

BOARD OF SELECTMEN & SEWER COMMISSIONERS'
MEETING AGENDA

Francis Faulkner Meeting Room

Town Hall

May 19, 2008

7:00 PM

SPECIAL EXECUTIVE SESSION – 6:00 PM TO 7:00PM

I. CITIZENS' CONCERNS

II. PUBLIC HEARINGS AND APPOINTMENTS

1. 7:02 OPERATIONAL MINUTE

The Town Manager will provide a brief report on topics of interest

**2. 7:10 AUTOPLEX, 60 POWDER MILL ROAD SITE PLAN #02/19/03-388
CONTINUED DISCUSSIONS**

ISSUE: Autoplex, 60 Powder Mill Road has requested a modification to the Site Plan Special Permit that was approved by the BOS on 6/23/03. This matter has been continued from February 25, 2008. Town Counsel will be present

3. 7:25 CHARLOTTE SAGOFF MEMORIAL AWARD UPDATE

ISSUE: Mary Michleman will be present to announce planned improvements to the Town Common in front of the Library in honor of Charlotte Sagoff

4. 7:40 NORTHEAST GROUND WATER AREA DESIGN PLAN

ISSUE: Mary Michleman of ACES will be present to discuss the Northeast Groundwater Design Plan. The Selectmen will consider a response to EPA on the draft plan.

5. 8:10 IDLING REDUCTION POLICY

ISSUE: The Town has received a grant from DEP that supports idling reduction. The Board of Health is requesting that the Selectmen adopt a recommended policy and allow decals and bumper stickers on Town vehicles to promote idling reduction

Town Manager Recommends

6. 8:20 SEWER CONNECTION ALESBURY'S OF 22 HIGH STREET

ISSUE: The Alesbury's of 22 High Street have requested to connect to the town sewer via property owned by Faulkner Mill Realty Trust. Attached, please find staff comments on the subject. The Town Manager recommends the following:

Request the applicant to provide written documentation from Faulkner Mill that details the proposed sewer extension, the anticipated wastewater capacity of 22High Street and the schedule proposed for placing the force main to service that property. The applicant should also be clearly informed that at this point of time there is no available uncommitted capacity within the sewer system. Note that the Water Resources Advisory Committee (WRAC) has formed subcommittees to determine if there a sewer extension is a viable option for the Spencer/Tuttle/Flint and West Acton Center areas. WRAC will provide a recommendation to the Selectmen on a course of action for proceeding ahead with that sewer extension project or abandoning the project. At that point the available wastewater capacity can be allocated to properties that have made requests. The Selectmen should charge WRAC with developing and recommending a policy that details a mechanism for prioritizing sewer extension.

7. 8:30 ALEXAN, CONCORD 40B

ISSUE: The ZBA has continued their hearing on the Alexan Concord 40B project until June 10th. BSC has been hired by the Town to perform peer review on the traffic impact study that was done for Trammel Crowe by VAI. It is hoped that the peer review will be done by the June 10th ZBA hearing, The Town Manager would like to discuss what comments the Board would like to submit to the ZBA on the project as well as any comments on mitigation.

In addition, Special Counsel James Shea, who has supported the ZBA on this matter, has left the firm of Angel, Edwards, Palmer and Dodge. The Town Manager will have a recommendation on Special Counsel on Monday evening.

III. SELECTMEN'S BUSINESS

8. WEST ACTON BUSINESS SEWER PETITION

ISSUE: The Board has received a petition from business owners in West Acton requesting information and plans concerning the option to extend sewer to West Acton. Selectman McGee will lead the discussion

9. DISCUSSION OF GREEN TEAM

ISSUE: Selectmen will consider the formation of a committee to study "Green Issues" and make recommendations on such

10. WRAC UPDATE/DISCUSSION OF SELECTMEN REPRESENTATIVES

ISSUE: Board discussion of Board member attendance.

11. PRELIMINARY DISCUSSION REGARDING BOARD AND COMMITTEE REAPPOINTMENT PROCESS

ISSUE: Selectmen to consider the yearly appointments to Boards and Committees for action at the June 23 Board meeting.

12. OVERSIGHT MEETINGS, BEGIN TO SCHEDULE

ISSUE: Selectmen to discuss scheduling of yearly oversight meetings with Major Boards and Committees.

13. OTHER BUSINESS

IV. TOWN MANAGER'S REPORT

V. CONSENT AGENDA

14. DECISION, SPECIAL USE PERMIT #04/02/08-413, NEW ENGLAND GYMS, INC. D/B/A ANYTIME FITNESS, 5 NAGOG PARK

Enclosed please find materials in the subject regard, for Board consideration.

15. JENKS FUND REQUEST ALLOCATION 2008

Enclosed please find materials in the subject regard, for Board consideration

16. YARD SALE REQUEST, FOR RELAY FOR LIFE

Enclosed please find materials in the subject regard, for Board consideration

17. DISPOSAL OF OBSOLETE MATERIALS, WEST ACTON LIBRARY

Enclosed please find materials in the subject regard, for Board consideration

18. DISPOSAL OF OBSOLETE MATERIALS, ACTON MEMORIAL LIBRARY

Enclosed please find materials in the subject regard, for Board consideration

VI. EXECUTIVE SESSION

Scheduled for 6:00 PM

ADDITIONAL INFORMATION

Enclosed please find additional correspondence that is strictly informational and requires no Board action.

FUTURE AGENDAS

June 9 & 23 July 14, August 11, September 8 & 22

FUTURE AGENDA ITEMS

MINUTES PENDING VOTES

May 12, 2008

PENDING COMMITTEE APPOINTMENTS

David Honn, DRB Vivek Kulkarni, EDC

BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING

May 19, 2008

Acton Town Hall, Faulkner Hearing Room

7:00 P.M.

Special Executive Session at 6:00 p.m. Room 121

Present: Lauren Rosenzweig, Andrew Magee, Paulina Knibbe, Peter Berry and Terra Friedrichs;. Town Manager Ledoux was present. Recording Secretary; Christine Joyce. The meeting was televised.

CITIZENS' CONCERNS

None

OPERATIONAL MINUTE

Steve updated the Board on the status of the HR Director search. He will be interviewing the top candidates this week. He is working on the job description for the Social Worker Position. He is also working with Water District about their use of our CTY. He has begun Collective bargaining with the unions.

PUBLIC HEARINGS & APPOINTMENTS

AUTOPLEX, II, LLC, 60 POWDER MILL ROAD, SITE PLAN #02/19/03-388 CONTINUED DISCUSSION

Mark Donohue said he feels the ramp decision is in the Board's hands. He said Mr. Bertolami is part owner of each property and does not want the ramp on the 56 Powder Mill Road site.

Andy asked about the letter Allen Curhan sent us saying there was more than one owner. Andy asked about the LLC's and Mr. Bertolami said there were two LLC's. Andy asked about mixed owners. Mr. Bertolami said yes it was mixed owners. Andy asked about the pictures and ramp area photos. The wall looks like it is a foot raised above the pavement. Andy asked about the grading of 60 Powder Mill Road. Mark spoke about the sloping for recharge area and it was mandated it be sloped. Andy said the ramp was there in the original decision. This would have been obvious when the site was prepared.

Peter had questions about the letter from Mr. Bertolami's Attorney, Mr. Curhan, and its content. It means that Mr. Bertolami has had a difficult time leasing the property and the ramp is in an awkward location and could limit the parking on the 56 site. Mr. Bertolami noted that they can get approval to demolish the "Doll House" and after the waiting period is over it can be taken down.

Mr. Bertolami spoke about the condition of the buildings and the Town Planner's letter that originally it referred to the height of one to two feet. The Town Planner said he had no comments.

Stephen Anderson wanted to correct the statement made, according to the Secretary of States Office; the owner of 56 and 60 Powder Mill is the same for both properties and has been renamed Autoplex III.

Mr. Bertolami said that the Law does not permit minor children on a LLC.

Roland spoke about the lots being connected so you keep traffic off the street.

Terra asked if it was our option to require the ramp or not. The original plan had the connection. She asked if we wanted the ramp. Lauren said that it was for safety.

Chief Craig explained his position on this. He got involved when the grade between the sites was high. The Building Commissioner asked that the department heads speak about this. The ramp was agreed upon and designed and was part of the site plan. Chief Craig was approached about not building the ramp and he felt that the Fire apparatus can not turn easily. Chief Craig's recommendation that the ramp would be advantageous for Fire Protection use.

Andy said the applicant offered a hydrant. Chief Craig said that it is not relevant to the discussion and does not address the access or turning needed for fire suppression.

Terra asked if there were other properties in town owned by Bertolami that could be improved. 56 Powder Mill Road cannot be lower and it has to drain to the recharge area.

Lauren asked about the other site, 56 Powder Mill Road. There used to be a use, but the Doll House is now vacant. We have not had a site plan for 56 for parking and see that site more of the problem. She would like to see a temporary gate to be opened if necessary. There cannot be cars in the way to obstruct them in putting out a fire. Mark said they offered to mark the fire lanes at 60 Powder Mill Road. They could be ticketed by the Police if they park there.

Paulina asked the likelihood that he will need to raise the level to get the recharge on that site. Mark said that it is paved at this point. They have a storm water management system approved by Conservation and the system could be adequate and discharges to the Assabet River.

Mark felt he could provide a fire access lane to get to the rear of 56 and 60 Powder Mill Roads. 60 has fire suppression and 56 does not

Terra asked about a stair way from 56 to 60 Powder Mill Road.

Mr. Bertolami suggested a pre-cast stairway be installed and would be more than happy to do that if the Board would approve. Chief Craig asked about safety on the site using stairs in the winter.

Andy was unclear as to the early ramp history. Mark wanted to meet with the Chief, Town Planner and to come to an agreement.

Andy would like to see an historic restriction on the "Doll House" and the Mill building.

Mr. Bertolami said on the original plan the ramp was not for fire access; it was a 10 foot wide ramp to have friendly crossing from one site to the other. Mr. Bertolami noted if anyone tried to build out this parcel (56) they would be crazy. He needs to know what the Selectmen want.

Roland said we need to look at closure at whatever you decide that is it. Adding a ramp later was not going to work. The Fire Chief needed to make his concern known at the Site Plan review process with staff.

Stephen Anderson said either stay with the decision or ask to amend.

Andy spoke to the stair case issue. He does not see a two person stairway. Rather there would be 5 foot wide platforms with 9 inch steps and landscaping. He sees it as a whole side yard of stairs and platforms. Roland said a staircase requires ADA compliance and handicapped accessible.

PETER BERRY -Moved to close the meeting and to take under advisement. PAULINA KNIBBE - second. UNANIMOUS VOTE.

Andy felt we should be clear of the mitigation Mr. Bertolami is offering. Stairs, preservation of the "doll house" and if the applicant is comfortable in the board discussing this. Mr. Bertolami noted the stairway and hydrant as mitigation he had offered.

CHARLOTTE SAGOFF MEMORIAL AWARD UPDATE

Mary Michleman spoke about Charlotte and her background and service to the community. They have a plan for a small garden area to the left of the entrance to the Memorial Library. This will be completed with donations.

Peter asked about the construction of the site. Mary said it is a private project and they have four quotes and have begun fundraising. No public funds will be used. Andy asked about the design. Tom Tidman did the drawings. They will be donating it to the town upon completion. They do not need to go before the HDC. Terra said that she felt it did need to go. ANDREW MAGEE - Move to support and endorse this project. TERRA FRIEDRICHS - second. UNANIMOUS VOTE

NORTHEAST GROUNDWATER AREA DESIGN PLAN, W.R. GRACE

Mary Michleman spoke about the groundwater in the northeast area. She outlined the status of the plume and its movement towards and under the residential neighborhood. Grace has done some modeling and felt that BOC Gases has had spills and the DEP process for mitigation is on going. Mary noted that we have until June 5th to comment. Jim Okum is our Consultant. He asked for real time field testing to be done. Mary felt it is a good idea. It was noted that we work together for something that might benefit both parties. She was pleased that the town is weighing in with comments.

Doug Halley noted TC comments #4. Andy asked Mary to put on the cross section slide. Andy noted he is stunned by the area for pumping – it is not in the plume. Outwash is where the town wells and contamination from BOC are located. Glacial Till water doesn't flow as easy. He questioned the Geo Tran's presentation of the cross section slide.

Andy discussed the letter and Item 4. The town recommends the government clean up proceed so that each site is properly addressed and that both contamination areas are cleaned up. This may require that Grace control groundwater flow at the BOC site by creating a capture zone at the BOC site.

Doug Halley said he felt that Andy had it right. No interference with both clean ups. Steve felt that he and Doug could draft a revised letter for Board signature. They were asked to make the language stronger with the direction given by the Andy. PAULINA KNIBBE – Moved to authorize the letter to be drafted with inclusion of stronger language. ANDREW MAGEE – second. UNANIMOUS VOTE

IDLING REDUCTION POLICY

Doug Halley spoke about the grant application we received regarding idling. We received the materials to support a program and the BOH has looked at a policy to bring before the BOS to adoption. Doug displayed the signs that will be placed at the school and Commuter Parking Lot. They will be having people sign pledges. Lauren felt this program will raise awareness. Paulina spoke about the materials; it is the policy of the Town of Acton and the following plan has been designed to implement the policy.

Lauren asked if Chief Widmayer had seen it. He will discuss this with him.

ANDREW MAGEE – Moved to approve the policy incorporating Pauline's addition. TERRA FRIEDRICHS - second. UNANIMOUS VOTE

SEWER CONNECTION ALESBURY'S OF 22 HIGH STREET

Bill Alesbury and his family have lived in the house for 29 years. The house is operating with a cesspool. Bill noted that were taken off the original sewer list. They have maintained the cesspool and are compliant. Fenton was asked to build a sidewalk and Bill wants to connect via Fenton's connection. He is willing to work through this. The development of Faulkner Mill was put into suspension and paused. Mr. Alesbury wanted to know if the vote could include the other properties. The piping would be installed under the sidewalk. Lauren noted the meeting to get the history on the project. Andy said that we have a limited excess capacity at the Adams Street facility. They have been petitioned by the folks on Spencer/Tuttle and West Acton Business owners for sewer relief. WRAC has looked at the capacity. Andy noted that Mr. Alesbury is not the first to come before the Board; this is different and is like a mini priority area. The opportunity is before us right now as the streets are torn up and they will take on the expense of installing the pipe. Andy noted that we don't know how much set aside we have and if we find the use is less than expected the numbers could change. There may be capacity in the system in the two to five year time frame. Mr. Alesbury has two weeks to capture the pipe installation during the current construction.

Paulina noted that it would be low pressure with a grinder. Paulina noted the other properties that may want to sign in; Bill thought that maybe him and one other neighbor currently. Paulina asked the Town Manager if we would be charging betterments to all three, yes if the pipe is going by their houses. But the privilege fees could be waived under the Sewer Bylaw.

Terra wanted some type of control over the character of South Acton. Would Mr. Alesbury be willing to do that? If we grant the sewer line extension and put a deed restriction that it will be a single family? Mr. Alesbury said he would do that.

All three homes have cesspools. Lauren spoke about Sylvia Street request and the issues around the denial of their request. The conditions are different. Andy said that they discussed Alesbury and Sylvia Street issue today. Currently Silva Street residents have working Title 5

septic systems – not cesspools. Every case is unique and is it unique enough to approve, 3 homes on cesspools are to be served.

Lauren felt we should take this to Counsel and visit again on the 9th. Mr. Alesbury will check with Mr. Fenton on his construction schedule.

TERRA FRIEDRICHS – Moved to ask Counsel about the possibility for restriction so that no homes would be torn down and the reservation of capacity. ANDREW MAGEE – second. UNANIMOUS VOTE.

ALEXAN CONCORD 40B

Steve wanted comments from the Board and we have begun a peer review of Alexan's Traffic report. We need to present items to ZBA. Special Counsel James Shay has left the law firm. Steve said that they have interviewed law firms and asked that the MacGregor law firm be assigned to support the Board of Appeals. The ZBA wants to have the BOS input. Roland said they would like to hear from the BOS on their recommendations and questions that would give them direction. They want to hear from departments and know where the rest of the Town stands on this issue. Comments have drafted and TAC will be revising and update their comments. Roland said the Planning Dept. and the Planning Board have agreed to have Roland draft them and he noted TAC will be submitting changes.

Peter Berry noted that no building would be in Acton but the access would be through Acton. The project has no precedent of any buildings in Acton. Peter spoke about the a legal ruling where no units where in the Town but the traffic would be in the town. The developer had to contribute toward the 10% housing to the town that did not have the construction in their community. Peter said he does not think we need to tell the ZBA how to vote. Peter noted what mitigation would be required. The applicant would need to build up Sudbury Road to a safe street. Mitigation for traffic should be in addition to what we might ordinarily approve, such as sidewalks on Powder Mill Road and High Street. Peter does not think this will be approved on June 10th. Steve Ledoux asked if the Board would go along with the first task to look into that with the Special Counsel. Concord supports this development and feels we should look to working together. The main access is off Forest Ridge. Concord has property on that road. Peter urged a more regional approach and suggested the Steve talk to Chris Whalen about this. Lauren wanted to begin to meeting with Concord and other towns and the developer. Andy felt we authorize the Manager to hire McGregor ANDREW MAGEE – Moved to authorize the Manager to hire McGregor as counsel to the ZBA for the upcoming 40B project, in Concord. PAULINA KNIBBE – second. UNANIMOUS VOTE.

Steve Noon said that Fin Com did comment to the ZBA. They could see potential costs and they did not see why we would even consider it. We would get nothing.

Paulina said that they had offered us a light at Powder Mill, but we don't need a light, and we would not need a light if they did not build. Paulina feels we need a higher level of mitigation. The traffic would be acerbated on High Street and Powder Mill Road. She is not convinced that Concord has pushed fully to get the access from Forest Ridge. Paulina rejects the project as we don't get any benefit.

Terra agreed with Paulina and Acton should stop being the step child of regional projects. She doesn't feel she can support this at the current level of mitigation.

Peter said Concord will have the impact of schools and we don't have it, we have impact from traffic. If ZBA says that the applicant has a right to a comprehensive permit there is a limit you can get from them. The developer can cancel if the project unprofitable. Peter said that they have the right to deny it. The developer may be able to build the 300 vs. 350 units.

Terra said that traffic is discussed in the Master Plan and we need to consider it.

Andy said that he agrees with what is said. Steve Noon's comments while saying no, but it does not get us anything. We could end up with 300 units being built and us getting nothing. If we say no, it will not be stopping the project. We need to know where the vantage point lies.

Lauren wants to see affordable housing. She would like to keep our citizens safe with required sidewalks and the making sure the secondary access is cleared and accessible.

Rob Hewitt updated the process and plans. Rob noted that Acton has hired a consultant to conduct a peer review. Rob noted that Concord has done their peer review. Rob outlined the process and completions of MEPA and a Wetlands reviews in Concord. They have several comments to Mr. Berry's comments. Lauren asked if we get peer review or we need to request it. Lauren felt we needed to get these reports. Lauren would like to see all peer reviews on the subject from Concord. They have received comments from Acton and have tried to incorporate them into the development. Rob said that all the housing and inventory count will go to Concord. They have agreed to share the affordable housing units with surrounding communities. The project is over the cap, and they would need to apply for more than 300 units. Concord has approved 350 units. Rob noted that sidewalks to Route 62 and additional sidewalks along High Street needing to be addressed, and will consider additional mitigation. Rob said they will offer some mitigation to Acton's Affordable Housing Committee as additional supplements and will continue to review this.

Rob noted one of the benefits to Acton is a portion of the site (low area) that would not be built on. Emergency Response Command would be able to use their building if their primary site was not accessible. Sudbury Road is operating poorly at this time ;, they will have to rebuild that road and make it safe for our citizens.

Paulina noted the discussion of putting a restriction on your site so that if another 40B cannot use Sudbury Road. Rob said that he was still agreeing to it.

Lauren noted it is a regional project we want legal counsel look into this and we would like mitigation in the form of sidewalks and to keep residents and safe to pedestrian traffic. Contribution of either units or money for affordable and a secondary access that will be kept plowed and we would prefer a second entrance.

Peter spoke about the need for 4-5 emergency access points with the Concord Fire chief. Peter asked about the sidewalks on Sudbury Road. He said that they are critical and must be provided.

Lauren asked the Town Manager to draft a letter to ZBA before the next meeting.

SELECTMEN'S BUSINESS

WEST ACTON BUSINESS SEWER PETITION

Andy said this goes to the issue earlier on High Street. The WRAC meeting was well attended by Tuttle/Spencer residents and Business Community in West Acton. There is no proposed extension at this time. Rick Gordon would like to grow his business with more seating or outdoor café seating, but they can't because of the lack of town sewer. He was concerned with the possible repair and replacement and the effect on their site. He said that there are other business people who want this connection.

Terra agreed with their concept, but she wanted to make sure residents were given consideration.

DISCUSSION OF GREEN TEAM

Lauren outlined the need for the green team and to be mindful of impacts we make on our environment.

Lauren asked the Board if we should appoint a Town Committee. Andy asked them to think about doing this as a town committee and we create a committee appointed by the Board. Andy felt we need an advisory committee to sort out the environmental issues and bring action items forward. We have the talent in town who are forming their own committees, and he feels we need to create an Advisory Board.

Jim Snyder Grant is one of the people who will be coming together over environmental issues in Acton. Jim said we need a scope for a committee and he feels we need a network of concerned people who are talking to people.

Lauren noted her attendance at a Green Meeting sponsored by Niki Tsongas.

Bernie Kosiki, representing himself, agreed with Jim's comments and the need to have either a private or public committee.

Paulina asked them if it is your goal to change behavior of individuals or change the behavior of the municipality, such as replacement of street lights, anti idling of town vehicles. You will be more effective in getting this done and we need a sense of a priority if we appoint a town committee.

Lauren asked them to report back to the Board after their meeting tomorrow night. Andy said that we have smart people in town and give us the priority list

WRAC UPDATE/DISCUSSION OF SELECTMEN'S REPRESENTATIVES

Lauren said that she felt she could not participate in WRAC and she asked for the appointment of Selectman Friedrich's as the second Selectmen to the Committee. ANDREW MAGEE – Moved to endorse Selectman Friedrichs as the second Selectman on the committee due to Lauren's resignation. . PETER BERRY –second. Lauren will be resigning from WRAC immediately. UNANIMOUS VOTE

Andy reported and noted that WRAC will have a short meeting on Wednesday and have lost some time because of quorum issues associated with Allen Nitchelm's resignation and no assigned School Committee representative.

Andy said that WRAC has reached the point where it may need to hand some things back to the Board of Health. He will prepare a report to the Selectmen on what they have done. He noted

that there is sewer capacity for the Flint Road neighborhood, but it is too costly. The Sewer Commissioners need to see what they do with excessive capacity. Meanwhile, WRAC is either a Sewer Committee or a Committee implementing the Comprehensive Waste Water Management Plan. Andy said WRAC can't do both.

PRELIMINARY DISCUSSIONS REGARDING BOARD AND COMMITTEE REAPPOINTMENT PROCESS

Lauren spoke about the sunset rule and having the person sit out for one year. Lauren also noted that some committees need to look at the rotation of chairman's.

OVERSIGHT MEETINGS, BEGIN TO SCHEDULE

Lauren wanted to begin to schedule oversight meetings. Designer Review Board and Planning Board should be scheduled first.

OTHER BUSINESS

TOWN MANAGER'S REPORT

None

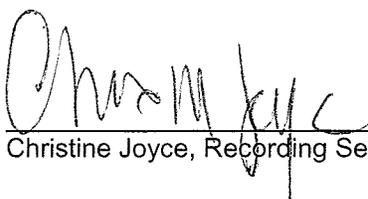
CONSENT AGENDA

ANDREW MAGEE – Moved to approve. PETER BERRY - second. Hold on Jenks fund hold on Relay for Life Yard Sale request. Peter asked a question about the Jenks Fund, PETER BERRY – Moves to approve the Jenks Fund allocations for 2008. ANDREW MAGEE – second. UNANIMOUS VOTE. Terra questioned the activity on town land and that she attended the Garden Club sale on the common and was asked not to distribute the Community Outreach flyer. The Board suggested the procedure is to ask for permission first from person in charge before handing out flyers at someone else's event.

ANDREW MAGEE – Moved to approve the proclamation regarding the Robbins Desk gift. PAULINA KNIBBE – second. UNANIMOUS VOTE.

EXECUTIVE SESSION

ANDREW MAGEE – Moved to go into Executive Session for the purpose of discussing litigation and come out into the regularly scheduled Selectmen's Meeting in room 204 at 7:00 p.m. Roll Call taken, All Ayes


Christine Joyce, Recording Secty


Clerk, Board of Selectmen
Date 8 Sept 2008