

Abstract of the Special Town Meeting. June 13, 2005

TOWN OF ACTON
ABSTRACT OF THE SPECIAL TOWN MEETING
HELD MONDAY, JUNE 13, 2005, 7:00 P.M.
ACTON-BOXBOROUGH REGIONAL HIGH SCHOOL AUDITORIUM

Number of Registered voters attending Special Town Meeting
June 13, 2005 - 647

The Moderator, Mr. McKenzie, called the Special Town Meeting to order on Monday June 13, 2005, at 7:05 PM.

Mr. Mackenzie introduced Mr. Peter Ashton, chairman of the Board of Selectmen. Mr. Ashton introduced Eva K. Bowen - Town Clerk, Stephen Anderson - Town Council, Don Johnson – Town Manager, and members of the Board of Selectmen, Lauren Rosenzweig, Robert Johnson, Walter Foster, and F. Dore Hunter,

The Moderator introduced David Stone, the Chairman of the Finance Committee. Mr. Stone then introduced members, Herman Kabakoff, Patricia Clifford, Rheta Roeber, Patricia Easterly, Jonathan Chinitz, Robert Evans, and Gim Hom.

ARTICLE 1 NESWC ENTERPRISE BUDGET

(Majority vote)

To see if the Town will raise and appropriate, or appropriate from available funds a sum of money in addition to the sum appropriated at the April 2005 Annual Town Meeting for the purpose of solid waste disposal in accordance with Massachusetts General Law, Chapter 44, Section 53F½, Enterprise Fund Law, or take any other action relative thereto.

MOTION: Mr. Ashton moves that the Town appropriate \$40,000 for the purpose of supplementing the NESWC appropriation made under Article 16 of the April 4, 2005 Annual Town Meeting, and to raise such amount, that \$40,000 be transferred from the NESWC Enterprise Fund.

MOTION CARRIES

ARTICLE 2 NON-BINDING RESOLUTION – TRASH FEE PRICING MODEL

(Majority vote)

NON-BINDING RESOLUTION

Whereas the Town owns and operates a Solid Waste Transfer Station on land located off Route 2.

Whereas the Town's long-term NESWC Service Agreement is expiring on September 25, 2005.

Whereas, in connection with that expiration, the Board of Selectmen is evaluating the operations and pricing methodologies at the Transfer Station.

Whereas the transfer station is an important amenity for many Town residents

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Whereas many in State Government and the environmental field assert that there are both financial and environmental benefits associated with a pricing model based upon the volume of trash discarded by each user (“pay-as-you-throw”).

NOW THEREFORE, BE IT RESOLVED, that Town Meeting requests that the Board of Selectmen and the Town Manager implement a pricing model at the Transfer Station that is a combination flat fee (for an access sticker) plus a charge per bag of trash discarded (pay-as-you-throw charge) for the trial period of October 1, 2005 through September 30, 2006, and provide an interim report as to the benefits and drawbacks of such a pricing model to the April 2006 Annual Town Meeting.

MOTION: Mr. Ashton moves that the Town adopt the non-binding resolution as set forth in the Article.

MOTION LOST

ARTICLE 3 ENVIRONMENTAL STANDARDS FOR FILL MATERIAL BYLAW
(Majority vote)

To see if the Town will vote to amend the general Bylaws of the Town by adding the following new chapter U after chapter T:

Chapter U: Environmental Standards for Fill Material Bylaw

1. Authority

This Bylaw is adopted by the Town under its Home Rule Authority, its Police Powers to protect the public safety and welfare and its authorization under Massachusetts’s General laws, c. 40, section 21 and c. 111, section 31.

2. Purpose

The purpose of this Bylaw is to protect, preserve, and maintain the Town's existing and potential groundwater supply, groundwater recharge areas, surface waters, air quality and natural environment and to assure public health and safety through the proper management of materials regulated herein.

3. Definitions

For purposes of this bylaw, the following terms shall have the following meanings:

- 3.1 “Asbestos” means all asbestiform varieties of the mineral family called silicates including: serpentinite (chrysotile), riebeckite (crocidolite), cuming- tonitegrunerite (atmosite), tremolite-actinolite, and anthophyllite as defined in the DEP Air Quality Regulations at 310 CMR 7.00.
- 3.2 “Asbestos-Containing Material” means friable asbestos and any material containing 1% or more asbestos by weight. This term includes but is not limited to sprayed-on and troweled-on materials applied to ceilings, walls, and ceilings, walls, and other surfaces, insulation on pipes, boilers, tanks, ducts, and other equipment, structural members, tiles, shingles or asbestos-containing paper, as defined in the DEP Air Quality Regulations at 310 CMR 7.00.
- 3.3 “Asbestos-Containing Waste Material” means any friable asbestos-containing material removed during a demolition/renovation project and anything contaminated in the course of a demolition/renovation project including asbestos waste from control devices, bags or containers that previously contained asbestos, contaminated clothing, materials used to

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- enclose the work area during the demolition/renovation operation, and demolition/renovation debris, as defined in the DEP Air Quality Regulations at 310 CMR 7.00.
- 3.4 “Asbestos in Soil” means unconsolidated fibers of asbestos contained in the soil matrix that did not originate from asbestos manufacturing, fabricating, milling, or spraying. Asbestos in soil does not include “Asbestos-Containing Material” or “Asbestos-Containing Waste Material” as those terms are defined in the DEP Air Quality Regulations at 310 CMR 7.00.
- 3.5 “Asbestos Waste” shall mean any material containing one percent or more asbestos by weight and anything contaminated with asbestos such as asbestos from pollution control devices, bags or containers that previously contained asbestos, contaminated clothing, demolition/renovation debris. As defined herein “asbestos waste” shall include, but is not limited to, “asbestos waste,” “asbestos-containing material” and asbestos-containing waste materials” as defined in 310 CMR 7.00 and 310 CMR 19.00, as amended.
- 3.6 “Board” shall mean the Town of Acton Board of Health.
- 3.7 “Bylaw” shall mean this Environmental Standards for Fill Material Bylaw.
- 3.8 “Construction and Demolition Debris” shall mean the waste building materials and rubble resulting from the construction, remodeling, repair or demolition of buildings, pavements, roads or other structures. “Construction and demolition waste” shall include, but is not limited to, concrete, bricks, lumber, masonry, road paving materials, rebar and plaster and all other “construction and demolition waste” as defined in Massachusetts Solid Waste Regulations 310 CMR 19.00, as amended.
- 3.9 “Contaminated soil” shall mean soil that contains oil and/or hazardous materials as a result of a release to the environment. This includes anthropogenic contaminants, regardless of whether the contaminant levels exceed the applicable Reportable Concentration (RC) under section 310 CMR 40.1600 of the Massachusetts Contingency Plan (MCP). As defined herein, “contaminated soil” shall include, but is not limited to, “contaminated soil” as defined in DEP’s Policy COMM-97-001.
- 3.10 “DEP” shall mean the Department of Environmental Protection and/or its successors.
- 3.11 “Landfill” shall mean the former Town of Acton municipal landfill located on Town Map G-4 Parcels 140, 75, 76, and 167-1, but excluding the paved area and buildings of the Town of Acton Highway Department, DPW Garage, Transfer Station, recycling area, salt and sand sheds, associated access areas, tanks, pumps and related facilities (collectively the “DPW Garage and Transfer Station” located principally on the northern portion of parcel 76.
- 3.12 “Person” as used in this Bylaw shall include any individual, group of individuals, association, partnership, corporation, or business organization, trust or estate, the Commonwealth, or any political subdivision thereof, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representatives, agents or assigns.

4. General Rules

- 4.1 No person shall use asbestos, asbestos in soil, asbestos waste, construction and demolition debris, or contaminated soil as solid fill, daily cover, intermediate cover, and/or pre-capping contour material on the former town of Acton municipal landfill.
- 4.2 Nothing in this Bylaw shall prohibit the Town of Acton from conducting any of the following activities at the DPW Garage and Transfer Station: (a) storing and mixing salt and sand; (b) storing new or used granite curbing (including curbing that may have been recovered from road demolition or reconstruction projects); (c) temporary storage of road demolition materials and debris for off-site disposal of contaminated soil or other materials excavated during road construction projects; (f) acceptance of limited quantities and types of construction and demolition debris at the Transfer Station for off-site disposal; and (g) other ordinary and necessary activities incidental to the operation of the DPW Garage and Transfer Station.

5 Penalties for Violation

Violation of this Bylaw, as determined by the Town of Acton Board of Health, shall be punishable by a fine of three hundred dollars per offense. Each day a violation continues shall be considered a separate offense. Any sums of money collected as fines shall be paid forthwith into the general revenues of the Town.

6 Severability

In case any section, paragraph or part of this chapter is for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

7 Effective Date

This chapter shall take effect in accordance with M.G.L. c.40, section 32. This Bylaw shall not apply to any materials used or stockpiled for later use on the former town of Acton municipal landfill.

Or take any other action relative thereto.

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

MOTION CARRIES

ARTICLE 4 NON-BINDING RESOLUTION - DEVELOPMENT OF MUNICIPAL LAND
(Majority vote)

NON-BINDING RESOLUTION

Whereas Article 3.5.1 of the Zoning BYLAW states in pertinent part:

“Retail Store-An establishment with not more than 60,000 square feet in NET FLOOR AREA selling merchandise within a BUILDING to the general public. Said merchandise is not intended for resale. A Retail Store may have one or more vendors within it and may occupy one whole BUILDING, its retail space shall be separated from other Retail Stores by complete walls or partitions, and customers must pay for purchases and exit the Retail Store before entering another Retail Store. A garden center, florist, or commercial greenhouse may have open-air display of horticulture products.”

NOW THEREFORE, BE IT RESOLVED, to instruct all Town Boards, Committees and Departments, to neither issue any request for proposals nor accept any proposal for development of municipal property that does not conform to the Town’s Master Plan and Section 3.5.1 of the Zoning BYLAW, nor to enter into any purchase and sales agreement for municipal property that does not conform to the Town’s Master Plan and Section 3.5.1 of the Zoning BYLAW.

MOTION: Ms. Kennedy moves that the Town adopt the non-binding resolution as set forth in the Article.

MOTION TO AMEND: Mr. Black moves to insert the words “Commercial Development provisions of” before “the Town’s Master Plan” in both places it appears.

AMENDMENT LOST

MOTION TO AMEND: Mrs. Chang moves to insert the words “Big Box” before “Development” and insert the word “such” before “purchase”.

AMENDMENT LOST

MOTION: to vote on original motion.

MOTION LOST

ARTICLE 5 SEWER EASEMENT – 82 POWDER MILL ROAD

(Two-thirds vote)

To see if the Town will vote to authorize the Board of Selectmen to acquire or take, on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise, and to accept an easement in, over, under, on, across and through a portion of the real property located at and known as 82 Powder Mill Road, Acton, MA, which is shown as Assessors’ Map ID No. J3/34/8 (the so-called “Powder Mill Plaza Property”), for the purpose of locating, erecting, constructing, reconstructing, installing, operating, maintaining, accessing, patrolling, inspecting, repairing, replacing, altering, extending and/or removing a sewer pumping station and associated sewer lines, pumps, tanks, wells, utilities, manholes, equipment, conduits, appurtenances and attachments incidental thereto to serve the needs of the Town and the present and/or future needs of users of the Middle Fort Pond Brook Sewer District, upon such terms and conditions as the Board of Selectmen deem appropriate, and further to see if the Town will raise, appropriate, transfer from available funds, or accept gifts for this purpose, or take any action relative thereto.

MOTION: Mr. Hunter moves to authorize the Selectmen to purchase, take by eminent domain, accept the gift of, or otherwise acquire, for sewer purposes, permanent and temporary easements in over, under, on, across and through the parcel of land at 82 Powder Mill Road identified and described in this article, and, pursuant to Section 5 of the Town’s Sewer Assessment Bylaw, to authorize the Selectmen, in their capacity as the Sewer Commissioners of the Town of Acton, to account for these easements as they may deem appropriate in calculating any sewer privilege fee chargeable to the owner of said land.

MOTION CARRIES

ARTICLE 6 ACQUISITION OF STATE-OWNED LAND

(Two-thirds vote)

To see if the Town will authorize the Board of Selectmen to acquire or take, on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise and to accept deeds of the fee simple interest in two certain parcels of land together comprising approximately 7.646 +/- acres located off Charter Road adjacent to Route 2, identified as Acton Assessor’s Map E3, Parcel 85, and Map E3, Parcel 93, and described in two separate deeds recorded in the Middlesex South District Registry of Deeds in Book 7650, Page 311 and in Book 7866, Page 367, 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. Foster moves that the Town take no action.

MOTION CARRIES

MOTION: Mr. Ashton moves to dissolve the Special Town Meeting at 10:20 PM.

MOTION CARRIES UNANIMOUSLY