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BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING
January 30, 2012

Acton Town Hall
Francis Faulkner Hearing Room
7:00 P.M.

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TOWN CLERK, ACTON

Present: Mr. Gowing, Ms. Harting-Barrat, Ms. Adachi, Mr. Clough, Mr. Sonner and Town Manager Steven Ledoux, Recording Secretary Christine Joyce. The meeting was televised.

CITIZENS' CONCERNS

None.

CHAIRMAN'S UPDATE

None.

OPERATIONAL MINUTE

None.

PUBLIC HEARINGS & APPOINTMENTS

None scheduled.

SELECTMEN'S BUSINESS

HEALTH INSURANCE WORKING GROUP REPORT AND UPDATE

Mr. Gowing handed over the chairing responsibility to Ms. Adachi. Ms. Harting-Barrat and Mr. Clough disclosed their respective potential conflicts of interest. Mr. Sonner disclosed his conflict of interest, recused himself and left the meeting room.

Ms. Adachi, as Clerk, read the Motion to Invoke Rule of Necessity Relative to Chapter 69 Process, Chapter 69 Evaluation and Chapter 69 Vote. Without invoking the Rule of Necessity, the Board would lack the quorum, due to potential conflicts of interest of its members, necessary to deliberate, act, vote and proceed with respect to the subject matter. Ms. Harting-Barrat – Move, Mr. Gowing - Second. Clerk roll-call vote: Ayes, 4, Nays, 0, UNANIMOUS.

Ms. Adachi explained that she has been the Selectmen-representative on the Health Insurance Working Group, an informal discussion group comprising representatives of the unions for the Town, Regional District and Acton schools and retirees, plus the Town Manager, Human Resources Directors Marianne Fleckner for the Town and Marie Altieri for the Regional District and a representative of the School Committees. The HIWG has been meeting weekly since 12/7 to develop changes in employee health insurance plans that would produce the \$600K in

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savings that the Selectmen set as the goal when they approved the formation of the HIWG. The goal for tonight is the Selectmen's approval of the HIWG's proposal, as a first step toward implementing changes for FY13. Police Detective Chris Prehl will read a statement and there will be a slide presentation and opportunity for Board discussion and audience comments and questions.

Detective Prehl read his prepared statement.

Mr. Ledoux did a slide presentation of the work that the HIWG had done and the proposed changes on which the group had achieved consensus. The Board's approval tonight will allow time to make the necessary changes in time for open enrollment in April; the proposed plan changes already have gone to Blue Cross Blue Shield and Harvard Pilgrim Health for underwriting. All employee groups would have to vote to ratify the proposal by 2/10. Excluding the fact finding and education process during the first several weeks of meetings, the group managed to put the deal together in only three weeks, which is faster than what would have been possible under Chapter 69.

Ms. Harting-Barrat congratulated the unions for coming together. Mr. Clough said the result was great. Mr. Gowing was pleased that everyone had come together for the benefit of the Town and employees. Ms. Adachi expressed her appreciation to the HIWG members, noting that although she initially had been prepared to move forward under Chapter 69, she had ended up very favorably impressed by informal-discussion process and the progress that the HIWG achieved.

Ms. Adachi – Move to approve the HIWG proposal, Mr. Clough - Second. Clerk roll-call vote: Ayes, 4, Nays, 0. UNANIMOUS VOTE.

DISCUSSION OF FY13 BUDGET

Mr. Ledoux reported on the Acton Leadership Group meeting this morning. The Finance Committee is willing to increase the use of reserves for FY13 to \$1.7 million from \$1.5 million if there will be ongoing as opposed to one-time savings. Mr. Ledoux and Superintendent Mills will work out how to reduce reserves-use to \$1.7 million from \$2.9 million. Mr. Ledoux expects to have an operational analysis of the Nursing Service by the end of the week.

The Board discussed the issue of voting the budget tonight. Mr. Gowing said the Board would have to vote a "not to exceed" budget, on the assumption that the Town Manager and Superintendent would be able to achieve the requisite reduction. Mr. Clough asked what exactly the Board would be voting on. Ms. Adachi asked if the Selectmen were supposed to weigh in on which items to preserve, which to cut, with the two obvious targets being the Nursing Service and transportation; she said mass transportation was important and just getting started, and if the analysis of the Nursing Service indicated savings potential, the cuts should be there. Ms. Harting-Barrat disagreed, noting that there is a lot of support at the Council on Aging and Florence Ross of Friends of the Nursing Service is campaigning to inform people know about the Nursing Service. She suggested a regional approach for transportation.

Mr. Clough said his calculation indicates that we're down to \$2.4 million in reserves use, and need to cut another \$700K, which could be difficult. We will see what happens with the analysis of the Nursing Service; he hopes the Town can find more savings. He said the transportation services are a work in progress but we need to accelerate the process of coordinating the different services. Cutting the capital items would not have much of an impact on FY13.

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Mr. Ledoux said that the budget had a \$2.9 million deficit, which health insurance-related savings of \$800K would reduce to \$2.1 million, with an additional \$400K in savings needed.

Mr. Sonner asked about the potential for savings in capital items such as the Town Hall renovation or Senior Center design proposal. He would take off the proposed generator and Town Hall renovation. He said the Senior Center design should be delayed until we resolve the issue of whether to pursue a senior center or a community center and have public support for moving forward. He would like to keep the transportation service running this year but will not support funding in the future if the currently separate services are not integrated.

Mr. Gowing said the Board cannot rely on anecdotal evidence about the affordability of the Nursing Service and needs to see the study; and the transportation proponents are working on in consolidation of dispatch services. Also, House Bill 901, which will allow the use of train station parking meter monies for purposes other than parking lot maintenance, for example, the rail shuttle, has surmounted the major hurdles.

On the issue of Other Post Employment Benefits, Mr. Ledoux reported that the ALG consensus was for \$500K in FY13. Mr. Gowing noted that the Regional District had not yet approved any amount of OPEB funding.

Doug Tindal said that the long-term \$13 million deficit projection is not going to go down, so it would be better to make small cuts now rather than big, painful ones later. With the OPEB obligation, the deficit projection is in the \$16M range.

Steve Noone said that OPEB is not driving the deficit in the upcoming years. The problem is that we don't balance our budgets: revenues go up annually and expenses do, too. For FY14, we're already in the hold by \$1M.

Charlie Kadlec does not want to lose the Nursing Service, and asked why the Nursing Service suddenly developed \$400K deficits are doing okay for a long time. If something internally has changed to cause the problem, the Town needs to look at it. He added that if the Town and Schools are going to propose the budgets that currently are on the table, they should put the budgets on the ballot for an override vote and let the voters decide whether they want it.

BOARD OF SELECTMEN'S VOTE, FY13 BUDGET

Ms. Adachi – Move to approve the budget as presented not to exceed \$29,187,915, and to direct the Town Manager to work with Superintendent Mills to reduce the use of reserves to a level that will be acceptable and sustainable to the Finance Committee. – Ms. Harting-Barrat - Second. UNANIMOUS VOTE

SELECTMEN'S REPORTS

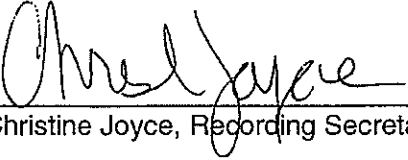
None.


CONSENT AGENDA

None.

Move to adjourn at 8:40 p.m.

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Christine Joyce, Recording Secretary


Janet K. Adachi, Clerk

Date: 7 May 2017

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| <input type="checkbox"/> | | 020 (2) Rule of Necessity Documents, re: Health Insurance Scanned with FlowPort '2012 Meeting Week Cover Sheet' Cover Sheet | admin | 01/27/12 | 279 KB | |
| <input type="checkbox"/> | | 030 (3) Draft Proposal from Heath Insurance Working Group dated Jan 25, 2012 Scanned with FlowPort '2012 Meeting Week Cover Sheet' Cover Sheet | admin | 01/27/12 | 154 KB | |
| <input type="checkbox"/> | | 040 (4) Letter from Det. Christopher Prehl re: HIWG Scanned with FlowPort '2012 Meeting Week Cover Sheet' Cover Sheet | admin | 01/27/12 | 73 KB | |

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

**Board of Selectmen's Meeting
January 30, 2012**

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 at an open meeting on January 30, 2012, the Board desires to receive an update concerning the Informal Process and deliberate concerning next steps.

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, Harting-Barrat 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 Harting-Barrat
 Seconded by Selectman Mike 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 January 30, 2012.


 Janet Adachi, Clerk



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**Town of Acton
BOARD of SELECTMEN**

January 30, 2012
Room 204, Town Hall
7:00 p.m.

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MEETING AGENDA

Discussion of FY13 Budget

Board of Selectmen's Vote FY13 Budget

Health Insurance Working Group Update

***Note the 1/25/12 meeting was cancelled by the Board of Selectmen at their meeting of 1/23/12.**

