

TOWN OF ACTON
ABSTRACT OF THE SPECIAL TOWN MEETING
NOVEMBER 15, 1999

TOWN OF ACTON
Commonwealth of Massachusetts
SPECIAL TOWN MEETING
NOVEMBER 15, 1999

at the Acton Boxborough Regional High School Field House

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REGISTERED VOTERS ATTENDANCE

835

The Moderator, Donald MacKenzie called the meeting to order at 7:05 P.M. He introduced the Chairman of the Board of Selectmen, Mr. Herman Kabakoff. Mr. Kabakoff introduced the Town Accountant, the Assistant Town Manager, the Moderator, the Town Clerk, the Town Counsel, members of the Board of Selectmen and the Town Manager. Mr. MacKenzie introduced John Prendiville, Chairman of the Finance Committee. Mr. Prendiville introduced the members of the Finance Committee.

Mr. MacKenzie explained the rules of Town Meeting. He asked that if anyone wants to speak to a motion that they go to a microphone and introduce themselves by name and street where they live. The Moderator stated that all amendments to motions must be in writing.

Mr. Hunter of the Board of Selectmen and Mr. Prendiville of the Finance Committee gave presentations on the sewer articles. Mr. Hunter states that he had the amount of funding in writing from Mr. Gottlieb of the EPA. He then read a letter from Mr. Gottlieb and introduced Mr. Gottlieb.

Mr. MacKenzie then read Article 1 and introduced Mr. Steve Probst to give his presentation on the sewer articles.

ARTICLE 1 AMEND CHAPTER D10 (b), SEWER BYLAW
(Majority Vote Required)

To see if the Town will vote to amend Chapter D10 (b) of the Acton Town Bylaws by changing the proportion of the costs of laying out, constructing and operating a sewage collection, treatment and disposal system, to be paid respectively by the land benefited and by taxpayers generally, or by providing that some specific amount or kinds of such costs shall be paid by taxpayers as may be determined hereunder or in the future by a two thirds vote of Town Meeting, and if the town votes to amend the by-law, to determine what specific amount or kind of costs shall be paid by taxpayers, or take any other action relative thereto.

MOTION: Mr. Shupert moves to amend Chapter D10(1) of the Town By-laws by adding the following language at the end of said Section 1: :(as underlined below).

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, except that costs incurred in connection with the planning and construction of the sewer collection and treatment facility for Middle Fort Pond Brook Sewer District, for archeological studies, paving of roads, engineering peer reviews, police details, traffic studies, and land acquisition, amounting in total to \$1,336,600, shall be allocated to taxpayers at large; and except for such costs as the Town Meeting, by a two-thirds vote, at a town meeting subsequent to this November 15, 1999 Special Town Meeting, shall allocate to taxpayers at large.

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AMENDED MOTION: Mr. Garrod moves to amend the motion as follows,

"except that costs incurred in connection with the planning and construction of the sewer collection and treatment facility for Middle Fort Pond Brook Sewer District, for archeological studies, paving of roads, engineering peer review, police details, traffic studies, and land acquisition, amounting in total to \$1,336,600, shall be allocated to taxpayers at large; and except for \$162,500 of annual operating costs shall be allocated to the taxpayers at large, and except for such costs as the Town Meeting, by a two-thirds vote, at a town meeting subsequent to this November 15, 1999 Special Town Meeting, shall allocate to taxpayers at large.

AMENDMENT IS LOST

ORIGINAL MOTION AS READ CARRIES

ARTICLE 2 RESCIND OBSOLETE BORROWING AUTHORIZATION
(Majority Vote Required)

To see if the Town will rescind the appropriation and the authority for the Treasurer to borrow \$290,000 approved under Article 1 and \$3,165,000 approved under Article 2 of the Warrant for the April 11, 1988, Special Town Meeting, for the purpose of financing the planning, design, and construction of sewers and a wastewater treatment facility for Sections 1, 2, and 3 in South Acton and Kelley's Corner, as identified in the SEA Consultant's report presented to the Town in 1988, or take any other action relative thereto.

MOTION: Mr. Shupert moves to rescind the appropriations and borrowing authorizations described in the article.

MOTION CARRIES

**ARTICLE 3 MIDDLE FORT POND BROOK SEWER DISTRICT
BORROWING AUTHORIZATION**
(2/3 Vote Required)

To see if the Town will raise and appropriate, appropriate from available funds, or borrow a sum of money in addition to the \$11,500,000 appropriated under Article 18 of the Warrant for the 1997 Annual Town Meeting and the \$10,000,000 appropriated under Article 3 of the Warrant for the October 5, 1998 Special Town Meeting, to be expended by the Town Manager for the purpose of financing the planning, design, and construction of sewers and a wastewater treatment facility, 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: Mr. Shupert moves that \$3,633,050 is appropriated in addition to the \$11,500,000 appropriated under Article 18 of the Warrant for the 1997 Annual Town Meeting and the \$10,000,000 appropriated under Article 3 of the Warrant for the

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October 5, 1998 Special Town Meeting for the purpose of financing the construction of sewers and a wastewater treatment facility for the Middle Fort Pond Brook Sewer District, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$3,633,050 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.

AMENDED MOTION: Mr. JOHNSTON moves to amend the motion as follows _____
"that \$3,633,050 is appropriated in addition to the \$11,500,000 appropriated under Article 18 of the Warrant for the 1997 Annual Town Meeting and the \$10,000,000 appropriated under Article 3 of the Warrant for the October 5, 1998 Special Town Meeting for the purpose of financing the construction of sewers and a wastewater treatment facility for the Middle Fort Pond Brook Sewer District, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$3,633,050 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, that monies borrowed under the authorization of this article, including any State Revolving Fund loans, will be repaid with a payback time period not to exceed twenty (20) years, exclusive of any term of any bond anticipation notes or interim loan borrowings.

AMENDMENT IS LOST

ORIGENAL MOTION CARRIES

VOTE	YES 590	NO 107	TOTAL 697
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Mr. MacKenzie states that we will take up articles 4 through 16, except for article 5, as consent articles.

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ARTICLE 4 RIVER STREET PUMP STATION LAND

(2/3 Vote Required)

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, the fee in all or a part of a parcel of land, as shown on a plan prepared by Stamski & McNary, located at 135 River Street, now or formerly owned by Linda G. & Sally T. Johnson, shown as Parcel 238, Map H3 on the Town Atlas, or take any other action relative thereto.

CONSENT MOTION: Mr. Shupert moves to authorize the Selectmen to purchase, take by eminent domain, or otherwise acquire for sewer purposes the fee or permanent or temporary easements in the parcels of land identified and described in Articles 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of the Warrant, and to authorize the Selectmen to expend funds appropriated under Article 18 of the 1997 Annual Town Meeting, Article 3 of the October 5, 1998 Special Town Meeting and Article 3 of this Town Meeting for such purposes.

(NOTE: Article 5 has been consciously deleted from this Motion. This property is not necessary for the project. We will move separately to "Take No Action" on this Article.)

CONSENT MOTION CARRIES UNANIMOUSLY

ARTICLE 5 MAIN STREET PUMP STATION LAND

(2/3 Vote Required)

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, the fee in all or a part of a parcel of land, as shown on a plan prepared by Stamski & McNary, located at 106 Main Street, now or formerly owned by Rachel M. Beckman, shown as Parcel 67, Map H2A on the Town Atlas, or take any other action relative thereto.

MOTION: Mr. Shupert moves to take no action.

MOTION CARRIES UNANIMOUSLY

ARTICLE 6 PROSPECT STREET PUMP STATION LAND

(2/3 Vote Required)

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, the fee in all or a part of a parcel of land, as shown on a plan prepared by Stamski & McNary, located at 133 Prospect Street, now or formerly owned by the Congregation Beth Elohim, shown as Parcel 129-3, Map F2 on the Town Atlas, or take any other action relative thereto

CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

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**ARTICLE 7 MASSACHUSETTS AVENUE PUMP STATION LAND
(2/3 Vote Required)**

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, the fee in all or a part of a parcel of land, as shown on a plan prepared by Stamski & McNary, located at 390 Mass. Ave., now or formerly owned by Rosemary Nicholson, Trustee of the Padala Realty Trust and Concord-Assabet Family and Adolescent Center, inc., shown as Parcel 10, Map G3 on the Town Atlas, or take any other action relative thereto.

CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

**ARTICLE 8 RAILROAD STREET PUMP STATION LAND
(2/3 Vote Required)**

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, the fee in all or a part of a parcel of land, as shown on a plan prepared by Stamski & McNary, located at 4 Railroad Street, now or formerly owned by Samuel A. Manka, shown as Parcel 43, Map H2A on the Town Atlas, or take any other action relative thereto.

CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

**ARTICLE 9 RIVER STREET / CARRIAGE DRIVE SEWER EASEMENT
(2/3 Vote Required)**

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, an easement in all or a part of parcels of land, as shown on a plan prepared by Stamski & McNary, located at 1 Carriage Drive, and 83 Parker Street now or formerly owned by Pauline L. Joyal & Andrew E. Page, shown as Parcels 229 & 239-2, Map H3 on the Town Atlas, or take any other action relative thereto.

CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

**ARTICLE 10 RIVER STREET / MERRIAM LANE SEWER EASEMENT
(2/3 Vote Required)**

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, an easement in all or a part of parcels of land, as shown on a plan prepared by Stamski & McNary, located at 104 River Street,

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now or formerly owned by Daniel A. & Florence C. Kis Gilfix and George B. and Kerry L. Williams, shown as Parcels 87-22 &168, Map H3 on the Town Atlas, or take any other action relative thereto.

CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

**ARTICLE 11 RIVER STREET / VANDERBELT ROAD SEWER EASEMENT
(2/3 Vote Required)**

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, an easement in all or a part of a parcel of land, as shown on a plan prepared by Stamski & McNary, located at 1 Vanderbilt Road, now or formerly owned by Thomas J. & Jacqueline Grady, shown as Parcel 87-18, Map H3 on the Town Atlas, or take any other action relative thereto.

CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

**ARTICLE 12 MAPLE STREET SEWER EASEMENT
(2/3 Vote Required)**

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, an easement in all or a part of a parcel of land, as shown on a plan prepared by Stamski & McNary, located at 6 Maple Street, now or formerly owned by Cornelius W. and Nancy E. Cullinane, shown as Parcel 56, Map H2A on the Town Atlas, or take any other action relative thereto.

CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

**ARTICLE 13 RAILROAD STREET / MAPLE STREET SEWER EASEMENT
(2/3 Vote Required)**

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, an easement in all or a part of parcels of land, as shown on a plan prepared by Stamski & McNary, located at 11 Maple Street, now or formerly owned by Lorraine M. Montouri, shown as Parcels 42 & 42-1, Map H2A on the Town Atlas, or take any other action relative thereto.

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CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

ARTICLE 14 MAIN STREET / FAULKNER HILL ROAD SEWER EASEMENT
(2/3 Vote Required)

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, an easement in all or a part of parcels of land, as shown on a plan prepared by Stamski & McNary, located at 91-93 Main Street and 9-15 Faulkner Hill Road, now or formerly owned by Thomas Joseph & Donna M. Heaney, Thomas J. & Cathleen T. Griffin, Howard W. & Carole Ann Kuenzler and Benedykt Z. & Krystyna Peszke, shown as Parcels 6, 7, 12 & 13, Map H3B on the Town Atlas, or take any other action relative thereto.

CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

ARTICLE 15 MASS AVE / FRANCINE ROAD SEWER EASEMENT
(2/3 Vote Required)

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, an easement in all or a part of parcels of land, as shown on a plan prepared by Stamski & McNary, located at 394 Mass Ave, now or formerly owned by Dolores Mary Foster & AD Realty Company, shown as Parcels 134 & 118-1, Map F3 on the Town Atlas, or take any other action relative thereto.

CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

ARTICLE 16 MAIN STREET / MASS AVE SEWER EASEMENT
(2/3 Vote Required)

To see if the Town will authorize the Selectmen to purchase, take by eminent domain or otherwise acquire for sewer purposes, an easement in all or a part of parcels of land, as shown on a plan prepared by Stamski & McNary, located at 395 Mass Ave, now or formerly owned by Acton Center Associates Limited Partnership, shown as Parcels 108 & 114, Map F3 on the Town Atlas, or take any other action relative thereto.

CONSENT MOTION: see article 4

CONSENT MOTION CARRIES UNANIMOUSLY

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ARTICLE 17 RESCIND AND REALLOCATE BORROWING AUTHORITY
(2/3 Vote Required)

To see if the Town will vote to rescind the appropriation and the authority for the Treasurer to borrow \$11,500,000 as approved under Article 18 of the Warrant for the 1997 Annual Town Meeting and \$10,000,000 as approved under Article 3 of the Warrant for the October 5, 1998 Special Town Meeting, for the purpose of financing the planning, design, and construction of sewers and a wastewater treatment facility, 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; with the exception of the amount which has been committed to date for the purpose of design and planning of the Middle Fort Pond Brook Sewer System and the amount needed for the purpose of planning, design and construction of that portion of the Middle Fort Pond Brook Sewer District which could reasonably be served by a facility located on the central school campus; and that the debt service payments in relation to the amount for design of the original Middle Fort Pond Brook Sewer District be exempt from Chapter D10(b) of the Acton Town By-laws and be paid by the entire tax base of the Town; or take any other action relative thereto.

MOTION: Mr. Hunter moves to take no action.

MOTION CARRIES UNANIMOUSLY

**ARTICLE 18 ACQUISITION OF REGIONAL SCHOOL LAND FOR
SEWER PURPOSES**
(Majority Vote Required)

To see if the Town will vote to authorize the Board of Selectmen to enter into negotiations with the Acton-Boxborough Regional School Committee for the purchase or lease for nominal consideration, of the fee or other interests in land necessary or appropriate to construct and operate a sewerage treatment facility; including all necessary sewer lines, pumping stations and appurtenances, on the central school campus on Charter Road, and that the Town raise and appropriate \$1.00 or other nominal consideration for such purposes, or take any other action relative thereto.

MOTION: Mr. Hunter moves to take no action.

MOTION CARRIES UNANIMOUSLY

ARTICLE 19 TITLE V DISTRESSED PROPERTIES
(Majority Vote Required)

To see if the Town will vote to authorize the Selectmen to establish a program for the acquisition of particular parcels of residential land by eminent domain or otherwise to protect the public health, safety, and welfare, if there is no practical way for such parcel to meet the sewage disposal standards of 310 CMR 15 (Title V, as amended) or to connect to a town sewer, or take any other action relative thereto.

MOTION: Mr. Ashton moves to take NO ACTION.

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MOTION CARRIES UNANIMOUSLY

ARTICLE 20 HOME RULE LEGISLATION
(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 authorizing the Town to enter into a long term contract for the design, construction and operation of sewer collection and treatment facilities, and for the sale or lease of existing facilities and the design, construction, and operations of modifications or additions to such existing facilities. Such legislation shall contain the substance of the following provisions:

Section 1

Notwithstanding any special or general law to the contrary, the Town may request proposals for and enter into such contracts, which shall not be subject to the competitive bidding requirements of G. L. c. 7, §§ 38A to 380; c. 30, §39M or c. 149, §§44A to 44M.

Section 2

Any request for proposals for such a contract shall be subject to G. L. c. 30B, except the provisions of §6(b)(3), (e)(3) and (g) and §§13 and 16 thereof.

Section 3

Any request for proposals and contract shall include performance guarantees for the design, construction and operation of such facilities in accordance with all applicable state and federal requirements.

Section 4

Any such contact may provide for a term of up to 30 years and be subject to the renewals or extensions, as the Town Manager shall determine.

or take any other action relative thereto.

MOTION: Mr. Friedrichs moves to authorize the Board of Selectmen to petition the General Court for Home Rule Legislation substantially as set forth in the Article.

MOTION CARRIES UNANIMOUSLY

ARTICLE 21 RESOLUTION
(Majority Vote Required)

Whereas sewers are one of the necessary pump primers for commercial development within the Town of Acton;

Be it resolved that Town Meeting directs the Economic Development Committee to pursue the creation of a commercial sewer district and;

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Further be it resolved that the Economic Development Committee be required to insure that any new or redeveloped commercial/industrial district have its septage treated by a treatment facility approved by the appropriate regulatory agencies or take any other action relative thereto.

MOTION: Mr. Kabakoff moves to adopt the Resolution set forth in the Article.

MOTION CARRIES UNANIMOUSLY

MOTION: Mr. Kabakoff moves to dissolve this town meeting at 11:07 PM

MOTION CARRIES

Tellers at the meeting were:

William Cady, Head Teller
Madeline Brown
Ann Chang
Edward Ellis
Brewster Conant
Cornelia Huber
Charles Husbands
Charles Kadlec
Edwin Richter
Jeff Bergat
Robert Ferrare
Deena Ferrara
Pamla Harting-Barrat
Edward Adelman
Thomas Geagan