

**ABSTRACT OF THE SPECIAL TOWN MEETING HELD
 MONDAY, DECEMBER 4, 2017, 7:00 P.M.
 ACTON-BOXBOROUGH REGIONAL HIGH SCHOOL AUDITORIUM
 NUMBER OF REGISTERED VOTERS ATTENDING TOWN MEETING
 DECEMBER 4, 2017 – 1242**

Article Index

* Article is on Consent Calendar

Article submitted by Citizens' Petition

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The Moderator, Mr. Peter Ashton, called the Special Town Meeting to order on Monday, December 4, 2017, at 8:30 PM.

Mr. Ashton welcomed town meeting members.

Mr. Ashton gave a brief overview of the process of Town Meeting.

Mr. Ashton introduced the chair of the Board of Selectmen, Janet Adachi, who then introduced the members at the table , Katie Green – V Chair, Joan Gardner – Clerk, as well as Peter Berry and Chingsung Chang, members of the Board of Selectmen. In addition, Steve Ledoux – Town Manager, Nina Pickering Cook - Town Counsel, Eva Szkaradek - Town Clerk.

The Moderator introduced the Chair of the Finance Committee, Stephen R. Noone, who then introduced the members at the table, Jason Cole - V Chair, Dave Wellinghoff – Clerk, Bob Evans, Michael F. Majors , Roland Bourdon, III, Jeffrey Bergart, Jon Benson, Thomas F. Farley, Christine Russell, and Christiana Andersen.

The Moderator asked Town Meeting to vote to allow Non Resident Town Staff to speak to the Articles of this Special Town Meeting if needed.

Motion carries to allow speakers.

The Moderator gave a presentation on the iClicker, the new Electronic Voting equipment that we will use at this Town Meeting. The new voting process was voted at the Special Town Meeting held October 5, 2016, Article 2, adding section A7 to the Town Bylaws.

Motion to take Article 5 and 6 up after Article 1.

iClicker - A Yes - 786 (71%) E No - 315 (29%)

MOTION CARRIES

Article 1 Acton-Boxborough Regional School District Building Project:
(Majority vote) **Feasibility Study, Preliminary Design and Owner's Project Manager Funds**

To see if the Town will approve the appropriation of \$1,300,000 from Certified Excess and Deficiency funds of the Acton-Boxborough Regional School District, for the purpose of paying the costs of a feasibility study and schematic design relating to the C. T. Douglas Elementary School Statement of Interest, including all costs incidental or related thereto (the “Study”), and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority (“MSBA”), said amount to be expended at the direction of the District’s School Building Committee. The MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Study costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities. Any grant that the District

may receive from the MSBA for the Study shall be as set forth in the Feasibility Study Agreement that may be executed between the District and MSBA.

Motion

Mr. Bruce moves that the Town hereby approves the appropriation of \$1,300,000 from Certified Excess and Deficiency funds of the Acton-Boxborough Regional School District for the purpose of paying the costs of a feasibility study and schematic design relating to the C. T. Douglas Elementary School Statement of Interest, including the payment of all costs incidental or related thereto (the “Study”), and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority (“MSBA”), said amount to be expended at the direction of the District’s School Building Committee; that the Town acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Study costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities; provided further that any grant that the District may receive from the MSBA for the Study shall be as set forth in the Feasibility Study Agreement that may be executed between the District and MSBA.

iClicker - A Yes - 993 (92%) E No - 84 (8%)

MOTION CARRIES

Article 5 Amend Zoning Bylaw – Marijuana Establishment Temporary Moratorium (Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaws by adding a new Section 3.12, “Marijuana Establishment Temporary Moratorium,” or take any other action relative thereto:

3.12 Marijuana Establishment Temporary Moratorium

3.12.1 Definition – MARIJUANA ESTABLISHMENT shall mean a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business; provided, however, that a MARIJUANA ESTABLISHMENT shall not include a medical marijuana treatment center defined by and registered under Chapter 369 of the Acts of 2012.

3.12.2 Purposes – By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law entitled the Regulation and Taxation of Marijuana Act (the “Act”), regulating the control and production and distribution of marijuana under a system of licenses and regulations. Currently under the Zoning Bylaw, a Marijuana Retailer or Establishment is not a permitted use in the Town and any regulations promulgated by the Cannabis Control Commission are expected to provide guidance to the Town in regulating marijuana sales and distribution. The regulation of marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Marijuana Retail or Distribution centers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Marijuana Retail sales

and distribution and other uses related to the regulation of marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Marijuana Retail and Distribution so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.

3.12.3 Temporary Moratorium – Consistent with the purposes set forth in Section 3.12.2 and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of any TRACT OF LAND, LOT, BUILDING, or STRUCTURE for a MARIJUANA ESTABLISHMENT. The temporary moratorium shall be in effect through December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of marijuana in the Town, consider the Cannabis Control Commission regulations regarding MARIJUANA ESTABLISHMENTS and related uses to be promulgated pursuant to General Laws Chapter 94G, and consider adopting new Zoning Bylaws to address the impact and operation of MARIJUANA ESTABLISHMENTS and related uses.

Motion

Ms. Adachi Move that the Town adopt the Zoning Bylaw amendments as set forth in the Article.

iClicker - A Yes - 721 (80%) E No - 179 (20%)

MOTION CARRIES

Declared 2/3 by Moderator*

*Town of Acton has accepted MGL CH 39 Sec 15 at its Annual Town Meeting April 2001, Article 43 and the amended Bylaw 5A was approved by the Attorney General on Aug. 6, 2001.
(The Town Meeting Moderator is not required to count a 2/3 required vote.)

Article 6 # Non-Binding Resolution – Ballot Question on Recreational Marijuana Establishment

(Majority vote)

Resolved that Town Meeting requests that the Board of Selectmen vote to place on the ballot at the next regular or special election held by the Town the following ballot question to ban the operation of any recreational marijuana establishment in the Town of Acton:

BALLOT QUESTION:

Shall the Town of Acton adopt the following general by-law and zoning by-law amendments?

Yes: ____ or No: ____

General Bylaw:

Add the following provision E59 to the Town’s General Bylaws, General Public Regulations, and the following provision E45 to existing list of Chapters and Section in General Bylaw E45. Non-Criminal Disposition:

E59. Marijuana Establishment

1. **Prohibition:** The operation of any marijuana establishment, as defined in M.G.L. c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related

business, within the Town of Acton is prohibited. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed or registered under Chapter 369 of the Acts of 2012.

2. Penalty: The penalty for violation of this Bylaw shall be three hundred dollars (\$300.00) for each offense. Each calendar day upon which a prohibited marijuana establishment operates in violation of this Bylaw shall constitute a separate offense.

E45. Non-Criminal Disposition

Chapter E - Section E59 - Marijuana Establishment - enforcing Persons – Regular Police Officer - Fine \$300.00, each offense

Zoning Bylaw:

Add the following new Section 3.7.1, after the Table of Prohibited Uses in Section 3.7:

- 3.7.1 Marijuana Establishment: The operation of any marijuana establishment, as defined in M.G.L. c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, within the Town of Acton is prohibited. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed or registered under Chapter 369 of the Acts of 2012.

Motion

Matt Onken Move that the Town adopt the non-binding resolution as set forth in the Article.

iClicker - A Yes - 592 (76%) E No - 187 (24%)

MOTION CARRIES

Article 2 Community Preservation Program – Appropriations from Open Space
(Two-thirds vote) Set-Aside and Related Actions – 161 Newtown Road

To see if the Town will vote to:

(a) authorize the Conservation Commission to (i) acquire for open space and conservation purposes under M.G.L. c. 44B (the Community Preservation Act) by purchase, gift, eminent domain or otherwise, on such terms and conditions as the Conservation Commission may determine, (ii) accept a deed of fee simple interest in a portion of the real property located at 161 Newtown Road, and depicted on Assessors' Map D3 as Parcel 11, said portion consisting of Lots 1 & 3 as shown on Middlesex South Registry of Deeds Plan 125 of 2017 and consisting of approximately 10.9 ± acres, as such area may be adjusted, (iii) to accept a non-exclusive perpetual easement for access across a portion of the land shown as Lot 2 on said plan;

(b) appropriate the purchase price and all necessary and appropriate transaction costs for said purchase including, without limitation, costs for due diligence, legal services, bonding, conservation restriction and its monitoring and enforcement, and other transaction, acquisition and related costs;

(c) transfer, appropriate and expend, pursuant to the favorable recommendation of the Community Preservation Committee from the existing Open Space Set Aside portion of the Community Preservation Fund balance an amount not to exceed \$770,000 for the acquisition, consistent with this article, of the real property described in paragraph (a) of this article;

(d) raise, appropriate, transfer, or appropriate from available funds an additional \$30,000 for the acquisition, consistent with this article, of the real property described in paragraph (a) of this article;

(e) raise, appropriate, transfer from available funds or accept gifts and grants of such additional funds as are necessary to accomplish the purposes of this article, consistent with paragraph (b) of this article;

(f) authorize the Selectmen and the Conservation Commission to submit on behalf of the Town any and all applications deemed necessary for grants and/or reimbursements from the Commonwealth of Massachusetts, or the United States, under the Self-Help Act (M.G.L. Chapter 132A § 11) and/or any other state or federal programs including those in aid of conservation land acquisition, and to transfer, appropriate and expend any said amount so received consistent with this article;

(g) authorize and direct the Conservation Commission to impose a perpetual Conservation Restriction on the open space so acquired, in accordance with M.G.L. c. 44B, § 12(a) and M.G.L. c. 184, §§ 31-33, on such terms and conditions as the Selectmen may determine (the “Conservation Land”); and

(h) authorize the Selectmen, the Town Manager, the Treasurer, and the Conservation Commission, as appropriate, to enter into all agreements and execute any and all instruments as may be necessary to effect this article;

or take any other action relative thereto.

Motion

Mr. Foster Move that

(1) the Town authorize all actions set forth in the article,

(2) the Town appropriate \$800,000 to pay costs of the acquisition of the real property consisting of approximately 10.9 acres, located as 161 Newtown Road, and depicted on Assessors’ Map D3 as Parcel 11, consisting of Lots 1 & 3 as shown on Middlesex South Registry of Deeds Plan 125 of 2017 as set forth in the article, including the payment of all costs incidental and related thereto;

(3) to meet this appropriation,

(a) \$770,000 shall be transferred from the Open Space Set-Aside portion of the Community Preservation Fund balance; and

(b) \$30,000 shall be transferred from free cash;

and (4) the Town authorize the Selectmen, the Town Manager, the Treasurer, and the Conservation Commission to take all actions within their respective jurisdictions specified in or consistent with the article.

iClicker - A Yes - 271 (89%) E No - 84 (11%)

MOTION CARRIES
Declared 2/3 by Moderator*

*Town of Acton has accepted MGL CH 39 Sec 15 at its Annual Town Meeting April 2001, Article 43 and the amended Bylaw 5A was approved by the Attorney General on Aug. 6, 2001.
(The Town Meeting Moderator is not required to count a 2/3 required vote.)

Article 3 Amend Zoning Map – Brookside Shops (145 Great Road)
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw, Map Number 1, by changing the zoning district designation for Town Atlas parcel F4-37 (145 to 149 Great Road) from Residence 8 (R-8) to Limited Business (LB), or take any other action relative thereto.

Motion

Ray Yacouby Move that the Town adopt the Zoning Bylaw map amendments as set forth in the Article.

iClicker - A Yes - 136 (96%) E No - 6 (4%)

MOTION CARRIES
Declared 2/3 by Moderator*

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(The Town Meeting Moderator is not required to count a 2/3 required vote.)

Article 4 Amend Zoning Bylaw – Shopping Center Parking
(Two-thirds vote)

To see if the Town will vote to amend Section 6.3 (Minimum Parking Space Requirements by USE), of the Zoning Bylaw by deleting subsection 6.3.1.7 and replacing it with a new subsection 6.3.1.7 as follows, or take any other action relative thereto:

6.3.1.7	Bank; Credit Union; Convenience Store; Shopping Center with two or more Restaurants, Retail Stores or Services, or any combination thereof	Three spaces per 1,000 s.f. of NET FLOOR AREA.
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[Subsection 6.3.1.7 currently reads:]

6.3.1.7	Bank; Credit Union; Convenience Store; Shopping Center with two or more Retail Stores	Three spaces per 1000 s.f. of NET FLOOR AREA.
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Motion

Emily Ying Move that the Town adopt the Zoning Bylaw amendment as set forth in the Article.

iClicker - A Yes - 118 (98%) E No - 2 (2%)

MOTION CARRIES

Declared 2/3 by Moderator*

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CONSENT MOTION

Ms. Adachi moves that the Town take up the five articles in the Consent Calendar on pages 20 through 26 of the Warrant: Articles 7, 8, 9, 10 and 11.

Article 7 * Amend General Bylaws – Department Revolving Funds

Article 8 * Amend General Bylaws – Animal Control Officer Enforcement Authority

Article 9 * Abandon Road Easement – Faulkner Hill Road

Article 10 * Accept Sidewalk Easement – High Street

Article 11 * Accept Access Easement – Mohegan Lane

Held from Consent Article 10 held

Remaining article 7 8 9 and 11

iClicker - A Yes - 105 (98%) E No - 2 (2%)

REMAINING ARTICLES UNDER THE CONSENT MOTION CARRIES

MOTION CARRIES

Declared 2/3 by Moderator*

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(The Town Meeting Moderator is not required to count a 2/3 required vote.)

Article 7 * Amend General Bylaws – Department Revolving Funds
(Majority vote)

To see if the Town will vote to amend the General Bylaws, pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 53E½, Revolving Funds, as most recently amended by Section 86 of Chapter 218 of the Acts of 2016, the Municipal Modernization Act, by inserting the following section entitled “Chapter Y – Department Revolving Funds,” or take any other action relative thereto.

CHAPTER Y
Department Revolving Funds

1. Purpose. This bylaw establishes and authorizes revolving funds for use by specified Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by Massachusetts General Laws Chapter 44, Section 53E½.
2. Expenditure Limitations. A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw without appropriation subject to the following limitations:
 - A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
 - B. No liability shall be incurred in excess of the available balance of the fund.
 - C. The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Board of Selectmen and Finance Committee.
3. Interest. Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the General Fund.
4. Procedures and Reports. Except as provided in Massachusetts General Laws Chapter 44, Section 53E½ and this bylaw, the laws, charter provisions, bylaws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this bylaw. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

5. Authorized Revolving Funds. Each of the following individual revolving funds shall be authorized and list, where applicable:

- A. Each revolving fund authorized for use by a town department, board, committee, agency or officer;
- B. The department or agency head, board, committee or officer authorized to spend from each fund;
- C. The fees, charges and other monies charged and received by the department, board, committee; agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant;
- D. The expenses of the program or activity for which each fund may be used; and
- E. The fiscal years each fund shall operate under this bylaw.

<u>A</u> Revolving Fund	<u>B</u> Entity Authorized to Spend	<u>C</u> Receipts Credited to Fund	<u>D</u> Expenses Payable from Fund	<u>E</u> Fiscal Years
Historic District Commission	Historic District Commission	Receipts from application fees	Costs to prepare and distribute rulings and guidance on historical issues and incidental expenses	FY 2019, et seq.
Building Inspector	Building Department	Receipts from permit, administrative and archiving fees for gas, electrical and plumbing permits	Costs for contractual inspectors, archiving services and incidental expenses	FY 2019, et seq.
Sealer of Weights and Measures	Health Department	Receipts from inspection fees and fines for scales, weights and measuring devices	Costs for supplies, equipment, services and incidental expenses	FY 2019, et seq.
Hazardous Materials	Health Department	Receipts from permits and fines to store hazardous materials and underground storage tanks	Costs for supplies, equipment, inspectors and incidental expenses	FY 2019, et seq.
Food Service	Health Department	Receipts from inspection fees and fines related to food service	Costs for supplies, equipment, inspectors and incidental expenses	FY 2019, et seq.
Stormwater	Land Use Department	Receipts from permit and inspection fees and fines related to stormwater management	Costs for compliance, inspections, subcontractors and incidental expenses	FY 2019, et seq.
CrossTown Connect	Transportation Department	Receipts from public and private partners for transportation services	Costs for dispatching services and incidental expenses	FY 2019, et seq.
Fire Alarm Network	Fire Department	Receipts from fire alarm box fees	Costs for maintaining the fire alarm network and incidental expenses	FY 2019, et seq.

Ms Adachi Move that the Town adopt the General Bylaws amendment as set forth in the Article.

iClicker - A Yes - 105 (98%) E No - 2 (2%)

CONSENT MOTION CARRIES

Article 8 * Amend General Bylaws – Animal Control Officer Enforcement Authority
(Majority vote)

To see if the Town will vote to amend the Animal Control Bylaw in Chapter E of the General Bylaws to add the following new section E26, or take any other action relative thereto.

E26. The Town of Acton Animal Control Officer, or any other Town official acting as his or her deputy or designee, is authorized to enforce this Bylaw and the Commonwealth’s animal control laws found in Massachusetts General Laws Chapter 140, Sections 137A through 174F as may be amended or enlarged from time to time.

Motion

Ms Adachi Move that the Town adopt the General Bylaws amendment as set forth in the Article.

iClicker - A Yes - 105 (98%) E No - 2 (2%)

CONSENT MOTION CARRIES

Article 9 * Abandon Road Easement – Faulkner Hill Road
(Two-thirds vote)

To see if the Town will vote to authorize the Board of Selectmen to abandon and terminate the Town’s right, title and interest in an existing easement for a road extension situated southerly of Faulkner Hill Road between the properties numbered 31 and 33 Faulkner Hill Road on such terms and conditions as the Selectmen may determine, as shown on a plan entitled “Subdivision of Land in Acton Mass., Faulkner Hill Estates II, M&L Building Corp., 26 Park Lane, Concord Mass, Scale: 1 inch = 40 feet, dated November 1963” prepared by Olva E Hinsta Associates - Engineers, between Lots 35A and 36A, and recorded at the Middlesex South District Registry of Deeds as Plan 63 of 1964; or take any other action relative thereto.

Motion

Ms Adachi Move that the Town abandon the road easement as described in the Article.

iClicker - A Yes - 105 (98%) E No - 2 (2%)

CONSENT MOTION CARRIES

Declared 2/3 by Moderator*

*Town of Acton has accepted MGL CH 39 Sec 15 at its Annual Town Meeting April 2001, Article 43 and the amended Bylaw 5A was approved by the Attorney General on Aug. 6, 2001.
(The Town Meeting Moderator is not required to count a 2/3 required vote.)

Article 10 * Accept Sidewalk Easement – High Street
(Two-thirds vote)

To see if the Town will vote to authorize the Board of Selectmen to acquire, on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise and to accept a non-exclusive, perpetual right and easement in gross over, under and upon the land shown as “Proposed Sidewalk Easement” on a plan of land entitled “Plan of Land, Owned By: 248 High Street, LLC, Property Address: 248 High Street, Acton, MA 01720” dated June, 2016 and recorded with the Middlesex South District Registry of Deeds as Plan No. 969 of 2016, for all purposes for which sidewalks are now or hereinafter may be used in the Town, and further to see of the Town will raise, appropriate, transfer from available finds, or accept gifts for this purpose, or take any other action relative thereto.

Motion

Mr. Chang Move that the Town authorize the acquisition of the easement as set forth in the Article.

Held from consent

iClicker - A Yes - 99 (93%) E No - 8 (7%)

MOTION CARRIES
Declared 2/3 by Moderator*

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(The Town Meeting Moderator is not required to count a 2/3 required vote.)

Article 11 * Accept Access Easement – Mohegan Lane
(Two-thirds vote)

To see if the Town will vote to authorize the Board of Selectmen to acquire, on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise and to accept a non-exclusive, perpetual right and easement, appurtenant to Town-owned land located at 24 Cherokee Road Behind (Town Atlas Map Parcel D2-137), to pass and repass over, across and along the area shown as “40’ Easement as Shown on Plan No. 997 of 1962” on a plan of land entitled “Definitive Plan for Mohegan Lane” dated March 25, 2016, recorded with the Middlesex South Registry of Deeds in Plan Book 2017, Page 47, for all purposes for which streets, sidewalks and ways are now or hereinafter may be used in the Town, or take any other action relative thereto.

Motion

Ms Adachi Move that the Town authorize the acquisition of the easement as set forth in the Article.

iClicker - A Yes - 105 (98%) E No - 2 (2%)

CONSENT MOTION CARRIES

Declared 2/3 by Moderator*

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(The Town Meeting Moderator is not required to count a 2/3 required vote.)

MOTION TO DISSOLVE: **Ms. Adachi** moves to dissolve the Special Town Meeting at 12:04am.

MOTION TO DISSOLVE CARRIES

The following served as tellers for this Annual Town Meeting;

Charlie Kadlec, Head Teller

Anne Kadlec	Mary Ann Ashton
Ann Chang	Marion Maxwell
Maura Harrigan	Wei Song
Lauren Morton	David McMullin
John Sonner	Karen Sonner
Debra Simes	Laura Krieger
Mary Lynn Miller	Julie Coop