduce them considerably.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u> Deferred	<u>Finance Committee</u> Deferred	<u>Planning Board</u> Recommended
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Article 10 **Amend Zoning Bylaw – Groundwater Protection District**

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 4.3 – Groundwater Protection District, by amending various sections as follows:

- A. In section 4.3.1 - Purpose, in the first paragraph insert after the phrase “present and future residents of Acton” the following:

“to prevent temporary and permanent contamination of GROUNDWATER and SURFACE WATER,”.

And, insert the words “and quantity” after the “quality” near the end of the first paragraph.

[The first paragraph of section 4.3.1 currently reads:

Purpose – GROUNDWATER is the sole source of drinking water available to the residents, businesses and industries of the Town of Acton. The purpose of the GROUNDWATER Protection

District is to protect the public health, safety, and welfare by protecting the Town's limited present and future drinking water supply, to ensure a sufficient quantity of potable pure drinking water for the present and future residents of Acton, and to limit the adverse effects of the USE and development of land on the quality of the GROUNDWATER and SURFACE WATER resources of the Town of Acton.]

B. In section 4.3.2 - District Boundaries, amend various subsections as follows:

1. In subsection 4.3.2.1 - ZONE 1, in the section title insert “- Well Protection Area –“ after “ZONE 1”.

2. In subsection 4.3.2.2 - ZONE 2, delete the last sentence and replace it with:

“All ZONES 2 have been approved by the Massachusetts Department of Environmental Protection (DEP) as the State approved Zones II, and all ZONES 2 described and referred to herein shall be deemed identical to the DEP approved Zones II.”

[The last sentence of subsection 4.3.2.2 currently reads:

All Zones 2 have been approved by the Massachusetts Department of Environmental Protection (DEP) as the State approved Zones 2.]

3. In subsection 4.3.2.4 – Zone 4, in the 3rd sentence delete the words “lower lying” before the phrase “areas of ZONES 1, 2 and 3”;

and in the last sentence delete the word “possible” before the phrase “contamination of the GROUNDWATER”.

[Section 4.3.2.4 currently reads:

ZONE 4 - The Watershed Protection Area – Consists of the entire TOWN including ZONES 1-3 and separates the TOWN into watershed areas along the existing GROUNDWATER divides. The areas of ZONE 4 outside from the boundaries of ZONES 1, 2 and 3 consist primarily of bedrock, glacial till and small isolated sand and gravel deposits. Water from these areas will eventually recharge into the lower lying areas of ZONES 1, 2 and 3, although at a rather slow rate. Recharge from these areas into ZONES 1, 2 and 3 occurs through movement of GROUNDWATER and SURFACE WATER. The purpose of ZONE 4 is to promote public awareness that all GROUNDWATER areas in the Town are interconnected and to prevent possible contamination of the GROUNDWATER from any source.]

4. In subsection 4.3.2.5 - Boundary Determination, delete the words “as amended” in both occurrences and replace them with the words “as last amended”.

And, delete the last sentence and replace it with:

“Locating the boundary between ZONE 3 and ZONE 4 may be assisted through field investigations conducted by a Certified Professional Soil Scientist (CPSS) certified by the Soil Science Society of America (SSSA), by a soil scientist who is certified as a Professional Member of the Society of Soil Scientists of Southern New England (SSSSNE), by a Certified Professional Geologist (CPG) certified by the American Institute of Professional Geologists (AIPG), or by a Massachusetts Registered Professional Engineer versed in soil identification and classification.”

[The last sentence of subsection 4.3.2.5 currently reads:

Locating the boundary between ZONE 3 and ZONE 4 may be assisted through field investigations conducted by a soil scientist who is certified under qualification class A (advanced qualifications) by the Society of Soil Scientist of Southern New England or by a Professional Engineer versed in soil identification and classification.]

5. In subsection 4.3.2.6 - Split ZONE LOTS, add at the end the phrase “, subject to the provisions set forth in section 4.3.6.5”.

[Subsection 4.3.2.6 currently reads:

Split ZONE LOTS – Notwithstanding any other provisions of this Bylaw, whenever a GROUNDWATER Protection District ZONE boundary line divides a LOT, each portion of the LOT shall comply with the requirements of this Bylaw applicable to its respective ZONE.]

- C. In section 4.3.3 - Definitions, amend various subsections as follows:

1. In the section lead paragraph numbered 4.3.3, insert the word “District” after “GROUNDWATER Protection” so that the paragraph correctly refers to the GROUNDWATER Protection District.

2. Delete subsection 4.3.3.1 – AQUIFER, and replace it with:

4.3.3.1 AQUIFER – A geologic formation composed of FRACTURED BEDROCK, sand or gravel that contains significant amounts of potentially recoverable groundwater.

[Subsection 4.3.3.1 currently reads:

AQUIFER – An area of permeable deposits of rock or soil, containing significant amounts of potentially recoverable water.]

3. Insert a new subsection 4.3.3.5 as follows:

4.3.3.5. FRACTURED BEDROCK – is a geological formation (e.g. crystalline rock, marble, schist) where groundwater flows through cracks and fractures. Flow through fractures is typically relatively fast. FRACTURED BEDROCK is an alternative AQUIFER to STRATIFIED DRIFT AQUIFERS. FRACTURED BEDROCK typically underlies the overlying sand and gravel and glacial till deposits. Recharge to the FRACTURED BEDROCK is typically from these overlying deposits. Although the Town of Acton has not yet utilized FRACTURED BEDROCK AQUIFERS as a source of drinking water, protection of them is vital as GROUNDWATER from a FRACTURED BEDROCK AQUIFER can recharge the overlying sand and gravel deposits and other surface water bodies.

And, renumber the follow subsequent subsections of section 4.3.3 in the proper sequential order.

4. In subsection 4.3.3.5 (as renumbered) - GENERATOR OF HAZARDOUS MATERIALS OR WASTE, delete the unnecessary section references “pursuant to Section 4.3.3.14” and “as defined in Section 4.3.3.7”.

5. Delete subsection 4.3.3.6 (as renumbered) - GROUNDWATER, and replace it with:

4.3.3.7 GROUNDWATER – Water beneath the ground surface in the zone of saturation where every pore space between sediment particles or all open fractures in FRACTURED BEDROCK is saturated with water.

[Subsection 4.3.3.6 currently reads:

GROUNDWATER – Water beneath the ground surface in the zone of saturation where every pore space between rock and soil particles is saturated with water.]

6. In subsection 4.3.3.7 (as renumbered) - HAZARDOUS MATERIAL OR WASTE, delete the phrase “petroleum or derivatives thereof” beginning on the first line, and replace it with “PETROLEUM PRODUCTS, coal, or derivatives thereof”.

7. Insert a new subsection 4.3.3.10 as follows:

4.3.3.10 LEACHABLE WASTES – Waste materials including SOLID WASTE, sludge, agricultural wastes, and composts that are capable of releasing water borne contaminants to the surrounding environment including the AQUIFERS of the Town.

And, renumber the subsequent subsections of section 4.3.3 in the proper sequential order.

8. In subsection 4.3.3.9 (as renumbered) - MAXIMUM GROUNDWATER ELEVATION, third sentence, delete the phrase “as determined by the United States Geological Survey (USGS)” and replace it with “as most recently determined by the United States Geological Survey (USGS)”.

9. Insert a new subsection 4.3.3.12 as follows:

4.3.3.12 PETROLEUM PRODUCT – PETROLEUM PRODUCT means oils of any kind or origin or in any form and includes, but is not limited to, fuel oil; gasoline; diesel fuel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; waste oil; oil refuse; oil mixed with other wastes; crude oils; coal tar emulsions, driveway sealers, or other liquid hydrocarbons regardless of specific gravity. PETROLEUM PRODUCT shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

And, renumber the subsequent subsections of section 4.3.3 in the proper sequential order.

10. Relocate into the proper alphabetical order, and renumber accordingly, the current subsection 4.3.3.10 - UNDISTURBED OPEN SPACE, to be located after subsection 4.3.3.15 (as renumbered) - SURFACE WATER.

11. In subsection 4.3.3.11 (as renumbered) - SOLID WASTE, correct the Code of Massachusetts Regulation reference from 310 C.M.R. 18 to 310 C.M.R. 19.

12. In subsection 4.3.3.12 (as renumbered) - SPECIAL WASTE, correct the Code of Massachusetts Regulation reference from 310 C.M.R. 19.061(6)(c)4 to 310 C.M.R. 19.061(2)(b), and delete the reference in the parentheses at the end of the section.

D. In section 4.3.6 - Other Design and Operation Requirements, amend various subsections as follows:

1. Delete subsection 4.3.6.1 - FILL, and replace it with:

4.3.6.1 FILL – FILL material shall not contain HAZARDOUS MATERIAL OR WASTE, SPECIAL WASTE, SOLID WASTE or LEACHABLE WASTE. This Section shall also apply in ZONE 4.

[Subsection 4.3.6.1 currently reads:

FILL – FILL material shall not contain HAZARDOUS MATERIAL OR WASTE, SPECIAL WASTE, or SOLID WASTE. This Section shall also apply in ZONE 4.]

2. In subsection 4.3.6.2 - Watershed Recharge, delete the 2nd sentence and replace it with:

“Where a Special Permit or Subdivision Approval is required the Special Permit Granting Authority or the Planning Board, or the Zoning Enforcement officer if no Special Permit is required, shall require a hydrologic budget or water balance calculation for the site, showing pre- and post-development conditions, prepared by a Certified Professional Soil Scientist (CPSS) certified by the Soil Science Society of America (SSSA), by a soil scientist who is certified as a Professional Member of the Society of Soil Scientists of Southern New England (SSSSNE), or by a Massachusetts Registered Professional Engineer experienced in hydrogeology.”

[The second sentence of subsection 4.3.6.2 currently reads:

Where a Special Permit or Subdivision Approval is required the Special Permit Granting Authority or the Planning Board shall require a hydrologic budget or water balance calculation for the site, showing pre- and post-development conditions, prepared by a Massachusetts Registered Professional Engineer experienced in hydrogeology.]

3. In subsection 4.3.6.3 - Treatment and Renovation of Runoff, add the following phrase at the end of the last sentence:

“, or by the Zoning Enforcement officer if no Special Permit is required, if he determines the intent of this section is met.”

[The last sentence of subsection 4.3.6.3 currently reads:

Alternate methods of runoff treatment and renovation may be approved by the Special Permit Granting Authority if the Special Permit Granting Authority determines the intent of this Section is met.]

4. In subsection 4.3.6.5 - Location, delete the first sentence and replace it with:

“Where a LOT is divided into two or more protection ZONES, potential pollution sources, such as HAZARDOUS MATERIALS OR WASTE processing, remediation, storage and disposal systems, septic systems, or wastewater treatment plants, shall be located and contained on that portion of the LOT which is in the ZONE farthest away from the public wells.”

[The first sentence of subsection 4.3.6.5 currently reads:

Where a LOT is divided into two or more protection ZONES, potential pollution sources, such as HAZARDOUS MATERIALS OR WASTE processing, storage and disposal systems, septic systems, or wastewater treatment plants, shall be located on that portion of the LOT which is in the ZONE farthest away from the public wells.]

- E. In the lead paragraph of section 4.3.7 - GROUNDWATER Protection District Use Regulations, correct this title by replacing the word “Use” with “USE”.

- F. In Table 4.3.7.2 - USE Regulations within the GROUNDWATER Protection District, amend various lines as follows:

1. Delete lines 6., 7. and 8., and replace them with:

	ZONE 1 Well Protection Area	ZONE 2 Recharge Protection Area	ZONE 3 Aquifer Protection Area
6. Aboveground STORAGE of PETROLEUM PRODUCTS for purposes other than heating the premises on which it is located****	N	N	Y***
7. Underground STORAGE of PETROLEUM PRODUCTS or other HAZARDOUS MATERIALS OR WASTES	N	N	N
8. Underground STORAGE of PETROLEUM PRODUCTS, or other HAZARDOUS MATERIALS OR WASTES associated with residential USE	N	N	N

<i>[Lines 6., 7. and 8. currently read as follows:</i>			
6. STORAGE of petroleum products for purposes other than heating the premises on which it is located	N	N	Y
7. Underground STORAGE of fuel oil, gasoline, or other HAZARDOUS MATERIALS	N	N	N
8. Underground STORAGE of fuel oil, gasoline, or other HAZARDOUS MATERIALS associated with residential USE	N	N	Nj

2. Delete line 13 and replace it with:

	ZONE 1 Well Protection Area	ZONE 2 Recharge Protection Area	ZONE 3 Aquifer Protection Area
13. STORAGE outside of a BUILDING of fertilizers, pesticides, herbicides, deicing chemicals; and STORAGE outside of a BUILDING of LEACHABLE WASTE except as provided in line 14. below	N	N	N
<i>[Line 13. currently reads:</i>			
<i>13. Outdoor STORAGE of fertilizer, animal manure, soil conditioner, pesticide, herbicide and, deicing chemicals</i>	N	N	Y

3. Insert a new line 14. as follows:

	ZONE 1 Well Protection Area	ZONE 2 Recharge Protection Area	ZONE 3 Aquifer Protection Area
14. STORAGE outside of a BUILDING of animal manure, soil conditioner, or compost in aggregate quantities larger than ten (10) cubic yards	N	N	Y

And, renumber the subsequent lines of Table 4.3.7.2 in the proper sequential order.

4. Amend the Notes section at the bottom of Table 4.3.7.2 as follows:

- a. In footnote (*) - delete the errant phrase at the beginning of the second sentence, which reads "Except as indicated in NOTE(***)".
- b. Insert new footnotes (***) and (****) and follows:
 (***) See Hazardous Materials Control Bylaw.

(****) Aboveground storage of quantities greater than 1,320 gallons requires compliance with Federal SPCC regulations (Spill Prevention Control and Countermeasures Plan; 40 C.F.R. part 112)

c. Insert below “gpd Gallons per day” a new line stating “sf Square feet”.

G. Amend section 4.3.8 - Special Permit for the change or extension of nonconforming USES in the Groundwater Protection District, as follows:

1. In subsection 4.3.8.2.a) - Maintain GROUNDWATER Quality, delete the first sentence and replace it with:

“That the change or extension of the USE will not cause the GROUNDWATER quality at the down-gradient property boundary to exceed the maximum contaminant levels established in 314 C.M.R. 22.00, Massachusetts Drinking Water Regulations, to fall below the standards established in 314 C.M.R. 5.00, Massachusetts Ground Water Standards, or where no such standards exist to fall below applicable GROUNDWATER or drinking water standards established by the Acton Water District or the Acton Board of Health.”

[The first sentence of subsection 4.3.2.8.a) currently reads:

That the change or extension of the USE will not cause the GROUNDWATER quality at the down-gradient property boundary to fall below the drinking water standards established by the Acton Water District, or where no such standards exist, below standards established in 314 C.M.R. 6.00, Massachusetts Drinking Water Standards, or by the Acton Board of Health.]

2. Insert a new subsection 4.3.8.2.d) as follows:

d) The Planning Board may impose conditions in the special permit to protect the GROUNDWATER, SURFACE WATER and overall WATER SUPPLY of the Town of Acton, including without limitation conditions to require the placement and periodic sampling and testing of GROUNDWATER monitoring wells or SURFACE WATER at the applicant’s expense around any aboveground or underground storage tank, SOLID or HAZARDOUS WASTE area, or any structure or activity that may adversely affect an AQUIFER ZONE as defined in Section 4.3.2. The Planning Board may require that the placement of wells and/or periodic sampling and testing be paid for by the applicant and conducted by an agent of the Acton Water District.

, or take any other action relative thereto.

————— Summary —————

This Article modifies and updates the Groundwater Protection District provisions of the Zoning Bylaw in order to improve the protections afforded to both the quality and quantity of the drinking water supplied to the residents of the Town. Among other things, new definitions are added for fractured bedrock (a geologic formation with potential water supply use), leachable wastes, and petroleum product; references to State and Federal regulations (CMR and CFR) are updated; regulations on the above- and below-ground storage of petroleum products and hazardous materials, are clarified and refined; regulations on the outdoor storage of pesticides, herbicides, fertilizers, soil conditioners and deicing chemicals are clarified and refined; and a provision is added whereby the Planning Board, when acting as a special permit granting authority for nonconforming uses, can require groundwater monitoring wells.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u> Deferred	<u>Finance Committee</u> Deferred	<u>Planning Board</u> Recommended
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Article 11 Amend Zoning Bylaw – Pharmacy and Bank Drive-Up Window

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw section 3.8.2 (Accessory Uses Permitted in the Office, Business, and Industrial Districts) by deleting subsection 3.8.2.2 and replacing it with the following:

3.8.2.2 Drive-up facilities in a bank or pharmacy subject to the grant of a special permit by the Board of Selectmen and the following requirements and limitations:

- a) Drive-up facilities shall be located only on the side or rear of a BUILDING; not on the front of a BUILDING that faces a street. In a case where a BUILDING has more than one front facing a street the Board of Selectmen may as part of the required special permit grant an exception to this rule.
- b) A pharmacy shall be allowed only one drive-up lane and window for the pharmacy; such drive-up window shall be integrated with or attached to the pharmacy BUILDING, and drive-up window customer service shall only occur from the public access restricted pharmacy area within the store.
- c) Drive-up facilities at pharmacies shall be limited to prescription services for customers.
- d) Drive-up facilities at pharmacies shall not be allowed in the Kelley’s Corner District.

*[Note: Subsection 3.8.2.2 currently reads:
3.8.2.2 Drive-up facilities in a bank.]*

, or take any other action relative thereto.

————— **Summary** —————

Currently, the Zoning Bylaw allows by right in the Business zoning districts drive-up facilities in banks as accessory uses. It does not allow drive-up facilities in pharmacies. This article would provide that drive-up facilities in banks and pharmacies are allowed in the Business Districts, except Kelley’s Corner, by special permit from the Board of Selectmen subject to certain requirements and limitation on location, size, and use.

Adoption of this article will not allow drive-up facilities for banks and pharmacies in the Village Districts. In addition, this article does not allow drive-up facilities for pharmacies in Kelley’s Corner. The Planning Board did not want to introduce new significant modifications to zoning in Kelley’s Corner while the Kelley’s Corner Improvement Initiative is underway. The Kelley’s Corner Improvement Initiative encompasses a review of existing zoning and future proposals for comprehensive zoning changes.

The Zoning Bylaw will continue to prohibit drive-up facilities for all other businesses and restaurants in all zoning districts.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u> Deferred	<u>Finance Committee</u> Deferred	<u>Planning Board</u> Recommended
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Article 12 * Amend Zoning Bylaw – Political Signs

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 7.5 – ACCESSORY USE Regulations, by deleting subsection 7.5.12 (Political SIGNS) and replacing it with a new subsection as follows:

7.5.12 Political SIGNS – In addition to WINDOW SIGNS, SIGNS may be ERECTED on a LOT displaying political messages. Such SIGNS shall be stationary and shall not be illuminated. The height of such SIGNS shall not exceed 4 feet and the DISPLAY AREA of each sign shall not exceed 6 square feet. SIGNS associated with a political event such as elections, primaries, balloting, or voter registration shall be removed within 5 days after the event.

[Note: Subsection 7.5.12 currently reads:

Political SIGNS – In addition to WINDOW SIGNS, SIGNS may be ERECTED on a LOT displaying political messages. Such SIGNS shall be stationary and shall not be illuminated. The height of such SIGNS shall not exceed 4 feet and their DISPLAY AREA shall not exceed 6 square feet. SIGNS associated with a political event such as elections, primaries, balloting, or voter registration shall be removed within 5 days after the event.]

, or take any other action relative thereto.

————— **Motion** —————

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

————— **Summary** —————

This article clarifies the original intent of this section to allow multiple political signs.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u> Recommended	<u>Finance Committee</u> Deferred	<u>Planning Board</u> Recommended
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Article 13 * Amend Zoning Bylaw – Public Acquisition

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 8.8 – Public Acquisition, by deleting Section 8.8 and replacing it with a new subsection as follows:

8.8 Public Acquisition – If the area, FRONTAGE, width or other dimensions of a LOT, parcel or TRACT OF LAND is altered by a taking or acquisition of part of such land by the Town of Acton or the Water Supply District of Acton for public purposes, no such LOT, parcel or TRACT OF LAND nor any existing USE, BUILDING or STRUCTURE located on, or dependent upon the existing area or other dimensions of such LOT, parcel or TRACT OF LAND for compliance with the requirements of this Zoning Bylaw, shall be rendered non-compliant, nonconforming, or more nonconforming solely by reason of such taking or acquisition.

*[Note: Section 8.8 currently reads:
Public Acquisition – If the area, FRONTAGE, width or other dimensions of a LOT, parcel or TRACT OF LAND is decreased by a taking or acquisition of part of such land by the Town of Acton or the Water Supply District of Acton for public purposes, no existing USE, BUILDING or STRUCTURE located on, or dependent upon the existing area or other dimensions of such LOT, parcel or TRACT OF LAND for compliance with the requirements of this Zoning Bylaw, shall be rendered non-complying solely by reason of such taking or acquisition.]*

, or take any other action relative thereto.

————— **Motion** —————

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

————— **Summary** —————

Section 8.8 of the Zoning Bylaw offers certain protections for zoning compliance to land, land uses and structures following a public acquisition or taking. This article clarifies the original intent of this section and extends the protections so that after and as a result of a public acquisition or taking, the affected properties or uses will be deemed to (1) retain their prior status with respect to zoning compliance, (2) retain their prior zoning conformance status, and (3) not have any existing nonconformities increased. A non-compliant property or use constitutes a violation of the Zoning Bylaw. A lawful nonconforming use or property may continue, but any changes or expansions, or increases in nonconformity, are either prohibited or subject to special permits, which may be granted or denied.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u> Recommended	<u>Finance Committee</u> Deferred	<u>Planning Board</u> Recommended
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Article 14 * Amend Zoning Bylaw – Senior Residence

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 9B – Senior Residence, by deleting subsection 9B.12.9.2 (Affordability, Monetary contributions) and replacing it with a new subsection as follows:

9B.12.9.2 Monetary contributions in support of affordable housing made to the Acton Community Housing Program Fund. To be eligible for this alternative, the Planning Board, upon recommendation from the Acton Community Housing Corporation, must determine that there will be an extraordinary benefit or advantage to achieving the Town’s affordable housing objectives as a result of allowing a monetary contribution rather than providing the AFFORDABLE DWELLING UNITS as otherwise required herein. The amount of the contribution shall be determined as the total of (a) the amount equal to the product of the otherwise required number of AFFORDABLE DWELLING UNITS times the difference in sale price between the AFFORDABLE DWELLING UNITS and the equivalent market-rate units, plus (b) all avoided costs associated with that number of otherwise required AFFORDABLE DWELLING UNITS including, but not limited to (1) preparation and recording of affordable housing restrictions or deed riders, (2) preparation of cost, income and eligibility certifications, (3) marketing and lottery administration, (4) closing costs, and (5) costs to obtain the inclusion of those units in Acton’s subsidized housing inventory under M.G.L. Chapter 40B.

[Note – Section 9B.12.9.2 currently reads: Monetary contributions for affordable housing programs made to the Acton Community Housing Program Fund in an amount sufficient for the Town or its designee to create off-site affordable family or individual persons’ housing, as the Planning Board may determine, and eligible for inclusion in Acton’s subsidized housing inventory under M.G.L. Chapter 40B.]

, or take any other action relative thereto.

_____ **Motion** _____

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

_____ **Summary** _____

The Zoning Bylaw allows for a monetary contribution in lieu of providing affordable housing units on site but does not specify how the monetary contribution is calculated. This article provides a calculation method for determining the contribution based on the difference between the market and affordable unit sale price, plus avoided costs as set forth in the Article.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u> Recommended	<u>Finance Committee</u> Deferred	<u>Planning Board</u> Recommended
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Article 15 * Amend Zoning Bylaw – Walkways, Sidewalks, Bikeways in
(Two-thirds vote) Front, Side and Rear Yards

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

- A. Delete section 6.7.2 and replace it with a new section 6.7.2 as follows:

6.7.2 Set-Backs – Except as may be required elsewhere in this Bylaw, no parking space or other paved surface, other than ACCESS driveways, common driveways, walkways, sidewalks or bikeways, shall be located within 30 feet of the front LOT line and within 10 feet of the side and rear LOT lines, and notwithstanding the foregoing, no parking space or other paved surface, other than ACCESS driveways, common driveways, walkways, sidewalks or bikeways, shall be located within the limits of a landscaped buffer area required under Section 10.4.3.5 and Section 10.4.3.6.

[Note: Section 6.7.2 currently reads:

6.7.2 Set-Backs – Except as may be required elsewhere in this Bylaw, no parking space or other paved surface, other than ACCESS driveways, common driveways or walkways, shall be located within 30 feet of the front LOT line and within 10 feet of the side and rear LOT lines, and notwithstanding the foregoing, no parking space or other paved surface, other than ACCESS driveways, common driveways or walkways, shall be located within the limits of a landscaped buffer area required under Section 10.4.3.5. and Section 10.4.3.6.]

- B. Section 10.4.3.6 – Special Landscaping Provisions Applicable to the Limited Business District, Office Districts, Small Manufacturing District, and Light Industrial-1 District, by deleting subsection 1) and replacing it with a new subsection 1) as follows:

- 1) No STRUCTURE, pavement, display of goods, materials or vehicles, or other impervious materials, other than allowed ACCESS driveways, walkways, sidewalks, bikeways, landscaping elements and signs, shall be placed within the minimum front yard.

[Note: Subsection 10.4.3.6.1) currently reads:

No STRUCTURE, pavement, display of goods, materials or vehicles, or other impervious materials, other than allowed ACCESS driveways, landscaping elements and signs, shall be placed within the minimum front yard.]

, or take any other action relative thereto.

————— **Motion** —————

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

————— **Summary** —————

This article clarifies and expands accommodations for non-motorized transportation facilities.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>	<u>Planning Board</u>
	Recommended	Deferred	Recommended

Article 16 * Amend Zoning Bylaw – Outdoor Sales (Farmers’ Markets)
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 3.8 – ACCESSORY USE Regulations, by amending subsection 3.8.4.8 e) (Farmers’ markets) as follows:

3.8.4.8 e) The farmers’ market shall not recur more than one day per week, with the exception of sales of holiday trees and related items within the months of November and December.

[Note: Subsection 3.8.4.8 e) currently reads:

The farmers’ market shall not recur more than one day per week.]

, or take any other action relative thereto.

————— **Motion** —————

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

————— **Summary** —————

Subsection (e) currently limits farmers’ markets to one day per week. Typically holiday tree lots or businesses operate every day after Thanksgiving until December 25th. This article exempts the sales of holiday trees and other seasonal items from the one day per week limitation in subsection (e).

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned: Peter Berry: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u> Recommended	<u>Finance Committee</u> Deferred	<u>Planning Board</u> Recommended
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Article 17 * Acquisition of Real Property Interests –
(Two-thirds vote) **Assabet River Rail Trail Right of Way**

To see if the Town will vote to authorize the Board of Selectmen, for purposes of establishing, constructing, operating, maintaining, repairing and using a multi-use rail trail/bicycle path for non-motorized transportation, open space and recreation purposes and for all other purposes for which rail trails are now or hereafter may be used in the Commonwealth, (1) to acquire by purchase, gift, eminent domain or otherwise, on such terms and conditions as the Selectmen may determine, fee, easement, leasehold, license and/or other real property interests in, on, over, across, under and along all or any portion of the land, premises, easements, rights-of-way and other rights in Acton comprising the former Boston & Maine Railroad Maynard Branch right-of-way, and contiguous, abutting, and underlying properties, and (2) to amend, relocate, acquire by purchase, gift, eminent domain or otherwise, and relinquish, all on such terms and conditions as the Selectmen may determine, covenants and easements for rail-trail purposes on, over, under, across, along, through and within the burdened property referenced in that certain Declaration of Covenants and Grant of Easements between Robert E. Anderson, Trustee of the Wedgewood Realty Trust, and the Town of Acton, dated as of May 9, 2005, filed for registration with the Middlesex South Land Registration District of the Land Court on September 13, 2005, as Document No. 1387934, noted on Certificate of Title No. 169457 in Registration Book 977, Page 101 and recorded with the Middlesex South District Registry of Deeds on September 13, 2005 in Book 46076, Page 394, and other property of the Trust referenced in the deed recorded at Book 14527, Page 405; all as necessary

for clearing title to said railroad right-of-way, laying out a multi-use rail trail/bicycle path within that right-of-way and within associated easements and other real property interests in said properties, providing access thereto, and enabling the construction, operation, maintenance, repair and use of the multi-use rail trail/bicycle path, and further to see if the Town will raise, appropriate, transfer from available funds, or accept gifts for these purposes; or take any other action relative thereto.

————— **Motion** —————

Move that the Town authorize the Board of Selectmen, for purposes of establishing the Assabet River Rail Trail in Acton, to take all actions specified in the article, all on such terms and conditions as the Selectmen may determine.

————— **Summary** —————

This article authorizes the Board of Selectmen to acquire necessary and appropriate real property interests to establish the Assabet River Rail Trail (ARRT) in Acton, including but not limited to the full length and width of the former Boston & Maine (B&M) railroad right-of-way in Acton from the Acton/Maynard town line to the South Acton Train Station, comprising approximately 1.2 ± miles. The Town has acquired 0.8 ± miles of the former B&M corridor from the MBTA in 2007. The Town will acquire portions of the remaining former B&M corridor and associated land and easements to complete the .4 ± miles of the trail. This will include the relocation of certain easements initially acquired by the Town in 2005 for the ARRT but which need to be relocated now based on the updated layout and design of the ARRT. The ARRT is a multi-use path for non-motorized transportation from Acton to Marlborough. The first section of the ARRT from Lincoln Street in Marlborough to Cox Street in Hudson has been constructed. The Maynard-Acton section is currently in design. The other phases to the south of Maynard are in various stages of planning or design.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned: Janet K. Adachi: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Recommended	Deferred

Article 18 * Accept Trail Easements – Wright Hill

(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 a deed or deeds of easement interests for purposes of establishing and maintaining a trail or trails for public non-motorized use on, the entirety of that certain land shown as “Proposed Access Easement” on the land identified as “Lot 14” on a plan entitled “Plan of Land in Acton, Massachusetts, No. 18 Wright Terrace” dated March 27, 2014, prepared by Stamski and McNary, Inc., and filed with the Middlesex South Registry District of the Land Court as Plan No. 2006 of 2014 in Plan Book 1458, Page 14 and noted on Certificate of Title No. 257358, or take any other action relative thereto.

————— **Motion** —————

Move that the Town authorize the Board of Selectmen to acquire and accept the trail easements as set forth in the Article and on such terms and conditions as the Selectmen may determine.

————— **Summary** —————

The 2014 Annual Town Meeting authorized and funded the acquisition of 14 ± acres of open space at 18 Wright Terrace for conservation purposes (Lot 13), which did not include the 3.7 ± acre lot with the existing house on it (Lot 14). This article authorizes the Board of Selectmen to accept a public pedestrian or trail easement over Lot 14 that facilitates access between Lot 13 and Wright Terrace and Mead Terrace, and generally helps connect a system of trails on Wright Hill.

Direct inquiries to: Tom Tidman, Natural Resources Director: nr@acton-ma.gov / (978) 929-6634

Selectman assigned: Mike Gowing: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Recommended	Deferred

Article 19 * Land Acquisition – Dunn Property
(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 fee simple interest, on such terms and conditions as the Selectmen may determine and for conservation and recreation purposes, Parcels 1 and 5 as shown on the Town of Acton Atlas Map H-1, and recorded at the Middlesex South Registry of Deeds in Deed Book 30999 Page 454; and further to see if the Town will raise, appropriate, and/or transfer from available funds or accept gifts for this purpose, or take any other action relative thereto.

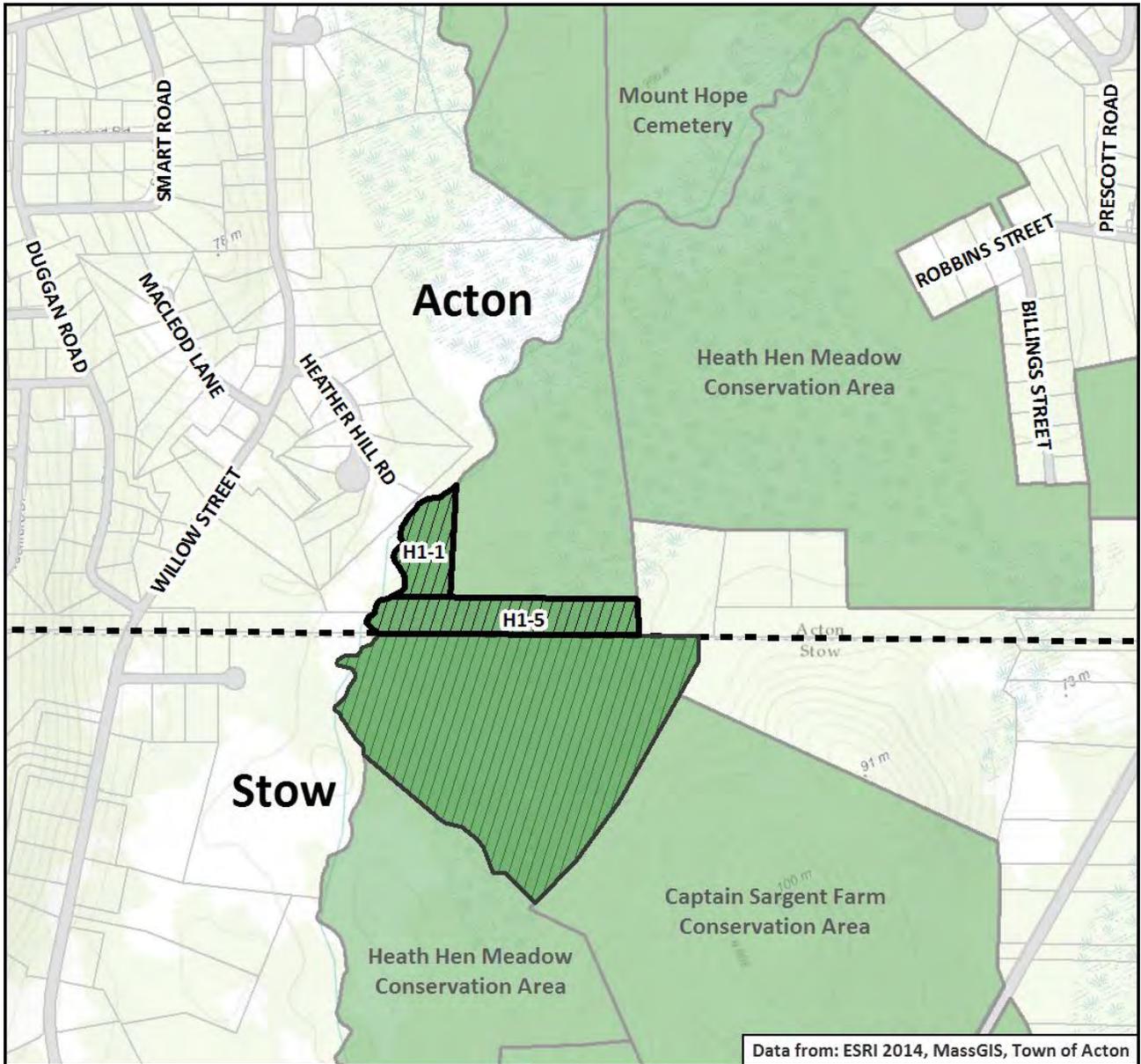
————— **Motion** —————

Move that the Town authorize the Board of Selectmen to acquire the real property as set forth in the Article and on such terms and conditions as the Selectmen may determine, and appropriate and transfer from Free Cash \$28,800 to fund said acquisition and related transaction costs.

————— **Summary** —————

The Town of Acton Open Space Committee proposes the purchase of the approximately 6.5 +/- acre portion of the 30.5 +/- acre Dunn Property lying within the Town of Acton and abutting Town of Acton Heath Hen Meadow conservation land. The remaining 24 +/- acres of the Dunn Property lying within the Town of Stow are being purchased concurrently by the Town of Stow. Together, these purchases create a key link between the 100 acre Heath Hen Meadow conservation land in South Acton and the 154 acre Captain Sargent conservation land in Stow. This will significantly expand the hiking and cross country skiing opportunities for residents of each town and, as importantly, provide a large protected corridor for wildlife. Abutting the Heath Hen Meadow Brook, the preservation of this parcel will also offer water quality protection to downstream water supply resources. The Town of Acton Land Stewardship Committee, the Acton Conservation Trust, the Sudbury Valley Trustees, and the Stow Conservation Trust have been working together since 2003 to make the inter town connection a reality. The Open Space Committee recommends the purchase of this property with municipal funds so as to preclude the added expenses associated with Community Preservation Act requirements for conservation restrictions and associated stewardship costs. The location of the property adjacent to and between two designated conservation parcels offers significant protection and therefore limits the need for such additional protection and expenses.

[Continued on next page]



Direct inquiries to: Tom Tidman, Natural Resources Director: nr@acton-ma.gov / (978) 929-6634

Selectman assigned: Franny Osman: bos@acton-ma.gov / (978) 929-6611

Recommendations: Board of Selectmen Finance Committee
 Recommended **Recommended**

And you are directed to serve this Warrant by posting attested copies thereof fourteen days at least before the time of said meeting, in not less than six public places in Town, to be designated by the Board of Selectmen.

Hereof fail not, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at or before the time of said meeting.

Given under our hands at Acton this 29th day of October, 2014.

Mike Gowing, Chair
Katie Green, Vice-Chair
Peter Berry, Clerk
Janet K. Adachi
Franny Osman

Board of Selectmen

A true copy, Attest:



Constable of Acton

Glossary of Terms Commonly Used in Municipal Finance

Appropriation: An authorization granted by a legislative body to make expenditures and to incur obligations for specific purposes. An appropriation is usually limited in amount and the time when it can be expended. Any amount that is appropriated may be encumbered.

A warrant article appropriation is carried forward from year to year until spent for the designated purpose or transferred by town meeting vote to another account.

Audit: Work done by accountants in examining financial reports, reviewing compliance with applicable laws and regulations, reviewing effectiveness in achieving program results. A basic audit examines only the financial reports and legal compliance. An outside Certified Public Accountant (CPA) audit is directed primarily toward the expression of an opinion as to the fairness of the financial statements and submission of a management letter. An auditor must be independent of the executive branch of government. A state auditor, private CPA or public accountant, or elected auditor meets this test.

Balance Sheet: A statement that discloses the assets, liabilities, reserves and equities of a fund or government unit at a specified date.

Budget: A plan of financial operation embodying an estimate of proposed expenditures for a given period and the proposed means of financing them. A budget may be preliminary (the financial plan presented to the town meeting) or final (the plan approved by that body).

Cherry Sheet: An annual statement received from the Massachusetts Department of Revenue detailing estimated receipts for the next fiscal year for the various state aid accounts and estimated state and county government charges payable by the Town in setting the tax rate. The actual receipts and charges may vary from the estimates.

Enterprise Fund: A fiscal entity with a self-balancing set of accounts that is utilized to account for a governmental service when it is the intent to recover the total costs of service, including depreciation, primarily through user charges and may be supplemented by taxes.

Expenditure: The spending of money by the town and schools for the programs or projects within the approved budget.

FTE: A full-time equivalent employee based on a 40-hour work week. May be one or more employees, but the total weekly hours equal 40.

Fiscal Year (“FY”): A 12-month period, beginning July 1 and ending June 30, to which the annual budget applies and at the end of which a governmental unit determines its financial position and the results of its operations. The number of the fiscal year is that of the calendar year in which it ends; for example, FY15 or FY 2015 is the fiscal year which begins July 1, 2014 and ends June 30, 2015.

Free Cash: Certified each July 1 by the State, this is the portion of Undesignated Fund Balance available for appropriation. It is not cash but rather is approximately the total of cash and receivables less current liabilities and earmarked reserves, reduced also by reserves for uncollected taxes.

Fund: An accounting entity with a self-balancing set of accounts that is segregated for the purpose of carrying on identified activities or attaining certain objectives in accordance with specific regulations, restrictions or limitations.

General Fund: The fund into which the general (non-earmarked) revenues of the town are deposited and from which money is appropriated to pay expenses.

Personnel Services: The cost of salaries, wages and related employment benefits.

Purchased Services: The cost of services that are provided by a vendor.

Property Tax Bill: The amount produced by multiplying the assessed valuation of property by the tax rate. The tax rate is expressed per thousand dollars of assessed valuation, for example:

House Value:	\$ 300,000	
Tax rate:	\$ 10	which means \$10 per thousand
Levy:	\$ 10	multiplied by \$300,000 and divided by \$1,000
Result:	\$ 3,000	

Raise: A phrase used to identify a funding source for an expenditure which refers to money generated by the tax levy or other local receipt.

Revolving Fund: Those funds that may be used for special uses. For example, Recreation fees may be paid into a revolving fund, and expenditures can be made without appropriation with the approval of the Town Manager. Revolving funds are established by state law or town bylaw. Some revolving funds must be annually reauthorized by Town Meeting.

Stabilization Fund: A fund designed to accumulate amounts for capital and other future spending purposes, although it may be appropriated for any lawful purpose (MGL Ch. 40 §5B). Stabilization funds may be established for different purposes, and interest generated by such funds is added to and becomes part of the stabilization fund. A two-thirds vote of town meeting is required to establish, amend the purpose of, or appropriate money into or out of the stabilization fund.

Tax Levy: Total amount of dollars assessed in property taxes imposed by the Town each fiscal year.

Unreserved Fund Balance or Surplus Revenue Account: The amount by which cash, accounts receivable and other assets exceed liabilities and restricted reserves. It is akin to the stockholders equity account on a corporate balance sheet. It is not, however, available for appropriation in full because a portion of the assets listed as “accounts receivable” may be taxes receivable and uncollected. (See Free Cash)

Warrant: A list of matters to be acted on by Town Meeting.

Town Meeting Parliamentary Procedure

Town Meeting is an old and honored tradition in New England. After more than 200 years we can say it still works – it does its job – and hopefully it’s more than a little enjoyable for you, the voters. It’s also the only form of government where the leaders must face the citizenry directly to answer all reasonable queries – and perhaps even some not so reasonable! However, to work well it must have rules of order – and it does. Town Meetings operate under what is generally called “parliamentary procedure” – in our case, as spelled out in Town Meeting Time. Unfortunately, this wonderful little book is widely read only by Moderators, Town Clerks, Town Counsels and a few others with unusual tastes. In addition to such formal procedures Town Meetings also are subject to relatively arbitrary rules of order set forth by the Moderator and precedent. The following information puts forth the most widely used of these “rules of the road” as an effort to help you enjoy and participate in our Town Meetings.

Moderator’s Rules

These are quite arbitrary, but hopefully are consistently applied:

1. Any registered voter may speak to any article, but all must speak politely and respectfully to other voters and members of town boards. Civility is required at all times.
2. Since many voters may wish to speak, brevity of comment is appreciated. In addition, speakers are encouraged to add new points to the debate as opposed to repeating what others have already stated.
3. Voters may speak to an issue more than once, but generally “first time” speakers will be recognized before “repeaters”.
4. Remember to listen closely to the motion as stated. The motion puts the warrant article “in play” and it is the motion that is voted on, not the article as written in the warrant. However, there should be a strong similarity between motion and article.
5. Most motions must be “seconded”. Seconding motions is an easy way for newcomers to participate in the meeting. One does not even need to stand or be directly recognized. Generally calling out “second” at the right time will suffice.
6. Voting is most often done by voice. As the Moderator’s hearing fails, “standing” counts may be taken. The last resort, due to time constraints, is to take a counted vote by teller.
7. Although not encouraged, the Moderator’s judgment can be questioned as to the accuracy of the vote as announced. If seven (7) people request a “recount” of a voice or standing votes, it shall be done.
8. The Moderator will generally accept the motion to “move the previous question”, or more easily understood, “to cut off debate.” Many people think this motion is somewhat unfair, but it has been my experience that, more often than not, it is passed unanimously or by overwhelming numbers. In the past, the Moderator has been accused of knowing who plans to make such a motion – generally such accusations are accurate!
9. After a motion has been made and seconded, the mover of the motion speaks first, followed by the appropriate Town Boards (generally the Selectmen and the Finance Committee) who state their opinions. The motion is then available for general discussion – pro, con, or questions.
10. Other than when seconding a motion or requesting a point of order, speakers must be recognized by the Moderator before they launch into their point or question. For the most part this “rule of the road” is rigorously enforced.

More Formal Parliamentary Procedure

There are many types of motions that may come before a meeting. The table below is far from all-inclusive, but indicates the most commonly used motions.

Motion	Second Required	Debatable	Amendable	Vote Required	May Reconsider	May Interrupt
Dissolve	Yes	No	No	Majority	No	No
Fix the Time to Adjourn	Yes	Yes	Yes	Majority	Yes	No
Lay on the Table	Yes	No	No	Two-thirds	Yes	No
Previous Question	Yes	No	No	Two-thirds	No	No
Limit Debate	Yes	No	No	Two-thirds	Yes	No
Postpone to a Time Certain	Yes	Yes	Yes	Majority	Yes	No
Amend	Yes	Yes	Yes ¹	Majority	Yes	No
Postpone Indefinitely	Yes	Yes	No	Majority	Yes	No
Point of Order	No	No	No	None	No	Yes
Main Motion	Yes	Yes	Yes	Varies	Yes	No
Reconsider²	Yes	Yes	No	Two-thirds	No	No

1 In Acton, we generally do not accept amendments to amendments – too confusing.

2 Controlled by Town bylaw – 2/3 Vote same night; 3/4 Vote, plus posting ensuing nights.

Some of the motions listed above may not be totally understandable in table form only. The following elaboration may help.

The motion to *dissolve* ends the Town meeting and is appropriate only when all business is completed.

Fix the time to adjourn is a motion often made by the Selectmen and indicates when a given Town Meeting session will end and when the next session will begin.

Lay on the table is a motion used to end debate temporarily or permanently on a given motion. A motion laid on the table may remain there forever, or may be retrieved by the appropriate “take from the table” vote.

The previous question cuts off debate immediately and causes a vote on the article or amendment under discussion.

Limit debate is a motion generally used to put a specific time limit on a motion or time limits on individual speakers.

Postpone to a time certain is a motion generally used to rearrange the order of the articles (or a single article) in the warrant.

Amend – Many types of motions can be amended or altered to bring them to an even higher state of perfection. Of course, since amendments are a little like “beauty being in the eye of the beholder,” they sometimes fail to pass. In any event, after the amendment is disposed of by a vote, the primary motion, either so amended or not, comes back to the assemblage for further discussion and vote.

Postpone Indefinitely serves the same basic purpose as laying a motion on the table except that it is debatable and requires only a majority vote. If the postpone motion carries, the motion to which it applies is dead – in parliamentary terms, at least.

Point of Order – Anyone at any time may rise to a point of order and interrupt the speaker, simply stating, “Point of order, Mr. Moderator.” The Moderator will immediately stop discussion, listen to the point of order and rule on its validity. Points of order may relate to many issues, for example, the right of a speaker to the floor, proper procedures, indecorous conduct or rarely, but within the realm of possibility, some error that the Moderator is committing.

Main Motions are made when no other business is pending and are the devices used to bring the warrant articles to the Town Meeting floor for discussion.

Reconsideration may be used to bring an article (or motion) which has already been disposed of back for a second time. If reconsideration is passed, it nullifies the previous vote and the article is re-discussed and re-voted. Many people feel that reconsideration is unfair, but it is a valid procedure and is occasionally used. In Acton, a Town Bylaw controls the vote quantum rather than Town Meeting Time. Anyone who wishes to reconsider a motion, particularly on a different night from the original vote, would be well advised to consult the Town Clerk on proper procedures.

Parliamentary procedure is not really complex, but the rules, like the rules of golf, do not always make sense. However, they should be consistently applied. If they are, then the Town Meeting can conduct its business in both an orderly and a fair fashion.

I hope this small treatise is helpful to you and adds to your understanding and enjoyment of a most precious right – TOWN MEETING.

Don MacKenzie
Town Moderator



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