

**BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING  
November 7, 2011**

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

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

**CITIZENS' CONCERNS**

Franny Osman, Transportation Advisory Committee, thanked the Selectmen for their support of the MinuteVan, which is on tonight's agenda.

**CHAIRPERSON'S UPDATE**

Mr. Gowing noted the upcoming Veterans Day program and dedication of the new memorial on Friday. The Halloween snowstorm left 60% of the Town without power. NSTAR dispatch crews responded better than after Tropical Storm Irene, but there still is room for improvement. Mr. Gowing, the Town Manager and others will attend the state Department of Public Utilities hearing on the 16<sup>th</sup> in Framingham. The next all-boards-Chairmen meeting will be on Monday at 7:00 p.m. in Room 204.

**OPERATIONAL MINUTE**

Mr. Ledoux reported on the recent storm, noting that the priorities of NSTAR and the Town do not mesh. NSTAR supposedly focuses on high-priority areas and getting as many people back on power as possible. But it did not address problems on Robbins Street despite repeated notification until Channel 4 showed up and the Town made repeated calls to the state Emergency Management Agency. Patrick Mehr of Lexington will speaking at the Board's meeting on 11/21 about the municipal utility option and his ongoing efforts at the state level. The Town has awarded low-bidder W.L. French the contract to clean up at the Caouette property for \$151K; there were meetings with ACES and others a week ago and notices to abutters. The new Veterans Service Officer, James McCrae, starts work today and will have an office at 468 Main Street; his parents grew up in Acton.

**PUBLIC HEARINGS & APPOINTMENTS**

**COMMUNITY PRESERVATION COMMITTEE REQUESTS**

Municipal Properties. Dean Charter, Municipal Properties Director, presented the four projects that he will be filing with the Community Preservation Committee (CPC) for Community Preservation Act funding.

- 1) Windsor Building: Seeking to refurbish the first floor interior, with the second floor, which is not handicapped-accessible, to serve as storage space with access limited to Town staff members.

Mr. Clough asked about the need to spend \$225,000 for meeting space in West Acton. Mr. Charter responded that his office handles room reservations and is a tremendous need for meeting spaces for Town boards Monday through Wednesday even with the schools providing space. Plus there are community groups that would like additional meeting space. The Board of Health and the Historic District Commission would be interested in holding meetings at Windsor. Mr. Clough said he might agree if the project would help businesses. He asked whether the meeting space could be divided into smaller spaces. Mr. Charter said the ground floor space is about 1000 sq. ft., which will allow for a handicapped-accessible restroom but that dividing up the remaining space probably would be infeasible.

Ms. Harting-Barrat supported the upgrade and said it would be a benefit for West Acton.

Mr. Gowing asked whether the second floor was structurally sufficient to support the proposed file storage. Mr. Charter was confident that the second floor could be made safe and secure.

- 2) 468 Main Street: Seeking funds to put in a wheelchair lift in the kitchen area to make the building handicapped-accessible and the small meeting room, which can accommodate about 12 people, available for meetings. The new veterans agent will meet with clients at Town Hall until the modification is made. Mr. Charter is not recommending the ramp alternative, which is included in the drawings and would cost more.

Ms. Adachi asked how much money, CPA funds and Town funds, had been spent on the property to date. Mr. Charter said \$8K-9K in CPA funds on the windows, \$100K in regular Town funds, including labor, \$500K on the purchase of the house and land.

- 3) Memorial Library window restoration: 1889 section.

Mr. Sonner asked about energy savings. Mr. Charter said that it would be difficult to separate the effect from the effect of other energy-efficiency measures.

- 4) Town Hall clock: Seeking funds to restore the clock function. The original clock was electrified 15 years ago and because the clock is exposed to the weather, the north and west faces have been damaged and do not work.

Mr. Clough asked about a lower level of funding. CPC makes the final recommendation on the amount of funding.

Historic District Commission. HDC Chairman Kathy Acerbo-Bachmann presented two proposals.

- 1) South Acton Train Station landscaping: HDC is seeking \$150,000 for improved landscaping, and additional plantings, including trees for the plaza area, to reduce the potential impact of the Train Station site on the nearby Historic District. The MBTA has budgeted \$60,000 for basic grass and other landscaping. The additional landscaping would help obscure the platform and help integrate the site into the historical area.

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Ms. Adachi noted the possibility of CPC questions as to eligibility for CPA funding. Ms. Acerbo-Bachmann said that HDC had conferred with Town Counsel and the revised proposal probably would be eligible.

Mr. Clough asked about the basis for the \$150,000 number. Ms. Acerbo-Bachmann said that a neighbor who works for a well-reputed landscape architecture firm, had provided guidance without charge.

- 2) Low-interest loan revolving fund: HDC is seeking \$20,000 for a revolving fund that would provide low-interest loans to owners of properties on the Town's cultural resources list or otherwise historically significant. The aim is to encourage homeowners to maintain their properties. Arlington already has such a program; common projects are replacing vinyl windows or siding. Loans of under \$7,500 would not require mortgages.

Mr. Sonner asked how many requests the Arlington program receives: about 12 per year.

In response to queries from Ms. Adachi, Ms. Acerbo-Bachmann said that Town Counsel had not reviewed the proposal, and that the Arlington program relied on a community grant, as opposed to CPA funds.

In response to a query from Mr. Gowing, Ms. Acerbo-Bachmann said she was not sure whether the loans would be means-tested.

Open Space Set-Aside Fund. Mr. Gowing said that the Open Space Committee was seeking \$400,000 for the Open Space Set-Aside Fund.

Lower Fields Project. Stephen Mills, Superintendent of Schools, gave a presentation on the request of the Friends of Lower Fields for \$757,000 toward the lower fields project, for which the estimated cost will be \$2.63 million. Dave Wilson of Acton Boxborough Youth Soccer, along with the Acton Boxborough Regional Facilities and Athletics directors, approached Dr. Mills with the lower fields proposal. The lower fields at the high school frequently are under water, resulting in cancellation of events. The new fields could be cleared even in winter, as Leary Field was after last Sunday's snowstorm. The finished project would generate profits for the schools and Town; Dr. Mills and Town Manager Ledoux are working out the terms of an inter-municipal agreement under which the CPA funds would be repaid in proportion to the total funding. Any excess monies would go to recreation projects.

Acton Community Housing Corporation. ACHC Chairman Nancy Tavernier presented ACHC's request for funding of \$40,000 to cover the cost of a two-year contract for regional housing services. Several contiguous area towns recently entered into an inter-municipal agreement for the provision of affordable housing services by a regional coordinator based in Sudbury; there will be openings for two more towns and the group would like to bring in Acton. ACHC sees participation in the regional group as a way to spread around institutional knowledge that currently rests largely with her. The CPA funds would go into the Community Housing Program fund from which ACHC would draw to pay the contract fee.

Ms. Adachi asked about the regional coordinator's tracking of hours spent in behalf of each member town, and whether the information would lead to adjustments in the annual fees in future years.

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The Selectmen provided the Town Manager with their respective written assessments of the CPA funding proposals; the resulting order of priority:  
Priority – will be developed below

1. Open Space Set-Aside
2. ACHC regional housing fee
3. Memorial Library windows
4. (Tie) 468 Main Street; South Acton Train Station
5. Lower Fields
6. HDC revolving fund
7. Town Hall clock
8. Windsor Building

Ms. Harting-Barrat - Moved to recommend the board's ranking to CPC. Mr. Clough – second.  
**UNANIMOUS VOTE**

#### **CHAPTER 69 OF THE ACTS OF 2011 - HEALTH INSURANCE**

Mr. Gowing explained how the discussion would proceed: comments from Senator James Eldridge, Town Manager Ledoux, and Cook & Co; Selectmen discussion, and audience comments.

The Board invoked the Rule of Necessity. Mr. Sonner, Mr. Clough and Ms. Harting-Barrat recused themselves. Ms. Adachi read the Rule of Necessity motion.

Mr. Clough - Moves to invoke the rule of necessity, without which the Board will lack the necessary quorum to deliberate; Ms. Harting-Barrat – second. Ayes: 4, Absention: Mr. Sonner, who left the room.

State Senator James Eldridge said that Chapter 69 was a cost-shifting law and not a cost-savings law. The legislature considered other cost-cutting proposals but health insurance reform drew the greatest interest. He and other legislators wanted union involvement and to protect retirees, and opposed earlier proposals. His mother is a retired Acton school teacher in Acton. He represents 14 communities and none of the other towns is recommending Chapter 69 and he thinks that is because of union good-faith efforts in collective bargaining over the past two-three years. Unions statewide did not support the final proposal.

Mr. Gowing noted that the drafting took three years and involved the unions. Senator Eldridge said that neither the Mass. Teachers Association nor the police and fire unions supported before the addition of union protection.

Town Manager Steven Ledoux provided an overview of collective bargaining under M.G.L. Chapter 150E, coalition bargaining under Section 19, and the three-step bargaining process under Chapter 69. The original proposal was to allow employer-designed plans, as occurs at the state level, but Chapter 69 is a compromise, reflecting input from union, giving employees and retirees a meaningful voice, and seeking to alleviate the burden on those with lower incomes and extraordinary expenses. Why now? The municipal side currently has nine different plans for the nine different units; the indemnity plan is the same for all employees and cannot change. Four of five municipal union contracts expire in 6/2012, and the Town will begin negotiating new contracts in 1/2012. 11 % of the municipal budget is for insurance costs for municipal and Public Schools employees. The FY13 level-service budget still will increase 4.5%, without accounting for new personnel requests and "A" list capital requests. The long-

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term needs of Town and schools cannot be funded under Prop. 2.5. Implementing a GIC-like plan could generate \$6-8 million over five years, and the cost of post-retirement coverage would decrease.

Mr. Clough asked whether the Town had to adopt Chapter 69 this year: not necessarily. Ms. Adachi noted the characterization by some people of Chapter 69 changes as draconian, and asked what leeway the Town would have to ease into the process. Ms. Harting-Barrat thanked the attendees for coming to the meeting and said she was not convinced that savings would result. Mr. Clough asked about the possibility of the Town's ending up under Chapter 69 with a plan very much like the current plan.

Consultant Peter Savage reviewed the Cook & Company assumptions and analysis of potential savings. Assumptions included a 6% increase for the Health Insurance Trust, or \$8.5 million over five years and 5% increase for the GIC; indemnity plan subscribers would stay where they were. The analysis looked at GIC plans and Harvard Pilgrim and Blue Cross plans that are closest to what the GIC plans would accomplish; there are other options but the savings would be less. The assumption was that Harvard Pilgrim and Blue Cross would be the most popular. Blue Cross/Blue Shield is available under the plan as long you don't go above the GIC limit.

In response to a Board query as to whether the towns that are looking at the Chapter 69 issue were a socio-economic mix or poor like the ones that Senator Eldridge had mentioned, Mr. Savage said that the division was by geographical location, with towns inside Route 128 more likely to benefit from moving into the GIC, due to the greater cost of services.

John Petersen, Acton-Boxborough Regional School Committee Chairman, spoke about the confusion and need for more information before we move forward. He would like the School Committee and the Board of Selectmen to have a general talk about plan design and the way in which we provide health care benefits

Steve Noone, Finance Committee, reiterated that the unfunded liability facing the Town for post-employment benefits currently is \$100 million. The Town should be setting aside \$5 million/year toward that liability, though it currently is not required to do so; the Finance Committee might vote to recommend that the Town start setting aside \$2 million per year. A Prop. 2.5 override would generate \$1 million or so and increase taxes by 7-8%.

Mike Coppelino, Acton School Committee Chairman, agreed with Mr. Petersen that the issue needed more review. He read a statement, noted that some employees were paid by both the Town and the Regional School District, asked whether the "clock" started running once a Town move forward under Chapter 69; Mr. Gowing said that was not the case. Mr. Coppelino asked whether the projected \$500K savings was for all of the Town; Mr. Savage explained that the figure reflected just the municipality, with the potential \$150K mitigation expense reducing the total savings.

Robin Harting said that in October Mr. Gowing had recused himself because he had Town health insurance coverage, but he has not recused himself tonight. Mr. Gowing explained that the Town health insurance coverage was temporary, when his wife lost her job, but that she has a new job and he now is covered under her plan.

[Labor counsel explanation of Chapter 69 negotiation process]

Chris Porth, Acton resident and school employee, noted that the School Committee recently had concluded the negotiation of a contract to achieve some savings, and asked why an agreement

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with units on the municipal side was taking so long. Mr. Ledoux said that the Town had negotiated a net-0 increase with Fire, has a tentative agreement with Highway, was just starting negotiations with the Teamsters whose current contract will be expiring and is in arbitration with Police. Three contracts have been concluded.

Mark Lewis, Acton Education Association President, said the School Committee bargaining was 18 months of give-and-take negotiations, with a result that was fair to taxpayers and employees. He thinks that 30 days to negotiate under Chapter 69 is a joke, pitting one employee group against another, making unanimity impossible and guaranteeing the need for arbitration.

Mr. Clough expressed concern about the negativity and assumption that the Town is going after employees with a sledgehammer. Everyone agrees that the quality of the school system is important. Chapter 69 simply provides a tool. But there is a growing unfunded obligation. For every teacher who retires, the Town pays not only 50% of the retiree's insurance but the cost of the retiree's replacement.

A resident asked what the alleged "dire straits" were and asked about the Town's reserves. Mr. Ledoux said the current reserves were around \$8 million but the Town had been drawing on them annually to balance the budget.

Patricia Higgins, school employee and resident, said it would help to have more financial information.

Joan Piles, Acton teacher, said she understood the financial issues but urged the Board not to adopt Chapter 69.

Lauren Rosenzweig Morton said that the Town always has worked toward consensus, for example, via the Acton Leadership Group discussions between Town and Schools of ways to handle financial issues. She asked about the possibility of informal meetings between the Town and union presidents. Town Labor Counsel Paul Hodnett explained that informal meetings would not be workable because the requirements of Chapter 150E still apply to all issues other than health insurance under Chapter 69.

Franny Hill, Acton teacher and resident, said that she moved to Town because of the good schools, and addressed the possibility of deductibles and different tiers of service.

Stewart Ellis, a 34-year resident whose wife is a school employee, asked the audience who had read Chapter 69 and said there must be an effort to educate people about Chapter 69, which most have not read. He asked if the Town would be locked in for three years under Chapter 69: only if it moved to the GIC, but not if it opted for existing plan-modification. He said Worcester was excluded from Chapter 69 as the city made a deal with U.Mass. Medical Center to provide medical services to city employees.

Gab Lebarrión, Acton teacher and non-resident, addressed the Health Insurance Trust minutes.

Mr. Lewis asked how those with serious health conditions and the greatest need for services would be accommodated.

Ken Carroll, Acton Fire Department, address the issue of the fire department's representation on the review board under Chapter 69.

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Ms. Long hopes the Board slows down and does not vote tonight.

Ruth Cvitkovich, Acton resident, said she will have to move when she retires.

Pat Harras asked about setting up a summit meeting to see some hard plans and then voting.

Mr. Clough expressed concern about the disparity between the Town's revenues and spending. He would like the Town to have all the tools available to address financial challenges down the road, including Chapter 69. He would like to see us move forward under Chapter 69.

Ms. Harting-Barrat expressed concern that many employees seemed not to have enough information and were unhappy. Chapter 69 provides an option and that is all. But she does not feel ready to vote for this tonight and would like to delay a vote to allow those in attendance to get more educated. Town Counsel said postponing the vote would be feasible.

Ms. Adachi remains inclined to vote yes, but also is concerned that school and municipal employees are not as well informed as they should be. At the same time, she is concerned about the larger population of residents who are not among those in the room and deserve to have a voice, too. A yes vote would give us a chance to continue the discussion further.

Mr. Gowing would like the Board to vote on whether to move forward under Chapter 69. He also is interested in exploring the option of discussions with the school committees. wanted to know what purpose this would provide. He wants to sit down with School Committee to find out what we are looking at.

Mr. Clough - MOVE to postpone the vote until the next meeting, Ms. Harting-Barrat - SECOND. Ms. Adachi said that she would be amenable to the postponement, which would address her concern about people's getting better informed. Mr. Gowing noted that the next meeting schedule already was full and asked what postponement would accomplish; regardless of whether the Board votes, employees should be aiming to become better informed. Ms. Harting-Barrat said postponement would help others. Ms. Adachi asked about scheduling the vote for a day other than the next Board meeting; if we are going to allow additional time for people to get informed, the Board should make pro-active efforts to make the additional information easily available: Mr. Gowing questioned the need for more information, noting that this was the third meeting and discussion. Mr. Clough - MOVE to postpone the vote until the next meeting at 6:30, Ms. Harting-Barrat - SECOND. Motion passes, 3-1 (Mr. Gowing - NAY).

## **SELECTMEN'S BUSINESS**

### **FEE WAIVER REQUEST - NARA PARK**

The request for a fee waiver is from a for-profit entity. The Recreation Director's recommends denial of the request. Ms. Harting-Barrat - Moved to deny the request. Ms. Adachi - second. UNANIMOUS VOTE

## **SELECTMEN'S REPORTS**

Mr. Gowing reported on the selection of the company that will be doing the hazardous-waste cleanup on the Caouette property, with cleanup to be completed this month; the Historic District Commission's approval of the new Veterans Monument and plans to hold a joint meeting with

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the Economic Development Committee to discuss sign bylaw changes; Acton TV's plan to move in soon to their new studio this month.

Ms. Harting-Barrat reported on the Acton Public School Committee meeting at McCarthy-Towne School. The Committee is working on a long-range strategic plan, looking out 3-5 years, to be voted on in December. Future meetings will address enrollment projections, the Lower Fields project. She attended a PTSO meeting where discussion covered classroom technology such as smart boards, and the like.

Ms. Adachi and Mr. Clough attended the Acton Community Housing Corporation site walk for the Acton Meadows project on Great Road; the applicant will be before the Board on 11/21 and has submitted the application to the Board. She met with the Design Review Board (which is Mr. Clough's liaison board) on the limited issue of the committee's revised charge; the DRB approved the proposed changes to the committee's charge that the Selectmen approved a year ago and again will come before the Board for approval of the charge, as well as additional design guidelines. She attended a tour led by Linda McElroy of the Trail Through Time; Senator Eldridge's Green Advisory Council meeting; and ethics training. A group of residents and others will be seeking the Board's approval to name an intermittent stream in Acton in honor of Mary Michelman.

Mr. Clough reported on the Finance Committee's long range planning subcommittee, headed by Steve Noone and FinCom's ongoing work on a series of "white papers." Assistant Town Manager/Town Treasurer John Murray reviewed for FinCom the financial implications of Acton 2020's recommendations; Mr. Murray's analysis would be useful for Acton 2020 to have. The Open Space Committee will be looking at potential land acquisitions so Mr. Clough is glad that the Board voted to support the Open Space Committee's proposal to the Community Presentation Committee;. As Ms. Adachi mentioned, the DRB discussed and approved the revised charge and will be working on the guidelines.

Mr. Sonner reported that the Library Trustees reviewed the initial budget request. The South Acton Train Station Advisory Committee is working on a publicity campaign to be sure people are aware of the impending train station improvements; construction starts next June. Acton 2020 will be meeting to discuss implementation strategies.

## **CONSENT**

Ms. Harting-Barrat- Moved to approve. Mr. Clough – second. UNANIMOUS VOTE

Move to adjourn 12:00 a.m.

\_\_\_\_\_  
Christine Joyce, Recording Secretary

\_\_\_\_\_  
Janet K. Adachi, Clerk

Date: \_\_\_\_\_

1/23/12 (12)

**BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING  
November 21, 2011**

**Acton Town Hall  
Francis Faulkner Hearing Room  
6:30 P.M.**

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

**CITIZENS' CONCERNS**

Franny Osman provided information on the Governor's innovation-challenge grant program.

**CHAIRPERSON'S UPDATE**

Mr. Gowing reminded everyone that the Nursing Service was offering flu shots. He spoke about the Public Utilities Commission hearing on November 16<sup>th</sup> in Framingham about NStar's performance in the wake of Tropical Storm Irene. The all-boards-and-committee-chairmen met to review the status of committee goals. The Veterans Day ceremony drew 200 people for the dedication of the new Veterans Memorial on the Town Common; the new Veterans Service officer, James MacRae, was introduced at the reception.

**OPERATIONAL MINUTE**

Mr. Ledoux said he would make no report in order to keep the meeting, already running late, on schedule.

**PUBLIC HEARINGS & APPOINTMENTS**

**CONTINUED DISCUSSION OF CHAPTER 69 OF THE ACTS OF 2011**

Mr. Sonner recused himself and left the room. Ms. Harting-Barrat and Mr. Clough recused themselves. Ms. Adachi read the Rule of Necessity Motion. Ms. Harting-Barrat - Move to invoke Rule of Necessity, Mr. Clough – second. **UNANIMOUS VOTE.**

Representative Cory Atkins, who had met with local officials in her district on Friday, offered comments on the state of the economy, the ongoing efforts of the federal "Super Committee" to reach agreement on \$1 trillion in cuts, and the impact that cuts could have at the state level. Many state employees have taken furloughs and pay cuts. She said that the Town of Chelmsford faced the issue of unsustainable health insurance costs five years ago, and negotiated with employees to give back the savings. Rep. Atkins is in the state insurance plan and thinks it is great.

Peter Ashton read aloud the joint letter from him, Walter Foster, Jonathan Chinitz and Lauren Rosenzweig Morton, who feel there is another way to handle the health insurance plan issue, and urge the Board to pursue a collaborative solution outside of Chapter 69.

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Steve Noone reported on the Finance Committee's recommendations: first, that the Board and Regional School Committee accept Chapter 69; second, that after accepting Chapter 69 the Board and Regional School Committee initiate a 45-day period for discussion, information-sharing and developing a clearer understanding of the issue. Mr. Noone added that the average tax bill in Acton was over \$9,000 and it is time to get serious.

Detective Christopher Prehl, representing the patrolmen, said that pursuant to discussion with Ms. Rosenzweig Morton, et al., the Patrolmen support the approach recommended in the letter from Mr. Ashton, et al.

Ann Chang asked why the Board was rushing into this, given that the Town has the Health Insurance Trust, and if the Town would give up something if it moved to the state plan. She urged that the Board look at the issue more thoroughly before moving forward

Charlie Kadlec asked how many people thought that Acton's finances were in good shape and said the Town was broke.

Shaw Sheridan, representing the firefighters, voiced support for Mr. Ashton's letter.

Sid Levin said that his wife was a former teacher in the Arlington Medicare/Medex plan and thought that the insurer was trying to get rid of Medex, which would mean coverage would cost him a lot more. He said that the system did not save health care costs but simply shifted the burden from the town to employee.

Mr. Gowing apologized if he had offended people in past meetings. He explained that since the Board started discussing Chapter 69, it had been under attack to even consider the issue. There is a need to de-escalate. Mr. Gowing – move to put off the Chapter 69 vote to the Board's February 6<sup>th</sup> to allow for unofficial bargaining leading to a plan that all units can agree on, with the Board to consider a vote under Chapter 69 at the February meeting in the absence of an agreement substantial progress. Mr. Clough – second for discussion purposes.

Ms. Harting-Barrat does not think that the February deadline will allow enough time, given the intervening holidays, and would propose an extension to April 1<sup>st</sup>. Mr. Clough did not agree, noting that the April date would conflict with Town Meeting preparation; he would prefer the earlier deadline.

Ms. Adachi said that she had come to the meeting prepared to vote to go forward under Chapter 69 and to recommend strongly the same extended discussions that the letter-writers were recommending. If the Board is going to postpone the vote, she has the same concern as Mr. Clough about going beyond February, when the focus must be on Town Meeting preparation; if more time is needed beyond February, it might have to be after Town Meeting.

Mr. Clough said that FinCom discussions and Rep. Atkins' comments make clear that things are going to get worse, and the longer the Board delays, the worse it will be. He expressed concern about the \$100 million unfunded liability that the Town must address. He, too, was prepared to vote to go forward under Chapter 69, except that there is a lack of trust in the process and the Board therefore needs to build that trust.

Jonathan Chinitz said that the points that Mr. Clough made tipped in favor of delaying the vote. The Board can always come back to the vote. It is important that the Board build trust. Ms.

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Harting-Barrat – move to amend to provide for a 30-day extension past February 6 if there has not been substantial movement. Ms. Harting-Barrat withdraws her motion. Mr. Clough- move to amend to allow for small extension if there is significant progress come February 6. Ms. Harting-Barrat - second. Ms. Adachi said she thought Mr. Gowing's original motion was fine, with the option of the Board's extending time being implicit. Amendment passed, 3-1 (Ms. Adachi not voting).

Mr. Lewis requested clarification of how the process would work, how to measure "sufficient progress." Mr. Gowing said that the Board will review the issue at the Jan 9<sup>th</sup> meeting. Ms. Adachi said there was a need for ground rules, making clear who will participate, what the proposed goals are, etc. Mr. Gowing said the Board would aim to get something to the units.

Lauren Rosenzweig Morton said that the public still needs to learn about the process and plan design, and asked that the Board ensure that the process going forward allow for public participation.

John Petersen said that the School Committee would be having a public meeting on December 1<sup>st</sup> and would be glad to add agenda items to cover any additional information people wished to submit.

Town Counsel Steve Anderson noted that the Board had voted only the amendment and needed to vote the original motion. Motion passed, 4-0. UNANIMOUS.

#### **ACTON MEMORIAL LIBRARY ENDOWMENT PRESENTATION**

Julia Larkin and Pat Easterly, co-presidents of the Memorial Library Foundation (founded 1991), presented a ceremonial check for \$50,000 to the Town for library use. Two funds support library operations. One is the annual fund; the other is the endowment fund, currently over \$300,000, of which the Library Trustees spend a certain portion of the interest annually. Joe Glannon, President of the Library Trustees, thanked the Foundation and donors for the support.

#### **ACTON CONSERVATION TRUST PRESENTATION OF PROPOSED BUDGET FOR THE STEWARDSHIP OF THE GROENER AND GAEBEL CONSERVATION RESTRICTIONS**

David and Susan Hardt presented a proposed budget to cover the Acton Conservation Trust's anticipated stewardship costs for the conservation restrictions on the Groener and Gaebel parcels, as was done earlier for the Caouette parcel. The budget will go toward fixed expenses and an endowment to cover the cost of annual monitoring and provide a legal defense fund. Mr. Ledoux is in the process of working the numbers into the FY13 budget; the funds probably will come out of the Manager's budget. Mr. Gowing – Moved to approve the budget. Ms. Adachi – second. UNANIMOUS VOTE.

#### **COMPREHENSIVE LAND USE REFORM AND PARTNERSHIPS ACT (CLURPA) DISCUSSION WITH SENATOR ELDRIDGE**

Senator Eldridge provided an overview of the zoning reform proposal, which would rewrite and update current state zoning law. Certain issues indicate that the current law is outdated: first, Approval-Not-Required (ANR), which some think does not create the best developments due to

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the lack of input from the local planning boards; second, the grandfathering for 7 years of even rudimentary plans, which is how the Route 2 apartment complexes could be built; and third, the lack of a clear formula for determining fees to account for environmental impact. CLURPA would repeal ANR, create a formula for impact fees and reduce grandfathering to 3 years. The bill was filed before the Acton 2020 process, but Acton is a great town for CLURPA. The Massachusetts Municipal Association and some selectmen and planning boards have concerns that the law would take away from the boards.

Mr. Sonner asked with respect to the partnership/incentive side of the bill what number of communities might sign up. Senator Eldridge noted that the law would require the designation of areas for development. Some planners and environmentalist say that that is too much of a compromise, but part of the purpose is to create more affordable housing.

Ms. Adachi asked about smaller communities such as Stow, where the Planning Board told Senator Eldridge that CLURPA would not work for small towns. Sen. Eldridge explained that CLURPA requires that the master plan match the zoning bylaw, so there is some concern that that might take control away from local officials. But he thinks that local officials would have more control. Some towns have old master plans, which can be an issue.

Ms. Harting-Barrat asked whether CLURPA would have changed the outcome with respect to the Next Generation daycare site.

Mr. Gowing asked how much tweaking the Town would have to do to make the Acton 2020 master plan work with CLURPA. Planning Director Roland Bartl said that the Town's zoning would have to be consistent with the 2020 plan, but conforming to CLURPA would not be a hurdle. Mr. Clough asked whether Mr. Bartl supported CLURPA, and whether he saw any potential disasters or unintended consequences; Mr. Bartl said that planners have been trying to reform planning for a long time and that CLURPA is not perfect but is much better than what exists now.

Ms. Harting-Barrat asked how many towns have elected Planning Boards. Senator Eldridge said about one-half.

Mr. Gowing asked about supporters and opponents of the bill. Senator Eldridge said that the Metropolitan Area Planning Commission supports, developers oppose, the responses in his district are mixed. The MMA is concerned about the requirement to match the master plan to zoning. Mr. Gowing asked whether Stow could get funds to do a master plan; Mr. Eldridge said yes.

Senator Eldridge would appreciate the Board's support. He will provide additional information. The Board would need to vote by January 2012

### **ACTON MEADOWS, 40B 263-265 GREAT ROAD PRESENTATION AND REQUEST FOR TOWN SUPPORT**

Ms. Adachi introduced developers Steve Steinberg and Peter Conant, who presented slides about the proposed development. The Acton Community Housing Corporation has voted formally to support the project. The Conservation Commission has issued an order confirming the delineation of the small area of wetlands. The project will include a duplex that the Acton Housing Authority will own; the developers are in discussions with Habitat for Humanity about the existing house at the front of the property. The roadway will be private and maintained by

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the homeowners association. The developers hope to receive the Board's endorsement, in the form of a letter addressed to the state affordable housing office.

Ms. Harting-Barrat asked about the process for designating a home as a Habitat for Humanity project. Mr. Steinberg explained that Habitat would buy the house for a nominal price and then select a buyer in the lower income range. If the arrangement with Habitat does not jell, he will rehabilitate the house himself.

Mr. Clough voiced appreciation for the layout and asked about the crosswalk and sidewalks. Mr. Steinberg said that Senator Eldridge was working on the crosswalk issue. Mr. Bartl said that there will be sidewalks in the development and on Great Road but the focus should be on the crosswalk issue.

Mr. Gowing asked about a mitigation plan for drainage to wetlands. The developers said that the property was almost entirely in Groundwater Zone 3, except for the corner of the lot by Great Road.

Nancy Tavernier expressed support for the project, and noted how cooperative the developers had been, starting with their reading the ACHC's affordable housing guidelines. She asked that the Board support the application.

Bernice Baran of the Acton Housing Authority urged the Board to support the project, as the AHA is pleased with the proposal, which provides an opportunity for a low-income family to have a nice place to live.

Jack Appelmans, Spring Hill, voiced concern about the impact of Chapter 40B projects on the capacity of the schools and the possibility of "wash" sales taking units out of affordable status. Mr. Gowing noted that this project is a local-initiative 40B project, involving collaboration with the town and therefore different from a 40B project whose developer does not work with the town; the housing units also are modestly sized plus the school population is declining. Ms. Tavernier explained that there is a 70% local preference, so homes go first to local residents whose children already would be in the schools. Affordable housing also is heavily regulated to protect the affordable status.

In response to queries of another resident, Ms. Pinto, Mr. Gowing said that the proposed homes would be 1500 – 2200 ft<sup>2</sup>. Mr. Conant added that the affordable units would cost \$169K, the market-rate units in the high 400s, the parcel was 5.75 acre, there would be a group septic system and electrical cables would be underground.

Daniel Factor asked about traffic on Great Road and pedestrian crossing, particularly small children. Mr. Gowing reiterated that that Great Road was a state road and that the Town would be applying to the state for the crosswalk; the proposed units would not add appreciably to the existing traffic.

Mr. Gowing - Moved to support the application. Ms. Harting-Barrat – second. UNANIMOUS VOTE

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## **ACTON COMMUNITY HOUSING COMMITTEE (ACHC) – REQUESTING THE USE OF HOUSING FUNDS**

Nancy Tavernier asked for the Board's approval, which is required under the ACHC's home rule petition, of the ACHC's proposal to give \$250,000 to the Housing Authority for the purchase of the two duplex units at Acton Meadows. Ms. Harting-Barrat – Moved to approve. Mr. Clough – Second. UNANIMOUS VOTE

### **DISCUSSION OF MUNICIPAL ELECTRICITY**

Patrick Mehr, Lexington resident, representative of the Massachusetts Alliance of Municipal Utilities, and member of the Lexington electrical utility formed in 2001, described his ongoing efforts to get the state law amended to enable municipalities to create their own electrical utilities. In doing research on municipal utilities, Mr. Mehr visited Concord and learned that Concord's rates were 40% lower than what Lexington was paying. The existing law, M.G.L. Chapter 164, Section 43, is a century old, sets out the process by which a municipality may acquire the assets of the existing utility; the existing law would work fine except that the Department Public Utilities must determine the fair market value of assets/infrastructure for which there is no readily calculated market value. A century ago infrastructure was simple, small-scale, allowing for multiple small networks even on the same poles; today electricity is ubiquitous, infrastructure has a much higher capital cost and utilities will not sell at the DPU-set price, which essentially gives the current utilities veto power over any effort to create a new municipal utility. The last utility created, aside from Devens, was in 1926. There currently are 4 utilities serving 85% of the state and effectively have a permanent monopoly under the current law. An amendment has been introduced in the past four sessions; the Massachusetts legislature currently is considering HB69, under which the DPU would set the price and the town and utility would have an opportunity to weigh in. If the town happens to be willing to pay the higher price, the utility has to provide the deed to the assets. There currently are 41 municipal utilities. The utilities spend millions on lobbying so the bills die each session.

Mr. Mehr reviewed his slides and addressed a number of misconceptions. First, among the three levels for electrical service--generation, transmission and distribution--municipal utilities concern only distribution. Electrical power starts with generators that travel via transmission lines, which typically are owned by the large utilities, to distributors, which are the substation, poles, wires, etc. that deliver power in the local area. The second issue is NStar's argument that it is one of the largest taxpayers in town, so Acton would lose a lot of money. Although municipal utilities do not pay local taxes, they make a payment in lieu of tax, or PILOT, which is equivalent to the local tax amount. Plus if forming a municipal utility is such a bad idea, NStar should let the towns figure that out for themselves. The third issue is the expense. The current bill, HB 869, would require two Town Meeting votes within 13 months, and an economic feasibility study, vetted by the DPU to assure that the proposal would be feasible. If a town is too small or lacks sufficient land, it is not a good candidate. But the infrastructure purchase would not come from the tax levy but via bonding with repayment via user rate payments. The utility would have to buy power in the marketplace, etc. and set rates; the bottom line would be whether the rates would be lower or higher than NStar's rates. Even if the rates were higher, there still might be other advantages for the town.

Ms. Harting-Barrat asked whether there would be any benefit to joining with contiguous towns such as Littleton. Mr. Mehr said that Acton could look into the option, noting that Concord has opted to stay small, not wanting to become a mini-NStar. For electricity distribution, if not generation or transmission, small is better. Acton has a large enough population to do the

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economics on a stand-alone basis but also could look into working with other towns. Ms. Harting-Barrat asked about the feasibility of a municipal utility's selling its power to others.

Over a 20-year period, Concord paid one-half cent less/kwh for wholesale electrical purchases than NStar has for the entire Boston area. NStar just passes along the higher purchase cost. Over the course of one year, high schools in Concord and two other towns with municipal utilities paid 9 cents/kwh compared with 18 cents/kwh that NStar-served high schools, including Acton-Boxborough, paid. That rate could reduce the budget of the Acton high school by \$350K.

In response to Mr. Clough's query, Mr. Mehr confirmed that Acton's generation and distribution cost is roughly 50-50, which is typical, and the town could realize a 40% savings on the total cost.

Mr. Sonner asked what Acton's total electrical spending would be with 8,000-9,000 households. Mr. Mehr offered a caveat about industrial users, whose usage is different with larger numbers and the some 2010 figures on electrical spending for some towns:

Hudson: \$47M in revenues, 12,400 meters  
Littleton: 32M revenues, 6,500 meters  
Concord: 24M revenues, 7,600 meters

In response to Mr. Sonner's other queries, Mr. Mehr said he did not know of a ballpark figure for buying the assets, and if the legislation were to pass, setting up a utility would take 3-5 years and require serious engineering studies, which even Lexington has not done yet, and the inclusion of design safeguards.

Ms. Adachi asked about the obstacle that having a municipal utility seemed to be for becoming a "green" community under the Green Communities Act; that supposedly was why Concord did not seek to become a green community; and what the votes in the Legislature were for the proposed amendment. Mr. Mehr said that the current version of the bill would require all new municipal utilities to comply with the Green Communities Act. The proposal has the support of the Massachusetts Municipal Association, Boston Globe, about 180 municipalities. There is tremendous support for this proposal, and the sense is that if it came to a vote it would be overwhelming.

Michele Holland, Houghton Lane, said she would be interested in helping to create support, and asked how many more municipalities were needed for support.

Charlie Kadlec commented that the regional schools currently pay \$700K per year and with savings could reduce the cost to \$350K with the solar panels providing additional savings.

Jack Appelmans, 4 Spring Hill, is in an area where NStar ends and Concord Municipal begins, and had explored getting connected to the Concord service, which a Concord utility representative explained would be challenging, due to NStar. He asked what would happen if NStar refused to sell the lines strung between poles and a municipal utility sought to string its own lines; Mr. Mehr said stringing a second set would be infeasible, and either all of the assets would be transferred or none. The Concord utility representative said that the Spring Hill neighbors would have to pay for stringing additional wires to connect to Concord, which might be worthwhile. Mr. Mehr noted that even with the expense of moving lines underground, Concord's rates are lower than NStar's.

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Barry Breslau, 26 Lincoln, asked what leverage residents had to force NStar to make changes today in the way it operates. Mr. Mehr said that regular publicity about NStar's rates compared to nearby municipal utilities, and NStar's executive salaries and lobbying expenditures would help, as would letters to the House Speaker, Senate President and Governor. Mr. Gowing thanked Mr. Mehr for his presentation.

## **NURSING SERVICE FUNDING DISCUSSION**

Health Director Doug Halley presented slides providing an overview of the Nursing Service, including service updates, recent accomplishments, and areas of financial concern as to which they are working with the Finance Department. In the past, revenues from home care have enabled the Nursing Service to provide its public health services at no cost to taxpayers. FY11 finished on target; 2011 Town Meeting authorized the transfer of \$51K if the Nursing Service needed it, which it proved not to. The Nursing Service currently has an unpredictable revenue stream, low cash receipts, shifting healthcare policy, more at-risk citizens and new restrictions on Medicare reimbursements. The "Tiger Team," consisting of the Finance Director, Town Accountant and the Nursing Supervisor, meets weekly. The Nursing Service is looking at a budget of \$125K for the coming year.

The Service is losing an average of \$30,000 per month, and trying to expend as little as possible while still providing good service, and exploring a variety of options, including subsidization and even what it would mean to close the Nursing Service. Mr. Halley believes that home care will be the future, and said that the Nursing Service is asking for the Town's support in weathering the storm.

Ms. Harting-Barrat said she did not want the Nursing Service to end. She noted that Emerson's new structure has reduced referrals. She suggested a strong marketing campaign and said there were lots of ideas for keeping the service going.

Ms. Adachi asked whether any one factor was contributing significantly to the shortfall, whether reduced Medicare reimbursement rates, etc. Mr. Halley said there's an industry-wide trend among home care agencies for fewer referrals to home care. Agencies also do a lot of cherry-picking of the most advantageous patients from a revenue basis, which the Nursing Service does not do. The payer-mix also is an issue, with a larger proportion of HMO patients being less advantageous than a higher proportion of Medicare-covered patients. The Nursing Service also is seeing more patients that are not just home care patients but need more attention than they are getting.

Mr. Clough asked how long it might take to stabilize the Nursing Service's financial condition. Mr. Halley said it could take until after the next election, and there had been one estimate of up to 12 years. Mr. Clough asked if the loss is \$30K per month, what is the overall monthly cost?: \$60K, with revenues of \$30K. Mr. Clough asked whether the Service had considering having a consultant check the coding. Mr. Halley said the Service had determined that the coding was correct

Mr. Sonner asked for a projection for the year, given the \$30K/month shortfall. Mr. Halley said the Service has a fund balance and revenues but the Nursing Service is looking at a \$150,000 deficit for this fiscal year. Mr. Sonner asked what impact a higher caseload had on the deficit. Mr. Halley said it decreases because the more patients we have the more money we take in. Mr. Sonner asked about regionalization. Mr. Halley said a group of 15 communities had looked into regionalization but the next phase under state requirements would call for a community

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health assessment that could cost \$400-500K. The Nursing Service has been meeting with Lincoln, Concord, Maynard, Carlisle, other towns to apply for grants together and work cooperatively to provide public health services.

Charlie Kadlec would hate to see the Nursing Service disappear and asked whether it evaluated its services by whether they made money. If the Nursing Service is going to promote its services, it should make sure the services make money. Mr. Halley tries to have a model that generates revenues and the Nursing Service now charges for inoculations, but other services are required but do not make money.

Mr. Conboy on behalf of the Board of Health emphasized the importance of maintaining the Nursing Service.

Ann Chang asked whether the Town would dissolve the enterprise fund. Mr. Ledoux said the enterprise fund would remain, and Town Meeting would appropriate funds from the operating budget for the enterprise fund.

## **SELECTMEN'S BUSINESS**

### **SELECTMEN'S REPORTS**

Mr. Sonner reported that the Green Advisory Board was looking at driving down utility rates via technological improvements and changes in behavior over the next five years.

Mr. Clough said that the Finance Committee is looking into setting up a trust to cover the Other Post Employment Benefits obligation and is trying to figure out what the funding should be. The Economic Development Committee meeting with the Historic District Commission about the sign bylaw in West Acton has been postponed

Mr. Gowing reported on the Council on Aging, which is working on a presentation jto the Town Meeting about a new senior center, and would like to speak to the Selectment on January 9<sup>th</sup>. The Regional Transportation Advisory Commission elected new officers; the MBTA will be adding new cars and locomotives to the commuter rail service. The Historic District Commission is looking into the issue of external heat pumps in the historic districts.

Ms. Harting-Barrat reported on the School Committee meeting, where Peter Ashton provided enrollment projections. Enrollment is declining in the District and public schools, other than for Choice students. Enrollment will decline until 2016-2017, at which point the drops will be larger.

Ms. Adachi reported that the Community Preservation Committee received 10 applications plus the town's administrative-expense request, totaling \$2.4 million. The available funds are only \$1.3 million. The committee has assigned liaisons for the projects and presentations will go into January. The Water Resources Advisory Committee was hoping to appear before the Selectmen but will be rescheduled for a later meeting. Although WRAC still is aiming to get a stormwater bylaw proposal on the 2012 warrant, members are recognizing that they may need more time to make sure that the draft and technical manual are solid and well-vetted by the stakeholders.

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**CONSENT**

Ms. Harting-Barrat – Moved to approve. Mr. Clough – second. UNANIMOUS VOTE

Move to adjourn 11:15 p.m.

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Christine Joyce, Recording Secretary

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Janet K. Adachi, Clerk

Date: \_\_\_\_\_