3/17/92 (13)

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March 10, 1992

EXPRESS MAIL

Hon. Norman Lake and the
Members of the Board of Selectmen
Acton Town Hall
472 Main Street
Acton, MA 01720

Dear Members of the Board of Selectmen:

I had heard that there was some dissatisfaction of the pricing of your Town Counsel, and when I called I learned that there was an RFP that was due in three days ago. When looking effectively for a Town Counsel, most towns advertise in the Massachusetts Lawyers Weekly and The Mass. Municipal Beacon, but there was no ad there. Since you are not bound by the Uniform Procurement Act for counsel, I am herewith submitting my application.

Basically, what the application says is that we represent 62 towns throughout the Commonwealth as Town Counsel and approximately 70 others as Special Counsel, that being 95 percent of our entire practice. Our rate is a blended rate of $105 per hour. Please note that we have been reappointed every year unanimously by our boards. I would appreciate your looking at our application because I think that a firm that does nothing but municipal law deserves your attention.

We do the cutting edge of environmental law and land use with the former Chief Counsel of the Metropolitan Area Planning Counsel in our office as a principal. Also, we are listed in Martindale Hubbell's List of Preeminent Lawyers for both environmental and trial law with an AV rating, which is the highest rating.

The key to our firm is the economies of scale by which we are able to give speedy, accurate and cost-effective advice. I

hope that you will grant us an interview to discuss our type of practice which is the only type like it in the state.

Very truly yours,

Leonard Kopelman

LK/sb

Enc.

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Acton Town Hall
472 Main Street
Acton, MA 01720

RE: TOWN COUNSEL - TOWN OF ACTON

Dear Members of the Board of Selectmen:

We hereby apply for the position of Town Counsel. I have graduated with honors from Harvard College and Harvard Law School and am a member of the American Bar Association and Massachusetts Bar Association. I have been in active practice since graduating law school in 1965 and have been specializing in municipal law since 1967.

The firm represents a number of communities that, like Acton, have concerns about growth management and preservation of natural resources.

We are Town Counsel to Amesbury, Burlington, Stoughton, Carlisle, Walpole, Millville, Provincetown, Belchertown, Northbridge, Manchester-by-the-Sea, Wareham, Lancaster, Norton, Georgetown, Scituate, Grafton, Hadley, Millbury, Dedham, Groveland, Sandwich, Hanson, Plymouth, West Brookfield, Rockland, Southampton, Boxborough, Douglas, Uxbridge, Templeton, Blandford, Oxford, North Andover, Brimfield, Westhampton, Hardwick, East Bridgewater, Northfield, Florida, North Reading, Kingston, Goshen, Millis, Colrain, Northborough, Huntington, Bernardston, Hubbardston, Buckland, Pembroke, Granville, Montgomery, Chesterfield, Seekonk, Salisbury, Williamstown, Billerica, Leyden, Dalton, Weston, Acushnet and Lunenburg and are special counsel to numerous other communities such as environmental counsel to Dennis and trial counsel for Wayland. I have been

PRINTED ON RECYCLED PAPER

State Chairman of the National Institute of Municipal Law Officers and Chairman of the Municipal Law Section of the Massachusetts Bar Association.

I am fully familiar with the statutes, rules and regulations affecting municipalities and municipal officials, officers, boards, committees, commissions and employees. I am fully familiar with the duties and responsibilities of all officials of the Town. I am able to provide motions, warrants and by-laws for the Town and to minimize legal costs and services to the Town without compromising the legal rights and obligations of the Town. I have written several articles in "The Municipal Forum" and have lectured extensively on the art of being Town Counsel and the role that Town Counsel plays in assisting the Selectmen to govern.

We are qualified to represent the Town, its officers and employees before every regulatory body and each court in the Commonwealth including all the Federal Courts and the U.S. Supreme Court all of which I am admitted to and am in good standing. I have had several years of negotiating complex municipal matters in order to avoid the costs, risks and time of litigation.

I have been the keynote speaker on the municipal update section of the Massachusetts Municipal Association's annual meeting for the past four years. I have been the guest speaker at several County Selectmen's Association meetings on municipal law.

If we are unable to be reached on the first telephone call, we always return the call within the day. On an emergency basis we can always be reached immediately since each lawyer's secretary and the receptionist knows how to contact any lawyer in the office at all times. We consider ourselves on duty 24 hours a day and as such are on call to our Towns whenever needed.

Our written opinions are rendered in a speedy (either same day or within a week at the latest) turn around time and in clear, easy to understand language. If it is our opinion that something that the Town wants to do cannot be done in the method suggested, we will come back with suggestions on how it can be done.

We bill our Towns on a monthly basis after the close of each month. Our billing is based solely on the number of hours worked. Our proposed fee schedule is $105.00 an hour. Our

office handles all municipal matters. Therefore, there is never a need for special counsel. Since we know the answers to most questions, our actual cost per opinion is minimal since we do not need to perform the research task. We also have a complete and comprehensive municipal law library of our own so that we can have immediate access to all municipal materials.

To reduce and control litigation we work closely with department heads and suggest the enclosed request for legal services format that is successful in other towns. I also enclose four unsolicited statements sent by the chief operating officers of two towns who voluntarily left to seek employment elsewhere, a current Manager, and a Chairman. Each budget that I have worked with has been cut.

We do run in-house seminars at Town Hall, in particular as it relates to the duties of the Zoning Board of Appeals and Planning Board. We have also thought it best that members of the Board of Health be present for the seminar. Also enclosed is a copy of a recent article on land use regulation I have prepared for The Municipal Forum. Our office plays a leadership role in environmental law. We have given the EOCD 13 week, three hours per week course on land use, copy of agenda enclosed.

We would keep the Town of Acton informed of all statutory and case law coming out of the legislature, federal courts, and trial courts that would relate to the Town. We would do so by sending a letter to the Board of Selectmen with a carbon copy to any department head that should have knowledge of the issue. We do not charge for these services.

Almost all of our work is municipal law, and we are able to adapt to fluctuations in work load to meet any pressing needs of your Town. We do not have a high turn over rate in employees, and our firm is sought after by lawyers who wish to practice in the area of municipal law.

For each of the communities we have serviced we have been reappointed unanimously each year. If you were to check our references, you would find from each Chairman of the Board and Town Administrator, Town Manager or Executive Secretary that he or she is very pleased with our work. You will find that we have sent out numerous letters updating Town officials on new laws and cases and that our advice is speedy and sound. You would also find our availability is excellent and that we have found numerous ways to reduce legal costs.

I would be the principal attorney in the firm handling the legal affairs of Acton, and all the municipal specialists would also be available to the Town whenever needed.

Our firm would welcome the opportunity of being interviewed by you. We do extensive work in Middlesex County, and would be grateful for the opportunity of representing the Town of Acton.

Respectfully submitted,

Leonard Kopelman

Enclosures

- Article: "The Art and Science of Managing Legal Services"
- Article: "For Municipal Chief Executives, Managing the Local Planning Process"
- List of Some Speaking Engagements
- Form: Town of Acton Request for Legal Services
- Letters of Recommendation
- Some Seminar Descriptions
- Firm Brochure, which includes Resumes

TOWN OF ACTON
REQUEST FOR LEGAL SERVICES

DATE: _____

NAME: _____ TITLE: _____

COMMITTEE/DEPARTMENT _____

DESCRIPTION OF REQUEST: (Include such information as "request for legal opinion" or "relates to pending litigation." Is this a request of a committee or an individual member's concern; and is the request high - low priority and explain why. Please attach all relevant documentation.)

TIME FRAME: (By what date is a response needed; Please explain.)

SUBMIT COMPLETED REQUEST FORM TO OFFICE OF
TOWN MANAGER FOR PROCESSING

Your request for legal services relative to _____

_____ was:

_____ Forwarded to Town Counsel

Date: _____

_____ Returned

Date: _____

Reason: _____

_____
Town Manager

Printed in the Massachusetts Municipal Association Advocate

The Art and Science of Managing Legal Services

by Leonard Kopelman

Your town counsel or city solicitor works for you. This statement is obviously true, but, in practice, many communities take a far more laissez-faire approach to the management of their legal counsel than to other individuals or firms that work for them. The situation is understandable: counsel possesses highly specialized knowledge and skills; sometimes municipal counsel has held the position for many years and seems more firmly entrenched in local affairs than the chief elected officials; and, finally, there is the fairly common view (fostered, in part by some legal practitioners) that "your lawyer knows what is best" and that the client should not be overly meddlesome.

Of course, it would not be productive for municipal officials, or clients generally, to substitute their own legal opinions for those of their legal counsel, but there are still a number of controls over counsel that must be exercised. The need for aggressive management of legal services will become more pronounced in the 1990's because of increasing municipal litigation and the growing complexity of public life.

Your lawyer really does work for you and this means his or her activities should be subject to the same management controls as others. You have the right, indeed the responsibility, to monitor how much time counsel devotes to particular matters and to tell him or her what should be the highest priorities. There is no impropriety in insisting that legal work be performed at as low a cost as is practically possible. The chief governing board

of the community can demand accountability of its lawyer and should regularly review his or her performance. It can set down operational guidelines concerning records kept by counsel, contact between counsel and other local committees, and routine practices of counsel. It can, and should, insist that counsel not espouse policy recommendations veiled as legal opinions. In short, the relationship between a community and its lawyer is one that must be managed by the political leaders for the benefit of the community. Your attorney should be an expert in municipal law - and there is a big difference between municipal law and municipal policy.

This article will explore some of the ways in which municipalities can make more effective use of legal services.

Politics

Having underscored the role of municipal counsel as a legal expert and not as a local political force, it may now appear contradictory to suggest that a good municipal legal counsel will display political sensitivity. It is no contradiction to say that legal counsel should not take sides in political disputes while at the same time insisting that a truly competent municipal counsel understand the political process and understand the particular political forces at play within your community.

Your municipal lawyer, in addition to knowing what the law requires, also needs the ability to react to the personalities and circumstances that arise in a situation. This should not necessarily influence his or her legal opinion, but should

influence how their legal opinion is presented. An opinion can be rendered in two ways. In general a short opinion - one that immediately gets to the bottom line without citing many cases - is preferable. If the issue is one that has excited local controversy, though, a lengthier opinion containing the background and legal reasoning may be appropriate. Your counsel should understand what situations call for the efficient opinion and which demand the more lengthy one.

Another area where sensitivity is required is when action is being taken in connection with a resident of the community. Your counsel should be a zealous advocate for the interests of the local government, but must understand how important it is for local citizens to feel that they are being treated fairly and courteously by their city or town. In the appeal of a tax bill, for instance, a citizen may be aggrieved because he or she feels that his property has been overassessed or disproportionately assessed. Your counsel appears on behalf of the Board of Assessors, but you must remember that the community must continue to function with the good will of the taxpayers who pay the bill. This means that municipal counsel must not only be an effective advocate, but also a conciliator under some circumstances.

In order for your counsel to be an honest and objective advisor it would be preferable if he or she did not live within the community. There is too much of a temptation for the weak department heads, the "town nuts," and the angry one-issue individuals constantly to be at the office of town counsel or

contacting him or her at home. Such pressure can sometimes skew your lawyer's advice and may increase the number of billable hours or retainer for which you will be charged.

Managing Activities

If counsel is constantly in town hall, you will find department heads shirking their jobs and allowing town counsel to substitute his or her judgment for that of the department head. Also, you will find that department heads will ask town counsel all sorts of "what if" questions. These are nothing more than difficult hypothetical questions that cost the town money to answer and may be of no practical use.

Similarly, I believe it is not a good idea to require counsel to be present at all council meetings. First, such meetings are usually lengthy and it will be costly to the community to pay the lawyer for such time. Second, governing boards tend to defer to counsel for advice that is not truly legal advice. It is easy, when a thorny issue comes up that may involve some aspect of the law, to turn to a lawyer and say, "Well, counsellor, what do you think?" What is really needed in most cases is a political decision or a policy decision. It is the elected officials who possess the expertise and the responsibility to make these decisions. I have seen, in any number of communities, a marked change in the decision-making process when legal counsel regularly attends the governing body's meetings. After a few years it also seems that the lawyer is an ex-officio member of the board. This ultimately hurts the

lawyer, the executive body, and more importantly, the community. Third, legal counsel should not be required to attend board or council meetings because at such meetings the best you will get is an off-the-cuff opinion that may or not be correct. If you really want your lawyer's opinion, give him or her time to formulate a professional one, making use of the resources in the legal office.

Finally, by having counsel present at board meetings you lose one otherwise available tactic for delaying a commitment on a controversial issue. When you are handed a hot potato you can always say, "This is a matter on which we need legal advice. We'll refer it to counsel." You can use your lawyer in this way to get off the hook and provide you with valuable time to prepare a reasoned response.

However, there are some specific occasions on which you should make sure your lawyer is present. For example he or she should attend hearings at which a licensee might have a license revoked. The lawyer will make sure that the rights of such licensee are observed properly and that the correct procedure is followed to avoid lawsuits against the town if in fact the license is revoked.

The governing board should establish ground rules for communication between legal counsel and department heads and other municipal officers. What is important to avoid is the situation in which any town employee thinks he or she can go directly to town counsel for advice. Too often a town counsel

will end up giving advice over the telephone in response to a poorly described situation, and then just a small portion of counsel's advice is discussed at a public meeting. One way to insure that questions to counsel are well-framed and worthwhile is to require a formal vote to refer a question in writing to counsel by any board or committee. Another way is to require that all legal business be conducted through the manager/administrator. Depending on circumstances, it may be appropriate to authorize direct communications between counsel and a department head regarding a particular problem.

In any event, when an opinion is solicited of counsel it is best to give him or her as much information as possible. Describe the context in which the question has arisen and cite as many specifics as possible in describing the issue. A copy or summary of all business with counsel should be kept centrally by the chief executive or manager/administrator. You can require your lawyer to keep a log of town business and to send copies of it, along with all written communications, to be kept in the central file. This will enable the chief governing board to determine how much time counsel is devoting to various issues.

Your counsel may delegate certain assignments to another member of his or her firm. This frequently occurs in matters where special knowledge is required. Even if municipal officials come in contact with other members of counsel's firm, they should always address their questions and concerns to the individual who officially serves as the community's counsel. This person knows

the strengths and weaknesses of those who work at the firm, as well as their overall workloads, vacation schedules, and so on.

It is interesting to note that even in communities with a "strong manager" form of government, it is the chief elected officials that are usually responsible for hiring the town counsel. In such communities where there is an executive secretary or an administrator, the professional manager and the counsel work for the same boss. They must be able to work well with one another. The manager/administrator should offer the municipal attorney guidance on how to be more effective for the community.

Routine Practices

During the highlight of the political year, other than elections, your counsel should be in constant contact with the manager/administrator and elected officials in order to anticipate any issues or procedural questions which may arise at important official meetings. Carefully reasoned answers should be prepared in advance to questions that are anticipated.

Every year, counsel should have an executive session with the governing board to discuss active cases. Counsel should prepare a log by having the case name, the town body involved, the position of the community as plaintiff or defendant, the type of case (construction, zoning, tort, etc.), the dollar relief sought, status and comments. Some communities, in order to save the expense of having counsel present at numerous status meetings, will appoint one member of the governing board to be

kept fully informed of a given case. That person then reports back to the full board. I find that managers and administrators serve this function well.

As a matter of routine, your counsel should review all of the community's contracts, insurance coverage, and leases. He or she should regularly keep the chief governing board and department heads informed of changes in the law and court cases that will affect municipal operations.

Your lawyer should belong to the National Institute of Municipal Law Officers (NIMLO) to which approximately 1,700 communities belong. The reason is that it is a national organization that provides cities and towns with model ordinances or bylaws and national research on many relevant municipal issues, together with a monthly journal of important items. Your lawyer should also belong to your state's organization of municipal counsels Association. As your attorney's client, you should encourage him or her to remain professionally active in these areas so that he or she may represent you more effectively.

In addition to representing the town or city as a whole, your municipal lawyer should represent each selectman, councillor or the mayor individually by taking the initiative of informing them if they are about to enter the realm of potential liability for slander or conflict of interest. There is, however, a fine line here that must not be crossed because the counsel's ultimate responsibility is to the governing body as a whole. In essence, the majority of the governing body at a given time is the

lawyer's client.

The cornerstone of your relationship with municipal counsel is that you will stay out of the municipal law business and your lawyer will stay out of the municipal policy business. Your legal advisor should give you objective counsel, not advocate policy.

Remember, also, that in contrast to officers of the state government, who are required to follow the attorney general's opinions, you are not bound by your lawyer's opinion. The opinion is not a sword over your head, but merely a helpful tool to productively attain municipal goals. If you don't like your lawyer's advice, ask how certain he or she feels about the opinion. Is he or she 95% sure or 55% sure?

Money-Saving Ideas

While economy in government has always been important, attention to legal costs is especially appropriate at this time. With the removal of sovereign immunity and the advent of civil rights actions against municipal leaders, legal costs have been escalating. Also, as our cities and towns increase in population density, more work is generated for the planning board, the board of appeals, the assessors, engineers, building inspector, licensing board, and the whole panoply of municipal decision-makers. This in turn creates more work for counsel.

Some municipal counsel work on a retainer basis, with fixed payments made each month, but some types of work - litigation, labor relations and tax takings - are considered outside the

scope of services covered by the retainer. Moreover, time spent in litigation will be billed separately at an hourly rate, probably somewhere in the range of $100-$115 per hour. Don't be fooled into thinking that because counsel is paid a retainer that you can ask him or her for any amount of work. Lawyers keep good track of their time; if the retainer is not adequately compensating the firm for the work being done for the client, you can be sure that counsel will want to renegotiate the retainer. If you believe that your community is not receiving adequate legal services for the money it pays or that the amount of time spent in litigation is excessive, it is sometimes advisable to bring in a consultant to examine the situation.

There are some actions a municipality can take to preempt the need for legal expenditures. One way of reducing potential work for counsel, including litigation, is to have the governing board appoint lawyers to those committees and boards whose activities can involve the community in litigation - such as the zoning board of appeals. This is a method of getting some free legal advice and, ideally, advice that will prevent the need for town counsel to get involved. The governing board must be careful not to appoint an individual who will overwhelm the committee. Being a lawyer will enable the appointee to help his or her respective town committee to avoid certain areas of risk, but a lawyer's judgment regarding substance and policy of municipal deliberations is no more keen than a non-lawyer's.

It is up to the governing body to make the ultimate decision

as to whether cases should be settled out of court, but your lawyer should recommend settlement when appropriate as opposed to putting the town through lengthy litigation with its attendant cost, which may only benefit the lawyer and use up time of local officials as well. If your community has a great deal of small litigation, the governing body should consider empowering counsel to settle cases, including real estate tax cases, up to an amount of $3,000.

In general, your town counsel or city solicitor should not be going to court to defend a variance or permit granted by the Zoning Board of Appeals. Remember, a variance does nothing more than vary the zoning law enacted by the community. When properly granted, the variance means an individual or entity has the legal right to break the zoning rules. The statute that enables municipalities to grant variances lists the criteria under which they can be granted, none of which involves a benefit to the community, but rather a hardship to the person seeking the variance. Therefore, the applicant who is granted a variance or permit, and then sued by an abutter, should defend its own variance or permit at its own cost.

Another way of saving legal costs is to have your counsel educate department heads in the use of the Small Claims Court. Claims of up to $1,500, including unpaid fees, may be brought to Small Claims Court, which is generally considered a "people's court" in which lawyers are not required. Almost all small claims matters can be handled by local officials, unless they

involve an important precedent-setting issue in which the town could suffer exposure.

Perhaps the most basic method cities and towns should use to control legal costs is to have an accurate picture of what they are really paying for counsel's services. Many communities, especially those with budgets greater than $10 million, do not have a single line item that accounts for all legal costs. Instead, legal costs may be allocated by department and thus are easy to lose track of. Indeed, the selectmen of one Massachusetts community with a population of 21,000 several years ago conducted a thorough investigation of all legal expenses hidden away in the town budget under various departments and to their horror found that they were spending in excess of $180,000 per year.

Evaluation

The chief governing board should periodically evaluate the legal services the community is receiving. Feedback from the manager/administrator and other department heads will be helpful. Many of the items discussed above will help to provide criteria for such an evaluation. Some of the questions you may wish to ask are:

- Does your counsel <u>constantly</u> keep the community, either through the governing board, manager, or administrator, updated on new relevant laws? One third of the new laws coming out of the state legislature involve cities and towns directly. Has he or she brought you up to date on the new areas of liability

exposure for municipal governments?

-If police or brutality cases are on the rise, has your counsel recommended insurance? Is he or she competent to review police practice?

- More generally, has your counsel reviewed the local government's insurance policies to insure that they are adequate? Does he or she look at contracts and leases?

- Is your lawyer willing to commit that he or she will not represent anyone within your community in order to avoid the slightest appearance of impropriety?

- Does your counsel come before your meetings requesting settlement of some cases which would be more costly to try, especially if such cases could create exposure for the town and settle no important issue?

- Does your counsel display a sensitivity to the need to keep the cost of legal services as low as possible?

- When you ask for an opinion, do you get it quickly, and is it easy to understand? Does the opinion make sense?

- Does the community win the cases that go to litigation that it should win?

- Is counsel sensitive to the political dynamics of the community?

Your municipal counsel is nothing more than your assistant in helping you formulate your ideas into good governing actions. In evaluating your counsel the most important question is, "Is he or she helping us to govern?" Is your lawyer a "nay-sayer" to

good ideas, or does he or she say, "In my opinion we can't do it that way, but let me show you another way that your objective can be accomplished"? You are charged with serving the public well. Your counsel serves you well to the extent that he or she enables you to fulfill your charge. Does your counsel have the necessary expertise? As will be further explained below, the expertise required of a municipal counsel is a complex consideration.

Recruiting and Hiring

- At the outset you may wonder if it would be wiser to have an in-house, full-time counsel. Discard this idea unless your community is a large city with a legal budget of over $300,000. A single person cannot possibly be familiar with all areas of the law with which he or she will have to work as town counsel and would only have to hire other attorneys. Between sick leave and vacation, an in-house counsel may be away one month of every year. Additional costs would most likely be prohibitive: skilled secretarial help, office space, law library, pension, and health insurance costs, to name a few. Also, how can you sue your own full-time staff member if he or she is negligent?
- How much experience in municipal law should your counsel have? In the general Boston law firms one does not become a partner until he or she has spent approximately nine years in the full-time practice of the law. It is felt that it takes this amount of time to become a competent practitioner in a specialty and to understand how that specialty fits into the general practice of the law. You should look for nine years of

experience in municipal, land use, and trial law in the candidates you consider.

- As noted above, one lawyer cannot possibly be an expert in all the fields necessary to service the needs of a municipality. Look not only for a qualified attorney, but for a qualified firm - one in which several members have municipal experience and one in which there are several areas of expertise such as litigation, zoning, and land use. Nodding acquaintance is not sufficient in today's high-stakes legal environment.

- Make sure the lawyer and his firm spend at least 75 percent of their time on municipal matters. In 1992, you should not be paying more than $115 an hour for those services. Make sure the firm has a good support staff, including paralegals, law clerks and an excellent municipal library. Your lawyer and firm should have the highest rating in the national list of lawyers entitled, Martindale-Hubbell. This is called an "AV" rating. Your lawyer should have his or her billing on a computer system to give detail and should also have a FAX machine for emergency use. Regardless of whether your city or town has a bylaw hiring counsel for a year, three years, or indefinitely, your counsel should be willing to serve at the will and pleasure of the board.

There is a great temptation to have local counsel. However, municipal law is extremely complex and has great exposure both to the community and the officials running it. You should be seeking the best municipal services available, looking throughout the whole state, not just your local community. Many times the

best lawyers in the community will not take the position because they will then be in conflict when their clients need to go before various town boards. Therefore, the most desirable local lawyers quite often do not apply for the position.

Most importantly, make sure you hire a municipal lawyer who is currently on the firing line as town counsel or city solicitor to at least two other communities and has served one of them and preferably both for at least five years. Don't let a non-town counsel or non-city solicitor learn the slippery ropes at your town's expense, and now with personal exposure of municipal officials, at <u>your</u> expense. Go only with proven experience.

FOR MUNCIPAL CHIEF EXECUTIVES:
Managing the Local Planning Process

by Leonard Kopelman and Elizabeth Lane

Zoning, subdivision control (both state law and local Planning Board regulations), wetlands regulation (under state law and, at local option, local bylaw as well), Board of Health regulation, and miscellaneous general bylaw regulations such as earth removal bylaws are the principal tools of land-use regulation available to municipalities. No board of selectmen, council, or mayor can reasonably be expected to master the fine points of the laws administered by the local boards and commissions associated with each of these types of regulations. Indeed, many veteran members of such boards find that it takes years of active duty to become reasonably adept at comprehending the intricacies of the statute or bylaw that defines their authority.

Municipal leaders must appreciate the fact that each of these land-use regulators is limited by law in its power to control development by denying approvals or imposing conditions upon such approval. Often, a community is taken by surprise by a development proposal that is perceived to be detrimental in some way to the well-being of its residents. If, as is often the case, the city or town has not laid the groundwork to allow it to deny or regulate the proposal (by enacting appropriate zoning or adopting necessary regulations, for example), it may find that there is no legal way to refuse. Yet with the proper foundation, the community could lawfully have rejected the project.

The best that can be done in such a situation is to attempt to negotiate a voluntary compromise. Simple stonewalling in such cases usually leads only to no-win litigation. Properly used, litigation—or the threat of it—can facilitate a compromise from developers under financial pressure to get their project under construction. But knowing when the town or city is on thin legal ice and when it is on solid ground makes the difference between using legal action to facilitate negotiation and disaster.

Neither land-use regulating boards nor the town counsel can work magic to dispel unpopular proposals if the necessary tools are not available. Those tools are a community's local zoning and general bylaws and the regulations of, primarily, its Board of Health and its Planning Board. The top level of municipal leadership does not need to master the legal and procedural minutia of these regulators' day-to-day workings, but should have a working knowledge of the powers and limitations of each of these agencies.

Zoning Board of Appeals

Boards of Appeals are appointed authorities pursuant to GL c. 40A that may, at local option, exist only for the purpose of considering variance requests, or may be the "special permit-granting authority" for one or more or all of the available special permits available pursuant to the local zoning bylaw. As the variance-granting authority, a Board of Appeals should be miserly in granting relief. A knowledgeable Board of Appeals seldom grants a variance, since it understands that situations that meet the triple standards for a variance of GL c. 40A, §10, are rare. Every one of the following conditions must be demonstrated:

1. That special circumstances relate to the soil conditions, shape, or topography of the land or structures in question without affecting generally the zoning district in which it is located;
2. That a literal enforcement of the provisions of the bylaw or ordinance would involve substantial hardship that would not be self-created; and
3. That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw or ordinance.

This is a far more difficult test to meet than the uninitiated would expect.

As the board's appointing authority, the leadership of a city or town can strongly influence the extent to which the zoning bylaw is followed. Candidates for appointment should be questioned in advance about their grasp of Chapter 40A and about their philosophy of granting variances. If an established Board of Appeals grants many variances, either the board does not understand the nature of variances and or there is a deficiency in the zoning bylaw that makes compliance too frequently impossible or overly burdensome. In cases where a Board of Appeals is in the habit of granting many variances, it may be appropriate to question it about its grounds for such generosity and, when appropriate, to request that the Board of Appeals suggest or draft a proposed zoning amendment to make frequent variances unnecessary and to prevent needless and expensive litigation.

For example, if the bylaw does not allow accessory buildings, such as tool sheds, within the rear or rear-yard setback, and the Board of Appeals is either frequently asked for variances for such buildings or has been granting such variances, it would be preferable to either allow such structures as a right, with specific controls and limitations pro-

vided in the bylaw, or to make such structures allowable by special permit, where certain conditions have been demonstrated by an applicant. By tailoring the bylaw to relate to the needs of a town's residents, the bylaw is then being utilized, rather than being circumvented by repeated, and, sometimes, inconsistent variances.

In our opinion, a Board of Appeals that serves only as a variance-granting authority is underutilized; with the usual effect that the special permit-granting authority (usually the Planning Board) is overtaxed by demands that it perform the three different and demanding tasks of planning, special permitting and the often backbreaking job of subdivision control.

In some towns, the selectmen are the special permit-granting authorities for certain types of permits. This is an outdated vestige of a less complex era, and only detracts from the performance of the main function of the Board of Selectmen, which is to oversee the general operation of the town and to make policy. Selectmen are themselves burdened with enough diverse tasks, including liquor and food licensing and labor negotiations, to take on the intricacies of the zoning bylaw and of Chapter 40A.

Changes in the identity of the special permit-granting authority may only be made by an amendment to the zoning bylaw, and should only be undertaken after careful study of the allocation of the burden and with the advice of both the Board of Appeals and the Planning Board. Certain special permits that relate more to construction that to land-use, such as site-plan approval or earth-removal, logically may be administered by the Planning Board. Others, such as the keeping of animals or engaging in home occupations, are more logically allocated to the Board of Appeals.

In making appointments, municipal leadership would do well to appoint several alternate members. Such members are invaluable when absence or schedule conflict would make it impossible to make a quorum without such alternate members.

If an appointee is not doing a good job, it may be difficult to discharge that person, since by statute the municipal leadership may only remove appointed board members for cause after a hearing. Another approach for a Board of Selectmen or other muncipal governing body to counteract poor decisions by an appointed board is to contest a zoning board decision by bringing suit to challenge it. We do not recommend boards suing one another. However, you should be aware of your power to do so should the extraordinary case present itself.

Planning Board

Often the most feared and perhaps the least understood of all municipal land-use regulators is the Planning Board. Planning Boards must perform a planning function, must regulate and approve the subdivision of land, road, and utility construction, sometimes sit as special permit granting authorities, and must hold hearings and issue reports on all Town Meeting warrant articles proposing zoning amendments.

Planning boards, however, have a very narrow scope of authority when acting under the subdivision control law. The average lay person often expects the Planning Board to be a factotum, the last line of defense against development of environmentally sensitive land, for example. Yet without adequate subdivision regulations, the Planning Board is not able to excercise the maximum land regulation authority. Even with enough regulation in place, the Planning Board cannot flatly reject every unpopular development.

The main purpose of subdivision approval is simply to produce a recordable plan and thus a marketable lot. Subdivision approval neither certifies nor even suggests that a parcel of land is buildable. To expect the Planning Board to do more than "regulating the laying out and construction of ways in subdivisions" GL c. 41, §81M, which is its sole mission in the context of subdivision control, is to expect the impossible.

Just as its planning function often falls by the wayside due to the pressure of subdivision control, so too do

Zoning and Other Moratoria

Where your community's plan has lagged behind development, a zoning moratorium may be appropriate to put the brakes on certain types of development while the municipality studies the situation and then drafts and adopts suitable legislation and regulations to control development. Building moratoria must be imposed as zoning controls, with all the formalities of notice, Planning Board hearings, and votes required of any zoning bylaw amendment. Inevitably, much of the development a municipality may wish to forestall is not affected by such zoning moratoria, because of the availability of zoning freezes pursuant to GL c. 40A, §6 for plans filed with the Planning Board for subdivision approval or approval not required status. Some development may also be delayed by using moratoria that are not zoning, such as water or sewer moratoria, imposed by the appropriate regulatory authority. Crucial to the success of any type of moratorium, especially a zoning moratorium, is that it address a clearly established problem, be as narrowly drawn and limited in duration as possible, and be used to allow the municipality to study and plan for mechanisms to address the problems underlying the moratorium. These may be such problems as sewer inflow and infiltration programs, water supply exploration, revisions to the master plan, and so forth. Counsel can advise the city or town about particular pitfalls in any given case.

Eminent Domain

The taking of land by eminent domain is the ultimate land-use control. Such a taking may be an adjunct to another type of land-use regulation—for example, the case in which land containing drinking water resources is taken during the pendancy of a water connection moratorium. Alternatively, the taking of environmentally sensitive land, such as aquifer recharge lands, may be for the primary purpose of preventing detrimental development of the particular parcel. Counsel should be consulted before, during, and after any taking.

Planning Boards often lack the time and resources to revise their own subdivision regulations to meet the demands of modern development. This is truly unfortunate, because even though Planning Boards are restricted in their statutory powers under the Subdivision Control Law, GL c. 41 §§81K-81GG, they have the potential to exercise considerably more power through their own subdivision regulations. Frequently, we are asked by Planning Boards whether they may deny subdivision approval or require one condition or another. The reply often depends on whether, for example, the board had promulgated water pollution controls or regulations controlling off-site drainage. If so, the denial or condition may be lawful, but without such regulation they are on shaky ground. Time must be found for the important task of revising subdivision regulations.

Removing unnecessary special permitting from the duties of a Planning Board may allow for more town-wide and internal planning. More and more towns find that they need full or part-time staff such as planners and planning administrators. Regional planning agencies can be a valuable resource to Planning Boards, both as sources of information about regional trends and as clearing houses for sharing recent zoning enactments and other types of land-use regulation in nearby communities.

Boards of Health

Like the Planning Board, this potentially powerful land-use regulator is often overutilized. Approval of the Board of Health is required as a precondition for subdivision approval by the Planning Board. The discretion of the Board of Health is significantly broader than that of the Planning Board, and it may deny approval to subdivision plans for a variety of reasons relating to sanitary and environmental concerns. Like Planning Boards, however, Boards of Health need specific regulations in order to act, both to notify developers of Board of Health requirements and to protect the board from needless litigation. Potentially useful tools, such as environmental impact statements, may be required by Boards of Health by means of their regulations. Such regulation must take place prior to the submission of the development proposal. Board of Health regulations, for example, are, by statute (GL c. 111, §127P), prevented from applying to subdivision plans filed before the regulations are in effect.

Conservation Commission

The Conservation Commission administers the Wetlands Protection Act, GL c. 131 §40. Its decisions are appealable to the Department of Environmental Quality Engineering and thence to Superior Court. The commission represents a powerful regulatory force—within its limited scope of authority, which is the regulation of activities in wetlands. Not every environmental concern can be addressed within that authority. For this reason, many towns are now adopting local wetlands regulations that are administered by the Conservation Commission. These usually take the form of general bylaws or ordinances rather than zoning bylaws because zoning bylaws are more difficult to enact at the local level and are subject to prior nonconforming use or "grandfathering" limitations. The power of a municipality to enact such local legislation was upheld in the 1979 case of *Lovequist v. Conservation Commission of the Town of Dennis*. The *Lovequist* decision, however, was not a blanket endorsement of all local environmental bylaws. Care must be taken, as with any local regulation, not to conflict with state law. In recognition of this fact, many towns have adopted environmental bylaws modeled on the Dennis bylaw approved by the court in *Lovequist*, or have adopted a model bylaw drafted by the Conservation Law Foundation.

Plan in Advance

In our experience, the communities with the most success at regulating land use have emphasized advance planning to the point of consulting well in advance with counsel and employing technical consultants such as engineers, hydrologists, and land-use planners whenever their in-house expertise required supplementation. We also strongly advise regular annual meetings among the governing board or mayors and the Board of Health, Conservation Commission, Planning Board, building and zoning official, planning staff (if any), and the top-level administrative or management staff of the municipality for the exclusive purpose of discussing land-use regulation objectives and ongoing problems. Only by concerted emphasis on joint advance planning and information sharing can a community hope to avoid or overcome the trap of always reacting to the demands and stresses of land development. Both present and future residents of your municipality expect and deserve the benefits that only a farsighted land use policy can bring.

Municipal leaders and policymakers should also work with their state legislators to draft new laws to help cities and towns regulate land use. We often hear municipal leaders express frustration over having most of the powers of the municipality stripped away to meet the needs of such things as educational and religious institutions, halfway houses, and comprehensive permits to provide incentives for subsidized housing construction. Should a 2,000-person campus be allowed to plop itself down in a 8,000-person residential community? Should a religious organization be able to run worship services in the middle of a residential block? Even local officials who agree with the goals of such organizations may want local government to be at better advantage when responding to their needs.

Leonard Kopelman and Elizabeth Lane are partners with the law firm of Kopelman and Paige, P.C., which serves as town counsel to fifteen communities and as special counsel to forty municipalities.

American Red Cross
Blood Services –
Northeast Region

SPEAKING ENGAGEMENTS

MASSACHUSETTS CONTINUING LEGAL EDUCATION

"Liquor Licensing" - LK

MASSACHUSETTS CONTINUING LEGAL EDUCATION

"The New Uniform Procurement Act" - LK

MASSACHUSETTS MUNICIPAL ASSOCIATION

"Legal Issues for New Selectmen" - LK

MASSACHUSETTS MUNICIPAL ASSOCIATION

"Update on Municipal Law for Selectmen" - LK

MASSACHUSETTS ASSOCIATION OF LICENSING AGENTS

"Liquor Licensing A - Z" - LK

MASSACHUSETTS MANAGERS ASSOCIATION

"Negotiating an Employment Contract" - LK

MASSACHUSETTS MANAGERS ASSOCIATION

"How a Town Can Avoid Liability and What to do When Sued" - LK

MASSACHUSETTS MANAGERS ASSOCIATION

"Controlling Legal Costs" - LK

BOSTON BAR ASSOCIATION

"Municipal Issues in Wetlands and Waterways Regulation" - EAL

MASSACHUSETTS ASSOCIATION OF CONSERVATION COMMISSIONS

"Enforcing Wetlands Statutes - Push Comes to Push Harder" - EAL

MASSACHUSETTS FEDERATION OF PLANNING AND APPEALS BOARDS

"Recent Developments in Land Use Law" - EAL

MASSACHUSETTS CONVEYANCING ASSOCIATION

"Recent Developments in Land Use Litigation" - EAL

HAMPSHIRE COUNTY DEPARTMENT OF PLANNING AND REGIONAL SERVICES

"Zoning Permits" - EAL

LANDLAW/NAIOP CONFERENCE 1990

"The Municipal Perspective: When the Pace of Development Slows Down" - EAL

MASSACHUSETTS ASSOCIATION OF LICENSING AGENTS

"Regulation of Entertainment Establishments" - JF

MASSACHUSETTS WOMEN'S BAR ASSOCIATION

"Defense of lawsuits under the Civil Rights Act and the Municipal Torts Claims Act." - JF

PLYMOUTH SELECTMEN'S ASSOCIATION

"The perils and pitfall of regulating liquor licensed establishments." - JF

ESSEX HARBORMASTER'S ASSOCIATION

"What every Harbormaster should know about statutes and legal precedents affecting Harbormasters." - JF

MASSACHUSETTS BAR ASSOCIATION
"The Law of Solid Waste" - JWG

MASSACHUSETTS MANAGERS ASSOCIATION

"The New Uniform Procurement Act" - JWG

MASSACHUSETTS MUNICIPAL ASSOCIATION

"The Siting of Unpopular Facilities" - JWG

MASSACHUSETTS MUNICIPAL ASSOCIATION

"The Uniform Procurement Act" - JWG

PLYMOUTH COUNTY SELECTMEN'S ASSOCIATION

"Living with the Uniform Procurement Act" - JWG

ASSOCIATION OF PUBLIC WORKS DIRECTORS

"Massachusetts Public Bidding Laws" - JWG

MASSACHUSETTS CHAPTER - NATIONAL ASSOCIATION OF HOUSING & REDEVELOPMENT OFFICIALS

"New State Regulations on Local Housing Initiatives and Certification under Chapter 774." - BJS

MASSACHUSETTS CHAPTER NAHRO

"Responsibilities of Public Officials: Conflict of Interest, Open Meetings and Public Records." - BJS

MASSACHUSETTS MUNICIPAL MANAGEMENT ASSOCIATION

"Labor Law/Health Care Law Update" - BJS

BOSTON BAR ASSOCIATION

"Issues raised by Town of Norfolk v. DEQE case" - BJS

MASSACHUSETTS BAR ASSOCIATION

"Recent Changes in The Comprehensive Permit Process for Developing Affordable Housing" - BJS

CENTRAL MASSACHUSETTS REGIONAL PLANNING COMMISSION

"Subdivision Control--Relevant Issues and Strategies for Improving Local Review" - BJS

EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT

"Downtown Registration: Implementation Tools and Techniques for the '90's" - JBB

HISTORIC MASSACHUSETTS, INC.

"Preservation Commissions and the Law - Enforcement" - JBB

MASSACHUSETTS FEDERATION OF PLANNING AND APPEALS BOARDS

"Massachusetts Law Regarding Impact Fees" - JBB
"Review of New Land Use Laws and Cases" (several years) - JBB

HAMPSHIRE COUNTY DEPARTMENT OF PLANNING

"Planning Board Training Session" - JBB

MASSACHUSETTS ASSOCIATION OF REGIONAL PLANNING AGENCIES

"Developing a Legal Process for Reviewing Projects Having Regional Impacts" - JBB

OFFICE OF THE ATTORNEY GENERAL AND METROPOLITAN AREA PLANNING COUNCIL

"Analyses of U.S. Supreme Court Decisions - Impacts of First English and Nollan Decisions" - JBB

BOARD OF SELECTMEN:
Joseph F. Bilotta, Chairman
Steven M. Sabettencourt
Michael J. Sauvageau

Executive Secretary:
Jane Mahony

TOWN HALL
17 Main Street
P.O. Box 135
Lunenburg, MA 01462

(508) 582-6853

TOWN OF LUNENBURG
Massachusetts 01462

May 21, 1991

Attorney Leonard Kopelman
Kopelman & Paige, P. C.
101 Arch Street
Boston, MA 02110

Dear Attorney Kopelman:

This letter is being written to voice my appreciation for the services your firm has been providing the Town of Lunenburg. All questions and correspondence have been answered promptly and succinctly. In particular I want to compliment Attorney Giorgio for his "briefing" of the two new Board members on the evening of May 7, 1991. Not only were all three Selectmen impressed, but several members of the audience admitted that perhaps Kopelman & Paige was a good choice for the Town.

Let me also add that Attorney Bard did an excellent job at the Town Meeting on May 11, 1991. He was called on fairly often for assistance and was able to provide the membership with clear direction so the meeting could move forward.

Thank you for the services of your firm, and I hope Lunenburg will continue under your guidance for quite some time to come.

Sincerely,

Jane Mahony

Jane Mahony
Executive Secretary

JM/fv

cc: Attorney Giorgio
Attorney Bard

COUNSEL/Kopelman

TOWN OF NORTHBOROUGH

Administrative Officer

Rocco J. Longo

21 December 1990

To Whom It May Concern:

The Town of Northborough has been represented by the law firm of Kopelman and Paige, P.C for the past five (5) years. Having fifteen years of municipal experience, I have had the opportunity to work with many, many different attorneys. In my opinion, Kopelman and Paige is the best law firm that I have ever worked with, for a number of reasons.

First, there is no law firm that is totally dedicated to municipal service other than Kopelmen and Paige. Further, there is no other law firm that is totally knowledgeable of all aspects of local government. It has been very comforting to me to have a working partner that is always available on demand to provide legal assistance. All assistance is provided in a timely manner and is always clear and concise.

Second, the rates that Kopelman and Paige charge are extremely competitive, in fact, substantially less for comparable law firm services. It is very clear to me, serving only municipal entities gives Kopelman and Paige a very clear understanding of the fiscal constraints placed upon the Towns in Massachusetts.

Finally, Kopelman and Paige sends out many generic communications to all municipal clients at no cost. Each of these communications become useful resources, keeping all town departments abreast of all legal municipal issues.

I have had the opportunity to work with most of the members of the firm's staff, and in every case I have found a high level of competence. In my opinion, there is no other counsel that can provide the legal support that Kopelman and Paige provides. I would be available if any further information is necessary.

Very truly yours,

Rocco J. Longo
Town Administrator

Town Offices • 63 Main Street • Northborough, Massachusetts • 01532-1994 (508) 393-6761 • AA/EOE

Town of Provincetown

MASSACHUSETTS 02657
(508) 487-3900

6 March 1990

To Whom It May Concern:

Please be advised that the firm of Kopelman and Paige, P.C. has been Town Counsel to the Town of Provincetown for eight years. Their services to the Town have been excellent.

Our inquiries are answered promptly, very often with a same day phone call. Their written opinions are concise and to the point. Their success rate in matters concerning litigation is very high. At all times they exemplified the highest standards and demonstrated a deep commitment to the Town, its people and our financial resources.

Mr. Kopelman, in particular, and the other members of his staff with whom I have worked very closely are competent and efficient legal professionals. I cannot highly recommend them enough to any municipality in need of expert legal assistance. Their down to earth, practical advice saved the Town money as well as time. We have been very fortunate to have this firm as Town Counsel.

If you have any further questions regarding the firm of Kopelman and Paige, P.C., please do not hesitate to contact me.

Very truly yours,

Mary-Jo Avellar, Chairman
Board of Selectmen
(508) 487-1651

THE TOWN OF WALPOLE

Commonwealth of Massachusetts

TOWN ADMINISTRATOR
JAMES E. MELLO

TOWN HALL
Walpole, Massachusetts 02081
(617) 668-5400
Ext. 285

To Whom It May Concern:

It is my pleasure to write this letter of recommendation for the law firm of Kopelman and Paige, Boston. Mr. Leonard Kopelman, Esquire has served as Town Counsel for the Town of Walpole since November of 1982. As Town Administrator, I am in frequent need of quick and accurate legal advice in the management of municipal affairs and I have been in a good position to observe the performance of Kopelman and Paige in the many facets which comprise the practice of municipal law.

During the past fourteen months, due to the efforts of Kopelman and Paige, the Town has experienced a reduction in its outstanding legal case load. This has come about through aggressive pursuit of litigation when necessary and the ability to negotiate a settlement when appropriate. The Town has continued to enjoy a very high success rate, as it relates to litigation as a result of their legal expertise and a close working relationship that is maintained with the various Town Boards and Officials.

One truly outstanding fact, particularly in light of these accomplishments, is that since Kopelman and Paige has been retained by the Town, we have been able to contain and reduce our legal expense budget from about $45,000 per year to $35,000 per year. In this era of tight municipal budgets, it is critical that Towns be able to achieve cost-effective management of their legal affairs. Although cost-conscious Kopelman and Paige does not overlook the necessary tasks of serving its client including frequent attendance at meetings and conferences with various Town Boards and Officials.

Mr. Kopelman's practice is geared towards municipal clients which has been beneficial to all the Towns he serves. Cases and other legal matters occurring in one Town is shared by all Towns, so we learn from the experiences of others, which prevents us from "re-inventing the wheel" each time a new situation arises and additionally saves us all money when common issues are researched.

Finally, Mr. Kopelman, Esquire has assembled a staff of dedicated, hardworking attorneys to assist him in handling our legal affairs. This insures that our needs are always addressed promptly and kept in capable hands. I have always felt that the Town has received first-class service from individuals knowledgeable about a specific area of municipal law, be it Zoning, land and easement acquisition or Police professional liability.

I trust this short letter has assisted you in learning more about the very fine legal firm of Kopelman and Paige.

Sincerely,

James E. Mello

James E. Mello
Town Administrator

JEM:jas
83-939

Town of Stoughton

10 Pearl Street
Stoughton, Massachusetts 02072

Tel. (617) 341-1300

OFFICE OF THE TOWN MANAGER

October 13, 1988

To Whom It May Concern:

I have known and worked with Mr. Leonard Kopelman for the thirteen years that he has served as Town Counsel to Stoughton, Massachusetts. He is an exceptionally able and competent attorney. He has always represented the Town's legal interests in a professional and responsible manner and has provided sound counsel to all Town officials, both appointed and elected. His staff has established close working relationships with all our town departments and has been responsive to the large number and variety of Town officials who rely on Town Counsel's office for advice and formal opinions.

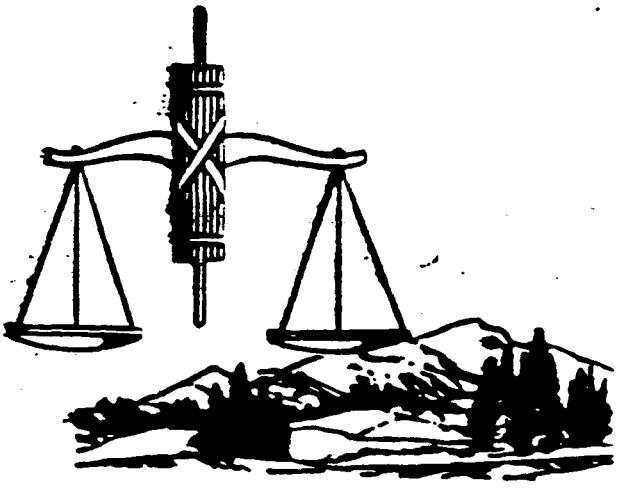
Mr. Kopelman has been especially effective in representing the Town in litigation and has sought to minimize the Town's exposure to suits through his formal counsel and informal legal advice to Town Board's and Committees prior to their actions. He has been successful in reaching settlements with litigants through negotiations, demonstrating not only sound legal skills but also a sensitivity to the practical and political influences that affect municipal governments in Massachusetts.

Mr. Kopelman has earned his reputation as being an outstanding municipal attorney in Massachusetts and I would recommend him without qualification to other towns and cities in the State.

Sincerely,

Philip J. Farrington
Town Manager

LAND DEVELOPMENT LAW



General Information:

PLACE: "H" BUILDING, ROOM # Hc128
TIME: WEDNESDAY EVENING, 7:00 to 10:00P.M., SEPTEMBER 17 THROUGH DECEMBER 17, 1986.
TUITION: $50.00 - MUNICIPAL EMPLOYEES/OFFICIALS
$100.00 - NON-MUNICIPAL EMPLOYEES/OFFICIALS
C.E.U.'s: A CERTIFICATE OF COMPLETION BEARING 3.9 C.E.U.'s WILL BE AWARDED TO PARTICIPANTS WHO ATTEND 80% OF THE COURSE.

LAND DEVELOPMENT LAW
COURSE OUTLINE

- Week I - Introduction
- Week II - History & Structure of Land Development Controls
- Week III - Administrative Law
- Week IV - Overview of Statutes
- Week V - Zoning
- Week VI - Subdivision of Land
- Week VII - Environmental Laws
- Week VIII - Health & Safety Laws
- Week IX - Enforcement of Land Development Laws
- Week X - How Tax Laws Influence Land Development
- Week XI - Overview of State & Local Laws re: Urban Renewal, Snob Zoning, Condominium Conversion and others
- Week XII - Overview of Various Techniques used by Municipalities to Solve Perceived Problems
- Week XIII - Overview of Statutes Addressing Disposal of Public Lands
- Week XIV - Make-up if necessary, Wrap-up, Presentation of Certificates

FACULTY: Attorneys Leonard Kopelman and Elizabeth Lane
FOR FURTHER INFORMATION: Please call 588-9100, extension 266/276

Important New Developments in olid Waste Regulation

Garbage In/Garbage Out

WHY ATTEND?

The laws governing solid waste disposal have changed radically in recent months. A variety of new state and Federal regulatory initiatives and important policy changes will have a profound impact on the solid waste industry and virtually every municipality in the Commonwealth. Recycling and composting are now greatly favored. Landfilling will be phased out and many municipal facilities will be obliged to close in the next several years.

The program will address the new DEP Part I General Solid Waste Regulations, the Statewide Solid Waste Master Plan, EPA's proposed RCRA Subtitle D Landfill regulations, the Landfill Superfund, M.G.L. Chapter 21H and the new Uniform Procurement Act.

These far reaching changes will be of particular importance to those attorneys who practice municipal law or who have clients in the waste disposal and recycling industry. The program will also alert general practitioners as to the potential impact of these regulatory changes on real estate transactions and the potential landowner liability created by G.L. Chapter 21H.

FACULTY

ANTON T. MOEHRKE, ESQ., CHAIR
Wright & Moehrke, P.C., Boston

WILLA KUH, DIRECTOR
Division of Solid Waste Management Department of Environmental Protection, Commonwealth of Massachusetts

MICHAEL A. LEON, ESQ.
Warner & Stackpole, Boston

DUNCAN S. PAYNE, ESQ.
Choate, Hall & Stewart, Boston

JOHN W. GIORGIO, ESQ.
Kopelman & Paige, Boston

PHILLIP M. WEINBERG, ESQ.,
Deputy Director, Division of Solid Waster Management, Department of Environmental Protection, Commonwealth of Massachusetts

FRANCIS S. WRIGHT, ESQ.
Wright & Moehrke, P.C., Boston

SEMINAR NO 91-09.03-NL

1:00 - 5:00 p.m., Friday, September 14, 1990,
Bank of New England, One Washington Mall,
MacDougall Auditorium, Second Floor, Boston

TUITION

New Lawyers
(admitted to the bar after 7/87)
Legal Services Attorneys
and Paralegals $60
All Others
MCLE Sponsor Members 95
MBA/BBA Members 105
Non-Members 120
Written Materials only 60
Audiocassettes 60

Tuition includes written materials.

BENEFITS OF ATTENDING

You will learn:

- Whether landfills and resource recovery facilities are indeed headed for extinction.
- How the process of contracting for solid waste disposal services will change in light of the new municipal procurement requirements.
- How to sort through the regulatory maze in siting new facilities and how to avoid the maze in siting recycling and composting sites.
- How to plan for new solid waste technologies, including recycling, composting and alternative approaches.
- Emerging new issues such as flow control, disposal bans and liability under M.G.L. Chapter 21H (the equivalent of Chapter 21E for landfills).

TO REGISTER SEE REVERSE OR CALL MCLE AT 1-800-632-8077

New Uniform Procurement Act

ow Industry Must Adjust To Do Business with Municipalities

WHY ATTEND?

As of May 1, 1990, there are sweeping changes in the laws impacting every private company seeking to contract with municipalities for supplies, services or real property. The Uniform Procurement Act is the result of a five year effort by the Inspector General and local officials.

It affects procurement of supplies, equipment, services, and real property in all of the State's 351 cities and towns, as well as the Commonwealth's 14 counties. In addition, more than 90 percent of the State's independent authorities – including 214 local housing authorities; 31 local redevelopment authorities; 182 sewer, water, road and fire districts; and 94 regional school districts – come under the new Act. The Inspector General estimates that $1.5 billion in local procurements annually will be affected by the new law.

The new Act is even more sweeping than the Ward Commission reforms of 1980, which tightened bidding rules for the construction of public buildings and established procedures for selecting architects. The new law affects almost all other types of local procurements, from office supplies to towing to management consulting.

Another far-reaching requirement involves local real estate deals. The Ward Commission reforms of 1980 required the State to advertise the purchase, sale, or rental of real property, but the rules did not apply to municipalities. The new Act will require that local real property transactions be advertised.

WHO SHOULD ATTEND?

The program has been carefully designed to alert in-house counsel and private practitioners representing companies in the private sector who are likely to be dealing with cities and towns.

AGENDA

How Municipalities Are Preparing To Apply Law – Practical Concerns

Bid Disputes – Practical Suggestions – Protests to Municipalities to Inspector General to Court

Practical Issues Affecting Industry – i.e. How To Bid on "Equal Footing" Services and Products Which Industry Promotes as Proprietary or Special

FACULTY

STEVEN J. COMEN, ESQ., CHAIR
Hinckley, Allen, Snyder & Comen, Boston & Providence

SUSAN L. CARITY, ESQ.
Corporate Counsel, Blue Cross / Blue Shield, Boston

STEPHEN L. COTTON, ESQ.
First Assistant Inspector General, Commonwealth of Massachusetts

LEONARD KOPELMAN, ESQ.
Kopelman & Paige, Boston

SEMINAR NO. 91-01.03-SB

1:30 p.m. - 4:30 p.m., Friday, October 19, 1990, State Street Bank, 225 Franklin Street, Board Room, 33rd Floor, Boston

TUITION

New Lawyers (admitted to the bar after 7/87) Legal Services Attorneys and Paralegals	$60
All Others	
MCLE Sponsor Members	95
MBA/BBA Members	105
Non-Members	120
Written Materials only	60

Tuition includes written materials

BENEFITS OF ATTENDING

You will learn:

- How to save clients from wasting money and effort on an invalid bid that will automatically be rejected
- Practical methods for avoiding bid protests
- How to assert and defend protests at the administrative and court levels.

TO REGISTER SEE PAGE 55 OR CALL 1-800-632-8077

FILE COPY

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9612
Fax (508) 264-9630

Don P. Johnson
Town Manager

May 11, 1992

Nutter, McClennen and Fish
One International Place
Boston, MA 02110-2699

Dear Ms. Harrington:

Enclosed please find the RFP's as requested in your letter of April 28, 1992.

The number of pages reproduced were 96, at a cost of .25 per page. You had enclosed a check in the amount of $15.00 to cover costs with your request. Please forward the additional payment of $9.00 to my attention as soon as possible so that I many adjust my file.

If you have any questions, please feel free to call.

Very truly yours,

Christine M. Joyce
Town Manager's Office

cc: Kopleman & Paige
Anderson & Kreiger
Palmer & Dodge

NUTTER, McCLENNEN & FISH

ONE INTERNATIONAL PLACE
BOSTON, MASSACHUSETTS 02110-2699

TELEPHONE: 617 439-2000 FACSIMILE: 617 973-9748

DIRECT DIAL NUMBER:

(617)439-2498

April 28, 1992
99970-65

Ms. Christine M. Joyce
Town Manager's Office
Town of Acton
472 Main Street
Acton, MA 01720

Dear Ms. Joyce:

Enclosed please find a check in the amount of $15.00 to cover the cost of reproducing the RFP's for The Town of Acton, Legal Services and the proposals submitted thereunder.

I would appreciate your forwarding the copies to my attention.

Should you have any questions, I can be reached at 617-439-2498. Thank you.

Yours truly,

Alane Harrington
Manager of Practice Development

AH:bja
1714a
Enclosure (check)

5/8/92

Sent 5/15

CHRIS - PLS. SEND COPIES W/A COVER LTR. SIMILAR TO THE ONE WE SENT ON OTHER REQUEST. ALSO, CC THE FIRMS WHOSE RFP'S ARE GOING OUT.

Tom

CC: BOS

HYANNIS, MASSACHUSETTS
COUNSEL: AMSTERDAM • LONDON • TOKYO

FILE COPY

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9612
Fax (508) 264-9630

Don P. Johnson
Town Manager

April 29, 1992

Mr. Acheson H. Callaghan, Jr.
Palmer and Dodge
One Beacon Street
Boston, MA 02108

Dear Mike:

An in-house questionnaire was circulated as part of the legal services review that the Selectmen recently conducted. Boards and committees, as well as operating departments, were asked to complete the survey. The responses were then forwarded to the Selectmen prior to their final decision.

The Selectmen have asked that the survey responses be shared with you. To that end, I have enclosed a complete set of the questionnaires for you and forwarded a set to Norm under seperate cover.

Individual Selectmen have received task assignments for FY93. One of the specific tasks that has been included in their list for the coming year is development/refining of a Legal Services Policy. Dore' Hunter has been designated as the Board's liaison in this area. We are in the process of developing some agenda topics to discuss with you. I will contact you in the near future to schedule a time to meet in this regard.

Very truly yours,

Don

Don P. Johnson
Town Manager

DPJ:277

FILE COPY

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9612
Fax (508) 264-9630

Don P. Johnson
Town Manager

April 29, 1992

Mr. Norman Cohen
Palmer and Dodge
One Beacon Street
Boston, MA 02108

Dear Norm:

An in-house questionnaire was circulated as part of the legal services review that the Selectmen recently conducted. Boards and committees, as well as operating departments, were asked to complete the survey. The responses were then forwarded to the Selectmen prior to their final decision.

The Selectmen have asked that the survey responses be shared with you. To that end, I have enclosed a complete set of the questionnaires for you and forwarded a set to Mike under seperate cover.

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Very truly yours,

Don P. Johnson
Town Manager

DPJ:277

CC: BOS
Agenda item Town Counsel

LEONARD KOPELMAN
DONALD G. PAIGE
ELIZABETH A. LANE
JOYCE FRANK
JOHN W. GIORGIO
BARBARA J. SAINT ANDRE
JOEL B. BARD

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

KOPELMAN AND PAIGE, P.C.
ATTORNEYS AT LAW
101 ARCH STREET
BOSTON, MASSACHUSETTS 02110-1137

JOSEPH I. MULLIGAN
OF COUNSEL

(617) 951-0007
FAX (617) 951-2735
NORTHAMPTON OFFICE
(413) 585-8632

MAR 24 1992

March 23, 1992

Chris please prepare this for them and charge the normal per page cost. It must be available on April 3rd

C.A.D.
3/25

3/25/92

Mr. Don P. Johnson
Acton Town Hall
472 Main Street
Acton, MA 01720

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

PRINTED ON RECYCLED PAPER

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:

Enclosed please find copies of the information requested in your letter 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 have not included 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.

If I can be of any other assistance, please feel free to call me.

Very truly yours,

Christine M. Joyce
Town Manager's Office

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9612
Fax (508) 264-9630

Don P. Johnson
Town Manager

April 7, 1992

Kopelman and Paige, PC.
101 Arch Street
Boston, MA 02110-1137

Dear Mr. Kopelman:

Your check for the cost of reproducing the RFP's for Legal Services and the proposals submitted thereunder has been received. Accordingly, the information you requested is enclosed.

Very truly yours,

Christine M. Joyce
Town Manager's Office

cc: Ms. Dianne Hobbs,
Nutter, McClennen & Fish
Mr. Stephen D. Anderson,
Anderson & Kreiger
Mr. Acheson H. Callaghan, Jr.
Palmer & Dodge
Mr. Norman P. Cohen
Palmer & Dodge

DPJ:CMJ

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9612
Fax (508) 264-9630

Don P. Johnson
Town Manager

FILE COPY

March 25, 1992

Kopelman and Paige, PC.
101 Arch street
Boston, MA 021110-1137

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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.

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If I can be of any other assistance, please feel free to call me.

Very truly yours,

Christine Joyce

Christine M. Joyce
Town Manager's Office

cc: BOS
Agenda item Town Counsel

LEONARD KOPELMAN
DONALD G. PAIGE
ELIZABETH A. LANE
JOYCE FRANK
JOHN W. GIORGIO
BARBARA J. SAINT ANDRE
JOEL B. BARD

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RAYMOND C. PORFIRI

KOPELMAN AND PAIGE, P.C.
ATTORNEYS AT LAW
101 ARCH STREET
BOSTON, MASSACHUSETTS 02110-1137

JOSEPH I. MULLIGAN
OF COUNSEL

(617) 951-0007
FAX (617) 951-2735
NORTHAMPTON OFFICE
(413) 585-8632

MAR 24 1992

Chris please prepare this for them and charge the normal per page cost. It must be available on April 3rd
C.O.D.
3/25/92

March 23, 1992

Mr. Don P. Johnson
Acton Town Hall
472 Main Street
Acton, MA 01720

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

PRINTED ON RECYCLED PAPER

COPY

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9612
Fax (508) 264-9630

Don P. Johnson
Town Manager

December 20, 1991

Mr. Ron Fitzgerald, Superintendent
Minuteman Regional Vocational
Technical School District
758 Marrett Road
Lexington, MA 02173-7398

Subject: Deferral

Dear Ron:

The Acton Board of Selectmen has asked that I correspond with you in their behalf regarding Deferral for FY92 and FY93.

You are no doubt aware that the Acton Selectmen have voted in favor of Deferral for both fiscal years with respect to the Acton and Acton-Boxborough School Systems. The Board realizes that Deferral is not perfect but it represents one of the few financial tools that have been provided by the Legislature to offset the Aid that has been withdrawn from the communities of the Commonwealth.

Acton is committed to utilizing every available resource to relieve the tax burden on our citizens. To that end, the Selectmen urge that Minuteman Tech follow the same commitment and adopt Deferral for both fiscal years. Further, in order to realize the maximum benefit, the Selectmen urge that the amortization of this Deferral be extended over the maximum available period.

By copy of this letter to Acton's representative, Mr. Robert Wiltse, I am advising him of the Selectmen's wishes.

If you have any questions or wish to discuss this matter further, please feel free to call.

Very truly yours,

Don P. Johnson
Town Manager

cc: Board of Selectmen
Robert Wiltse

NUTTER, McCLENNEN & FISH

ONE INTERNATIONAL PLACE
BOSTON, MASSACHUSETTS 02110-2699

TELEPHONE: 617 439-2000 FACSIMILE: 617 973-9748

FILE COPY

DIRECT DIAL NUMBER:
617-439-2311

March 6, 1992
99970-65

Town Manager
Town Hall
472 Main Street
Acton, MA 01720

Dear Sir:

We are pleased to submit our response to your Request for Proposal to act as Town Counsel.

If you require any additional information, please call me at 617-439-2311.

Sincerely yours,

Dianne Hobbs

Dianne Hobbs

4938x
Enclosure

Request for Proposal

The Town of Acton

Submitted by

Nutter, McClennen & Fish
One International Place
Boston, Massachusetts 02110-2699

March 6, 1992

Request for Proposal Submitted to

The Town of Acton

by Nutter, McClennen & Fish

1. What other organizational clients does your firm currently and regularly represent? As to each such organization please state the general law practice areas involved.

The following is a small sampling of some of the hundreds of corporate clients that Nutter, McClennen & Fish represents and a brief description of the areas in which we provide them with legal counsel:

Addison Wesley Publishing
mergers and acquisitions, technology law, copyright, trademark and intellectual property, general corporate advice and business litigation, employment litigation, real estate matters and tax law

Anheuser-Busch
products liability law, business litigation, real estate matters, environmental litigation, and employment law

AVX Corporation
insurance and environmental litigation

Brigham's
franchising, general corporate advice, mergers and acquisitions, environmental matters, tax law, employment law and real estate matters, including leasing

CIGNA Corporation and The Equitable Life Assurance Society of the United States
financing matters, real estate law including development, leasing, lending and loan workouts

Hollingsworth & Vose, Inc.
financing issues, mergers and acquisitions, general corporate advice, insurance litigation, products liability, real estate matters, environmental counselling and litigation, labor and employment and intellectual property law

M/A-COM, Inc.
securities matters, mergers and acquisitions, general corporate issues and business litigation, real estate matters, advice with respect to insurance coverage, tax matters and environmental law

Meditrust/Mediplex
corporate advice, real estate matters, securities law, mergers and acquisitions and financing matters

New England Aquarium
financing issues, litigation, real estate matters including land use and governmental regulatory matters, environmental matters, employment law, and matters relating to governance, responsibility of officers and conduct of meetings

Tufts University
mergers and acquisitions, technology law, insurance, corporate advice, tax law, environmental law, labor and employment matters including collective bargaining and employee relations, intellectual property, tax-exempt status matters, and real estate law including zoning, land use issues and development.

2. What other municipalities does your firm currently represent, and what municipalities has your firm represented in the past? As to each municipality please list the dates over which your representation has extended, what areas of law practice were/are involved, and the name, address and telephone number of the person(s) in each municipality believed to be most familiar with your firm's work.

Nutter, McClennen served as general counsel to the Town of Hingham from the early 1940s through the 1970s. We represented Hingham in all legal matters, including work for the the school committee and construction bonding work. We also represented the Town in numerous major litigation, labor, zoning and planning board issues. We played a major role in developing the Town's Planning Board and the Board of the Sewer Commission, as well as drafting the Town's bylaws and special legislation for the Town of Hingham Public Library. As part of our annual responsibilities, we were involved with reviewing all warrants for the Town Meeting as well as drafting and reviewing votes and motions. We also represented Hingham in numerous labor union negotiations.

Today, the Firm serves as Town Counsel to the Town of Concord. Since 1988 we have represented the Town in all municipal matters including zoning with respect to such issues as affordable housing and conservation restrictions, subdivision control and other land use matters, environmental law, acquisition and disposition of real property and compliance under the Uniform Procurement Act. Our main contact for the Town of Concord is Alan Edmond, Town Manager, Town of Concord, Town House, P.O. Box 535, Concord, MA 01742. He can be reached at (508) 371-6200.

Additionally, since 1983 we have represented the Stoughton Redevelopment Authority in connection with development of the 100-acre Stoughton Technology Park. The Firm's activities have included representing the Authority in a wetlands adjudicatory proceeding necessary to obtain the permits to construct roads and utilities through wetland areas, working with a land use consultant to develop an overall development

plan for the site, developing and drafting conservation and other restrictions to preserve environmentally sensitive and critical resource areas within the industrial park site, obtaining necessary approvals and negotiating the land disposition agreement on behalf of the Authority, including necessary protections to assure appropriate uses and build-out schedule from the private redeveloper. We continue to represent the Authority in connection with disposition, development and interim use of the portion of the site not yet developed.

Our contact at the Stoughton Redevelopment Authority is Mr. Neil Doherty, c/o Superintendent's Office, Avon Public Schools, West Main Street, Avon, MA 02322. He can be reached at (508) 588-0230.

Our Firm also represents a number of school committees in Eastern Massachusetts. A complete list of these will be provided upon your request. The school committees represented in Acton's geographic area are:

Billerica: collective bargaining, employment, general school and muncipal law.

Representation from 1968 to date.

Contact: Dr. Robert Calabrese, Superintendent of Schools
365 Boston Road, Billerica, MA 01821
(508) 667-8300

Lunenburg: collective bargaining, employment, general school and municipal law.

Representation from early 1970s to date.

Contact: Dr. Concetta Verge, Superintendent of Schools
1033 Massachusetts Avenue, Lunenburg, MA 01462
(508) 582-7711

Westford: collective bargaining, employment, general school and muncipal law.

Contact: Dr. John Crisafulli
Westford School Department
35 Town Farm Road
Westford, MA 01886
(508) 692-5560

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

In view of decreased funding at the State level for cities and towns, the optimum utilization of limited Town resources will be paramount in the years to come. We anticipate that the Town should be prepared to face such issues as environmental compliance and waste disposal; matters relating to land use, zoning, subdivision, conservation, and wetlands and aquifer protection; questions of handicapped access within the Town's buildings and on public ways; and other matters involving public ways, contracts, employment, collective bargaining, bond financing, and limiting litigation exposure in general. We are also able to do any collective bargaining, special education, or other education-related legal work needed by the school committee should it wish to retain us.

We suggest, however, that in order to best respond to this question, we would need to better understand the current needs of the Town and its plans for the future. We regard it as an ongoing responsibility of Town Counsel to remain abreast of developments in the laws affecting municipalites and thereby be able to anticipate legal needs and respond to specific issues.

4. Of Acton's principal needs for legal counsel you have listed in response to the prior question, which (pick one need only) does your firm feel it is best qualified to fulfill? Explain the basis for your answer.

We believe that of all the areas in which we have the ability to service the Town of Acton, litigation/arbitration, especially with respect to environmental, land use and employment, would be the area to which we would like to draw your attention. Based on our long-standing success record and extensive experience in each of these areas for both municipal and corporate clients, we can offer the Town of Acton expeditious and efficient handling of any litigation or arbitration matter.

5. Of Acton's principal needs for legal counsel you have listed in response to the next prior question, which need would be the most difficult for your firm to fulfill completely? Explain the basis for your answer.

We feel that we are fully competent to provide excellent service in the wide array of legal issues that a municipality may face. Limited occasions may arise in which we may find it necessary to seek outside counsel in highly specialized areas of the law.

6. Describe the legal services that you are offering to provide to the Town of Acton.

If selected to serve as general counsel to the Town of Acton, we would expect to provide advice and counsel in all municipal matters including zoning, subdivision control and other land use matters, environmental law, (including conservation, compliance and contamination concerns) issues relating to labor and employment, the acquisition and disposition of real property, compliance with procurement laws, issues of tax abatement, contracts, special legislation and financing. As noted in Question 3, we would be prepared to offer collective bargaining, special education or other education-related legal services to the school committee.

7. List your firm's major practice areas.

The Firm's major areas of practice include, but are not limited to the following: municipal law, contract and procurement law, tax abatement, special education, tort law, special legislation, institutional financing, real estate, land use and environmental law. We also have extensive experience and knowledge in the areas of arbitration, bankruptcy, public finance, health care, insurance, labor and employment, not-for-profit organizations, technology law and loan workouts.

8. Describe the organization of your firm, and identify which portions of your firm organization would be potentially involved in providing Town Counsel services to the Town of Acton. Identify the lead attorney for each such potentially involved organizational element, provide his/her curriculum vitae, and state his/her current hourly billing rate.

Nutter, McClennen & Fish is one of Boston's major law firms. Our origins date back 113 years to 1879 when the Firm was established by Samuel D. Warren and Louis D. Brandeis. After 37 years of practice with the Firm, Mr. Brandeis left the Firm to become a Justice of the United States Supreme Court. We have grown to our present strength of over 120 attorneys and are headquartered in Boston.

The Firm carries forward the tradition of excellence, intellectual achievement and foresight exemplified by its founders. Today, we have an enthusiastic multidisciplinary group of lawyers who take great pride in their work and concentrate on maintaining the highest standards of our profession. We are a full-service firm providing the complete range of services that towns, institutions, governmental authorities, businesses and individuals may require.

In addition to the specialty areas outlined above, the Firm is organized into seven departments: Business, Litigation, Real Estate & Finance, Environmental, Labor & Employment, Tax, and Trusts & Estates.

In order to bring the optimal combination of talent and expertise to each of our clients' needs, we utilize interdepartmental practice groups which cut across our traditional departmental lines. The practice groups meet on a regular basis to discuss recent changes and developments in such areas of the law as banking, health care, insurance, international business, employment matters, products liability and technology.

Nutter, McClennen & Fish also maintains an office in Hyannis, Massachusetts.

We propose the following team to serve as the primary contacts for the Town of Acton:

Team Leader: Dianne Hobbs, a senior partner in the Business Department assisted by Mark S. LaConte, a junior partner in the Real Estate & Finance Department, Diane Rosse, a junior partner in the Labor & Employment Department, and Deborah P. Fawcett, a senior associate in the Environmental Department.

Additionally, we propose that the following senior partners serve as Senior Consulting Attorneys. Duane R. Batista, a senior partner in the Labor and Employment Department, Robert A. Fishman, a senior partner in the Real Estate & Finance Department and Department Administrative Manager of the Environmental Department, and Charles R. Parrott, a senior partner in the Litigation Department and Counsel to the Town of Concord.

The billing rates for the above-noted attorneys are as follows:

Acton Team

Dianne Hobbs	$190
Deborah P. Fawcett	$155
Mark S. LaConte	$165
Diane Rosse	$155

Senior Consulting Attorneys

Duane R. Batista	$225
Robert A. Fishman	$225
Charles R. Parrott	$225

Full resumes are attached for all of the above noted attorneys in Appendix 1.

The billing rates listed above are ninety percent (90%) of Nutter, McClennen's standard rates expect as to Messrs. Parrott and Fishman whose rates are 75% of standard. In accord with our policy when representing nonprofit entities, we would charge Acton ninety percent (90%) of standard rates. In accord with our policy when representing municipal entities in collective bargaining and related work, we would charge Acton seventy-five percent (75%) of standard rates for any such work Acton may request. Additionally, unless expressly approved by the Town Manager because of the unique complexity or importance of a matter:

a. no more than one Nutter, McClennen attorney shall represent Acton at a hearing, meeting, or in any like or similar fashion or be doing the same work at the same time as another Nutter, McClennen attorney;

b. in the event of a conference involving an Nutter, McClennen Senior Consulting Attorney with another Nutter, McClennen attorney on an Acton matter, Acton will be charged only one-tenth (1/10) of an hour's work of the Senior Consulting Attorney's time, at the special Senior Consulting rate of $225 per hour, regardless of the length of the conference.

9. How many attorneys are in your firm? How many of your attorneys are partners or the functional equivalent of partners, how many are associates? If there is any intermediate category of attorneys, i.e., junior partners, non-equity partners, career associates, etc., please describe the category(s) and indicate how many attorneys are involved.

At present Nutter, McClennen & Fish has a total of 122 attorneys; 52 of whom are senior partners, 20 junior partners (voted by the partnership, a non-equity position), 47 associates and 3 of counsel.

10. How many paralegals or legal assistants are employed by your firm?

The Firm employs 15 paralegals.

11. How many law clerks are employed by your firm?

The Firm has a formal summer program for second- and third-year law students (clerks) during the months of May through August. The average number of summer clerks is 10.

12. What is the size of your firm's administrative support staff?

The Firm's administrative support staff totals 169.

13. What computerized legal data bases does your firm utilize?

The Firm has access to myriad computerized legal data bases, including:
Lexis and WestLaw - legal data bases with access to State and Federal materials including cases, statutes, and codes as well as regulatory information from the SEC, IRS, FCC and other Federal agencies.
Nexis - a news data base providing access to hundreds of newspapers and magazines nation-wide.
Data Times - providing access to newspapers and magazines and the Dow Jones Library with information on bonds, investment trusts, and the like. It also provides access to the international newswires which are updated every 15 minutes with the latest news.
Dun & Bradstreet - providing credit reports on businesses.
Information America - providing access to information from the Secretary of State's office, and "People Finder" which provides assistance in locating "missing persons" based on US Census information.

14. Describe the system your firm uses in the municipal law areas to ensure that previously prepared memoranda of law and opinions are retrievable and can be utilized as the basis or starting points for new research and opinions.

The system for storing and retrieving Nutter, McClennen attorney work product is the same for municipal law as for other areas of law. We believe that a small difference in the facts of a case can make a large difference in the law and how it is applied. Therefore, we rely heavily on personal communication with those attorneys practicing in the municipal law area to obtain files, memoranda, opinions and legal research on related matters.

The Departmental Administrative Manager of each department is responsible for being aware of all significant work performed in his/her department. If work done by one department attorney in the past becomes relevant to a problem currently faced by another department attorney, the Departmental Administrative Manager advises that second attorney of its existence. It is then retrieved from the applicable client file. Additionally, Departmental Administrative Mangers and/or individual attorneys maintain precedent files with respect to all work done that is thought to have a high likelihood of being relevant to future needs.

In order to identify quickly which attorneys practice in a particular area of law, the Firm has developed an on-line internal legal skills directory which is regularly updated and electronically accessible. Additionally, many attorneys are equipped with computer terminals and have access to the memoranda and opinions prepared by others as well as to the myriad data bases available through our law library.

The Firm is also equipped with a state-of-the-art voice mail system which allows an attorney seeking previously prepared memoranda and opinions on particular subjects to send instantly a message to all attorneys in the office, or to those in a specific department or practice group, requesting copies of prior work. We have found this to be an extremely effective and efficient means by which to respond quickly to client needs and requests.

15. Assuming your firm was appointed as the Acton Town Counsel, please explain how you would propose assuming those duties from existing Town Counsel. Please be specific in regard to each area in which you propose to offer services.

We would propose to meet as needed with present counsel to review all pending matters and meet with the Town Manager and members of the Board of Selectman as suggested by the Town Manger. Furthermore, if selected, we would not charge for any time which we devote to acquainting ourselves with Acton, meeting people, reading Town materials or attending initial Town or Selectmen's meetings.

16. What, if anything, distinguishes the quality of legal services offered by your firm from the quality of those services offered by other firms?

Quality cannot exist at a law firm unless the totality of its work and practice environment is conducive to attracting and retaining attorneys and other staff of the highest caliber. Most large Boston law firms, including Nutter, McClennen, initially attempt to achieve this objective by providing the opportunity to earn compensation commensurate with prevailing large-law-firm standards.

However, more than some other law firms, Nutter, McClennen recognizes that competitive compensation is but one part of the requisite work and practice environment totality needed to maintain excellence over the long term. Indeed, a law firm's excessive concentration on its attorneys' compensation can be counter-productive in terms of attracting and retaining attorneys and staff to whom other values are at least equally important. Accordingly, Nutter, McClennen encourages those attorneys so interested to engage in civic, charitable and pro bono work and takes such work into account in determining compensation. At Nutter, McClennen we are fully committed to insuring that each attorney is competent and current in his/her specialty by maintaining formal training programs within the Firm and supporting participation as speakers or attendees in continuing legal education programs.

We believe that Nutter, McClennen & Fish is the first Boston-based law firm to embark upon a firm-wide client oriented quality program. Specifically, we have created a "Quality and Client Service Council" comprised of representatives from each area of the Firm. The Council includes senior partners and associates, secretaries and paralegals, accountants and other members of the administrative support team.

The Council is charged with the task of incorporating policies and practices into a Total Quality Management (TQM) program predicated upon principles developed by W. Edward Demming and successfully implemented by many Japanese and American companies.

Quality study groups have been formed to address specific quality issues such as legal training and research, billing practices and administrative systems. Our Executive Committee has developed an innovative "Client Service Cycle" to ensure quick response to client concerns and efficient handling of every matter. The Client Service Cycle addresses such issues as understanding the client's objectives, appropriate staffing and monitoring of matters, communicating with the client and with lawyers working on the matter on a regular basis, providing the appropriate support services to deliver the service in a timely manner and following-up with the client to ensure satisfaction.

17. What, if anything, distinguishes the cost of the legal services offered by your firm from the cost of those services offered by other firms?

Nutter, McClennen recognizes that given the fiscal constraints of the 1990s, law firms must practice more efficiently than in the past. Many of the policies and practices discussed in response to Question 16 eliminate waste as well as enhance quality. The precedent files discussed in response to Question 14 similarly improve efficiency. In addition, "efficiency" (the ability to perform quality work without it taking excessive time) is a line item on the performance evaluation form upon which partners evaluate associates and is an element of performance discussed with each associate at his/her semi-annual evaluation

Partners have been educated by means of meetings, seminars and literature as to the importance of fully informing, discussing and evaluating with their clients the cost/benefit trade-off with respect to each substantial matter before commencing it and promptly advising clients of any change in such evaluation as the matter progresses.

18. Without revealing any privileged information, give an example of a case, in each of the areas in which you offer to provide services, in which your firm's advice to a municipal client has had a particularly beneficial effect.

a. Recently, we assisted the Town of Concord Planning Department in reviewing and approving a residential subdivision which provides for the extension of Town water, conservation restrictions, building restrictions and affordable housing set-asides, all at the expense of the developer. In drafting and negotiating the various covenants, agreements and restrictions, we allowed the Town to obtain valuable benefits, including additional open space, at limited expense to the Town.

b. Additionally, we have assisted the Town of Concord with an extended program to obtain agricultural preservation restrictions over uniquely situated farmland in the Town. Working with representatives of the Commonwealth of Massachusetts and Town officials, we assisted the Town in developing a six-year program to acquire agricultural preservation restrictions over an operating farm, containing unique scenic vistas. Through this process, the Town was able to spread out its financial obligation over many years, while allowing the landowner to retain its advantageous tax benefits.

c. In the early 1980s, our client, the Stoneham School Committee, acting pursuant to our collective bargaining advice, negotiated with the Stoneham Teachers' Association one of the very few merit pay programs for public school teachers in the nation. This program has remained in effect for nearly ten years and was the subject of a presentation at a National School Boards' Association program in California. It enables a town with modest financial resources to compensate its best performing staff at levels competitive with the most affluent communities.

d. We recently represented the Town of Concord in all aspects of a complex real estate transaction that involved the governing bodies of (and local interest groups within) two neighboring municipalities, a major private corporation, and a nationally recognized charitable organization. The real estate in question included two separate groundwater contamination and remediation sites in close proximity to water supply wells, several wetland and other environmental resource areas, and the shore of Great Pond.

On the Town's behalf, the Firm evaluated the various risks posed by the environmental contamination (based on the review of the many existing consultants' reports on the site and consultation with environmental consultants) advised the Town on various approaches to managing that risk and the relative merits of each, participated in negotiation and drafting of a multi-party environmental indemnification agreement and related escrow agreements and assignments, reviewed and advised the Planning Board regarding the proposed subdivision of land, ensured compliance with the requirements of local bylaws and state statutes regarding procurement and disclosure of beneficial interests, and provided the full range of standard real estate services involved in a town's aquisition of real estate, including negotiation, review and/or drafting of purchase and sale agreement, deeds and easements and restrictions, and review of title. The Firm's considerable expertise in working with municipal boards and officials and in analyzing and managing environmental contamination problems were particularly essential to bringing the transaction efficiently to a conclusion beneficial to the Town.

19. Without revealing any privileged information, give examples of several litigated cases (court, arbitration, ADR, etc.) in which your firm has obtained a particularly beneficial outcome for a municipal client.

We believe that the essence to a successful Town Counsel relationship is the efficient coordination among the Town Manager, various boards and the selectmen with respect to litigation strategies and approach to settlement. In all cases in which we have represented our municipal clients, we have always first sought to coordinate these bodies to ensure the most expeditious and cost-effective outcome. Additionally, in any litigation matter we handle, we adhere to a strict policy of containing costs, limiting defense and bringing cases to a speedy settlement.

In Bellingham School Committee, Labor Relations Commission Case No. MUP-8360, decided January 30, 1992, and Bellingham School Committee, American Arbitration Association Case No. 11-390-02201-91, decided February 11, 1992, our client, the Bellingham School Committee, obtained rulings from the Labor Relations Commission and a labor arbitrator, respectively, sustaining its fiscally motivated decision to permit unpaid community volunteers to fill high school interscholastic athletic coaching positions previously filled on a paid basis by Bellingham teachers represented by the Bellingham Teachers Association. The Commission held that such change did not violate M.G.L. c.150E, §10(a)(5) and (1), and the arbitrator held that it did not violate the collective bargaining agreement between the School Committee and the Teachers' Association.

20. Without revealing any privileged information, give examples of several litigated cases (court, arbitration, ADR, etc.) in which your firm has not obtained a particularly beneficial outcome for a municipal client.

Of the numerous cases we have litigated on behalf of one particular municipal client, in only one instance have we had a result that one might refer to as "not particularly beneficial." In that case, the plaintiff sought damages in excess of $200,000; the judgment awarded, however, was in the amount of approximately $25,000 (plus interest and cost). This case is currently on appeal and in our opinion the award will be vacated. In another litigation matter, we were successful at trial and on appeal upholding a controversial decision of the ZBA denying a home occupation permit to a window washing and pest control entrepreneur, who actually resided in Acton while conducting his so called "home occupation" in Concord.

21. Provide the name, bar admission date, area of practice, current hourly billing rate and the continuing legal education activity for the last three years for each attorney in your firm who would be involved in providing legal services to the Town of Acton under your proposal.

Please see response to Question 8 and Appendix 1.

22. Provide the name, bar admission date, area of practice, current hourly billing rate and the continuing legal education activity for the last three years for any other person in your firm who would be involved in providing legal services to the Town of Acton under your proposal and for whose services you would bill the Town.

In addition to the lawyers outlined in response to Question 8, we would propose utilizing paralegals in the Business and Litigation Departments as appropriate. The rates for paralegals range from $65 - $85 per hour.

23. Who would be responsible for staffing decisions and staff selection for your proposed services to the Town of Acton?

Dianne Hobbs, as Team Leader, would be responsible for all staffing decisions and staff selection. She would work in cooperation with the Department Administrative Managers of the appropriate Departments to ensure optimal staffing levels.

24. Are the hourly rates that you have listed above subject to adjustment due to the complexity of legal issues involved in a particular matter, the ultimate result obtained, legal issues of first impression or any other factors?

The hourly rates listed above are not subject to adjustment other than being at 90% and 75% of the Firm's standard rates and the special provision outlined for Senior Consulting Attorneys and as described in response to Question 8.

25. Are the fees you would propose to charge the Town of Acton based on any form of "value billing," that is on any basis other than actual time worked, measured in tenths of an hour?

We ordinarily bill on an hourly basis, measured in tenths of an hour. We believe this practice prevents clients from being charged with time not actually devoted to a matter. Our lawyers frequently field and answer requests in brief telephone conversations. On

occasion, we have entered into fixed fee agreements. Upon request, we develop matter-specific budgets, so that the client knows exactly what work we propose to do and which work would not be undertaken without the client's specific approval. We encourage clients to assist in the fact-gathering effort, where appropriate and feasible from the client's perspective, as we believe that active involvement by the client in fact-gathering is cost effective from the standpoint of providing legal services. We would be more than happy to enter into discussions with The Town of Acton on all billing matters.

If selected, we propose to meet with you at least annually to review our services to the Town.

26. Do you have any proposal to charge the Town of Acton for legal services provided on any basis other than hourly billing? If so, please explain.

See our responses to Questions 8 and 25.

27. Describe your firm's process for billing legal fees, from initial recording of time by an attorney or other billable personnel to the generation of the billing document.

Outlined below is a detailed description of our billing process, beginning with time entry. On a daily basis, each attorney records the amount of time worked on each client/matter. On the following day, the attorney's secretary enters the transactions that were recorded the previous day by the attorney via direct time entry in the Firm's accounting system. The following morning, each secretary receives a report containing all entries entered by the secretary the previous day. The secretary verifies each transaction on the report.

At the end of the first week of each month, billing attorneys receive a printout of a "prebill" for each client and matter indicating time and disbursements recorded during the previous month. The attorney reviews the prebill report and indicates which

transactions he/she will be billing for that month. The prebill is submitted to the billing staff in the Accounting Department for processing. The Accounting Department checks the documentation for accuracy and the data is processed through the billing system for final bill preparation.

28. What can be reflected on your monthly bills?

Our billing procedures and software can produce monthly billings reflecting the date services were performed, the initials of the individual performing the service, a narrative description of the services provided, the time spent performing services in tenths of an hour, the hourly rate of the charging individual, the fee for each entry, the number of attorney hours included in total fees for each billing period, the number of paralegal or other billing personnel hours included in the total fees for each billing period and/or cumulative total fees billed for a fiscal year. We have numerous standard bill formats from which a client may choose and we are also able to format any bill based on the wishes and needs of the client.

29. Describe your firm's process for billing costs and disbursements.

Each type of disbursement is captured by tracking systems located throughout the Firm. The information collected for each disbursement is recorded by client/matter number and submitted to the Accounting Department. The disbursements are entered into the disbursement system and verified on a daily basis, and are included in the prebill prepared for the billing attorney.

30. Delineate which expense items are included in your regular hourly fees and which expense items would be passed on to the Town of Acton.

Any expense not involving a direct cash payment, such as the use of conference rooms, and not listed below in response to question 31 will not be charged to the client.

31. List your standard charge for the following:

We charge as follows for the items listed below:

a) We currently charge 20¢ per page for photocopies done in-house, but this policy is under review.

b) We generally do all of our copying in-house, but we do use commercial reprographic services on matters requiring a particularly high volume of copying when feasible to economize. In such cases, we charge actual cost.

c)d) With respect to outgoing facsimiles, our charge is $2 per page plus $2 for local calls, $3 for long-distance calls, and $4 for international calls.
With respect to incoming facsimiles there will be no charge.

e) We charge for automobile mileage at the rate of 28¢ per mile.

f) Ordinarily we do not charge clients for meals by attorneys working through regular mealtimes.

g) We charge actual costs for travel-related expenses. We do not use first class air travel and expect all attorneys to remain sensitive to the financial interests of clients in this connection.

h) We charge actual postage costs for first class and certified mail.

i) We charge $5 for regular deliveries by internal messengers and $10 for any rush requests; for deliveries requiring outside couriers, we would charge the Town actual costs only. We employ Mercury Business Service which is contractually obligated to determine the most cost-efficient method of delivery. Additionally, the Firm communicates by electronic mail with those clients who request it and have the ability to transfer documents over telephone lines. We use the Wang system for word processing and can convert to or from most word processing packages, including Apple/Mac. Documents are routinely sent out on disk, formatted for use by our clients.
We are happy to discuss technology needs with clients. We welcome ideas and suggestions for new ways to serve our clients efficiently and cost-effectively.

j)k) We charge telephone toll calls (local and long distance) on the basis of our cost plus 10%.

l) For LEXIS, WestLaw or other on-line services it is our practice to charge clients our actual cost plus 10%.

m) We charge actual costs for filing fees.

n) We charge actual costs for court reporter services and transcripts.

o) We would charge actual costs for video and/or photographic services.

p) We charge actual costs for trial exhibit preparation.

q) We charge actual costs for litigation support services.

r) We charge clients separately for word processing services at the rate of $30 per hour exclusive of normal secretarial services. We do not charge for other data processing, such as accounting.

s) We charge $25 per hour for secretarial overtime.

32. What are the firm's annual minimum billable hour requirements for attorneys, paralegals and other billable personnel?

The Firm does not have annual minimum billable hour requirements as such. We do make known, however, that as a general guide under normal circumstances 1800 billable hours per year are expected for associates and junior partners and 1700 for partners.

33. Are the firm's attorneys paralegals or other billable personnel compensated, in whole or in part, as regular or bonus compensation, on the basis of the number of hours billed above minimum billable hour requirements?

None of the attorneys, paralegals or other billable personnel is compensated on the basis of the number of hours billed above minimum billable hour expectations. The number of hours billed, along with numerous other factors, including quality, efficiency of work and other contributions to clients and to the Firm, are all considered when determining an attorney's compensation level.

34. If the answer to the foregoing question was in the affirmative, what was the average percentage of annual partner, associate attorney, and paralegal compensation paid in 1990 and 1991 that is attributable to hours billed in excess of minimum requirements?

Not applicable.

35. Why should the Town of Acton select your firm as Town Counsel?

We believe we have the capability and understanding of the needs of municipalities sufficiently to represent The Town of Acton in the areas which we have described in detail above. Our lawyers who specialize in these areas would be able, with minimal learning or training time, to provide the services that the Town needs. Our understanding of the challenges that Town Managers and Selectmen face every day add great value to the services we offer.

Furthermore, as counsel to numerous public institutions, we are aware of the ever-increasing complexities of the laws governing the public sector. We would like to work with you in ensuring the Town Manager and Selectmen are fully aware of and in compliance with laws governing municipalities. We would be prepared to conduct semi-annual seminars, at no cost, on specific topics to be selected with your approval.

We appreciate the opportunity to present the qualifications of Nutter, McClennen & Fish to the Town of Acton for its consideration and to place our Firm's resources at your service. We would be pleased to meet with you at your convenience to supplement this response to your Request for Proposal.

Very truly yours,

Nutter, McClennen & Fish

APPENDIX 1

Duane R. Batista

Mr. Batista is a partner in the Labor and Employment Department and affiliated with the Environmental Department of Nutter, McClennen & Fish. Since the late 1960's, a part of Mr. Batista's practice has consisted of representing municipal school committees in areas of law such as collective bargaining, other employment, discrimination (employee and student), open meeting, public records, conflict of interest, purchasing, bidding and contracting, student discipline, special education, municipal law, rights and obligations of school committee vis-a-vis other town boards and town meetings. Mr. Batista has been Employment Law Counsel to Wentworth Institute of Technology since the early 1970s. His work for Wentworth Institute of Technology includes the full range of employment issues relating to their non-union and unionized employees, faculty collective bargaining contracts and arbitration. His practice within the environmental area includes OSHA and other workplace health and environmental issues in both union and non-union contexts.

Mr. Batista is a graduate of Williams College, with a B.A., cum laude 1956, and Harvard Law School, LL.B. 1963. He was admitted to the Massachusetts Bar in 1965.

CONTINUING LEGAL EDUCATION

Over the past three years, Mr. Batista has attended several MBA, BBA and MCLE seminars on employment law topics and has served, each year, as a speaker on workplace health, safety and environmental issues at California Law Institute's Employment Regulations in Massachusetts seminar program. Two years ago he served as a panelist at a BBA seminar on the newMassachusetts Gay Rights law, and is scheduled to be a panelist for the BBA seminar on labor arbitration in April. Mr. Batista serves as co-editor and contributing author for the Firm's quarterly Labor & Employment newsletter.

Deborah P. Fawcett

Ms. Fawcett is an associate in the Environmental Department of Nutter, McClennen & Fish. Her practice includes; acting as town counsel and advisor to authorities, boards and commissions; environmental compliance counseling; analysis and advice on zoning, subdivision, land use and environmental aspects of real estate and other business transactions; advising and representing lenders and developers regarding permits and approvals, traditional real estate work and representation of clients before local, state and federal agencies and in litigation in connection with hazardous materials and other environmental matters.

Before becoming a lawyer, Ms. Fawcett had eight years experience as a city planner. As public official and private consultant to governmental agencies, including the Boston Redevelopment Authority, the Boston Housing Authority and the U.S. Department of Housing and Urban Development. Ms. Fawcett worked cooperatively with other planning and design professionals, public officials, developers, contractors and business and citizen action groups to plan, finance and implement a wide array of programs, improvements and development projects, ranging from mixed use harbor front urban renewal to reconstruction and tenant management of public housing, including early work on the Charlestown Navy Yard and Central Artery projects. She has written and edited numerous reports and proposals; frequently officiated or made presentations at public meetings; interpreted, applied and formulated environmental, land use and other development controls; and analyzed and developed plans and requests for proposals for the rehabilitation and adaptive reuse of real property.

Ms. Fawcett is a member of the American, Massachusetts and Boston Bar Associations and makes written and oral presentations on environmental issues.

Ms. Fawcett earned her A.B. degree from Vassar College in 1971, her Master of Urban and Regional Planning from the University of Pittsburgh in 1973, and her Juris Doctor, cum laude, from Boston University School of Law in 1984, where she was a member and editor of the Law Review. She was admitted to the Massachusetts Bar in 1985.

CONTINUING LEGAL EDUCATION

- Environmental Science for Lawyers
- Coping with the Massachusetts Contingency Plan
- Environmental Law Basics
- Environmental Law for Experienced Professionals
- Environmental Aspects of Corporate and Real Estate Matters
- New Chapter 91 Regulations
- Major Land Use Laws in Massachusetts
- Site Assessments and Environmental Audits
- Recycling Contaminated Properties
- Developing and Financing Commercial Real Estate
- Commercial Real Estate Loan Transactions
- Changes to Chapter 21E
- Negotiation Skills course

Robert A. Fishman

Robert A. Fishman, is a partner in the Real Estate and Finance Department of Nutter, McClennen & Fish, where his practice concentrates on representation of financial institutions, landowners, developers and governmental entities in all aspects of development, financing, leasing, land use and environmental permitting.

He is a member of the American College of Real Estate Lawyers and is Vice Chair of the Environmental Committee of the American Bar Association's Real Property Section. Mr. Fishman is an active member of many real estate trade organizations and is a frequent lecturer on environmental, land use and real estate topics.

Mr. Fishman graduated from Harvard College with a Bachelor of Arts, magna cum laude, Phi Beta Kappa, in 1970 and received his Juris Doctor from Harvard Law School, cum laude, in 1973. Mr. Fishman was admitted to the Massachusetts Bar in 1973.

CONTINUING LEGAL EDUCATION

For the past three years, Mr. Fishman has taught a number of seminars in the real estate, land use and environmental areas. In addition, he regularly has attended advanced seminars in these fields to keep current on recent developments.

In 1991, Mr. Fishman organized, recruited the faculty and also taught the first six part course offered by Massachusetts Continuing Legal Education, Inc. on Basics of Environmental Law. This course covered federal and state superfund law, insurance law, laws and regulations affecting the reporting and handling of hazardous substances, wetlands and waterways, and environmental aspects of land use development and regulation, including zoning, subdivision, Board of Health regulations and environmental impact reports. Mr. Fishman has also lectured at bar association seminars on environmental aspects of corporate and real estate transactions, with particular emphasis upon contractual documentation to allocate risk for environmental liabilities, including due diligence, representations and warranties and indemnification agreements. Mr. Fishman has also authored the chapter on environmental controls in the Massachusetts Conveyancers Handbook published by the Lawyer's Cooperative Publishing Company.

Mr. Fishman has participated in the educational activities of the Environmental Law Committee of the American Bar Association's section on Real Property Probate and Trust Law. He serves as Vice Chair of this Committee.

Mr. Fishman has attended the annual national conference in Chicago sponsored by the American Bar Association on the subject of environmental considerations in corporate and real estate transactions. He has also attended regular advanced seminars sponsored by Massachusetts Continuing Legal Education, Inc. on land use and environmental subjects including, most recently, Environmental Law for the Experience Professional.

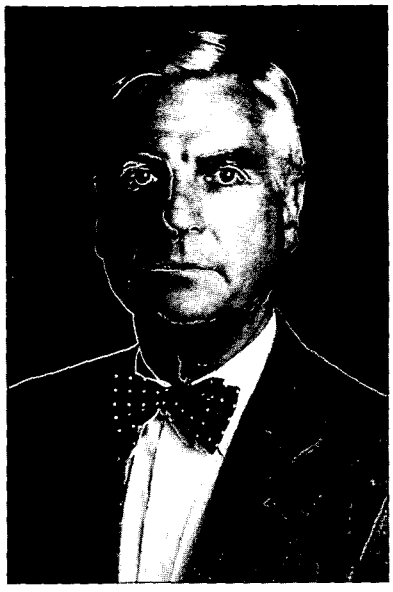
Dianne Hobbs

Ms. Hobbs is a partner in the Business Department of Nutter, McClennen & Fish and a member of the Firm's Banking and Financial Services and the Public Finance Practice Groups. She represents municipal issuers, corporate borrowers, equipment lessors, lenders, investment bankers, trustees, placement agents and commercial banks providing credit support for public financings, both taxable and tax-exempt. Before joining Nutter, McClennen & Fish in 1986, Ms. Hobbs practiced law with Palmer & Dodge in Boston, Massachusetts.

Ms. Hobbs received her law degree from Case Western Reserve University where she was a member and editor of the Law Review, and is a graduate, with distinction, of the Northwestern University Medill School of Journalism. She was formerly an editor with the Oxford University Press in Oxford, England. Ms. Hobbs was admitted to the Massachusetts Bar in 1981.

CONTINUING LEGAL EDUCATION

Within the last three years, Ms. Hobbs has spoken at a Massachusetts Bar Association seminar on "Borrowing Money: Issues for the Non-Profit Organization" and at a MCLE seminar on "How to Incorporate and Counsel a Non-Profit Corporation." She has attended the Annual Bond Attorneys' Workshop each year and has attended numerous seminars, workshops and conferences on topics including disclosure in the municipal securities market, equipment leasing, defaulted bond issues and healthcare industry legislature.



Charles R. Parrott

Mr. Parrott is a partner of Nutter, McClennen & Fish and a member of the Firm's Executive Committee. He has been associated with the Firm since 1964. His practice has included and includes representation of public and private companies, partnerships and individuals having a wide variety of legal matters. Over the years his specialities have included aviation litigation, copyright, trademark and trade secret litigation, litigation relating to the enforcement of license rights of several major film producers, litigation involving First Amendment issues, and domestic relations litigation. Mr. Parrott is Town Counsel to the Town of Concord.

He received his Bachelor's Degree from the School of Management of Boston University and his Law Degree from The School of Law at Boston University where he served as an editor of its Law Review. In the recent past, Mr. Parrott has served as President of the Boston University Law School Alumni Association, President of the General Alumni Association of Boston University and is presently serving as the Chairman of the Council of Past Presidents. He is a Trustee of Boston University and a member of its Executive Committee. Mr. Parrott is a Major General (Ret.) of the United States Air Force.

Diane Rosse

Ms. Rosse is a junior partner in the Labor and Employment Department of Nutter, McClennen & Fish. She graduated with a Bachelor of Arts, magna cum laude, from Union College in 1982, and is a member of the Alpha Chapter of Phi Beta Kappa. Ms. Rosse graduated with a Juris Doctor from Fordham University School of Law, cum laude, in 1986. She was admitted to the New York Bar in 1987 and the Massachusetts Bar in 1990.

She came to Nutter, McClennen & Fish from the Office of the General Counsel of the National Labor Relations Board, Washington, D.C., where she was a litigator in Federal bankruptcy courts, district courts and courts of appeals.

Ms. Rosse has represented both school committees and a major University in the Boston area in collective bargaining, proceedings before the National Labor Relations Board and comparable state agencies, arbitrations, Federal and State courts and the student disciplinary hearing.

CONTINUING LEGAL EDUCATION

Ms. Rosse's continuing legal education activity over the past three years has included an MCLE course in arbitration and a public sector labor law seminar held at Harvard University, as well as seminars in labor and employment law and a course on taking depositions. She serves as co-editor of the Firm's quarterly Labor & Employment newsletter and is also a contributing author.

Mark S. LaConte

Mark S. LaConte is a junior partner in the Real Estate and Finance Department of Nutter, McClennen & Fish. His general real estate practice is concentrated in commercial real estate finance, and includes the representation of banks, insurance companies, governmental agencies and other institutions involved in both debt and equity real estate finance. He is also an active member of the firm's interdepartmental Workout Practice Group, serving clients in the areas of creditors' rights, mortgage foreclosures, loan restructures and other workout-related issues.

Mr. LaConte is a member of the Real Estate Section of the Boston Bar Association, and is currently serving on the Commercial Real Estate Finance and Development Committee and the Equity Finance Committee.

Mr. LaConte received his Sc.B. in Applied Mathematics and Economics, magna cum laude, from Brown University in 1982, and received his J.D. from Harvard Law School in 1985. He was admitted to the Massachusetts Bar in 1985.

CONTINUING LEGAL EDUCATION

Over the past three years, Mr. LaConte has been actively involved in various continuing legal education activities, including having attended seminars at the regional (Boston) and national (New York and Washington D.C.) levels. The seminars have covered a wide variety of topics of importance to real estate practitioners, including land use, environmental, zoning/permitting, troubled real estate projects, emerging real estate issues, foreclosures, loan workouts, and bankruptcies. He has also lectured on project workout topics.

FILE COPY

Proposal to Provide Legal Services to

BOARD OF SELECTMEN

TOWN OF ACTON

from

PALMER & DODGE

March 1992

PALMER & DODGE
One Beacon Street
Boston, Massachusetts
(617) 573-0100

REQUEST FOR PROPOSAL FOR LEGAL SERVICES

The Board of Selectmen of the Town of Acton, upon the recommendation of the Acton Finance Committee, is requesting proposals from qualified law firms to provide the Town with legal counsel services. Under the Charter of the Town of Acton, appointment of Town Counsel rests solely with the Board of Selectmen. The Selectmen have for many years utilized the services of your firm as principal Town Counsel. The issuance of this Proposal does not indicate that the Selectmen are dissatisfied with the current rendition of legal services. Nor does the issuance of this Proposal necessarily indicate that the Selectmen may appoint new Town Counsel. The Board of Selectmen specifically reserves the right to reject any and all Proposals.

The most important criteria in regard to selection of Town Counsel is the Board of Selectmen's perception of the demonstrated expertise and skill that is offered. Secondarily the Selectmen will consider cost factors. The Board of Selectmen will not necessarily retain the firm projecting the lowest hourly rate or the least annual budget. Because the Board of Selectmen is of the opinion that the Town requires depth of support across a broad spectrum of legal services, it has decided that it will not consider proposals for general Town Counsel services from solo practitioners or small firms lacking second attorney support in all relevant major practice areas.

Palmer & Dodge in responding to this proposal should provide eight copies of their written answers, and any other documentary information responsive to the attached questions, under cover signed by the attorney who would be the Town's principal point of contact. To be considered, Proposals must be received in hand by the Town Manager, Town Hall, 472 Main Street, Acton, MA 01720 before 3:00 p.m. on Friday March 6, 1992. The Board of Selectmen may require further submissions from firms which are considered to have successfully completed the first response to this Request for Proposals.

Your Request for Proposal for Legal Services was sent to us on February 20, 1992. As you know, Palmer & Dodge has provided legal services to the Town of Acton for over 20 years. Since the Town is thoroughly familiar with the firm's qualifications, we shall keep our responses to your questions as brief as possible.

1. ***What other organizational clients does your firm currently and regularly represent? As to each such organization please state the general law practice areas involved.***

   Palmer & Dodge clients include agencies and authorities of the Commonwealth of Massachusetts, municipalities, colleges and universities, manufacturers, service industries, medical and other non-profit institutions, utilities, and others. Among the clients we represent as general counsel are:

   Massachusetts Institute of Technology (M.I.T.). As general counsel to M.I.T., our work includes general representation, contract work, representation in litigation, labor and employee relations matters, pension and employee benefit work, tax advice and protection of intellectual property.

   BayBanks, Inc. BayBanks is one of the major New England bank holding companies. We act as general counsel to it and its banking subsidiaries. In this capacity we deal with general corporate and securities matters, advise on banking regulations of federal and state agencies, assist with labor and employee relations matters and handle major litigation.

   Colonial Gas Company. Colonial Gas is one of the larger Massachusetts local distribution gas utilities with service territories northwest of Boston and on Cape Cod. We are its general counsel and handle its financings, represent it in rate setting and regulatory matters, deal with environmental matters and provide general corporate, securities and tax advice.

   Genzyme Corporation. Genzyme is the largest of several technology companies we represent. It is one of the leading biotechnology companies on the cutting edge of scientific development. Our work as general counsel has involved creative financing arrangements, acquisitions, partnering activities, real estate matters and intellectual property disputes.

2. ***What other municipalities does your firm currently represent, and what municipalities has your firm represented in the past? As to each municipality please list the dates over which your representation has extended, what areas of law practice were/are involved, ~~and the name, address and telephone number of the person(s) in each municipality believed to be most familiar with your firm's work.~~***

   Palmer & Dodge currently represents the towns of Acton, Lexington, Dover and Sherborn as regular Town Counsel. We have represented each of these towns for periods in excess

of 20 years. We also represent the Minuteman Regional Vocational Technical School District as regular counsel and have since its inception.

In addition, we represent a number of municipalities as special counsel on a variety of matters. As examples, we represent:

City of Cambridge. Since 1984, we have represented the City of Cambridge in a variety of complex, politically-sensitive disputes. We successfully defended the City's power to regulate "nerve gas" testing by a local defense contractor against federal preemption and state administrative law challenges. *Arthur D. Little, Inc. v. Commissioner of Health and Hospitals of Cambridge*, 395 Mass. 535 (1985). We also successfully have resolved a series of employment discrimination claims against the Police Department, including a systemic challenge we mediated through the United States Department of Justice. We currently represent the City in a variety of civil rights suits and in connection with claims involving improper investment of City pension funds.

City of New Bedford. Palmer & Dodge was asked by the City of New Bedford in 1986 to serve as its legal counsel in concluding its Section 301(h) waiver application and renegotiating the terms of its existing wastewater compliance consent decree. Renegotiation of the consent decree and reissuance of an NPDES permit were completed in 1989. Since that time the firm has consulted with New Bedford on a wide variety of matters involving improvements to its existing wastewater plant, the planning and contracting for its new plant, negotiation of remediation of contaminated sediments in interceptor sewers, response to a notice of violation regarding the operation of the existing sewage sludge incinerator, and other matters. We assisted in successfully negotiating with EPA and the Department of Justice a deferral of scheduling CSO abatement timetables for incorporation into the consent decree. We also recently assisted in the preparation of contract and bidding documents for the $120 million public construction project for the cleaning of New Bedford harbor, which will be bid under M.G.L. Chapter 149, §44A-44J.

North East Solid Waste Committee (NESWC). Palmer & Dodge acts as general counsel to the North East Solid Waste Committee, a consortium of 23 cities and towns that financed and now uses a solid waste resource recovery facility in North Andover, Massachusetts. We are currently involved in complex arbitration proceedings that challenge the facility operator's attempt to increase the service fees paid by NESWC cities and towns.

Saugus RESCO Communities. We advise seventeen communities under contract with the Saugus RESCO waste-to-energy facility regarding solid waste regulations and contractual issues.

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.

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.

Palmer & Dodge also has an extensive practice advising cities and towns throughout Massachusetts on public finance matters and representing them as bond counsel.

3. ***What does your firm see as the Town of Acton's principal needs for legal counsel over the next three years? Explain your reasoning.***

Acton's principal needs for legal counsel over the next three years will be in the following areas:

- advice on Town financial matters, including compliance with statutory requirements;
- advice on zoning, planning and environmental matters, including litigation;
- advice and representation of the Town in collective bargaining and personnel matters; and
- preventive legal advice in all areas in which the Town operates.

The areas listed above have represented the major legal needs of the Town over the last three years and can be expected to be major needs over the next three years. The need for legal advice on financial matters is obvious, based on the condition of the state economy and the pressures on town budgets. That pressure in turn has increased the need for counsel in collective bargaining and personnel matters. Land use and regulation is the single most important legislative responsibility of the Town, and apart from the educational system, has the greatest impact in the general quality of life in the Town. It has been a major area of legal activity in Acton for at least twenty years and will continue to be a major area for the foreseeable future.

Preventive lawyering is needed in all areas of town operations. The time and cost of litigation, both in direct legal costs and in time of town officials, is high and constantly increasing, as litigation becomes more complex. On the other hand, most litigation involves the defense of decisions by Town Boards or the enforcement of Town by-laws or regulations. The Board of Selectmen and other officials must weigh the cost of litigation against achievement of the Town's legislative, regulatory and financial goals.

4. ***Of Acton's principal needs for legal counsel you have listed in response to the prior question, which (pick one need only) does your firm feel it is best qualified to fulfill? Explain the basis for your opinion.***

Palmer & Dodge is uniquely qualified to provide counsel on public financing matters. We have the largest bond counsel practice of any New England law firm and have represented more than 400 municipalities in Massachusetts and four other New England states for over 100 years. Palmer & Dodge has been in the forefront of municipal financing innovations.

5. ***Of Acton's principal needs for legal counsel you have listed in response to the next prior question, which need would be the most difficult for your firm to fulfill completely? Explain the basis for your answer.***

Palmer & Dodge would not find it difficult to provide services in any of the principal areas listed in Question 3.

6. ***Please specifically describe the legal services that you are offering to provide to the Town of Acton.***

We will continue to provide the Town with legal services in connection with any matter that arises, as we have in the past.

7. ***List your firm's major practice areas.***

Palmer & Dodge has significant practice in almost every field of law. The areas most relevant to the Town include the following: public finance; zoning and land use; labor, employment, and personnel matters, including employee benefits; education; litigation of all kinds, including land use and construction matters.

Other major areas of practice of the firm, which may be of less direct relevance to Acton, but can be drawn upon as needed, include: tax law; estate and financial planning for individuals; corporate and securities law, law affecting charitable and educational institutions; insurance regulation and coverage matters; and intellectual property, copyright and libel.

8. ***Describe the organization of your firm, and identify which portions of your firm organization would be potentially involved in providing Town Counsel services to the Town of Acton. Identify the lead attorney for each such potentially involved organizational element, provide his/her curriculum vitae, and state his/her current hourly billing rate.***

The firm is organized in departments, with a number of interdepartmental practice areas or groups. The major departments are: public finance; business; labor; real estate; taxation; private client (estate and business planning); and litigation. Litigation is the

largest department in the firm. Within this area, the lawyers focus on public and municipal litigation, including constitutional claims, antitrust, securities litigation, insurance regulation and coverage litigation, utility regulation, construction litigation, employment and personnel litigation, and zoning and environmental litigation.

Although lawyers in many of these areas might be involved in providing services to the Town, the lawyers who have been primarily responsible for the areas listed in Question 3 are Norman P. Cohen, Acheson H. Callaghan, Henry G. Stewart, and William L. Lahey whose résumés are attached as Appendix A.

9. ***How many attorneys are in your firm? How many of your attorneys are partners or the functional equivalent of partners, how many are associates? If there is any intermediate category of attorneys, i.e. junior partners, non-equity partners, career associates, etc., please describe the category(s) and indicate how many attorneys are involved.***

As of March 1992, Palmer & Dodge employs 157 lawyers including 73 partners, 70 associates, 8 counsel, and 6 of counsel.

We designate some senior associates as "counsel" and senior partners, who may be semi-retired, as "of counsel."

10. ***How many paralegals or legal assistants are employed by your firm?***

As of March 1992, we employ 30 legal assistants.

11. ***How many law clerks are employed by your firm?***

Palmer & Dodge does not employ any full-time law clerks, however, we do employ fall, winter and spring co-op students from Northeastern University, as well as a spring Boston University intern student.

12. ***What is the size of your firm's administrative support staff?***

As of March 1992, we employ 76 support staff, and 108 secretaries.

13. ***What computerized legal data bases does your firm utilize?***

The firm's resources to support its work include state-of-the-art computer and word processing technology to assure modern and reliable information processing and document production. We use WordPerfect 5.1 word processing to produce not only all legal documents but also desktop published reports and presentations and a full range of graphics applications for use by our clients. Our system is designed to ensure a high degree of fault tolerance. In addition to our routine backups, all word processing documents are stored

simultaneously to the network and the user's hard drive. We have the ability to convert documents from other word processing formats to WordPerfect and from WordPerfect to other formats. The firm also has the communications capability to send and receive documents. The firm's high speed digital PBX provides high speed communications to clients, co-counsel, and word processing and secretarial support, available 15 hours per day.

The firm's law library has direct computer access to fourteen databases including Lexis/Nexus, Westlaw, Dialog, Dun's Legal Services, Information America, Legi-Slate and Datatimes. We also use In-Magic, Q&A and R-base for document control and litigation support, as well as Discovery-ZX for depositions and transcripts.

By utilizing these in-house capabilities, we are able to print briefs at a fraction of the cost charged by outside printing companies.

14. ***Describe the system your firm uses in the municipal law areas to ensure that previously prepared memorandums of law and opinions are retrievable and can be utilized as the basis or starting points for new research and opinions.***

We maintain indexed files of legal opinions rendered to Acton since 1968, and files of opinions and memoranda of law on other subjects by department. We have a number of regular departmental meetings and in-house seminars for lawyers in various practice groups to ensure that all are fully informed on recent developments.

15. ~~***Assuming your firm was appointed as the Acton Town Counsel, please explain how you would propose assuming these duties from existing Town Counsel? Please be specific in regard to each area in which you propose to offer services.***~~

n/a

16. ***What, if anything, distinguishes the quality of the legal services offered by your firm from the quality of those services offered by other firms?***

Palmer & Dodge's experience and depth of knowledge about municipal financial matters is unrivaled. Our legal work in other areas is distinguished by a thorough knowledge of law, good judgment and extensive experience. We believe that our clients are the best judges of the quality and effectiveness of our legal work.

17. ***What, if anything, distinguishes the cost of the legal services offered by your firm from the cost of those services offered by other firms?***

Palmer & Dodge is competitive with other major Boston law firms in terms of hourly rates, and frequently lower in terms of total billing costs, because we generally staff cases and other matters more conservatively than most large firms. We do not compete with all firms in terms of hourly rates. Indeed, we believe that comparisons of costs solely in terms of hourly rates are misleading and often ineffective as a means of cost control. Our

municipal clients are ordinarily concerned with total charges rather than hourly rates. Inexperienced or ineffective counsel may spend so much time on a matter that the total fee may be expensive even though low hourly rates are used.

18. ***Without revealing any privileged information, give an example of a case, in each of the areas in which you offer to provide services, in which your firm's advice to a municipal client has had a particularly beneficial effect.***

We assume that the Town is familiar with matters not involving litigation which we have handled for it in all areas where legal services were required. Recently one of our municipal clients found its water supply contaminated by certain industries. As a result of our advice, the municipality recovered substantially all of its expenses incurred to install a new water system in the affected area. In another case, our review of draft subdivision documents led to the inclusion of language which ultimately enabled the municipality to recover $165,000 for use in completion of roads and utilities after the developer went bankrupt. We have helped cities and towns plan and have drafted enabling legislation for many innovative projects, including legislation authorizing a town to deal with a serious problem of hundreds of leaking residential fuel storage tanks and legislation authorizing another town to develop the only municipally owned cable television system in Massachusetts.

19. ***Without revealing any privileged information, give examples of several litigated cases (court, arbitration, ADR, etc.) in which your firm has obtained a particularly beneficial outcome for a municipal client.***

We vigorously and successfully defended one recent case in which members of a Planning Board were sued for violating the civil rights of an applicant for a Form A approval with demand for $1,200,000 being made against each member jointly and severally and for costs, interest and attorney's fees. In another matter, we obtained a finding of no liability from the Federal District Court and the First Circuit Court of Appeals in a suit brought against the police department of a municipality in which the plaintiff asked for damages in excess of one million dollars. In a recently reported decision from the Supreme Judicial Court we saved a municipality several millions of dollars in a case involving the purchase of a local water company.

20. ***Without revealing any privileged information, give examples of several litigated cases (court, arbitration, ADR, etc.) in which your firm has not obtained a favorable outcome for a municipal client and explain why you were not successful.***

It is not unusual for issues to arise in municipal litigation where the community feels it is important to contest a matter even if the facts are not favorable. In the early days of the "Snob Zoning Law," so-called, we defended several cases for municipalities that believed that certain principles of home rule were being violated by the Commonwealth when it was decreed that local zoning bylaws must be set aside if they were deemed to interfer with the construction of low income housing. The "Snob Zoning Law" was upheld by the courts. In the case of cities and towns being forced to pay for the busing of students to private

schools, we initially won a major victory for a number of municipalities when the Supreme Judicial Court ruled that the transportation was state mandated and therefore the costs had to be borne by the Commonwealth. We won the battle, but lost the war when the General Court added an outside section to the budget making such busing discretionary, but with the provision that state aid for transporting public school students would not be forthcoming if a municipality did not bus private school students.

21. ***Provide the name, bar admission date, area of practice, current hourly billing rate and the continuing legal education activity for the last three years for each attorney in your firm who would be involved in providing legal services to the Town of Acton under your proposal.***

We have enclosed resumes for the three lead lawyers for Acton. Because our lawyers' hourly rates vary widely in accordance with seniority and experience, the delivery of cost-effective legal services to a client requires a careful balance of staffing so that work is performed by lawyers at an appropriate level of experience consistent with attaining successful results.

Our regular hourly rates for lawyers and paralegals currently range from $60 to $310, depending on which lawyer or paralegal is handling the matter. As explained below however, our regular hourly rates are discounted by 15% or more for Acton.

22. ***Provide the name, qualifications, function, current hourly billing rate and the continuing legal education activity for the last three years for any person in your firm who would be involved in providing legal services to the Town of Acton under your proposal and for whose services you would bill the Town.***

See Number 21.

23. ***Who would be responsible for staffing decisions and staff selection for your proposed services to the Town of Acton?***

Acheson H. Callaghan and Norman P. Cohen would be responsible.

24. ***Are the hourly rates that you have listed above subject to adjustment due to the complexity of legal issues involved in a particular matter, the ultimate result obtained, legal issues of first impression or any other factor?***

We bill Acton monthly in a format requested by the Town. Because those bills are available to the Board of Selectmen, we have limited our responses to the billing questions to a general summary.

In general, our charges to Acton are based on regular hourly rates, discounted by approximately 15%. Time spent is recorded by each lawyer or legal assistant in six minute intervals (except quarter hours which are recorded exactly), and compiled by computer. The computer printouts for each billing period are reviewed by the billing partner for

possible mistakes or incomplete descriptions of the work done. The charges calculated by the computer are then adjusted to reflect the Town's normal 15% discount, and in some cases, additional discounts based on judgment about the nature of the work and the value of the matter to the Town.[1] Final charges are usually rounded to a whole number. Occasionally the time charge is discounted less than 15% based on similar judgments about the nature and importance of the work, but on average, our regular hourly time charges are discounted more than 15%. Acton has asked for separate amounts to be shown for each litigation matter and to have non-litigation services broken down based on the nature of the matter or the Town department involved.

25. ***Are the fees you would propose to charge the Town of Acton based on any form of "value billing", that is on any basis other than actual time worked, measured in tenths of an hour?***

    See Number 24.

26. ***Do you have any proposal to charge the Town of Acton for legal services provided on any basis other than hourly billing? If so, please explain.***

    See Number 24.

27. ***Describe your firms process for billing legal fees, from initial recording of time by an attorney or other billable personnel to the generation of the billing document.***

    See Number 24.

28. ***Can your billing procedures and/or billing software produce monthly billings reflecting the date services were performed, name or initials of the individual performing the service, narrative description of the services provided, time to perform the services in tenths of an hour, hourly rate of the charging individual, fee for each entry, number of attorney hours included in total fees for each billing period, number of paralegal or other billing personnel hours included in total fees for each billing period and/or cumulative total of fees billed for a fiscal year?***

    Monthly invoices show date, description of the work, by whom it was performed, the time spent, as well as cumulative time by lawyer on each matter. It does not show standard billing rates, because Acton is billed at less than standard rates.

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[1] For example, time spent attending Town Meetings is usually discounted by more than two-thirds.

29. ***Describe your firms process for billing costs and disbursements.***

See Number 31.

30. ***Delineate which expense items are included in your regular hourly fees and which expense items would be passed on to the Town of Acton.***

See Number 31.

31. ***List your standard charge for:***

The following expenses are billed separately:

(a) Photocopies done in house:

Photocopying is performed for 20 cents per page, without regard to the types of material copied or the time of day (except in extraordinary situations, such as copying required between midnight and 7:30 a.m., when special staff must be provided). Additional charges are made, based upon cost, for special services such as binding or color copying.

(b) Photocopies done out of house:

Nearly all photocopying requirements can be met by the firm's photocopying capacity, which includes coverage at nights and on weekends for urgent or exceptionally large projects. In the rare instance when an outside service would be used, the choice would depend upon the exigencies of the situation. In such a case, the client would be responsible for the amount billed by the outside service, without any additional charge by the firm.

(c) Outgoing and incoming local fax:

Outgoing facsimile transmissions are charged at $2 per page for local destinations.

There is no charge for incoming faxes.

(d) Outgoing and incoming long distance fax:

Outgoing charges are $3 per page for long distance destinations, and $3.50 per page for international destinations.

There is no charge for incoming faxes.

(e) Automobile mileage

Clients are charged for the actual cost of taxi or personal automobile usage (at the then current IRS rate).

(f) Meals:

Except for situations involving travel, clients are not charged for meals unless the meals are provided at our office for a client meeting, deposition, or other function at which a representative of the client is present and participates in the meal.

(g) Other travel costs:

Personnel are authorized to use taxis for transportation home at client expense only if they normally would have used public transportation but have worked late enough in the evening that the use of public transit raises questions of personal safety.

(h)Postage:

Clients are not billed for regular mail. Overnight deliveries are billed at cost plus 10%.

(i) Courier services:

The firm uses bicycle couriers and taxi services when feasible because they are the lowest cost dependable providers of messenger service. Clients are responsible for the amount billed by the outside service, without any additional charge by the firm.

(j) Local telephone:

There is no separate charge for incoming telephone calls, or for outgoing calls within the contiguous Boston area.

(k) Long distance telephone:

Toll charges are billed to client at published tariff rates, plus a fifteen percent equipment and administrative charge. Calling Card charges are billed at cost.

(l) LEXIS, Westlaw or other on-line services:

Clients are charged for computerized legal research at a rate equal to 1.5 times the direct online charge for the actual time utilized in researching their project, in order to allocate among clients monthly subscription charges and equipment costs.

(m)Filing fees:

Clients are charged filing fees at cost.

(n)Court reporter services and transcripts:

Clients are billed at cost for these services.

(o) Video and/or photographic services:

Clients are billed at cost.

(p) Trial exhibit preparation:

Clients are billed at cost.

(q) Litigation support services:

Clients are billed at cost.

(r) Data processing:

Clients are not charged separately for data processing services.

(s) Secretarial overtime

We plan not to use secretarial overtime for Acton matters.

(t) Other

Expert witnesses are billed at cost.

Are upcharges or percentage increases applied to any cost or disbursement item? If so, please explain.

See above.

32. ***What are the firm's annual minimum billable hour requirements for attorneys, paralegals and other billable personnel?***

Palmer & Dodge has standards for billable and non-billable work for attorneys and other timekeepers, but these are not "requirements" and are not directly considered in compensation for associates or paralegals. There is no "bonus" program for exceeding billable hour standards.

33. ***Are the firm's attorneys, paralegals or other billable personnel compensated in whole or in part, as regular or bonus compensation, on the basis of the number of hours billed over minimum billable hour requirements?***

No.

34. ***If the answer to the foregoing question was in the affirmative, what was the average percentage of annual partner, associate attorney, and paralegal compensation paid in 1990 and 1991 that is attributable to hours billed in excess of minimum requirements?***

n/a

35. ***Why should the Town of Acton retain your firm as Town Counsel?***

Palmer & Dodge has provided high quality legal services to the Town for over twenty years. In that time, Acton has grown substantially, and the number and complexity of legal matters has grown even faster. The day in which towns could be effectively served by a single local general practitioner is over. Cities and towns and other public bodies face more varied and complex legal problems than most business organizations; counsel with experience in many specialized areas are essential. Those forces have caused a substantial

growth in legal costs over and above general inflation. We are highly conscious of the size of the legal budget and have taken a number of steps, in cooperation with the Town Manager and other Town officials, to control costs. The simplest way to reduce legal costs is to reduce the Town's regulatory and enforcement activities and to hope that legal problems do not arise in carrying out the remaining necessary activities of the Town. Such a policy has risks and hidden costs that cannot be ignored, even from a narrow budgetary perspective, as well as drawbacks from the perspective of achieving the Town's goals and policies.

APPENDIX A

ACHESON (MIKE) H. CALLAGHAN
Cambridge, Massachusetts

EDUCATION: Harvard Law School, LL.B., 1964

Harvard College, B.A., magna cum laude, 1961

EMPLOYMENT: Palmer & Dodge, Boston, MA
Litigation Department
Partner: 1972-present
Associate: 1965-1971

PROFESSIONAL EXPERIENCE: General Counsel to the Massachusetts Automobile Rating Bureau and Workers Compensation Rating Bureau; Medical Malpractice Joint Underwriting Association; National Committee on Property Insurance; Massachusetts Property Insurance Association; Liquor Liability Joint Underwriting Association; and counsel to various insurance companies on regulatory, rating, coverage, and tax issues relating to the insurance industry. Argued more than thirty cases in the Supreme Judicial Court on a variety of constitutional and statutory issues affecting the insurance industry.

ADMISSIONS TO BAR: Massachusetts, 1964
U.S. District Court, District of Massachusetts, 1965
U.S. Court Appeals, 1st Circuit
U.S. Supreme Court

CIVIC INVOLVEMENT: Cambridge Rent Control Board
Chairman: 1976-1984
Cambridge Planning Board: 1987-present
Town Counsel, Acton: 1971-present

NORMAN P. COHEN
Lexington, Massachusetts

EDUCATION:

Harvard University, J.D., 1960

Bowdoin College, A.B., summa cum laude, 1956
Honorary LL.D., 1990

EMPLOYMENT:

Palmer & Dodge, Boston, MA
Public Law Department
Partner: 1968-present
Associate: 1961-1968

Supreme Judicial Court of Massachusetts
Law Clerk to Justice Arthur E. Whittemore: 1960-1961

PROFESSIONAL EXPERIENCE:

Practice: Municipal Law and Finance

Specialize in full range of legal matters affecting municipalities in the Commonwealth of Massachusetts and in other New England states. As general counsel to three Massachusetts towns and one regional school district and as special counsel to several other municipalities, has been involved in numerous legal questions including eminent domain, construction contracts, labor negotiations and municipal powers. Has acted as bond counsel to municipalities in all New England states, including Providence, Rhode Island, Burlington, Vermont and Lewiston, Maine. Member of the Maine Bar.

Town Counsel for Lexington, Dover and Sherborn, District Counsel for Minuteman Regional Vocational Technical School District and Counsel to the North East Solid Waste Committee.

ADMISSIONS TO BAR:

Massachusetts, 1960
Maine

PROFESSIONAL MEMBERSHIPS:

American Bar Association
Massachusetts Bar Association
Boston Bar Association
National Association of Bond Lawyers
Massachusetts Town Counsel and City Solicitors Association

PUBLICATIONS/ LECTURESHIPS:

"Annotations To Nichols' Taxation In Massachusetts," with John A. Pike
Visiting Lecturer in Government, Bowdoin College, 1990

TEACHING POSITIONS:

Boston University Law School, Instructor in Legal Research: 1961-1964
Bowdoin College, Visiting Lecturer in Government: 1990

CIVIC INVOLVEMENT:

Bowdoin College, Board of Overseers, President Emeritus
Bridge Over Troubled Waters, President: 1987-1990; Vice President: 1985-1987
Lexington Town Meeting Member
Lexington Conservation Commission, Former Member: 1970-1972

WILLIAM L. LAHEY
Lexington, Massachusetts

EDUCATION:

University of Wisconsin Law School, J.D., 1982

Harvard Law School, Visiting Student, 1981-1982

University of Wisconsin, B.S., Biology, 1978

EMPLOYMENT:

Palmer & Dodge, Boston, MA
Litigation Department
Partner: 1992-present
Associate: 1985-1992

Commonwealth of Massachusetts, Boston, MA
Coastal Zone Management Office
General Counsel: 1983-1985

Woods Hole Oceanographic Institution,
Woods Hole, MA
Policy Fellow: 1982-1983

Harvard Law School, Cambridge, MA
Research Assistant: Summer 1982

Wisconsin Department of Justice, Madison, WI
Law Clerk: Spring 1981

Environmental Protection Agency, Washington, D.C.
Law Clerk: Summer 1980

PROFESSIONAL EXPERIENCE:

Practice: Environmental and land use permitting and litigation.

Advise public and private corporations and municipalities regarding environmental and land use regulations. Also represent industries and developers to obtain federal, state and local permits and approvals.

Litigation practice includes hazardous waste cost recovery actions, wetlands and zoning matters.

ADMISSIONS TO BAR:

Massachusetts, 1982
Wisconsin, 1982
U.S. District Court, 1985

PROFESSIONAL MEMBERSHIPS:

American Bar Association
Boston Bar Association,
Environment Section Steering Committee and
Education Committee

PUBLICATIONS:

"Tidelands, Waterways and Great Pond Law", Chapter 11 Massachusetts Environmental Law (MCLE, 1991). Also reprinted in The Best of MCLE Journal (February, 1991).

"Coastal Zone Law", Chapter 12 in Massachusetts Environmental Law (MCLE, 1991).

"Chapter 91 Regulations: The Commonwealth Moves Toward Statewide Zoning," Boston Bar Journal (April, 1991).

"Cape Cod Commission: More Than Just New Regulators," Banker & Tradesman (April, 1990).

"Expanding Public Access By Codifying The Public Trust Doctrine: The Massachusetts Experience," (with L. Zurier and K. Salinger) Maine Law Review (1990).

"Proposed Regulations Impose Tough Controls On Waterfront Development," Banker & Tradesman (August, 1989).

"Pricing Mechanisms for Ocean Waste Disposal: A Viable Regulatory Tool," in Marine Waste Management: Science and Policy, (Krieger Publishing Co., 1989).

"Regulatory Innovations for Sound Waste Management," in Public Waste Management and the Ocean Choice (MIT Sea Grant Publication, 1986).

"Waterfront Development and the Public Trust Doctrine," Massachusetts Law Review (1985).

"Economic Incentives for Environmental Protection," Ecology Law Quarterly (1984).

"The Case for Ocean Dumping," (with Dr. Michael Connor) Technology Review (1983).

"Evaluating the Risk of Offshore Oil Development," (with Dr. Thomas Leschine) Environmental Impact Assessment Review (1983).

"Ocean Dumping of Sewage Sludge: The Tide Turns from Protection to Management," Harvard Environmental Law Review (1982).

CIVIC INVOLVEMENT: Massachusetts Coastal Resource Advisory Board, Appointed Member 1986-1990.
Lexington Conservation Commission, Appointed Member 1988-1991.
Massachusetts Department of Environmental Protection, Tidelands Advisory Committee, Appointed Member 1988-1990.

HENRY G. STEWART
Boston, Massachusetts

EDUCATION: Harvard Law School, LL.B., 1966

Princeton University, A.B., cum laude, 1960
Woodrow Wilson School of Public and International Affairs

EMPLOYMENT: Palmer & Dodge, Boston, MA
Labor Law Department
Partner: 1980-present

Nutter, McClennen & Fish, Boston, MA
Partner: 1975-1980
Junior Partner: 1971-1974
Associate: 1967-1971

Supreme Judicial Court Of Massachusetts, Boston, MA
Law Clerk: 1966-1967

United States Steel Corporation, Philadelphia, PA
1960-1963

United States Army
First Lieutenant, Field Artillery
Active Duty: 1960-1961, 1961-1962

PROFESSIONAL EXPERIENCE: Senior Partner in charge of Labor Law Department since 1980. Practiced labor relations in the private and public sector. Private sector representation includes representation of management in labor and employment matters, and consists of substantial experience in representing public entities and non-profit corporations, including public television station, legal services agency and hospitals. Practice includes representation of clients before the National Labor Relations Board and Massachusetts Labor Relations Commission, encompassing representation and unfair labor practice cases, conduct of elections, and appellate litigation. Extensive experience in collective bargaining negotiations, grievance and arbitration proceedings. Represents clients before the Equal Employment Opportunity Commission, the Massachusetts Commission Against Discrimination, the Office of Civil Rights, the Department of Labor, and the Occupational Safety and Health Review Commission. Spent increasing amount of time advising

clients how to avoid and defend against claims for wrongful termination and bad faith discharge, age and handicap discrimination, and alleged violations of Title VII. Employment law representation includes review of personnel policies and procedures, as well as wage, salary, and benefit plans.

Public sector experience includes representation of public school systems in Massachusetts in connection with a broad range of labor and educational issues.

ADMISSION TO BAR: Massachusetts, 1966

PROFESSIONAL MEMBERSHIPS:

American Bar Association, Labor and Employment Law Section
Committee on Labor Arbitration and the Law of Collective Bargaining Agreements, Management Member: 1982-1992
Co-Chair, Sub-Committee, The Relationship of Labor Arbitration to External Law, 1989-1992,
Massachusetts Bar Association,
Labor Law Section Council: 1979-1980
Public Sector Collective Bargaining Committee,
Chairman: 1979-1980
Boston Bar Association

PUBLICATIONS/ LECTURESHIPS:

New England Regional Arbitration Conference sponsored by University of Massachusetts
American Arbitration Association, Seminars and Conferences
Massachusetts Association of School Committees, Conventions and Seminars
Massachusetts Bar Association, Labor Law Section, presentations at Mid-Winter and Annual Conventions
Massachusetts Continuing Legal Education, Inc.
Annual New England Employee Relations Conference
Professional Management Services, Inc., "Personnel Law 1987"
Employment Regulations in Massachusetts
1988-1990 - Boston, Massachusetts
Co-Author, Personnel & Employment Law in Massachusetts, Federal Publications, Inc. (1991)

cc: BOS
agenda item: Town Counsel
3/31/92 10
MAR 24 1992

PALMER & DODGE

One Beacon Street
Boston, Massachusetts 02108

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

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.

Maider 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 Mondev 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 Mondev 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.

ENVIRONMENT GROUP

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.

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FILE COPY

March 6, 1992

BY HAND

Don Johnson
Town Manager
Town Hall
472 Main Street
Acton, MA 01720

RE: **RESPONSE TO REQUEST FOR PROPOSALS FOR LEGAL SERVICES**

Dear Mr. Johnson:

The firm of Anderson & Kreiger is pleased to submit the following response to the Town of Acton's Request for Proposals for legal services. The firm's answers to the Town's questions are as follows:

Question No. 1

What other organizational clients does your firm currently and regularly represent? As to each such organization please state the general law practice areas involved.

Answer No. 1

Attached as Exhibit 1 is a list of recent client matters in the firm's principal areas of practice.

Question No. 2

What other municipalities does your firm currently represent, and what municipalities has your firm represented in the past. As to each municipality please list the dates over which your

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representation has extended, what areas of law practice were/are involved, and the name, address and telephone number of the person(s) in each municipality believed to be most familiar with your firm's work.

Answer No. 2

MUNICIPALITY	STARTING DATE	END DATE	CONTACT	NATURE
Town of Acton	1985	Present	Don Johnson	Environmental
Town of Arlington	5/91	Present	Bruce Wheltle	Environmental, Con. Comm.
Town of Harvard	4/89	12/90		Zoning, Subdivision Control
Town of Littleton	10/90	2/91	Mark Haddad	Zoning
Town of Marblehead	11/89	Present	Mary-Ellen Walsh Rogalski	Environmental
Town of New Braintree	10/88	Present	Paul Gravlin Ex-Chairman	Siting
Town of Norfolk	3/89	Present	Frank Gaynor or Judith Kapuscinski	Siting
Town of Norwell	6/88	Present	Judith Salter	Con. Comm.
Town of Saugus	9/90	1/92	Jeanette Fasano	ABCC
Town of Southbridge	7/90	12/91	Florence Chandler	Planning Board
Town of Wrentham	6/89	Present	John Midwood	Town Counsel
Town of Lexington	1985	Present		Con. Comm. & Zoning
Town of Chilmark	1985	1985	Thomas Bracken	Assisted Thomas Bracken (Bracken & Baram) on several occasions for the Town
Town of Watertown	1986	1988	Diana Proctor	Con. Comm.

Question No. 3

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

Answer No. 3

Over the next three years, the firm anticipates that the Town's principal needs for legal services are as follows:

(a) Legal Issues arising from Municipal Finance/Budget Constraints; and

(b) Land Use Control and Development.

Given the economic circumstances currently prevailing in the region, the firm believes that the Town of Acton faces difficult choices mandated by financial and budgetary restraints. Many of these choices are political in nature; however, they trigger potential legal concerns. For example, a decision to cut back the school budget may trigger special needs complaints. A decision to cut back police and fire services may trigger contract disputes. A decision to eliminate certain types of liability insurance coverage may expose the Town to defense costs in litigation, however frivolous.

A second important challenge facing the Town is the future land use within the Town. Proximate to Routes 2 and 495, and within easy commuting distance of Boston, the Town remains one of the most desirable communities from a development perspective. As the available land area decreases, pressure will increase to

develop, redevelop, use or exploit underutilized areas within the Town. For example, with the closing of the W.R. Grace & Co. plant, complex pressures will exist to develop that property. There will be competing interests within the Town concerning the development of that property given its historical use and existing contaminated condition on the one hand versus the need to generate sufficient tax revenues from the property on the other. The challenge for the Town is to implement enlightened land use regulation in the face of this complex post-industrial problem.

Question No. 4

Of Acton's principal needs for legal counsel you have listed in response to the prior question, which (pick one need only) does your firm feel it is **best** qualified to fulfill? Explain the basis for your opinion.

Answer No. 4

Of the needs described above, this firm is best equipped to handle the Town's land use planning and litigation needs. We have considerable experience in this area as set forth in the detailed description of client matters attached hereto as Exhibit A. Notably, this firm has direct experience working with the Town of Acton and its boards and officials on such matters. Our relationship with the Town dates back as far as 1978 when Mr. Anderson began to work on matters for the Town of Acton while at Palmer & Dodge. Our work with the Town has continued over 14 years

to the present time.

Question No. 5

Of Acton's principal needs for legal counsel you have listed in response to the next prior question, which need would be the most **difficult** for your firm to fulfill completely? Explain the basis for your answer.

Answer No. 5

Of the many potential legal problems engendered by municipal financial restraints, the most difficult for this firm to handle would be collective bargaining and labor relations. The firm believes that this area is a specialized area of the practice of law and that the Town would be better served by having such matters handled by attorney with substantial expertise in the field. If selected by the Town to act as its counsel, we intend to recommend that the Town also retain special labor counsel to handle such matters.

Question No. 6

Please specifically describe the legal services that you are offering to provide to the Town of Acton.

Answer No. 6

All legal services except labor and tax.

Question No. 7

List your firm's major practice areas.

Answer No. 7

The firm's major areas of practice include municipal law, environmental law, land use law, and litigation and administrative law relating thereto.

Question No. 8

Describe the organization of your firm, and identify which portions of your firm organization would be potentially involved in providing Town Counsel services to the Town of Acton. Identify the lead attorney for each such potentially involved organizational element, provide his/her curriculum vitae, and state his/her current hourly billing rate.

Answer No. 8

The firm consists of five lawyers, three paralegals, and administrative support staff. Three of the firm's lawyers practiced at Palmer & Dodge before affiliating with this firm. The other two lawyers have extensive public sector experience, one at the Attorney General's office and one through representation of public clients in private practice.

The firm's senior partner, Stephen Anderson, will be the principal lawyer responsible for handling the Town's legal affairs. To provide the necessary depth and coverage, the firm anticipates that each of the firm's lawyers will be involved, from time to time, in representing the Town on various matters. Paralegals will used as needed to perform necessary tasks under the supervision of

attorneys.

The firm offers to the Town the following discounted hourly rates (compared to the firm's ordinary hourly rates) for its attorneys and paralegals:

Personnel	Current Hourly Rate	Discounted Hourly Rate
Stephen D. Anderson	$150.00	$120.00
Arthur P. Kreiger	$135.00	$120.00
George A. Hall, Jr.	$115.00	$ 90.00
Allan R. Fierce	$110.00	$ 90.00
Cynthia Heslen	$100.00	$ 90.00
Paralegals	$ 85.00	$ 70.00

The firm is also open to discussing a retainer arrangement with the Town similar to that which we have successfully implemented as Town Counsel for the Town of Wrentham. For example, for a flat monthly fee of $1,500.00, the Town would be entitled to 20 hours of legal services from attorneys in the firm on non-litigation matters. This works out to a composite hourly rate of $75.00 per hour. Given the nature of municipal work, where officials have frequent need to contact Town Counsel for quick advice to pressing concerns, and given the frequent need for Town Counsel to attend meetings of the Board of Selectmen or other municipal bodies, this fee structure can work a substantial savings for the Town compared to a standard hourly billing structure. The retainer arrangement would apply to all legal services, except

litigation. All litigation would be billed at the firm's ordinary discounted hourly rates. Hours spent on non-litigation matters in excess of 20 hours per month would also be billed at those rates.

Question No. 9

How many attorneys are in your firm? How many of your attorneys are partners or the functional equivalent of partners, how many are associates? If there is any intermediate category of attorneys, i.e. junior partners, non-equity partners, career associates, etc., please describe the category(s) and indicate how many attorneys are involved.

Answer No. 9

The firm has two partners and three associates. The resume of each attorney is attached at Exhibit B.

Question No. 10

How many paralegals or legal assistants are employed by your firm?

Answer No. 10

The firm has three paralegals.

Question No. 11

How many law clerks are employed by your firm?

Answer No. 11

At present the firm employs no law clerks. From time to time, the firm employs law students to assist in performing legal research on significant matters.

Question No. 12

What is the size of your firm's administrative support staff?

Answer No. 12

The administrative support staff consists of an office manager and three secretaries.

Question No. 13

What computerized legal data bases does your firm utilize?

Answer No. 13

As a small firm handling sophisticated legal matters, the firm is highly dependent upon and highly proficient with computer resources. The firm regularly utilizes the following computer programs and data bases:

Program	Function
WordPerfect 5.1	Word Processing
In-Magic	Litigation Support
Lotus	Financial Analysis
Cylaw 5.0	Time and Billing and Docket Control
Discovery ZX	Litigation Support
One-Write Plus	Financial Control
Q&A	Database Management
Ribase	Database Management

Question No. 14

Describe the system your firm uses in the municipal law areas to ensure that previously prepared memorandums of law and opinions

are retrievable and can be utilized as the basis or starting points for new research and opinions.

Answer No. 14

Whenever an opinion is requested of the firm by the Town of Wrentham, the request is reduced to writing and given to a member of our staff. That staff member enters that request on a list maintained for that purpose with the date of the request and the date that a response is due. A folder is then established for the opinion. The date of the answer is entered on the case list, and the entire file, including the opinion, is placed in an opinions file. The list is updated on the computer and provided to the Town on a regular basis, and is kept where it is easily accessible.

The opinions are kept in separate files maintained indexed for each of the principal Town Boards. As the number of opinions has increased, we have created additional subfiles organized by subject matter as appropriate. For example, we now have a separate subfile on contract and procurement questions. Both the case lists and the files themselves make identifying and retrieving our opinions quick and easy.

Question No. 15

Assuming your firm was appointed as the Acton Town Counsel, please explain how you would propose assuming those duties from existing Town Counsel? Please be specific in regard to each area in which you propose to offer services.

Answer No. 15

Since both partners of this firm practiced for a number of years at Palmer & Dodge, we have a good working relationship with Mike Callaghan, Norm Cohen, and other Palmer & Dodge attorneys who handle Acton's legal affairs. To insure a smooth transition, we recommend that:

1. P&D shall prepare a listing of all outstanding litigation involving the Town, and a brief description of the status of each case and any outstanding matters.

2. P&D shall compile a set of the opinions rendered to the Town over the past five years, including any detailed internal research memoranda

3. Mr. Anderson shall meet with Mike Callaghan to review the list of cases and the history of advice.

4. Mr. Anderson shall meet with Don Johnson to receive a rundown on any existing and anticipated legal needs.

5. Mr. Anderson shall meet with all appropriate municipal boards and officials to review any existing and anticipated legal needs.

6. Mr. Anderson shall, for the first three months of work for the Town, occupy an office at Town Hall one day per week to provide on-site access for the Town Manager, Boards and Officials and to receive in depth exposure to the Town's needs.

Question No. 16

What, if anything, distinguishes the quality of the legal services offered by your firm from the quality of those services offered by other firms?

Answer No. 16

"What you see is what you get." The firm's partners offer extensive "hands on" service and do not make only "cameo" appearances.

Question No. 17

What, if anything distinguishes the cost of the legal services offered by your firm from the cost of those services offered by other firms?

Answer No. 17

We offer big firm quality and experience at small firm rates. Our retainer arrangement affords the opportunity for further savings.

Question No. 18

Without revealing any privileged information, give an example of a case, in each of the areas in which you offer to provide services, in which your firm's advice to a municipal client has had a particularly beneficial effect.

Answer No. 18

Please see the following sections of Exhibit 1:

I(1), I(2), I(3), I(26), I(30)

II(46), II(49), II(53), II(58), II(61), II(64), II(65), II(66), II(68)

III(80), III(81), III(82)

Question No. 19

Without revealing any privileged information, give examples of several litigated cases (court, arbitration, ADR, etc.) in which your firm has obtained a particularly beneficial outcome for a municipal client.

Answer No. 19

See Answer No. 18

Question No. 20

Without revealing any privileged information, give examples of several litigated cases (court, arbitration, ADR, etc.) in which your firm has not obtained a favorable outcome for the municipal client and explain why your were not successful.

Answer No. 20

Please see paragraph III(83) of Exhibit 1. Because the matter is still ongoing, success is still a possiblity; however, to date, despite meritorious objections, MWRA insists on siting its landfill in Walpole, adjacent to Norfolk, to meet a Court imposed deadline to clean up Boston Harbor.

Question No. 21

Provide the name, bar admission date, area of practice, current hourly billing rate and the continuing legal education activity for the last three years for each attorney in your firm who would be involved in providing legal services to the Town of Acton under your proposal.

Answer No. 21

See Answer No. 8. Each lawyer in the firm actively participates in continuing legal education activities. Time does not permit identifying each such activity over the past three years. If this firm is selected for further consideration by the Town, the firm will, with the Town's permission, provide detailed information responsive to this question. In general, these continuing legal education activities have included the following: attendance at professional seminars, teaching of courses at law schools and professional gatherings, attendance at city solicitor and town counsel meetings, and the like.

Question No. 22

Provide the name, qualifications, function, current hourly billing rate and the continuing legal education activity for the last three years for any other person in your firm who would be involved in providing legal services to the Town of Acton under your proposal and for whose services you would bill the Town.

Answer No. 22

R. Lisa DiLuna, Assistant Dean and Dean of Students at Boston College Law School, is of counsel to the firm for educational special needs matters. Ms. DiLuna holds a Masters of Education from the Boston University School of Education, as well as a J.D. from Boston College Law School. She has approximately 12 years of experience on special needs cases, including a current practice

while at Boston College. She has worked on such matters for the Towns of Acton, Amesbury, Ayer, Ipswich, Lexington, and Rockport. She also has represented parents in such cases in the Towns of Concord, Norton, and Westford. Ms. DiLuna is available to advise the Town on such matters, work with experts, and prepare special needs cases for administrative hearing or litigation. She will assist us in the actual hearings and litigation, although the agency and court appearances will be handled by our current attorneys. She will be billed at $110.00 per hour.

Question No. 23

Who would be responsible for staffing decisions and staff selection for your proposed services to the Town of Acton?

Answer No. 23

Stephen D. Anderson.

Question No. 24

Are the hourly rates that you have listed above subject to adjustment due to the complexity of legal issues involved in a particular matter, the ultimate result obtained, legal issues of first impression or any other factors?

Answer No. 24

Except to the extent a Court awards and the Town collects fees over and above those paid by the Town, the firm has no intention of increasing its rates to the Town based on the factors listed. (Hourly rates are subject to review on the anniversary of the

firm's appointment).

Question No. 25

Are the fees you would propose to charge the Town of Acton based on any form of "value billing", that is on any basis other than actual time worked, measured in tenths of an hour?

Answer No. 25

In an effort to be as precise as possible, we actually bill to the minute; provided, however, that one-tenth of an hour is the minimum charge for any service performed.

Question No. 26

Do you have any proposal to charge the Town of Acton for legal services provided on any basis other than hourly billing? If so, please explain.

Answer No. 26

See answer number 8. We are also open to discussing contingency arrangments in appropriate cases.

Question No. 27

Describe your firm's process for billing legal fees, from initial recording of time by an attorney or other billable personnel to the generation of the billing document.

Answer No. 27

Each person keeps a contemporaneous diary. Detailed descriptions of the work performed are recorded. Time is accurately recorded. The data is entered into Cylaw on a weekly

basis. Interim time printouts are distributed to the lawyers and paralegals for review. The office manager oversees time entry, disbursement entry, report generation, and bill generation. Each supervising lawyer reviews bills before they are sent to the client. Bills are sent monthly.

Question No. 28

Can your billing procedures and/or billing software produce monthly billings reflecting the date services were performed, name or initials of the individual performing the service, narrative description of the services provided, time to perform the services in tenths of an hour, hourly rate of the charging individual, fee for each entry, number of attorney hours included in total fees for each billing period, number of paralegal or other billing personnel hours included in total fees for each billing period and/or cumulative total of fees billed for a fiscal year?

Answer No. 28

Yes.

Question No. 29

Describe your firms process for billing costs and disbursements.

Answer No. 29

They are billed monthly at cost.

Question No. 30

Delineate which expense items are included in your regular hourly fees and which expense items would be passed on to the Town of Acton.

Answer No. 30

We do not charge for general office overhead. Necessary out-of-pocket expenses are billed at cost. See answer number 31.

Question No. 31

List your standard charge for:

a) Photocopies done in house; and
b) Photocopies done out of house; and
c) Outgoing and incoming local fax; and
d) Outgoing and incoming long distance fax; and
e) Automobile mileage; and
f) Meals; and
g) Other travel related costs; and
h) Postage; and
i) Courier services; and
j) Local telephone; and
k) Long distance telephone; and
l) LEXIS, WestLaw or other on-line services; and
m) Filing fees; and
n) Court reporter services and transcripts; and
o) Video and/or photographic services; and
p) Trial exhibit preparation; and
q) Litigation support services; and
r) Data processing; and
s) Secretarial overtime; and
t) Other (please specify).

Are upcharges or percentage increases applied to any cost or disbursement item? If so, please explain.

Answer No. 31

A)	$.08/PG	L)-O)	Actual Cost
B)	Actual Cost	P)	Billable Rate of Staff plus any disbursements
C)	$.20/PG	Q)	See P) above
D)	$.20/PG & Telephone call actual cost	R)	No Charge
E)	$.25/Mile	S)	1½ Times the secretary's normal hourly rate if necessitated by the Client's matter
F-I)	Actual Cost		
J)	No Charge	T)	Actual Cost
K)	Actual Cost		

There are no mark-ups by the firm on any disbursement.

Question No. 32

What are the firm's annual minimum billable hour requirements for attorneys, paralegals and other billable personnel?

Answer No. 32

The firm has no such requirements.

Question No. 33

Are the firm's attorneys, paralegals or other billable personnel compensated, in whole or in part, as regular or bonus compensation, on the basis of the number of hours billed above minimum billable hour requirements?

Answer No. 33

No.

Question No. 34

If the answer to the foregoing question was in the affirmative, what was the average percentage of annual partner, associate attorney, and paralegal compensation paid in 1990 and 1991 that is attributable to hours billed in excess of minimum requirements.

Answer No. 34

Not applicable.

Question No. 35

Why should the Town of Acton select your firm as Town Counsel?

Answer No. 35

We have a long, successful relationship with the Town. We are dedicated to public sector work. We have highly qualified attorneys. Our services are extremely cost-effective.

We look forward to discussing our qualifications with the selection committee.

Sincerely yours,

Stephen D. Anderson

Stephen D. Anderson

SDA/jec
Enclosures

O/A/265/Response.RFP

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March 5, 1992

Mr. Don Johnson
Town Manager
Town Hall
Acton, MA 01720

RE: **SUMMARY OF EXPERIENCE**

Dear Mr. Johnson:

The following describes many of the environmental, municipal and land use matters we have handled over the past several years.

I. **HAZARDOUS WASTE/CONTAMINATION**

1. **Town of Acton/W.R. Grace & Co.**

For the past 11 years, Steve Anderson has represented the Town of Acton in various environmental proceedings involving the W.R. Grace Company. Pollution from Grace's chemical plant contaminated two public drinking water wells. Steve has been involved in a coordinated governmental enforcement program with EPA, the Massachusetts Department of Environmental Protection, and the Town designed to achieve full clean-up and restoration of the affected aquifers. Initially brought before the enactment of the federal and state superfund statutes, this case has provided a model throughout the state and the county for achieving effective enforcement and clean-up of a hazardous waste landfill, lagoons, and other disposal sites. The Town spearheaded the effort in the late 1970s and has since achieved the installation of a complex aquifer restoration system designed to cleanse contaminated groundwater. Steve is reviewing Grace's plans for final closure of its landfill, lagoons and other waste sites on its property.

During these enforcement activities, Steve acted as lead counsel for the Town in license revocation proceedings to revoke Grace's flammable storage license in light of two significant spills of hexane and oil at Grace's Acton facility. Grace sought direct appellate review of the Town's revocation decision before the Supreme Judicial Court, but the matter was settled by a comprehensive decision of the Board of Selectmen, which Steve drafted, requiring complete redesign of Grace's underground

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chemical storage system. In addition, the decision required ongoing clean-up of the chemicals that had been released. That clean-up effort, which also involves a complex recovery well system, continues through the present.

2. **Town of Acton/Local Emergency Planning Commission**

Steve has advised the Town's Local Emergency Planning Commission established pursuant to the Superfund Amendments and Reauthorization Act of 1986 on the contents of its emergency response plan. That plan is aimed at anticipating emergencies that may result from hazardous materials and other dangerous activities. It incorporates preventive measures to ensure that damages and risks are minimized.

3. **Town of Acton/Hazardous Material Bylaw**

Steve assisted in drafting the Town's hazardous material bylaw designed to regulate the storage and use of hazardous materials in the Town. This bylaw has provided a model from which other communities have drawn in developing their own hazardous material bylaws.

4. **Alto-Tronics Corp./M/A-Com, Inc.**

Art Kreiger is defending Alto-Tronics with respect to alleged hazardous waste contamination of the Vine Brook aquifer in Burlington, Massachusetts. Alto-Tronics was sued by other potentially responsible parties who had entered into a Consent Decree regarding that contamination with the Department of Environmental Protection and the Town of Burlington in 1989. Discovery has been completed, and the case is scheduled for trial shortly.

5. **Andrews/Sunoco Corp.**

Art represents homeowners in Norwood regarding contamination of their property. He recently brought suit against the owners and operators of two gasoline stations, including three major oil companies.

6. **Carney Young Utilities Corporation/Perino Industries, Inc.**

Steve represents a defendant in multi-party litigation involving alleged soil and groundwater contamination of property near Fresh Pond in Cambridge. The site has been designated as a priority site by the Department of Environmental Protection under the Massachusetts Contingency Plan. The parties are currently engaged in settlement negotiations among themselves and with DEP toward remediation at the site.

7. **Frank Joseph Cash/Getty Oil Company**

Steve represents Mr. Cash in litigation against Getty Oil Company and other potentially responsible parties relating to contamination of Mr. Cash's property in Waltham from gasoline allegedly migrating from the site of a former Getty service station. Steve recently completed a 3-1/2 day jury trial in Middlesex Superior Court, winning a very favorable verdict under Chapter 21E. Getty has appealed.

8. **C.K. Smith & Co., Inc./Alan Hall, Trustee**

Steve represents C.K. Smith & Co., Inc. and Buckley Heating, Inc. in litigation brought by the owner of property in Acushnet, Massachusetts. The owner alleges that Smith and Buckley, as tenants in the property, caused or allowed gasoline contamination at a service station operated pursuant to their tenancy. The case was tried before a jury during the summer of 1991. The jury apportioned costs in the ratio of 60/40 between the defendants and the plaintiff. The case is currently on appeal.

9. **C.K. Smith & Co., Inc./Town of Hopkinton**

Steve represents C.K. Smith & Co., Inc. in a multi-party case brought by the Town of Hopkinton alleging gasoline contamination of a public way from abutting service stations. Extensive discovery is in process.

10. **Commonwealth/South Attleboro Coal-Gas Waste**

While at the Attorney General's Office, Allan Fierce represented the Commonwealth in an action brought in federal district court under both CERCLA and Chapter 21E seeking to recover $2.1 million from the successor of a Rhode Island utility which manufactured coal-gas during the first half of this century. DEP had spent that amount cleaning up cyanide-bearing waste, generated in the manufacturing process, that had been deposited in a former gravel pit in South Attleboro that is now a residential area.

11. **Kelli Conlon and Robert Budd/F.L. Aerospace Corporation, et al.**
Joanne Cozzens-Lyons and Bruce Lyons/F.L. Aerospace Corp., et al.

Steve is representing the owners of residential property in Groton, Massachusetts, regarding environmental claims against the

owners and operators of two abutting pieces of industrial property from which groundwater contamination has emanated. We are finalizing a settlement on behalf of the families.

12. **Continental Medical Systems/Department of Environmental Protection**

Steve represented a Pennsylvania corporation in an attempt to obtain an express finding from DEP pursuant to the Massachusetts Contingency Plan that no further remedial action is required at a site in Braintree involving alleged contamination. The matter does not involve litigation.

Art represented the same client concerning the drinking water supply of its nursing home in Springfield, Massachusetts. He successfully negotiated with DEP concerning a proposed Administrative Consent Order.

13. **Century Machine Co., Inc., et al./Linpro Industrial Limited Partnership**

Steve currently represents a corporation, its officers, and the owners of the property where the corporation is a tenant in litigation brought by an abutting landowner. The abutter seeks damages in excess of $2 million relating to alleged groundwater contamination of its property. The litigation involves complex issues of causation, geohydrology and damages. We are currently engaged in final pretrial preparations.

14. **Michael and Diane Cotton/BYCO Realty Trust**

Art represented landowners in Lincoln who brought suit against the owner of a commercial/industrial site in Waltham. The clients alleged that the defendants excavated contaminated soil from the Waltham site and delivered it to their house lot in Lincoln to be used as fill. After filing suit, Art negotiated a substantial recovery for our clients.

15. **CSS Subsidiary, Inc./Mobil Oil Corporation**

Steve represents CSS Subsidiary, Inc. and George C. Riley individually and as Trustee of the 279 Maple Street Realty Trust, in litigation against Mobil Oil Corporation and Marlco, Inc., a wholly owned subsidiary of Mobil, involving alleged contamination of 279 Maple Street, Marlboro. Steve has successfully opposed Mobil's motion to dismiss statutory counts under Chapter 21E. Working with Delaware counsel, Steve has also successfully

revived Marlco, Inc. for purposes of this suit after Marlco had been dissolved. Extensive discovery is in process.

16. **United States District Court/Special Master**

Steve Anderson was appointed by the United States District Court to sit as a Special Master in the case United States v. American Cyanamid, et al., Civil Action No. 89-0565P (D.R.I.), a case involving complex cost recovery issues under the Federal Superfund Statute and the National Contingency Plan. Steve presided over 10 days of evidentiary hearings. He heard testimony from 13 witnesses, ruled on hundreds of objections, and received into evidence thousands of pages of documentary exhibits. At the conclusion of the proceeding, Steve authored a 132-page Master's Report containing detailed proposed findings of fact with respect to the cost recovery issues. These findings included approximately 50 pages of proposed findings on the question of cost-effectiveness under the National Contingency Plan, a significant and virtually unprecedented area for treatment by a Master's investigation. The report has been filed with the United States District Court and awaits action.

17. **Vera Curley/Kytron Circuits Corporation**

Steve represents the owner of real property in Wakefield, Massachusetts, in litigation against owners and operators of upgradient property from which hazardous materials have allegedly migrated through the groundwater. The case is pending in Middlesex Superior Court. An Environmental Clean-Up Agreement has been negotiated with the upgradient operator designed to remediate contamination on our client's property.

18. **Vera Curley/Texaco**

Steve represents the owner of property in Wakefield, Massachusetts, in litigation against Texaco, a former tenant in the property. The case involves alleged contamination by petroleum hydrocarbons. The parties are cooperating toward remedial investigations of the site.

19. **East Braintree Civic Association/Clean Harbors**

Steve has advised the East Braintree Civic Association regarding challenges to the operation of Clean Harbors' hazardous waste facility in the Town. The advice focused on potential flaws in the company's flammable storage license.

20. **[Confidential Client]/Mobil Oil Corporation**

Steve successfully represented the owner of a commercial office building in the center of Woburn against Mobil Oil Corporation regarding groundwater pollution allegedly emanating from a Mobil station onto the client's property. We negotiated a settlement whereby Mobil purchased the affected property from our client at an agreed-upon price.

21. **Firestone Tire and Rubber Co./Resolve Superfund Site**

While at Palmer & Dodge, Steve represented Firestone in litigation and administrative proceedings pertaining to the Resolve Hazardous Waste facility in North Dartmouth, Massachusetts. The facility was listed on EPA's national priorities list of the most contaminated superfund sites throughout the country. Firestone was alleged to have operated disposal activities on the property prior to the Resolve Company. Steve was involved in reconstructing the history of such activities going back over 40 years from documents and witnesses. He was also involved in evaluating and commenting on EPA's remedial investigations at the property.

22. **Fraga Brothers/William and Victor Dino**

Steve Anderson and Allan Fierce currently represent landowners in Stoughton in their efforts to comply with DEP's emergency orders to remove leaking underground storage tanks. When our clients purchased the property from the Dinos, they had no knowledge of the existence of these tanks. Steve and Allan negotiated an interim cleanup agreement with the Dinos to split the cost of complying with DEP's order.

23. **General Electric Corporation/Housatonic River**

While practicing in Connecticut, Steve assisted in the defense of General Electric Corporation in federal court litigation concerning alleged contamination of the Housatonic River by PCBs. The litigation was still in progress when he relocated to Boston.

24. **Howard Hathaway/ARCO**

Art represents the owner of a former ARCO gas station in West Newton. DEP has cited the property as an alleged source of groundwater contamination of downgradient premises. Art has filed suit against ARCO, Mobil Oil and West Newton Getty (the

owners of upgradient stations), and other potentially responsible parties in Middlesex Superior Court alleging that those parties are responsible for the release of any such contamination. That suit was consolidated with other actions regarding neighboring sites. Discovery is proceeding. Settlement negotiations are also underway regarding the performance of any necessary remedial measures at the property. The parties are attempting mediation to resolve the three consolidated cases.

25. **Hirons/Lilly Industrial Coatings, Inc.**

Art represents an upholstering business that formerly owned and occupied a facility in Gardner regarding hazardous waste contamination of the property. He recently brought suit against the successor to the chemical company that formerly owned the site, claiming that industrial xylene was released from that company's underground storage tanks.

26. **Town of Holbrook/Baird & McGuire**

While at Palmer & Dodge, Steve represented the Board of Selectmen of the Town of Holbrook in litigation brought to enforce the Town's revocation of the flammable storage license of Baird & McGuire. We succeeded in obtaining relief to remove the contents of certain tanks on the property for proper disposal. The matter was then turned over to the Environmental Protection Agency for Superfund enforcement proceedings.

27. **[Confidential Client]/Abington Site**

Art is currently advising the owner of a gasoline station in Abington regarding alleged petroleum contamination of the soil and groundwater. He is consulting with the client's expert concerning the reports required under the Massachusetts Contingency Plan.

28. **[Confidential Client]/Brockton Bulk Facility**

Art is advising a client regarding alleged petroleum contamination at its bulk distribution facility in Brockton. This site has large above-ground fuel oil storage tanks over a secondary containment area, as well as underground storage tanks for gasoline. This complex matter involves alleged contamination of soil and groundwater, both on and off the site, from both sets of tanks.

29. **Hoppy's Oil Service, Inc./Feuer, Trustee of Halifax Associates Realty Trust**

Art represents the former operator of a service station in Halifax in a suit brought by the owner of the property alleging oil contamination from the underground storage tanks. We were retained in early April 1990 in a case brought in 1985 and scheduled for trial in less than a month. Art has initiated discovery, added defenses against the plaintiff's claim, brought in the former owners of the site as third-party defendants, and prepared for trial. Trial preparation has included substantial legal research on a variety of novel issues under Chapter 21E.

30. **Town of Marblehead/Clean Water Act**

We represent the Town of Marblehead in a federal and state Clean Water Act suit brought in federal court by EPA, the Commonwealth, and the Conservation Law Foundation. The suit was brought against the South Essex Sewerage District and its member communities, including Marblehead, over SESD's discharges into Salem Harbor. The case raised important and unsettled issues of municipal liability under the federal and state statutes, the impact of Proposition 2-1/2 on the financing of secondary treatment facilities, and the federal courts' authority to supersede Proposition 2-1/2 to require construction of pollution control facilities.

Retained one week before trial, we prepared for trial, drafted a trial brief, negotiated extensive factual stipulations among the parties, and participated in settlement discussions. The first morning of trial, we raised the possibility of settlement, whereupon the court ordered the parties to spend that day negotiating in the courthouse. By the middle of the following day, the parties had reached in innovative interim settlement in which we played a key role. The settlement involved seeking special legislation to exclude this treatment plant from Proposition 2-1/2 and averted the imposition of federal or state penalties on the municipalities. That special legislation was enacted. We continue to monitor that litigation for the Town.

31. **Martignetti Brothers Realty Trust/Haigh-Farr, Inc.**

Art represents a realty trust that owns property on Route 2 in Cambridge in a hazardous waste suit under Chapter 21E. We recently took over the case, which was brought in 1989. The case involves claims against a furniture stripping business and

several automotive repair businesses that formerly leased the property. The heart of the case is a precedent-setting claim that a company affiliated with the furniture stripping business that occupied the premises was itself an "operator" of the site under Chapter 21E.

32. **Frank Matheson, et al./New England Apple Products**

Steve is representing certain Massachusetts dairy farmers in litigation and DEP adjudicatory proceedings against New England Apple Products (Very Fine) regarding the alleged improper disposal of sludge at the farmers' property in Littleton, Massachusetts. The issues in the case concern the chemical constituents in the sludge and whether such materials as heavy metals may pose a threat to the land, crops, groundwater, and livestock at the farm. Settlement negotiations are in process.

33. **Peterborough Oil Company/Mailman Steam Carpet Cleaning Corporation**

Art represented Peterborough Oil, a gasoline and fuel oil distributor, in multi-party litigation brought by the owner of a former service station in Gardner, Massachusetts. Art and counsel for two other defendants negotiated a settlement dismissing those three parties from the case on favorable terms. The court approved that settlement over the objection of one of the non-settling defendants, where Art took the lead in defending that settlement. The remaining defendants were found liable at trial for several hundred thousand dollars.

34. **Peterborough Oil Company/Vaughan**

Art represents the same client in multi-party litigation brought in Middlesex Superior Court by the owners and operators of a service station in Westford, Massachusetts. The parties recently closed a creative settlement of that case.

35. **Salt Water Trust/Cannons Superfund Site**

We represented the Trustees of Salt Water Trust, owners of the Cordage Park in Plymouth, Massachusetts, in defense of claims brought by EPA and DEP pertaining to the Cannons Engineering Superfund site on a portion of the Trustees' land in Plymouth. The site was listed on EPA's National Priorities List of superfund sites. The case was successfully settled as part of the Cannons Engineering Corporation four-site settlement with EPA and DEP. Previously, Steve was involved in negotiating an

interim settlement with EPA and DEP for the removal of 500,000 gallons of hazardous waste from two storage tanks on the property. Both settlements were the first of their kind in Region I pursuant to the federal Superfund statute.

36. **Seekonk Manufacturing Company/Department of Environmental Protection**

Art has been representing Seekonk Manufacturing Company in proceedings involving a former waste water lagoon for Seekonk's electroplating operations. The case came to our office after DEP had issued an Order and Notice of Noncompliance. Art negotiated with DEP and succeeded in averting administrative penalties, then negotiated a Consent Order for the closure of the lagoon. He also obtained a determination by the Army Corps of Engineers that its jurisdiction was not implicated by the closure plan. Closure of the lagoon has been completed.

37. **[Confidential Client]/Deep Ocean Isolation of Sludge**

Art has analyzed the legal status of a new method for the disposal of sewage sludge under international conventions and federal statutes and regulations. This method presents an innovative alternative to ocean dumping, landfilling, and incineration of sludge. Working with Woods Hole Oceanographic Institution, Art represented the client in a series of meetings with federal officials and environmental groups.

38. **[Confidential Client]/Pierro**

Art is representing a fuel dealer in North Reading in a claim brought by the owner of residential property served by the company. The owner claims that our client is responsible for a release of oil from the fuel lines in the winter of 1989-1990.

39. **Smith Valve Corporation/Hocomoco Pond Superfund Site**

Steve represented Smith Valve Corporation in the successful defense and settlement of claims by EPA and DEP regarding the Hocomoco Pond superfund site in Westborough, Massachusetts. The site was listed on EPA's National Priorities List of superfund sites. Smith Valve purchased the property in 1976, unaware that a creosote treating company had operated on the property decades earlier for a number of years. Through a complicated combination of historical research and pre-litigation depositions, we succeeded in tracing the defunct creosote treating corporation and establishing successor corporate liability of a major Fortune

500 corporation. In addition, we participated in extensive analysis of EPA's remedial investigations and feasibility studies regarding the contamination of groundwater and an abutting pond at the site.

40. **[Confidential Client]/Department of Environmental Protection**

Art represented the owners of an auto body shop in Boston concerning emissions from the automobile spray booth at the shop. Art worked with the client and its engineering consultant on compliance with DEP's requirements.

41. **Tech/Ops/Charles George**

Art represents Tech/Ops, Inc. in the massive litigation concerning the Charles George landfill in Tyngsborough, Massachusetts. We recently took over that case, which was brought in by federal district court in Boston in 1985. Phase I of the trial is scheduled for early 1992.

42. **[Confidential Client/Iron Horse Park Superfund Site]**

Art represents a company with respect to the Iron Horse Park Superfund Site in Billerica. He is responding to EPA's statutory request for information about the client's business and production processes over the past 50 years.

II. LAND USE

43. **[Confidential Clients]/Open Space Preservation**

Art is working with a group of residents on the North Shore coast to preserve a substantial privately owned undeveloped area. He has advised them about conservation restrictions, trusts, and other preservation mechanisms.

44. **Bayfield/Town of North Andover**

Steve is representing the proponent of a proposed office development in North Andover in an action against the North Andover Planning Board filed in Essex Superior Court. The developer is challenging the lawfulness of a condition imposed by the Planning Board requiring a complete geohydrological assessment of the property and its hydrologic connection, if any,

to the Town's public drinking water supply. Discovery has been filed and the matter is presently pending.

45. **Timothy Daly, et al./Natick Board of Selectmen**

Art represented a group of 42 Natick residents in a suit in Middlesex Superior Court challenging a vote at Natick Town Meeting purporting to authorize the selectmen to lease out certain property for 50 years. The plaintiffs claimed that, because the Town had acquired the property in 1942 for a gravel pit, a 2/3 vote was required to change its use. Art obtained summary judgment for the residents.

46. **Town of Dover/Albert Auburn**

Steve successfully defended at the trial level and on appeal a decision of the Dover Planning Board denying a site plan special permit for a commercial office development in the center business district of the Town of Dover. The case was the first appellate decision to uphold the discretionary power of the Planning Board to deny a site plan special permit.

47. **Raymond J. Dunn, III et al./L & S Builder's Corporation**

Both Steve and Art represented a group of citizens concerned with a 14-lot residential development proposed in Littleton, Massachusetts. Art handled a challenge under the Subdivision Control Law to endorsements by the Planning Board that approval of the project was not required as a subdivision and that the back lots qualified for reduced lot frontage under the zoning by-law. After one afternoon of trial, the parties settled the case favorably for our clients. The settlement provides, among other things, several of the important design and engineering features that would have been sought had the Planning Board treated the development as a subdivision.

Steve handled the wetlands aspect of the case. He represented the clients in adjudicatory proceedings before DEP and obtained a strong Superseding Order of Conditions for the project.

48. **Gillespie & Co./Littleton Corporate Center**

Steve has acted as special counsel providing environmental advice to a developer of a multi-building corporate center proposed at the intersection of Route 495 and Route 119 in the Town of Littleton. Littleton has a unique set of groundwater

protection bylaws and regulations. Steve has been involved in obtaining necessary permits for the construction of the facility. The facility involves a privately owned treatment plant and is situated in an aquifer protection district. Accordingly, complex issues of geohydrological flow, protection of public drinking water wells, and protection of wetlands have been involved. The facility has now received all necessary permits at the state and local level. The final permit is a disposal works construction permit for a privately owned sewage treatment plant from the local Board of Health. With our assistance, the applicant itself proposed what Town Counsel has described as a model set of conditions to be applied to this permit.

49. **Town of Harvard/Towermarc**

Steve represented the Town of Harvard in litigation to prevent a commercial project in an adjacent town from having a principal access through residential property in the Town of Harvard. The litigation was brought under the Subdivision Control Law, the DPW curb cut statute, and various municipal laws and regulations. Although the litigation was dismissed as premature, the developer has not to date attempted to resurrect access through the Town of Harvard.

50. **Charles and Constance Keegan/Crowley**

Art is representing homeowners in Boston against former would-be buyers of their house, who backed out of the transaction based on a purported zoning violation. This case raises interesting and unsettled issues about the interplay between the Boston Zoning Code and General Laws Chapter 40A.

51. **Jean and David Knapp/Lancaster Planning Board**

Art has represented landowners in the Spectacle Pond area of Lancaster challenging the denial by the Lancaster Planning Board of an Approval Not Required endorsement under the Subdivision Control Law. This case is precedent-setting, involving a seldom-litigated provision of the Subdivision Control Law. After a two-day trial in Worcester Superior Court, the court found in favor of our clients.

52. **Elizabeth Laudermilk, et al./DEP Adjudicatory Proceeding**

We are representing a group of citizens opposed to the citing of a commercial facility involving extensive wetlands

alteration. Steve represented the citizens at a lengthy adjudicatory proceeding before DEP. The principal issues involve the proper classification of the wetlands in question and whether the developer should be allowed to cross the wetlands to gain access to the property where other suitable means of access allegedly exist. No decision has yet been issued.

53. **Town of Lexington/Various Land Use Matters**

We have represented the Town of Lexington along with Norman Cohen from Palmer & Dodge in various environmental and land use litigation. These cases have involved, for example, a major commercial development within the Town, wetlands and zoning decisions, and contempt proceedings to enforce judgments regarding zoning violations on behalf of the Town.

Art has recently won two such cses for the Town. He recently obtained summary judgment in a case arising from the denial of a building permit. That case involved unsettled legal issues under the Zoning Act and the Subdivision Control Law.

In another case, acting as a Special Assistant District Attorney, he also obtained guilty verdicts after a two-day jury trial in a criminal contempt case brought against a landowner for zoning violations.

54. **Lois and Paul Murray, et al./McIntyre**

Art recently represented a group of residents of Ashby opposing an abutter's application to the Ashby Board of Selectmen for an earth removal permit and defending the Board's denial of that permit. This case involves an interesting legal question about the applicability of an earth removal bylaw where the applicant already has a special permit under the zoning bylaw. Art worked with the clients' noise consultant and a representative of the DEP's Division of Air Quality Control in Worcester in submitting materials to the Board of Selectmen.

When the applicant appealed from the Board's denial, Art intervened and obtained summary judgment for the defendants. The plaintiff appealed that decision, and the Appeals Court recently affirmed the summary judgment. 31 Mass. App. Ct. <u>David McIntyre v. David Lagasse, et. al.</u>, (1990).

55. **The Nature Conservancy/Burlington Sand and Gravel**

Art represented The Nature Conservancy in a dispute with the sand and gravel company that leases property abutting the Beaver Brook Preserve just outside of Route 495 in Boxborough, Massachusetts. The company brush cut and bulldozed approximately one half acre of the Conservancy's property. Art represented the Conservancy before the Boxborough Conservation Commission and negotiated a favorable settlement with Burlington Sand and Gravel. That settlement involved extensive re-planting of the property and cash payments to the Conservancy. The Conservancy and the Conservation Commission were satisfied that the re-planting and other measures will adequately protect Beaver Brook from erosion and other damage.

56. **Margaret and David Nolan/Town of Weymouth**

Art represents Weymouth residents in a zoning enforcement action in Norfolk Superior Court. Our clients assert that the Town's recently-constructed 130-foot high water spheroid violates the height limitation in the zoning bylaw. Art recently obtained summary judgment for the residents, and the parties are negotiating the appropriate remedy for the zoning violation.

57. **John and Bettina Norton/Digital Equipment Corporation**

Art represents landowners abutting the Digital plant in Acton aggrieved by excessive noise from the plant. We have filed suit against DEC for nuisance in Middlesex Superior Court. Working with a noise consultant, we also are attempting to negotiate a settlement of the dispute.

58. **Norwell Conservation Commission/Various Matters**

Steve represents the Norwell Conservation Commission in two cases regarding proposed developments denied by the Commission pursuant to the Town's wetland protection bylaw. Among the reasons given by the Commission for denial are the effects on the wetlands and groundwater resources resulting from the proposed developments. Settlement negotiations are in process in one case and the other has been settled.

59. **Pheasant Hill Realty Trust/Topsfield Conservation Commission**

Steve represented a developer of a project in Topsfield where the Conservation Commission has issued enforcement orders

halting construction of the project because of alleged violations of wetlands laws and orders of conditions. We entered the case after the initial issuance of the enforcement orders. We instituted litigation to challenge the authority for and content of the orders. At the same time we have pursued settlement discussions with the Commission designed to correct any alleged violations and reinstitute construction on the project. The matter has been settled.

60. **Douglas and Susan Pierce/Sisco and Moore**

Art represented landowners in Boxborough who had approximately one half acre of mature forest logged by loggers working on abutting property. This case involved an open question of the availability of restoration cost as the measure of damages for a timber trespass. Based on his research on that issue, Art settled the case favorably for our clients.

61. **Town of Sherborn/Onorato**

Steve successfully defended a decision of the Sherborn Planning Board denying subdivision approval for a sizable subdivision. The Board's decision was based on the recommendations of the Board of Health concerning the proximity of septic and water supply systems at the proposed development.

62. **Town of Southbridge/R.C. Management Corp.**

Art is defending an appeal for the Town of Southbridge on a novel land use issue. The case involves the interplay between the Subdivision Control Law and the zoning freezes available under the Zoning Act. The Appeals Court recently reversed summary judgment and remanded the case for further proceedings in the Superior Court and before the Planning Board. 31 Mass. App. Ct. R.C. Management Corp. v. The Planning Board of the Town of Southbridge, (1991).

63. **Ward Clark, et al./Board of Selectmen of Townsend**

Steve represented a group of citizens from the Town of Townsend, Massachusetts, seeking to enjoin the sale of a public park to a private developer. After obtaining a preliminary injunction from the Middlesex Superior Court, sustaining the preliminary injunction on appeal to a single justice of the Appeals Court, and trying the case before a master, Steve successfully settled the case. The result has been to protect

the park permanently for the citizens of Townsend. The proposed development was cited elsewhere.

64. **Watertown Conservation Commission/Wetlands Protection Bylaw**

We drafted a Home Rule Wetlands Protection Bylaw for the Watertown Conservation Commission. That bylaw is a state-of-the-art wetlands bylaw, stricter in several respects than the state Wetlands Protection Act. One of the more significant provisions is a no-build zone within 50 feet of wetlands, with a variance procedure similar to that under zoning. That protection is in addition to the buffer zone within which a notice of intent or request for determination of applicability must be filed.

65. **Watertown Conservation Commission/Sawins and Williams Ponds**

We represented the Commission on protection of Sawins and Williams Ponds in Watertown, near the Charles River. These ponds are among the last remaining wetlands in that part of Watertown and very valuable for drainage and pollution control. On behalf of the commission, Art obtained a temporary restraining order against certain activities by the current owner of the ponds, and both Steve and Art negotiated for the commission concerning protection of the wetlands. Complicating that matter was the presence of decades' worth of hazardous waste buried under the banks of the ponds by the previous owners, including a major tire manufacturer.

66. **Town of Weston/Gold Star Wholesale Nursery**

Steve successfully represented the Town of Weston in zoning enforcement litigation brought against the Gold Star Wholesale Nursery. While the business existed as a valid, pre-existing non-conforming use, it had expanded and changed in inappropriate ways. We succeed in enjoining the unlawful changes.

67. **Winchendon Citizens Group/C.J. Mabardy, Inc.**

Steve currently represents a group of citizens, residents and taxpayers in the Town of Winchendon opposed to the siting of a demolition landfill in their residential neighborhood. There are five consolidated lawsuits pertaining to the proposed siting of the landfill. The issues pertain to zoning and the open meeting law. We won summary judgment in the zoning case and recently received a decision by the Appeals Court affirming that

victory. 31 Mass. Appt. Ct. Blasco v. Board of Appeals of the Town of Winchendon, (1991). The Supreme Judicial Court denied the operator's request for further appellate review.

68. **Town of Wrentham/Various Matters**

We became Town Counsel to the Town of Wrentham in July 1989, inheriting approximately 30 pending cases involving the Town, the Board of Selectmen, the Board of Appeals, the Planning Board, and the Conservation Commission. Art and George Hall have been representing the Town in all those matters. In one case litigated at the appellate level, Art successfully defended in the Appeals Court a decision for the Town in a zoning case.

Art and George have compiled a strong track record for the Town in those cases. Art has won two zoning cases in the Appeals Court, one of which resulted in a published decision. Klein v. Wrentham Planning Board, 31 Mass. App. Ct. 777 (1992). George has won trials in Land Court in cases concerning the validity of the zoning of the plaintiff's property and in Superior Court concerning the Board of Appeals' denial of a special permit.

Art and George also have greatly reduced the Town's litigation docket and averted litigation in a number of other matters. Finally, they also have advised Town boards on a variety of other land use issues ranging from the acquisition of conservation land to the zoning status of long-time sand and gravel operations in the Town.

Last year, a major landowner proposed a zoning change to enable it to build a thoroughbred horse race track in the Town. On behalf of an ad hoc task force created by the Town, we drafted zoning revisions to protect the Town's interests and negotiated those revisions with the developer. Along with Palmer & Dodge, we also negotiated with the proponent concerning a development agreement for the site.

Art also successfully defended a suit by-to citizens challenging on procedural grounds the Town's authority to vote on the Zoning amendments. On the eve of Town Meeting, he defeated the plaintiffs' motion for a temporary restraining order, enabling the Town to hold the meeting.

III. SITING/ENVIRONMENTAL REVIEW

69. Bakers Island Association/South Essex Sewerage District

We successfully represented Bakers Island Association, a group of private citizens, residents and taxpayers of Bakers Island in Salem Harbor opposing the siting of a secondary sewage treatment plant on Bakers Island. The island had been designated as a potential site for a secondary sewage treatment plant by the South Essex Sewerage District ("SESD") in 1988. On behalf of Bakers Island, we attended public hearings and filed public comments under the Massachusetts Environmental Policy Act. We succeeded in persuading the Secretary of Environmental Affairs to reject SESD's Environmental Notification Form and initial site screening. SESD redesigned its screening criteria and proposed a revised list of sites to the Secretary. That list does not include Bakers Island.

70. Cambridge Highlands Neighborhood Association/DEP Recycling Plant

Steve acted as special counsel to the Cambridge Highlands Neighborhood Association, an organization of citizens and residents of North Cambridge, regarding the prospective siting of a major recycling facility in their neighborhood. The representation involved drafting an enforceable contract between the facility operator, the state, and neighborhood residents governing the operations of the facility.

71. Commonwealth/Clean Harbors Hazardous Waste Incinerator

While at the Attorney General's Office, Allan prepared the comments submitted to DEP by Attorney General Shannon in 1990 in opposition to the siting of a hazardous waste incinerator proposed by Clean Harbors, Inc. for its facility in Braintree. The comments addressed DEP's siting criteria and were accompanied by expert testimony which detailed significant concerns about traffic hazards, population density and proximity, offsite emergency planning, and the quantitative risk posed to the nearest residents by accidents, spills and equipment breakdowns at the site. DEP ultimately found the site to be unsuitable in a decision which articulated the very concerns presented in the Attorney General's comments.

72. **Commonwealth/Seabrook Nuclear Power Plant**

From 1987-1989, while he was at the Massachusetts Attorney General's office, Allan was part of the litigation team that sought to block Seabrook from being licensed for full-power operation by the Nuclear Regulatory Commission. The focus of the team's effort was Seabrook's emergency evacuation plan. Allan coordinated the expert testimony from traffic engineers, traffic planners, and computer modelers. These experts fully assessed the traffic conditions that will ensue in the beach areas in the event of a Seabrook emergency and concluded that the traffic congestion would be too severe to provide reasonable assurance that a vehicular evacuation would work in the summertime, when up to 100,000 people can be on the barrier beaches nearby. The NRC elected to believe the plant's applicants, who argued that while there will be serious traffic congestion, no vehicular abandonment will occur, and all drivers will wait patiently in the traffic with no disorderliness, even though evacuation times may exceed nine hours just to drive 10 miles away from the plant.

73. **Concerned Citizens on Highway I-190**

While at Palmer & Dodge, Steve represented a citizens group in federal court litigation concerning the construction of Highway I-190 through the watershed of the Wachusett Reservoir. The principal issues concerned the adequacy of the environmental impact statement. The case came to us at an advanced stage of construction and, as a result, we were unable to require relocation or termination of the project. However, we succeeded in strengthening the environmental protections built into it.

74. **Conservation Law Foundation/Secretary of the Interior**

Both Steve and Art, while at Palmer & Dodge, acted as co-counsel for the Conservation Law Foundation in federal District Court and the First Circuit in a case brought to protect the Cape Cod National Seashore from intensive off-road vehicle use under a plan developed by the National Park Service. The case and subsequent developments under successor counsel resulted in substantial protection for the seashore not previously incorporated in the federal management plan. Judge Nelson, the United States District Judge who presided over the case, labelled the case in a Boston Globe article as one of the most significant he had presided over in his career on the bench.

75. **Conservation Law Foundation/City of Revere**

While at Palmer & Dodge, Steve represented the Conservation Law Foundation and a group of citizens in Revere seeking to annul the sale of certain undeveloped city-owned land to a private developer. We successfully invalidated the city counsel order which authorized the sale of the land. The land was conveyed back into public ownership and has been dedicated as a park.

76. **Elm Bank Alliance/Executive Office of Environmental Affairs**

Steve represents Elm Bank Alliance, a group of citizens, residents and taxpayers in Dover, Needham, Wellesley and Natick, concerned over the proper protection of the groundwater and other resources of Elm Bank in Dover, Massachusetts. The land sits above the largest and most pristine aquifer available for future water supply for the four towns. The land also contains a nationally registered historic property. Special legislation has authorized certain uses to be made of Elm Bank (public water supply, affordable housing, and public park). On behalf of the Alliance, Steve has been involved in an ongoing effort to protect the irreplaceable resources of Elm Bank (groundwater, surface water, wetlands, historic features, and others) as the development plan unfolds. This has involved the preparation of an application for the area to be treated as an Area of Critical Environmental Concern. It has also involved dealings with the Division of Capital Planning and Operations (the lead agency) and the Executive Office of Environmental Affairs in the development of the land use plan.

Steve has also filed comments with the Executive Office of Environmental Affairs on behalf of Elm Bank Alliance regarding MWRA's proposal to site a portion of the Framingham relief sewer across Elm Bank. We raised several legal issues because Dover is not a member of the MWRA, the special legislation does not authorize the siting of the relief sewer across Elm Bank, and significant environmental threats to the water supply may be posed by the sewer.

77. **General Motors Corporation/Pilgrim II Nuclear Power Plant**

While at Palmer & Dodge, Steve was co-counsel for General Motors Corporation in an extensive hearing before the Massachusetts Department of Public Utilities regarding the proposed construction of the Boston Edison Pilgrim II Nuclear

Power Plant. The case involved questions regarding the capacity needs of Boston Edison and the appropriate construction program to meeting those needs. All aspects of electrical facility planning were involved in this adjudicatory hearing, which spanned more than 100 days. The case focused on such issues as the comparative environmental and economic costs and benefits of nuclear facilities versus coal fired electrical generation. Ultimately, the client's position prevailed at the hearing; however, the Edison Company cancelled its plans to construct Pilgrim II.

78. **Town of Lincoln/Waltham Commercial Development**

Steve represented the Town of Lincoln in an effort to protect its village character and historic town center from the adverse effects of a substantial commercial development on the Lincoln-Waltham line. Challenges were based on MEPA and the Massachusetts historic preservation statutes. We were successful in incorporating strict protections in a precedent-setting agreement involving the Massachusetts Historic Commission, the developer, and the Town.

79. **Massachusetts Hazardous Waste Facility Site Safety Council**

Steve has advised the Massachusetts Hazardous Waste Facility Site Safety Council concerning technical assistance grant regulations, the applicability of the siting act to existing facilities, and the applicability of the statute to PCBs.

80. **Town of New Braintree/Board of Health Regulations**

Art drafted detailed regulations for the New Braintree Board of Health concerning waste water treatment or disposal facilities (so-called package treatment plants). These regulations are state of the art, requiring protection of groundwater and other resources over the life of the proposed project. After promulgating the regulations, the Board has submitted them to the Massachusetts Association of Health Boards as a model for use by other municipalities.

81. **Town of New Braintree/Proposed State Prison**

Art represented the Town of New Braintree in MEPA litigation against the Secretary of Environmental Affairs, the Division of Capital Planning and Operations, and the Department of Correction regarding the proposed siting of a medium security prison in the

Town. The principal issues in the case involve the adequacy of the environmental impact report for the project regarding alternative sites and geohydrologic issues. The prison site abuts an illegal landfill previously closed by court order. The Town alleges that the leachate from that landfill and effluent from the prison's sewage treatment plant will contaminate the Town's principal aquifer and the prison's own drinking water well. Art worked closely with an expert from the University of Massachusetts in Amherst in developing those claims and submitting detailed technical affidavits in court.

The Superior Court granted summary judgment for the state, and Art appealed on behalf of the Town. That appeal is fully briefed, and the Supreme Judicial Court has taken it on direct appellate review. The case may be resolved in light of the Governor's decision to use the facility as a police training academy rather than a prison.

82. **Town of New Braintree/Title 5**

Art also represents the Town and its Board of Health in a separate action filed in Worcester Superior Court concerning the same prison. The plaintiffs in that case are attempting to require DCPO and DOC to obtain permits from the Board of Health for the prison sewage treatment plant under both Title 5 of the State Environmental Code and the Board's own regulations described above. Art obtained summary judgment for the Town and the Board on both issues.

The state has appealed that decision. As with the MEPA suit described above, this case may be settled.

83. **Town of Norfolk/MWRA Sludge Facility**

We are currently co-counsel, with Tillinghast, Collins & Graham in Providence, for the Town of Norfolk. The Town opposes the siting of MWRA's proposed residuals management facility in the Town of Walpole on the border of Norfolk. The matter is being litigated in both state and federal courts.

84. **Outdoor Advertising Board/General Counsel**

We served for 5 1/2 years as general outside counsel to the Massachusetts Outdoor Advertising Board, the state agency that regulates outdoor advertising in the Commonwealth. We advised the Board on all matters of administration and enforcement and represented it in adjudicatory hearings.

Steve represented the Board in a license revocation case before the Division of Administrative Law Appeals. He presented more than 10 days of testimony in a case involving first amendment issues, issues concerning the relationship of federal, state, and local regulatory law, issues of administrative law, and complex problems of factual proof. The case was successfully settled upon the removal of a number of significant outdoor advertising structures and the licensee's agreement to a probationary term.

Art represented the Board in many adjudicatory hearings before the Board or DALA involving permit granting and renewal for sign across the state. He successfully represented the Board in hearings involving 28 signs in Lowell, many of which are in Lowell National Park and federal and state historic and preservation districts, and more than 60 signs in nine neighborhoods in Boston.

Art and Steve also negotiated complex settlements of certain advertisers' license status. Each of those settlements involving the history and compliance status of approximately 200 signs.

85. **Sierra Club/Gloucester Landing Associates**

On behalf of the Sierra Club, Art filed an amicus brief in the Massachusetts Appeals Court on a procedural issue under the Massachusetts Environmental Policy Act. The Superior Court had dismissed a citizens' challenge to the determination by the Secretary of EOEA that no Environmental Impact Report was required for a commercial development in inner Gloucester harbor. The Sierra Club, the Conservation Law Foundation of New England, the plaintiffs, and the Attorney General all opposed the dismissal. The Supreme Judicial Court took the case on direct appellate review on its own initiative. It ultimately decided the case on a different, jurisdictional ground, on which the Sierra Club did not submit a brief.

86. **Jan and Joyce Whiting/BFI Landfill**

Art represented residents of Halifax concerning a proposal to expand a nearby private landfill. Art submitted extensive comments on the proposal to the MEPA Unit of the DEP.

IV. AIR PERMITTING/ENFORCEMENT

87. Department of Environmental Protection

As an Assistant Attorney General in the Environmental Protection Division of the Massachusetts Attorney General's Office, Allan represented DEP in air-permit enforcement matters in the Superior Court. In late 1990, Allan brought suit on behalf of the Commonwealth and obtained an emergency temporary restraining order and a preliminary injunction against the Lynn Water and Sewer Commission when, without waiting for DEP to act on its air permit application, it started incinerating the "secondary sludge" from its newly-constructed secondary treatment plant. Thereafter, Allan was a participant in complicated negotiations regarding the interpretation of DEP's BACT rules and the need to install additional controls on the Commission's incinerators before the burning of "mixed" (primary and secondary) sludge could be permitted. The parties worked out a creative resolution that allowed some incineration to occur during the following 8-12 months, when control equipment would be ordered, delivered and installed. Allan was also an active participant as the parties then negotiated the administrative penalties to be paid for three days of unlawful incineration of secondary sludge.

Allan also represented the Commonwealth and DEP in a series of suits brought jointly by several northeastern states and the major environmental groups against the EPA for failing to exercise its duties under the Clean Air Act to address acid rain/acid deposition. The suits sought to compel EPA to establish secondary NAAQS for sulfur dioxide and nitrogen oxides.

Allan also assisted in preparing the suit recently filed by Massachusetts, four other northeastern states, the American Lung Association, the Environmental Defense Fund, and the Natural Resources Defense Council against EPA for failing to review and revise the primary NAAQS for ozone. The suit claims that the current standard of 0.12 parts per million is inadequate to protect the public health.

Allan also represented DEP briefly, in post-judgment proceedings to revise a consent decree, in a case brought by the Conservation Law Foundation in which the federal district court found that the Commonwealth was violating its 1982 ozone and carbon monoxide SIP by failing to engage in indirect source review for certain major construction projects that have the potential to generate significant highway trips.

In late 1990, Allan attended a 3-day ALI-ABA course in Washington, D.C., on the Clean Air Act Amendments of 1990, which have significantly strengthened numerous aspects of the nation's effort to achieve clean air. He subsequently monitored numerous regulatory developments at EPA.

V. CHAPTER 91 TIDELANDS REGULATIONS

88. Commonwealth

While he was in the Attorney General's Office, Allan successfully represented the Commonwealth in defending an omnibus challenge to the validity of two sets of regulations that were promulgated in 1990: DEP's Chapter 91 Waterways Regulations and EOEA's Municipal Harbor Plan Regulations. The suit challenged numerous aspects of the new Chapter 91 licensing scheme. The plaintiffs (Massachusetts Marine Trades Association, Massachusetts Bay Yacht Clubs Association, et al.) claimed that the regulations constitute an unconstitutional taking and far exceed the scope of the public trust doctrine and the Supreme Judicial Court's decision in Boston Waterfront Development Corp. v. Commonwealth, 378 Mass. 629 (1979). The case was ultimately dismissed for lack of an actual controversy because none of the plaintiffs or their members had even applied for Chapter 91 licenses, let alone had those applications denied. An appeal is pending. Throughout this litigation, Allan worked closely with those officials at DEP and EOEA's Costal Zone Management Office who drafted these regulations.

VI. TEACHING

89. Boston College Law School/Advanced Environmental Law

For a number of years, Steve has taught Advanced Environmental Law at Boston College Law School. The course involves an intensive analysis of the federal and state superfund statutes, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, the Massachusetts Hazardous Waste Facility Siting Act, and other environmental laws and regulations pertaining to hazardous wastes.

90. Boston College Law School/Administrative Law

Steve has twice taught the Administrative Law course at Boston College Law School. The course has touched upon all aspects of state and federal administrative law including permitting, licensing, administrative litigation, judicial

review, promulgation of regulations, standards of review, and constitutional challenges to the validity of regulations and administrative enabling acts.

91. **Franklin Pierce Law Center/Environmental Law**

Art has taught an introductory Environmental Law course at Franklin Pierce Law Center in Concord, New Hampshire. The course covered the National Environmental Policy Act, the Clean Water Act, the Resource Conservation and Recovery Act, the federal Superfund statute, and the Clean Air Act.

92. **Franklin Pierce Law Center/Groundwater Protection Seminar**

In conjunction with the Conservation Law Foundation, Steve taught an advanced environmental law seminar at Franklin Pierce Law Center. The course focused on state and federal legislation and regulations designed to protect groundwater from threats posed by such sources as hazardous wastes, landfills, underground storage tanks, and the like.

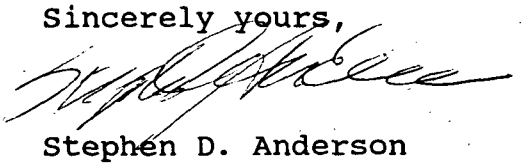
93. **Franklin Pierce Law Center/Superfund**

Art is currently teaching an advance seminar on the federal Superfund statute. That course includes a focus on the practical considerations and strategies involved in Superfund litigation.

Conclusion

If you have any questions about our qualifications in these areas, feel free to call me. Thank you.

Sincerely yours,



Stephen D. Anderson

SDA/lmb
Enclosures
Proposals/415/Summary.001

FILE COPY

STEPHEN D. ANDERSON

Anderson & Kreiger
33 Mount Vernon Street
Boston, Massachusetts 02108

WORK EXPERIENCE

ANDERSON & KREIGER (formerly Law Office of Stephen D. Anderson) 33 Mount Vernon Street Boston, Massachusetts	Founder, Partner June 1985 - Present
PALMER & DODGE One Beacon Street Boston, Massachusetts	Associate (Litigation) Oct. 1978 to May 1985 Summer Associate, May to June 1977
TYLER, COOPER, GRANT, BOWERMAN & KEEFE 205 Church Street New Haven, Connecticut 06510	Associate (Litigation) Sept. 1977 to Sept. 1978
ROPES & GRAY 225 Franklin Street Boston, Massachusetts 02110	Summer Associate May to July 1976

TEACHING EXPERIENCE

BOSTON COLLEGE LAW SCHOOL 885 Centre St. Newton, Massachusetts 02159	Adjunct Professor Administrative Law Sept. - Dec. 1986, 1987 Advanced Environmental Law Jan. - May 1985, 1987, 1989
FRANKLIN PIERCE LAW CENTER 2 White Street Concord, New Hampshire	Adjunct Professor Advanced Environmental Law Jan. - May 1986
HARVARD COLLEGE Mather House Cambridge, Massachusetts 02138	"Environmental Law: Nuclear Energy" Co-sponsor w/ Prof. Stewart Jan. to June 1979
UNIVERSITY OF MICHIGAN Residential College Ann Arbor, Michigan 48104	"Problems in Medical Ethics" Graduate Teaching Student Sept. to April 1976

EDUCATION

UNIVERSITY OF MICHIGAN LAW SCHOOL J.D. magna cum laude
Ann Arbor, Michigan 48014 May 1977

Extracurricular activities included Michigan Law Review (Associate Editor, Note Editor), Trial by Jury (Producer, Actor), University Choral Union and Festival Chorus, Intramural Softball, Basketball and Hockey.

HARVARD COLLEGE A.B. magna cum laude
Cambridge, Massachusetts 02138 June 1974

Concentrated in Biology ... scholastic honors included Phi Beta Kappa, Harvard College Scholarship, Dean's list ... extracurricular activities included Assistant Editor of Harvard Independent, Leverett House Committee, Leverett House Crew, Squash and Hockey.

PERSONAL BACKGROUND

Admitted to the Massachusetts Bar on December 15, 1978 and to the Connecticut Bar on October 4, 1977 ... Born in Boston ... Attended Boston Latin School ... Former Pre-Law Advisor at Mather House, Harvard College ... Former member of the Board of Directors of the Country Dance Society (Boston Center) ... Performer and musician with the Longwood Sword Team, Pinewoods Morris Men ... Bicycle touring enthusiast.

REFERENCES

Acheson H. Callaghan, Jr.
(Acton Town Counsel)
Palmer & Dodge
One Beacon Street
Boston, MA 02108
(617) 227-4400

Norman P. Cohen
(Dover, Lexington, Sherborn Town Counsel)
Palmer & Dodge
One Beacon Street
Boston, MA 02108
(617) 227-4400

Joan N. Gardner
(Former Chair of Acton Board of Selectmen)
Commonwealth of Massachusetts
Hazardous Waste Facility Site Safety Council
One Winter Street
Boston, MA 02108
(617) 292-5860

FILE COPY

ARTHUR P. KREIGER

Anderson & Kreiger
The Bulfinch Building
47 Thorndike Street
Cambridge, MA 02141
(617) 252-6575

WORK EXPERIENCE

ANDERSON & KREIGER The Bulfinch Building 47 Thorndike Street Cambridge, Massachusetts	Partner January 1988 - Present Associate Sept. 1986 - Dec. 1987
PALMER & DODGE One Beacon Street Boston, Massachusetts 02108	Associate (Litigation) Oct. 1982 - Aug. 1986
U.S. COURT OF APPEALS, NINTH CIRCUIT San Francisco, California	Staff Attorney 1981-1982
McCANDLESS & BARRETT Washington, D.C.	Summer Associate Summer 1980
FEDERAL COMMUNICATIONS COMMISSION Office of the General Counsel Washington, D.C.	Legal Intern 1979-1980

TEACHING EXPERIENCE

FRANKLIN PIERCE LAW CENTER 2 White Street Concord, New Hampshire	Adjunct Professor Environmental Law Spring 1989 Advanced Environmental Law Spring 1992

EDUCATION

COLUMBIA LAW SCHOOL New York, New York	J.D. with honors May 1981

Harlan Fiske Stone Scholar
Best Oral Argument, Harlan Fiske Stone Moot Court Competition
Teaching Fellow (Property)
Student Advisor
Intramural sports.

UNIVERSITY OF PENNSYLVANIA B.A. cum laude
Philadelphia, Pennsylvania May 1977

Double major in Economics and Political Science
General Honors, Economics Honors
Intercollegiate chess, debating, ultimate frisbee teams
Student Advisor
Leader and performer, Penn Hillel Folkdancers
Intramural sports.

PERSONAL BACKGROUND

Admitted to the New York Bar in September 1982 and the Massachusetts Bar in June 1983 - Also admitted in First Circuit, District of Massachusetts, and Southern District of New York - Resident of Belmont - Interests include bicycling, chess and ultimate frisbee.

FILE COPY

GEORGE A. HALL, JR.

Anderson & Kreiger
The Bulfinch Building
47 Thorndike Street
Cambridge, Massachusetts 02141

WORK EXPERIENCE

ANDERSON & KREIGER Cambridge, Massachusetts	Associate December 1989 - present
ARDIFF & MORSE, P.C. Danvers, Massachusetts	Associate December 1986 - November 1989
McGREGOR, SHEA & DOLINER, P.C. Boston, Massachusetts	Associate November 1984 - November 1986
U.S. ATTORNEY FOR THE DISTRICT OF MASSACHUSETTS Boston, Massachusetts	Intern, Civil Division Spring 1984
LOURIE & CUTLER, P.C. Boston, MA	Legal Intern Fall 1983
CHAPMAN, DUFF and PAUL Washington, D.C.	Legal Intern Spring 1983
DEPARTMENT OF THE ATTORNEY GENERAL, ENVIRONMENTAL PROTECTION DIVISION Boston, MA	Legal Intern Fall 1982

EDUCATION

NORTHEASTERN UNIVERSITY SCHOOL OF LAW Boston, Massachusetts	J.D., 1984
GEORGETOWN UNIVERSITY Washington, D.C.	A.B. History, 1979

ADMISSIONS TO PRACTICE

Supreme Judicial Court of Massachusetts, 1985

U.S. District Court/District of Massachusetts, 1985

ACTIVITIES & MEMBERSHIPS

NEWBURYPORT CONSERVATION COMMISSION

Chairman:
1987 - 1990

Member:
1986 - 1987,
1990 - 1991

MASSACHUSETTS BAR ASSOCIATION

BOSTON BAR ASSOCIATION, ENVIRONMENT SECTION

DEPARTMENT OF ENVIRONMENTAL PROTECTION/
OFFICE OF DISPUTE RESOLUTION/
WETLANDS MEDIATION PROGRAM
Mediator: November, 1990 - present

TEACHING/LECTURING EXPERIENCE

Massachusetts Continuing Legal Education
"Wetlands," September, 1991

Massachusetts Association of Conservation Commissions
Wetlands Protection Act Enforcement Workshop, 1992 Annual Meeting

FILE COPY

ALLAN R. FIERCE

Anderson & Kreiger
The Bulfinch Building
47 Thorndike Street
Cambridge, Massachusetts 02141

WORK EXPERIENCE

ANDERSON & KREIGER Cambridge, Massachusetts	Associate June 1991 - present
DEPARTMENT OF THE ATTORNEY GENERAL One Ashburton Place Boston, Massachusetts 02108	Assistant Atty. General Environmental Protection Division August 1989 - June 1991
	Nuclear Safety Unit Civil Rights Division October 1984 - Jan. 1986
LEGAL ASSISTANCE CORPORATION OF CENTRAL MASSACHUSETTS Worcester, Massachusetts	Senior Supervising Atty. 1981 - 1984
	Managing Attorney 1977 - 1981
COOK COUNTY LEGAL ASSISTANCE FOUNDATION, INC. Evanston, Illinois	Staff Attorney 1973 - 1977
SUEKOFF AND SILVERMAN Chicago, Illinois	Associate 1971 - 1973
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	Urban Intern 1971 - 1972

TEACHING EXPERIENCE

HARVARD LAW SCHOOL Cambridge, Massachusetts	"Government Lawyer" Seminar leader and clinical supervisor 1991
MASS. BAR ASSOCIATION Boston, Massachusetts	Open Meeting and Public Records Laws Lecturer 1986
LEGAL SERVICES CORPORATION	Seminars for Legal Services Attorneys Trainer 1974 - 1984

CLARK UNIVERSITY Worcester, Massachusetts	Adjunct Professor Consumers' Right and Remedies 1983
ILLINOIS INSTITUTE OF TECHNOLOGY/ CHICAGO-KENT COLLEGE OF LAW Chicago, Illinois	Adjunct Professor Clinical Legal Education 1975 - 1976

EDUCATION

NORTHWESTERN UNIVERSITY SCHOOL OF LAW Chicago, Illinois	J.D., 1971 Russell Sage Fellowship In Law and Social Science
MONMOUTH COLLEGE Monmouth, Illinois	B.A. Cum Laude, 1968

ADMISSIONS TO PRACTICE

Illinois, 1972

U.S. District Court
Eastern District of Illinois, 1973

Massachusetts, 1979

First Circuit Court of Appeals, 1980

CYNTHIA HESLEN

Anderson & Kreiger
20 Federal Street, Suite 1
Greenfield, Massachusetts 01301

WORK EXPERIENCE

ANDERSON & KREIGER Cambridge, Massachusetts	Associate Fall 1991 - Present Of Counsel Summer 1989 - Fall 1991
McCARTHY LAW OFFICES Brattleboro, Vermont	Associate Fall 1988 - Summer 1989
OFFICE OF THE WINDHAM COUNTY STATE'S ATTORNEY Brattleboro, Vermont	Deputy State's Attorney Fall 1987 - Fall 1988
MICKENBURG, DUNN, SIROTKIN AND DORSCH Burlington, Vermont	Law Clerk Fall 1986 - Spring 1987
PALMER & DODGE Boston, Massachusetts	Associate Fall 1984 - Summer 1986
MASSACHUSETTS SUPREME JUDICIAL COURT Boston, Massachusetts	Law Clerk to the Honorable Herbert P. Wilkins 1983 - 1984

EDUCATION

NORTHEASTERN UNIVERSITY SCHOOL OF LAW Boston, Massachusetts	J.D., 1983
SMITH COLLEGE Northampton, Massachusetts	A.B., Cum Laude, Government 1980

ADMISSIONS TO PRACTICE

Vermont, 1987

Massachusetts, 1983

File 5/26

MAY 22, 1992

TO: Board of Selectmen

FROM: NANCY TAVERNIER, Chairman

SUBJECT: SELECTMEN'S REPORT

##

AGENDA

ROOM 204

7:30 P.M.

May 26, 1992

I. CITIZEN'S CONCERNS

II. PUBLIC HEARINGS & APPOINTMENTS

1. 7:30 NEW ENGLAND TELEPHONE - POLE LOCATION AT GREAT ROAD - Enclosed please find staff comments for Board Action.

2. 7:35 JOHN POWERS - VCC COMMITTEE INTERVIEW - Enclosed please find VCC comment and recommendation for Mr. Powers for Board action.

3. 7:45 ROY SMITH - Audubon Hill discussion.

4. 8:30 Trash fee discussion

III. CONSENT AGENDA

5. SELECTMEN'S MINUTES - Enclosed find Minutes of April 6, 1992 and April 28, 1992 Regular and Executive Session for Board approval.

6. LE LYONNAISE RESTAURANT - Request and staff comment regarding approval of modification of existing full-liquor license to 7 days for Board action

7. FORT DEVENS REUSE/2nd AIRPORT TASK FORCE - Enclosed please find the Citizen Resource Sheets as well as VCC comment regarding appointment to the Task Force for Board action.

IV. SELECTMEN'S CONCERNS

8. HISTORIC DISTRICT COMMISSION FEES - Enclosed please find request and staff recommendation for Board action.

9. FEE WAIVER REQUEST - Enclosed please find further follow-up to the request of Acton Collision Center for exemption from the Hazardous Waste Bylaw fee.

10. BOY SCOUT EAGLE COURT - Enclosed please find an invitation for June 20, for Board assignment.

11. UNITED CEREBRAL PALSY ASSOCIATION - Enclosed please find a request for Town participation in the "Casual Day" for Board action.

V. TOWN MANAGER'S REPORT

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.

June 9, 1992
Conservation Oversight
Above Ground Storage
Conservation Overview
Recreation Overview

June 23
Board of Health Oversight
July 19
COA Oversight

742 acs

5/26/92 - (1)

NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY
CONDUIT LOCATIONS HEARING

TO ABUTTERS:

In conformity with the requirements of the Mass General Laws Chapter 166, you are hereby notified that a public hearing will be held at the office of the Selectmen of the Town of Acton Massachusetts, on the 26Th day of MAY 1992, at 7:30 o'clock P.M., upon the petition of New England Telephone and Telegraph Company for permission to locate and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the surface of the following public way of ways:-

Great Road (route 2A):-

Beginning at station 15 + 86 which is located approximately 75 feet northwest of Wetherbee Street, place approximately 1605 feet of conduit northwesterly along Great Road to existing manhole #411 which is located at station 31 + 91. total Trench: 1605 feet of conduit.

Wherefore it prays after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain a line of wires, cables and poles, together with anchors, guys and other such sustaining and protection fixtures as it may find necessary, and poles to be erected substantially in accordance with the plan filed herewith and marked NET & T CO. No. 964070 Dated April 22, 1992.

BOARD OF SELECTMEN

BY Anne B. Fenton
Clerk

648

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE: 5/20/92

TO: Board of Selectmen

FROM: Engineering Department

SUBJECT: Bew England Telephone Petition - Great Road

This petition is for the installation of 1605 feet of conduit in Great Road from 75' west of Wetherbee Street to about 200' west of Concord Road.

All of the proposed construction will take place within the state layout of Great Road. The Town's only concern is that traffic into and out of Concord Road not be disturbed any more than necessary. Otherwise, we have no concerns regarding this petition.

Dennis P. Ring
Engineering Assistant II

[232]

5/26/92 - 2

7:35
5/28

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE : 6 May 1992

TO : Board of Selectmen

FROM : Volunteer Coordinating Committee

SUBJECT : Recommendation for appointment

At its 5-4-92 meeting, the VCC voted to recommend John J. Powers FOR MEMBERSHIP ON THE Volunteer Coordinating Committee for the unexpired term held by Peggy Snook expiring 30 June 1993.

John is semi-retired and would have time during the day to carryout some of the functions that need to be done during working hours in dealing with Town Hall,

5-4-92

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: May 4, 1992

Mr / Mrs
Ms / Dr Powers John F. J.
Last Name First Name Middle Initial

27 Brewster Lane 263-0756
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) Volunteer Coordinating Committee

2) _____

3) _____

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):

helps with the White Fund in town - meets in the fall to decide dispursements

Do you have any time restrictions ? most evenings ok, some time available during the day

How long have you lived in Acton? 36 yrs. in Massachusetts? my whole life

Are you a US citizen ? yes

Present occupation and employer (optional - attach resume) semi-retired

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 Wentworth, retired from P.O. in 1972, then operated framing business in Acton which now son operates - I still help part time

2-06-90, CK

over>

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9612
Fax (508) 264-9630

FILE COPY

Nancy Tavernier, Chairman
Board of Selectmen

May 1, 1992

Mr. Roy Smith, President
R. Smith Associates, Inc.
292 Great Road
Acton, MA 01720

Subject: Senior Center

Dear Mr. Smith:

The Board of Selectmen is quite distressed over reports concerning the current status and anticipated costs of the Senior Center that you are building at Audubon Hill. In a recent meeting with a representative of the Council on Aging (conducted in executive session) the Board was informed that your current estimates place the cost of construction at $324,000 and, equally disturbing, we find that much of what you had previously specified to be included in the finished building is no longer included.

The Town has never received more than an outline specification, a conceptual floor plan and exterior elevations describing this facility. Nonetheless, you and your representatives have made numerous verbal representations as to the content of the finished building. Despite the difficulty of negotiating in such a vague atmosphere, Town representatives have negotiated in good faith, being at all times mindful of your generosity and sensitive to the financial constraints of the overall Audubon Hill project.

The Board now questions the value of further negotiations and cites the following as some of the reasons for its frustration:

1. Throughout the negotiations that took place during January and February of this year, wherein you were seeking a renegotiated Comprehensive Development Agreement for the overall project, you continually represented that this facility could easily be constructed for less than $300,000. On or about February 6, during negotiations with Town Manager Don

Johnson, Assistant Town Manager John Murray and Messrs. Conley and Tashjian of Boston Federal Savings Bank, you affirmed the validity of that number. At your office, immediately following the meeting with the bank officials, you and Mr. Charles Allard further stated to Mr. Johnson and Mr. Murray that you felt the $300,000 from the bank would provide ample funding to incorporate the additional amenities sought by the Council on Aging. Indeed, Mr. Allard assured the Town representatives of his confidence that the building, as then designed, could be constructed for $240,000 ... thereby providing $60,000 to fund the desired changes.

2. On numerous occasions over the past year your office (usually represented by Mr. Eric Smith) has approached representatives of the Council on Aging and the Town Manager's office seeking to demolish the old Veenstra house. The house was originally planned to be restored and incorporated as part of the Senior Center. The representation was that the cost of restoring the house would be substantial, compared to the space gained. The promise was that better space would be provided in a single-story expanded floor plan for the Center, with a walk-out basement for storage purposes, while reducing the overall cost of construction. In a meeting with Eric Smith at Town Hall on April 21, representatives of the Council on Aging were informed that the ceiling height for the planned basement space could not be designed to meet Building Code requirements. This was subsequently confirmed by your architect. This revelation comes <u>after</u> demolition of the house and with no other proposal for providing the needed storage space.

3) In the April 21 meeting there were other changes in the content of the Center that came to the attention of the Council on Aging. These included the removal of a fireplace that had been included earlier and the disclosure, on questioning, that your offer no longer included cabinets or counters in the kitchen. The latter had been clearly included in an outline specification provided to the Council in January.

In January and February, as the Town considered your request for relief from most of the conditions of the Comprehensive Development Agreement, the Board weighed the substantial value of the housing units and conditions it was being asked to surrender versus the value of the Senior Center and the amenities anticipated within the $300,000 allotment offered by the bank. In coming to their decision to grant the relief you requested, Board members placed a great deal of

confidence in the representations you made with regard to the budgeted numbers. After the Selectmen assented to the revised agreement the estimate rose dramatically and, since that time, has continually remained well above $300,000.

Representatives of the Town have attempted to understand the reason(s) for the dramatic changes in both the estimates and the specifications for this project. To date, we have been unable to reconcile these differences. The only resolutions offered by your representatives have been reductions in content of the building or financial contributions by the Town. Neither of these alternatives is acceptable to the Selectmen.

On Tuesday, April 28, the Board of Selectmen voted unanimously to inform you that the Town will not invest monies to offset costs above the $300,000 allocated by the bank. The Board expects that you will construct the facility you promised, within the budget to which you agreed. Ultimately, when the building is ready for occupancy, the Selectmen will have to decide whether it is suitable for our purposes. The Board has determined that further participation in the design/estimating process at this time is not in the best interest of the Town.

If you wish to discuss this matter further with the Selectmen you may do so by contacting the Town Manager's office and scheduling time during a regular public session of the Board.

Very truly yours,

Nancy E. Tavernier

Nancy Tavernier, Chairman
Board of Selectmen

cc: Acheson H. Callaghan, Jr., Palmer and Dodge
David Y. Bannard, Palmer and Dodge
Mr. David Conley, Boston Federal Savings Bank
Council on Aging

DPJ:280

5/26/92 - (4)

SOLID WASTE SURVEY - TOWNS SURROUNDING ACTON
ACTON RECYCLING TASK FORCE
DECEMBER 1991

BOXBOROUGH

Type of Disposal: Temporary Transfer Station - Trucked to NESWC
Town pays Waste Management to deliver to NESWC, uncertain about budget amount
Fees: $15 per year for 2 stickers per household
Hours of Operation: Saturdays only, 8AM-4PM
Restrictions: Trash must be bagged. No appliances, furniture, metal, hazardous waste. Heavy collection days, 2 times per year
No recycling available.

CARLISLE

Type of Disposal: Transfer station, trash trucked to NESWC.
Disposal paid through taxes ($164,896)
Fees: Sticker $10/year per vehicle, proceeds pay for annual household hazardous waste day ($15,000). Fees will be increased to meet cost of HHW Day.
Hours of Operation: Tuesday & Thursday 10AM-7PM, Saturday 8AM-5PM
Restrictions: Recycling available: newspaper, oil, cardboard, white goods, swap shop. 2 retired men police the recycling area.

CONCORD

Type of Disposal: Landfill, with centralized dumping by vehicles into roll-offs.
Fees: Recycling sticker for residents $25; Per bag fee, $.90 for small size, $1.50 for large or weight system: $60/ton or $6 per car minimum. Cars and trucks are weighed entering and leaving the landfill to calculate the amount owed. Additional fee for sticker. Recent Town Meeting vote to expand Landfill, start curbside pickup at fee to household of $232/year.

Hours of Operation: Tuesday 7:30AM-2:30PM, Thursday 11AM-7PM, Saturday 8:30AM-4PM
Restrictions: Recycling available for newspapers, 3 kinds glass, tin/steel, waste oil, batteries, plastics 1 & 2.
Appliances accepted for a fee.

HARVARD

Type of Disposal: Transfer station, private haulers remove trash to landfills or other locations. BFI biggest user.
Fees: $50/household, senior citizens are free. Town's goal is to have users fund the transfer station operation. Current cost $190,000/year - $70,000 fees = $90,000 funded through taxes.
Hours of Operation: Wednesday AM and Saturday all day.
Restrictions: Recycling available for paper, plastics, glass, tin aluminum, tires. Charge for white goods.

LITTLETON

Type of Disposal: Transfer station, trash trucked to Ogden Martin Landfill in Lawrence.
Fees: $50 per 6 months ($100 per year) covers approximately 1/2 cost of operation.
Hours of Operation: Tuesday, Thursday 12-7PM, Saturday 8AM-5PM
Restrictions: No recycling, appliances $10 each, furniture and construction debris free.

MAYNARD

Type of Disposal: Town curbside pickup, transported to private? incinerator.
Fees: No fees, all through taxes.
Restrictions: Recycling available for drop off, two times per month.

STOW

Type of Disposal: Private Landfill in Hudson
Fees: $10 sticker fee, then fee per bag dumped.

Hours of Operation: Mon-Sat. 8AM-3:30PM
Restrictions: Appliances, $10-15 each, Recycling by volunteers, Saturdays 10AM-1PM. Plastics, glass, tin

SUDBURY

Type of Disposal: Landfill
Fees: $55/ 1st car, 2nd car free. No charge for recycling.
Hours of Operation: Tuesday - Saturday 8AM-3PM
Restrictions: $12.50/cu. yard for building debris, mattresses, furniture. Hazardous waste recycled once a year if budget allows.

WESTFORD

Type of Disposal: Contracted home pickup, trucked to NESWC.
Fees: All by taxation
Hours of Operation: Once/week pickup.
Restrictions: No large items will be taken, residents will have to find their own arrangement.
Recycling containers $6 each for free curbside pickup every other week. Glass, plastic, newspaper

5/26/92 (5)

SELECTMEN'S MEETING
APRIL 6, 1992

The Board of Selectmen met prior to Town Meeting on Tuesday, April 6, 1992, present were Norm Lake, Dore' Hunter, Nancy Tavernier, Anne Fanton, and Town Manager Don Johnson

CITIZENS' CONCERNS

None Expressed

PUBLIC HEARINGS AND APPOINTMENTS

None Scheduled

CONSENT CALENDAR

Nothing had been submitted

SELECTMEN'S CONCERNS

Brief discussion on last minute Town Meeting concerns.

MMA suggested resolution - Board decided not to present the resolution as they discourage citizens from presenting resolutions on Town Meeting Floor.

Mike Bradley presents Co-Housing preliminary vs. Kevin Sweeney proposal. Architect Quinn discussed other possible alternatives that would result in other intensities. Various board members expressed their interest in the proposed project.

The Board adjourned to attend Town Meeting

_____
Clerk

_____
Date

_____
Don P. Johnson
Recording Secty.
cmjW11-(238)

5/26/92 (5)

SELECTMEN'S MEETING
APRIL 28, 1992

The Board of Selectmen held their regular meeting on Tuesday, April 14, 1992, present were Norm Lake, Dore' Hunter, Nancy Tavernier, Anne Fanton, William Mullin (arrived late), and Town Manager Don Johnson

CITIZENS' CONCERNS

None Expressed

PUBLIC HEARINGS AND APPOINTMENTS

None Scheduled

CONSENT CALENDAR

The Board approved the Consent Calendar as submitted with the Additional item, One Day Liquor License. NORM LAKE - Moved to accept. DORE' HUNTER- Second. UNANIMOUS VOTE.

SELECTMEN'S CONCERNS

Board Assignments- The Board discussed the various committees and assignments to be given to the individual Board members as well as the Action Agenda for outstanding and new projects. (Attached to the Minutes). Staff was asked to notify the various boards of the Selectman assigned and to set up overview meetings for the summer months. A letter will be drafted as well as notifying them of the board liaison. A time will be proposed for the overview meeting with 1/2 hour scheduled for these meetings.

Eagle Scout- May 23 was taken by Anne. June 6, was taken by Nancy.

Cemetery Expansion Issue - Anne after becoming familiar by taking a tour with Stewart and Dean appreciated the reasons for expansion but did want the lower plantings included. DORE' HUNTER - Moved to endorse the plan to continue the expansion in the front between the office and soccer field with low plantings made with the surplus hemlocks. NORM LAKE - Second. UNANIMOUS VOTE.

Don Johnson commented that our per lot charge seemed to be a low number compared to other towns, but felt we should be looking into adjusting the cost to reflect the actual cost of the service.

MPCC - Anne asked for Board input regarding the letter to the editor that she had drafted. Nancy thought the 20 year plan should be mentioned and that the letter would be very helpful. Anne also noted Bill Lawrence's contribution to the process and wanted to have the Board thank him for all his work educating the

Chamber on Town issues. The Board agreed that he was doing a great job of educating and a thank you was in line.

MMA Action Notice- Nancy asked if the Town Manager had taken the suggested action. Don replied he had not taken action at this time.

DPU TRAIN WHISTLES - Nancy wanted the Board to decide what we would do now that we have received the comments. Nancy felt that the sight assessment was not necessary, however they would not allow the discontinuance without a sight assessment. Nancy outlined the two options she felt were open to the Board.

1. Home Rule Legislation to relieve Acton from Train Whistling

2. Going back through the petitioning process to have the Martin Street site discontinued as it is the one site that would have the most relief granted to it as well as the least resistance by the DPU.

Dore' felt we should pursue Home Rule approach and if we get hung up go back and get Martin Street exempted. Nancy said we could include it at the Fall Town Meeting. Norm thought we should attack it on both fronts at the same time. The Board agreed to use Palmer & Dodge to review the draft if needed.

MAPC - Anne asked to have an alternate authorized. She felt a Planning Board member would be a good alternate. Anne suggested Jim Lee as he was interested and was not presently on any outside committees or projects. Dore' thought we could ask planning for a candidate suggestion for alternate. DORE' HUNTER - moved to seek an Alternate for MAPC from the Planning Board. Also to formally thank David Soule for his help with the formation of CAC. NORM LAKE - Second. UNANIMOUS VOTE.

LEGAL BILLS - Bill Mullin asked about the auditing of hours on the bills. Don said that he includes the summaries in the Board's mail and he would provide Bill with a complete bill which outlines the specific charges on the issues litigated and reviewed.

TOWN MANAGER'S CONCERNS

Don notified the Board that Carol Lake would be receiving recognition at Middlesex College Lowell campus on Wednesday. She has been selected for her Outstanding contributions to the Community. Don will attend and update the Board at the next meeting.

Transfer station loader - Don has reviewed the options available to the Town concerning the seven year old loader used at the transfer station. It is in need of $24,000.00 worth of

repairs. After reviewing it he has recommended that we enter into a five year lease purchase at $12,000 per year. To replace the vehicle would be an expense of $56,000. The Board concurred that the lease was more financially prudent as presented. The monies for the lease to come out of the enterprise fund.

ANNE FANTON - Moved to go into executive session for the purpose of discussing negotiations and Collective Bargaining.
DORE' HUNTER - Second.
Anne took Roll call - all Ayes.

The Board adjourned into executive session at 9:10 P.M.

_____
Clerk

_____
Date

_____
Christine Joyce
Recording Secty.
cmjW11-(237)

EXECUTIVE SESSION

APRIL 28, 1992

AUDUBON HILL - John updated the Board along with Roy Trafton of the Council on Aging. After several meetings it has been frustrating that the cost estimates can not be verified as they have not formal engineering or architects drawings. The latest cost given by Eric Smith is $324,000 without a fire place, no storage under the bldg. and kitchen. Roy feels that if they give away more amenities they will just bring the costs up in another area. John feels they are not working with us in good faith. The Board again discussed the options available and it was agreed to draft a letter to the Smiths outlining what we planned to do and to have them counteroffer. The Chairman will review the letter prior to it being sent. Dore' suggested filing a Formal Declination and letting them know we are not going to spend the $130,000 on that building.

HIGHWAY UNION - John reported that they had an informal handshake on a 5% deal. The board suggested they be commended for once again concluding negotiations so swiftly.

The Board adjourned out of Executive Session at 10:15 P.M.

_____
Clerk

_____
Date

_____
Christine Joyce
Recording Secty.
cmjW11-(237)

APRIL 24, 1992

TO: Board of Selectmen

FROM: NORMAN LAKE, Chairman

SUBJECT: SELECTMEN'S REPORT

##

AGENDA

ROOM 204

7:30 P.M.

APRIL 28, 1992

I. CITIZEN'S CONCERNS

II. PUBLIC HEARINGS & APPOINTMENTS

NONE SCHEDULED

III. CONSENT AGENDA

1. SELECTMEN'S MINUTES - Enclosed find Minutes of March 31, 1992 Regular and Executive Session for Board approval.

2. ARBORETUM GIFT - Please find a request for Board acceptance of plantings from the "Friends".

IV. SELECTMEN'S CONCERNS

3. Board Assignments - Enclosed is information regarding board assignments for the coming year.

4. EAGLE SCOUT - Enclosed please find two requests for representation for board assignment.

5. Cemetery Land Use

V. TOWN MANAGER'S REPORT

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.

May 12, 1992
May 26, 1992

738 acs

5/26/92 - 6

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: May 12, 1992

TO: Don Johnson, Town Manager

FROM: Christine Joyce

SUBJECT: Le Lyonnaise Restaurant

Attached please find a request from the LeLyonnais Restaurant to amend their All Alcoholic Beverage License from a 6 day license to 7 days. Upon checking the procedure with ABCC they inform me that it is a Town option on the hours and days of a License and therefore a Board vote is all that is required to accommodate this request.

I would support this action which would eliminate the need for the one day liquor license requests that Mr. Labrosse seeks on a regular basis. The increased revenue the Town would receive would be $729.19 if the board grants this request.

The current fee is set at $3,700 per year for 6 days vs. $5,000 for 7 days. I have pro-rated the difference between the two fees for 7 months to achieve this pro-rated fee. Currently we charge $25.00 for each One-day Liquor License. This pro-rated fee is shy about $20.00 over the 7 month period of the fees collected if he requested permission to be open <u>every</u> Sunday for the next 7 months, which would be highly unlikely. Next year he would anticipate the 7 day license all year at an increase of $1,250.00 to the $5,000.00 7 day fee.

*Note: This license was a 7 day license for years, due to the economy several years ago a request was made to reduce the number of days open in an attempt to reduce his expenses.

Le Lyonnais Restaurant
416 Great Road
Box 2017
Acton, Massachusetts 01720
tel. 508-263-9068

May 11 1992

To the Selecman of
The Town of Acton

I Gerard Labrosse Chef owner of Le Lyonnais Restaurant 416 Great Road ACTON wish to have the priviledge to be opened for business every Sunday for the rest of 1992 with The extension of my Liquor licence

Sincerely

Gérard M. Labrosse

Gerard M. Labrosse

5/26/92

(7)

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: March 5, 1992

TO: Charles Kadlec, Chairman, VCC

FROM: Don P. Johnson, Town Manager

SUBJECT: Fort Devens Reuse/2nd Airport

During the Selectmen's meeting on March 3, the Board voted to establish an ad hoc committee to serve in an advisory capacity to the Board of Selectmen on issues related to the reuse of Fort Devens and/or a second major airport. The Selectmen emphasized both the advisory nature and the ad hoc aspect of the committee. The draft minutes reflect the motion as " move to create an advisory ad hoc committee on second airport/Fort Devens potential reuse to keep the Board of Selectmen current, advise and bring back options to the Board."

I have attached a copy of Anne Fanton's memo recommending establishment of this committee. The Selectmen have asked me to contact you and see whether the VCC would be interested in recruiting 3-5 volunteers, using the memo as a guide/charge.

Please advise me of your interest and feel free to call if you have any questions.

Don

cc: Board of Selectmen ✓

3/3/92

(10)

February 27, 1992

TO: Board of Selectmen
FROM: Anne Fanton
SUBJECT: Second Airport/Fort Devens Task Force

As I mentioned at our last meeting, I am proposing that we establish a task force to investigate plans for Fort Devens and to advise us on appropriate actions. I think we have a responsibility to act on this issue and I don't see any possibility that staff can find time to adequately address it. The task force would not be on-going, but would serve only until the task is complete. The latest information available indicates that, contrary to impressions given in the Boston Globe, plans for a second major airport and a full EIS are moving ahead as scheduled, with the Fort Devens Re-Use Study being an entirely separate project. There is room on the land for both.

I propose that there be up to five volunteers appointed to the task force, and that membership be balanced with individuals knowledgeable about aviation; experienced in reviewing environmental impact reports, including transportation, noise and air quality impacts; a local business owner or member of the Chamber of Commerce; and just interested citizens. Rather than making very stringent membership requirements, I would leave it up to VCC to find energetic, interested individuals and ensure a balance of viewpoints.

The responsibilities of the Task Force might be as follows:

- To investigate all state and regional planning activities relating to the development of a second airport at Fort Devens and the re-use of Fort Devens.
- To monitor these plans to determine their potential impact on Acton, including our roadways, the railroad, environment, quality of life, and finances (including both positive and negative impacts.)
- To summarize the information and advise the Board of Selectmen on appropriate actions in a timely fashion.
- To take appropriate action on behalf of the town whenever authorized to do so by the Board of Selectmen.

I could help them begin by giving them all of the background materials that I have collected to date and suggesting key individuals to contact. Dore may have some materials as well.

Finally, I think that this is a timely and urgent issue that will attract active volunteers, just as the elderly bus service and the sidewalk plan first attracted members to TAC. In fact, Charlie Kadlec said that a few citizens have inquired of VCC whether there is a town committee to address it.

cc. Don Johnson

Anne

MAR 17 1992

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

Date : 14 March 1992

To : Don P. Johnson, Town Manager

From : Charlie Kadlec, Volunteer Coordinating Committee

Subject : Fort Devens Reuse / 2nd Airport

The VCC will be happy to recruit volunteers for this committee (see your memo of 5 March 1992). We have two questions:

1. Does the Board of Selectmen wish to interview candidates for this committee like they do for the Planning Board, etc., or will they simply act on VCC recommendations ? (We need to know so that we can advise candidates about the process).

Circle one : Yes (=the BOS wishes to interview)

* No (=the BOS does not wish to interview)

2. What is the formal name of this committee ?

This commitee's name is : ~~Fort Devens/Second Airport~~ Task Force

Please mark this memo & return it to me (we try to make our requests user-friendly).

* they (BOS) will want to meet w/ the people after Task Force is formed to give direction and focus to them before they begin.

Charlie

Christine

March 3, 1992

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.

APPOINTMENTS MADE BY THE BOARD OF SELECTMEN

DATE May 14, 1992

NAME	COMMITTEE	APPOINTED YES	APPOINTED NO	REG.	ASSOC.	ALTN.	EXPIRES	HOLD	COMMENTS
NEAGLE, George S.	Ad hoc Ft. Devens Reuse/ 2nd Airport Committee			X					Two associates or seven members seemed to make some sense. Often one or two committee members are away or have a conflict on a given date. This group appears very interested, is energetic, and have a balance of viewpoints from a variety of perspectives.
DONOHOE, Mark T.	"			X					
PLACE, Carol M.	"			X					
RUDOLPH, Alfred R.	"			X					
EKBERG, John A.	"			X					
LUNGER, Dave	"				X				
WOLFSON, Marilyn M.	"				X				

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE : May 14, 1992

TO : Board of Selectmen

FROM : Volunteer Coordinating Committee

SUBJECT : Recommendation for Appointments

At its 5-11-92 meeting, the VCC voted to recommend the following to serve as full members of the ad hoc Fort Devens Reuse/ 2nd Airport Committee:

[redacted], a long-time resident with previous town committee experience. Has had close connections with Ft. Devens and is retired military.

Mark T. Donohoe, is familiar with project work and public hearings.

Carol M. Place, has served on the Conservation Committee and has had previous professional experience as a city planner.

Alfred R. Rudolph, is a medical doctor working in the research area. He showed evidence of broad perspective on potential uses for Ft. Devens. He does possess a private pilot's license.

John A. Ekberg, technical training and currently an engineering manager.

Not knowing how long this ad hoc committee will exist, we are recommending the following two as possible associate members:

Dave Lunger, has technical training and work experience in engineering. Currently hold a pilot's license and is an aircraft owner but is not predisposed to the airport aspect.

Marilyn M. Wolfson, is a research meteorolgist with strengths in project development

Rec'd. 3/23/92

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: 20 Mar 92

(Mr) / Mrs / Ms / Dr NEAGLE (Last Name) GEORGE (First Name) S (Middle Initial)

66 SUMMER ST (Street Address) 263-4998 (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) AH HOC COMMITTEE - FORT DEVENS

2) _____

3) _____

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):

BLDG & SCHOOL CMTEE 1954-1964

Do you have any time restrictions ? NO

How long have you lived in Acton? 42 yrs in Massachusetts? forever

Are you a US citizen ? Yes

Present occupation and employer (optional - attach resume) Retired

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 Retired military - close connection with Devens: 20 yrs Naval Aviator. More interested as a citizen. There won't be an airport there

2-06-90, CK

over>

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE : May 14, 1992

TO : Board of Selectmen

FROM : Volunteer Coordinating Committee

SUBJECT : Recommendation for Appointments

At its 5-11-92 meeting, the VCC voted to recommend the following to serve as full members of the ad hoc Fort Devens Reuse/ 2nd Airport Committee:

George S. Neagle, a long-time resident with previous town committee experience. Has had close connections with Ft. Devens and is retired military.

Mark T. Donohoe is familiar with project work and public hearings.

Carol M. Place, has served on the Conservation Committee and has had previous professional experience as a city planner.

Alfred R. Rudolph, is a medical doctor working in the research area. He showed evidence of broad perspective on potential uses for Ft. Devens. He does possess a private pilot's license.

John A. Ekberg, technical training and currently an engineering manager.

Not knowing how long this ad hoc committee will exist, we are recommending the following two as possible associate members:

Dave Lunger, has technical training and work experience in engineering. Currently hold a pilot's license and is an aircraft owner but is not predisposed to the airport aspect.

Marilyn M. Wolfson, is a research meteorolgist with strengths in project development

1990

MARK T. DONOHOE, P.E.
8 Knowlton Drive
Acton, MA 01720
(508) 263-8523

EDUCATION

Master of Science in Civil Engineering, Northeastern University (1968)
Bachelor of Science in Civil Engineering, Northeastern University (1966)

PROFESSIONAL STATUS

Registered Professional Engineer, MA, ME, NH, VT

EXPERIENCE

January 1990 to Present
JOSEPH R. HENRY & ASSOCIATES, INC., Harvard, MA
Director of Engineering
Charged with the supervision of technical and professional aspects of engineering department and procurements of professional services from outside consultants.

Projects include a broad range of residential, commercial, and institutional projects.

May 1988 to January 1990
CHARLES A. PERKINS CO., INC., Clinton, MA
Director of Engineering
Supervised all aspects of engineering including design of advance waste water treatment and disposal works, single family and multi-unit development of up to 850 acres in size, industrial parks of up to 650 acres, water supply and distribution systems, and many other aspects of civil/environmental engineering.

April 1979 to May 1988
CHARLES A. PERKINS CO., INC., Clinton, MA
President and Chief Executive Officer
Directed growth of firm from 22 to 127 employees while being in charge of all aspects of engineering efforts, including topographic, construction, and as-built surveys.

During this period over 100 subdivisions, 5,000 sewage disposal systems, and 500 site plans were designed, approved and constructed. Designs for a variety of other works were also implemented including reconstruction of town roads, construction and closures of sanitary landfills, and several thousand acres of earthen products removal operations.

Duties also entailed presentations at over 1,500 public hearings.

September 1984 to June 1985
NORTHEASTERN UNIVERSITY, Boston, MA
Adjunct Professor
Taught three courses in site design for College of Building Technology.

June 1973 to April 1979
CHARLES A. PERKINS CO., INC., Clinton, MA
Project Engineer - Director
Initial duties were as project engineer charged with design of specific projects. Final duties included supervision of all engineers and general management of firm.

April 1972 to June 1973
DUFRESNE-HENRY ENGINEERING CORP., No. Springfield, VT and Concord, MA
Project Engineer
Designed West Dover sewage collection and treatment works. Prepared designs, reports, and specifications for a variety of waterworks.

September 1970 to April 1972
CAMP, DRESSER AND McKEE, Boston, MA
Project Engineer
Designed 92-inch interceptor along Merrimac River in Lawrence, MA and prepared report detailing improvements to Wellesley, MA Sewage Collection System.

July 1968 to July 1970
UNITED STATES PUBLIC HEALTH SERVICE, Aberdeen, SD
Commission Officer (03)
Served as staff and field engineer charged with design and construction of a variety of water supply, sewage disposal, and sanitary works for the American Indian People.

June 1961 to July 1970
GRADUATE AND UNDERGRADUATE co-operative education assignments.

Town of Needham Engineers Office, Massachusetts Department of Public Health, and Camp Dresser and McKee.

MEMBERSHIPS

American Society of Civil Engineers
American Water Works Association
American Society of Landscape Architects
American Congress of Surveying and Mapping
American Planning Association
Boston Society of Civil Engineers
Institute of Transportation Engineers
National Society of Professional Engineers
National Environmental Health Association
New England Water Works Association
New England Water Pollution Control Association
Water Pollution Control Federation

REFERENCES

Available upon request.

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE : May 14, 1992

TO : Board of Selectmen

FROM : Volunteer Coordinating Committee

SUBJECT : Recommendation for Appointments

At its 5-11-92 meeting, the VCC voted to recommend the following to serve as full members of the ad hoc Fort Devens Reuse/ 2nd Airport Committee:

George S. Neagle, a long-time resident with previous town committee experience. Has had close connections with Ft. Devens and is retired military.

Mark T. Donohoe, is familiar with project work and public hearings.

[redacted] has served on the Conservation Committee and has had previous professional experience as a city planner.

Alfred R. Rudolph, is a medical doctor working in the research area. He showed evidence of broad perspective on potential uses for Ft. Devens. He does possess a private pilot's license.

John A. Ekberg, technical training and currently an engineering manager.

Not knowing how long this ad hoc committee will exist, we are recommending the following two as possible associate members:

Dave Lunger, has technical training and work experience in engineering. Currently hold a pilot's license and is an aircraft owner but is not predisposed to the airport aspect.

Marilyn M. Wolfson, is a research meteorolgist with strengths in project development

rec'd 4-13

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: 4/6/92

Mr / Mrs
(Ms) / Dr Place — Last Name | Carol — First Name | M — Middle Initial

4 Samuel Parlin Dr. — Street Address | 263-4051 — 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) Fort Devens/Airport Advisory Committee
2)
3)

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):

Conservation Commission, 1982-1990
Friends of Acton Arboretum, 1984-present

Do you have any time restrictions ? No

How long have you lived in Acton? 12 yrs. in Massachusetts? 12 yrs.

Are you a US citizen ? Yes

Present occupation and employer (optional - attach resume) Not currently employed

Previous employment: City Planner; Evanston, ILL (1973-1974); DuPage Co. Wheaton, ILL. (1975-1979)

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 B.A. Geography

2-06-90, CK

over>

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE : May 14, 1992

TO : Board of Selectmen

FROM : Volunteer Coordinating Committee

SUBJECT : Recommendation for Appointments

At its 5-11-92 meeting, the VCC voted to recommend the following to serve as full members of the ad hoc Fort Devens Reuse/ 2nd Airport Committee:

George S. Neagle, a long-time resident with previous town committee experience. Has had close connections with Ft. Devens and is retired military.

Mark T. Donohoe, is familiar with project work and public hearings.

Carol M. Place, has served on the Conservation Committee and has had previous professional experience as a city planner.

[redacted] is a medical doctor working in the research area. He showed evidence of broad perspective on potential uses for Ft. Devens. He does possess a private pilot's license.

John A. Ekberg, technical training and currently an engineering manager.

Not knowing how long this ad hoc committee will exist, we are recommending the following two as possible associate members:

Dave Lunger, has technical training and work experience in engineering. Currently hold a pilot's license and is an aircraft owner but is not predisposed to the airport aspect.

Marilyn M. Wolfson, is a research meteorolgist with strengths in project development.

3-21

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: 24 March 1992

Mr / Mrs
Ms / (Dr) Rudolph — Last Name
Alfred — First Name
R — Middle Initial

1 Wingate Ln — Street Address
263-5745 — Home Phone
617-621-1400 — 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) Ad hoc committee on Fort Devens / airport

2) _____

3) _____

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):

NO

Do you have any time restrictions ? Evenings are more free than days

How long have you lived in Acton? Since June 1990 in Massachusetts? Since March 1990 ~~SAME~~

Are you a US citizen ? yes

Present occupation and employer (optional - attach resume)

Sr VP, T-Cell Sciences

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 _____

2-06-90, CK

over>

CURRICULUM VITAE

Alfred R. Rudolph, M.D.

PERSONAL INFORMATION

Date of Birth:	July 12, 1947
Place of Birth:	New York, New York
Social Security Number:	122-38-9462
Home Address:	One Wingate Lane Acton, Massachusetts 01720
Phone:	508-263-5745
Business Address:	T Cell Sciences Corporation 38 Sidney St. Cambridge, Massachusetts 02139
Phone:	617-621-1400

CURRENT POSITION

Research:	December, 1991 to present Senior Vice President March, 1990 - December 1991 Vice President, Medical Affairs T Cell Sciences Corporation 38 Sidney St. Cambridge, Massachusetts 02139

PRIOR POSITIONS

Research:

1984 to 1989

Director of Clinical R & D
Cetus Corporation
1400 Fifty-third Street
Emeryville, California 94608

Responsible for Phase I-III development of lymphokines IL-2, TNF, BIFN, M-CSF. Supervised IMT and anti-LPS development, as well as the biostatistical department. Submitted PLA for IL-2.

Teaching:

Clinical Assistant Professor
University of California at San Francisco
3rd and Parnassus Streets
San Francisco, California 94143

Research:

1981-1984

Associate Director Clinical Cancer Research
Bristol-Myers Corporation, Syracuse, New York

Responsible for the Phase I-III development of new anticancer drugs. Wrote successful NDA for etoposide (VP-16).

Teaching:

Clinical Assistant Professor
SUNY - Upstate Medical Center
750 East Adams Street
Syracuse, New York 13210

HOSPITAL STAFF APPOINTMENTS

State University Hospital of the Upstate Medical Center, Syracuse, New York

Crouse Irving Memorial Hospital, Syracuse, New York

Veteran's Administration Hospital, Syracuse, New York

San Francisco General Hospital, San Francisco, California

EDUCATION

1969	B.S. (Electrical Engineering) University of Rochester Rochester, New York
1975	M.D. SUNY, Upstate Medical Center Syracuse, New York

PROFESSIONAL

1975 - 1976	Medical Intern SUNY, Upstate Medical Center Syracuse, New York
1976 - 1978	Resident in Internal Medicine SUNY, Upstate Medical Center Syracuse, New York
1978 - 1981	Fellow in Hematology and Medical Oncology SUNY, Upstate Medical Center Syracuse, New York

AWARDS

National Merit Scholarship Finalist
Tau Beta Pi, Engineering Honorary Society

MEDICAL LICENSURE

Massachusetts # 75126
California # G53270
New York # 130889
DEA Registration # AR1013995

MEMBERSHIP - PROFESSIONAL SOCIETIES

American Society of Clinical Oncology
Cancer and Acute Leukemia Group B
International Society for Interferon Research

BOARD CERTIFICATION

1979 — Internal Medicine - American Board of Internal Medicine # 065022

BOARD ELIGIBILITY

1981 — Hematology and Oncology - American Board of Internal Medicine

INVITED TALKS

Beta Interferon and Interleukin-2, A Review. Cancer and Acute Leukemia Group B Lymphoma Committee, Philadelphia, 1984.

Combinations of Interleukin-2 and other Lymphokines. Eastern Cooperative Oncology Group BRM Committee, Tampa, 1985.

Tumor Necrosis Factor and Interleukin-2. Cancer Progress Symposium, New York, 1986.

Tumor Necrosis Factor. UCLA Symposium on Tumor Immunology, Los Angeles, 1987.

PUBLICATIONS

1. Rudolph, A., Einhorn, L., Wampler, G., Rentschler, R., Pikler, G., Carr, B., Randolph, J., White, M., Issell, B. (1983) The Substitution of Etoposide for Vincristine in Established Therapy for Small Cell Carcinoma of the Lung. Proceedings 13th International Congress of Chemotherapy Part 281: 26-32.

2. Rudolph, A., Comis, R., Ginsberg, S., Poiesz, B., Lauper, D., Farmen, R., Pittman, K., Issell, B. (1983) A Phase I Infusion Study of Aclacinomycin A with Pharmacokinetics. Proceedings 13th International Congress of Chemotherapy Part 211: 34-38.

3. Rudolph, A., Issell, B., White, J. Bristol Lung Study Group Experiences. In: Etoposide (VP-16): Current Status and New Developments. Academic Press, San Francisco, p. 183-190, 1983.

4. Panasci, L., Comis, R., Ginsberg, S., Rudolph, A., Theodorakis, M., Klag, M., Fitzpatrick, A., Rubert, M., Cable, R., Davey, F. (1980) Pharmacokinetics of Vinblastine-Loaded Platelets Utilized in the Treatment of Platelet-Phagocytizing Tumors. Cancer Treatment Reports 64: 1227.

5. Poiesz, B., Zamkoff, K., Powers, L., Davey, F., Stephens, C., Rudolph, A., Ruscetti, F. Human Monocyte-Macrophage Proliferation in Response to Cell-free Human Effusion Fluids Cancer Research 42: 1567.

6. Comis, R., Issell, B., Pittman, K., Ginsberg, S., Rudolph, A., Aust, J., DiFino, S., Tinsley, R., Poiesz, B., Crooke, S. (1982) A Phase I and Clinical Pharmacology Study of Intravenously Administered Carminomycin in Cancer Patients in the United States. Cancer Research 42: 2944.

7. Issell, B., Rudolph, A. (1983) Etoposide (VP-16-213) - An Overview. In: Etoposide (VP-16): Current Status and New Developments. Academic Press, San Francisco, p. 1-10.

8. Louie, A., Rudolph, A., Issell, B. (1983) The Activity of Etoposide in Other Tumors. In: Etoposide (VP-16): Current Status and New Developments. Academic Press, San Francisco, p. 331-344.

9. Graziano, S., Paolozzi, F., Rudolph, A., Stewart, W., Elbadawi, A., Comis, R. (1987) Successful Treatment of a Mixed Germ Cell Tumor of the Pineal Region. Journal of Neurosurgery 66: 300-304.

10. Krigel, R., Padavic, K., Rudolph, A., Litwin, S., Konrad, M., Bradley, E., Comis, R. (1988) A Phase I Study of Recombinant Interleukin-2 Plus Recombinant Beta Interferon. Cancer Research 48: 3875-3881.

11. Watman, N., Kmack, A., Bradley, E., Rudolph, A., Poiesz, B., Zamkoff, K. (1988) Regulation of Peripheral Blood Lymphocyte Activated Killer Cell Activity. Immunology Allergy Clinics of North America 8: 131-133.

12. Paolozzi, F., Zamkoff, K., Doyle, M., Konrad, M., Bradley, E., Rudolph, A., Newman, N., Gullo, J., Scalzo, A., Poiesz, B. (1989) Phase I Trial of Recombinant Interleukin-2 and Recombinant Beta-Interferon in Refractory Neoplastic Diseases. Journal of Biological Response Modifiers 8: 122-139.

13. Dollbaum, C., Creasey, A., Dairkee, S., Hiller, A., Rudolph, A., Lin, L., Vitt, C., Smith, H. (1988) Specificity of Tumor Necrosis Factor Toxicity for Human Mammary Carcinomas Relative to Normal Mammary Epithelium and Correlation with Response to Doxorubicin. Proceedings National Acadamy of Sciences 85: 4740-4744.

14. Zamkoff, K., Newman, N., Rudolph, A., Young, J., Poiesz, B. (1989) A Phase I Trial of Subcutaneously Administered Recombinant Tumor Necrosis Factor to Patients with Advanced Malignancy. Journal of Biological Response Modifiers 8: 539-552.

15. Krigel, R., Padavic, K., Rudolph, A., Poiesz, B., Comis, R. (1989) Exacerbation of Epidemic Kaposi's Sarcoma with Interleukin-2 and Beta Interferon. Journal of Biological Response Modifiers 8: 359-365.

16. Krigel, R., Padavic, K., Rudolph, A., Konrad, M., Bradley, E., Comis, R. (1990) Renal Cell Carcinoma: Treatment with Recombinant Interleukin-2 plus Beta-Interferon. Journal of Clinical Oncology 8: 460-467.

17. Krigel, R., Padavic, K., Ottery, F., Rudolph, A., Young, J., Weiner, L., Konrad, M., Comis, R. (1990) Metabolic, Pharmacokinetic, and Clinical Results of Treatment with Recombinant Tumor Necrosis Factor in Patients with Advanced Malignancy. (Submitted, Cancer Research)

18. Schwartz, J., Scuderi, P., Wiggins, C., Rudolph, A., Hersh, E. (1989) A Phase I Trial of Recombinant Tumor Necrosis Factor (rTNF) Administered by Continuous Intravenous Infusion in Patients with Disseminated Malignancy. Biotherapy 1: 207-214.

19. Konrad, M., DeWitt, S., Bradley, E., Goodman, G., Groves, E., Hersh, E., Krigel, R., Rudolph, A. (1990) Gamma IFN Induced by Administration of Recombinant IL-2 to Cancer Patients: Kinetics, Dose Dependence, and Correlation With Physiological and Therapeutic Response. (Submitted, Journal of Clincal Investigation)

20. Krigel, R., Padavic, K., Rudolph, A., Young, J., Weiner, L., Konrad, M., Comis, R. (1991) Hemorrhagic Gastritis as a New Dose-Limiting Toxicity of Recombinant Tumor Necrosis Factor. Journal of the National Cancer Institute 83:129-131.

21. Mulligan, M., Yeh, G., Rudolph, A., Ward, P. (1992) Protective Effects of Soluble CR1 in Complement- and Neutrophil- Mediated Tissue Injury. Journal of Immunology 148:1479-1485.

22. Lindsay, T., Hill, J., Felipe, O., Rudolph, A., Valeri, C., Hechtman, H., Moore, F. (1992) Blockade of Complement Activation Prevents Local and Pulmonary Albumin Leak Following Lower Torso Ischemia-Reperfusion. (Submitted, Annals of Surgery)

23. Mulligan, M., Warren, J., Smith, W., Anderson, D., Yeh, G., Rudolph, A., Ward, P. (1992) Lung Injury Following Deposition of IgA Immune Complexes: Requirements for CD11b, CD18 and L-Arginine. (Submitted, Journal of Immunology)

24. Zamkoff, K., Hudson, J., Groves, E., Childs, A., Konrad, M., Rudolph, A. (1992) A Phase I Trial of Recombinant Human Macrophage Colony-Stimulating Factor by Rapid Intravenous Infusion in Patients with Refractory Malignancy. Journal of Immunotherapy 11:103-110.

ABSTRACTS

1. Rudolph, A., Lawson, R., Harvey, H., Hurtubise, M., Hong, W., Rentschler, R., Wampler, G., Broder, L., Hall, T., Wilkins, R., Randolph, J., Issell, B. (1984) Cytoxan, Etoposide and Cisplatin versus Cytoxan, Adriamycin and Cisplatin in the Treatment of Non-Small Cell Lung Carcinoma. Proceedings American Society of Clinical Oncology 3: 210.

2. Rudolph, A., Einhorn, L., Wampler, G., Rentschler, R., Pikler, G., Carr, B., Druzba, P., Issell, B. (1983) Cytoxan, Adriamycin and Etoposide versus Cytoxan, Adriamycin and Vincristine in the Treatment of Small Cell Carcinoma of the Lung. Proceedings American Society of Clinical Oncology 2: 192.

3. Comis, R., Meyer, J., Ginsberg, S., Issell, B., Gullo, J., DiFino, S., Tinsley, R., Poiesz, B., Rudolph, A. (1982) The Current Results of Chemotherapy Plus Adjuvant Surgery in Limited Small Cell Anaplastic Lung Cancer. Proceedings American Society of Clinical Oncology 1: 147.

4. Issell, B., Ginsberg, S., Tihon, C., Rudolph, A., Comis, R., (1982) Combining the In Vitro Human Tumor and Bone Marrow Clonogenic Assays in Cancer Therapy Development. Proceedings American Society Clinical Oncology 1: 25.

5. Poiesz, B., Zamkoff, K., Ruscetti, F., Mier, J., Davey, F., Rudolph, A., Ginsberg, S., Comis, R. (1982) Human Monocyte-Macrophage Activation and Proliferation in Response to Human Effusion Fluids. Proceedings American Association Cancer Research 23: 262.

6. Issell, B., Rudolph, A., Lawson, R., Maroun, J., Comis, R., Hong, W., Speer, J., Luedke, D., Lanzotti, V., Hurtubise, M., Broder, L., Rosenbaum, P. (1983) Cytoxan, Etoposide and Vincristine versus Cytoxan, Adriamycin and Vincristine or Cytoxan and Vincristine in the Treatment of Small Cell Carcinoma of the Lung. Proceedings American Society of Clinical Oncology 2: 192.

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8. Ginsberg, S., Lee, F., Issell, B., Poiesz, B., Rudolph, A., Louie, A.. Bradley, E., Tinsley, R., DiFino, S., Scalzo, A., Gullo, J., Lerner, M., Palmer, N., Fitzpatrick, A., Comis, R. (1983) A Phase I Study of Cis-Dichloro-Trans-Dihydroxy-Bis (Isopropylamine)-Platinum IV (CHIP) Administered by Intravenous Bolus Daily for 5 Days. Proceedings American Society of Clinical Oncology 2: 35.

9. Krigel, R., Poiesz, B., Comis, R., Padovic, K., Rudolph, A. (1986) A Phase I Study of Recombinant Interleukin-2 (rIL-2) Plus Recombinant Beta Ser 17 Interferon (IFN-Bser). Proceedings American Society of Clinical Oncology 5: 225.

10. Dollbaum, C., Smith, H., Hiller, A., Creasey, A., Lin, L., Rudolph A. (1987) Specificity of TNF Toxicity for Human Mammary Carcinomas Relative to Normal Mammary Epithelium and Correlation with Response to Adriamycin. Proceedings American Association for Cancer Research 28: 401.

11. Zamkoff, K., Newman, N., Paolozzi, F., Rudolph, A., Kirschner, J., Scalzo, A., DiFino, S., Gullo, J., Poiesz, B. (1987) A Phase I Study of Recombinant Interleukin-2 and Recombinant Beta Interferon in Patients with Advanced Malignancy. Proceedings American Society of Clinical Oncology 6: 242.

12. Krigel, R., Padavic, K., Comis, R., Rudolph, A. (1987) A Phase I Study of rIL-2 Plus rIFN-B. Proceedings American Society of Clinical Oncology 6: 248.

13. Krigel, R., Comis, R., Padavic, K., Konrad, M., Bradley, E., Rudolph, A. (1987) Phase I Trials of Recombinant Tumor Necrosis Factor (rTNF) in Patients with Advanced Malignancy. Proceedings American Society of Clinical Oncology 6: 241.

14. Bradley, E., Doyle, M., deGroat, S., Damle, N., Doyle, L., Rudolph, A., Issell, B. (1987) LAK Induction In Vivo in Patients Treated with Interleukin-2 May be Necessary for Tumor Regression. Proceedings American Association for Cancer Research 28: 405.

15. Krigel, R., Padavic, K., Rudolph, A., Comis, R. (1988) Phase II Study of Recombinant Interleukin-2 (rIL-2) Plus Recombinant Beta Interferon (IFN-B) in Advanced Renal Cell Carcinoma. Proceedings American Society of Clinical Oncology 7: 132.

16. Zamkoff, K., Newman, M., Rudolph, A., Poiesz, B. (1988) A Phase I Study of Subcutaneously Administered Recombinant Tumor Necrosis Factor (rTNF) in Patients with Advanced Malignancy. Proceedings American Society of Clinical Oncology 7: 68.

17. Moore, A., Newell, A., Madewell, B., Marafino, B., Rudolph, A., Kopplin, J., Theilen, G. (1988) A Preclinical Trial of Recombinant Tumor Necrosis Factor (rhTNF) Plus Recombinant Interleukin-2 (rhIL-2) in Naturally Occurring Canine Malignancy. Proceedings American Association for Cancer Research 29: 361.

18. Rudolph, A. (1987) Tumor Necrosis Factor. Proceedings 1987 Tumor Immunology Conference, UCLA.

19. Krigel, R., Padavic, K., Ottery, F., Rudolph, A., Comis, R. (1988) Metabolic Changes in Patients Treated in a Phase I Trial of Recombinant Tumor Necrosis Factor (rTNF). Proceedings American Association for Cancer Research 29: 432.

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22. Taylor, S., Harlan, S., McHale, M., Rudolph, A., Braun, D., Harris, J. (1989) Phase I Dose Escalation of TNF/IL-2 Combination Therapy in Human Malignancies. Proceedings American Association for Cancer Research 30: .

23. Taylor, C., Hersh, E., Plezia, P., Alberts, D., McCloskey, T., Wiggins, C., Ahmann, F., King, D., Rudolph, A. (1989) A Phase I and Pharmacokinetic Study of Recombinant Tumor Necrosis Facotr (rTNF) and Doxorubicin (DOX). Proceedings American Society of Clinical Oncology 8: 183.

24. Croghan, M., Hersh, E., Taylor, C., Meyskens, F., Dalke, P., McDonald, L., Gardner, S., Rudolph, A. (1989) Phase I-II Study of Low Dose Cytoxan and Recombinant Interleukin-2 (IL-2) for the Treatment of Disseminated Carcinoma. Proceedings American Society of Clinical Oncology 8: 180.

25. Krigel, R., Padavic, K., Rudolph, A., Bradley, E., Konrad, M., Comis, R. (1989) Renal Cell Carcinoma: Treatment with Recombinant Interleukin-2 (rIL-2) Plus Beta Interferon (IFN-B). Proceedings American Society of Clinical Oncology 8: 186.

26. Louie, A., Carlin, D., Bleyl, K., Gaines, K., Davis, G., Haenftling, K., Young, S., Hahn, D., Vollmer, C., Hanning, R., Rudolph, A., Paradise, C.,Groves, E., Bradley, E. (1989) How Safe is Interleukin-2 (IL-2)? Combined Results From 2034 Patients. Proceedings American Society of Clinical Oncology 8: 182.

27. Flaherty, L., Redman, B., Martino, S., Valdivieso, M., Rudolph, A. (1988) Sequential Recombinant Interleukin-2 and Dacarbazine (DTIC) in Metastatic Malignant Melanoma - Clinical and Immunologic Results. Proceedings Society of Biological Therapy 1: 54.

28. Bradley, E., Louie, A., Paradise, C., Carlin, D., Bleyl, K., Groves, E., Rudolph, A. (1989) Antitumor Response in Patients with Metastatic Renal Cell Carcinoma is Dependent Upon Regimen Intensity. Proceedings American Society of Clinical Oncology 8: 133.

29. Woodson, M., Taylor, C., King, D., Rudolph, A., Hersh, E. (1990) A Phase I Study of the Sequential Administration of Recombinant Tumor Necrosis Factor (rTNF) and Recombinant Interleukin 2 (rIL-2) in Patients with Advanced Malignancy. Proceedings American Society of Clinical Oncology 9: 192.

30. Flaherty, L., Robinson, W., Redman, B., Gonzales, R., Martino, S., Kraut, M., Valdivieso, M., Rudolph, A. (1990) A Phase II Study of Dacarbazine (DTIC), Cisplatin (DDP), and Outpatient Interleukin-2 (IL-2) (RIDD-2) in Metastatic Malignant Melanoma (M.M.M.). Proceedings American Society of Clinical Oncology 9: 187.

31. Louie, A., DiTullio, N., Carlin, D., Bleyl, K., Groves, E., Bradley, E., Rudolph, A., Paradise, C. (1990) The Durability of Therapeutic Response in Renal Cell Carcinoma (RCC) Following Treatment with Recombinant IL-2 (r-IL-2). Proceedings American Society of Clinical Oncology 9: 151.

32. Carlin, D., Louie, A., DiTullio, N., Bleyl, K., Paradise, C., Bradley, E., Groves, E., Rudolph, A. (1990) Efficacy of Interleukin-2 (IL-2) Compared to an Historical Control in the Treatment of Metastatic Renal Cell Carcinoma (RCC). Proceedings American Society of Clinical Oncology 9: 149.

33. Zamkoff, K., Hudson, J., Groves, E., Childs, A., Konrad, M., Rudolph, A., Chilton, J. (1991) A Phase I Trial of Recombinant Macrophage-Colony Stimulating Factor, Human (rM-CSF), by Rapid Intravenous Infusion in Patients with Refractory Malignancy. Proceedings American Society of Clinical Oncology 10: 243A.

34. Ward, P., Mulligan, M., Yeh, G., Rudolph, A. (1991) Protection Against Lung Injury After Systemic Activation of Complement. Proceedings, IBC Conference on Endotoxemia and Sepsis - Therapeutic Advances

35. Gillinov, M., DeValeria, P., Winkelstein, J., Wilson, I., Curtis, W., Rudolph, A. (1992) Inhibition of Complement Activation During Cardiopulmonary Bypass with Soluble Human Complement Receptor Type 1 (sCR1). American Association for Thoracic Surgery April 26-29, 1992 Los Angeles, CA.

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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: 3/24/92

Mr / Mrs / Ms / Dr EKBERG (Last Name) JOHN (First Name) A. (Middle Initial)

71 ROBBINS ST (Street Address) 263-1198 (Home Phone) 496-9388 (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) Ft. Devens / 2nd A. Court Task Force his choice
2) Hanscom Field Adv. Comm } would consider with time
3) Acton Historical Commission }

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):

No

Do you have any time restrictions ? Weekdays 8-4 (exceptions possible)

How long have you lived in Acton? 8 yrs in Massachusetts? 42 yrs

Are you a US citizen ? Yes

Present occupation and employer (optional - attach resume) ENGINEERING Mgr. DIGITAL EQUIPMENT CORP., STOW 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 BA/Math, BS/Computer Engineering, MS/Computer Science

2-06-90, CK

over>

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE : May 14, 1992

TO : Board of Selectmen

FROM : Volunteer Coordinating Committee

SUBJECT : Recommendation for Appointments

At its 5-11-92 meeting, the VCC voted to recommend the following to serve as full members of the ad hoc Fort Devens Reuse/ 2nd Airport Committee:

George S. Neagle, a long-time resident with previous town committee experience. Has had close connections with Ft. Devens and is retired military.

Mark T. Donohoe, is familiar with project work and public hearings.

Carol M. Place, has served on the Conservation Committee and has had previous professional experience as a city planner.

Alfred R. Rudolph, is a medical doctor working in the research area. He showed evidence of broad perspective on potential uses for Ft. Devens. He does possess a private pilot's license.

John A. Ekberg, technical training and currently an engineering manager.

Not knowing how long this ad hoc committee will exist, we are recommending the following two as possible associate members:

[redacted] has technical training and work experience in engineering. Currently hold a pilot's license and is an aircraft owner but is not predisposed to the airport aspect.

Marilyn M. Wolfson, is a research meteorolgist with strengths in project development

3-27-92

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: 3/25/92

Mr / Mrs
Ms / Dr LUNGER (Last Name) DAVE (First Name) _____ (Middle Initial)

5 WAMPANOAG DR ACTON (Street Address) 263 7099 (Home Phone) 493 2899 (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) Reuse of Fort Devens

2) _____

3) _____

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):

No

Do you have any time restrictions ? _____

How long have you lived in Acton? 8 years in Massachusetts? 20 years

Are you a US citizen ? yes

Present occupation and employer (optional - attach resume) _____

Digital Equip Corp - Principle Software Engineer

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 Tufts - BSE - Computers/Applied MATH 1976

2-06-90, CK

over>

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE : May 14, 1992

TO : Board of Selectmen

FROM : Volunteer Coordinating Committee

SUBJECT : Recommendation for Appointments

At its 5-11-92 meeting, the VCC voted to recommend the following to serve as full members of the ad hoc Fort Devens Reuse/ 2nd Airport Committee:

George S. Neagle, a long-time resident with previous town committee experience. Has had close connections with Ft. Devens and is retired military.

Mark T. Donohoe, is familiar with project work and public hearings.

Carol M. Place, has served on the Conservation Committee and has had previous professional experience as a city planner.

Alfred R. Rudolph, is a medical doctor working in the research area. He showed evidence of broad perspective on potential uses for Ft. Devens. He does possess a private pilot's license.

John A. Ekberg, technical training and currently an engineering manager.

Not knowing how long this ad hoc committee will exist, we are recommending the following two as possible associate members:

Dave Lunger, has technical training and work experience in engineering. Currently hold a pilot's license and is an aircraft owner but is not predisposed to the airport aspect.

[redacted] is a research meteorolgist with strengths in project development

rec'd 4-23-92

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: April 21, 1992

~~Mr/Mrs~~ ~~Ms~~ / Dr

Wolfson	Marilyn	M.
Last Name	First Name	Middle Initial
10 Pond View Drive	(508) 635-0551	(617) 981-3409
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) Task Force, Airport - Ft. Devens

2) Hanscom Field Advisory Commission conflict?

3) _____

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):

No.

Do you have any time restrictions ? Work 8:30 - 5 pm, Mon - Fri

How long have you lived in Acton? 4 years in Massachusetts? 12 years

Are you a US citizen ? Yes

Present occupation and employer (optional - attach resume)

Research Meteorologist - MIT Lincoln Laboratory (resume attached)

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 Resume attached

2-06-90, CK

over>

Marilyn Mitchell Wolfson

MIT Lincoln Laboratory, Room 29HW-115
P.O. Box 73
Lexington, MA 02173
(617) 981-3409

Current Position

MIT Lincoln Laboratory, Staff Member, Weather Sensing Group

Education

Ph.D.	1990	Meteorology, Massachusetts Institute of Technology. *Thesis:* Understanding and Predicting Microbursts *Advisor:* Professor Kerry A. Emanuel
S.M.	1983	Meteorology, Massachusetts Institute of Technology. *Thesis:* Doppler Radar Observations of an Oklahoma Downburst *Advisor:* Professor Kerry A. Emanuel
B.S.	1979	Atmospheric Science, University of Michigan, College of Engineering, Magna Cum Laude.

Professional Experience

1983 to present — **Staff Member** (with Dr. James Evans, Melvin Stone, and Dr. Mark Weber)
MIT Lincoln Laboratory Weather Sensing Group
- Meteorological studies related to aviation avoidance of hazardous weather
- Research on thunderstorm phenomenology for microburst prediction
- Primary meteorologist on FAA low-altitude wind shear detection program (using Lincoln-built prototype Terminal Doppler Weather Radar)
- Software Coordinator for staff developing radar and meteorological utilities

1982 to 1983 — **Research Assistant** (with Dr. Kerry Emanuel and Dr. Peter Ray, NSSL)
MIT Department of Meteorology and Physical Oceanography
- Case study using Doppler radar data of an Oklahoma downburst

1980 — **Research Assistant** (with Dr. Sushil Atreya)
University of Michigan Department of Atmospheric and Oceanic Sciences
- Thermodynamic study of Jovian atmosphere

1979 — **Summer Fellow** (with Dr. Wei-Chyung Wang and Dr. William Rossow)
NASA Goddard Institute for Space Studies in conjunction with Columbia University
- Climate sensitivity of 1-D radiative-convective climate model with cloud feedback

Honors and Awards

MIT Lincoln Laboratory Staff Associate Ph.D. Program, 1985–1990

Ida M. Green Fellow, MIT, 1980–1981

National Science Foundation Graduate Fellowship, Honorable mention, 1980

NASA Goddard Institute for Space Studies Summer Fellowship
Planetary Atmospheres and Climate Program, 1979

Outstanding Achievement Award, Undergraduate in Atmospheric Science
University of Michigan, 1979

Honorary and Professional Societies

American Meteorological Society, Member

Sigma Xi, scientific honor society, Associate member, 1983; Full Member, 1988

Tau Beta Pi, Member, 1979

Other Positions

National Research Council Committee on Meteorological Analysis, Prediction, and Research (CMAPR), 1991 - 1994

Associate Editor, *Monthly Weather Review*, 1991 - present

Lincoln Laboratory Global Climate Change Committee, Member, 1990 - 1991

Invited Speaker, 16th Conference on Severe Local Storms, 1990

American Meteorological Society Committee on Severe Local Storms, Member
3 year term beginning January, 1988

Session Chairman, 25th International Conference on Radar Meteorology, 1991

Invited Session Chairman, 16th Conference on Severe Local Storms, 1990

Session Chairman, 24th Conference on Radar Meteorology, 1989

Session Chairman, 14th Conference on Severe Local Storms, 1985

PUBLICATIONS

Ph.D. Thesis

Wolfson, M.M., 1990: *Understanding and Predicting Microbursts*. Massachusetts Institute of Technology, 303 pp.

Journal Articles

Wolfson, M.M., 1989: The FLOWS automatic weather station network. *J. Atmos. Ocean. Tecnol.*, **6**, 307–326.

Wolfson, M.M., and T.T. Fujita, 1989: Correcting wind speed measurements for site obstructions. *J. Atmos. Ocean. Technol.* **6**, 343–352.

Journal Articles (cont.)

Wolfson, M.M., 1988: Characteristics of microbursts in the continental United States. *The Lincoln Laboratory Journal*, **1**, 47–72.

Klingle, D.K., D.R. Smith, and **M.M. Wolfson**, 1987: Gust front characteristics as detected by Doppler radar. *Mon. Wea. Rev.*, **115**, 905–918.

Wang, W.C., W.B. Rossow, M.S. Yao, and **M.M. Wolfson**, 1981: Climate sensitivity of a one-dimensional radiative-convective model with cloud feedback. *J. Atmos. Sci.*, **38**, 1167–1178.

Conference Papers

DeLaura, R, **M.M. Wolfson**, and P.S. Ray, 1991: Errors in Cartesian windfield synthesis techniques using triple Doppler radar networks, *25th International Conference on Radar Meteorology*, Paris, 630–633.

Weber, M.E., **Wolfson, M.M.**, D. Clark, S. Troxel, A. Madiwale, and J. Andrews, 1991: Weather information requirements for terminal air traffic control automation. *4th International Conference on Aviation Weather Systems*, Paris, 208–211.

Wolfson, M.M., J.R. Anderson, and L. Orf, 1991: A new hypothesis for the meteorological events surrounding the Delta 191 accident at DFW on August 2, 1985. *4th International Conference on Aviation Weather Systems*, Paris, speech presented.

Wolfson, M.M., and R. Hallowell, 1991: Characteristics of microbursts. *4th International Conference on Aviation Weather Systems*, Paris, speech presented.

Wolfson, M.M., D. Klingle-Wilson, M. Donovan, J. Cullen, D. Neilley, M. Liepins, R. Hallowell, J. DiStefano, D. Clark, M. Isaminger, P. Biron, and B. Forman, 1990: Characteristics of thunderstorm-generated low altitude wind shear: A survey based on nationwide Terminal Doppler Weather Radar testbed measurements. *Preprints, 29th IEEE Conference on Decision and Control*, Hawaii, 682–688.

Wolfson, M.M., 1990: Understanding and predicting microbursts. *Preprints, 16th Conference on Severe Local Storms*, Banff, Amer. Meteor. Soc., 340–351.

Cullen, J.A., and **M.M. Wolfson**, 1990: Predicting summer microburst hazard from thunderstorm day statistics. *Preprints, 16th Conference on Severe Local Storms*, Banff, Amer. Meteor. Soc., 383–387.

Liepins, M.C., **M.M. Wolfson**, D.A. Clark, and B.E. Forman, 1990: A comparison of anemometer and Doppler radar winds during wind shear events. *Preprints, 16th Conference on Severe Local Storms*, Banff, Amer. Meteor. Soc., 356–361.

Wolfson, M.M., 1988: Characteristics of microbursts observed in the continental U.S. *Preprints, 15th Conference on Severe Local Storms*, Baltimore, Amer. Meteor. Soc., 372–379.

Wolfson, M.M., 1987: The FLOWS automatic weather station network. *Preprints, 6th Symposium on Meteorological Observations and Instrumentation*, New Orleans, Amer. Meteor. Soc., 294–299.

Wolfson, M.M., and T.T. Fujita, 1987: Correcting wind speed measurements for site obstructions. *Preprints, 6th Symposium on Meteorological Observations and Instrumentation*, New Orleans, Amer. Meteor. Soc., 358–363.

Conference Papers (cont.)

Wolfson, M.M., J.T. DiStefano, and T.T. Fujita, 1985: Low-altitude wind shear characteristics in the Memphis, TN area based on mesonet and LLWAS data. *Preprints, 14th Conference on Severe Local Storms*, Indianapolis, Amer. Meteor. Soc., 322-327.

Wolfson, M.M., and M.W. Merritt, 1985: Automatic microburst detection using Doppler weather radar data. *Presented at International Geoscience and Remote Sensing Symposium (IGARSS '85)*, Amherst, MA, Jointly sponsored by IEEE Geoscience and Remote Sensing Society and USNC/URSI - Commission F.

Wolfson, M.M., 1983: Doppler radar observations of an Oklahoma downburst. *Preprints, 21st Conference on Radar Meteorology*, Edmonton, Amer. Meteor. Soc., 590-595.

Lincoln Laboratory Project Reports

Wolfson, M.M., ed., 1990: Contributions to the American Meteorological Society 16th Conference on Severe Local Storms. *Project Report ATC-173*, MIT/Lincoln Laboratory, FAA Report No. *DOT/FAA/NR-90/3*, 56 pp.

Donovan, M.F., and **M.M. Wolfson**, 1988: Selected Dual Doppler wind shear events during the 1987 Operational Test and Evaluation of the Enhanced LLWAS system at Stapleton International Airport. *Project Report ATC-158*, MIT/Lincoln Laboratory, FAA Report No. *DOT/FAA/PS-88-9*, 146 pp.

Wolfson, M.M. and M.J. Iacono, 1987: A comparison of PAM-II and FLOWS mesonet data during COHMEX. *Project Report ATC-154*, MIT/Lincoln Laboratory, FAA Report No. *DOT/FAA/PM-87-36*, 47 pp. (NTIS No. AD-A 190 227)

Rinehart, R.E., J.T. DiStefano, and **M.M. Wolfson**, 1987: Preliminary Memphis FAA/Lincoln Laboratory Operational Weather Studies Results. *Project Report ATC-141*, MIT/Lincoln Laboratory, FAA Report No. *DOT/FAA/PM-86-40*, 198 pp.

Wolfson, M.M., J.T. DiStefano, and B.E. Forman, 1986: The FLOWS automatic weather station network in operation. *Project Report ATC-134*, MIT/Lincoln Laboratory, FAA Report No. *DOT/FAA/PM-85-27*, 266 pp. (NTIS No. AD-A 194 552)

Wolfson, M.M., J.T. DiStefano, and D.L. Klingle, 1984: An automatic weather station network for low-altitude wind shear investigations. *Project Report ATC-128*, MIT/Lincoln Laboratory, FAA Report No. *DOT/FAA/PM-84-13*, 58 pp. (NTIS No. AD-A 148 139)

5/26/92

(8)

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: 5/22/92

TO: Board of Selectmen

FROM: John Murray

SUBJECT: Local Fees

As you are aware, Town Meeting on April 6, 1992 unanimously accepted Section 22F of Chapter 40 of the General Laws. This section authorizes the Town Boards to fix reasonable fees and charges for most licenses, permits, and other services provided by the municipality. The means for setting these fees and charges is not specifically set in the statute. Therefore, after discussion with Town Counsel, we suggest the following policy:

1. That the Finance Office notify each board and/or committee of which fees are applicable to them and to this specific section of the General Laws.

2. That appropriate staff, after consultation with the Finance Director (which shall include a full cost (labor, benefits, and overhead) analysis), recommend to a board or committee an appropriate fee schedule.

3. That by a recorded vote, the boards and committees should submit a recommendation to the Board of Selectmen.

4. That The Board of Selectmen should by a recorded vote adopt a town-wide "Schedule of Fees".

5. That a wavier of a fee is the sole discretion of the Board of Selectmen (Town Council strongly believes that waivers of fees should not be granted, due to the fact that any waiver appears to arbitrary and capricious. There is no specific law which allows or prohibits the waiver of a specific fee)

Staff believes that we could have a "Schedule of Fees" available for Board of Selectmen action on August 11, 1992. One exception to this policy, for this fiscal year, would be a schedule of fees for the Historic District Commission. Due to the fact that no fee has been established to-date and the building season has begun, I recommend the attached schedule of fees submitted by the Commission for action at your May 26th meeting.

JOHN

INTERDEPARTMENTAL COMMUNICATION

TO: Board of Selectmen

MAY - 6 1992

FROM: Historic District Commission

SUBJECT: Application fee schedule for Historic District Commission;
Plans for starting of administration of the Acton Historic Districts

DATE: May 1, 1992

The Historic District Commission has completed the working documents needed to begin administering Acton's three Local Historic Districts. For your information we have enclosed a copy of our Rules and Regulations, which have undergone a final review by John Murray, and incorporate several suggestions from Town Counsel. We have also written an internal Operations Manual for Commission members, and have drawn up forms for the certificates we will be issuing, as well as an application for certificates from the Commission and a set of detailed instructions for applicants.

We have a letter ready to send to all district property owners notifying them that the Districts have been established; our main remaining tasks are to file the District maps and to set the application fees needed to cover our operating costs. We have estimated that our operating expenses will be $275-350 per year, fluctuating somewhat with the number of applications we receive. We have tried to set fees that will be as equitable as possible to the property owner while still meeting our expenses. We are thankful that the Revolving Fund structure will enable us to apply all fees directly to our processing costs, and that should help us to keep costs to the applicant to a minimum. We feel this is especially important in the light of the fact that many applications will be made for low-cost items, such as outdoor light fixtures, mail boxes, etc., and that most Historic District Commissions in other communities charge no application fees at all.

We would appreciate it if the Selectmen might vote on the enclosed fee schedule as soon as possible, as we would like to begin operating during the spring building season.

Please let us know if you would like copies of any of our other documents.

CC: Town Manager
Building Commissioner

ACTON HISTORIC DISTRICT COMMISSION

SCHEDULE OF APPLICATION FEES

Alterations: --to include anything minor, plus changes such as new windows, doors, siding, roofing materials, etc.	$10
Additions	25
New construction	50
Signs	15

These figures were based on the expectation that we might be reviewing 20-25 cases per year, and would need to charge an average fee of about $12.50 per application.

5/26/92

(9)

INTER-DEPARTMENTAL COMMUNICATION

May 22, 1992

TO: Don Johnson, Town Manager

FROM: Doug Halley, Health Director

SUBJECT: Acton Collision Center

In response to your memo of May 15, 1992, I have the following information regarding the Hazardous Materials Permitting:

1. The Haz Mat Fee system was established in 1987 and modified in 1990. Fees are charged to offset the costs incurred by the Health Department (man-hours, overhead, supplies). Costs were outlined in my memo of January 29, 1991, which is attached to this memo. The fee changes, approved by the Board of Selectmen at that time, cover all costs of the program. One goal of this program is to have users pay for all costs with no subsidization from other sources.

2. We anticipate 320 facilities to be permitted when the program is fully implemented. Currently 52 facilities have been permitted and be inspected twice a year. Only one facility has requested a waiver of the fee. The typical fee is $300.00 for an initial permit and $150.00 for an annual renewal.

3. The Haz Mat program was passed at the 1985 Annual Town Meeting. Implementation began in 1987. Attachment #4 is a record of permits issued by this department since 1986. During that time we have had only two requests for a waiver. The requests were for a $25.00 temporary food service permit and this current request for a $300.00 Hazardous Materials Permit.

4. Revenue projections are detailed in my memo of January 29, 1991. Attachment #5 shows the actual revenue receipts since 1990. Prior to F. Y. 1990 revenues from Haz Mat permits were not tracked separately. In keeping with one of the program goals, expenditures have not exceeded revenues.

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: May 15, 1992

TO: Doug Halley, Health Director
John Murray, Assistant Town Manager

FROM: Don P. Johnson, Town Manager

SUBJECT: Acton Collision Center

Mrs. Tavernier has asked that we prepare background information for the Board relative to the fee waiver request for the subject business. Specifically, she would like our report to include, but not be limited to, the following:

1) Describe the derivation of our Haz Mat fee system. Why do we charge a fee? What are our costs? Do we cover them? Do we subsidize the inspections by not charging the full cost? Etc.

2) How many facilities fall under the requirements? How many have been inspected? How many have paid the fees? What is the typical fee?

3) How long has the program been going on? How many facilities have been inspected since we started? How many requests have we had for a waiver of the fee?

4) How much did we project as revenue from this program? How much have we received? How much have we expended?

Please use the above as a guide in preparing your report. The Board has delayed a decision in this matter until their next meeting, May 26. Please have the info ready for the Selectmen's packet on Friday, May 22.

Don

January 29, 1991

TO: John Murray, Assistant Town Manager

FROM: Doug Halley, Health Director

SUBJECT: Hazardous Materials Control Bylaw & Permit Fees

As per your request the Health Department has analyzed the operational and financial impacts of the Hazardous Materials Control Bylaw and have the following responses:

1. Operational Review

a. Personnel required

Attachment #2 Section B and Attachment #3 Section A outline the number of hours required per year to issue initial storage permits and to renew existing storage permits. In calendar year 1991 the impact on staff in hours per week would be as follows:

Health Director	2 1/2
Sanitarian	6 1/4
Secretary	1 3/4

As more facilities are permitted the impacts on staff would increase until 1996 when it is anticipated that the program will need 22 manhours (14% of existing staff), thereafter the number of manhours required will stabilize at 16 hours per week. At that point all outstanding initial storage permits will have been issued for existing facilities and the renewal of existing storage permits will be the primary activity.

b. Technical Skills Required

The same skills required currently for the existing sanitarian positions will also be required for the review analysis of hazardous materials storage permit applications. A bachelor's degree in public health or related field, or any equivalent combination of education and experience are necessary. Working knowledge of S.A.R.A., D.O.T. Emergency Response Guidebook, the fate and exposure of hazardous materials, Material Safety Data Sheets, and Chapter 21E of the Mass. General Laws would also be preferable. A copy of the current job description for a sanitarian is attachment 4 of this memo.

c. Tracking and File Requirements

One purpose for requiring this type of permit is to develop a data base, regarding hazardous materials and their storage, which can be utilized by Fire, Police, Civil Defense or Health as they develop emergency response plans or as they respond to any crisis which involves an area where hazardous materials are stored. A computer data base which can be accessed by any department but updated by only one department, would be an important element of this program. The data base should be able to collate information by type of material, quantity of material or site location. Suspense dates for permit renewals would also be important. I am unaware of the cost required to develop this type of program and would rely upon your knowledge in that regard.

2. Financial Review

a. Cost projection

As shown on Attachment #2 Section C, the cost of implementing the initial storage permit program will be just over $8,000 in 1991 and will be just under $10,000 by the end of 1996. These costs are based on 5% pay increases (See Attachment #2 Section A) beginning in July 1992. Equal amounts of initial permits are anticipated to be issued from 1991 through 1996 (See Attachment #2 Section B). Capital expenditures for computers are not included in these costs but the manhours for computer entry are anticipated.

The cost of implementing the renewal storage permit program, as shown on Attachment #3 Section B, will be approximately $1,500 in 1991 and will be just under $20,000 by the end of 1997. These costs are also based on 5% pay increases. The cost of this program will be driven by the speed in which the initial storage permit program is implemented. Again capital expenditures for computers are not included in these costs but the manhours for computer entry are anticipated.

If implemented as planned on Attachment #1, it is anticipated that 1996 will require the most manpower and expenditures and would generate a direct salary cost of $25,765. Current staffing levels would not be negatively impacted until January of 1993. At that point the needs of this program will not be totally met unless additional manpower is dedicated to the program.

b. Fee Projections

Section D of Attachment #2 and Section C of Attachment #3 outline the fees necessary in order to offset the expenditures of the program. These fees are based on predicted salaries times a 1.4 factor for overhead costs.

3. Plan of Implementation

As shown on Attachment #1 implementation of this program will take approximately six years based on the Board of Health's ability to have a hearing for each initial storage permit application. This is based on the Board having an extra meeting every month and four to five applications each meeting.

Should you have any questions regarding this information please feel free to call me.

cc: Board of Health

ATTACHMENT 1

Hazardous Materials Control Bylaw

(A) Predicted Hazardous Materials Facilities:

Large Scale Waste Generator	5
Small Scale Waste Generator	25
Large Scale Non-Generator	70
Small Scale Non-Generator	220

Manhours required to permit each facility

Large Scale Waste Generator

Board of Health	1 hour
Health Director	10 hours
Sanitarian	20 hours
Secretary	5 hours
	---
	36 hours X 5 facilities = 180 hours

Small Scale Waste Generator

Board of Health	1 hour
Health Director	2 hours
Sanitarian	5 hours
Secretary	2 hours
	---
	10 hours X 25 facilities = 250 hours

Large Scale Non-Generator

Board of Health	1 hour
Health Director	2 hours
Sanitarian	9 hours
Secretary	2 hours
	---
	14 hours X 70 facilities =980 hours

Small Scale Non-Generator

Board of Health	1 hour
Health Director	2 hours
Sanitarian	4 hours
Secretary	2 hours
	---
	9 hours X 220 facilities =1980 hours

Total = 3390 hours

If the Board of Health conducts one meeting per month (four hours per meeting) dedicated exclusively to hazardous materials it would take six years to implement the program.

ATTACHMENT # 2
Initial Storage Permit

(A) If current salaries of Health Department staff are increased by 5% for five years beginning in 1992 the hourly rates would be as follows:

	91	92	93	94	95	96	97
Health Director	$22.60	$23.70	$24.90	$26.15	$27.45	$28.80	$30.25
Sanitarian	$17.70	$18.60	$19.55	$20.50	$21.50	$22.60	$23.75
Secretary	$12.45	$13.05	$13.70	$14.40	$15.10	$15.90	$16.70

(B) The total manhours for each health position during the next six years would be as follows:

	91	92	93	94	95	96
Health Director	104	104	104	104	96	96
Sanitarian	263	263	263	263	257	252
Secretary	99	99	99	99	96	96

* see Attachment #1 for predicted hours per facility

(C) The actual cost in manhour salaries (A X B) would be as follows:

	91	92	93	94	95	96
Health Director	2,350	2,465	2,590	2,720	2,635	2,765
Sanitarian	4,655	4,890	5,140	5,390	5,525	5,695
Secretary	1,230	1,290	1,355	1,425	1,450	1,525
	---	---	---	---	---	---
	8,235	8,645	9,085	9,535	9,610	9,985

(D) To cover costs other than salaries a mark-up of 1.4 on the total cost would necessitate that the initial storage permit fee for each category to be as follows:

	91	92	93	94	95	96
Large Scale waste generator	845	890	935	980	1,025	1,075
Small Scale waste generator	215	230	240	250	265	280
Large Scale non-generator	315	330	350	375	400	410
Small Scale no-generator	195	205	220	235	240	250

These fees would cover all costs of the program for initial storage permits.

(E) The Board of Health has permitted thirty-two facilities as of January 1, 1991. Given a six year implementation plan, the number of facilities which would need to be inspected and re-permitted each year would be as follows:

	91	92	93	94	95	96	97
Large Scale waste generator	1	2	3	4	5	5	5
Small Scale waste generator	5	10	15	20	25	25	25
Large Scale non-generator	5	15	25	35	45	57	70
Small Scale no-generator	21	53	85	117	149	185	220

ATTACHMENT #3
Permit Renewals

(A) The total manhours for each health position to re-permit facilities during the next seven years would be as follows:

	91	92	93	94	95	96	97
Health Director	20	48	76	103	132	156	180
Sanitarian	50	120	192	263	334	394	455
Secretary	18	46	73	99	127	150	175

(B) The cost in salaries to operate this program would be as follows:

	91	92	93	94	95	96	97
Health Director	450	1,135	1,890	2,695	3,625	4,490	5,445
Sanitarian	885	2,250	3,755	5,390	7,180	8,905	10,810
Secretary	235	600	1,000	1,425	1,920	2,385	2,925
	---	---	---	---	---	---	---
	1,570	3,985	6,645	9,510	12,725	15,780	19,180

(C) To cover costs other than salaries a mark-up of 1.4 on the total cost would necessitate that the renewal permits be as follows:

	91	92	93	94	95	96	97
Large Scale waste generator	180	190	200	210	220	230	240
Small Scale waste generator	125	130	135	140	145	150	155
Large Scale non-generator	75	80	85	90	95	100	105
Small Scale no-generator	50	50	55	60	65	70	75

These fees would cover all costs of the on-going program for renewal permits.

(D) Based on this information the entire Hazardous Materials program would cost the town the following:

	91	92	93	94	95	96	97
Total Cost	9,805	12,630	15,730	19,045	22,335	25,765	19,180

(E) The fees for initial permits and renewals would bring in the following:

	91	92	93	94	95	96	97
Total Fees	13,540	17,430	22,100	27,185	32,160	37,345	28,925

(F) The annual manhours that would be dedicated to Hazardous Materials Permit initial and renewal would be as follows:

	91	92	93	94	95	96	97
Manhours	554	680	807	931	1042	1144	810

Attachment #4

BOARD OF HEALTH YEARLY ISSUANCE OF LICENSES AND PERMITS

PERMIT OR LICENSE	1986	1987	1988	1989	1990	1991
REPAIR SEPTIC SYS	40	69	53	80	76	70
NEW SEPTIC SYS	84	79	65	63	62	93
HAZ MAT STORAGE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
SEPTIC SYS INSECTOR	0	0	14	10	20	14
SEPTIC SYS INSTALLER	49	40	49	58	56	58
COMMERCIAL HAULERS	8	8	9	10	12	11
SEPTAGE PUMPERS	12	19	17	16	17	16
FOOD SERVICE	86	93	98	101	100	110
SEWER PLANT	7	7	7	7	7	7
SWIMMING POOLS	19	19	19	20	19	19
SPECIAL PERMITS	0	45	36	23	25	25
TOTAL	305	380	376	409	426	466

Attachment #5

Running total of revenues accrued for permit categories and others

	JAN 90	FEB 90	MAR 90	APR 90	MAY 90	JUN 90
SEWERAGE	$17,230	$18,440	$19,725	$21,055	$23,295	$25,658
MISC.	$34	$109	$109	$409	$1,659	$2,134
COPIES	$124	$139	$144	$156	$176	$219
WELLS	$25	$25	$25	$25	$75	$125
FOOD	$7,413	$9,748	$10,098	$10,373	$10,988	$11,278
SEALERS	$2,846	$2,881	$2,934	$2,984	$2,984	$3,023
COM HAUL	$500	$550	$600	$600	$600	$600
HAZ MAT	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
SEPTAGE	$86,885	$94,456	$103,815	$123,876	$143,056	$156,172
ADMIN	$5,796	$6,266	$6,908	$7,796	$9,146	$10,094
TOTAL	$120,943	$133,244	$145,478	$168,824	$193,919	$211,913
LESS SEPT	$34,058	$38,788	$41,663	$44,948	$50,863	$55,741
MONTH	$5,975	$4,730	$2,875	$3,285	$5,915	$4,878

	JAN 91	FEB 91	MAR 91	APR 91	MAY 91	JUN 91
SEWERAGE	$16,521	$16,521	$22,716	$28,771	$30,524	$31,894
MISC.	$777	$777	$802	$912	$2,864	$3,203
WELLS	$225	$225	$250	$275	$275	$300
FOOD	$13,135	$13,135	$14,755	$15,375	$15,995	$17,230
COPIES	$36	$36	$41	$61	$66	$76
SEALERS	$3,710	$3,710	$3,710	$3,710	$3,710	$3,710
HAZ MAT	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
TRASH	$350	$350	$550	$550	$550	$550
ADMIN	$5,190	$5,190	$5,994	$6,846	$7,980	$8,838
SEPTAGE	$83,027	$83,027	$99,865	$114,991	$133,844	$144,712
TOTAL	$123,751	$123,751	$150,153	$175,151	$200,393	$216,348
LESS SEPT	$40,724	$40,724	$50,288	$60,160	$66,549	$71,636
MONTH	$19,409	$0	$9,564	$9,872	$6,389	$5,087
	865	865	999	1141	1330	1473
	126	0	134	142	189	143

	JAN 92	FEB 92	MAR 92	APR 92
SEWERAGE	$21,548	$23,433	$28,358	$35,078
MISC.	$1,320	$1,320	$1,320	$1,945
WELLS	$450	$450	$500	$550
FOOD	$13,235	$15,890	$16,260	$16,780
SEALERS	$3,867	$3,867	$3,867	$3,997
COPIES	$50	$57	$72	$76
HAZ MAT	[illegible]	[illegible]	[illegible]	[illegible]
TRASH	$525	$525	$600	$675
ADMIN	$10,070	$10,296	$11,780	$13,526
SEPTAGE	$57,740	$59,351	$64,038	$73,491
TOTAL	$112,295	$118,679	$130,820	$152,268
LESS SEPT	$54,555	$59,328	$66,782	$78,777
MONTH	$11,354	$4,773	$7,454	$11,995
	719	735	841	966

October 11, 1991

TO: Don Johnson, Town Manager

FROM: Doug Halley, Health Director

SUBJECT: Hazardous Materials Control Bylaw fees

Due to the adoption of the new Hazardous Materials Control Bylaw in June, and the new conditions implicit in its enforcement, the Health Department recommends a more detailed application fee schedule. The intent of this schedule is to accurately charge each application for the specific uses that are being requested. As a test the Health Department took six facilities 1. LAU technologies, computer industry 2. Duds Cleaners, dry cleaners, 3. Citgo, gasoline station, 4. Village Saab, automobile sales, 5. Autogensis, small scale laboratory and 6. R.H. Products, large scale manufacturer and compared the present fee schedule with the proposed schedule. With only the exception of R.H. Products all the facilities would be charged the same. The increase at R.H. Products was less than 10% and is not considered to be significant.

The discharge and remediation applications are new permits which have no past history. It is anticipated that these fees will represent the time spent by the Health Department but with no previous history on these types of review the department recommends that these fees be reappraised next year.

All storage tank fees are one time only fees with no annual fee required. The fees reflect the anticipated time spent on review of a proposal and inspection on site.

HAZARDOUS MATERIALS CONTROL BYLAW

Application Fees

	Initial	Annual
Discharge	$400.00	$150.00
Remediation	$400.00	$150.00
Hazardous Material Generator	$100.00	$40.00
Hazardous Waste Generator Large	$100.00	$40.00
Hazardous Waste Generator Small	$30.00	$20.00
Hazardous Waste User	$100.00	$40.00
Hazardous Materials User	$30.00	$20.00
Haz-Mat Storer Industrial Large	$350.00	$150.00
Haz-Mat Storer Industrial Small	$250.00	$90.00
Haz-Mat Storer Retail Large	$300.00	$100.00
Haz-Mat Storer Retail Small	$200.00	$75.00
Haz-Waste Storer Industrial Large	$100.00	$40.00
Haz-Waste Storer Industrial Small	$30.00	$20.00
Haz-Waste Storer Retail	$30.00	$20.00
Underground Storage Tank Removal Industrial	$50.00	-
Underground Storage Tank Removal Residential	$25.00	-
Underground Storage Tank Installation Indus.	$100.00	-
Underground Storage Tank Installation Resid.	$50.00	-
Storage Tank Installation	$25.00	-

5/12/92

7

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: may 8, 1992

TO: Board of Selectmen

FROM: Don P. Johnson, Town Manager

SUBJECT: Fee Waiver Request

The Health Department has forwarded the attached request for a fee waiver. The applicant, Acton Collision Center, cites "a financial hardship situation" as justification for the requested waiver.

I concur with the Health Director's recommendation that this request be denied.

Don

cc: Health Director

MAY - 5 1992

May 1, 1992

TO: Don Johnson, Town Manager

FROM: Doug Halley, Health Director

SUBJECT: Hazardous Materials Control Bylaw Fees

Acton Collision Center at 30 Stow Street has gone through the permitting process for a Hazardous Materials Control Bylaw with the Board of Health. They have now requested a waiver of the fee. The Board of Selectmen under Regulation 6.4 have the responsibility to set fees and in my opinion have the power to consider this request.

Based on the information provided in the attached letter, the Health Department cannot recommend a waiver of the fee. Considerable time is spent reviewing applications for the storage of hazardous materials and inspecting sites. It is the Health Department's belief that a $300.00 fee is appropriate and fair in consideration for the services rendered.

ACTON COLLISION CENTER

Martin Smith
Business Owner

30 STOW STREET
ACTON, MA 01720
(508) 263-9877

Rick Savoie
Business Manager

APR 29 1992

ACTON BOARD OF HEALTH

To whom it may concern:
This letter is a follow-up to a conversation between myself and Doug Halley in regards to the permit issued to us on 3-23-92
We are unable to meet the requested $300.00 permit fee do to a financial hardship situation. We are requesting a waiver of fees or some other suitable arrangements.

Sincerely
Rick Savoie

Complete Foreign & Domestic Auto Body Repair
- o Auto Glass Replacement
- o Expert Color Matching
- o Insurance Claims Specialists
- o MA Registered Repair Shop - RS2038
- o Mig Welding
- o Unibody and Frame Straightening

5/26/92

United Cerebral Palsy Association—MetroBoston, Inc.

(11)

May, 1992

MAY 21 1992

Mr. Tavernese

cc: BOS

Dear Town/City Representative,

I am writing to ask you to assist United Cerebral Palsy in our Casual Day Event. We would like you to ask your employees to participate in United Cerebral Palsy's fun and easy Casual Day event to benefit UCP. Last year the City of Waltham participated in this event in a significant manner. This year we would like to involve as many cities and towns as possible around Boston.

Join organizations and businesses all over the country in celebrating the beginning of summer by dressing casually at work to benefit United Cerebral Palsy (UCP). With a five dollar donation to UCP, each employee dresses casually at work on Friday, June 19. UCP will give each participant a Casual Day Button to wear that day which shows your customers that your employees are helping people with disabilities by supporting Casual Day. We will also give each employee who participates a five dollar discount coupon to Designs by Levi's, a local sponsor of this event, which may be used at all Boston-area Designs locations.

United Cerebral Palsy will provide several posters to be displayed on the day of the event so that your customers will see that your business supports this important cause. It will be clear to your customers that your organization not only believes in community support, but <u>participates actively</u> to help people with disabilities in the community.

Each business can decide exactly what "casual" will mean for its employees. We suggest that you send a memo to employees to ask them to participate and outline the type of dress that will be appropriate for Casual Day. Any definition of "casual" is acceptable.

This year Casual Day will be celebrated across the country by over 90 UCP affiliates and thousands of companies. Craig T. Nelson, better known as "Coach" on the ABC sit-com of the same name, is Casual Day's national spokesperson and Levi Strauss and Company is the national sponsor. Boston sponsors include WBOS Radio (92.9FM) and Kelly Temporary Services.

71 Arsenal Street, Watertown, MA 02172 TEL: (617) 926-5480 FAX: (617) 926-3059

Casual Day/2

Enclosed is an overview of UCP's Casual Day and flyers on the event. To participate, simply fill out the entry form and send it back to UCP. For further information please feel free to call me at UCP, 926-5480.

Thank you for supporting Casual Day for UCP!

Sincerely,

Ingrid Kohlmeyer

Ingrid Kohlmeyer
Director of Special Events

Get Casual For A Cause

United Cerebral Palsy Association of MetroBoston, Inc.

FRIDAY, JUNE 19

Businesses across America will look a little different on Friday, June 19 when thousands of employees will get casual for a cause. It's all part of United Cerebral Palsy's Casual Day '92.

In exchange for a suggested minimum donation of $5.00 to United Cerebral Palsy, employees will be permitted to come to work in casual clothes on June 19. They'll even get a Casual Day button to let visitors know they're participating in Casual Day. It's a simple one-day program that allows your company to do something positive for employees and the community.

What is "casual?" That's your decision: only you know what types of clothing are appropriate for your office. What's important is that employees feel they're receiving a special privilege from their employer for making a small contribution to United Cerebral Palsy.

It's easy to conduct Casual Day in your office—United Cerebral Palsy will provide you with all the required materials once you've registered to participate.

So join thousands of others across America and get casual for a cause on June 19. Complete the form below or call your local United Cerebral Palsy office to register your company.

Casual Day
UNITED CEREBRAL PALSY
LEVI'S

Casual Day Registration Form

Please return to: UCPA of MetroBoston, Inc.
71 Arsenal Street, Watertown, MA 02172 or call ingrid at (617) 926-5480.

Company Name

Address _____ Phone ( )

Internal Contact Name

Title _____ Phone ( )

No. of Employees (entire company)

Where did you get this flyer?

Every participant will receive a five dollar discount coupon on a purchase of $35 or more at

Designs exclusively **LEVI'S**

929 FM WBOS

KELLY Temporary Services

UCP CASUAL DAY™ '92 FACT SHEET

WHAT IS CASUAL DAY?

Casual Day is a day on which employers throughout the country allow their employees to come to work in casual clothes in return for a suggested minimum $5 donation to United Cerebral Palsy. Casual Day is simple to implement, occurs during regular working hours and is enjoyed by employees who get to take a day off from wearing their "normal" business attire.

WHO BENEFITS FROM CASUAL DAY?

Casual Day is truly a "win-win" partnership between participating businesses and United Cerebral Palsy. Businesses benefit from Casual Day through enhancement of employee morale and employee/employer relations and United Cerebral Palsy benefits through funds that are raised to provide programs and services to people in the community with cerebral palsy and other severe disabilities. Nationwide, United Cerebral Palsy's financial goal for Casual Day is to raise $500,000.

WHEN IS CASUAL DAY?

Casual Day will take place on **Friday, June 19th, 1992** in hundreds of businesses and thousands of organizations across the country. This date was selected because it is the last Friday before the first day of summer. Most workers throughout the country will have spent the previous months cooped up in their offices dressed in heavy clothing and will be feeling the "summer-time itch." Casual Day is a great way to relieve that itch and bring in the summer.

HISTORY OF UCP CASUAL DAY

The first United Cerebral Palsy Casual Day was held on June 20th, 1990 in Baltimore, Maryland. More that 4,000 workers from 100 Baltimore businesses participated. One year later, more than 200 Baltimore businesses and nearly 10,000 employees participated in UCP's second Casual Day and raised nearly $50,000. Responding to Baltimore's success, the United Cerebral Palsy Associations has introduced the event nationally through its affiliate network.

PROGRAM IMPLEMENTATION

Nationwide, more than 85 United Cerebral Palsy affiliates will be participating in UCP Casual Day '92. Businesses are solicited to participate and an employee in each business is designated as the Casual Day Coordinator. The Coordinator recruits employees to make a suggested minimum donation of $5 to UCP and each participating employee is given a Casual Day button to wear with their casual clothes on Casual Day.

NATIONAL CELEBRITY CHAIRPERSON

Craig T. Nelson, Hayden Fox on the hit ABC television series "COACH," is the National Chairperson for UCP Casual Day '92. As the event's National Chairperson, Mr. Nelson will support Casual Day by appearing in event marketing and promotional materials, recording several radio spots and participating in media interviews (schedule permitting).

NATIONAL PARTNERS

Levi Strauss & Co., the national sponsor of Casual Day, is the world's largest apparel manufacturer and had record sales in 1991 of more than $4.9 billion. Levi's is working with United Cerebral Palsy Associations to maximize participation in Casual Day and is underwriting some of the national marketing and promotional items as well as driving the national promotion of the program. The "Levi's" and "Dockers" brands will be featured on all Casual Day materials.

The Society for Human Resource Management ("SHRM") is the leading voice of the human resource profession, representing 80,000 members around the world from more than 400 professional and 200 student chapters. SHRM endorses Casual Day and encourages its members and local chapters to join UCP affiliates in their communities to increase awareness of and participation in Casual Day. SHRM's members' organizations employ more than 77 million people nationwide.

WHAT IS CEREBRAL PALSY?

Cerebral Palsy is a condition caused by brain damage during pregnancy, labor or shortly following birth. "Cerebral" refers to the brain and "palsy" to a disorder of movement or posture. It is neither progressive nor communicable. Nor is it curable in the accepted sense, although training and therapy can help. It is not a disease and should never be referred to as such. Over the past few years the incidence of cerebral palsy has increased, primarily due to babies born to AIDS-infected and crack-addicted mothers and advanced medical technology used to keep these infants alive.

UNITED CEREBRAL PALSY ASSOCIATIONS, INC.

United Cerebral Palsy Associations, Inc. is an organization dedicated to affecting positively the quality of life for people with cerebral palsy and other severe disabilities. There are more than 150 UCP affiliates nationwide providing services such as early intervention, physical and occupational therapy, assistive technology, supportive employment, counseling, and advocacy for people with cerebral palsy and other disabilities living in their communities.

United Cerebral Palsy Associations is the 16th largest non-profit organization in the country and has been featured in many business and trade publications as one of the most progressive and best managed non-profit organizations in America.

5/26/92

(10)

Troop I, Acton, Massachusetts
The Isaac Davis Troop
Established in 1916
Seventy-five years of Scouting Service

May 11, 1992

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

Saturday, June 20

Dear Board Members:

The Troop I committee requests the honor of your presence at a Court of Honor recognizing the advancement of Michael A. Sussman to the rank of Eagle Scout on ~~Friday, June 19~~, 1992 at St. Matthews Methodist Church, 435 Central Street, West Acton, Massachusetts.

The Eagle Ceremony will begin at 7:00 p.m., followed by a Reception in the Church Hall.

For every 100 boys who join scouting, two scouts attain the highest rank of Eagle. Therefore, we consider ourselves especially fortunate to be honoring this outstanding young man. We hope you will join us on this important occasion.

Sincerely,

Paul T. Hoff
Committee Chairman

R.S.V.P. Paul Hoff
5 Hatch Road
Acton, MA 01720

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: 5/22/92

TO: Board of Selectmen

FROM: John Murray John

SUBJECT: Deferral and Bond Rating

Attached is a credit report for the Plymouth-Carver Regional School System and an article from "The Bond Buyer" about Melrose. Recently, it has come to my attention that the downgrading of Plymouth-Carver was alleged to have been caused by teacher deferral. As you read the credit report, you will notice that the Plymouth-Carver District, Plymouth, and Carver have many financial difficulties other than deferral and if it was alleged to have only been caused by deferral, the representation was made irresponsibly. Some of the pertinent items noted in the report are as follows:

1. That the bond issue was for a refinancing and will generate a net present value savings of $575,000.

2. That "all the debt service relating to this issue will be apportioned to Plymouth (Carver will not make any payments). Furthermore, the Town of Plymouth only has an A1 rating.

3. That Carver has built their own High School (as a result of Plymouth failing three times to obtain an override to fund operation of the newly constructed High School).

4. That Plymouth, which is responsible for the majority of the deferral, has dedicated property tax revenues from new growth to the repayment of this debt, but building permits issued in 1991 and 1992 do not support expectations that the liability will be eliminated by these revenues alone in the near term. Furthermore, both Town's negligible excess capacity under Prop. 2 1/2, limits the use (of) levy increases as a means of repayment".

5. That Local Aid for operating purposes decreased nearly $500,000 while annual enrollment growth exceeded 4%.

6. That the softened economy and attendant declines in property values and tax collections have weakened member town's financial positions.

7. In both fiscal year 1990 and 1991 (pre-deferral), late local aid payments required the renewal of $2.5 million of Revenue Anticipation Notes (RANs)

8. In 1992, $2 million of RANs are expected by year-end to cover operating expenditures, and yet deferral was only $1 million.

9. Town Staff publicly stated, on October 15, 1991, that teacher pay deferral should not be used by the financially infirm, rather it should only be used by the financially sound entities, who wish to grant temporary tax relief to their citizens in bad economic times.

In summary, if the reports are correct, a purposeful misrepresentation has been made for some unknown reason. Melrose has many of the same financial problems as does Plymouth-Carver. The further dissemination of this falsehood by The Beacon, without any attempt on the part of the reporter and the editorial staff to ascertain the truth indicates a total lack of professionalism and is harmful to the entire community.

Moody's Municipal Credit Report

Plymouth–Carver Regional School District, Massachusetts

April 23, 1992

	New Issue	General Obligation/Special Tax
sale:	$13,615,000	General Obligation School Refunding Bonds
date:	Expected through negotiation April 27	

Moody's rating: A (revised from Aa)

opinion: The rating revision from **Aa** to **A** recognizes the financial constraints of the two member towns and consequently of the district. Population growth spurred by the district's favorable location and affordable property has slowed in recent years, reflecting the area's persistent economic difficulties. The softened economy and attendant declines in property tax collections have contributed to financial pressures which are reflected in Carver's 1991 deferral of assessment payments and in Plymouth's weakened overall financial position. The subsequent negative impact on district finances, which are primarily supported by these member town assessments, is evident in the decision to defer teachers' summer salaries in the current fiscal year. Because of the district's tightened cash position, district officials expect to issue RANs by year end to cover this liability. Given both towns' negligible excess capacity under Proposition 2½, it is not certain at this time that sufficient revenues can be raised to eliminate this liability in the near term. Debt position, however, remains positive with a modest debt burden that declines to 0.6% after state aid. Debt service on the current refunding issue will be 75% funded by state school building aid and is excluded from Proposition 2½ limitations.

key facts:

Debt Burden:	1.5%/[1] 0.6%
Payout, Ten Years:	67.5%
Tax Pledge: Unlimited tax from member towns.	
Remaining Authorization:	None
F.V. per Capita, 1992:	$69,626
Average Annual Growth F.V., 1990-92:	-4.6%
Average Annual Enrollment Growth, 1989-92:	4.2%

As % of Operating Revenues, 1992,	
Member Assessments:	70.6%
State Aid:	24.9%
General Fund Balance as % of Operating Revenues, 1992:	3.8%
Moody's Ratings,	
Town of Plymouth:	**A1**
Boston Edison:	**Baa1**

[1] After application of state aid.

analysis: Population growth of the 1970s and 1980s, spurred by the district's favorable location and affordable property, has slowed in recent years reflecting the area's persistent economic difficulties. The softened economy and attendant declines in property values and tax collections have weakened member towns' financial positions. The subsequent negative impact on district finances, which are primarily supported by these member town assessments, is evident in recent short term borrowing practices. The district has tradi-

tionally issued revenue anticipation notes (RANs) to even out the cyclical nature of member assessment revenues. In both fiscal 1990 and 1991, deferred year-end local aid payments required the renewal of $2.5 million of those notes over into the next fiscal year. The renewal notes were subsequently paid when overdue state aid payments were received in July. Local aid payments are expected to be on time this year. However, as a result of utilizing $1 million in teacher summer salary deferrals to balance the 1992 budget, officials expect to issue $2 million of RANs by year-end to cover this operating expenditure and, lacking the cash necessary to eliminate the liability in fiscal 1993, will roll the RANs into subsequent years until cash is available. Chapter 138 of the Acts of 1991 permits municipalities in the Commonwealth to defer teachers' summer salaries as a budget savings in fiscal years 1992 and 1993 only. On a GAAP basis such deferrals will result in additional liabilities. Plymouth, which is responsible for the majority of the deferral, has dedicated property tax revenues from new growth to repayment of this debt, but building permits issued in 1991 and 1992 do not support expectations that the liability will be eliminated by these revenues alone in the near term. Furthermore, both towns' negligible excess capacity under Proposition 2½ limits the use levy increases as means of repayment. It is noted that no salary deferrals are currently planned for the 1993 budget.

The district's financial stress has been aggravated by a number of additional factors. Between 1989 and 1991, local aid for operating purposes decreased nearly $500,000 while annual enrollment growth exceeded 4%. District officials have responded to decreasing Commonwealth revenues by cutting expenditures. Approximately 46 positions have been eliminated through attrition or actual layoffs since fiscal 1989. Although almost half of those positions eliminated were teachers, the current year student to teacher ratio remains adequate at 15 to 1. The district does appear to have some budget flexibility in the areas of staffing and capital appropriations if additional cuts are needed. In addition, declining property values and collection rates have necessitated annual property tax rate increases in both towns. In the absence of excess capacity and slowed construction, the need for stabilized local aid levels is accentuated. Commonwealth aid for the current year matched that of 1991 and expectations are for level or increased funding next year.

Despite financial pressures, the district's debt position remains positive; debt burden is below average for similarly sized districts and declines to 0.6% after the application of local aid. The current issue will advance refund $12 million of outstanding Series 1985 bonds for a net present value savings of approximately $575,000. The bonds being refunded were issued for the construction of a new high school in Plymouth; all debt service relating to this issue will be apportioned to the Town of Plymouth. District officials report that the new high school buildings in Carver and Plymouth will provide the district with ample capacity to accommodate projected 3% to 4% enrollment growth over the next five years. The district has no authorized debt unissued and management has no plans to seek additional authorization in the foreseeable future.

The district provides grades 7-12 education for an area south of Boston that experienced rapid population and tax base growth in the mid 1980s, followed by slowed construction and falling property values in recent years. The growth experienced in Plymouth had been driven by migration out of the immediate suburbs of Boston as well as the town's historic and resort-related attractions. Large tracts of undeveloped land and the anticipated completion of a commuter rail line connecting Plymouth to downtown Boston within the next three years, are the basis for local expectations that tax base growth will resume and financial flexibility will improve when the regional economy begins to recover.

Plymouth–Carver Regional School District, Massachusetts

details of bond sale:

Legal Name of Issuer: Plymouth-Carver Regional School District, Massachusetts.

Security: G.O., ULT of member towns.

Date of Bonds: May 1, 1992.

Denomination: $5,000.

Annual Maturities 10/1 ($ 000)

Year	Amount	Year	Amount
1992-93	$ 220	2000	$1,285
1994-95	215	2001	1,365
1996	1,565	2002	1,450
1997	1,540	2003	1,545
1998	1,140	2004	1,645
1999	1,210		

Interest Rate: To be determined.

Interest Payable: Semiannually, beginning October 1, 1992.

Call Features: To be determined.

Registrar: Cede & Co., as nominee for The Depository Trust Company, New York.

Paying Agent: Bay Bank Middlesex, Burlington, Massachusetts.

Delivery: On or about May 12.

Bond Counsel: Ropes and Gray, Boston.

Financial Officer: Frank Coffey, Treasurer.

Auditor: KPMG Peat Marwick, CPA, Boston (FY 1991).

Managing Underwriter: Tucker Anthony Inc., and Fleet/Norstar Securities, Inc., Boston.

details of last comparable sale:

Date of Sale: August 13, 1986.

Amount: $14,000,000.

rating history:

April 1992:	A	January 1972:	Aa
March 1980:	Aa	① Inadequate information.	
February 1978:	① Withdrawn		

analyst: Ann Weller
(212) 553-4429

The information herein has been obtained from sources believed to be accurate and reliable, but because of the possibility of human and mechanical error, its accuracy or completeness is not guaranteed. Moody's ratings are opinions, not recommendations to buy or sell, and their accuracy is not guaranteed. A rating should be weighed solely as one factor in an investment decision, and you should make your own study and evaluation of any issuer whose securities or debt obligations you consider buying or selling. Most issuers of corporate bonds, municipal bonds and notes, preferred stock, and commercial paper which are rated by Moody's Investors Service, Inc. have, prior to receiving the rating, agreed to pay a fee to Moody's for the appraisal and rating services. The fee ranges from $1,000 to $125,000.

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Moody's Lowers GOs of Melrose, Mass., To Ba From A, Citing a Weak Budget

By Ted Hampton

Moody's Investors Service yesterday sharply lowered its rating on bonds issued by the city of Melrose, Mass., to Ba from A.

The rating agency attributed the steep downgrading of the city's $3.4 million in general obligation bonds to "weak liquidity, unreasonable budget assumption," and an accumulated deficit of $3.1 million, nearly 10% of the city's $32 million budget for the fiscal year ending June 30.

"It's a really drastic cut," conceded Joan Dougherty, a vice president and manager of New England regional ratings at Moody's, adding that the rating change came from "our policy of updating ratings to make sure they're as current as possible."

Since 1990, when the rating agency last looked at the finances of Melrose, an affluent Boston suburb with a population of 28,000, "they've had very fast deterioration in their finances," Ms. Dougherty said. She added, however, that the rating downgrade was not the most severe on record at Moody's. Hampshire County, Mass., for example, tumbled to Baa from Aa in January 1991, she noted.

For the coming fiscal year, Melrose faces a budget gap of more than $4 million, including its accumulated deficit. Ms. Dougherty said the rating change should not indicate that the city faces the prospect of default on its outstanding bonds or on its short-term debt, which includes $5.1 million of revenue anticipation notes coming due at the end of next month and $4.6 million of bond anticipation notes, most of which are maturing in August.

Like other cities and towns in Massachusetts, Melrose has seen state aid dwindle. For Melrose, aid that was $12.4 million in fiscal 1989 fell to $9 million in the current budget year. In addition, the constraints of Proposition 2½, the 1980 product of a statewide taxpayer revolt, have made raising local taxes more difficult.

Under Proposition 2½, which shifted the burden of revenue raising from the locals to the state government over the last decade, a majority of citizens has to approve a referendum for higher taxes. Local tax increases are limited to 2.5% each year without such consent. The city is scheduling a referendum for September, according to Richard D. Lyons, the newly elected Melrose mayor.

In a statement yesterday, Moody's warned city officials against using the proposed override, which calls for just under $4 million in additional taxing power, to avoid spending cuts. "It should be noted that an override request for a much smaller level was defeated recently," the rating agency said.

"If the override request is defeated by the voters and should the current administration fail to enact appropriate expenditure reductions — steps which are clearly needed to restore the city's financial stability — further credit deterioration is likely," Moody's said in the statement.

But Mr. Lyons, an independent and former marketing executive for Bay State Health Care and Blue Cross-Blue Shield, said he was undaunted by the rating agency's gloomy prognostications.

"Moody's is wrong," Mr. Lyons said. "I feel confident that because of the marketing ability that we have, we will pass the override." □

New on Cale

NEGOTIATED

This list includes tax-exempt issues for the last [illegible] today with the principal co-manager. For d[illegible]

TAX-EXEMPT	
$8,500,000	Northern Michigan University Bo[illegible] Co. Inc., as senior manager, expect[illegible] general revenue (AMBAC insured/[illegible] 1992, during the week of May 28.

COMPETITIVE

This list gives dates for the largest compe[illegible] final maturities of at least five years. For [illegible]

TAX-EXEMPT	
$172,520,000	Baltimore Co., Md., various bonds.
$85,000,000	Utah, various bonds, June 11.
$9,995,000	Hackensack, N.J., general improve[illegible]
$5,200,000	Portales Municipal Sch. Dist. No. 1, June 2.
$4,000,000	Sterling Heights, Mich., road bonds
$2,900,000	Farmers Branch, Tex., improvemen[illegible]
$2,700,000	Cedar Falls, Iowa, gas utility reven[illegible]
$2,000,000	Riverdale, Ill., various improvemen[illegible]
$1,540,000	Westlake Village, Calif., certificates
$1,400,000	Autauga Co. Sch. Dist., Ala., capita[illegible] 28.
$1,400,000	Portage, Ind., improvement bonds, [illegible]
$1,210,000	Carlisle, Mass., general obligation b[illegible]

SHORT-TERM

This list includes major sales reported toda[illegible] Iss[illegible]. For further details see "Sealed Bids."

TAX-EXEMPT	
$32,000,000	Temple University, Pa. PNC Securit[illegible] expects to negotiate the purchase of [illegible] Obligations/Pennsylvania Common [illegible] Education), Series of 1992, sometim[illegible]
$9,260,000	White Plains City Sch. Dist., N.Y., b[illegible] 21.
$4,585,000	Belleville Twp. High Sch. Dist. No. 2[illegible] 28.
$3,600,000	Westminster Sch. Dist., Calif., tax a[illegible] notes, June 1.

Balanced Budget Amendment Ready for Vote,

By Patrice Hill

WASHINGTON — The leading House sponsor of a balanced budget amendment to the U.S. Constitution has gathered enough support to discharge the amendment today from consideration by the House Judiciary Committee and force a vote on the House floor early next month, congressional aides said yesterday.

Rep. Charles W. Stenholm, the amendment's author, is expected to announce today or tomorrow that he has secured the 218 signatures needed to set in motion a discharge petition steering the legislation clear of the judiciary committee, where it has been bottled up for years, said Ed Lorenzen, the congressman's legislative aide. The petition would make a vote on the House floor possible as [illegible]

lion deficit. The same fears that the deficit is getting out of control that propelled the earlier win have been feeding sentiment for the constitutional amendment," Mr. Lorenzen said.

"We saw the debate shift to the deficit a couple of months ago" during the peace dividend battle, he said. "Everybody was ignoring the deficit before that, but now everyone is talking about how to reduce it," he said.

House Speaker Thomas Foley, D-Wash., House Budget Committee Chairman Leon Panetta, D-Calif., and House Majority Leader Richard Gephardt, D-Mo., have all said they

Mr. Lore[illegible] seen the de[illegible] plan, but sa[illegible] al will even[illegible] the overwh[illegible] vor of the [illegible] ment. "I d[illegible] that," he sa[illegible]

Rep. Sten[illegible] have said [illegible] the difficult[illegible] the deficit [illegible] amendment [illegible] the states fo[illegible] timate it wil[illegible] the states tv[illegible] measure, m[illegible] it would tak[illegible]

One congressional aide [illegible]

Broker-Dealers Can Put Bids in Their Computers To Purchase Treasuries

By Stephen A. Davies

WASHINGTON — Broker-dealers may now place bids through their computers to obtain government bills, notes, and bonds, the Treasury Department's Bureau of the Public Debt announced yester-

TCM
cc: BOS

TOWN OF ACTON

TOWN HALL

472 MAIN STREET
ACTON, MASSACHUSETTS 01720
TELEPHONE (508) 264-9612

DON P. JOHNSON
TOWN MANAGER

MAY 19 1992

May 19, 1992

Karen Kirk Adams, Chief
Permits Branch, Regulatory Division
Department of the Army
New England Division, Corps of Engineers
424 Trapelo Road
Waltham, MA 02154-9149

re: CENED-OD-R-21-199101928

Dear Ms. Adams:

This is a reply to your letter of April 22, 1992 concerning the Town project to construct an outdoor swim pond and general recreation area in North Acton. We have the following responses to the comments received from the public notice:

1. Brian McMahon comment
   This individual was contacted by phone and his concern was protection of natural habitats for duck propagation for hunting. The Town of Acton does not permit hunting on municipally owner land, however his concerns are noted and the commission is investigating modifying the berm and far pond edge to create a more natural shoreline. The Canada goose populations may need a control program in the future.

2. James Wallie comment
   The existence of the pond will not affect the Wallie property as to the current regulatory requirements of Title V (State Sanitary Code) and the local Board of Health regulations. In the Town of Acton, a seventy five foot (75') offset from the edge of the proposed pond to any proposed septic system is required. The edge of the proposed pond will be at least this distance to the property line; therefore, it will not interfere with the Wallie property's ability to satisfy current regulations.

3. Rex Lumber comment
   On April 28th we met with representatives of Rex Lumber on site and agreed to the following:
   A) The runoff leaving the proposed pond to Rex Lumber's site will not exceed the capacity of the existing 18" pipe for all storms up to and including the 100 year event. These calculations are currently in progress.
   B) We explained to Rex Lumber's apparent satisfaction that the proposed pond will have no impact on groundwater levels on their site.
   C) Rex Lumber is having an expert review their lumber drying issue. The

Town will cooperate to minimize impacts, including modifying and/or eliminating the proposed berm, if necessary.

D) We discussed site access safety issues and agreed to conduct local site plan review before the Board of Selectmen as required by the Acton Zoning Bylaw to resolve these concerns prior to construction.

4. EPA comment

The Town of Acton is discouraged by the approach the EPA has taken to the project. The large "naturalized" pond is the essential focal point of the project. Without it the project is not viable. At this time the Town has the following responses to the issues raised by the EPA in their letter of April 24, 1992.

A) The Town does not have an outdoor public swimming facility. Indoor swimming pool facilities are available at the Acton-Boxborough Regional High School. No other suitable sites exist within the Town for an outdoor swim area.

B) Well-off residents join private pool clubs or build their own backyard pools. The less well-off do without. The proposed facility fulfills a public need to provide local outdoor recreational facilities for all income levels.

C) Town Meeting in October of 1987 overwhelmingly voted to approve the study for use of this site for a swimming pond and related recreational facilities.

D) Again in 1991, Town Meeting voted to rezone the land in question to recreational use in support of the pond concept. The voters of Acton have consistently indicated a preference for a natural pond rather than an MDC type concrete pool. A "conventional municipal swimming pool" is not acceptable to the Town of Acton.

E) The excavation of a natural pond is financially possible due to the funds available from the sale of the gravel resource. No such funding source is available for construction of a concrete city pool.

F) Due to the geology of the site, explained in detail in the Pine and Swallow report, no other location for a pond is available on the site due to the shallow depth to bedrock in the other areas. Wetland area 4 will not be altered, the proposed swale was requested by the Acton Conservation Commission to provide a hydraulic connection to the proposed pond for improvement of wildlife habitat. This swale can be eliminated. Both ponds will exist in the same groundwater table and will seasonally fluctuate in elevation in unison. The EPA has misread page 6 of the Pine and Swallow report as it relates to the pond location in order to support their position.

G) The proposed ditches and swales will direct ground water and storm runoff flows to a system of re-established wetlands prior to flowing to the proposed pond. The purpose is to re-establish a natural environment.

H) The only alternative to the pond as proposed, but allowing for minor design and adjustment in shape, is continued use by the Acton Highway Department as an earth materials handling area and yard waste composting facility. Without this project there is no money for restoration of the area.

I) The site was originally purchased by the Town for use as a municipal landfill. When, after a long effort to obtain permitting for such a facility failed, the Town constructed a transfer station and now hauls solid waste out of Town. This site then became available for other uses. The Acton

Master Plan (1991) identifies a water oriented outdoor recreation area as a critical need. The Town has over the past 25 years obtained title to over 1400 acres of protected conservation land, representing more than 10% of the total land area of the Town. Much of this protects natural wetland areas and interconnected upland areas providing valuable wildlife corridors. We should note that wild turkeys are not known to utilize the site. We fail to understand how the project can be considered filling of wetland when what is happening is that wetlands are being enlarged and interconnected.

J) The site as proposed will represent a substantial net increase in wetland area and a healthy diversification of available habitat. The use of the pond for swimming will only occur during a 10 week period in the summer, at other times uses such as fishing and ice skating will be low intensity. No fish habitat currently exists on site as wetland areas 2, 3, and 4 are too shallow.

The Town of Acton requests a meeting with the Army Corps and the EPA to discuss this proposal and possible minor design changes that will make the project permittable under current federal regulations. I am sure you will agree that is a worthy public endeavor and deserves broad based support at all levels of government.

Very truly yours,

Bruce Stamski, Chairman
Acton Recreation Commission

cc: Board of Selectmen
Don P. Johnson, Town Manager

cc: BOS

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

May 15, 1992

TO: Don P. Johnson, Town Manager

FROM: Dean A. Charter, Director of Municipal Properties

SUBJECT: Response to Citizen's Letter

If you choose to respond to Ms. Edry's recent letter in the Beacon:

- Mildew had been a problem prior to renovations, although not as severe, older paints had fungicides that worked, such as lead or mercury. these are no longer available due to environmental concerns.
- Town hall was last painted in May, 1983, and was in need of a repaint by the time renovations were started in June, 1987, four years later.
- Building and Plant Maintenance Desk Book, Roger J. Liska, states: White paint on the exterior of buildings should be repainted every four years.
- Asbestos removal was no surprise to us,as all old buildings had some. Cost of removal was $10,000.
- 1986 ATM. approved $1,800,000 for the project, before it had been designed. An additional $285,000 was approved at the 1987 STM to fund the actual cost of work after bids had been received.
- Total cost of project, which included temporary space, site work, upgrade of hearing room that was not in original plan, and some furnishings, was $2,085,000.
- Project was on budget and building was ready 6 months early.
- Mildew had not begun to show up until one year after the project was finished, we had no recourse to painter.
- Under public bidding statutes, we had no option but to take the low bidder, as he had certificate of eligibility.
- Painting sub bid was $30,934 for entire project
- Architect and all contractors were private sector employees responding to a bid as Ms. Edry feels all work should be done. Just because a job is done by the private sector it doesn't mean it will be perfect.
- Exterior painting was done in 1987, and mildew showed up in 1990. In 1991 town crew used bleach to clean a portion of the building on a Saturday, and had fairly good results. repaint is now on schedule both from a mildew and peeling point of view.
- Bid specs for repaint this time were very tightly written, and bid results showed it. 79,000 bid was a fluke, most bids were in expected range of 25K-33K, the low bid was just that, and getting the low bid is the objective behind competitive bidding.

DAC/54

5/14/92

Why mildew now?

With regard to the article on painting Acton's Town Hall, there are some questions I would like answered by our Town Manager:

1. Why, in all the years prior to the Town Hall renovations was there, to my recollection, never a hint of mildew on the exterior of the building? Your article on the Town Hall quotes Assistant Town Manager, John Murray, as saying "the town hall was last painted five years ago ... That is not an unreasonable amount of time between painting ..." Not unreasonable? My house was just painted last summer. Prior to that it was painted TEN years ago, and we did it ourselves, not professionals!

2. The mildew probably started long before now. I'd be willing to bet that it was beginning to become evident within the first year. Wasn't anyone paying attention? If not, why not? If so, why didn't the Selectmen or Town Manager call into question the liability of the original Contractor? Did everyone just stand there and stare and say "Hmm. I wonder why it's mildewing?"

3. Has anyone investigated the reason(s) this mildew is happening now and not before? What has changed? The fact that the mildew is evident on so many sides of the building tells me this is not just a case of normal mildew. There are no trees to block air movemenmt, and never have been. There is sun. Was the quality of paint as called for in the original specifications? What quality of paint was called for? Was mildew retardant specified? Was the vapor barrier on the insultation (if any) installed with the proper side out? Was the insulation installed into the cave of the building thereby blocking the airflow necessary to prevent mildew? Are there soffit vents? Are they blocked?

4. This problem has been evident for quite a while, and anyone, ANYONE, could see it. Why was this appropriation not presented at Town Meeting?

5. Why the huge spread in bids ranging from $18,000 to $80,000? How tightly written were the specifications for the repainting? What guarantees are called for to protect us from further mildew problems?

6. Why was this problem not publicized prior to this article in the paper? I mentioned it in an early letter to *The Beacon* and received no response from anyone. Neither have I seen any other public reference to this problem by anyone.

Something's wrong here. We're deferring funds this year, surely to be slugged again with another override request at a later date. We're, I feel, beginning to be taxed without proper representation and information, and I, for one, am fed up with it. It is truly Boston Tea Party Time here, folks, so our elected and appointed and hired officials really ought to take heed.

The Town Hall renovation was a disaster from the beginning. We were told it was going to cost one amount and then the selectmen came back for more money, before construction had even begun, when it was "suddenly" discovered that there was an asbestos problem. Now the paint is mildewing, it was known prior to, but not presented at Town Meeting, and again we're going to go through some cute dancing to fund it from some other pot.

Mismanagement and misrepresentation don't survive long in the business world these days, and Town Government is no exception. Perhaps it's time for a call to go out to privatize the business of our town. Put the work out to bid, just like everything else. There's lots of management companies who might love the job. Can you imagine how much our officials, hired, appointed, or elected, would pay attention then?

I don't believe I am out of line when I say I demand an explanation.

Janice M. Edry

Draft

SELECTMEN'S MEETING
MAY 12, 1992

The Board of Selectmen held their regular meeting on Tuesday, May 12, 1992, present were Norm Lake, Dore' Hunter, Nancy Tavernier, Anne Fanton, William Mullin and Town Manager Don Johnson

CITIZENS' CONCERNS

None Expressed

PUBLIC HEARINGS AND APPOINTMENTS

THOMAS DEXTER - ABOVE GROUND STORAGE - LOT 26 KNOX TRAIL

The hearing was postponed at the request of the applicant to June 9, 1992.

WILLIAM WEEKS AND CAROL MACKEY

Mr. Weeks and Ms. Mackey asked the Board to accept the gift of their surplus campaign funds to be used by the Police Department for safety programs for the youth of Acton. They anticipate presenting the check at the Accreditation Hearing on June 1. The Board thanked them as urged others to consider this when they have surplus monies at the end of a campaign. NORM LAKE - Moved to accept the donation to be presented to the Town on June first. ANNE FANTON - Second. UNANIMOUS VOTE.

DEAN CHARTER
PRESENTATION OF AWARD

Dean presented the Board with the Growth Award that was given to the Town of Acton. He commended the departments involved with the maintenance ~~of the~~ and development the Town's natural resources such as the Arboretum Friends and especially Highway for their innovative programs and assistance which help us attain these awards. Anne asked that the signs not be installed until a decision can be reached by the MPCC.

COMMITTEE INTERVIEW - BOARD OF HEALTH ASSOCIATE
ROLAND VAILLENCOURT

Mr. Vaillencourt felt that with his experience in the health field as well as food service he would be able to offer the Board a range of expertise. His main concerns are the health care of the elderly and the South Acton Septic system failure problem. The Board thanked Mr. Vaillencourt for his willingness to volunteer. NORM LAKE - Moved to appoint Mr. Vaillencourt to a one year term as an Associate Member of the Board of Health with term to expire 6/30/93. ANNE FANTON - Second. UNANIMOUS VOTE.

CONSENT CALENDAR

The Board approved the Consent Calendar as submitted with Anne Fanton holding on item 7. and with the Additional item, a donation from the Concord Auto Auction of funds to be used for Police programs. NORM LAKE - Moved to accept. ANNE FANTON Second. UNANIMOUS VOTE.

Anne outlined her feelings regarding the request made my the Collision Center's ~~request~~ for a waiver from the Hazardous Waste Bylaw fee. Anne wanted to give them an opportunity to present their case at the next meeting. Nancy said the board has insisted that any bylaw recommended be self supporting and that this was so in the case of the Hazardous Waste Bylaw. She felt that we do not offer this option of waiver to other licenses, in fact the Board had previously denied the request for a reduction of late payment of a liquor license by an establishment claiming financial hardships. She felt that any waiver such as this would ~~be~~ presenting a precedence. Anne felt that they should be given the chance to further state their case in writing. Nancy felt that they should have to come in person if it were to be considered at all. ANNE FANTON - Moved to delay a Board decision on the request until next meeting to give them the opportunity in writing to explain the hardship. _____ Second. 4-1. Nancy Tavernier - OPPOSED.

SELECTMEN'S CONCERNS

BOARD TASK ASSIGNMENTS- The Board discussed the various and assignments given to the individual Board members with their anticipated due dates for completion. The list was revised with the anticipated date and will be distributed at the next meeting.

LEGAL BILLS - Bill Mullin asked about the auditing of hours on the bills. Don will have a spot check audit performed and look into the telecoping fees that concern Bill.

LEGAL SERVICES - The Board briefly discussed Dore's draft policy and thought it looked good. After several comments it was decided to forward them to Dore' for his review and to discuss this when he was able to be present.

TOWN MANAGER'S CONCERNS

Don notified the Board that Arlington Street would be closing in the next day or so. The Board wanted to make sure Hayward was open before they closed Arlington.

North Acton Recreation Area - Don commented on the recent letter received regarding the project. He was very upset that they would suggest a cement pond. He is having Bruce Stamski

prepare a response to this letter. Bill wanted a time frame for this project. Anne felt that we would try to answer the concerns and use this as a constructive tool instead of being defensive. Don will have the response prepared by Bruce for the Board prior to the deadline date.

Arlington Street - We have been notified it will be closed beginning next week. The Board asked the Town Manager to be sure that the Hayward Road bridge was open prior to the closing.

Chapter 90 Monies - Don announced we had received the 92 monies.

EDISON - The line trimming will be performed beginning next week. They expect to be in town until winter. The company is Lewis tree and any complaints or questions should be directed to Dean Charter.

South Acton Bridge - Don spoke with Lurinda Beddingfield today she is aware of the bridge and following written comment she will make call on our behalf. Apparently when the railroad go involved they shut the project down. She said she will check to see if it was being put out to consultants.

The Board adjourned at 9:15 P.M.

_____
Clerk

_____
Date

_____
Christine Joyce
Recording Secty.
cmjW11-(237)

ORGANIZED 1926

ANNUAL DINNER MEETING

MAY 21 1992

(Spouses and Guests Invited)

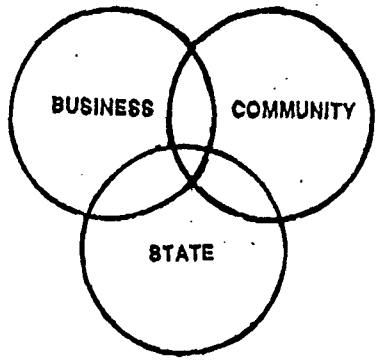
Wednesday, June 10, 1992
Ramada Inn, Route 38 & 128, Woburn, MA
6:30 p.m.

AGENDA

6:30 p.m	Cash Bar
7:00	Welcoming Remarks — Sel. Dave Delorey
	Treasurer Report — Director, Nancy Cirone
	Nominating Committee Report — Sel. Arthur Doyle
	Election of Officers
	Introduction of new President and Board
7:30	Dinner Buffet
8:30	Special Guest Speaker — Geoffrey Beckwith, *Executive Director, MMA*

PROGRAM

THE BUSINESS COMMUNITY PARTNERSHIP; A FORMULA FOR SUCCESS



Panelists:

Michael Balloch
Vice President, Corporate Services
Lotus Corporation

Douglas McLeod
Vice President of Corporate Administrative Services
Bull H-N World Wide Information Systems

Mark Siegenthaler
Land Use Policy Analyst,
Mass Office of Community Development

RESERVATIONS

RESERVATION - CLIP & MAIL (Advance Reservations will guarantee you a seat!)
Price: $20.00 per person — **Make Checks Payable to:** MCSA

Mail to: Nancy D. Cirone, Treasurer MCSA, 5 Colonial Hill Drive, No. Reading, MA 01864
(508) 664-2625

Please list names and titles of attendees

Names: **Titles:**

/ _____

/ _____

/ _____

/ _____

/ _____

PROPOSED BY-LAW AMENDMENTS

1992 ANNUAL MEETING

JUNE 10, 1992

ARTICLE III
SECTION 5 DUES
CURRENTLY READS:

The schedule of annual dues for active, senior and life members shall be established at the annual meeting. Bills for dues shall be sent by the treasurer on or before March 1st payable by April 1st, to all boards of selectmen and senior members. Only those members may vote or be elected to office at the annual meeting whose dues are paid in full; exceptions to this may be voted by the Executive Board and so announced at the start of the meeting.

PROPOSED AMENDMENT:

The schedule of annual dues for active, senior and life members shall be established at the annual meeting. Bills for dues shall be sent by the treasurer on or before JULY 1st, to all boards of selectmen and senior members. ASSOCIATION DUES WILL BE A FLAT RATE OF $50.00 PER TOWN. Only those members may vote or be elected to office at the annual meeting whose dues are paid in full; exceptions to this may be voted by the Executive Board and so announced at the start of the meeting.

ARTICLE V
SECTION 1 ANNUAL MEETING
CURRENTLY READS:

The annual meeting of the Association shall be held not earlier than the first day of May nor later than the fifteenth day of June, the date and place to be determined by the Executive Board. Notice of said annual meeting shall be given in writing and mailed to each member by the secretary at least fourteen days prior to the date of the meeting....

PROPOSED AMENDMENT:

The annual meeting of the Association shall be held not earlier than the first day of May nor later than the LAST day of June, the date and place to be determined by the Executive Board. Notice of said annual meeting shall be given in writing and mailed to each member/TOWN by the secretary at least fourteen days prior to the date of the meeting....

ARTICLE VI
SECTION 3 MEETINGS
CURRENTLY READS:

At least two meetings shall be held each year between annual meetings, the date and place to be determined by the president, or by the Executive Board....

PROPOSED AMENDMENT:

THE ASSOCIATION WILL HOLD A MINIMUM OF ONE MEETING between annual meetings (FALL/WINTER), the date and place to be determined by the president, or by the Executive Board....

Town of Acton Planning Board

472 Main Street Acton, Massachusetts 01720 (508) 264-9636

INTERDEPARTMENTAL COMMUNICATION

TO: Board of Selectmen DATE: April 15, 1992

FROM: Planning Board

SUBJECT: Laws Brook Village - Application Fee

At our meeting on March 23rd, 1992, Mr. Fenton (Authentic Homes) presented a conceptual plan for Laws Brook Village, a residential development on the site of the Foster Masonry property. We were very pleased to see this proposal since it seems to end a long battle over the future of this 47.5 acre site. The proposed development would be a PCRC with about 51 single family homes clustered on approximately 1/4 acre lots, while 64% of the land would remain in common land/open space.

Mr. Fenton proposes to provide on the common land several recreational facilities for use by all Acton residents, including a baseball diamond, a soccer field, a couple of small skating ponds and approximately 60 parking spaces. The common land along with the facilities would be conveyed to the Town upon project completion. It is our understanding, that recreational facilities are in short supply in Acton and that the existing facilities cannot meet the demand and consequently are overused. The situation will be exacerbated by the anticipated loss of the fields on Concord Road. The need for additional ball fields is also well documented in the new draft Open Space and Recreation Plan which we had the opportunity to review recently. With the development proposal for Laws Brook Village we see a tremendous opportunity to fill that void.

The permit filing fees for the project are estimated to total about $32,000.00. Mr. Fenton has asked us if we would be willing to exercise our authority to waive all or some of this fee in return for the proposed public amenities. We believe that this is a reasonable proposal, the kind of "give and take" that helps improve our town even at times when public funds as well as private resources are stretched to their limits. We would like to give this proposal serious thought. It appears that the proponent has clearly recognized one of the many needs of our community and is offering to help address the situation. We find his attitude rather commendable and wish to encourage it as an example of positive cooperation between the Town and a private developer.

We know that a fee waiver or fee reduction will reduce short term revenues which may already be below projections for this fiscal year. Yet initial estimates indicate that even a full waiver of the fees is no match to the cost the Town would incur should it choose to develop its own facilities. In addition, there is the typical facility siting problem. Developing recreational facilities within or near existing neighborhoods often presents a serious problem due to neighborhood opposition

concerned with noise, litter and loitering. A new ball park within the proposed Laws Brook Village will avoid this problem almost entirely. We are also aware that Town resources are stretched thin when it comes to maintenance of ball fields.

In spite of the fiscal concerns, we believe that this is a good offer and a great opportunity with long term benefits, and we want to pursue it. We ask for your encouragement and support and hope to hear from you soon, so that we may proceed with confidence, secure the proposed amenities throughout the development process, and ultimately lead them towards acceptance by the Town.

cc: John Murray, Assistant Town Manager
Dean Charter, Dir. Municipal Properties
David Abbt, Engineering Administrator
Recreation Commission

[RHB371*4/92]

cc: BOS

PALMER & DODGE

One Beacon Street
Boston, Massachusetts 02108

MAY 18 1992

Acheson H. Callaghan, Esq.
(617) 573-0178

Telephone: (617) 573-0100
Facsimile: (617) 227-4420

May 14, 1992

Mr. Garry Rhodes
Building Commissioner
472 Main Street
Acton, MA 01720

Dear Garry: (Razing and Rebuilding of Building for Non-conforming Use)

Following my April 27 letter on this subject, you asked whether the building could be razed and rebuilt under a combination of sections 8.3.2 and 8.2.2 of the bylaw. You pointed out that § 8.3.2 permits reconstruction of a non-conforming building as of right, provided it complies with current dimensional requirements. You also pointed out that § 8.2.2 permits a non-conforming use to be changed to "another non-conforming use," if the new use is "more or equally in harmony with the character of the neighborhood," and suggested that a "change" to the same use would by definition be "equally in harmony" with the bylaw. The argument is ingenious, but I am not persuaded that it is an appropriate construction of the intent of the bylaw.

The argument you suggest depends upon a literal construction of the words of § 8.3.2 and a non-literal construction of the words of § 8.2.2. In the context of the bylaw, I think both are inappropriate. The word "reconstruction" in § 8.3.2 may be broad enough to include a total rebuilding of an existing building. See Berliner v. Feldman, 363 Mass. 767, 772-775 (1973), which discusses the meaning of the word "rebuilt" but uses the word "reconstruction" as a virtual synonym. Compare Chilson v. Zoning Board of Appeals of Attleboro, 344 Mass. 406, 412-414 (1962), in which the relevant bylaw language was "alteration, enlargement, reconstruction, moving, or replacement" of a building. Despite the potential breath of the word "reconstruction," however, I do not think § 8.3.2 should be read, either alone or in combination with § 8.2.2, to permit the voluntary razing of an existing building (which houses a non-conforming use) and its "replacement" (cf. Chilson)

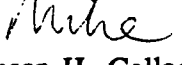
with another building, even if the replacement complies with the dimensional requirements of the bylaw. My prior letter outlines the principal policy reasons underlying this conclusion. To that analysis, I would add the following points which address the specific argument made here.

First, § 8.3.4 is clearly intended to address the general problem of "rebuilding" or "reconstructing" a building that is damaged by fire. In the context of § 8 as a whole, I think that § 8.3.2 is intended to deal only with changes to an existing building rather than total replacement of the building. Although the word "reconstruction" permits extensive changes, I do not think it should be read as including the voluntary destruction and replacement of an existing building. Indeed, there would be no need for a special provision to authorize the replacement of an existing non-conforming building with a dimensionally conforming building. That would be allowed as of right in any case. Thus, I think § 8.3.2 should be read as addressing a narrower issue -- namely, as the title indicates, what changes are permitted in an existing building.

As I noted previously, what is really involved here is an attempt to perpetuate a non-conforming use by putting it in a new building. In my prior letter I explained why the statute does not require the town to permit this. For similar reasons, I do not think the bylaw authorizes it either. Read literally, as the argument asks us to read § 8.3.2, § 8.2.2 does not apply here because the use is not being changed "to another non-conforming use." Rather, the same non-conforming use is being housed in a new building. While there may be planning reasons for permitting this, as he court recognized in Chilson, I do not think the Acton bylaw should be read to authorize the perpetuation of a non-conforming use, even if the new building conforms to the dimensional requirements of the bylaw, except in a hardship case, as permitted by § 8.3.4.

I recognize that this issue is a close one, and that a court might reach a different conclusion, but I think that the intent to permit perpetuation of a non-conforming use should be more clearly expressed by the town meeting.

Very truly yours,



Acheson H. Callaghan

AHC/dcb

ANDERSON & KREIGER
ATTORNEYS AT LAW

The Bulfinch Building
47 Thorndike Street
Cambridge, MA 02141
(617) 252-6575
FAX (617) 252-6899

STEPHEN D. ANDERSON
(ALSO ADMITTED IN CT)

ARTHUR P. KREIGER
(ALSO ADMITTED IN NY)

GEORGE A. HALL, JR.

ALLAN R. FIERCE
(ALSO ADMITTED IN IL)

CYNTHIA HESLEN
(ALSO ADMITTED IN VT)

Western Mass. Office:
20 Federal Street, Suite 1
Greenfield, MA 01301
(413) 774-3392
FAX (413) 772-2558

MAY 18 1992

May 15, 1992

Don Johnson, Town Manager
Town of Acton
Town Hall
Acton, MA 01720

Re: W.R. Grace & Co.

Dear Don:

As we discussed Wednesday at the meeting among you, Paul Reiter and Matt Barvenik of GZA, Doug Halley and me, the following summarizes our strategy for approaching the ongoing implementation of the remedy at the Grace Superfund facility:

1. Setting Priorities: Since EPA and DEP are playing an active role in reviewing, commenting on and approving Grace's proposals, the Town will focus its resources on significant issues rather than on every issue that arises with respect to the site. Accordingly, we have broken down the many ongoing components of the remediation into different levels of priority. In the first level are the issues concerning landfill, institutional controls and the VFL process, particularly its air emissions. In the second level are issues concerning lagoon residuals and the aquifer restoration system. In the third level are issues concerning the other waste sites (e.g. the boiler lagoon and the chip pile) and the ongoing oil/hexane remediation. The team will focus our attention on the first level. From time to time, we will submit comments on the aquifer restoration system similar to those we have submitted in the past. In the other areas, we will rely on EPA and DEP unless something glaring appears to require attention.

2. Coordination: Doug Halley will be responsible for attending meetings at EPA, DEP and Grace concerning the site. Doug will monitor ongoing developments and call on either GZA or this firm, as needed, to address any

Printed on Recycled Paper

significant issues that arise with respect to the above priorities. In the event Doug finds himself overwhelmed because of staff shortages in his department, he will let you and GZA know and another mechanism will be arrived at to coordinate the approach to the Grace site.

Other than filing a set of comments on the aquifer restoration reports that have been submitted since the last time the Town commented, Doug is not presently aware of any matters that require comments from GZA or this firm.

Sincerely yours,

Stephen D. Anderson

Stephen D. Anderson

SDA/jec
Enclosure

cc: Paul Reiter
Doug Halley
Matt Barvenik

ACT/GR/40/Johnson.017

cc: BOS

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133

MAY 21 1992

SEN. ROBERT A. DURAND
MIDDLESEX AND WORCESTER DISTRICT
ROOM 413B
TEL. (617) 722-1120

CHAIRMAN
COMMITTEE ON NATURAL RESOURCES AND AGRICULTURE
CHAIRMAN
COMMITTEE ON ENERGY
COMMITTEE ON WAYS AND MEANS
COMMITTEE ON HEALTH CARE
COMMITTEE ON TRANSPORTATION

May 18, 1992

Acton Board of Selectmen
472 Main Street
Acton, MA. 01720

Dear Chairwoman Tavernier and Board Members,

I wanted to take this opportunity to inform you of the local aid resolution recently passed by the Legislature.

In short, the resolution seeks to assure that in FY93, local aid line items will be funded at the levels suggested in House 1, the Governor's budget.

While the resolution is not binding, I feel it goes a long way towards demonstrating the Legislature's committment to give communities, in the absence of "Cherry Sheets", an idea of what to expect from the State in the form of Revenue Sharing while local budgets are being planned. In addition, cuts to Revenue Sharing will not even begin to match those of the last fiscal year. In some instances, there will be an increase in revenue sharing that will, in part, depend upon $186 million budgeted for education foundation aid.

I have enclosed a summary of the resolution for your information which I hope you find helpful. I expect the House to begin debate on the FY93 budget within the next couple of weeks.

If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,

ROBERT A. DURAND
STATE SENATOR

boardv/al

MAJOR POINTS OF LOCAL AID RESOLUTION PASSED BY HOUSE (H5616)

* Resolves that appropriations for the following local aid line items will be funded at the following levels in the FY1993 budget, but does not merge items:

  Items merged in House 1 as "general revenue sharing aid"
  - Additional assistance - $476,315,282
  - Chapter 81 highway monies - $42,689,000

  Items merged in House 1 as "education foundation aid"
  - Chapter 70 school aid - $898,131,787
  - Regional school aid - $100,251,168
  - Transportation aid - $57,600,000
  - Regional school transportation - $26,939,604
  - EEOG - $105,522,604
  - School lunch program - $5,426,986

* All of these are House 1 amounts, and are level funded at FY1992 levels, except:
  - Chapter 81 includes only one year's payment (FY1992 included an extra $36,111,000, because covered two years)
  - Regional school aid up by $1,689,830 because two new regions created and one expanded

* States intent of General Court that lottery distribution should be not less than $306,000,000 in FY1993 (same as FY1992)

* Total local aid under the resolution for all of these programs will amount to $2,018,876,431

* Spells out distribution of additional assistance, chapter 70, and lottery funds for each city and town at FY1992 level

* Does not mention or allocate extra $186 million budgeted in House 1 for education foundation aid, because allocation is awaiting education reform act

* Promises to continue quarterly local aid payments

cc: BOS

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133

MAY 21 1992

SEN. ROBERT A. DURAND
MIDDLESEX AND WORCESTER DISTRICT
ROOM 413B
TEL. (617) 722-1120

CHAIRMAN
COMMITTEE ON NATURAL RESOURCES AND AGRICULTURE
CHAIRMAN
COMMITTEE ON ENERGY
COMMITTEE ON WAYS AND MEANS
COMMITTEE ON HEALTH CARE
COMMITTEE ON TRANSPORTATION

May 8, 1992

Nancy Tavernier
Chair, Acton Board of Selectmen
472 Main St.
Acton, MA. 01720

Dear Chair Tavernier and Board Members,

Thank you for your recent comments on the various mandate relief proposals currently under consideration the Legislature.

It is this type of effort that better educates those of us in the Legislature about the needs of cities and towns.

As a member of the Senate Ways & Means Committee and the soon to be appointed sub-committee on local aid, I will do all that I can to see these proposals become reality.

Thank you once again.

Very truly yours,

Bob

ROBERT A. DURAND
STATE SENATOR

TELEPHONE (508) 263-9107

Water Supply District of Acton

P.O. BOX 953

MASSACHUSETTS AVENUE

ACTON, MASSACHUSETTS 01720

MAY 18 1992

May 12, 1992

Due to a holiday on May 25, 1992 the Commissioners have canceled their previously scheduled meeting and have rescheduled it for June 8, 1992 at 7:30 P.M.

Board of Commissioners

Stephen Stuntz
Leonard Phillips
Ronald Parenti

cc: BOS

Massachusetts
MIIA
Interlocal Insurance Association

60 Temple Place, Boston, MA 02111
(617) 426-7272 or 800 882-1498
Facsimile (617) 426-9546

May 15, 1992

Mr. Dean Charter
Director of Municipal Properties
Acton Town Hall
472 Main Street
Acton, MA 01720

Dear Dean:

This will confirm my visit to Acton on May 1st during which we discussed the town's loss control program. We also reviewed the status of loss control recommendations. Although all recommendations have been completed on those buildings under the control of the town, we are still awaiting action on those recommendations submitted on school buildings as a result of my visit of August 1, 1991. I have not yet received any word from the school on the status of the 14 recommedations developed during my survey. I would appreciate your help in obtaining a reply as to the status of the aforementioned items.

The next meeting of the Safety Committee has been scheduled for Thursday, September 10th at 10:00am. During the meeting, I would like to discuss the MIIA Safe Driver Award Program. Following the Safety Committee Meeting, we have tentatively scheduled surveys of several town buildings.

If you have any questions or problems prior to our next visit, please feel free to call.

Very truly yours,

Jeffrey J. Siena
Loss Control Manager

cc: BOS [redacted]

MAY 19 1992
Town Manager
Information

May 13, 1992

Acton Police Department
Route 27
Acton, MA 01720

Dear Acton Police Officers,

I would like to express my appreciation and thanks for your diligence and observance in finding the "hit and run" vehicle and driver who damaged my car last Saturday night on Deacon Hunt. It was a pleasant surprise when on Monday evening Officer Todd Finnerman (sp?) called to report that you had located the driver.

This type of police work provides the citizens of Acton and myself with confidence that matters of greater significance that my incident would be handled professionally and with effectively.

Thanks for your effort.

John Lucas
4 Putter Drive
Acton

5/15 Mail

F

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: May 15, 1992

TO: Board of Selectmen

FROM: Don P. Johnson, Town Manager

SUBJECT: Reading File/Paper Work Reduction Act

The Chairman has pointed out that the packets are still quite large and contain a number of items that could be placed in the Reading File. I will be attempting to respond to this concern by placing more material in this file. In selecting items I will attempt to choose those items that could be considered general informational materials whose purpose is simply intended to keep you informed on various topics. Items that I want to be sure you see will still be included in your packets.

As time goes by, please let me know if you are comfortable with the selections and whether you desire changes.

Don't forget to check the Reading File from time to time. It contains material I believe you should or may want to see.

Don

2ND DRAFT

CC: BOS

May 1992

PROGRAM

Acton's Observance of Memorial Day 1992 will be c 25 May 1992

The Parade will leave the Gates School Parking Lot at 11:00 A.M. and will proceed via Spruce Street, Massachusetts Avenue, Windsor Avenue to the lower gate Mt. Hope Cemetery.

There will be ceremonies in Mt. Hope Cemetery and the Parade will proceed to Edwards Square, West Acton, and ceremonies will conclude about noon.

Earlier in the day, Decorating Parties will go directly to each of the listed sites for their individual ceremonies. The Decorating Parties will consist of Wreath Bearers, the Firing Squad from the Acton Minutemen, Girl Scouts, Boy Scouts, Bugler from the Acton-Boxborough Band, and a member of the Clergy from the Acton Religious Community.

9:30 A.M.	-	North Acton Cemetery
9:30 A.M.	-	Woodlawn Cemetery
10:00 A.M.	-	Acton Center Monuments
10:00 A.M.	-	Quimby Square, South Acton

All the Cemeteries will be open to pedestrians as well as vehicles on both Sunday and Monday all day.

PLEASE NOTE THE TIME CHANGE SINCE THE FIRST DRAFT!

ALL ARE WELCOME TO PARTICIPATE

Richmond Miller
Chairman-Public Ceremonies Committee
Home: 263-5995
Office: 440-2396

KEN KLEMMER

263-3245

ACTON BOARD OF SELECTMEN
ACTION AGENDA 1992-93

TASK AND DESCRIPTION MEMBER ASSIGNED	PRESENT TO BOS
COMMUTER LOT	
Become knowledgeable about use, need, cost of parking lot. Meet with staff to gather info on all alternatives to current system of no user fees. Assess options and present to Board in tandem with staff recommendations. SELECTMAN ASSIGNED: NORM	LATE JULY
LONG RANGE CAPITAL PLAN	
Work with staff to compile list of capital improvements and equipment needs for next 5 years. Develop strategy for funding needs. Include Fincom Member when appropriate. SELECTMAN ASSIGNED: BILL	OCTOBER
LEGAL SERVICES POLICY	
Fine-tune existing Legal Services Policy to include operating procedures, reporting requirements, periodic review. SELECTMAN ASSIGNED: DORE'	JUNE
RETIREES HEALTH INSURANCE	
Develop information, with staff help, that could lead to more beneficial insurance for retirees, at lower cost to town and retiree. If Town Meeting action required, be prepared to recommend to Board. SELECTMAN ASSIGNED: NORM	AUGUST
AUDUBON HILL	
Be prepared to make recommendations to the Board on the issues surrounding the construction of Senior Center, the use of the $130,000 gift money, and other related issues SELECTMAN ASSIGNED: DORE'	?

SCHOOL CHOICE MONEY

Make recommendations to the BOS members of the Coord. Comm. on guidelines for use of School Choice money as pooled revenues and issues of accountability. Include FinCom Member.
SELECTMAN ASSIGNED: BILL ?

LEGISLATIVE MANDATES

Compile list of mandate relieve legislation, interact with legislators, follow legislation, and report to the Board.
SELECTMAN ASSIGNED: NANCY 4/14/92

REGIONALIZATION OF MUNICIPAL SERVICES

Work with staff to develop a list of reasonable services to explore for regionalization, determine obstacles, propose solutions.
SELECTMAN ASSIGNED: DORE' ?

PERMITTING SIGNS IN PUBLIC WAY FOR NON-PROFIT GROUPS

Issue currently assigned to MPCC, Board input needs to be made and recommended action taken
SELECTMAN ASSIGNED: ANNE JUNE 9

TRASH FEES FOR RESIDENTS AND NON-RESIDENTS

Determine fees for FY93 for trash, recycling, both resident and non-resident. Establish plans to market our service to non-residents, current residents using private haulers, approach other towns for joint disposal.
SELECTMAN ASSIGNED: NANCY MAY 26

SOUTH ACTON BRIDGE

Become the Board "expert" on the status of the bridge reconstruction, recommend action to Board when appropriate.
SELECTMAN ASSIGNED: DORE' ONGOING

TOWN MEETING/WARRANT PRESENTATION MATERIALS

Develop presentation/warrant materials with help of Coordinating Committee to better explain financial information to Town Meeting. Use a reading committee for draft documents.
SELECTMAN ASSIGNED: BILL AND NANCY JAN 1993

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: 5/13/92

TO: Board of Selectmen

FROM: Christine

SUBJECT: Legal Services Request

Attached please find the page missing from the article Stretching Your Legal Dollar in your mail of 5/12/92.

Town of _____

Request for Legal Services

Date: _____

Name: _____ Title: _____

Committee or Department: _____

Did you try to find the answer to your question in the statutes, by calling a state agency, or by talking to your counterpart in another community?

☐ Yes ☐ No

Description of Request

(Include such information as "Request for Legal Opinion" or "Relates to pending litigation." Is this a request from a committee, or is it an individual committee member's concern? Is the request of high or low priority, and why? Please attach all relevant documentation.)

Time Frame

By what date is a response needed? Please explain.

Submit completed request form to the Office of the Board of Selectmen for processing.

Your above request for legal services was:

☐ Forwarded to Town Counsel on (date) _____

☐ Returned on (date) _____

Reason:

_____
Executive Secretary
Town Administrator
Town Manager

or

_____
Selectman

_____
Selectman

_____
Selectman

FILE COPY

The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
100 Cambridge Street, Boston, 02202

WILLIAM F. WELD
GOVERNOR
ARGEO PAUL CELLUCCI
LIEUTENANT GOVERNOR
SUSAN F. TIERNEY
SECRETARY

CC: BOS - 5/15/92
FURTHER INFO. RE NARA.

May 7, 1992

MAY 14 1992

(617) 727-9800

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME	: North Acton Recreation Area
PROJECT LOCATION	: Acton
EOEA NUMBER	: 9014
PROJECT PROPONENT	: John Murray, Assistant Town Manager
DATE NOTICED IN MONITOR	: April 7, 1992

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, s. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that the above project does not require the preparation of an Environmental Impact Report.

The environmental impacts and regulatory issues of the proposed municipal park and recreation area relate primarily to wetlands, and in particular, to the proposed enlargement of an existing pond to about 7.4 acres. The project site was formerly part of a gravel and sand removal operation; and although other wetlands have been delineated on site, these wetlands appear to be remnants of the earth removal. Wetland resources in these areas appear to be either unregulated wet pockets or isolated land subject to flooding, according to the commonwealth's wetlands regulations.

On the other hand, the pond and associated bordering vegetated wetlands total about 42,000 square feet, with 35,000 s.f. of land under water, and 8,000 s.f. of bordering vegetated wetlands resources. Despite the size of this resource area, it does not appear to be subject to the wetlands regulations, according to DEP, Central Region, Wetlands Division. The proposed activities will require a permit under Section 404 of the Clean Water Act from the U.S. COE, however; and a Water Quality Certificate from DEP, DWPC will be needed also.

The increase in the magnitude of the pond may impact an existing lumber drying operation, according to an abutter to the pond. A preliminary dialogue, established between the abutter and representatives of the Town of Acton during the MEPA on-site,

consultation session needs to be continued, so that the abutter's concerns will be addressed as fully as possible. A commitment was made by representatives of the Town to analyze the potential changes in drainage from the project toward the lumber operations, particularly as it relates to an existing culvert between the existing pond and the lumber facilities. Other drainage concerns identified in the abutter's comments and the concern that an increased pond size could contribute more moisture to the micro-environment, and thereby negatively impact drying operations and the quality of the wood product, should be considered as well. Where possible, the pond design should be modified to reduce the potential for harm.

The resolution of outstanding wetlands issues will be addressed in the federal permitting process.

May 7, 1992
Date

Susan F. Tierney, Secretary

Comments received:

4/22/92	Copy of a letter to U.S. COE, from U.S. EPA
4/24/92	DEP, Central, DWS
4/23/92	REX Lumber Company
4/28/92	Copy of a letter to Bruce Stamski, from DEP, DWPC

ST/NB/nb

REX
Lumber Company

840 Main Street • Acton, Massachusetts

NB

April 23, 1992

RECEIVED
APR 27 1992
MEPA

Ms. Nancy Baker
MA Environmental Protection Agency
100 Cambridge Street
Boston, MA 02202

RE: Project # 9014
Town of Acton - Recreation

Dear Ms Baker,

After reviewing project file #9014 our firm has the following concerns:

1. What storm event (if any) would cause flooding of our property after this project is completed?

2. Is the present drainage system from this project site, which traverses our property, capable of handling the proposed development as shown?

3. Will the springs located on the project site keep estimated pond levels higher than estimated?

4. Will a higher groundwater level occur on our property as a result of this project?

5. This project with increased pond size may adversely affect our lumber drying, and cause degrade of our lumber. We are in the process of determining the answer to this concern.

6. The proposed access to the area is also a heavily used industrial road, and the mix of industrial and pedestrian traffic is of great concern to us regarding safety.

7. The proposed berm adjacent to our property will deflect low level air flow away from our lumber drying area.

BRANCHES

302 Sullivan Avenue
P.O. Drawer N
So. Windsor, CT 06074
(203) 289-5441
FAX (203) 289-7123

Main Office
Acton, MA 01720
(508) 263-0055
FAX (508) 263-9806

Station Street
P.O. Box 1776
Englishtown, NJ 07726
(201) 446-4200
FAX (201) 446-5036

8. Have various storm event data been calculated for the intermittent streams which drain a large wetland on the southwesterly side of Quarry Road and the associated wetland?

9. Will the proposed filling, dredging to bedrock, and relocation of water under this proposal change groundwater flows?

We wish to be placed on mailing lists regarding all notices and correspondence regarding this project.

Very truly yours,

Al Baird
Yard Manager, Acton

AB/lwc

NB

REX Lumber Company

840 Main Street • Acton, Massachusetts

May 4, 1992

Ms Nancy Baker
MA Environmental Protection Agency
100 Cambridge Street
Boston, MA 02202

RECEIVED
MAY 7 1992
MEPA

RE: Project #9014
Town of Acton - Recreation

Dear Ms Baker,

After reviewing notes of the MEPA meeting on site 4/28/92, I would like to reiterate some concerns regarding the proposed project:

1. The topographic data used appears to be 27 years old, as shown on figure 2 of maps dated June 1989 contained in the report prepared by Pine Swallow Associates.
   We are also unsure as to whether data was collected in 1965 from either an on-site survey or from aerial photographs.

2. Surface run-off calculations were not provided with the submission regarding various storm events and the impact on our property, if any.

3. A higher ground water table may be created on our property as a result of this project.

4. We are continuing to investigate the possibility of the project creating adverse drying conditions through increased humidity and re-directed air flow.

These concerns are in addition to or a continuation of concerns contained in my letter of April 23, 1992.

I would also appreciate being notified of all meetings regarding this matter, and receiving documentation of these meetings, if available.

Thanks for your attention to this matter.

Very truly yours,

Al Baird

Al Baird
Yard Manager - Acton

AB/lwc

BRANCHES

302 Sullivan Avenue
P.O. Drawer N
So. Windsor, CT 06074
(203) 289-5441
FAX (203) 289-7139

Main Office
840 Main Street
Acton, MA 01720-5804
(508) 263-0055
FAX (508) 263-9806

Station Street
P.O. Box 1776
Englishtown, NJ 07726
(201) 446-4200
FAX (201) 446-5036

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

William F. Weld
Governor
Daniel S. Greenbaum
Commissioner

RECEIVED
APR 2 1 1992
MEPA

NB

M E M O R A N D O M

To: MEPA Unit

Through: John A. Desmond, Chief DWS - CERO

From: Drew Rak, DWS - CERO

Re: Acton Recreation Area, Acton, MA (ENF, MEPA # 9014)
DWS Proj. # 92-090A

Date: April 24, 1992

The Department of Environmental Protection, Division of Water Supply, has reviewed the Environmental Notification Form (ENF, #9014) for the North Acton Recreation Area to be located in Acton, Massachusetts. The Department submits the following comments relative to the information contained in the ENF.

The proposed facility appears to be outside of the interim Zone II of either of the municipal water supplies near the location where Route 27 crosses over Butter Brook (Source #'s 2002000-09G and -10G). The proposed facility is located south of the two (2) well locations.

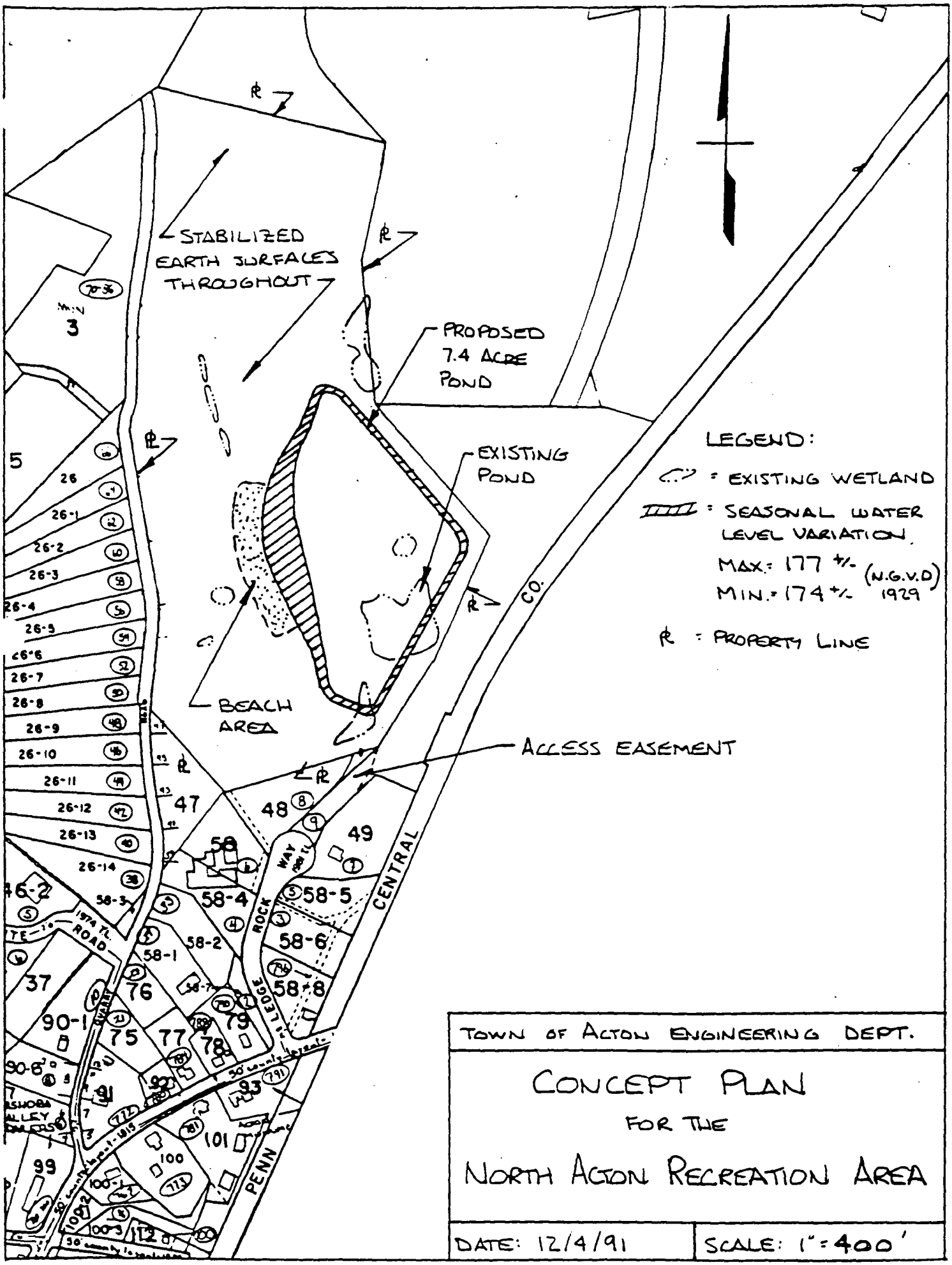
The proponent failed to note that the facility is located approximately 1/2 mile east of Nagog Pond (Source # 3067000-01S), which is used a drinking water supply by the Town of Concord.

The Department suggests that this recreation area be developed in a way that maximizes open space. The proponent should make a commitment to limit the use of pesticides, herbicides and fertilizers on ball fields and other areas.

DR arak\mepa\enf9014.002

cc: Dave Terry, Director DEP - DWS - Boston
Mary Richards, DEP - ADMIN - CERO
Heidi Feusi, DWS - DEP - Boston
Chester Masel, DWS - DEP - NERO

75 Grove Street • Worcester, Massachusetts 01605 • FAX (508) 792-7621 • Telephone (508) 792-7650



TOWN OF ACTON ENGINEERING DEPT.

CONCEPT PLAN FOR THE NORTH ACTON RECREATION AREA

DATE: 12/4/91 | SCALE: 1" = 400'

NB

Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Protection

William F. Weld
Governor
Daniel S. Greenbaum
Commissioner

EOEA # 9014

April 27, 1992

Bruce Stamski
Acton Recreation Commission
472 Main Street
Acton, MA 01720

Re: Request for information
BRP WP 39, T = 25137
wetland fill
Acton

Dear Mr. Stamski:

The Division of Water Pollution Control is reviewing your application for water quality certification for the proposed Town of Acton recreation area. We note that, according to EPA-Region I and U.S. Fish and Wildlife comment letters to the Corps of Engineers about the project, there are significant areas of wetlands (1.8 acres) that would be lost if the swimming pond is built as presently designed. These wetlands (areas # 2, 3, and 4) are described in the agency letters as providing valuable wildlife habitat for deer, coyote, wild turkey, various other mammals, amphibians, song birds, hawks, and waterfowl.

We believe the large project site could accommodate a recreation area and swimming pool or pond without loss of these three wetlands. We request that you provide this Division with information concerning why alternatives less damaging to these wetlands are not feasible and reasonable.

As presently proposed, the loss of wetlands 2, 3, and 4 does not appear to be consistent with MA Water Quality Standards. Wetlands are classified as High Quality Waters in these Standards (314 CMR 4.00) and are subject to anti-degradation provisions protecting their existing uses.

We do not see the loss of other wetlands on site, which have developed following more recent disturbance due to gravel mining operations, as significant.

Please submit to this address (attention Judith Perry, DWPC) the information listed above, along with the attached form within 120 days (by August 25).

One Winter Street • Boston, Massachusetts 02108 • FAX (617) 556-1049 • Telephone (617) 292-5500

In accordance with DEP's fees and schedule regulations (310 CMR 4.00), if you submit the material by the specified date, the Department will consider it when determining the technical adequacy of your application. If the Department does not receive the requested information by the date specified, the Department is not required to consider it when making its determination on the technical adequacy of your application.

Yours truly,

Judith Perry
W.Q. Certification
Program Manager

JP/vg
dsk 26: acton-pond

NB

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

April 15, 1992

RECEIVED
APR 22 1992
MEPA

William F. Lawless, P.E., Chief
Regulatory Division
Operations Directorate
U.S. Army Corps of Engineers
New England Division
424 Trapelo Road
Waltham, MA 02254-9149

Re: CENED-OD-R-1991-01928 (Public Notice issued 03/05/92). EOEA # 9014

Dear Mr. Lawless:

This letter concerns the application by the Town of Acton under Section 404 of the Clean Water Act for a permit to place fill in 1.8 acres of wetlands in conjunction with proposed excavation and grading activities for property located off Quarry Road in Acton, Massachusetts. The purpose of the excavation and grading activities is to convert an old sand and gravel quarry into a recreation site for area residents.

Most of the recreational amenities (e.g., playing fields, tot play ground, etc.) would be located on the disturbed portion of the property, which comprises a majority of the site. EPA has no objection to this portion of the project. However, the eastern portion of the property, which contains a well established upland/wetland complex, would be destroyed for the creation of a proposed 7.4 - 10 acres swimming pond. EPA objects to this portion of the project. There appear to be other alternatives available to the Town of Acton to satisfy its need for a swimming area on the site which would not destroy valuable wetland resources. Consequently, EPA objects to the issuance of a 404 permit for this project, as currently proposed, because it does not comply with the 404(b)(1) guidelines.

On March 20, 1992, Virginia Laszewski of my staff visited the site with representatives from the Town of Acton: Mr. Tom Tedman, Acton Conservation Commission and Mr. David Abbt, Engineering Administrator. EPA's understanding of the project comes from conversations during this site visit and from information supplied by the Town representatives. This information includes a copy of the **Environmental Investigation - Proposed North Acton Recreation Area and Pond**, by Pine & Swallow Associates, Inc., dated June 8, 1989; and copies of Grading Plans (dated July 18, 1991) and Build Out Plans (dated July 1990) for the North Acton Recreation Area. EPA understands that the proposed project would contain recreational playing fields (e.g., soccer, basketball, tennis, baseball, volleyball, etc.), an amphitheater, bath house, tot playground, on-site sewage system, parking areas, roadways, swales,

PRINTED ON RECYCLED PAPER

not clear that these steps have been taken by the applicant. For example, it is unclear why the pond design does not incorporate the vegetated upland/wetland areas 2 and 3 in their existing condition.

In addition, EPA questions the purpose for the ditch/swale that is proposed for construction between wetland area #4 and the proposed pond. It would appear this ditch would cause wetland area #4 to be drained. EPA also questions whether the wetlands have been fully delineated using the federal method. After visiting the site, it would appear there may be more wetland acreage on the site than presently identified, especially on the eastern portion of the property. In addition, there are potential vernal pools on the property between wetland #2 and #4 which should be investigated. If vernal pools do exist here, this irreplaceable habitat would be destroyed for the creation of a 10 acre open-water swimming pond. It is impossible to mitigate for loss of vernal pool habitat. Consequently, EPA has not been given a mitigation plan that adequately replaces on at least a 1:1 basis all the values that would be lost with the destruction of the wetlands on the eastern portion of the property, as required by the guidelines.

In summary, EPA objects to the issuance of a 404 permit for the currently proposed project because it does not comply with Sections 230.10(a) and (d) of the 404(b)(1) guidelines. Nevertheless, EPA suggests that with some redesign of the project (e.g., replace proposed swimming pond with a swimming pool) to avoid the higher value wetlands on the site the project could be permittable. If you have any questions concerning these comments call Virginia Laszewski of my staff at (617) 565-2987.

Sincerely,

for David A. Fierra, Director
Water Management Division

cc: Ronald G. Manfredonia, Chief, WQB
Phil Morrison, USF&WS, Concord, NH
MA DEP, Wetlands and Waterways, Worcester, MA
Judy Perry, MA DWPC, Boston, MA
Board of Selectmen, Action, MA
Tom Tedman, Acton Conservation Commission, Acton, MA

Nancy Baker, MEPA, Boston, MA

Massachusetts Department of Revenue

Division of Local Services

CC: BOS

BULLETIN

MAY 12 1992

Commissioner Mitchell Adams
Deputy Commissioner Leslie A. Kirwan

May, 1992

TO: Treasurers; School Superintendents; School Committees; Mayors; Town Managers and Administrators; Boards of Selectmen; City and Town Councils; Finance Committees

FROM: Leslie A. Kirwan, Deputy Commissioner

Leslie A. Kirwan

SUBJECT: School Choice

This bulletin has two purposes: to explain (1) how School Choice receipts and assessments are being made through the FY92 local aid distribution and (2) how Chapter 493 of the Acts of 1991 will be implemented.

I. Introduction

The School Choice program was established in 1991 by Sections 23 and 85 of Chapter 6 of the Acts of 1991, Section 304 of Chapter 138 of the Acts of 1991 (the FY92 budget), and Section 14 of Chapter 145 of the Acts of 1991 (the FY91 supplemental budget). The School Choice program is being implemented in the current school year (1991-1992).

Definition of Receiving and Sending Districts

The School Choice program results in the establishment of "sending" and "receiving" school districts. "Receiving" districts are municipal and regional school districts that choose to participate in the School Choice program by accepting non-resident students. "Sending" districts are those municipalities in which a participating student resides.

The School Choice program provides that every Massachusetts student has the opportunity to attend a public school in another school district if that district has voted to participate in the program. The most significant feature of the School Choice program is that the cost of educating a student from another district is financed by the Chapter 70 funds allocated to the municipality in which the student resides. The transfer of funds from a sending district to a receiving district occurs as part of the quarterly distribution of local aid.

The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

Division regularly publishes IGRs (Informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and ul information) for local officials and others interested in municipal finance.

200 Portland Street, Boston, Massachusetts 02114-1715 (617) 727-2300

It is important to note that in the case of a student who transfers from a regional school district to another district, the cost of his/her education is financed by the Chapter 70 funds allocated to the municipality in which the student resides and not the Chapter 70 funds allocated to the regional school district from which he/she transfers.

Enrollment Dates

The School Choice Program requires each receiving school district to certify to the Department of Education on October 1, 1991 and April 1, 1992, the number of children attending its public schools under the program; the community of residence of each child; the annual amount of tuition for each child; and the total tuition owed to the receiving district based on full or partial attendance. These enrollment figures will be used to determine final School Choice costs: the amounts deducted from sending districts' Chapter 70 funds (assessments) and the amounts paid to receiving districts (receipts).

Chapter 493 of the Acts of 1991

In recognition of the financial impact that School Choice assessments would have on sending districts, Section 2 of Chapter 493 was enacted in December, 1991. Chapter 493 provided $2.7 million to offset either 50 or 75 percent of the losses in Chapter 70 funds incurred by sending districts. Also, in the case of those sending districts that were allocated no FY92 Chapter 70 funds or insufficient Chapter 70 funds to cover their full School Choice liability, Chapter 493 provided funds to cover the amounts due from these sending districts to receiving districts, subject to availability of funds.

These funds were awarded based on applications submitted by participating districts to the Secretary of Education.

II. School Choice Implementation, 1991-1992 School Year

Prior to the enactment of Chapter 493, receiving districts were paid 50% of the estimated amount due for School Choice as part of the December 31, 1991 quarterly local aid distribution. These payments were based on October 1, 1991 enrollment figures. No assessments against sending communities were made at this time.

If the sending district's Chapter 70 allocation was insufficient, a receiving district's payments were calculated on the following basis:

- If a sending district was allocated no FY92 Chapter 70 funds, the receiving district received no payment for its School Choice students.

- If a sending district was allocated an amount of FY92 Chapter 70 funds insufficient to meet its School Choice liability, the receiving district was paid an adjusted amount based on whatever Chapter 70 funds were available from the sending district.

- If a sending district was allocated insufficient FY92 Chapter 70 funds and students from the sending district were attending more than one district, the receiving districts were paid an adjusted, pro-rated amount.

The March 31, 1992 quarterly local aid distribution did not include any assessments against sending districts or payments to receiving districts.

The June 30, 1992 quarterly local aid distribution will include final assessments and payments that reflect adjustments due to enrollments as of April 1, 1992 and funds allocated under Chapter 493.

It is important to note that a reduction of a sending district's liability resulting from Chapter 493 will not result in a payment to the sending district, but only in a reduction of the amount deducted from the sending district's fourth quarter Chapter 70 payment.

School Choice receipts and assessments will appear on the notification regularly provided by the State Treasurer to communities and regional school districts as part of the quarterly local aid distribution. The Division of Local Services should have final School Choice figures in late May. If you would like to know these amounts for your community, please call Julie Slavet, (617) 727-2300.

III. Impact of School Choice on Municipal Finances

Receiving districts received the first payment of School Choice funds as part of the December 31, 1991 quarterly local aid distribution and will receive the balance of School Choice funds due to them as part of the June 30, 1992 quarterly local aid distribution.

Chapter 76, Section 12B states that these funds are to be deposited by the treasurer in a separate account and may be expended by the school committee without further appropriation. The statute further provides that whenever such funds are received after submission of the annual school budget, they shall be reported as the prior year's revenues at the time of the submission of the next year's school budget.

Sending communities will be assessed the amount due for School Choice as part of the June 30, 1992 quarterly local aid distribution. Local officials in these communities should be aware that the loss in Chapter 70 funds due to School Choice could result in a revenue deficit that would have to be raised in FY93.

TOWN OF ACTON POLICE DEPARTMENT

INTER-DEPARTMENTAL COMMUNICATION

TO: Chief Robinson **DATE:** May 11, 1992

FROM: Lt. McNiff **TIME:** 7:56 AM

SUBJ: Stonymead Horse Show

Town Manager Information

Attached is Officer Stew Fenniman's report of the Stonymead Horse Show held on May 9, 1992. There were no problems and the area remained quiet through the day.

CC: BOS - FYI

From: ACTPD::SRF "PTL. STEWART R. FENNIMAN" 10-MAY-1992 03:24:18.32
To: JTM
CC: SRF
Subj: STONYMEADE HROSE SHOW

LIEUTENANT,

THERE WERE NO PROBLEMS AT THE HORSE SHOW HELD ON 05-09-92 AT THE S YMEADE FARM ON STRAWBERRY HILL ROAD. THROUGHOUT THE DAY THERE WERE APPROXIMATELY 10 HORSE TRAILERS ON THE PROPERTY WITH PLENTY OF AMPLE PARKING IN THE FIELD. NO VEHICLES WERE PARKED ON STRAWBERRY HILL ROAD. THERE WERE TWO PEOPLE ASSIGNED PARKING DUTIES WHO ASSISTED IN DIRECTING THE HORSE TRAILERS IN THE LOT. I STOOD BY ON STRAWBERRY HILL ROAD TO STOP ANY TRAFFIC WHILE THE TRAILERS WERE ENTERING OR EXITING. THE ENTIRE DAY WAS QUIET AND ORDERLY.

RESPECTFULLY SUBMITTED,

PTL. STEWART FENNIMAN

Town Manager
Information

From: ACTPD::JVM "Sgt. James V. McPadden" 12-APR-1992 23:42:48.26
To: JTM
CC: JVM
Subj: HORSE SHOW

LT MCNIFF,

YOUR INSTRUCTIONS, I AM SUPPLYING THIS INFO REL. TO THE POLICE DETAIL AT THE HORSE SHOW 135 STRAWBERRY HILL RD. ON SATURDAY APRIL 11. THE DETAIL RAN FROM 7:30 AM UNTIL 3:30 PM. THE EVENT ITSELF IS ACTUALLY A COMPETITION RATHER THAN AN EXPOSITION. THERE WERE APPROXIMATELY 60 ENTRANTS INTO THE COMPETITION WITH 5 CANCELLATIONS DUE TO THE INCLEMENT WEATHER. THERE ARE TWO EVENTS TO THE CONTEST, AND THE RIDERS ARE DIVIDED INTO GROUPS. EACH RIDER IS GIVEN A SCHEDULED TIME TO COMPETE IN THEIR RESPECTIVE DIVISION, SO ARRIVAL AND DEPARTURE TIMES ARE STAGGERED THROUGHOUT THE DAY. NEITHER LOT WAS EVER FULL, AND THERE WAS NO PARKING ON THE SIDE STREETS. THE EVENT WAS STAFFED WITH MANY VOLUNTEERS TO ASSIST WITH THE PARKING, AND THE AREA WAS ADEQUATELY POSTED WITH SIGNS INDICATING THE EVENTS LOCATION, AND THE LOCATION OF PARKING. THE ONLY PROBLEM I RAN INTO, HAD TO DO WITH THE CONDITION OF THE DRIVEWAY INTO THE PARKING LOT NEAREST THE BUILDINGS ON THE PROPERTY. THE ENTRANCE TO THE LOT IS NARROW AND DUE TO THE RAIN, SLEET AND SNOW, BECAME MUDDY AND DIFFICULT FOR VEHICLES AND TRAILERS TO NAVIGATE. TRAFFIC HAD TO BE HELD UP ON STRAWBERRY HILL RD FOR SHORT PERIODS OF TIME, TO ALLOW VEHICLES TO GET A RUNNING START THROUGH THE MUD, AND FOR VEHICLES TOWING HORSE TRAILERS TO JOCKEY THEIR RIGS OUT OF LOT ONTO THE STREET IN A CONFINED AREA. RESIDENTIAL TRAFFIC ON STRAWBERRY HILL RD IN THE AREA THAT DAY WAS LIGHT. THE PRESENCE OF A POLICE OFFICER WAS HELPFUL IN ASSISTING THE ENTERING AND EXITING VEHICLES, AND PERHAPS COULD BE CONTINUED AT LEAST ONCE MORE, TO MONITOR THE SITUATION AFTER ALTERATIONS TO THE DRIVEWAY AND ENTRANCE, AND DURING BETTER WEATHER CONDITIONS, WHICH MAY ATTRACT MORE SPECTATORS.

SGT. J. MCPADDEN

Town Manager
Information

CC: BOS

Selectmen

MAY 13 1992

RECEIVED & FILED
DATE May 12 1992
TOWN CLERK, ACTON

MASSACHUSETTS

BOARD OF APPEALS

Decision of the Acton Zoning Board of Appeals on the Appeal of Acton Medical Investors

Decision #92-5

A public hearing of the Board of Appeals was held in the Town Hall on Monday, March 30, 1992 at 8:15 p.m. in Room 126, Acton, MA on the petition from Acton Medical Investors, c/o Charles Kadison, Jr., Esquire, Acton, MA for a Variance from the Zoning Bylaw, Section 5.3.8, to allow construction of a building, driveway and parking area at Suburban Manor Nursing Home, 1 Great Road, closer to the lot line than allowed; and for a Special Permit from the Zoning Bylaw, Section 8.3.3, to allow for expansion of a non-conforming building at the same location. The vote on the meeting was held on April 16, 1992 at the same place at 8:30 p.m. The same Board Members who were present at the Hearing were present at the Vote.

The Board Members present were Malcolm Burdine, Acting Chairman, Stephen Crockett, Alternate Member and Acting Clerk, and Beatrice Perkins an Alternate Member. Janet Clark, an Alternate Member of the Zoning Board, was present but did not participate in the vote. Valerie Sipprelle, Board Secretary, was present and recorded the proceedings of both sessions. Also present at the March 30, 1992 session were: Gary Rhodes, Building Commissioner; Charles Kadison, Jr., Esquire, representing Acton Medical Investors; Carl Anderson, Director, Suburban Manor Nursing Home; Bruce Waite and Kevin Kline, Treatment Plant Engineers; Jack Dunphy, Acton Survey & Engineering; Susan Huntworth, Doris Gesch, Alice Moroney, Thomas Moroney, Rosemary Lang, Leonard Renhers, Ann Kulsick, Sharon Haley, Mrs. Driscoll, Jim Nugent, George Monter, Shirley Monter, Cynthia Skinner, L. Skinner, Mona Burnhorst, William Nawochik, Jr., Michael Grace, Lora Taylor, Paul Jones, Jack Norton, William Lawrence, some of the abutters who were present and signed in.

Mr. Burdine explained the proceedings to the audience and the petitioner. He then read the Notice of Public Hearing, both petitions and the remaining contents of the file. Mr. Burdine also read the Inter-Departmental Communication from the Town Planner, Roland Bartl. The petitioner then presented his case and responded to the concerns of the public that were present. Mr. Burdine explained to the public that several of their concerns were not properly brought before the Zoning Board of Appeals but were rather concerns that had to be addressed by the Town of Acton Board of Health or by the Board of Selectmen at the Site Plan Review.

The Board of Appeals, after considering material submitted with the petition, together with the information developed at the Public Hearing, finds as follows:

(1) In 1988, the Nursing Home owners requested approval from the Acton Board of Health to add 41 beds to the existing 122 bed facility. In 1990 this request was granted.

(2) The proposed addition will be one level attached to the original building so that all residents will have access to all parts of the new building. The attachment will consist of single and double bed units with its own nursing stations and all support facilities required by applicable regulations of either the Commonwealth of Massachusetts or the Federal Government. There will also be a new living room in this unit. There are also plans to extend the front of the building and move the small dining room from the lower level to the main floor. The new dining room will have an increased seating capacity thereby accommodating the majority of the residents. The dining room will be on the same level as the bedrooms. Access will be more convenient for the residents because of this relocation (the access change will encourage people in wheelchairs or walkers to dine and socialize with the other residents of the facility).

The petitioner stressed that as many trees as is possible will be saved in doing the building of the new addition and the renovation and moving of the dining room. Both the petitioner and the residents of the nursing home are anxious and desirous to keep the lovely country setting for which Suburban Manor is noted.

Petitioner explained another reason for adding the 41 bed addition will be to take care of temporary residents, people who are recovering from hospital stays, or residents who live at home but need a temporary to stay while their family is away for whatever reason - such as a vacation.

The petitioner described the proposed sewage treatment plant. The existing system now consists of a grease trap, septic tank and eight leeching beds which act as a single home system does. The proposed plant will act the same way; however with a septic tank before it a subsurface leeching system after it. The difference is in the plant itself where there will be a number of controllable processes. The plant will have aerated rotating biological conductor treatment systems which will utilize the organic waste and convert it into carbon dioxide. The plant will then take the nitrogen waste and turn it into nitrates. The nitrates are then converted by the system into nitrogen gas. The proposed treatment facility will be for the entire facility. The present leeching system will be retained as a back-up system.

The physical shape of the lot can best be described as a "tomahawk or hatchet shape" lot, together with its slope and soil topography render this lot in many manners inaccessible for further development other than that the petitioners have proposed. The site is a very odd shape and there is limited ability for further building.

The Zoning Bylaw was recently rewritten, and creates a whole new set of nursing home setbacks where nursing homes are located within residential areas. This Bylaw overlooked the problem of expansion as did the Acton Town Meeting.

Based upon the above findings, the Board of Appeals concludes that with respect to the requested Variance:

(1) That owing to the circumstances relating to the soil conditions, shape, and topography of the lot and structures in question and especially and particularly affecting such lot or structures but not affecting generally the zoning district in which Suburban Manor is located a literal enforcement of the provisions of this Bylaw would involve substantial hardship to the residents of the building.

(2) That desirable relief may be granted without substantial detriment from or to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

(3) The Board of Appeals finds that the granting of this Variance is consistence with the Master Plan of Acton.

Based upon the findings, the Board of Appeals concludes that with respect to the Special Permit that:

(1) The proposed use is consistent with the Master Plan of Acton.

(2) Proposed use is in harmony with the purpose and intent of this Bylaw.

(3) The proposed use will not be detrimental or injurious to the neighborhood in which it is to take place.

(4) The proposed use is appropriate to the site in question.

(5) The proposed use complies with all applicable requirements of the Zoning Bylaw for the Town of Acton.

The Board of Appeals, after considering the findings and conclusions outlined above, voted unanimously to GRANT both the Special Permit and Variance for the proposed work, subject to the following constraints and conditions:

(1) Petitioner to submit to the Building Commissioner, their existing parking requirements (real need) for the existing 122 beds (separate numbers for patient and staff) and a projection for their future parking requirement (again separate for patients and staff). If the Bylaw requirement for parking far exceeds the real need, then staff should consider reductions so as to minimize the pavement within the 60′ setback.

(2) All new and existing parking requirements to be addressed more sensitively to the residential abutters even if this means pulling in the existing paving. All paving for parking (and access paving between parking lots and the buildings) should be pulled in away for the abutters to minimize the encroachments within the 60′ setback.

(3) The entire perimeter, including new additions, new free standing building, existing building, new parking areas, new paved areas in general, existing parking areas and existing paved areas in general need to be buffered from the abutters. The Building Commissioner should have a free and unencumbered hand in deciding what and how much buffering is appropriate. Particular attention needs to be given to the area of the existing building and the new addition and free standing building.

(4) The 200′ dimension of the new nursing wing addition needs to be shown to the Building Commissioner that: 1) 41 bed nursing unit is the only activity planned for this addition. Auxiliary facilities are to be placed elsewhere, and 2) 200′ is required by dimensional standards and space planning requirements for a 41 bed nursing wing. The objective is to minimize the 200′ if possible.

(5) The exterior architectural design of the free standing treatment facility is to be of residential character, fascia and massing consistent with a historic, colonial home. An institutional, flat-roofed structure is not appropriate. Input from the Building Commissioner and historic district committee members is suggested.

(6) The architectural design of the new additions and the existing building require a more detailed study to soften the institutional appearance of such. The materials and massing need to accommodate a more residential character even if that means just tying in the structures with wood fascia trim at the roof lines, windows, doors and the like.

(7) These conditions and approvals do not and are not to be interpreted in such a way as to prejudice any other issues that have to be dealt with by other staff, agencies or municipal Boards of the Town of Acton.

(8) The petitioner is to submit a proposed development plan after it has obtained all the necessary approvals of all the municipal agencies and the developer is then to submit an "as built" plan, both submissions to be to the Building Commissioner. Any deviation in the "as built" plans from the proposed plans can and may result in a denial of the occupancy certificate for the proposed addition.

(9) This decision speaks only to the Special Permit and Variance requested. Approval from other Town agencies, state agencies other federal, state, or municipal agencies having their own requirements should not be assumed or implied.

Any person aggrieved by this decision may appeal pursuant to the provisions of Massachusetts General Laws, Ch. 40A, Section 17, within 20 days after this decision is filed with the Acton Town Clerk.

Town of Acton Board of Appeals

Malcolm Burdine

Malcolm Burdine, Acting Chairman, Member

Stephen Crockett, Acting Clerk, Alternate Member

Beatrice C. Perkins

Beatrice Perkins, Alternate Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on May 12, 1992.

Valerie Sipprelle

Valerie Sipprelle, Secretary
Board of Appeals

VOLUNTEER COORDINATING COMMITTEE MEETING 4/27/92

Present: Kadlec, Husbands, Comstock, Lane, Whitcomb, George

Called to order 7:30 PM at Town Hall. Minutes of 4/13/92 read and accepted. Two letters received. Tom Farley has decided not to serve on the Fair Housing Committee. Hanscom Field Advisory Committee Chairperson requests that we use their annual term dates. No problem. They coincide with ours.

INTERVIEWS:

ALFRED RUDOLPH for 2nd Airport/ Ft. Devens Reuse Task Force. 1 Wingate Lane, Acton approx. 2 yrs., MA 2 yrs. Is a medical doctor and is VP of T-Cell Sciences. Is concerned as a citizen as to the impact upon Acton of a 2nd airport. Feels the town should become aware and involved with the issues of both the airport and what happens at Devens.

DAVE LUNGER for 2nd Airport/ Ft. Devens Reuse Task Force. 5 Wampanoag Dr. Acton 8 yrs., MA 20 yrs. Is a Digital software engineer and is a pilot and aircraft owner. Active at Minuteman Airfield. Has some knowledge of Logan and Pease. Is concerned and would like to be on the new task force.

MARK DONOHOE for Metro. Area Planning Council and 2nd Airport/ Ft. Devens Reuse Task Force.
8 Knowlton Dr. Acton 12 yrs., MA 49 yrs. Longstanding interest in the effect projects have on traffic beyond their environs. Airport and Devens could have a devastating effect upon Acton. Registered Civil Engineer who has worked on projects in the general area since 1979. Not interested in blocking. Feels can't stop progress. Planning should be done carefully.

CAROL PLACE for 2nd Airport/ Ft. Devens Reuse Task Force. 4 Samuel Parlin Dr. Acton 12 yrs., MA 12 yrs. Former City Planner and served on Acton Conservation Committee 82-90. Was involved with reviewing building proposals and analyzing impact of construction upon wet lands. Really enjoyed the Conservation Comm. Feels the new task force would be a good fit.

* Appointments :
  Thomas C. Peterman, Alt. Historic District Comm. to 6/30/94
  John A. Pavan, full mem. Planning Board to 6/30/97
* Voted to recommend:
  William McInnis, full mem. B O Health to 6/30/95
  Roland Vaillancourt, Assoc. B O Health to 6/30/93
* George gave us two board authorizations : B O Health and Acton/Boxborough Arts Council.
* REMINDER : make those phone calls as to reappointments.

Next meeting Monday May 4th at Town Hall 7:30 PM.
Meeting adjourned at 10 PM.

Respectfully submitted.
Nancy A. Whitcomb, VCC Sec't.

Copy: B O Selectmen + Town Clerk

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

****

DATE: May 8, 1992

TO: Stewart Kennedy, Cemetery Superintendent

FROM: Don P. Johnson, Town Manager

SUBJECT: Site Clearing

This will confirm my direction to you regarding the proposed clear-cutting project between the office building and the soccer field at Woodlawn Cemetery.

Near the end of a 2-hour meeting in my office on Wednesday, May 6, I was absolutely dismayed to have you tell me (on questioning) that you had no idea of the estimated cost of the subject project, how you would pay for it, how you would get the work done, who would do it or when it would be done. At that point I realized that you simply planned to clear-cut the stand of trees and then "see what we can get done" afterward. With no more plan than that, it was clear to me that we might be faced with months or years of scarred landscape, for no good reason.

I have now directed you to prepare a complete written plan and schedule for carrying this project through to completion. Your plan is to include cost estimates, financing provisions, manpower and equipment resources, schedules, etc. ... and it is to be presented to me <u>before</u> any work is done on the site. <u>You have been directed not to cut a single tree until this plan is received and you have my approval!</u>

Don

cc: Board of Selectmen
Cemetery Commissioners
Director of Municipal Properties
Assistant Town Manager

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE: May 14, 1992

TO: Don Johnson/John Murray

FROM: Connie Huber CH,

SUBJECT: Election Information

A couple of items that might be of interest and/or value for planning purposes:

1. Any proposition 2 1/2 question to be placed on biennial state election ballot must be filed with the state secretary not later than Wednesday, August 5, 1992. (The state primary election is September 15, 1992.)

2. Constables may be used at elections instead of police officers.

CC: BOS - FYI

TOWN OF ACTON

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

Tremarche Realty Trust
c/o Frank
635 Main St.
Watertown, MA 02172

May 12, 1992

Dear Sir,

I am contacting you concerning the property that you own on Arborwood Rd. in Acton. Upon your vacant lot (Town Atlas # H-3-6) is located construction debris. We feel that this debris may pose a safety risk for children in the neighborhood.. Therefore, we ask your cooperation in removing this debris as soon as possible. The Town may be willing, if the culvert sections are in good condition, to remove the culvert piping in exchange for the culverts. If you wish to explore this opportunity, please contact my office at your convenience. Thank you for your cooperation in this matter.

Very Truly Yours,

Don P. Johnson

Don P. Johnson
Town Manager

cc: Board of Selectmen

CC: BOS

MAGIC

Minuteman Advisory Group on Interlocal Coordination

Acton
Boxborough
Carlisle
Concord
Hudson
Littleton
Marlborough
Maynard
Stow
Sudbury

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

MINUTEMAN ADVISORY GROUP ON INTERLOCAL COORDINATION
A Subregion of Metropolitan Area Planning Council

MAY 14 1992

MEETING NOTICE

May 21, 1992
7:30 p.m.

[NOTE: This is the **third Thursday** in May.]

Small COA Hearing Room
Shattuck Street Building
Shattuck Street
Littleton

Updates and Briefings

- Rt. 2 CAC
- Land Bank
- Other

FY 93 Work Program

- Survey Results
- MIG and Other Grants
  (Discuss also in relation to Ft. Devens)

Ft. Devens: Planning for Forum

- Co-sponsorship with Montachusett RPC
- Set up subcommittee to draft agenda, possible speakers, and arrangements for forum
- Set subcommittee meeting date

Concentrated Development Centers

- Participants should bring local zoning maps for continued discussion of CDC's.

CC: BOS - FYI

DEPARTMENT OF PUBLIC WORKS

BROOK STREET
AYER, MASSACHUSETTS 01432
Tel. (508) 772-3455

MAY 14 1992

May 1, 1992

Richard Howe, Superintendent
Acton Highway Department
14 Forest Street
Acton, MA 01720

Dear Dick:

I'd like to thank you for taking time out of your busy schedule to meet with the Town of Ayer's representatives and allowing us the opportunity to tour and review your Solid Waste Disposal and Recycling erations. The information that you provided was very valuable in veloping new operational procedures for the Town of Ayer's Solid Waste Disposal and Recycling Programs.

If I can be of any assistance to you in the future, please allow me the opportunity to reciprocate the courtesy.

Again, thank you for allowing us the opportunity to meet with you and sharing your expertise in this matter with us.

Sincerely,

William G. Redfield, P.E.
Superintendent

WGR/fl

FILE COPY

5/12/92

MAY 8, 1992

TO: Board of Selectmen

FROM: NANCY TAVERNIER, Chairman

SUBJECT: SELECTMEN'S REPORT

##

AGENDA

ROOM 204

7:30 P.M.

May 12, 1992

I. CITIZEN'S CONCERNS

II. PUBLIC HEARINGS & APPOINTMENTS

1. 7:30 ABOVE GROUND STORAGE APPLICATION - Lot 26 Knox Trail - Enclosed please find staff comments for Board Action.

2. 7:45 DEAN CHARTER - Arbor Day Presentation

3. 8:00 PETER VAILANCOURT - Interview for Associate Membership on the Board of Health term to expire 6/30/93.

III. CONSENT AGENDA

4. SELECTMEN'S MINUTES - Enclosed find Minutes of April 14, 1992 Regular and Executive Session for Board approval.

5. LION CLUB FAIR - Enclosed please find the annual application for the Lions Club Fair for Board approval.

6. WILLIAM MCINNIS - Board of Health Full-Member - Enclosed please find the recommendation of the VCC to move Mr. McInnis from Associate to Full Member as well as the endorsement by the Board of Health for Board approval.

7. Acton Collision Center - Enclosed find a request for waiver of Hazardous Materials Control Bylaws Fees along with staff recommendations that the request be denied by he Board of Selectmen.

IV. SELECTMEN'S CONCERNS

8. Board Assignments- Board members are to propose dates for presentations of task assignments.

V. TOWN MANAGER'S REPORT

9. North Acton Recreation Area - The Town Manager will brief the Board on the enclosed documents and planned follow-up.

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.

May 26, 1992
New England Telephone Pole
Oversight Recreation
Trash fee Discussion
June 9, 1992
Conservation Oversight
June 23
Board of Health Oversight
July 19
COA Oversight

740 acs

5/12/92 (1)

TOWN OF ACTON
NOTICE OF HEARING

The Board of Selectmen, under Chapter 148 of the General laws, will hold a public hearing in Room 204, The Selectmen's Hearing Room, Town Hall, on Tuesday, May 12, 1992 at 7:30 P.M. on the application of Thomas Dexter, Trustee, 24 Pope Road, Acton, to keep and store 6,000 gallons of #2 Fuel aboveground on premises at Lot 26, Knox Trail Road, Acton, MA.

NANCY E. TAVERNIER
F. DORE' HUNTER
ANNE B. FANTON
NORMAN D. LAKE
WILLIAM C. MULLIN
BOARD OF SELECTMEN

739

MAY - 5 1992

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION

DATE: May 4, 1992

TO: Don P. Johnson, Town Manager
FROM: Garry A. Rhodes, Building Commissioner
SUBJECT: Above-Ground Storage Permit, Lot 26 Knox Trail Road

The property in question is zoned "General Industrial" and is located in zone 2 of the groundwater protection district. The proposed structure meets the required zoning setbacks. The petitioner should make clear his intended use of the 6000 gallon tank. The groundwater protection bylaw table 4.3.7.2 allows the tank only to be used for heating oil and if it is used for other purposes, may require a special permit from the planning board.

INTER-DEPARTMENTAL COMMUNICATION

TO: Don Johnson, Town Manager

Date: May 7, 1992

FROM: Doug Halley, Town Manager

SUBJECT: Above Ground Storage Permit
Lot 26 Knox Trail

The Health Department has reviewed the plans and materials submitted by Thomas Dexter, Trustee, for aboveground storage at Lot 26 Knox Trail. In accordance with the Hazardous Materials Control Bylaw the applicant must apply for a permit with the Board of Health. In addition, the applicant must also apply for a special permit, for work within the aquifer, from the Health Department.

APRIL 28, 1992

TO: Board of Health, Building Commissioner, Conservation

FROM: Don P. Johnson

SUBJECT: ABOVEGROUND STORAGE PERMIT - Lot 26, Knox Trail Road

Enclosed please find plans submitted by Thomas Dexter, Trustee, for aboveground storage. This is for 6,000 gallons of #2 Fuel.

Please have your comments back to me by May 7, as the hearing is scheduled for May 12, at 7:30

Don P. Johnson

Don P. Johnson, Town Manager

cc: Acting Fire Chief
encs.
739

Conservation has no concerns regarding the location of the above ground storage area.

Tom Tidman 5/8/92.

Form FP-2. 10M-3/73-109590

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC SAFETY—DIVISION OF FIRE PREVENTION

1010 COMMONWEALTH AVENUE, BOSTON

Acton, Mass. (City or Town) April 6, 19 92 (Date)

APPLICATION FOR LICENSE

For the lawful use of the herein described building ... or other structure...., application is hereby made in accordance with the provisions of Chapter 148 of the General Laws, for a license to use the land on which such building.... or other structure.... is/are or is/are to be situated, and only to such extent as shown on plot plan which is filed with and made a part of this application.

Location of land Lot 26, Knox Trail Road (Street & Number) Nearest cross street Rte. 62

Owner of land Knox Trail Realty Address 2352 Main Street, Concord, Mass.

Number of buildings or other structures to which this application applies Fuel Tank Containment Vault

Occupancy or use of such buildings Contractors yard

Total capacity of tanks in gallons:—Aboveground Vaulted, 6,000 gls. Underground

Kind of fluid to be stored in tanks #2 Fuel

Approved Disapproved April 10 1992 (Signature of Applicant) Trustee

(Head of Fire Dept.) Acting Fire Chief

24 Pope Road, Acton, Mass. 01720 (Address)

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC SAFETY—DIVISION OF FIRE PREVENTION

1010 COMMONWEALTH AVENUE, BOSTON

(City or Town) (Date) 19

LICENSE

In accordance with the provisions of Chapter 148 of the General Laws, a license is hereby granted to use the land herein described for the lawful use of the building ... or other structure.... which is/are or is/are to be situated thereon, and as described on the plot plan filed with the application for this license.

Location of land (Street & Number) Nearest cross street

Owner of land Address

Number of buildings or other structures to which this license applies

Occupancy or use of such buildings

Total capacity of tanks in gallons:—Aboveground Underground

Kind of fluid to be stored in tanks

Restrictions—If any:

(Signature of licensing authority)

THIS LICENSE OR A PHOTOSTATIC OR CERTIFIED COPY THEREOF MUST BE CONSPICUOUSLY

5/12/92

3

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE : 30 April 1992

TO : Board of Selectmen

FROM : Volunteer Coorinating Committee

SUBJECT : Recommendations for appointment

At its 4-27-92 meeting, the VCC voted to recommend William H. McInnis for full membership on the Board of Health. He will be replacing George Emmons. The BOH has recommended this advancement from Associate to Full Membership based on Bill's participation. Bill's term would expire 6/30/95.

At the same meeting, the VCC voted to recommend Roland P. Vaillancourt for Associate Membership on the Board of Health for a one-year term expiring on 6/30/93. He has some twenty years of experience in the health care field and, in the past, has been involved in food handling through a family catering service.

2/21/92

2/9/92

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: 2-11-92

Mr / Mrs / Ms / Dr VAILLANCOURT (Last Name) ROLAND (First Name) PETER (Middle Initial)

17 WOODBURY LA (Street Address) 263-8231 (Home Phone) 369-1400 x 424 (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) BOARD OF HEALTH

2)

3)

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):

FRIENDS OF MUSIC (A-B HS BAND)

Do you have any time restrictions ? PM ONLY

How long have you lived in Acton? 20 YRS in Massachusetts? 50 YRS

Are you a US citizen ? YES

Present occupation and employer (optional - attach resume)

NURSE ANESTHETIST - CONCORD ANESTHESIA ASSOC

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 REGISTERED NURSE, CERTIFIED REGISTERED NURSE ANESTHETIST

2-06-90, CK

over>

5/12/92 - 4

SELECTMEN'S MEETING
APRIL 14, 1992

The Board of Selectmen held their regular meeting on Tuesday, April 14, 1992, present were Norm Lake, Dore' Hunter, Nancy Tavernier, Anne Fanton, William Mullin, and Asst. Town Manager John Murray

CITIZENS' CONCERNS

None Expressed

PUBLIC HEARINGS AND APPOINTMENTS

BOSTON EDISON
ESTABROOK ROAD - CONDUIT INSTALLATION

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

COMMITTEE INTERVIEW
THOMAS PETERMAN - ALTERNATE MEMBER HISTORIC DISTRICT COMMISSION

Dore' asked several questions about his views on alterations to historic buildings in the districts. Mr. Peterman felt that if additional renovations were made that they should be encouraged to restore rather than further update. Nancy asked about his work and our Bylaws as it compared to other communities he was familiar with. He indicated it was a good bylaw, that had preservation in mind and his major concern was with preservation of these sites. He choose HDC because of his background and experience. DORE' HUNTER - MOVED to appoint Mr. Peterman as an Alternate Member for a term to expire June 30, 1994. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

COMMITTEE INTERVIEW
JOHN PAVAN - PLANNING BOARD

Mr. Pavan was asked about any possible business conflicts with his involvement with the Codman Company. He has reviewed his company's plans and sees two possible conflicts, North Acton Woods and a retail mall on 2A, both he feels will probably not come to reality. He assured the Board he would step aside however, if the occasion arose. Three important issues he foresees in Planning are the Great Hill development, Planning of the village district, and refinement of the bylaw. Anne asked about his views of the Master Plan. He discussed incentive and disincentives to development. He felt that the Master Plan had not anticipated these issues. Nancy noted he had good attendance at the Planning Board along with his involvement with MAGIC. He outlined MAGIC's progress and highlights since his involvement as being the formation of CAC, METRO 2000, Landbank research. He felt a regional approach to planning would be helpful. Dore'

noted he was pleased Mr. Pavan had revised his views on sidewalks. DORE' HUNTER - MOVED to appoint Mr. Pavan as a full member of the Planning Board with a term to expire June 30, 1996. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

CONSENT CALENDAR

The Board approved the Consent Calendar as submitted with the Additional item, One Day Liquor License. DORE' HUNTER- Moved to accept. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

SELECTMEN'S CONCERNS

Mandate Relief - Nancy outlined her list of what was of importance to Acton and wanted these sent to Representative Resor and Senator Durand for them to address. These issues would give Acton the tools needed to address the current situation. Dore' thought it was an excellent response and thanked Nancy for her work. Noting his lack of familiarity with the issues and their impact, Bill Mullin wanted to review them further and would abstain from voting on this issue at present. DORE' HUNTER - Moved to accept the recommendations in Nancy's memo and instruct the Town Manager to write Durand and Resor expressing the sentiments outlined in subject memo. ANNE FANTON - Second. 4-1 Bill Mullin Abstained.

Stop Sign Lawsbrook Road/School Street. Dore' expressed interest in the status of changing the stop sign at this location. After discussion it was noted that the intersection should be signed in both directions prior to changing the sign to School Street.

ROUTE 2A/27 INTERSECTION. Anne wanted to know if the Town was going to have a representative at the Route 2A/27 meeting. John Murray said that at least 5 people would be in attendance. He also briefly updated the Board on negotiations with the contractor chosen for the site.

SOUTH ACTON BRIDGE - Dore' felt we should "Pulse" the system with regard to the bridge situation on a regular basis to see what response was given and to let them know the problem is significant and has not gone away. John reported that the State is looking for a new consultant, we are back to ground zero. He and Don are seeking Digitals support. He said he would get the current status and create a paper trail.

BOXBORO SELECTMEN - The Board reviewed the letter from the Board in Boxboro. Nancy suggested the Board should meet with them to discuss regional issues as well as the one mentioned in their letter. Norm wanted a meeting after their election. It was decided to have the post-reorganization chairman send a letter to Boxboro agreeing to meet with them to discuss matters of regional importance, meeting to be hosted by Boxboro.

61/61A. Task force - Anne asked that the task force be reactivated in order to review potential parcels so that the ground work could be done in order to address the tight time constraints associated with these issues. NANCY TAVERNIER -

Moved to appoint Anne Fanton to head up the 61/61A Task force with her constituting the Board composition. DORE' HUNTER - Second. UNANIMOUS VOTE.

Reorganization -

Norm Lake moved to nominate Nancy Tavernier as Chair. Dore' Hunter Second. Unanimous

Nancy Tavernier moved to nominate Dore' Hunter as Vice-chair. Norm Lake Second. Unanimous

Norm Lake moved to nominate Anne Fanton as Clerk. Nancy Tavernier - Second. Unanimous

TOWN MANAGER'S CONCERNS

John Murray updated the Board concerning the status of Fire Department Collective Bargaining. He conveyed the details of the agreement reached.

John also updated the Board on the status of several issues on Beacon Hill.

Wood Lawn Cemetery Expansion - The Board reviewed the proposed plan for the front of the cemetery and the rear section. The Board had questions on the choice of which section was chosen and the number of lots remaining. The Commissioners and Stewart Kennedy answered some of the questions and urged the uncertain Board members to come to the cemetery for a tour of the area and to further explain the rationale behind their choice of developing the front section which is in conjunction with the Cemeteries Master Plan developed in 1978. The Board decided to revisit the question at the next meeting after reviewing the site choices further.

DORE' HUNTER - Moved to go into executive session for the purpose of discussing negotiations.

Dore' took Roll call - all Ayes.

The Board adjourned into executive session at 10:35 P.M.

_____
Clerk

_____
Date

_____
Christine Joyce
Recording Secty.
cmjW11-(232)

EXECUTIVE SESSION

APRIL 14, 1992

AUDUBON HILL - John updated the Board and asked for direction regarding the daily cost changes and expressed his frustration with the issue. Dore' thought we should not deal with them directly, it was their building, and that we should instruct the COA to start monitoring its construction and design and further not to spend the $130,000 on the building. It was the consensus that a public meeting should be held so that all these issues could be discussed so that input from the elderly could be heard and Roy Smith could explain to them what was going on. Nancy wanted a time frame and it wrapped up in a month. It was agreed after reviewing the figures submitted that they were too high and my no means would we agree to the costs as represented by Eric Smith. The Board did not want to approve those costs and be tied to the project. It was Smith's project, and we were going to have the option of leasing it for $1 a year for 99 years with an option for another 99. If the Town decided to reject the lease after review of the building because of the operational costs that would be our option. John assured the Board that staff would be reviewing the process so that if they infact skimped on insulation etc. we would know and that staff would also assist the COA during their contacts with Smith. John also stated that we have not at anytime held any of the permits required and were not stalling the project as indicated in Eric Smiths letter.

Michael Coughlin, Injured Police Officer- The Board reviewed the recent correspondence from his attorney. Staff was directed to instruct Palmer & Dodge to work a deal to insure we get a resignation.

The Board adjourned out of Executive Session at 10:55 P.M.

_____
Clerk

_____
Date

_____
Christine Joyce
Recording Secty.
cmjW11-(232)

FOR TOWN USE ONLY

5/12/92 (5)

TOWN OF ACTON
MASSACHUSETTS

License or Permit Application

5-6- 1992

To the Licensing Authorities of Acton:

The undersigned hereby makes application for the following described license, in accordance with the provisions of the General Laws, and amendments thereto:

CHECK THE APPROPRIATE BOX INDICATING THE LICENSE OR PERMIT FOR WHICH APPLICATION IS BEING MADE:

☐ Auction ☐ Entertainment ☐ Flea Market ☐ One-Day Liquor ☐ One-Day Beer and Wine

(Please print or type) ☐ Other ACTON LIONS CLUB TOWNE FAIR

Name of Organization/Applicant: ACTON LIONS CLUB

Location of Event: AREA BETWEEN BASEBALL + SOCCER FIELD

Name of Owner of Premises: ACTON SCHOOL DEPT

DESCRIPTION OF EVENT (i.e; fee or donation to be charged?, name of operators of event? , purpose of event?, parking availability?, etc.):

ACTON LIONS CLUB TOWNE FAIR
FOR REDISTRIBUTION OF PROCEEDS
WITHIN ACTON - SCHOLASHIPS ETC

Day and Date of Event: JULY 123H AND 8TH IF RAIN Hours of Event: 12:00 NOON TO 11:30 PM

DESCRIPTION OF APPLICANT

Name of person making application: PETER J. WOJTKIEWICZ (FAIR CO-CHAIRMAN)

Occupation: SELF EMPLOYED TV - SALES + SERV

Residential Address: 11 LILLIAN RD ACTON, MA

Business Address: WATTS TV S+S 557 MASS AVE ACTON, MA

Telephone: Home 263-3493 Business 263-7327

Date of naturalization, if not born in U.S.:

Male or Female: MALE

Date of birth: 1-10-36

Place of birth: CONCORD, MA

Father's name: JOHN

Mother's maiden name: JENNIE PUTO

Height: 5 ft. 10 in.

Weight: 155

Complexion: FAIR

Hair: GREY

Eyes: HAZEL

Have you ever been arrested for any law violation? NO

If so, when:

where:

State briefly:

References: (Names and addresses)

1. ANN SIMEONE - ACTON
2. ROBERT RHODES - ACTON S/A RD
3.

Remarks:

Signature of Applicant: Peter J. Wojtkiewicz

Do Not Write Below This Line

5/12/92

6

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE : 30 April 1992

TO : Board of Selectmen

FROM : Volunteer Coorinating Committee

SUBJECT : Recommendations for appointment

At its 4-27-92 meeting, the VCC voted to recommend William H. McInnis for full membership on the Board of Health. He will be replacing George Emmons. The BOH has recommended this advancement from Associate to Full Membership based on Bill's participation. Bill's term would expire 6/30/95.

At the same meeting, the VCC voted to recommend Roland P. Vaillancourt for Associate Membership on the Board of Health for a one-year term expiring on 6/30/93. He has some twenty years of experience in the health care field and, in the past, has been involved in food handling through a family catering service.

Rec'd. 11/4/91

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: NOV 1, 1991

Mr / Mrs
Ms / Dr McINNIS (Last Name) William (First Name) H (Middle Initial)

11 WOODCHESTER DR ACTON (Street Address) 635-9802 (Home Phone) 440-2275 (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) HEALTH

2)

3)

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):

NO.

Do you have any time restrictions ? NO.

How long have you lived in Acton? 3 YEARS in Massachusetts? 8 YEARS

Are you a US citizen ? Yes

Present occupation and employer (optional - attach resume) RAYTHEON - SUDBURY

MANAGER OF APPLIED TECHNOLOGY SECTION - RESPONSIBLE FOR CHEMISTRY, RADIATION & ELECTROMAGNETICS LABS

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 BS CHEMISTRY & EE, MBA FINANCE. J.T. BAKER CHEMICAL SAFETY SCHOOL. ORGANIZATIONAL HOLDER OF NRC RADIOACTIVE SOURCES & BYPRODUCTS LICENSE. FAMILIAR WITH CHEMICAL SAFETY & DISPOSAL, LOW-LEVEL RADIOACTIVE WASTE STORAGE & DISPOSAL, HEALTH SAFETY OF RADIATION, CHEMICAL & ELECTROMAGNETIC WORKERS.

2-06-90, CK

over>

5/12/92

7

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: may 8, 1992

TO: Board of Selectmen

FROM: Don P. Johnson, Town Manager

SUBJECT: Fee Waiver Request

The Health Department has forwarded the attached request for a fee waiver. The applicant, Acton Collision Center, cites "a financial hardship situation" as justification for the requested waiver.

I concur with the Health Director's recommendation that this request be denied.

Don

cc: Health Director

MAY - 5 1992

May 1, 1992

TO: Don Johnson, Town Manager

FROM: Doug Halley, Health Director

SUBJECT: Hazardous Materials Control Bylaw Fees

Acton Collision Center at 30 Stow Street has gone through the permitting process for a Hazardous Materials Control Bylaw with the Board of Health. They have now requested a waiver of the fee. The Board of Selectmen under Regulation 6.4 have the responsibility to set fees and in my opinion have the power to consider this request.

Based on the information provided in the attached letter, the Health Department cannot recommend a waiver of the fee. Considerable time is spent reviewing applications for the storage of hazardous materials and inspecting sites. It is the Health Department's belief that a $300.00 fee is appropriate and fair in consideration for the services rendered.

ACTON COLLISION CENTER

Martin Smith
Business Owner

30 STOW STREET
ACTON, MA 01720
(508) 263-9877

Rick Savoie
Business Manager

APR 29 1992
ACTON BOARD OF HEALTH

To whom it may concern:
This letter is a follow-up to a conversation between myself and Doug Halley in regards to the permit issued to us on 3-23-92
We are unable to meet the requested $300.00 permit fee do to a financial hardship situation. We are requesting a waiver of fees or some other suitable arrangements.

Sincerely
Rick Savoie

Complete Foreign & Domestic Auto Body Repair
- o Auto Glass Replacement
- o Expert Color Matching
- o Insurance Claims Specialists
- o MA Registered Repair Shop - RS2038
- o Mig Welding
- o Unibody and Frame Straightening

5/12/92

8

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: May 8, 1992

TO: Board of Selectmen

FROM: Don P. Johnson, Town Manager

SUBJECT: Board Assignments/Presentation Dates

As Board members consider the Chairman's request for scheduling of presentation for task assignments, please bear in mind that the files on some of these subjects are quite extensive. Depending on your familiarity with the given subject, preparation time may be substantial.

I would also respectfully suggest that you consider spending an hour or so with John Murray and me regarding your board and committee assignments. In many cases there are a number of matters about which I would like to brief you.

Don

5/12/92

9

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: May 8, 1992

TO: Board of Selectmen

FROM: Don P. Johnson, Town Manager

SUBJECT: North Acton Recreation Area

Attached find a set of comments received from the Corps of Engineers regarding our filing with respect to the North Acton Recreation Area (NARA). I am flabbergasted at their attitude!

The Recreation Commission, in the person of Bruce Stamski, is preparing a response.

I will report further Tuesday.

Don

DEPARTMENT OF THE ARMY
NEW ENGLAND DIVISION, CORPS OF ENGINEERS
424 TRAPELO ROAD
WALTHAM, MASSACHUSETTS 02254-9149

RECEIVED
APR 24 1992
ACTON ENGINEERING DEPT.

REPLY TO ATTENTION OF

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Regulatory Division
CENED-OD-R-21-199101928

22 APR 1992

Bruce Stamski
Town of Acton Recreation Commission
472 Main Street
Acton, Massachusetts 01720

Dear Stamski:

This concerns your application numbered as shown above, for a permit to place fill in the following wetland areas:

Area #1	10,000 square feet	
Area #2 & 3	47,700 square feet	(which is incorporated in the proposed Pond)
Area #4	15,600 square feet	
Area #6	4,700 square feet	
Area #7	1,000 square feet	

The public notice we issued on this proposal allowed the public to submit comments.

We received the enclosed correspondence in response to the notice. This is your opportunity to respond to those comments by giving us your proposed resolution or rebuttal. You may wish to contact the writers directly to reach a mutual understanding.

Please also note that concerns were raised about your project during one of our regular meetings with representatives of the U.S. Environmental Protection Agency, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service on April 1, 1992, and it was recommended that you investigate other methods for providing the water-based recreation desired, such as a swimming pool or a smaller pond, recreation area should be redesigned to avoid impacting wetland areas 2,3, and 4, and the wooded area connecting them, prepare an alterative analysis or construct a municipal swimming pool, what is the purpose of the ditch/swale? Please comment to this office on these recommendations. Please do not contact those agencies directly. Any meeting with their personnel should be arranged through us and attended by us, since our office will be making the decision on your application.

In view of the comments and concerns we received, we will need the following additional information before we can reach a final decision on the application: An alternatives analysis.

Please respond in writing within 28 days from the date of this letter. If we do not hear from you by May 20, 1992, we will make our decision based on the information currently in our file.

Please remember that you must also obtain a State/local license or approval and State Water Quality Certification.

Also, please remember that no work within our jurisdiction may be started until you receive a permit signed by our District Engineer or his authorized representative.

If you have questions or wish to arrange a meeting, please contact Ms. Crystal Gardner of my staff at (617) 647-8770 or at our toll-free number: (800) 343-4789 ((800) 362-4367, if calling from within Massachusetts).

Sincerely,

for Karen Kirk Adams
Chief, Permits Branch
Regulatory Division

Enclosures

REX
Lumber Company

840 Main Street • Acton, Massachusetts

April 1, 1992

Ms. Crystal Gardner
U.S. Army Corp. of Engineers
424 Trapelo Road
Waltham, MA 02254-9149

RE: File No. 1991101928 E
Town of Acton - Recreation

Dear Ms. Gardner,

After reviewing project file number 1991101928 E our firm has the following concerns:

1. What storm event (if any) would cause flooding of our property after this project is completed?

2. Is the present drainage system from this project site, which traverses our property, capable of handling the proposed development as shown?

3. Will the springs located on the project site keep estimated pond levels higher than estimated?

4. Will a higher groundwater level occur on our property as a result of this project?

5. This project with increased pond size may adversely affect our lumber drying, and cause degrade of our lumber. We are in the process of determining the answer to this concern.

6. The access proposed utilizing an industrial road is of great concern regarding safety.

7. The proposed berm adjacent to our property will deflect low level air flow away from our lumber drying area.

APR 03 1992

BRANCHES

302 Sullivan Avenue
P.O. Drawer N
So. Windsor, CT 06074
(203) 289-5441
FAX (203) 289-7138

Main Office
P.O. Box 234
Acton, MA 01720
(508) 263-0055
FAX (508) 263-9806

Station Street
P.O. Box 1776
Englishtown, NJ 07726
(201) 446-4200
FAX (201) 446-5036

8. Have various storm event data been calculated for the intermittent streams which drain a large wetland on the southwesterly side of Quarry Road and the associated wetland?

9. Will the proposed filling, dredging to bedrock, and relocation of water under this proposal change groundwater flows?

We wish to be placed on mailing lists regarding all notices and correspondence regarding this project.

Very truly yours,

Al Baird

Al Baird
Yard Manager, Acton

/lwc

73 Village Street
S. Easton, Ma.02375
(508) 238-9282

US Army Corps of Engineers
:24 Trapelo Road
Waltham, Ma. 02254-9149

Re: Ms. Crystal Gardner
File# 199101928 E

Dear Sirs;

This letter is in regards to the Town of Acton of Mass.'s request under Section 404 of the Clean Water Act, to fill in wetlands in conjunction with the construction of a recreational swimming area. While I'm sure there is need for additional recreation facilities in Acton, the project doesn't adequately mitigate the wetland loss. The project would inadvertently creative favorable conditions for the local wild Canadian geese population whose in turn increase in population, leads to a reproductive reduction in other waterfowl and shorebird populations. I would propose that some of this pond be left in a wild state so that other less common wildlife species would be able to still utilize this pond, with some sort of blockage to prevent human disturbance. Therefore I request that the applicant's request for a permit be denied until these issues are addressed.

Sincerely

Brian McMahon

March 30, 1992

APR 01 1992

Ms Crystal Gardner
USA C of E
424 Trapelo Road, Waltham Ma.
02254-9149

109 Larch Rd
Cambridge Ma
Ref P.N 199101928
March 23, 1992

Dear Ms Crystal Gardner

Thank you for sending the Public Notice 199101928 E. We are the owners of the 20 Ac parcel shown on your map as lots 26 to 26-14 & lot 48. Extensive engineering has been done to determine the percability & proposed location of the septic systems for these lots. The lots 26 to lots 26-8 (with the exception of lot 26-2) have passed percolation tests. These lots are located on Quarry Road across from the proposed 7.4 Ac pond.

Our concern is the impact of the proposed 7.4 Ac pond on the development of these lots that will be using a septic system. The gravel in the area proposed for 7.4 Ac pond was removed - in some places over a depth of 20 feet causing drainage from our property to drain toward the proposed pond. Would approval of the Town's request to build the proposed pond have an impact on our development of these lots 26 to 26-8?

The taxes we have been paying are based upon percable lots capable of being developed.

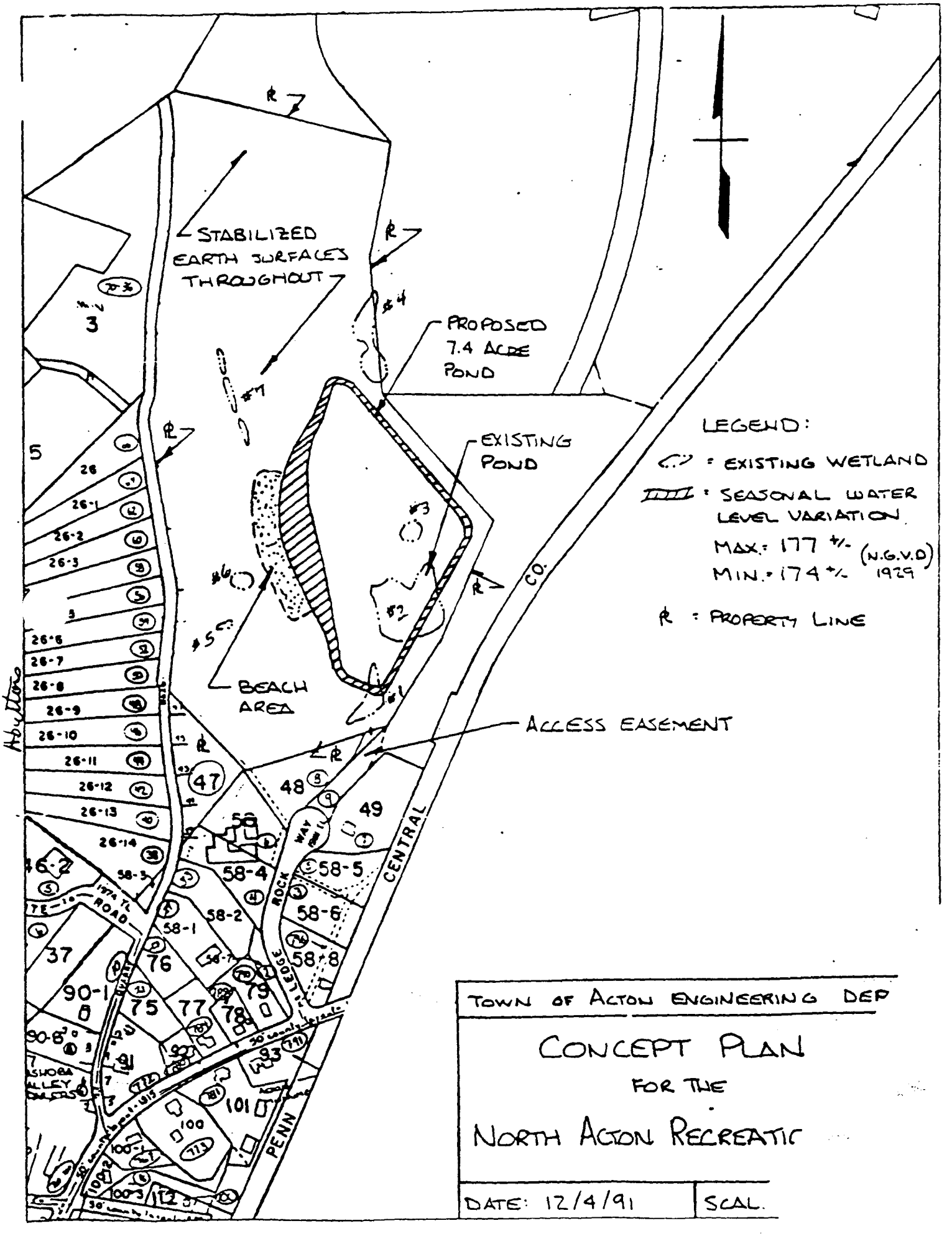
MAR 27 1992

Again our concern is the impact of the proposed 7.4 Acre Pond on the future use of our land.

Please keep us informed on the progress of this request 199101928E.

Sincerely,
James H. Wallie

~~58~~ (617) 868-8996


STABILIZED EARTH SURFACES THROUGHOUT
PROPOSED 7.4 ACRE POND
EXISTING POND
BEACH AREA
ACCESS EASEMENT
LEGEND:
= EXISTING WETLAND
= SEASONAL WATER LEVEL VARIATION
MAX.= 177 +/- (N.G.V.D) 1929
MIN.= 174 +/-
= PROPERTY LINE
CENTRAL
PENN
CO.
ROCK WAY
LEDGE
ROAD
Abutters
TOWN OF ACTON ENGINEERING DEP
CONCEPT PLAN
FOR THE
NORTH ACTON RECREATIC
DATE: 12/4/91
SCAL.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

APR 24 1992

April 15, 1992

William F. Lawless, P.E., Chief
Regulatory Division
Operations Directorate
U.S. Army Corps of Engineers
New England Division
424 Trapelo Road
Waltham, MA 02254-9149

Re: CENED-OD-R-1991-01928 (Public Notice issued 03/05/92)

Dear Mr. Lawless:

This letter concerns the application by the Town of Acton under Section 404 of the Clean Water Act for a permit to place fill in 1.8 acres of wetlands in conjunction with proposed excavation and grading activities for property located off Quarry Road in Acton, Massachusetts. The purpose of the excavation and grading activities is to convert an old sand and gravel quarry into a recreation site for area residents.

Most of the recreational amenities (e.g., playing fields, tot play ground, etc.) would be located on the disturbed portion of the property, which comprises a majority of the site. EPA has no objection to this portion of the project. However, the eastern portion of the property, which contains a well established upland/wetland complex, would be destroyed for the creation of a proposed 7.4 - 10 acres swimming pond. EPA objects to this portion of the project. There appear to be other alternatives available to the Town of Acton to satisfy its need for a swimming area on the site which would not destroy valuable wetland resources. Consequently, EPA objects to the issuance of a 404 permit for this project, as currently proposed, because it does not comply with the 404(b)(1) guidelines.

On March 20, 1992, Virginia Laszewski of my staff visited the site with representatives from the Town of Acton: Mr. Tom Tedman, Acton Conservation Commission and Mr. David Abbt, Engineering Administrator. EPA's understanding of the project comes from conversations during this site visit and from information supplied by the Town representatives. This information includes a copy of the **Environmental Investigation - Proposed North Acton Recreation Area and Pond**, by Pine & Swallow Associates, Inc., dated June 8, 1989; and copies of Grading Plans (dated July 18, 1991) and Build Out Plans (dated July 1990) for the North Acton Recreation Area. EPA understands that the proposed project would contain recreational playing fields (e.g., soccer, basketball, tennis, baseball, volleyball, etc.), an amphitheater, bath house, tot playground, on-site sewage system, parking areas, roadways, swales,

PRINTED ON RECYCLED PAPER

detention basins, jogging path and swimming pond. The swimming pond would be created by excavating down to bedrock and allowing the area to fill with ground water.

A majority of the site is highly disturbed from past quarry activities. The wetlands in the highly disturbed areas consist of small seeps or wet depression/pockets (i.e., wetlands #s 5, 6, and 7) with little vegetation in them or on the surrounding upland. However, the eastern portion of the property contains well established vegetated upland and wetland areas (i.e., wetlands #s 2, 3, and 4). This eastern area contains open water habitat (i.e., Rex Pond, also known as wetland #2) interspersed with developing forested upland and forested/scrub/shrub deciduous wetlands. Further, the area between wetland #2 and wetland #4 would appear to contain areas of vernal pool habitat. This eastern area of the property abuts undeveloped forested property to the north and northeast. This interconnected area provides a wildlife corridor and access to the open water of Rex Pond. The area also provides feeding, breeding and escape cover for amphibians, birds and mammals. Hawks, songbirds, and waterfowl were observed in the area during the site visit. Town representatives mentioned that a large number of frogs are known to exist in Rex Pond. Further, fox, coyote, deer, turkey, and rabbit are known to utilize the site.

Section 230.10(a) of the 404(b)(1) guidelines requires that no discharge of fill material shall be permitted if there is a less environmentally damaging practicable alternative which satisfies the basic project purpose. These alternatives are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise. The project purpose is to provide a recreation area for the Town of Acton. This recreation area would provide residents with, among other things, areas to play ball games, jog, and swim. None of these activities are water dependent under the meaning of water dependency (i.e., "require access or proximity to or siting within the special aquatic site..." [e.g., wetlands]) in the guidelines. Section 230.10(a)(3) sets forth a rebuttable presumption that available alternatives exist for non-water dependent projects. The applicant has not presented an alternatives analysis rebutting this presumption. EPA suggests a practicable alternative to the proposed swimming pond would be the construction of a conventional municipal swimming pool. In addition, page 6 of the Environmental Investigation suggests that the swimming area could be designed and located further south on the property if the access road and parking area, etc., proposed for this portion of the property, were placed elsewhere. A swimming pond located here might avoid impacting wetland areas 2, 3 and 4.

Section 230.10(d) of the guidelines requires that no discharge of fill material shall be permitted unless appropriate and practicable steps have been taken which will avoid and minimize potential adverse impacts of the discharge on the aquatic ecosystem. It is

not clear that these steps have been taken by the applicant. For example, it is unclear why the pond design does not incorporate the vegetated upland/wetland areas 2 and 3 in their existing condition.

In addition, EPA questions the purpose for the ditch/swale that is proposed for construction between wetland area #4 and the proposed pond. It would appear this ditch would cause wetland area #4 to be drained. EPA also questions whether the wetlands have been fully delineated using the federal method. After visiting the site, it would appear there may be more wetland acreage on the site than presently identified, especially on the eastern portion of the property. In addition, there are potential vernal pools on the property between wetland #2 and #4 which should be investigated. If vernal pools do exist here, this irreplaceable habitat would be destroyed for the creation of a 10 acre open-water swimming pond. It is impossible to mitigate for loss of vernal pool habitat. Consequently, EPA has not been given a mitigation plan that adequately replaces on at least a 1:1 basis all the values that would be lost with the destruction of the wetlands on the eastern portion of the property, as required by the guidelines.

In summary, EPA objects to the issuance of a 404 permit for the currently proposed project because it does not comply with Sections 230.10(a) and (d) of the 404(b)(1) guidelines. Nevertheless, EPA suggests that with some redesign of the project (e.g., replace proposed swimming pond with a swimming pool) to avoid the higher value wetlands on the site the project could be permittable. If you have any questions concerning these comments call Virginia Laszewski of my staff at (617) 565-2987.

Sincerely,

for David A. Fierra, Director
Water Management Division

cc: Ronald G. Manfredonia, Chief, WQB
Phil Morrison, USF&WS, Concord, NH
MA DEP, Wetlands and Waterways, Worcester, MA
Judy Perry, MA DWPC, Boston, MA
Board of Selectmen, Action, MA
Tom Tedman, Acton Conservation Commission, Acton, MA

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9612
Fax (508) 264-9630

FILE COPY

5/12/92

Nancy Tavernier, Chairman
Board of Selectmen

May 1, 1992

Mr. Roy Smith, President
R. Smith Associates, Inc.
292 Great Road
Acton, MA 01720

Subject: Senior Center

Dear Mr. Smith:

The Board of Selectmen is quite distressed over reports concerning the current status and anticipated costs of the Senior Center that you are building at Audubon Hill. In a recent meeting with a representative of the Council on Aging (conducted in executive session) the Board was informed that your current estimates place the cost of construction at $324,000 and, equally disturbing, we find that much of what you had previously specified to be included in the finished building is no longer included.

The Town has never received more than an outline specification, a conceptual floor plan and exterior elevations describing this facility. Nonetheless, you and your representatives have made numerous verbal representations as to the content of the finished building. Despite the difficulty of negotiating in such a vague atmosphere, Town representatives have negotiated in good faith, being at all times mindful of your generosity and sensitive to the financial constraints of the overall Audubon Hill project.

The Board now questions the value of further negotiations and cites the following as some of the reasons for its frustration:

1. Throughout the negotiations that took place during January and February of this year, wherein you were seeking a renegotiated Comprehensive Development Agreement for the overall project, you continually represented that this facility could easily be constructed for less than $300,000. On or about February 6, during negotiations with Town Manager Don

Johnson, Assistant Town Manager John Murray and Messrs. Conley and Tashjian of Boston Federal Savings Bank, you affirmed the validity of that number. At your office, immediately following the meeting with the bank officials, you and Mr. Charles Allard further stated to Mr. Johnson and Mr. Murray that you felt the $300,000 from the bank would provide ample funding to incorporate the additional amenities sought by the Council on Aging. Indeed, Mr. Allard assured the Town representatives of his confidence that the building, as then designed, could be constructed for $240,000 ... thereby providing $60,000 to fund the desired changes.

2. On numerous occasions over the past year your office (usually represented by Mr. Eric Smith) has approached representatives of the Council on Aging and the Town Manager's office seeking to demolish the old Veenstra house. The house was originally planned to be restored and incorporated as part of the Senior Center. The representation was that the cost of restoring the house would be substantial, compared to the space gained. The promise was that better space would be provided in a single-story expanded floor plan for the Center, with a walk-out basement for storage purposes, while reducing the overall cost of construction. In a meeting with Eric Smith at Town Hall on April 21, representatives of the Council on Aging were informed that the ceiling height for the planned basement space could not be designed to meet Building Code requirements. This was subsequently confirmed by your architect. This revelation comes <u>after</u> demolition of the house and with no other proposal for providing the needed storage space.

3) In the April 21 meeting there were other changes in the content of the Center that came to the attention of the Council on Aging. These included the removal of a fireplace that had been included earlier and the disclosure, on questioning, that your offer no longer included cabinets or counters in the kitchen. The latter had been clearly included in an outline specification provided to the Council in January.

In January and February, as the Town considered your request for relief from most of the conditions of the Comprehensive Development Agreement, the Board weighed the substantial value of the housing units and conditions it was being asked to surrender versus the value of the Senior Center and the amenities anticipated within the $300,000 allotment offered by the bank. In coming to their decision to grant the relief you requested, Board members placed a great deal of

confidence in the representations you made with regard to the budgeted numbers. After the Selectmen assented to the revised agreement the estimate rose dramatically and, since that time, has continually remained well above $300,000.

Representatives of the Town have attempted to understand the reason(s) for the dramatic changes in both the estimates and the specifications for this project. To date, we have been unable to reconcile these differences. The only resolutions offered by your representatives have been reductions in content of the building or financial contributions by the Town. Neither of these alternatives is acceptable to the Selectmen.

On Tuesday, April 28, the Board of Selectmen voted unanimously to inform you that the Town will not invest monies to offset costs above the $300,000 allocated by the bank. The Board expects that you will construct the facility you promised, within the budget to which you agreed. Ultimately, when the building is ready for occupancy, the Selectmen will have to decide whether it is suitable for our purposes. The Board has determined that further participation in the design/estimating process at this time is not in the best interest of the Town.

If you wish to discuss this matter further with the Selectmen you may do so by contacting the Town Manager's office and scheduling time during a regular public session of the Board.

Very truly yours,

Nancy E. Tavernier

Nancy Tavernier, Chairman
Board of Selectmen

cc: Acheson H. Callaghan, Jr., Palmer and Dodge
David Y. Bannard, Palmer and Dodge
Mr. David Conley, Boston Federal Savings Bank
Council on Aging

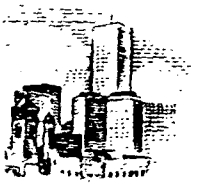
DPJ:280

Metro Region

THE BOSTON GLOBE • FRIDAY, MAY 8, 1992

BOS - THIS IS EXTREME BUT ABUSE OF PUBLIC SAFETY DISABILITY (CH. 111F) IS COMMON AND WE ARE NOT FREE OF IT! Wm

NES



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'There was conclusive medical evidence to support the town's contention that this individual is not disabled.'

RUSSELL J. CONNOR JR., *town administrator*

Weymouth policeman returns from 15½-year disability leave

By Jack Sullivan
SPECIAL TO THE GLOBE

WEYMOUTH – When Police Officer Richard Moody, then 34, began his disability leave after being injured in a car accident while on duty, there were 118 officers on the Weymouth Police Department. That was in 1976.

Yesterday, Moody returned for his first day on the job after nearly 16 years, forced back to work after his disability retirement claim was denied by the town and state retirement boards and an appeals board.

The Board of Selectmen, after consulting with several doctors, said Moody was fit to perform the duties of a police officer, and ordered him to return to the job.

"He's on full duty, absolutely," said Town Administrator Russell J. Connor Jr. "The Board of Selectmen determined he's capable of performing the full duties of a police officer ... There was conclusive medical evidence to support the town's contention that this individual is not disabled."

Moody, 49, had fought off previous attempts to force him to retire or return to work. He has collected 100 percent of his pay, tax free, under a law passed in the mid-1970s allowing full disability pay to police and firefighters injured on the job.

Moody returned to a department that has been

WEYMOUTH, Page 29

Weymouth policeman returns from 15½-year disability leave

■ WEYMOUTH

Continued from Page 23

reduced by 26 officers because of budget cutbacks, where 48 officers have never worked with him, to a police chief he never worked for and to anger and resentment from town officials and police officers who said Moody's attempts to manipulate the system have tainted public employees everywhere.

While the town has never sought legal complaints against Moody, many townspeople and officials said they doubted the severity of his injuries.

"In all honesty, as a police officer, I'm embarrassed," said Capt. Joseph Thomas, the department's personnel officer who joined the Weymouth force the same day as Moody in July 1974. "I think somebody could be beheaded, have their head sewn back on and still be back on the job in 15 years."

"I'm glad to have him back because it's better than paying him to not come in at all," said Police Chief Thomas Higgins.

$439,511 in disability pay

Moody, who receives the top patrolman's pay of $29,115 annually, plus $8,733 for a master's degree he earned while on leave, has collected $439,511 since he went on disability. His medical bills were paid by the town. He kept his benefits, including health and life insurance and holiday pay and retained his seniority, ranking in the top third of the department. He is now qualified for five weeks of vacation pay.

Moody was not idle while on disability, however. He began a consulting company, MCM Consultant Corp., based at his Hanson home. The firm specializes in criminal justice consulting, but Moody's clients also included injured police officers and firefighters who received advice about their rights under the disability laws.

"Obviously, he's advising his fellow police officers how to beat the system," said Connor, who called Moody's firm "distasteful." Moody's

> **'I'm glad to have him back because it's better than paying him to not come in at all.'**
>
> THOMAS HIGGINS
> *Weymouth police chief*

injuries occurred on Oct. 29, 1976, when he was transporting a fellow officer, Richard MacDonald, to a hospital for treatment of injuries suffered while trying to break up a fight. En route, Moody's unmarked police car was hit head-on by a drunk driver.

MacDonald was thrown through the windshield, but Moody was not treated for his injuries. He contended later that his back and knee were injured and he went on disability. He returned shortly afterward, said Higgins, but said he reinjured his back when struck by a door opened by a prisoner. He went back on leave and did not return until yesterday. MacDonald was retired on disability because of his injuries.

In 1983, Higgins took Moody off disability leave and placed him on sick leave, but Moody successfully challenged that ruling and was returned to disability leave. Moody also filed a lawsuit against the town and Higgins, alleging he was not given a hearing to determine whether he should be placed on sick leave. He received a $35,000 settlement.

In 1987, Higgins petitioned the town retirement board to have Moody forcibly retired, but the board found that Moody was not hampered from doing his duties. Moody began his series of appeals until he was finally forced to return this week.

Officer is being retrained

Moody is being retrained for the job, starting on administrative duty. While he remains on the 8 a.m.-4 p.m. shift, which he was on when he was injured, he left work early yesterday to buy new uniforms. He could not be reached for comment and his lawyer, David Jenkins, was said to be out of his office until Wednesday.

At his home last night, Moody declined comment and referred all questions to his lawyer. "I'll pass on it," Moody said. "There is really not a whole hell of a lot to say."

Few members of the department would talk openly about Moody's return, but none hid their anger at a co-worker they saw only once every two months when he came to pick up his paycheck.

"Don't get me started," said one officer who stormed out of the room, but not before denouncing Moody and his use of the disability law. "It's guys like him who are the reason people want to take away public employees' benefits," he said, adding that the law was made for people like Boston Police Officer Francis S. Foley, who was critically injured when a bomb exploded in Hyde Park last year.

Some of the anger came because although budget woes have forced cuts in the town's active police officers, Moody had to be retained by law. There are now six Weymouth officers on disability leave, one for the last three years. Higgins said that in the last six months, the department has averaged 11 officers on disability leave.

"They all come out of regular salary budget," Higgins said. "They're not looked upon as injured people. They are looked upon as active-duty members."

Higgins seemed to sum up the entire situation for everyone yesterday.

"It's bizarre," he said. "It really is. It's just bizarre."

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May 7-17th
CAM
154 California St., New Watertown Square) to ri Pioneer products. 5 year

Draft

SELECTMEN'S MEETING
APRIL 28, 1992

The Board of Selectmen held their regular meeting on Tuesday, April 14, 1992, present were Norm Lake, Dore' Hunter, Nancy Tavernier, Anne Fanton, William Mullin (arrived late), and Town Manager Don Johnson

CITIZENS' CONCERNS

None Expressed

PUBLIC HEARINGS AND APPOINTMENTS

None Scheduled

CONSENT CALENDAR

The Board approved the Consent Calendar as submitted with the Additional item, One Day Liquor License. NORM LAKE - Moved to accept. DORE' HUNTER- Second. UNANIMOUS VOTE.

SELECTMEN'S CONCERNS

Board Assignments- The Board discussed the various committees and assignments to be given to the individual Board members as well as the Action Agenda for outstanding and new projects. (Attached to the Minutes). Staff was asked to notify the various board of the Selectman assigned and to set up overview meetings for the summer months. A letter will be drafted as well as notifying them of the board liaison, a time will be proposed for the overview meeting with 1/2 hour scheduled for these meetings.

Eagle Scout- May 23 was taken by Anne. June 6, was taken by Nancy.

Cemetery Expansion Issue - Anne after becoming familiar by taking a tour with Stewart and Dean appreciated the reasons for expansion but did want the lower plantings included. DORE' HUNTER - Moved to endorsed the plan to continue the expansion in the front between the office and soccer field with low plantings made with the surplus hemlocks. NORM LAKE - Second. UNANIMOUS VOTE.

Don Johnson commented that our per lot charge seemed to be a low number compared to other towns felt we should be looking into adjusting the cost to reflect the actual cost of the service.

MPCC - Anne asked for Board input regarding the letter to the editor that she had drafted. Nancy thought the 20 year plan would be mentioned and that the letter would be very helpful. Anne also noted Bill Lawrence's contribution to the process and wanted to have the Board thank him for all his work educating the

Chamber on Town issues. The Board agreed that he was doing a great job of educating and a thank you was in line.

MMA Action Notice- Nancy asked if the Town Manager had taken the suggested action. Don replied he had not taken action at this time.

DPU TRAIN WHISTLES - Nancy wanted the Board to decide what we would do now that we have received the comments. Nancy felt that the site assessment was not necessary, however they would not allow the discontinuance without a site assessment. Nancy outlined the two options she felt were open to the Board.

1. Legislation to relieve Acton from Train Whistling

2. Going back through the petitioning to have the Martin Street site discontinued as it is the one site that would have the most relief granted to it as well as the least resistance by the DPU.

Dore' felt we should pursue Home Rule approach and if we get hung up go back and get Martin Street exempted. Nancy said we could include it on the Fall Town Meeting. Norm thought we should attack it on both fronts at the same time. The Board agreed to use Palmer & Dodge to review the draft if needed.

MAPC - Anne asked to have an alternate authorized. She felt a Planning Board member would be a good alternate. Anne suggested Jim Lee as he was interested and was not presently on any outside committees or projects. Dore' thought we could ask planning for a candidate suggestion for alternate. DORE' HUNTER - moved to seek an Alternate for MAPC from the Planning Board. Also to formally thank David Soule for his help with the formation of CAC. NORM LAKE - Second. UNANIMOUS VOTE.

LEGAL BILLS - Bill Mullin asked about the auditing of hours on the bills. Don said that he includes the summaries in the Board's mail and he would provide Bill with a complete bill which outlines the specific charges on the issues litigated and reviewed.

TOWN MANAGER'S CONCERNS

Don notified the Board that Carol Lake would be receiving recognition at Middlesex College Lowell campus on Wednesday. She has been selected for her Outstanding contributions to the Community. Don will attend and update the Board at the next meeting.

Transfer station loader - Don has reviewed the options available to the Town concerning the seven year old loader used at the transfer station. It is in need of $24,000.00 worth of

repairs. After reviewing it he has recommended that we enter into a five year lease purchase at $12,000 per year. To replace the vehicle would be an expense of $56,000. The Board concurred that the lease was more financially prudent as presented. The monies for the lease to come out of the enterprise fund.

ANNE FANTON - Moved to go into executive session for the purpose of discussing negotiations and Collective Bargaining.
DORE' HUNTER - Second.
Anne took Roll call - all Ayes.

The Board adjourned into executive session at 9:10 P.M.

_____
Clerk

_____
Date

_____
Christine Joyce
Recording Secty.
cmjW11-(237)

EXECUTIVE SESSION

APRIL 28, 1992

AUDUBON HILL - John updated the Board along with Roy Trafton of the Council on Aging. After several meetings it has been frustrating that the cost estimates can not be verified as they have not formal engineering or architects drawings. The latest cost given by Eric Smith is $324,000 without a fire place, no storage under the bldg. and kitchen. Roy feels that if they give away more amenities they will just bring the costs up in another area. John feels they are not working with us in good faith. The Board again discussed the options available and it was agreed to draft a letter to the Smiths outlining what we planned to do and to have them counter offer. The Chairman will review the letter prior to it being sent. Dore' suggested filing a Formal Declination and letting them know we are not going to spend the $130,000 on that building.

HIGHWAY UNION - John reported that the have an informal handshake on a 5% deal. The board suggested they be commended for once again concluding negotiations so swiftly.

The Board adjourned out of Executive Session at 10:15 P.M.

_____
Clerk

_____
Date

_____
Christine Joyce
Recording Secty.
cmjW11-(237)

DRAFT

SELECTMEN'S MEETING
APRIL 6, 1992

The Board of Selectmen met prior to Town Meeting on Tuesday, April 6, 1992, present were Norm Lake, Dore' Hunter, Nancy Tavernier, Anne Fanton, and Town Manager Don Johnson

CITIZENS' CONCERNS

None Expressed

PUBLIC HEARINGS AND APPOINTMENTS

None Scheduled

CONSENT CALENDAR

Nothing had been submitted

SELECTMEN'S CONCERNS

Brief discussion on last minute Town Meeting concerns.

MMA suggested resolution - Board will not do what they discourage citizens from doing.

Mike Bradley presents Co-Housing preliminary vs. Kevin Sweeney proposal. Architect Quinn discussed other possible alternatives that would result in other intensities. Various board members expressed their interest in the proposed project.

The Board adjourned to attend Town Meeting

_____
Clerk

_____
Date

_____
Don P. Johnson
Recording Secty.
cmjW11-(238)

MEMORANDUM

May 5, 1992

To: Board of Selectmen

Via: Town Manager

From: F. Doré Hunter

Subj: Draft Town Counsel Guidelines

---

1. Enclosed please find the first draft of my proposed Town Counsel Guidelines. I suggest that staff comment on this draft to the Board, then the Board might wish to react to the draft and those comments looking toward production of a second draft. Then I would think it appropriate for Counsel to be given an opportunity to comment while the Guidelines are still in draft before a final version is adopted.

Doré

DORÉ

ACTON'S GUIDELINES FOR TOWN COUNSEL OR SPECIAL COUNSEL

The Board of Selectmen of the Town of Acton has prepared these guidelines for your benefit as the attorney engaged to represent the Town of Acton. The guidelines cover two primary topics: (1) the Town's philosophy regarding the retention and use of Counsel; and (2) certain requirements regarding fees, billing, disbursements, and other important administrative matters.

The guidelines provide a general framework for your work on our behalf. While they represent the Acton's general policies, there is obviously some degree of flexibility in their application to specific situations. Nevertheless, we ask that you discuss with us any questions concerning your retention before proceeding on a course of action which is not clearly contemplated by the sections which follow.

THE TOWN MANGER'S RESPONSIBILITIES

It is the responsibility of the Town Manager to make clear the objectives that the Town is seeking to defend or attain, monitor progress of the matter, keep you informed of important developments of which you might be unaware, and act as the liaison between you and Town personnel.

To the maximum extent possible it is the Town's intention to have the Town Manager's office serve as the single point of contact between Counsel and the various components of the Town's government organization. To that end it is anticipated that the Town Manager will screen requests for advice and/or action by Counsel initiated by members of the Town staff or appointed Board/Committee members. It is also anticipated that the Town Manager or his delegate will be responsible for passing Counsel's reports and/or advice back to the appropriate Town parties.

We encourage Counsel to ask for any additional information about Town personnel, Board or Committee responsibilities, activities or organization which you would find helpful.

YOUR RESPONSIBILITIES

Acton has high expectations of its Town Counsel or any Special Counsel employed. The following describes those expectations.

<u>Conflicts of Interest</u>. Counsel must have the highest ethical standards and must be free of any conflicts of interest. The Town expects Counsel to have undivided loyalty to Acton, its Boards, Committees, staff, elected and appointed officials and not seek to obtain cases against its or their official interests. Counsel must check, prior to undertaking to represent the Town in any particular matter, for any actual or potential conflicts of interests which

might arise from the contemplated representation of Acton. In particular, we ask newly assigned attorneys to confirm the absence of any conflicts in a letter providing acknowledgement of an assignment. Counsel must also notify the Town Manager of any conflict that may develop during the handling of a matter. You should understand that a conflict will exist if there is a conflict between the work of your firm and any of the affiliated enterprises of the Town of Acton. Those affiliated enterprises are the Acton-Boxborough Regional School District, the Acton Water District, the Minuteman Regional Vocational Technical High School District, [NESWC] [others?]

Staffing of Matters. After you have been asked to handle a particular matter, you and the Town Manager or his specific delegate should agree on which attorney with your firm will have primary responsibility for the matter. You should agree on the partners, associates, and legal assistants who will be assigned to the matter. We expect you to utilize, if possible, attorneys who have developed a knowledge of the Town of Acton's activities, organization and functions.

You should consult with the Town Manager attorney before you make any staffing changes. Acton will normally pay only for services performed by attorneys and legal assistants on whom we have agreed and for whom you have submitted a fee schedule. Acton will not pay for work performed by Summer Associates and/or Law Clerks, unless specifically justified and approved in advance.

Usually, it will be most efficient for a single attorney or group of attorneys in your firm to handle the matter from beginning to end. Doing so will avoid a "learning curve" for additional staff. We recognize that staffing changes will be necessary from time to time, but we encourage Counsel to seek continuity in staffing. In any event, Acton will not pay for time spent by newly assigned attorneys or legal assistants to familiarize themselves with the file.

Counsel must avoid duplication of effort in handling matters on Acton's behalf. Your law firm should continue to limit the number of attorneys attending routine meetings, depositions, or court proceedings to only those essential to the performance of the task. In most instances, only one attorney needs to be present.

Litigation Support. Counsel must consult with the Town Manager before incurring any significant expense for large document productions, creation of computerized data bases, or other litigation - support activities. The Town Manager must approve in advance the retention of any outside expert or consultant.

Legal Research. We assume familiarity with the basic municipal law. If significant research appears to be required for any particular matter at issue, we expect the requirement and the anticipated expense in regard to such will be discussed in advance with the Town Manager.

In conducting legal research for Acton, the law firm is expected to utilize all appropriate sources reasonably available including previously prepared briefs and memoranda. While value-added premiums will not be paid, Acton will pay for actual time spent in updating and tailoring such previously prepared briefs and memoranda to address the Acton matter.

We encourage you to discuss the results of your research or other analysis with the Town Manager or his delegate before committing your opinions to writing whenever it may be appropriate. Doing so will often avoid the creation of lengthy memorandum or letters which may prove to be of less utility.

If legal research applies to matters which your firm is handling for other clients, you should bill only the appropriate proportionate share of the time and expense to Acton. Further, you should bill only the actual costs incurred for computerized legal research or other research services as billed by the date-base company.

Communications. One of the most important expectations we have is that you communicate with the Town Manager and his delegates. You should work with him/her to ensure responsiveness to the Town's requests. If a request for legal services, which will be chargeable to the Town of Acton, comes to you from other than the Town Manager, the Manager's specific delegate, or the Chairperson of the Board of Selectmen, you shall bring that request to the attention of the Town Manager and/or Board of Selectmen Chairperson and take no further action on the matter unless authorized to do so by one of those individuals.

You should keep the Town posted on developments, and you should ask the Manager to clarify any confusing requests. In turn, the Town Manager will strive to give you realistic assessments of a particular matter's importance. Doing so should help you set priorities. Further, we will try not to hold assignments until the last minute and then insist that you work on a rush basis.

INITIAL EVALUATION & REPORT IN ON-GOING MATTERS

As promptly as practicable (generally, no later than ninety (90) days from commencement of a litigation matter or thirty (30) days in a non-litigation matter), you should review any assigned task which will be on-going and provide the Town Manager with an initial evaluation. The evaluation, when appropriate, should include proposed strategy, preliminary views on exposure or success, an outline of the scope of the work anticipated and planned staffing, major action steps, and a preliminary cost estimate when a matter in litigation appears to be one which will generate legal fees and expenses totalling in excess of $10,000 or for a non-litigation matter, fees and expenses in excess of $3,000. This initial evaluation shall also include a discussion of the possibility of early settlement or alternative dispute resolution where appropri-

ate.

Thereafter, you must use appropriate means to keep the Town Manager informed of developments in the matter to ensure the Town's active participation in its handling. Significant developments and any issues regarding the policies or decisions of Town Boards/Committees or the Town Manager, liability of the Town, or exposure to loss or liability must be promptly communicated to the Town Manager, and if appropriate in very important matters, directly to the Chairperson of the Board of Selectmen. Whereas we expect the routine communications will be between the lead attorney from your firm and the Town Manager, Counsel is selected by the Board of Selectmen and the Board is the senior policy making body of the Town. Accordingly Counsel is always privileged to communicate directly with the Board, through its Chairperson.

COUNTERCLAIMS, CROSS CLAIMS AND THIRD PARTY CLAIMS

You may not file any counterclaim, cross claim, or third party claim without prior Town approval obtained through the Town Manager. A request for authority to file such a claim must be presented in sufficient time to ensure an adequate opportunity for internal Town decision-making.

SETTLEMENT AUTHORITY

Counsel must obtain authority to settle any claim through the Town Manager. A request for settlement authority must be presented to the Town Manager in sufficient time to ensure an adequate opportunity for internal Town decision-making. This decision-making may require action at a meeting of the Board of Selectmen. The Board normally meets bi-weekly.

FEES

We encourage the proposal of and consideration of alternative fee arrangements. Any such arrangements must, however, be documented in writing.

Unless the Town Manager and Counsel have agreed on an alternative basis for legal fees in writing, the Town pays for legal services on the basis of the standard hourly rate for individuals performing services, without premiums or bonuses based on results. The Town will not accept value-added or premium billing unless previously approved in writing by the Town Manager.

The Town Manager and Counsel must agree on hourly rates in December each year for the upcoming calendar year, such agreement will be documented in a fee letter. Acton will not pay any increased hourly rate unless the Town Manager and Counsel have agreed to it in advance and Counsel has furnished a revised fee

letter.

Hourly rates should contain all overhead and internal charges associated with your practice, such as administration, routine secretarial work, word processing, computer, accounting, overtime building services, librarian time, and clerical time.

DISBURSEMENTS

Acton will reimburse the firm for reasonable out-of-pocket disbursements of expenses occurred on its behalf. (See also Travel Time and Expenses). The Town Manager must approve major disbursements (i.e. in excess of $500.00) in advance.

Disbursements should not include charges for routine secretarial work, word processing, local telephone expenses, overtime building services, or office supplies. Computerized legal research should be billed at actual cost as charged by the data base company. The Town will reimburse the reasonable actual cost for necessary photocopying, telecopying or fax, long distance telephone calls, postage and courier services. A disbursement item for photocopying expenses must reflect either the per copy or the total number of copies made.

Acton will reimburse Counsel for secretarial or staff overtime only if overtime is essential to handling a particular matter for the Town and, when such expenditures are significant, we have approved them in advance. Acton expects Counsel to manage work to avoid overtime costs. Counsel should not charge Acton for overtime hours while handling other client's matters throughout the scheduled work day and billing them at the normal rate.

TRAVEL TIME AND EXPENSES

Only in an unusual case can travel by more than one attorney be justified. Counsel should incur expenses in a reasonable and prudent manner.

If travel time is devoted to working for one or more clients in addition to Acton, your statement should reflect only the portions of travel time attributable to Acton. You should divide actual travel expenses among the clients served during a single trip.

Unless agreed to in advance, Acton will not compensate Counsel for time away from home or the office not spent actually working on the Acton matter.

FORM, TIMING AND CONTENTS OF STATEMENTS

Counsel should submit statements monthly. The Town Manager

should receive the statement within 30 days of the end of the billing period.

The Town tracks legal costs for each matter being handled by Counsel. Accordingly, statements must provide the following information for each matter your firm is handling:

1) The name of the Acton Board/Committee or unit involved in the matter;

2) The amount of fees, disbursements, and total charges

   a) During the billing period; and

   b) Cumulatively since the inception of the matter;

3) A description of each task performed during the billing period including the name of the attorney or legal assistant performing the task and the amount of time spent (in increments no greater than one-quarter hour) on such task by each attorney or legal assistant;

4) An itemization and brief description of disbursements and expenses incurred during the billing period, and the resulting total;

5) The Acton docket number, if one has been assigned to the matter; and

6) An employer identification number for the firm or social security number of the attorney performing the services.

Computer printouts are acceptable and may include additional typewritten information. In all cases, you should submit an original invoice, marked as such, together with one additional copy of the statement.

The Town expects that the firm's management or client partner will review the billing statement and make reductions as appropriate before sending the statement to the Town.

Acton does not limit the number of hours that an attorney or legal assistant may bill in a single day. However, it has been seen that billable hours in excess of ten (10) hours in one day are often unproductive and should be avoided except during the trial of a particular matter or in extraordinary circumstances. Where practicable, work in excess of ten (10) hours a day should be discussed with the Town Manager.

Normal disbursements, such as filing fees, long distance telephone calls, travel costs, duplicating expenses, supplies, and other similar charges should be paid by the firm and itemized as a part of your periodic fee statements unless we agree to some other means of handling these particular items.

The Town Manager must approve any unusual or large expenditures costs (i.e., in excess of $500.00) in advance. With the exception of travel costs, you should bill Acton for such expenditures on an invoice from your firm which is separate from your customary billing statement and supported with appropriate documentation.

Acton reserves the right to audit all billing statements and services performed by its Counsel. Counsel should retain supporting documentation in the event Acton requests it for audit purposes or otherwise.

EXPERT FEES

Counsel may not retain any expert or consultant without prior approval from the Town Manager.

In connection with your representation of Acton, you will likely incur obligations to third parties (i.e., fees of consultants or experts). Normally, invoices of this kind must identify Acton as the payor, be addressed to Acton, and paid by Acton. Situations will occur, however, when this procedure is not practical or desirable. If you and the Town Manager agree that you will pay such invoices, you should provide an invoice separate from your usual attorney's fee statement. The invoice should be supported with appropriate documentation.

MEDIA COVERAGE

Acton, through its elected officials and Town Manager will handle all contacts with the media. Counsel should avoid making statements to the media without securing advance approval from the Town Manager.

Counsel may disclose, without prior approval, his or her representation of Acton, and any basic facts which are contained in the public record. This exception also applies to administrative information routinely given as a courtesy to the press. Additionally, in rare instances when an immediate response would prevent a distorted public perception, Counsel, without prior approval, may deny or refute statements made by other parties or their counsel to the news media, or respond to allegations by media representatives.

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: May 8, 1992

TO: Board of Selectmen

FROM: Don P. Johnson, Town Manager

SUBJECT: Carol Lake, COA Director

Attached is a copy of the program for the Middlesex Community College award ceremony in which Carol Lake was honored as one of the "People Who Make A Difference". The event was quite impressive and Carol was in good company. (Rightly so!)

The nomination was made by a member of the Friends of the COA. I am trying to obtain a copy.

Don

cc: Carol Lake
Personnel File

PEOPLE WHO MAKE A DIFFERENCE - 1992 Honorees

Deirdre Anderson
For her leadership, commitment and principle in serving the disabled children of Camp Paul, touching the lives of children in over 68 cites and towns.

Edward Colbert - Data Instruments
For making a real difference in the loves of 3000 youngsters through organizing companies to work with Middle Schools in Lowell and through inspiring interest in Mathematics, Science and Technology.

Beth Fraser
For her tireless contributions behind the scenes to the City of Lowell, donating time to the National Park, local grammar schools, Folk Festival, Boy Scouts and countless other organizations.

Carol Lake
For her energy, ability and compassion in delivering services to the elderly and establishing Acton's Council on Aging as a model program.

Deborah Lawrence
For her unfailing dedication and courage in educating hundreds of young adults and children teaching them about sexual assault and incest, helping them to be safe, strong and free.

Maria Lopez
For her spirit and love for her community that has helped her fight to renew the Acre Community of Lowell, providing a sense of hope and leadership to a neighborhood that needs her.

Cari Luterman
For her unfailing spirit and spunk, her remarkable dedication to what she believes in and works for, be it as an ESL tutor in the Lexington Public Schools or as a volunteer to the Lexington community.

Joseph McNamee
For his compassionate voice and strong advocacy for the needs of the homeless, always seeking services for those less fortunate.

Diego Ortiz
For his devotion to the Hispanic community, giving youngsters a sense of belonging, good sportsmanship and physical well being through establishing the North Common Soccer League in Lowell.

John Walker
For his contagious energy, hard work and inspiration with the Big Brother/Big Sister Organization, educating youngsters every day through the life he leads.

PROGRAM

Opening Remarks
Caryl Dundorf,
Associate Dean of Open Campus

Greetings from MCC
President Carole A. Cowan, Ed.D.

Keynote Speaker
Robert Dzuris,
Assistant Executive Director,
House of Hope

Panel Presentation
Maria Lopez,
Coalition for a Better Acre, Inc., /YMCA

Edward Colbert
CEO/Data Instruments Inc.

Cari Luterman
ESL Tutor, Lexington Community Volunteer

Committee Participants
J.R. Loeum
Counselor/Community Outreach Center

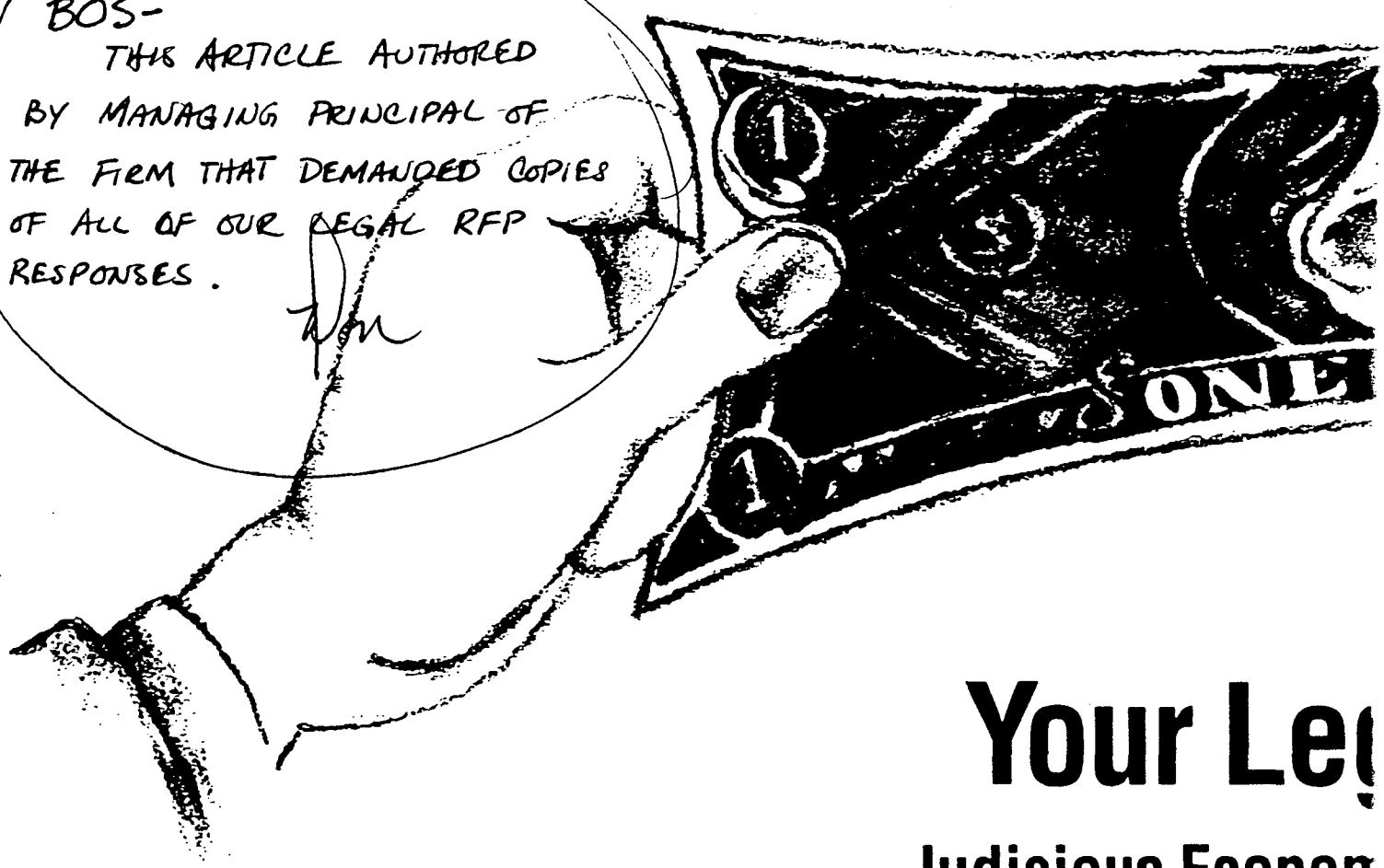
Molly Sheehy
Dean/Campus Manager

Pecki Wilson
Director of Community Outreach Center

Awards Presentation
Jean Trounstine
Associate Professor of Humanities

Stret

BOS-
THIS ARTICLE AUTHORED BY MANAGING PRINCIPAL OF THE FIRM THAT DEMANDED COPIES OF ALL OF OUR LEGAL RFP RESPONSES.
Don



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BY LEONA

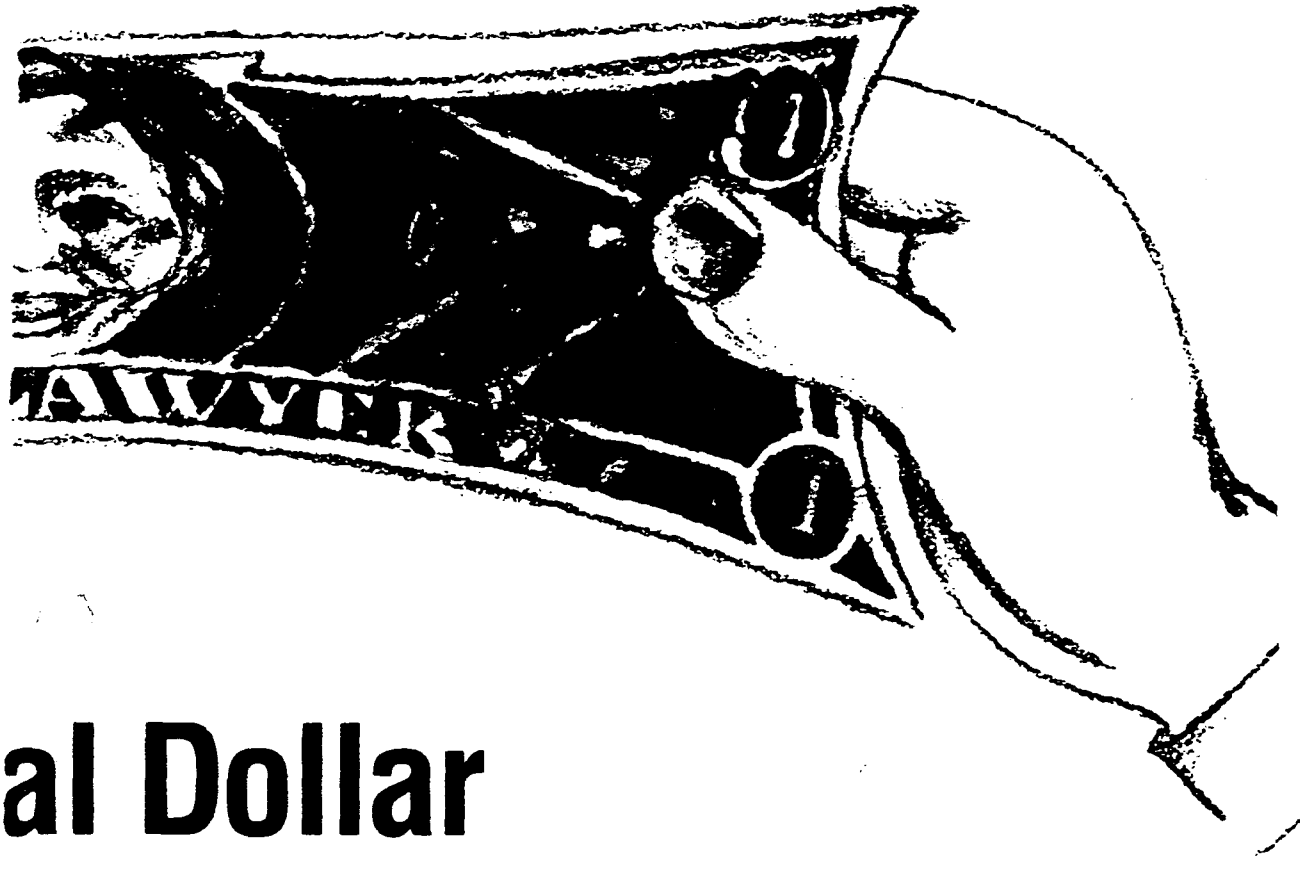
ACROSS MASSACHUSETTS THIS YEAR, COMmunities have cut their legal budgets in response to reduced state revenue sharing. The legal budget is, of course, less controversial for a town meeting to cut than, say, funds for safety services or schools.

How can communities maintain effective legal services with smaller legal budgets? I have several suggestions for the general legal budget, the special-counsel budget—which makes up at least 90 percent of the total legal budget in most communities—and the litigation budget. Some of these principles also apply to other legal expenses, such as labor counsel and bond counsel.

Municipal officials cannot completely control a town's legal budget. The world is filled with unforeseen events—the discovery of a hazardous-waste site on town land, a complex discharge of a key official, shoddy work by a contractor—so there is always the possibility that unanticipated legal services

Leonard Kopelman is the managing principal of Kopelman and Paige, PC, a statewide municipal law firm with offices in Boston and Northampton.

ching



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and
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Date 5/6

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KOPELMAN

and expenses will be necessary. Thus it is all the more important to exercise tight control over those areas where you can influence expenses.

General Legal Services

An effective way to control the general-services budget is to control centrally all requests for town counsel's time. "General services" include both verbal and written opinions on a wide variety of legal topics, attendance by counsel at town meeting and various meetings of selectmen and other boards, contract review, and other matters that do not involve litigation.

Town governments should establish a process for routing all requests to the town manager or chief administrator, or to the board of selectmen in smaller towns. Before a lower board, such as a planning board or zoning board of appeal, refers a question to town counsel, a majority of the members should agree that the request is worth making. Using a form to request legal services (see page 21) enables a local government to regulate use of general services. (My

continued on page 22

Legal Dollars

continued from page 19

thanks to the Town of Walpole and Hadley Administrative Assistant Robin Crosbie for contributing to the design of is form.)

Notice that the form asks, "Did you try to find the answer in the statutes, by calling a state agency, or by talking to your counterpart in another community?" I am frequently struck by the large number of requests our firm receives as town counsel that never should have come to us because the answer could be found in the General Laws. I don't know of a single town hall that does not have either the green or black set of the General Laws.

Basic Information

In addition, the Department of Revenue's Municipal Bulletin No. 29, entitled "Laws Relating to Municipal Finance and Taxation," has most of the General Laws you need and is available for $8. State agencies publish many valuable books and pamphlets such as "All You Want to Know about Proposition 2½," published by the Department of Revenue; an excellent newsletter on planning and zoning published by the Executive Office of Communities and Development; and the Inspector General's handbook on procurement. You can obtain copies of these from individual state agencies or from the State House Bookstore, which is run by the Office of the Secretary of State (telephone (617) 727-2834).

Other excellent resources are available from nonprofit municipal organizations. The MMA publishes a *Handbook for Massachusetts Selectmen* and a book entitled *Managing Small Towns*. Stuart DeBard's *Handbook for Massachusetts Finance Committees*, available from the Association of Town Finance Committees, contains answers to many questions regarding municipal finance. The Massachusetts Association of Conservation Commissions and the Massachusetts Association of Health Boards also publish useful handbooks. A list of statewide municipal organizations is published each year by the MMA in the directory issue of The *Municipal Advocate*, the association's quarterly magazine.

The MMA handbooks and other publications list state agencies and other resources for local officials. These, along with the General Laws, are frequently the very same materials to which your town counsel turns in answering queries posed by local officials.

You may also wish to consider purchasing the three volumes on municipal law in the multi-volume Massachusetts Practice Series—Volumes 18, 18A, and 18B—put out by the West Publishing Company. These volumes contain summaries of all municipal laws and the court decisions that interpret them. The three volumes may be purchased for approximately $110.

Ethics Questions

Another type of question that municipal officials frequently refer to town counsel concerns interpretations of the state's conflict-of-interest law. Local officials are aware of the State Ethics Commission, but many are under the mistaken impression that a question regarding conflict of interest can be handled more discreetly by local counsel.

In fact, your town counsel must reply to an inquiry regarding conflict of interest not only to the person who requested it, but also, by law, to the town clerk and to the State Ethics Commission, which has thirty days to agree or disagree. By bringing your inquiry directly to the State Ethics Commission in the first instance, you get a response that is usable immediately upon receipt, that is not sent to the town clerk, and that is free of charge.

INSURANCE

- PUBLIC OFFICIALS LIABILITY
- SCHOOL BOARD LIABILITY
- LAW ENFORCEMENT LIABILITY
- AMBULANCE ATTENDANTS LIABILITY
- POLICE AND FIRE ACCIDENT

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When You *Don't* Need Counsel

Some town boards like to have town counsel attend all of their meetings, even if they do not have a legal question. In my opinion, this is not a good policy simply because in such circumstances town counsel might start playing an influential role in public-policy questions that should be decided by elected and appointed officials. Beyond this, though, requiring attendance at all meetings by town counsel wastes the community's resources.

Some boards believe that since activities such as meeting attendance are covered by a "retainer," they are not paying for counsel's attendance. In the long term, though, most attorneys will ensure that they are being compensated for their time, either by increasing their retainers or by increasing their rates for non-retainer work. The bottom line is that towns will save money by requiring counsel to attend only those meetings where his or her attendance is clearly appropriate.

You can carry this thinking one step further. Even in cases where the town counsel must participate, why pay for travel time or for the time that counsel must sit at the meeting waiting for a question to be posed? Local boards and committees should explore an arrangement with their legal counsel under which counsel agrees to be available by telephone during the meeting, but will bill only for the time he or she actually spends on the telephone responding to the board or committee.

Unless a board is considering a license revocation, consider not having counsel present at liquor-license hearings. The police should be able to present the evidence. The selectmen should carefully review rules and procedures beforehand.

TOWNS HAVE THE OPTION OF ENFORCING LOCAL BYLAWS AND REGULATIONS BY NON-CRIMINAL DISPOSITION. THIS CAN AVOID LARGE EXPENSES.

Finally, when you do need to bring a question to town counsel, write down the question on the form discussed above. In an emergency this may not be possible, but at other times, it forces the individual or group to focus on exactly what they need to know. This will save time and money.

Litigation

Obviously, you need to think twice before bringing any lawsuit. You should ask your counsel for an honest evaluation of the strength of the municipality's case, for his or her best assessment of how much it will cost, and whether it would set a precedent for the community. This applies to existing litigation which may have been ongoing for several years. Sometimes, when membership of the board of selectmen changes, or an issue is not as hot as it was earlier, a case becomes less important and it is possible to discuss settlement rather than incur the large expense of going to trial. Incidentally, a good way to ensure that you are aware of all ongoing litigation is to have counsel bill the town for all work, including litigation, on a monthly basis. Also, you should require counsel to provide a full list of ongoing litigation, with the status of each case, at least once a year.

Towns have the option of enforcing local bylaws and regulations by non-criminal disposition. This can avoid large expenses. For example, one way to stop a zoning violation is to initiate a lawsuit to enjoin the violation. This would entail a $110 filing fee, an additional fee for a temporary restraining order, and substantial legal fees for a lawyer to draft a com-

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plaint and sit in court. Alternatively, the local building inspector can write out a notice of violation (similar to a traffic ticket), which often is sufficient to stop the offense. If the offense continues, the building inspector can go to the district court and swear out a complaint. Using the latter method can resolve many matters successfully without incurring any filing fees or legal costs.

Another way to avoid involving town counsel in litigation on small matters is to encourage department heads and others to pursue matters in Small Claims Court. Under General Laws Chapter 218, an action "in the nature of contract or tort, other than slander and libel" where the initial damages claimed are less than $1,500 may be brought in Small Claims Court. This is a particularly good method for collecting money for such items as unpaid ambulance bills, fees for police details, reimbursements for damage to town property, or for recovering expenses incurred from such services as boarding up a building after a fire.

Before you turn a case over to town counsel, make sure that the matter is not covered by insurance. Even if you are initially told that the policy does not include coverage, it may be worth filling out a claim. Our office has found that in approximately 80 percent of cases one can get the insurance company to provide coverage even when the carrier initially denied coverage.

TRY TO AVOID HAVING BOARDS WITHIN THE SAME COMMUNITY SUE ONE ANOTHER.

Do not send town counsel to court to defend a variance grant by the local zoning board of appeals. When a zoning board grants a variance it means an applicant has been successful in convincing it to vary the town or city bylaws. That applicant should defend the board's position. The public generally has not interest in the matter and should not have to pay for it. If someone does bring a suit against the grantee of a variance, the town is also named as a defendant, but it is a technical party only. Your town counsel must file an appearance form, but does not have to file an answer. Only when the board denies a variance does town counsel need to defend the town.

Two other points in the litigation area: If someone brings a frivolous suit, consider counterclaiming for the town's legal fees. Also, try to avoid having boards

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within the same community sue one another—the taxpayers may end up paying for lawyers to represent both sides of the dispute. Every effort should be made to mediate the dispute. There may be a disinterested expert in a neighboring town who can help. Also, several mediation services are available to municipalities.

Special Counsel

"Special counsel" refers to someone other than town counsel who is brought in to handle a particular matter. This can occur when regular town counsel would have a conflict of interest in representing the town in the matter or when outside counsel is needed because the matter requires special expertise.

It is in the community's best interest to use special counsel sparingly. This is because, first, special counsel generally charges higher rates. Second, many attorneys who are brought in as special counsel do not have the same overall understanding of the town as does town counsel. Special counsel often will lack the political sensitivity and familiarity with the community that are necessary to effective and efficient representation. Finally, special counsel may not have the same incentive as town counsel to perform economically. A town that uses special counsel heavily will lose control of its legal budget.

If your community is making extensive use of special counsel it may be a sign either that a number of boards and committees do not trust counsel or that town counsel lacks the necessary variety of skills. In either case, you should carefully consider your choice of town counsel. When it is necessary to use special counsel you should negotiate the rate. Do not merely accept the rate that is presented to you if it seems too high.

Preventive Law

The best way to avoid legal costs is to avoid getting into legal problems in the first place. I refer to this as "practicing preventive law." Many of the items discussed above fall into the category of preventive law. There are other steps a local government can take to avoid incurring legal costs or to minimize them:

- Selectmen, managers, and other appointing authorities should consider appointing thoughtful and knowledgeable lawyers to serve on boards and committees that must frequently deal with legal issues, such as the planning board and zoning board of appeals.
- All local officials should attempt to keep current on changes in law that affect their respective areas of responsibility. You should request town counsel to inform you of important new laws and cases that affect municipal operations.
- Your town counsel or qualified attorney should review important contracts, prior to entering into them.
- You should annually review the town's insurance coverage to make sure that new facilities and equipment appear on schedule and that the language in the policy is adequate.

Selecting Counsel

Perhaps the most critical action a town can take in practicing preventive law is in selecting a town counsel in the first place. If possible, make a selection that will minimize the need for special counsel. Choose a counsel who has a good track record in all the areas in which your community will call upon him or her to serve—litigation, land use, environment, licensing, contracts, and so on.

Your counsel should have adequate malpractice insurance—I recommend at least $2 million—so that the community can easily be compensated in the event of attorney error. Your counsel should have an extensive municipal library and at least an "AV" ("very high") rating from Martindale-Hubbell, a national rating service of lawyers. Avoid attorneys who would frequently have conflicts of interest in representing the local government.

The final point to practicing preventive law is to be a consumer who sticks up for your own interests. Lawyers are trained, both in law school and by courtroom experience, to act self-confident. Some people find lawyers intimidating and, consequently, do not ask questions which, they think, may confront the lawyer or challenge what the lawyer says.

We could solve many of the problems people have with high-priced lawyers if we treated legal services more like other services we purchase. It is perfectly acceptable to ask a lawyer exactly what he or she will do for you and how much it will cost. If you don't understand the answer, it is the attorney's obligation to help you understand and be responsive to your concerns. If you think a service is costing too much, it is appropriate to say so and, if you remain dissatisfied, to seek another service provider.

Controlling legal costs may be an acute necessity because of budget restraints, but, regardless of the fiscal climate, your community will be best served when its leaders are well-informed, stringent, and savvy consumers of legal services.

VACS violation control system

Parking Ticket Processing

A Service Offered by
Computer Emporium, Inc., with the
Massachusetts Municipal Association

More Than 100 Clients

VACS Ticket Processing Service,
Attention: George McCormack,
MMA, 60 Temple Place, Boston,
Massachusetts 02111;
(617) 426-7272

PALMER & DODGE

One Beacon Street
Boston, Massachusetts 02108

MAY - 6 1992

Acheson H. Callaghan, Esq.
(617) 573-0178

Telephone: (617) 573-0100
Facsimile: (617) 227-4420

CC: BOS
POLICE CHIEF } FYI

May 1, 1992

Mr. David Quinn
Clerk
Middlesex Superior Court
360 Gorham Street
Lowell, MA 01853

Dear Mr. Quinn: (Sawyer v. Acton, MCIV 91-00223)

I respectfully request that you bring this letter to the attention of Judge Gershengorn, when this case is called for a pre-trial conference.

I am Town Counsel of Acton. I received a copy of the enclosed notice for a Pre-Trial Conference from Victor Bass, who was formerly a partner here. On November 27, 1990, the Concord District Court affirmed the revocation by the Acton Police Chief of a gun permit issued to Samuel Sawyer. Shortly thereafter, the court allowed plaintiff's counsel to withdraw his appeal. Mr. Sawyer apparently filed some form of "appeal" from the District Court's decision, and the District Court forwarded the papers to the Superior Court. We have, however, never received a copy of any papers Mr. Sawyer may have filed.

When I contacted the Clerk's office, you kindly gave me this information from the court papers and told me that Mr. Sawyer had listed Stephen L. Pearson as his counsel. I contacted Mr. Pearson, who informed me that although he had represented Mr. Sawyer in the District Court, he had withdrawn and was not representing him in the Superior Court. In addition, the Acton Police Department is not aware of Mr. Sawyer's present whereabouts. As a result, there is no possibility of complying with the terms of the standard pre-trial order, which requires a conference of counsel. Moreover, the usual form of review of a license denial is by certiorari (see Chief of Police of Shelburne v. Moyer, 16 Mass. App. Ct. 543 (1983)), and such an appeal would be decided on the record below, thus making inapplicable most of the requirements of the standard pre-trial order.

In view of these facts (and in view of the limitations of the Town's budget), I respectfully request being excused from attendance at the May 4 pre-trial conference. If Mr. Sawyer appears pro se and wants to pursue this case, I would agree to a prompt hearing on any day except May 13, May 22, or May 29. I also request the Court to order Mr. Sawyer to provide me copies of his complaint or other documents constituting his "appeal."

Very truly yours,

Acheson H. Callaghan
Palmer & Dodge
One Beacon Street
Boston, MA 02108
(617) 573-0178

AHC/dcb
Enclosure

cc: Stephen L. Pearson, Esq.
Don Johnson

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX
THE SUPERIOR COURT

CIVIL DOCKET# MICV91-00223

RE: Sawyer v Acton Police Department

TO: Victor Bass
Widett, Slater & Goldman
60 State Street
Boston MA 02109

NOTICE TO APPEAR FOR FINAL PRE-TRIAL CONFERENCE

--- A final pre-trial conference in the above referenced case will be held on **05/04/92** in **Cv CrtRm (Lowell)** at **02:30 pm**. All trial counsel are required to attend, submit a joint pre-trial memorandum to the Court, and be prepared to set a firm trial date. In accordance with Standing Order 1-88, and to facilitate orderly progess toward trial, counsel for all parties shall meet beforehand to prepare a joint pre-trial memorandum containing the following: (1) agreed upon issues of fact in a form suitable for reading to the jury; (2) contested issues of fact and the position of the parties on those issues; (3) agreed upon issues of law; (4) contested issues of law and the positions of the parties on those issues; (5) the name and address of each witness to be called by each party; (6) exhibits the parties agree may be introduced at trial (all exhibits to be marked for identification with consecutive letters prior to trial); (7) exhibits the parties cannot agree on as to admissibility and the reasons therefore (all exhibits to be marked for identification with consecutive letters prior to trial); (8) names, addresses and qualifications of each expert and the matter on which the expert is expected to testify, the substance of all facts and opinions to which the expert is expected to testify, and a detailed summary of the grounds of each expert's opinion.

Failure to list in pre-trial memorandum a witness or exhibit, other than rebuttal witness or exhibit, the need for which cannot reasonably be anticipated prior to trial, may lead to an order precluding introduction at trial of the omitted testimony or exhibit. The pre-trial conference Justice or designee may require greater specificity or additional supplementation.

Dated: 04/08/92

Wendie I Gershengorn, Justice

BY:
D Quinn
Telephone: 508-453-0201

PALMER & DODGE

One Beacon Street
Boston, Massachusetts 02108

MAY - 6 1992

Acheson H. Callaghan, Esq.
(617) 573-0178

Telephone: (617) 573-0100
Facsimile: (617) 227-4420

May 1, 1992

cc: BOS - CONFIDENTIAL - FYI

Mr. Roland Bartl
Town Planner
472 Main Street
Acton, MA 01720

Dear Roland: (Privileged & Confidential)

I enclose a copy of ~~Lou Levine's letter about the~~ DiDuca property. The sticking point seems to be the curb cuts, although Levine has read the Board's position more absolutely than we intended. We had suggested a provision notifying future purchasers that the Town was opposed to curb cuts, but postponing any final action until site plan review. He argues that the Selectmen cannot prohibit (or limit) curb cuts at that time, but that is not a issue that can or will be resolved in the present lawsuit. I would proposed clarifying this issue further with Lou.

Second, he says that the zoning case "will not be tied to resolution of the Planning Board appeal." Again, it is not clear what this means. If the subdivision issue is resolved, the owner will get protection against the application of the new zoning for the statutory period. I am not sure whether Levine is saying that the DiDucas will pay him to contest the zoning, even in those circumstances. If so, I would be somewhat less inclined to settle the subdivision case, because the Town will have substantial litigation costs anyway. Again, some clarification is in order, before the Board makes any final decision.

Very truly yours,

Acheson H. Callaghan

AHC/dcb
Enclosure

cc: Town Manager

D'AGOSTINE, LEVINE & GORDON, P.C.
ATTORNEYS AT LAW
268 MAIN STREET
ACTON, MASSACHUSETTS 01720-2223
508-263-7777
FAX 508-264-4868

JULIAN J. D'AGOSTINE
LOUIS N. LEVINE
STANLEY L. GORDON
F. ALEX PARRA
CATHY S. NETBURN

BOSTON OFFICE:
ONE BOSTON PLACE

CABLE "DALYN"

April 29, 1992

Acheson H. Callaghan, Jr., Esquire
Palmer & Dodge
One Beacon Street
Boston, MA 02108

Re: Rosemaria Sullivan and Harriet McFarland, Trustees of The DiDuca Family Trust vs. Gregory Niemyski, et als
Civil Action No. 157585

Dear Mike:

In response to your letter of April 15, 1992, and for the purpose of settlement and without prejudice to any of the Plaintiffs' rights, I am briefly responding just to those issues that I believe are in most controversy:

The conditions referenced in Paragraph 1 of your letter are simply not required by the Planning Board Rules and Regulations. However, if this matter could otherwise be resolved, I would suggest to the Plaintiffs that they consider providing, at no expense to the Town, the land area so that in the future the Town may make such improvements.

The conditions referenced in Paragraph 3 of your letter are unacceptable. The Planning Board has no right, nor would the Board of Selectmen under site plan approval, to prohibit curb cuts on Route 2A, because of the Master Plan. Further, the prohibitions on curb cuts off of Route 2A seem to be in direct contradiction with the concerns set forth in Paragraph 1 of your letter to reduce traffic on Esterbrook Road.

Unfortunately, the Town has held this property to a different standard than all of the other properties in the general vicinity along Route 2A. I would suggest, that if you have not done so already, when you are in Acton you take a look at this property, but perhaps more importantly, take a look at the surrounding area.

Acheson H. Callaghan, Jr., Esquire
Palmer & Dodge
April 30, 192

The remaining matters set forth in your letter hopefully can be worked out if the foregoing issues are resolved. However, the zoning case, will not be tied to a resolution of the Planning Board appeal.

Please contact me after you have had an opportunity to review this letter and advise what the Planning Board's intentions in this matter are.

Very truly yours,

D'AGOSTINE, LEVINE & GORDON, P. C.

By: Louis N. Levine/as
Louis N. Levine

LNL/as

cc: Rosemarie Sullivan, Trustee
Harriet McFarland, Trustee

MASTER PLAN COORDINATING SUB... II

MINUTES FOR MEETING ON

MARCH 24, 1992

Attendance: Anne Fanton, Board of Selectmen
Nicholas Miller, Citizen at Large
Bill Lawrence, Chamber of Comerce
Christopher Devaney, Chamber of Commerce
Matt Mlezlva, Board of Appeals
Garry Rhodes, Building Department
Roland Bartl, Planning Department
David Abbt, Engineering Department

Anne opened the meeting at 7:30 PM as the Acting Chairman

The February 25 minutes were approved as written

Ann agreed to create an "Issue Status" which will be kept current and distributed with the minutes

Bill announced that a "Membership Alert" would be going out with material provided by David, Garry, and Roland

Roland announced that Development Guidelines comment has been received and that Martin Graetz has volunteered to edit the product to a shorter version

The remainder of the meeting was spent discussing the Sign Issues on the agenda. The objective of the discussion was to determine whether we would recommend any changes in the Sign ByLaw to the Planning Board. The results of the discussion is as follows:

#1. Roland distributed a memo explaining the rationale for the Light Color on Dark Background requirement and then presented a "chalk talk" on the alternatives. The group discussed the pros and cons of the alternatives and concluded by voting unanimously (with one absention) to recommend to the Planning Board that:

.Delete the requirement entirely (no overriding reason to require light on dark - impacts Corporate Logos without sufficient benefits)
.or, as a second alternative; Allow trademarks, recognized company names, logos or other items which do not meet the "light on dark" criteria as inserts into an otherwise compliant sign.

#2. Roland made a presentation on the Size limits subject, which the group then discussed. The group agreed to resume discussion after individual members had done a "drive by" data collection to understand the alternatives.

#5. Dipping to Sign topic number 5 (Signs in Public Ways), Roland and Barry made a presentation. That was followed by a review and comment on the 24 March Barth letter and the 5 Dec Charter letter. The group agreed to review the Roland/Barry draft policy at the next meeting. The recommendation would then go to the Selectmen for adoption as a policy on Signs in Public Ways.

The group discussed a suggestion to track an active application through the process, but did not feel strongly enough to commission another such effort (one such case study having been done in retrospect).

The next meeting will continue with the sign issues.

The future meeting dates set were 21 April and 20 Jun.

Minutes prepared by Matt Mlezivа

cc: Conservation Comm., Finance Comm., Recreation Comm., Comm. on Disabilities, Historic District Comm., Board of Health, Municipal Properties, Housing Authority, Council on Aging, Board of Selectmen, Town Clerk

TOWN OF ACTON POLICE DEPARTMENT

INTER-DEPARTMENTAL COMMUNICATION

TO: Don Johnson , T.M. DATE: May 4, 1992 Town Manager Information

FROM: Chief Robinson, C.O.P. TIME: 11:08 AM

SUBJ: April Monthly Report (G.O. 13.1.2.B)

Please find attached the subject report that is compared to the month of April, 1991.

MAY - 5 1992

CC: BOS -
INTERESTING STATISTICS, FYI.
Don

ACTON POLICE DEPARTMENT

CALLS LISTED BY CATEGORY FOR MONTH ENDING, 04/30/91

ACCIDENT - NO INJURY	36
ACCIDENT WITH INJURIES	12
ALARM RECEIVED	78
ANIMAL COMPLAINT	47
ASSAULT	2
BREAK & ENTRY	15
CHILD ABUSE COMPLAINT	1
CIVIL COMPLAINT	1
C.O.R.I. RECORD CHECK	17
DISTURBANCE	34
DOMESTIC DISTURBANCE	2
DRUG VIOLATION	3
FIRE CALL	41
GENERAL SERVICE	190
HEALTH HAZARD	1
LARCENY	45
LARCENY OF MOTOR VEHICLE	3
LOCKOUT	5
MALICIOUS DESTRUCTION	15
MEDICAL EMERGENCY	39
MISSING PERSON	6
MOTOR VEHICLE COMPLAINT	163
MUTUAL-AID CALL	1
POLICE INFORMATION	50
WARRANT RECALLED	13
VEHICLE REPOSSESSION	2
SECURITY CHECK	163
SUDDEN DEATH	3
SUICIDE ATTEMPT	1
SUSPICIOUS ACTIVITY	84
ANNOYING TELEPHONE CALLS	17
THREATENING	5
TRAFFIC HAZARD	31
TRESPASSING COMPLAINT	2

TOTAL COUNT = 1128

ACTON POLICE DEPARTMENT

CALLS LISTED BY CATEGORY FOR MONTH ENDING, 04/30/92

ACCIDENT - NO INJURY	33
ACCIDENT WITH INJURIES	6
ALARM RECEIVED	72
ANIMAL COMPLAINT	43
ARSON	1
ASSAULT	7
BREAK & ENTRY	7
CHILD ABUSE COMPLAINT	2
CIVIL COMPLAINT	2
C.O.R.I. RECORD CHECK	15
DISTURBANCE	28
DOMESTIC DISTURBANCE	8
DRUG VIOLATION	4
FIRE CALL	38
FORGERY	2
GENERAL SERVICE	142
GUN VIOLATION	1
KIDNAPING ATTEMPT	1
LARCENY	27
LARCENY OF MOTOR VEHICLE	3
LOCKOUT	2
MALICIOUS DESTRUCTION	35
MEDICAL EMERGENCY	25
MISSING PERSON	6
MOTOR VEHICLE COMPLAINT	48
MUTUAL-AID CALL	3
POLICE INFORMATION	82
WARRANT RECALLED	11
ROBBERY/ARMED OR UNARMED	1
SECURITY CHECK	136
SEXUAL ASSAULT	2
SUDDEN DEATH	1
SUICIDE ATTEMPT	3
SUSPICIOUS ACTIVITY	82
ANNOYING TELEPHONE CALLS	11
THREATENING	5
TRAFFIC HAZARD	14
TRESPASSING COMPLAINT	1

TOTAL COUNT = 910

TOWN OF ACTON POLICE DEPARTMENT

INTER-DEPARTMENTAL COMMUNICATION

T. B.

Tow[illegible]ager
Information

TO: Don Johnson, T.M. **DATE:** April 17, 1992

FROM: Chief Robinson, C.[illegible] **TIME:** 9:55 AM

SUBJ: March Monthly Report (G.O. 13.1.2.B)

Please find attached the subject report that is compared to the month of March, 1991.

ACTON POLICE DEPARTMENT

CALLS LISTED BY CATEGORY FOR MONTH ENDING, 03/31/91

ACCIDENT - NO INJURY	72
ACCIDENT WITH INJURIES	13
ALARM RECEIVED	70
ANIMAL COMPLAINT	64
BREAK & ENTRY	9
CHILD ABUSE COMPLAINT	2
CIVIL COMPLAINT	2
C.O.R.I. RECORD CHECK	14
DISTURBANCE	31
DOMESTIC DISTURBANCE	10
DRUG VIOLATION	2
FIRE CALL	28
GENERAL SERVICE	234
HEALTH HAZARD	1
KIDNAPING ATTEMPT	1
LARCENY	36
LARCENY OF MOTOR VEHICLE	3
LOCKOUT	4
MALICIOUS DESTRUCTION	25
MEDICAL EMERGENCY	40
MISSING PERSON	5
MOTOR VEHICLE COMPLAINT	170
MUTUAL-AID CALL	6
POLICE INFORMATION	77
WARRANT RECALLED	8
VEHICLE REPOSSESSION	1
SECURITY CHECK	147
SUDDEN DEATH	1
SUICIDE ATTEMPT	2
SUSPICIOUS ACTIVITY	81
ANNOYING TELEPHONE CALLS	9
THREATENING	7
TRAFFIC HAZARD	24
TRESPASSING COMPLAINT	7

TOTAL COUNT = 1206

ACTON POLICE DEPARTMENT

CALLS LISTED BY CATEGORY FOR MONTH ENDING, 03/31/92

ACCIDENT - NO INJURY	44
ACCIDENT WITH INJURIES	12
ALARM RECEIVED	95
ANIMAL COMPLAINT	52
ARSON	1
ASSAULT	2
BREAK & ENTRY	7
CHILD ABUSE COMPLAINT	3
CIVIL COMPLAINT	1
C.O.R.I. RECORD CHECK	8
DISTURBANCE	18
DOMESTIC DISTURBANCE	4
DRUG VIOLATION	3
FIRE CALL	32
FORGERY	1
GENERAL SERVICE	162
HEALTH HAZARD	1
LARCENY	31
LARCENY OF MOTOR VEHICLE	1
LOCKOUT	1
MALICIOUS DESTRUCTION	27
MEDICAL EMERGENCY	36
MISSING PERSON	5
MOTOR VEHICLE COMPLAINT	71
MUTUAL-AID CALL	4
POLICE INFORMATION	73
WARRANT RECALLED	11
VEHICLE REPOSSESSION	1
SECURITY CHECK	159
SEXUAL ASSAULT	1
SUSPICIOUS ACTIVITY	68
ANNOYING TELEPHONE CALLS	18
THREATENING	10
TRAFFIC HAZARD	32
TRESPASSING COMPLAINT	2

TOTAL COUNT = 997

Board of Selectmen

Acton Recycling Task Force

Meeting Minutes

Date: Tuesday, March 31, 1992

Location: Room 126, Town Hall

Members present: Nancy Tavernier, Chairman; Maya Spies, Vice Chair/Clerk; Peggy Mikkola; Rosemary Lundberg; E.V. Tear

MAY - 6 1992

The meeting convened at 9:10 am.
Last meeting's Minutes were approved.

1. The Chairman reported that Task Force member Kent Werst has resigned; he no longer resides in Acton. Rosemary Lundberg announced that Jan DiBona, co-member from the Junior Women's Club, should also be removed from the Task Force member list. That leaves a total of five active members and three ex officio members. Effective immediately, a quorum will consist of three active members.

2. E. V. Tear and Rosemary reported on the results of their meeting with Beacon Editor, Kris Kelleher, saying that she was receptive to the proposal to publish an ongoing series promoting recycling. An article submitted by Rosemary was printed on March 12th, as the first of this series. An editorial by Ms. Kelleher in the same issue introduced the new column, explaining that it would "cover current recycling procedures and how residents can do more to produce less trash." Another article in the series was printed on March 19th.

E.V. has given Ms. Kelleher a number of sample articles, and will continue to submit more. The Beacon will print them as space allows, editing as necessary.

The Beacon has requested the Task Force to provide a logo to help identify the series There was much discussion on how the Task Force could come up with such a logo and what it should include. E.V. volunteered to design one and give it to the Beacon.

3. Members extended their appreciation to Peg Mikkola for her letter-to-the-editor on hazardous waste , which was published in the Beacon on March 5th.

4. Maya presented her draft public education brochure, as requested at the previous meeting. Several minor changes were suggested, but the overall design was approved.

It was decided that the final brochure will be printed on recycled, white, legal-size, 60# paper by Minuteman Tech High School. It will be sent out by direct mail to all Acton households (approx. quantity 7,000) using the League of Women Voters' nonprofit bulk rate number (@ 4.9 cents per item), and will be labeled by carrier route by the Beacon. Approximate total cost will be from $850 to $1,000.

Possible funding sources were discussed. The LWV and the Junior Women's Club have already expressed their support. Still to be asked are the Conservation Trust (Maya), and possibly local school PTOs (Rosemary). It was agreed that it was preferable to obtain funding from many sources rather than one or two, so many would have a vested interest in the project It was agreed that Maya would produce a clean second draft of the brochure as soon as possible for members to use as a example for fundraising purposes.

Members were asked to come to the next meeting prepared to suggest final changes to the brochure. In addition, Peg offered to research paper sources, including Staples, and Maya offered to contact Minuteman Tech about their access to legal-size, 60# recycled paper.

5. Nancy Tavernier reported on the meeting she attended on March 10th, sponsored by the Town of Burlington, billed as a Public Forum on Regional Recycling Initiatives. All NESWC communities were invited. Nancy said it was well attended (35-40 people), but was very frustrating because MRI would not commit to anything definite regarding regional recycling plans. The plant manager of the North Andover incinerator, James McIver, was available to field questions, but was not very forthcoming.

The problem with any coordinated approach to recycling involving NESWC communities is that increasing recycling would reduce the tonnage of other solid waste, which would undermine the amount of "fuel" available for MRI's waste-to-energy incinerator. MRI therefore is not eager to commit to recycling by building a regional recycling center (which had been part of the original NESWC master plan, as presented by the state).

State recycling bans were also discussed at the Burlington meeting, and Mr. McIver was asked how the incinerator would see that recycled materials are kept out of the incinerator. He said that they will spotcheck two loads of trash per day for banned recyclables.

Task Force members agreed that there seemed to be little commitment on the part of the state (or industry) to really address recycling as a necessary part of an overall solid waste management plan. It was very discouraging, except for the fact that Acton is far ahead of many other towns trying to develop recycling programs.

6. The current status of Acton's recycling center was also discussed. Members felt that the paper bag problem was getting better—patrons are leaving fewer bags in the newspaper bin.

Maya said that she felt it was important for the Highway Dept. to clean up the recycling center on a regular basis, each time new bins are delivered, sweeping up the broken glass and picking up the overflow of plastic jugs . Overall tidiness would be a signal to the public that rules are expected to be followed and that the area is well managed. It might also be more inviting, encouraging more patronage.

Maya also urged that a public notice board be constructed in the recycling area, so patrons could easily access recycling rules. Nancy remarked that such a kiosk would cost about $300. It could be an Eagle Scout project. The topic was left open for future discussion.

Two questions for BFI arose: Can blue glass be put with green? Can aerosol cans be deposited with cans? Nancy will provide the answers at the next meeting.

7. Nancy urged Task Force members to vote for two articles at the upcoming Town Meeting, namely: to repeal a 1984 law to accept no out of town trash (which conflicts with current needs), and to approve the refinancing of the NESWC bond (which could save as much as $21 million and help tip fees level out to about $65 per ton).

The meeting adjourned at 10:30 am.
The group agreed to meet again on Tuesday, May 5, at 9:00 am.

Respectfully submitted,

Maya Spies

Maya Spies, Clerk

cc Town Clerk
Board of Selectmen

BOS

ACTON-BOXBOROUGH REGIONAL SCHOOL COMMITTEE

Conference Room
Junior High School

April 2, 1992
MAY - 6 1992

Members Present: Sally Campbell, Stephen Aronson, Pam Harting-Barrat, Jean Butler, Patrick Cataldo, Lees Stuntz, Mary Anne Vogel, Donald Wheeler

Also Present: Robert Kessler, Bill Ryan, Mac Reid, Fran Leiboff, Steve Desy, Steve Donovan, Parker Damon, Bob Evans, Micki Williams, Rick Sawyer, student representatives: Elaine Fingerman,, Meighan McCrea, Lisa Napoli and Colin Brannen; student interns: Kanchan Chiteley and Jeff Sgroi, citizens and press.

The meeting was called to order at 6:30 p.m. by Sally Campbell, Chairperson.

Minutes of March 5 and 12, 1992, were approved as written.

Warrant #92-036 in the amount of $119,061.41, warrant #92-037 in the amount of $93,497.37, warrant #92-038 in the amount of $9,363,83, warrant #92-039 in the amount of $226,664.93, and payroll warrants totaling $722,635.12 were signed by the chairperson and circulated to other members of the committee.

PUBLIC PARTICIPATION: Sally Campbell welcomed those members of the community watching the School Committee meeting for the first time on cable TV. However, she hoped interested citizens will continue to come in person to participate in the meetings and to communicate with school committee members. Mac Reid introduced his two student interns, Kanchan Chiteley and Jeff Sgroi. They are meeting weekly with Mac this spring to learn about the responsibilities of the Personnel Director.

SUPERINTENDENT'S RECOMMENDATIONS FOR APRIL

It was moved, seconded and unanimously

VOTED: To approve the administration's recommendation to appoint Stephen A. Donovan to the position of Principal at the Acton-Boxborough Regional High School.

Dr. Kessler reported on the selection process. Fifty-seven applications were reviewed by the School Committee and Administration. From them, nine were selected to be interviewed by a Screening Committee consisting of parents, students,and representatives from the faculty, School Committee and the Administration. This committee chose three finalists on the basis of in-depth interviews. Dr. Kessler then spent a day at each of the finalists' schools, after which he decided on the candidate to be recommended for appointment.
Members of the School Committee and the student reps expressed appreciation to Steve for the excellent job he has done this year as interim principal, and their confidence in his appointment as principal. Steve thanked the Committee for giving him this opportunity and said he was looking forward to the challenge.

It was moved, seconded and unanimously

VOTED: To approve the requests for the following staff members to extend their leaves of absence through the 1992-93 school year:
Janet Barth Maxwell
Marie Adele East

It was moved, seconded and unanimously

VOTED: To approve the following spring coaching appointments:
Mike Hayde - JH Baseball Coach
Rachel Nyberg - JH Softball Coach

It was moved, seconded and unanimously

VOTED: To approve the ABRHS Baseball Spring Training Trip to Florida from April 20-26, 1992.

It was moved, seconded and unanimously

VOTED To accept the resignation of Randy Hoover, Social Studies Teacher at the Junior High School, effective June 30, 1992.

It was moved, seconded and unanimously

VOTED To accept the gift of $6,715 from the Lacrosse Boosters to fund a freshman intramural program for boys and girl this spring.

Sally Campbell thanked Peter Colby for his dedicated support of our athletic program.

It was moved, seconded and unanimously

VOTED To accept the administration's recommendation that non-tenured staff members be informed that they will not be reappointed for the 1992-93 school year..

It was moved, seconded and unanimously

VOTED To accept the administrations recommendation that non-tenured staff who will receive a dismissal notice (see above) and who supervise Schedule B (extra-curricular) activities will be informed that they will not be reappointed for the 1992-93 school year.

FOR YOUR INFORMATION: Dr. Kessler referred to the Computer Hardware and Software Donation Procedures (Enc. B) and said he would appreciate feedback from the Committee relative to these guidelines.

WARRANT DISCUSSION: One question was answered by Bill Ryan.

CONCERNS OF THE BOARD: The student reps commented that smoking is still a problem in the High School restrooms. Jean Butler congratulated Bill Ryan and Sandy Wiener on the large spring term community education registration. Lees Stuntz asked when the regional Choice drawing would be held. Dr.Kessler said there was no need for one. Steve Donovan commented that letters are going out to all Choice students tomorrow, asking them to come in within the next few weeks to sign up for a course of study. Approximately 50 students will be added to the Junior High and 100 to the High School. There are still openings in 10-12 grades. Another ad will be placed stating the application deadline. Lees asked that, at next month's meeting, a list of the number of letters sent and the cut-off date be distributed. Steve Aronson asked where the Committee stood in the process of evaluating the Superintendent. Pat Cataldo and Sally Campbell replied that it was ready tonight. Steve also asked if a response to the RFP request regarding lawyers' fees had been sent to the Acton Finance Committee. The letter has been delivered. As this was Sally Campbell's last meeting as a School Committee member, the other members of the Committee, the student reps, and Dr. Kessler thanked Sally for her 12 years of service to our school community. Don Wheeler said he would especially miss Sally's "shy, retiring self".

NEXT MEETING: May 7, 1992, 7:30 p.m., Junior High Conference Room

At 7:40 p.m., it was moved, seconded and unanimously

> VOTED: To go in to the executive session to discuss strategies relative to negotiation issues under Chapter 39, Section 23 B, paragraph 3. Each member was polled individually and each voted in the affirmative to go into executive session for the stated purpose.

Mrs. Campbell said the committee would return to open session only to adjourn.

The meeting was adjourned at 10:05 p.m..

Respectfully submitted,

Sarah T. Lawton, Secretary

T.M.

COPY

RECEIVED
MAY 1 1992
ACTON BUILDING INSPECTOR

April 29, 1992

MAY - 1 1992

Town Of Acton
Building Department
Board of Appeal
Main Street Town Hall
Acton, Ma. 01720

Gentlemen:

I had a hearing before the Board Of Appeal regarding a decision made by the building inspector on a sign. I was asked to conclude my verbal presentation because the board had a busy schedule, and I was told that the decision would be made in the next board meeting, and I would hear be May 15th. I have learned that you did not follow that procedure, rather, latter in the evening you went back into my case, after I left, and revieded the case, and came to a negitive conclusion. My original request was for an independent opinion decision, which could over ride the building inspector's decision; yet the building inspector remained as part of the extended hearing. This action is unfair, deceptive, and illegal and by this letter I am requesting the Board to rehear this defective case. May I hear from you on this matter.

Yours truly,

Daniel J Wagner

Daniel J Wagner
54 Great Rd
Acton, Ma. 01720

CC: BOS

COPY

MASSACHUSETTS

BOARD OF APPEALS

May 4, 1992

Daniel J. Wagner
54 Great Road
Acton, MA 01720

Dear Mr. Wagner:

In response to your letter dated April 29, 1992, I have reviewed the minutes, the taped hearing, and the decision. It is clear to me that you are in error in stating the decision would be made at the next board meeting. It has always been the boards procedure to hold all the hearings in order, and at the conclusion vote their decisions. This was done in open session and you could have remained through this process if you so desired.

Sincerely,

Matt Mleziva
Chairman
Acton Board of Appeals

MM/vs

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: May 4, 1992

TO: Board of Selectmen

FROM: Don P. Johnson, Town Manager

SUBJECT: State Mandates

Mrs. Tavernier has been successful in arranging a meeting with Senator Durand to discuss the Board's recent comments on various sections of the pending State Budget relative to mandate relief. The meeting is scheduled for May 21 at 7:00PM in Room 126 at Town Hall.

Don

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION

DATE: May 5, 1992

TO: Don P. Johnson, Town Manager
FROM: Garry A. Rhodes, Building Commissioner GAR
SUBJECT: Mobil Oil Corporation
553 Mass. Ave.

You have asked for an update on two items of concern to the Board of Selectmen. These involve the nighttime permit and the landscaping at Mobil Oil, 554 Mass. Avenue.

It had been agreed that when the Board granted permission to be open 24 hrs. per day and sell food items, Mobil Oil would not display or sell "grocery" items. Approximately one month ago I contacted counsel for Mobil Oil, Philip Lombardo, and also Donald Higgins of Mobil Oil. After the site visit with Donald Higgins, it was agreed the grocery items would be removed. As of yesterday these items remained. I will again contact Mr. Lombardo and try to resolve this problem. It will be my recommendation that if this is not resolved in the next two weeks that the permit granted by the Board of Selectmen be revoked.

The Town presently holds a cash security in the sum of $11,577 to ensure that the landscaping is completed. Mobil Oil has until July 1, 1992 to complete it or face the loss of interest that accrues after that date.

cc: Philip Lombardo, Jr.
Donald Higgins, Jr.

cc: BOS -
RESPONSE TO RECENT QUESTIONS.
WILL ADVISE YOU OF PROGRESS.
Don

CC: BOS - REPORT IN RF

HALEY & ALDRICH INC.

Letter of Transmittal

Geotechnical Engineers & Environmental Consultants

To: Rexnord Holdings
300 West Service Road, P.O. Box 10803
Washington Dulles International Airport
Chantilly, Virginia 22021

Attention: Mr. Michael Hodge

Date: 2 April 1992

File Number: 05730-02

Subject: Former Rexnord-Knife Division Site
Maynard, Massachusetts

Copies	Date	Description
1	2 April 1992	"Phase Two Comprehensive Site Assessment Supplemental Work Scope, Former Rexnord-Knife Division Site Maynard, Massachusetts," by Haley & Aldrich, Inc.

Remarks

Enclosed is one copy of the above-referenced document.

We have not, to date, sent a copy of the document to Ms. Barbara Kessner of Foley, Hoag & Eliot. Therefore, please inform us if we should forward a copy to her attention.

Please call if you have any questions or comments.

Copy To:
2350 Post Road, Warwick, RI; Mr. Lyle Fain
Perry Packaging Corporation; Mr. Barry Steinberg
Maynard Board of Health; Mr. Gerald Collins
Maynard Board of Selectmen; Mr. Michael Gianotis
Acton Board of Health; Mr. Doug Haley
Acton Board of Selectmen; Ms. Christine Joyce
Brown, Rudnick, Freed & Gesmer; Franklin G. Stearns
Department of Environmental Protection; Ms. Jana Leung

Signed: Susan D. Matkoski

58 Charles Street
Cambridge, MA 02141
617/494-1606

Branch Offices
Glastonbury, Connecticut
Scarborough, Maine
Bedford, New Hampshire

Affiliate
H & A of New York
Rochester, New York

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9612
Fax (508) 264-9630

Don P. Johnson
Town Manager

May 5, 1992

Mr. John E. Corrigan, Regional Director
Economic Development Administration
Liberty Square Building
105 South 7th Street
Philadelphia, PA 19106

Dear Mr. Corrigan:

I am writing on behalf of the Acton Board of Selectmen to request that the Town of Acton, Massachusetts be designated to partake in the Public Works and Economic Development Act of 1965, as amended.

As Acton is within the region of the Metropolitan Area Planning Council (MAPC), it is our understanding that we will be included in the Overall Economic Development Program being prepared by MAPC.

Thank you for your attention to this matter.

Very truly yours,

Don P. Johnson

Don P. Johnson
Town Manager

cc: Mr. William Fitzhenry,
Massachusetts EDA Representative

Mr. Steven Landau,
OEDP Project Manager, MAPC

Board of Selectmen

DPJ:282

Town of Acton Planning Department

472 Main Street Acton, Massachusetts 01720 (508) 264-9636

May 4, 1992

Judith Alland
MAPC
60 Temple Place
Boston, MA 02111

REGARDING: May 27th, 1992 MAPC Meeting -
Nomination of Concentrated Development Centers in Acton

Dear Judith:

At the May 27th Council meeting, the Town of Acton would like to nominate its four village districts and its Kelley's Corner business district as Concentrated Development Centers under MetroPlan 2000. Please reserve time on the meeting agenda for this nomination.

Sincerely,

Roland Bartl

Roland Bartl
Town Planner

cc: Don Gilberti, MAPC Representative
~~Don P. Johnson, Town~~ Manager ✓
Board of Selectmen

5/5

ATTENTION ANNE FANTON!
RE CDC - ROLAND SPOKE W/D. GILBERTI
BEFORE SENDING THIS REQUEST.

Don

NUTTER, McCLENNEN & FISH

ONE INTERNATIONAL PLACE
BOSTON, MASSACHUSETTS 02110-2699

TELEPHONE: 617 439-2000 FACSIMILE: 617 973-9748

DIRECT DIAL NUMBER:

(617)439-2498

April 28, 1992
99970-65

Ms. Christine M. Joyce
Town Manager's Office
Town of Acton
472 Main Street
Acton, MA 01720

Dear Ms. Joyce:

Enclosed please find a check in the amount of $15.00 to cover the cost of reproducing the RFP's for The Town of Acton, Legal Services and the proposals submitted thereunder.

I would appreciate your forwarding the copies to my attention.

Should you have any questions, I can be reached at 617-439-2498. Thank you.

Yours truly,

Alane Harrington
Manager of Practice Development

AH:bja
1714a
Enclosure (check)

5/8/92

CHRIS - PLS. SEND COPIES W/ A COVER LTR. SIMILAR TO THE ONE WE SENT ON OTHER REQUEST. ALSO, CC THE FIRMS WHOSE RFP'S ARE GOING OUT.

Tom

CC: BOS

Town Manager

Range: 04/26/1992, 00:00 to 05/02/1992, 23:59

MAY 6 1992

Incident	Date	Time	Reporting	Nature	Situation	Address/Comments/Units
19920965	04/26	00:17	CAP DFC	Medical	MEDICAL	2 BIRCH RIDGE ROAD: Engine 24 assisted ALS and Car 33 with patient. Facility: Emerson
19920966	04/27	08:17	CAP EMB	MASTER BOX RECE	Box	9 CHARTER ROAD: E24,E22,C30 DISPATCHED TO MERRIAM SCHOOL.RESTORED BOX,ZONE 2A OUT OF SERVICE.
19920969	04/27	09:35	FF JC	Engine mut aid	MUT AID	80 CENTRAL ST. BOXBORO: E24,BOXBORO E62,L68.C60 BOX RESET
19920972	04/27	15:29	FF GN		MEDICAL	55 BROOK STREET: E24,C33 DISPATCHED. NOTIFIED EMERSON THEY WILL NEED HELP Facility: Emerson
19920973	04/28	01:29	LUT PRS	Medical	MEDICAL	531 MASSACHUSETTS AVENUE: E24 & C30 assisted Car 33 on a medical which was a possible O.D. Facility: Emerson
19920976	04/28	22:51	CAP EMB	Gas odor	NOTHING	268v MAIN STREET: Odor possible caused by gasoline tanker deivering gasoline at 267 Massachusetts Ave.
19920977	04/29	07:34	CAP BAC	MVA	MVA	12 SUDBURY ROAD: P.D. reported accident was in Concord. C30 returned all apparatus.
19920978	04/29	07:46	CAP BAC	Outside fire	UNAUTH BRN	BREWSTER LANE: Fire found while responding to previous incident, illegal burning of building debris, E26 extinguished, owner notified
19920982	04/29	16:44	CAP EMB	Illegal burning	UNAUTH BRN	4 APPLE VALLEY DRIVE: Caller reported~~unattended~~ possible permit fire spreading to grass, small fire. E26 used 25 gallons of water.
19920983	04/29	19:22	CAP EMB		MEDICAL	1 GREAT ROAD: Car 33, Facility: Emerson

CC: G. RHODES, D. HALLEY, BOS } FYI (AUDUBON HILL)

PALMER & DODGE

One Beacon Street
Boston, Massachusetts 02108

Acheson H. Callaghan, Esq.
(617) 573-0178

Telephone: (617) 573-0100
Facsimile: (617) 227-4420

May 7, 1992

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

Dear Don:

Norm and I have reviewed the comments about legal services from the various town boards and departments. We found them illuminating and helpful. They suggest a number of issues that merit review, and we will be glad to meet with you and Doré to discuss them.

Very truly yours,

Acheson H. Callaghan

AHC/dcb

cc: Norman P. Cohen, Esq.

cc: BOS

May 6, 1992

Chief of Police
Acton Police Department
Main Street
Acton, MA 01720

MAY - 8 1992

cc: BOS - FYI

Dear Chief Robinson:

I am writing this letter to express my outrage at the harassment that my family has experienced by a member of your force since we relocated to Acton 10 months ago.

My wife and I selected Acton as a quiet town where we could raise our family and where the school system enjoys a superb reputation. At the same time, the proximity to my job at Burbank Hospital in Fitchburg (where I am the Director of Emergency Services) is ideal.

Little did we know that we would be subjected to inappropriate and overzealous enforcement of traffic laws by a member of your department, specifically, Officer Dudley. In the last 10 months members of my family (specifically my wife and sister-in-law) have been stopped 4 times for "speeding" resulting in 3 speeding tickets and 1 warning. In each case a radar trap was set up in a 25 mile per hour zone (usually at the bottom of a steep hill on Concord Road) or elsewhere and a member of my family was stopped for going 40 or less miles per hour. Typically, my wife or sister-in-law are driving locally to run errands and have my 2 year old and 3 year old in the back seat of the mini-van.

I seriously question whether it is appropriate for Officer Dudley to spend much of his time harassing housewives who live in Acton who are simply trying to go about their business. His cold and insensitive attitude and unwillingness to listen to reason has left my wife in tears on two separate occasions.

Anyone who drives in Acton knows that it is virtually impossible to drive at 25 or 30 miles per hour on most of the roads. I have tried it and have practically been ridden off the road by traffic backed up behind my slow moving car.

I do not understand the motivation for Officer Dudley's actions. Is he merely following the directions of his superiors in a mechanical and insensitive way or is he simply on a one-man crusade to rid Acton of "dangerous" housewives?

As a new taxpayer in the town I ask you to reassess the mission of the Acton Police Department. It seems to me that protecting the citizens and preventing crime should be its primary concern. This kind of "letter of the law" enforcement of the traffic laws will only serve to alienate citizens such as myself.

Thank you for your attention to this matter.

Sincerely,

Fred Kohanna

Fred Kohanna, M.D.
114 Newtown Road
Acton, MA 01720

cc: Mr. Don Johnson

File
5/1/92

May 1, 1992

TO: Board of Selectmen

FROM: Nancy

SUBJECT: Summer oversight meeting schedule

The following is a proposed oversight meeting schedule. Christine will send letters to each committee chairman notifying them of the date. You may want to contact your committee chairman to better coordinate the discussion.

May 26	Recreation Commission (Anne)
June 9	Conservation Comm. (Norm)
June 23	Board of Health (Norm)
July 14	Council on Aging (Bill) Minuteman Home Care (Bill)
July 28	Cemetery Commission (Norm) Prison Advisory (Dore')
August 11	Board of Appeals (Anne) Planning Board (Anne)
August 25	VCC (Dore') SARC (Bill)
September 8	Historic District Comm. (Dore') Historic Commission (Dore')

ACTON BOARD OF SELECTMEN
COMMITTEE ASSIGNMENTS
April 1992-April 1993

COMMITTEE

Middlesex County Adv.	Norm
Coordinating Committee	Nancy, Dore', Bill (alt)
Recycling Task Force	Nancy
Master Plan Coord. Comm.	Anne
61A Committee	Anne
MAGIC	Anne
Corridor Advis. Comm	Dore', Anne

BOARD AND COMMITTEE LIAISON

BOARD	SELECTMAN LIAISON
A-B Arts Council	Nancy
Bd. of Appeals	Anne
Bd. of Assessors	Bill
Bd. of Health	Norm
Cemetery Comm.	Norm
Commun. Hsg. Corp.	Nancy
Conserv. Comm.	Norm
Council on Aging	Bill
Fair Housing	Bill
Hanscom Advisory	Dore'
Historic Dist. Comm.	Dore'
Historical Comm.	Dore'
Lowell Reg. Trans. Auth	Anne
MAPC	Nancy
Minuteman Home Care	Bill
Planning Bd.	Anne

BOARD AND COMMITTEE LIAISON

BOARD	SELECTMAN LIAISON
Prison Advisory	Dore'
Recreation Comm.	Anne
Volunteer Coord. Comm.	Dore'
South Acton Revit. Comm.	Bill
Finance Committee	Dore'
Minuteman Voke Tech S C	Norm

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9612
Fax (508) 264-9630

Don P. Johnson
Town Manager

April 28, 1992

Mr. Samuel A. Manka
94 Main Street
Acton, MA 01720

Dear Mr. Manka:

I apologize for the extended delay in responding to our meeting and your letter of January 2. A number of circumstances have prevented a more timely reply on my part.

After our meeting, I conducted the investigation that I promised. I have received input from the Highway Department, Police Department and Town Counsel regarding this incident. I have also viewed your property in order that I might properly respond to the questions you raised.

Historically, the purpose of restricting parking on public ways during the winter months is to allow free, unencumbered access for snow removal equipment. Public safety requires that these vehicles be able to plow and sand as efficiently and effectively as possible, without undue interference from private vehicles. This can only be accomplished by placing the onus for the proper location or parking of private vehicles with the owners. Municipal crews would never be able to clear the roads and sidewalks if they were required to wait and plow (or replow) only after individual residents found it convenient to move their vehicles.

The other important concern, indicative of your complaint, is for potential property damage. The design and purpose of snow plows is to discharge snow to the side of the roadway (or sidewalk). Inherent in this function is the potential for damage to vehicles in the path of the discharge. The most vulnerable vehicles would obviously be any parked within the Right of Way. Hence, the winter parking restrictions.

The reports, your statements and the photographs clearly

indicate that the front of your vehicle was on the sidewalk, within the Right of Way. I understand that you made a diligent effort to get the car off of the roadway as far as possible and had every intention of "digging it out" before the plows came by the next morning. Unfortunately, the car was illegally parked all night and the plow did go by before you were able to move it. I have no doubt that the damage you cite to the front of your car resulted from the discharge off of the end of the plow; however, for the reasons noted above, the Town cannot accept responsibility for this damage.

I am very sorry that this incident occurred but the Town is unable to honor your request for compensation.

Very truly yours,

Don P. Johnson

Don P. Johnson
Town Manager

cc: Highway Superintendent
Board of Selectmen
Town Counsel

DPJ:267

TOWN OF ACTON

BUILDING DEPARTMENT

GARRY A. RHODES
BUILDING COMMISSIONER

April 16, 1992

Mr. R. Anderson
25 Kylemore Road
Westford, MA 01886

Dear Mr. Anderson,

I have been notified by both the Police and Fire Departments that the building located at 76 Powdermill Road as shown on Town Atlas Map J-3, parcel 34-4, and known as Anderson Ford is uninhabited and open to the weather. This building has been the site of an arson fire and numerous break-ins.

I have inspected the site as provided for under the Annotated Laws of Massachusetts, Ch. 143, Section 6. This inspection was done with the assistance of the Fire Department Chief Bob Craig. It was determined that numerous windows were broken and doors not secured. A fire had been started with debris from the interior. If the fire had been started in a more strategic place, it could have resulted in major damage to the building. It was also noted that numerous containers, which appear to contain hazardous materials, were stored both in and at the rear of the building. A container holding what appears to be "Rusty Jones" had been spilled at the rear of the building.

As required by MGL, Ch. 143, Section 7, I hereby order you to make the building secure. You shall employ sufficient labor speedily to make it safe as well as secure. You have until twelve o'clock noon of the day following the serving of this notice to begin such action. In order to secure the building, all windows and doors must be secured with plywood. The area of the building containing the "hazardous materials" must be secured behind a chain link fence and you must notify the Department of Environmental Protection of the spill.

If you fail to take appropriate action, I will initiate action as provided for in MGL, Ch. 143, Section 8 and 9. If you have any questions, I can be reached at 264-9632, Monday thru Friday, 8:00 a.m. to 5:00 p.m.

Sincerely,

Garry A. Rhodes
Building Commissioner

GAR/vjs
cc: Board of Selectmen
Town Manager
Police Chief
Fire Chief
Board of Health
Ms. Valerie Carter, Recall Management
Certified

TOWN OF ACTON

BUILDING DEPARTMENT

GARRY A. RHODES
BUILDING COMMISSIONER

April 16, 1992

Ms. Valerie Carter
Recall Management
28 State Street
MABOS 27 Law
Boston, MA 02109

Dear Ms. Carter,

I have been notified by both the Police and Fire Departments that the building located at 76 Powdermill Road as shown on Town Atlas Map J-3, parcel 34-4, and known as Anderson Ford is uninhabited and open to the weather. This building has been the site of an arson fire and numerous break-ins.

I have inspected the site as provided for under the Annotated Laws of Massachusetts, Ch. 143, Section 6. This inspection was done with the assistance of the Fire Department Chief Bob Craig. It was determined that numerous windows were broken and doors not secured. A fire had been started with debris from the interior. If the fire had been started in a more strategic place, it could have resulted in major damage to the building. It was also noted that numerous containers, which appear to contain hazardous materials, were stored both in and at the rear of the building. A container holding what appears to be "Rusty Jones" had been spilled at the rear of the building.

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Sincerely,

Garry A. Rhodes
Building Commissioner

GAR/vjs
cc: Board of Selectmen
Town Manager
Police Chief
Fire Chief
Board of Health
Mr. R. Anderson, Anderson Ford
Certified

OFFICE OF THE
BOARD OF HEALTH
TOWN HALL 472 MAIN STREET
ACTON, MASSACHUSETTS 01720
TEL: 264-9634

April 17, 1992

Ms. Valerie Carter
Recall Management
28 State Street
MABOS 27 Law
Boston, MA 02109

Dear Ms. Carter:

ANDERSON FORD, FYI

The Acton Board of Health has been notified by Garry Rhodes, Acton Building Commissioner, that Hazardous Materials are being stored improperly and have been discharged onto property located at 76 Powdermill Road, as shown on Town Atlas Map J-3, parcel 34-4. In accordance with the Town's Hazardous Materials Control Bylaw you are hereby notified that you are in violation with Sections 2.1.1, 2.1.2, 2.1.5, 3.1 and 3.1.1.

You are hereby notified that you must immediately come into compliance with all the conditions of the Hazardous Materials Control Bylaw. Failure to come into compliance may result of a fine of not more than $300.00 for each day and for each violation that is cited. You are also hereby notified that this site has been referred to D.E.P. as a potential site to be investigated under Chapter 21E.

Should you have any questions regarding this matter please contact me at 264-9634.

Sincerely,

Doug Halley
Health Director

cc: Board of Selectmen
Town Manager
Police Chief
Fire Chief
Building Department
Mr. R. Anderson, Anderson Ford

Selectman

RECEIVED & FILED
DATE April 28, 1992
Barbara Brown
for TOWN CLERK, ACTON

MASSACHUSETTS

BOARD OF APPEALS

APR 29 1992

Decision on the Petition
of Christos Pappadopoulos

Decision #92-4

A public hearing of the Board of Appeals was held in the Town Hall on Monday, March 30, 1992 at 8:00 p.m., Room 126, Acton, Massachusetts on the petition of Christos Pappadopoulos, 1290 Main Street, Waltham, Massachusetts for Pasta Villagio, 36 Great Road, for a Variance from the zoning bylaw, Section 7.4.3, to allow internal lighting of the existing sign, and Section 7.8.2, to allow the existing sign to remain in its present location for the period ending August 31, 1992. At that time the sign will be replaced to conform to the new bylaw.

Board members present were Malcolm Burdine, Acting Chairman; Stephen Crockett, Acting Clerk; Beatrice Perkins, Alternate Member; and Janet Clark, Alternate Member; and Valerie Sipprelle, Board of Appeals Secretary. Also present were Garry Rhodes, Building Commissioner; Christos Pappadopoulos, Petitioner; Phil Harris; Daniel Wagner; William Lawrence; William Dawochek, Jr.; and Joseph M. Britt.

Mr. Burdine read the petition, noted the file contents, read a letter submitted by Christos Pappadopoulos and read an IDC from Roland Bartl, Town Planner.

The Board of Appeals, after considering the materials submitted with the petition together with the information developed at the public hearing, finds that:

(1) This is a follow-up to the variance petition #91-15. Variance petition #91-15 was granted with a time limitation of one year from the date of the Planning Board's action on a related special permit application. The Planning Board filed this special permit on 9/17/91. Therefore, the variance ~~and~~ expires on 9/17/92.

(2) The petitioner is continuing the past use of the property, a restaurant, but is creating a new identity and name. The petitioner originally budgeted to re-letter the

existing sign, but not to replace the entire sign as part of the start-up costs.

(3) The hardship of the petitioner is the expense to replace the entire sign structure at a time when a new business venture's cash flow is limited and earmarked for other needs.

As a result of the above findings, the Board of Appeals concludes that:

(1) Owing to circumstances relating to the shape of lot, or topography of the land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located, literal enforcement of the Bylaw to require external illumination and replacement of the entire sign at this time represents a substantial financial hardship for the new business venture.

(2) Replacement of the sign with a new sign format consistent with the new Bylaw requirements for the East Acton Village District is an objective that must be met with in a reasonable time frame. However, desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw.

(3) Granting a time-limited variance to permit an orderly transition from the existing signage to the newly required signage is consistent the purpose and intent of the Town of Acton Master Plan.

Based upon the findings and conclusions, the Board voted unanimously to GRANT the request for the variance subject to the following condition:

(1) The variance shall expire on September 17, 1992 by which time the existing sign will be removed and a new sign erected that conforms to the Zoning Bylaw.

Any person aggrieved by this decision may appeal pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 17, within twenty (20) days after this decision is filed with the Acton Town Clerk.

TOWN OF ACTON
BOARD OF APPEALS

Malcolm Burdine	Stephen Crockett	Beatrice Perkins
Acting Chairman	Acting Clerk	Alternate Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on 4/28, 1992.

Valerie Sipprelle
Valerie Sipprelle
Secretary
Board of Appeals

CC: BOS

NESWC

APR 30 1992

NORTH EAST SOLID WASTE COMMITTEE

April 28, 1992

Dear Member:

A meeting of the NESWC Executive Committee is scheduled for Thursday, May 7, 1992 at 1:30 pm in Estabrook Hall, Carey Memorial Building, Lexington, MA.

The agenda is as follows:

1. Minutes of the April 16, 1992 meeting
2. Approval to issue RFP for Investment Banker to support refinancing
3. FY93 Budget

Sincerely yours,
NESWC

Francis J. Hopcroft
Executive Director

Town Office Building • 120 Main Street • North Andover, MA 01845 • Telephone 686-6234

NORTH EAST SOLID WASTE COMMITTEE

MINUTES OF THE
EXECUTIVE COMMITTEE MEETING
OF
APRIL 16, 1992

This meeting of the Executive Committee was called to order at 1:35 pm by Chairman Robert Moroney (Manchester). Those present were:

Robert Moroney (Manchester)	Robert McQuade (Andover)
Henry Rugo (Lincoln)	Richard Spiers (Lexington)
John Graham (N. Andover)	Richard White (Lexington)
Donald Marquis (Arlington)	Richard Bowler (Arlington)
David Cregger (Winchester)	Mel Kleckner (Belmont)
Linda Bergman (Peabody)	John Murray (Acton)
Peter Buhler (Fin. Advisor)	Ruth Ellen Fitch (Legal Counsel)
Suzanne Lijek (Citizen)	Francis Hopcroft (Exc. Director)

The minutes of the March 4, 1992 meeting were offered for consideration. It was noted that Mr. White, Town Manager of Lexington, had been in attendance for part of that meeting and that the minutes did not reflect that fact. There being no other significant corrections to be made, it was MOVED (Rugo), SECONDED (Spiers), and VOTED (Unanimous) to: accept the minutes as corrected.

In the interests of minimizing time spent at the meeting by NESWC Counsel, items 6a and 6b were moved up on the agenda. Ms. Ruth Ellen Fitch, from Palmer & Dodge, was introduced to address actions taken to date regarding the development of a new landfill operating agreement with the City of Peabody. She distributed a draft of the document as it had been negotiated to that time with the understanding that certain provisions had not yet been accepted by both sides. Ms. Fitch asked for comments from the members within a week if any were to be made.

Various terms in the document were highlighted by Ms. Fitch and discussed by the members. Of particular concern was the notice by members that the proposed deal does not provide by-pass provisions except to the extent that a refuse landfilling operation is underway at either the Peabody site or the adjacent Country Club site at the time that by-pass capacity happens to be needed. Ways to remedy that problem were discussed.

Mr. McQuade noted a contact made by Laidlaw two weeks prior to the Executive Committee meeting at which Laidlaw had indicated an intention to develop an ash landfill in Plainville and in which they had indicated a desire to negotiate a deal for ash disposal with NESWC in exchange for bringing additional refuse to the North Andover facility. That deal apparently is not going to happen because Laidlaw did not follow through with a promised proposal and no one at Laidlaw returned telephone calls regarding the issue.

Ms. Fitch then addressed the status of the MRI claim in response to a question. She noted that very little has happened and that the Neutral Arbitrator is in control of the schedule. Members clearly stated their desire to get on with the resolution of the claim in order to avoid problems down the road with the bond refinancing project.

Mr. McQuade raised again the concept of accepting sludge at the North Andover facility as an adjunct to refuse combustion. After a brief discussion, it was agreed that the Executive Committee would support further exploration of this concept. It was MOVED (Spiers), SECONDED (Rugo) and VOTED (Unanimous) to: authorize Mr. McQuade and Mr. Hopcroft to continue to pursue this option with MRI and the Town of North Andover.

At that time Ms. Fitch left the meeting.

Mr. Hopcroft then requested authority to issue Requests for Proposals from law firms interested in providing General Counsel services to NESWC. A copy of the proposed RFP had been previously distributed to the members. After a brief discussion, during which certain modifications were made to the RFP, it was MOVED (Spiers), SECONDED (Graham), and VOTED (McQuade opposed) to: issue the RFP as modified by the members.

Mr. Hopcroft then sought authority to issue an RFP for selection of a Communications and Lobbying Consultant. After a brief discussion it was agreed that the present consultant was getting the job done and that a negotiated contract would be acceptable. It was MOVED (McQuade), SECONDED (Kleckner), and VOTED (Unanimous) that the Executive Director would negotiate a new contract with the present consultant and return to the Executive Committee with a recommended contract for ratification.

Mr. Hopcroft presented the findings of the committee which reviewed the proposals received for the role of Feasibility Consultant to support the refinancing of the NESWC project bonds. Proposals were received from:

Camp Dresser & McKee Boston, MA	R. W. Beck Waltham, MA	Roy F. Weston Burlington, MA

After a brief discussion, it was MOVED (Marquis), SECONDED (Spiers), and VOTED (Unanimous) to: accept the recommendations of the review committee and retain Camp Dresser & McKee of Boston to conduct the study and prepare the necessary reports.

Mr. Hopcroft then raised his proposed FY 93 Capital Budget for discussion. After a brief discussion of the items in the budget, and on the recommendation of the Financial Affairs Subcommittee, it was MOVED (McQuade), SECONDED (Rugo), and VOTED (Unanimous), to: recommend the Capital Budget to the Advisory Board as submitted by the Executive Director.

The proposed FY 93 Operating Budget was then raised for discussion. As part of that discussion, the issue of whether to retain an Assistant Director, if so, under what circumstances and to play what role were all introduced, along with discussions regarding the appropriate compensation levels to be paid to existing NESWC staff. After a lengthy discussion of those issues, it was agreed that the committee would not be able to come to an agreement within a reasonable time frame. The hour already being late, it was MOVED (Murray), SECONDED (Marquis), and VOTED (Unanimous) to adjourn the meeting without a decision and to reconvene on May 7, 1992 to reconsider only the FY 93 Operating Budget. It was further agreed that the Advisory Board meeting, scheduled for April 23, 1992, would be perfunctorily opened and immediately adjourned to a date subsequent to May 7.

There being nothing further to come before the members, the meeting was adjourned at 3:50 pm.

NORTH EAST SOLID WASTE COMMITTEE

April 28, 1992

Dear Member:

A meeting of the NESWC Financial Affairs Subcommittee is scheduled for Thursday, May 7, 1992 at 1:00 pm in Room 111, Town Hall, Lexington, MA.

The agenda is as follows:

1. Minutes of the meeting of April 9, 1992
2. Monthly Status Report
3. Other business

Sincerely yours,
NESWC

Francis J. Hopcroft

Francis J. Hopcroft
Executive Director

Town Office Building • 120 Main Street • North Andover, MA 01845 • Telephone 686-6234

NORTH EAST SOLID WASTE COMMITTEE

MINUTES OF THE
FINANCIAL AFFAIRS SUBCOMMITTEE MEETING
OF
APRIL 9, 1992

This meeting of the FAS was called to order by Chairman Henry Rugo (Lincoln) at 12:40 pm. Those present were:

Henry Rugo (Lincoln)	Richard Spiers (Lexington)
Robert Moroney (Manchester)	Francis Hopcroft (Ex. Dir.)

The minutes of the March 25, 1992 meeting were offered for consideration. There being no objection thereto, it was MOVED (Moroney), SECONDED (Spiers), and VOTED (Unanimous) to: accept the minutes as presented.

The Executive Director's proposal for an FY 93 Operating budget was then discussed, the proposed FY 93 Capital Budget having been previously approved for recommendation to the Executive Committee. In the absence of a recommendation from the Personnel Committee, which had been requested, the FAS chose to refer the Operating Budget to the Executive Committee without a specific recommendation regarding personnel issues. After a lengthy discussion, it was MOVED (Moroney), SECONDED (Spiers), and VOTED (Unanimous) to: recommend a maximum operating budget of $305,000 but without recommending any specific action regarding salary for existing staff or regarding the hiring of an Assistant Director. Instead, the FAS offered the following options to the Executive Committee as ways to resolve the compensation issues and the Assistant Director issues.

Reference the Executive Director's salary:

1. Vote on an increase without a recommendation from the FAS

2. Appoint a negotiating committee to negotiate a salary with consideration for a multi-year arrangement

3. Set a salary range and open up the position to bids with the idea of retaining a consulting firm to develop a job description and evaluation criteria, then conducting the search for candidates, reviewing qualifications and selecting a short list of candidates for the Executive Committee to interview.

109/123 Main Street • North Andover, MA 01845 • Telephone (508) 686-6234

Regarding the hiring of an Assistant Director:

Consider the hiring of an Assistant with a legal background and the concurrent reduction of legal service consulting fees.

Regarding the salary of the Office Manager:

1. Vote on a salary level without a recommendation from the FAS

2. Authorize the Executive Director to set staff compensation within the confines of a bottom line budget

It was noted that all the above suggestions assume that a Scale House Operator will not be needed once the new landfill operating contract is in place.

In the absence of Mr Buhler, who was on vacation that week, no monthly report was available for discussion. There being no other business to come before the members, the meeting was adjourned at about 2:30 pm.

File 5/29

ACTON PUBLIC SCHOOLS • ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT
16 Charter Road • Acton, MA 01720-2995 • (508) 264-4700 • FAX (508) 263-8409

OFFICE OF THE SUPERINTENDENT
William L. Ryan
Director of Business and Community Education

TO: Don Johnson

FROM: Bill Ryan

DATE: May 28, 1992

RE: Recent Memorandums Regarding State Budget, etc.

Don - Enclosed are some recent memos regarding the F.Y. '93 state budget, school choice, etc.

Take care,

Bill

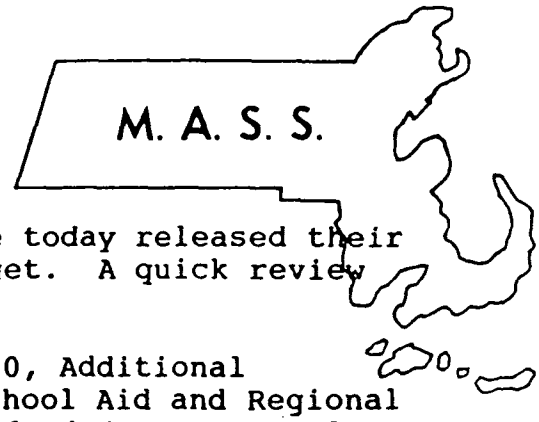
Bill

WLR/roc

CC: BOS -
I AM FORWARDING THIS MATERIAL FOR YOUR INFORMATION. THE DOR MEMO OF 5/92 IS PART OF BILL'S PACKAGE BUT YOU SAW IT EARLIER. I REPEATED IT AND ENCOURAGE YOU TO REVIEW IT AGAIN, ALSO. THE MORE I REVIEW, IT THE MORE I FIND THE PHILOSOPHY DISTASTEFUL! IN EVERY RESPECT THE SCHOOL SYSTEMS (ESPECIALLY REGIONS) GAIN AND THE LOCAL GOVERNMENT IS LEFT "HOLDING THE BAG".

Don

Massachusetts Association of School Superintendents, Inc.



May 22, 1992
TO: SUPERINTENDENTS
FROM: PETER FINN, EXECUTIVE DIRECTOR
RE: HOUSE FY 93 STATE BUDGET

The House Ways and Means Committee today released their recommendation for the FY 93 state budget. A quick review indicates the following:

LOCAL AID - All line items (Chapter 70, Additional Assistance, Transportation, Regional School Aid and Regional School Transportation) have been level funded at the FY 92 level. The FY 92 line items remain and there was no consolidation of Cherry Sheet line items as there was in the governor's budget. There was also no requirement for local expenditures as a maintenance of effort to receive this proposed state aid, as the governor has proposed in his budget.

EEOG - The House proposes to add $100 million to the EEOG line item. A possible distribution of this $100 million by EEOG community is included with this memo for all EEOG superintendents. The figure listed would be the increase in EEOG funding above the FY 92 level.

ADDITIONAL EDUCATION AID - The House proposes to increase aid to education in each school district (including those who also receive EEOG grants) by $100 per student. We believe the enrollment figures being used are from the FY 91 End of Year Report. Multiply that enrollment figure by $100 and you will have the approximate increase for your school district.

SCHOOL CHOICE - The House proposes a modification of the current school choice law which would provide for receiving school districts to receive 75% of their per pupil costs. These funds would still be deducted from the Chapter 70 Aid of the community of residence. (Special Education students would still be billed at 100%)

SBAB - The House budget contains language that would provide two separate line items, one for desegregation projects and the other for all other projects. It would also grandfather the current reimbursement rates through 1994, and grandfather all projects currently on the priority list.

Please understand that this is a very quick review of a complicated document. We anticipate very quick action on this budget with debate probably beginning on Wednesday, May 27. We will provide more information when it is available, please feel free to call the office with questions or requests for more information.

SUITE 143, 18 TREMONT STREET, BOSTON, MA 02108 617-523-4263

3 ll

Educational Reform in Massachusetts: Building or Destroying Our Future

Minuteman Tech: Lexington, MA — May 15, 1992

This simple outline is intended to cut through the rhetoric being used to defend alternative positions on reform legislation. To the degree that political rhetoric seeks immediate popularity with voters, it often obscures the long-term interests of youngsters and the economic future of our Commonwealth. Companies that focus on short-term goals rather than long-term goals fail. We must not allow that to happen to our state.

- - Ron Fitzgerald, Superintendent

A. CONTEXT

1. U.S. Corporations are investing abroad at a higher rate than they are investing in expansion at home (and we wonder why jobs are disappearing).

2. This is true for two reasons:

   a. Cheaper unskilled labor in other countries and

   b. Higher skilled (educated) workers in other countries (Look at results of math and science tests given to high school graduates.)

3. Unless we invest in the resource that made Massachusetts competitive in the past - - education, the economic future of our citizens will continue moving on a downward path.

4. As the ONLY state that has steadily reduced its investment in public education for four years, we are rapidly building a disaster for our citizens.

B. ACTION

5. The Massachusetts Business Alliance for Education (MBAE) has made specific and very well documented proposals to reverse the above context **in the interests of jobs, citizens, and our economic future.**

6. The most important elements of these proposals are:

   a. Foundation formula support of public schools, support that will increase with inflation and any enrollment increases.

   b. An emphasis on early childhood service to at-risk 3-year-olds and 4-year-olds because **hundreds of studies have shown that the right start is the best guarantee of future success in school and work.**

   c. Increased accountability for students and educators, with support from the state.

7. Administration and legislative leaders have attempted to construct one joint bill that could implement the suggestions of the concerned business leaders. As of this date, they are mired in disagreement. Each side is attempting to explain why its "position" is "reasonable". Meanwhile we are moving toward another school year and:

   a. Adopting school and municipal budgets with no dependable information on available state aid.

b. Facing increasing inequality between relatively affluent districts and those where between 30% and 40% of the teaching staff has had to be released.

In relation to the latter reality, educational and therefore economic opportunity in Massachusetts is now truly a function of where one lives. This fact stands as testimony to the failure of state government in fulfilling one of the basic purposes for which it exists.

C. THE DISAGREEMENT

8. Words are hiding the fundamental source of disagreement. Here is a frank summary of that disagreement relating back to the basic elements of reform proposed by business leaders and listed in item #6 of this outline:

REPORTED* POSITION OF SELECTED LEGISLATIVE LEADERS = X	REPORTED* POSITION OF SELECTED REPRESENTATIVES OF THE ADMINISTRATION = Y
a. Provide foundation support of public schools that will increase with inflation and any enrollment increases. Does NOT penalize (reduce aid in) districts whose citizens decide to use local taxes to spend more than a foundation amount of $5500/pupil because that would move the best schools toward "average" quality. * Proponents of positions may claim their positions are somewhat different. However, the best we can do here is to use what we have been told about closed negotiation processes.	a. Set a lower fixed amount of dollars (approximately $4900 to 5000/pupil) to support a foundation formula without any adjustments for inflation or enrollment increases. NOTE: Depending on inflation and enrollment growth and considering aid cuts of recent years, this could leave our state continuing its backward slide. Reduce aid to communities spending substantially beyond the foundation amount. This could hurt many communities across the state. NOTE: One **can cut through rhetoric by asking proponents of any position to produce a print-out of the actual district-by-district aid changes their philosophy would produce.**
b. Implement early childhood service free to at-risk 3-year-olds and 4-year-olds and on a sliding cost scale to more affluent families.	b. Study the need for early childhood service (since "a" above would not really provide funds for implementing any new service).
c. Increase accountability with an independent assessment office reporting to citizens on learning results in every school district. Support focus.	c. Increase accountability with an assessment office operating under the Governor's Secretary of Education. Punishment focus.

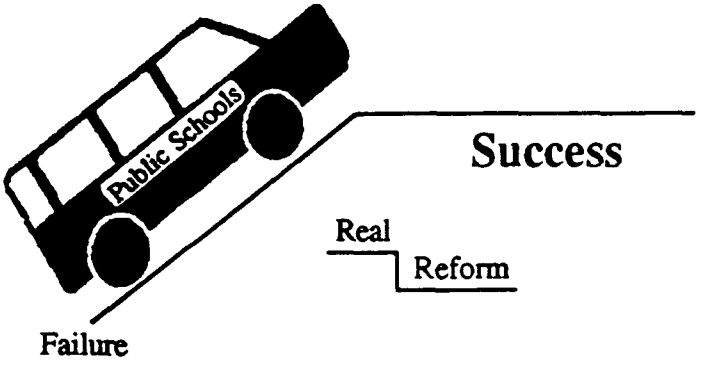
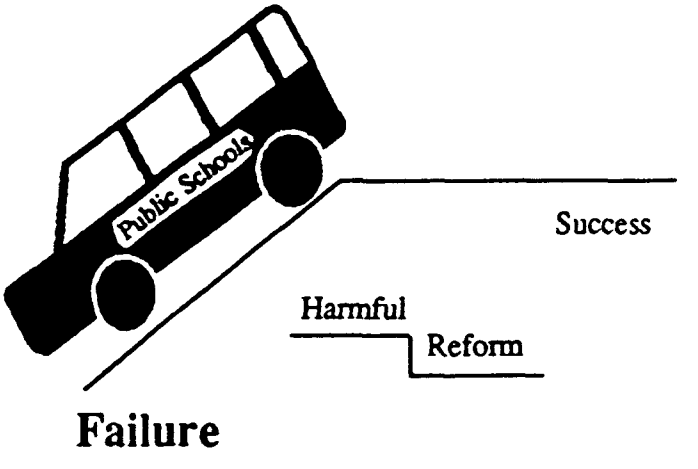
It is not difficult to perceive that the X position is reasonably consistent with what concerned business leaders initially proposed; the Y position is inconsistent with MBAE reform proposals. This heart of the matter can be obscured with talk about blind preservation of 2-1/2 principles (i.e., if inflation increases costs 5%, hold taxes to a 2-1/2% increase!). However, such talk is a smokescreen being used to avoid the more basic issue affecting children and our economy - - **Should our investment in our children be sensitive to inflation?** If NOT, we create a new "tax" on children; that is we handle inflation by reducing investment in children. In such a case, let us not even bother with educational reform as a hoax.

D. WHAT NOW?

9. We are in a recession. No one should expect massive infusion of new funds into public education for 1992-93. The nearly $200M in restored aid reported as a 1992-93 agreement between the Governor and some legislative planners is reasonable with the understanding that no school district or municipality should have its aid reduced for 1992-93 at this late date. However, the recession will pass IF our state adopts the "right" long-term plan or statute for educational reform.

10. That "right" plan should be the one publicly endorsed by independent MBAE business leaders who are unencumbered with party and election complications. **Every concerned citizen in this state should now listen very carefully to what MBAE leaders have to say. Then accountability should start at the state level and not with unsupported reform imposed on schools. The actions of every elected official regardless of party, should be judged in relation to sensitivity to MBAE suggestions.** Our youngsters and their future are worth paying attention to what MBAE employers are saying. These employers are not tax advocates or opponents. They are advocates of reasonable investment in the future of our state. That investment must take place before it is too late to repair damage already well underway. Will YOU take action now to ask your elected officials to represent you properly on this critical matter?

The Choice in Massachusetts

X	Y
• Accept inflation in school support as a matter of fiscal integrity in state policy. • Implement early childhood service as a proven value.	• Ignore inflation in school support (Let the kids "pay"). • "Study" the early childhood questions.
	
• Avoid penalizing towns that make extra effort to support education.	• Cut aid to any town that uses its local tax base to go substantially beyond the state foundation amount.

Massachusetts Department of Revenue

Division of Local Services

BULLETIN

Commissioner Mitchell Adams
Deputy Commissioner Leslie A. Kirwan

May, 1992

TO: Treasurers; School Superintendents; School Committees; Mayors; Town Managers and Administrators; Boards of Selectmen; City and Town Councils; Finance Committees

FROM: Leslie A. Kirwan, Deputy Commissioner

SUBJECT: School Choice

This bulletin has two purposes: to explain (1) how School Choice receipts and assessments are being made through the FY92 local aid distribution and (2) how Chapter 493 of the Acts of 1991 will be implemented.

I. Introduction

The School Choice program was established in 1991 by Sections 23 and 85 of Chapter 6 of the Acts of 1991, Section 304 of Chapter 138 of the Acts of 1991 (the FY92 budget), and Section 14 of Chapter 145 of the Acts of 1991 (the FY91 supplemental budget). The School Choice program is being implemented in the current school year (1991-1992).

Definition of Receiving and Sending Districts

The School Choice program results in the establishment of "sending" and "receiving" school districts. "Receiving" districts are municipal and regional school districts that choose to participate in the School Choice program by accepting non-resident students. "Sending" districts are those municipalities in which a participating student resides.

The School Choice program provides that every Massachusetts student has the opportunity to attend a public school in another school district if that district has voted to participate in the program. The most significant feature of the School Choice program is that the cost of educating a student from another district is financed by the Chapter 70 funds allocated to the municipality in which the student resides. The transfer of funds from a sending district to a receiving district occurs as part of the quarterly distribution of local aid.

BOS
AGAIN, THE TOWN LOSES AND THE REGIONAL SCHOOL DISTRICT (BOTH SENDING AND RECEIVING) GAINS !!!!
DPJ

It is important to note that in the case of a student who transfers from a regional school district to another district, the cost of his/her education is financed by the Chapter 70 funds allocated to the municipality in which the student resides and not the Chapter 70 funds allocated to the regional school district from which he/she transfers.

Enrollment Dates

The School Choice Program requires each receiving school district to certify to the Department of Education on October 1, 1991 and April 1, 1992, the number of children attending its public schools under the program; the community of residence of each child; the annual amount of tuition for each child; and the total tuition owed to the receiving district based on full or partial attendance. These enrollment figures will be used to determine final School Choice costs: the amounts deducted from sending districts' Chapter 70 funds (assessments) and the amounts paid to receiving districts (receipts).

Chapter 493 of the Acts of 1991

In recognition of the financial impact that School Choice assessments would have on sending districts, Section 2 of Chapter 493 was enacted in December, 1991. Chapter 493 provided $2.7 million to offset either 50 or 75 percent of the losses in Chapter 70 funds incurred by sending districts. Also, in the case of those sending districts that were allocated no FY92 Chapter 70 funds or insufficient Chapter 70 funds to cover their full School Choice liability, Chapter 493 provided funds to cover the amounts due from these sending districts to receiving districts, subject to availability of funds.

These funds were awarded based on applications submitted by participating districts to the Secretary of Education.

II. School Choice Implementation, 1991-1992 School Year

Prior to the enactment of Chapter 493, receiving districts were paid 50% of the estimated amount due for School Choice as part of the December 31, 1991 quarterly local aid distribution. These payments were based on October 1, 1991 enrollment figures. No assessments against sending communities were made at this time.

If the sending district's Chapter 70 allocation was insufficient, a receiving district's payments were calculated on the following basis:

- If a sending district was allocated no FY92 Chapter 70 funds, the receiving district received no payment for its School Choice students.

- If a sending district was allocated an amount of FY92 Chapter 70 funds insufficient to meet its School Choice liability, the receiving district was paid an adjusted amount based on whatever Chapter 70 funds were available from the sending district.

- If a sending district was allocated insufficient FY92 Chapter 70 funds and students from the sending district were attending more than one district, the receiving districts were paid an adjusted, pro-rated amount.

The March 31, 1992 quarterly local aid distribution did not include any assessments against sending districts or payments to receiving districts.

The June 30, 1992 quarterly local aid distribution will include final assessments and payments that reflect adjustments due to enrollments as of April 1, 1992 and funds allocated under Chapter 493.

It is important to note that a reduction of a sending district's liability resulting from Chapter 493 will not result in a payment to the sending district, but only in a reduction of the amount deducted from the sending district's fourth quarter Chapter 70 payment.

School Choice receipts and assessments will appear on the notification regularly provided by the State Treasurer to communities and regional school districts as part of the quarterly local aid distribution. The Division of Local Services should have final School Choice figures in late May. If you would like to know these amounts for your community, please call Julie Slavet, (617) 727-2300.

III. Impact of School Choice on Municipal Finances

Receiving districts received the first payment of School Choice funds as part of the December 31, 1991 quarterly local aid distribution and will receive the balance of School Choice funds due to them as part of the June 30, 1992 quarterly local aid distribution.

Chapter 76, Section 12B states that these funds are to be deposited by the treasurer in a separate account and may be expended by the school committee without further appropriation. The statute further provides that whenever such funds are received after submission of the annual school budget, they shall be reported as the prior year's revenues at the time of the submission of the next year's school budget.

Sending communities will be assessed the amount due for School Choice as part of the June 30, 1992 quarterly local aid distribution. Local officials in these communities should be aware that the loss in Chapter 70 funds due to School Choice could result in a revenue deficit that would have to be raised in FY93.

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: April 23, 1992

TO: Board of Selectmen

FROM: Don P. Johnson, Town Manager

SUBJECT: Police department Accreditation

After more than five years of work, we are nearing completion of the National Accreditation Program for our Police Department. The "big test" is a five day on-site inspection by the Assessment Team of the Commission on Accreditation for Law Enforcement Agencies, Inc. The Assessment Team will arrive in Acton on May 30 and begin its work the following day. Chief Robinson has provided the attached packet of information to give an overview of the type and depth of review.

There do not appear to be any formal requirements of the Board at this time but I would like to call your attention to the Public Information Hearing at 7:00PM on June 1. The Board is invited and encouraged to attend. This should be an excellent opportunity to receive citizen input regarding one of the highest profile departments in the town.

Don

cc: Chief Robinson

Town Manager
Information

Acton Police Department

P. O. Box 212

Acton, Massachusetts 01720

Telephone 263-2911

George W. Robinson
Chief of Police

April 14, 1992

CALEA ON-SITE
AGENDA

Saturday May 30, 1992

08:30 Hours	Transportation of Assessors from airport to hotel/station

Sunday May 31, 1992

0730-0830 Hours	Breakfast @ Hotel
0845-0900 Hours	Tour Police Facility/Vehicles
0900- Hours	Assessment

Monday June 1, 1992

0900-0930 Hours	Meet Command Staff/Town Manager photo session
0930- Hours	Assessment
1900- Hours	Public Information Hearing

Tuesday June 2, 1992

0900- Hours	Assessment
1300-1500 Hours	Telephone calls from public

Wednesday June 3, 1992

0900- Hours	Assessment
1300-1500 Hours	Telephone calls from public
1930- Hours	Dinner with Assessment Team

Thursday June 4, 1992

1100- Hours	Exit interview
1200- Hours	Depart or airport

ASSESSOR'S ON-SITE

GUIDE TO THE

ACTON POLICE DEPARTMENT

TOUR OF STATION TO INCLUDE:

OUTSIDE

1. Parking Area
   Garage (storage/firearms locker)
   Communications Antenna/Satellite Dish
   Cruisers/Equipment

INSIDE

2. COMMUNICATIONS AREA

   Radio Console
   Telephone Lines
   Map
   Dictaphone
   Call Check
   Alarm Board
   Cell Monitors
   LEAPS/NCIC System
   In-House Computer
   LEAPS/NCIC Records
   General Orders Manuals
   Dispatch Manuals
   Special/Unusual Manuals
   Arrest Log
   Daily Log
   TTY Machine

3. SHIFT COMMANDERS OFFICE

   Operations Manual
   Various Manuals
   Written Directives Boards
   Training Board

4. PATROL DIVISION COMMANDERS OFFICE

   In-Service Lesson Plan Books
   Training Files
   Evaluation Files
   Citation/Parking Tickets File

5. CHIEF'S OFFICE

   Officer's Personnel Records
   Internal Affairs Reports
   Accreditation Report Board
   Accreditation Files
   Task Analysis Files

6. **RECORDS AREA**

Files
Access 24 HRS.

7. **TRAFFIC UNIT OFFICE**

Report Terminals
Library - LETN Tapes, MGL Books, Reference Materials

8. **ATTIC**

Records Archives

9. **TACTICAL ROOM**

Weapons
Ammunition
Vests

10. **ROLL CALL ROOM**

Cruiser Supplies
Pin Maps
Suggestion Box
Union Board
Supply Box
Chairs
Desks
LETN Monitor
VCR
Cruiser Keys

11. **DETECTIVE DIVISION OFFICE**

Case Files
Investigative Equipment/Supplies
Citation Files
Sex Crimes
Juvenile Reports, Photo's, Prints
Intelligence Files

12. EVIDENCE/PROPERTY ROOM

Alarm System
Narcotics locker
Alcohol Locker
Firearms Locker
Safe
Bins (alpha)

13. HALLWAY

Department Forms File
Officers Mailbox
Evidence/Property Lockers
Shifts/Detail Board
Department Table of Organization

14. BOOKING AREA

Male/Female Cell Area
Rights Form
Medical Attention Sign
Plexi-Glass
Audio Equipment
Video Equipment
Forms File
First Aid Kit
Prisoner Property Lockers
Refrigerator
Water drinking/cups
Access to Sinks/Water
Oxygen Kit
Ambu-Bag
Cameras
BAC Machine
Evacuation Plan
Fire/Smoke Detectors
Alarm Button
Cell Monitoring System
Firearms Lockers
Cell Bedding
Culinary Supplies

15. SPECIAL SERVICES DIVISION COMMANDER

In-House Computer System
MDT Computer interface

ACTON POLICE DEPARTMENT
ON-SITE VEHICLE TOUR

CRUISER - MARKED	APPLICABLE STANDARD(S)
Police Radio, PA System	62.1.6, 41.1.16, 41.2.6, 41.2.11
Emergency Light Switches	
Spotlight	62.1.6
Cruiser Form Box	63.1.8
Hazardous Material Book - Glove Box	63.2.2, 66.1.7
Yellow Marking Crayon	63.1.8, 41.2.12
Prisoner Transport Screen	71.4.1
Rear Door Knob Removed	71.4.2
Rear Window Handles Removed	71.4.2
Fire Extinguisher	63.1.8, 41.2.12
First Aid Kit	63.1.8, 41.2.12
Body Armor	41.2.16
Blankets (2)	63.1.8, 41.2.12
Flares (12)	71.1.3, 63.1.8, 41.2.12
Pry Bar	63.1.8, 41.2.12
Radio and Siren Case	41.2.11
Strobe Lights or Wig-Wags	62.1.6
Light Bar	62.1.6
Spare Tire, Jack, Lug Wrench	71.1.3
Radar Unit	62.1.4
Reflective Warning Signs	63.2.1, 63.1.8, 63.1.5, 41.2.12
Measurement Device	63.1.8, 63.1.5, 41.2.12
Accident Template	63.1.8, 63.1.5
Forms/Forms Box	

UNMARKED - DETECTIVE CAR	
Fingerprint Kit	83.1.3
Evidence Collection Kit	83.1.3
Camera	83.1.3
Evidence Bags	83.1.3
Evidence Tags	83.1.3

MANUAL AVAILABLE DURING ASSESSMENT

* APPENDIX MANUAL
* COLLECTIVE BARGAINING AGREEMENT
* REPORT WRITING MANUAL
* GENERAL ORDERS MANUAL
* UNUSUAL OCCURRENCES MANUAL
* SPECIAL OPERATIONS MANUAL
* TASK ANALYSIS MANUAL
* DEPARTMENT FORMS MANUAL
* F.T.O. MANUAL
* VICTIM RESOURCE DIRECTORY
* SELECTION/PROMOTION MANUAL

ABBREVIATIONS USED

A.P.D.	ACTON POLICE DEPARTMENT
A.P.D.G.O.M.	ACTON POLICE DEPARTMENT GENERAL ORDERS MANUAL
A.L.A.R.S.	AUTOMATED LICENSE AND REGISTRATION SYSTEM
C.F.S.	CALL FOR SERVICE
C.H.I.N.S.	CHILD IN NEED OF SERVICE
C.J.I.S.	CRIMINAL JUSTICE INFORMATION SYSTEM
C.M.R.	COMMONWEALTH OF MASSACHUSETTS REGULATIONS
C.O.R.I.	CRIMINAL OFFENDER RECORD INFORMATION
D.P.A.	DEPARTMENT OF PERSONNEL ADMINISTRATION
D.S.S.	DEPARTMENT OF SOCIAL SERVICES
D.Y.S.	DEPARTMENT OF YOUTH SERVICES
F.I.C.	FIELD INTERROGATION CARD
F.T.O.	FIELD TRAINING OFFICER
L.E.A.P.S.	LAW ENFORCEMENT AGENCIES PROCESSING SYSTEM
L.E.T.N.	LAW ENFORCEMENT TELEVISION NETWORK
M.G.L.	MASSACHUSETTS GENERAL LAW
M.G.L.A.	MASSACHUSETTS GENERAL LAW ANNOTATED
M.C.J.T.C.	MASSACHUSETTS CRIMINAL JUSTICE TRAINING COUNCIL
N.C.I.C.	NATIONAL CRIME INFORMATION CENTER
N.I.B.R.S	NATIONAL INCIDENT BASE REPORTING SYSTEM
N.L.E.T.S.	NATIONAL LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM
O.U.I.	OPERATING UNDER INFLUENCE
S.T.E.P.	SATURATED TRAFFIC ENFORCEMENT PATROL
U.C.R.	UNIFORM CRIME REPORTING

George W. Robinson
Chief of Police

Acton Police Department
P. O. Box 212
Acton, Massachusetts 01720
Telephone 263-2911

PUBLIC NOTICE

The Acton Police Department is scheduled for an on-site assessment as part of a program to achieve accreditation by verifying it meets professional standards.

Administered by the Commission on Accreditation for Law Enforcement Agencies, Inc., the accreditation program requires agencies to comply with state-of-the-art standards in four basis areas; policy and procedures, administration, operations and support services.

As a part of the on-site assessment, agency employees and members of the community are invited to offer comments at a public information session June 1, 1992 at 7:00 PM. The session will be conducted in the Hearing Room at the Town Hall.

Agency employees and the public are also invited to offer comments by calling 264-9639 on June 2, 1992 through June 3, 1992 between the hours of 1:00 PM, and 3:00 PM. Comments will be taken by the Assessment Team.

Telephone comments as well as appearances at the public information session are limited to 10 minutes and must address the agency's ability to comply with the Commission's standards. A copy of the standards ~~is~~ available at the Acton Police Department. Local contact is Lieutenant John T. McNiff and can be contacted at 264-9638.

Anyone wishing to submit written comments about the Acton Police Department's ability to comply with he standards for accreditation may send them to the Commission on Accreditation for Law Enforcement Agencies, Inc., 4242B Chain Bridge Road, Fairfax, Virginia 22030.

George W. Robinson
Chief of Police

Acton Police Department
P. O. Box 212
Acton, Massachusetts 01720
Telephone 263-2911

PRESS RELEASE

FOR IMMEDIATE RELEASE

Acton Police Department
Lieutenant John McNiff
365 Main Street
(508) 264-9638

ACCREDITATION ASSESSMENT TEAM INVITES PUBLIC COMMENT

Acton, Massachusetts April 22, 1992 -- A team of assessors from the Commission on Accreditation for Law Enforcement Agencies, Inc., will arrive May 30, 1992 to examine all aspects of the Acton Police Departments policy and procedures, management, operations and support services, Chief George W. Robinson announced today.

Verification by the team that the Acton Police Department meets the Commission's state-of-the-art standards is part of a voluntary process to gain accreditation--a highly prized recognition of law enforcement professional excellence, he said.

As a part of the on-site assessment, the public and agency employees are invited to offer comments on the agency's services and performance at a public information session June 1, 1992, at 7:00 PM. The session will be conducted in the Hearing Room, located at the Town Hall.

If for some reason an individual cannot speak at the public information session but would still like to provide comments to the assessment team, he/she may do so by telephone. The public may call 264-9639 on June 2 or 3 between the hours of 1:00 PM and 3:00 PM.

Telephone comments as well as those made at the public information session are limited to 10 minutes and must address the agency's ability to comply with the Commission's standards. A copy of the standards is available at the Acton Police Department. For further information, call Lieutenant John McNiff at 264-9638.

Persons wishing to offer written comments about the Acton Police Department's ability to meet the standards for accreditation are requested to write: Commission on Accreditation for Law Enforcement Agencies, Inc., 4242B Chain Bridge Road, Fairfax, VA 22030.

The Acton Police Department has to comply with 933 standards in order to gain accredited status, Chief George W. Robinson said.

The Accreditation Program Manager for the Acton Police Department is Detective Raymond P. Grey. He said the assessment team is composed of law enforcement practitioners from similar, but out-of-state agencies. The assessors will review written materials; interview individuals; and visit offices and other places where compliance can be witnessed. The assessors are: Mary Ann Viverette, David Kurz, team leader; James Brown.

Accreditation is for five years, during which time the agency must submit annual reports attesting continued compliance with those standards under which they were initially accredited.

For more information regarding the Commission on Accreditation, contact: Richard Kitterman, Director of Field Operations, 4242B Bridge Road, Fairfax, Va 22030, (800)368-3757 extension 31.

cc: BOS

MMA Action

May 21, 1992/#5

GOOD NEWS CONTAINED IN THE HOUSE BUDGET: $185M IN NEW SCHOOL MONEY, $37M IN NEW CHAPTER 90 MONEY, AND EXEMPTING THE OVERLAY FROM 2 1/2

MAY 22 1992

Dear Local Official,

Three hours ago, the House Ways and Means Committee unveiled its recommendations for the FY 93 state budget. Ending a three year trend of cuts and disappointments for local government, the Ways and Means budget contains good news for cities and towns.

The highlights of the budget are:

- **$185 million in new school aid for *all* communities: $85 million will be distributed to cities, towns, and regional school districts on a $100 per-student basis using October 1991 student enrollment figures; and an additional $100 million will be distributed to communities eligible to receive EEOG funds.**

- **The House Ways and Means Committee has eliminated the governor's ill-advised earmarking proposal (Section 7 of House One).**

- **Cities and towns will be guaranteed their full share (15%) of the gas tax due to the restoration of a line item appropriation for Chapter 90. The $37 million Chapter 90 line item is for up-front cash grants to communities, making the funds available for immediate use on construction and road repair projects. Chapter 81 will be funded at $43.7 million.**

- **The budget also level funds Additional Assistance and Chapter 70 (as promised by the early resolution passed by the House and Senate last week).**

- **The budget also exempts the Overlay account from the limits of Proposition 2 1/2 (details will come under a separate cover), and allows communities to index the property tax levy limit to inflation on a referendum basis.**

In general, there is much to appreciate in this budget. It ends the downward spiral in local aid, restores the Chapter 90 line item, and increases school aid by $185 million. The only major amendment to the budget we will seek is to uncap the lottery, held at $306 million for the fourth consecutive year.

Massachusetts Municipal Association, Sixty Temple Place, Boston, Massachusetts 02111; (617) 426-7272

cc: BOS

Massachusetts Municipal Association
Sixty Temple Place (800) 882-1498
Boston, Massachusetts 02111 (617) 426-7272 FAX (617) 695-1314

- Fact Sheet -

1. The Property Tax Overlay Exemption; A Good Idea

Section 174 in the House Ways and Means budget proposal would change the property tax levy limit calculation so that amounts set aside for property tax abatements and exemptions [overlay amounts] would be raised above the levy limit. While no community would be required to use any portion of the added property tax capacity provided by this budget item, roughly $120 million would be made available for use by local appropriating authorities. The actual overlay amount excluded from the levy limit calculation for a municipality would be the average overlay amount of the prior three fiscal years.

Overlay amounts are not used to support local spending programs, but rather are returned to taxpayers who qualify for any one of several property tax exemptions for the elderly, blind persons, and veterans, or who show that their property has been incorrectly valued. Under current law, cities and towns cannot use their full levy limit to support local services because each year a portion is returned to needy taxpayers in the form of exemptions and abatements.

The inclusion of overlay amounts under the levy limit was not required by the original property tax limit law, but rather was included through an administrative decision afterwards. The overlay exemption does not violate Proposition 2 1/2.

2. Inflation-Indexed Levy Limit Growth Factor; No Real Change

Sections 170, 171 and 173 in H.5600 would allow the local appropriating authority in any city or town to seek voter approval for use of an alternative property tax levy limit growth factor to the 2.5 percent factor currently used. The alternative factor would be the lower of either a three year average of the Implicit Price Deflator for Consumer Expenditures or 5.0 percent. The local appropriating authority would be the Board of Selectmen in towns and the City Council/Mayor in cities.

After adoption of an alternative growth factor, the voters in any city or town would be allowed by petition to seek voter repeal of the alternative factor. The petition would need the signatures of three percent or more of the registered voters in the municipality. The repeal question would be on the ballot at the next regular election and would apply to the following fiscal year.

This is simply a new type of property tax override requiring approval by the electorate (unlike the Hamill Commission recommendation that Proposition 2 1/2 be amended to replace the 2.5 percent levy limit cap with an inflation index -- a step that would make a state-wide change). Because of the declining passage rate for overrides, it is likely that the House Ways and Means language will be useful in only a limited number of communities.

3. Property Tax Underride; Bad Public Policy

Section 172 of H.5600 would allow the voters in any city or town by petition to seek voter approval to reduce the local property tax assessment by a specified amount. The petition would need the signatures of 3 percent or more of the registered voters in the municipality. The question would be on the ballot at the next regular election and could apply to the current fiscal year.

Municipalities need stability, not the financial chaos that an underride law would cause when property tax cutting questions appear on the ballot after local budgets are voted and after the fiscal year has begun. This proposal would create for cities and towns on a permanent basis the same budget problems that the state faced with Question 3 in 1990. In addition, municipal bond ratings would be affected by underride questions.

It is vitally important that you call your Representatives and:

- **Thank them for supporting the early resolution of local aid; and**

- **Ask for their support for the $185 million in new school money, the $37 million for Chapter 90, and the overlay and inflation indexing changes to Proposition 2 1/2.**

We are currently compiling a detailed analysis of the Ways and Means budget. We will send you the completed analysis as soon as it is finished.

If you have any questions on the budget please don't hesitate to contact us.

Sincerely,

Geoffrey Beckwith
Executive Director

Acton - Boxborough Youth Soccer

April 24, 1992

FYI

CC: BOS - INFO.
INFO. REC'D AFTER YOUR 5/26 MTG.

Planning Board
Town of Acton
c/o Town Hall
Acton, MA 01720

Dear Planning Board

It has come to the attention of Acton-Boxborough Youth Soccer (ABYS) that a developer, Jim Fenton, has proposed providing the town with a full-size soccer field for considerations from the town as part of a project that is being planned off Lawsbrook Road.

ABYS would like to be on record in support of this or any such project that would result in another soccer field for the town. Moreover, ABYS would also like to be on record as agreeing that, if the Town of Acton would ever acquire a fully-developed, full-size, quality soccer field, with adequate parking, for organized use exclusively by the ABYS recreational soccer program, then ABYS in return would accept responsibility for providing full care and maintenance for such a facility. ABYS would also agree, of course, that authority over such a field would belong to the Town of Acton, exactly as is the case for the town's present recreational fields. In that respect, ABYS would agree that the town could allow organized soccer use of the field by other groups providing that such use would coordinate with ABYS use of the field and moneys collected for it would somehow be used to offset the ABYS care and maintenance costs.

Because timing may be important in the case of the Fenton project, I am sending this letter after having obtained only a sampling of the views of the ABYS Board membership, but with full knowledge of its concern over the precarious state of present town soccer fields. I will bring the matter to the Board's formal attention at its regular monthly meeting on Monday, May 4. If ~~the~~ our Board feels differently about the matter, or if it would modify the proposed conditions mentioned above, I would let you know with a prompt followup letter.

Also, if such a field would ever seem in the offing, ABYS would welcome the opportunity to offer its knowledge and expertise to help define what "a fully-developed, full-size, quality soccer field" would mean.

Thank you for your consideration of this matter. If you would like any more information, kindly give a call.

Sincerely

Joe Will

Joe Will, President
263-5824

Don
BOS voted against accepting
on 5/26

May 28, 1992

TO: Board of Selectmen, Don Johnson, John Murray
FROM: Anne Fanton
SUBJECT: Presentations on Issues (Tasks) Assigned

Thanks to Nancy's good organization, we will be addressing a number of important issues in the coming months. Many of these issues are complex, which is precisely the reason they are on the list.

I respectfully request that prior to the first scheduled discussion of each issue, the Selectman responsible for the issue and the appropriate staffperson work to prepare the background material and their recommendation in the form of a memo for the Friday packets. If there is to be a visual presentation, a copy of the transparencies could also be in the packets. In this way, newer Selectmen who have not gone over these issues year after year, will have an opportunity to study the information, consider it, and either call for clarifying information before the meeting or come prepared with questions. This is far preferable to simply postponing a vote because the latter option means the issue must be discussed twice, on two meetings' agendas, and it also puts the newer Selectmen is a position of making a case for postponement. I believe it is to both the community's and our benefit that we have a well prepared and considered discussion of each issue when it is first presented.

Anne

cc. Bo
and please
make copies for
chais
Don
Andrea
John
Thanks

EFFECTIVE JULY 1, 1992

HOURS OF TRANSFER STATION

SUNDAY	CLOSED
MONDAY	CLOSED
TUESDAY	8:00 - 3:00
WEDNESDAY	8:00 - 3:00
THURSDAY	8:00 - 3:00
FRIDAY	7:00 - 3:00
SATURDAY	7:00 - 4:30

STICKER FEES - NORMAL TRASH GENERATED BY EVERYDAY USAGE

STICKERS	PRICE
First Sticker	$85.00
Second Sticker	$20.00
Senior Citizen Sticker (65 Years of age or older - 1927)	$25.00
Replacement Sticker	$5.00
Out of Town Sticker	$235.00
Recycling Sticker	$20.00
Out of Town Recycling Sticker	$30.00

MAY 1, 1993 - STICKERS PRO-RATED TO HALF PRICE

COUPON FEES - ATTIC, CELLAR, GARAGE, BARN & YARD CLEANING RENOVATION & CONSTRUCTION DEBRIS

GROSS VEHICLE WEIGHT LIMITS	PRICE
Non-Resident/Resident - No Sticker - Per Trip	$10.00/Trip
Under 5,499 lbs. (Small trailers & small pickups)	$7.00/Load
5,500 - 7,499 lbs. (1/2 ton pickup)	$14.00/Load
7,500 - 11,999 lbs. (3/4 - 1 ton pickup)	MARKET PRICE/Cu. Yd.
Over 12,000 lbs. (Packers)	MARKET PRICE/Cu. Yd.
ALL OTHER TRAILERS BY VOLUME	MARKET PRICE/Cu. Yd.

APPLIANCES, FURNITURE, FIXTURES, ETC.

Small Items	$3.00
Large Items	$12.00

Small Items Include: Lawn mowers, snow blowers, tires, batteries, small sinks toilets, vanities, etc.

Large Items Include: Refrigerators, stoves, dishwashers, dryers, water heaters, furnaces, T.V.'s, boxspring/mattresses, sofas, dressers, day beds, chairs, recliners, air conditioners, desks, cast iron sinks, washers, bathtubs, etc.

cc BOS

SUBURBAN COALITION

WAYLAND TOWN BUILDING
WAYLAND, MASSACHUSETTS 01778

IMMEDIATE ACTION REQUESTED

May 26, 1992

The f/y 1993 budget has been released from the House Ways and Means Committee. Some features are ones the Suburban Coalition has long promoted. We urge you to let your legislators and members of the Executive know where you stand. Please tell them now that you want them to vote for

1. A **minimum** of $100.00 per pupil in additional school aid to all cities and towns.

2. Level funding of other local aid at the f/y 92 level.

3. Full funding of school transportation accounts.

4. Change to an indexing formula for Prop. 2½.

5. Exclude assessors' overlay from the limitation of Prop. 2½.

Every Selectman, School Committee member, Finance Committee member, PTO member needs to lobby agressively state officials **now.**

Respectfully, for the
Suburban Coalition

Frank LeBart, Chair

Bob Hilliard, Board

John B. Wilson, Exec. Director

TELEPHONE: ~~(617)~~ 508 358-2489 OR 358-7701

Make Your Community More Accessible

Communication and Architectural Access

under the

Americans with Disabilities Act
and
the Massachusetts Architectural Access Board's Regulations

A Two Day Training
presented by the
Massachusetts Office on Disability

Day One

- "Equal Access Players", a skit
- Overview of law
- Ensuring effective communication
  - Auxiliary aids and services
- New construction and alterations
- Existing facilities
- Slide presentation of access design
- Case studies

Day Two

- Becoming a Community Access Monitor
- Steps to take before an assessment
- How to survey a facility
- On-site access survey
- What next? Working for voluntary compliance
- Using the press
- Enforcement of the law
- How to file a complaint

Wednesday and Thursday

June 17 and 18, 1992

9:30 a.m. - 4:00 p.m.

Wang Laboratory
One Industrial Drive
Lowell, MA

FOR DIRECTIONS - SEE REVERSE SIDE

Co-sponsored by:

•Chelmsford Commission on Disabilities
•Northeast Independent Living Program
•Massachusetts Office on Disability

For information, call:
Bruce Bruneau
Massachusetts Office on Disability
(617) 727-7440 Or (800) 332-2020

Voice/

REGISTRATION FEE:
$15.00 includes all materials
and lunch for both days

----------REGISTRATION----------

NAME: _____ PHONE: (_____) _____

ADDRESS: _____

_____

Accommodations: (material in braille, sign language interpreters, etc.)

_____

FEE ENCLOSED $15.00
Make check payable to:

Ralph Hickey
(508) 256-2648

Mail check and this registration form by June 12th, to:

Ralph Hickey
31 Littleton Road
Chelmsford, MA 01824

INTERDEPARTMENTAL COMMUNICATION

TO: Planning Board DATE: May 29, 1992
FROM: Board of Selectmen
SUBJECT: Laws Brook Village - Application Fee

Thank you for your memorandum of April 15; we apologize for the delay in reviewing and responding to your suggestion. We were pleased to learn the details of the PCRC proposal for the Foster Masonry property and your success in bringing about a satisfactory resolution of the conflict over use of this site.

We also appreciate your dedication to creative planning and your efforts to encourage development that meets recreational and open space needs as well as traditional housing needs. However, we are ultimately accountable to the community for setting a budget and working within it, and as a board, we have decided unanimously that we cannot support the waiving of the permit filing fee for this project in exchange for recreational facilities. The total fee that would be waived, of $32,000.00, is roughly equal to a Town employee's salary. That is a significant loss of revenue to the town. Spending for capital improvements, including recreational facilities, must be made on the basis of priorities. Town departments' capital requests for this year exceeded $1,800,000, not including sewers, of which we were able to fund approximately $480,000. While new recreational facilities will continue to be needed in Acton, we do not feel that the ones that are being offered for this site are of the highest priority at this time. Therefore, we regret that we cannot support your suggestion for "give and take" in Laws Brook Village.

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

****

DATE: 5/27/92

TO: The Board of Selectmen

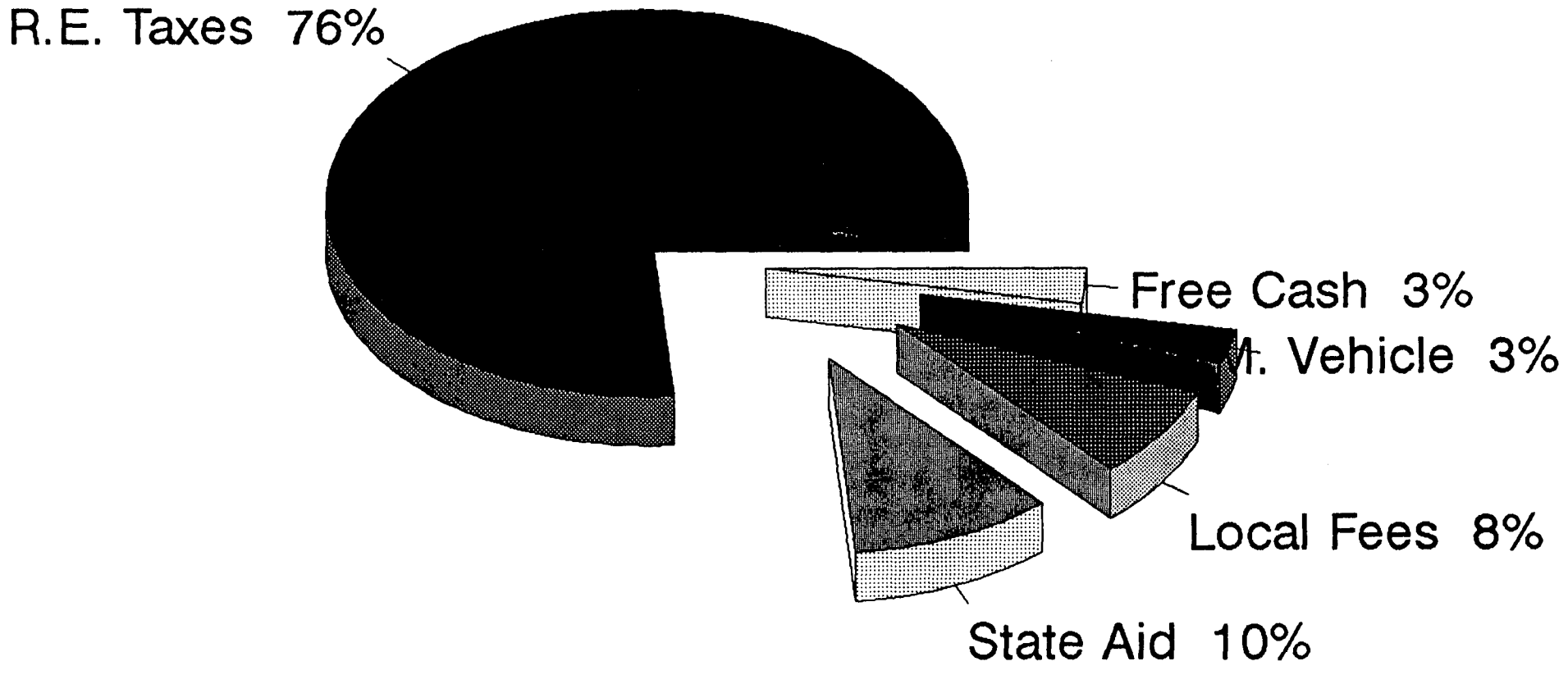
FROM: John Murray

SUBJECT: Trash Fee Presentation of 5/26/92

Board members have asked for a hard-copy of the slides used in the presentation for determining the FY93 rate structure for the Transfer Station. They are attached.

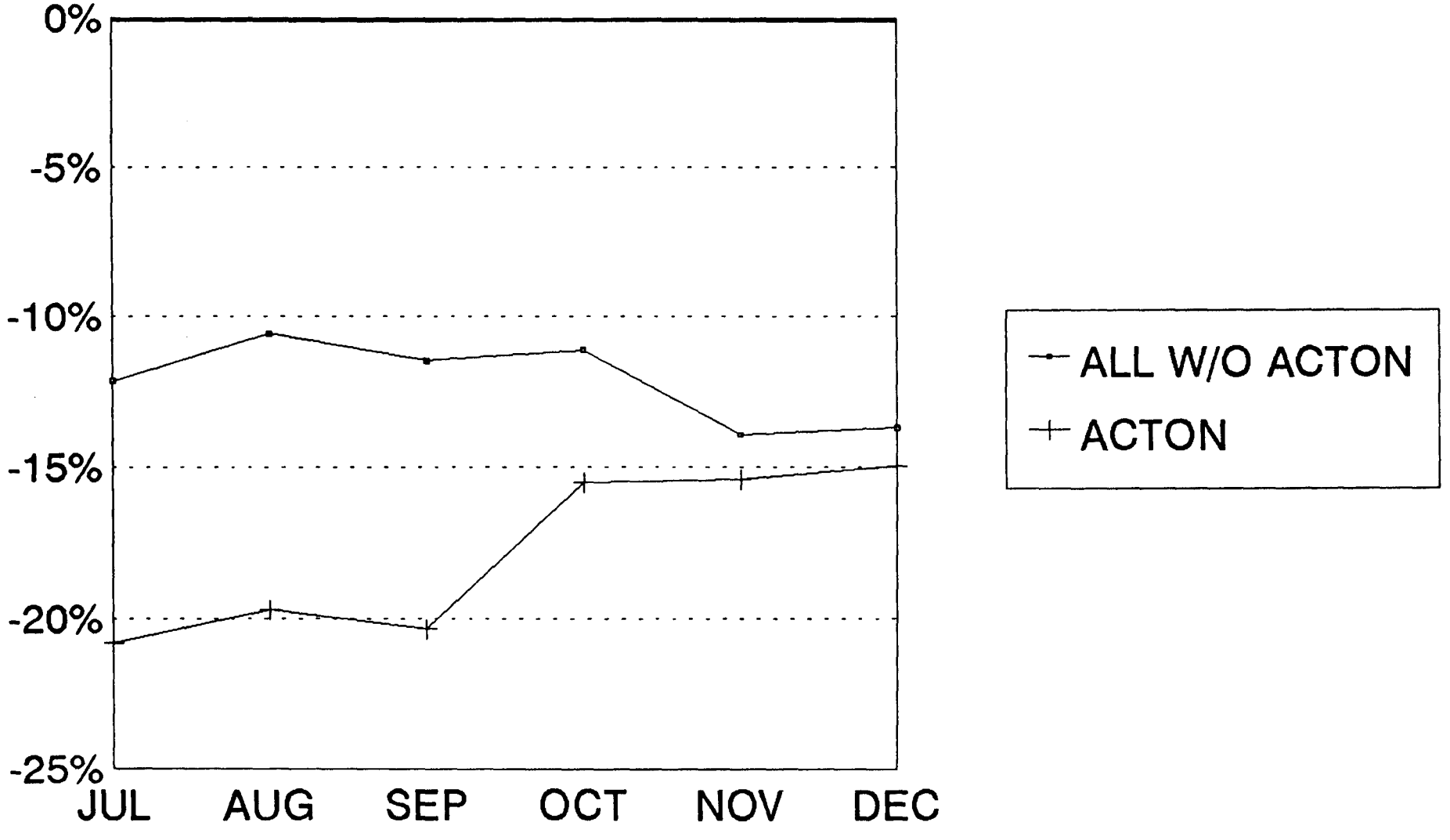
The Revenue Plan for FY93

As Accepted by Town Meeting



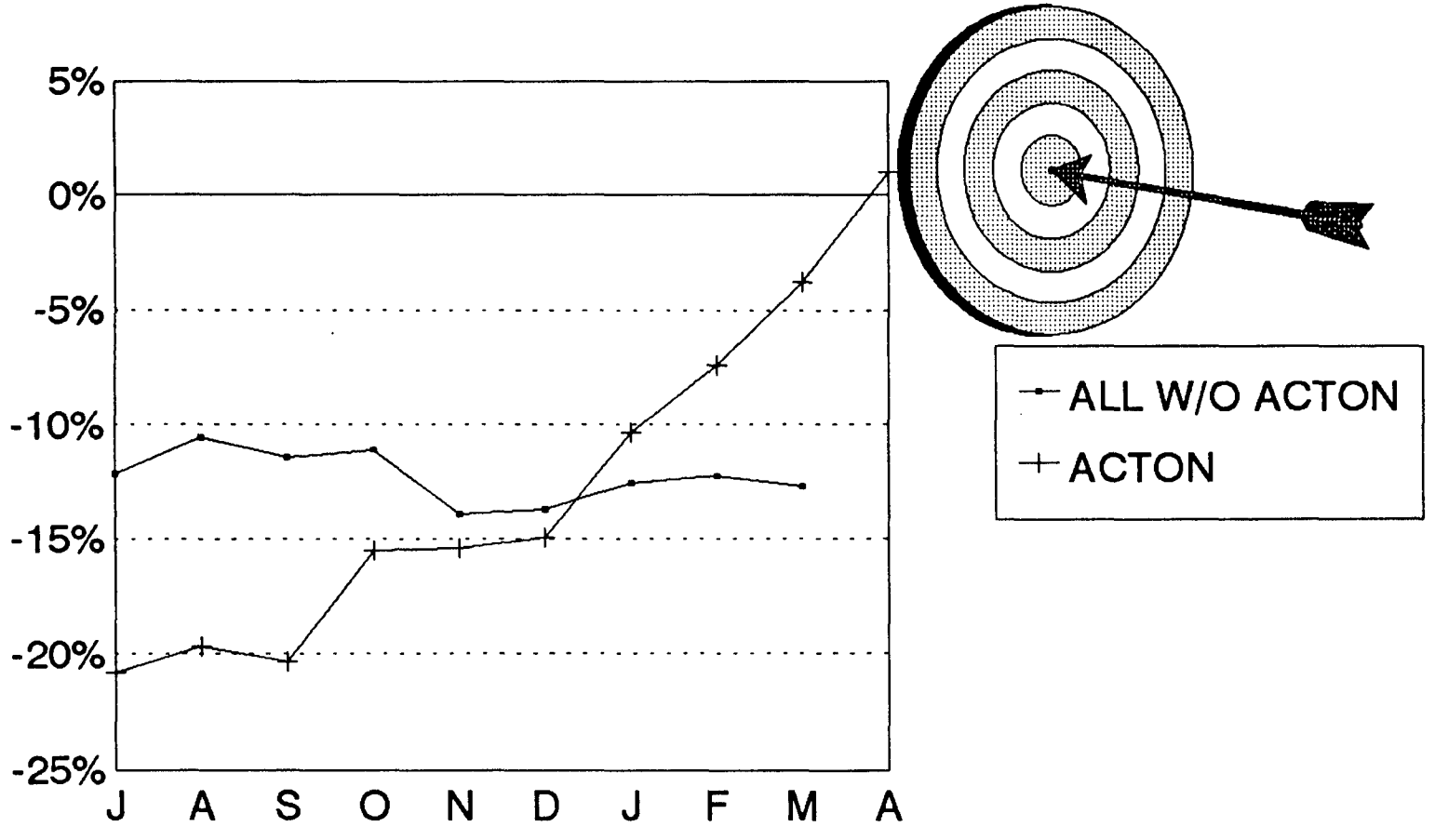
Y-T-D SHORTAGE

IN PERCENTAGE TERMS



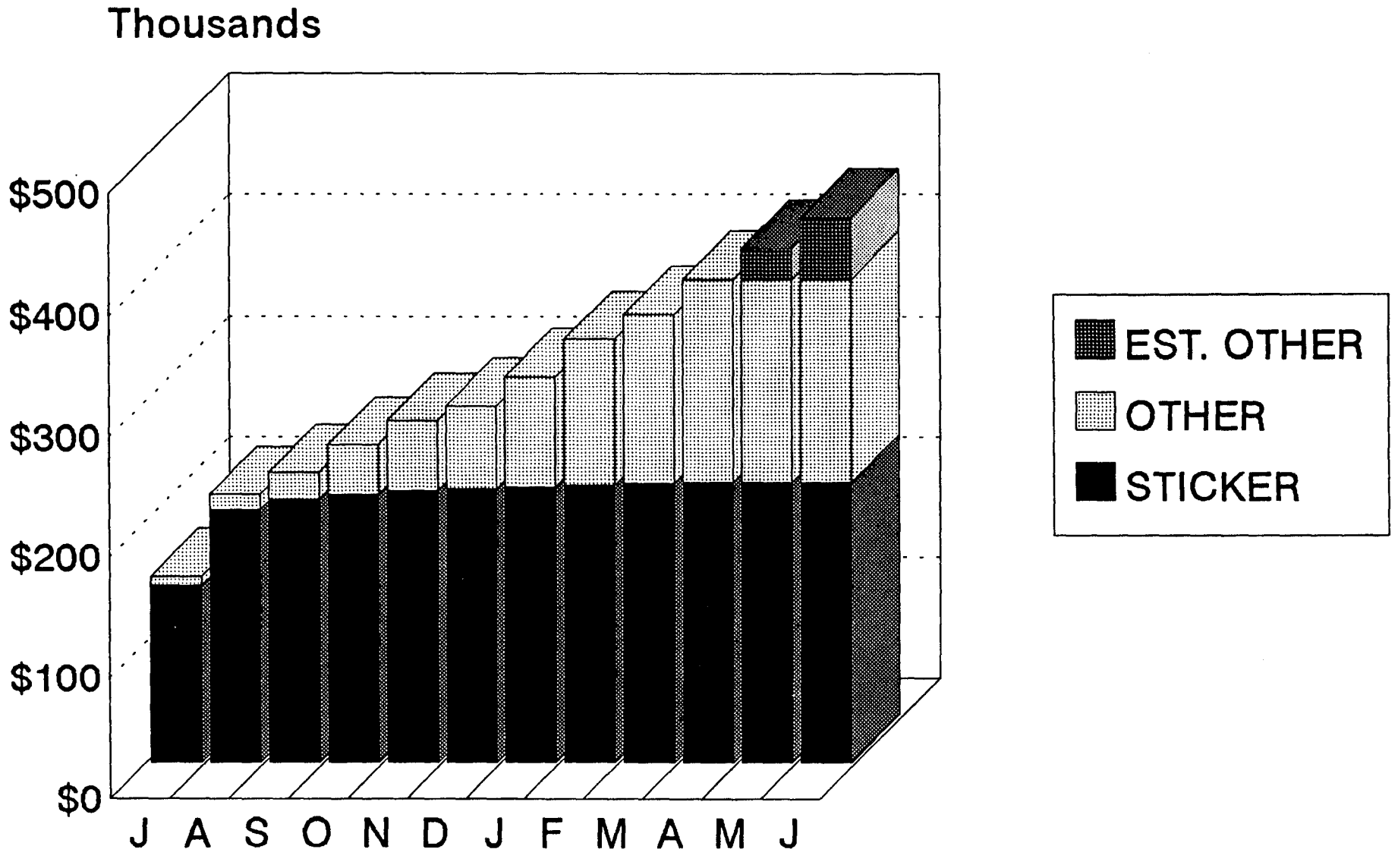
Y-T-D SHORTAGE

IN PERCENTAGE TERMS



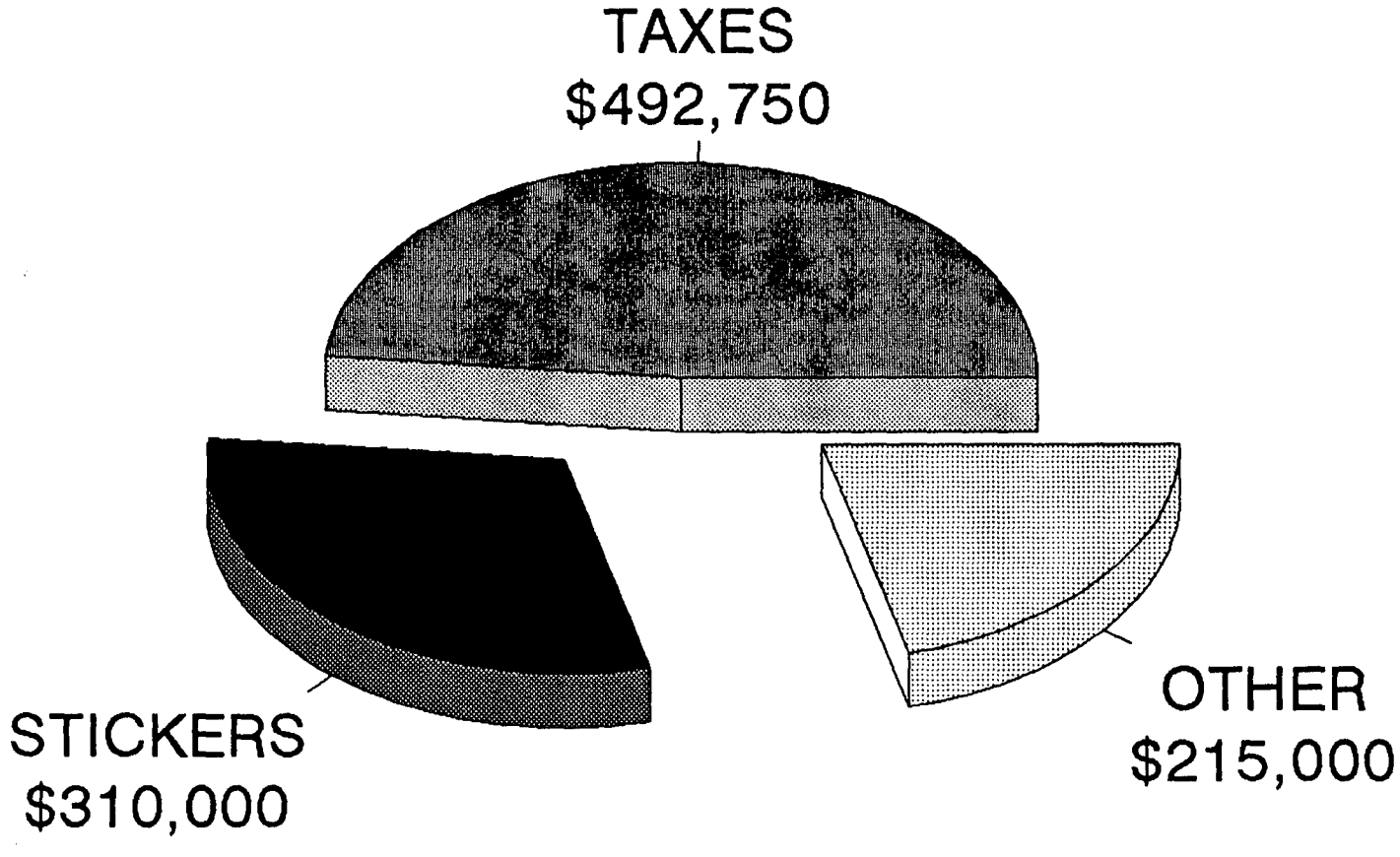
APRIL TONNAGE UNKNOWN FOR OTHER COMMUNITIES

Y-T-D REVENUE


Thousands
$500
$400
$300
$200
$100
$0
J A S O N D J F M A M J
EST. OTHER
OTHER
STICKER

FY93 FUNDING

BASED UPON THE FINANCIAL PLAN APPROVED BY TOWN MEETING

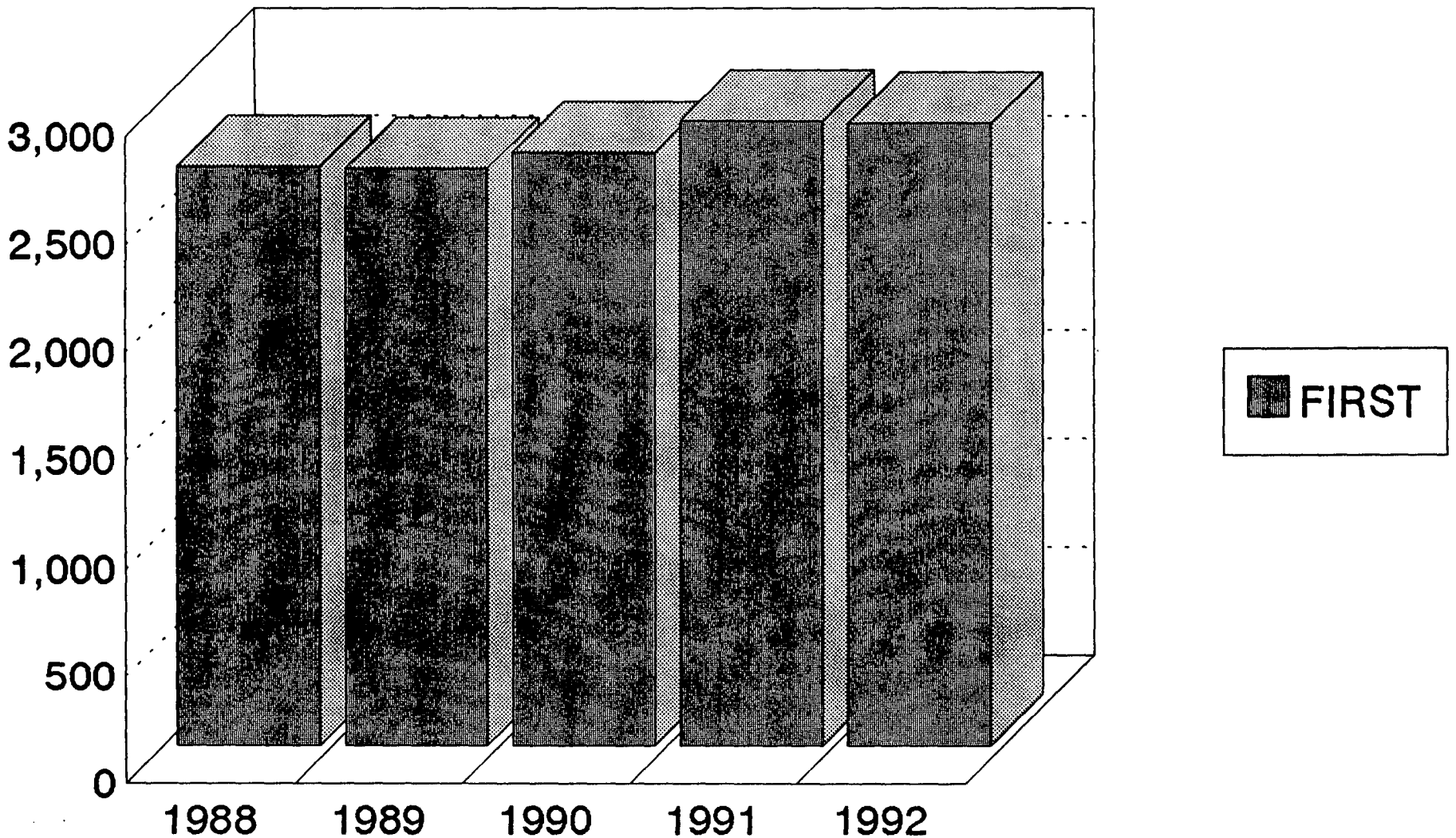


The Total Cost Structure on a Per-Household Basis for Trash Removal

Tipping Fee	@ $90/ton	$166.50
All Other Costs	@ 36.50/ton	$ 67.52
	Total Cost	$234.02

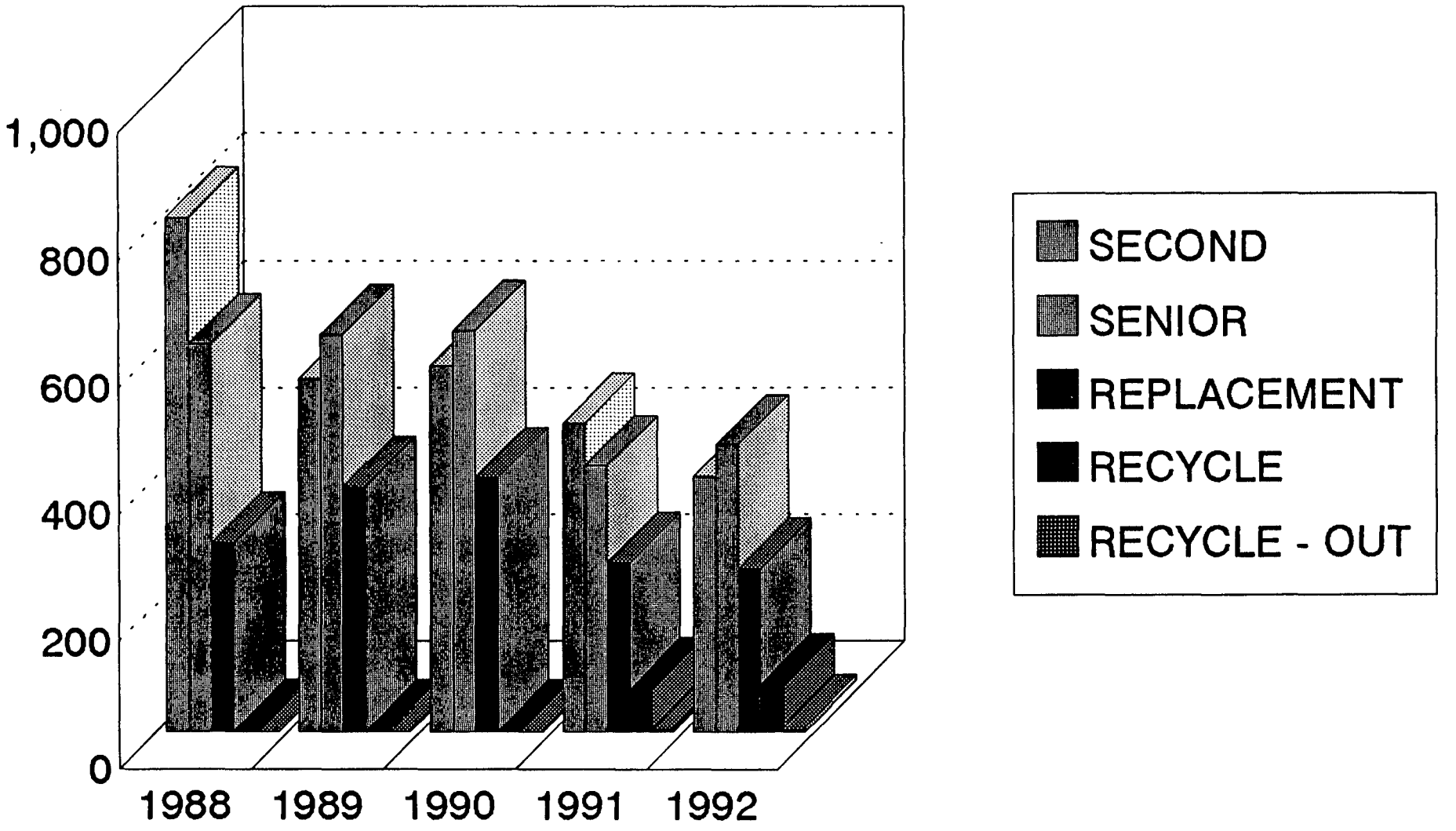
On Avg. each household disposes of 1.85 tons/yr

FIRST STICKERS SOLD



1992 NLY THRU MAY 23

STICKERS SOLD



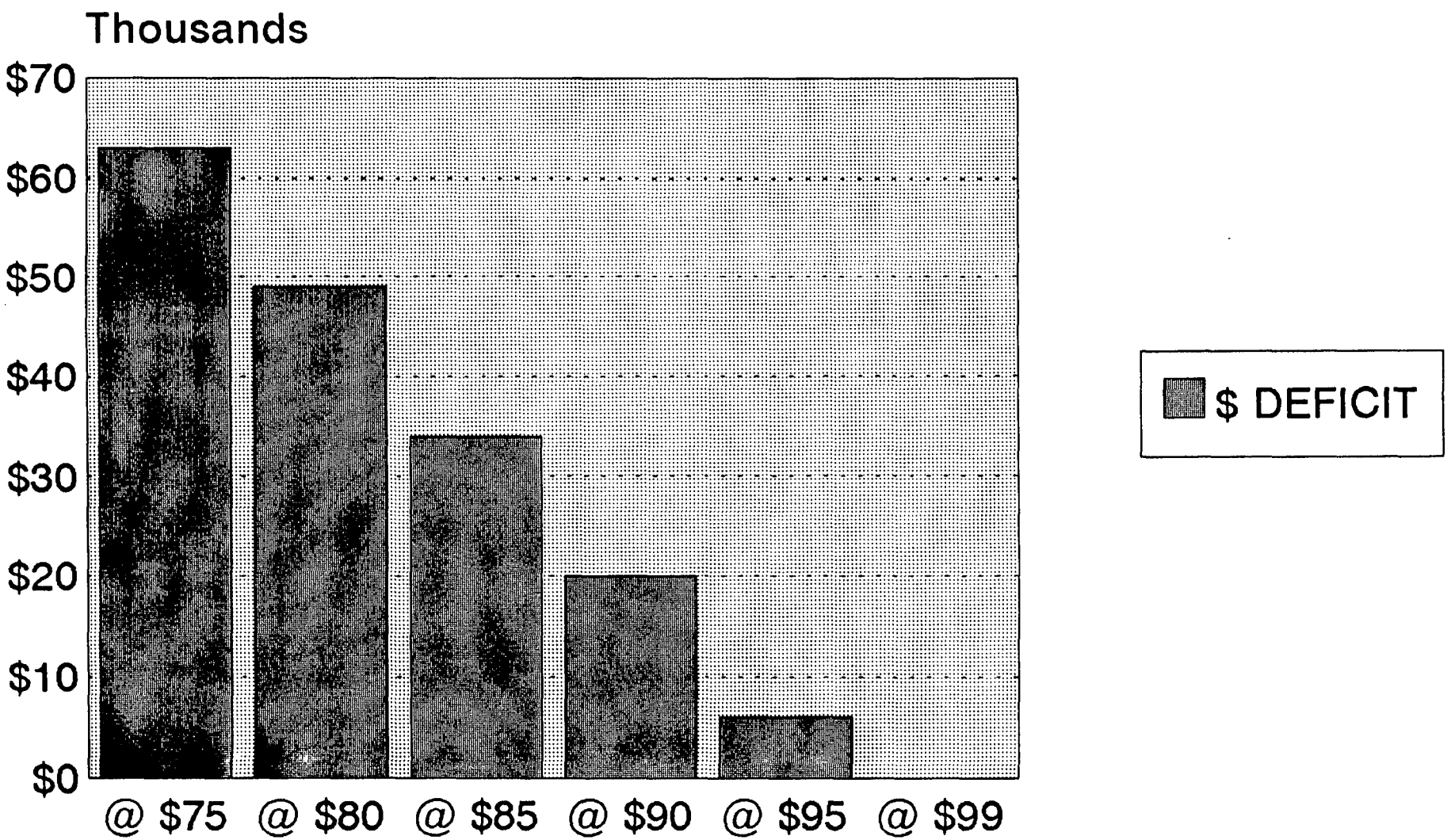
1992 ONLY THRU MAY 23

FY93 STICKER FEES

	FY92	FY93	DIFF
FIRST	$75	?	
SECOND	$20	$20	$0
SENIOR	$20	$25	$5
REPLACEMENT	$ 5	$ 5	$0
RECYCLING	$15	$20	$5
RECYCLING - OUT	$25	$30	$5

REVENUE DEFICIT

BASED ON 1ST STICKER PRICES



5/29

CC: BOS -
STAFF & COUNSEL WILL BE FOLLOWING THIS MATTER AND REPORT TO YOU. THE ISSUE RELATES TO HIS APARTMENT HOUSE ON SCHOOL STREET THAT BURNED AND THE BOARD ORDERED ITS REMOVAL.

PALMER & DODGE

One Beacon Street
Boston, Massachusetts 02108

Thomas G. Ambrosino, Esq.
(617) 573-0199

Telephone: (617) 573-0100
Facsimile: (617) 227-4420

May 21, 1992

Charles G. Kadison, Jr., Esq.
179 Great Road
Acton, MA 01720

Re: Porrazzo v. Selectmen of the Town of Acton
Civil Action No. 89-8490

Dear Mr. Kadison:

I am the attorney at Palmer & Dodge representing the Town of Acton in the above-entitled matter.

Yesterday, I received by mail from the Middlesex Superior Court a Notice of Conciliator's Hearing and Order to Counsel. A copy of this notice is enclosed. The hearing described in the notice was originally scheduled for Wednesday, May 27, 1992. Because I am leaving town tomorrow and will be unavailable all next week, it was necessary for me to reschedule that hearing. The hearing has been rescheduled for June 4, 1992 at 9:45 a.m. Before rescheduling, I did attempt to reach you by telephone. However, because you have been unavailable for the past two days, I had to proceed without your input.

As you will see, the order requests us to submit to the Conciliator a joint pre-trial memorandum. I will be back in my office on June 1. Please contact me early that week so that we can discuss this matter.

Because your secretary was not certain if you were still handling this case, I have sent a copy of this letter and the enclosure to Stephen Pearson, the attorney formerly from your office who appeared in this case on behalf of Mr. Porrazzo.

Yours truly,

Thomas G. Ambrosino

Thomas G. Ambrosino

TGA/lma
cc: Stephen L. Pearson, Esq.
Acheson H. Callaghan, Jr., Esq.

bcc: Garry Rhodes

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX
THE SUPERIOR COURT

CIVIL DOCKET# MICV89-08490

RE: Porrazzo v Tavernier et al

TO: Acheson H Callaghan Jr
Palmer & Dodge
1 Beacon Street
Boston MA 02108

NOTICE OF CONCILIATOR'S HEARING AND ORDER TO COUNSEL

The Court has scheduled your case for a Pre-trial Conference, to be held in the **CONCILIATION SESSION ROOM** on the third floor in the Superior Court in Lowell. Your hearing is scheduled for: 05/27/92 at 03:15 pm.

Plaintiff and defendant please take careful note: Any person including parties needed to authorize a settlement or approve a dispute resolving alternative to trial **SHALL BE PRESENT.** Failure of one side or the other to appear without **FULL AUTHORITY** to negotiate and dispose of the matter shall result in sanctions being imposed. Sanctions may include dismissal or the striking of liability defenses. They shall include substantial costs.(1)

I.

Each side is **ORDERED TO BRING** and to submit to the Conciliator the following:

1. A joint pretrial memorandum conforming to Appendix A to Superior Court Standing Order 1-88
2. All exhibits: counsel should appear one half hour prior to the time scheduled for hearing in order to mark the exhibits (parties will retain custody of each exhibit they produce).

II.

Each side must be prepared to pre-try the case and shall discuss: any and all unresolved motions; any and all exhibits; any areas of agreed fact; and, any possible stipulations.
The Conciliator will make recommendations to the Court concerning the disposition of all pending motions.

---

1. Pre-trial conferences will be conducted by members of the bar who have agreed to donate their time to hear pre-trial conferences in an effort to help the court, the parties, and the public resolve cases. Unexcused failure to appear or appearance without authority to conduct meaningful settlement negotiations will result in a waste of the conciliators's time. The court has not asked the conciliators, and does not expect them to waste their time. Accordingly, the costs will be designed to compensate the conciliator for time wasted by non-appearance of a party or appearance without authority to engage in settlement negotiations.

III.

The Conciliator will discuss:

a) the present status of any negotiations;
b) the prospects of a settlement;
c) the availability of voluntary non-binding arbitration;
d) the availability of a masters hearing;
e) the availability of a summary jury trial;
f) the possibility of remand;
g) the assignment of a trial date. If this case is not resolved at the pre-trial conference or if it does not proceed to one of the ADR programs, it will be scheduled, within three weeks, for a trial conference before the judge who will be presiding at the trial. At that time it will be assigned a trial date within one month.

The Conciliator will have a list of Mediators, Arbitrators, Judicial Adjuncts and Masters who have been approved by this Court. There may be instances where the parties agree to request the services of a person not on the list. In such a case the Conciliator shall recommend to the court the person upon whom the parties have agreed. There are fees and expenses with respect to certain of these alternatives which are further described in the brochure accompanying this notice.

IV.

The Court reminds parties and counsel that your cooperation and good will are an absolute necessity if the goal of efficient and prompt disposition of time standards cases in the Lowell session of the Superior Court is to be met. The onciliators are rendering pro bono services. The time allotted to each case s forty-five minutes. Therefore you should come to the hearing early so that you may meet with opposing counsel, mark exhibits (if you have not previously done so) and have a final settlement discussion. Such preparation will allow parties to focus quickly on legitimate issues and make use of the time devoted to conferencing the case.

BECAUSE OF THE NUMBER OF CASES WITH WHICH THE CONCILIATORS MUST DEAL AND THE TIGHT SCHEDULING NECESSARY TO MAKE THIS PROGRAM WORK, CONTINUANCES WILL BE PERMITTED ONLY IN CASES OF EXTREME HARDSHIP.

IT IS POSSIBLE THAT CERTAIN CHANGES IN REPRESENTATION MAY HAVE OCCURRED WHICH ARE NOT REFLECTED IN COURT RECORDS. THE COURT WILL NOTIFY ALL COUNSEL OF RECORD, BECAUSE THIS PROCESS CANNOT WORK WITHOUT THE ACTIVE PARTICIPATION OF ALL PARTIES AT EVERY STAGE OF THE PROCESS. HOWEVER, TO INSURE THAT ALL APPROPRIATE PARTIES RECEIVE ACTUAL NOTICE OF THE CONCILIATION, IT WILL BE THE RESPONSIBILITY OF THE PLAINTIFF TO NOTIFY ALL PARTIES OF THE DATE, TIME AND PLACE OF THE CONCILIATION HEARING WHICH IS THE SUBJECT OF THIS NOTICE. CONTINUANCES MUST BE REQUESTED FROM GARY NOLAN AT 458-0410, AND WILL BE GRANTED ONLY IN CASES OF EXTREME HARDSHIP.

By the Court,
James F. McHugh,
Regional Administrative Justice

*All inquiries regarding this notice must be made to 458-0410.

PALMER & DODGE

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Boston, Massachusetts 02108

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(617) 573-0163

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May 28, 1992

cc: BOS -
I PLAN TO PLACE THIS SUBJECT UNDER THE TOWN MANAGER'S REPORT FOR JUNE 9.

BY TELECOPIER

Garry Rhodes
Building Commissioner
Town of Acton
472 Main Street
Acton, MA 01720

Dear Garry:

You have asked me to summarize the information recently provided by Margaret Lynch, the Department of Public Utilities Hearing Officer who has responsibility for the petition filed by the Town of Acton, and to set forth the possible actions which Acton can now take.

I called Margaret to follow up on certain statements made in the April 8, 1992 letter from the Chairman of the Public Utilities Commission, Robert Yardley. She informed me that the Operating Rules of the Association of American Railroads, which Chairman Yardley referred to in his letter, are kept in the engineer's cab of every train, and that she does not have a copy. It is her understanding that the Operating Rules are uniform rules followed by railroads across the nation. The rules do not, to her knowledge and mine, have the force of law since they are issued by a private association.

Margaret further informed me that the Federal Railroad Administration takes the position that it can order whistle blowing at every grade crossing in the United States. Although federal law does not explicitly permit the FRA to do this, the FRA takes the view that the authority to do so flows from its authority to regulate railroad safety in general. The FRA has informed Margaret that it has not ordered such whistle blowing because most states already require whistle blowing under state law.

Margaret explained that the whistle ban in Florida was the result of a state law which permitted but did not require municipalities to adopt their own whistle ban. After bans were widely implemented, the FRA conducted the now infamous "Florida Study." That study provided a rationale for the FRA to order whistle blowing at all grade crossings in Florida, notwithstanding the state law which permitted whistle bans. The federal government was

able to order this because it can preempt state law in this area. What happen in Florida is important because the FRA could order, at any time, that whistles must be sounded at all grade crossings in Massachusetts, without regard to what the Department of Public Utilities has ordered in the past and without regard to any state statute.

The FRA has also informed Margaret that it has begun a study of grade crossings in all 50 states and has also begun a study of how to increase safety features at grade crossings to make it harder for a motorist to be in the crossing when a train approaches. She did not know when these studies would be completed or whether they would provide a rationale for the federal government to order whistle blowing at all grade crossings.

Margaret raised an interesting question with regard to Acton's filing a home rule petition. We have believed that any legislation dealing only with the Acton crossings would need to be in the form of a home rule petition. Margaret suggested, however, that because residents of other towns drive in Acton, any legislation which bans whistle blowing at the Acton crossings has an impact on residents of other towns. If she is correct, a home rule petition may not be appropriate.

Finally, Margaret and I discussed how the railroads might react if legislation banning whistle blowing in Acton is enacted. She noted that when a ban on whistle blowing was passed in Oregon, a railroad company sued the public safety commission on the grounds that it was permitting an unsafe practice. In the end, the Oregon public safety commission reinstated whistle blowing. The railroads could take a similar approach here if Acton's proposed legislation passes. On the other hand, the railroads have not acted in the past when the Department of Public Utilities ordered a cessation of whistle blowing, so predicting what the railroads will do is difficult.

Acton has several options at this stage. It can proceed with the legislation as currently proposed. Alternatively, the Town can seek an opinion by House Counsel on the appropriate form of legislation which deals only with the crossings in Acton. Based on that opinion, the Town can ask House Counsel to draft the legislation in the appropriate form. This has the advantage of saving the Town legal fees. Finally, the Town can choose to do nothing.

Given Representative Caron's lack of support for the current bill, proceeding with it in the Public Safety Committee is not likely to be successful. It is my impression that doing nothing at this stage is not an outcome which the Town's residents will find acceptable. I recommend that the Town seek an opinion of House Counsel on the appropriate form of legislation which deals only with the crossings in Acton and have House Counsel draft such legislation. If the legislation passes, there is always the risk that the railroads will seek an injunction preventing its enforcement or that the FRA will issue an order mandating whistle blowing. These risks cannot be eliminated, and existed even when the Town was pursuing

the petition under c. 160 with the Department of Public Utilities or when the Town first introduced its bill.

After you have reviewed this letter, please give me a call if you have any questions.

Sincerely,

Marty

Martha M. Walz

cc: Acheson H. Callaghan