

Final

**BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING
December 5, 2011**

**Acton Town Hall
Francis Faulkner Hearing Room
7:00 PM**

Present: Mr. Gowing, Ms. Harting-Barrat, Ms. Adachi, Mr. Sonner and Mr. Clough. Town Manager Steve Ledoux, Recording Secretary Lili Early. The meeting was televised.

CITIZENS' CONCERNS

None

PUBLIC HEARINGS & APPOINTMENTS

CHAIRPERSON'S UPDATE

The Attorney General's office has issued Open Meeting Law regulations allowing remote participation in Town board meetings. The Selectmen will discuss at the December 19 meeting. The Volunteer Coordinating Committee, working with the Information Technology Department, has posted volunteer opportunities on the Town website.

OPERATIONAL MINUTE

Mr. Ledoux is finalizing the FY13 budget, which is 95% finished. He will give his recommendations at the next Selectmen's meeting. The Public Utilities Department will be holding another hearing, probably in Maynard, about NStar's response after the October snowstorm, as well as Tropical Storm Irene. Mr. Ledoux and the BOS Chairman testified at a Public Utilities hearing last month.

NATIONAL GRID – GAS LINE INSTALLATION, 294 MAIN STREET

Dennis Regan from National Grid presented a proposal to install 25 feet of 2" gas line to serve 6 units at 294 Main St. Mr. Gowing asked about the possibility of coordinating with the adjacent property regarding gas service and whether the proposed installation could support another 6 units. Mr. Regan said the installation could supply 12 units. Mr. Clough asked how to assure that; Mr. Gowing reiterated that a 2" supply can provide for 12 units. Mr. Regan said that only 25 feet of the 200 feet of new gas line would be on the street. Mr. Gowing stated that the BOS approval should be conditioned on the receipt of a letter from National Grid confirming the capacity for service to 12 units.

Moved to approve, second. The vote was UNANIMOUS.

SPECIAL USE PERMIT #10/24/11-435, JASON BRADY, D/B/A BUENO Y SANO, 263 MAIN STREET

Jason Brady presented a proposal to increase the seating capacity from 26 to 30 to increase.

Ms. Adachi noted that in the Health Director's memo, paragraph 3, last line should state 3.5, not 3.05 (sewer betterments). Ms. Harting-Barrat asked about the planned use of the left-hand side where the former store was. Mr. Brady will be using only 57% of the space, and not the left hand side. Ms. Harting-Barrat asked if it was his intention to sublet the space where the Chinese store was. Mr. Grady said the use of the remaining space was up to the building owner.

Final

Mr. Sonner questioned the adequacy of the parking facilities. Stephen Graham, Esq., attorney for Mr. Grady, stated that the parking meets the zoning requirements. Scott Mutch, Zoning Enforcement Officer, said that the bylaw requires one parking space for every three seats, meaning 10 spaces for up to 30 seats. There are 13 spaces, so parking will be adequate. Mr. Clough asked how many spaces are available on the side. Mr. Mutch indicated 6 or 7. Mr. Gowing noted the existence of two exits. Ms. Harting-Barrat noted the difficulty of using the Route 111 access/exit; Mr. Mutch believes it was designed for exiting only. Mr. Clough asked if there should be an entrance on both sides. Mr. Brady thought two entrances would be beneficial for the business. Mr. Clough asked if there would be a traffic issue. Mr. Gowing said there could be a one-way exit on Route 111. Ms. Harting-Barrat suggested retaining the option to enlarge both exits, which would be a question for the Engineering Department. Mr. Mutch recommended writing that into the decision. Mr. Gowing noted that Route 111 is a state road so that would be a state decision.

Chris Bailey, one of the two owners of the property, said the owners had looked at the curb cut-through issue and could try to smooth out the area, although that Route 111's being a state highway limited what they could do. Mr. Sonner asked if the by-law prohibited cutting through. Mr. Clough asked if there would be a sewer betterment charge according to the seating allowed; Mr. Gowing confirmed this. Ms. Adachi asked if the Board had to decide on the exact number of seats and Mr. Mutch recommended making it a "not to exceed limit of 30."

Mr. Gowing asked for a motion to approve a not to exceed limit of 30 seats.
MOVED - Ms. Adachi, second - Ms. Harting-Barrat. UNANIMOUS vote.

COMMON VICTUALLER'S LICENSE, JASON BRADY, D/B/A BUENO Y SANO, 263 MAIN STREET

Ms. Harting-Barrat asked whether Mr. Brady had TIPS (Training for Intervention Procedures) training and whether servers would be certified to serve liquor. Mr. Brady noted that the business was not applying for a liquor license, although he intends to be recertified.

Mr. Gowing asked for a motion to approve a Common Victualler's License for Jason Brady. D/B/A Bueno y Sano. MOVED – Ms. Harting-Barrat, second - Mr. Sonner. UNANIMOUS vote.

2020 COMMITTEE PRESENTATION

Mr. Sonner introduced Margaret Woolley-Bussey, Chairman, and Jim Snyder-Grant, Vice Chairman of the 2020 Committee for a presentation on the status of the committee's work on the updated comprehensive community plan for Acton. The Implementation Strategy phase is just now finishing up. They have been engaged in a long process of meeting with all the committees of the Town. As a result, they have about 100 strategies in action, ending up with 15 of the most significant ones without any priority. Preserving open space was very important to the residents. Sidewalks, too. The Town needs a proactive plan to meet the housing needs according to Chapter 40B. The committee appreciates the support of the Selectmen and wants to make sure that they are on the same wavelength.

Mr. Clough asked about the process of setting the priorities. Ms. Woolley-Bussey said the committee wants to have a plan in place, wait on the expensive items, think through timelines and phasing and add contingencies in the plan. Mr. Clough observed that Kelley's Corner is a priority and asked how that can be a first priority in the plan. It will come out in the phasing, according to Ms. Woolley-Bussey. She wants to have certain projects finished right away and show that the committee can make progress and keep on track. The committee wants to make sure that the plan does not simply end up on the shelf. Mr. Gowing noted that the Selectmen had approved the solar landfill for the Town, which was one of the goals in the draft plan.

Selectmen's minutes
December 5, 2011

Final

Ms. Harting-Barrat thanked the committee for its work. The plan may highlight issues for the Selectmen to research. She also suggested keeping the seniors of Acton in mind. There is a new push now for co-housing of seniors, rather than independent living. This may be an opportunity for them to stay in Acton. Ms. Woolley-Bussey wants to put a live document on-line so they can continue to accept suggestions and comments from the residents.

Mr. Gowing thanked the 2020 Committee for their hard work and mentioned that the Selectmen had heard a presentation recently about the proposed zoning reform law, CLURPA (Comprehensive Land Use Reform and Partnerships Act). He asked whether the committee had considered accounting for CLURPA in the plan. Ms. Woolley-Bussey has not looked at the legislation yet.

Ms. Adachi expressed support for the pay-as-you-throw goal for the transfer station. She expressed concern about the reference in the goals to Chapter 40B, which is the subject of misunderstanding; Acton 2020 probably will hear from the Acton Community Housing Corporation about that reference. Mr. Snyder-Grant said that the committee still had more work to do on the draft.

Dick Calandrella, Notre Dame, asked why Kelley's Corner was a priority, given that the Town did not own it. Ms. Woolley-Bussey said the proposed changes were feasible because the property owners wanted them and were supportive. Mr. Calandrella believed that some large property owners at Kelley's Corner were not supportive. He also questioned the need for a new senior center, given that the present one is under-utilized. Ms. Woolley-Bussey said that residents had indicated the need for a new senior center and community center. Those projects would be very expensive if done separately.

ANNUAL TAX CLASSIFICATION HEARING

Mr. Ledoux introduced Brian McMullen, Principal Assessor for the Town of Acton. Mr. McMullen said that the Selectmen had to make several decisions regarding tax classifications for residential and commercial/industrial/personal property. But the Department of Revenue had not yet certified the values so the matter cannot be concluded tonight. The certification should be available in time for the Board's meeting on December 19.

After certification, the Selectmen will have to decide the following:

1. Whether to shift the tax burden between the "R" and the "CIP" classes
2. Open Space Discount
3. Residential Exemption
4. Small Commercial Exemption

In the past ten years, the Selectmen have opted for a uniform tax rate, no open space discount, no residential or business exemption. Mr. Gowing suggested that Selectmen confer with Mr. McMullen outside of the meeting about any questions. Mr. Clough looked for recommendations. Mr. McMullen responded that everyone feels the crisis which is going on, both commercial and residential.

Ms. Harting-Barrat - moved to continue to December 19, 8:40 p.m. Ms. Adachi – second. The vote was UNANIMOUS.

Final

SELECTMEN'S BUSINESS

ANNUAL LICENSE RENEWAL PROCESS

Mr. Gowing read the list of all proposed license renewals, as contained in the 2012 Renewal Master List and asked for approval by license typ for all applicants thereunder, subject to comments and holding actions, if any, pertaining to those applicants:

1) License to Expose, Keep for Sale, and to Sell all Kinds of Alcoholic Beverages to be drunk on the premises.

- Hold on Daniela's Tacorita, for which the Board will have a hearing on 12/19/2011
- The Scupper Jack's license currently is held by the Bankruptcy Court and will be renewed by the Court
- Sprigs open hours are changed to Tuesday through Friday, 5:30 to 8:30PM – Needs to be amended

Mr. Gowing - moved to approve, second - Ms. Adachi. The vote was UNANIMOUS.

2) Retail Package Goods Store License to Expose, Keep for Sale, and to Sell all Kinds of Alcoholic beverages, not to be drunk on the premises.

Mr. Gowing - moved to approve, second - Ms. Harting-Barrat. The vote was UNANIMOUS.

3) Retail Package Goods Store License to Expose, Keep for Sale, and to Sell Wines and Malt Beverages not to be drunk on the premises.

Mr. Gowing - moved to approve, second - Ms. Harting-Barrat. The vote was UNANIMOUS.

4) Common Victualler License to Expose, Keep for Sale, and to Sell Wines and Malt to be drunk on premises.

- Milldam Partners. Inc. d/b/a Savory Lane will be changed to Local Table

Mr. Gowing - moved to approve, second - Mr. Sonner. The vote was UNANIMOUS.

5) Carry-in Liquor Licenses

Mr. Gowing - moved to approve, second - Mr. Clough. The vote was UNANIMOUS.

6) Class II Used Car Licenses

Mr. Gowing - moved to approve, second - Mr. Sonner. The vote was UNANIMOUS.

7) Class I New Car Licenses

Mr. Gowing - moved to approve, second - Mr. Sonner. The vote UNANIMOUS.

8) Entertainment Licenses

Mr. Gowing - moved to approve, second - Ms. Harting-Barrat. The vote was UNANIMOUS.

9) Bowling Alley and Billiard Table License

Selectmen's minutes
December 5, 2011

Final

Mr. Gowing - moved to approve, second - Ms. Harting-Barrat. The vote was UNANIMOUS.

10) 24 Hour Permit

Mr. Gowing - moved to approve, second- Mr. Clough. The vote was UNANIMOUS.

11) Automatic Amusement Devices

Mr. Gowing - moved to approve, second- Mr. Sonner. The vote was UNANIMOUS.

12) Taxi Cab License

Mr. Gowing - moved to approve, second- Mr. Clough. The vote was UNANIMOUS.

13) Taxi Cab Drivers License

Mr. Gowing - moved to approve, second - Ms. Harting-Barrat. The vote was UNANIMOUS.

14) License to Tell Fortune for Money

Mr. Gowing - moved to approve, second- Mr. Sonner. The vote was UNANIMOUS.

15) Common Victualer Licenses

Mr. Gowing - moved to approve, second - Ms. Harting-Barrat. The vote was UNANIMOUS.

ESTABLISH GOALS AND ESTABLISH MANAGEMENT TEAM FOR INFORMAL HEALTH INSURANCE PROCESS

Mr. Sonner recused himself because of a potential conflict of interest due to his wife's being an Acton teacher and officer in the teachers' union, and left the meeting room. Mr. Clough and Ms. Harting-Barrat recused themselves due to potential conflicts of interest.

Ms. Adachi read the full text of the motion to invoke the Rule of Necessity. Moved - Mr. Clough, second - Mr. Gowing. Clerk roll call vote: Mr. Gowing, Ms. Harting-Barrat, Mr. Clough, Ms. Adachi – all AYES.

Mr. Ledoux explained the proposed structure and process that he had developed since the Board's meeting on November 21 in order to assure that the informal discussion make progress by the Board's deadline of February 6. Mr. Ledoux proposes a management team consisting of 5 people:

Member of the Board of Selectmen
Town Manager
Member of the School Committee
Town Human Resources Director
Acton Public Schools Human Resources Director

Other Town staff members may weigh in with their expertise as the committee requires. Although the School Committee doesn't have a role per se under Chapter 69, Mr. Ledoux feels the Committee's involvement is important, as it knows its unions and has useful, relevant knowledge to share. Lauren Rosenzweig Morton as agreed to be the facilitator of the discussions.

Mr. Gowing said Superintendent Steven Mills had been invited to participate but declined. The local schools and District have recommended Kim McOsker as the School Committee

Selectmen's minutes
December 5, 2011

Final

representative; the committee also will include Marianne Fleckner, the Town Human Resources Director and Marie Altieri, APS Human Resources Director; and in consideration of the need for a flexible schedule and due to her legal background, Mr. Gowing recommends Ms. Adachi as the Board representative.

Mr. Clough inquired about how the Selectmen not on the committee would stay informed. Mr. Ledoux said that the meetings would be public, and that he and Ms. Adachi would be providing updates. The process would not be bargaining, but the unions could elect to waive some bargaining rights. If that happened the meetings would be executive session. Other than that, the meetings would be open to the public. There would be minutes. Ms. Harting-Barrat asked about Board member participation in the discussion; Mr. Ledoux said the discussion would be principally among committee members but the Board could discuss the ground rules on Wednesday.

Sandy Bean, 451 Main Street, asked that the committee include a representative of retired employees. Mr. Ledoux said the state had selected Malcolm McGregor to represent all retirees.

Charlie Kadlec asked about the name of the committee. Mr. Ledoux said he had been calling it the "Management Team." Mr. Gowing agreed that a name would be a good idea and the Board could discuss it at the meeting on Wednesday, December 7, he also suggested having a Facebook or Twitter link so people could follow the progress. Mr. Kadlec noted people could sign up via the Town for e-mail notifications.

Mr. Kadlec said that one issue emerging from the Board's last meeting was that that most people have no idea about the Town's financial situation. The lack of information is the problem. Mr. Ledoux said the issue was on his agenda for the December 7 meeting.

Lauren Rosenzweig Morton, Marshall Path, asked whether there was a complete list of retirees and addresses so that all could be notified. Mr. Ledoux and Mr. Gowing responded that the Human Resources directors would have that type of information.

Mr. Ledoux said the Board needed to set goals in order to gauge whether the committee was making progress with respect to insurance savings. The primary objective is to set the financial goal. The Segal and Cook & Company reports suggested that \$600K in savings per year would be possible, so Mr. Ledoux suggested that number as a goal. The committee could look at unifying plans, changing certain plan features, wellness plans, uniform co-pays, joint/regional purchase options, considering lower deductibles for lesser-paid employees, etc. He will be looking for the Board's guidance on Wednesday.

Ms. Harting-Barrat said insurance is so complicated and the employees she has been hearing from do not understand how all of the pieces fit together, so it is important to simplify the process if there is to be sufficient understanding for an agreement, for example, by providing pricing for specific services. She added that the insurers should come in to make presentations. Mr. Ledoux said all of that will be discussed at the meeting on Wednesday.

Ms. Adachi asked whether the aim was to achieve \$600K phased in, as contracts expired. Mr. Ledoux said it depended on whether the unions agreed to open their contracts. She noted that she had been prepared to move forward under Chapter 69 but then to have a long discussion. She agreed that insurance could be complicated but said that there were people, possibly the Human Resources directors, who were skilled in explaining complicated issues in a way that ordinary people who were not benefits specialists could understand. She agreed with Mr. Ledoux that the committee would have to look at a lot of options, do a lot of number-crunching in not very much time.

Final

Mr. Clough said the \$600K figure was possible, and asked in which time period it was to be achieved. He said the issue needs to be resolved this year, and \$600K this year makes sense.

Mr. Gowing agreed with Ms. Harting-Barrat that when the carriers present to the committee, they should present information on some common procedures for purposes of comparison. Mr. Ledoux said that the unions also would have an opportunity to weigh in on what they would like to hear about.

Ms. Harting-Barrat related the experience of the Town of Weymouth, which voted for Chapter 69. Weymouth was supposed to save \$680K and didn't reach \$550K of savings; in the second year the retirees' payments were 82% higher than anticipated. We need to be sure that doing this will result in savings.

Mr. Gowing - Moved to create a Management Team to engage the various unions in discussion to modify our healthcare plan with the goal of savings of \$600,000 second - Ms. Harting-Barrat. The vote was UNANIMOUS.

Mr. Sonner returned to the meeting.

DISCLOSURE OF FINANCIAL INTEREST BY A SPECIAL EMPLOYEE, MARY WILSON, ACTON BOXBOROUGH ARTS COUNCIL

Ms. Adachi, ABCC liaison, explained that Ms. Mary Wilson, a member of the ABCC, has applied for two grants from the ABCC for her theater company. Each grant is \$2,500. Ms. Wilson receives a stipend out of her organization's total funding. The ABCC receives an annual grant from the state of under \$10,000 to distribute to applicants; the grants to applicants typically are modest, some no more than \$500.00. Ms. Wilson has completed and submitted a disclosure of potential conflict form and will recuse herself from the ABCC discussion of her application. Whether the ABCC will approve Ms. Wilson's applications is unknown.

Ms. Adachi and Mr. Gowing noted that this is a pretty common occurrence on the Cultural Council, with Council members also being members of groups potentially interested in applying for ABCC grants. Mr. Gowing agrees that Ms. Wilson must recuse herself from the Council's discussion.

Mr. Gowing - Moved that the Board accept the disclosure and authorize Ms. Wilson to participate in ABCC discussions but must recuse herself from discussions pertaining to her organization's applications, second- Mr. Clough seconded the motion. The vote was UNANIMOUS.

REQUEST TO PAY THE SEWER BETTERMENT COSTS AT THE CLOSING - MARK STARR, 99 PARKER STREET AFFORDABLE HOUSING UNIT

Mr. Gowing explained that this was a local-initiative project providing affordable housing, including a unit for a veteran. The Town's sewer district regulations require payment of sewer betterment fees at issuance of the occupancy permit. Developer Mark Starr would like to pay the fee at closing, rather than when the occupancy permit issues. Mr. Ledoux noted that this subject was not on the original agenda.

Mr. Gowing – moved to allow Mr. Starr to pay the Sewer Betterment Fee at closing, rather than when the occupancy permit is issued, second - Ms. Harting-Barrat.

Mr. Clough asked how we know this gets paid. Mr. Ledoux said that Health Director Doug Halley manages sewer betterment issues and will monitor this project, which has only 6 units.

Final

Ms. Adachi noted that Mr. Halley had said that he would be comfortable with the proposed arrangement as long as there was an agreement to that effect. Mr. Ledoux said that he and Mr. Halley would come up with an agreement with Mr. Starr. Mr. Gowing noted that Town Counsel had recommended a clarifying amendment of the policy by the Board, but the Selectmen also could address this issue on a case-by-case basis.

Mr. Sonner asked how much of a precedent the Board would be setting, and whether the Board should be setting guidelines for when to make exceptions. Mr. Gowing said the Board already had set a precedent with an earlier affordable-housing project (4 High Street). Mr. Sonner asked in what instance the Board would say "no," whether depending on project size, or if there was no affordable housing, etc. Mr. Gowing said without affordable housing the Board would not make an exception. Mr. Sonner asked if the Board would make an exception for a friendly 40B, would it say "no" for an "unfriendly" 40B. He would like establish ahead of time what the standards for exceptions are. Ms. Adachi read from Sewer Commission Policy 2010-01, describing considerations for the Board's granting requests for relief from the sewer bylaw: LIP projects, protection of open space, applicant in good standing with Town, etc. Ms. Adachi suggested that the Board re-visit the policy to see whether everyone was comfortable with it. Ms. Harting-Barrat said it was an older policy and she recalled that the intent was to allow the Board to delay payment of the betterment fees if appropriate for affordable housing projects. Mr. Clough expressed concerns about applying such a policy to 40B projects. Mr. Gowing said that the Board needed to develop a policy, perhaps after Town Meeting. Ms. Adachi noted Town Counsel's recommendation for clarification of the policy, but agreed that the Board had the authority to approve the current request without first having to amend the policy.

Mr. Gowing asked Mr. Ledoux to add the policy discussion to the agenda for the first BOS meeting in May.

Hearing no further discussion, Mr. Gowing called for a vote on the motion. The vote was UNANIMOUS.

SELECTMEN'S REPORTS

Mr. Clough reported that the Economic Development Committee will be meeting this week with the Historic District Commission to discuss the sign bylaw issues. The EDC still needs the list of businesses and Kim Gorman in the Planning Department has arranged for a subscription to the Nielson database. Kelley's Corner came up in discussion by several members again and at least one property owner who has experienced this with the EDC in another town would like to come and discuss this.

The Finance Committee had 9 "white paper" projects on OPEB, etc., which have been consolidated into a single point-of-view document, which has gone through several drafts. The objective was to have it finished by the end of last week. We should have it very soon and this may be of relevance to the budgeting project.

Mr. Sonner had no committee reports.

Ms. Harting-Barrat reported on the Nursing Service. Emerson Hospital has a big banner lauding their services, which actually did not rate as high as the Acton Nursing Service's; so the Nursing Service is working on its own banner. There is an independent link called CivicPlus to which our website will be connected. The Nursing Service is working on marketing. The Friends of Acton Nursing Service had letters in the Acton Unlimited, Globe, Lowell Sun this week. Nursing Service brochures have been distributed to doctors' offices. The Nursing Service is conferring with the

Final

Acton Pharmacy to explore the possibility of a travel clinic. There will be a Planning Board meeting tomorrow.

Ms. Adachi attended a meeting of the Acton Community Housing Corporation last Thursday. She had drafted the Board's letter endorsing the Meadows project and Mr. Gowing signed it in time for Chairman Nancy Tavernier to receive a copy just before the meeting. If all goes well, construction will begin about a year after the proponents first started meeting with the ACHC, and this is for a so-called friendly 40B project. Ms. Adachi mentioned seeing photographs online of the completed 99 Parker affordable housing project, which looks very nice. The Commission on Disability and Community Preservation Committee both meet on Thursday; the Conservation Commission will be discussing HyBid Farm at its meeting on Wednesday, when the Water Resources Advisory Committee also is meeting. She is chipping away at minutes.

Mr. Gowing reported that the MTBA is earmarking \$228M of their budget for accessibility improvements on commuter rails and "heavy rails," that is Red Line, Green Line, etc. Lauren Rosenzweig Morton, the Town's contact, reported that the MAPC Legislative Committee endorsed HB 901, the home rule petition which will allow Acton and other municipalities to use funds from parking lots for shuttle services. The Senior Center Building Committee discussed spinning off a sub-committee to work on a new community center study and confer with Acton 2020. The Senior Tax Advisory Council, which provides tax relief for senior citizens, is doing annual outreach contributions welcome and is exploring marketing and advertising opportunities, the STAC also provided an update on the status of the senior tax relief bill.

Mr. Kadlec asked whether the Board had voted to close the warrant. Mr. Gowing said no. Mr. Kadlec noted that historically the warrant-closing is at the end of December, which is a bad time for citizens to submit articles, given the holidays, etc., the deadline was set back in the time of typewriters. He suggested changing the deadline to the end of January.

Ms. Harting-Barrat mentioned that she had heard that the MBTA would cut back on commuter rail service in bad weather. Mr. Gowing said the cutback would be only when the Governor declared a state of emergency. Ms. Harting-Barrat said the MBTA notice did not say only in a state of emergency.

Dick Calandrella asked whether the Selectmen would consider Mr. Kadlec's suggestion about the warrant deadline. Mr. Gowing said the Board would take it under consideration, but right now the date is at the end of December.

CONSENT

Agenda Items 13. through 20 – two items held.

Item 13 - solar installation on former landfill - Mr. Clough hold. He asked whether the Department of Environmental Protection really was fine with the proposal, and how to ensure that the work was done without disturbing the cap. Mr. Ledoux said that Ameresco will be responsible for any upgrades to the landfill necessary to meeting DEP standards. At a meeting a year ago, Mr. Ledoux and Ms. Adachi attended a meeting with DEP and learned of a similar installation in Greenfield. The Town will work out the necessary terms. The ultimate liability is with the Town. The Town may require a bond or insurance from Ameresco.

Mr. Gowing suggested that because the solar panel installation will take away land needed for equipment storage, etc, the Town might pursue the swap of forest land for the land on the other side of Quarry Road. The installation will help to wean the Town-side off carbon-based energy.

Selectmen's minutes
December 5, 2011

Final

Ms. Adachi asked about the information in the materials stating that the Town would reimburse Ameresco for any leasehold taxes, and specifically how much that might be. Mr. Ledoux said that the Town Assessor has not made an assessment yet. This needs to get resolved very soon. Ms. Harting-Barrat asked whether DEP had said the cap was fine. Mr. Ledoux said that depended on the structure supporting the panels; he understands that the proposal is for a floating structure. Mr. Ledoux added that the cap was under the old regulations and it was unclear whether the state would enforce new capping regulations.

Item 15 - fee waiver request for American Cancer Society Relay, NARA - Mr. Sonner hold. He clarified that the waiver is \$1,000 for logistical support as well as the fee.

The vote was UNANIMOUS.

At 10:15 PM Mr. Gowing - moved to adjourn the meeting, second - Ms. Adachi. The vote was UNANIMOUS.



Lili Early, Recording Secretary



Janet K. Adachi, Clerk

Date: 27 February 2012

BOARD OF SELECTMEN & SEWER COMMISSIONERS'
MEETING AGENDA

Francis Faulkner Hearing Room
December 5, 2011
7:00 PM

I. CITIZENS' CONCERNS

II. PUBLIC HEARINGS AND APPOINTMENTS

1. 7:05 **CHAIRMAN'S UPDATE**
The Chair will briefly update the Board
2. 7:10 **OPERATIONAL MINUTE**
The Town Manager will provide a brief report
3. 7:15 **NATIONAL GRID GAS LINE INSTALLATION, 294 MAIN STREET.**
Enclosed please find materials in the subject regard
4. 7:20 **SPECIAL USE PERMIT #10/24/11- 435, JASON BRADY, D/B/A BUENO Y SANO, 263 MAIN STREET – TO INCREASE SEATING**
Enclosed please find materials in the subject regard
5. 7:30 **COMMON VICTUALLER'S LICENSE, JASON BRADY, D/B/A BUENO Y SANO, 263 MAIN STREET ACTON**
Enclosed please find materials in the subject regard
6. 7:40 **2020 COMMITTEE PRESENTATION**
Enclosed please find materials in the subject regard
7. 8:05 **ANNUAL TAX CLASSIFICATION HEARING**
Enclosed please find materials in the subject regard

III. SELECTMEN'S BUSINESS

8. **ANNUAL LICENSE RENEWAL PROCESS**
Enclosed please find materials in the subject regard

9. ESTABLISH GOALS AND ESTABLISH MANAGEMENT TEAM FOR INFORMAL HEALTH INSURANCE PROCESS

The Board will need to Invoke the Rule of Necessity re: Chapter 69
Enclosed please find materials in the subject regard

10. DISCLOSURE OF FINANCIAL INTEREST BY A SPECIAL EMPLOYEE, MARY WILSON, ACTON BOXBOROUGH ARTS COUNCIL

Enclosed please find materials in the subject regard

11. REQUEST TO PAY THE SEWER BETTERMENT COSTS AT THE CLOSING. MARK STARR, 99 PARKER STREET AFFORDABLE HOUSING UNIT (Added as it was not anticipated prior to the setting of the agenda)

Enclosed please find materials in the subject regard

12. SELECTMEN'S REPORTS

IV. CONSENT AGENDA

13. AUTHORIZE THE TOWN MANAGER TO ENTER INTO A CONTRACT FOR SOLAR INSTALLATION AT THE FORMER LANDFILL

14. CONFIDENTIAL ELIZABETH WHITE FUND GRANTS

(Added as it was not anticipated prior to the setting of the Agenda)
Enclosed please find Confidential materials in the subject regard

15. FEE WAIVER REQUEST, AMERICAN CANCER SOCIETY'S RELAY FOR LIFE, NARA PARK

Enclosed please find materials in the subject regard

16. COMMITTEE APPOINTMENT, DIA CHIGAS, MORRISON FARM COMMITTEE

Enclosed please find materials in the subject regard

17. DISPOSAL OF OBSOLETE MATERIALS, MEMORIAL LIBRARY

Enclosed please find materials in the subject regard

18. ACCEPT GIFT, RECREATION DEPARTMENT

Enclosed please find six donations totaling \$600.00 to be used for Goward Field Playground improvements

19. ACCEPT GIFT, RECREATION DEPARTMENT

Enclosed please find a gift of \$1,188.00 from Wetherbee Plaza to be used to support 2012 Summer activities and concerts at NARA Park

20. ACCEPT GIFT, CONSERVATION DEPARTMENT

Enclosed please find a donation of \$108.71 from Eagle Scout Michael Szewczyk to be used for conservation land trail maintenance

V. EXECUTIVE SESSION

ADDITIONAL INFORMATION

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

FUTURE AGENDAS

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This is not a complete agenda.

DECEMBER 19

Town Manager to Present Budget
Site Plan #7/6/11-433 – Powder Mill Road
Daniela's Tacorito– liquor license violation hearing

JAN 9

Green Action – Debby Andell
Report of the Senior Ctr. Building committee

MINUTES PENDING VOTES

January 8, October 17, November 7, 21

PENDING COMMITTEE APPOINTMENTS:

Dia Chigas, Morrison Farm Committee

**Motion to Invoke Rule of Necessity Relative to
Chapter 69 Process, Chapter 69 Evaluation and Chapter 69 Vote**

**Board of Selectmen's Meeting
December 5, 2011**

Whereas Chapter 69 of the Acts of 2011 and the Regulations of the Executive Office for Administration and Finance, 801 CMR 52.00, establish a process to change health insurance benefits under M.G.L. c. 32B, §§ 21-23 (the "Chapter 69 Process").

Whereas, M.G.L. c. 32B, § 21(a) provides that, "Any political subdivision electing to change health insurance benefits under sections 22 or 23 shall do so in the following manner: ... in a town, by vote of the board of selectmen ..." (the "Chapter 69 Vote").

Whereas, M.G.L. c. 32B, § 21(b) provides that, "Prior to implementing any changes authorized under sections 22 or 23, the appropriate public authority shall evaluate its health insurance coverage and determine the savings that may be realized after the first 12 months of implementation of plan design changes or upon transfer of its subscribers to the commission" (the "Chapter 69 Evaluation").

Whereas, Chapter 69 does not give any board or authority, other than the Board of Selectmen ("Board") of the Town of Acton ("Town"), the legal authority to take the Chapter 69 Vote, conduct Chapter 69 Evaluation and/or engage in the Chapter 69 Process for the Town to change health insurance benefits under M.G.L. c. 32B, §§ 21-23 and its implementing regulations.

Whereas the preamble confirms that Chapter 69's purpose "is immediately to authorize municipalities to implement local health insurance changes" and Chapter 69 "is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

Whereas the Board is therefore legally required to act as soon as possible on whether the Town should elect to engage in the process to change health insurance benefits under M.G.L. c. 32B, §§ 21-23.

Whereas at an open meeting on November 21, 2011, the Board voted to engage in an informal process with Acton's public sector unions in an effort to address mutual concerns the parties have regarding group health insurance and the cost of delivering health insurance to the employees of the Town of Acton (the "Informal Process"), and based on the results of the Informal Process to determine at a meeting on February 6, 2012, whether to extend or conclude the Informal Process and whether or not to take the Chapter 69 Vote at that time.

Whereas two Board members currently have no health or dental insurance benefits through the Town; however one Board member (Ms. Harting-Barrat) currently has dental insurance coverage through the Town; a second Board member (Mr. Sonner) has a spouse who is employed by the Town as a teacher in the Acton public schools and who is a member of the teachers' union; and a third member of the Board (Mr. Clough) currently has health insurance coverage through the Acton-Boxborough Regional School District through his District-employed spouse, and the

Town and the District are participating governmental units on health insurance matters under a Health Insurance Trust Agreement.

Whereas, three of the Board's five members therefore have actual or potential conflicts and are disqualified from participation in the Informal Process, the Chapter 69 Vote, Chapter 69 Evaluation and/or the Chapter 69 Process conducted by the Board on behalf of the Town; the Board lacks a quorum to act in a timely manner on the Informal Process, Chapter 69 Vote, the Chapter 69 Evaluation and the Chapter 69 Process; and the lack of a quorum is solely due to members being disqualified by conflicts as set forth above.

Whereas, in these circumstances, Town Counsel has advised that the Board invoke the Rule of Necessity relative to the Town's Informal Process, Chapter 69 Vote, Chapter 69 Evaluation and Chapter 69 Process, and such advice is consistent with the advice provided by the General Counsel of the State Ethics Commission to the General Counsel of the Executive Office for Administration and Finance dated September 2, 2011 on the same subject.

NOW THEREFORE, Mr. Clough moves that the Acton Board of Selectmen invoke the Rule of Necessity to allow Board members, who would otherwise be disqualified, to participate in the deliberation of and action on the Informal Process, Chapter 69 Vote, Chapter 69 Evaluation and Chapter 69 Process relative to changing health insurance benefits under M.G.L. c. 32B, §§ 21-23 and its implementing regulations or otherwise; and further moves that the Board's minutes shall reflect that the Board would otherwise lack a quorum to conduct such deliberations, take such action, take such vote, or engage in such process because of such disqualifications, and that the Rule of Necessity is being used to allow the Board to validly deliberate, act, vote and proceed with respect to these matters.

So Moved by Selectman Clough
 Seconded by Selectman Gowing
 Record of Vote:

Selectman	Yes	No	Abstaining	Taking No Part
Mike Gowing	✓			
Janet K. Adachi	✓			
Pamela A. Harting-Barrat	✓			
John Sonner				✓
David Clough	✓			



The foregoing is an accurate record of the proceedings of the Acton Board of Selectmen on December 5, 2011.

Janet K. Adachi
 Janet Adachi, Clerk




Xerox DocuShare® Home | Content Map | What's New | Help
 manager Logout My DocuShare My Tasks Search In: This Collection
 Advanced

Location: Home » Public Meetings » Board of Selectmen » 2011 » 12-05 » Agenda Listing

Agenda

-  Properties
-  Add to Favorites
- ▼

Edit Selected... Add...

Refresh   

<input type="checkbox"/>	Type	Title	Owner	Edited	Size	Actions
<input type="checkbox"/>		010 Agenda, Board of Selectmen, December 5, 2011 Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	12/02/11	113 KB	    ▼
<input type="checkbox"/>		020 (3) National Grid Gas Main Petition for 294 Main Street Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	12/02/11	196 KB	    ▼
<input type="checkbox"/>		030 (4) Special Permit, Bueno Y Sano, Increase seating, 263 Main Street Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	12/02/11	903 KB	    ▼
<input type="checkbox"/>		040 (5) Common Victuller License, Bueno Y Sano, 263 Main Street Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	12/02/11	212 KB	    ▼
<input type="checkbox"/>		050 (6) 2020 Presentation Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	12/02/11	3 MB	    ▼
<input type="checkbox"/>		060 (8) Annual License Renewal Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	12/02/11	536 KB	    ▼
<input type="checkbox"/>		060 (9) Memo From Manager Ledoux re: Informal Health Insurance Process Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	12/02/11	91 KB	    ▼
<input type="checkbox"/>		070 (10) Disclosure of Financial Interest, Mary Wilson, Acton/Boxboro Arts Council Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	12/02/11	123 KB	    ▼
<input type="checkbox"/>		080 (11) Request for Payment of Sewer Assesment at Closing, 99 Parker Street Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet	admin	12/02/11	153 KB	    ▼
<input type="checkbox"/>		085 (13) Solar Grant Final Contract Scanned with FlowPort '2011 Meeting	admin	12/02/11	168 KB	    ▼

<input type="checkbox"/>		Week Cover Sheet' Cover Sheet								
<input type="checkbox"/>		090 (15) Fee Waiver Request, American Cancer Society's Relay for Life, NARA Park	admin	12/02/11	177 KB					
		Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet								
<input type="checkbox"/>		110 (16) Appointment, Morrison Farm Committee, Di Chigas	admin	12/02/11	266 KB					
		Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet								
<input type="checkbox"/>		120 (17) Disposal of Obsolete Materials, Memorial Library	admin	12/02/11	39 KB					
		Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet								
<input type="checkbox"/>		130 (18) Accept Gift, Recreation Department for Goward Field	admin	12/02/11	160 KB					
		Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet								
<input type="checkbox"/>		140 (19) Accept Gift, Recreation, Support of 2012 Summer Activities at NARA Park	admin	12/02/11	39 KB					
		Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet								
<input type="checkbox"/>		150 (20) Accept Gift, Conservation Department to be used for Trail Maintenance	admin	12/02/11	72 KB					
		Scanned with FlowPort '2011 Meeting Week Cover Sheet' Cover Sheet								

Explore	Related Links	My Links
Home Content Map What's New Help	About DocuShare Site Statistics Tutorials DocuShare Downloads DocuShare.xerox.com	Login (As a Different User) My DocuShare Personal Collection Account Settings (manager)
		Agenda <input type="checkbox"/> Agenda Listing <input type="checkbox"/> 12-05 Listing