



SELECT BOARD
MEETING MINUTES
DECEMBER 19, 2022
6:30 PM
ACTON TOWN HALL, ROOM 204
472 MAIN STREET

Present: Dean Charter, Jim Snyder-Grant, Himaja Nagireddy, Fran Arsenault, David Martin, Town Manager John S. Mangiaratti, and Assistant Town Manager Mark Hald

At 6:30 PM, Mr. Charter called the Select Board meeting to order and Adam Nolde called the Finance Committee meeting to order.

I. Regular Business

1. Town Manager Fiscal Year 2024 Recommended Municipal Budget Presentation
Mr. Mangiaratti presented to both the Finance Committee and the Select Board the recommended municipal budget for FY24. Mr. Mangiaratti highlighted many ways how the town connects with the community, the many recognitions the town received, over \$6.8 million in grants awarded in the past 18 months, created general town hotline with existing staff, future planning with the community, reviewed the FY23 short- and long-term goals of the Select Board, reviewed FY24 budget challenges, investing in community priorities. The total recommended FY24 municipal spending is \$38,777,128 which is down 0.43% from FY23. Mr. Snyder-Grant questioned whether the fueling station funding is for design or the actual work of moving it somewhere else; Mr. Mangiaratti noted the funding will cover the design. Mr. Cole from the Finance Committee questioned that he would like to see input from the town on spending \$1.2 million on preliminary design before Town Meeting, questioned if the town hall parking lot will have any affect with the Asa Parlin House design. Mr. Noone from the Finance Committee questioned if there would be an increase in the FTE count; Mr. Mangiaratti noted that the only increase is bringing a position what was not 40 hours to 40 hours, and the only new position was the additional arborist. Ms. Andersen from the Finance Committee questioned if the current social worker is an asset to the Police Department and have been able to divert calls from police to the clinician. Mr. Mangiaratti noted it has been very successful, noting the need for an additional clinician. Ms. Gangoli from the Finance Committee questioned what funds are to be used for the Asa Parlin design other than ARPA funding. Mr. Mangiaratti noted that Congresswoman Trahan sponsored a \$400,000

earmark, currently awaiting a vote, that would make an excellent contribution towards the design, as well as \$400,000 in CPC funding.

Mr. Nolde from the Finance Committee questioned if the the electrification of the Public Safety Facility 1.2 million funding will be spent in FY 25 and not in FY24, Mr. Mangiaratti confirmed that there would be two parts, the design and then the construction. No further questions from the Finance Committee.

Mike Gowing, 93 Harris Street, questioned on the cost of the tight tank at the West Acton Fire Station; Mr. Mangiaratti noted that the cost would be for the construction. There were no further questions. The Finance Committee then voted to adjourn its meeting.

2. Resident Concerns

Terra, West Acton – concerned about the appointment of James Fuccione to the Planning Board due to his employment affiliation that may be influenced by smart growth and suggests asking him about his views on the master plan and to hold his appointment.

Martin Benson, 24 Deacon Hunt Drive – read from a prepared statement included in the Docushare meeting folder citing statements released by the DEIC on the September lockdown of the high school, statements made by Mr. David Martin denying accusations made by Mr. Benson regarding DEIC meetings, waiting for a response from the Town regarding a public records request, complaints of hiring an outside agency for meeting with elected leaders over Zoom bombing incidents, removal of the Colonial mascot, and removal of the Town Manager from the 250 Committee.

Nijan Datar, Wyndcliff Drive – read from a prepared statement included in the Docushare meeting folder – concerned about removing a member of the 250 Committee, public participation at DEIC meetings, statements made by Mr. David Martin.

3. Chair Update/Town Manager Update/Members Minutes

Mr. Mangiaratti recognized employees retiring: Rich Burrows, Police Chief for 5 years and previously serving as the Deputy Chief after a long career as a Police Officer, Finance Director and Town Treasurer Steve Barrett, Assistant Finance Director and Principal Assessor Brian McMullen and Town Accountant Lisa Wojick. Mr Mangiaratti thanked them for their service to the community and wished them well in their retirements.

Ms. Arsenault attended an Eagle Scout Court of Honor in Sudbury for Troop 12, Anna Campbell, the first female Eagle Scout from Acton.

Mr. Martin stated that Mr. Benson's statement was incorrect.

Mr. Snyder-Grant noted the lights in front of Town Hall, and the second night of Hanukkah, and December 7th earliest sunset and wishes everyone a happy holiday with a lot of light. In response to the request to interview James Fuccione on his specific interest in serving on the Planning Board, he is willing to hold the appointment for further discussion.

Mr. Charter will continue to receive comments from the public, both in-person and virtually, until May 3rd.

II. Public Hearings

4. 7:10 PM Site Plan Special Permit #7/12/2022-487 100 Discovery Way

Mr. Charter read the public hearing notice at 7:10 PM. Mr. Martin noted the applicant has made changes and adjustments to the plan, however the Planning Division has not had time to review, so the applicants presented their adjustments, but the Board will continue the hearing until the Health and Planning Divisions review the plans.

Mr. Martin questioned when the package will be submitted to the Town. Adam noted within the next 2 weeks. Ms. Nagireddy mentioned a decrease of square feet to the facility and new safety features – Josh Laricy from Blue Wave Solar noted the previous location had more square feet, so the relocation is reduced in setbacks with the safety bollards more spaced out. Ms. Nagireddy questioned what changes are being updated in the emergency preparedness plans – changes are additional information not previously given to the Board of Health, and no need to add an additional hydrant since the total square feet has decreased and now in proximity of a current hydrant. Mr. Charter opened the hearing to public comment and noted that the applicant will be back to the Board after review from the Planning Board.

Debra Simes, 109 Concord Road – questioned about metrics about the Clean Peak program saving \$710 million and 560 metric tons in broad emissions and questioned if it was projected or per year and if there is a power outage what is the backup. Mr. Lariscy noted that the AC is coupled directly to the grid.

Terra, West Acton – asked what the acres disturbed before and after are.

Angela Morris – questioned if the offset of emissions from the mining would be considered with the construction and was assured it would not. Questioned what changed the decision of the location – Mr. Lariscy stated the location was considered on the deed to be the end of Discovery Way which is deemed unbuildable for construction due to the current subdivision location.

Michael Schulze, 24 Brucewood Road – appreciates the safety improvements, but wants assurance that an explosion would not occur. Adam noted the systems have evolved over the year in design, that if an event occurred there are more safety measures in place.

Don Hopin, 8 Brucewood Road – concerned about an electrical surge that occurred in Waltham that caused problems in residences and businesses and if there was a plan if something were to occur, and a recent attack in South Carolina on a power station and what the vulnerability was of this proposed warehouse.

Mr. Lariscy noted that system has safeguards in place with multiple layers of protection from a possible system surge and the elements.

John Bookis, Oakwood Road – voiced concerns regarding weather emergencies such as flooding, lightning strikes, and young drivers learning to drive in parking lots.

Janice Ward, 32 Brucewood Road – feels it is bait and switch by only moving the facility 100 feet and asked about the size of the High School facility compared to the proposed location. Mr. Lariscy is working with the town regarding concerns

of the proposed location, the school produces 11 megawatt/hours, the proposed facility is 20 megawatt/hours, but doesn't have the square footage of the high school location.

Xiaoning Zhou, 26 Brucewood Road – questioned if they had looked at the parking lot adjacent to Route 2 (for the warehouse). Mr. Lariscy noted that they approached the owner but the location had a substantial septic system at that location.

Rachel Wulsin, Brucewood Road – disappointed the facility won't be relocated to the parking lot and how many trees will be removed, and if they could flag what trees would be removed.

Mr. Martin moved, seconded by Ms. Arsenault to continue the hearing for the Site Plan Special Permit #7/12/2022-487 for 100 Discovery Way to January 23, 2023 at 7:10 PM in Room 204 and approved unanimously.

5. 7:30 PM Cable License Agreement, Verizon New England, Inc.

Richard Logan presented the proposed Verizon New England Cable licensing agreement.

Special Cable Counsel William Solomon mentioned the potential for a meeting to vote to sign the agreement on December 30th after both parties agree to terms. Mr. Martin asked what the PEG capital money is used for. Mr. Logan mentioned that those are the three channels that Acton TV has and is used for equipment.

Ms. Nagireddy questioned why they were pitching a shorter contract. Mr. Logan suggested that it could be due to cord cutting and dwindling subscriptions and the possibility of household 5G connections that would technically not be cable.

Mr. Martin moved, seconded by Mr. Snyder-Grant to close the public hearing for the cable license agreement for Verizon New England and approved unanimously.

III. New/Special Business

6. Discuss Concerns Regarding Appointment of David Lunger to the 250 Committee

Mr. Charter cautioned people due to the emotional level involved with the concerns regarding Mr. Lunger's appointment, and will limit comments to 2 minutes. Ms. Nagireddy introduced the original concern of the appointment due to comments made on social media regarding overthrowing the government and comments regarding the LGBTQ+ community, and the legal ramifications the Board can take regarding the appointment and moving forward how the Board can set guidelines and parameters with a Committee Code of Conduct and working on revamping the vetting process with the Volunteer Coordinating Committee. Mr. Charter allowed Mr. Lunger time to speak. Mr. Lunger read from a prepared statement included in the Docushare packet, commenting on mending and healing, specifically the government, members of the LBGTQ+ community and indigenous peoples. Mr. Lunger apologized for his comments and tweets that people felt were hurtful. Mr. Martin noted that the Select Board made and posted a statement for inclusion for all and voiced concerns over specific social media comments regarding actions against the United States. Mr. Snyder-Grant appreciated the apology and suggested continuing Mr. Lunger's membership on

the 250 Committee, noting there are 11 voting members and if there is any disruption the committee's chair can control and can recommend dismissal to the Select Board if necessary. Ms. Arsenault commented on understanding the process of removing someone from a board or committee and that working towards inclusivity is paramount.

Nina Pickering Cook, Town Counsel – noted there has to be a cause for removal from a board or committee that is formed by the Select Board and Ms.

Nagireddy's inquiry what would be considered cause for removal. Conduct in meetings would be a consideration. Also, a committee member is less protected by freedom of speech protection. Mr. Charter stated his concerns about setting a precedent, and that many committees consist of members with different views, yet are still able to move towards a common goal, and concerned about the preservation of first amendment rights of all citizens and noted that Mr. Lunger posted his messages as a private citizen. Mr. Charter voiced concern about utilizing past social media posts to oppose appointing a volunteer to any board or committee, noting the current difficulty in getting residents to run for elected positions or volunteer for boards and committees, and would not vote to remove Mr. Lunger.

Mike Gowing, Harris Street – disappointed that other members of the community were not appointed to the 250 Committee at the December 5th meeting and feels that the committee will reflect many different opinions.

Leo Fochtman, Wright Terrace – urged the Board to take no action and not remove Mr. Lunger from the committee, noting that he has a right to his opinion. Rebecca Wilson, Wingate Lane – feels the 250 Committee planning should be about the community and bringing people together, and feels Mr. Lunger chose poor judgement and should not be allowed on the Committee.

Martin Benson, Deacon Hunt Drive – supported Mr. Lunger's appointment to the 250 Committee and read from a prepared statement included in the Docushare meeting packet, highlighting the political attack on him while exercising his constitutional rights promoting a ballot question in a public place, and concerned that some members of the Select Board will remove appointed members of committees if they don't agree with their political beliefs.

James Convoy, 129 Parker Street – has known Mr. Lunger privately for many years and supports Mr. Lunger's appointment to the 250 Committee, and doesn't agree with all his comments as a private citizen but cautions the Select Board about setting a precedent with committee appointments.

Melissa Brown, 399 Great Road – difference between free speech and hate speech, and a choice to post ideals on social media and feels an apology is not enough.

Nijan Datar, Wyndcliff Drive – distressed over political lines disagreeing with other political views and name-calling of residents.

Alicia – Robinwood Road – requests that the Board rescind the appointment of Mr. Lunger.

Terra, West Acton – encourages Mr. Lunger to stay on the 250 Committee as a trial period.

Alissa Nicol, School Street – appreciates the apology from Mr. Lunger, and may not agree with his views and uncomfortable with the appointment due to the anti-government statements and the statement regarding the LGBTQ+ community. Chris Gulianni, High Street – offended and upset about the social media posts from Mr. Lunger and not feeling that Acton is a safe town as a member of the LGBTQ community and suggests that he not be allowed to remain on the 250 Committee.

Janet Adachi, Simon Hapgood Lane – request to leave the appointment untouched, and let the Committee implement its charge.

Nancy Corcoran – commented that if the Board was going to discuss a person's character to have the conversation in Executive Session.

Adam Nolde, Broadview Street – encourages the Board to not drive the Town towards a First Amendment lawsuit.

Charlie Kadlec, Paul Revere Road – warns the Board that they do not have cause to remove Mr. Lunger as the 250 Committee has not yet met and feels that Mr. Lunger's comments were exaggerated on describing his social meeting posts.

Scott Smyers, Central Street – commented on Mr. Martin's exaggeration regarding Mr. Lunger's social media posting and encouraged to keep Mr. Lunger on the 250 Committee. Mr. Lunger spoke briefly regarding the comments made during the discussion regarding his appointment on the 250 Committee, and feels we need to move forward and heal. Ms. Arsenault feels it is free speech vs. ethical speech and feels strongly about her decision. Mr. Martin concerned about Mr. Lunger's posts and other people serving on the committee that may fall under the categories noted in Mr. Lunger's posts. Ms. Nagireddy thanked people to speaking out regarding Mr. Lunger's posts and the responsibility of the Select Board appointing people to boards and committees and proposes drafting with Town Counsel what a cause would be to remove a person from a committee and create a more robust Code of Conduct and work with the VCC and bring it back to the Board for a vote. Mr. Charter suggests Mr. Lunger's removal of appointment be considered as a future Select Board Goal and to address the matter at hand. Mr. Snyder-Grant agreed with drafting a policy about removing members from committees and also noted that Mr. Lunger has served on the Board of Registrars for many years.

Ms. Arsenault moved, seconded by Mr. Martin to remove Dave Lunger from the 250 Committee. Board members then voiced the reasons for their decision on their vote.

Mr. Martin votes yes, feels Mr. Lunger's history is against the Board's statement on respect for all and a number of his posts are anti-patriotic.

Ms. Arsenault votes yes for all reasons heard during the discussion and his posts and tweets running a fine line between free speech and ethics.

Mr. Charter votes no for reasons stated earlier and feels that its possible to serve on a board or committee with people you disagree with, comments made as a

private citizen should not be used against them after having been seated on a committee, and feels it is a First Amendment rights issue, and sets a bad precedent, opening up for previous posts made by any board member to be removed due to political disagreements.

Mr. Snyder-Grant votes no, until there is a policy they could all agree upon, there is a chance it won't cover this particular case.

Ms. Nagireddy votes yes due to the public social media messages being available for all to view and feels the comments were discriminating in nature and threatening to certain members of the community.

Ms. Pickering Cook wanted to clarify that the speech posted is in line for the statement for respect for all and not a speech each member doesn't like or believe in.

Ms. Arsenault moved, seconded by Mr. Martin to remove Mr. Lunger from the 250 Committee as the speech is deemed hate speech and approved 3-2.

7. Review Responses to the Request for Interest (RFI) for Reuse of 3 and 13 School Street

Mr. Mangiaratti updated the Board on the two unsuccessful attempts with the property, the Economic Development Director Julie Pierce to include 13 School Street in the RFI, and received two entities interested in discussing further for a request for interest, which doesn't create a binding contract. One was the Acton-Boxborough Islamic Center for the garage as a possible place of worship, and are more interested in leasing it than buying. The second submitted proposal was from Seabrook Development to create a mixed-use senior housing development with a site for the Food Pantry. Ms. Pierce and Mr. Mangiaratti met with both entities and the next step is to give feedback on what they would recommend for usage, and to declare 13 School Street a surplus property, or direct the Town Manager to create an RFP for the disposal of real property before Town Meeting. Mr. Charter would be interested in moving ahead with the sale of the two properties and enhance it with housing and commercial activity in the building. Mr. Martin was in favor declaring the parking lot on School Street as surplus only for a developer revitalizing South Acton with the first floor be retail space and feels the Civil Defense building would meet the needs of the Islamic Center. Mr. Snyder-Grant questioned why businesses tend to fail in South Acton. Mr. Mangiaratti noted that the RFP process gives the Board discretion with the goals it seeks for reuse of the property.

Mr. Mangiaratti noted that the Planning Division is in the middle of the South Acton Village Revitalization Plan and the input from the Board would be important. Mr. Charter asked Mr. Mangiaratti to draft an RFP and interact with members of the Board along with the Economic Development Director and Planning Director and take a vote to declare 3 School Street surplus property and also consider the 19-21 Maple Street property.

Alissa Nicol, South Acton – was concerned about the Board declaring the properties surplus and the RFP process taking place before the South Acton Vison

is completed – Mr. Mangiaratti doesn't feel it would be ready before Town Meeting.

Mr. Martin moved, seconded by Ms. Arsenault to ask the Town Manager to draft an RFP and bring back to the Board for review and approval and voted 4-0-1 (Snyder-Grant abstain).

Mr. Snyder-Grant moved, and seconded to ask the Town Manager to move ahead with an RFP for a lease for 19-21 Maple Street property and amended by Mr. Martin and seconded by Mr. Martin to ask Town Manager to put together a lease accentuating non-profit and approved unanimously.

Mr. Martin moved, seconded by Ms. Arsenault to declare 13 School Street as surplus property and bring to Town Meeting for approval and voted 4-0-1 (Snyder-Grant abstain).

8. Discuss the Annual Town Meeting and Date to Close the Warrant

Mr. Hald noted the timeline of events and meetings crucial to the development of the Town Meeting Warrant. Mr. Hald was looking for the Board to vote on the opening of the warrant and a closing date of the warrant. Mr. Hald suggested to open it today and close it Wednesday, February 15, 2023 at close of business.

Mr. Martin moved, seconded by Mr. Snyder-Grant to open the Town Meeting warrant on December 20, 2022 at 8:00 AM and set the closing date on February 15, 2023 at close of business and approved unanimously.

9. Consider Approving Licenses for The Holy Grail, Frolic & Detour, and Rapscallion

Mr. Mangiaratti noted that Frolic & Detour and The Holy Grail will have to be deferred until December 30th, and Rapscallion has submitted the required documents to receive their Building Safety Certificate.

Mr. Martin moved, seconded by Mr. Snyder-Grant to approve an all alcoholic beverage licenses and common victualler license for Rapscallion Table to Tap and approved unanimously.

IV. Consent Items

Mr. Snyder-Grant held consent item 15. **Mr. Charter moved, seconded by Ms. Arsenault to approve consent items 10-14, and 16-23 inclusive and approved unanimously.**

Mr. Snyder-Grant addressed concerns about skipping over an associate member by noting that Michaela Moran, previously an associate member, had already been promoted to a full member, and that the Planning Board needed a full complement of full members before taking on associate members. Mr. Snyder-Grant addressed concerns about Mr. Fuccione's previous involvement with the Smart Growth Alliance, by noting that he sees the SGA as a building reform group rather than as a building promotion group.

Mr. Snyder-Grant moved, seconded by Mr. Martin to appoint James Fuccione as a full member of the Planning Board with a term to expire on June 30, 2027 and approved unanimously.

Mr. Martin moved, seconded by Ms. Arsenault to adjourn and approved unanimously. Meeting adjourned at 11:21 PM.

Documents Used

- Agenda, Select Board, December 19, 2022
- Draft Cable License Agreement, Verizon of New England
- Email and Letters to Select Board Regarding Appointment of David Lunger to the 250 Committee
- Memo from Julie Pierce, Economic Development Director on 3 and 13 School Street Next Steps Dated December 15, 2022
- Draft Timeline to the 2023 Annual Town Election and Annual Town Meeting
- Email from Theresa O'Leary Requesting to Approve an Extension of the Reduced Parking Rates Dated December 14, 2022
- Meeting Minutes
- Committee Appointment Recommendation for James Fuccione for the Planning Board
- Committee Appointment Recommendation for Karen O'Neil for the Open Space Committee
- Committee Appointment Recommendations for Mike Gowing, Suzanne Peterman, and Anne Kadlec for the 250 Committee
- Committee Appointment Recommendation for Mary Price Maddox for the 250 Committee
- Committee Appointment Request for Dr. Rekah Singh as Full Member to the Board of Health
- Accept Gift Memo from the Recreation Department for \$50 from Mary Lou Repucci Dated December 9, 2022
- Accept Gift Memo from the Council on Aging for \$100 from Susan Hunt Dated December 14, 2022
- Accept Gift Memo from the Acton Lions Club for \$2000 in Merchant Gift Cards Dated November 16, 2022
- Refund Request Memo from the Cemetery Division for \$1800 Dated December 14, 2022