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TOWN CLERK  
ACTON

## BOARD OF SELECTMEN AND SEWER COMMISSIONER'S MEETING

May 8, 2017

Francis Faulkner Room 204

Regular Meeting 7:00 PM

*To view the full meeting, please [click here](#)*

Present: Janet K. Adachi, Katie Green, Chingsung Chang, Peter J. Berry, Joan Gardner, Town Manager Steve Ledoux, Town Counsel Jessica Wall, Lt. Doug Sturniolo, Acton Police Department, and Lisa Tomyl, Recording Secretary

### Citizen Concerns

Terra Freidrichs, West Acton – concerned from friends about a proposal of 40B's on "crack" calling it an unprecedented giveaway to construction companies. Gave a handout to the Chair. Something about a house bill S81 regarding an act promoting housing and sustainability. (no audio on recording).

Jim Engal – asked about if the pending appeal was on the agenda. Represents the Breezy Point Associations. Met and agreed on some conditions. The homeowners wrote to the Board. Feels as though Concord has not met in good faith with the conditions.

Wants the Board to fight this lawsuit.

Terra Freidrichs, West Acton – standing firm against Concord. Feels as though the terms were very friendly and the bare minimum.

### Chairman Update/Operational Update

Ms. Adachi – Reception honoring Town volunteers, Friday, 5/12, 5:30-7:30 pm, NARA Picnic Pavilion. With refreshments. Peter B proposed while he was chairman, so he's coordinating. Agree on need for regular recognition of volunteers, whether via annual event or more frequent, smaller-scale events.

National Grid public outreach meeting, Weds, 5/17/2017, 6-8 pm, Devens Common Center, Devens, MA. For local customers in Acton and 12 other communities. Presentation, Q&A and exhibits on energy efficiency, National Grid energy networks, other related topics.

More info in BOS "Extra Information" folder or go to [ngcommunityconnection.com](http://ngcommunityconnection.com) to register, see video overview, etc.

World Film Series, sponsored by ABCC: 4 Fridays of films. Free of charge. Started last Fri, 4/28, with 8 short films by students and alumni/ae of area film schools, and last Friday, 5/5, with "Pan's Labyrinth." Continues this Fri, 5/12 and next Fri, 5/19. See Town website for more info.

Mother's Day, Sunday, 5/14.

Future meetings: Insulet site plan continued hearing, Monday, 5/15, 7:00 pm. A couple of other items tentatively on 5/15 agenda:

Discussion of possible short term solution re: parking at train station for mopeds/motorized scooters: Public Works Dept is exploring long term solution

Discussion of possible Town comments as part of Section 106 review (under federal historical preservation act) of proposed installation in MBTA ROW in Acton of 3-4 75' tall monopoles for antenna/communications equip. 30-day period, ending ~6/5, to submit comments about potential impact on cultural and/or historical properties.

Mr. Ledoux – TIF Agreement with Insulet draft finalized this week and for consideration on May 22<sup>nd</sup>. Student intern from ABRHS with Town Manager Office and going into Political Science major at University of San Diego in the fall.

#### **Public Hearings**

**Senator Eldridge, Representative Jennifer Benson, State Budget Update** – Senator Eldridge had a letter of his budget priorities for the Board. Discussed the several line items in his budget priority report.

Representative Benson – 1.4% increase in special education, chp 70 not so much compared to the state budget, secure of the last year of the regionalization funding, Acton-Maynard shuttle got \$75,000 in the budget to support it. Waiting the federal level with Medicaid – with the ACA appealed we could go backwards to the 2006 health care form but not the case but the funding won't be there. Refiled how we fund special education. Program on WCVB about a bill she filed about being able to access meds that your doctor prescribes to you if it is a higher tier medication by showing that the patient fails on other medications prior to getting the medication that the patient requires. Creates a mechanism for a physician to override that policy to get the medication right away. Still Chair of Consumer Protection. Ms. Green thanks both the Senator and Rep. Benson for their reports.

Mr. Chang – spoke about concerns regarding water resources and the act of 1884 and to protect Acton water resources. Questioned about a bill blurb regarding free college tuition for Massachusetts residents. Senator Eldridge has more information on his website at <https://www.senatoreldridge.com/> Mr. Berry thanks both for supporting the CPA – we were the first town to jump on board, Acton is down 30% and costing the town money to support the CPA. We have been sued for using CPA for funds this past year. Question about proposal to raise revenues – water use. A bill would charge \$.70 for every thousand from public waterways.

Discussed about filing legislation to look into the Act of 1884. Putting together a citizen group to work with local legislation regarding filing a bill to reverse the act of 1884.

Terra Friedrichs, West Acton – water commissioners support the resolutions Littleton supported it but didn't have enough time to review it. Whatever happens at the state concerning State taxes-Federal taxes, if the federal taxes go down, hopefully the state taxes go up.

**Entertainment License Hearing, Concord Brewery, LLC d/b/a Rapscallion** – Ms. Adachi read the public hearing notice. Representing Rapscallion is Peter Daniels, Manager and owner. Town Counsel Jessica Wall in attendance. Ms. Wall gave an overview of application and a history of the applicant. Ms.

Gardner swore in all parties interested in speaking. Mr. Peter Daniel spoke as the applicant. Willing to accept change in time and bring the hours to stop at 10 PM. Open for compromise to finish music at 9:00 PM. Willing to do a sound level meter if necessary. Acknowledges they were booking inappropriate bands that were booked at their other location that is not in a residential location. Willing to have music indoors. Looking to have the music shut down earlier and outdoors. Felt there was some embellishments in some of the letters that were submitted and felt that being blamed for littering was not accurate. Common complaints were parking. Zoned for 30 spots, total occupancy (of building) is 110 (including staff). Feels that cars on Strawberry Hill parked is actually helping to slow traffic. If neighbors do not want Sunday music he will withdraw the Sunday request.

Ms. Green – music is outside below a patio in between 2 buildings. Questioned if Mr. Daniels is providing any kind of sound muffling. Mr. Daniels explained yes during the down period. Shut down at 9:30 pm on the night of the (police) report (in April). On application the times are not accurate so you are open for a suggestion of times - Mr. Daniels agreed yes.

PB – looks like application in 2015 there was question regarding the BOH allowing only 75 seats due to the need of upgrading the septic. Just met with the blueprints with BOH tonight and as long as the work is going forward they were OK with it. They would shut down for two weeks to complete the septic project. The Board also questioned about (the building's) structural integrity – that was completed.

Ms. Adachi reminded that the music that was approved for acoustic indoor and not outside.

Highlighted days that they had bands not on Thursday. One on Saturday, Tuesday, Wednesday, and Sunday.

Amy Keane – 13 Strawberry Hill Road – feels it's not a cooperative business – never had a problem with previous restaurants for years. Bands came in and the noise was very loud – it has been an ongoing nightmare. Has had tenants move out due to the noise. Hope that it changes.

Mike Murphy – 7 Strawberry Hill Road – been so obnoxious with the music that the windows shake. Feels they have brought the property values down.

Terra Spaulding – 5 Harvard Court – sent in a statement and agree with what Mr. Murphy said. Has high school students that could not concentrate. Did not know that the license was for 9-11:30, but the music started at 7. There was litter in both sides of the street from the patrons.

Brianna Little 19 Strawberry Hill – ok with Sunday only if the music on Thursday is earlier and ends earlier.

Ms. Wall stand of MGL 140 3 options – grant application, grant with condition, or deny it.

Ms. Adachi – if we want to change or clarify original license – finds non-compliance with original license.

Ms. Green – make decision with their proposal or can we amend the current license.

Mr. Berry – the original license was the intent of indoor music – can we make a condition that we don't allow outdoor entertainment.

Mr. Bartl, Planning Director, - zoning bylaw defines entertainment as an indoor activity.

Ms. Green commented that 9-11:30 PM is extremely late and the original application was assumed that it was acoustic and not a live band. Feels that the appropriate amendment would prefer it Sundays from 2-5 as acoustic only and inside (check agenda on back page).

Ms. Adachi mentioned about the parking on the restaurant side of the street to Lt. Sturniolo. Concerned about congestion. Vehicles can park on one side of the road since there is no posting.

Mr. Chang – do you have any record or knowledge of calls where an officer was not sent out . Lt. Sturniolo stated that all calls that come in are investigated.

Mr. Berry is ready to close the hearing, Mr. Chang ready to close hearing and agree with Ms. Green. Ms. Adachi inclined to close hearing – Mr. Daniel preferred to keep Thursdays from 9-11:30pm for acoustic music only.

Ms. Green stated that if there are any future complaints of music held on other nights other than acoustic, there will be a future hearing of revocation. Ms. Green moved to close the hearing, Mr. Chang second. All Ayes. Ms. Green moved to deny the license amendment , Mr. Berry seconded. All Ayes.

**Site Plan Special Permit #07/25/00 – 372 Amendment, 145 Great Road, Brookside Shops** – Ms. Adachi read the public hearing notice. Representing Clarion Partners is Lou Levine. Lauren Holden – represents the ownership. Looking to change the delivery time at 5:45 AM for Trader Joes only – not for any other tenant at Brookside Shops.

Alicia Viscone from Keypoint Partners – as part of effort with the planning board, keeping communication as transparent as possible. Putting new signage on property and a brand new security system and a brand new gate system. All efforts under contract. Will be having activity every week with 4 different projects with a projection of completion by mid June. Company is on site 2-4 days a week. They have changed the trash vendor. Security system will be real time and motion based with real time alerts.

Mr. Levine and the management team met on a monthly basis to keep communication channels open.

**Graham Knowland – 29 Esterbrook Road** – Abutters were only given 2 mitigation were for the Great Road strip mall. Used to look at farm land and was assured that buffered areas where within 5 years as assured by Dean Charter. The vegetation barrier has a total gap due to lack of maintenance from the earlier years. Spoke about violations of the delivery times of Brookside shops and most “egregious” violator is Trader Joes. Claimed that violations have to be observed by town staff by the Planning Director (during regular business hours). Has pictures of said violations were provided for the record.

Lou Levine will agree to replace the 4 ft fence with an 8 ft fence – will be willing to put motion detectors for the lighting for after business hours.

**Dan Silva – Estarbrook Road** – tractor trailer activity can be heard in the middle of the night such as HVAC units on trucks – pallets being unloaded, etc. the noise travels. Hoping for a change with the new management and hope to come to a conclusion. Noted that the management said that the security cameras will go directly to the manager – there was a suggestion that the picture go straight to the Planning Board or Planning Department when a violation occurs.

Linda Savage 68 Esterbrook Road – Trader Joes routinely violating the SPSP order and not reward bad behavior and figure out a way to work it out. Give management 6 months to make sure that the requests are corrected and they are working in good faith to come to a solution that works out for everyone.

Ray Yacoby – Chair Planning Board – not about condemning for bad behavior but commanding them for acknowledging their poor behavior and violations.

Lou Levine – no objection for the Planning Department be notified of any violations (video).

Graham Knowland – commented on the other grocery stores and distance from residences.

Lou Levine – agrees with all the conditions that have been brought up and the management agrees to meet them (lighting, security, fence and landscaping).

Ms. Green moved to continue the hearing to July 24, 2017 at 7:10 PM. Mr. Chang seconded. All Ayes (5-0)

### **Selectmen Business**

Board Liaison Assignments Board discussed committee liaison assignment. All agreed.

Board to Discuss Goal Setting Meeting Board discussed their upcoming Goal Setting Meeting. Doodle poll will be created for best date.

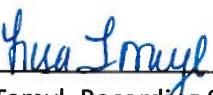
Board to Consider Approval of a Non-Resident Parking Fee at NARA Park Board to discuss at next meeting on May 22<sup>nd</sup> NARA Park Master Plan presentation.

Town Manager Evaluation: Board received and reviewed for first time Town Counsel's compilation of Board-members' ratings and comments with respect to Town Manager's performance for past review year. Ms. Adachi noted that Open Meeting Law precluded Selectmen from seeing each other's ratings and comments outside of posted public meeting; take time to review compilation and bring up any questions or concerns later.

### **Consent Agenda**

Ms. Green moved to approve consent items 8-17, Mr. Chang seconded. All Ayes (5-0)

Ms. Green moved to adjourn, Mr. Chang seconded. All Ayes. Meeting adjourned at 10:30 PM.  
Respectfully Submitted,

  
Lisa Tomyl, Recording Secretary

  
Joan Gardner, Clerk