

WEST ACTON VILLAGE PLANNING COMMITTEE

Minutes of Meeting

March 4, 1992

RECEIVED & FILED

DATE March 19, 1992

*Barbara Brown*  
TOWN CLERK, ACTON

West Acton Village Planning Committee (WAVPC) members in attendance were Chairman William (Trey) Shupert, Dennis Ahern, Ron Issacs, Howard Canning, Denise Glaser, Rosalie DeQuattro, and Marvin Norman. Anne Jackson was absent. Assistant Planner Donna Jacobs was also in attendance.

I. Approval of Minutes

The minutes of the February 5, 1992 committee meeting were approved as rendered by unanimous vote.

II. Delineation of WAV District Boundaries

Trey recapped: Historic District boundaries are established; West Acton Village District boundaries also exist. The Committee's purpose is for re-evaluation of the West Acton Village District boundaries for zoning purposes. WAV was created in the early 60's to recognize existing business uses and retain the area as a mixed use zoning district. Trey emphasized that the Committee does not need to stick with the present district configuration. Discussion ensued on how large to designate the district and whether there should be more than one district to recognize the separation between the village business district and the village residential district.

Although Anne Jackson was not in attendance, she submitted a list of her proposed district boundaries. Donna Jacobs read Anne's outline to the committee. Anne's proposed boundaries are:

East: Route 111 at Knowlton Drive  
South: Kinsley Road  
Windsor Ave.  
Pearl St.  
Willow St. to intersection of Summer St.  
West: Arlington St. to Summer St.  
Route 111 to Ridge Rd.  
North: Central St. to Idylwilde  
Elm St. to Arlington St.  
Arlington St. from Elm St. to Spruce St.

Howard Canning stated that the area that he believes is West Acton can be delineated as follows:

South: Heath Hen Meadow Brook  
East: Route 2  
North: Boxborough Town line  
West: Stow Town line

Howard considers this area to contain the viewshed for West Acton Village.

Committee members discussed what a viewshed is and how it relates to the actual village district. Members agreed that the viewshed is an area that contributes to the Village and serves as the "approach" to the Village. Members discussed a three tiered approach to Village planning:

**Viewshed** An area that influences the Village, utilizes its services, and should be consulted in the development of the Village Plan.

**Village Residence** An area immediately adjacent to the "core" of the Village containing mostly residential uses, with some business uses but not as densely developed as the district core.

**Village Business** The "core" of the village, densely developed, mixture of uses but mostly business.

Howard Canning moved that the Committee draft a "Draft Village District" consisting of the following boundaries:

**North:** Central St. including lot with white house after auto shop, Mead parcel, and Gates School parcel south of Fort Pond Brook.

**South:** Central St. to 2nd lot past the fork at Willow St. including auto shop, Windsor St. including Windsor Green and vacant lots across the street.

**East:** Mass. Ave. including vacant lot next to 4 family gray house & lot opposite 4 family on north side of Mass. Ave.

**West:** Mass. Ave. including lot on west side of Gregory Lane, and large vacant parcel next to triangular shaped lot on south side of Mass. Ave.

Howard's motion was seconded by Denise Glaser and passed by unanimous vote.

III. Discussion - Survey From Development & Other Immediate Tasks

IV. Discussion - Timeline for Village Plan

Trey suggested that the committee postpone discussion of the survey form and timeline to the 3/18/92 meeting. members agreed with Trey's suggestion.

V. Develop Agenda for 3/18/92 Meeting

Committee members agreed to schedule the following items on the agenda for the next meeting:

Develop Survey Form  
Timeline for Village Plan

Prioritize & Assign Tasks  
WAV Master Plan contents

Other Business

Ft. Devens - Committee members discussed the airport proposed for the Ft. Devens site in Ayer. Trey Shupert advised members of the current discussions for additional or alternative proposed uses of the site and the probable impact on Route 111 in Acton.

MDPW Plan for Permanent Traffic Signal - Donna Jacobs distributed a report on the MDPW's plan for installation of the permanent traffic signal at the intersection of Mass. Ave. & Arlington St. and provided a copy of the plan. Trey asked members to bring any questions they may have regarding the plan to the next meeting.

Memorial Park - Donna Jacobs advised that she checked on the ownership of Memorial Park as requested and the Town of Acton does own Memorial Park.

The meeting adjourned at 9:40 PM.

RECEIVED & FILED  
DATE March 17 1992  
Conelia O. Heber  
TOWN CLERK, ACTON

cc: BOS  
Roland: schedule presentation  
to BOS in June 1993  
prior to final draft  
MAR 18 1992

Town of Acton

Planning Department

472 Main Street Acton, Massachusetts 01720

(508) 264-9636

South Acton Village Planning Committee

Minutes for Meeting of:

February 26, 1992

Members in attendance: David Hill (Chair), Robert Pion, Sandra Whaley, Sam Manka.

Also present: Roland Bartl (Town Planner).

MINUTES of 2/12/1992 meeting where approved with minor corrections.

ELECTION OF OFFICERS: Vice Chair - Sam Manka; Recording Secretary - Sandra Whaley and Robert Pion will alternate.

The MEETING SCHEDULE was revised to eliminate August 1992 meetings, and then finalized for posting by Town Clerk.

PROJECT TIME FRAME: The committee discussed the time frame for the South Acton village planning project and agreed on the following schedule:

	J	
	F	
	M	define issues, plan & set up public meetings, draft surveys,
	A	publicity, inventory & analysis
	M	hold public meetings & conduct survey
1992	J	
	J	vacation
	A	
	S	compile & complete public input
	O	
	N	write draft plan, conduct addl. studies
	D	
	J	
	F	
	M	
	A	release drafts of plan, action recommendations, zoning prop.
	M	public review
1993	J	
	J	release final draft, etc.
	A	vacation, further public review, town meeting preparation
	S	
	O	
	N	
	D	TOWN MEETING adoption

**GEOGRAPHIC BOUNDARIES:** Tentative geographic boundaries were discussed. Agreed in principle to boundaries which will cover the village center, neighborhoods relating to it, and open spaces which are of concern, i.e. Fort Pond Brook area.

The tentative planning area would reach on Rt.27 to Prospect Street not including Donelan's plaza as a north point, and to Silvia Street as a south point (some issues in area further south may have to be addressed); from the north point to the westerly side behind the Prospect and Central Street neighborhoods to Martin Street to Liberty Street, a few hundred feet into Liberty Street, then over to Silvia Street including the Simeone farm; from the north point to the easterly side across the Great Hill Recreation Area to the sharp bend in Piper Road, along Piper Road toward School Street to Chadwick Street to River Street, the entire Fort Pond Brook area between River Street and the MBTA tracks to Parker Street, from the MBTA tracks perpendicular to the first bend in High Street, along High Street (including the proposed senior center but not the rest of Audubon Hill), turning just before Conant to the west towards Silvia Street.

**ISSUES:** The committee discussed issues to be covered in the plan.

The issue of sewers needs to be addressed in the plan, at least in the context of revitalizing the immediate core of the village. The committee recognizes that caution must be exercised when discussing sewers so that the focus remains on the overall plan.

The committee agreed that the plan should assume a bridge for Rt.27 and its replacement is a priority. Issues for the village plan would be the arrangement of detours during construction and access to the Maynard spur.

Pedestrian access and flow is prime area of concern and would have to be part of the circulation plan. Focus in village center should be on access and convenience for pedestrians.

Vehicular traffic circulation must be addressed; there are long back-ups along Rt.27, turns are difficult, and there is general congestion during peak hours.

Fort Pond Brook green belt should be addressed including access to Mill Pond via railroad spur.

Possible expansion of Historic District.

General improvement in appearance and street design.

MBTA station and commuter lot(s).

Housing and affordable housing.

Mixed uses.

Vacant land and space.

Market research.

Viability of existing institutions.

**NEXT MEETING:** Review Inventory and Scope; Plan Community Involvement; Budget Matters.

Minutes approved 3/11/92

cc: Town Clerk  
Planning Board  
Board of Selectmen



# Minuteman Advisory Group on Interlocal Coordination

Acton  
Boxborough  
Carlisle  
Concord  
Hudson



Littleton  
Marlborough  
Maynard  
Stow  
Sudbury

50 Temple Place, Boston, MA 02111 617/451-2770

**MINUTEMAN ADVISORY GROUP  
ON INTERLOCAL COORDINATION**

A Subgroup of Metropolitan Area Planning Council

## MEETING NOTICE

March 19, 1992

[NOTE: This is the third Thursday in March.]

Carlisle Fire Station  
Westford Street (Route 225)  
Carlisle

### 6:45 p.m. DRI Subcommittee

Finalize recommendations on text language for adoption by MAGIC membership; plan for final outreach (Marlborough, Bolton, Lincoln, Boxborough); plan for implementation

### 7:30 p.m. MAGIC Meeting

DRI Subcommittee Report and Discussion

Briefings and Business Matters

Nominating Committee Report

Local Appropriations for MAGIC

Route 2 CAC: Progress Update

Land Bank: Status Report

MetroPlan 2000: Concentrated Development Centers

Reconsideration of designation of centers, including suburban/rural centers

Second Major Airport

Planning for a full meeting devoted to the second airport.

To prepare for this discussion, please review all airport materials distributed to date.

# MAGIC

Acton  
Boxborough  
Carlisle  
Concord  
Hudson



Littleton  
Marlborough  
Maynard  
Stow  
Sudbury

## Minuteman Advisory Group on Interlocal Coordination

60 Temple Place, Boston, MA 02111 617/451-2770

**MINUTEMAN ADVISORY GROUP  
ON INTERLOCAL COORDINATION**

A Subgroup of the Metropolitan Area Planning Council

### MEETING NOTES

#### DRI SUBCOMMITTEE

*February 13, 1992*

Present were: Rosemary Marini and Paul Smith for the subcommittee; Hal Sauer, Al Lima, Ed Bates, and Judy Alland. In response to comments from various communities, the group worked on revisions to the DRI procedures description. Judy and Rosemary will complete proposed edits in time for adoption at the next meeting.

#### MAGIC MEETING

*(For list of participants, see attached)*

Hal Sauer opened the meeting by welcoming the following new participants: Dick Downey of Maynard; Warren Flint, Jr. and Anne Kessen Lowell of Lincoln; and John Rhome of Sudbury.

#### **DRI Subcommittee**

Rosemary reviewed the DRI subcommittee's progress (see above).

#### **Route 2 Planning Process**

Hal reported on the January 15th meeting of MDPW, Littleton, Acton, Concord, Lincoln, and MAPC. The purpose of the meeting was to discuss the formation of a Route 2 Corridor Advisory Committee (CAC); the result was a general agreement to proceed in two phases, focusing first on only the Lincoln-Concord-Acton segment of Route 2 between Rt. 128 and Rt. 111 and later on further segments and long-range issues.

Subsequently, Concord has requested further discussion among the three communities to identify issues of mutual concern. Hal read a letter from Concord asking for a future meeting. Jeff Betterini expressed an interest in having Boxborough participate. Members noted the difficulties of start-up even with only three communities; the desire of MDPW to limit the initial scope; the public nature of the meetings; and the role of MAGIC in keeping other communities informed. Anne will send a copy of the minutes to Jeff and will work with the several boards to schedule the follow-up meeting requested by Concord.

## **Nominating Committee**

Anne Fanton agreed to chair a nominating committee for next year's officers. John Pavan and Paul Smith agreed to participate.

## **Concentrated Development Centers (CDC's)**

Judy Alland and Ed Bates explained MetroPlan 2000, which seeks to control future growth by channeling infrastructure investment into concentrated development centers. MAPC is encouraging MAGIC to consider where growth should take place and to nominate appropriate areas via MAPC's designation process. Participants noted that some areas had been discussed in the past. Ed and Judy will look for earlier maps for consideration at the next meeting.

## **Ft. Devens Reuse/Second Major Airport (SMA)**

Paul and Hal updated the group on the SMA issue and MAGIC's actions to date. Paul circulated written materials, and Hal noted the earlier letter to MAC Commissioner Saltmarsh. Anne pointed out that the reuse of Ft. Devens, even without an airport, should be of critical concern to MAGIC because of potential impacts on Rt. 2, rail ridership, and other issues.

There was general sentiment that the airport was complex and meaty enough to warrant planning an entire meeting devoted to it and that other reuse should be considered at a different time. While the meeting would be open, it would be geared toward MAGIC members and would focus on fact-finding. Members were asked to review materials received to date in advance of the next MAGIC meeting, where plans will be finalized.

## **Land Bank**

Rep. Pam Resor reported on the progress of the Land Bank bill. Dick Downey noted that his board was no longer supportive, and John Rhome raised questions about using the funds for other purposes such as schools. Anne stressed that the legislation is local option only; communities that wish to adopt it should be able to do so. Further plans for a press event await firmer support from environmental groups and a reading on the Governor's position.

## **Next Meeting**

The next meeting will be **March 19, 1992**, at the **Carlisle Fire Station**. [NOTE: While MAGIC usually meets on the second Thursday of each month, the March meeting will be on the third Thursday to accommodate scheduling conflicts.]

MAGIC ATTENDANCE

DATE: February 13, 1992

NAME	ADDRESS	AFFILIATION & PHONE
Anne Fanton	43 Fort Pond Rd. Acton 01720	Selectman (508) 263-4989
John Pavan	235 Brown Bear Crossing Acton 01718	Planning Board (508) 264-4370
Paul E. Smith	189 Whitcomb Ave. Littleton	Delegate of Bd. of Selectman (508) 486-4592
Hal Sauer	546 Westford St. Carlisle 01741	Selectmen (508) 369-7942
Jeff Betterini	220 Swanson Rd. #610 Boxborough 01719	Planning Board (508) 635-0240
Dick Downey	21 Howard Rd. Maynard	Selectman (508) 897-8871
Warren Flint, Jr.	Lexington Rd. Lincoln 01773	Selectman (617) 259-0583
John O. Rhome	161 Dutton Rd. Sudbury 01776	Planning Board 443-3972
Judy Alland	MAPC	(617) 451-2770
Ed Bates	MAPC	(617) 451-2770
Anne Kessen Lowell	10-D N. Commons Rd. Lincoln 01773	Lincoln Pl. Bd. (617) 259-0169
Rosemary Marini	42 Church St. Hudson 01749	Hudson Bd. of Selectman (508) 562-2507
Rep. Pam Resor	State House, Rm. 33 Boston 02133	State Rep. (617) 722-2060

JA/mlm

MS\HOUSING\MAGIC

3/17  
cc: BOS  
Extra - info - 3/17/92  
cc: Palment + Dodge  
cc: MIRA

MAR 16 1992

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION

DATE: MARCH 13, 1992

TO: JOHN MURRAY, ASSISTANT TOWN MANAGER  
FROM: DAVE BROWN, ASSISTANT SUPERINTENDENT *E.B.*  
SUBJECT: CONCORD ROAD

As per our conversation on Friday, March 13, 1992, I am enclosing the following memo.

On Tuesday, March 10, 1992, I was called by a representative of M.I.I.A. in regards to an auto accident on February 20, 1992, at 89 Concord Road. The representative told me that there was a law suit against the Town. The operator of the damaged vehicle was claiming that she hit a pot hole on Concord Road, which sent her vehicle out of control. I told the representative that I had checked this portion of Concord Road and that there was no sign of any pot holes that had been patched. I also stated that Concord Road was not a troublesome road as far as patching is concerned and that the road is in very good condition.

I also explained that in the area of 89 Concord Road there is a catch basin, which is slightly below grade, that may have been mistaken for a pot hole. The representative said that he was satisfied and would relay this information to the operators insurance company.

Enclosed please find a copy of the accident report. Note that in the report there was no mention of pot holes, but rather icy conditions. Sander operator was contacted and sanded area of accident.

I met with David Abbt and Dennis Ring, Friday afternoon. They took pictures of the road condition in the area of accident. They will forward them to you as soon as they are developed.

DB:el  
305

**Acton Police Department  
Incident Report**

March 13, 1992

Friday 09:17

INCIDENT/ PRIORITY/ ACC COM	ACTIVITY/ ADDRESS/ DISPOSITION	OFFICER(S)	RECEIVED/ DISPATCHED/ ARRIVED/CLEARED	DISPATCHER/SUPER/ NATURE/ TYPE
I9202253 High Yes Yes Caller's Info: MRS. NICHOLS Domestic Abuse: No	DIRECTED PATROL 89 CONCORD RD REPORT	HAYES	02/20/1992, 07:47 02/20/1992, 07:53 02/20/1992, 07:53 02/20/1992, 08:34	ALLEN RHODES MVA NO P.I.  ACCIDENT NO PI
Remarks: MRS. NICHOLS REPORTS A MVA NO P.I. IN FRONT OF THE ABOVE, CAR 25 SENT, CLASSIC CARS TOWED REG:489-PAR, HIGHWAY DEPT. NOTIFIED FOR SAND, ROADS ICY.				
Persons:				
OPERATOR (Female) M9200803	SANTIAGO, ESTELA 52 SWANSON COURT BOXBORO MA 01719 Phone: None DOB: 10/15/1966 Commt: OPERATOR SKIDDED OFF ROAD ONTO LAWN.		License: 082-60-3958 (MA) SSN: 082-60-3958	
PROP-OWNR (Female) M9200804	SANTIAGO, ESTELA 52 SWANSON COURT BOXBORO MA 01719 Phone: None DOB: 10/15/1966 Commt: OWNER OF MASS. REG. 489PAR		License: 082-60-3958 (MA) SSN: 082-60-3958	
PROP-OWNR (Male) M9200805	A.D. NICHOLS 89 CONCORD RD ACTON MA 01720 Phone: None DOB: No date Commt: OWNER OF PROPERTY AT 89 CONCORD ROAD		License: None	
Narrative	1	By: PTL. WILLIAM HAYES Title: M/V ACCIDENT.	Last edited: 02/20/1992	Status: Open
Narrative	2	By: PTL. WILLIAM HAYES Title: OFFICERS REPORT	Last edited: 02/20/1992	Status: Open
<p>RECEIVED RADIO CALL REL MINOR ACCIDENT AT 89 CONCORD ROAD, NO INJURY. I ARRIVED AND OBSERVED MASS. REG. 489PAR UP AGAINST TWO TREES ON PROPERTY OWNED BY MR. A.D. NICHOLS. I OBSERVED OPERATOR (ESTELA SANTIAGO - SEVEN MONTHS PREGNANT) STANDING BESIDE HER CAR. I ASKED HER IF SHE WAS HURT, AND SHE SAID NO. I ASKED HER IF SHE WANTED TO BE CHECKED OUT AT THE HOSPITAL, AND SHE SAID NO. HER HUSBAND SHOWED UP AT SCENE AND SHE STILL DID NOT WANT TO GO TO THE HOSPITAL. STATEMENT BY ESTELA: I WAS GOING EAST ON CONCORD ROAD, AND AS I HAD MADE THE SHARP TURN ON CONCORD ROAD, I HIT AN ICY PATCH AND WENT OFF THE ROAD TO MY RIGHT AND ONTO LAWN AND HIT TWO TREES ON MR. NICHOL'S PROPERTY. CLASSIC CARS TOWED VEHICLE TO KEEPE ROAD GARAGE.</p>				

COPY

INCIDENT/ PRIORITY/ ACC COM	ACTIVITY/ ADDRESS/ DISPOSITION	OFFICER(S)	RECEIVED/ DISPATCHED/ ARRIVED/CLEARED	DISPATCHER/SUPER/ NATURE/ TYPE
<p>Narrative 3 By: PTL. WILLIAM HAYES Last edited: 02/20/1992 Status: Open Title: MV ACCIDENT REPORT</p> <p>Citation Number if issued:</p> <p>Describe What Happened: (Refer to Vehicles by Number) CAR OPERATED BY ESTELA SANTIAGO HIT ICY PATCH ON ROAD AND LEFT ROAD- WAY ONTO PRIVATE PROPERTY AND INTO TWO TREES.</p>				

# TOWN OF ACTON

Executive Offices  
472 Main St.  
Acton, MA 01720  
508-264-9612

Senator Robert Durand  
Room 413B  
The State House  
Boston, MA 02133

March 17, 1992

Dear Bob,

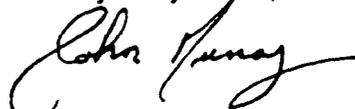
Thank you for the opportunity to discuss issues, concerning local government, with Senator McGovern and yourself. I was impressed with the openness and candor of the discussion, and believe that this meeting was the first step in repairing the relationship between local and State government.

Unfortunately, every step forward seems to be followed by a larger step backwards. I am referencing the Governor's Budget amendment, as represented by MMA, in which Acton will receive \$200,000 less in Local Aid next year. Once again, it appears that the State will penalize a well managed suburban community in order to fund the mismanagement of other communities. The frustration level is difficult to fully describe (please see attached article for a general description). It is imperative for the State to provide the communities with the management tools or monetary resources to provide local services.

While it is tempting to say "to hell with it" and concentrate on family relationships, I believe (probably foolishly) that if we can work together, we can construct a solution. Therefore, it is now time for us to meet again and get down to work. Please contact me concerning possible times and places. I look forward to continuing the journey we began on March 4th.

Thank you once again for your openness and forthrightness.

Very Truly Yours,



John Murray  
Assistant Town Manager

cc: Board of Selectmen

for 3-20 packet



SUN RICHARD HUNT

# emetry's admirers

...been washed  
acid rain  
...me stones have  
earth, making  
to read, Linda  
...ers, because of  
...have grown  
...n hopes to  
nes and make  
...s, but Matisse  
...s that members  
...on making  
...nk the bur-  
...tiful as it  
...e not reset-  
...ly the ones that  
...far and are like-  
...ange is the pro-  
...d the grave

foil, spray paint and a tongue  
depressor.  
"We're talking about the ear-  
liest American art. It's impor-  
tant to preserve it. If a stone is  
scarred, the scar is there forever.  
Even paintings that are  
blashed, there are methods for  
making repairs. But with a  
stone, that's it," said Matisse.  
Kathy Barnes, another com-  
mission member, said: "Unless  
someone really knows how to  
rub correctly, you can damage  
the stone. We just want to have  
it supervised."  
Although those who appreci-  
ate cemeteries concede that the  
attraction is odd, by no means  
are they alone.  
Last spring commission  
members attended the annual

# In Westford, tensions rise with deficits

By JOHN COLLINGE  
Sun staff

WESTFORD — Town Man-  
ager Robert Halpin normally  
maintains a stoic demeanor in  
public, but one night two  
weeks ago Selectman Hal  
Schreiber struck a nerve in  
Halpin already rubbed raw by  
weeks of struggle with a  
deficit-marred municipal bud-

get. When Schreiber challenged  
the town manager's estimate  
of garbage collection costs,  
Halpin slammed his hand on  
the table and stormed out of  
the crowded meeting room.  
Three minutes later, a calmer  
Halpin returned and the se-  
lectmen's meeting proceeded  
without further incident.

Halpin readily acknowl-  
edges that tackling a \$965,000  
budget shortfall with little  
more than smoke and mirrors  
is taking a personal toll on him  
and the Town Hall staff.

"Things are pretty tense,"  
he said, referring to the  
unenviable task of presiding  
over a town's municipal de-  
cline. "You know, I do my best  
to contain it, but there are  
levels where it's just got to  
come out sometimes."

"And I drive my family cra-  
zy, because I contain it at  
home and they know some-  
thing is up," Halpin said. "I  
think that I find myself, espe-  
cially during the week, worry-  
ing about it at night and losing  
some sleep."

What worries Halpin, along  
with pleasing his occasionally  
fickle bosses on the Board of  
Selectmen, is keeping staff mo-  
rale from crumbling under the  
weight of budget cuts past,  
present and future.

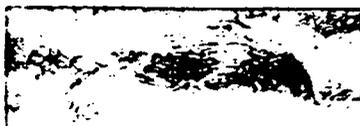
Come budget season —  
roughly every six months —  
the town goes through a crisis,  
he said.

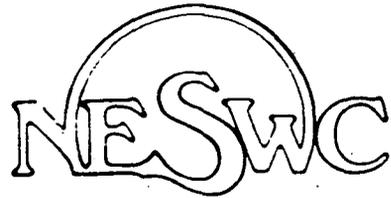
"There's an awful lot hap-  
pening that's not being parad-  
ed out before selectmen's meet-  
ings: sessions with unions to  
negotiate budget cut impacts,  
working down the hall from  
people you might be letting go,  
the uncertainty that en-  
shrouds this whole process,"  
Halpin said. "It's a difficult  
environment in which to foster  
productivity and morale."

Concluding that town ser-  
vices can withstand no more  
cuts, selectmen approved a  
Proposition 2½ override re-  
quest for the May 5 ballot.  
Voters will decide between an  
average property tax increase  
of \$170 and continued town  
financing for services such as  
the Roundbush Community  
Center and Recreation Depart-  
ment.

The selectmen note frustra-  
tions of their own. They are  
the policy makers with final  
say on whose jobs survive and  
whose will be lost, and wheth-  
er taxpayers will share in the  
burden created by three con-  
secutive years of state cuts to  
local aid.

They also must weather  
Please see TENSIONS/16





cc: BOS

MEMORANDUM

**NORTH EAST SOLID WASTE COMMITTEE**

To : Executive Committee Members  
From : Francis J. Hopcroft  
Executive Committee  
Subject : REDUCING GAT COMMITMENTS THROUGH NEW COMMUNITY TONNAGE  
Date : March 9, 1992

NESWC has been struggling for some time with the problem of having insufficient tonnage going into the North Andover facility to fill the plant capacity. That shortage has caused a significant increase in NESWC community tipping fees. MRI is contractually responsible for keeping the plant filled with refuse, but MRI has not been successful in accomplishing that goal. Moreover, it is of no direct consequence to MRI whether the plant runs full or not, since they receive a fixed Operating and Maintenance fee from the NESWC communities regardless of the tonnage which goes through the facility.

One way for NESWC to help itself is for members to solicit new communities to join the organization and for those communities to assume some of the excess capacity now obligated to existing member communities. The Commonwealth's Uniform Procurement Act, the so-called Chapter 30B law, imposes certain obstacles on that plan, however. In particular, a community can not negotiate a refuse disposal contract directly with a private entity, such as MRI or Wheelabrator. A community may, however, negotiate directly with another municipal organization, such as NESWC. NESWC does not have a contract with MRI for the disposal of refuse, however, and therefore can not assign capacity over to a new member. Palmer and Dodge has advised that NESWC can not negotiate a deal with a new community and then turn the deal over to MRI to sign a contract.

There are two possible solutions to this dilemma. The first is for NESWC, as a separate entity, to sign a Service Agreement with MRI, to then accept assignment of tonnage capacity from individual communities, pay for that capacity on a put-or-pay basis, passing the costs back to the members through its operating cost assessment mechanism, and then negotiate for use of that capacity with outside entities. The rates charged to that entity could be more or less than the rates being paid by NESWC members at the time, depending on the length of contract desired by the buyer and the market rates for that length of contract.

The cost per guaranteed ton added to the NESWC operating costs under such a plan would be in the order of \$16 per new guaranteed ton for FY 93. Note that "new guaranteed ton" means the GAT remaining after the assignment of tonnage to NESWC has been made. Thus, the \$16 is added to the \$70 for a total initial GAT cost of \$86 per ton, based on the new, reduced, GAT.

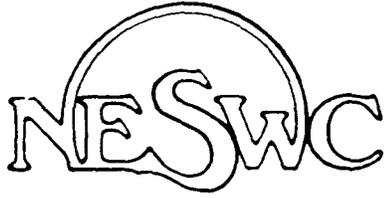
OPTION	GAT	TIP FEE PER GAT	GAT REDUCTION	NEW GAT	TIP FEE PER NEW GAT	NESWC ASSESS. PER NEW GAT	MRI TIP FEE	ADDED NESWC FEE	TOTAL TIP FEE
1	10000	\$70	1500	8500	\$70	\$16	\$595000	\$136000	\$731,000
2	10000	\$70	1500	8500	\$86	\$0	\$731000	\$0	\$731,000

Under Option 1, as the extra 1500 tons are sold, the \$16 per GAT is reduced proportionally.

Under Option 2, as the extra 1500 tons are sold, the \$86 per GAT is not reduced until the following year.

Under Option 1, the savings from the sale of the excess tons goes to everyone in direct proportion to their GAT.

Under Option 2, only those from whom the assignment of tonnage is taken benefit in the first year.



## **NORTH EAST SOLID WASTE COMMITTEE**

### MEMORANDUM

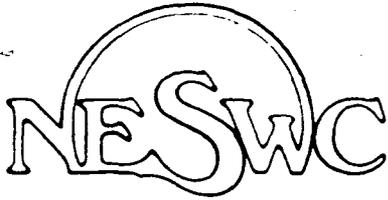
To : Chief Executive Officers  
Advisory Board Members

From : Francis J. Hopcroft  
Executive Director

Subject : USER CHARGE/ENTERPRISE FUNDS

Date : March 9, 1992

Enclosed is a copy of a Department of Revenue document regarding the establishment of enterprise funds in the Commonwealth of Massachusetts. This document is sent to you because of the interest so many communities have expressed in the concept of establishing user charges for solid waste disposal.



C C BOS

## NORTH EAST SOLID WASTE COMMITTEE

### FACT SHEET

S.1203

#### AN ACT CLARIFYING THE UNIFORM PROCUREMENT PROCEDURES FOR CITIES, TOWNS, DISTRICTS AND COUNTIES

##### What does this bill do?

This bill would exempt from the requirements of c.30B, any "contract for the collection or disposal of solid waste or the receipt or processing of recyclables".

##### What is the practical effect of the bill?

This bill would make it significantly easier for municipalities and other public entities to contract for solid waste management and recyclables marketing services.

##### How does it help with solid waste management?

Public entities must currently bid the disposal of solid waste under the procedures set out in the Uniform Procurement Act, c.30B of the General Laws. That is a cumbersome process which precludes public entities from joining regional facilities except through a long term bidding process. There is significant risk to the public entity in doing that because the lowest bid must be taken and there is no guarantee that the lowest bidder will be able to deliver on a long term contract.

On the other hand, a regional consortium is seldom in the position of being able to bid for any contract and even less often are they able to bid for a period shorter than the remaining life of the consortium contract.

S.1203 would allow public entities to negotiate with a regional organization for long term or short term use of those facilities on terms favorable to both the new entity and the existing regional organization members. This will be particularly important with the advent of the waste bans which will require communities to deal with the marketing of recyclables.

How would S.1203 help with the marketing of recyclables?

A public entity has two options with respect to the marketing of recyclables. They can procure marketing services from a private vendor, through a c.30B procurement process, or they can market the materials on their own. If they choose to do their own marketing, they are again constrained by c.30B because every market contract must be separately bid. That leaves no room for adaptation to changing market conditions or better pricing advantages as markets fluctuate. The public entity is locked in to whatever price is bid for the length of the contract. Either they bid lots of very short term contracts, which costs a lot of money to do, or they bid longer term contracts and lose the cost savings available from being able to "play the market" and garner the best prices available at any given time.

S.1203 would allow these public entities to negotiate with existing regional organizations, which have already been set up to garner the best price available at all times, and whose revenues will always be stronger as a regional organization than those of any individual municipality. This is advantageous for the public entity and for the regional organizations which are strengthened by the addition of new members. Stronger regional organizations get even better prices for recycled materials.

*[1st 3 pages only]*

PALMER & DODGE

One Beacon Street  
Boston, Massachusetts 02108

MAR 16 1992

Telephone (617) 572-0100

Facsimile (617) 227-4420  
Telex: 951104

March 11, 1992

Mr. Don Johnson  
Town Manager  
P.O. Box 236  
Acton, MA 01720

Dear Don:

I enclose our bill for services through January 31,  
1992.

If you have any questions, please let me know.

Very truly yours,



Acheson H. Callaghan

AHC/dcb

Enclosure

As of Feb 28 The Town had paid	\$ 100,024.47
Plus this bill	11,512.33
Total expended:	<u>\$ 111,536.80</u>
The total represents	50.24% thru 1/31/92
Plan thru 1/31/92 =	58.00%
Therefore we are	7.76% below plan <sup>\$</sup> 17,227

Town of Acton  
P.O. Box 236  
Acton, MA 01720

PALMER & DODGE

One Beacon Street  
Boston, Massachusetts 02108-3190  
Telephone: (617) 573-0100

FEDERAL ID NUMBER 04 2170798

March 11, 1992

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For professional services through January 31, 1992 on general town matters:

General

Conferences, advice and miscellaneous other services in connection with Audubon Hill development;	\$ 1,275.00
Review of contract for recreation pool excavation;	375.00
Advice on personnel matters;	400.00
Research and advice on use of school tuition payments;	500.00
Advice on miscellaneous zoning and planning matters;	160.00
Advice on enforcement of sign by-law and conservation restriction;	160.00
Advice on miscellaneous general matters as shown on the enclosed summary;	350.00
Services in connection with settlement of revised Meadowview Subdivision plan;	85.00
Appellate Tax Board matters as shown on the attached summary;	450.00
Final revisions to Summary Judgment brief in Porrazzo lien case;	1,600.00
Collective Bargaining matters;	2,300.00
Conference and advice to Planning Board regarding DiDuca (Farm Hill) subdivision appeal;	650.00
Services regarding Borggard Construction case;	25.00

EXPENSES INCURRED BUT NOT POSTED PRIOR TO THE BILLING DATE WILL APPEAR ON A SUBSEQUENT STATEMENT.

DUE AND PAYABLE WITHIN THIRTY DAYS

Research, review of documents and meeting with  
Conservation Commission re: Cooperative Bank  
of Concord appeal; 2,500.00

Services in connection with Mobil Oil sign appeal 140.00

TOTAL SERVICES \$ 10,970.00

DISBURSEMENTS:

Duplication	\$ 183.65
Excess Postage	1.45
Express Delivery	19.35
Hand Delivery	5.00
Official Fees	35.00
Telecopier	170.00
Telephone	58.02
Travel & Related Expenses	<u>71.38</u>
	\$ 543.85
Less Credit	<u>- 1.52</u>

TOTAL DISBURSEMENTS 542.33

AMOUNT DUE \$11,512.33



William F. Weld  
Governor  
Daniel S. Greenbaum  
Commissioner

Commonwealth of Massachusetts  
Executive Office of Environmental Affairs  
**Department of  
Environmental Protection**  
Central Regional Office

MAR 18 1992

MAR 17 1992



BOARD OF HEALTH

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

March 11, 1992

Carl Borkland  
Sun Refining and Marketing Company  
Ten Penn Center  
1801 Market Street  
Philadelphia, PA 19103

RE: CRWSC-Acton  
Sunoco Service Station  
45 Powder Mill Road

Waiver Application  
Second Notice of Deficiency

310 CMR 40.537  
M.G.L. Chapter 21E  
Site Assessment  
Case No. 2-0860

Dear Mr. Borkland:

The Department of Environmental Protection, Bureau of Waste Site Cleanup, Central Region, Worcester, Massachusetts (the Department), received a Waiver Application on September 17, 1991 for the property located at 45 Powder Mill Road in Acton, Massachusetts. The application was submitted on your behalf by Handex of New England.

As stated in the Massachusetts Contingency Plan (MCP), 310 CMR 40.537(1), a potentially responsible party (PRP) or other persons may apply to the Department for a Waiver of the approval requirements set forth in 310 CMR 40.536. Such Waivers may be granted only for disposal sites which have been classified by the Department as non-priority disposal sites pursuant to 310 CMR 40.544.

On September 27, 1991, the Department issued a Notice of Deficiency to Sun Refining and Marketing Company, requesting further information for use in classifying the Site. The information requested was received by the Department on February 11, 1992. However, the Department has determined that the information provided is not sufficient to classify the site as a non-priority disposal site. Therefore, in order to further

NOTICE OF DEFICIENCY  
Sunoco Service Station, Site 2-0860  
March 11, 1992

Page 2

consider this application as eligible for the Waiver process, the following additional information must be submitted:

1. The Department is concerned that a continuing release of petroleum product may be occurring on the Site. We request that the integrity of the tanks and lines be retested. Tracer or volumetric testing methods are considered the most reliable.

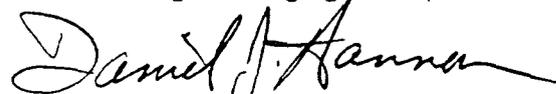
The Department must be notified in writing within fifteen (15) days of the receipt of this letter whether or not you plan to collect the information requested and what your schedule for submission will be. Failure to submit the requested information within the specified time period may result in rejection of the Waiver Application.

As stated in the Massachusetts Contingency Plan (MCP), 310 CMR 40.537(1), Waivers may be granted only for disposal sites which have been classified by the Department as non-priority disposal sites pursuant to 310 CMR 40.544. The Department has determined that the information that has been provided is not sufficient to classify the site as a non-priority disposal site.

No further action will be taken by the Department until the above-referenced information is received. The Waiver process allows that a maximum of two (2) Notices of Deficiency may be issued to the applicant. Sufficient information to adequately review the application, as outlined in the MCP Section 40.537, must be provided by the second submittal or the Waiver will be rejected. This will result in forfeiture of your application fee.

If you have any questions regarding this matter please contact Jane Rose of this office at (508)792-7653.

Very truly yours,



Daniel J. Hannon  
Section Chief  
Waste Site Cleanup

DJH/MKG/JAR  
SUNACT.NOD

cc: Acton Board of Selectmen ✓  
Acton Board of Health  
Bill Morse, Handex  
Database Entry

Board of Selectmen

3/20/92

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION

MAF

DATE: March 13, 1992

TO: Members of the Board of Appeals and the Planning Board  
FROM: Garry A. Rhodes, Building Commissioner *GAR*  
SUBJECT: Meeting with Town Counsel Mike Callahan

The informational meeting with Town Counsel Acheson (Mike) Callahan has been rescheduled for Thursday, April 16, 1992 at 7:30 p.m. in Room 126 at the Town Hall. Mike will be discussing the mandatory findings for Special Permits and Variances.

See you then.

(764)

cc: BOS  
Chris - Please start a  
file on this

MAR 16 1992



**FOSTER**

MASONRY PRODUCTS, INC., 22 Everett Street, Westwood, Massachusetts 02090, Tel. (617) 762-1622

March 11, 1992

George Robinson  
Chief of Police, Town of Acton  
365 Main Street  
Acton, MA 01720

Dear Chief Robinson:

I would like to follow up our recent phone conversation regarding the truck scale we have for sale at our Acton facility.

The scale was manufactured by the Howe Scale Co. and is approximately 20 years old. It will measure in excess of 100 tons with an accuracy to zero pounds, and is 50 feet long. It requires a complete casement with 6 concrete piers as support. This type of installation should cost less than \$10,000.00.

As you are aware this scale has been used on numerous occasions by the Acton Police Department to test overweight trucks and is in excellent working condition.

Our asking price, as discussed, is \$7,500.00.

If you have any further questions on the scale itself or the criteria for installation, please call me at (617) 762-1622.

Very truly yours,

Donald H. Foster,  
President

cc: Don P. Johnson  
Acton Town Manager

# **TOWN OF ACTON**

**Executive Offices  
472 Main St.  
Acton, MA 01720  
508-264-9612**

Steve Anderson  
Anderson & Kreiger  
The Bulfinch Building  
47 Thorndike St.  
Cambridge, MA 02141

March 18, 1992

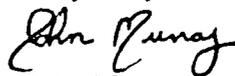
Dear Steve,

According to our conversation of this morning, I have enclosed the contract between the Town and Mass Refusetech Inc. (MRI), a recent memo from NESWC concerning guaranteed annual tonnage(GAT)/Base Credit Fees, a recent proposal from the Executive Director of NESWC concerning the transfer of GAT from an individual town to NESWC, the association of 23 communities, and a memo from Doug Halley concerning inspections of existing septic systems. The questions of the Town concerning the MRI contract are; can the Town break the terms of the contract without penalty, and can the Town reduce its GAT without penalty because of the effects of the Recycling Mandates? Also please provide general advice as to the legal practicality of reducing Acton's tonnage to 0, if the NESWC's Executive Director's proposal shall be accepted.

The matter concerning the inspection of existing septic systems is more general in nature. The question that I have of you is; should the Town be in this line of business? The Town does not regulate "home inspections" and I am concerned about licensing of septic inspectors and the Board of Health proposing to act as an agency that will confirm the status of non-certification (Sec. 11-19.2.3). The liability issue is of particular concern and I hope to bring a recommendation to the Board of Selectmen on March 31, 1991 (the Selectmen receive an informational packet on the Friday before a meeting date).

It is agreed that, until the Board of Selectmen act upon the Town Counsel issue, the work performed will be at the existing rate structure. Thank you for your time and consideration.

Very Truly Yours,



John Murray  
Assistant Town Manager

cc: Board of Selectmen

CC: ROS



March 11, 1992

Mr. Doré Hunter, Chairman  
Board of Selectmen  
Acton Town Hall  
472 Main Street  
Acton, MA 01720

Dear Chairman Hunter:

In accordance with the terms and conditions of our Cable Television Franchise Agreement, enclosed please find A-R Cable Services, Inc. 1992 franchise fee payment in the amount of \$2,090.00.

If you have any questions, please feel free to contact me at (508) 562-1675.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jay Somers". The signature is written in a cursive style with a large initial "J".

Jay Somers  
Director of Government  
and Regulatory Affairs

JS/dw  
0156.JS

Enclosure

TOWN OF ACTON  
INTER-DEPARTMENTAL COMMUNICATION

February 21, 1992

TO: Don P. Johnson, Town Manager  
FROM: Dean A. Charter, Municipal Properties Director *DAC*  
SUBJECT: Street Light Conversion

\*\*\*\*\*

I was recently contacted by Mr. John Murray, of Boston Edison Company, as to the Town's plans for additional conversion of street lights from mercury vapor to high pressure sodium.

As you may recall, in March of 1990 the Board of Selectmen heard a presentation from me outlining a proposal from Municipal Properties and the Police Department to convert all of Great Road, and long stretches of Main Street and Massachusetts Avenue to H.P.S. lighting. The Selectmen approved the conversion of light on Great Road as a "test case", and this work was performed in the summer of 1990. The Selectmen stated that they wanted to "wait and see" on further conversion, and suggested that the issue be revisited in a year.

My proposal at this time is to convert the lights on Main Street from Prospect Street to Hayward Road, and those on Massachusetts Avenue from Route 2 to Spruce Street. This work could be accomplished for around \$1,200.00, and will produce the same sort of results observed on Great Road.

DAC:ahm  
975

*cc: BOS*

cc: ROJ

# Water Supply District of Acton

P.O. BOX 953  
MASSACHUSETTS AVENUE  
ACTON, MASSACHUSETTS 01720

BOARD OF WATER COMMISSIONERS  
HARLAN TUTTLE BUILDING  
693 MASSACHUSETTS AVENUE  
ACTON, MA. 01720

MARCH 23, 1992

AGENDA:

7:30 P.M. CALL TO ORDER

7:31 P.M. ACCEPT MINUTES OF MEETING FEBRUARY 3, 1992 AND FEBRUARY  
24, 1992

OPEN DISCUSSION & COMMENTS FROM CITIZENS

NEW BUSINESS

WARRANTS & COMMUNICATION

ANNUAL MEETING - MARCH 18, 1992

LEAD SAMPLING PROGRAM

CONANT SITE #2

OLD BUSINESS

CONSERVATION HEARING - MEADOWVIEW SUBDIVISION  
MARCH 18, 1992

ORGANIC COLOR - WHITCOMB & CLAPP WELL  
MARCH 30, 31 & APRIL 1, 1992

# Water Supply District of Acton

P.O. BOX 953

MASSACHUSETTS AVENUE

ACTON, MASSACHUSETTS 01720

Water District Phone for Emergencies  
on Weekends and Nights  
263-9107 or 263-9108

cc  
Dean  
David  
Dick  
I keep a copy in file  
MAR  
3/19

## BOARD OF WATER COMMISSIONERS

Stephen C. Stuntz  
27 Central Street  
W) 369-4111 H) 263-4529

Leonard A. Phillips  
43 Main Street  
H) 263-8942 W) 897-0001

Ronald R. Parenti  
12 Heritage Road  
H) 263-0217  
W) 617-981-3719

## COMMISSIONERS SECRETARY

Jane Cutler  
10 Putnam Road  
H) 263-8464

## FINANCE COMMITTEE

Charles Bradley  
46 Jackson Drive  
H) 263-1329

Theodore Jarvis  
8 Partridge Pond Road  
H) 263-4087 W) 617-271-4514

William Kingman  
65 Estabrook Road  
H) 263-4290 W) 617-439-6200

## MODERATOR

John W. Putnam  
P.O. Box 653  
Concord, Ma. 01742  
H) 369-2599

## CLERK

Anita Page  
12 Marian Road  
H) 263-1245

## ATTORNEY

Charles Orcutt, Jr.  
34 Elm Street  
H) 263-2044 W) 264-4770

## ENGINEER

George Allen, Dupfrense-Henry  
Westford Office Park  
Westford, MA 01886  
692-1913

## DISTRICT MANAGER

John MacLeod  
235 High Street  
W) 263-9107

## WATER DISTRICT STAFF

TREASURER & COLLECTOR  
Linda Larson

## BOOKKEEPER & SECRETARY

Kymberlee Odoardi

## SECRETARY

Michelle Cobleigh

## ASSISTANT SUPERINTENDENT

Carl Troupe

## FOREMAN

Robert Koch

## ASSISTANT FOREMAN

Stephen Peterson, Jr.

## OPERATORS

Paul McGovern  
Pat DeCesare  
Ronald Davan

## MAINTENANCE OF PROPERTY & GROUNDS

Charles Rouleau



• TEL. (508) 897-7103

570 GREAT ROAD • STOW, MA 01775

REALTOR

Board of Selectman

March 20, 1992

Town of Acton  
Town Hall  
Acton, MA. 01720

re: Post Office Square Traffic Signals

Dear Chairman:

John Murray has asked me to detail the current situation regarding the traffic control at the RT 27/ Post Office intersection.

I received a proposed agreement from Don Johnson on July 10, 1991 which I gave to my attorney for review. I did discuss with the Town that the form would have to be modified since Technology Real Estate Trust only owns a private road that has no value due to the easements. Therefore, I as trustee couldn't use as security anything other than the cash collected from the abutters for the stoplight construction.

At the same time the impact of the latest zoning changes became apparent. Now, instead of being able to construct an additional 160,000 sq. ft. of building, we would only be able to construct 20,000 sq. ft. (6,000 -lot 6/7 and 14,000 -lot 4). Lot three is now non-conforming and lot 2 is owned by Boston Edison for a non-manned transformer in the distant future.

Since the higher projection formed the basis for the decision to require a traffic light, and no one wants an extra stoplight on a main road if its not necessary; perhaps we should reconsider the requirement for the light.

I have discussed my thoughts with John Murray, Dave Abt, and John Kennedy of Vaness Hagen Brestlin. Based on the conversations, I propose to pay Vaness Hagen Brestlin for a review of the traffic study which formed the basis of the original decision. He would also take any necessary traffic counts. He will then provide your board with a report for review.

Please let me know what you desire.

Very truly yours,

Roy C. Smith  
Trustee  
Technology Real Estate Trust

Post-It™ brand fax transmittal memo 7871		# of pages	
To	John MURRAY	From	ROY SMITH
Co.	TOWN ACTON	Co.	TECH RET
Dept.		Phone #	263 0011
Fax #	508-264 9630	Fax #	508-635 0421

FUNERAL/MEMORIAL SERVICE NOTICE

JOHN WHITTIER'S SERVICE IS ON MARCH 28, 1992 AT 11:00 A.M. IN  
SUDBURY METHODIST CHURCH, SUDBURY CENTER.

File  
3/31/92

MARCH 27, 1992

TO: Board of Selectmen  
FROM: NORMAN LAKE, Chairman  
SUBJECT: SELECTMEN'S REPORT

#####

AGENDA  
ROOM 204  
8:00 P.M.  
MARCH 31, 1992

I. CITIZEN'S CONCERNS

II. PUBLIC HEARINGS & APPOINTMENTS

- 1. 8:00 DENNIS AHERN - CIVIL WAR ENCAMPMENT - Mr. Ahern will outline the proposed Civil War Encampment to be held at the Acton Arboretum.
- 2. 8:15 TRAFFIC RULES AND ORDERS - Enclosed please find copies of the proposed amendments to the Traffic Rules and Orders for Mass Ave. and Central Street. (also please note Item #5)
- 3. 8:30 WARRANT DISCUSSION

III. CONSENT AGENDA

- 4. MINUTES ENCLOSED find Minutes of March 3, 1992 Regular and Executive Session for Board approval.
- 5. TRAFFIC CONTROL AGREEMENT - MASS AVE. AND CENTRAL STREET- Enclosed please find a copy of the agreements prepared by the State DPW and staff comment for Board action.
- 6. G&S AUTO SALES - Enclosed please find staff recommendations regarding the extending of their Class II License.
- 7. JENKS FUND - Enclosed please find Board recommendations on the allocations from the Jenks fund for Board action.

8. FAIR HOUSING COMMITTEE APPOINTMENT - Enclosed please find a Recommendation from VCC to appoint Thomas Farley to the Fair Housing Committee for a term to expire in 1994.

**IV. SELECTMEN'S CONCERNS**

9. EAGLE SCOUT - Enclosed please find an invitation for May 3, 1992 for Oliver Will for Board Assignment
10. LEGAL RFP - Enclosed please find additional materials from Palmer & Dodge outlining their land use experience for Board review. Also enclosed are the survey forms.

**V. TOWN MANAGER'S REPORT**

11. SUPERIOR TRADING - Enclosed please find Staff recommendations regarding the extension of the Class II issued to Superior Trading for Board's direction.
12. MAPC - Enclosed please find staff report on EDA benefits with a draft letter for Board review and action.

**VI. EXECUTIVE SESSION**

**VII. MEETINGS**

**VIII. ADDITIONAL INFORMATION**

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

**IX. FUTURE AGENDAS**

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

April 14, 1992 - Boston Edison, Interviews Pavan and Peterman  
April 28, 1992  
May 12, 1992  
May 26, 1992



3/31/92  
①

## Trustees of the Acton Memorial Library

16th of February, 1992

Don Johnson  
Town Manager

Don,

As I mentioned to you, the Library is going to repeat the Civil War Encampment again this year in the Arboretum. The event was well received last year, both by the participants and visitors and we look forward giving people another view of a period that is often overlooked in local history due to the prominence of the Revolutionary War.

We have been fortunate in getting the participation of the 5th New Hampshire Volunteers again. After their experience last year, they have decided to give this event their full support. We expect that there will be a somewhat larger element of uniformed and civilian reenactors.

We also have a commitment from the Medford Historical Society to do a slide show on their collection of Civil War photographs. There should be a fair amount of interest in this, as many of these pictures have only recently been seen by the public for the first time.

The Trustees would be most grateful for the support of the various Town Departments and I look forward to working with them on the arrangements as we did last year. This event is a good example of how this Town can accomplish things without spending a lot of money.

Sincerely,

Dennis J. Ahern, *Trustee*

CC: Board of Selectmen

To: The Selectmen

- ① it went well last year
  - ② approval should include no parking on one side of Taylor
  - ③ Dennis should provide a parking plan
  - ④ Depending on "growth of program" a police detail may be needed
- 486 Main St., Acton, Massachusetts 01720 \* (508) 264-9641, 264-9642 TDD 635-0072

3-26-92



# Living History Encampment

Acton, Massachusetts

April 25-26, 1992



Sponsored by the Acton Memorial Library and the 5th New Hampshire Volunteers

March 9th, 1992

To the Acton Board of Selectmen

RE: Town of Acton Bylaw

## SECTION E2. DISCHARGE OF FIREARMS

---

"No Person shall fire or discharge any firearm within the limits of any park, playground or other public property except with the consent of the Board of Selectmen, nor discharge any firearm on any private property except with the consent of the owner or legal occupant thereof."

---

Pursuant to this bylaw, the Trustees of the Acton memorial Library request your consent for the discharge of firearms on the weekend of April 25-26 as follows:

- Saturday morning between 9 and 12 in the Acton Arboretum
- Saturday afternoon between 1 and 4 at the Conant School field adjacent to Minot Ave.
- Sunday afternoon at 1:30 in front of the Acton Memorial Library
- Sunday afternoon between 3 and 4 in the Acton Arboretum

The above will involve blank firing of black powder muskets by qualified reenactors under the supervision and safety inspection of the 5th Regiment New Hampshire Volunteers.

I am enclosing an information sheet put out by the 5th New Hampshire Volunteers. If you have any questions regarding their safety procedures, please contact Tom Reilley at 342-2765.

sincerely,

Dennis Ahern,  
*Trustee of the Acton Memorial Library*

CC: Lt. John T. McNiff, Acton P.D.  
Tom Tidman, Acton Conservation Comm.  
Bill Ryan, Acton School Dept.

---

Dennis Ahern	298 Central Street, Acton, Massachusetts 01720	(508)263-4778
Tom Reilley	531 High Rock Road, Fitchburg, Massachusetts 01420	(508) 342-2765



## 5th. Regiment New Hampshire Volunteers

A uniformed historical organization  
representing Union Civil War Infantry



On 24 July 1861 President Abraham Lincoln sent out a decree to the states asking for volunteers for three years of service to suppress the Southern rebellion. Governor Barry of New Hampshire answered the President's call by commissioning Colonel Edward E. Cross on August 27, 1861 to form the 5th New Hampshire Volunteer Regiment. The men of the 5th represented every manner of profession; farmers, mechanics, teachers, policeman, shopkeepers, and came from all parts of the state, Clarksville to Nashua and Keene to Portsmouth.

The 5th would auspiciously earn it's reputation as the "Fighting 5th" because it would sustain more casualties during the 4 years of war then any other infantry or cavalry regiment in the Union Army (Lt. Col. William Fox; "Regimental Losses in the American Civil War"). Known to the corps and division commanders as a reliable regiment, it was most often called on to face the enemy's fire or assigned to a post of danger. Following the battle of Antietam Corporal Grove wrote in his diary, "October 29, 1862. The 5th N.H. left Concord one year ago today. We then had more than one thousand (1200) men. Now we can muster but 200."

It is no wonder that in 1981 when the call was sent forth advertising for persons interested in establishing a Civil War re-enactment group in New Hampshire, that the regiment it chose to represent was the 5th New Hampshire Volunteers. Today, more then 125 years after the Civil War dedicated men from all walks of life participate in re-living history by doing "military impressions" of those men who served in the 5th during the American Civil War.

The 5th NHV today is an incorporated, tax exempt, historical society formed to promote, educate and preserve the Civil War heritage of the state of New Hampshire and the Nation. The impressions done by it's membership represents the life style and equipment of an authentic Union Civil War Infantry Regiment. During historical impressions an officer/nco rank structure governs these activities with adherence to military protocol and chain of command. While the impression is primarily military, the interest and pursuits include every aspect of American social life of that period and any appropriate civilian impressions are highly encouraged during an event.

The membership is serious about the preservation of our historical heritage and extend an invitation to share in our camaraderie and wealth of historical information. Call (603)434-0770 for more 5NHV details.

Sincerely;

Charles E. Paradzick Jr.  
Director of Public Relations  
5NHV



# Civil War Encampment

## April 25th & 26th

at the Arboretum in Acton, Mass.  
Main St. & Taylor Rd.

Authentic, living-history encampment to commemorate the formation of Acton's Davis Guards militia company on April 19th, 1851. Sponsored by the Acton Memorial Library and the 5th Regiment New Hampshire Volunteers, there will be demonstrations of military camp life, recruiting, drill, and blank firing, as well as civilian impressions. Other events include an exhibit and memorial ceremony at the Library, and an illustrated talk on the Medford, Massachusetts Historical Society's collection of Civil War photographs.

## Civil War Photographs

*from the collection of the*

### Medford Historical Society

**Acton Town Hall -- Saturday, April 25th at 8 p.m.**

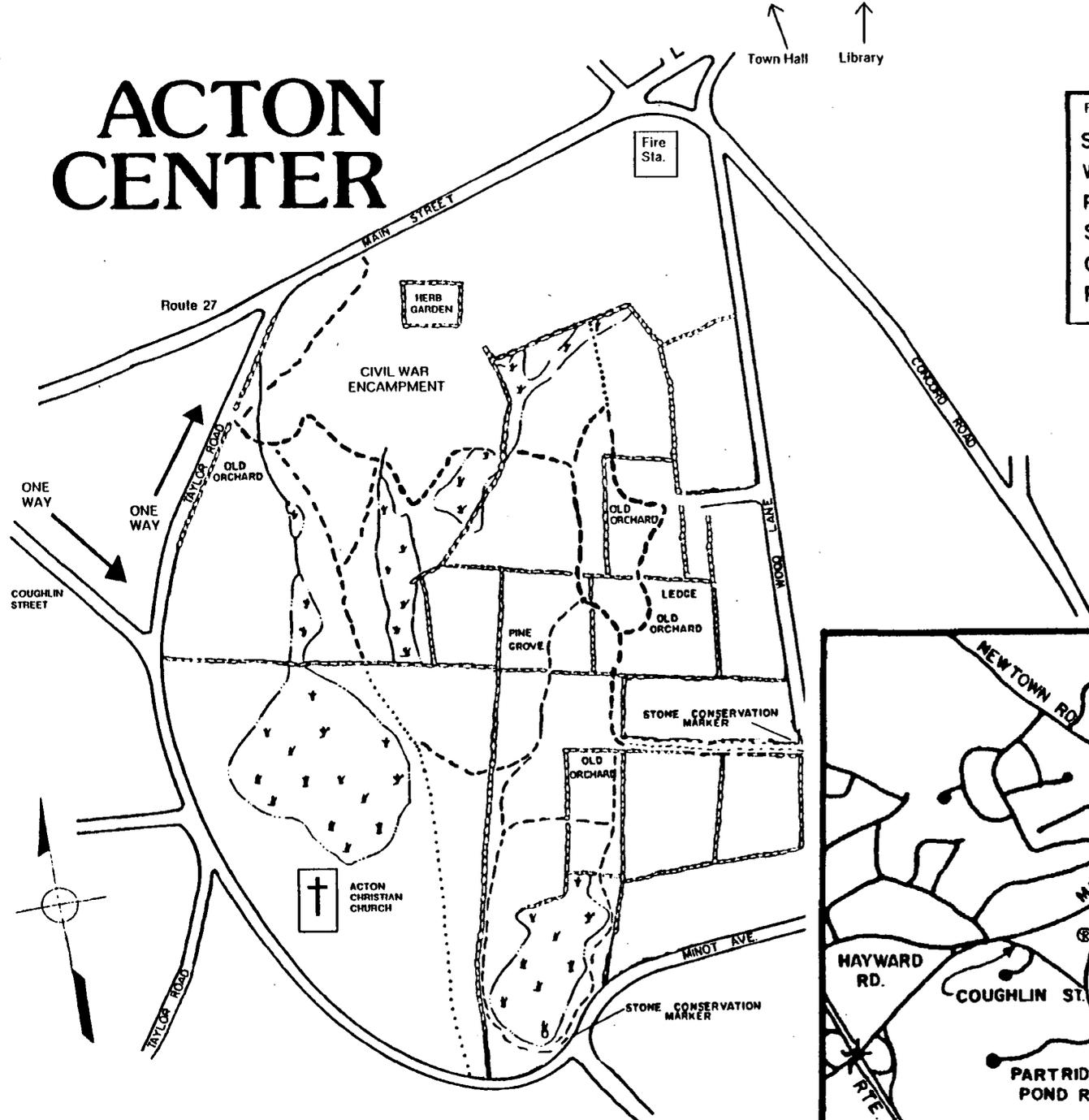
In March of 1991 it was announced that the Medford Historical Society had uncovered a collection of over 5,000 Civil War photographs, many of them previously unpublished. Approximately 100 of these photos have been copied to slides and will be presented to the public at this event by Dr. Joseph Vaieriani, President of the Society. Refreshments, and a musical entertainment by the Amoskeag Players will follow the presentation.



**Free admission to all events**  
Camp open to the public 9 a.m. to 5 p.m.

Saturday	9:00	Roll call, drill and recruiting
	1:00-4:00	Tactical drill at Conant School field
Sunday	8:00	Historic photos shown at Town Hall
	9:00	Roll call, inspection and church call
	1:00	Parade to Library for memorial ceremony
	3:00	Drill and firing demonstrations

# ACTON CENTER



**PARKING:** (P) **NO PARKING:** (N)

**STONE WALLS:** [Symbol: Dotted line]

**WETLANDS:** [Symbol: Wavy line]

**PRIMARY TRAILS:** [Symbol: Dashed line]

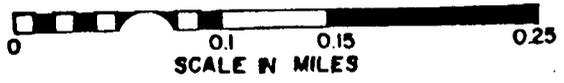
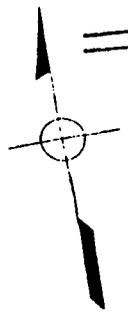
**SECONDARY TRAILS:** [Symbol: Long dashed line]

**CROSS-COUNTRY TRAILS:** [Symbol: Dash-dot line]

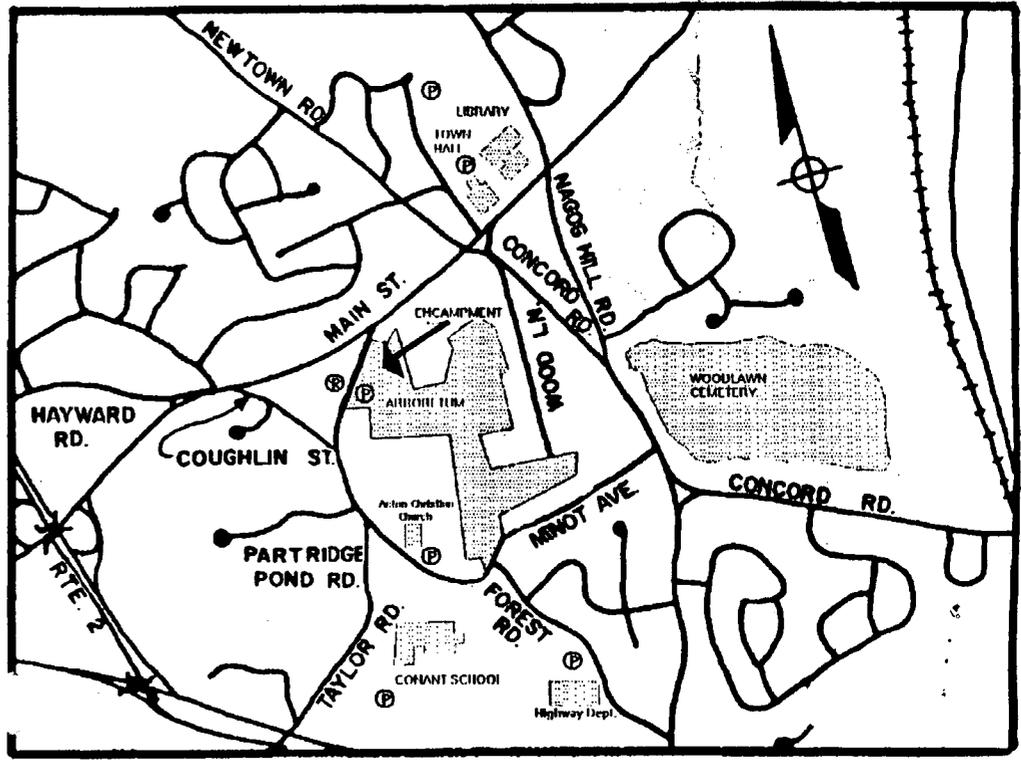
**PRIVATE TRAILS:** [Symbol: Dotted line]

**PARKING**

TOWN HALL - off Woodbury Lane (Upper and Lower lots)  
 TAYLOR ROAD - Arboretum side only, Coughlin to Main St.  
 ACTON CHRISTIAN CHURCH - Minot Ave. (Saturday Only)  
 CONANT SCHOOL - Taylor Road  
 HIGHWAY DEPARTMENT - Forest Road



Conant School Field



CA 1300  
3/31

3/31 laz  
②

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

TO: John Murray, Assistant Town Manager  
FROM: Engineering Department  
SUBJECT: West Acton Traffic Light  
Amendments to Traffic Rules & Orders

DATE: 3/12/92

The following amendments to the Traffic Rules and Orders are required to comply with the proposed Traffic Control Agreement between the Town and the MDPW for the West Acton traffic light. Please reserve time at an upcoming Selectmen's meeting and inform us of the time and date so that we can submit the hearing notice to the Beacon (we will need two weeks lead time).

The MDPW is planning to bid this project on April 4, 1992 so there is a lot of pressure to get the loose ends tied up. Please let us know if you need more information regarding this matter.

**TOWN OF ACTON  
NOTICE OF PUBLIC HEARING**

The Board of Selectmen will hold a public hearing on Tuesday, March 31, 1992 at 8:15 PM in Room 204 of the Acton Town Hall on several proposed amendments to the existing Traffic Rules and Orders as follows:

1. To increase the parking restriction on the north side of Mass. Ave. east of Central St. from 20 feet to 45 feet, and on the south side of Mass. Ave. east of Central St. from 23 feet to 35 feet.
2. To restrict parking on Arlington St., south side, from Central St. to Mass. Ave., and on Central St., east side, from Mass. Ave. a distance of 70 feet south.
3. To install a new stop sign so as to face the southbound drivers on Arlington St. at Mass. Ave. and to remove an existing stop sign facing northbound drivers on Arlington St., at Central St.

Norman D. Lake, Chairman  
Nancy E. Tavernier  
F. Dore' Hunter  
Anne B. Fanton  
BOARD OF SELECTMEN



TOWN OF ACTON  
BOARD OF SELECTMEN

Amendments to the existing Traffic Rules and Orders

VOTED: That the Traffic Rules and Orders adopted by the Board of Selectmen of the Town of Acton, under date of March 25, 1937, are hereby amended by adding at the end of Article VIII, Section 7, (Obedience to Isolated Stop Signs) the following description:

Intersection of Arlington Street and Massachusetts Avenue so as to face westbound drivers on Arlington Street

Also, by changing the following description in Article VIII, Section 7:

from

Intersection of Arlington Street and Central Street so as to face eastbound drivers on Arlington Street at Central Street and westbound drivers on Arlington Street at Central Street

to

Intersection of Arlington Street and Central Street so as to face westbound drivers on Arlington Street at Central Street

**TO: THE BOARD OF SELECTMEN**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 27, 1992**  
**SUBJ: RETIREE'S HEALTH INSURANCE ARTICLE**

Attached you will find a financial spreadsheet concerning current retirees. Approximately 69% of the retirees have responded to our survey to-date. Forty-seven retirees currently are enrolled in Medex or Plan 65, and both of these plans are qualified Medicare Extension plans. All forty-seven are currently enrolled in Medicare Part A and B. The CARVE-OUT group are for those retirees who have Medicare Part A & B, and who choose to participate in the Town's indemnity plan rather than Medex or Plan 65. The remaining persons, who have savings projected, are about to turn 65. In the case of the Carve-out group and the soon to be 65 group, no one is subject to the Medicare B penalty. The percentage savings to an individual range from a low of 41.21% to a high of 83.54%. Total savings to the Town amounts to \$10,116 or 7.74%. Our review of those retirees who have not completed the survey indicates that they will not be subject to the Medicare B penalty also.

In summary, the Town will not incur a Medicare Part B penalty and will save approximately \$10,000/year indexed to Health Insurance inflation. We hope that this information will be helpful to you in your decision process.

27 Mar 92

RESPONDED	NAME	I	TOWN'S MONTHLY AMT.	PLAN	RETIREE'S ANNUAL CONTRIBUTION	TOWN'S ANNUAL CONTRIBUTION	RETIREE'S ANNUAL** SAVINGS	RETIREE'S PERCENT SAVINGS	TOWN'S ANNUAL** SAVINGS	TOWN'S PERCENT SAVINGS	
yes	BELMONT	E	91.00	CARVEOUTI	\$1,092	\$1,092	24/07/10	\$450	41.21%	\$450	41.21%
yes	CONROY	H	91.00	CARVEOUTI	\$1,092	\$1,092	23/11/08	\$450	41.21%	\$450	41.21%
yes	CONROY	R	91.00	CARVEOUTI	\$1,092	\$1,092	24/11/23	\$450	41.21%	\$450	41.21%
	DWYER	A	91.00	CARVEOUTI	\$1,092	\$1,092	22/12/27	\$450	41.21%	\$450	41.21%
	PERKINS	E	91.00	CARVEOUTI	\$1,092	\$1,092	13/11/11	\$450	41.21%	\$450	41.21%
yes	CHRISTIAN	N	99.73	HCHP I	\$1,197	\$1,197	31/10/16				
	GONZALEY	M	99.73	HCHP I	\$1,197	\$1,197	32/11/30				
yes	LEHTO	C	99.73	HCHP I	\$1,197	\$1,197	29/02/29				
	MACGREAGOR	M	219.41	HCHP F	\$2,633	\$2,633	28/10/31				
	ASHLIN	J	53.46	MEDEX I	\$642	\$642					
yes	BOORNAZIAN	M	53.46	MEDEX I	\$642	\$642					
yes	BYRON	E	53.46	MEDEX I	\$642	\$642					
	CHARTER	E	53.46	MEDEX I	\$642	\$642					
	CHARTER	F	53.46	MEDEX I	\$642	\$642					
	COLLINS	E	53.46	MEDEX I	\$642	\$642					
	COX	M	53.46	MEDEX I	\$642	\$642					
yes	CRANNA	M	53.46	MEDEX I	\$642	\$642					
yes	CRANNA	N	53.46	MEDEX I	\$642	\$642					
	GRAHAM	R	53.46	MEDEX I	\$642	\$642					
yes	HELAWELL	E	53.46	MEDEX I	\$642	\$642					
yes	HELAWELL	W	53.46	MEDEX I	\$642	\$642					
yes	HERRICK	G	53.46	MEDEX I	\$642	\$642					
yes	HERRICK	R	53.46	MEDEX I	\$642	\$642					
yes	HILL	E	53.46	MEDEX I	\$642	\$642					
yes	HINDS	A	53.46	MEDEX I	\$642	\$642					
yes	HINDS	E	53.46	MEDEX I	\$642	\$642					
yes	KENNEDY	M	53.46	MEDEX I	\$642	\$642					
yes	KING	H	53.46	MEDEX I	\$642	\$642					
	KINGSTON	M	53.46	MEDEX I	\$642	\$642					
yes	KOCH	D	53.46	MEDEX I	\$642	\$642					
	LARSEN	M	53.46	MEDEX I	\$642	\$642					
yes	LIEBFREID	M	53.46	MEDEX I	\$642	\$642					
	MACGREAGOR	R	53.46	MEDEX I	\$642	\$642					
yes	MILLER	D	53.46	MEDEX I	\$642	\$642					
	O'HEARN	A	53.46	MEDEX I	\$642	\$642					
yes	PATTIE	T	53.46	MEDEX I	\$642	\$642					
	RICHARDSON	J	53.46	MEDEX I	\$642	\$642					
yes	SPARKS	W	53.46	MEDEX I	\$642	\$642					
	SWEET	C	53.46	MEDEX I	\$642	\$642	25/02/25				
yes	TRAFTON	F	53.46	MEDEX I	\$642	\$642					
yes	TRAFTON	R	53.46	MEDEX I	\$642	\$642					
	WHEELER	G	53.46	MEDEX I	\$642	\$642					

27-Mar-92

yes	ALLRED	L	149.50	MHP	I	\$1,794	\$1,794	30/01/10				
yes	ATAMIAN	G	149.50	MHP	I	\$1,794	\$1,794	27/09/03	\$1,152	64.21%	\$1,152	64.21%
	BASSETT	H	585.00	MHP	F	\$7,020	\$7,020	43/11/09				
yes	BELMONT	E	149.50	MHP	I	\$1,794	\$1,794	36/02/16				
yes	BRESNICK	D	325.00	MHP	F	\$3,900	\$3,900	39/10/19 *				
yes	BUCKMAN	M	149.50	MHP	I	\$1,794	\$1,794	34/01/27 *				
yes	CHANI	L	149.50	MHP	I	\$1,794	\$1,794	40/03/14				
	CORRIGAN	V	325.00	MHP	F	\$3,900	\$3,900	30/02/25				
	DINDIO	M	149.50	MHP	I	\$1,794	\$1,794	28/05/15	\$1,152	64.21%	\$1,152	64.21%
yes	DODGE	T	149.50	MHP	I	\$1,794	\$1,794	30/03/02				
	DRISTILARIS	J	149.50	MHP	I	\$1,794	\$1,794	41/08/11				
	DURKIN	W	149.50	MHP	I	\$1,794	\$1,794	28/07/24				
yes	EWING	L	149.50	MHP	I	\$1,794	\$1,794	31/10/21				
	FENTON	C	325.00	MHP	F	\$3,900	\$3,900	28/01/12	\$3,258	83.54%	\$3,258	83.54%
yes	FULLERTON	E	149.50	MHP	I	\$1,794	\$1,794	27/10/13	\$1,152	64.21%	\$1,152	64.21%
yes	GAGNE	A	325.00	MHP	F	\$3,900	\$3,900	24/02/23 *				
	GANUNG	N	325.00	MHP	F	\$3,900	\$3,900	28/12/01				
yes	GOLDSTEIN	L	149.50	MHP	I	\$1,794	\$1,794	33/06/21				
yes	HART	J	149.50	MHP	I	\$1,794	\$1,794	37/02/08				
yes	HOLLEY	N	149.50	MHP	I	\$1,794	\$1,794	24/04/09 *				
yes	MACLEOD	R	325.00	MHP	F	\$3,900	\$3,900	41/01/25				
yes	MALSON	F	325.00	MHP	F	\$3,900	\$3,900	31/01/15				
yes	MILBERY	V	149.50	MHP	I	\$1,794	\$1,794	16/08/19 *				
yes	MOORE	R	149.50	MHP	I	\$1,794	\$1,794	29/01/30				
yes	NELSON	A	325.00	MHP	F	\$3,900	\$3,900	29/02/14				
yes	PERKINS	M	325.00	MHP	F	\$3,900	\$3,900	40/12/14				
yes	ROCHE	G	149.50	MHP	I	\$1,794	\$1,794	35/11/18				
yes	ROSS	F	149.50	MHP	I	\$1,794	\$1,794	27/11/21 *				
	SIMEONE	A	325.00	MHP	F	\$3,900	\$3,900	31/12/02				
yes	SMITH	J	325.00	MHP	F	\$3,900	\$3,900	32/04/16				
	SOAR	W	325.00	MHP	F	\$3,900	\$3,900	37/11/20				
yes	SPARKS	J	149.50	MHP	I	\$1,794	\$1,794	27/09/30	\$1,152	64.21%	\$1,152	64.21%
	SWEET	CA	149.50	MHP	I	\$1,794	\$1,794	30/03/24				
yes	BAILEY	E	48.50	PLAN65	I	\$582	\$582					
yes	BAILEY	R	48.50	PLAN65	I	\$582	\$582					
yes	BROOKS	C	48.50	PLAN65	I	\$582	\$582					
yes	CHRISTIAN	N	48.50	PLAN65	I	\$582	\$582	26/11/27				
yes	HERMES	T	48.50	PLAN65	I	\$582	\$582					
yes	LEHTO	M	48.50	PLAN65	I	\$582	\$582	26/07/22				
yes	NYLANDER	B	48.50	PLAN65	I	\$582	\$582					
yes	NYLANDER	D	48.50	PLAN65	I	\$582	\$582					
yes	PETERSON	D	48.50	PLAN65	I	\$582	\$582					
yes	PETERSON	R	48.50	PLAN65	I	\$582	\$582					
yes	TUTTLE	G	48.50	PLAN65	I	\$582	\$582					
yes	TUTTLE	M	48.50	PLAN65	I	\$582	\$582					
	WOODWARD	A	48.50	PLAN65	I	\$582	\$582					
	WOODWARD	B	48.50	PLAN65	I	\$582	\$582					
						130,701	130,701		10,116	7.74%	10,116	7.74%

61

89

counts

\* NOT ELIGIBLE FOR MEDICARE

\*\* ANTICIPATED ENROLLMENT THRU JUNE 1993 IN MEDEX PLAN

6

10

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION  
TOWN MANAGER'S OFFICE

\*\*\*\*\*

DATE: March 27, 1992

TO: Board of Selectmen  
FROM: Don P. Johnson, Town Manager  
SUBJECT: Parking Dimensions

Several weeks ago I promised Mrs. Fanton that I would look into the conflicting staff recommendations regarding proposed dimensional changes in the parking standards of our zoning bylaw. In my absence, I understand that the Board has asked for a complete report discussing the various positions, with supporting arguments. I also understand that the Planning Board has voted to present the Article as proposed.

This issue seems to turn on a mixture of philosophical and technical issues that must be resolved into policy. Staff members should be removed from the "apparent" controversy and their comments should be considered as advisory to the decision making process of both the Planning Board and the Board of Selectmen. For that reason, I have investigated this matter with staff on my own and I am taking the liberty of reporting my findings to you rather than forwarding further departmental reports. (The exception to this is Roland Bartl's attached memo of March 25 that provides the rational for the proposed change.) If my report is insufficient, at your direction, individual reports will be provided.

I have met with Roland, David Abbt and Garry Rhodes to ascertain their positions and concerns. I was not surprised (and I doubt that you will be) by their positions which I would characterize as follows:

ROLAND - Roland is seeking to increase open space by optimizing parking on the least practicable amount of pavement. He acknowledges that designated small car parking has not been successful because the general public simply refuses to obey the designations ... opting for convenience instead. Hence, the proposed dimensions are based on "one-size-fits-all".

Roland utilizes technical information that is referenced in his memo and proposes dimensions that should accommodate 85% of the vehicles on the road. His analysis is reasonable, based on the resource chosen. From that standpoint, I had no difficulty in agreeing with Roland.

DAVID David approaches the question from the traditional viewpoint that would take a conservative engineering slant. David is concerned that larger vehicles will encroach on adjoining spaces and compromise two spaces for every space they need. He makes several important observations. One point is that current design standards often include fixed landscape islands that would virtually eliminate repainting as an option if a specific use/property determined (after the fact) that the smaller spaces are not suitable. He notes that under certain controlled, slow turnover or valet parking types of conditions the proposed dimensions might work well. In the instance of self-parking retail uses he is very skeptical. David suggests an empirical approach.

He proposes that we experiment with the dimensions in the Town Hall parking lots before incorporating them in the bylaw.

GARRY - Garry is concerned with enforcement problems and wonders why "it" needs fixing if "it" is not broken. I have come from Garry's perspective and share some of his concerns. I have experienced a major parking lot (the one at Finast) where the original spaces and maneuvering aisles were too small, resulting in many fender benders. Ultimately, the property owner received so many complaints that he repainted the lot over my objections. The resultant striping reduced the number of spaces below the bylaw requirement but the Town was virtually helpless in enforcing our quantity requirement because the total site coverage had already been maximized. Reducing the number by increasing the size was the only practical correction available to the owner. From that point on the site worked well.

I have reviewed Roland's technical information and conducted a rather non-scientific study of my own. I measured several vehicles for an idea of how they would fit the proposed dimensions. Interestingly, the small cars do not even fit the theoretical analysis.

The data suggests a small car width of 5.67' and a large car width of 6.5'. These numbers are not far off. I measured a Mercury Lynx (Small car, Class 6) and found the width to be 5.5'. A mid-size Chevrolet Celebrity, by comparison, is 5.83' wide. The problem comes in the mechanics of parking. Most small cars are 2-door and provide a door large enough to allow access to the rear seat. In my analysis I found that the full width of the Lynx, with both doors open, was 11.583'. The Celebrity (a 4-door version) measured only 11.0' under the same condition.

Assuming that drivers parked exactly in the center of a parking space and that only one vehicle opens its doors at a time, two small cars would require at least 8.54 feet to park side by side without opening doors against each other  $[(5.5' + 11.583')/2 = 8.54']$ . Two 4-door mid-sized, by comparison, would barely make it beside each other at 8.42'  $[(5.83' + 11.0')/2 = 8.42']$ . A sports car such as a Camero is 6.0' wide but has a "wing span" of 13.17' and so on.

The analysis is based on the assumption that a smaller car requires less space for parking. That is true in the literal sense but I am not confident that it is correct in the practical sense. The analysis above shows that small cars could be packed into less space than mid-sized cars if door openings were not a concern. From the practical side, however, the small car needs more width than the mid-size and larger cars need even more. Intuitively, I believe we will find even the owners of many small but expensive cars (BMW's, etc.) occupying multiple spaces in defense of their investments. Indeed, our current standard for small cars is 8.5'. The fact that this is too little separation, even for small cars, may explain why the separation of small and large car parking does not work.

Assuming the use of the 85th percentile as a design standard is reasonable in many instances. In this case, though, we assume that 2 of every 10 spaces are too small (the above dissertation on sizes notwithstanding). If we look at the extreme and assume that those two vehicles will choose to encroach on the adjoining space, thereby occupying 2 spaces instead of 1, we could develop an argument that says this proposal would be counter productive. If a 9.0' uniform width were adopted for all uncontrolled, fast turnover parking, a sample of 10 vehicles would require 90' of

pavement width. On the other hand, using 8.5' and the extreme case being proposed, we would utilize 4X8.5'=34' for the two large cars and 8X8.5'=68' for the remaining small vehicles, requiring 102' with small space widths vs. 90' with larger space widths.

Because I have been in the business of reviewing and enforcing such standards for 20 years, I tend to observe the functionality of parking facilities wherever I go. I constantly observe dysfunctional dimensions and invariably remind my family that the reason they do not experience those problems in Acton is that we have functional standards and we enforce them.

My conclusion is that there may be some very valid reasons for changing the dimensions (up or down) but they are probably more dependent on use and operation than the proposed standard would acknowledge. An uninformed decision at this time could result in projects without viable solutions, if the dimensions prove to be unsuitable. I doubt that there is an urgent need to make this change at the upcoming meeting and, given that we could test the conflicting theories empirically in our own lots before committing to a bylaw change, I would recommend that we do just that.

I believe this recommendation is a practical solution to a perfectly legitimate difference of opinion between staff members. I also recognize the right and obligation of the Planning Board and Board of Selectmen to proceed with zoning amendments that you believe to be proper and necessary. Our comments (and disagreements) are intended solely to support your decision making process and not to infringe on it in any way. As always, we will support your decision full.

cc: Planning Board     David Abbt  
     Roland Bartl       Garry Rhodes

## INTERDEPARTMENTAL COMMUNICATION

TO: John Murray

DATE: March 25, 1992

FROM: Roland Bartl *R.B.*

SUBJECT: Zoning Article 17 - Parking

Yesterday David Abbt, Garry Rhodes and I have inspected a number of parking facilities around Acton and in Concord. Also, I have made available some technical publications on parking dimensions which I have received on loan from the Planning Advisory Service in Chicago.

I have reviewed many publications on the matter. The publication which I give the most credibility on this matter is "Recommended Guidelines for Parking Geometrics" by the National Parking Association and the Parking Consultants Council. The reason for this choice is that with a publishing date of 1989, it contains the most recent data and information on vehicle size trends and it is the only one that has seriously addressed the failure of small car/large car arrangements in self-parking facilities by developing formulas for one-size-fits-all parking spaces (The proposed zoning article will eliminate the small car/large car approach in favor of a one-size-fits-all solution).

The following is a summary of the major findings and recommendations in this article and my conclusions:

1. Car Classes and Trends: The National Parking Association divides passenger cars by size into 2 groups and 7 Classes:

1988 Ford Motor Company Vehicles on this class (example for reference)

Small Cars  
(typically smaller than 14'11" X 5'9")

Class 5  
Class 6  
Class 7

Festiva  
Tracer/Escort/Lynx  
Tempo/Topaz

Large Cars

Class 8  
Class 9  
Class 10  
Class 11

Taurus/Sable  
Thunderbird/Cougar/Continental  
LTD Crown Victoria/Grand Marquise  
Town Car/Mark VI

- 1980 -1988 annual car sales figures show that the percentage of small cars sold in each year held at a rather steady 52% average. As a result, by 1/1/1989 the estimated share of small cars on the road was 44%, with an increase of 2% annually to be expected. That brings the 1990 estimate to approximately 50% small cars on the road.
- There are relatively more small cars registered on the east and west coast than in the Midwest. The more affluent areas have a higher percentage of small cars due to a faster turn over in vehicles and due to a larger share of smaller luxury imports.
- In 1988 class 10 and 11 cars had a market share of only 7%, down from over 14% in 1982.
- In 1988 a full two-thirds of all vehicles sold are either Class 7 or 8 (39% class 7, 28% class 8), a significant clustering just around the cut-off between small and large. This trend had developed over several years. The clustering of cars in two classes located in the middle of the size range is part of the reason why the separation of small car parking spaces from large car parking spaces doesn't work any longer.
- Based on 1987 sales, 43% of all sold light trucks/vans fall into the small car category classes 5-7.
- If passenger car, light truck and van sales volumes are all combined, the available 1987 figures still show a small vehicle share of 49.2%.

2. The Design Vehicle: The design vehicle used to determine minimum parking lot dimensions is the 85 percentile vehicle. 85% of all vehicles on the road are smaller than the design vehicle. From the design vehicle the appropriate parking lot geometrics are derived. Designing parking geometrics based on this design vehicle provides for reasonable driver comfort. The 85 percentile vehicle parallels the standard design principle of traffic engineering for roadways. For 1/1/1989, the National Parking Association has established one design vehicle for its small car classes (14.67' X 5.67') and one for its large car classes (18' X 6.5'), each with the associated parking dimensions - for retail uses a bit larger, for all day employee parking facilities a bit smaller. For one-size fits-all parking arrangements the recommended parking dimensions for the two design vehicles are interpolated for expected small/large car mixtures.

3. Data as Applied to Acton: Based on the above method and data, and the assumption that, for reason of the above stated trends and regional socioeconomic differences, the vehicle mix in our area is about 50% small/50% large, I arrived at the following parking dimensions for retail uses for 90 degree one-size-fits-all parking:

Parking space width: 8.42 feet  
Module width, standard: 56.50 feet  
Module width, curb to curb: 55.50 feet

The module width is the width of the maneuvering aisle plus the length of the parking spaces on each side. Standard is without curb on each side of the module (head to head parking), which is less likely to occur given the parking cell and landscaping requirements.

The dimensions proposed in the article are:

Parking space width: 8.5 feet  
Module width, standard and  
curb to curb: 56.00 feet (16' + 24' +16')

4. Cost: The average cost of parking lot construction (not including land) is \$5.00 per square foot (ENO Foundation for Transportation, 1989). Based on this figure the proposed article will reduce the cost of parking lot construction by an average of \$182.50 per space (reduction of 36.5 square feet).

I recommend that the article move forward as proposed.

Also, you had asked why we should bother at all with parking regulations. Given Acton's suburban setting where public transportation is not even a small factor, we must accept the reality that the automobile is and will remain the primary means of transportation for many years to come. I would hope that we can over time reduce this automobile dependency through encouraging car- and van pooling, building walkways and bike ways, and through the focus on the villages as development centers.

Without minimum requirements for off-street parking there will be a tendency to cut corners in the number of spaces provided in off-street parking facilities. One result would be on-street parking. That is expected and even desirable in many urban situations and in places like village centers, but it doesn't work well in highway commercial areas like most of Rt.2A, or along the streets around Kelley's Corner. The current use, layout and design of these streets do not lend themselves to provide on street parking. Without minimum parking lot dimensions there will be a tendency to cut corners in the layout of off-street parking facilities to a point where an unreasonable and unacceptable number of scrapes and dents will occur. If we would choose not to set minimum standards in the bylaw, the battle for sufficient and adequately dimensioned parking would have to be carried out with each individual site plan. This is not a good solution.

xc: David Abbt, Engineering Administrator  
David Hill, Planning Board

[rhb367\*3/25]

cc: BOS  
... #3

3/3/92 (3)  
Planning Department

Town of Acton

472 Main Street Acton, Massachusetts 01720

(508) 264-9636

**INTERDEPARTMENTAL COMMUNICATION**

**TO:** Town Meeting **DATE:** March 20, 1992  
John Murray, Assistant Town Manager  
Board of Selectmen  
Don MacKenzie, Moderator  
Cornelia Huber, Town Clerk

**FROM:** Roland Bartl, Town Planner *RB*

**SUBJECT:** Zoning Articles for 1992 Annual Town Meeting - 4/6/92

The Planning Board, at its regular meeting on February 10, 1992 voted to recommend to Town Meeting the adoption of the following zoning articles:

ARTICLE 16 - Applicability of Zoning Bylaw

ARTICLE 17 - Parking Requirements

ARTICLE 18 - Housekeeping Amendment

This memorandum shall serve as the final report containing the Planning Board recommendation pursuant to M.G.L., ch.40A, s.5.

[rhb231\*3/92]

*Roland, did inform the Planning Board of concerns relating to Article 17*  
*[Signature]*

**SELECTMEN'S MEETING  
MARCH 3, 1992**

3/31/92  
4

The Board of Selectmen held their regular meeting on Tuesday, March 3, 1992. Present were Norm Lake, Dore' Hunter, Nancy Tavernier, Anne Fanton and Town Manager Johnson.

**CITIZENS' CONCERNS**

None Expressed

**PUBLIC HEARINGS AND APPOINTMENTS**

**RICHARD DOLAN CLASS II LICENSE  
125 HIGH STREET**

Charles Kadison representing Mr. Dolan explained the purpose of the request for a Class II license at this location. Mr. Dolan has an antique car hobby which he is plans to formalize and finds that he requires a Class II license for tax purposes when exchanging vehicles. He plans to operate much like a broker. No vehicles will be brought to the site and no repairs done on site. The Board agreed that it was zoned for a home business and that it was a permissible use if no cars were stored on site. The board cautioned Mr. Kadison that no cars could be stored on site and that no signs or repair of vehicles would be allowed. They also instructed staff to prepare a letter for Mr. Dolan to take to the registry for purpose of exempting him from the requirement of holding the cars on site for three days. DORE' HUNTER - Moved to approve, no signs or vehicles on site at any time for sale or repair. NANCY TAVERNIER - Second UNANIMOUS VOTE.

**STREET ACCEPTANCES**

**AYER ROAD, STONEYMEADE WAY, MACLEOD LANE**

DORE' HUNTER - MOVED to accept the presented streets and to recommend them for acceptance at Town Meeting. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

**SCUPPERJACK'S**

**COMMON VICTUALERS LICENSE/ENTERTAINMENT LICENSE**

Mr. Jack Mendosa the new owner/manager of ScupperJacks' outlined his proposed operation and experience with the Stouffer Restaurant Corp. He plans to make no substantial changes in operation from the current Rusty Scupper.

NANCY TAVERNIER - Moved to approve a Common Victualler and Entertainment License for ScupperJack's. DORE' HUNTER- Second. UNANIMOUS VOTE.

**SCUPPERJACK'S RESTAURANT  
TRANSFER FOR ALL ALCOHOLIC BEVERAGES LICENSE**

Jack Mendosa discussed his experience and gave the Board his liquor handling policy for review. He plans to operate the restaurant in its current fashion. He was the Manager in 1974 when the restaurant was new and has followed the restaurant progress through his position at the Corporate offices of the Stouffers Corp. DORE' HUNTER - MOVED to approve the transfer from Stouffers Corp. d/b/a Rusty Scupper and Pledge of Stock to United States Trust CO. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

**WARRANT DISCUSSION**

The Board reviewed Nancy's memo with proposed ordering and consent items and agreed it was acceptable. Nancy felt it was important to put the deferral articles before the budget since if it fails, we would need to recommend we move over the budget and money articles and call another Town Meeting or possible override as a solution. It was felt that as much explanation as possible should be given on Deferral so that everyone understood its importance. Nancy asked that the notice of where to obtain Warrants be put in the "mail bag" for public notice. It was agreed to do this as well as all the other means of notification used last year to notify voters.

Anne was assigned the Self Funding article and Dore' was assigned Local Deferral Amortization as it went with the Local Deferral Article and would be best addressed in a joint presentation.

The Board further voted their recommendations on the articles as follows:

Article 3 - Nancy Tavernier moved to recommend - Dore' Hunter- Second. UNANIMOUS VOTE.

Article 4. - Nancy Tavernier moved to recommend - Dore' Hunter- Second. UNANIMOUS VOTE.

Article 5 - Anne Fanton moved to recommend - Nancy Tavernier - Second. UNANIMOUS VOTE.

Article 6 - Norm Lake moved to recommend - Nancy Tavernier Second. UNANIMOUS VOTE.

Article 7 - Dore' Hunter Moved to recommend - Nancy Tavernier - Second. UNANIMOUS VOTE.

Article 8 - Dore' Hunter Moved to recommend (if numbers on the school side level out)- Nancy Tavernier - Second. UNANIMOUS VOTE.

Article A - Local Deferral - Dore' Hunter Moved to recommend - Nancy Tavernier - Second. UNANIMOUS VOTE.

Article B - Local Deferral Amortization (reassigned to Dore') - Dore' Hunter Moved to recommend - Nancy Tavernier - Second. UNANIMOUS VOTE.

Article C - Acceptance of Local Option Setting Local Fees - Norm Lake Moved to recommend. Nancy Tavernier - Second. UNANIMOUS VOTE .

Article D - Amendment of Non-Criminal Bylaw - Local Historic Dist. - Nancy Tavernier - Moved to recommend. - Dore' Hunter Second. UNANIMOUS VOTE.

Article E - Amendment to Non-Criminal Bylaw - Fire Alarm Regulations - Dore ' Hunter - Moved to recommend - Nancy Tavernier - Second. UNANIMOUS VOTE

Article F - Acceptance of MG. 148, Section 26H and 26I Anne Fanton - moved to recommend - Dore' Hunter - UNANIMOUS VOTE.

Article G - NESWC BOND REFINANCING - Removed from Consent - Norm Lake - moved to recommend - Nancy Tavernier- Second. UNANIMOUS VOTE.

Article H - Removed from Consent - Nancy Tavernier moved to recommend - Anne Fanton - Second. UNANIMOUS VOTE

Article I - Self Funding Programs - (article re-assigned to Anne Fanton) Dore' Hunter - Moved to recommend -Nancy Tavernier - Second. UNANIMOUS VOTE.

Article J - Retirees Health Care - Nancy Tavernier - Moved to defer recommendation until the 17th meeting -

Article K - Mobile Sweeper - Nancy Tavernier Moved to remove - Norm Lake Second. 3-1 Vote Hunter abstain.

Article L - Catch Basin Cleaner - Nancy Tavernier Moved to remove - Norm Lake Second. 3-1 Vote Hunter abstain.

Article M - Applicability of Zoning Bylaw - Dore' Hunter - Moved to recommend - Nancy Tavernier - Second. UNANIMOUS VOTE .

Article N - Parking Requirements - Dore' Hunter - Moved to Defer Recommendation - Norm Lake Second. UNANIMOUS VOTE - (wording to be reworked to reflect the changes proposed and agreed on by staff)

Article O - Housekeeping Amendments Zoning - Norm Lake Moved to Recommend and moved to consent - Nancy Tavernier - Second - UNANIMOUS VOTE.

Article P - Street Acceptances - Dore' Hunter - Moved to Recommend - Nancy Tavernier - Second. UNANIMOUS VOTE.

Article Q - Charter Road Sidewalk - Dore Hunter - Moved to consent and recommended - Nancy Tavernier - Second. UNANIMOUS VOTE.

Article R - Unpaid Bills - Anne Fanton - Moved to Recommend - Dore' Hunter - Second - UNANIMOUS VOTE.

Article S - Continuation of Previous Appropriations - Norm Lake - Moved to Defer Recommendation - Dore' Hunter - Second. UNANIMOUS VOTE.

Article T - Budget Transfer - Nancy Tavernier - Moved to defer recommendation - Dore' Hunter - Second. UNANIMOUS VOTE

Article U - Use of Funds to Reduce the Tax Rate - Dore' Hunter - Moved to Recommend - Nancy Tavernier - Second. UNANIMOUS VOTE.

Article V - Amendment to the Town Bylaw - Nancy Tavernier assigned and Nancy Tavernier moved to recommend - Dore' Hunter - Second. UNANIMOUS VOTE.

#### TRANSPORTATION ADVISORY COMMITTEE

The Board discussed the possible disbanding of the Committee with Martin Gratz the remaining volunteer. Martin felt that the divisions of the labor and chores should be addressed when and if they are disbanded to insure that the tasks they perform are done. Dore' didn't see any structural need to continue with the present TAC and felt that the duties could be absorbed by Town staff much like how the Personnel Board was handled. Nancy felt that since the site plans had decreased the need for review by them has lessened. Gratz felt that it could be re-cast to require 1 or 2 person committee. ANNE FANTON - Moved to continue with 1-2 Members renaming TAC to Transportation Volunteers, to advise the Board of Selectmen and appropriate staff on bicycle issues, regional planning issues, commuter rail (specifically the Littleton Issue), pedestrian issues and site plans. DORE HUNTER - Second. UNANIMOUS VOTE. Staff to notify VCC we no longer need to recruit for TAC volunteers.

#### CONSENT CALENDAR

The Board approved the Consent Calendar as submitted with a addition of a cash gift to Civil Defense. DORE' HUNTER- Moved to accept. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

## SELECTMEN'S CONCERNS

Eagle Scout - Norm volunteered for Tavernier Court of Honor for April 11.

Second Airport/Fort Devens Task Force - Anne spoke about the siting evaluation process and that it's moving ahead. VCC has had some interest expressed in serving on the task force. Nancy thought perhaps TAC could be steered into this direction. Dore' felt that TAC could be abolished and have another organized group handle this new issue. He felt we should wind up TAC and more or less create another group to include any interested members of TAC. The consensus was that the proposed task force should have between 3-5 members and we could ask VCC to recruit depending upon their workload. DORE' HUNTER - Moved to create an Advisory Ad Hoc Committee on Second Airport/Fort Devens potential reuse/Second Airport to keep the Board of Selectmen current, advise and bring back opinions to the board. ANNE FANTON - Second. UNANIMOUS VOTE - Vcc to be asked if they want to recruit and to use Anne's Memo as a Charge to the committee.

Red Cross Proclamation - NANCY TAVERNIER - Moved to approve. DORE' HUNTER- Second. UNANIMOUS VOTE.

NESWC - DORE' HUNTER - Moved to transmit in writing to the Executive Board our no vote in the matter of the proposed salary increase for the Director. ANNE FANTON - Second. UNANIMOUS VOTE.

## TOWN MANAGER'S CONCERNS

C&D GLASS - Don felt that they have complied and that the Bond of 5,000 be released with \$500.00 retained by the building Commission to pertain to the trailer issue that is outstanding. NANCY TAVERNIER - MOVED to recommend release of the bond in the amount of 4,500.00 DORE' HUNTER - Second. UNANIMOUS VOTE.

AUDUBON HILL - John updated the Board on the status of the revised agreement. All parties have signed the agreement and we are receiving letters from numerous boards and committees regarding the use of the \$130,000.00

HURRICANE BOB - Don advised the Board that the Town had received a reimbursement from the federal government in excess of \$64,000 for reimbursement of expenses. Don wanted it noted that John Murray should be recognized for his effort in obtaining these funds. John wanted John Hawks and staff also mentioned for their efforts.

DORE' HUNTER - moved to go into executive session for the purpose of discussing Collective Bargaining.  
Roll was taken - all Ayes.

The Board adjourned into executive session at 10:00 P.M.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christine Joyce  
Recording Secty.  
cmjW11-(212)

**EXECUTIVE SESSION**

**MARCH 3, 1992**

**FIRE COLLECTIVE BARGAINING**

Don and John updated the Board of the most recent collective bargaining meeting with Fire. They want 5% next year plus steps and 0% this year, vacation 3 off on on-prime. They had accepted the 5% and requested everything else. John and Don felt that they were at impasse and after 15 months the negotiations were dead and we are heading toward mediation, fact funding and arbitration. John feels they just don't understand the process, and he feels they have a lack of understanding concerning the financial plight of the Town.

The Board wanted to make sure any funding shortfalls to come from the Fire's Budget.

The Board adjourned out of Executive Session at 10:40 P.M.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christine Joyce  
Recording Secty.  
cmjW11-(212)

cc: BOS  
3/31/ meeting  
# 5

3/31/ (5)

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE: 3/26/92

TO: John Murray, Assistant Town Manager  
FROM: David F. Abbt, Engineering Administrator  
SUBJECT: Traffic Control Agreement  
Mass Ave. at Central St.  
West Acton Signal Project

*D. Abbt*

The agreement the Massachusetts Department of Public Works (Highway Department) has asked the Board of Selectmen to sign is the standard type of agreement required on state and federally funded projects. They signed a similar agreement for the Great Rd./Main St. intersection last fall.

The agreement covers the following points:

1. The signals, signs and pavement marking must be maintained by the Town according to the "Manual on Uniform Traffic Control Devices for Streets and Highways" published by D.O.T.
2. The Acton Police enforce the Town's traffic regulations.
3. The Town must amend the Traffic Rules and Orders to be consistent with the project plans. These amendments are minor and have already been sent to the Selectmen for adoption.
4. All new or relocated driveways must comply with state standards. This should not be a problem.
5. The Town must pay for electricity to operate the signals (as we do now), and the Town must pay to maintain the signals. The Town will own the signals.
6. Any changes to the intersection must be approved by the Mass. Highway Department.
7. Failure on the part of the Town to uphold this agreement could result in the state withholding Ch.90 funds (much like they are currently doing).

This project is scheduled to go to bid April 4th, so it is important that the Selectmen act quickly on this matter.



# The Commonwealth of Massachusetts

Executive Office of Transportation and Construction

Department of Public Works

Ten Park Plaza, Boston, MA 02116-3973

WILLIAM F. WELD  
GOVERNOR

ARGEO PAUL CELLUCCI  
LIEUTENANT GOVERNOR

RICHARD L. TAYLOR  
SECRETARY

JAMES J. KERASIOES  
COMMISSIONER

March 24, 1992 **MAR 24 1992**

ACTION - ROUTE 111 ( MASSACHUSETTS AVENUE)  
TRAFFIC CONTROL AGREEMENT  
FEDERAL AID PROJECT

Mr. Norman D. Lake, Chairman  
Acton Board of Selectmen  
472 Main Street  
Acton, MA 01720

*Chris*

*Have Don alt  
review and place on  
consent for 3/31*

*[Signature]*  
*3-25-92*

*✓ 3/25*

Dear Mr. Lake:

Attached please find four (4) copies of the Traffic Control Agreement for the proposed Safety Improvement Project at the location noted above. This Agreement is required by the Federal Highway Administration in accordance with Title 23 U.S.C., Section 109(d) and 116. The purpose of this Agreement is to assure that the ways within and adjacent to the project will be operated and maintained by the municipality as planned. Failure on the part of any municipality to execute and fulfill the terms of the Agreement may cause disqualification from participation in future Safety Improvement Programs.

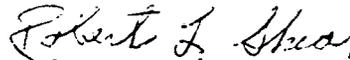
This Agreement has been discussed with the project design engineer and municipal representatives. The proper officials, including the town counsel, shall sign all four copies of the Agreement and affix all required seals and attest.

It is requested that all pertinent traffic regulations be enacted. In the instance where existing municipal regulations are in conflict with the Agreement, action must be taken to bring the existing regulations into compliance with those of the Agreement.

Please submit to this office the four (4) signed copies of the Agreement and three (3) signed, dated, and executed copies of the regulations establishing the " Specific Provisions " as detailed in the Traffic Control Agreement. If any of the " Specific Provisions " are in effect, please provide a copy of the regulation. Upon completion please forward all required documents to this office for processing.

If you have any questions on this, you can contact me at 973-7360.

Sincerely,

  
Robert L. Shea, P.E.  
Traffic Engineer

HHII/ad

cc: J. Buckley, Traffic Operations  
R. Barberio, Engr. Exp.  
R. MacDonald, Proj. Engr. District 4  
T. Broderick, Supr. Proj. Mgr.

**TRAFFIC CONTROL AGREEMENT  
BETWEEN**

**COMMONWEALTH OF MASSACHUSETTS  
HIGHWAY DEPARTMENT  
AND**

**TOWN OF ACTON  
FEDERAL AID PROJECT NO. HES-5292 (001)**

AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 1992 by and between the Commonwealth of Massachusetts, hereinafter called the COMMONWEALTH, through its Highway Department, hereinafter called the DEPARTMENT, and the Town of Acton, hereinafter called the TOWN, pursuant to the provisions of TITLE 23, Sections 109(d) and 116 of the United States Code and in accordance with the Official Standards of the DEPARTMENT which have been adopted in conformity with the provisions and recommendations of the Manual on Uniform Traffic Control Devices for Streets and Highways published by the Department of Transportation, Federal Highway Administration, herein called STANDARDS.

WHEREAS, the DEPARTMENT and the TOWN have agreed that Massachusetts Avenue, Arlington Street and Central Street in whole or in part, being a Town streets in the Town of Acton in the County of Middlesex, have qualified to participate in the work financed in part by funds provided by the Federal Government, and;

WHEREAS, the TOWN approved the proposed program of improvements for the Federal Aid Project.

NOW THEREFORE, in consideration thereof, the TOWN hereby agrees, to conform to the following provisions:

**I. GENERAL PROVISIONS**

- (a) All information, regulatory or warning signs, all traffic control signals, traffic islands or other traffic devices, and all pavement or other markings shall be designed, located and operated in accordance with the STANDARDS of the DEPARTMENT for such devices.
- (b) The Police Department of the TOWN is the enforcement agency for traffic regulations established in accordance with this agreement and the traffic control devices installed in connection therewith.
- (c) Signed and attested copies of amendments to the TOWN Traffic Rules and Regulations necessary for the enforcement of any specific provision will be forwarded forthwith by the TOWN to the DEPARTMENT.

## II. SPECIFIC PROVISIONS

(a) PARKING PROHIBITIONS - AT ALL TIMES

Massachusetts Avenue

South Side: From Central Street to a point 35' east of Central Street

North Side: From a point 45' east of Central Street to Central Street

Arlington Street

South Side: From Central Street westward to Massachusetts Avenue

Central Street

West Side: From Arlington Street south to a point 100' south of Massachusetts Avenue

East Side: From a point 70' south of Massachusetts Avenue north to a point 30' north of Arlington Street

(b) ONE WAY OPERATION

Arlington Street

Southwestbound between Central Street and Massachusetts Avenue

(c) STOP SIGNS

Arlington Street

Northeastbound at Massachusetts Avenue

Southwestbound at Central Street

Southwestbound at Massachusetts Avenue

(d) LEFT LANE MUST TURN LEFT

Massachusetts Avenue

Westbound traffic onto southbound Central Street

## III. ACCESS AND EGRESS

Within the limits of the Federal Aid Project neither additional driveways (residential or commercial) nor relocation or alteration of any existing driveway shall be permitted unless they are in conformance with the DEPARTMENT's standards and receive prior written approval of the DEPARTMENT.

#### IV. TRAFFIC CONTROL SIGNALS

- (a) Traffic control signals shall be operated in strict accordance with the requirements and stipulation of the applicable permit.
- (b) Changes in the sequence or operation of traffic control signals located in the Federal Aid Project area are not to be made without the written approval of the DEPARTMENT.
- (c) Traffic Control Signals, the operation of which is pertinent to this Federal Aid Project area covered by this Agreement, will be installed to control traffic as shown on the plans. All power charges for operation of the installation will be the responsibility of the Town as well as all charges for maintenance and control. The Traffic Control Signals listed below will be under the ownership and control of the Town of Acton.

Massachusetts Avenue and Central Street

#### V. MAINTENANCE

The TOWN in accordance with the provisions of Sections 109(d) and 116 of TITLE 23 of the United States Code will properly maintain the way and all traffic control devices including signs, signals and pavement markings under the control of the TOWN within the project area.

#### VI. TRAFFIC ISLANDS

Traffic Islands or median islands and traffic devices thereon are not to be installed, altered or removed without the prior written approval of the DEPARTMENT. Parking is prohibited on and adjacent to all traffic islands and median islands within the Federal Aid Project.

#### VII. MISCELLANEOUS

Traffic controls or regulations instituted either by the DEPARTMENT or the TOWN on ways or parts thereof within the Federal Aid Project are to remain in force and effect until any proposed future change has been approved in writing by the DEPARTMENT. The DEPARTMENT will not approve any future proposed traffic control changes within the Federal Aid Project which will in the opinion of the DEPARTMENT lessen to any degree the efficient utilization of the highway for traffic purposes.

#### VIII. PENALTY

Failure on the part of the Town of Acton to fulfill its responsibility in the proper maintenance and operation and the enforcement of the traffic regulations of the completed facility will disqualify the Town of Acton from future Federal Aid participation on projects in which the Town has maintenance responsibility, as provided in TITLE 23, U.S.C., Federal Highway Administration, U.S. Department of Transportation.

Such failure shall also result in withholding or withdrawing of the unexpended balance of any funds assigned to the Town of Acton under the provisions of Chapter 90, Section 34 of the General Laws as amended by Chapter 603 of the Legislative Acts of 1962.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

TOWN OF ACTON  
BOARD OF SELECTMEN

COMMONWEALTH OF MASSACHUSETTS  
HIGHWAY DEPARTMENT

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\_\_\_\_\_ Associate Commissioner  
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\_\_\_\_\_ Associate Commissioner

LEGAL CERTIFICATION

This will certify that the Town of Acton has complied with all applicable State Laws and its By-Laws and Ordinances and that this Agreement is a valid, binding agreement of the Town of Acton.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Legal Counsel

CERTIFICATE OF SIGNATORY

This will certify that the below named individuals are duly authorized and empowered to execute and deliver this Agreement on behalf of the Town of Acton.

Name (printed) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Title \_\_\_\_\_ Selectman  
\_\_\_\_\_  
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\_\_\_\_\_ Selectman  
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\_\_\_\_\_ Selectman  
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\_\_\_\_\_  
\_\_\_\_\_ Selectman

Date

Attest \_\_\_\_\_  
(Signature)  
Town Clerk

\_\_\_\_\_  
Name - printed

Consent  
3/31

3/21/92  
31  
⑥

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION

DATE: March 9, 1992

TO: DON P. JOHNSON, TOWN MANAGER  
FROM: GARRY A. RHODES, BUILDING COMMISSIONER *GR*  
SUBJECT: G & S AUTO SALES

You asked me to review the concerns raised at the time of their Class II license renewal. These concerns centered around vehicles parking off the paved surfaces, more than the thirteen "for sale" vehicles which are allowed.

The police monitor the amount of vehicles "for sale" on the lot. Ms. Joyce has informed me that the police have inspected the premises on a number of occasions and G & S has never exceeded their license.

I had observed, prior to the December hearing, that vehicles were parking off the paved surfaces. Since your letter was received by G & S the parking of vehicles has been restricted to paved areas. There also appear to be adequate, unused parking spaces for other clients.

As long as G & S and other occupants of the site continue to restrict their parking, I do not have any objections to the Board extending their license for the rest of this year.

(773)

INTERDEPARTMENTAL COMMUNICATION  
TOWN MANAGER'S OFFICE

3/31/92

7

\*\*\*\*\*

DATE: 3/23/92

TO: Board of Selectmen

FROM: Norm and Anne

SUBJECT: Jenks Fund Request Allocations

Below please find a summary of funding requests received in our office for 1992 Jenks Fund allocations and our suggestions for allocation.

The current balance available for expenditure is: \$2,608.00.

Description	Amount Requested	Recommended Allocation
ACTON MEMORIAL LIBRARY To fund 1992 Summer Reading Program	\$400.00	400.00
CONCORD FAMILY SERVICE To provide adolescent and family counseling at the Jr. High School	\$1,000.00	750.00
DISCOVERY MUSEUMS Partially underwriting Discovery Museums' Science program for elementary schools	\$500.00	250.00
ACTON CHILDREN'S PLAYGROUND Purchase a Playground equipment	\$1,000.00	900.00
ACTON HOUSING AUTHORITY Mothers/children to attend Community Education classes during the summer	\$300.00	300.00
NAGOG CHILDREN'S CENTER Provide the staffing and support a performance at the Arboretum	\$550.00	-0-
<b>Total requested:</b>	<b>\$3,750.00</b>	<b>\$2,600.00</b>

TOWN OF ACTON  
INTER-GOVERNMENTAL COMMUNICATION

3/31/92  
8

Date : 26 March 1992  
To : Board of Selectmen  
From : Volunteer Coordinating Committee  
Subject : Recommendation for appointment

At its 3-23-92 meeting, the VCC voted to recommend Thomas F. Farley, Jr. for Membership on the Fair Housing Committee for a term of two-years expiring 30 June 1994. He would fill the slot suggested for a banker. In addition Tom has served on the Finance Committee so he is familiar with Town government.

recd. 2/10/92

### TOWN OF ACTON VOLUNTEER APPLICATION

Residents interested in serving on a Town Board, Committee, or Commission are requested to complete this form and forward it to the office of the Town Manager at the Acton Town Hall.

(Please print or type)

Date: FEB. 6, 1992

Mr / Mrs  
Ms / Dr FARLEY THOMAS F. JR.  
Last Name First Name Middle Initial

5 CASTLE DRIVE 263-5618 (617) 434-5812  
Street Address Home Phone Business Phone

Please refer to the other side of this sheet and indicate below, in order of preference, the Board, Committee, or Commission which is of interest to you:

- 1) FAIR HOUSING COMMITTEE
- 2) COUNCIL ON AGING
- 3) INVESTMENT ADVISORY COMM.

Have you been a member of a Board, Committee, or Commission previously (either in Acton or elsewhere)? If you have, please list name(s) and dates (approx):

TOWN OF ACTON FINANCE COMMITTEE 1984-1986

Do you have any time restrictions? LIMITED SOMEWHAT; (WORK IN BOSTON DAYS)

How long have you lived in Acton? 9 YRS in Massachusetts? 38 YRS

Are you a US citizen? YES

Present occupation and employer (optional - attach resume) BANKER (CORPORATE BANKING) BANK OF BOSTON BOSTON, MA

Do you or your employer have any current or potential business relationship with the Town of Acton that could create a conflict of interest? NO

Education or special training MBA BABSON COLLEGE, WELLESLEY MA  
BA UMASS-BOSTON

3/31/92  
⑨

BOY SCOUTS OF AMERICA

TROOP # 32  
ACTON, MA

22 Putnam Road  
Acton, MA 01720  
March 15, 1992

Board of Selectman  
Town of Acton  
Town Hall  
Acton, MA 01720

Attn: Secretary

Dear Sir/Madam:

It is with great pleasure that I invite a Town Selectman to a Court of Honor being given for Oliver A. Will on May 3, 1992 at 7:30 PM at St. Elizabeth of Hungary Church, 89 Arlington Street, Acton, MA. Oliver will be receiving the highest honor Boy Scouting can give, the rank of Eagle Scout.

Oliver is presently a Junior at Acton Boxborough High School and has been a member of Troop 32 for over five years. During his tenure he has earned the badges necessary for advancement, but more importantly has shown the qualities of leadership which are so important in today's society.

We are hoping you may join us in this tribute to a youth who has used the Scout Law and Oath in his everyday life. It is young people such as Oliver who made this country great and who will be the leaders of tomorrow.

Please R.S.V.P. to:

Mr. John J. Millerick  
22 Putnam Road  
Acton, MA 01720

Sincerely,

  
John J. Millerick  
Chairman, Eagle Scout Advancement

# 10

3/31/92

10

**TO: THE BOARD OF SELECTMEN**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 27, 1992**  
**SUBJ: IN-HOUSE LEGAL QUESTIONNAIRE**

*John*

Attached you will find copies of the completed in-house questionnaire. Question 15 asked for the department or board to rate Palmer and Dodge on a scale of 1 to 5. A rating of 1 would indicate that the responding group was very unhappy with the representation received, and a score of 5 would indicate the respondent was very happy with representation. Twelve questionnaires were returned and the average score was 4.14. The only party which was unhappy with service rendered was the Planning Board. Yet, the Planning Staff rated service received as a 5. I believe that it is important for the Board to pay special attention to these two questionnaires. Therefore, they have been placed in the front of the questionnaire packet. The questionnaires placed at the end of the questionnaire packet seldom use counsel.

The Manager's office has been silent to this point on the choice of Town Counsel. The financial cost of counsel cannot be solely measured by the hourly rate, because the bill is rate times time, and the dollar cost of a negative judgement may be in the millions (ie. NESWC's \$75 million possibility). Due to the fact that the Manager's office has the most contact with Town Counsel, I know that Norm Cohen and Mike Callaghan do not bill the Town for all the time that is spent communicating with the Manager's Office. A second factor that I feel must be considered by the Selectmen is the trust factor. I explicitly trust Palmer and Dodge's advice. This should not indicate that they always provide the answer that I want, rather my trust is based upon my knowledge that I know from experience that their answer has been carefully reviewed and all the legal implications fully weighed. I would rate the service provided by Palmer and Dodge as a 5 (The Manager's Department rating was not part of the previously mentioned average).

Further, my respect and appreciation of the service received by Palmer and Dodge does not indicate that there is not room for improvement. I respectfully suggest that if The Board elects to retain Palmer and Dodge, that the Manager's Office review the needs of the Town and devise operational policies and practices in compliance with the Selectmen's Policy for the use of Town Counsel.

Thank you for your time and consideration

PALMER AND DODGE INTERNAL QUESTIONNAIRE

OVERALL SCORE WAS BASED UPON 1 BEING VERY UNHAPPY AND 5 VERY HAPPY

DEPARTMENT	OVERALL SCORE
T. CLERK	5
ENGINEERING	4
MEM. LIB.	4
FIRE	4
HEALTH	3
W.A. LIB.	N/A
BOARD OF APPEALS	5
COA	N/A
BUILDING	5
ACCOUNTING	N/A
PLANNING (DEPT)	5
PLANNING BOARD	2
POLICE	4
ASSESSORS	4
NURSING	N/A
CONSERVATION (DEPT.)	5
CONSERVATION	4
MUNI. PROP.	4
	-----
AVERAGE	4.14

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board CONSERVATION

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

**WETLANDS PROTECTION ACT**

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

The Commission has sought town counsel services to handle the Cooperative Bank of Concord -vs- the Acton Conservation Commission, Civil Action No. 91-8096 (163 Pope Road). This is a Wetlands Protection Act and Acton Wetlands Protection Bylaw denial issue. Legal counsel was retained in late November 1991, counsel is ongoing. Lead counsel - A.H. Callaghan, Associate - R.S. Webber. Legal counsel has been very thorough and most helpful to the Commission, sighting ways to help the Commission write better Orders of Conditions with more defensible conclusions.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

Civil Action No. 91-8096 is the only time Conservation has used legal counsel in recent times, and as mentioned we are pleased with counsels representation.

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

November 1991 until March 1992 - \$4,000.00

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

Lot 4B, 163 Pope Road - Civil Action. Wetlands - Notice of Intent/Order of Conditions denial.

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

Atty. Acheson H. Callaghan

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

Five (5) - Atty. Rebecca Webber has been very helpful, providing the Commission with a great deal of valuable information and new ideas, with respect to conducting Notice of Intent hearings and constructing defensible Orders of Conditions.

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

The Town in my opinion should continue to retain the services of Palmer and Dodge.

I believe they are as complete a law firm as is available in Boston.

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Conservation Commission  
Andrew Sheehan, Chairman

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

Acton Wetlands Protection Bylaw: Are all provisions of the Bylaw? Are our actions legal? Litigation.

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

Litigation of 163 Pope Road - Cooperative Bank of Concord -vs- Town of Acton

Dates: 11/91 to PRESENT

Environmental law/strength of bylaw. Evaluation of the strength of the case and clarification of implementation of the Town Bylaw.

Mike Callaghan and Rebecca Webber

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

It is too early to know with regard to the pending case if we will be successful, however, legal counsel feels our case is strong versus the other side and allowed us to decide if we wanted to continue or settle.

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

Atty. Acheson H. Callaghan

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

Four (4)

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

I have no reason to believe that legal services could be easily obtained elsewhere of the same quality. Palmer and Dodge's experience and size (numbers of attorneys) are certainly benefits to the Town.

TO: ALL DEPARTMENTS/BOARDS  
FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER  
DATE: March 17, 1992  
SUBJ: TOWN COUNSEL



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Planning Board

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

*Questions on proposed Zoning Bylaw amendments; review of draft decisions (subdivisions, special permits); review of proposed amendments to Subdivision and Special Permit Rules & Regs; and disposition of pending cases. General area = land use, municipal law*

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

*February 1992. Advice of counsel was sought when a developer proposed changes to terms & conditions in a Restrictive Covenant for a subdivision. Counsel's response was brief and timely. Lead Counsel: Mike Callaghan  
Area of law: land use*

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

*Foster Masonry Products, Inc v. Town of Acton Planning Board. 1985-1990. Lead counsel: Mike Callaghan  
Area of law: land use. The Planning Board felt pressured to capitulate to developer's demands presented through appeal of subdivision approval. Counsel appeared predisposed to settlement. Board stuck to its position, case was litigated and Town won on major issues.*

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

*Continued review of proposed Zoning Bylaw amendments; review of draft decisions; review of proposed amendments to subdivision and special permit rules and regulations; review of deed restrictions and other mechanisms to provide long-term affordable housing; Impact Fee implementation; and litigation.*

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

*Zoning Bylaws and associated rules & regulations.  
Palmer & Dodge provides comprehensive review of all changes proposed in this area.*

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

*Resolution of pending litigation. Cases are not resolved in a timely manner.*

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

*Resolution of pending litigation and lack of communication with regard to pending cases. The Board met with Counsel in January on a particularly serious case; agreed to offer alternatives and that Counsel would relay this information to the appellants attorney. No response to date. Case involves challenge to rezoning voted in 1990 & it is not in the Town's best interests to delay.*

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

*The Board has no frame of reference.  
However, sound advice and careful review of zoning and decisions has been received. Unfortunately response is usually very slow in coming.*

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

*The Board is unable to respond to this question.*

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

*None*

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

*None*

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

*In Foster Masonry v. Acton Planning Board, favorable results were achieved due to the Board's insistence on proceeding with litigation contrary to Counsel's advice.*

*In Willuca Family Trust (Farm Hill Subdivision) the lack of outcome could be detrimental to the Town.*

*In Meadowview v. Acton Planning Board, Counsel's advice lacked clear direction.*

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

*Unable to determine a fair compensation rate.*

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

*Mike Callaghan is the only Counsel seen by the Board. Therefore, he must be responsible for staffing decisions + selection of staff for the Board.*

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

*2*

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

*If the Town retains Palmer + Dodge as Town Counsel, we should take advantage of the  $\beta$  broad range of experts + specialists available at the firm to send their best representative for a particular circumstance.*

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### *Comments on Survey*

*The Board is pleased that the survey was distributed. However, the <sup>short</sup> turn around time will likely preclude the participation of some boards. Also, the survey questions (and the Beacon's headlines) appear to indicate the Board of Selectmen's predisposition towards retention of Palmer + Dodge.*

TO: ALL DEPARTMENTS/BOARDS  
FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER *JM*  
DATE: March 17, 1992  
SUBJ: TOWN COUNSEL

The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department ~~Board~~ Planning

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

*Zoning - Review of Articles, Permit Decisions  
Subdivision - Rules & Regulations, Decisions  
General land use law & litigation (Acheson H. Callaghan, R.)*

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

*Meadowview Subdivision appeal 1988-1991*

*Forster Masonry Subdivision appeal 1985-1990*

*Lead Counsel: Mike Callaghan*

*In both cases counsel achieved through litigation and negotiation results that were better than I had thought achievable*

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

*None*

4. What does your department ~~see~~ see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

Continued legal support on Zoning & Subdivision permits.

Legal advise on zoning matters and subdivision administration to help implement Impact Fees and other significant Master Plan recommendations. Also, resale restrictions in app. housing developments.

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

Best qualified for general Zoning & Subdivision.

Had no substantial experience yet on Impact Fee & Aff. Housing matters.

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most **difficult** for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

Don't know

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

None

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

Mike Callaghan appears well informed and takes a cautious approach. In my field this is important. New zoning initiatives are often controversial and innovative. I'd rather have to push legal counsel to reconsider an all too cautious opinion, than to see counsel take any risks. It gives me the freedom to be more creative, because I

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

~ \$15,000. —

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

See answer to question #2.

Also advise on zoning initiatives, see answer to question #8.

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/~~board~~.

See answer to question #2.

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

none

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

*In range of 2/3 or more for senior counsel (such as Mike Callaghan) of the broad range charged for town counsel services.*

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

*Mike Callaghan*

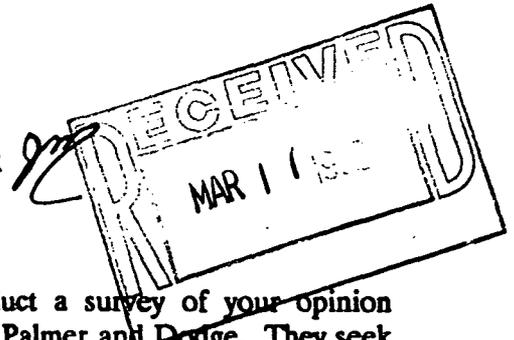
15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

*5*

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

*No reason*

TO: ALL DEPARTMENTS/BOARDS  
FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER  
DATE: March 17, 1992  
SUBJ: TOWN COUNSEL



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Assessors

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved). *Appellate Tax Board matters*

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

*Baker vs Town of Acton* <sup>May 23 1989 -</sup> *Mar 15 1990*  
*appellate Tax Board* *Kasimir DeRham*  
*I was pleased because they did a great job and the appellant didn't get an abatement. In other words - an unqualified win.*

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

*We've never been displeased*

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

*Appellate Tax Board.*

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

*Appellate tax board work is our only need.*

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

*ditto*

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

*\_\_\_\_\_*

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

*I have not worked with other law firms. It would be hard for me to say what distinguishes P+D.*

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

So far \$6000

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

In a case where we were trying to effect a settlement, Ann Marie Hill of P+D set a minimum settlement figure with the appellant before agreeing to negotiate. This proved to help us come to agreement at a higher value resulting in a lower

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board. <sup>abatement of tax</sup>

please refer to question #2

most of our other cases were settled.

That case was the only one in which we went all the way and won. It is usual for the appellate tax board to give something to the appellant which is why we try to settle most cases.

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

In all our other litigated cases the appellants got abatements. This has more to do with the nature of the appellate system rather than any failing on the part of P+D.

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

I am not familiar with the rates charged by the legal profession except that John Murray says the range is 100 to 400 so I would venture a guess at 250.

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

Unknown to me.

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

4

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

Continuity

Past Performance Rating

Diversity of their staff

Resources available as a large law firm with a good reputation

TO: ALL DEPARTMENTS/BOARDS  
FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER *JM*  
DATE: March 17, 1992  
SUBJ: TOWN COUNSEL

The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Police

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved). *Labor and personnel*

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased. *Civil Service - Henry Stewart - continuing basis*

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased. *The handling of the Coughlin retirement case. Have we brought or have we begun to institute a third party suit to recover Town expenses? Communications are lacking.*

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

*Civil Suits, Labor, Personnel*

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

*Labor & Personnel - Henry Stewart approaches problems not only from a legal basis but also a common sense practical basis*

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

*There are so many attorneys that it is hard to know who you are supposed to deal with, often you are referred from one to another. There doesn't seem to be one go to person*

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

*It would be nice if they were closer so face to face meetings could be held. Phone calls are impersonal. We need to get to know each other better*

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

*There ~~must~~<sup>is</sup> be someone there who is an expert in the particular field your need is in. Reputation*

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year. *unknown, much goes between the Manager and Counsel*

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

*Prevented the use of HIF benefits when sick time was the proper way to go.*

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

*Collective bargaining - advice on not giving up management rights that don't seem important at the time but turn out to be in the future.*

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

*N/A*

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession. *The service is of high value. I don't know what they charge or what another ~~top~~ high powered firm ~~it~~ would charge so I can't compare to establish a rate. Every problem is different and requires a different level of expertise, the rates should reflect that level.*

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board? *This is usually done by Callahan or through the managers office*

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

*4*

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

*If the town intends to retain a law firm there is no reason other than money to switch. It must be remembered you get what you pay for. Perhaps the School + Town should consider in house attorneys. Personnel and Labor seems to be an area this might work.*

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board \_\_\_\_\_ Building \_\_\_\_\_

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

- °Zoning
- °Building Codes as they relate to M.G.L.
- °Train whistles
- °Town Bylaws (non-criminal bylaw)

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

Railroad Station demolition and related court action, 1987 - present. Victor Bass and Thomas Ambrosino are lead counsel. This has been a tedious legal matter as there was not a clear, proscribed course of action due to the lack of previous court cases. Through perseverance we have prevailed at every turn and should very shortly close this issue.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

I can not recall any issues that displeased me with our representation.

**4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.**

Due to the ever-changing zoning bylaw, there is an increasing need for legal advice as the questions that come to light can not be anticipated as the zoning is implemented.

**5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.**

Acheson Callaghan is, in my opinion, the foremost zoning expert. He keeps himself apprised of all current zoning court cases which influence how I look at enforcement.

**6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.**

Forecasting the future direction of court decisions. Courts do not always travel in a straight line.

**7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.**

I do not have any needs that are not fulfilled.

**8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?**

Negotiations over legal actions, thereby saving legal expenses.

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

\$10,000      75 hours

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

This is difficult if not impossible to answer as only questions which need advice are asked, making all their advice beneficial.

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

When the apartment building burned on School Street, fast and aggressive court action by P & D helped us to remove a dangerous structure which avoided another Railroad Depot building case.

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

We had a request for building permit fees to be returned after they had been deposited into the general fund. This request was denied and the applicant sued in Small Claims Court and won. We appealed but the applicant did not pursue it - P & D did not succeed, not through any fault of their own. Small Claims Courts usually favor the small guy over law - that is why we appealed.

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

Between \$100 and \$200 per hour.

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

Acheson Callaghan

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

5

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

The Town should maintain P & D because it is very important to be consistent with past action. The knowledge of the Town possessed by P & D would take years to establish with a new firm.

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board BOARD OF APPEALS

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

- Review decisions - see that these decisions are filed sufficiently.
- Defend the Town when a decision is appealed.

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

P & D legal counsel has always done a superb job. P & D has either won the case when we needed them to represent us or the outcome has been mutually agreeable to all parties.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

None

**4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.**

To continue as needed.

**5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.**

**6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.**

**7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.**

None

**8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?**

**9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.**

**10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.**

**11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.**

**12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.**

**13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.**

**14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?**

**15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.**

5

**16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?**

TO: ALL DEPARTMENTS/BOARDS  
FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER  
DATE: March 17, 1992  
SUBJ: TOWN COUNSEL

MAR 17 1992

ACTON BOARD OF HEALTH

The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Health

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

HEALTH & ENVIRONMENTAL  
Contracts & Regulations

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

Audubon Hill 1987-1989  
Victor Bass and Tamara Wolfson.  
Represented the Town's interest and defended its actions in a difficult case with little precedent to guide them.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

Drummer Farms Swimming Pool 1990 - 1991  
Matthew McGrath  
Represented the town in Criminal proceedings in District Court as provided for under current regulations. Was unable to obtain a conviction of the operators of a swimming pool who refused to obtain a permit. Did not initially advise civil action and did not follow through with civil action in the subsequent year.

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

Continued assistance on Health and Environmental issues  
Review of contracts or proposed regulations  
Enforcement through Criminal proceedings or Civil injunction

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

Contract review  
Their services are timely in this area and their advice is comprehensive

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

Environmental laws and regulations  
The town already has competent counsel in state  
Annoyance for any environmental advice or assistance.

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

Needs are currently being fixed with the exception  
of the Drummer Farms swimming pool issue

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

Having a large staff with different areas of expertise  
is the best characteristic of Palmer & Dodge

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

Have not utilized Palmer & Dodge this fiscal year

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

see question 2

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

see question 2

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

see question 3

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

unable to place financial value on services provided  
only comparison available is in relationship to Anderson & Krieger's services which the Health Department finds more applicable to its needs and is superior in quality to Palmer & Dodge's abilities in regards to Health & Environmental law

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

Norm Cohen or Mike Callaghan

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

3

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

The Health Department has been assisted greatly by Anderson & Krieger in regards to the W. R. Grace issue. Their Environmental law knowledge is extensive and they have represented the Town's interests well. They can and do provide better representation for this department than Palmer and Dodge can provide. With the exception of contract review Anderson and Krieger would be the preferred choice.

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Fire Department

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

Personnel Issues  
Collective Bargaining } Labor Law  
Grievances / Arbitration }

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

The majority of our legal exposure has been in the area of labor law, utilizing the services and expertise of Attorney Henry Stewart, who I have been satisfied with. Henry has a long standing knowledge of the Town and this department, provides fair representation and is experienced and knowledgeable in his field.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

None

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

Collective Bargaining, Arbitration, etc.  
A big area of possible impact may come about relative to the American Disabilities Act which comes into full effect on 7/1/92.

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

As stated, our experience has primarily been limited to labor law which Palmer and Dodge is qualified to provide.

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most **difficult** for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

None

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

None

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

Nothing in particular - quality is adequate.

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

Hours - Several Hundred

Dollars - Not Known specifically.

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

No particular examples of cases having a particularly beneficial effect.

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

No particular examples of cases having a particularly beneficial outcome.

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

None

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

I have no particular way to determine a fair compensation rate without surveying comparable communities, etc.

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department, ~~board?~~

usually predetermined by standing arrangement between Town Managers office and Palmer and Dodge.

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

(4)

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

The Town of Acton should not dismiss Palmer and Dodge as they have performed satisfactorily in the past in the areas that we have been involved with.

Det C. Lang  
Acting Fire Chief

TO: ALL DEPARTMENTS/BOARDS  
FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER  
DATE: March 17, 1992  
SUBJ: TOWN COUNSEL

MAR 18 1992



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board ENGINEERING

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

REAL ESTATE TRANSFERS, STREET LAYOUTS, EMINENT DOMAIN, CONTRACTS AND BIDS.

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

STREET ACCEPTANCES, YEARLY CATCH SPILLING

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

DAVE ROGERS, SLOW IN REVIEW THE NARA BID PACKAGE. THIS IS A CURRENT PROJECT. IF I HAVE ANY PROBLEMS WITH PERIOD ITS SLOW RESPONSE TIME IN GENERAL. I FOR ONE DO NOT LIKE TO "CAMP OUT" ON THE PHONE LINE.

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

I REALLY DON'T KNOW WHAT IS GOING TO HAPPEN OVER THE NEXT THREE YEARS - MUCH THE SAME AS #1, I THINK!

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

I HAVE NEVER NOTED A PROBLEM WITH "QUALIFICATIONS". I HAVE A FEELING THEY ONLY HIRE FROM THE TOP-OF-THE-GLASS FROM HARVARD LAW!

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

DON'T KNOW OF ANY -

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

DEALING EXCLUSIVELY BY PHONE AND MAIL IS OFTEN DIFFICULT. REGULAR "OFFICE" HOURS IN THE TOWN HALL EACH WEEK OR MONTH WOULD BE A HELP.

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

DEPTH AND DIVERSITY OF STAFF

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

NO IDEA, WE DON'T SEE THE BILLING ON ANY REGULAR BASIS. ITS NOT MUCH, REALLY

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

THEY ARE HELPFUL IN REAL ESTATE MATTERS, RECORDING INSTRUMENTS, ETC.

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

N.A.

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

N.A.

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charged within the legal profession.

NO IDEA, I/WE DON'T OTHERWISE DEAL WITH LAWYERS.

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

I THINK IT GENERALLY IS NORM COITEN

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

4

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

THEY ARE A LONG ESTABLISHED FIRM WITH A GOOD REPUTATION. THEIR STAFF HAS DEPTH & DIVERSITY AND ALWAYS SEEM "SITAREP". THEY HAVE LONG EXPERIENCE WITH THE TOWN. MAINTAIN, BUT SET STANDARDS & REVIEW RESULTS REGULARLY.

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board MUNICIPAL PROPERTIES

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

1. BOUNDARY LINE PROBLEMS
2. CONSTRUCTION AND PURCHASING PUBLIC BIDDING

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

HAVE NEVER GONE TO LITIGATION

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

SEE # 11 ABOVE

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

MILL CALKAWAY, NOEM COHEN

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

4

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

I HAVE ONLY HAD OCCASION TO CONTACT P+D ON 3 OR 4 OCCASIONS IN 12 YEARS. I FEEL THAT THEY HAVE ALWAYS RESPONDED WELL TO MY QUESTIONS, AND HAVE ACTED IN A TIMELY FASHION. I SEE NO REASON TO CHANGE LAW FIRM AT THIS TIME.



OFFICE OF THE  
**BOARD OF HEALTH**  
ACTON PUBLIC HEALTH NURSING SERVICES

472 MAIN STREET  
ACTON, MASSACHUSETTS 01720  
TEL. 508-264-9653

MAR 25 1992

Lucy A. Saia, M.S., R.N.C.  
ADMINISTRATOR/SUPERVISOR

March 25, 1992

TO: John Murray, Assistant Town Manager  
FROM: Lucy A. Saia, Administrator/Supervisor  
Re: Enclosed survey

I have no contact with legal services provided by Palmer & Dodge. However I feel in the future there is the potential for legal issues regarding the following:

1. We are seeing more patients who are elderly and live alone. Patient safety and competency are issues that concern me when accepting patients to our service.
2. Employees vs Contractual Staff and what responsibilities I have to Contractual Staff.
3. Patients are sicker in the community today and in need of high tech care and there is more of a potential for patient negligence.
4. Patient confidentiality and privacy are a big issue today with diseases such as AIDS, and in a close community such as this we need to be careful to respect this. I have enclosed an article on this issue.

cc: Doug Halley, Health Director

TO: ALL DEPARTMENTS/BOARDS  
FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER  
DATE: March 17, 1992  
SUBJ: TOWN COUNSEL



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Nursing

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

The agency has had only one case that I am aware of where the former Administrator/Supervisor and staff nurse went to court regarding a patient's payment for services which were in question as the agency felt the legal conservator had misrepresented the patient's assets.

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

We have received no legal representation to my knowledge.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

N/A

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

**The Health Department has the priority for legal counsel.**

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

**Not qualified to answer this as I am not familiar with Palmer & Dodge's area of expertise.**

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

**As above.**

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

**I have not had need for their services.**

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

**Not qualified to answer.**

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

N/A

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

N/A

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

N/A

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

N/A

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

N/A

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

N/A

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

N/A

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

Unable to determine, but are there goals/objectives that they are suppose to meet?

# Legalities of Home Care

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## Facsimile Systems Revised: Focus on Confidentiality and Privacy

By Nancy J. Brent, RN, MS, JD

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*Nancy J. Brent, RN, MS, JD, is a nurse-attorney in solo law practice in Chicago*

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**I**n the November-December 1989 issue of *Home Healthcare Nurse*, the Legalities of Home Care column contained information concerning the use of facsimile machines for referrals for home care and focused on the need for policies and procedures to avoid potential liabilities for the home healthcare agency when referrals were not controlled in some way by the receiving agency. In addition to those concerns, a reader raised another concern when using a facsimile machine—that of confidentiality. (Please see this issue's Letter to the Editor.) When can one fax information and not breach a patient's right of confidentiality? What about privacy issues as well? Who in the agency is responsible for maintaining patient confidentiality and privacy? Do special situations (or diagnoses) require special consideration?

### PRIVACY AND CONFIDENTIALITY DEFINED

There is no question that a home healthcare agency and its

employees, including the home healthcare nurse, are mandated to protect patient privacy and confidentiality. Despite the interchanging of the two terms by most individuals in common usage, legally the terms have very different meanings.

Privacy is generally defined as the right to be free from unreasonable or unwarranted publicity,<sup>1</sup> whereas confidentiality is a term encompassing a special relationship in which one is entrusted to keep private the confidences or secrets of another.<sup>1</sup> Thus, when an invasion of privacy occurs, an unreasonable or unwarranted intrusion into one's private affairs has taken place, with the intrusion resulting in mental suffering, shame, or humiliation.<sup>1</sup> The effects of an invasion of privacy are measured by an objective standard; that is, the experienced psychological injury(ies) must be ones that would offend someone of "ordinary sensibilities."<sup>2</sup>

In contrast, a breach of confidentiality takes place when the individual entrusted with secrets or confidences violates the promise to keep private the information shared. Although a promise of, and breach of, confidentiality can occur in almost any relationship,<sup>1</sup> it is often heard about in relationship in which one member of the relationship has a unique influ-

ence on the other, such as an attorney and client, clergy and congregant, or nurse and patient. Thus, many states have statutes dealing with these types of relationships that insure, with specific exceptions, the confidentiality of information obtained during the provision of services in that relationship. Similarly, many professional groups have ethical codes that protect the confidentiality of information received in a professional alliance.

### SPECIAL GROUPS AND CONFIDENTIALITY

Another area of concern for the home healthcare agency and nurse in relation to privacy and confidentiality are those special groups of individuals who the law has identified as needing additional protection to insure the confidentiality of patient care information. The additional protection usually is based on the public's potential prejudice, real or imagined, against the individuals in the particular group. Thus, for example, recipients of mental healthcare and those receiving treatment for chemical use have been afforded additional measures, by both state and federal laws, that safeguard the confidentiality of information concerning the individual and his or her treatment. And, individuals who test

positive for the human deficiency virus (HIV) or have a diagnosis of acquired immunodeficiency syndrome (AIDS) or an AIDS-related disease are protected by varying state laws that manage the release of information concerning their test results, diagnosis, and other aspects of care.

### **REMEDIES AVAILABLE IF PRIVACY OR CONFIDENTIALITY ARE COMPROMISED**

As was stated earlier, there is no questions that the home healthcare agency and its employees are responsible to maintain the privacy and confidentiality of patient information. It is also important to note that one occurrence of sharing information without valid authorization from the patient may give rise to single allegations of an invasion of privacy and a breach of confidentiality respectively, or both may be alleged.

The potential liability for an invasion of privacy or a breach of confidentiality is founded on several legal theories. One is that of negligence<sup>2</sup> and its companion doctrines. If a patient is injured, he or she can sue the agency under the corporate theory of liability and/or under respondent superior and the home healthcare nurse or other employee as an employee and individually.

A second basis for a suit would be a violation of a statutory duty to maintain and preserve privacy and/or confidentiality. Thus, for example, under a state's mental health code or HIV confidentiality act, the aggrieved individual can file against any and all persons or entities who participated in the breach or invasion and would be

entitled to statutory remedies, including, many times, attorney fees, if a verdict was returned in his or her favor.

A third remedy that might be sought by the person aggrieved is a reporting of the agency or home healthcare nurse to the state agency responsible for licensing home healthcare agencies and healthcare providers, respectively. Clearly, for the home healthcare nurse, a report to the board of nursing or regulatory department, for which grounds for disciplinary actions include a breach of nurse-patient confidentiality or unprofessional conduct, could be a real possibility.

### **IMPLICATIONS FOR THE HOME HEALTHCARE AGENCY AND NURSE**

There is no question that sound policies concerning use of a facsimile machine must include what types of information can be sent in this manner and what categories of information cannot be disseminated. These decisions should be made in consultation with legal counsel so that the policies are consistent with current state and federal law.

It is important to note that generally, non-healthcare employees who have access to patient information, such as secretaries, can receive and see information that is not otherwise restricted. As employees, they are bound to preserve and maintain the privacy and confidentiality of any and all patient information they have access to, from whatever source. However, it may be that a particular state law prohibits even those employees from receiving certain types of information. For example, if a state HIV statute only

allows the sharing of test results with specified individuals, and the secretary or any other employee is not listed as one of those specified individuals, then faxing a test result that identifies the subject is prohibited.\*

And, an important caveat is in order concerning the faxing of any patient information. When an agency uses its own internal facsimile machine, the potential problems of an invasion of privacy or a breach of confidentiality are argueably minimized. When, however, the agency uses a facsimile service for which the person receiving the transmission is in no way connected to the agency as an employee, a breach of confidentiality or an invasion of privacy has already taken place. Furthermore, control over the information faxed is left to chance.

Last, but not least, when the home healthcare agency or nurse uses a facsimile machine to send patient information to another agency, physician's office, or insurance company, just to name a few examples, it will be equally important to ask about that entity's facsimile arrangements. Is the transmission received in the office or company itself, or does it go to a service? And, if the transmission is received in the company itself, is the machine located in a central mail room (which again decreases control over how many people have access to the information)?

The presence or absence of a

\* For a review of some of the state laws concerning HIV status and AIDS and confidentiality, see Nancy Brent's series on this topic in the following editions of *Home Healthcare Nurse*: 8(1) (January/February 1990); 8(2) (March/April 1990); 8(3) (May/June 1990); and 8(4) (July/August 1990).

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cover sheet probably has little effect on confidentiality and privacy other than it may make it more difficult to see the information once the facsimile transmission is received. Remember, however, that until the transmission is stored with the cover sheet, the person "manning" the machine and compiling the transmitted material will have already seen the information.

In short, focusing on a preven-

tative risk management approach to the use of facsimile machines is "good business." There is no doubt that facsimile machines can save time, increase business, and help deliver patient care information quickly and efficiently. However, without the written, informed consent of the patient to send private and confidential information about him *via* a facsimile machine, the hasty use of this technological advance also may

make it an even bigger "legal headache" for home healthcare providers if patient confidentiality and privacy considerations are ignored.

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#### References

1. Black HC. *Facsimile Transmission*. 5th Edition. St. Paul, MN: West Publishing Co., 1983.
2. Brent NJ. Avoiding professional negligence: A review. *Home Healthcare Nurse*. 1990; 8(5):45-47.

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## Letters to the Editor

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*To the Editor.*—I was thumbing through my old issues of *Home Healthcare Nurse* and I read Nancy Brent's article "Referral by Facsimile: New Legal Headache for Home Health Care?" (November/December 1989). This issue is so pertinent to my company's most recent managers meeting, which covered legalities of the use of facsimile transmissions for referrals, laboratory reports, and information on patients with communicable diseases (such as AIDS and other sexually transmitted diseases). My questions are as follows.

1. Are we breaching confidentiality by faxing laboratory results to physicians' offices? They are primarily routing laboratory reports such as CBC SMA LYTES. We also receive lab work from other outside laboratories without cover sheets.

2. We are not currently accept-

ing facsimile transmissions from outside referring agencies, but we are having referrals sent *via* facsimile transmission from our main office to our five branch offices. Should we have a policy on what type of referrals must be made over the phone (e.g., for cancer, AIDS, hepatitis) in order not to breach confidentiality? Can we fax this sort of information with reasonable feelings of trust in our employees that confidentiality will be maintained? In the branch offices, the secretaries are positioned nearest the fax machines.

Dana Morvant, RN, BSN, Home Care Supervisor  
Nursing Care Inc. and Hospice of South Louisiana  
Thibodaux, Louisiana

*Editor's Note.*—Please see Nancy Brent's Legalities of Home Care column in this issue for responses to Ms. Morvant's questions.

Editor

*To the Editor.*—Many thanks for your show of humanity regarding the cover of the July-August 1991 issue (volume 9, number 4). As students more than one of us made that same mistake before graduation day.

On the more serious side, I want to thank you for publishing such an informative publication for the home healthcare field. This particular issue affirmed my long-ago choice to work in the home care setting after graduation. The \$30 price tag on my subscription seemed a bit high at the time I mailed it, but I have had no regrets since receiving the first issue.

Marge Middaugh, LPN

*Editor's Note.*—Isn't it amazing how we look but do not see. The cover you speak of reminds me of what we all try to do—two things at once and without the proper equipment. Thank you for your humor and compliments.

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**

MAR 25 1992



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Town Accountant

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

Rarely use the Town Counsel for advice. Questions regarding personnel or payroll are handled by the Town Manager office.

I would only use legal counsel if the Town Manager requested

I am not in a position to answer the following questions as I have had no experience.

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most **difficult** for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Council On Aging

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

No need to date.

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

Have not needed representation to date.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

N/A

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

There may be an increased potential for personal injury claims. With the opening of the senior center we anticipate increased participation. The COA van, should it be involved in a driver fault accident, has on-going liability potential.

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

No opinion. Palmer and Dodge have never been used by COA.

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

See above.

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

No information for an opinion.

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

No experience with firm.

**9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.**

None

**10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.**

No case involving COA.

**11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.**

No case involving COA.

**12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.**

See above

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

Firm not used by COA.

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

See above.

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

No experience with this firm.

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

No opinion based on no experience with this firm.

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Acton Memorial Library

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

In past years, the library has consulted Town Counsel about the status of library employees, relationship of Library Trustees to the Town Charter and Trust Funds. These inquiries required interpretation of state statutes.

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

Town Counsel has not represented the library.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

Town Counsel has not represented the library.

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

The Memorial Library does not anticipate needing the services of Town Counsel within the designated time period. However, the Selectmen should be aware that there is always the possibility of a censorship related issue which would require legal services.

With respect to the Town's needs, it seems counsel would be required for issues related to zoning and appeals, tax-taking and union related concerns.

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

Not applicable

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

The Board of Trustees is unaware of Palmer & Dodge's expertise with library related issues (e.g. censorship, patron record confidentiality)

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

Not applicable

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

Palmer & Dodge is a well-established, respected firm with the ability to advise the Town on many issues. Is there any documentation on how many occasions lawsuits are settled without going to trial? If the incidence is high, it may be because the firm's reputation eliminates frivolous/nuisance complaints.

**9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.**

Zero

**10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.**

No examples

**11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.**

No examples

**12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.**

No examples

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

No experience

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

Town Manager's office

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

The library's limited experience would rate "4". In past years the Board of Trustees has requested (an received) opinions from Town Counsel, through the Town Manager's office. In some cases, it would have been helpful to have had direct access to counsel and been able to discuss the issue.

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

The library has insufficient experience with Town Counsel to offer an opinion. However, should a different firm be contracted for legal services would that decision not require a massive investment of staff time? It would seem that in many instances the new counsel would want past decisions, practices, cases reconstructed.

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**



The Board of Selectmen have asked me to conduct a survey of your opinion concerning the quality and level of legal service provided by Palmer and Dodge. They seek your valued input on this serious matter. To that end, please complete the following questionnaire and return it to the Manager's Office by 4 P.M. on March 26, 1992. Thank you for your time and consideration.

Name of department/board Town Clerk's Office

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

The Town Clerk's office uses legal counsel on election/town meeting questions, but very infrequently

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

N/A

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

N/A

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

I foresee no additional need for legal counsel in the next few years.

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

N/A

6. Of principal needs for legal counsel you have listed for your department/board in response to the ~~next~~ prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

N/A

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

N/A

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

My experience with legal services provided for town clerk questions is limited to dealings with Palmer & Dodge (more specifically Mike Callaghan & Norm Cohen). Thus, I cannot make any comparison.

On a strictly "professional services" basis Palmer & Dodge shines, providing prompt, complete and definitive responses.

9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.

About one hour of service plus/minus \$100.

10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.

N/A

11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.

N/A

12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.

N/A

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

Refer to #9

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

N/A

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

5

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

From discussions of town clerks' problems with other town clerks, I have noted that Acton's legal service/support is far better than many towns. The only other town clerk who appears content with the town's legal services is the Lexington town clerk where Palmer & Dodge serves as legal counsel.

Since Palmer & Dodge is a top legal firm with a diversified staff which serves Acton well, I would vote to maintain it.

**TO: ALL DEPARTMENTS/BOARDS**  
**FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER**  
**DATE: March 17, 1992**  
**SUBJ: TOWN COUNSEL**



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Name of department/board Citizens Library/Board of Trustees

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved).

The Citizens Library/Board of Trustees have not used the legal service of Palmer and Dodge.

2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

3. Please list a specific legal matter in which you were displeased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of lead counsel, and the specific reason you were displeased.

4. What does your department/board see as your and the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.

5. Of principal needs for legal counsel you have listed for your department/board in response to the prior question, which (pick one need only) do you feel Palmer and Dodge is best qualified to fulfill? Explain the basis for your opinion.

6. Of principal needs for legal counsel you have listed for your department/board in response to the next prior question, which need would be the most difficult for Palmer and Dodge to fulfill completely? Explain the basis for your answer.

7. Please specifically describe the legal needs that you feel are not being fulfilled by Palmer and Dodge.

8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

**9. Please estimate the hours and the dollar amount of legal services consumed by your department over this fiscal year.**

**10. Without revealing any privileged information, give an example of a case, in which Palmer and Dodge's advice to your department/board has had a particularly beneficial effect.**

**11. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has obtained a particularly beneficial outcome for your department/board.**

**12. Without revealing any privileged information, give examples of litigated cases (court, arbitration, ADR, etc.) in which Palmer and Dodge has not obtained a favorable outcome for your department/board and explain why you feel they were not successful.**

13. Please place a fair compensation rate (hourly) for the legal services you have received from Palmer and Dodge. The rate you choose should be based on the value of the service not on the billing rate of Palmer and Dodge, but it should relate to the rates charge within the legal profession.

14. Who was responsible for staffing decisions and staff selection at Palmer and Dodge for services provided to your department/board?

15. Please rate your total experience with Palmer and Dodge on a scale of 1 - 5; with 1 being very unhappy and 5 being very pleased. Rate in whole numbers only.

16. Why should the Town of Acton maintain or dismiss Palmer and Dodge as Town Counsel?

PALMER & DODGE

One Beacon Street  
Boston, Massachusetts 02108

CC: BOS

agenda item: Town Council

3/31/92  
MAR 24 1992 10

Telephone: (617) 573-0100

Facsimile: (617) 227-4420  
Telex: 951104

March 20, 1992

Mr. John Murray  
Town of Acton  
472 Main Street  
Acton, MA 01720

Dear John:

I enclose copies of some additional materials relative to Palmer & Dodge's experience in land use matters, which I have interpreted broadly to include environmental matters of all kinds. The enclosed material describes the activities of our real estate and environmental group. These duplicate some of the material we supplied in response to the Town's RFP, but focuses more on representation of private clients. The experience and knowledge of the applicable law is equally relevant and available to public entities, however.

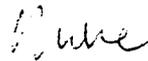
With respect to more traditional zoning and subdivision work, I have been representing Acton and other towns in such matters for more than twenty years. I enclose a listing of some of the zoning and subdivision cases involving municipalities, which have reached an appellate court. In addition, we have advised the town concerning two major revisions of the zoning bylaws, as well as given hundreds of

March 20, 1992

Page 2

opinions to Acton and other towns on zoning and subdivision issues.

Very truly yours,



Acheson H. Callaghan

AHC/dcb

Turnpike Realty Co., Inc. v. Dedham, 362 Mass. 221 (1972), cert. denied 409 U.S. 1108, established the constitutionality of flood plan zoning in Massachusetts and is one of the leading cases on the subject nationally.

Bellows Farms, Inc. v. Building Inspector of Acton, 364 Mass. 253 (1973), established the distinction between the protection against zoning changes afforded by subdivision plans and approval not required plans.

Maidier v. Dover, 1 Mass. App. Ct. 683 (1974), sustained the validity of residential zoning of the plaintiff's land.

Cerel v. Natick, 2 Mass. App. Ct. 833 (1974), upheld position of the Town with respect to the applicability of cluster zoning amendments.

Wilson v. Sherborn, 3 Mass. App. Ct. 237 (1975), is the leading case in Massachusetts upholding validity of large lot zoning.

Save the Bay, Inc. v. Department of Public Utilities, 366 Mass. 667 (1975), upheld the granting of an exemption from local zoning granted by the DPU to our client.

Hamilton v. Planning Board of Lexington, 4 Mass. App. Ct. 802 (1976), upheld the decision of the Planning Board disapproving subdivision plan because of drainage problems.

Ostroff v. Board of Appeals of Lexington, 4 Mass. App. Ct. 865 (1976), further review denied, 371 Mass. 901, upheld the Board's decision denying a building permit because of absence of adequate frontage.

Foster Masonry v. Board of Appeals of Acton, 13 Mass. App. Ct. 546 (1982), further review denied, 386 Mass. 1105, upholding denial by the Board of Appeals of an earth removal permit.

Commonwealth v. Porrazzo, 25 Mass. App. Ct. 169 (1987), recognizing right of towns to enforce their zoning bylaws by criminal actions.

Nahigian v. Lexington, presently pending in Appeals Court, involves issues about the validity of the town's subdivision rules and residential zoning of part of the plaintiff's lot.

The Palmer & Dodge Real Estate Department provides legal services to public entities, companies and individuals involved in the acquisition, development, financing, construction, operation and leasing of commercial real estate. Our development experience extends from downtown Boston to its suburbs and elsewhere in New England, and our financing and workout practice takes us throughout the United States. The broad experience of our real estate lawyers enables us to offer clients practical advice on all of their real estate matters.

### **Development and Permitting**

In recent years Palmer & Dodge has represented the developers of a variety of projects in Boston, varying from waterfront condominiums to a downtown hotel and retail project, to a mixed-income, multi-use condominium in a historic structure, to an office/retail complex that serves community-owned nonprofit organizations. In the suburbs, our experience includes shopping centers, multi-family housing, office park developments and industrial facilities. Such development work typically involved extensive zoning, land use and environmental permitting. Development projects on which we have worked include:

- We currently represent Genzyme Corporation, a successful biotechnology company in connection with the development of its new \$70 million manufacturing facility in Boston.
- We currently represent Logan Harborside Associates II Limited Partnership (an affiliate of Macomber Development Associates) in connection with its development of the Harborside Hyatt Conference Center and Hotel. Harborside is located on land ground leased from the Massachusetts Port Authority on the Bird Island Flats section of Logan International Airport and overlooks Boston Harbor. We represented the developer in negotiating its long-term ground lease with Massport, as well as reviewing compliance with Chapter 91, MEPA, NEPA and other land use issues. Harborside was financed by \$40 million in tax-exempt revenue bonds issued by Massport; Massport also provided \$10 million of credit enhancement for the bonds. We represented the developer in that financing.
- In a recent competition we were selected over several other major Boston law firms to represent TUDC, Inc. (an affiliate of Tufts University), in connection with its role as developer of the proposed South Station Air Rights Project. That work will involve zoning and environmental permitting as well as negotiating complex agreements with the Boston Redevelopment Authority, the Boston Transportation Department, the MBTA and other public agencies.
- For the Lafayette Place project (developed by an affiliate of Mondeev International Ltd. of Montreal), we represented the developer in obtaining zoning approvals, approvals under M.G.L. Chapter 121A, historic preservation, MEPA and NEPA approvals and other environmental permits. Lafayette Place consisted of three

components: an underground garage built by the developer but owned by the City of Boston (we handled the tax-exempt financing of the garage), an air rights hotel development and an air rights retail mall (we also handled the \$75 million construction financing for both air rights components). Lafayette Place also involved several joint ventures and other joint ownership agreements. We traveled to Zurich to negotiate a partnership for the Lafayette Hotel, between subsidiaries of Mondeve International Ltd. and Swissair Associated Companies, Ltd.

- For the Post Office Square Park and Garage Project, Palmer & Dodge devised a land acquisition strategy that involved an eminent domain taking by a private developer, using power derived under Chapter 121A. As partial payment for the value of the land taken by eminent domain, the developer created and conveyed to the City an air rights parcel over this site. (The air rights parcel was subsequently transferred to the City's Parks and Recreation Department so that the site will be preserved as a park.) The settlement agreements, urban renewal applications and various development agreements with City agencies were complicated and the subject of extensive negotiation. We also represented the developer in obtaining \$29 million equity private placement and \$60 million construction financing for the project.
- For Unicorn Park, an award-winning 5 building office park in Woburn, we represented the developers, two separate joint ventures, each involving Metropolitan Life Insurance Company as one of the co-venture general partners. We also handled the local zoning and subdivision permitting for the office park as well as over \$45 million (debt and equity) of joint venture financing for the development, and continue to represent Unicorn Park's owner in office leasing and landlord-tenant matters.
- We are currently representing M.I.T., New England Deaconess Hospital, Joslin Diabetes Center and other institutions in obtaining the necessary zoning and environmental permits needed for major new buildings and building renovations.

In addition to large-scale projects, our real estate lawyers regularly handle smaller projects and transactions for small and mid-sized businesses and, because of our experience and staffing flexibility, we are able to handle such matters efficiently.

The Environment Group once focused on the needs of clients with what one might call "traditional" environmental concerns. But in an era where environmental issues have riveted the nation's attention, and where environmental legislation and enforcement actions have expanded in response, the Environment Group at Palmer & Dodge plays an increasingly critical role in matters ranging from construction to banking to real estate. To address the complexity of today's environmental cases, Palmer & Dodge has continued to add to the talents of its Environment Group, and to broaden the multi-disciplinary network of lawyers in the firm from which the Group can draw additional support and experience. The Group now includes leading attorneys in the areas of water pollution, hazardous waste site cleanup, waterways regulation, and energy and solid waste facility siting.

*The Practice*

Seven lawyers form the core of the Environment Group. Collectively, they have represented clients in a wide variety of cases linked to environmental laws and regulations. Members of this core group are but one part of a much larger membership from which Palmer & Dodge can assemble a team for any environmental matter. As environmental issues began to surface in real estate and corporate transactions, financing deals, and insurance coverage, Palmer & Dodge responded by creating a network between the Group's core attorneys and attorneys whose environmental experience has developed in the context of conventional practice areas. Organizing the firm's environmental expertise in this way enables the Group to meet specific client needs not only with the expertise of the firm's environmental attorneys, but also with the firm's strengths in insurance litigation, communication with the legislative and executive branches of government, business and tax-exempt finance, and real estate development.

Recent examples of how the Environment Group has harnessed the full resources of Palmer & Dodge to provide successful representation beyond the bounds of a traditional environmental practice include:

- For a public utility, Palmer & Dodge provided representation with respect to toxic torts, Superfund cleanups, rate proceedings before the Department of Public Utilities, litigation with liability insurers, and financial issues surrounding potentially large environmental liabilities.
- As part of the successful development of cogeneration facilities, Palmer & Dodge assembled a team that was well-versed in tax-exempt finance, real estate and corporate transactional work, and traditional siting and permitting negotiations.
- For a developer of a large waterfront project, the Palmer & Dodge legal team assisted in obtaining financing for the projects, obtained the key environmental and waterways permits and zoning approvals, and conducted lease negotiations.

## *Selected Experience*

### **Hazardous Waste Litigation**

- **Coal Gasification Sites, Lowell, Massachusetts.** On behalf of a local gas utility, we initiated and conducted successful mediation of hazardous waste claims under state law with the Department of Environmental Protection (DEP) and local residents.
- **Plympton, Massachusetts.** As common counsel, we represent several gas utilities in a hazardous waste enforcement action by DEP at two sites involving soil and groundwater contamination created by a former lead smelting operation.
- **Coal Gasification Site, Lynn, Massachusetts.** We represent a regional public utility and its holding company in a Superfund cost-recovery action brought by a private party. Although a Superfund case, the litigation centers on public utility and corporate law.
- **Re-Solve Superfund Site, Dartmouth, Massachusetts.** As a member of the Executive Committee that represents the fifty-seven settling parties, we helped negotiate a global settlement with EPA and currently assist in managing the implementation of the site cleanup under the consent decree.
- **Sullivan's Ledge Superfund Site, New Bedford, Massachusetts.** We have represented one of approximately twenty potentially responsible parties at this complex superfund site. We are currently serving as common counsel to a group of settling parties regarding compliance with a consent decree. This representation requires negotiating with regulatory agencies, obtaining site access, negotiating large contracts for remedial work, and assisting in the implementation of group participation and trust agreements.
- **Hartwell Road Wellfield, Bedford, Massachusetts.** We represent the Massachusetts Port Authority, one of four defendants, in a CERCLA cost recovery action brought by the Town of Bedford in United States District Court for the District of Massachusetts. We are coordinating the defendants' efforts to bring in third parties.
- **Northwest Industrial Park, Burlington, Massachusetts.** We represent one of the twelve parties that negotiated a consent decree to settle groundwater contamination claims by the Town of Burlington and DEP.
- **Cannons Engineering Superfund Sites.** We represent the owner of one of the four Cannons sites who settled with the EPA in August 1988.

- **Hanover, Massachusetts Superfund Site.** We represent a potentially responsible party at a former munitions factory at which EPA ordered a removal action to be undertaken.

### **Clean Water Act Matters**

In addition to the extensive Clean Water Act expertise Palmer & Dodge has with respect to municipalities, the firm also has experience in the private sector:

- **Philips Elmet, Lewiston, Maine.** We represent North American Philips in an enforcement action brought by the EPA. The case centers on the wastewater pretreatment requirements of the Clean Water Act.
- **M/A Com, Inc.** We represent M/A Com in a pretreatment enforcement action also, but one brought by a regional water authority, not the federal government.
- **Strathmore Paper Company.** We are special counsel advising Strathmore on two NPDES permit renewals in Massachusetts.

### **Solid Waste**

- **North East Solid Waste Committee (NESWC).** We serve as special counsel to this association of twenty-three Massachusetts communities in their agreements with the North Andover RESCO waste-to-energy plant. Advising NESWC about operating and permitting issues at the Peabody ash landfill, as well as contractual disputes under NESWC's service agreements, is an important feature of this representation.
- **Energy Answers Corporation (SEMASS).** As bond counsel for this project, we have worked closely with SEMASS on environmental permitting, landfill closure and capping issues, and the development of an innovative regional recycling program.
- **Saugus RESCO Communities.** We advise seventeen communities under contract with the Saugus RESCO waste-to-energy facility.
- **Dover, Sherborn, and Weston, Massachusetts.** We negotiated long-term solid waste disposal contracts for these towns with the Millbury RESCO waste-to-energy facility.
- **City of Boston and the Town of Weston.** We are representing Boston and Weston on landfill and transfer station compliance and permitting issues. In both matters, we are defending private lawsuits and state administrative actions.

- **Merrill Lynch Capital Markets.** We acted as underwriters' counsel in connection with the development and financing of a \$100 million solid waste disposal system in Huntsville, Alabama. The project included negotiation of vendor contracts and a waste delivery agreement with the city, as well as the enactment of a city-wide "flow-control" ordinance.
- **Metrowest MRF.** As Town Counsel to Sherborn, we have been closely involved in the development of a Materials Recovery Facility (MRF) by a consortium of municipalities.
- **Town of Montague.** We have advised the Town of Montague on the procurement of services to design, construct, permit, and operate a new landfill.
- **Shawmut Bank.** We have acted as trustee's counsel in several financings of solid waste facilities, including the financing and refinancing of the Ogden Martin resource recovery project in Haverhill.
- **Consumat Systems, Inc.** We served as finance counsel for the developer of this ash and municipal landfill in Bethlehem, New Hampshire.
- **Legislation.** We participated in drafting the solid waste bill that served as the basis for the Solid Waste Management Act, Chapter 584 of the Acts of 1987.

#### **Municipal Clients In Environmental Matters**

- **Groton, Massachusetts.** We advise the Town of Groton in a state hazardous waste matter arising out of the contamination of groundwater at the Conductorlab hazardous waste site.
- **Refuse Energy Systems Company (RESCO) Communities.** We represent a group of northshore communities regarding solid waste regulations and contractual issues arising out of a service contract with RESCO for disposal of solid waste.
- **Northeast Solid Waste Committee (NESWC).** We are advising NESWC, comprised of over twenty municipalities, regarding environmental and contractual issues related to contracts for solid waste disposal with Massachusetts RefuseTech, Inc. (MRI).
- **Clean Water Act.** We represent numerous cities, towns, and public authorities with respect to compliance requirements of the Clean Water Act, including such tasks as litigating enforcement actions, negotiating settlements, and counseling on regulatory compliance issues. We currently represent the City of New Bedford, which is under order to build a multi-million dollar secondary wastewater treatment plant and to

eliminate combined sewer overflows. This case requires knowledge of the state revolving fund, experience in floating municipal bonds, access to the numerous political forces at play, and an ability to negotiate with both federal and state agencies.

- **Clean Air Act.** We represent a public authority in enforcement actions concerning operation of sewage-sludge incinerators. We also provide advice on Clean Air Act compliance in general.
- **Lexington, Sherborn, Dover, and Acton, Massachusetts.** We routinely advise these four towns on environmental and land-use matters. We also frequently represent these towns in prosecuting environmental enforcement actions.

Chris  
Have they send a  
clean copy to Mr. Wagner  
3/27  
3-26-92

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

3/31/92 (11)

DATE: January 3, 1992

TO: Don P. Johnson, Town Manager  
FROM: Garry A. Rhodes, Building Commissioner  
SUBJECT: Superior Trading Corp., Class II License, 790 Main Street

I have had the opportunity to investigate the allegations that are contained within your December 20, 1991 letter to Superior Trading. At the time of my initial inspection only six cars were for sale on the site. The license is limited to six vehicles. There were, however, two vehicles in the rear portion of the lot (they have since been removed) that did not appear to be running or for sale. There is also a boat that, according to Mr. Wagner, belongs to himself and is stored there.

I have reviewed the license and it does not accurately describe the business. The gas station is no longer in operation. Mr. Wagner also appears to be storing/repairing vehicles at 50 Great Road. He has indicated to me that he is not selling from that site. The items noted above are in violation of MGL C140 sec 59 which reads as follows, "the license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business". 50 Great Road is located in the East Acton Village District, Zone 3, of the Groundwater Protection District. Repair of motor vehicles is a protected, non-conforming use, however, storage of vehicles is only allowed by special permit from the Planning Board and selling is not allowed at all.

Sometime around 1985 the underground storage tanks were removed from 790

Main Street. When the site was restored the pavement where the tanks had been was not replaced. Several of the vehicles are stored on these gravel areas. This site is located in Zone 3 of the Groundwater Protection District.

The free-standing sign advertises Esso, the name of the gas station that is no longer there. It is my opinion that the sign is in violation of AZBL section 7.4.2. I will be pursuing the removal of the sign.

In considering the release of the license for the full year, the Board of Selectmen may wish to consider the following:

1. Mr. Wagner should explain what is happening on 50 Great Road. If he is storing or selling vehicles this would be in violation of zoning. In any case, the license should detail where the business is taking place and under what conditions.
2. The gas station is no longer in operation and the license should be changed to reflect it.
3. 790 Main Street is located in Zone 3 Aquifer. All vehicles should be restricted only to paved areas. The pavement that was removed should either be replaced or vehicles restricted from parking there. This site does not have an adequate repair facility and only vehicles that are operable should be located there.

If you need additional information, please contact me.

(307)

T.M.'s report

3/31/92  
12

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE: 3/27/92

TO: John Murray, Assistant Town Manager  
FROM: Planning Department  
SUBJECT: MAPC - Overall Economic Development Program

On 3/26/92 Steve Landau of MAPC notified the Acton Planning Department that Acton has recently become eligible for federal EDA (Economic Development Authority) benefits due to a combination of unemployment rates and poverty levels. Stow, Hudson, Maynard, and Southboro have also become eligible for funding of public works projects by the EDA.

At present, the EDA has \$154 million to fund public works projects. The dual goal of this round of funding is 1) short term jobs through public works projects, and 2) long term manufacturing jobs. An example of a current project using EDA funds is Digital's construction of an additional building and the associated infrastructure improvements in Hudson.

MAPC has linked the Capital Investment Program of MetroPlan with EDA funds through the development of an Overall Economic Development Program for the MAPC region. To enable Acton to become eligible for EDA funds and to participate in the Overall Economic Development Program, a vote of the Board of Selectmen is required. Attached is a draft letter provided by MAPC indicating the Town's willingness to participate in the EDA program and the Overall Economic Development Program at MAPC.

Mr. John E. Corrigan,  
Regional Director  
Economic Development Administration  
Liberty Square Building  
105 South 7th St.  
Philadelphia, PA 19106

Dear Mr. Corrigan:

I am writing to request that the Town of \_\_\_\_\_, Massachusetts be qualified to participate in the Title II: Public Works and Development Facility Assistance Program managed by the Economic Development Administration.

As \_\_\_\_\_ is within the region of the Metropolitan Area Planning Council (MAPC), it is my understanding that we will be included in the Overall Economic Development Program being prepared by MAPC.

Thank you for your attention to this matter.

Sincerely,

cc: William Fitzhenry, Massachusetts EDA Representative  
O'Neil Federal Building  
10 Causeway St. Room 420  
Boston, MA 02222

Steven Landau  
OEDP Project Manager, MAPC

\*\*\*END\*\*\*

TO: THE BOARD OF SELECTMEN  
FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER  
DATE: March 25, 1992  
SUBJ: FINCOM'S BUDGET HEARING



File  
copy 3/31/92

I was very distressed by Fincom's characterization of the 3.9% total appropriation increase as deceptive. It implied an deceitful action by The Board and by Staff. I would suggest that if total appropriation were to increase 10%, due to debt and warrant articles, and we reported a lesser amount because of the total portrayed by table two, Fincom would be the first to scream foul. As I recall, in my first year with the Town Fincom under the direction of Charlie Kadlac rightfully pointed out to Town Meeting that Municipal spending had increased by the total of budget and warrant articles. It would appear to me that Fincom (different members) have employed a double standard of determining the amount of increase from one year to the next. I strongly believe, that if the Coordinating Committee Plan is to incorporate debt and interest, and warrant articles into the Town's guideline, that total appropriation is the correct total to be used to determine the amount of increase. Further, the Regional School Budget incorporates debt and interest, and capital items into their assessment. Are we once again being held to a different standard?

A second issue that was of concern to the Fincom was the allowable percentage increase for utilities. The numbers in the Coordinating Committee's Three year plan are based upon a series of assumptions. The sole use of these assumptions is to determine the amount of monies allocated to the Schools and the Town. They are not to be used to generate a specific line item total. If the Town was required to abide by each and every assumption, the proposed budget would not include a infrastructure repair program. The simple reason for this is there is not an assumption that funds an infrastructure program.

BOS

TO: DEAN CHARTER, MUNICIPAL PROPERTIES DIRECTOR  
FROM: JOHN MURRAY, ASSISTANT TOWN MANAGER  
DATE: March 25, 1992  
SUBJ: MONUMENT LIGHTING



As you may recall late last May or early June, you were asked to repair the lights on the Isaac Davis Monument in the center of Town. In mid to late June you asked and received permission to delay the project until the fall and use the monies set aside for that project for a project you had scheduled for the fall. I presume that due to weather conditions, you were not able to start the project in a timely manner. Now the Spring has arrived and due to the fact that the Monument is the centerpiece of the Town Common, please insure that the repair/replacement of the lights are completed as soon as possible.

cc: BOS



• TEL. (508) 897-7103

570 GREAT ROAD • STOW, MA 01775

REALTOR

Board of Selectman

March 20, 1992

Town of Acton  
Town Hall  
Acton, MA. 01720

MAR 24 1992

re: Post Office Square Traffic Signals

Dear Chairman:

John Murray has asked me to detail the current situation regarding the traffic control at the RT 27/ Post Office intersection.

I received a proposed agreement from Don Johnson on July 10, 1991 which I gave to my attorney for review. I did discuss with the Town that the form would have to be modified since Technology Real Estate Trust only owns a private road that has no value due to the easements. Therefore, I as trustee couldn't use as security anything other than the cash collected from the abutters for the stoplight construction.

At the same time the impact of the latest zoning changes became apparent. Now, instead of being able to construct an additional 160,000 sq. ft. of building, We would only be able to construct 20,000 sq. ft. (6,000 -lot 6/7 and 14,000 - lot 4). Lot three is now non-conforming and lot 2 is owned by Boston Edison for a non-manned transformer in the distant future.

Since the higher projection formed the basis for the decision to require a traffic light, and no one wants an extra stoplight on a main road if its not necessary; perhaps we should reconsider the requirement for the light.

I have discussed my thoughts with John Murray, Dave Abt, and John Kennedy of Vaness Hagen Brestlin. Based on the conversations, I propose to pay Vaness Hagen Brestlin for a review of the traffic study which formed the basis of the original decision. He would also take any necessary traffic counts. He will then provide your board with a report for review.

Please let me know what you desire.

Very truly yours,

*Roy C. Smith trustee*

Roy C. Smith  
Trustee  
Technology Real Estate Trust

cc: BOS

  
**BOSTON EDISON**  
800 Boylston Street  
Boston, Massachusetts 02199

March 23, 1992

Mr. John Murray  
Assistant Town Manager Acton  
472 Main Street  
Acton, MA 01720

Dear John:

It was nice to see you again even though it was over a serious issue, power outages.

Responding to your letter dated February 19 is the following information:

1. Cause of the outage was wires came down between poles 31/6 and 31/7 on Main Street, Acton.
2. The power was rerouted except the area where the wires came down.
3. The time differential between Framingham and Maynard was not a factor in this outage because Maynard never had crews working before 7:30 AM. This outage started at 6:41 AM on February 14th.
4. There were very few customer calls to Framingham. They were all handled in Boston. The customer service people in Boston informed the Acton callers that the crews were working on the problem.
5. The town officials were not notified of the outage because of its short duration. However, unknown to us at the time was that a line switch had opened on pole 6/1 Central Street and kept a large section of the circuit without power. When customers started calling in to see what was taking so long, we informed them that we were unaware of the line switch problem.

This was a unique situation that occurred.

Let me close by saying that Boston Edison is always concerned with outages and we shall continue to try and reduce the number in your community.

Sincerely,



Jack Goggin  
District Manager

## PALMER &amp; DODGE

One Beacon Street  
Boston, Massachusetts 02108

Telephone: (617) 573-0100

March 19, 1992

Facsimile: (617) 227-4420  
Telex: 951104

Robert Moran  
A. C. Chevrolet  
171 Great Road  
Acton, MA 01720

Dear Mr. Moran:

This firm is Town Counsel of Acton. We have been asked to take legal action, if necessary, to enforce compliance by A. C. Chevrolet with Section 7.3.4 of the Town of Acton Zoning Bylaws ("the Bylaws"). A. C. Chevrolet continues to violate Section 7.3.4 of the Bylaws by displaying A-frame signs outside its place of business at 171 Great Road in Acton.

An A-frame sign is a "movable sign" under Section 7.2.12 of the Bylaws. Section 7.3.4 prohibits, in all town districts, the use of a movable sign such as you have displayed.

The Town of Acton has documented numerous violations of Section 7.3.4 of the Bylaws by A. C. Chevrolet. The Town has provided written notice to A. C. Chevrolet that its display of A-frame signs is in violation of the Bylaws and has fined A. C. Chevrolet on at least four occasions for such violations.

Despite the Town's repeated efforts to enforce compliance, A. C. Chevrolet persists in displaying A-frame signs. Therefore, unless A. C. Chevrolet immediately removes all A-frame signs currently displayed and refrains from using such signs in the future, the Town of Acton will seek an injunction from the Superior Court, pursuant to Massachusetts General Laws Chapter 40A, Section 7, to restrain A. C. Chevrolet from further violation of Section 7.3.4 of the Bylaws.

Sincerely,

*Ellen B. King*  
Ellen B. King

EBK/tam

cc: **Don Johnson, Town Manager, Town of Acton**  
Garry A. Rhodes, Building Commissioner, Town of Acton

## PALMER &amp; DODGE

One Beacon Street  
Boston, Massachusetts 02108

Telephone: (617) 573-0100

Facsimile: (617) 227-4420  
Telex: 951104

March 19, 1992

Rose of Sharon  
128 Great Road  
Acton, MA 01720

Dear Sir or Madam:

This firm is Town Counsel of Acton. We have been asked to take legal action, if necessary, to enforce compliance by Rose of Sharon with Section 7.3.4 of the Town of Acton Zoning Bylaws ("the Bylaws"). Rose of Sharon continues to violate Section 7.3.4 of the Bylaws by displaying A-frame signs outside its place of business at 128 Great Road in Acton.

An A-frame sign is a "movable sign" under Section 7.2.12 of the Bylaws. Section 7.3.4 prohibits, in all town districts, the use of a movable sign such as you have displayed.

The Town of Acton has documented numerous violations of Section 7.3.4 of the Bylaws by Rose of Sharon. The Town has provided written notice to Rose of Sharon that its display of A-frame signs is in violation of the Bylaws and has fined Rose of Sharon on at least seven occasions for such violations.

Despite the Town's repeated efforts to enforce compliance, Rose of Sharon persists in displaying A-frame signs. Therefore, unless Rose of Sharon immediately removes all A-frame signs currently displayed and refrains from using such signs in the future, the Town of Acton will seek an injunction from the Superior Court, pursuant to Massachusetts General Laws Chapter 40A, Section 7, to restrain Rose of Sharon from further violation of Section 7.3.4 of the Bylaws.

Sincerely,

*Ellen B. King*  
Ellen B. King

EBK/tam

cc: ~~Don Johnson, Town Manager, Town of Acton~~  
Garry A. Rhodes, Building Commissioner, Town of Acton

cc: BOS



*The General Court of Massachusetts*

*Joint Committee on Public Safety*

*Room 473B, State House*

*Boston, Massachusetts 02133*

*Telephone (617) 722-2230*

*Sen. James P. Jajuga*  
*Chairman*

*Rep. Paul E. Caron*  
*Chairman*

March 10, 1992

Ms. Nancy Tavernier  
Town Hall  
Acton, MA 01720

Dear Ms. Tavernier,

I would like to take this opportunity to say, Thank You, for taking the time to attend the Public Safety hearing on March 2, 1992.

When individuals like yourself take the time to attend public hearings, not only do the others in attendance benefit, but the members of the committee are often afforded several different enlightened points of view.

You can be assured that your presence at the meeting has been duly noted.

If I can be of any assistance to you in the future, please do not hesitate to contact my office.

With warmest regards,

Handwritten signature of James P. Jajuga in cursive.

JAMES P. JAJUGA  
Senate Chairman  
Committee on Public Safety

Handwritten signature of Paul E. Caron in cursive.

PAUL E. CARON  
House Chairman  
Committee on Public Safety

PEC:mm

cc: BoS



March 19, 1992

Mr. Dore Hunter, Chairman  
Board of Selectmen  
Town of Acton  
472 Main Street  
Acton, MA 01720

Dear Chairman Hunter:

I am writing to inform you that I have accepted a transfer to our cable system in Boston. In the three years since I arrived, a great deal of progress has been made in the relationship between Cablevision and the Town of Acton. I appreciate the spirit of cooperation that has allowed us to concentrate our efforts on the operation of the cable system. As a result, the service has improved, particularly telephone responsiveness and technical professionalism.

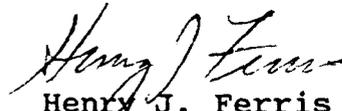
While I hate to leave this system, I am going to an exciting new challenge and am being succeeded by Pennie Contos, a twelve year veteran of Adams-Russell and Cablevision. She was born in Massachusetts, worked here for Adams-Russell and Cablevision, and most recently, was General Manager of Cablevision of New Jersey. She brings knowledge of the area, experience in cable operations and boundless enthusiasms to the job.

Jay Somers, the Director of Government and Regulatory Affairs has been promoted to Assistant General Manager and will work with Pennie to ensure a smooth transaction. He will continue to be the contact for you should you have any problems. Jay has been a strong partner with me and I am sure he will be the same with Pennie.

This management change will be transparent to those outside the company and the systems will continue to improve by focusing on customer satisfaction.

I will miss working with you and the other officials of the Town of Acton. It has been a wonderful three years, but we must move on.

Sincerely,

  
Henry J. Ferris  
General Manager

HJF/dw  
0516.HF



# Metropolitan Area Planning Council

60 Temple Place, Boston, Massachusetts 02111 617/451-2770

*servicing 101 cities and towns in metropolitan Boston*

March 20, 1992

F. Dore Hunter, Chairman  
Board of Selectmen  
Town Hall  
Acton, MA 01720

*Rec'd  
Planning Dept  
3/24  
3/23/92*

MAR 23 1992

RE: Inventory of Regional Facilities

Dear Chairman Hunter:

Siting regional facilities has created controversy regarding impact issues as well as claims that a municipality has more than its share of such facilities. The first step in addressing the equity issue is to determine where existing facilities are located.

A special committee has been established including the Legislative Joint Committee on Local Affairs, regional planning agencies, and interested parties from public/private groups. Because of the way siting is administered in Massachusetts, agency-by-agency, without inter-agency coordination, it is quite possible for a neighborhood, a municipality or region to indeed be accommodating a disproportionate share of regional facilities. *Currently there is no comprehensive database/map/listing of where facilities are located.*

We are developing an inventory of public, and publicly regulated, regional facilities which includes federal, state, county or several municipalities jointly. Please see the attached form. We ask that you fill it out for your community so we can include it in our data base. Please list the prime use only for a single location, i.e. a hospital may have many facilities or services.

After you fill-out the form, please return it to us at our office by April 10. We would appreciate it if you would be as complete as is reasonably possible. Please include, where possible, street addresses. We have listed a variety of facility types and there is space for "other" should there be one of concern to your community that is not listed. Also if you know of facilities that are in the planning, design or construction stage, please list them. Be sure to indicate at which stage of development they are at the time of this survey.

We appreciate your support for this important initial step. We realize that for some of you responding to this survey will require a substantial amount of work. We believe the resulting data base, built on your input, will make it worth your time and effort. If you have any questions, please contact Jean Christensen at MAPC in Boston at (617) 451-2770.

Sincerely,

*David C. Soule*  
David C. Soule  
Executive Director

DCS/JC/lab

Franklin G. Ching, President    Marjorie A. Davis, Vice-President    Martha K. Gjestebj, Secretary    Jay J. Donovan, Treasurer  
David C. Soule, Executive Director

cc: BOS



ENGINEERING DEPARTMENT  
472 MAIN STREET  
ACTON, MA 01720

March 19, 1992

Mr. Warren F. Birch, Esq.  
446 Main Street  
Acton, MA 01720

Dear Warren:

I have had Town Counsel review the deed for the two acres of meadow land you wish to donate to the Town. He informs me that the deed will need to include the address of the grantee (Town Hall, 472 Main St., Acton, MA 01720), the amount of the consideration (\$1.00, or sometimes we use the phrase "of less than \$100.00), and "et ux" after "Wallace H. Sherry" in the title reference in order to be recordable at the Registry of Deeds.

If you have any questions, please call me at 264-9628.

Very truly yours.

David F. Abbt  
Engineering Administrator

DFA/dmj

cc: Dean Charter, Municipal Properties Director  
John Murray, Assistant Town Manager ✓

TOWN OF BOXBOROUGH  
MASSACHUSETTS



29 MIDDLE ROAD  
BOXBOROUGH, MASSACHUSETTS 01719  
508 - 263-1116

March 17, 1992

MAR 20 1992

cc: BOS

I will attend  
Eden

Board of Selectmen  
Town of Acton  
472 Main Street  
Acton, MA 01720

Dear Board Members:

The Fire Chiefs of Boxborough, Stow, Acton, Maynard and Sudbury have completed their draft proposal to provide Regional Dispatch for the Fire Service.

A meeting was held by the Chiefs this morning, at which time they presented the dispatch proposal to the Chief Executive Official and Selectmen from each of the five Towns.

As a result of the meeting Selectmen and Town Administrators, especially in the three smaller communities, expressed some interest in the possibility of adding Police Dispatch to this Regional Proposal.

We understand that the two public safety departments are different in many ways, and we also know that there will be obstacles to overcome.

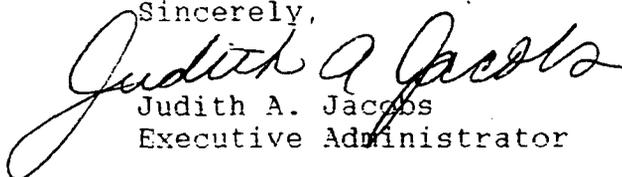
We should not however, forego this opportunity to explore these issues in an attempt to provide a professional dispatch for Fire/Police, at a potential cost savings to our communities.

I would like to invite you to a meeting on Friday, March 27, 1992 at Boxborough Town Hall, 29 Middle Road at 9:30 am. The proposed Dispatch Agreement will once again be reviewed, and, Police Chief input regarding concerns, problems and/or support will be heard.

Please R.S.V.P. to Town Hall Secretary Mahala Richards 263-1116 before March 25, 1992.

I look forward to seeing you. If you have any questions please feel free to call me.

Sincerely,

  
Judith A. Jacobs  
Executive Administrator

JAJ/mr

cc: BOS

Town of Acton

Planning Department

472 Main Street Acton, Massachusetts 01720

(508) 264-9636

**South Acton Village Planning Committee**

**Minutes for Meeting of:**

**March 11, 1992**

**Members in attendance:** David Hill (Chair), Robert Pion, Sushama Gokhale', Betsy Eldridge, Sam Manka.

**Also present:** Roland Bartl (Town Planner).

Minutes of 2/26/1992 meeting were approved.

The committee reviewed the proposed South Acton Village area inventory. There was agreement that it encompasses the various aspects listed in 2/26/92 draft contents for "Existing Conditions Inventory and Analysis".

It followed a discussion on draft surveys/questionnaires to receive input from residents and businesses. Questionnaire would include questions pertaining to the village's economic resources and constraints, vacancy rate on commercial space, past business trends, commercial/residential interaction, to the perception of the village in eyes of residents and businesses, to transportation and circulation needs, and to sewer options.

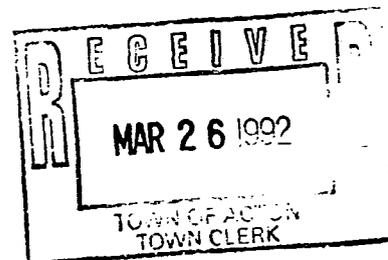
Several changes and additions were made to the draft. A revised draft and the method and extend of delivery of the questionnaire will be discussed at next meeting. It was agreed that involvement of the Chamber of Commerce along every step of the way would be very important and helpful. Also, a separate contact should be made to South Acton institutions, i.e. the Discovery Museum, the church and the Ironwork Farm.

The committee briefly discussed its role in effecting design specifications for new development, i.e. Great Hill or determining land uses. Zoning (and Historic Districts where in effect) are the tools to accomplish that. The South Acton Village Plan when completed will make appropriate zoning recommendations.

Next meeting: Wednesday, March 25th, 1992

cc: Town Clerk  
Planning Board  
Board of Selectmen

[rhb347\*2/92]



VOLUNTEER COORDINATING COMMITTEE MEETING 3 09 92

Present: Kadlec, Snook, Comstock, Whitcomb, George, Husbands  
and Lane

Meeting called to order at Town Hall at 7:30 PM.  
Read and approved minutes of the last meeting.

INTERVIEW:

ROLAND PETER VAILLANCOURT for B O Health, Conservation  
Lives at 17 Woodbury Lane. Acton 20 yrs., MA 50 yrs.  
Is a nurse anesthetist in Concord. Formerly had a catering  
business and knows sanitation expectations. Has attended  
B O Health meetings. Would also consider Conservation.  
Now that children are older he has the time to serve the  
town. Realizes that at the moment there are no openings.

- + Received memo from B O Selectmen advising us that the mission of the Transportation Advisory Comm. is no longer appropriate. A vote has been taken to disband this committee.
- + W. George will phone O. Denderian letting him know that the Transportation Advisory Comm. is no more.
- + Lane will advertise for someone with sight impairment to fill out application for Commission On Disability.
- + Husbands showed us a sample data base page for our input.
- + George gave us two more updates on board authorizations.
- + Memo from B O Selectman about beginning an ad hoc committee on Ft. Devens 2nd Airport. Lane will put a request in the newspaper for interested persons to contact VCC. Kadlec will send memo to Town Manager.
- + Whitcomb will compile a list of those who should be thanked for having served the Town of Acton.
- + Comstock asked if we wish to follow up with recent volunteers by way of a brief form. She will draft one for us to consider.

Meeting adjourned at 9:30 PM. Next meeting March 23rd.

Respectfully submitted.  
Nancy A. Whitcomb, VCC Secretary  
cc Selectmen + Town Clerk

MINUTES FORM

Please send a copy after each meeting to Town Hall

MINUTES OF HISTORIC DISTRICT COMMISSION

Meeting posted:  yes,  no

Date: 2/27/92 Time: 7:30 p.m. Place: H.R. 46

Members present: Forbes, Gates, Moran, Mowry, and Schmidt.

MINUTES of 2/10 were accepted as written.

ANNOUNCEMENTS: Forbes announced that Don Johnson has the draft rules and regulations, and we should have it back with comments for the 3/9 meeting. Ann Fanton had called, saying there is still time for comment on the sign bylaw-- especially on light on dark, and two color restrictions. The chairman has copies of the new zoning bylaw. The town has computerized maps of West and South Acton. *The W-Acton Village Planning Com. had commented that the commission might want to reconsider the edge of the West Acton district as it is very irregular. It was reported that Kitty Kinsley's house had been auctioned; <sup>Pass</sup> Forsyth bought it. Great Hill--it was reported that Sweeney now has it set up for condo type housing and New View Cohousing could take over, and limit the number of units, with their own sewerage system.*

OLD BUSINESS: Forbes announced that the material for the Preservation Award nomination had been handed in. Copies of the Arlington Historic District Commission's Standards of Review were handed out; it was noted that they are very specific on demolition. Moran reviewed the steps on the time line for the application process; these will be reviewed at a future meeting.

Forbes reported on Funding--she reported that John Murray and Don Johnson say we would fit within the Chapt.44, Sect. 53E<sub>2</sub> of Chapt. 275 passed in 1990 provisions for establishing a revolving fund. Forbes will further clarify provisions under 2a and 2b of handout. Forbes announced that we have \$400 allotted for start up costs before July 1; it was agreed that the commission would prefer to have initial application fee be low, and have the commission send abutter notices for waiver of hearing; Forbes will ask for clarification from Town Counsel on this, and also on town procedures involving photocopying and types of notification for 3/9 meeting.

TOWN OF ACTON  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (508) 264-9612  
Fax (508) 264-9630

Don P. Johnson  
Town Manager

---

March 25, 1992

Kopelman and Paige, PC.  
101 Arch street  
Boston, MA 021110-1137

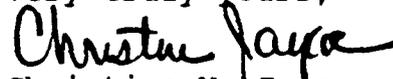
Dear Mr. Kopelman:

Thank you for your Freedom of Information request of March 23, 1992. Item 2 of your request asks for the "four firms' application that timely answered the RFP". We had only three timely submissions, with Kopelman and Paige's arriving after the due date for the RFP's. I will not include a copy of your information as I am sure you have copies on file.

The total number of pages photocopied was 117 at a cost of .25 per page. Please remit to the Town of Acton in the amount of \$29.25 at your earliest convenience. The check should be payable to the Town of Acton, and forwarded to the Town Manager's Office, 472 Main Street, Acton, MA 01720. The information will be provided upon receipt of monies due.

If I can be of any other assistance, please feel free to call me.

Very truly yours,



Christine M. Joyce  
Town Manager's Office

LEONARD KOPELMAN  
DONALD G. PAIGE  
ELIZABETH A. LANE  
JOYCE FRANK  
JOHN W. GIORGIO  
BARBARA J. SAINT ANDRE  
JOEL B. BARD

KOPELMAN AND PAIGE, P.C.  
ATTORNEYS AT LAW  
101 ARCH STREET  
BOSTON, MASSACHUSETTS 02110-1137

JOSEPH I. MULLIGAN  
OF COUNSEL

MAR 24 1992

RICHARD J. FALLON  
WILLIAM HEWIG III  
EVERETT J. MARDER  
JANE M. O'MALLEY  
PATRICK J. COSTELLO  
KAREN V. KELLY  
DEBORAH A. ELIASON  
JUDITH C. CUTLER  
ANNE-MARIE M. HYLAND  
RICHARD BOWEN  
CHERYL ANN BANKS  
BRIAN W. RILEY  
RAYMOND C. PORFIRI

(617) 951-0007  
FAX (617) 951-2735  
NORTHAMPTON OFFICE  
(413) 585-8632

March 23, 1992

*Chris please prepare  
this for them and  
charge the normal per  
page cost. It must  
be available on april 3<sup>rd</sup>*

Mr. Don P. Johnson  
Acton Town Hall  
472 Main Street  
Acton, MA 01720

*✓ C.O.D.  
3/25  
J  
3/25/92*

Dear Mr. Johnson:

Under the Freedom of Information Statute, would you please send me:

1. the RFP for Legal Services.
2. the four firms' applications that timely answered the RFP.
3. where the RFP was advertised.

I would be pleased to submit a check for the copying cost if you let me know how much it is.

Very truly yours,

Leonard Kopelman

LK/sb

Draft

W.R. GRACE SITE, ACTON, MA  
RPM's PRELIMINARY MEETING NOTES  
February 27, 1992

cc BOS  
entire pgs in R.  
3/24/92

PURPOSE

To discuss the schedule for RD/RA Activities, to identify the necessary deliverables, and to identify the content of the deliverables.

AGENDA

- I. SCHEDULE
- II. ORGANIZATION OF PROJECT
- III. CONTENT OF DESIGN DELIVERABLES

NOTES ON AGENDA ITEMS

I. SCHEDULE

A. W.R. Grace's Current Schedule

1.	100% Design	Completion Date
	VFL Process .....	3/94
	Other Waste Sites.....	5/94
	Landfill Cap.....	8/94*
	Chip Pile.....	6/94
	Landfill Vents.....	10/95

\*Time to Complete Design.....30 Months

2.	Construction	Completion Date
	VFL Process .....	10/94*
	Other Waste Sites.....	7/94
	Landfill Cap.....	12/95
	Chip Pile.....	4/95
	Landfill Vents.....	6/96

\*Time to Complete Construction.....27 Months

B. EPA Information on Timeframes

- 1. Design
  - Region I Sites.....5-16 Months
  - USACE RD of Landfill Caps.....5.5-11 Months
  - USACE RD of Solidification.....6-9 Months
- 2. Construction

Region I Sites.....11-17 Months

C. Conclusions

1. Schedule on Grace project is excessive
  - o Design should be complete within 12 Months
  - o Construction should be completed within 17 Months
2. Excessive Number of Deliverables
  - o Currently there are over 40 final deliverables
3. Organization of project is confusing and leads to lengthy process

II. ORGANIZATION OF PROJECT

A. Three Components making progress simultaneously

1. Monitoring and Upgrade of Recovery System
  - o Completed within 6 months
2. Design and Construction of Remedy
  - o Design Completed within 12 Months
  - o Construction Completed within 17 Months
3. Design and Construction of Air Stripper Controls
  - o Completed within 6 Months

B. Deliverables for Each Component

1. Monitoring and Upgrade of Recovery System
  - a. Monitoring Plan for Landfill Area
  - b. Plans for Upgrading Recovery System
  - c. Monitoring Plan for Other Source Areas
2. Design and Construction of Remedy
  - a. Plan for All Design Investigations
  - b. 30 % Design for Entire Remedy
  - c. 60 % Design for Entire Remedy
  - d. 100 % Design for Entire Remedy
  - e. Remedial Action Workplan
  - f. Operation & Maintenance Plan
  - g. Site Close Out Report
3. Design and Construction of Air Stripper Controls
  - a. 100% Design
  - b. Remedial Action Workplan
  - c. Operation & Maintenance Plan
  - d. Close Out Report

mardi perry

March 18 92

To

Board of Selectmen  
Acton, MA.

Dear Members -

Thank you for granting  
Dr. Francesca von Borensen  
permission to carry on her  
plans for an Equestrian Event  
on April 11<sup>th</sup> at her farm,  
"Stoney meade". I'm sure she  
would be pleased if any of  
you attended that event. It  
could be the first of more  
of its kind, thus enabling  
good equestrians to improve

2.

As the day-long drilling that  
happened for nearly 50 days  
(last Sept + Oct.) when the develop-  
er who was building all of  
these (20 ± ?!!) dwellings way  
to the west of me, just off  
Pipe Rd — near Rte 2A!!  
was digging wells & cellar holes.

Here's hoping for a good  
(weather) day!

Sincerely Yours -

Mardi B. Perry

P.S.

Accolades to your Arboretum  
group!! I've admired its progress.  
Own some acres in Acton & enjoy  
the town's <sup>personnel's</sup> operators' efficiencies!  
Nice people.

**mardi perry**

BOS  
Enter Info

**TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION**

**DATE:** March 23, 1992

**TO:** George Robinson, Police Chief  
**FROM:** John Murray, Assistant Town Manager   
**SUBJECT:** Police Detail for Horse Shows at Stoneymeade Farm

The Board of Selectmen voted to issue an entertainment license to Dr. von Brombsen to conduct Horse Shows on April 11 and May 9 of this year. A condition of the license is to supply and pay for a police detail. This detail is to ensure no vehicles associated with the show are parked along Strawberry Hill Road, Pope Road and Simon Hapgood Lane. It will also be necessary for the detail to ensure that the vehicles safely exit the site at the completion of the event.

I would like for you to assess each event and report to me the appropriateness of the detail and your opinion for the need for future details.

cc: Garry Rhodes

**CONDITIONS FOR ENTERTAINMENT LICENSE**

1. NO PUBLIC ADDRESS SYSTEM; BULLHORN ONLY AS NEEDED.
2. NO MUSIC.
3. POST "NO PARKING" SIGNS ALONG POPE ROAD, STRAWBERRY HILL ROAD, AND SIMON HAPGOOD LANE. POST EVENT SIGNS DIRECTING TRAFFIC. THE SIGNS ARE TO BE POSTED ON THE DAY OF THE EVENT AND REMOVED THE SAME DAY.
4. SECURE THE SERVICES OF A POLICE DETAIL FROM THE ACTON POLICE DEPARTMENT. THIS DETAIL IS TO BE PAID FOR BY THE OWNER.
5. THIS LICENSE IS ONLY FOR THE HORSE SHOWS SCHEDULED FOR APRIL 11 AND MAY 9, 1992.



# MAPC News

cc: BOS

MAP 2 2092  
April 1992

Metropolitan Area Planning Council 60 Temple Place Boston, MA 02111 (617)451-2770

## Dedham Common Public Hearing

The Dedham Planning Board hosted a public hearing on March 9 concerning Homart Development's proposal to construct a retail shopping mall. The hearing, required by state statute, was held to provide a forum for interested parties to comment on two zoning amendments submitted by Homart. MAPC Project Review Committee Chairman Frank Baxter testified on MAPC's position on the project, which was articulated in an earlier letter to the planning board. The letter states that the proposed use is inconsistent with MetroPlan since it does not promote concentrated, mixed use development, threatens valuable open space, and would be sited in an area lacking adequate infrastructure including transit service.

Contact: Paul DeCoste

## Community Land Trust Legal Manual

A new affordable housing resource is now available from the Institute for Community Economics. The Community Land Trust Legal Manual is a comprehensive legal guide to using the community land trust structure to expand affordable homeownership opportunities. It provides information about incorporation, tax-exempt status, design of resale formulas, and ways to finance homes on leased land. Model legal documents are also included.

Community planners and housing partnership members, interested in methods for creating homeownership opportunities for people with low and moderate incomes while preserving housing affordability, may find the legal manual especially helpful. In addition, planners or program coordinators in communities receiving HOME funds, may find sections on resale controls and monitoring valuable. The manual is available from ICE, 57 School Street, Springfield, MA 01105-1331.

## Federation Meeting

The Massachusetts Federation of Planning and Appeals Boards is holding their northeast area Spring conference on April 7 at the Colonial Hilton in Lynnfield. The conference begins at 6:30 p.m. The program speaker will be Donald J. Schmidt of EOCD, who will discuss "Regulating Non-Conforming Structures and Uses". For registration information please contact Madelyn A. McKie at (508) 372-2159.

## Route 128 Corridor Planning Study

MAPC staff have been working with local planners and tax assessors to develop an industrial and commercial buildout along Route 128 as permitted under existing land use regulations.

Parcel-by-parcel buildout requires two data bases. The most labor intensive aspect of the Route 128 study is gathering parcel specific attributes such as lot size, building size, frontage, depth, and zoning. Most of these data are compiled from tax maps and assessors' cards. The second data base required is an analysis of community zoning regulations. The MAPC buildout program merges the two pieces to generate buildout estimates based on existing zoning and parcel

configurations providing citizens, public officials and interest groups with an estimate of maximum potential development under existing zoning regulations as compared to existing land use.

Reporting buildout results does not imply that the growth indicated will occur nor chart a timetable for it to occur. The results can be used as a best/worst case scenario to gauge impacts of maximum growth on local infrastructure systems and finances. The information also can be used as a starting reference to determine if existing land use policies are consistent with regional and local development goals.

Thus far, staff has collected parcel specific data along Route 128 in 18 communities, covering over 10,000 acres on 2,545 parcels, showing 62 million square feet of industrial and commercial development. The MAPC buildout program has been run for 12 of these communities, producing maximum buildout estimates totaling 245 million square feet along Route 128.

Staff would like to thank those community officials assisting us in this project.

Contact: Steve Landau

## Hearings on State Housing Bills

The Legislature's Committee on Housing and Urban Development has announced its schedule for upcoming hearings. The following hearing dates are of special interest to housing planners in MAPC communities:

March 23 — Bills on single-room occupancy housing and rental assistance.

March 25 — HOUSING BOND BILL.

April 13 — The Governor's Regulatory Reform bill (H.1999), which run counter to MetroPlan 2000 by provisions allowing the sale of state-assisted public housing.

All hearings will take place in State House Room 222 from 11:00 a.m. to 1:30 p.m.

The Committee on Health Care has tentatively scheduled a hearing on lead paint legislation for April 8 at 11:00 a.m. in Gardner Auditorium in the State House.

Contact: Judith Alland

## MAPC Seeks Input From Environmental Groups

The staff of the Land Resources Policy Committee will be meeting with environmental groups to discuss MAPC's recently completed draft Land Resources Protection Element. The element was presented at the February 28 Winter Council Meeting. MAPC would like to meet with any interested environmental or land resource protection organization to discuss the goals of the element and potential involvement of other groups in implementing the element. If you would like the element or would like to arrange a meeting, call Joan Blaustein at MAPC.

## Update on the Overall Economic Development Program (OEDP)

MAPC has received 59 project requests for the OEDP, submitted by communities and economic development corporations. Staff and the Economic Development Policy Committee have started the process of developing a small handful of "high" priority recommendations for funding to the Economic Development Administration. Projects that are being considered for "high" priority designation are those that are well along in the planning process and will generate permanent jobs in manufacturing, industrial services, computer-tech, and/or bio-tech.

Contact: Steve Landau

## Updating Mail List

Are we sending MAPC News to the wrong person? We are updating our mailing list. We want to know the current chairman, the board of selectmen; mayor; planning director/town planner; town administrator/executive secretary. Please indicate the correct person's name plus the old name so that it will be deleted. Please mail corrections to or call Lois Baxter at 451-2770.

## NIMBY Survey

Acting in cooperation with State Representative Janet O'Brien's Local Affairs Subcommittee on Land Use and Growth Policy, the Facility Siting Policy Committee has made an agreement with the RPAs in the state to distribute a survey to all municipalities requesting information on the location of major regional NIMBY-type facilities (airports, jails, electric generating plants, sports stadiums, sewer treatment plants, etc.) within their communities. Results of that survey will be sent back to MAPC by the RPAs around the end of April. The results will be compiled and a state-wide map showing all the facilities will be generated. This information will be shared with the planning agencies and used in developing a state-wide siting process for controversial facilities.  
 Contact: Jean Christensen

## Vote on Solid Waste Plan

Members of the ten town south shore local refuse planning committees voted at their last meeting to accept the final report for a solid waste management plan for the region. This report will next be submitted to the South Shore Coalition for their acceptance. The two year study was funded by a grant from DEP and carried out by Tellus Institute on behalf of the SSC.

Seven of ten towns present at meeting also voted to form a regional solid waste management planning board to begin the process of further pursuing some of the recommendations of the report. It is expected that the other communities will join this effort at the next meeting.  
 Contact: Jean Christensen

## METROPOLITAN DATA CENTER

### More Jobs to Flood Region

Thirty-year community employment forecasts will be mailed to local officials for their review during March. These forecasts are used extensively in the siting, planning and capacity analysis of highway, transit, water and sewer improvements. After local review and comment and any modifications, MAPC's Executive Committee will consider their adoption.  
 Contact: Doug Carnahan

### Census Data Still to Come

The next release of 1990 Census data for Massachusetts is now expected about April 1st. It will include the characteristics of income, poverty and education, as well as many others. The Data Center will work to get this much-anticipated information into community hands as quickly as possible.  
 Contact: Doug Carnahan

## Environmental Reviews

MAPC recently reviewed and distributed the following ENFs and EIRs:

MPA's 1992 Annual Airfield Improvements, Logan;  
 Southwood Nursing Care Center, Marshfield;  
 MDPW's Maple Street Transportation Improvement, Marlborough;  
 Harbor Gateway Seafood Center, Boston;  
 New Federal Courthouse, Boston;  
 MWRA's Sudbury Aqueduct Rehab. and Tunnels  
 Boston Edison's Edgar Energy Park Project, Weymouth

Contact: Kent Stasiowski

## Program for Mass Transportation

A lively discussion about the draft Policy Framework of the PMT took place at the February 1992 meeting of the PMT Advisory Committee. Various state transportation groups were represented, and the majority of comments emphasized mass transit alternatives. Phase II of the PMT - evaluating projects listed in Phase I to determine consistency with state, local and regional transportation goals, policies and objectives - is due to be complete by March 31, 1992. The final draft of the Phase II report will be discussed at the next PMT Advisory Committee meeting, March 19, 1992. We will keep you posted for the latest developments!  
 Contact: Rachel Kuropatwa

## Concentrated Centers

The Concentrated Development Centers Committee is relooking at the section of MetroPlan which defines concentrated development centers and the four area classifications. The most significant changes that the committee is proposing are:

- Urban Area - expand the definition of Urban Area to include 1/2 hour frequency bus service and require that the area be of medium to high urban densities.
- Planned or proposed - if a community wants to establish a center but the area does not meet the concentrated center requirements at present, a center can be established if there is a plan with measurable goals which shows how the center will meet MetroPlan requirements by the year 2010.

Contact: Kent Stasiowski



Florida license plate.

## North Suburban Water Study

MAPC has completed the draft North Suburban Water Supply Protection Study and has held public information meetings in Reading and Woburn to discuss the findings and recommendations of the study. The meetings were well attended by local citizens and community officials. MAPC will continue to work with the north suburban communities to assist them in implementing the recommendations for water supply protection.  
 Contact: Martin Pillsbury or Mary Ellen Schloss

## Fare Increase Citizens Advisory Committee

Development of a new fare policy for the MBTA continues to be at the top of the Committee's agenda. The draft fare policy statement approved by the MBTA Fare Policy Subcommittee and Board of Directors was reviewed at the last meeting, as was the latest progress of the MBTA fare structure working group. This group is looking at various fare structures including different combinations of fares, pass systems, transfers and time-of-day pricing. Further, the CAC is in the process of arranging a meeting in the next month with the MBTA Fare Policy Subcommittee.  
 Contact: Rachel Kuropatwa

## April Calendar

- |    |            |                                   |
|----|------------|-----------------------------------|
| 3  | 9:30 a.m.  | Finance Committee                 |
|    | 12:00 p.m. | Officers                          |
|    | 1:00 p.m.  | Legislative Committee             |
| 7  | 9:15 a.m.  | Land Resources Policy Committee   |
| 8  | 8:00 a.m.  | North Suburban                    |
|    | 9:15 a.m.  | CDC Committee                     |
|    | 7:30 p.m.  | MetroWest                         |
| 9  | 8:30 a.m.  | North Shore Task Force            |
|    | 12:00 p.m. | Economic Development Policy Comm. |
|    | 7:30 p.m.  | MAGIC                             |
| 13 | 2:00 a.m.  | Subregional Coordinators          |
| 14 | 10:00 a.m. | Transportation Policy Comm.       |
| 15 | 9:00 a.m.  | Executive Committee               |
|    | 4:00 p.m.  | Three Rivers                      |
| 16 | 3:00 a.m.  | SWAP                              |
|    | 7:30 p.m.  | South Shore Coalition             |
| 20 |            | Holiday                           |
| 28 | 10:00 a.m. | Inner Core                        |

Please call ahead to confirm time and place.

## SELECTMEN'S MEETING

MARCH 17, 1992

The Board of Selectmen held their regular meeting on Tuesday, March 17, 1992. Present were Norm Lake, Dore' Hunter, Nancy Tavernier, Anne Fanton and Asst. Town Manager John Murray

### CITIZENS' CONCERNS

None Expressed

### PUBLIC HEARINGS AND APPOINTMENTS

#### COMMITTEE INTERVIEW

#### HAROLD GORDINIER- ALTERNATE ASSESSOR

Mr. Gordiner outlined his background and desire to serve the town now that he has more time. He foresees no problem with scheduling as he could adjust his travel schedule and would be willing to accept a full appointment if the occasion arose. He was willing to attend the required training course offered by DOR. Dore' said he would like to see the Board of Assessors become more pro-active and educate the taxpayers during their contacts with them. NANCY TAVERNIER - Moved to appoint Mr. Gordiner as Alternate Member to Board of Assessors for a term of two years to expire June 30, 1994. DORE HUNTER - Second - UNANIMOUS VOTE.

#### ARBORETUM COMMITTEE

Harry Donahue gave the Board an update on the progress to date made at the Arboretum by the Friends. He then gave a brief slide presentation of the site. They have had many volunteers help with manual as well as materials to make the Arboretum what it is today. He asked the Board of Selectmen to accept a plaque give the Friends of the Arboretum to be placed in Town hall. NANCY TAVERNIER - Moved to accept and place the Plaque in Town Hall. DORE HUNTER - Second. UNANIMOUS.

Nancy further thanked Tom Tidman for his involvement with the many groups that have helped especially the Eagle Scouts that he has supervised during the process.

#### STREET ACCEPTANCE

#### COMMUTER DRIVE - STATION WAY

DORE' HUNTER - Moved to accept Commuter Drive. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

DORE' HUNTER - Moved to change the Name of Commuter Drive to Station Way. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

## STONEYMEADE FARM RIDING ARENA

Dr. Von Brombsen asked permission to hold two shows. One on April 11 and the other on May 9. She explained that the shows last year were with Arabians and that type event required music and other loudspeaker use. The show she has planned requires concentration for the rider and horse, therefore, no music would be used and a bull horn type device would be used to announce. She has anticipated and limited the show to 50 entrants thus minimizing traffic and parking problems. She has agreed to have No Parking signs and detail Police officer direct traffic in and out of the exit. She anticipates only four events like this per year two in the spring and two in the fall. She does not anticipate a problem with the proposed "Clinics" as they attract a minimum number of people and would not require traffic direction.

The Board discussed the licensing of these events and decided that the fee would be set a \$50.00 per show and if after review of the two shows impact to the surrounding streets and neighborhood, the fee paid could be applied toward an annual license fee to be determined by the Board. NANCY TAVERNIER - Moved to approve the shows of April 11 and May 9 with a fee set at \$50.00 per event with the conditions listed in Staff memo requiring Police Detail and signs posted on both sides of the street, No music or loud speakers to be used. DORE' HUNTER - Second. UNANIMOUS VOTE.

## RETIREE'S COMMITTEE HEALTH CARE BENEFITS

Bill Sparks and Bill Soar asked the Board for clarification of the proposed Town Meeting Article which would require the Retirees to sign up for Medicare if eligible. The Board assured them that it was not an attempt to reduce benefits, only a way to provide an equal or more beneficial program to its retirees who were eligible for this benefit which they contributed to during their service in the private sector. The committee was concerned that those ineligible for Medicare would be slighted. The Board again assured them they are exploring every issue and asked their help in getting the questionnaires returned promptly so that the evaluation could be complete prior to Town Meeting.

## CONSENT CALENDAR

The Board approved the Consent Calendar as submitted. DORE' HUNTER- Moved to accept. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

## SELECTMEN'S CONCERNS

JENKS FUND - Anne and Norm volunteered to review the requests and make recommendation to the board on March 31st.

ACES Letter - The Board authorized the Chairman to sign the revised letter to ACES regarding the Bioredmediation Test.

LEGAL RFP - The Board briefly discussed the recent responses to the RFP for Legal Services. Dore' discussed the review of the RFP's memo which concluded, in his opinion, that we are in a good situation presently with Palmer & Dodge, being a large downtown firm that has been employed by the Town for years. Anderson & Krieiger does our W. R. Grace work as a spin off from Palmer & Dodge but he felt we could start to broaden their scope of service. He felt however we should retain P&D as our primary counsel and have Anderson and Kreiger handle Grace with additional hand off to them at a lesser cost which could create internal competition. The Board asked staff to have Anderson and Kreiger handle the NESWC litigation since P&D represents the 23 Communities. The Board decided to review this further at the meeting of March 31st after review of the staff questionnaire which is currently being processed by Departments.

## TOWN MANAGER'S CONCERNS

FORT DEVENS/SMA - John asked the Board for direction regarding the memo from VCC. The Board instructed staff to notify VCC to interview and make recommendations to the Board. The Board however, wishes to meet with the Task Force prior to them starting their work. They further chose the name for the group, Fort Devens/Second Airport Task Force.

DORE' HUNTER - moved to go into executive session for the purpose of discussing Collective Bargaining, negotiations, land use.

Dore' took Roll call - all Ayes.

The Board adjourned into executive session at 9:35 P.M.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christine Joyce  
Recording Secty.  
cmjW11-(219)

EXECUTIVE SESSION

MARCH 17, 1992

AUDUBON HILL - John updated the Board on the recent discussion he has had with Eric Smith. When the project was discussed Roy Smith assured John and Don that the project would be done for 240,000 and the additional 60,000 for the extra's. The Bank capped the project at 300,000. Now the Smith's have called to say that they cannot do the project for under 320,000 without the extras. John has Garry Rhodes will review the figures and prepare a list of questions for Smith to provide answers to. Nancy felt that it was strange that now that we have the conflict of what to do with the \$130,000 all of a sudden the project comes up short that amount. It was agreed to have staff follow-up and get back to the Board at a later date.

TECHNOLOGY PARK - The installation of the traffic light required under the CondoTec site plan is a year overdue. The only real recourse we have since they are probably bankrupt is to pull the Post Office's occupancy Permit. Nancy felt we should either force the issue on the installation of the light, or remove the condition from the site plan approval.

WEST ACTON MOBIL - It has come to the attention of the Board that they are violating the 24 hour permit condition as voted by the Board by selling milk and other products in table/grocery store size vs. the "snack" consumable for the car. The Board asked staff to contact their attorney and to ask that they be removed.

LAND OFFER - The Asst. Town Manager received a call regarding a parcel of land on upper Main Street between Sommerville Lumber and PAMET Systems. The Board discussed the parcel and offer to purchase at a price of 50,000 to \$75,000 and asked staff to decline the offer.

BUCK LEGAL CASE - The Board instructed staff to take whatever legal action appropriate to bring the site into compliance and to have the bulldozer create the path on the right of way.

The Board adjourned out of Executive Session at 10:40 P.M.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christine Joyce  
Recording Secty.  
cmjW11-(212)



Commonwealth of Massachusetts  
Executive Office of Environmental Affairs

**Department of  
Environmental Protection**  
Central Regional Office

William F. Weld  
Governor

Daniel S. Greenbaum  
Commissioner

cc: BOS

*John F. I. 1992*

MAR 19 1992  
ACTON BOARD OF HEALTH

March 17, 1992

Upper Blackstone Water Pollution Abatement District  
Route 20  
Millbury, MA 01527  
ATTN: Arthur Levesque, Plant Manager

RE: WORCESTER - DWPC  
MGL C752, §14A  
Emergency Certification  
for Septage Disposal at  
UBWPAD

Dear Mr. Levesque:

This is in response to communications between your office and the Department regarding emergency certification for septage disposal for the communities on the attached list.

It is the Department's understanding that the communities on the list have an immediate septage disposal problem which if unresolved could result in a threat to local health and safety. The Towns may therefore enter into an agreement with the Upper Blackstone Water Pollution Abatement District for septage disposal for a period not to exceed 5 years.

If you have any questions please feel free to call Leo Lessard of this office at (508) 792-7650.

Very truly yours,  
*James R. Fuller*  
James R. Fuller  
Regional Engineer  
Resource Protection

LL/msd:W:\wpc\leo\SeptageE.xxx  
Encl.  
cc:

DEP - DWPC - Boston - ATTN: Dennis Dunn

Department of Public Health  
Meade Street  
Worcester, MA 01602

*3/24*  
*Does please mention the need for contract details*

Board of Health  
Town Hall  
Abington, MA 02351

Board of Health  
14 Forest Road  
Acton, MA 01720

Board of Health  
29 Middle Road  
Boxborough, MA 01719

Board of Health  
Town Hall  
Brookfield, MA 01506

Board of Health  
Town Hall  
Carlisle, MA 01741

Board of Health  
Town Hall  
Charlton, MA 01507

Board of Health  
Town Hall  
Spencer, MA 01562

Board of Health  
Town Hall  
Westborough, MA 01581

Massachusetts Turnpike Authority  
668 South Avenue  
Weston, MA 02193  
ATTN: George Furst

Board of Health  
Town Hall  
Essex, MA 01929

Water/Sewer Commissioners  
Town Hall  
Manchester, MA 01944

Board of Health  
Town Hall  
Oxford, MA 01540

Board of Health  
Town Hall  
Paxton, MA 01612

Board of Selectmen  
148A Peck Street  
Rehoboth, MA 02769

Board of Health  
100 Peck Street  
Seekonk, MA 02771

Board of Health  
4 Uxbridge Road  
Sutton, MA 01527

TOWN OF ACTON  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (508) 264-9612  
Fax (508) 264-9630

John Murray  
Assistant Town Manager

---

March 24, 1992

Laurinda T. Bedingfield, District Highway Engineer  
Massachusetts Highway Department, District 4  
519 Appleton Street  
Arlington, MA 02174

re: Concord Road Bridge, A-2-18

Dear Ms. Bedingfield:

The Town of Acton has received the "Structure Inspection Field Report" for bridge A-2-18, Concord Road over Nashoba Brook. This report has been forwarded to Richard Howe, Acton Highway Superintendent, for any repairs that are within his current budget and can be scheduled immediately.

However, the Town of Acton intends to completely replace this structure with a new bridge using precast concrete box culvert sections. Construction is planned during the next fiscal year (1993) and we will utilize local funding sources. The enclosed memo from our Engineering Department outlines the necessary procedure as we see it at this time. Your comments and assistance in expediting this project would be greatly appreciated.

Very truly yours,



John Murray  
Assistant Town Manager

JM/dmj

cc: David Abbt, Engineering Administrator  
Richard Howe, Highway Superintendent

TOWN OF ACTON  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (508) 264-9612  
Fax (508) 264-9630

**John Murray**  
Assistant Town Manager

---

March 24, 1992

Laurinda T. Bedingfield, District Highway Engineer  
Massachusetts Highway Department, District 4  
519 Appleton Street  
Arlington, MA 02174

re: Wetherbee Street Bridge, A-2-11

Dear Ms. Bedingfield:

The Town of Acton has received the "Structure Inspection Field Report" dated February 27, 1992 for bridge A-2-11, Wetherbee Street over Nashoba Brook. This report has been forwarded to Richard Howe, Acton Highway Superintendent, for any repairs that are within his current budget and can be scheduled immediately.

However, the Town of Acton has completed the project design phase for a new bridge at this location that will correct both the structural problems enumerated in this report, plus the poor roadway alignment. We are currently awaiting a determination by C.E.P.O. concerning the availability of funds for this project. In order to plan for the 1992 construction season, we are anxious to know the likelihood of this project being funded any time soon. Much of the work of environmental filings is yet to be done and will, as usual, take considerable time to complete. We don't see any reason to do this work if the project is not funded in the near future.

We look forward to providing the public with a new bridge at this location and appreciate your efforts in this regard.

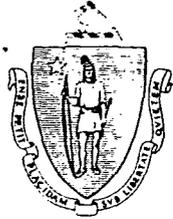
Very truly yours,



John Murray  
Assistant Town Manager

JM/dmj

cc: David Abbt, Engineering Administrator  
Richard Howe, Highway Superintendent



*The Commonwealth of Massachusetts*  
*Department of Public Works*

CC: BOS - 3-19-92  
David Abt  
Dick Howe

✓  
3/18

DISTRICT #4 OFFICE  
519 APPLETON STREET, ARLINGTON 02174

Telephone No. 648-6100

MAR 16 1992

9 March 1992

Board of Selectmen  
Town Hall  
Acton, MA 01720

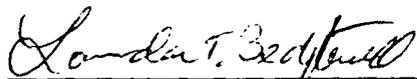
RE: Bridge Inspection Reports  
Bridge Nos. A-2-11 & A-2-18  
Wetherbee St. / Nashoba Brook  
& Concord Rd. / Nashoba Brook

Gentlemen:

In order to assist Cities and Towns in their responsibility to maintain local bridges and determine safe load capacities of such bridges, we are forwarding to your office Structure Inspection Field Reports with recommendations for subject structures.

Please contact this office if we can be of further assistance.

Sincerely yours,

  
Laurinda T. Bedingfield  
District Highway Engineer

TJW/wp  
cc: File

BARNES AND JARNIS, INC.

*Consulting Engineers*

216 TREMONT STREET, BOSTON, MASSACHUSETTS 02116

TELEPHONE (617) 542-6521

FAX (617) 426-7992

PRINCIPALS

MARVIN W. MILLER, P.E.

RICHARD J. MILLER, P.E., C.A.C.

ASSOCIATES

FRANK J. CULLATI, P.E.

EDWARD M. LONG, P.E.

DARREN W. CONBOY, P.E.

PHILIP J. CARUSO, P.E.

COLEEN A. KEARNS

FRANCIS R. SHOLOCK, P.E.

ROBERT L. JONES, JR. PE.

BRUCE C. SCOFIELD, C.A.C.

February 27, 1992

Joseph P. Gill, P.E.  
Bridge Engineer  
The Commonwealth of Massachusetts  
Department of Public Works  
10 Park Plaza  
Boston, Massachusetts 02116

Attention: Mr. Robert Smith, P.E.

Re: Our Ref. No. 91-160  
Contract No. 91430  
Inventory and Inspection of  
Municipally Owned Bridges  
Assignment No. 3

Gentlemen:

During our recent field inspections, the following bridges were found to be in need of immediate repairs:

Acton, ~~25th~~ Wetherbee Street over Nashoba Brook - The south bridge rail has been severely damaged by impact and is unsupported for twenty (20) feet. The south parapet is also in poor condition with numerous cracks and spalls. These conditions should be repaired.

Acton, A-2-18, Concord Road over Nashoba Brook - The bridge was rated by engineering judgement. Three of the masonry slabs have fractured and settled. One slab in the west span thirteen (13) feet from the north, has fractured three (3) feet from the abutment (per diver's report of 8/1/89). Another slab in the

BARNES AND JARNIS, INC.

*Consulting Engineers*

216 TREMONT STREET, BOSTON, MASSACHUSETTS 02116

TELEPHONE (617) 542-6521

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BRUCE C. SCOFIELD, C.A.C.

February 27, 1992

Joseph P. Gill, P.E.  
Bridge Engineer  
The Commonwealth of Massachusetts  
Department of Public Works  
10 Park Plaza  
Boston, Massachusetts 02116

Attention: Mr. Robert Smith, P.E.

Re: Our Ref. No. 91-160  
Contract No. 91430  
Inventory and Inspection of  
Municipally Owned Bridges  
Assignment No. 3

Gentlemen:

During our recent field inspections, the following bridges were found to be in need of immediate repairs:

Acton, A-2-11, Wetherbee Street over Nashoba Brook - The south bridge rail has been severely damaged by impact and is unsupported for twenty (20) feet. The south parapet is also in poor condition with numerous cracks and spalls. These conditions should be repaired.

Acton, ~~13-2-118~~ Concord Road over Nashoba Brook - The bridge was rated by engineering judgement. Three of the masonry slabs have fractured and settled. One slab in the west span thirteen (13) feet from the north, has fractured three (3) feet from the abutment (per diver's report of 8/1/89). Another slab in the

~~A-2-18 CONT.~~  
east span, the 4th slab in from the north has also cracked and settled. The degree of settlement in these two slabs could not be determined due to the high water level. The slab at the south end of the east span has also fractured and has settled about one (1) inch.

Framingham, F-7-5, Main Street over Sudbury River - Install a posting sign at the east end of bridge. The bridge is posted for 2 1/2" tons at all other locations, although the recommended posting is 10T-15T-23T. The steel grate deck bearing bars have failed in several places. Condition of the decking is such that, the grating should be repaired or replaced. The west abutment backwall has also fractured and this is causing additional vehicle impact on the deck. The stringer bearings, at the abutments are floating and need to be shimmed or otherwise tied down. After the backwall, the stringer bearings and the deck are repaired, the west approach should be regraded to provide a smoother transition on to the deck. The curbing is also severely damaged and in need of repair. The south angle of south truss member L2U3 is fractured and needs repair, and many of the bolts are either not torqued or are missing. The missing bolts should be replaced and the torque should be checked in all of the remaining bolts.

Natick, N-3-2 Pleasant Street over Sewer Canal - A posting sign should be installed at the south approach coming from Glen Street. The posting limits are not adhered to because many heavy trucks were observed using the bridge at the time of inspection. The detour length for this bridge, which is seven (7) miles, is probably one reason for the trucks ignoring the posted limits. Due to the condition of the bridge stricter enforcement of the posted limits should be employed.

There are several serious problems with this bridge that should be repaired or addressed immediately. The problem areas include, large fractures of the north end of the west spandrel wall that have opened up to four (4) inches and have shifted outward about one and three-quarter (1 3/4) inches. The north end of this wall has shifted outward about twelve (12) inches and is close to failing. There is a moderately spalled area in the northwest quadrant of the intrados that extends to the west fascia of the arch. A horizontal crack protrudes in from the fascia towards this spalled area for some distance.

TOWN OF ACTON  
Inter-Departmental Communication

MAR 24 1992

DATE: February 26, 1992

TO: Board of Selectmen

FROM: Stewart Kennedy, Cemetery Superintendent

SUBJECT: J. Roland Wetherbee Cemetery Fund

*Chris*  
*send to Norm Cohen*  
*and ask if this is*  
*feasible?*  
*3/25*

The following is taken directly from the report of the Town Meeting of March 14, 1949:

"Article 33. (Cemetery Fund) To see if the town will accept the gift of Ten Thousand (10,000) dollars from J. Roland Wetherbee of Putney, Georgia, to be known as the J. Roland Wetherbee Cemetery Fund, for the purpose of improving certain lots at Woodlawn Cemetery pursuant to the terms of a written instrument dated October 9, 1948, and act anything thereon.

Voted: That the town accept the gift of Ten Thousand (10,000) dollars from J. Roland Wetherbee of Putney, Georgia, to be known as the J. Roland Wetherbee Cemetery Fund, for the purpose of improving certain lots at Woodlawn Cemetery pursuant to the terms of a written instrument dated October 9, 1948."

From the time of its conception in 1949 through the end of fiscal 1991, the accrued interest of this original \$10,000.00 trust fund has grown to over \$52,800.00. The lots to be cared for by this fund are:

- Daniel J. Wetherbee      lots 13 & 14, Pine Ave.
- Daniel Wetherbee        lot 2, at the corner of Forest Ave. and Ellsworth Ave.
- Jonas Putney            lot 1, at the corner of Myrtle Ave. and Linden Ave.

The Wetherbee fund presently earns over \$5,000.00 annually and we expend just under \$500.00 annually providing care for the above lots and their related monuments, markers, shrubs and flowers.

The agreement states "Any amounts of the unexpended balance of income received from said Fund shall be permitted to accumulate and left on deposit in said SAVING BANK, to be used at the discretion and direction of said CEMETERY COMMISSIONERS at any future time when they may, for the purposes herein set forth, withdraw and expend any or all of said accumulated income."

We feel that this would be an appropriate time to go to court to see if we can broaden the terms of the fund, i.e. Effective July 1, 1992, any annual income earned by the J. Roland Wetherbee fund, that is in excess of the amount necessary to care for these lots as per the agreement, can be used by the Cemetery Commissioners for the maintenance and care of Woodlawn Cemetery.

Cemetery Commissioners

*Wesley W. Murray*  
*Edward A. Baird*  
*Charles F. Putnam*

821 - J. ROLAND WETHERBEE FUND

4 lots	@	55.13	\$220.52
3 monuments	@	5.51/yr.	16.53
3 flower gardens-labor	@	19.00	57.00
3 flower gardens-plants	@	9.00	27.00
3 Mem. Day Baskets	@	27.00	81.00
3 Mem. Day Bouquets	@	17.00	51.00
3 Christmas Wreaths	@	15.00	45.00
			<hr/>
Total			\$498.05

Salaries Appropriation from Wetherbee fund	\$294.05
Expense Appropriation from Wetherbee fund	\$204.00
	<hr/>
Total Annual Appropriation from Wetherbee fund	\$498.05

KNOW ALL MEN BY THESE PRESENTS:

That I, J. Roland Wetherbee, of Putney, Georgia, hereby give to the Town of Acton, County of Middlesex, Commonwealth of Massachusetts, the sum of TEN THOUSAND (10,000.00) DOLLARS, to be known as THE J. ROLAND WETHERBEE CEMETERY FUND, in trust nevertheless, for the following purposes:

- (1) Said FUND SHALL BE PLACED IN DEPOSIT IN MASSACHUSETTS SAVING BANKS.
- (2) The income from said fund shall be used only for the care of the following lots in Woodlawn Cemetery in Acton, Massachusetts:-  
~~LOTS:~~  
LOTS: No. 13 and 14, Pine Avenue, known as the Daniel J. Wetherbee lot.  
  
Lot: No. 2 Corner of Forest Avenue and Ellsworth Avenue, known as the Daniel Wetherbee Lot; and  
  
Lot: No. 1 Corner of Myrtle Avenue and Linden Avenue, known as the Jonas Putney Lot.
- (3) The care mention in paragraph (2) hereof shall include keeping said lots in the best possible condition by frequent cutting of the grass on the same and watering when necessary; re-seeding and grading when necessary; cleaning and repairing the monuments, headstones, and any other stones on these lots, from time to time; and doing all other things necessary or advisable for the improvement or betterment of said lots so far as the income of said FUND shall permit; the CEMETERY COMMISSIONERS of said TOWN OF ACTON, to be the sole judges of what care shall be given said lots under this paragraph and paragraph (4) of this document.
- (4) Any amounts of the unexpended balance of income received from said FUND shall be permitted to accumulate and left on deposit in said SAVING BANKS, to be used at the discretion and direction of said CEMETERY COMMISSIONERS at any future time when they may, for the purposes herein set forth, with draw and expend any or all of said accumulated income.

Dated October 9, 1948

Accepted at the Annual Town Meeting of March 14, 1949  
Article 33 of said warrant.

TOWN OF ACTON  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (508) 264-9612  
Fax (508) 264-9630

Don P. Johnson  
Town Manager

---

March 25, 1992

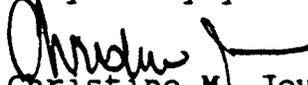
Norman Cohen  
Palmer & Dodge  
One Beacon Street  
Boston, MA 02109

Dear Norm:

John has asked me to send you the enclosed memo from the Cemetery Superintendent for your opinion regarding the expanded use of these Trust Funds as requested by them in the memo.

Please forward your opinion to John's attention at your earliest convenience.

Very truly yours,

  
Christine M. Joyce  
Town Manager's Office

CC: BOS



The Commonwealth of Massachusetts  
Executive Office of Environmental Affairs  
100 Cambridge Street, Boston, 02202

MAR 7

WILLIAM F. WELD  
GOVERNOR  
ARGEO PAUL CELLUCCI  
LIEUTENANT GOVERNOR  
SUSAN F. TIERNEY  
SECRETARY

MAR 18 1992

(617) 727-9800

*Tom, prepare  
one for Ice House  
Pool and a second  
one for the abutment  
John  
March 24*

Re: Fiscal Year 1993 Grant Round  
Federal Land and Water Conservation Fund  
Preliminary Applications Due June 1, 1992

*Revised: prepare one for NARA  
JH  
3/24/92*

Dear Prospective Applicant:

The Executive Office of Environmental Affairs is pleased to announce that the fiscal year 1993 grant round for the federal Land and Water Conservation Fund will be conducted in anticipation of the congressional appropriation. The filing deadline for preliminary applications, and accompanying documents explained in the enclosures, is **June 1, 1992**. We anticipate that next year's budget will not allow for a grant round for the state Self-Help or Urban Self-Help programs.

The federal Land and Water Conservation Fund reimburses projects up to 50% of the total project cost for the acquisition, development or renovation of park, recreation and conservation land. Eligible municipalities and state agencies are invited to apply. Since the total statewide allotment from the anticipated Congressional Land and Water Conservation Fund appropriation is expected to be approximately \$1.3 million, I have established a maximum limit of \$150,000 per grant per applicant. Priority status will be given to projects which are of regional or statewide importance, land acquisitions which link other recreation and conservation areas together, protect water resources or wetlands, and projects which incorporate innovative funding techniques (i.e. with private nonprofit cooperation) or innovative park design such as accessibility for the disabled.

The Selection and Rating System, available upon request, is utilized to rank projects in a priority order for funding decisions. However, other subjective criteria are considered in the final funding decisions. These criteria may include the amount of funding received previously, the maintenance capabilities based on past performance, completion of construction phases previously funded, timely completion of past projects and the complexity of permits required to undertake the project.

Funding decisions are also based on a community's status with respect to affirmative action goals and local housing policies. A review is conducted with the Massachusetts Commission Against Discrimination and the Executive Office of Communities and Development to ensure compliance. All communities applying for federal assistance must also be in compliance with the U.S. Department of Interior's regulations which implement Section 504 of the Rehabilitation Act of 1973. The regulations ensure equal access to all park and recreation areas and programs to people with disabilities.

Additionally, municipal applicants must also have an open space and recreation plan and a Section 504 Handicap Self Evaluation on file and approved by my Division of Conservation Services, or document the fact that a planning effort is well underway. Both documents must be approved by DCS by October 1, 1992 to maintain eligibility.

Finally, I would like to bring your attention back to the Land and Water Conservation Fund itself. Nearly 4000 acres have been acquired and hundreds of parks renovated using the \$80 million that Massachusetts has received since the beginning of the program. Continued support from people who appreciate this benefit is crucial to the success of the program since the budget must be debated each year. Given the current fiscal status of the state, the federal Land and Water Conservation Fund is the only source of public assistance for park, recreation, and conservation projects in Massachusetts. The Congressional budget debate for the FY93 apportionment have already begun so this is an opportune time to thank your Congressman and Senators for their past support of the program and bring the need for continuing financial support, and hopefully \$1.3 million, to their attention. A sample letter is enclosed for your use.

The enclosed Program Description and Step Procedures for the Land and Water Conservation Fund should be routed to your conservation commission, park and recreation department, or planning and development departments for their information and use. Workshops on how to apply for this grant program may be held at different locations throughout the Commonwealth based on demand. If your staff is interested in attending a workshop, or needs additional program information, please contact the Division of Conservation Services at (617) 727-1552 extension 292.

Sincerely,



Susan F. Tierney  
Secretary

enc.

FEDERAL LAND AND WATER CONSERVATION FUND (P.L. 88-578)  
GENERAL PROGRAM PROCEDURES  
FY93 APPLICATION DEADLINE JUNE 1, 1992

1. CALL DCS TO FIND OUT IF:

your project is eligible;  
your community's Open Space and Recreation Plan and handicap access inventory is up to date; and  
you need a preliminary application and detailed instructions.

2. SUBMIT TWO COPIES OF A COMPLETED PRELIMINARY APPLICATION TO DCS BY JUNE 1, 1992.

Work closely with DCS prior to June 1 to confirm that your application is complete. Late or incomplete applications cannot be accepted! *This is a reimbursement program therefore, you must raise, appropriate or borrow the total project cost before May 31, 1993.*

3. SCHEDULE SITE INSPECTION WITH DCS

Proposals cannot be funded on a "sight unseen" basis and inspections will be conducted during the summer and early fall, when your site is at its best.

4. OTHER AGENCY REVIEW: Regional Planning Agency (E.O. 12372) and Massachusetts Historical Commission

Send a proposal description and budget to both the Executive Office of Communities and Development and your local regional planning agency for their review. Send a brief project description and U.S.G.S. topo sheet locus map to MHC for their review. Forward all responses to DCS.

5. PROJECT RATINGS

Proposals are rated by DCS using the open project selection system. This is a 100 point system, 60 points awarded based on the type of proposal submitted and 40 points based on the demographic characteristics of your community.

6. RECOMMENDATION FROM ENVIRONMENTAL AFFAIRS

All proposals are reviewed by DCS and presented to our advisory committee. Its selections are reported to the Secretary of Environmental Affairs. If your application is selected by the Secretary, you will be contacted by DCS to submit a final application to the National Park Service (LWCF is a federal program managed by the National Park Service through the Executive Office of Environmental Affairs).

7. FINAL APPROVAL - NATIONAL PARK SERVICE

Approval from the National Park Service turns your proposal into a project, congratulations! You will receive a contract from DCS for signatures. Acquisition projects may proceed if appraisals have been accepted by DCS, development and renovation projects may proceed after final plans and specifications have been reviewed and approved by DCS.

8. REIMBURSEMENT PROCEDURE

The LWCF program is REIMBURSEMENT program and requires evidence of payment to the landowner, or contractor, design firm, etc., prior to receiving a payment from the program. Reimbursement form and instructions are sent after final approval is received from the National Park Service.

9. POST COMPLETION RESPONSIBILITIES - THIS LAND IS NOW PROTECTED PARK LAND

Your project site will be visited at least every 5 years by DCS to ensure compliance with the LWCF program requirements. *Receipt of federal assistance permanently protects your parkland.* Any boundary encroachment, change of use, or lack of basic maintenance could constitute a conversion. Any proposed conversion must be approved by DCS and the National Park Service and the community must replace the parkland with another site not already in recreational use, and of equal value and utility as the converted site.

DRAFT SAMPLE LETTER

TO BE SENT BY LOCAL GOVERNMENTS TO THEIR U.S. CONGRESSIONAL DELEGATION IN SUPPORT OF AN INCREASE TO THE STATE SIDE OF THE LAND AND WATER CONSERVATION FUND

Dear Congressman/Senator:

As I'm sure you know, the federal Land and Water Conservation Fund Program (P.L. 88-578) has been providing state and local governments with the opportunity to acquire, develop and improve local outdoor recreation opportunities for the past twenty-seven years. At this time I am writing to urge you to support additional funding for the state-side of this extremely important funding source.

You may also be aware of the dramatic decrease in the state-side of the Fund over the years: from a nationwide "high" of \$369 million in 1979 to only \$20 million in 1992. This has meant a decrease for Massachusetts alone from \$9.6 million to \$466,393. In 1992 the entire country received only twice the amount that Massachusetts alone received in 1979! The demand continues to rise because this federal program is the only source of public assistance for outdoor recreation projects in Massachusetts and last year's requests totalled \$15.3 million. With such pressing state and local needs, this current funding level is simply not adequate.

Since the money for the Land and Water Conservation Fund is already available: derived from the leasing of oil and gas sites in coastal waters, from the sale of surplus federal properties, and from a portion of federal motorboat fuel taxes, adequate funding would require only a fair share of these revenues distributed to the States. The program was created to invest some of the profit gained from the sale of natural resources back into protection of our environment. Your support can help make that happen!

I strongly urge you, therefore, to do all that you can to assure that the federal fiscal year 1993 budget includes an increase in the Land and Water Conservation Fund's apportionment to the States. With more of our citizens recreating closer to home in these difficult fiscal times, the need for outdoor recreation areas is critical and the benefits are obvious.

With thanks for your past support, and especially for your interest in the this current need.  
Sincerely,

LOCAL GOVERNMENTS ARE ENCOURAGED TO INCLUDE IN SUCH LETTERS REFERENCES TO PREVIOUS LWCF ASSISTED FACILITIES, OR TO ANTICIPATED OR DESIRED FUTURE PROJECTS. INFORMATIONAL COPIES OF YOUR LETTERS TO CONGRESS MAY BE FORWARDED TO:

DIVISION OF CONSERVATION SERVICES  
100 CAMBRIDGE STREET, 20TH FLOOR  
BOSTON, MA 02202

CC: BOS

PALMER & DODGE

One Beacon Street  
Boston, Massachusetts 02108

MAR 18 1992

Telephone: (617) 573-0100

Facsimile: (617) 227-4420  
Telex: 951104

March 13, 1992

Ms. Anne Forbes  
Historic District Commission  
Town of Acton  
472 Main Street  
Acton, MA 01720

Dear Anne: (Historic Commission Rules)

I have reviewed the proposed Rules and Regulations of the Historic District Commission, together with the forms and related materials you sent to the Town Manager. I see no serious problems with the Rules and Regulations, but I have few questions and suggestions.

Although I have not made a detailed comparison between the Rules and the by-law, it appears a substantial portion of the material in the Rules is also contained in the by-law. I wonder whether there is any need to repeat such material. I would be inclined to limit the rules to material dealing with the Commission's internal procedures and forms, as well as any guidelines adopted under § 10 of the by-law. These would be §§ VI, VII, probably most of § VIII, but not § VIII D, IX and XI. I think it would also be desirable to refer to the "arbitration" procedure in

§ 7.13 as well as the statutory appeal procedures, because both contain time limits that applicants should be aware of. I also think that it would be desirable to set out, or attach, the Commission's fee schedule and fine schedule. Finally, I would either designate the Building Commissioner as enforcement officer, or delete the last paragraph of § XI; it does not serve much purpose to say the Commission may do something, and then not do it.

On the other hand, I think the Rules are under-inclusive in some respects. For example, § IV of the Groton rules set out what material must be contained in an application. The proposed Acton rules (§ VII) say that "forms" are available at the Town Clerk's office, together with "instructions" for filling them out. Looking at your proposed forms and instructions, I think it would make sense to adopt parts I and II as Rules, and also to establish the form of the application by rule. With respect to the application form itself, I think you should retain the applicant's certification that the information he or she supplies is correct, but not require a certification that the application complies with all applicable provisions of law. You may also want to adopt some "sign-off" procedure like the one in § IX of the Groton rules. You need not adopt the "General Information" part of the instructions as part of the Rules, although I think it clear and helpful to give to applicants. Finally, I think the provisions about hearing procedures which you have put in the Operations

Manual (especially §§ V and VI B) can equally well be put in the Rules, as Gloucester did. I think it is desirable for the public, not just the Commission members to understand the usual procedures at public hearings.

On a more substantive matter, I think § VIII B of the Rules should be revised by adding the following sentence:

"If the Commission holds a public hearing on any matter, it will disclose any such additional information on which it may rely at the hearing, and give the parties an opportunity to comment on it."

This is good practice and is consistent with § VII C of the Operations Manual. I think the limitation on the duration of certificates in § IX and the requirement for written replies to requests for enforcement in § XI are good practice, although not required by law.

Similar general comments on duplication of material available elsewhere apply to the Operation Manual. In particular, §§ VII C and VII D, and most of §§ VIII, IX and X seem duplicative of both the by-law and the Rules.

Finally, with respect to the Newton waiver form, I do not think you should use the next to last sentence, which says that "certificates of appropriateness have been approved." The statute says that a Commission need not hold a hearing, provided it gives notice of the application to abutters and ten days elapse "before the commission may act upon such application." The form should not say that the Commission has acted before sending the notice. I suggest

the following language in place of the last two sentences of the form.

If you do not request a public hearing within ten (10) days from the date of mailing, the Commission may act upon the application without a public hearing. If you desire a public hearing, please sign and return this notice to the Commission within ten days from the date shown above.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

You should also be careful that the date on the notice is the actual date of mailing, because abutters are given ten days from the date of mailing to respond.

I enclose marked up copies of the forms embodying these comments.

Very truly yours,



Acheson H. Callaghan

AHC/dcb  
Enclosure

✓ cc: Don Johnson

Newton Upper Falls



CITY OF NEWTON, MASSACHUSETTS

City Hall

1000 Commonwealth Avenue

Newton, Massachusetts 02159

Telephone: (617) 552-7135 Telecopier: (617) 965-6620

DEPARTMENT OF PLANNING AND DEVELOPMENT

Eugene A. Bober, Director

Historic District Commission

NOTICE OF WAIVER OF PUBLIC HEARING

DATE: \_\_\_\_\_ OF MAILING: \_\_\_\_\_

Dear Property Owner,

Applications for Certificates of Appropriateness have been received by the Newton Upper Falls Historic District Commission from the following neighboring property owners:

Applicant and Address

Alteration

In accordance with the Rules and Regulations governing the Historic District, the Commission may waive a public hearing on an application for a Certificate of Appropriateness if the Commission determines that the alteration to the exterior features involved is insubstantial in its effect to the overall historic district. Such action by the Commission requires that notice be given to the owners of all adjoining properties and other properties that may be materially affected by the alteration. ~~The above listed cases have been reviewed without a public hearing and the Certificate of Appropriateness have been approved. Should you disagree, the Rules and Regulations provide that you may formally request a hearing within ten (10) days of the date of this notice.~~

Substitute language from letter

ACTON HISTORIC DISTRICT COMMISSION  
472 Main Street, Acton, MA 01720

APPLICATION FOR CERTIFICATE

Applicant (owner) \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_

Location of work \_\_\_\_\_ District: Center \_\_\_\_ West \_\_\_\_  
No. Street South \_\_\_\_

Pursuant to Chapter 40C of the General Laws of Massachusetts, application is hereby made for issuance of a Certificate for work within a Local Historic District. The Certificate is requested for:

- new construction       alteration       demolition       removal
- addition/expansion       re-siding       re-roofing       landscaping
- repair/replacement       porch/deck       sign(s)       other (specify) \_\_\_\_\_

Description of work proposed:  
(See instructions for additional information required)

*IS THIS REALLY NECESSARY?  
(MOST APPLICANTS WE HAVE SEEN DO NOT INCLUDE IT)*

*constitute a complete description of the work proposed.*

The undersigned hereby certifies that the information on this application and plans submitted herewith is correct, and that the application complies with all applicable provisions of Statutes, Regulations, and Bylaws to the best of his/her knowledge.

Signature of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Do not write below this line

Application received by \_\_\_\_\_ Date \_\_\_\_\_

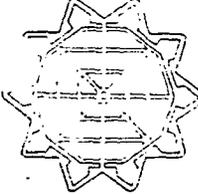
Certificate approved by \_\_\_\_\_ Date \_\_\_\_\_

Historic District Commission

Certificate of Appropriateness not required (Certificate of Non-Applicability issued) \_\_\_\_\_

Historic District Commission

*These send last page to MMA*



**Massachusetts  
Municipal  
Association**

Sixty Temple Place (800) 882-1498  
Boston, Massachusetts 02111 (617) 426-7272 FAX (617) 695-1314

March 23, 1992

Dear MMA Member:

This is just a brief note regarding 1992 policy committee appointments and policy recommendations for next year's Annual Business Meeting.

At each Annual Meeting, members consider resolutions defining general policy about issues of concern to municipalities in Massachusetts. A number of changes were made at MMA's last Annual Business Meeting on February 1, 1992. A copy of the revised policies are attached. We are now starting the process for next year, and ask for your input.

Until July 1, 1992, MMA staff will be collecting ideas for new policies and policy revisions that should be discussed at Annual Meeting. The ideas will be brought before the appropriate policy committee for a vote to decide which ones will be presented as amendments to MMA policy at the Annual Business Meeting in January, 1993. The final list of issues will be published in the *Beacon*.

Also, we are mailing all MMA members a *policy committee interest form*. These forms have been going out with mailings to the affiliate associations. The forms will be collected until April 6, 1992. Upon receipt of a completed form, an acknowledgement letter will be sent out explaining the process for committee selection.

During April, the MMA President, officers and staff will review the list of members interested in serving on a committee and make appointments based on level of interest, background, and level of participation in the MMA. Unfortunately, there are not a great many openings on the policy committees, and it will be difficult to decide. It is our hope that everyone will be given an opportunity to get involved one way or another, at a later time if it is not possible this spring. We will update all people who express interest in an appointment as the process develops.

If you have any comments please contact me. Thank you.

Sincerely,

Geoffrey Beckwith  
Executive Director

2. The MMA supports the policy goals of the Massachusetts Commission Against Discrimination while efforts are undertaken to reduce unnecessary reporting requirements.

### **G. Health-Care Benefits**

1. The MMA opposes unfunded mandated health care benefits.
2. The MMA supports greater local-government control over the management of municipal health-care benefits and strongly opposes statutory changes that would diminish municipal prerogatives in that area.
3. The MMA supports a change in the current requirement from equal dollar payments to plans other than the primary carrier to equal percentage payments.

## **IV. Human Services**

### **A. Community-Based Residences**

*Local and state governments benefit from cooperation and the exchange of information about community-based residential facilities.*

1. Each local services office should take into account the social service needs and resources specific to its community. Municipalities, counties, regional planning councils, and agencies should be able to plan responsibly for social service needs.
2. The state should work in collaboration with the MMA and Local Officials Human Services Council to:
  - a. jointly address the policies affecting local human service delivery, and enhance the effectiveness of local human service planning through the sharing of ideas and the promotion of cooperation.
  - b. provide notification of any proposed changes in human service policy or regulation that may impact on local government so as to provide opportunity to comment on the proposed changes relative to the fiscal or other impact on local government.
  - c. establish and maintain policies and procedures that allow a local chief executive or designee the opportunity to comment, participate in the planning process, and review and sign-off on any initiative that will have an impact on local community.

### **B. Special Education**

1. A municipality that has budgeted for the annual costs of a private school placement should continue to fund those costs for the remainder of the school year when the student's family moves to another municipality within the state during the school year.
2. The state should fund the costs of a private school placement for the remainder of the fiscal year when the student's family moves into the state after local budgets have already been set.
3. The state should define "maximum feasible benefit" and its relationship to the federal standard of "least restrictive environment."
4. The Department of Education and the Division of Purchased Services should justify tuition increases for private school placements.

# **Policies of the Massachusetts Municipal Association**

**As Adopted by the Members**

(February, 1992)

## **I. Policy Development**

Beginning in 1987, the Annual Meeting will consider resolutions defining general policy about issues of concern to municipalities in Massachusetts.

The executive director will cause these resolutions as adopted to be compiled and published as the policies of the Massachusetts Municipal Association.

These policies will guide the staff, Board of Directors, and representatives of the association in their work, including actions of the Board of Directors on specific legislative proposals.

In subsequent years, the members may amend or repeal part or all of the policies.

The executive director and Board of Directors will establish a process for preparing resolutions for the Annual Meeting.

## **II. Fiscal Policies**

### **A. State Aid and the Lottery**

*Although local governments depend on the state for fiscal help, it is local officials and residents who are most effective in allocating state assistance to meet local needs.*

1. With local-government services equal in importance and magnitude to state services but the local revenue capacity to support these services severely constrained by state law, the state has an obligation to share its revenues with cities and towns. This revenue-sharing obligation is embodied in Question 5, which was approved by the state electorate on November 6, 1990. The tenets of Question 5 must be honored by the governor and the General Court.

2. By statute, lottery receipts are a direct source of local revenue and are not interchangeable with state revenue-sharing distributions. Lottery receipts should not be capped or diverted for non-lottery aid purposes.

3. State revenue sharing and lottery distributions should not be earmarked, but should be distributed to local governments for use at the discretion of municipalities through the appropriation process. There is greater accountability at the local level on spending decisions and local voters are best able to determine the types and levels of services needed and desired in a city or town.

4. Because the delivery of services to Massachusetts citizens requires cooperation between the state and its cities and towns, the state-local fiscal relationship should be marked by a high degree of stability and certainty. Volatility in the distribution of state revenue sharing amounts and state grants should be eliminated and the state should make it a priority to keep its commitments to fund joint programs in areas where state and local government share a common interest.

5. Commission on Regionally Administered State Functions. A special commission comprised of state, local and county officials should be established to thoroughly research, report upon, and make recommendations to the administration, legislature, and MMA concerning the future of the financing, management, and control of certain regionally administered state functions, specifically: jails and houses of correction, registries of deeds and courthouse occupancy, with a report due no later than June, 1993.

6. Administrative Code. The MMA should encourage the development of a standardized and consolidated administrative code for municipal and regional districts of government, which details the various authorities and procedures of a government.

### **C. The Environment**

*State policies and projects affect the environment and the quality of life in cities and towns.*

1. The state should actively involve local officials in the earliest planning stages of any state construction project to allow local officials to comment on related environmental issues.

2. This organization supports state funding of an environmental staff for major agencies within the Executive Office of Transportation and Construction to provide environmental assessments of recommendations on major state projects.

3. The state should undertake an inventory of critical environmental areas, including watershed and habitat areas, and should make the inventory available to local officials whose jurisdiction contains such an area. Local officials should be notified, before construction begins, about any state project planned for a location on the inventory.

## **VI. Land-Use and the Environment**

### **A. Water Quality and Supply**

*Massachusetts water supplies are threatened by industrial contamination, destruction of wetlands, inappropriate land use, and leachate from landfills.*

1. Municipalities throughout Massachusetts urgently need a comprehensive, multi-year grant and loan program for the planning and construction of wastewater-treatment facilities and water-supply capital-programs.

2. Federal, state, and local governments should commit increased financial resources to meet the goal of providing safe and ample water supplies.

3. The MMA encourages cities and towns to promote water conservation through a variety of methods including, but not limited to, the adoption of water rates that reflect the true costs of water production, public education about water conservation, and implementation of leak-detection programs.

4. The MMA supports corrective changes at the local level in zoning laws and health regulations to strengthen water-supply planning and protection efforts.

5. The MMA supports decreased use of road salt and alternative de-icing methods by state and local government in order to diminish the threat of pollution to groundwater supplies.

6. The federal government and state government should provide funds to cities and towns to implement the federal Safe Drinking Water Act.

## **B. Collective Bargaining**

*Collective bargaining is the touchstone of good management and labor relationships but can only operate properly with a reasonable balance of strength on each side.*

1. The MMA strongly opposes any statutory changes that would weaken management's ability to bargain effectively.
2. There should be no reimposition of binding arbitration for public safety unions in the commonwealth.
3. The MMA supports the ongoing work of the state's Joint Labor Management Committee in settling public safety union contract disputes.
4. A municipality's legislative body should be required to ratify all school contracts.
5. A municipality's chief executive officer should have the responsibility for negotiating all school contracts.

## **C. Civil Service**

*Thousands of local employees and hundreds of municipalities now function under a civil service system that is cumbersome, frustrating, and slow.*

1. This organization strongly supports a thorough reform of the civil service system in the commonwealth to provide greater flexibility to local governments to establish their own merit systems, exempt positions from civil service, and discipline employees.

## **D. The Pension System**

*Present disability laws for municipal employees in the commonwealth condone and even promote unnecessary and costly disability retirements.*

1. This association supports changes to the pension laws that would make rehabilitation a part of the disability process.
2. State law should be amended to remove incentives for employee use of disability retirement and to redefine radically the heart-lung law.
3. The state should provide some assistance to communities in dealing with their unfunded pension liabilities.

## **E. The Injured-on-Duty Law**

*The Injured-on-Duty Law for public safety employees in Massachusetts includes an incentive for abuse of this form of workers' compensation.*

1. Massachusetts law should be amended to remove incentives for employee abuse of the Injured-on-Duty Law and to create standard time limits for use of the Injured-on-Duty Law.

## **F. The Massachusetts Commission Against Discrimination**

*The work of the Massachusetts Commission Against Discrimination to oppose discrimination, whether for race, gender, or physical disability reasons, in hiring and promotion, requires the closest possible cooperation with municipalities to establish principles and definitions that will balance the needs of the individual and the needs of the general public.*

1. Public safety positions should be exempt from the laws regarding the hiring of handicapped people.

## **D. Mandates**

1. Even though we may agree with the intent, and even the necessity, of many changes in environmental laws and regulations, the MMA must insist that the state must pay for all new local costs imposed by any law or regulation adopted after January 1, 1981. Tightly capped municipal budgets simply will not allow for local government to pay for such costs.
2. The MMA urges the state to drop its costly appeal of the Norfolk landfill decision and accept the fact that requiring cities and towns after January 1, 1981 to equip their landfills with impermeable liners is a mandate and requires state funding.
3. The MMA urges the federal government to stop its practice of mandating new environmental programs and regulations on cities and towns without providing funding for these programs.

## **VII. Roads and Transportation**

### **A. Funding**

*Local revenue limits and high costs will continue to prevent local governments from funding road repair and maintenance with property tax revenues.*

1. The MMA supports state funding of local road improvements that is distributed in advance, adjusted to reflect inflation, and that is distributed according to a defined formula that includes miles of roadway.
2. The MMA opposes any effort to consolidate cherry-sheet receipts that eliminates state highway assistance as a separately identified line item. Similarly, the MMA supports the use of dedicated transportation revenues, such as the gas tax, solely for the use of transportation expenditures, maintenance, and construction projects on all roads. State-Aid Highway Funds (Chapter 90) are to be used for construction, reconstruction, surface treatments, including resurfacing and the application of oil and stone, and all other improvements incidental to such projects including local roads. The MMA supports a state funding program that allows local governments to determine their own infrastructure improvement need.
3. The MMA supports 100-percent eligibility for state funding for all local-government construction projects on all roads. The MMA supports a state funding program that allows local governments to determine their own infrastructure improvement needs.
4. The MMA encourages the Department of Transportation to prepare a performance-based schedule for the repair and reconstruction of dysfunctional state bridges, and to provide adequate funding sources to meet the schedule.
5. The MMA continues to support additional state programs designed to solve specific community problems, such as the Small Town Road Assistance Program, Public Works Economic Development, Salt Shed, and Small Bridge Program. These programs should augment basic state highway aid (Chapter 90) to every community.

### **B. Regional Transportation**

*All metropolitan areas have traffic and parking problems.*

1. The MMA supports the promotion of network and regional transit services, including bus, commuter rail, aviation, and boat service. Local officials should be involved in the planning stages of changes to regional transportation systems and must in turn take some responsibility to encourage communities that host regional transit services to provide adequate commuter parking facilities. The MMA strongly urges the state government to

## **V. Joint & Regional Cooperation**

### **A. Insurance**

*Local governments in Massachusetts recently experienced a crisis in liability insurance that left many communities without coverage or with sharply diminished coverage.*

1. The MMA strongly supports such joint initiatives as the municipal pooled liability program in order to promote competition in the marketplace, provide a permanent alternative to conventional coverage, keep premiums at the lowest possible level, and assure coverage for all municipalities.

### **B. Joint Action**

*Many of the problems facing cities and towns require regional solutions.*

1. **Reduce Financial Burdens and Mandates.** Municipalities should actively work with the state to revise statutory and regulatory powers of the commonwealth to reduce the financial burden placed upon municipalities that result from certain statutory and regulatory provisions. Also, that the commonwealth provide 100 percent financing of county jail costs.

2. **Provide Support.** State agencies should provide local governments and regional organizations with the administrative and financial incentives to collaborate in the production and delivery of public services on a local and regional basis. Local governments are the front line for the initial application for most public programs and regulations, yet regulatory and fiscal powers are increasingly concentrated in state agencies. Prior to implementing programs, the state should examine whether or not the function can be located in or implemented by a local or regional government.

3. **Encourage Expansion When Effective.** County and/or other regional district governments should provide administrative, legislative, and financial incentives to allow municipalities, counties, and/or other regional governments to develop more constructive legislative and administrative relationships for a variety of public services, including those offered on a fee-paid or contract basis. A comprehensive menu of regional service-provider models should be developed for groups of communities. The models should include forms for regional planning agencies, councils of government, regional service authorities, elected regional councils, and county governments. A region choosing a model of greater authority should be able by action of its governing body to adopt the authorities of a model with lesser grants of authority. Existing regional models empowered by referendum charter may be changed only pursuant to such charter.

4. **Alternate Regional District Governments.** If counties and/or other regional district governments cannot provide meaningful benefit to communities in the delivery of public services, legislative options to regional alternatives should be pursued by the MMA, including, but not limited to, the realignment of county, regional-planning-agency, or regional alternatives should be pursued by the MMA, including, but not limited to, the realignment of county, regional-planning-agency or regional-transit-authority boundaries, home-rule charter forms of government, authorization to form councils of governments, or the abolition of county and/or regional district government in certain geographic areas of the commonwealth. Abolition of counties should only be pursued upon completion of a charter commission recommending other regional governments to provide for a continuation of good county services.

8. The state Department of Public Utilities must be more responsive to municipalities. Local governments, like other customers, affect decisions with respect to regulatory controls and rates. The MMA will continue to study the issue of customer involvement and cooperation with the DPU.

9. The MMA suggests that all its member communities, in cooperation with utility contractors, establish street-cut permitting policies and fee schedules for street openings.

## **B. Solid Waste**

*Municipalities need to dispose of solid waste in environmentally sound ways despite rising costs and dwindling landfill capacity.*

1. The state's master plan for the disposal of solid waste should include at the minimum the following components in the management of solid waste: reduce the volume of solid waste, recycle whatever can be recycled, incinerate, and properly landfill what cannot be reduced, recycled, or incinerated.
2. In developing the master plan, the state should not discard practical solutions for the disposal of solid waste such as incinerators and landfilling until other methods such as volume-reduction and recycling are reliably developed for the disposal of the volume of solid waste currently being disposed of by incineration and landfilling.
3. The state should promulgate and maintain up-to-date solid-waste management regulations that protect the environment and reflect the cost of implementation.
4. The MMA encourages every city and town to become involved in cost-effective regional or local recycling programs. However, the association unequivocally rejects the imposition of any unfunded, state mandated, recycling program. Any state-mandated recycling program must be covered by the anti-mandate provisions of Proposition 2<sup>1/2</sup>.
5. The disposal of cars and large appliances has become a significant problem for local government due to the state shutdown of licensed disposal companies. The MMA urges the Department of Environmental Quality Engineering to work with local officials and with industry representatives to provide a safe and environmentally responsible solution to this problem.
6. The MMA supports state-sponsored and funded regional household hazardous-waste centers as the best and most cost-efficient method for collecting and disposing of household hazardous waste.

## **C. Land-Use and Siting**

1. The MMA supports a local-option land-transfer tax that would fund the purchase of open space and land, building affordable housing, or finding solutions to local environmental problems. No community should be penalized in the local-aid formula through the land-transfer tax.
2. The MMA urges the Growth Policy Commission to conduct a comprehensive review of the state's zoning, subdivision control, and planning statutes (Chapters 40A, 40B, and 41) so that these statutes can be understood and utilized by local government officials.
3. The MMA supports the adoption of a comprehensive siting statute for the siting of needed but unpopular facilities. The statutes should respect the long tradition of home rule in Massachusetts and provide built-in protection for the environment, including environmental-impact statements, avoidance of environmentally sensitive areas, and investigation of alternative sites.
4. Until the Department of Environmental Quality Engineering completes and adopts regulations, the MMA supports a temporary moratorium on the permitting of privately owned wastewater treatment plants (so-called package treatment plants) for multiple lot sites. In addition, the MMA supports a moratorium for a defined period of time, during which cities and towns can take the opportunity to revise their land use bylaws to the use of residential package treatment plants.

work closely with local governments to ensure adequate parking facilities to serve transit, rail, and commuter boat service.

2. Assessments for transit systems should be equitable and based on clearly defined criteria involving factors such as use.

3. The MMA supports the need to reduce air congestion and passenger delays at Logan International Airport by appropriate means including adjusting landing and take-off fees to discourage low-capacity flights during peak-demand periods.

### **C. Weight Enforcement**

*Overweight trucks damage local and state roads.*

1. The state and federal governments must adequately fund the necessary training, personnel, and equipment to enforce the regulations and laws regarding vehicle weights and truck safety.

2. The MMA supports a strong team approach to truck safety, enforcement, and prosecution involving police departments, the Registry of Motor Vehicles, the State Police, and the U.S. Department of Transportation.

3. Local and state police departments should vigorously prosecute and fine violators for excessive speeding, defective equipment, improper driver's licenses, bridge weight violations, overweight vehicles, and hazardous materials violations. The fine revenues should be returned to municipalities to be used for enforcement.

### **E. State-Local Cooperation**

*Local governments and regional and state agencies need to cooperate and communicate with each other to develop and maintain adequate transportation facilities, including roads, rail, buses, airports, and water transportation that enhances mobility and economic growth while not degrading our environment.*

1. The state Department of Public Works should apply its policies and practices uniformly at all of its district offices across the state, consistent with local needs.

2. State agencies should communicate with each other, with regional and county planning agencies, and with local governments about any major construction project, during its planning stages. At least two public meetings and semiannual reports should be part of the planning and construction process.

3. No major state project shall be undertaken without the opportunity for written comment by each affected municipality.

4. Plans for state transit, commuter boat service, and highway projects should be based on accurate and current traffic studies, and made available to all affected communities.

5. Local governments should have the authority and responsibility for traffic and transportation planning and decision-making.

6. The state, working with federal and local officials, should develop road and bridge construction standards that compliment local land uses.

7. Traffic noise is becoming a greater threat to the quality of life in our communities. Current laws do not adequately address the problem of traffic noise. The MMA should work with state and local officials to develop easily enforceable standards to reduce traffic noise.

## **B. New Revenue Sources**

*Local governments have restricted revenue sources and need new and expanded sources of funding.*

1. State and local officials should investigate ways to reform the property tax and other local taxes, including property-tax relief.
2. The state needs to establish a comprehensive program to mitigate the impact on local budgets of revenue loss due to property exemptions under state law, including the exemption for state-owned land.

## **C. State Regulation of Local Finance**

*State law tends to over-regulate the financial practices of local governments.*

1. Municipalities should be allowed greater flexibility in borrowing, both to meet local needs and to reflect changes in market conditions.
2. Instead of statutory lists of how local governments can raise, borrow, invest, or spend funds, the state should list specific prohibited practices and allow local flexibility in other areas.

## **D. Financial Information**

*In order to prepare balanced budgets that meet short- and long-term financial goals, local government chief executives need all available state and local revenue and expenditure information on a timely basis.*

1. Expeditious and reasonable timetables should be established for collection and distribution of state and local revenue information and spending information. Cherry sheets should be distributed in early March so that cities and towns may make their local budgets final before the beginning of the fiscal year.

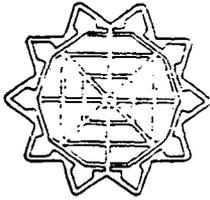
# **III. Labor Relations**

Personnel services are the most significant costs for cities and towns, amounting to over 65 percent of local government budgets. Therefore, the MMA will pursue policies which enhance management discretion and containment of labor costs. At the same time, the MMA recognizes the increased value of employee involvement and participation and therefore will explore areas for innovations and collaboration between labor and management to improve the quality of local government services, particularly during these times of financial distress and organizational change.

## **A. Management**

*There is currently no statutory definition of management prerogatives, and no cadre of exempt, non-union supervisors to perform management functions at the local level.*

1. A strong management-rights clause should be legislated to define clearly inherent management prerogatives that are not subject to collective bargaining.
2. Municipal supervisors in Massachusetts should not be unionized, but should follow the federal model, which does not allow unionization.



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**Massachusetts  
Municipal  
Association**

Sixty Temple Place

(800) 882-1498

Boston, Massachusetts 02111 (617) 426-7272 FAX (617) 695-1314

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**MMA Policy Committees**

**Policy Committee on the Environment**

The Municipal Association's standing committee on the Environment formulates policy for the Association in the following areas: water quality, water supply, air quality, solid waste, hazardous waste, wetlands, coastal areas, and wastewater treatment.

**Fiscal Policy Committee**

The Committee on Fiscal Policy considers all municipal finance issues. Any initiative that deals solely with a financial issue is directed first to this committee. Legislation from other committees that has a fiscal impact is referred to the Fiscal Policy Committee. The committee also develops a policy framework for local government financing in the future.

**Policy Committee on Labor Relations**

The Municipal Association's standing committee on labor relations has responsibility for formulating policy for the Association in the following areas: collective bargaining, civil service, employee benefits, police and fire collective bargaining, and pension reform.

**Policy Committee on Municipal and Regional Administration**

The Municipal Association's standing policy committee on municipal and regional administration has the responsibility of considering those issues which relate to the organization, structure, efficiency, and productivity of local and regional government and the relationships between the two levels of government. Processes and structure at the local and regional level for providing human services, regional education, safety and health inspections, as well as technical assistance of all kinds are among issues addressed by this committee.

**Policy Committee on Public Works and Transportation**

The Municipal Association's standing Policy Committee on Public Works and Transportation has the responsibility of considering those issues which relate to transportation: regional and metropolitan transportation, transportation planning and the relationship between local governments and the state's Department of Public Works as well as the whole question of levels of local control in joint state/local public works programs.

*Please return the attached form to the MMA if you are interested in serving on any of the policy committees listed above.*

## Master Plan Coordinating Committee

### Minutes for Meeting on:

February 25, 1992

**Attendance:** Anne Fanton, Board of Selectmen  
Greg Niemyski, Planning Board  
Mark Allan, Finance Committee  
Martin Graetz, Transportation Advisory Committee  
Nicholas Miller, Citizen at Large  
Bill Lawrence, Chamber of Commerce  
Garry Rhodes, Building Department  
Roland Bartl, Planning Department  
David Abbt, Engineering Department

### January 14 Minutes

The minutes were approved as written.

### Announcements

Bill Lawrence showed the committee a copy of the Chamber's recent *Membership Alert*, and announced that Christopher Devaney was their new Executive Director. There was discussion of ideas for the alerts, and Bill was invited to bring Chris to an MPCC meeting.

### Staff Reports

**A. Development Guide:** Roland Bartl had mailed a second draft of the guide for developers to the committee. Anne asked for two more weeks for review and more sets of comments from the committee. Bill will circulate the draft among members of his board and coordinate their comments: Martin Graetz offered to do some editing to shorten text. Staff names and phone numbers need to be added. The committee agreed that the guide will be most useful to small developers and businesspersons.

**B. Collective Review Process:** Garry Rhodes had prepared a memo giving an overview of commercial development, using the West Acton Mobil Station as a case study. Anne commented that it had assured her that the process had uncovered all the issues during preliminary review, however, qualitative or design issues raised during the process had been difficult to address. She still questioned whether, if the Board of Appeals had recognized design as an issue in the villages and the variances had not been granted, the project might have been scaled down. Garry explained that it could have been even bigger since setbacks in the villages were so small. Mark Allan asked how something so out of character in the village could be built? Bill asked whether the Historic District Commission, if in place, could have addressed the design. Garry felt that denial on the basis of design would not stand up legally. Martin noted that we could react to a bad design, but it would be hard to legislate what we do want. Nick Miller pointed out that it is a gas station and unlikely that it could have been made to look historic. **CONCLUSIONS:** While it will be difficult to set strict standards, Roland said that

something could be drafted as part of the village studies to allow some design review through a special permit. It could still be litigated but might encourage negotiation. While Greg felt that developers would fight anything that cost more money, Bill felt that there are some who would respond to design guidelines. David Abbt emphasized that citizens need to come to hearings to create an atmosphere for negotiation.

**C. Consistency Issues:** Garry distributed copies of a memo from Matt Mleziva. It was clear that there were still areas of disagreement and the committee chose not to have the discussion without Matt. Nick asked how the Master Plan relates to legal decisions. Garry explained his initial concern with the consistency requirement, but said that legal counsel thinks it will stand up if used carefully because it gives the philosophy of the town. Bill asked whether Master Plans were required. Roland said that there is a state requirement, but it is unfunded.

#### Matrix for Master Plan Responsibilities

Greg asked for everyone's comments in writing. The Planning Board is reviewing the matrix in detail. Greg will try to identify a lead agency where actions are the responsibility of more than one board. Anne suggested some introductory language when the lists are sent to boards, and suggested that it be sent to the Selectmen for review before distribution.

#### Sign Bylaw

Anne asked the committee to begin with discussion of sign issue #2 on the agenda (needs of community organizations) because the Selectmen had asked for some input from the MPCC. The Sign Bylaw prohibits signs in or above the public way, except with approval of the Selectmen (Section 7.3.3). The Selectmen may adopt policies and regulations regarding such signs. Currently, community and religious organizations placing signs (permanent or temporary) in the public way are violating the ZBL. Committee members' suggestions included: signs should not be allowed in the public way because they impede sightlines for traffic; non-profit organizations should be exempted from the bylaw; there should be a special event fee for such signs (\$35). Roland was asked to draft some regulations for the committee's review.

Discussion of sign issue #1 (color and size requirements) was postponed until March.

**Agenda for Next Meeting:** Fewer items so they can be fully discussed. Start with sign bylaw issues, stating desired outcome of discussion; quick updates of written projects.

Next Meeting: Tuesday, March 24

Minutes prepared by: Anne Fanton

cc. Conservation Comm., Finance Comm., Recreation Comm., Comm. on Disabilities, Historic District Comm., Bd. of Health, Municipal Properties, Housing Authority, Council on Aging, Board of Selectmen✓

*Approved 3/24/92*

REVISED SUMMARY FOR ARTICLE 24  
(which is on the Consent Calendar)

Acceptance by the Town of the provisions of MGL Chapter 148, Section 26H would require that any existing, rehabilitated or newly constructed lodging or boarding houses be protected throughout with an adequate system of automatic sprinklers. A "lodging house" or "boarding house" shall mean a house where lodgings are let to six or more persons not within the second degree of kindred to the person conducting such business but shall not include fraternity houses or dormitories, rest homes, or group residences. There are no lodging or boarding houses as defined by MGL Chapter 148, Section 26H known to exist in Acton. If the Board of Appeals received a request to issue a Special Permit for a lodging or boarding house, this bylaw would require the installation of sprinklers.

Acceptance by the Town of the provision of MGL Chapter 148, Section 26I would require that all new construction, or structures substantially rehabilitated so as to constitute new construction, of residential uses containing four (4) or more dwelling units be protected throughout with an adequate system of automatic sprinklers. Such uses would include, but not be limited to, lodging/boarding house, fraternity houses, dorms, apartments, townhouse, condominiums, hotels, motels, and group residences.

Sprinklers would be installed in accordance with the provisions of the State Building Code.

Town of Acton  
472 Main Street  
Acton, MA 01720

Town of Concord  
P.O. Box 535  
Concord, MA 01742

Town of Lincoln  
P.O. Box 353  
Lincoln, MA 01773

March 23, 1992

Mr. James J. Kerasiotes, Commissioner  
Massachusetts Highway Department  
10 Park Place  
Boston, MA 02218

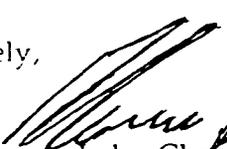
Dear Commissioner Kerasiotes,

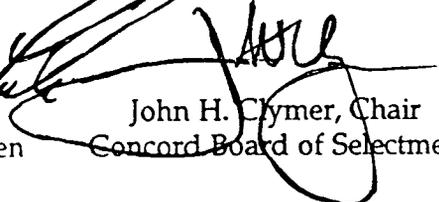
As you may know, representatives from our three communities have met with members of your staff to discuss how we might more effectively address issues regarding the Route 2 corridor through Acton, Concord and Lincoln. It has been suggested that formation of a Corridor Advisory Committee(CAC) might be the appropriate vehicle to facilitate this process and we would be interested in pursuing this concept.

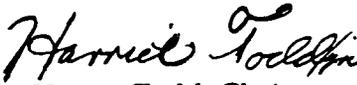
We believe that our communities share, with your department, common goals for the Route 2 corridor of improving safety, increasing efficiency of traffic movement and maintaining appropriate local circulation with priority given to improvements at Crosby's Corner and the Concord Rotary.

We request that a follow-up meeting to discuss organizational issues be held with members of your staff from the Central and District #4 office, MAPC, and representatives from our towns. We are particularly grateful for the assistance that we have received from Mr. Thomas McLoughlin and Ms. Laurinda Bedingfield and are hopeful that we might continue to work with them in this process. We look forward to your reply.

Sincerely,

  
Norman Lake, Chair  
Acton Board of Selectmen

  
John H. Clymer, Chair  
Concord Board of Selectmen

  
Harriet Todd, Chair  
Lincoln Board of Selectmen

cc: Mr. Thomas McLoughlin, MDPW, Director, Division of Capital and  
Highway Planning  
Laurinda Bedingfield, MDPW, District Highway Engineer  
Harold Sauer, Chairman, MAGIC  
David Soule, MAPC

OPEN MESSAGE  
FROM  
THE BOARD OF SELECTMEN  
TO  
THE VOTERS OF ACTON

The budget that is attached to this message is slightly different from previous budgets that the Board has brought to Town Meeting in past years. The difference is that all Capital Expenditures are now included in the number printed in Article 10 for Total Municipal Appropriation. Previously, Capital Expenditures were each listed separately and voted individually. The driving force for this change is the requirement to keep the Total Municipal Appropriation (Including Capital items) within the guidelines established by the Coordinating Committee. The proposed budget represents an increase of 3.9% over the current year. Almost 60% of this increase represents a modest increase in compensation for municipal employees who went without any pay increase last year including steps cost of living, or merit pay. The bulk of the remaining increase is proposed to start to address the infrastructure repairs and equipment replacement that have been postponed during recent years.

The proposed budget does not require an override, even though the level of State funding has once again been reduced. This is due to the funds raised by School Choice, Teacher Pay Deferral, and continued aggressive collection of delinquent taxes. The budget contains no new positions and hopefully no layoffs if we can achieve agreements with our employees through the Collective Bargaining process.

We are well aware of the increase in most residential tax bills as a result of the recent reassessment, conducted after three years as required by the state. While most residential values fell significantly, the decrease in commercial, industrial, and condominium values was even steeper and resulted in a shift of the tax levy toward residential property. We are also residents and we share in the pain of such increases. The Town continues to tax businesses at a higher rate than residences. There are some positive signs that the recession has bottomed out but the period of recovery is uncertain at best. The Coordinating Committee's plan for future years is very conservative in terms of anticipated revenue which is certainly the proper course for the Town to follow at this point in time.

*We would urge your support of this budget which retains services at existing levels and addresses deferred infrastructure repairs. With your continued support we can maintain the quality of life we have come to expect in Acton.*



ACTON PUBLIC CEREMONIES COMMITTEE  
BOY SCOUTS SUB-COMMITTEE  
ACTON, MASS.

30 March 1992

Board of Selectmen  
Acton Town Hall  
Acton, MA  
Attn: Norman Lake, Chairman

Dear Chairman Lake,

I would like to extend an invitation to you to join us at our Boy Scout encampment celebrating Patriot's Day.

The event is being held on Saturday and Sunday April 25 and 26 this year. We will be making the march one week later than the Town celebration to avoid the conflict with the Easter weekend. We would appreciate a few words of welcome at our campfire which will be at 8:00 on Saturday evening at our campground off Wetherbee Street.

If you have any questions my day phone is 508-779-8300x68211 and 263-2674 in the evening.

We appreciate the support of the Selectmen and the Town in helping to bring this historic event closer to hundreds of boys.

Regards,

A handwritten signature in black ink, appearing to read "Robert W. Ingram". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Robert W. Ingram  
Chairman

**TOWN OF ACTON**

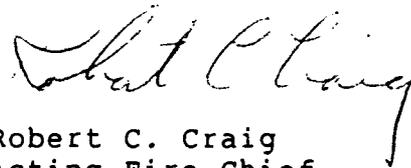
**Inter-Departmental Communication**

DATE: March 31, 1992

TO: Don P. Johnson, Town Manager  
FROM: Fire Chief  
SUBJECT: Supplementary Information  
Warrant Article 24  
Annual Town Meeting 1992

Don:

In an effort to further support passage of these two articles and to provide additional clarification, I had contacted the State Fire Marshal's Office for additional information relative to this matter. Attached please find copies of the information they have supplied, which I feel does indeed further support and clarify this vital life safety issue.



Robert C. Craig  
Acting Fire Chief



*The Commonwealth of Massachusetts*  
*Department of Public Safety*  
*Division of Fire Prevention*

WILLIAM F. WELD  
GOVERNOR

THOMAS C. RAPONE  
SECRETARY

1010 Commonwealth Avenue  
Boston, MA 02215-1201  
Phone (617) 566-4500  
Fax (617) 566-6945

EDWARD F. KELLY  
ACTING COMMISSIONER

JOSEPH A. O'KEEFE, SR., PE  
STATE FIRE MARSHAL

March 26, 1992

Chief Robert Craig  
Acton Fire Department  
256 Central Street  
Acton, MA 01720

Dear Chief Craig:

This letter is in response to your recent inquiry regarding the adoption of the boarding house and multi-residential sprinkler laws; c. 148, ss. 26H and 26I.

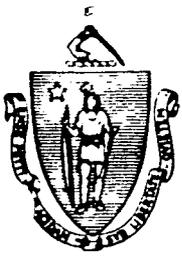
As you know, the enactment of the Boarding House Sprinkler Law was a direct result of the 1984 Elliott Chambers fire which claimed fifteen (15) lives in Beverly. Since that time, the boarding house and multi-family sprinkler laws have been credited with the saving of numerous lives during the past several years.

Enclosed you will find statistics on all reported residential sprinkler activations which have occurred in Massachusetts during the past six (6) years. To date, we have recorded over 100 sprinkler "success stories" as a result of the sprinkler laws; a fact which speaks volumes.

I hope you find the enclosed material to be of some help to you in your quest to join the many cities and towns in the Commonwealth who have benefited from these two life-saving statutes.

Sincerely yours,

*Joseph A. O'Keefe*  
Joseph A. O'Keefe  
State Fire Marshal



# *The Commonwealth of Massachusetts* *Department of Public Safety*

Communities which have adopted M.G.L. c. 148, s.26H  
(BOARDING HOUSE SPRINKLER LAW)

Abington

Amherst

Arlington

Ashland

Beverly\*

Billerica

Braintree

Brockton

Brookline

Chelmsford

Chelsea

Chicopee

Dracut

Everett

Framingham

Fall River

Haverhill

Hopkington

Lawrence

Lowell

Lynn

Lynnfield

Malden

Marlborough

Maynard

Milford

Natick

Newburyport

North Andover

North Reading

Peabody

Quincy

Revere

Salem

Saugus

Sommerville

Southborough

Stoneham

Swampscott

Tewksbury

Norton

Tisbury

Tyngsborough

Woburn

Wakefield

Wenham

Westborough

Westford

Winchester

Winthrop

Worcester

\* First to adopt law after Elliott Chambers Fire- July 4, 1984;  
Beverly, Mass. - 15 Dead.



*The Commonwealth of Massachusetts*  
*Department of Public Safety*

Communities which have adopted M.G.L., c.148. s.26I  
(Residential Sprinklers in 4 or more units)

Abington  
Amherst  
Beverly  
Billerica  
Brookline  
Centerville-Osterville-Marston Mills Fire District  
Chelmsford  
Chelsea\*  
Cohasset  
Easton  
Lexington  
Lynnfield  
Marblehead  
Marlborough  
Medfield  
Newburyport  
North Andover  
Norton  
Peabody  
Salem  
Westborough  
Westford  
Worburn

Note: Statute was approved on January 2, 1990. It became  
effective on April 2, 1990.

\* First community to adopt statute.

6/17/91



*The Commonwealth of Massachusetts*  
*Department of Public Safety*

OFFICE OF THE STATE FIRE MARSHAL  
1010 Commonwealth Avenue  
Boston, MA 02215

**Reported Residential Sprinkler Activations**

**1986-1991**

<u>Date</u>	<u>Location</u>	<u>Occupancy</u>	<u>Time</u>	<u>Cause</u>	<u>Deaths</u>	<u>Injuries</u>
03/24/86	Cambridge	Roomhse.	9:43 p.m.	Elect.	0	0
10/07/86	Lowell	Roomhse.	2:21 p.m.	Undetmed.	0	0
12/12/87	Waltham	Roomhse.	8:42 a.m.	Elect.	0	0
04/11/88	Waltham	Roomhse.	3:28 p.m.	Smoking	0	1
01/01/89	Malden	High-rise	10:40 a.m.	Smoking	0	0
03/11/89	Lynn	Apts.	11:24 a.m.	Smoking	0	0
04/22/89	Norwood	Roomhse.	11:06 a.m.	Incend.	0	0
06/06/89	Danvers	1 Family*	4:16 p.m.	Cooking	0	0
06/14/89	Hull	Roomhse.	2:23 p.m.	Smoking	0	0
08/07/89	Brockton	Apts.	6:09 p.m.	Cooking	0	0
08/12/89	Waltham	Hotel	9:40 p.m.	Smoking	0	0
08/25/89	Palmer	Apts.	6:00 p.m.	Smoking	0	0
09/02/89	Salem	Roomhse.	12:05 a.m.	Cooking	0	0
09/13/89	Marshfield	Roomhse.	7:27 p.m.	Unknown	0	0
09/16/89	Middleton	Hotel	4:58 a.m.	Undetmed.	0	0
10/05/89	Brockton	Apts.	12:40 p.m.	Rubbish	0	0
10/17/89	Lawrence	Roomhse.	9:53 p.m.	Incend.	0	0
10/27/89	Oxford	1 Family	7:02 p.m.	Elect.	0	0

\* Limited Use Group Residence

Reported Residential Sprinkler Activations

<u>Date</u>	<u>Location</u>	<u>Occupancy</u>	<u>Time</u>	<u>Cause</u>	<u>Deaths</u>	<u>Injuries</u>
02/27/91	Boston	Condo	1:30 a.m.	Elect.	0	0
03/01/91	Boston	Apts.	2:07 a.m.	Incend.	0	0
03/04/91	Boston	Apts.	4:38 a.m.	Smoking	0	0
03/05/91	Boston	Group Home	8:24 p.m.	Cooking	0	0
03/16/91	Lynn	Apts.	6:25 a.m.	Undetmed.	0	2
03/19/91	Boston	Apts.	6:51 a.m.	Undetmed.	0	0
03/22/91	Yarmouth	Inn/Rest.	1:28 a.m.	Incend.	0	0
03/22/91	Boston	Apts.	6:04 p.m.	Smoking	0	0
03/27/91	Pittsfield	Hotel	3:43 a.m.	Oily rags	0	0
04/01/91	Amherst	Dormitory	1:37 p.m.	Smoking	0	0
04/01/91	Boston	Apts.	1:55 p.m.	Undetmd.	0	0
04/03/91	Wenham	Apts.	2:44 p.m.	Torch	0	0
04/09/91	Boston	Apts.	3:36 p.m.	Undetmd.	0	0
04/13/91	Lynn	Roomhse.	12:34 a.m.	Suspici.	0	1
04/13/91	Weymouth	Apts.	4:14 p.m.	Smoking	0	0
04/14/91	Boston	Apts.	5:52 p.m.	Cooking	0	0
04/14/91	Boston	Apts.	3:31 a.m.	Elect.	0	0
04/16/91	Boston	ElderyHsg.	4:22 p.m.	Trash	0	0
04/19/91	Boston	Apts.	8:58 p.m.	Rubbish	0	0
04/29/91	Gardner	Prison	3:53 p.m.	Incend.	0	0
05/04/91	Boston	Apts.	9:36 p.m.	Elect.	0	0
05/07/91	Worcester	Apts.	10:19 p.m.	Undetmed.	0	0
05/12/91	Boston	Condo.	11:02 a.m.	Cooking	0	0
05/22/91	Boston	Apts.	12:24 p.m.	Rubbish	0	0
05/26/91	Lawrence	Roomhse.	12:58 a.m.	Incend.	0	0

Reported Residential Sprinkler Activations

<u>Date</u>	<u>Location</u>	<u>Occupancy</u>	<u>Time</u>	<u>Cause</u>	<u>Deaths</u>	<u>Injuries</u>
12/02/89	Waltham	Hotel	9:43 a.m.	Undetmed.	0	0
12/04/89	Southbridge	Roomhse.	2:51 p.m.	Smoking	0	0
12/21/89	Worcester	Apts.	12:33 p.m.	Undetmed.	0	0
01/10/90	Boston	Roomhse.	3:30 a.m.	Susplic.	0	0
04/16/90	Boston	1 Family	2:15 p.m.	Cooking	0	0
05/02/90	Amherst	Dorm.	4:45 p.m.	Heater	0	0
09/26/90	Lawrence	Roomhse.	2:24 a.m.	Undetmed.	0	0
06/21/90	Gloucester	2 Family	12:20 p.m.	Gasoline	0	0
10/03/90	Worcester	Roomhse.	4:06 p.m.	Undetmed.	0	0
10/30/90	Lawrence	Roomhse.	2:57 p.m.	Smoking	0	0
12/26/90	Winthrop	Roomhse.	7:10 p.m.	Incend.	0	0
01/08/91	Waltham	Eld.Hsng.	6:23 p.m.	Smoking	0	0
01/13/91	Boston	Apts.	6:21 p.m.	Susplic.	0	0
01/17/91	Lawrence	Roomhse.	11:45 p.m.	Undetmed.	0	0
01/18/91	Cambridge	Dorm.	6:15 a.m.	Incend.	0	0
01/20/91	Middleton	Hotel	7:45 p.m.	Elect.	0	0
01/22/91	Boston	Apts.	7:01 p.m.	Cooking	0	0
01/24/91	Fall River	Apts.	8:53 p.m.	Trash	0	0
02/04/91	Boston	Dorm.	12:45 a.m.	Susplic.	0	0
02/06/91	Boston	Eld. Hsng.	7:06 p.m.	Smoking	0	8
02/07/91	Lawrence	Apts.	5:30 a.m.	Smoking	0	0
02/13/91	Everett	Apts.	1:47 a.m.	Undetmed.	0	0
02/15/91	Framingham	Apts.	1:17 a.m.	Smoking	0	0
02/18/91	Boston	Apts.	1:31 a.m.	Mech.	0	0
02/23/91	Boston	Apts.	8:54 p.m.	Smoking	0	0

Reported Residential Sprinkler Activations

<u>Date</u>	<u>Location</u>	<u>Occupancy</u>	<u>Time</u>	<u>Cause</u>	<u>Deaths</u>	<u>Injuries</u>
05/27/91	Brockton	Apts.(HR)	4:35 a.m.	Rubbish	0	0
06/01/91	Boston	Apts.	1:51 a.m.	Incend.	0	1
06/12/91	Boston	Apts.	1:51 a.m.	Undetmd.	0	1
06/13/91	Boston	Apts.	6:33 p.m.	Smoking	0	1
06/14/91	Dedham	Apts.	7:42 p.m.	Lamp	0	0
06/16/91	Boston	Apts.	4:11 a.m.	Smoking	0	0
06/27/91	Boston	Apts.	8:57 p.m.	Cooking	0	0
06/29/91	Brockton	Apts.	1:39 p.m.	Smoking	0	0
07/02/91	Boston	Apts.	7:55 p.m.	Cooking	0	0
07/05/91	Chelsea	Hotel	12:54 a.m.	Mattress	0	0
07/19/91	New Bedford	Apts.	9:46 a.m.	Smoking	0	0
07/25/91	Boston	Condo	10:45 a.m.	Cooking	0	0
07/27/91	Boston	Apts.	1:51 p.m.	Elect.	0	0
08/06/91	Revere	Roomhse.	4:57 a.m.	Incend.	0	0
08/10/91	Boston	Apts.	3:46 a.m.	Cooking	0	0
08/17/91	New Bedford	Nursing Hm.	8:38 a.m.	Smoking	0	0
08/28/91	Boston	Apts.	5:50 p.m.	Trash	0	0
09/02/91	Boston	Apts.	8:41 p.m.	Trash	0	0
09/11/91	Holyoke	Apts.	5:02 p.m.	Undetmd.	0	0
09/22/91	Becket	Nursing Hm.	6:34 p.m.	Dryer	0	0
10/12/91	Boston	Apts.	11:18 p.m.	Rubbish	0	0
10/19/91	Boston	Apts.	8:41 p.m.	Lamp	0	1
10/23/91	Boston	Apts.	12:17 a.m.	Smoking	0	0
10/28/91	Lawrence	Roomhse.	8:55 p.m.	Incend.	0	0
11/01/91	Boston	Apts.	1:59 p.m.	Gas Stove	0	0

**Reported Residential Sprinkler Activations**      Page 5.

<u>Date</u>	<u>Location</u>	<u>Occupancy</u>	<u>Time</u>	<u>Cause</u>	<u>Deaths</u>	<u>Injuries</u>
11/09/91	Fitchburg	Nursing Hm.	9:53 p.m.	Dryer	0	0
11/17/91	Boston	Apts.	9:07 p.m.	Suspicion	0	0
11/24/91	Boston	Apts.	7:20 a.m.	Cooking	0	0
11/28/91	Salem	Roomhse	1:53 a.m.	Smoking	0	0
12/01/91	Brockton	Apts.	7:40 a.m.	Suspicion	0	0
12/02/91	Boston	Apts.	6:37 p.m.	Smoking	0	0
12/11/91	Boston	Apts.	2:32 a.m.	Candle	0	2
12/22/91	Chelsea	Apts.	6:26 a.m.	Trash	0	0
12/28/91	Boston	Apts.	1:10 p.m.	Trash	0	0

**Totals:    Fires - 102    Deaths - 0    Injuries - 17**

Compiled from the Massachusetts Fire Incident Reporting System  
rev. 3/23/92

# Fire law wins kudos

## Beverly rep honored for life-saving statute

SALEM — Rep. Frances Alexander, D-Beverly, did not extinguish a boarding house fire at 62 Federal St. last month, but her sprinkler law prevented a potentially deadly blaze there, officials say.

Alexander was all smiles Friday as she accepted an award from State Fire Marshal Joseph A. O'Keefe in Beverly, who praised her sponsorship of the boarding house sprinkler statute, enacted into law in 1986.

The provisions of the statute — which cities and towns have the option of adopting — call for automatic sprinklers to be installed in all lodging and boarding houses in accordance with the provisions of the state building code.

Saturday, Sept. 2, at about 12:05 a.m., a fire broke out in the second floor kitchen of a three-story rooming house at 62 Federal St. The cause of the fire was a pan of oil left unattended on the top of a stove, officials said.

The fire spread from the pan to an adjacent wall, and was reaching across the ceiling when a sprinkler head within the kitchen activated and extinguished the fire.

Shortly after discovering the fire, an occupant of the building tried unsuccessfully to extinguish the flames using a fire extinguisher which was located in the corridor just outside the kitchen.

Fourteen occupants of the rooming house escaped without injury. Although there was minor damage, from both smoke and water, structural damage to the building was held to a minimum.

"Had it not been for the legislation, they (Salem fire officials) felt there would have been a tragedy, many lives (at 62 Federal St.) lost," Alexander said.

She added, "If sprinklers had been in place in Beverly five years ago, we would not have



State Rep. Frances Alexander, D-Beverly, author of the rooming house sprinkler law, stands outside a rooming house at 62 Essex St. where sprinklers doused a potentially devastating blaze. *The Salem News*

lost those lives in the (Elliot Chambers) boarding house fire."

Alexander said the sprinkler law is "good legislation." She said she'd like to see more cities and towns adopt the provisions in the statute.

In addition to Salem, the communities of Beverly, Brockton, Chelsea, Lawrence, Lynn, Marlborough, Milford, North Andover and Westborough have adopted the provisions.

The Salem City Council unanimously adopted the provisions of the boarding house sprinkler law Feb. 16, 1987.

According to the National Fire Protection Association,

since 1976, 45 multiple-death boarding home fires have been reported. These fires have resulted in 271 deaths.

In relation to the estimated boarding house population of two million persons, these figures indicate the risk of dying in a multiple-death fire is roughly five times higher in a boarding home than in all other types of residential properties combined.

"In view of the Salem fire, where disaster was certainly averted, it is evident that your crusade for the boarding house sprinkler law has paid off," wrote O'Keefe in a recent letter to Alexander.

# Sprinklers in the Home Gain Support

## High Death Toll in Fires Cited by Local Officials

By IVER PETERSON

**J**OSEPH AND KAREN JENKINS went apple picking one Sunday in the fall of 1985, and the next morning, as Mrs. Jenkins rushed to get to work, a bag of the fruit on the kitchen floor of their Westchester County home blocked her way. She picked it up and dumped it on the kitchen counter, next to the toaster.

That afternoon the Town of Greenburgh fire marshal called Mr. Jenkins at work and told him the house's fire alarm was ringing and water was running out of the ground floor. When firemen broke into the house, they found that the apples had activated the toaster switch and held it in the "on" position long enough for it to overheat and set the kitchen cabinets on fire.

Normally a fire in an empty house will grow to unstopable dimensions before it is noticed from the outside, says Robert Stiloski, the town fire marshal. But Greenburgh is one of a growing number of municipalities that resist sprinklers in new homes, and Mr. Jenkins, who had resisted spending \$4,000 for sprinklers when he built the house two years earlier, got his money back that day: The kitchen sprinkler had gone off, the fire was out and the house — a little damp — was still standing.

"I didn't really want to have to pay for them," he said of the sprinklers, "but I guess I'm glad I did now."

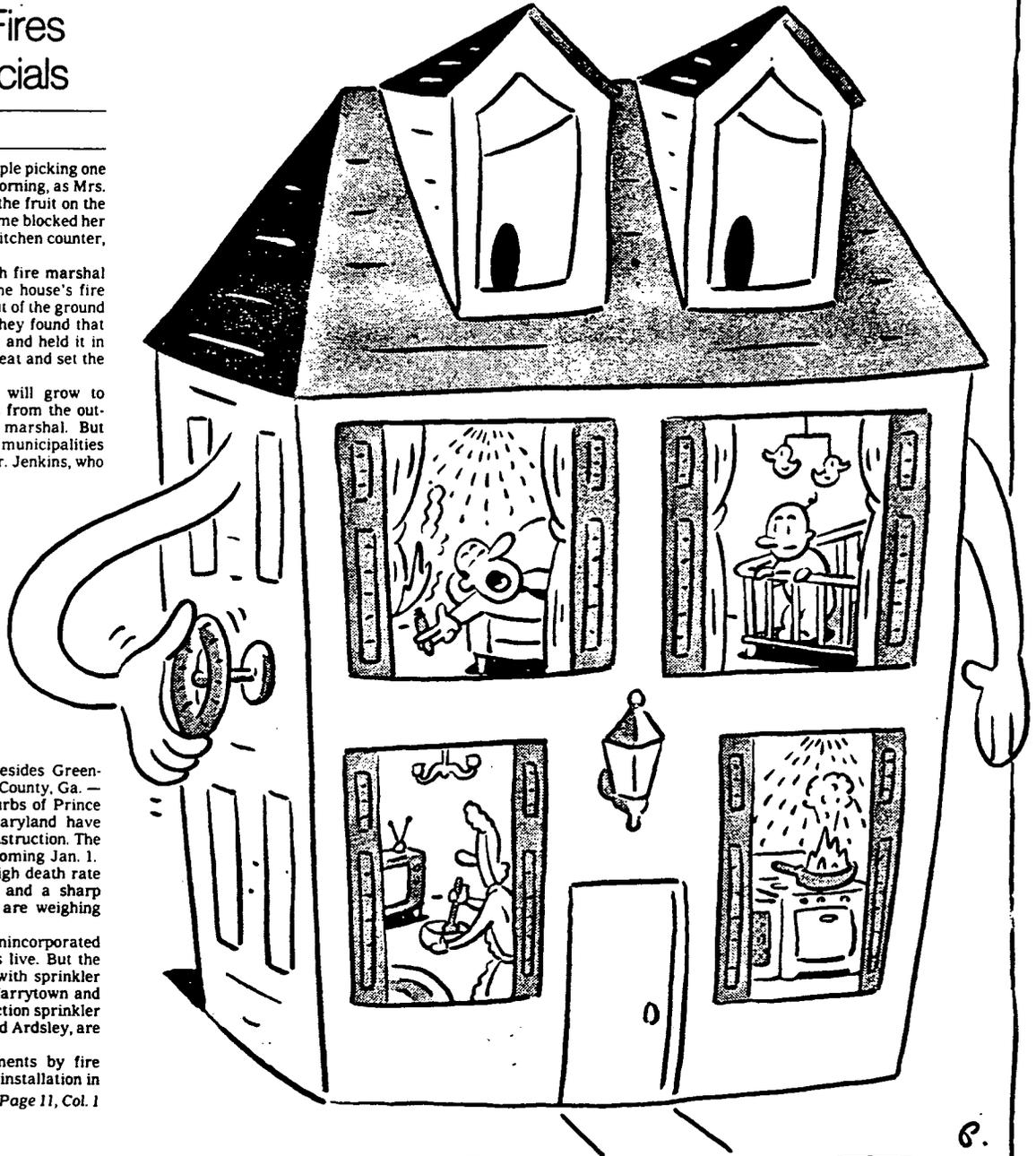
Local fire departments, home insurance companies, hospitals and others involved in public safety and public health also are glad when home builders install sprinklers, and they are pressing those who are reluctant to hasten installation. Besides Greenburgh, the city of San Clemente, Calif., Cobb County, Ga. — outside Atlanta — and the Washington suburbs of Prince George's and Montgomery Counties in Maryland have passed residential sprinkler laws for new construction. The two Maryland county laws take effect this coming Jan. 1.

Dozens of other jurisdictions, citing a high death rate in home fires, rising fire insurance rates and a sharp decline in volunteer fire department rolls, are weighing similar codes.

The Greenburgh law applies only to unincorporated sections of the town, in which the Jenkins live. But the villages within the town are following suit with sprinkler laws of their own. Hastings, Dobbs Ferry, Tarrytown and Elmsford have already enacted new-construction sprinkler rules, and the two other villages, Irvington and Ardsley, are in the final stages of adopting the code.

Two main themes underlie the arguments by fire prevention officials for mandatory sprinkler installation in

Continued on Page 11, Col. 1



Phil Marden

# Sprinklers in the Home Gain Widespread Support

(Continued From Page 1)

new housing — the country's stubbornly poor record of fire safety compared with other developed nations and the increased danger from flammable building materials and furnishings in today's smaller, more tightly built homes and apartments.

JUST over 6,000 people die in fires each year in the United States, 80 percent of them in home fires, and, fire experts say, the number and rate of deaths has stuck at the current figure after dropping sharply a decade and a half ago with the widespread introduction of inexpensive smoke detectors.

While sprinklers have been in wide use in commercial buildings for years — the first system a century ago was a length of perforated iron pipe, like tubular shower heads, that had to be turned on outside the building — the real need is in the home.

"When we think about fire deaths, we think about the MGM Grand fire (in Las Vegas, Nev.) or the Happy Land fire in New York, and we don't realize that the vast majority of people in this country die in one's and two's in their own homes," said Philip Schaeffer, president of Tridata Corporation of Arlington, Va., a fire-safety consulting firm. "So homes are the logical next application for sprinklers. Some people may think sprinklers are out of place in a house, but there was a time when people couldn't imagine having a toilet indoors either."

Part of the problem with home deaths is that fire codes have remained static while houses have become more dangerous.

"Houses today tend to burn twice as fast as they did 10 years ago," said Fred Richards, chief of the New York State Office of Fire Prevention and Control's Bureau of Fire Information and Standards. "We insulate them more, and that creates an oven effect that builds the heat up much faster. Rooms are smaller so fires can spread more quickly, and our houses are full of more and more plastic all the time. You get dripping plastic from wall switch plates, you have vinyl wallpaper and furniture full of flammable stuffing."

As a result, Mr. Richards said, the time it takes for a fire to reach "flash-over," when the room is engulfed in flames and the chance of escape ends, has shrunk from 8 to 10 minutes a decade ago to 3 to 5 minutes today.

Smoke alarms have been a major contributor to fire safety, fire prevention experts said. But some estimates put the number of nonfunctioning alarms at 30 percent, mainly because homeowners do not replace drained batteries, or because some people deliberately deactivate alarms to end false alarms from cooking smoke or wood stoves.

New York City's fire code requires sprinklers in the halls of multiple dwellings only when there are no secondary exits, like fire

escapes or fire stairways. They are most often found in town houses that have been divided into apartments, said Chief Joseph J. Toohey of the Bureau of Fire Prevention.

The city does not require residential sprinklers in one- and two-family houses or town houses, said Vahe Tiryakian, spokesman for the Department of Buildings, because their added cost would reduce the affordability of city dwellings and because existing fire rules, including the use of fire-retardant construction in floors, ceilings and walls, have worked well to limit the spread of house fires.

Moreover, Mr. Tiryakian said, the tenants in one- and two-family houses or in town houses, as well as in multifamily buildings, are generally familiar with emergency ways of escape. Sprinklers are required in hotels, he noted, to give visitors who are unfamiliar with their surroundings time to find a way out in a fire.

To many people, installing sprinklers in the home seems akin to moving part of a machine shop into the living room. But changes in sprinkler technology have adapted the devices to residential settings, proponents of mandatory installation say.

The dark industrial piping familiar in factories and warehouses can be hidden behind ceilings and walls, and under a sprinkler code change adopted last year by the National Fire Protection Association — a research group that draws up model fire codes for

municipalities — the nozzles of residential sprinklers have been reduced to the size of small buttons. Indented carefully into walls and ceilings, they are all but invisible, experts say.

THEY may not know it, but anyone who goes to bed in a halfway decent hotel in this country would be hard pressed to go to sleep without a sprinkler over his head," said Mr. Schaeffer of the fire-safety consulting firm.

Greenburgh arson investigators found a telling example of the unobtrusiveness of modern sprinklers when they answered an alarm in a house that had been sold in foreclosure. They found a sprinkler at the top of the stairs raining down on a smoldering pile of kerosene-soaked clothing, with a telltale trail of kerosene snaking off through the rest of the house. The arsonist had apparently started the fire but the sprinkler overhead had promptly extinguished it and so preserved all the evidence.

"People make the argument that sprinklers are intrusive and unsightly, and yet here's an arsonist who didn't even know there was one right over his head," said Mr. Stiloski.

Besides being unobtrusive, the new residential sprinklers have been designed to operate on domestic water lines instead of the special high-pressure lines used in commercial sprinkler systems. The sprinklers are designed to throw a heavy mist of water instead of a shower, reducing the amount of flow and limiting water damage.

Quick-response sprinkler heads allow residential units to go off at temperatures as low as 160° Fahrenheit, about the temperature of a hot cup of coffee, well before flames reach them. Finally, the National Fire Protection Association's code changes permits the use of plastic pipe instead of iron pipe, greatly reducing costs.

Builders, who are generally resistant to mandatory sprinkler systems, say the devices can be installed in new construction for between \$1 and \$2 a square foot. For the median size new house, 1,850 square feet, that means a cost of \$1,850 to \$3,700, roughly what carpeting would cost.

The new codes call for sprinklers in new construction only, or, in the case of Greenburgh, in properties that have undergone a more than 50

percent renovation. The cost of installing sprinklers in an existing building would be prohibitive.

Despite the relatively low cost of installation during construction, there is still widespread reluctance among developers, who fear buyer resistance and the added cost.

"We're aware of the new sprinkler codes but we believe they are attacking the problem in the wrong place," said Richard Meyer, director of the technology and codes department of the National Association of Home Builders, a trade group. "The vast majority of fire deaths occur in the older housing stock, not the new houses we're talking about, and we also feel the cost of

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## Just over 6,000 people die in fires each year in the United States, 80 percent of them in house fires.

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sprinklers fly in the face of affordable housing."

Mr. Meyer's group favors refining and enforcing fire codes, perhaps addressing the flammability of furnishings, instead of mandatory sprinklers.

Other reasons for the country's poor record of fire safety in buildings include lax rules, poor education and a throwaway culture, said Richard Custer, associate director of the Center for Fire Safety Studies at Worcester Polytechnic Institute in Worcester, Mass., and a professor of fire protection engineering.

"We really are the worst in the world, and a lot of it has to do with attitude," he said. "We are a disposable society, we throw things away or expect the insurance to cover our losses. Even in the inner cities, if someone gets burned out and survives, they are likely to end up in a better place to live."

Overseas, Mr. Custer said, attitudes toward fire are different. In Germany, a homeowner whose house burns may be liable for any spread of the fire to the adjoining properties, he said. Fire insurance in France covers only a part, typically 80 percent, of the lowest of either the market value or the replacement value of a building, so that arson there — which is responsible for about 10 percent of the fire deaths in this country — holds little incentive there.

Many municipalities in Switzerland enforce strict preservation codes by permitting insurers to pay only to rebuild a property to the same dimensions and on the same lot, with no cash going to the party that is insured. The rule has the effect of making arson not pay, Mr. Schaeffer said.

The National Fire Protection Association lists state-by-state fire fatality records by

deaths per million population. With a national fire death rate of 23.9 per million, New York ranks 20th, with 20.3, and New Jersey 25th, with 21.5. Connecticut's 12.2 puts it fourth. John Hall, the association's director of Fire Analysis and Research, said Mississippi has the highest fire death rate, 51.4, and Wyoming the lowest, 10.

AMERICAN municipalities are generally free to adopt fire rules that are as strict as or stricter than the county fire code, and several municipalities have used this flexibility to overcome home builder resistance to mandatory sprinkler installation by offering design bonuses in exchange for sprinkling.

In Cobb County, Ga., Fire Marshal David Hilton persuaded the county commissioners to let builders use less expensive materials if they agreed to the sprinkler law. It was the only way, he said, to overcome builder resistance to a new expense in houses that were already rising in cost beyond the reach of many families.

For example, the code required fire-rated walls, ceilings and doors and that multiple dwellings be within 50 feet of a paved parking area on all sides to allow access for aerial equipment to make rooftop rescues. These rules were relaxed in exchange for the sprinkler code, and builders found the saving enough to cover the new costs.

For Mr. Hilton, the architect of the new rules, the sprinklers now installed in some 20,000 new housing units are far more important than faster fire trucks or longer hoses.

"Let me tell you about the fire service in our country," he said. "The important thing in fire fighting is not the response time, that is, how long it takes for the fire service to get to the scene, which is usually about four minutes, and New York City is no exception. The problem is how long the fire has been allowed to burn before someone sees it and gives us the call. That time is usually 40 minutes, and a fire can do a lot of damage in 40 minutes unless a sprinkler puts it out first."

Mr. Hilton said Cobb County's experience with sprinklers and, he stressed, smoke detectors, justified the codes. Firemen, who suffer more job-related injuries and deaths than people in any other job category, seem to love stories about sprinklers that put out a fire before the fire trucks arrived. Mr. Hilton's favorite is about a young Cobb County musician who did not know the oil for his french fries was ablaze on his stove until he saw the flames reflected over the Atlanta Braves on his television screen.

"He tried to move the pot to the sink and splashed some of that burning oil on his hands," Mr. Hilton related. "Then he panicked sure enough, and he threw that pot on his shiny vinyl floor, and then slipped and fell down among the flames, and then the sprinkler head came on and put out the fire, and he got up and walked out. Without that sprinkler being there, he would have been a dead man."

For the record, Mr. Hilton added that the correct way to deal with a flaming pot is to put a lid on it.



FRESH AIR FUN:  
IT LASTS A LIFETIME

# Local News

## Sprinkler system 'would have saved lives'

By Mary Frain  
Staff Reporter

A quick-response, residential sprinkler system "absolutely would have saved lives" in a rooming house fire in which three people died at a 139-141 Green St. yesterday.

Philip J. O'Sullivan, fire prevention engineer with the state fire marshal's office in Boston, said he is frustrated that only 41 cities and towns have adopted a local option law requiring lodging house owners to install automatic sprinklers in buildings occupied by six or more unrelated individuals.

The law was enacted by the Legislature

in 1986 after a fatal rooming house fire in Beverly in 1984.

Worcester is not one of the communities that has adopted the law. Marlboro, Maynard, Southboro and Westboro are among the communities that have adopted the law.

O'Sullivan said landlords have five years to install automatic sprinkler systems once the law is adopted. That provision was added a year ago after lobbying by rooming house owners in communities that have adopted the law, he said.

The Legislature's Public Safety Committee is studying two other amendments to

the law, said Alfred W. LaRosa, research director for the committee. One would remove the local option clause and make automatic sprinkler systems mandatory in all rooming houses. Another would give landlords only two years to install sprinkler systems, he said.

O'Sullivan said the law is especially important for rooming houses because they have more fatal fires than any other kind of housing combined. "Shame on rooming house owners," he said.

Resistance to the law is mostly due to the cost of installation, he said. It costs about \$1 per square foot to install a sprinkler sys-

tem in new construction and \$1.50 per square foot to install it in an existing building, he estimated.

The cost is the equivalent of installing new carpeting, he said.

District Fire Chief Kenneth C. Henderson, who oversees the Fire Prevention Bureau, in an interview with Mike Lawrence of Channel 7, said the city has had the local option law under consideration. He will recommend adoption of the law once the city has completed enforcement of a smoke detector bylaw, he said.

Inspector James C. Slevin of the Fire Prevention Bureau, agreed the sprinklers

would help save lives. A temperature 185 degrees, about that of a burning wastebasket, curtain or bedding, would be high enough to activate a sprinkler system in seconds.

But William R. Campbell, owner of William R. Campbell Insurance Agency Shrewsbury, said builders and homeowners are likely to resist anything that will cost them more money.

Installing a sprinkler system could save residential property owners 2 percent their insurance and up to 12 percent if they also install smoke detectors and burglar alarms that are wired to a security company and a local police department, he said.

## Budget cuts draw grim forecast

By Richard Duckett  
Staff Reporter

Increased numbers of people living on the streets. Families on the streets. People unable to get into shelters. People unable to get out of shelters.

Those were some of Kathleen Harrigan's predictions of what the

## Stretching it



## Brush fires hit two sites

Nearly 100 acres may be destroyed

By Mark Melody

# North Shore cities differ on sprinkler law

## *Beverly cool toward new statute*

**A News staff report**

**BEVERLY** — A Beverly fire prevention official says his city has no immediate plans to adopt a new and stricter state law governing sprinkler systems for multi-unit dwellings, but added the Fire Department's is continuing to look into the possible benefits of such a measure.

The Peabody City Council recently voted into law a measure requiring all new multi-family dwellings with four or more units to have automatic sprinklers.

The new law applies to dwelling units of all types — including lodging houses, boarding houses,

fraternity houses, dormitories, apartments, townhouses, condominiums, hotels, motels and group residences.

"It's a good idea," said Beverly Fire Department Capt. Richard Jutras, head of the department's fire prevention office. "With cut-backs (in fire department budgets and emergency spending), it's up to developers to provide some safety system. It's a way of looking at what buildings can do to help themselves."

Jutras said nothing was "in the works" in Beverly, but suggested, "it is something the city would be looking at."

He said the measure would apply to the construction of new homes and to major rehabilitation projects of at least four units. Sprinkler systems have been improved to be smaller and more easily concealed, Jutras said, and might not impose as much of a financial burden on developers as some might think.

"I don't think there will be an outcry," said Robert Brilliant, a lodging house owner in the city. "I'm surprised our city hasn't accepted the law already."

He said the city had already "encouraged" builders to include sprinkler systems in their multi-unit projects despite the fact they are not required by law.

Brilliant said he had not heard of the state's four-unit law, passed April 2, but applauded it.

"I'm impressed," he said. "I believe in safety. It's like seat belts. The public has a right to legitimate and safe products."

He said the extra cost of the sprinklers would be absorbed by landlords and tenants, developers and buyers, alike. He added the price of sprinkler systems "have come down substantially."

Brilliant said he knew of two five-unit buildings in town that would have to install the sprinklers if the law was accepted by the city.

## *Peabody adopts tough standard*

**A News staff report**

**PEABODY** — This city has become one of the first communities in Massachusetts to adopt legislation that requires the installation of automatic sprinklers in all new dwellings with four or more units.

Every new large dwelling —apartments, condominiums, hotels, motels and townhouses —must be equipped with fire-suppressing sprinklers.

When asked if the new measure will now dampen multi-family construction in Peabody due to added construction costs or the added layer of bureaucracy, local business and government officials had the same basic answer —doubtful, simply because the market is flat anyway.

"The marketplace is dried up now in multi-families, especially condominiums," Community Development Director Dennis DiZoglio said.

While acknowledging the added construction costs and the arguments regarding over-regulation, the new sprinkler law "isn't anything that's going to stop builders from wanting to do business in this community" in the 1990s, said Arthur M. Gordon of Gordon Realty, a downtown business leader and owner of two sprinkler-equipped boarding houses.

But if the new law was proposed in the mid-1980's, during the early stages of the building boom, there would have been more opposition from development interests, said Gordon and Peabody Building Inspector Ralph Gandolfo. Some boarding house owners — citing high costs and encroachment by the government — complained several years ago when state lawmakers passed legislation requiring sprinklers in boarding and rooming houses.

Even in the current depressed market, Gandolfo admitted, he was "a little surprised" councilors passed the four-unit measure so easily.

An indication of the lack of any organized resistance to the measure was that Albert J. Foisy, the North Shore Chamber of Commerce's vice president for legislative affairs, said no development interests approached him to follow, in depth, the four-unit sprinkler bill.

"To be honest with you, I don't know much about it," Foisy said when asked about the measure this week.

It was Gandolfo and Peabody Fire Inspector Daniel R. Strabone who championed the local-option law at City Hall. It took only one committee hearing before the full council, without comment, adopted the law April 30.

Strabone, like fire officials statewide, loves sprinklers and likes the sprinkler law.

"It's like having a firefighter on duty 24 hours," Strabone said.

It was a North Shore tragedy, the Elliott Chambers rooming house fire in Beverly six years ago, that prompted lawmakers to pass a mandatory sprinkler law for boarding houses. The law just passed by Peabody councilors was an extension of the legislation inspired by the 15-fatality Beverly fire.

There have been recent breakthroughs in sprinkler system technology that have made the fire suppressants more effective and more affordable, according to insurance official Richard J. Saulen.

Of sprinkler-equipped buildings nationwide that had fires, the fire was controlled or extinguished 96 percent of the time, according to Saulen, assistant manager in the loss control department of the Mutual Fire Insurance Association of New England, Inc.

"From an insurance point of view, that's very attractive," Saulen said.

So much so that some insurance companies are offering property owners up to a 20 percent credit on fire insurance premiums if their buildings are equipped with sprinklers, Saulen reported.

As a rooming house owner and a business advocate, Gordon said he sees the automatic sprinkler law debate from many sides. But Gordon said an overriding factor is that once sprinklers were installed at Gordon Realty's two downtown rooming houses, he slept better at night.

"And so do the occupants," he added.

# Sprinklers mandated for multifamily units

5/1/90

PEABODY — All new multifamily dwellings with four or more units must have automatic sprinklers.

The City Council, with little comment, unanimously voted the wide-ranging local-option provision into law Thursday night.

The new law also extends to any dwellings that have been "substantially rehabilitated." Existing buildings are "grandfathered," and are not required to be retrofitted with sprinklers.

The vote Thursday comes amid increasing pressures from fire officials nationwide to equip multifamily dwellings, especially boarding houses, with fire-suppressing sprinklers. Advocates say sprinklers greatly reduce the chance of deaths and property damage from fire.

The law, which became effective April 2, was passed by state lawmakers with the understanding that individual communities would have to approve the law themselves.

The new law is an expansion of the 1986 sprinkler law, which requires sprinklers in lodging houses with six or more occupants. Lawmakers passed that legislation after 15 people died in the 1984 arson fire at the Elliott Chambers rooming house in Beverly.

Peabody City Councilor at Large Edward Lomasney said Thursday that councilors, before

voting the local option law, weighed the added cost to dwelling owners against the safety benefits of sprinklers.

The new law, passed by the state House and Senate late last year, reads, in part: "Any building hereafter constructed or hereafter substantially rehabilitated so as to constitute the equivalent of new construction and occupied in whole or in part for residential purposes and containing not less than four dwelling units including, but not limited to, lodging houses, boarding houses, fraternity houses, dormitories, apartments, townhouses, condominiums, hotels, motels and group residences, shall be equipped with (automatic sprinklers) in accordance with the provisions of the state building code."

The law goes on to say: "The provisions of section one (stated above) shall not apply to construction projects approved by permit within one year prior to acceptance of this act by a city, town or district."

The building industry and small apartment and lodging house owners have balked at mandatory sprinkler systems because of their high cost.

During the Beacon Hill debate on the bill, now-retired Methuen Fire Chief Joseph J. Nicolosi, then the president of the Massachusetts Fire Chiefs Association, called sprinklers "24-hour watchmen."

Peabody Times

5/1/90

# RESIDENTIAL AUTOMATIC SPRINKLERS:



BY MARY JANE DITTMAR

Of the 688,000 structure fires reported in 1989, according to NFPA statistics, 513,000 were in residential occupancies. Home fires killed every 121 minutes in 1989 and every 106 minutes in 1988. Annually, home fires claim about 80 percent of total fire deaths. It is easy, therefore, to understand the emphasis the fire service has been placing on residential sprinklers in recent years.

"Residential fire protection systems have been proven technologically. We know they work and save lives," asserts Ron Coleman, chief of the City of Fullerton (CA) Fire Department.

Statistics show that there has never been a multiple loss of life in a fully fire-sprinklered building. In most cases, the fire is out before the fire

department arrives—a crucial consideration when looked at in the light of the following data: A small flame can become an uncontrollable fire in 30 seconds; a whole room can flash over in three minutes; and an entire house can go up in flames in five minutes.

The reliability of a sprinkler system also is enhanced by the fact that its ability to save lives does not depend on human factors such as the occupants' being familiar with escape routes and knowing how to summon emergency assistance.

#### LIFE-SAFETY ABILITY DOCUMENTED

The data base validating the sprinkler as an effective way to reduce fatalities in home fires has been growing. Cobb County, Georgia, a suburb of Atlanta, alone has recorded more than 18 residential fires that were successfully controlled by sprinklers; it is estimated that these fires could

have produced at least 17 fatalities were the sprinklers not present.

In one scenario, a mother awakened by the cries of her 20-month-old daughter went to the nursery and found it on fire; a window fan had short-circuited. The activated sprinkler head above the baby's crib was showering water droplets on the baby, who responded by crying. The smoke detector that also was present had not gone off because it operated on the same circuit as the fan. Not only were no lives lost, but property loss was held to \$100.

Another incident involved a fire that occurred in a group home for developmentally disabled adults. Fred Hawkins, fire marshal of St. Petersburg, Florida, relates that one of the residents left a lighted cigarette she had been smoking in a closet. Around 2 a.m., a sprinkler head in the closet (his department had sold the owner

■ MARY JANE DITTMAR is assistant editor of *Fire Engineering*.

## RESIDENTIAL SPRINKLERS

on the idea of installing the system) activated and set off an alarm. Although the fire burned out the closet door, the sprinkler extinguished the fire. "All we had to do when we arrived was to remove the water below the activated sprinkler head," Hawkins reports. "This scenario was the prime picture of a potential multi-victim incident."

Firefighters' safety also is enhanced by the presence of residential sprinklers. Statistics show that a significant number of the deaths and injuries sustained by firefighters annually occur in residential fires.

### SPRINKLERS SAVE PROPERTY

Almost \$4 billion in residential property was lost in 1989. The highest per-capita rates were in the Northeast—\$40.4 per person—and in the South—\$39.5 per person. These figures were more than 16 percent and 13 percent higher, respectively, than

the national average.

A 1982 study of sprinklered and unsprinklered dwellings by the City of Scottsdale, Arizona, and the U.S. Fire Administration showed property savings of 85 percent with automatic sprinklers.

"A sprinkler division is good use of a fire department's manpower," observes Lt. Jerry Grier, head of the Cobb County Fire Department's Sprinkler Division. "These personnel prevent more fire damage than those fighting fires. Sprinklers work. We've had more than 50 fires and a minimum of \$20 million worth of property at risk in sprinklered garden apartments, and no one even had to vacate the premises."

To be fully effective, however, sprinklers must be designed for the fire load, properly maintained, and installed in all building areas. Partial sprinkler protection is risky, since a fire originating in an unsprinklered area can overpower the sprinkler system if the fire spreads before the sprinkler is activated.

## STANDARDS GOVERNING RESIDENTIAL SPRINKLERS

Residential sprinkler systems incorporate the new fast-response technology that make them considerably more sensitive to heat than standard sprinkler systems. At least a dozen residential sprinklers are listed in the NFPA 13D standard for one- and two-family dwellings and mobile homes; they include flush, recessed, and sidewall styles. Pendant sprinklers currently available cover areas up to 18 feet by 18 feet, and sidewall sprinklers cover areas up to 16 feet wide by 20 feet long.

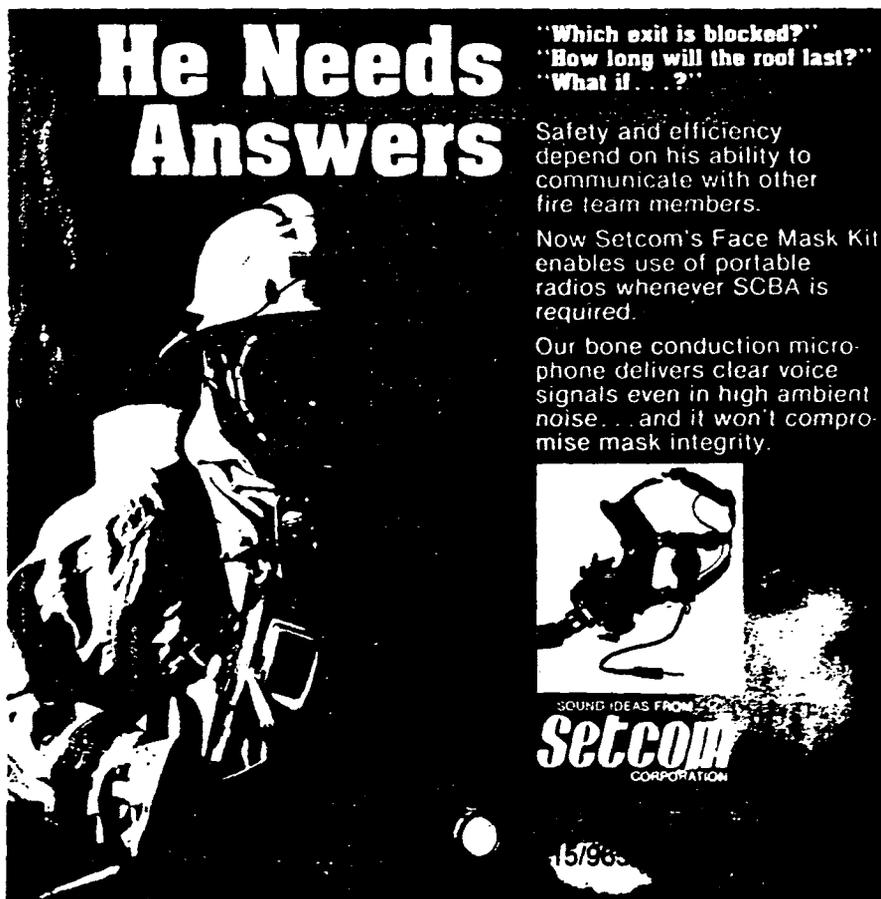
Specifically written to cover the installation of listed residential sprinklers in one- and two-family dwellings and mobile homes, NFPA 13D, adopted in 1975, permits (for economical reasons) sprinklers to be omitted from certain areas in the building that are required to be sprinklered under NFPA 13 (the standard for commercial occupancies). NFPA 13D also permits two-sprinkler design areas, to accommodate limited domestic water supplies.

The most recent residential sprinkler standard, NFPA 13R (adopted in 1989), provides guidelines for life-safety-oriented economical sprinkler protection for low-rise (up to four stories in height) residential occupancies that include apartments, lodging and rooming houses, hotels and motels, and board-and-care facilities (slow evacuation capability up to 16 residents and fast-evacuation capability).

Other sources that contain stipulations for the design and installation of residential sprinklers are Uniform Building Code (UBC) 38-1 for the Design Installation and Acceptance of Automatic Fire Sprinkler Systems and ordinances, resolutions, and policies for incorporated (city, town, etc.) and/or procedures for unincorporated (county) areas.

### MISINFORMATION BREEDS OPPOSITION

Unfortunately, the effectiveness of residential sprinklers does not equate with acceptance. There is and has been opposition to them despite the



**He Needs Answers**

"Which exit is blocked?"  
"How long will the roof last?"  
"What if...?"

Safety and efficiency depend on his ability to communicate with other fire team members.

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## RESIDENTIAL SPRINKLERS

efforts of and progress made in recent years by fire departments and other life-safety advocates. A good part of the negativity surrounding these sprinklers is misinformation relating primarily to concerns about their performance and destructive capability. Many residents and builders believe, for example, that sprinkler systems frequently malfunction. In fact, however, the loss records of Factory Mu-

tual Research indicate that only 1 in 16 million sprinklers in service per year probably will automatically discharge due to a manufacturing defect.

As far as sprinklers causing extensive water damage is concerned, sprinklers cannot be activated by the heat of a match—as some critics have stated. Most sprinklers respond to temperatures of 160°F and above. Moreover, the amount of water applied to an unsprinklered fire by fire department hoses is almost always ten to hundreds of times more than the

quantity of water the sprinklers would have discharged. Only the sprinklers closest to the location of the fire's origin activate, and the majority of fires are handled by one or two sprinkler heads. In addition, since the fire in the majority of cases is prevented from spreading, the total amount of water needed to suppress the fire is less. A factor often overlooked in such arguments is the extent of fire and smoke damage that would have been caused by a fire that progressed because there were no sprinklers to control its growth initially.

"Sprinklers have gotten a bad rap from the way they have been portrayed in television programs and movies," stresses Fire Marshal Hawkins from St. Petersburg. "You often see a full room of sprinkler heads going off at once, giving many people the mistaken notion that they cause water damage."

Hawkins says that this type of misinformation has influenced the public: "I had funds available through a FEMA grant to install sprinklers in two buildings that were part of an urban redevelopment program. In return for installing the sprinklers, the owners were given low-interest loans for their homes and a sprinkler system worth \$3,000 for free. All they had to do was buy \$270 worth of materials, the cost of which was put back into the loan—there was no out-of-pocket expenditure. I had to go to six home owners before I could find two who would accept the offer."

These misconceptions also have surfaced among the arguments used by builders to thwart the passage of pro-residential sprinkler legislation in some parts of the country (see sidebar on page 50).

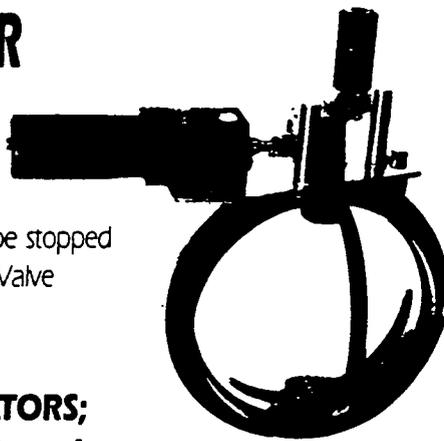
### FIRE-RESISTANT FEATURES OVERESTIMATED

The public's tendency to overestimate the fire-resistant aspects built into their homes also is clouding the sprinkler/safety issue. Many residents believe, for example, that the design of a multistory building can stop fire and smoke from penetrating the floors above a fire, that fire-protection features installed at the time of construc-

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## RESIDENTIAL SPRINKLERS

mandated code requirements that often interfere with the visual appeal of their structures, Hawkins relates. He gives the vertical-separation requirement as an example. Complying with this feature without sacrificing aesthetic qualities is difficult—especially around monumental stairs, he points out.

Residents and builders must be convinced of the benefits of sprinklers. "A great selling job is needed, and you must sit with a number of players," stresses John Nelson, chief of the Fire Prevention Bureau for the state of Florida. "Builders and home owners must be shown that they are protecting their lives and investments."

### STATUS VARIES WITH LOCATION

The status of residential sprinkler requirements varies from jurisdiction to jurisdiction:

● *Cobb County, Georgia.* Sprinklers are required only for structures covered under NFPA 13; there are options for one- and two-family structures, according to Lt. Grier. Growth here has been rapid, and the fire department has made the sprinklering of new garden-style two- and three-story apartments, condominiums, and town houses a priority. Cobb County's population, now 500,000, grew from 7,000 since 1971.

● *Arizona.* A Peoria ordinance stipulates that new buildings 2,500 square feet or larger, except one- and two-family homes, must be sprinklered. Should the occupancy of an existing unsprinklered structure meeting this size criterion change, sprinklers then must be installed. Last year, Fire Inspector Jack Brown says, the city passed an ordinance requiring builders to offer sprinklers to home owners as an option.

No Tucson codes or ordinances mandate sprinklers, according to Dennis Van Auken, deputy chief of operations. Tremendous opposition to sprinkler legislation has caused at least one other Arizona city to aban-

don its initiatives at present and makes help from the state legislature appear unlikely, Van Auken says.

● *Florida.* The state generally has innovative sprinkler laws, according to Nelson, who adds that all local governments—county, city, and municipality—are mandated to adopt minimum fire codes addressing all occupancies. The fire marshal develops standards for hospitals, child-care facilities, migrant labor camps, and similar facilities. Although some cities in Florida, such as Longboat Key, have adopted ordinances that require residential sprinklers, Nelson believes much more must be done to educate the public about the need for residential sprinklers. "We are going to have to do a better job of selling, and the insurance companies also must get involved," he stresses.

In St. Petersburg, Florida, there are no requirements for residential sprinklers. "We are firmly in favor of sprinklers, but the issue is a political one," Hawkins says. The 1988 NFPA 101 Life Safety Code or applicable building codes are followed.

● *Rhode Island.* A bill in the state's House of Representatives created a nine-member commission to study the issue of installing automatic sprinkler systems in residential occupancies. The commission held one meeting, but nothing concrete came out of it, according to Frederick A. Stanley, chief of the Hope Valley/Wyoming Fire District and president of the Rhode Island Association of Fire Chiefs. At present, he says, Building Officials and Code Administrators International (BOCA) and other applicable national and city codes are being followed.

● *Plano, Texas.* All occupancies in excess of 7,000 square feet (less than 5 percent of the community's buildings) must be sprinklered. "We are looking to drop the minimum to 5,000 square feet in two years," relates Chief William Peterson. "We also would like to improve on the requirements for multifamily dwellings, which at present stipulate that three-story structures of eight or more units be sprinklered. Two-story, eight-unit

buildings are not sprinklered." He notes that the fire department "got some real compliance in 500 new private single-family detached residences."

● *Champaign, Illinois.* James Dickey, director of the Building Safety Division, explains that there are no local requirements. BOCA codes apply.

● *Portage, Michigan.* "We had proposed an ordinance for sprinklered occupancies four or five years ago, but it was preempted by the state's construction code that said in part that municipalities may not have any ordinance that would tend to increase the cost of building," reports Fred Byrnes, fire marshal. He adds that buildings three stories high must comply with NFPA 13R. "But," he notes, "we have 40 complexes that are two stories or lower, and none of them use the Uniform Building Code."

● *Ventura, California.* This community has a population of 97,000, and the majority of its structures are single-family homes. An ordinance requiring sprinklers in structures more than 5,000 square feet was passed in 1979. Buildings constructed after 1980 or those that have been expanded to 5,000 square feet or larger, including single-family residences, must be sprinklered. Fire Marshal Doug Carriger says his department currently is working toward getting that requirement down to "zero square feet."

### A BRIGHT FUTURE IS POSSIBLE

If the fire service does its part, residential sprinklers have a bright future despite the obstacles now being encountered in some states, say a majority of sprinkler proponents. At the minimum, they say fire departments must engage in a national campaign that includes at least the following major components:

● *Education.* The support of the public can be won, Chief Coleman of Fullerton stresses. "We must educate consumers with regard to what sprinkler technology is all about. We didn't do enough to convince them. Once

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## RESIDENTIAL SPRINKLERS

... realize how sprinklers can protect their children and personal property, they will demand them."

Peoria (AZ) Fire Inspector Brown agrees: "People listen when shown how they can save dollars and cents

and improve life safety." He adds that comparison studies are included in the department's educational/promotional program. This information and other pertinent data are acquired through an information-exchange program among fire marshals in the area.

In Florida, a coordinator at the fire

college works with field offices throughout the state of Florida to acquaint home owners with the reasons they should invest in sprinklers. "We must increase public awareness," stresses Nelson, "since 80 percent of all fires in the United States, including Florida, occur in residential occupancies."

### RESOURCE BOX

The following are among the materials and organizations that can help your department develop a comprehensive, multifaceted residential sprinkler program.

#### American Fire Sprinkler Association, Inc.

11325 Pegasus Suite S-220  
Dallas, TX 75238  
(214) 349-5965  
Fax: (214) 343-8898

"Residential Fire Sprinkler Systems ... A Way of Life," technical assistance.

#### Fire Sprinkler Advisory Board of Southern California

18000 Studebaker Road, Suite 310  
Cerritos, CA 90701  
(800) 338-2188, (213) 860-1999

Literature including brochure "Reflection on Protection" for residential and commercial audiences.

"Strategies for Fire Sprinkler Ordinance Adoption," a six-level training program for inspectors/students covering the following topics: Introduction of Fire Sprinklers, Underground Piping and Water Supply, Commercial Sprinkler Systems, Residential Sprinkler Systems, Special Advanced Systems, Sprinkler Plan Review, and Suppression Company Inspections designed for fire/building inspectors.

#### Institute for Local Self Government

League of California Cities  
1400 K Street  
Sacramento, CA 95814  
(916) 444-5790

"Fire Sprinklers: How You Can

Save Lives and Property" kit and position paper and other materials.

#### National Fire Protection Association

One Batterymarch Park  
Quincy, MA 02269-9101  
(617) 770-3000

Technical assistance.

#### National Fire Sprinkler Association, Inc.

Robin Hill Corporate Park  
Route 22, P.O. Box 1000  
Patterson, NY 12563  
(914) 878-4200  
Fax: (914) 878-4215

"Look Up for Safety" (when entering a building) consumer promotional campaign, which kicked off October 7, is underway. Celebrities such as Arnold Palmer, Shirley Jones, and Notre Dame Basketball Coach Richard "Digger" Phelps are participating.

Literature includes F.Y.I. series of booklets including "Residential and Quick Response Sprinklers" and "Homeowner's Guide to Fire Sprinkler Systems"; "Fire Sprinkler Facts" and "Fire Safety in High-Rise Buildings"; "Look Up for Safety" action caps and stickers; "Fire Sprinklers Save Lives" bumper strips; technical assistance.

#### National Volunteer Fire Council Resource Center

P.O. Box 25215  
Alexandria, VA 22313-5215

Sample news release and fact sheets for builders/developers and realtors.

#### Operation Life Safety

International Association of Fire Chiefs

1329 18th St., N.W.  
Washington, DC 20036  
(202) 833-4320  
Fax: (202) 452-0684

Materials to help create a sprinkler program include newsletters with success stories, model codes and ordinances, sprinkler information, and lobbying ideas. Booklet "Solving Your Community Fire Problem: An Outline for Success," technical assistance.

#### U.S. Fire Administration

FEMA/National Emergency Training Center

16825 S. Sexton Avenue  
Emmitsburg, MD 21727  
(301) 447-6771

"An Ounce of Prevention" (publication no. FA-76), "Home Fire Protection: Quick Response Sprinkler Systems" (publication no. FA-43), technical assistance.

**Videotape:** "Less Than Five Minutes"—a 10-minute presentation contrasting a staged free burn with a staged burn controlled by sprinklers.

Contact: **William H. Weigle**

Egremont Volunteer Fire Department  
R.F.D. 3, Box 115AA  
Great Barrington, MA  
01230  
(413) 528-1625

A special thanks to all who have contributed to this article. ■

—MARY JANE DITTMAR

### Class On use Class

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## RESIDENTIAL SPRINKLERS

Unfortunately, some residential sprinkler advocates point out, the media do not give the same coverage to incidents in which the presence of sprinkler systems prevents fatalities as they do to incidents that claim lives because sprinklers are not present.

• *Cooperation.* This term has various applications. In Cobb County, for example, it means—among other things—training personnel to run interference for builders so that they encounter a minimum of obstacles when installing sprinklers in their structures.

In some localities, it means working with local builders and home-owners associations, presenting slide programs at luncheon meetings of local service and business organizations—even the Garden Club. In communities such as Plano, Texas, it means being on the same side as building officials and gaining their support. "The building inspector must be your number one ally," Chief Peterson emphasizes.

Winning over individuals and groups on a one-to-one basis is also a good way to work the political systems to advantage—another vital aspect of a winning campaign, sources say. In some areas, supportive state and federal legislation is needed before significant gains can be made. Cooperation, in other cases, has been extended to include networking with fire service and other officials of states (such as California and Arizona) that have some of the most advanced residential sprinkler laws. This type of cooperation should be extended even further.

In an article written for *Fire International* (Dec. 1990-Jan. 1991), Chief Stanley of Rhode Island states: "One of the main reasons for past failures in promoting residential sprinklers was our inability to communicate and work together even though our goals were the same. Meeting the challenges of the 1990s will require a united fire service and

will require great teamwork on the part of all players."

• *Planning, planning, planning.* The consensus here is to take your time so that you can come up with a workable and effective plan. It could take anywhere from two to three years or longer to devise a viable plan. Its objectives should include policies for enforcement, inspection, reinspection, training personnel, and educating the public.

"I believe the most critical aspect of a viable sprinkler program is that the fire department must have total control," asserts Lt. Grier. To him this entails having personnel with the abilities to approve plans and to conduct inspections and reinspections—including reading plans, verifying hydraulic calculations, and confirming that sprinklers have been installed properly.

"I do not want to see the smoke detector syndrome occur in our sprinkler division," warns Lt. Grier. "Everyone jumped on the smoke detector bandwagon. We approved an ordinance mandating that they be installed, but we did not implement any public relations or educational programs. The result is that about one-third of the detectors installed have been inadequately maintained. This has been a failure of the local and national fire service. We dropped the ball and did not follow up ...."

• *Resources.* Many resources are available to help you plan and implement your programs. The Resource Box on page 54 lists some of them, many of which have been recommended by the departments represented in this article.

"In 25 years, sprinkler systems in homes will be as common as heating systems," predicts Lt. Grier. His statement is based in part on an observation he shares with others in the fire service: A new wave is sweeping the fire service. It is based on the concept that the new emerging priority in the service is to prevent fires instead of suppress them. How prophetic these members of the fire service are will depend in great part on how you address today's challenges. ■



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# BUILDERS' OPPOSITION TO SPRINKLERS

Builders in Massachusetts successfully lobbied to stop the state's Board of Building Regulations and Standards (BBRS) from approving a bylaw passed by the residents of the rural community of Egremont (population 1,400). Some of the arguments used to defeat the measure are discussed below. They are presented to acquaint you with the misconceptions that can block selling automatic residential sprinklers to home owners, builders, building inspectors, code enforcers, and others whose support is needed for codes and legislation that mandate residential sprinklers.

The bylaw passed by Egremont required that sprinklers be mandated for all newly constructed residential structures and for existing residential buildings that are "substantially rehabilitated" (in excess of 50 percent). Residents were exercising an option newly available to them under a state law passed during the latter part of 1989. It permits rural communities without a municipal water supply (64 in all) to add life-safety provisions to their fire code; the local community's bylaw, however, is subject to the approval of the state's BBRS.

Egremont does not have a municipal water supply or hydrant system, and most of its volunteer firefighters are not available during the day because they work out of town.

The bylaw initiative was especially significant because a builder from Boston had purchased land in Egremont and proposed to construct a development of 200 single- and multiple-family homes.

The state legislation and bylaw came about through the extensive efforts of William H. Turner, chief, and William H. Weigle, secretary/

trustee of the Egremont Volunteer Fire Department Inc. and Lawrence Tonini, chief of the West Stockbridge Volunteer Fire Department; they were assisted by the U.S. Fire Administration, which provided a \$20,000 grant; Operation Life Safety; the International Association of Fire Chiefs, Joseph A. O'Keefe of the State Fire Marshal's Office; the Congressional Fire Services Institute; the National Fire Protection Association; the National Sprinkler Association; the American Fire Sprinkler Association; and the New England Fire Marshal's Office. The model bylaw used by Egremont was written by the attorneys for Egremont and West Stockbridge.

The efforts of the Egremont and West Stockbridge committees included petitioning the state legislature to sponsor and ultimately pass the bill, providing the extensive data that documented the need for the legislation, and implementing an intensive local educational and promotional program.

## BURN DEMONSTRATION

The Fire Technology Seminar & Live Fire Mutual Aid Drill that was part of the educational program co-sponsored by the Egremont and West Stockbridge departments featured burn demonstrations held at an abandoned resort that had been rebuilt according to the state codes. Actually, explains Weigle, the state codes were exceeded, since—although the codes do not require it—cracks, holes, and joints in the structure were filled with fire putty. The two rooms used for the demonstrations were fully decorated with up-to-date living room furniture and furnishings.

The USFA grant provided funds for the demonstrations, and Factory Mutual Research Corporation prepared the burn site and documented the temperature, oxygen, and carbon dioxide levels. Franz Haase of LSS Inc. installed the sprinkler system in the demonstration structure. Seven sprinklered burns and one non-

sprinklered burn were staged. The sprinklered events produced minimal damage, near the site of the fire's origin (a wastebasket), and were extinguished within seconds. The free burn, on the other hand, destroyed the building. The seven-minute burn and water needed to extinguish the fire rendered the building "a total loss," in the estimation of State Fire Marshal Joe O'Keefe. The fire had flashed over in about three to four minutes. The five-town mutual-aid response team was on site when the fire ignited but began suppression efforts approximately seven minutes later to simulate response time. The result, according to Weigle, "was that \$1 million worth of apparatus and some 50 firefighters could not equal one residential sprinkler head tied to a 13D sprinkler system."

Compressed nitrogen (in accordance with 13D) supplied water for the sprinklers in the tests. Videotapes of the burns were shown on local television networks. A 10-minute videotape, "Less Than Five Minutes," was created from the demonstrations and is available. (See Resource Box.)

## WEST STOCKBRIDGE BYLAW APPROVED BY STATE

The people of West Stockbridge, a rural community with a demographic and fire life-safety profile similar to Egremont's—and also without a municipal water supply—passed a bylaw mandating sprinklers in all new residential buildings and residences *that have been renovated in excess of 50 percent of assessed evaluation*; it was approved by the state. The italicized portion is the amendment that made the bylaw acceptable to the state's BBRS and attorney general, notes Weigle.

The West Stockbridge fire code now provides that home owners buy a 270-gallon water tank sprinkler system, powered by electric pumps, or a compressed air nitrogen system. Water to fill the tanks will be supplied by wells.

Weigle says that Egremont has

incorporate its original to the state

## BUILDERS' O

Some of have to ref dental spring, which mont camp ous building industr newspaper

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incorporated the new language into its original bylaw and will submit it to the state soon.

#### BUILDERS' OPPOSING RATIONALE

Some of the arguments you may have to refute when promoting residential sprinklers include the following, which surfaced during the Egremont campaign and appeared in various building/construction/contracting industry trade magazines and in newspapers throughout the country.

According to Garen Bresnick, executive director of the Massachusetts Association of Homebuilders, as quoted in *THE BOSTON SUNDAY GLOBE* (July 22, 1990): "Developers are concerned that if even one town gets approval, 'it will create a stampede' of others seeking to make sprinklers a requirement in new homes."

● *The global view of our country's needs and resources.* This theme is the umbrella for positions such as the following: A mandatory residential sprinkler requirement is not cost-effective; it is a squandering of money that could be used to purchase items that have the potential to save more lives than sprinklers. One example used is air bags—some critics say the amount it would cost them to install a sprinkler system in new homes could equip 10 million automobiles with air bags.

The reasoning behind this calculation is that, according to building industry studies, the \$4.5 billion the building industry would have to invest in residential sprinklers for new homes would save 19 lives and \$15 million in property damages each year.

● *The we're-denying-Americans-homes complex.* This approach holds that if so much money is spent making new homes safe that they are unaffordable, sprinklering new homes will force more Americans to remain in a stagnant, less healthful, and more dangerous housing stock, thereby lowering the public's health.

● *The bow-can-we-rate-tragic-deaths dilemma.* This argument goes

this way: The real question is whether any one human death is more or less significant or tragic than another; it then proceeds to point out that when resources for life-safety options are limited, builders are equally concerned about statistics pertaining to the loss of lives from coronary and vascular diseases, cancer, AIDS, and automobile accidents.

Another argument used against sprinklering new homes is that the majority of fire fatalities occur in houses that are 10 years or older. This position is not endorsed by the fire service. In fact, Chief Turner and Secretary Weigle of the Egremont Volunteer Fire Department noted in a letter to the Executive Office of Public Safety of the Commonwealth of Massachusetts that according to the NFPA study *U.S. Fire Death Patterns by State, 1980-1987*, a "simple statistical correlation shows a slight tendency for lower death rates where there is more old housing."

This old vs. new construction argument has surfaced in Tucson, Arizona, as well as in Massachusetts, reports Deputy Chief of Operations Dennis Van Auken of the Tucson Fire Department. The department has developed an information packet for members of home owner associations, building associations, and other community groups to dispel misconceptions about residential sprinklers and to promote their benefits.

Van Auken adds that the Tucson Code Committee recently assigned a subcommittee that includes builders, architects, fire service personnel, local inspectors, and others involved in approving and enforcing building codes to study the residential sprinkler issue. The last meeting of the subcommittee was to take place the end of May (after press time). It is expected to recommend to the mayor and council that sprinklers be included in new residential construction. If the recommendation is not made, Van Auken says, the fire department then will issue a minority report advocating the installation of sprinklers to the governing body.

A representative of the Massachusetts Homebuilders Association, according to a trade publication for contractors, went so far as to call residential sprinklers "...a 'cop-out' on the part of the fire service, whose departments are looking for something to get them off the hook, especially at a time when budgets are getting tight."

#### BUILDERS INFLUENCE STATE AS WELL

Builder pressure on state legislators also has been a factor in Cohasset, Massachusetts. A suburb with a population of 7,500 and which is 90 percent hydranted, Cohasset has a building inspector and comes under the state building code. Fire Chief Daniel Brock says that zoning laws are strict and that sprinklers for new residential structures are being proposed on a voluntary basis. Local residents last year passed a bylaw requiring sprinklers in single-family homes, but it was opposed by builders and rejected by the state's attorney general because it exceeded the requirements in state codes.

Massachusetts state legislators recently passed a law mandating sprinklers in dwellings that house four or more families, Brock reports. Adoption by localities is optional. At press time, Brock was preparing to propose that Cohasset adopt the sprinkler requirement at an open forum during a town meeting; the Board of Selectmen, Brock noted, had voted to support it. He anticipates a struggle with regard to mandatory sprinkler legislation. Part of the reason for this, according to Brock, is that the building inspector has enough to do to enforce the Massachusetts Building Code. The fire department's jurisdiction is limited to matters that relate most directly to fire control such as inspecting fire alarms, water supplies, and access routes.

Cohasset has joined in the lobbying activities of its regional fire chief's association to counteract opposition to residential sprinkler legislation. ■

—MARY JANE DITTMAR



CHARLES R. McNUTT  
CHIEF OF DEPARTMENT

**TOWN OF WINCHESTER**

MIDDLESEX COUNTY, MASSACHUSETTS 01890

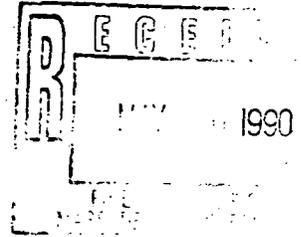
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May 29, 1990



Joseph A. O'Keefe, Sr., P.E.  
State Fire Marshal  
1010 Commonwealth Avenue  
Boston, MA 02215

Dear Marshal O'Keefe:

The Winchester Fire Department is pleased to inform your office that the Town Of Winchester adopted Section 26H of Chapter 148 (Boarding House Sprinkler Law) by an overwhelming vote of the Town Meeting on April 17, 1990.

We want to thank you for the information and material supplied us by your Staff. This information enabled us to present the need for this important legislation in a very professional and effective manner.

Sincerely,

Lt. Robert M. Walsh  
Fire Prevention Officer



CITY OF WORCESTER, MASSACHUSETTS 01605

## FIRE DEPARTMENT

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Dennis L. Budd  
Chief

October 16, 1990



Mr. Joseph A. O'Keefe, P.E.  
Fire Marshal,  
Department of Public Safety  
1010 Commonwealth Avenue  
Boston, MA 02215

Dear Marshal O'Keefe:

Please be advised of the Worcester City Council passing, unanimously, Section 26H, Chapter 148, effective September 25, 1990.

Although passage came about without a great deal of opposition, the information Phil O'Sullivan forwarded was helpful in our preparing the presentation.

Sincerely,

Dennis L. Budd  
Chief,  
Worcester Fire Department

DLB/js

cc: Dist. Chief Kenneth C. Henderson