

TOWN OF ACTON
ABSTRACT OF THE SPECIAL TOWN MEETING
OCTOBER 5, 1998

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Legend:

** Denotes Consent Calendar Article

TOWN OF ACTON
ABSTRACT OF THE SPECIAL TOWN MEETING
OCTOBER 5, 1998

Acton Lane 1228

The Moderator, Donald MacKenzie, called the meeting to order on Monday, October 5, 1998 at 7:02 PM. The meeting was held at the Acton Boxborough Regional High School auditorium.

Mr. MacKenzie introduced Wayne Friedrichs, Chairman of the Board of Selectmen. Mr. Friedrichs introduced the Town Clerk, Town Counsel, Town Manager and the members of the Board of Selectmen.

Mr. MacKenzie then introduced Thomas Mackey, Chairman of the Finance Committee. Mr. Mackey introduced the members of the Finance Committee.

After a brief summary of the rules and regulations of Town Meeting, Mr. MacKenzie explained that the School Committee had asked for a Special Town Meeting to be held on December 1, 1998 and the Selectmen had called for that meeting. Mr. MacKenzie advised that he would be out of the country on December 1st, therefore, a Moderator would have to be elected that night. He suggested that Richard O'Brien, Moderator for the Water District be elected to conduct this meeting.

The moderator then recognized Joshua Chernin of the Planning Board. Mr. Chernin informed the members of the Town Meeting that the Planning Board is working on a draft of the Master Plan. He explained that the Planning Board would hold two (2) meetings at the Town Hall on Thursday, October 22, 1998 and Tuesday, October 27, 1998 at 7:30PM to receive comments and suggestions from the community.

MOTION: MR. FRIEDRICHES moves that the Town take up the 4 Articles as listed in the Consent Calendar on page 1 of the Warrant.

The moderator asked Mr. Kabakoff to give a brief explanation of why Article 7 was on the Consent Calendar. Mr. Kabakoff did so and the moderator read the Consent Calendar.

[Moderator calls individual Articles:]

Article 7** Supplemental Appropriation, NESWC

Article 8** Great Road Sidewalk Easement

Article 9** Arboretum Access Parcel

Article 10** Emergency Access Easement

Moderator asks that the Consent Calendar, now be passed.

CONSENT CALENDAR CARRIES UNANIMOUSLY.

ARTICLE 1 AMEND ACTON-BOXBOROUGH REGIONAL AGREEMENT

(Majority Vote Required)

To see if the Town will vote, subject to approval of an identical warrant article on or before November 1, 1998 by vote of a special town meeting of the Town of Boxborough (and not otherwise), to accept the amendments to the Acton-Boxborough Regional School District Agreement as recommended by the Regional School Committee, and to accept the provisions of General Laws, Chapter 71, Section 16B, fourth paragraph, providing for the Region's member towns to reallocate (but not to reduce) their contributions required under Chapter 70 of the General Laws, in accordance with the Regional Agreement, provided, however, that the allocation of costs under the amended Agreement, including without limitation any debt service on bonds of the district issued or authorized prior thereto, shall apply to assessments to the member towns for the fiscal years beginning on and after July 1, 1999.

NOTE: Ballot vote required!!

MOTION:

MS. STUNTZ moves that the Town approve the amended Acton-Boxborough Regional School District Agreement and accept the provisions of General Laws, Chapter 71, Section 16B, 4th paragraph, on the conditions set forth in the warrant article.

MOTION CARRIES

Vote	YES	1034	NO	138	TOTAL
					1172

ARTICLE 2 SEWER ASSESSMENT BYLAW

(Majority Vote Required)

To see if the Town will vote to amend Chapter D 10 of the Bylaws of the Town by substituting the following provisions, or take any other action relative thereto:

D 10 Sewer System

1. **Allocation of Cost of Sewer System.** The entire cost of laying out, constructing and operating a system for the collection, treatment and disposal of sewage for all or any part of the Town shall be borne by the land benefited by such system, in accordance with the following provisions.

2. **Assessment by Uniform Unit Method.**

a. The Town, acting through its Sewer Commissioners, shall assess the owners of all land abutting any way in which there is a public sewer line constructed by the Town, by the uniform unit method, as authorized by G.L. c. 83 §15.

b. The Sewer Commissioners shall establish sewer assessment units, as follows:

(i) The owner of land used for a single family residence shall be assessed on the basis of one sewer unit. The owner of undeveloped land zoned for single family residential use shall be assessed on the basis of the maximum number of single family residences which may be constructed on such land as of right under the zoning requirements then in effect, without approval of the further subdivision of such land under the Subdivision Control Law.

(ii) The owner of land used for multi-family residential use, shall be assessed on the basis of .67 times the number of dwelling units presently existing on such land, provided each unit has fewer than three bedrooms as defined by Title V. Vacant land zoned for multi-family use shall be

assessed on the basis of .67 times the maximum number of units which can be constructed as of right under the zoning then in effect, without approval of further subdivision of such land under the Subdivision Control Law. Multi-family units with three or more bedrooms shall be assessed on the basis of one sewer unit per dwelling unit. Each owner of a condominium or cooperative dwelling unit in a multi-family residential building shall be assessed only for his or her dwelling unit.

(iii) The owner of land used or zoned for business use, including land in the Village, Office, Business districts, except land in such districts actually used for residential or other purposes, shall be assessed on the basis of a number of sewer units calculated by multiplying the maximum floor area ratio (FAR) permitted as of right under the zoning requirements then in effect times the lot area and dividing the result by 4000, in accordance with the following formula.

$$\text{Number of Sewer Units} = \frac{\text{Maximum FAR} \times \text{Lot Area}}{4000}$$

(iv) The owner of land used or zoned for industrial use shall be assessed on the basis of a number of sewer units to be determined by the Sewer Commissioners, taking into account the expected daily sewage flow from such land based on Title V design flows.

(v) The owner of land used or zoned for other purposes not specified in the foregoing sections, including, but not limited to, institutional and non-profit uses, shall be assessed on the basis of a number of sewer units to be determined by the Sewer Commissioners, taking into account the expected daily sewage flow from such land based on Title V design flows.

3. User Fees for Land Not Subject to Assessment. The Sewer Commissioners shall establish just and reasonable fees for the use of the public sewer system by the owner of any land, including public land, not liable to assessment, which fee shall be based on the avoided cost of construction of sewage disposal facilities to serve such land.

4. Assessment Rates. The Sewer Commissioners shall establish the assessment rate for land within the Middle Fort Pond Brook sewer area, based on total construction costs for the sewerage system serving such area, including all costs of land acquisition, engineering and design, financing and construction, divided by the total number of existing and potential sewer units within such area. In establishing such rate, the Sewer Commissioners shall apportion the total construction costs between costs required to serve the Middle Fort Pond Brook area and costs required to serve future areas within the Town and shall assess owners within the Middle Fort Pond Brook area only such costs as are reasonably necessary to serve such area, after deducting any construction costs to be recovered pursuant to Section 3 from users of the system not subject to assessment.

5. Sewer Privilege Fees. The Sewer Commissioners may establish reasonable fees pursuant to G.L. c. 83, § 17 to cover costs of construction of common sewers and other facilities required to serve land not previously served by the sewer system and not previously assessed to the owner of such land. Any such fee shall be reduced to the extent the landowner pays such expenses, in accordance with G.L. c. 83, § 22.

6. Annual User Fees. The Sewer Commissioners may from time to time establish just and equitable annual user charges to cover the cost of maintenance, repairs and operation of the sewer system.

7. Rules and Regulations Concerning Sewer Assessments. The Sewer Commissioners may adopt such reasonable rules and regulations with respect to the calculation of sewer assessments or fees as may be necessary or appropriate to implement the provisions of this bylaw.

8. Applicability of General Laws. Except as provided herein or in any special legislation applicable to the Town, the provisions of the General Laws relative to the assessment, apportionment, division, re-assessment, abatement and collection of sewer assessments and to liens therefore and interest thereon shall apply to assessments made hereunder.

9. Rules and Regulations Concerning Use of Sewer System. The Sewer Commissioners may establish rules and regulations concerning the use of the public sewer system, including but not limited to, rules and regulations prohibiting the deposit of any harmful or deleterious substance into the system, for regulating connections to the system and establishing civil penalties for violation of such rules.

MOTION:

MR. HUNTER moves that the Town Bylaws be amended as set forth in the Article.

AMENDMENT TO ARTICLE 2

MR. DAVID J. GARROD moves to amend Sewer Assessment Bylaw, Section 4 (Assessment Rate) be deleted in its entirety and be replaced with the following:

The Sewer Commissioners shall establish the assessment rate for land within the Middle Fort Pond Brook Sewer District based on a proportion of the estimated total construction costs required to construct a sewerage system capable of serving the planned expanded area of 850,000 gallons per day (gpd). In establishing such rate, the Sewer Commissioners shall assess owners within the Middle Fort Pond Brook area only such costs as are reasonably necessary to serve such area. Said assessment rate shall be calculated as follows:

1. Through accepted engineering principles establish the total construction cost (**expcost**) for the planned expanded 850,000 gpd sewerage system.
2. Establish a proportionate cost (**propcost**) for the initial 250,000 gpd system in relation to the cost of the total system, using the formula **propcost = 25/85 * expcost**
3. Subtract from **propcost** the costs to be recovered pursuant to Section 3 from users of the system not subject to assessment giving **basecost**
4. Set assessed cost per sewer unit equal to **basecost/number of sewer units in initial district**

The difference between the actual construction cost of the initial 250,000 gpd system and **propcost** to be recovered in future years through assessments on land in the expanded 850,000 gpd district as the sewer system is expanded into the full district.

Amendment lost

AMENDMENT TO ARTICLE 2

MR. EDWARD FEDERMAN moves to amend Sewer Assessment Bylaw, Section 6 (Annual User Fees) be deleted in its entirety and replaced with the following:

The Sewer Commissioners shall from time to time establish just and equitable annual user charges to cover the cost of maintenance, repairs and operation of the sewer system. The cost per water unit to be set to a rate that will cover the entire costs of operation, maintenance and repair of a system operating at the full planned expanded capacity of 850,000 gallons per day (gpd). This will be the cost per water unit (adjusted for inflation) applied to users during the period from the introduction of the initial 250,000 gpd system until the full planned expanded capacity of 850,000 gpd is on line.

During this buildup period the remaining actual costs that offer benefits to the population primarily outside the initial district shall be borne by the Town until the expanded 850,000 gpd system is fully built and operational.

Amendment lost

Original Motion Carries

ARTICLE 3 MIDDLE FORT POND BROOK SEWER DISTRICT

(2/3 Vote Required)

To see if the Town will raise and appropriate, appropriate from available funds, or borrow the sum of \$7,000,000, or any other sum, in addition to the \$11,500,000 appropriated under article 18 of the warrant for the 1997 Annual Town Meeting, to be expended by the Town Manager for the purpose of financing the planning, design, and construction of sewers and wastewater treatment plant, or any portion thereof, for the Middle Fort Pond Brook Sewer District including, without limitation, all costs and any related expenses thereof as defined in Section 1 of Chapter 29C of the General Laws; or take any other action relative thereto.

MOTION:

MS. TAVERNIER moves that the Town appropriate \$10,000,000 for the purpose of supplementing the Middle Fort Pond Brook Sewer District appropriation voted under Article 18 of the 1997 Annual Town Meeting, and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$10,000,000 and issue bonds or notes therefor under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws; that the Treasurer with the approval of the Board of Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Town Manager is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project.

MOTION CARRIES

Vote	YES	387	NO	21	Total 408
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RESOLUTION:

Mr. Lewis proposes that there is a sense of the meeting that the project will not proceed unless the project receives a zero interest loan from the state or otherwise a low interest loan for this project.

This is a non-binding resolution.

Resolution carries.

MOTION:

MR. Sundberg moves to adjourn this Town meeting until October 6, 1998

MOTION IS LOST

ARTICLE 4 SEWER BETTERMENT ASSESSMENT HOME RULE WARRANT PETITION (Majority Vote Required)

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to enact a special act relative to sewer betterment assessments in the Town of Acton substantially as follows, or take any other action relative thereto:

SECTION 1: Notwithstanding the provisions of any general or special law to the contrary, the board of assessors of the town of Acton may, and at the request of the owner of the land assessed, shall apportion all assessments for sewer projects in said town or unpaid balances thereof into a number of equal portions equal to the number of years for which bonds for such projects are issued; said equal portions may be further apportioned and collected by the town on the quarterly tax bills or a single tax bill at the option of the town; provided, however, the owners may pay the total amount due at any time.

SECTION 2: Notwithstanding the provisions of any general or special law to the contrary, the town of Acton is hereby authorized to charge interest on unpaid balance of sewer assessments at a rate equal to the net rate of interest chargeable to the town for the project to which the assessments relate.

SECTION 3. This Act shall take effect upon its passage.

MOTION:

MS. TAVERNIER moves that the Selectmen are authorized to petition the General Court for an Act relative to sewer betterment assessments in the Town of Acton, substantially as printed in the Warrant.

MOTION CARRIES UNANIMOUSLY

ARTICLE 5 ZONING EXEMPTION FOR PUBLIC SEWER FACILITIES (2/3/ Vote Required)

To see if the Town will vote to amend the Acton Zoning Bylaw by deleting section 1.4 and replacing it with a new section 1.4 as follows:

1.4 Applicability - All LOTS and parcels of land in the Town of Acton and all BUILDINGS, STRUCTURES and other improvements thereon shall be subject to the regulations, restrictions and requirements established in this Bylaw. Except when specifically referred to or stated otherwise, this Bylaw shall not apply to STREETS, appurtenances and easements thereto, to railroad rights of way, or to any BUILDING, STRUCTURE or USE of land, including grading, filling, and excavating, which is associated with a public sewer collection system owned or operated by the Town of Acton, or take any other action relative thereto.

MOTION:

MR. ASHTON moves that the zoning bylaw be amended as set forth in the article.

MOTION CARRIES

Vote	YES	100	No	5	Total
					105

ARTICLE 6 FORECLOSED PROPERTY CLEANUP

(Majority Vote Required)

To see if the Town will vote to raise and appropriate, or appropriate from available funds, the sum of \$125,000, or any other sum, for assessment, containment and removal actions pursuant to General Laws Chapter 21E and the Massachusetts Contingency Plan, concerning the release or threat of release of oil or hazardous materials at or from the properties located at 28 Willow Street and 214 Central Street, Acton, formerly owned by Lawrence S. and Beverly A. Nichols, which the Town acquired by foreclosure of liens for unpaid taxes, or take any other action relative thereto.

MOTION:

MR. FRIEDRICHHS moves that the Town raise and appropriate \$125,000 to be expended by the Town Manager for the assessment, containment and removal of hazardous waste from property located at 28 Willow Street/214 Central Street pursuant to the provisions of General Laws, Chapter 21E and the Massachusetts Contingency Plan.

MOTION CARRIES UNANIMOUSLY

ARTICLE 7**

SUPPLEMENTAL APPROPRIATION, NESWC

(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$400,000, or any other sum, for the purpose of solid waste disposal, or take any other action relative thereto.

CONSENT MOTION:

MR. KABAKOFF moves that the Town appropriate \$400,000 for the purpose of supplementing the NESWC appropriation made under Article 15 of the April 6, 1998 Annual Town Meeting, and to raise such amount \$400,000 be transferred from the NESWC Enterprise Fund.

CONSENT MOTION CARRIES UNANIMOUSLY

ARTICLE 8**

GREAT ROAD SIDEWALK EASEMENT

(Majority Vote Required)

To see if the Town will vote to accept as a gift from Gloria W. Palmer of 352 Great Road, Acton, Trustee of Palmer Family Realty Trust and Skyline Realty Trust, an easement for sidewalk purposes located at 346-352 Great Road, or take any other action relative thereto.

CONSENT MOTION:

MR. ASHTON moves in the words of the Article.

CONSENT MOTION CARRIES UNANIMOUSLY

ARTICLE 9****ARBORETUM ACCESS PARCEL**

(Majority Vote Required)

To see if the Town will vote to accept as a gift from Nancy B. Bursaw of 23 Newtown Road, Acton, land shown as Parcel A on a subdivision plan entitled "Definitive Plan of Concord Place in Acton Mass.", dated November 24, 1997 and approved by the Planning Board with conditions in decision #98-3, dated April 13, 1998, or take any other action relative thereto.

CONSENT MOTION:

MR. ASHTON moves in the words of the Article

CONSENT MOTION CARRIES UNANIMOUSLY

ARTICLE 10****EMERGENCY ACCESS EASEMENT**

(Majority Vote Required)

To see if the Town will vote to accept as a gift from Rosemary Nicholson, of 76 Strawberry Hill Road, Acton, and Anthony and Catherine Venier, of 88 Strawberry Hill Road, Acton, an easement for emergency access purposes between 76 Strawberry Hill Road and Davis Road as shown on plans entitled "Easement Plan of Land in Acton, Mass., owned by Rosemary Nicholson", dated October 23, 1997, and "Bellows Farm Phase IV Revised, Acton, Massachusetts, Definitive Subdivision Plan, Planned Conservation Residential Community", dated April 1997, or take any other action relative thereto.

CONSENT MOTION:

MR. KABAKOFF moves in the words of the Article

CONSENT MOTION CARRIES UNANIMOUSLY

MR. FRIEDRICH moves to dissolve this Town Meeting at 11:20 P.M.

MOTION CARRIES UNANIMOUSLY

Tellers Special Town Meeting October 5, 1998

<i>Madeline Brown</i>	<i>Loretta Roscoe</i>
<i>William Cady</i>	<i>Jean Schmelzer</i>
<i>Ann Chang</i>	<i>Corinne Steinhilper</i>
<i>Isabella Choate</i>	<i>Anamari Uriarte</i>
<i>Brewster Conant</i>	
<i>Edward Ellis</i>	
<i>Cornelia Huber</i>	
<i>Charles Husbands</i>	
<i>Charles Kadlec</i>	
<i>Andrea Miller</i>	
<i>Elizabeth Perry</i>	
<i>Kimberly Powers</i>	