

3.4.7 Other Public USE - USE of land, BUILDINGS and STRUCTURES for a public purpose, other than educational USE, by any town or local agency, except the Town of Acton and the Water Supply District of Acton.

B. Add the following line to the Table of PRINCIPAL USES:

	Residential Districts	Village Districts	Office Districts	Business Districts	Industrial Districts	Special Districts	Site Plan
3.4.7 Other Public USE	SPS(6)	SPS(6)	SPS(6)	SPS(6)	SPS(6)	SPS(6)	R

C. Add the following footnote (6) to Section 3.4.7 in the Table of PRINCIPAL USES:

(6) If the proposed USE will be located in the Floodway Fringe, as defined in Section 4.1, or Zones 1, 2 or 3 of the Groundwater Protection District, as defined in Section 4.3, before granting a special permit under this Section the applicant shall submit the information required under Sections 4.1 or 4.3 and the Board of Selectmen shall find that the proposed USE complies with the requirements of Sections 4.1.8.1 and 4.1.9, and 4.3.8 through 4.3.10 respectively.

or take any other action relative thereto.

**SUMMARY**

The Zoning Bylaw currently allows municipal uses in all zoning districts. However, municipal use is defined as the use of land, buildings and structures only by the Town of Acton and the Water Supply District of Acton, and does not contemplate such use by other municipalities outside of Acton. Two abutting towns currently use land, buildings and structures in Acton: The Town Concord uses Nagog Pond with associated dams, pump houses and water pipes. The Town of Maynard operates a sewage treatment plant which is partly located in Acton. This article, if adopted, will allow the public use of land by other towns and local public agencies in all district by special permit from the Board of Selectmen. Specifically, this article will enable the Board of Selectmen to grant a special permit to the Town of Concord to construct a water disinfection plant in a residential district near Nagog Pond. The Town of Concord is under obligations to construct a purification plant in the near future, which is the reason why this article is presented at this time.

Direct inquiries to: Roland Bartl, Town Planner 264-9636  
 Selectman Assigned: Anne Fanton

(S) Recommended  
 (F)

**ARTICLE 58\* ACCEPT MGL CHAPTER 140, Section 147A, DOG FUND  
(Majority Vote Required)**

To see if the Town will vote to accept Mass. General Law, C. 140, s. 147A to allow the Town to withdraw from the Middlesex County Dog Fund, or take any other action relative thereto.

**SUMMARY**

The Town has issued 1170 dog licenses since January 1, 1994 amounting to \$6454.00 of revenue for dog licenses. Of that 6,454.00, the Town received \$2019.50 in fees and the County received \$4434.50. Historically, the Middlesex County Dog Fund was used for reimbursement to livestock owners for damage done by dogs; this protection is no longer important in our community. If the Town accepts this article, all of the money collected in Dog License Fees would remain in the Town. We are paying Middlesex County for administrative costs and livestock protection that is no longer appropriate for our community.

If this article fails, we would move to take no action on the following article.

Direct inquiries to: Catherine Belbin, Town Clerk - 264-9615  
Selectman Assigned: Nancy Tavernier

(S) Recommended  
(F)

**ARTICLE 59\* AMEND TOWN BYLAW - CHAPTER E, DOG LICENSES  
(Majority Vote Required)**

To see if the Town will vote to amend Chapter E (General Public Regulations) Sections E22 of the Town bylaw entitled Dog Licenses/Animal Control by changing the fee structure as follows:

E22. No person shall own or keep a dog, six months or older, within the Town unless a license for such dog is obtained from the Town Clerk. The license period is the time frame between January 1st and the following December 31st inclusive. The fee for such a license shall be as follows:

Male Dog/Female Dog	\$15.00
Spayed/Neutered Dog	10.00
Kennel-1 (4 dogs or less)	26.00
Kennel-2 (5 to 10 dogs)	51.00
Kennel-3 (over 10 dogs)	76.00

E23. Any person who is the owner or keeper of a dog in the Town of Acton and who fails to license said dog within the time required by Chapter 140, Section 137 and 137A of the General Laws shall be subject to a penalty of twenty-five dollars (\$25.00) to be collected as provided by law.

E24. No person owning or keeping any animal in the Town of Acton shall permit the animal to go at large to the injury or nuisance of others.

E25. Owners or keepers of animals in violation of the foregoing section shall be subject to fines which shall be determined by the Board of Selectmen.

#### **SUMMARY**

This article would allow the fees of dogs licenses to increase but would keep the existing animal control bylaw in effect.

Direct inquiries to: Catherine Belbin, Town Clerk - 264-9634  
Selectman Assigned: F. Dore' Hunter

(S) Recommended  
(F)

#### **ARTICLE 60 AMEND LOCAL HISTORIC DISTRICT BYLAW (Majority Vote Required)**

To see if the Town will vote to approve amendments to the Town of Acton Bylaws, Chapter P - Local Historic District Bylaw, as follows:

Amend Section 2., Delete definition of STRUCTURE and replace with the following:

##### **2. DEFINITIONS**

**STRUCTURE:** A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace walk or driveway or paved parking lot.

Amend Section 7., Procedures for Review of Applications by the addition of the following new paragraph:

7.14 Nothing contained in this By-Law shall be deemed to preclude any person contemplating construction or alteration of a BUILDING or STRUCTURE within a DISTRICT from consulting informally with the COMMISSION before submitting any application referred to in this By-Law on any matter which might possibly be within the scope of the Bylaw. Nothing contained in this By-Law shall be deemed to preclude the COMMISSION from offering informal advice to a potential applicant prior to receiving an application. However, any such preliminary advice offered by the COMMISSION shall not be deemed to set a precedent nor in any way limit the COMMISSION in the exercise of it functions under this By-Law.

Amend Section 8, by the addition mew section 8.6:

8.6 The COMMISSION may impose requirements on the screening and location of above ground features of seepage systems. Such requirements shall not conflict with requirements of the Acton Board of Health.

Amend Section 9. with the following:

Replace 9.1.2 with the following:

9.1.2 EXCLUSIONS Terraces, walks, driveways, sidewalks, other and similar STRUCTURES, provided only that any such Feature is substantially at the existing grade level.

Amend Section 9.3 as follows:

After "unsafe" insert, "unhealthful,".

or take any other action relative thereto.

### SUMMARY

This article, if adopted, will clarify some of the wording in the Acton Historic District Bylaw which presently comes verbatim for the state enable legislation, MGL Chapter 40C. The new wording proposed for Section 2: DEFINITIONS and Section 9.1.2 of the EXCLUSIONS more closely matches common site features found within the Town of Acton. The proposed additions to Section 8 and Section 9.3 are a response to the updated technology and more stringent regulations for septic systems that have appeared since Chapter 40C was written. The new Section 7.14 should make it clear to readers of the Bylaw that informal, preliminary discussion with the Commission is useful, and in fact, encouraged in conjunction with the application process outlined under the Bylaw.

Direct inquiries to: Anne Forbes, Local Historic District Comm. 263-  
Selectman Assigned: F. Dore' Hunter

(S) Recommendation Deferred  
(F)

### ARTICLE 61\* REMOVE POLICE CHIEF POSITION FROM CIVIL SERVICE (Majority Vote Required)

To see if the Town will vote to authorize the Town Manager to take the appropriate steps to remove the Police Chief's position from Civil Service status, or take any other action relative thereto.

### SUMMARY

Police Officers in the Town of Acton are the only municipal employees covered by the provisions of the Civil Service Laws. These provisions are cumbersome and quite limiting, especially with respect to selections in the hiring process. This action would have no impact on the incumbent Chief but it would allow total flexibility in the future selection and appointment of a successor to this extremely important and sensitive position.

Direct inquiries to: Don P. Johnson, Town Manager - 264-9612  
Selectman Assigned: F. Dore' Hunter

(S) Recommended  
(F)

**ARTICLE 62# FORMATION OF MUNICIPAL POWER ORGANIZATION**  
(Majority Vote Required)

To see if the Town will vote to appoint a committee to pursue a formal study of the feasibility and process of formation of a municipal power organization, either independently operated within the town or as a jointly operated organization with one of Acton's neighboring towns. This committee shall not have fewer than 5 nor greater than 11 members who shall all be registered voters in the Town of Acton. The members of this study committee shall be appointed by the Town Moderator to represent a cross section of residents and business owners, and shall perform their work without financial remuneration or subsidy from either the Town of Acton or any individual or business. This committee shall provide a report of their deliberations and investigations at the 1995 Annual Town Meeting including either (1) the preparation and presentation of an outline of a proposed conversion plan, or (2) a recommendation to abandon the conversion process.

**SUMMARY**

The electric power service by Boston Edison to the residents and businesses of the Town of Acton, Massachusetts has been marked by a history of poor customer service, unavailability of industrial power capacity, and extensive outage problems, in particular in the extremities of Boston Edison's service area in West Acton and Nagog Woods. Recently, an ad hoc committee was formed to review the problems with the result of marginal reduction of service outages. During this time local electricity power rates have risen to among the highest in the country. This warrant article authorizes appointment of a formal committee to investigate the options available for formation of a municipal power form of electric energy provider in Acton.

\*Submitted by Citizen Petition  
Selectman Assigned: William Mullin

(S) No Recommendation  
(F)

**ARTICLE 63 SCHOOL TEACHERS' EARLY RETIREMENT**  
(Majority Vote Required)

To see if the Town will vote to accept the provisions of Section 83 of Chapter 71 of the Acts of 1993, as amended, to provide for an Early Retirement Incentive Program for the members of the Massachusetts Teacher's Retirement System employed by the Acton Public Schools, or take any other action relative thereto.

**SUMMARY**

This article requests permission for the Acton Public Schools to participate in the Early Retirement Incentive Program for teachers as allowed in the Education Reform Act of 1993. By Town Meeting, the Acton Public School Committee and the Acton Selectmen will have voted on this article. This program allows teachers with a minimum of twenty (20) years of service in the MA Teachers' Retirement System to receive up to five (5) extra years of service or age. The additional costs are split evenly by the State and Town. The Town's share will be absorbed by the difference in salary between the more expensive outgoing teacher and the less expensive replacement teacher.

Direct inquiries to: Mac Reid, Personnel Director - 264-4700 x 209  
Selectman Assigned: William Mullin

(S) Recommendation Deferred  
(F)

\* Consent  
# Submitted By Citizen Petition

And you are directed to serve this warrant by posting attested copies thereof fourteen days at least before the time of said meeting in not less than six public places in the Town to be designated by the Board of Selectmen.

Hereof fail not and make due return of this warrant with your doings thereon to the Town Clerk at or before the time of meeting aforesaid.

Given under our hands at Acton this 2nd day of March, 1994.

F. Dore' Hunter, Chairman  
Anne B. Fanton, Vice-Chairman  
William C. Mullin, Clerk  
Norman D. Lake  
Nancy E. Tavernier  
ACTON BOARD OF SELECTMEN

True Copy Attest

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CONSTABLE

(468.w11chris)

## A Glossary of Terms Commonly Used in Municipal Finance

**Abatement:** A complete or partial cancellation of a levy imposed by a governmental unit; applicable to tax levies and special assessments.

**Appropriation:** An authorization granted by a legislative body to make expenditures and to incur obligations for specific purposes. An appropriation is usually limited in amount and the time when it can be expended. Any amount which is appropriated may be encumbered. Any part of the general appropriation not spent or encumbered by June 30 automatically reverts to surplus.

A specific or particular appropriation is carried forward from year to year until spent for the designated purpose or transferred by town meeting vote to another account.

**Assessed valuation:** The value placed upon a particular property by the local Board of Assessors for the purpose of apportioning the town's tax levy among individual property owners equitably and in accordance with the legal requirement that property be assessed at "full and fair cash value", certified periodically by the Commonwealth's Commissioner of Revenue (no less frequently than once every three years.)

**Audit:** Work done by accountants in examining financial reports, reviewing compliance with applicable laws and regulations, reviewing effectiveness in achieving program results. A basic audit examines only the financial reports and legal compliance. An outside Certified Public Accountant (CPA) audit is directed primarily toward the expression of an opinion as to the fairness of the financial statements and submission of a management letter. An auditor must be independent of the executive branch of government. A state auditor, private CPA or public accountant, or elected auditor meets this test.

**Balance Sheet:** A statement that discloses the assets, liabilities, reserves and equities of a fund or government unit at a specified date.

**Budget:** A plan of financial operation embodying an estimate of proposed expenditures for a given period and the proposed means of financing them. A budget may be preliminary (the financial plan presented to the town meeting) or final (the plan approved by that body).

**Capital Budget:** A plan of proposed capital outlays and the means of financing them for the current fiscal period. It is usually a part of the current budget.

**Capital Exclusion:** A vote to exclude from the levy limit the cost of a capital project. This exclusion only affects the levy limit for the year in which the project was undertaken.

**Cemetery Land Fund:** A Fund established to which an added annual appropriation earmarked for the acquisition of land development costs on designated cemetery land purchases.

**Cherry Sheet:** An annual statement received from the Massachusetts Department of Revenue detailing estimated receipts for the next fiscal year for the various state aid accounts and estimated state and county government charges payable by the assessors in setting the tax rate. The actual receipts and charges may vary from the estimates.

**Classification:** The division of the real estate tax and personal property voted by the Selectmen. The Selectmen may choose one rate for residences, another rate for business, and another rate for open space.

**Debt Exclusion:** A vote to exclude from the levy limit the costs of debt service for capital projects. This exclusion remains in effect for the life of the debt only.

**Debt Service:** Payment of interest and principal related to long term debt.

**Encumbrance:** Obligations as purchase orders, contracts, salary commitments which are chargeable to an appropriation and for which a part of the appropriation is reserved.

**Enterprise Fund:** A fiscal entity with a self-balancing set of accounts that is utilized to account for a governmental service when it is the intent to recover the total costs of service, including depreciation, primarily through user charges may be supplemented by taxes.

**Equalized valuation:** The value of all property as determined by the Commissioner of Revenue biennially, using a standard of "full and fair value."

**Expenditure:** The spending of money by the town for the programs or projects within the approved budget.

**Fiscal Year:** A 12-month period, beginning July 1 and ending June 30, to which the annual budget applies and at the end of which a governmental unit determines its financial position and the results of its operations. The numbers of the fiscal year is that of the calendar year in which it ends; FY94 is the fiscal year which ends June 30, 1994.

**Free Cash:** Now referred to as "undesignated fund balance." Certified each July 1 by the State, this is the portion of Fund Balance available for appropriation. It is not cash but rather is approximately the total of cash and receivables less current liabilities and earmarked reserves, reduced also by reserves for uncollected taxes.

**Fund:** An accounting entity with a self-balancing set of accounts which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with specific regulations, restrictions or limitations.

**General Fund:** The fund into which the general (non-earmarked) revenues of the town are deposited and from which money is appropriated to pay expenses.

**General Obligation Bonds:** Bonds issued by the Town that are backed by the full faith and credit of its taxing authority.

**Overlay:** The amount raised from the property tax levy in excess of appropriations and other charges. It cannot exceed 5 percent of the levy and is used to cover abatements and exemptions granted locally or on appeal.

**Override:** A vote to increase the amount of property tax revenue that may be raised over the levy limit.

**Personnel Services:** The cost of salaries, wages and related employment benefits.

**Purchased Services:** The cost of services that are provided by a vendor.

**Property Tax levy:** The amount produced by multiplying the assessed valuation of property by the tax rate. The tax rate is expressed per thousand dollars of assessed valuation, for example:

House value: \$300,000

Tax rate: \$10 (which means \$10 per thousand)

Levy: \$10 multiplied by \$300,000 and divided by \$1,000.

Result: \$3000

**Reserve Fund:** A fund appropriated each year which may be used only by vote of the Finance Committee for "extraordinary or unforeseen expenditures."

**Revolving fund:** Those funds that may be used for special uses. For example, Recreation fees may be paid into a revolving fund, and expenditures can be made without appropriation with the approval of the Town Manager. Revolving funds are established by state law or town bylaw. Some revolving funds must be annually reauthorized by Town Meeting.

**Tax Ley:** Total amount of dollars assessed in property taxes imposed by the Town each fiscal year.

**Unreserved fund balance or surplus revenue account:** The amount by which case, accounts receivable and other assets exceed liabilities and restricted reserves. It is akin to the stockholders equity account on a corporate balance sheet. It is not, however, available for appropriation in full because a portion on the assets listed as "accounts receivable" may be taxes receivable and uncollected. (see Free Cash)

**Warrant:** A list of items to be voted upon at Town Meeting

FILE  
copy  
3/18/94

PALMER & DODGE

One Beacon Street  
Boston, Massachusetts 02108



cc: BOS

Acheson H. Callaghan, Esq.  
(617) 573-0178

Telephone: (617) 573-0100  
Facsimile: (617) 227-4420

Confidential  
March 4, 1994

Dean A. Charter  
Municipal Properties Director  
Town of Acton  
472 Main Street  
Acton, MA 01720

Dear Dean:

(Wetherbee Fund)

I have reviewed the documents you sent relating to the gift of Mr. Wetherbee to the Town for care of certain lots in the cemetery. I am afraid that the money may only be used for the care, as defined in ¶ 3, of the lots designated in ¶ 2. Acceptance of such a gift creates a public trust which must be faithfully followed by the Town. The grantor evidently anticipated that income might accumulate and gave the Cemetery Commission discretion to use accumulated income, but only "for the purposes herein set forth." Although procedures exist for obtaining court permission to use the funds for related purposes, that procedure is available only if accomplishment of the grantor's purpose has become impracticable, which does not appear to be the case here.

Very truly yours,

Acheson H. Callaghan

AHC/dcb  
Enclosure

cc: Don Johnson

cc: BOS

PALMER & DODGE

One Beacon Street  
Boston, Massachusetts 02108

Joseph F. Hardcastle  
(617) 573-0473

Telephone: (617) 573-0100  
Facsimile: (617) 227-4420

February 11, 1994

**PRIVILEGED AND CONFIDENTIAL  
ATTORNEY-CLIENT COMMUNICATION**

**BY OVERNIGHT MAIL**

Brian McMullen  
472 Main Street  
Board of Assessors  
Town Hall  
Acton, MA 01720

**Re: *Property Tax Assessments on Affordable Housing***

Dear Brian:

You have asked me to provide you with my opinion as to whether the Town of Acton can sell residential property at below-market prices as part of a local affordable housing program without having to reduce the assessment of the property for tax purposes below the assessed value of comparable property not included in the affordable housing program. It is my understanding that properties sold by the Town as part of the affordable housing program would be subject to a deed restriction establishing a below-market ceiling on the dollar amount for which the property may be resold. The goal of the program is to provide Acton residents, who cannot afford to purchase a home at current market rates, with the opportunity to do so. However, while the Town is willing to sell the property at below-market prices to assist local residents in purchasing homes, it wishes to do so with the understanding that the property will be taxed at the same assessed value as similar properties purchased outside the affordable housing program. The reason for that position is that the Town desires to give program participants a break on the purchase price, but does not want to penalize other residents by causing them to bear a disproportionate tax burden. In other words, the Town does not want to create a situation where neighbors own essentially identical properties in terms of physical qualities but do not pay similar taxes.

As we discussed, there are two possible approaches to achieving the Town's goal:

- (1) The Town could sell a property at a below market price with a deed restriction as to resale price, assess the property without consideration of the deed restriction and, if

challenged, defend the assessment on the ground that the restriction does not affect the use value to the current or subsequent owners and is therefore irrelevant to a determination of the fair cash value of the property; and

- (2) The Town could include language in the sale agreement whereby the buyer agrees that the deed restriction does not negatively impact the fair cash value of the property and that the property will be assessed for tax purposes consistently with the assessment of similar properties without such deed restrictions.

Based on a review of applicable law, I have concluded that neither approach is without problems and that there is no guarantee either will be successful. Although the two approaches are closely related, I will address them each separately and present some general conclusions.

#### *Fair Cash Value*

Pursuant to G.L. c. 59, § 38, property must be assessed at its "fair cash value." Fair cash value means fair market value, or the highest price an owner not compelled to sell ought to receive from a purchaser not compelled to buy. Boston Gas Co. v. Assessors of Boston, 334 Mass. 549, 566 (1956). Ordinarily, the fair market value cannot exceed the sum an owner could obtain for his property. *Id.* However, under the standard set forth in Boston Gas, a foreclosure sale or other forced sale would not reflect the fair cash value of a property, because it is a compelled sale, even though the sale price is the maximum amount a seller can obtain for his property under the circumstances. The type of deed restriction being considered by the Town clearly limits the dollar amount the affordable housing owner could obtain for the property upon resale, but it cannot be argued that the resale price ceiling in any way compels the owner to sell and would therefore be analogous to a foreclosure situation. The question for our purposes is whether a deed restriction in perpetuity, which is permitted for affordable housing pursuant to G.L. c. 184, § 31, effects the fair cash value of a property for tax purposes.

If a property is known to be subject to a deed restriction affecting its value, that fact should be considered in any determination of its fair cash value. Boston Edison Co. v. Board of Assessors of Watertown, 387 Mass. 298, 304 (1982). That raises the question of whether the deed restriction affects the property's "value." A conservation restriction which restricts the *use* of a property and prevents it from being used for its highest and best use can reduce the property's fair cash value. Parkinson v. Board of Assessors of Medfield, 398 Mass. 112, 116 (1986). However, a deed restriction limiting the ability of an owner to *transfer* the property is not necessarily dispositive as to the fair cash value of a property. In a situation where a deed restriction prevented the owner from conveying the property at all, the Supreme Judicial Court concluded that the restriction did not mean that the property had

Brian McMullen  
February 11, 1994  
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no fair cash value. Mashpee Wampanoag Indian Tribal Council v. Board of Assessors of Mashpee, 379 Mass. 420, 421 (1980). Instead, the Court reasoned that it was proper to determine fair cash value from the intrinsic value of the property, including all the uses to which the property is adapted in the hands of any owner. Id. Of course, the affordable housing deed restriction does not entirely bar the sale of the property, and the available sale price can arguably be used as the measure of the fair cash value. On the other hand, there is a reasonable legal basis to argue that in situations where the deed restriction only affects the resale price of property and not the use of the property the value of the use should be looked at for assessment purposes. Certainly any buyer will receive a use value above and beyond the restricted purchase price if a similar property without a deed restriction is determined to have a higher fair market value.

I do not believe the conclusion reached by Harry Grossman of the Department of Revenue in the letter you forwarded to me is necessarily inconsistent with an argument by the Town of Acton that use value rather than resale price should be considered for assessment purposes with respect to the Town's affordable housing program. Mr. Grossman recognized that the legal arguments for not considering affordable housing deed restrictions in determining fair cash value are strong, but concluded that the courts would probably reject the argument based on the public policy behind the Massachusetts Housing Opportunity Program he was addressing in his letter. Because the affordable housing program in Acton is local in nature, the public policy argument is not relevant.

#### *Sale Agreement Language*

Including language in the purchase and sale agreement whereby the buyer agrees that the fair cash value of the property for tax assessment purposes will be based on the value of the use of the property rather than possible resale value could be an effective method of preventing the buyer from challenging the Town's decision to assess the property without considering the impact of the deed restriction. However, it is important to recognize that by agreeing that the deed restriction should not be considered for assessment purposes the parties are really just interpreting the legal standard discussed above. Although I believe there is a good faith basis for such an interpretation, if a court decides that the parties have misinterpreted the law, the language will be of limited legal value. Nevertheless, such language has substantial practical value. It is far less likely that a taxpayer will challenge the assessed value on deed restriction grounds if that taxpayer has agreed that the deed resale restriction does not represent a ceiling on the value of the property for assessment purposes. Further, the taxpayer clearly loses any argument that it is being treated unfairly. Finally, given the ambiguity of the legal standard regarding consideration of deed restrictions for assessment purposes, it is possible that the presence of such language would cause a court to find in favor of the Town on policy grounds, just as Harry Grossman has suggested a court

would likely decide the other way on policy grounds if the state affordable housing program were considered.

Any agreement should be drafted carefully so as not to violate the rule barring agreements preventing taxpayers from challenging their tax assessment. The fair cash value standard for tax assessment purposes cannot be varied by an agreement between a town and a taxpayer and any agreement preventing a taxpayer from asserting that an assessment does not reflect the fair cash value of the property will not be upheld by the courts. Saugus v. Refuse Energy Systems Co., 388 Mass. 822, 826 (1983). While an agreement in which the parties agree that the deed restriction does not affect the property's assessed value does not conflict with existing law and is therefore defensible, it should not be susceptible to an interpretation that it limits the taxpayer's ability to challenge the assessed value of the property or establishes a standard different than the fair cash value standard applicable to other taxpayers. For example, an agreement where the taxpayer agreed not to challenge the assessed value, or where a formula for assessed value was established would be improper. The purchase and sale language regarding taxation should note that the property value for taxation purposes will be assessed based on the fair cash value of all comparable properties in the Town including properties not subject to resale restrictions. Further, I would recommend that the agreement communicate that while the buyer recognizes that it is being given the benefit of purchasing the property for a price lower than the fair cash value of the property as determined by the assessed value of comparable properties, and may be restricted from later selling the property for the full fair cash value, the buyer agrees that it will not be afforded a tax benefit by the Town and will pay taxes on the full fair cash value of the property as determined by sales of similar properties at full fair cash value. There is no guarantee that such language will be upheld if a taxpayer later challenges the language, but it is defensible as being outside the scope of the prohibition on agreements rejecting the fair cash value standard or precluding challenges to accuracy of an assessed value. Moreover, it should dissuade taxpayers from claiming that the assessed value of their property should be limited to the potential resale value.

### *Conclusion*

Although the law in this area is somewhat unclear, I believe that a decision to assess resale restricted affordable housing without consideration of the impact of a deed restriction on the resale value of the property is defensible. Further, I believe that including language in the purchase and sale agreement setting forth the understanding of the parties that the assessed value of the property will be based on the value of the use of the property, as determined by sales of comparable properties not subject to deed restrictions, rather than the resale value of the property, is also defensible. Such language should make it more difficult for a taxpayer to challenge the town's assessment policy or at least prevent the taxpayer from arguing that it was unfairly taxed. It must be stressed however, that any agreement

Brian McMullen  
February 11, 1994  
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pertaining to taxes to be assessed should be crafted so that it cannot be interpreted as applying a standard other than fair cash value or limiting the taxpayer's right to challenge the Town's calculation of fair cash value.

Sincerely,

A handwritten signature in black ink, appearing to read "J.F. Hardcastle", written in a cursive style.

Joseph F. Hardcastle

JFH/dcm

cc: BOS

FEB 14 1994

PALMER & DODGE

One Beacon Street  
Boston, Massachusetts 02108

Acheson H. Callaghan, Esq.  
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February 9, 1994

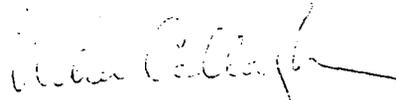
Ian M. Paregol  
Ravech, Aronson, Shuman & Lewis, P.C.  
The Victoria Building  
277 Main Street  
Marlborough, MA 01752-5508

Dear Mr. Paregol:

(Dimitrios Mumulidisz)

I am writing in response to your letter to the Town of Acton notifying it of a claim for an injury to Dimitrios Mumulidisz at the Acton-Boxborough Regional School District. The School District is a separate legal entity from the Town. Mr. Mumulidisz does not have a claim against the Town and presentment to the Town does not satisfy the statute for a claim against the Regional School District.

Very truly yours,



Acheson H. Callaghan

AHC/dcm

cc: Don Johnson, Town Manager

6 Bromfield Road  
Acton, MA 01720

March 14, 1994

TO: The Acton Board of Selectman  
The Acton School Committee  
Isa Zimmerman

Last April, I wrote to express concern that the process of two late night Town Meetings posed a tremendous hardship on many parents who were unable to leave small children or cover babysitting costs for two consecutive nights. Finding babysitters is particularly difficult since most teenagers can simply not stay out past nine or ten o'clock on a school night. The demand for babysitters far exceeds the available supply!

After exhausting my own list of twelve babysitters, I have finally been able to schedule babysitters for the first two nights of Town Meeting this year, on April 4th and 5th. I am extremely upset to now learn that Town Meeting may last as long as one to two weeks and that there is no indication of when specific issues will be addressed. This outrageous situation disenfranchises a significant segment of the population which will be most effected by decisions concerning the local school budget. But even beyond school concerns, this process significantly limits the opportunity for parents to participate in any important financial decisions affecting the town of Acton, whether the library or other town services. And it places extreme hardship on the elderly and anyone who may be ill or disabled. Their ability to participate in this democratic process is severely limited by this schedule. This is totally inappropriate and clearly undemocratic.

I urge **immediate publicity** to the entire Acton community concerning an approximate schedule of issues on the Town Meeting agenda so that parents may make appropriate arrangements for babysitting which will enable their participation and voice on issues of concern. Obviously, scheduling a sitter for April 4th and/or 5th may not be sufficient to ensure the opportunity to vote on all issues of concern, and parents need to be aware of this fact. I urge you to reconsider the process of Town Meeting as the only opportunity for citizens to vote on critical town issues. It is **very definitely discriminatory**. Hopefully, some alternatives may be found to facilitate equitable and democratic community participation in Town Meeting in the future.

Sincerely,

  
Marilyn P. Leeds

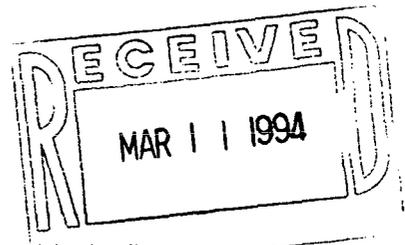


cc: BOS

930 Main Street, Acton, Massachusetts 01720  
Tel. (617) 259-9450 Fax (508) 263-4159

March 10, 1994

Mr. Garry Rhodes  
Building Commissioner  
Town of Acton  
472 Main Street  
Acton, MA 01720



Dear Garry,

Enclosed are the drawings for the sidewalk Deck House has agreed to build at our 848-852 Main Street sites. I have also attached a detail obtained from David Abbt that shows a typical cross section of the walk. Allowing for the driveway cuts, there is approximately 370 LF of sidewalk. Deck House will exercise its option of constructing this walk. I have also enclosed the receipt from the registry of deeds indicating our recording of the amended site plan decision.

We cannot at this time provide the \$11,100 or \$30 per linear foot cash security. I am distressed that we can do business anywhere in the United States, except the town of Acton, on our corporate name or by providing a performance bond. This is a difficult time for many businesses and we are no exception. At this time, our first priority for the use of cash must be for the personnel and vendors who support our corporate activities. At the hearing, Mr. Hunter expressed his appreciation for our willingness to accept this requirement as a condition of amending the site plan. I find it appropriate to note that he also stated that this sidewalk would not happen if the town had to pay for its construction.

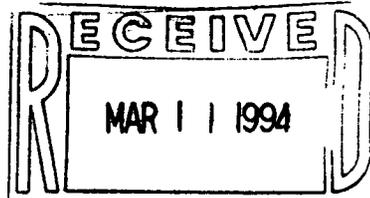
I recognize that this decision was not yours and offer these comments by way of explanation as to the present status of this project. We will provide the required security as soon as possible and expect that the permit will be available at the time the security is presented. Please call if there are any other issues that require resolution.

Very truly yours,

DECK HOUSE, INC.

Donald R. Cameron  
Vice President Design

cc: Acton Board of Selectmen  
Don Johnson, Acton Town Manager



BOS

ATTN: ANNIS

TOWN OF ACTON

HISTORIC DISTRICT COMMISSION  
472 Main Street Acton, MA 01720

RECEIVED & FILED

March 8, 1994

DATE March 10, 1994

Catherine Bellin  
TOWN CLERK, ACTON

**NOTICE OF DECISION: Application #9316: 553 Mass. Ave.  
Mobil Oil Corp., for West Acton Mobil ID sign**

At the continuation of a public hearing held in Room 204, Acton Town Hall, on March 7, 1994, the Acton Historic District Commission concluded its review and unanimously voted to DENY the application of Mobil Oil Corporation for a Certificate of Appropriateness for an ID sign at 553 Mass. Ave., Acton, in the West Acton Historic District.

Commission members Anne Forbes, Joan Gates, Michaela Moran, Wesley Mowry, Tom Peterman, and Sandy Schmidt were present throughout the proceedings.

**EXHIBITS**

In its deliberation, the Commission considered the following exhibits submitted by the applicant:

1. Application form #9316, dated 10/13/93, and stamped by the Town Clerk on 10/29/93, with attachments as follows:
  - sign design
  - site plan (grading and utilities plan) for sign proposal, dated 10/13/93
  - partial site plan and scope of work (two sheets)
  - one concept drawing showing proposed construction details
  - 14 color photographs of the site
  - example of a design for a twin-pole ID sign.

Other documents entered into the public record by the Commission at the hearing included the following:

1. A certified list of abutters.
2. Notice of the public hearing as it appeared in The Beacon on December 16, 1993.
3. Notice of the public hearing as posted, distributed to staff, and mailed to abutters.
4. Two extension forms, signed by D.H. Stephens for Mobil Oil Corp., granting the applicant's permission to extend the deadline for deliberations on the application--the first until January 25, 1994, the second until March 11, 1994.

5. Interdepartmental Communication from Garry Rhodes, Acton Building Commissioner, dated December 29, 1993
6. Interdepartmental Communication from Garry Rhodes dated January 6, 1994.
7. Interdepartmental Communication from Roland Bartl, Acton Town Planner, dated February 7, 1994.
8. 4 polaroid photographs of existing conditions.

#### **FINDINGS AND CONCLUSIONS**

Based on its review of the exhibits and the record of the proceedings, the Commission found and concluded that:

1. The property at 553 Mass. Ave is located within the West Acton Local Historic District.
2. The sign design proposed is not excluded from Commission review under Section 9 of the Acton Historic District Bylaw.
3. Since this is a sign that is encompassed by Section 7.12.5 of the Acton Zoning Bylaw, it is appropriate for the Commission to review it for a Certificate of Appropriateness.
4. The position proposed in the application for the sign is less than 7 feet from the sideline of a public right of way (Mass. Ave. sidewalk).
5. The Commission is prevented by Acton Zoning Bylaw, Sections 7.8.2 and 7.12.1.3, from issuing a Certificate of Appropriateness for a sign that is within less than the required distance from the public right of way.
6. Since, according to Section 7.12.5 of the Acton Zoning Bylaw, any sign approved by the Commission must comply with Section 7 of the Acton Zoning Bylaw, and the proposed sign as presented does not comply with Sections 7.8.2 and 7.12.1.3, it cannot be approved by us in the proposed location.
7. Because the appropriateness of such features as shape, height, overall dimensions, materials, illumination, etc., are closely linked to the position and location of any sign, it was concluded that Commission review of the proposed sign under the Historic District Bylaw at this time would be premature.

**COMMISSION ACTION**

Based on the preceding findings, the Historic District Commission voted unanimously to DENY the Certificate of Appropriateness to the Mobil Oil Corporation for the proposed Application #9316.

In its decision, the Commission also found that, because alternate locations for a sign exist on the site, and alternate designs for signage that conforms to Section 7 of the Acton Zoning Bylaw can be proposed, failure to approve the proposed sign will not involve a substantial hardship, financial or otherwise, to the applicant. In addition, the Commission concluded that the proposed sign, as presented, could not be approved without substantial detriment to the public welfare and substantial derogation from the intent and purposes of the Acton Historic District Bylaw.



TOWN OF ACTON  
HISTORIC DISTRICT COMMISSION  
472 Main Street Acton, MA 01720

RECEIVED & FILED  
DATE March 10, 1994  
Catherine Belbin  
TOWN CLERK, ACTON

March 8, 1994

Dennis Stephens  
Mobil Oil Corporation  
One Technology Park Dr.  
Westford, MA 01866

Dear Dennis:

At its meeting last night, at the continuation of the public hearing on your Application #9316 for a Certificate of Appropriateness for an ID Sign at West Acton Mobil, 553 Mass. Ave., the Historic District Commission unanimously voted to deny approval of the application. The enclosed Notice of Decision explains the Commission's findings, conclusions, and final decision.

The Commission will be glad to review an alternate proposal in a new application at any time. Please feel free to call us if you have any questions.

Sincerely,

  
Anne Forbes, Chairperson

cc: BOS  
P. File

**Richard and Deborah McKown**  
**672 Massachusetts Avenue**  
**Acton MA 01720**

February 10, 1994

George Robinson,  
Chief of Police Acton  
PO Box 2212  
Acton MA 01720

Dear Chief Robinson:

On January 30th we had the occasion to hire an extra duty police officer to assure the safety of our guests who had to walk along Rte. 111 to attend a brunch at our house. It wasn't possible to get all the cars onto our property and off of Rte. 111, so they parked on Birch Ridge Road.

Because it was Super Bowl Sunday, it was difficult for Bruce Nadeau to find an officer to do the duty but he found Fred Rentschler. We were very pleased that Fred did it because of the safety of our guests, but as the icing on the cake, he won praise for himself and for the Acton Police Department. Our guests were very complimentary about his helpfulness and friendliness.

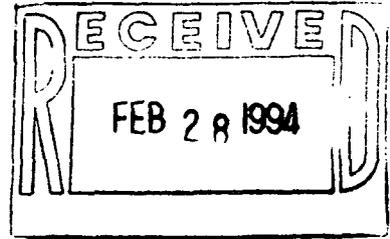
We wish to thank Fred Rentschler, Bruce Nadeau, and the Acton Police Department for making what was a very special day for us, a safe and enjoyable occasion.

Sincerely,

Debbie McKown

cc: BOS

# EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT



William F. Weld, Governor  
Argeo Paul Cellucci, Lt. Governor  
Mary L. Padula, Cabinet Secretary

February 28, 1994

Dear Local Official:

The Peer-To-Peer Technical Assistance Program was created by EOCD to offer your community some specialized assistance from local officials familiar with the problems that you deal with every day.

Please review the enclosed brochure, which describes the program in detail, and consider whether a peer grant would be helpful for your city or town. These peer grants will be made available on a first-come, first-served basis to the full extent of available funding.

We look forward to talking with you about a peer grant for your community and to working with you on a peer project.

Sincerely,

Mary L. Padula  
Cabinet Secretary

## All You Have To Do Is...

Municipalities should determine what specific project they would like to undertake, then draft a description of the project in one or two paragraphs, secure a Board of Selectmen, or city or town council vote of support for the project, and submit the materials to EOCD.

If the project fits within the very flexible guidelines of the Peer-to-Peer program, you will be notified and placed on the list for first-come, first-served implementation. EOCD will identify the appropriate peer technical expert and make arrangements with you to start the project when your community reaches the top of the list. This process will continue as long as funding is available. At the completion of a project, communities will be required to complete a short assessment of the project.

Call Don Martin, Bureau of Municipal Management, 100 Cambridge St., Room 1803, Boston, MA 02202 at (617) 727-3253 X404 for further information about this program.

## Executive Office of Communities and Development



The Commonwealth of Massachusetts



## PEER-TO-PEER TECHNICAL ASSISTANCE PROGRAM

The Executive Office of Communities and Development is offering a new program to support projects that create or implement innovative or streamlined government processes. Perhaps a consolidated Department of Public Works, standardized permitting processes or five-year capital improvement plan would be very useful to your community. Peer-To-Peer can provide technical assistance in instituting these kinds of programs.

## Executive Office of Communities and Development



William F. Weld, Governor  
Argeo Paul Cellucci, Lt. Governor  
Mary L. Padula, Cabinet Secretary

## Hands on Work

- o Helping municipalities consolidate or regionalize local services
- o Developing insurance and risk management strategies
- o Instituting financial management projects such as revenue forecasting, creation of capital outlay budgets, installing quarterly tax billing software
- o Establishing a planning process, coalition building for planning purposes, goals and objectives for development



Experienced and skilled people, who understand the problem you are dealing with, will come to your community to install a program, train an operator, establish a process, or design a management change. Peer-to-Peer emphasizes implementation rather than study, but if the project you would like to undertake doesn't fit under the above categories, please call EOCD staff to see if it can be accommodated in this or another program.

## From Knowledgeable Local Officials

The Peer-to-Peer technical experts are local officials themselves, with particular skills and experience in certain areas of local government operation.

Once you have identified a particular project you wish to implement, they will use their experience to provide a short-cut for your community. They will have established in their city or town, the program you would like to establish in yours and, therefore, can save you time and effort in getting a program up and operating.

## Funded by EOCD

The peer technical experts will be under individual contract with EOCD for specific projects and will be paid directly by EOCD or can choose to 'bank' their work in your community against an equivalent amount of work on a project in their community from another peer expert.



All communities are eligible for the program which will operate as long as funds remain on a first-come, first-served basis.

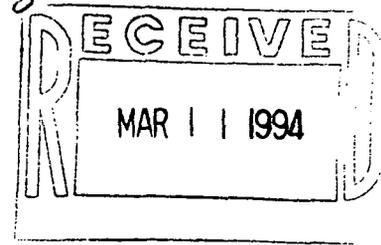
Except for unusual cases, projects will have an overall cap of 20 hours of consultant work. It is expected that most projects will require much shorter time commitments.

## To Help You Move Forward

So if you need someone to train your accounting staff in how to run a tricky new software package...or consult on your proposal to consolidate two of your town departments...or help you design a capital budget for the first time...or draft a RFP for contracting all public works services...or any number of other projects, consider the Peer-to-Peer program.



CC: Cover (2 pgs) To BOS  
Doug



Commonwealth of Massachusetts  
Executive Office of Environmental Affairs

# Department of Environmental Protection

William F. Weld  
Governor  
Trudy Coxe  
Secretary, EOE  
Thomas B. Powers  
Acting Commissioner

March 9, 1994

TO: Office of the Mayor  
Board of Selectmen  
District Director

Re: **FY95** Information Request  
for State Revolving  
Loan Fund  
Project Priority Lists

Dear Public Official:

The Bureau of Municipal Facilities (Bureau) in accordance with state and federal regulations is preparing its **Fiscal Year 1995** Project Priority Lists for the State's Revolving Loan Fund (SRF) Programs. The SRF authorizes loans for all of the Bureau's wastewater treatment facilities programs with a subsidy at the equivalency of a 25% grant. These wastewater programs include: Tier I (formerly EPA/state construction grants program); Planning and Design; Tier II; Infiltration/Inflow; and Collection Systems. It should be noted that the types of projects funded and the eligibility under each of the programs has generally not changed.

The Priority List is being prepared in anticipation of additional federal funding being made available, since both the Clinton Administration and the Congress are strongly supportive of the SRF program. Even though the exact amount of federal assistance has not been finalized, The Bureau is estimating that approximately \$ 150 million could be available in fiscal year 1995 to finance new projects. It must be emphasized that in order for a community to receive financial assistance, it must be included on the project priority list.

**In order to be considered for inclusion on any of the Bureau's priority lists for FY95 you must submit the required information even if you have submitted information for previous fiscal years.**

If you have submitted information on a project for the previous fiscal years we have attached a "Data Sheet" which contains the relevant information about that project currently in our files. To resubmit that project you need simply to make corrections right on the Data Sheet and return it to this office.

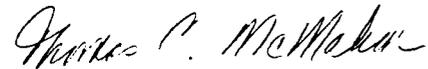
If you are submitting information on a new project, project evaluation forms (PEF) and supplements have been attached. The PEF contains requests for general information necessary regardless of the program under which you are seeking assistance. Supplement No. 1 contains requests for information pertaining to Tier I, Tier II, and Planning and Design projects. Supplement No. 2 contains requests for information pertaining to Infiltration/Inflow projects. Supplement No. 3 contains requests for information pertaining to Collection Systems projects. Care should be taken in following the instructions and providing the responses to questions in the attached forms.

Due to time constraints placed upon this Bureau, please submit two complete sets of the requested information by April 8, 1994, if you wish to be considered for any of the Bureau's FY95 priority lists. Please be advised that projects having the same rating will be ranked in order of earliest receipt of project information.

If there are questions relating to the information requested in this letter, you may contact the following Bureau Program Managers at their respective telephone numbers.

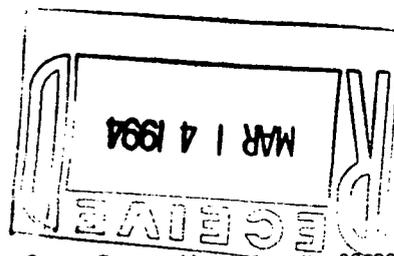
Southeast MA - Robert Cady	(617) 292-5713
Western MA - Stanley Linda	(617) 292-5736
MWRA/Northeast MA - Alan Slater	(617) 292-5749
Infiltration/Inflow - Gus Swanquist	(617) 556-1083

Very truly yours,



Thomas C. McMahon  
Deputy Commissioner

cc. Massachusetts Water Pollution Abatement Trust



## **Collapse in the Real Estate Market: Consequences for Property Taxpayers**

The last several years have marked the most turbulent time in the Massachusetts real estate market in recent history. Housing prices in the Boston area doubled in only four years, from 1983 to 1987, and then plunged by more than 18 percent from 1989 to 1992. Statewide, the total value of the property tax base increased by more than 45 percent from 1988 to 1991, ultimately exceeding \$400 billion. But then values fell in both 1992 and 1993, and the tax base shrank by nearly 15 percent. The last time that happened was in 1944.

This Taxpayers Foundation report looks at the impact of these changes in the real estate market on the Massachusetts property tax system, particularly focusing on how the recent decline in values has affected different kinds of taxpayers -- homeowners and businesses. How have market forces altered the shares of the tax base held by different classes of property? How have the shares of taxes paid by different kinds of taxpayers changed? What impact, if any, has the decline in value had on the level of taxation?

Here are the key findings from the report:

\* During 1988 to 1993 (the period that captures the peak of the real estate expansion and the most precipitous part of the decline), decisions made by a small number of large cities to protect homeowners shifted \$109 million in property taxes from residential to business taxpayers. This tax shift is in addition to the already higher burden borne by business taxpayers at the beginning of the period. Boston had the most significant impact, accounting for \$62 million of the total, but the overall result was accomplished by just 36 communities. Seven cities in addition to Boston (Cambridge, Lowell, Lynn, Peabody, Quincy, Waltham and Worcester) accounted for 75 percent of the \$109 million shifted.

These 36 cities and towns are among the 102 communities in Massachusetts that set one tax rate for residential property and a higher rate for commercial, industrial and personal property. Of the 102 communities, 27 did not alter their tax shifting policy during the 1988 - 1993 period, while 39 actually reduced the shift onto business taxpayers. Since most of these are smaller communities, however, their choices had a smaller dollar impact -- in all, they reduced property taxes on business by about \$8 million. Tax policy in all 102 communities still favors homeowners, however.

\* In addition to protecting homeowners, the tax shifts in the major cities contributed to an extraordinary tax increase for owners of personal property during the real estate downturn. Personal property is largely owned by utility companies (their pipes, poles and conduits) but also includes other business equipment and furnishings in vacation homes. Its value is not subject to the same market forces as real estate, but tax rates on personal property must be the same as on the commercial and industrial classes.

1009

During the downturn personal property value continued to increase as real estate values fell and tax rates went up. The result was a whopping 72 percent increase in personal property taxes from 1990 to 1993, while total taxes were going up by 18 percent. During the boom years the opposite occurred, but on a smaller scale. Personal property value increased much less than that of real estate and tax rates were falling. Taxes paid on personal property declined by about six percent while total property taxes increased 17 percent. Overall, for 1988 to 1993, personal property taxes increased 63 percent while property taxes in total went up 38 percent.

\* The decline in real estate value may ultimately restrict the level of property taxes, but most likely only in Boston if anywhere. Under Proposition 2 1/2, total taxes in a community cannot exceed 2.5 percent of total value, even with an override vote. This rule was largely forgotten during the boom years as values soared and tax rates plummeted. Now in Boston taxes are again approaching the ceiling. Although there is some recent evidence that property values have stabilized, Boston may still find itself constrained by this limit in fiscal 1995. No other community is nearly as close to its ceiling.

\* During the expansion part of the real estate cycle, residential value increased 47 percent statewide compared to growth of 36 percent for commercial property and 31 percent for industrial. During the decline residential value fell 12 percent while the commercial and industrial classes lost 21 and 18 percent respectively. Overall, from 1988 to 1993, residential property value grew from 75 to 78 percent of the total. All of the growth in the residential share took place in multiple tax rate communities, with relatively large concentrations of business property.

\* In contrast, value changes in single tax rate communities were more uniform. During the expansion residential value increased 52 percent, commercial value 45 percent and the industrial class 47 percent. During the decline residential value fell 11 percent and the business classes 12 and 14 percent. With relatively little difference in change across classes, shares of value stayed essentially unchanged. Since in these communities value shares correspond directly to tax shares, relative tax burdens also changed little.

\* The decline in real estate value has been much more extreme in the eastern, urban areas of Massachusetts. Even while property value was falling by nearly 15 percent statewide, a fifth of the state's communities -- mostly small towns in western Massachusetts -- continued to see property values grow. On average, urban, suburban and resort communities had value losses in the range of 12 to 15 percent while in rural towns the declines were under seven percent. Boston has lost nearly 25 percent of its property tax base. Its commercial valuation has fallen by almost 35 percent and its share of the state's total commercial property went from 26 percent to 18 percent.

March 14, 1994

*A copy of this report is available to MTF members on request.*

Massachusetts  
Taxpayers  
Foundation

*Inside*

*... Tax base changes*  
*... Shifting taxes onto business*  
*... Bumping up against the*  
*levy ceiling*

Collapse in the  
Real Estate Market:  
Consequences for Property  
Taxpayers



February  
1994

The Massachusetts Taxpayers Foundation is a member-supported, nonprofit research group whose purpose is to encourage state government to work more efficiently. Since 1932 we've been gathering information about state taxes and spending and delivering it to our members, to state government officials and to the media.

Our reports and recommendations have resulted in new policies, new laws and other changes that have saved taxpayers hundreds of millions of dollars.

If you would like to know more about who we are and what we do, please write or call MTF today.

**Massachusetts Taxpayers Foundation, Inc.  
24 Province Street  
Boston, Massachusetts 02108**

**(617) 720-1000**

## Introduction

It's no secret that the last decade has been a roller-coaster ride for anyone involved with the real estate market. During the boom, housing prices in the Boston area more than doubled in only four years, from 1983 to 1987. After bouncing around at the crest of the market for two years, prices then plunged, from 1989 to 1992, by more than 18 percent.<sup>1</sup> This dramatic cycle had dramatic consequences; jobs in the finance, real estate and construction industries were made, and lost, in huge numbers.

The real estate cycle is likely to have had broader, and longer lasting effects on the Massachusetts economy as well. One study has concluded that the boom/bust significantly amplified the underlying business cycle both on the way up and down, and that by increasing the costs of housing and labor and reducing the availability of credit it helped damage the cost structure of the region, making recovery now more difficult.<sup>2</sup>

The real estate cycle also has had important impacts on the finances of local government. During the boom, new construction expanded the property tax base of cities and towns by as much as four percent a year, supporting annual tax growth of over eight percent. Now, the base is expanding at less than half that rate and tax growth has declined to about 4.5 percent annually (for a summary of recent property tax trends see MTF's report Local Government Revenue: the Big Squeeze, May, 1993).

This report considers the consequences of the real estate cycle, particularly the down side, for Massachusetts property taxpayers. First, the report looks at how the market, as reflected in assessed values, has changed the shares of the tax base held by different classes of property, and, therefore, different kinds of taxpayers. Statewide, residential property increased its share of total value as the value of homes increased faster than commercial and industrial property during the boom and declined less sharply than other property during the collapse. This general pattern, however, is not true in all communities in all parts of the state. The most drastic changes are concentrated in the eastern and urban areas of Massachusetts.

As the residential share of value increased, we would expect its share of taxes to grow as well. That turns out not to be the case, however. The report looks next at the actions of about 100 communities which set different tax rates for different classes of property, and thus explicitly

shift their tax burdens from residential to business taxpayers. Overall, the decisions by these communities worked to keep the tax burden on residential taxpayers constant, despite the changes in underlying value. Results for the group are dominated, in dollar terms, by the decisions of a few large cities, notably Boston and Cambridge. In all, by 1993 these communities had moved over \$100 million in property taxes from residential to business taxpayers. At the same time, however, about one third of the communities with multiple tax rates reduced their tax shift onto business properties, and another third kept it constant.

The collapse in real estate value has had dramatic consequences for personal property taxpayers -- mostly utility companies, but also businesses taxed on the value of their equipment and owners of vacation homes on their furnishings. Because personal property value continued to increase as the value of real estate fell, and because of the decisions to protect residential taxpayers, the tax burden on personal property increased dramatically.

By determining the value of different kinds of property, market conditions allocate the property tax burden, but the level of taxation is generally a separate issue. However, total assessed value and the amount of taxes are connected by the Proposition 2 1/2 rule that limits property taxes in any community to 2.5 percent of total property value. The escalation of values during the boom years brought the level of taxation in most communities so far below this limit that it was largely ignored. Most places are still well below the limit, but in Boston, and, potentially, a few more communities, it now figures as a meaningful constraint for the first time in a decade.

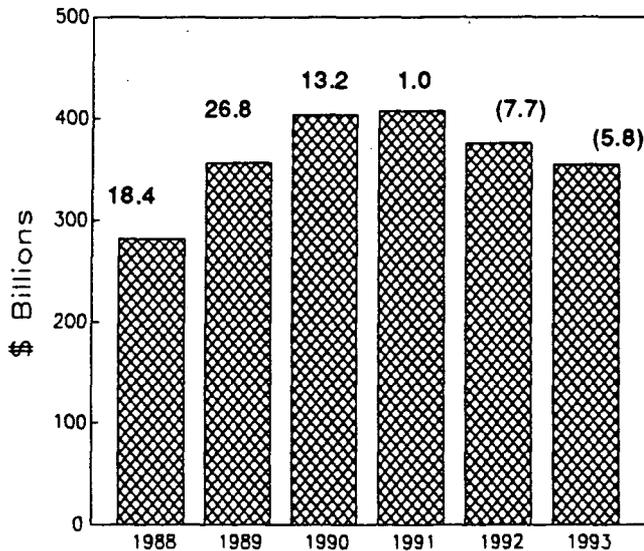
## Changes in Property Value -- The Statewide View

The last six years capture both the peak of the Massachusetts real estate expansion and the most precipitous part of the subsequent decline (see Figure 1).<sup>3</sup> In fiscal 1988, the total assessed value of property was \$281 billion. By 1991 the total valuation had increased by more than 45 percent, to peak at \$408 billion. In 1992 values fell by nearly eight percent, to \$376 billion, and we can estimate another decline of six percent in 1993, to about \$350 billion, or slightly less than the 1989 total. For most Massachusetts residents a contracting tax base is an unprecedented event; the last year it happened was 1944.

While trends in the valuation of the Massachusetts tax base generally reflect market conditions, they don't match precisely for several reasons. First, the tax base includes property added or deleted during the year in addition to changes in the value of existing property. Also, assessed values lag market conditions by about 18 months because

of the assessing calendar and because cities and towns complete full, property-specific revaluations only every three years. Only a third of the tax base is truly current at any time. Therefore, the high point for assessed values in fiscal 1990 and 1991 reflects the market high in 1988 and 1989, and 1993 values only capture at best the market decline through calendar 1991.

Figure 1. Total Assessed Value. Annual Percent Change.



Despite the extraordinary events in the real estate market during the last six years, there has been remarkably little overall shift in the shares of the tax base held by each of the property classes (see Figure 2 and Table 1). In 1988 residential property accounted for slightly more than 75 percent of total statewide value, and its share gradually increased over the six years to reach 78 percent in 1993.<sup>4</sup> At the same time, the commercial share of the tax base declined steadily and gradually over the period, from 15 percent to 13 percent. The industrial class share also declined, and personal property first lost share as real estate values were increasing and then gained it back as they fell. Personal property includes business furnishings and equipment, household items in vacation homes and, in largest part, pipes, poles and conduits owned by utility companies.

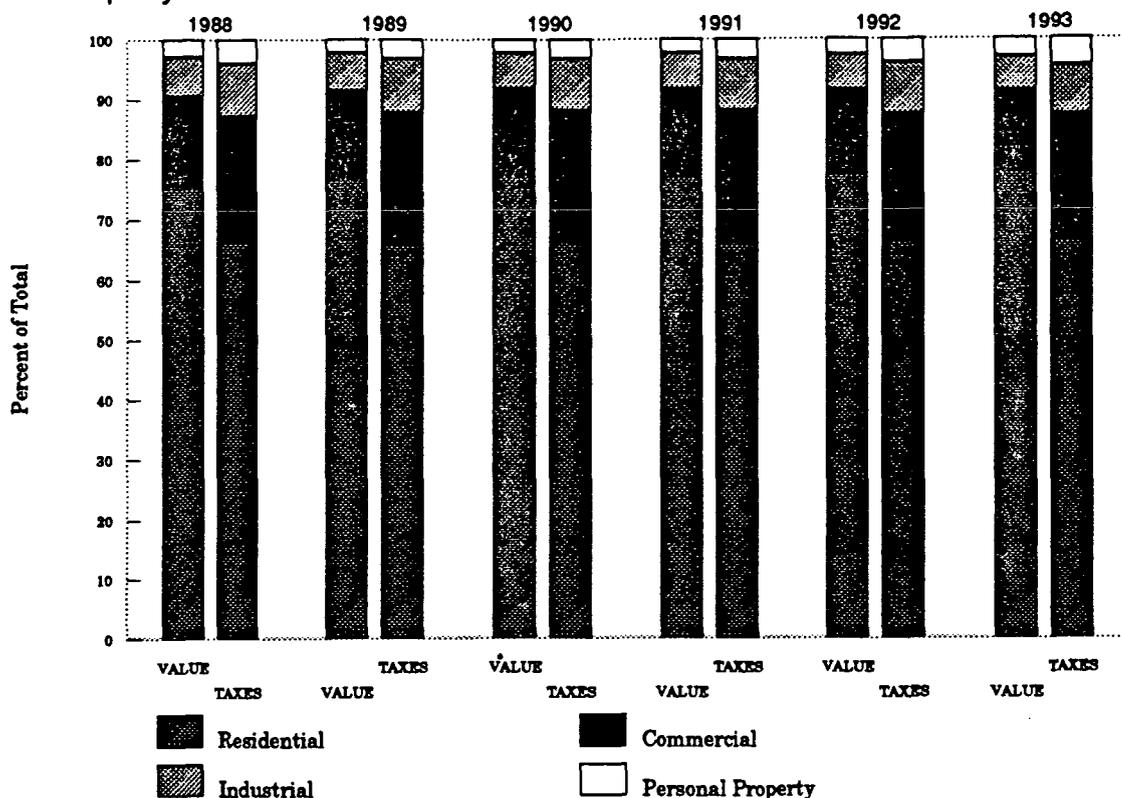
The last six years divide evenly into periods of growth (1988 to 1990) and decline (1991 to 1993). During the growth phase the residential share increased simply

Table 1. Assessed Values by Property Class, 1988 -- 1993 (\$ billions)

	1988	1989	1990	1991	1992	1993
Residential	\$202.7	\$263.2	\$297.0	\$299.6	\$278.3	\$263.5
Share of total	75.3%	76.6%	77.2%	77.0%	77.6%	78.0%
Commercial	41.2	50.8	55.9	56.9	49.3	44.9
Share of total	15.3	14.8	14.5	14.6	13.7	13.3
Industrial	17.6	21.6	23.1	23.2	21.2	19.1
Share of total	6.5	6.3	6.0	6.0	5.9	5.6
Personal	7.8	7.8	8.6	9.2	9.8	10.3
Share of total	2.9	2.3	2.2	2.4	2.7	3.1
<b>Total</b>	<b>\$269.3</b>	<b>\$343.4</b>	<b>\$384.5</b>	<b>\$388.8</b>	<b>\$358.5</b>	<b>\$337.8</b>

The residential class includes open space. Data are for 325 communities. Excluded are communities that have not yet set values for fiscal 1993 and some that did not assess property at full value in 1989 and 1990. Communities in the table account for 95 percent of the statewide tax base.

Figure 2. Property Class Shares of Value and Taxes. 1988 --1993



because its expansion and appreciation outstripped the other classes. While total value increased 43 percent, the residential class grew 47 percent, commercial value 36 percent and industrial value 31 percent. Personal property value increased 10 percent.

During the period of generally falling values the story is somewhat different. Residential property continued to gain share because its value, while declining, fell less sharply than the commercial and industrial classes. Total value fell by 13 percent. The residential class lost 12 percent of its value, but the loss in the commercial class was almost twice that rate -- 21 percent. Industrial property lost 18 percent of value. In contrast, the value of personal property continued to increase, by 12 percent. While personal property is only a small fraction of the state's total valuation, its share increased sharply from 1991 to 1993.

## A Closer Look at Values

As always when considering municipal issues, it's important to recognize that statewide patterns, while

important, may mask wide variations in local experience.

During the real estate bust, statewide value (in the 325 communities in Table 1) fell by 13 percent. However, in nearly 20 percent of the state's communities value actually increased for the period. While mostly small towns in western Massachusetts, this group also includes the cities of Fall River and North Adams.

As shown in Table 2, the largest declines in value were in counties located primarily east of Route 495, while rural Hampshire and Franklin counties recorded losses under five percent.

Similarly, among kinds of communities, Boston stands out with a loss of nearly one quarter of its property value in two years, although a few other cities -- Lynn, Somerville and Waltham -- had similar experiences. As a rule, however, most urban, suburban and resort communities saw values fall by 12 to 15 percent compared to seven percent or less in rural communities.

The loss of value in Boston is particularly noteworthy, especially for commercial property. In 1988 26 percent of the state's total commercial property value was in Boston.

Table 2. Percent Change in Total Assessed Value, 1991 -- 1993, by County and Kind of Community

County		Kind of Community	
Suffolk	(23.8)	Boston	(24.9)
Nantucket	(16.9)	Urbanized Centers	(14.6)
Barnstable	(15.4)	Resort, Retirement, and Artisan	(11.9)
Essex	(14.8)	Growth Communities	(11.7)
Middlesex	(14.2)	Developed Suburbs	(11.4)
Worcester	(12.2)	Residential Suburbs	(10.6)
Plymouth	(10.6)	Small Rural Communities	(7.0)
Norfolk	(9.4)	Rural Economic Centers	(6.7)
Dukes	(8.3)		
Bristol	(7.5)		
Berkshire	(7.1)		
Hampden	(6.8)		
Hampshire	(4.5)		
Franklin	(4.2)		

But during the bust commercial value in Boston fell much more sharply than in the rest of the state. Its commercial valuation dropped from \$12.4 billion in 1990 to \$8.1 billion in 1993, or nearly 35 percent, compared to an average loss of 15 percent in the rest of the state. The value lost in Boston accounts for nearly 40 percent of the statewide commercial property decline. By 1993, Boston's share of the state's commercial property base had fallen from 26 percent to 18 percent.

## Consequences for Taxpayers

If the residential share of property value has increased slightly since 1988, and the commercial and industrial shares have fallen slightly, is the same true of tax burdens? Tax shares would be the same as value shares if all communities applied the same tax rate to all classes of property. But since 1981 cities and towns have been able to shift the tax burden among classes of taxpayers by setting different tax rates for different classes. This law

Table 3. Property Taxes by Property Class, 1988 -- 1993. 325 Communities (\$ millions)

	1988	1989	1990	1991	1992	1993
Residential	\$2,419	\$2,607	\$2,827	\$3,023	\$3,183	\$3,334
Share of total	66.3%	66.0%	66.1%	66.1%	66.2%	66.3%
Commercial	764	867	942	1,009	1,020	1,053
Share of total	20.9	21.9	22.0	22.1	21.2	20.9
Industrial	324	352	370	388	411	408
Share of total	8.9	8.9	8.7	8.5	8.6	8.1
Personal	144	127	136	153	192	234
Share of total	3.9	3.2	3.2	3.4	4.0	4.7
Total property tax	\$3,650	\$3,953	\$4,275	\$4,574	\$4,806	\$5,029
Change from prior year		8.3%	8.1%	7.0%	5.1%	4.6%

was intended, and cities and towns used it, to avoid massive shifts of tax burden onto residential taxpayers that would have occurred when properties were first assessed at market value.<sup>5</sup>

During 1988 -- 1993, the overall effect of local tax rate-setting decisions has been to keep the residential share of the property tax levy constant, despite the increase in the residential share of value.

The figures in Table 3 make this clear: the residential share of statewide property taxes is exactly the same now as six years ago, and it has varied over the period by only three-tenths of a percentage point. The commercial share of taxes has varied by about one percentage point over the six years, and is now at its low level, having the same share as in 1988. The industrial share in 1993 is also at its low point for the six years and the personal property share is at its high point.

## Single-rate and Multi-rate Communities

This statewide result is the outcome of very different patterns of value change within the groups of communities with single tax rates and those with multiple rates. Single rate communities did not have the same inter-class difference in value change during the boom and bust that multiple-rate communities experienced. Essentially, all of

the statewide growth in the residential share and decline in the business share of value took place in multiple-rate communities. As a group, these communities then used their rate-setting authority to offset the increase in the residential share of value, keeping its share of taxes constant.

Table 4 shows changes in value for the 223 single-rate communities for which data is available. Throughout the six years, values in the three real property classes increased and decreased in a remarkably uniform way. During 1988 -- 1990 residential value increased 52 percent, commercial value 45 percent and industrial value 47 percent -- a range of only seven percentage points. Similarly, during the downturn, residential value fell by 11 percent, commercial value by 12 percent and industrial value by 14 percent -- a three percentage point range. Because values in the real property classes were moving in concert, their shares of value changed little. Since, in these communities, value shares translate directly to tax shares, relative tax burdens also changed little.

The same is not true for the 102 multi-rate communities (Table 5). During the expansion, residential value increased 43 percent, more than either the commercial (33 percent) or industrial (28 percent) classes. During the decline, all values fell (except personal property), but the residential loss (13 percent) was considerably less than in the commercial (24 percent) or industrial (19 percent) classes. The result is the shift in value shares that carries over to the statewide total: the residential class increased

Table 4. Assessed Values by Property Class -- 223 Communities with Single Tax Rates (\$ Billions)

	1988	1989	1990	1991	1992	1993
Residential	\$80.3	\$107.9	\$121.9	\$123.6	\$116.7	\$110.9
Share of total	85.2%	86.0%	86.1%	85.7%	85.6%	85.6%
Commercial	8.8	11.3	12.7	13.1	12.4	11.5
Share of total	9.3	9.0	9.0	9.1	9.1	8.9
Industrial	3.0	3.9	4.5	4.9	4.5	4.2
Share of total	3.2	3.1	3.1	3.4	3.3	3.3
Personal property	2.1	2.4	2.5	2.6	2.8	2.9
Share of total	2.2	1.9	1.7	1.8	2.1	2.3
Total	\$94.2	\$125.5	\$141.5	\$144.2	\$136.4	\$129.5

**Table 5. Assessed Values by Property Class. 102 Communities with Multiple Tax Rates (\$ Billions)**

	1988	1989	1990	1991	1992	1993
Residential	\$122.4	\$155.3	\$175.1	\$176.0	\$161.6	\$152.6
Share of total	69.9%	71.3%	72.1%	71.9%	72.8%	73.3%
Commercial	32.4	39.6	43.1	43.8	36.9	33.4
Share of total	18.5	18.2	17.8	17.9	16.6	16.0
Industrial	14.6	17.6	18.6	18.3	16.7	14.8
Share of total	8.3	8.1	7.7	7.5	7.5	7.1
Personal property	5.7	5.5	6.1	6.5	7.0	7.4
Share of total	3.3	2.5	2.5	2.7	3.1	3.6
Total	\$175.1	\$217.9	\$243.0	\$244.6	\$222.1	\$208.2

from 70 to 73 percent; the commercial class declined from 19 to 16 percent; the industrial from eight to seven percent. Because personal property value continued to increase while value declined so sharply for real estate, the personal property share increased dramatically.

As shown in Table 6, the shifts in value in multi-rate communities most definitely did not result in equivalent shifts in tax burden. It has been the explicit policy of some communities in this group (Boston, most importantly) to keep the residential share of taxes constant, regardless of changes in value. That goal is clearly achieved for the group as a whole: the residential share of the levy varied by less than one percentage point over the six-year period.

The consequences of this policy for taxpayers are twofold. First, it obviously means an overall tax benefit for residential taxpayers and a resulting increase in burden for the business classes. Second, because of the way the multiple-rate-setting law works, the increased business burden is divided among the commercial, industrial and personal property classes according to their shares of value. The added tax burden, combined with a higher share of value, results in a huge increase in taxes for personal property taxpayers.

To measure the shift from the residential to business classes during 1988 to 1993, we can calculate how taxes would have been allocated if communities had not acted to keep the residential burden constant as values changed,

that is, if each community had maintained throughout the period the same relationship between shares of value and shares of taxes that it had established in 1988.

By 1990, decisions to protect residential taxpayers had shifted over \$80 million onto the commercial, industrial and personal property taxpayers. By 1993, the shift increased to \$109 million.

Boston accounts for over half of those tax shifts -- \$43 million by 1990 and \$62 million by 1993. Boston has probably the most aggressive record of any city in shifting tax burden to business taxpayers. It has consistently chosen the maximum allowable shift since it was first eligible to set multiple rates in 1983. As growth in residential value exceeded the other classes during the boom years, Boston, Everett and a few other cities with sizable amounts of commercial value persuaded the Legislature to extend the tax shifts allowable under the law. In 1989, under the new rules, Boston cut the residential tax rate by over 25 percent and brought the residential tax share back to its lowest level under classification. It has remained there (at 30 percent of taxes) even though the residential share of value increased from 51 percent in 1989 to 60 percent in 1993. This policy is one reason why the business tax rate in Boston, at \$39.99 in 1993, is significantly higher than in any other community.<sup>6</sup>

Of course, Boston is not alone in embracing the policy of protecting residential taxpayers. However, most of the

Table 6. Property Taxes by Property Class. 102 Communities with Multiple Tax Rates (\$ Millions)

Class	1988	1989	1990	1991	1992	1993
Residential	\$1,462.9	\$1,547.4	\$1,661.0	\$1,762.5	\$1,860.1	\$1,952.4
Share of total	57.9%	57.0%	57.0%	56.9%	57.1%	57.2%
Commercial	659.7	756.5	819.3	875.0	878.8	908.4
Share of total	26.1	27.8	28.1	28.2	27.0	26.6
Industrial	283.8	309.8	323.6	334.5	357.0	351.3
Share of total	11.2	11.4	11.1	10.8	11.0	10.3
Personal property	118.7	103.1	112.4	126.8	160.8	198.4
Share of total	4.7	3.8	3.9	4.1	4.9	5.8
Total	\$2,525.0	\$2,717.0	\$2,916.3	\$3,098.8	\$3,256.7	\$3,410.5

shift onto business taxpayers occurs in a relatively small number of cities. Just seven cities in addition to Boston (Cambridge, Lowell, Lynn, Peabody, Quincy, Waltham and Worcester) account for 75 percent of the \$109 million in tax dollars shifted in 1993 in pursuit of this policy.

At the same time, the multiple tax rate communities are far from monolithic in the tax allocation decisions they make. Several communities maintained their tax share/value share relationship during the market swings, and several others actually reduced the shift onto business taxpayers. In 1990 these communities reduced the tax burden on business properties by \$2.9 million, and in 1993 by \$7.9 million, compared to what they would have been if 1988 relationships had been maintained.

Indeed, the set of local decisions to allocate taxes during the market downturn is a thoroughly mixed bag. Of the 102 communities with multiple rates, 27 increased the shift onto business taxpayers, 39 reduced it and 36 essentially left the relationship unchanged (see Table 7). The tax shift onto business property is usually expressed as the business share of taxes divided by the share of value. That is, a shift of 125 percent means that the business share of taxes is 25 percent more than its share of value. From 1990 to 1993, 12 communities increased their business shift by more than 10 percentage points, such as in Canton (120 percent to 140 percent) and Waltham (143 percent to 164 percent), but the same number reduced their shifts on the same scale, such as in Brookline (172 percent to 152 percent) and Holyoke (153

percent to 143 percent). While it is useful to understand the overall consequences of these tax allocation decisions, it is important to remember that they are intrinsically local ones, reflecting both local market and political conditions.

## The Special Case of Personal Property

The inherent differences between real property and personal property have resulted in striking, if unintended, consequences for personal property taxpayers during the rapid growth and decline of real property values. Personal property is not subject to the same market forces as the real estate classes; its valuation increased each year during 1988 to 1993, with relatively little annual variation. Its share of total value therefore declined as the real property classes expanded, and increased as their value fell.

However, while the trends in personal property value are much different than those of real property, tax rates under the law for personal property must be the same as for the commercial and industrial classes. During the rapid expansion of overall value, personal property tax rates fell just as they did for the other classes even though personal property value was increasing at a much slower rate. Conversely, during the downturn, personal property rates

Table 7. Percentage Tax Shift onto Business Property						
CITY/Town	1990 Shift	1993 Shift	Percentage Point Change			
Acton	110	108	(2)	MARLBOROUGH	150	148 (2)
Acushnet	125	117	(8)	Maynard	142	149 7
Adams	100	114	14	MEDFORD	175	175 0
Agawam	126	125	(1)	MELROSE	150	150 0
Andover	115	120	5	Methuen	118	120 2
Ashland	125	120	(5)	Milford	150	150 (0)
ATTLEBORO	150	144	(6)	Milton	137	131 (6)
Auburn	148	146	(2)	Montague	135	133 (2)
Avon	136	129	(8)	Nantucket	175	175 0
Bedford	136	140	4	Needham	116	113 (3)
BEVERLY	150	150	0	New Ashford	130	130 0
Billerica	149	175	26	NEW BEDFORD	173	167 (6)
BOSTON	165	175	10	NEWTON	160	170 10
Braintree	133	138	5	NORTH ADAMS	158	159 1
BROCKTON	138	133	(5)	North Andover	108	108 (0)
Brookline	172	152	(20)	Norwood	120	120 (0)
Burlington	135	152	17	PEABODY	136	142 6
CAMBRIDGE	141	150	9	PITTSFIELD	128	128 0
Canton	120	140	20	Plymouth	100	105 5
Carver	146	142	(4)	QUINCY	175	169 (6)
Chelmsford	105	105	0	Randolph	113	124 11
CHELSEA	175	175	(0)	Raynham	108	103 (5)
CHICOPEE	150	150	(0)	REVERE	175	175 0
Clinton	175	175	(0)	Rowe	106	107 1
Concord	110	115	6	Russell	154	159 5
Danvers	110	110	0	SALEM	175	168 (7)
Dedham	163	172	9	Saugus	175	163 (12)
Dighton	175	150	(25)	Seekonk	136	120 (16)
East Longmeadow	105	100	(5)	Somerset	149	150 2
Erving	117	121	4	SOMERVILLE	175	175 0
EVERETT	162	147	(14)	SPRINGFIELD	146	158 12
FALL RIVER	175	175	0	Stoneham	120	112 (8)
FITCHBURG	140	138	(2)	Stoughton	113	134 21
Florida	126	132	6	Sudbury	175	155 (20)
Framingham	150	145	(5)	Swampscott	150	156 6
Freetown	165	165	0	Swansea	150	150 0
GLOUCESTER	139	119	(20)	TAUNTON	175	153 (22)
Hanover	102	100	(2)	Tewksbury	135	136 1
HAVERHILL	140	140	(0)	Tisbury	105	105 0
Holbrook	137	134	(3)	Wakefield	150	150 0
HOLYOKE	153	143	(10)	Walpole	115	112 (3)
Hopedale	149	164	15	WALTHAM	143	164 20
Hopkinton	120	115	(5)	Warren	163	108 (54)
Hudson	150	150	0	Watertown	150	150 (0)
Lexington	149	170	22	Webster	165	163 (2)
Littleton	113	120	7	West Bridgewater	125	108 (17)
LOWELL	175	170	(5)	WESTFIELD	165	152 (13)
LYNN	175	175	(0)	Westwood	147	167 20
MALDEN	160	165	5	Weymouth	137	138 0
Mansfield	113	109	(4)	Wilmington	137	145 8
				WOBURN	140	145 5
				WORCESTER	175	168 (8)

increased along with rates generally as real property values declined, even though as a class its value was increasing.

The result is that the tax burden on the personal property class changed dramatically compared to the other classes (see Table 4). During 1988 to 1990, as total values increased sharply, the statewide property tax levy increased 17 percent. The tax increases for the three real estate classes, while varying because of different changes in value and rate-setting decisions, were roughly similar: 17 percent for residential taxpayers, 23 percent for the commercial class and 14 percent for the industrial. The personal property levy, however, actually fell by 5.6 percent.

During the decline in real estate values the difference is even more striking. From 1990 to 1993 the overall levy increased 17.6 percent. The residential levy went up 18 percent, commercial taxes 12 percent and industrial taxes 10 percent. Personal property taxpayers, in contrast, saw a whopping 72 percent increase. While the personal property class is a small part of the total tax base, that kind of tax increase presents a significant problem for an important group of taxpayers, mainly public utility companies.

## Bumping Up Against the Levy Ceiling

As noted in the Introduction, assessed values are generally unconnected with the level of taxation, except for the basic rule of Proposition 2 1/2 that limits total taxes in any community to 2.5 percent of total value (the equivalent of a \$25.00 tax rate). When Proposition 2 1/2 was approved, many Massachusetts communities, mainly the larger cities, were taxing well above this ceiling (as the 2.5 percent of value limit has come to be known, in contrast with the levy limit, which refers to the annual limit on tax growth). The new law required those places to reduce property taxes by 15 percent annually until they reached the ceiling. Several cities had to cut taxes for two or more years; at the same time, the ceiling provided a powerful incentive to assess property at full value<sup>7</sup>.

The levy ceiling is an important constraint on tax growth because, unlike the annual levy limit, communities cannot exceed the ceiling with an override vote. Once a community's levy is limited by the ceiling, taxes can only

increase (or must be reduced) at the same rate as the change in total valuation.

By 1990 the boom years had reduced the statewide tax rate to \$10.60 -- on average, cities and towns were taxing at only 42 percent of the levy ceiling. For nearly all communities the levy ceiling was just a fading memory -- even Boston, once one of the highest tax rate cities, was taxing at only 58 percent of its levy ceiling. Only five small, rural, property-poor towns were within 70 percent of a \$25.00 tax rate.

With the downturn, the levy ceiling is now visible to a few more communities, although only Boston is in danger of an imminent collision. The statewide tax rate in 1993 is \$14.89, or 60 percent of the levy ceiling; 20 communities are now within 70 percent of a \$25.00 rate (see Table 8). Interestingly, two of the five communities closest to their ceilings in 1990 (Monroe and Wendell) saw property values increase during 1990 -- 1993, and their positions vis a vis the levy ceiling significantly improve.

In September 1992 the Boston Assessing Department estimated the city would reach its levy ceiling in fiscal 1995. Beyond the 25 percent value loss Boston has already experienced, the report projected another decline of 2.1 percent in fiscal 1994 and no change in value in 1995. The levy was estimated to increase each year by the 2.5 percent basic allowance plus tax base expansion.

More recently, the Boston Municipal Research Bureau has completed an evaluation of the city's projection. The Research Bureau also expects a decline in value of at least 2.2 percent in 1994, bringing the annual levy limit to within about \$14 million of the levy ceiling. For fiscal 1995, with the information now available, the Bureau finds it too close to call whether Boston will hit or barely miss the ceiling. If the ceiling does become a constraint, the Bureau expects that property taxes would be about \$10 million less than the amount otherwise allowable under the levy limit calculation.<sup>8</sup>

Among the other large communities closest to their levy ceilings, only Lynn and Worcester have formally analyzed their chances of reaching the ceiling. Both cities have concluded that they may do so in fiscal 1998 or 1999. Other communities that have not prepared formal reports are all familiar with the issue but do not view it as an imminent concern<sup>9</sup>. Nevertheless, many places will continue to gradually approach their ceilings: even where a community increases taxes only by the basic 2.5 percent annual allowance, so long as the value of existing

Table 8. 15 Communities Closest to the Levy Ceiling, Fiscal 1993

CITY/Town	Taxes as Percent of Ceiling, 1990	Taxes as Percent of Ceiling, 1993	Percent Change, 1990-1993
BOSTON	58.0	91.6	57.8
Hopedale	52.7	82.8	57.3
LYNN	54.6	81.6	49.4
Framingham	50.3	75.1	49.3
SPRINGFIELD	51.0	74.7	46.3
MARLBOROUGH	53.7	73.5	36.8
Sharon	49.1	73.1	48.9
Plymouth	49.9	72.9	46.0
Monroe	83.2	72.0	(13.5)
WORCESTER	48.0	71.9	49.9
Maynard	47.6	71.9	51.2
Wendell	88.8	71.8	(19.1)
EVERETT	61.2	71.5	16.9
Tyngsborough	44.9	71.4	58.9

Fiscal 1993 data available for 338 cities and towns.

property fails to appreciate at the same rate, the gap between the levy and ceiling will continue to close. If the real estate market takes a turn for the worse, the potential constraint imposed by the levy ceiling will bear watching.

## Conclusion

The last six years have been a turbulent time for property values. We have seen both the greatest appreciation in value, and the first value decline in nearly 50 years. The downturn has particularly affected cities and towns in the metropolitan area, most notably Boston, which lost 35 percent of its commercial property tax base and 25 percent of its total value. At the same time, values continued to increase in many communities, mostly in western Massachusetts.

Statewide, the shifts in shares of value among classes of taxpayers have been fairly modest, with residential property increasing from 75 to 78 percent of the tax base. Essentially all of that shift occurred in communities that set multiple tax rates. The larger cities in particular have reacted to the value shifts by setting tax rates to hold the

residential share of taxes constant. That policy has meant business taxpayers in 1993 are paying about \$108 million more in property taxes than they otherwise would.

However, the choices by multiple tax rate communities are not uniform. Between 1990 and 1993 roughly one third of those communities increased their shift of taxes onto business taxpayers, another third decreased the shift, and the remainder essentially left things unchanged.

A largely unnoticed consequence of the real property loss in value and the decisions to protect residential taxpayers has been a striking tax increase for personal property taxpayers, largely public utility companies.

The real estate collapse has also brought the issue of Proposition 2 1/2's levy ceiling back into public consciousness. For the present, the issue is important only for the city of Boston, where taxes may be constrained by the 2.5 percent of value limit in fiscal 1995. However, unless the value of existing property begins to appreciate at a rate greater than allowable property tax growth, or communities choose to further restrain tax growth, cities and towns will continue to approach their ceilings.

## Notes

<sup>1</sup> The price increase is for the median selling price of existing homes as reported by the National Association of Realtors in Homes Sales, monthly. The decline is for repeat sales of the same properties, calculated by Case Shiller Weiss, reported in "Homing in on Value," Boston Magazine, March, 1993, p. 62.

<sup>2</sup> Karl E. Case. The Real Estate Cycle and the Economy: Consequences of the Massachusetts Boom of 1984-1987. New England Economic Review, September/October, 1991.

<sup>3</sup> This report focuses primarily on the most recent history of falling property values. It includes data from 1988 to provide context for that period. The impact of valuation changes during 1980 -- 1987, when communities were initially revaluing and classifying property, is documented fully by Katherine Bradbury in "Shifting Property Tax Burdens in Massachusetts", New England Economic Review, September/October 1988, pp. 36-48.

The decline in property value, especially commercial property, is a current phenomenon in many parts of the country. For a discussion of similar events in other jurisdictions see "The Impact of Declining Property Values on Local Government Finances", Urban Land Institute, Paper 626, March, 1993. For an estimate of the national impact see "The Effect of the Collapse of Commercial Values on Local Government Revenues and Tax Burdens", Urban Land Institute, Paper 628, May, 1993.

<sup>4</sup> The residential class is combined with the open space class in all tables because these types of property are treated similarly under the classification law and because the open space class is so small.

<sup>5</sup> Technically, a community sets multiple rates by choosing a "residential factor" other than one. The residential factor defines the relationship between the residential share of value and share of taxes. For example, a factor of .8 would mean that the residential share of taxes is 80 percent of the residential value share. Thus, if residential property accounted for 90 percent of value, with a residential factor of .8, residential taxpayers would shoulder 72 percent (.9 \* .8) of taxes. The classification law limits the shift allowed: the residential tax share must be at least 65 percent of its value share and the tax share for business classes cannot be more than 150 percent of its value share. In 1988 the law was amended to set broader

limits (50 percent for residential; 175 percent for business) for use in communities where under the original limits the residential class would have to pay a greater share of the levy because of changing values. The new limits, however, cannot result in the residential class paying a smaller share of the levy than it ever previously had under the classification law.

Analyzing the period from 1980 to 1987, Bradbury found that communities setting multiple tax rates fully offset the effect of assessing at full value; the residential share of the levy declined by 2.8 percentage points in these communities. Increases in the residential share in other communities, not offset by multiple rates, meant that statewide the residential share increased by 1.8 percentage points. "Shifting Property Tax Burdens in Massachusetts", p.42.

<sup>6</sup> For a fuller narrative of Boston's recent financial history see Boston Municipal Research Bureau. Securing Boston's Financial Health. September, 1993.

<sup>7</sup> In implementing Proposition 2 1/2 the Department of Revenue estimated full value for communities not yet assessing property on that basis. The estimates, however, generally understated actual market value. Proposition 2 1/2 first applied in fiscal 1982; all communities were taxing below the 2.5 percent of value limit by fiscal 1985.

<sup>8</sup> Securing Boston's Financial Health, pp 39 -- 42.

<sup>9</sup> Telephone conversations with assessors in Hopedale, Lynn, Cambridge, Framingham, Springfield and Marlborough.

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Chester R. Messer  
President  
Boston Gas Company

Thomas E. Moloney  
Chief Financial Officer  
John Hancock Mutual Life  
Insurance Company

Joseph E. Mullaney  
Vice Chairman of the Board  
The Gillette Company

Mary B. Newman  
Cambridge

Thomas L. P. O'Donnell  
Partner  
Ropes & Gray

Thomas S. Olsen  
President and Chief Executive  
Officer  
Plymouth Savings Bank

William J. Rizzo, Jr.  
President  
Rizzo Associates

George A. Russell, Jr.  
Senior Vice President of  
Community Affairs  
State Street Boston Corporation

Werner Schuele  
Senior Vice President & Site  
Manager  
Texas Instruments

Linda Shyavitz  
President and Chief Executive  
Officer  
Sturdy Memorial Hospital

Palmer Swanson  
Director of Public Affairs  
Polaroid Corporation

Alison Taunton-Rigby, Ph.D.  
President and Chief Executive  
Officer  
Mitotix

John Larkin Thompson  
Nutter, McClennen & Fish

Clifford H. Tuttle  
Chairman and President  
Aerovox, Incorporated

Elaine S. Ullian  
President & Chief Executive Officer  
Faulkner Hospital

Richard F. Uss  
Vice President and General  
Manager  
McCullough Builders

Donald A. Walsh  
Manager  
Economic Development  
Boston Edison

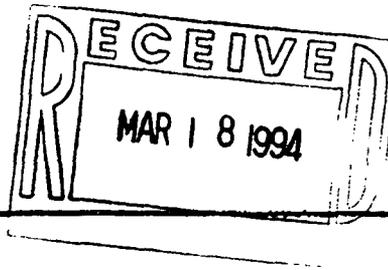
Robert M. Weinberg  
President  
Friends of Post Office Square

Elizabeth W. Whitehead  
Director of Public Finance  
BayBank Boston

Michael J. Widmer  
President  
Massachusetts Taxpayers  
Foundation, Inc.

Richard A. Wiley  
Esquire  
Powers and Hall





cc: BOS

---

## EHS SERVICE CENTER, LEXINGTON

### Facsimile Cover Sheet

To: *Dow Johnson*

Company:

Phone:

Fax: *(508) 264-9630*

From: **D.E.Kronenberg**

Company: **EHS Lexington Service Center**

Phone: **(617) 861-6600**

Fax: **(617) 863-6183**

Date: **03/18/94**

Pages including this  
cover page: **2**

Comments:

**GRACE****Environment, Health & Safety  
Service Center**W.R. Grace & Co. - Conn.  
55 Hayden Avenue  
Lexington, Mass. 02173Tel: (617) 861-6600  
Fax: (617) 863-6183**March 18, 1994**

Anderson, S./Anderson & Kreiger  
Benoit, E./DEP  
Boynton, R./EPA  
Cheeseman, W./Foley Hoag & Eliot  
Cusson, T./DEP Section Chief  
J. DeStefano/GZA  
Eisengrein, R./ACES  
Fox, H. /Legal Defense Fund  
Halley, D./Acton Health Director  
Ingram, L./W. R. Grace Environmental Remediation  
Jennings, L./U.S. EPA  
Johnson, D./Acton Town Manager  
LeBlanc, M./MA DEP  
Mahar, M./DEP  
Moore, M./Concord Board of Health  
Muench, G./EPA  
Myette, C./Wehran Envirotech  
Niles, R. C./W. R. Grace, EHS  
Pierce, A./W. R. Grace, Boca Raton  
Stoler, M./W. R. Grace, Boca Raton  
Robert Sullivan/GZA  
Swallow, J./Pine & Swallow  
Swanson, B./CDM  
Tuttle, C./DEP

---

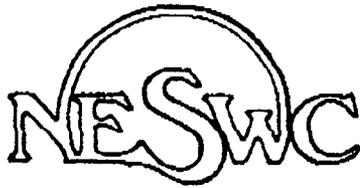
Effective immediately, Lou Ingram will be managing the Acton site remediation for W. R. Grace & Co. If you have any questions please feel free to call me, otherwise, all official communication should go to Lou Ingram at the following address and telephone number.

Louis E. Ingram  
Manager, Environmental Remediation  
Grace Remediation management Unit  
100 N. Main Street  
Memphis, TN 38103  
Tel: (901) 522-2000

Thank you,

David E. Kronenberg

cc: BOS



## NORTH EAST SOLID WASTE COMMITTEE

March 17, 1994

Don P. Johnson  
Town Manager  
Town of Acton  
472 Main Street  
Acton, MA 01720

Dear Mr. Johnson: (Acton Stabilization Fund Account)

This is to acknowledge the Town of Acton's payment of \$193,198.46 in connection with the Town's account in the NESWC Stabilization Fund balance. Thank you for the payment.

I note, however, that the balance owed to the Stabilization Fund by the Town is subject to continuing examination and verification. We appreciate receiving the Town's reconciliation and payment, but do not necessarily agree that the payment represents payment in full of the balance owed by the Town to the Stabilization Fund.

I will keep you informed as we continue our examination.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Steven M. Rothstein', written in a cursive style.

Steven M. Rothstein  
Executive Director



COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS SENATE  
STATE HOUSE, BOSTON 02133-1053

cc: Bos

SENATOR ROBERT A. DURAND  
MIDDLESEX AND WORCESTER  
DISTRICT  
ROOM 413D  
TEL. (617) 722-1120

COMMITTEES:  
NATURAL RESOURCES AND  
AGRICULTURE (CHAIRMAN)  
WAYS AND MEANS  
TRANSPORTATION  
STATE ADMINISTRATION

MEMO

**TO:** City and Town Officials in Middlesex Worcester  
Senate District

**FROM:** Senator Robert A. Durand

**DATE:** March 15, 1994

**RE:** Education Reform Forum

-----

The Central Massachusetts Legislative Caucus, of which I am the Senate chair, will hold an informational Education Reform Forum for area officials and residents on Wednesday, March 30th at 7:00pm in the Auditorium of Westborough High School.

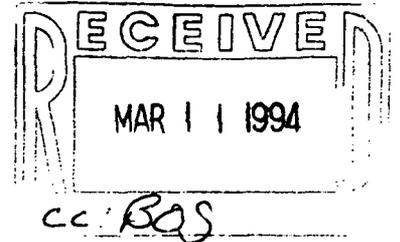
The Caucus, whose members represent the communities in the Central Massachusetts area, will seek to address the implementation of the education reform law and will provide an opportunity for questions and comments from area officials and residents.

Due to the great number of questions and concerns presented to my office, the Caucus has arranged for officials from the Department of Education to serve as panelists along with representatives from the Department of Revenue which plays a crucial role in determining local revenue and expenditure levels.

Please contact me if you have any specific questions or concerns and I look forward to seeing you at the Forum on March 30th.



25 Adams Street  
Acton, MA 01720  
March 11, 1994



Beacon Communications  
20 Main Street  
Acton, MA 01720

Dear Editor:

I am writing in reference to the proposed affordable housing on Adams Street. I am one of many who are strongly opposed to this for a number of reasons.

1. Why do we not utilize the many available condos and other properties that are currently on the market rather than building on our limited available land? These preexisting homes could be renovated at a considerably lower cost than erecting new homes. This would satisfy the need for affordable housing while maintaining the land.

2. These proposed homes will be literally sitting on top of the Maynard sewage treatment plant. This is certainly not a healthy place to raise children. Having lived on Adams Street for twenty-nine years, I can frequently recall having to close the windows of our home during dinner so that the sewage odor from the treatment center would not be so overwhelming. The twenty-nine years of natural woodland growth have been of some help in remedying the situation. If any of this growth is removed, we are back to square one - not a very pleasant thought!

3. I am a firm believer in helping my fellow man. I am also a firm believer in my fellow man helping himself. I don't believe the full burden should fall on the already over-taxed Acton citizens. Whatever happened to the old adage of working hard and sacrificing for the "American Dream" of your own home? I believe most of us can easily remember the many things we did without in order to accomplish this. There is a pride and self-confidence that comes with this.

4. I too am concerned about our property values in the Adams / Parker Street area. This concern needs to be addressed.

Sincerely,

Mrs. William R. Jones

897-4611

*Selectmans' Copy.*

cc: Dick Howe

cc: BOS

FEB 11 1994

Mr. Don Johnson  
Town Manager  
Acton, MA 01720

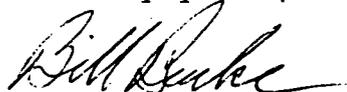
February 9, 1994

Dear Don,

The purpose of this letter is to report an annoying and potentially dangerous event which occurred at about 08:00 this morning on Vanderbelt Rd. While finishing shovelling my driveway, I saw a plow truck coming down the street at excessive speed careening off the snowbank. By the time it finished plowing the circle, I was starting down the driveway in my car and watched it take out my mail box. A minute later Dave James (4 Vanderbelt Rd.) saw his mail box go down too. Since the truck came to a stop at the end of the street, I got out of my car to tell its driver that he had just destroyed my mail box. "Take it up with the town" was his only response. The truck had the name O'Halloran from Littleton on the door panel. Its license plate was illegible, caked with layers of mud.

Vanderbelt Rd. is fairly wide and my mail box stood for more than ten years, outside of the normal path of snow plows. As you know, many school-age children live on Vanderbelt Rd. Had school been in session this morning, several of them would have been waiting for the bus at Bill Ryan's driveway (10 Vanderbelt Rd.) at the time of the truck's passage. The driver poses a clear danger and should not be allowed to continue plowing under contract with the town of Acton. I hope that this letter provides you with sufficient information to take effective, preventive action.

Sincerely yours,



William J. Burke  
12 Vanderbelt Rd.

Dick,

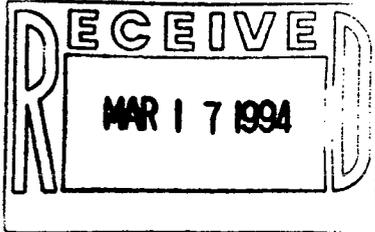
Investigate and  
write a report  
To be placed in  
next week's BOS  
packet.

CC: BOS



# PLANNING BOARD • Town of Acton

472 MAIN STREET ACTON, MASSACHUSETTS 01720 TELEPHONE (508) 264-9636



DECISION  
94-3

McGovern Estates  
Definitive Subdivision

March 15, 1994

RECEIVED & FILED

DATE March 16, 1994 4:30 P.M.

Daryl Powell  
for TOWN CLERK, ACTON

DECISION of the Planning Board (hereinafter the Board) on the application of Kavanagh Homes, Inc. (hereinafter the Applicant) of 503 Main Dunstable Road, Nashua, NH for property located in Acton, Massachusetts off of Robbins Street, owned by George McGovern of Main Street, Dunstable, MA 01827. The 12.7 acre site of the proposed subdivision is shown on the 1993 Acton Town Atlas Map G-2 as parcel 192.

This DECISION is in response to an application for approval of a Definitive Subdivision Plan entitled "Definitive Subdivision in the Town of Acton, Massachusetts - McGovern Estates" received by the Acton Planning Department on November 12, 1993, pursuant to Massachusetts General Laws, Chapter 41, Section 81-K through 81-GG, and the Acton Subdivision Rules and Regulations in effect on July 8, 1993 and applicable to this Subdivision. (hereinafter the Rules; 7/8/93 is the date when the preliminary subdivision plan was filed with Board).

The Applicant presented the subdivision proposal to the Board at an advertised public hearing on January 10, 1994 in Room 204 of the Acton Town Hall. Mr. Mark White and Mr. Peter Kavanagh of Kavanagh Homes, Inc. were assisted in their presentation by Mr. Chris Lorraine and Mr. John Judd of Land Tech Consultants, Inc.. The hearing was continued on February 28, 1994. Board members William Shupert III, Vice-Chairman; John Pavan, Clerk; Gregory Niemyski; James Lee; Douglas Carnahan and Mary Giorgio were present throughout the entire hearing. The minutes of the meetings and submissions on which this decision is based upon may be referred to in the Office of the Town Clerk or the Planning Department.

## EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- EXHIBIT 1 A Plan entitled "Definitive Subdivision in the Town of Acton, Massachusetts - McGovern Estates" dated November 5, 1993, revised January 19, 1994, consisting of 7 plan sheets, drawn by LandTech Consultants, Inc., 7 Doris Drive, No. Chelmsford, MA 01863.
- EXHIBIT 2 Supplementary items and documentation required by the Rules, Sections 5.2.1 through 5.2.14, a "Supplemental DATA Report with Notice of Intent" dated 11/5/93, which contains information required in Section 5.3 of the Rules and is not otherwise shown on the plan sheets, and Hydrologic Budget Calculations dated 1/8/94.
- EXHIBIT 3 Interdepartmental communication submitted to the Board by the:  
Acton Board of Health, dated 1/4/94;  
Acton Tree Warden & Municipal Properties Dir., dated 11/23/93;  
Acton Engineering Department, dated 12/20/93 & 2/2/94;  
Acton Building Department, dated 11/15/93;

Acton Water District, dated 12/13/93;  
Acton Collector, dated 11/15/93;  
Acton Historical Commission, dated 12/10/93; and  
Acton Planning Department, dated 1/6/94 & 2/24/94.

- EXHIBIT 4 Correspondence from the LandTech Consultants, Inc. to the Town Planner dated 11/12/93 and 1/10/94, to the Planning Board dated 1/20/94, to the Engineering Administrator dated 1/20/94, and to the Town Clerk, dated 11/12/93.
- EXHIBIT 4 Correspondence from the Applicant to the Conservation Commission, dated 1/19/94.
- EXHIBIT 5 A copy of a letter, dated 10/8/93 from the Conservation Administrator to the Applicant.
- EXHIBIT 6 An agreement dated 1/10/94 between the Board and the Applicant regarding the submission of modified plans, continuation of the public hearing and extension of the decision due date to March 28, 1994.

EXHIBITS 1 and 2 are referred to herein as the Plan.

## 1 FINDINGS AND CONCLUSIONS

Based upon its review of the Exhibits and the record of the proceedings the Board finds and concludes that:

- 1.1 The Plan shows the division of approximately 12.7 acres into six (4) residential lots and a wetlands parcel A. In all 5.6 acres are wetlands.
- 1.2 The proposed subdivision is located within the Residence 2 (R-2) Zoning District and is contained within Zones 3 and 4 of the Groundwater Protection District.
- 1.3 The proposed use is an allowed use in the R-2 District. The proposed lots comply with the area and frontage requirements of the Acton Zoning Bylaw.
- 1.4 The Plan shows a subdivision roadway which extends Overlook Drive to service four more lots. The extension of Overlook Drive is approximately 375 feet long with a 20 foot wide paved travelled way.
- 1.5 The proposed subdivision would increase by 4 the current number of 65 dwelling units on a single access. Section 8.1.19 of the Rules limits the number of dwelling units on a single access to 40, and provides that "where a proposed residential subdivision will increase any number of existing dwelling units on an existing single access street to more than 40, the Board may require alternate means of access to a through street or improvements on the existing single access street." The subdivision is an extension of a series of streets (Robbins Street, Prescott Road and Overlook Drive) with only one terminus onto a through street at the Robbins Street intersection with Stow Street.
- 1.6 Robbins Street, which is the single access street to the proposed subdivision is a narrow, winding street. It has no sidewalk and in one location sight distance is inadequate due to sharp crest vertical curve. Section 9.9 of the Rules states that the Board will consider the adequacy of the streets and ways adjacent to a proposed subdivision and may require improvements in those streets to ensure safe and adequate vehicular and pedestrian travel.
- 1.7 Chapter J of the Bylaws of the Town of Acton identifies Robbins Street as a Scenic Road.
- 1.8 The Engineering Administrator has identified a number of recommended Plan modifications which must be made prior to Plan endorsement.
- 1.9 The proposed turn around is not adequate for SU-30 design vehicles.
- 1.10 Abutting the Subdivision is Town owned conservation land.
- 1.11 Also in the abutting Meadow View Subdivision conservation easements and lots are reserved for Town ownership to allow for a conservation trail system.

- 1.12 The Applicant owns lot 12A in the adjacent Meadow View Subdivision. It has a detention pond with an approved drainage and utility easement on it. The Town would have had access to coservation and trail easements via that easement. It is proposed by the Applicant, that the detention pond on McGovern Estate's lot 1 will replace the detention pond on lot 12A of the Meadow View Subdivision, and that the easement be eliminated.

## BOARD ACTION

Therefore, subject to and with the benefit of the following waivers, plan modifications, conditions and limitations, the Board votes to APPROVE the Definitive Subdivision - McGovern Estates. Board members David Hill, William Shupert, Mary Giorgio and Greg Niemyski vote to approve. Board member John Pavan voted in dissent.

## 2. WAIVERS

The Applicant has requested the following waivers from the applicable Rules:

- 2.1 Waiver from Section 5.2.15, which requires a written statement from each utility company to service the subdivision stating that they have approved the proposed utility layout. The Applicant contends that utility companies do not readily provided such a statement prior to the issuance of local permits. The Board has had same experience with other subdivisions and has since eliminated this requirements from its new Subdivision Rules. **THE WAIVER IS GRANTED.**
- 2.2 Waiver from Section 8.1.13 (Table II) to allow a sag vertical curve with a K-value of 28.57 rather than the minimum required K-value of 35. The waiver has been requested in order to reduce the amount of fill within a wetlands buffer. The sag vertical curve is at the very end of the street where vehicles will move slowly in any case. **THE WAIVER IS GRANTED.**
- 2.3 Waiver from Section 8.1.18 to allow a "hammerhead- or T-" turnaround. The waiver has been requested in order to avoid adverse impacts on surrounding wetland areas. The new Subdivision Rules in effect since November 1993 allow such a turnaround and set forth certain design standards. The proposed turnaround closely meets those standards. **THE WAIVER IS GRANTED.** However, the driveways for lots 3 and 4 shall be relocated to leave 10 feet between the driveways and the end of pavement. Also, the turnaround shall be modified to accommodate SU-30 vehicles using only one back-up maneuver. This can be accomplished by widening the pavement on the northwesterly side near STA 14+00 and relocating the sidewalk to the opposite side of the Street. A waiver is hereby granted to allow a shoulder width of less than 10 feet in the specified location to the degree necessary for adequate maneuvering space.
- 2.4 Waiver from Section 8.1.19 to allow more than 40 dwelling units on a single access street, as defined in the Rules. The terminus to a through street is at Stow Street via Robbins Street. The proposed subdivision would increase by 4 the number of dwellings on a single access. Currently the number is approximately 65. Section 8.1.19, in addition to the 40 unit limit, provides that "where a proposed residential subdivision will increase any number of existing dwelling units on an existing single access street to more than 40, the Board may require alternate means of access to a through street or improvements on the existing single access street."

THE WAIVER TO ALLOW MORE THAN 40 DWELLING UNITS ON A SINGLE ACCESS IS GRANTED. Alternate means of access to a through street cannot be provided since the entire area is surrounded by extensive flood plains and wetlands. Therefore the Applicant shall make improvements to the existing single access street as follows:

- 1) The Applicant shall lower or otherwise adjust the grades in Robbins Street near house numbers 51-59 (more or less) to improve sight distance, sufficient in the opinion of the Board. The Applicant shall obtain any and all easements and permits required for this work. Prior to the issuance of an occupancy permit in the McGovern Estates subdivision, the Applicant shall submit for the Board's approval a plan for this reconstruction work, prepared by a registered engineer, and secure it with the Board in accordance with Section 6 of the Rules. If the Town of Acton Highway Department elects to do this work, the Applicant may turn the execution of this project over to the Town, provided the Applicant has completed the engineering design, obtained all easements and permits, and paid for expenses incurred by the Town in connection with this project. In addition and to the extend reasonably possible, the Applicant shall coordinated this project with any work scheduled by the Acton Water District in the same location.
- 2) If the above re-grading work cannot be done, and the Applicant has shown evidence to that effect, sufficient in the opinion of the Board, the Applicant shall construct a sidewalk along Robbins Street from Stow Street to Prescott Road, and submit for the Board's approval a plan for this sidewalk, prepared by a registered engineer. The Applicant shall obtain any and all easements, permits and approvals required for the sidewalk construction. Prior to the issuance of any occupancy permit in the McGovern Estates subdivision the sidewalk plans shall be submitted and the sidewalk construction shall be secured in accordance with Section 6 of the Rules.
- 3) The Applicant shall expend all reasonable effort to comply with one of the above alternatives. However, if compliance becomes impossible due to an inability to obtain sidewalk and construction easements at no cost, or due to other unforeseen obstacles, the Applicant shall submit to the Board written evidence to that effect. If the Board finds that the Applicant has sufficiently documented his inability to comply, the Board will require, instead of 1) or 2) above, a contribution to the Town for the purpose of general sidewalk construction in Acton. The amount to be contributed shall be the mean of three quotes, solicited by the Applicant, for the cost of constructing the sidewalk along Robbins Street between Stow Street and Prescott Road, including the cost for engineering design but excluding any costs for easements. Under these circumstances, and subject to the sidewalk contribution made, the Board waives Section 8.1.19 in its entirety.

### 3. PLAN MODIFICATIONS

Prior to the endorsement of the Plan or the issuance of a building permit or any work on the Site, the Plan shall be modified as follows. Where approvals for modifications are required or implied from persons or entities other than the Board, the Applicant shall be responsible for providing written copies of such approvals to the Board.

3.1 Show all modifications required under part 2., Waivers above.

- 3.2 On lot 12A of the Meadow View Subdivision show a separate parcel connecting Overlook Drive with the Town of Acton conservation land. Said parcel shall be not less than 10 feet wide and shall be conveyed to the Town along with the Street.
- 3.3 Extend the drainage easement on lot 1 to connect to the existing drainage and utility easement 'A' in the Meadowview subdivision.
- 3.4 Indicate the station at the intersection of the two turnaround legs.
- 3.5 To better prevent clogging of the detention pond outlet pipes, extend perforated pipe ends into the detention ponds and cover them with stone. Show appropriate detail.
- 3.6 Modify the detention pond detail to actual rather than exaggerated vertical scale, or insert clear and obvious note in detail indicating what the side slopes must be.
- 3.7 Specify on detail sheet that the rip rap at the detention pond discharge must be mortared in place.
- 3.8 Show detail on how to connect the precast flared end outlet section (normally available in 12" diameter) to the 6" and 10" diameter outlet pipes.
- 3.9 Change sidewalk width in bituminous sidewalk detail to 5'.
- 3.10 Change typical catch basin detail to show actual Neenah L219 gas trap and add detail showing how to mortar in place the outside of the catch basin to the inlet pipe.
- 3.11 On the catch basin detail specify two foot square grates as specified by Acton Highway Department standards.
- 3.12 Specify in catch basin and manhole details to provide full mortar caps extending to the top of the binder course of pavement. Also, that castings shall be set to grade after the binder course is in place, but before wearing surface is applied.
- 3.13 Note 8 on sheet 4 shall be modified to refer Section 9.8 of the Rules and shall also specify ground cover for all disturbed areas and detention ponds in compliance with this Section of the Rules.
- 3.14 Show a fire hydrant at the turnaround.

#### 4. CONDITIONS

The following conditions of this approval and special permit shall be strictly adhered to. Failure to adhere to these conditions shall be reason to rescind this subdivision approval pursuant to Ch.41, S.81-W:

- 4.1 The Board strongly encourages the Applicant to deed Parcel A, along with Parcel A in the Meadow View Subdivision, to the Town for conservation and recreation purposes. If the Applicant does not offer Parcel A to the Town, Parcel A shall be eliminated and incorporated into Lot 4.

- 4.2 All work in the Subdivision shall be performed in compliance with the applicable law and regulations protecting wetlands and wildlife habitat in the Town of Acton.
- 4.3 All septic systems shall be installed in compliance with Acton Board of Health requirements.
- 4.4 All water service lines shall be installed in accordance with Acton Water Supply District specifications.
- 4.5 Except as otherwise specified herein, the Plan and all work performed in the subdivision shall comply with the applicable Rules.
- 4.6 This Decision, the Record Plan, and the Restrictive Covenant if any, shall be recorded at the Middlesex South District Registry of Deeds prior to the issuance of a building permit.
- 4.7 Prior endorsement of the Plan the Applicant shall submit a performance guarantee in accordance with Section 6 of the Subdivision Rules.

## 5 LIMITATIONS

- 5.1 The foregoing waivers, modifications, and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the Rules.
- 5.2 This Decision applies only to the requested Definitive Subdivision Approval and to the street, lots, parcels and easements shown on the Plan approved hereunder. Other agreements, approvals, or permits required by law, or other governmental board, agencies, or bodies having jurisdiction, shall not be assumed or implied by this Decision.
- 5.3 This subdivision approval shall expire if not endorsed on the Plan within one year from the date that this decision has been filed with the Town Clerk. It shall also expire, if street construction and installation of services is not completed within eight years from the date that this decision has been filed with the Town Clerk. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates, and the Board herewith reserves its rights and powers to grant or deny such extension, and to require any appropriate changes to this approval.
- 5.4 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this decision with or without a public hearing upon the request of the Applicant or upon its own motion.

## 6 CERTIFICATE OF ACTION

This Document stating the Decision of the Board shall serve as the Certificate of the Board's action to be filed with the Town Clerk pursuant to MGL, Ch.41, s.81-U.

7 APPEALS

Appeals, if any, shall be made pursuant to M.G.L., Ch41, S.81-BB and shall be filed within 20 days after the date of filing this Decision with the Town Clerk.



Roland Bartl, AICP, Town Planner  
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Catherine Belbin, Town Clerk

\_\_\_\_\_  
Date

Copies furnished:

Petitioner - certified mail #  
Engineering Administrator  
Conservation Administrator  
Police Chief  
Historical Commission

Building Commissioner  
Municipal Properties  
Town Manager  
Water District  
Assessors

Board of Health  
Town Clerk  
Fire Chief  
Owner

[RHB.subd.94\*3]

cc. BOB  
Dib

Mr Donald Johnson  
Acton Town Manager  
Acton Town Hall  
Main Street  
Acton, Ma 01720

March 7, 1994  
copy: Acton Highway Dept.  
Acton Selectmen  
Acton Town Engineers

I am writing to make you aware of a dangerous situation and to request emergency and long term corrective action.

I live on Heald Road in Acton. Last year at this time our street had large cracks and the sides of the roads (gutters?) were collapsing. Knowing our town economic condition and budget constraints we sat tight hoping that the situation would get no worse. Unfortunately our hopes have become despair as the road has deteriorated to the point that it is now dangerous. Several driveways including mine drop off 8-12 inches at the end where the street has collapsed and continues to break up and drop more daily. Along the street near the cul de sac and around the catch basins the gutters are also collapsing. The middle and the sides of the street have large cracks which are going to get much worse as the Spring approaches

We need this taken care of expeditiously before more damage is done. As it is now we cannot get into our driveway if snow is not piled in the holes in the road at the foot of the driveway. When the snow disappears from the street, which we all hope is soon, serious damage is going to be incurred without your action.

I hope that we will not be living on a dirt road, or worse, by this time next year

*Robert Polsonetti*

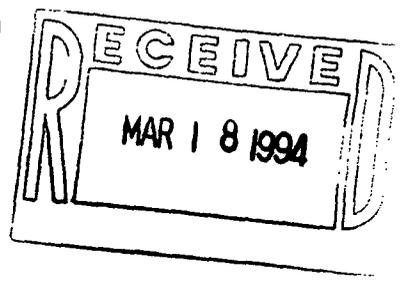
Robert Polsonetti  
9 Heald Road  
Acton, Ma

*Dib*  
*Please Report*  
*[Signature]*  
*3/18*

HS164

cc: BOS

ACTON-BOXBOROUGH COMMUNITY EDUCATION  
USE OF SCHOOL FACILITIES  
508-266-2525 (ext. 243)



CHANGE IN USE OF FACILITIES EVENT

- Principal
- Custodian
- Foods Director
- Cafeteria Mgr
- Facilities
- Audio Visual
- Evening Assistant
- Authorized Rep. *Cathy Belbin*
- File

DATE: March 17, 1993

PERMIT NUMBER: HS164

USER: Town of Acton Annual Town Meeting  
 DATE(S): Mon-Thurs, April 4 through April 14  
 TIMES: 6:00-11:59 pm  
 LOCATION: HS Auditorium

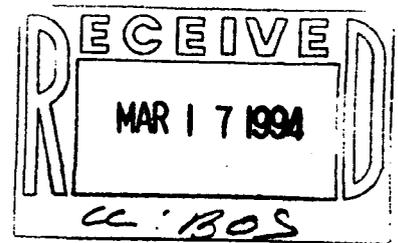
( ) CHANGED TO:

DATE(S):  
 TIMES:  
 LOCATION:

~~( )~~ ADDED:

DATE(S): same  
 TIMES: same  
 LOCATION: HS Cafeteria all Commons

( ) THIS EVENT HAS BEEN CANCELLED



Town of Acton

Planning Department

472 Main Street Acton, Massachusetts 01720

(508) 264-9636

INTERDEPARTMENTAL COMMUNICATION

TO: Town Meeting  
Don P. Johnson, Town Manager  
Board of Selectmen ✓  
Don MacKenzie, Moderator  
Cathy Belbin, Town Clerk

DATE: March 17, 1994

FROM: Roland Bartl, AICP, Town Planner *R.B.*

SUBJECT: Zoning Articles for 1994 Annual Town Meeting - 4/94

1. The Planning Board, at its regular meeting on February 28, 1993 voted to recommend to Town Meeting the adoption of the following zoning articles:

- ZONING ARTICLE 42- WEST ACTON VILLAGE (WAV), GENERAL BUSINESS (GB) AND LIMITED BUSINESS (LB) DISTRICTS IN WEST ACTON
- ZONING ARTICLE 43- VILLAGE RESIDENTIAL DISTRICT IN WEST ACTON
- ZONING ARTICLE 44- PARKING IN VILLAGE DISTRICTS
- ZONING ARTICLE 45- SITE PLAN SPECIAL PERMIT IN VILLAGE DISTRICTS
- ZONING ARTICLE 46- TRACT OF LAND REQUIRED FOR CERTAIN DEVELOPMENTS
- ZONING ARTICLE 47- MAXIMUM LIMIT FOR RESIDENTIAL COMPONENT IN PLANNED UNIT DEVELOPMENTS
- ZONING ARTICLE 48- CORRECTIONS, CLARIFICATIONS AND MINOR ADJUSTMENTS TO THE ZONING BYLAW
- ZONING ARTICLE 49- ACCOMMODATION OF HANDICAPPED AND VAN ACCESSIBLE PARKING
- ZONING ARTICLE 50- CHANGE SPECIAL PERMIT REQUIREMENT FOR COMMON DRIVES

- ZONING ARTICLE 51- ELIMINATE SPECIAL PERMIT REQUIREMENTS FOR CERTAIN ACCESSORY USES
- ZONING ARTICLE 52- ELIMINATE PROHIBITION AGAINST AND SPECIAL PERMIT REQUIREMENT FOR TERTIARY WASTEWATER TREATMENT FACILITIES
- ZONING ARTICLE 53- ELIMINATION OF SPECIAL PERMIT REQUIREMENTS FOR CERTAIN DIMENSIONAL PROVISIONS
- ZONING ARTICLE 54- ASSOCIATE MEMBERS FOR PLANNING BOARD WHEN ACTING AS SPECIAL PERMIT GRANTING AUTHORITY
- ZONING ARTICLE 57- PUBLIC USE OF LAND BY TOWN OR AGENCY OTHER THAN THE TOWN OF ACTON AND THE WATER SUPPLY DISTRICT OF ACTON

The Planning Board refers to the article summaries explaining the purpose and expected benefit of each article.

2. The Planning Board, at its regular meeting on March 14, 1993 voted to recommend against adoption of the following zoning article, which is a citizen's petition:

- ZONING ARTICLE 56- CITIZEN PETITION - PETITION TO CHANGE ZONING ON LAND IN ACTON

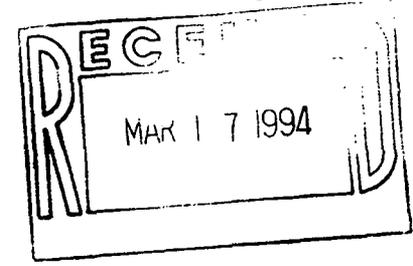
The Planning Board finds this article not to be in the best interest of the Town.

This memorandum shall serve as the final report containing the Planning Board recommendation on the proposed zoning articles pursuant to Massachusetts General Law, Chapter 40A, Section 5.

[RHB.ZONE.94\*6]

Town Manager

cc: BOS



Concord Fire Department

March 09, 1994

Robert Craig, Fire Chief  
Acton Fire Department  
256 Central Street  
Acton, Ma. 01720.

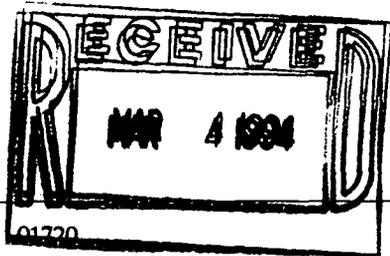
Dear Bob,

I personally want to thank you and your people for sending an Engine Company to cover our station 2. on the day of FF Alexander "Macky" Dickson's funeral. Also, a thanks to all others that participated in the funeral procession. This final tribute to "Macky", was greatly appreciated. Once again, it is pointed out the close brotherhood we share in the fire service.

*Richard S. Ryan*  
Richard S. Ryan,

Fire Chief

cc: BOS



Town of Acton

Planning Department

472 Main Street Acton, Massachusetts 01720

(508) 264-9636

INTERDEPARTMENTAL COMMUNICATION

TO: Garry Rhodes, Building Commissioner DATE: March 3, 1994

FROM: Roland Bartl, AICP, Town Planner *R.B.*

SUBJECT: McDonalds - Main Street, Preliminary Site Plan

1. The proponent indicated at our meeting that there are currently 44 seats in the restaurant. The addition would more or less double this number to 88. The restaurant must be classified as a fast food restaurant. In estimating the average traffic volumes to be expected from the proposed addition I referred to the ITE Trip Generation Manual. I have used the trip generation numbers per square footage rather per seat numbers, because the numbers based on square footage are more reliable. According to the ITE Manual the average traffic volumes for the ±760 square foot addition are as follows:

598 average daily trip ends on a weekday  
 625 average daily trip ends on a Saturday  
 527 average daily trip ends on a Sunday

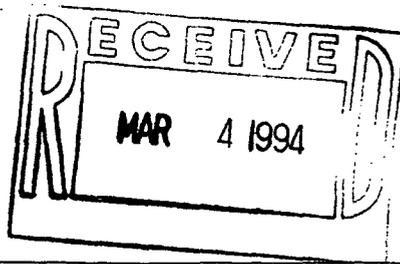
29 average trip ends on a weekday a.m. peak hour on Main Street (1 hour between 7-9 a.m.)  
 32 average trip ends on a weekday p.m. peak hour on Main Street (1 hour between 4-6 p.m.)  
 58 average trip ends on a weekday a.m. peak hour of Generator (11 a.m. - 12 noon)  
 82 average trip ends on a weekday p.m. peak hour of Generator (12 noon - 1 p.m.)  
 84 average trip ends on a Saturday peak hour (1 hour between 12 noon - 2 p.m.)  
 97 average trip ends on a Sunday peak hour (1 hour between 12 noon - 2 p.m.)

It appears that more than one of these numbers would trigger the requirement for a traffic study. I think it would suffice to limit the scope of the traffic study to the site drive(s) and the Kelley's Corner intersection. We should probably have John Kennedy review the recommendations of the traffic study.

2. Unless we get totally different recommendations from our traffic consultant, I would recommend to consolidate the two site drives on Main Street into one, probably with two lanes for exiting. This would reduce the multiple conflict points along this area of Main Street and improve internal circulation on the site. As I mentioned in our meeting, I have observed several near hits of pedestrians trying to cross the entrance aisle from the middle parking spaces to the McDonalds restaurant. Closing the driveway near McDonalds would create a pocket of parking spaces without through traffic near the restaurant, probably a safer situation.

xc: Town Manager ✓

[RHB.IDC.94\*17]



cc: BOS

Town of Acton

Planning Department

472 Main Street Acton, Massachusetts 01720

(508) 264-9636

INTERDEPARTMENTAL COMMUNICATION

TO: Garry Rhodes, Building Commissioner      DATE: March 3, 1994  
 FROM: Roland Bartl, AICP, Town Planner      *R.B.*  
 SUBJECT: Savory Lane - West Acton, Preliminary Site Plan

1. The proposal is to build a 32 seat restaurant on Arlington Street next to the railroad crossing. Based on what I know of Savory Lane's existing operation in East Acton, I would classify it as a High Turn Over Restaurant as this term is used in the ITE Trip Generation Manual. All of following trip generation numbers for a 32 seat high turn over restaurant should be used with caution due to the small sample size in the ITE manual:

210 average daily trip ends on a weekday  
 253 average daily trip ends on a Saturday  
 231 average daily trip ends on a Sunday

16 average trip ends on a weekday a.m. peak hour on Main Street (1 hour between 7-9 a.m.)  
 19 average trip ends on a weekday p.m. peak hour on Main Street (1 hour between 4-6 p.m.)  
 19 average trip ends on a weekday a.m. peak hour of Generator (8 a.m. - 9 a.m.)  
 40 average trip ends on a weekday p.m. peak hour of Generator (12 noon - 1 p.m.)  
 15 average trip ends on a Saturday peak hour (11 a.m. - 12 noon)  
 15 average trip ends on a Sunday peak hour (11 a.m. - 12 noon)

I do not think that the above trip generation numbers warrant a traffic study.

2. I have reviewed the preliminary site plan with respect to the pending West Acton Village zoning amendments:

- A restaurant special permit is required like anywhere else.
- The building setback is fine as shown and seems to repeat the pattern of the house to the west.
- The plan shows more parking spaces than required.
- The plan is lacking a connection of the parking lot to adjacent parking lots or land. Two WAV lots lie adjacent to the Savory Lane lot. The applicant must contact West Acton Village Condominium to seek permission to build a connecting driveway to its parking lot. Provisions should also be made and shown on the plan to connect with the Veasie lot. At a minimum, if abutter don't cooperate, the parking area should be redesigned to accommodate a future driveway connection to both abutting WAV parcels. The area designated for the connecting driveway(s) should be shown on the plan.
- The access driveway must be narrowed to 20 feet at the frontage line.

- 7/26
- The plan should call out the area covered in pavement as this is relevant to determine the number of required shade trees. From what I can tell, one more deciduous shade tree will be needed.
  - To satisfy Section 6.9.2.7 c) much of the pines, arborvitae and yews must be replaced with flowering shrubs or trees.
3. I also want to remind the design engineer to relocate the infiltration to outside of Zone 3.

xc: Town Manager

[RHB.IDC.94\*17]

cc: BOS

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

Don P. Johnson  
Town Manager

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March 17, 1994

Christopher C. Skelly  
Metropolitan Area Planning Council  
60 Temple Place  
Boston, MA 02111

**REGARDING: FY 95-97 "Ready to Go" TIP Projects Ready**

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This letter is in reference to the enclosed March 8, 1994 letter sent to you by Acton's Town Planner and Engineering Administrator. Please accept the following as supplemental information and clarification.

A. Of the 22 projects listed in that letter, the Town at this time has already funded the design or is committed to assume the costs for design for the following projects. These projects are ready to go forward in the FY 95-97 time period:

1. Wetherbee Street Bridge Replacement
2. Stow Street Bridge Replacement
8. Route 62 / High Street Signal
11. School Street / Laws Brook Road Sidewalk
15. Route 27 Sidewalk
16. Route 2A Sidewalks
17. General Sidewalk Improvements
18. Bicycle Racks and Bicycle Lockers at South Acton Train Station
20. Bikeway on Inactive MBTA Maynard Spur
22. Acton Center Sidewalk Reconstruction and Underground Utilities

B. In connection with item 3. (Route 2 Crossing) and Item 6. (Route 2 / Piper Road / Taylor Road interchange), I must clarify that the Town wishes to see improvements along the entire Route 2 corridor. To that end the two listed items should be regarded as tentative. The Town of Acton wishes to wait for the overall Route 2A corridor plan before individual projects go forward. A Route 2 planning study is currently being prepared by the Route 2 Corridor Advisory Committee, chaired by Mr. Daniel Beagan of EOTC.

Sincerely,

A handwritten signature in black ink, appearing to read "Don P. Johnson". The signature is fluid and cursive, with a large initial "D" and "J".

Don P. Johnson  
Town Manager

Enclosure

[RHB.LET.94\*4]

MINUTES FORM

Please send a copy after each meeting to Town Hall

MINUTES OF \_\_\_\_\_ Meeting of Cemetery Commissioners \_\_\_\_\_

Meeting posted:  yes,  no

Date: February 16, 1994 Time: 7:30p.m. Place: Kennedy Service Building, Woodlawn Cemetery

Members present: E. Bailey, W. E. C. George

also present: D. Charter, D. Lee, N. Howell, A. Warner

1. Meeting began at 7:35p.m.
2. Youth Soccer Update
  - A. Warner reported that he had been in contact with three drilling companies. It will cost \$7.00/ft. to drill and an additional \$7.00/ft. for casing (used until bedrock is reached). A flat fee of \$50.00 is charged for the drilling shoe.

The Soccer Board has authorized enough money to start the drilling.  
All three companies want to start on solid ground, not in the existing well.  
They proposed that the well and control box be nearer the road (in the area where the emergency aid call box is presently located).
  - A. Warner will write a letter to the Commissioners stating that the youth soccer league will drill the well and be responsible for it until the time they have been allowed to use the field has expired, at which time they will turn it over to the Town.

The Commissioners voted to accept such a letter and to forward it to the Board of Selectmen, who would have to accept the gift of the well, probably on a consent agenda.  
Dean Charter noted that this field will be allowed to "rest" and will not be used this spring or summer soccer season.  
After his presentation, Mr. Warner left the meeting.
3. Minutes of the January 19th meeting were accepted as presented.
4. Section 14 - Update
  - D. Charter reported that three Engineering firms had responded as follows:

Stamski & McNary, Inc.	\$7,500.00
Lancewood Engineering	\$7,645.00
Ross Associates	\$10,800.00
  - Both Dean and Dave Abbt are very comfortable with Stamski & McNary's proposal. Dean offered to cut the P.O. for us.
  - Dean presented copies of the proposal and explained that the attached map showed the locations of all the permanent pins.
  - Dean also presented copies of the article for the transfer of the additional \$10,000.00 from the Cemetery Land Fund. He has been contacted by a representative of FIN COM. re: this article. It was reported that Dave and the crew removed a few more trees that were right on the edge of the area to be developed.
  - Voted: To accept Stamski & McNary's bid, and to have Dean go ahead and present it to the Town Manager, and to have Dean cut the P.O. on our P.O. #112735.
5. Storage Building Update
  - Dean explained that he formalized the proposal and put it into the budget.
  - Dean's memo of 2/11/94 to the Town Manager, justifying the need for the building was distributed.
  - The actual balance in the Article is \$94,656.00.
  - Because of the way the motion is worded, this might not have to go on the Warrant.
  - Dean asked for a vote of support for the project. The Commissioners voted to support the article if Town Counsel has approved the expenditure of these funds for this purpose.



6. Land Acquisition  
No further word at this time  
The Snyder land has been sold. In the next few months, we should establish communication with the new owner.  
Feltus land - The Town Manager has been informed that the matter has been brought before the Commissioners.
7. Wetherbee Fund Update  
Commissioners signed the memo which will go to the Town Manager tomorrow to be forwarded to the Board of Selectmen.
8. FY95 Budget  
Board of Selectmen are still working on the budget as presented by the Town Manager. All Departments were represented at their meeting last night to answer any questions they might have.
9. Robbins Family  
Letters have now been received from all those who were involved in the space request.  
Since all parties are in agreement, Nancy will write to Mark Robbins, Donald Robbins and Mrs. Theodore Robbins Jr. to inform them that their requests have been granted and are recorded on the lot card.
10. New Business  
Article for April 94 Town Meeting re: buying back S.G. space 84 from Mrs. Brett for the purchase price of \$75.00.  
Nancy is to write to Mrs. Brett re: monument on the two grave spaces. She would have to have the monument removed first.  
Dean advised that we get the matter resolved as soon as possible so that we can advise the Board of Selectmen to take no action of this Article.  
Department Mission Statement and Department Overview Narrative as written by Nancy in response to Town Manager's request, were distributed to the Commissioners.  
Justification sheets re: increases in salaries budget and expenses budget were distributed.
11. Deeds were signed.
12. Next meeting - Wednesday, March 9, 1994
13. Meeting adjourned at 8:50 p.m.

FILE  
COPY

Schools Lighting Futures

CC: BOS - FYI

WE RECEIVED ADVANCE COPIES FROM ISA AT THE 3/14 FINCOM MTG

# Acton Public Schools and Acton-Boxborough Regional Schools the Lamplighter

Volume 10 Number 3 March 1994

## LOCAL SCHOOLS REQUIRE OVERRIDE

At the Acton Town Meeting we will be presenting a maintenance budget. It will require an override of \$397,272. This budget already reflects some cuts taken after the School Committee's review. It also includes a reallocation of \$82,070 from the regional schools' budget. Even the maintenance budget, which is based on the successful override, is not the desired budget.

- If the override fails, the following will occur:
- a cut in instructional materials and supplies (\$63,000)
  - the elimination of the last 1.0 FTE Reading position (\$31,000)
  - the elimination of the only English as a Second Language Assistant (\$13,400)
  - the elimination of the only Elementary Curriculum Specialist Secretary (\$10,000)
  - the elimination of .5 FTE Central Office Administrator (\$35,000)
  - a cut of 1.0 FTE classroom teacher (\$35,000) from the five additional proposed
  - a reduction of the Art, Music, and Physical Education programs, K-2 (approximately \$145,000)
  - the elimination of the only Library Media Coordinator (\$45,000)
  - reductions in professional development (\$8,000); research and development (\$4,500); textbooks (\$4,000); and legal services (\$3,372).

This is the current proposal. The School Committee will undoubtedly review this list again.

We are presenting a maintenance budget out of deference to the financial constraints in the towns, not because we believe that a maintenance budget satisfies the educational needs of both students and adults in the community.

...cont'd on pg. 4

**TOWN ELECTIONS**  
 Acton: Tuesday, March 29  
 Boxborough: Monday, May 16

**TOWN MEETINGS**  
 Acton: Monday April 4, 7:30 p.m.  
 HS Auditorium  
 Boxborough: Monday, May 9, 7:30 p.m.,  
 Blanchard School

## OVERRIDE IMPACT



- Based on a house
- with an assessed value = \$250,000
  - the additional override = \$ 69.00 per year or \$1.33 per week

\* \* \*

## A MESSAGE FROM THE SUPERINTENDENT

This year's maintenance budget, which is dependent on the passage of the override, is being presented in a different format. You will notice a number of new features. There are three volumes to the budget book: the Acton Public Schools, the Acton-Boxborough Regional School District, and the revolving accounts.

This year we established a per pupil allocation (for materials and supplies) for each level of the school districts. After reviewing the expenditure history, we increased the elementary per pupil allocation to \$100 from \$70 to compensate for past years of level funding and to bring it more in line with the other two school levels. While it is understood that the secondary schools have a more complex organization and are more expensive to operate, a factor of two seemed out of line. The junior high per pupil allocation has been established at \$160 and the high school per pupil allocation at \$186.

Another new feature is a program called Professional Development. This is not to say that in-service opportunities have not been available in the past for staff. Rather that a coherent program has not been available for a long time. We have moved items from individual budgets to this new cost center and added money to it, based on the philosophy which we developed which is included in the budget volumes, and based on a mandate from the Reform Legislation.

When you look at the equipment category in the appropriated budget you will see many, many zeros. For the last few years, equipment has been purchased from the revenues generated by our involvement in School Choice. That "budget", which is still miniscule, can be found in the revolving account volume.

...cont'd on pg. 4

**ACTON AND ACTON-BOXBOROUGH REGIONAL SCHOOL  
PROPOSED BUDGETS - 1994-95**

The 1994-95 school budgets call for:

ACTON -	\$ 9,967,380
ACTON-BOXBOROUGH -	\$12,543,968

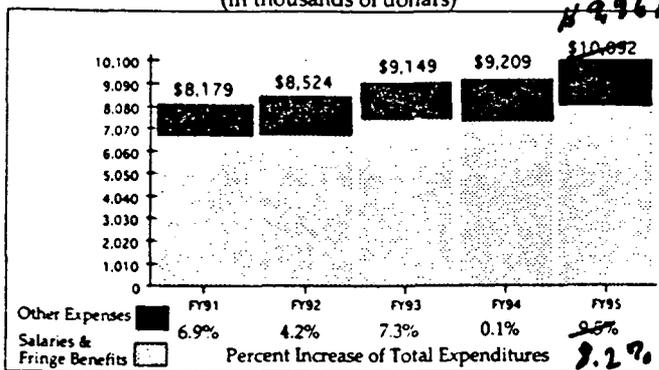
Available and anticipated Federal, State and local funds used to reduce school budgets amount to:

ACTON -	\$947,213
ACTON-BOXBOROUGH -	\$2,690,399

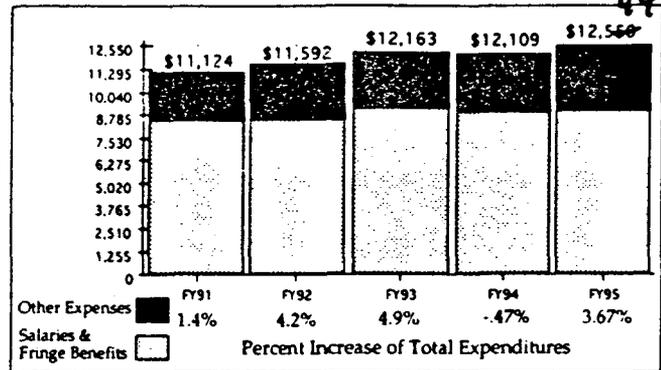
The net cost for the school budget is:

ACTON PUBLIC SCHOOLS -	\$9,020,167	ACTON-BOXBOROUGH -	\$9,853,569
		Acton's share -	\$8,035,260
		Boxborough's share -	\$1,818,309

**Acton Public Schools  
Five Year History of the Budget  
(in thousands of dollars)**



**Acton-Boxborough Regional School District  
Five Year History of the Budget  
(in thousands of dollars)**



**SUMMARY OF THE FY '95 PROPOSED BUDGET INCREASES**

	Acton Public Schools	% Inc. Over FY'94	A-B Reg. Schools	% Inc. Over FY'94
Salaries	\$501,983*	7.5%	\$584,897	8.1%
Special Education Tuition and Transportation	\$102,148	13.3%	\$57,517	5.7%
All Other Categories	\$154,653	9.0%	\$<207,232>	<5.3%>
<b>Total FY '95 Proposed Increases</b>	<b>\$758,784</b>	<b>8.2%</b>	<b>\$435,182</b>	<b>3.6%</b>

\* includes 5 new teachers to accommodate existing sections and growth

**HOW WILL THE MONEY BE SPENT?**

**In the Acton Public Schools**

- on 2,125 students
- on five elementary schools
- on 115.9 teachers, administrators and other professionals and
- on 65 support staff

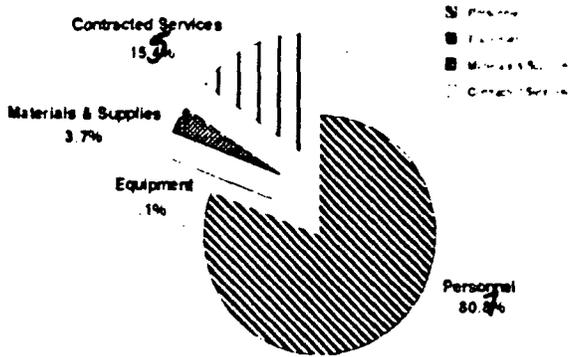
**In the Acton-Boxborough Regional Schools**

- on 1,886 students
- on the junior and senior high schools
- on 127.6 teachers, administrators and other professionals and
- on 58.2 support staff

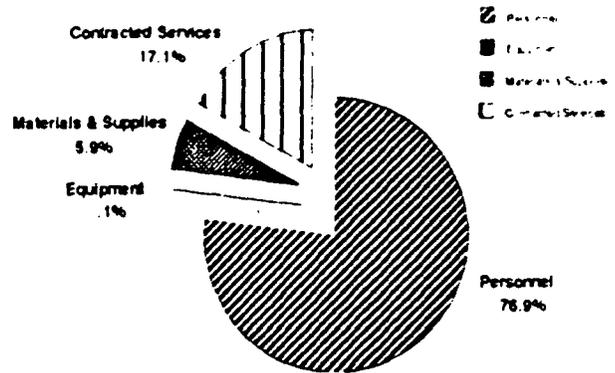
**In Special Education**

- on Chapter 766 services - \$3,609,181 or 16% of the total FY '95 budget

### FY 95 Budget Categories APS



### FY 95 Budget Categories ABRSD



### COMPARISONS WITH OTHER WEST SUBURBAN K-12 SCHOOL DISTRICTS \*

#### PER PUPIL EXPENDITURES<sup>1</sup>

1. Concord/Carlisle	\$8,569
4. Sudbury/Lincoln-Sudbury	6,906
7. Lexington	6,511
9. Harvard	6,322
13. ACTON/ACTON-BOXBOROUGH	5,618
19. MASSACHUSETTS	4,859

#### AVERAGE TEST SCORES<sup>2</sup>

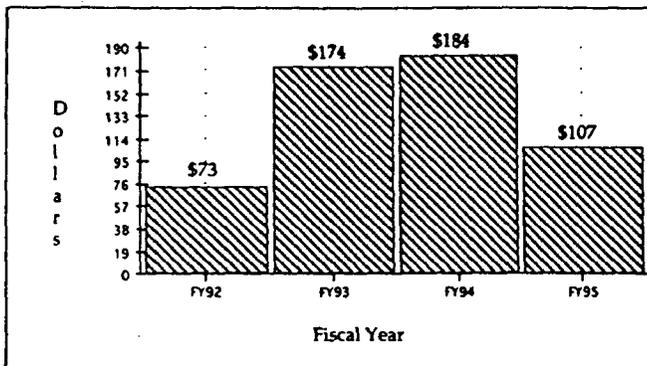
1. Lexington	1501
3. Concord/Carlisle	1489
4. ACTON/ACTON-BOXBOROUGH	1483
5. Sudbury/Lincoln-Sudbury	1481
6. Harvard	1478
18. MASSACHUSETTS	1326

\* The five systems listed were drawn from a rank order of 20.

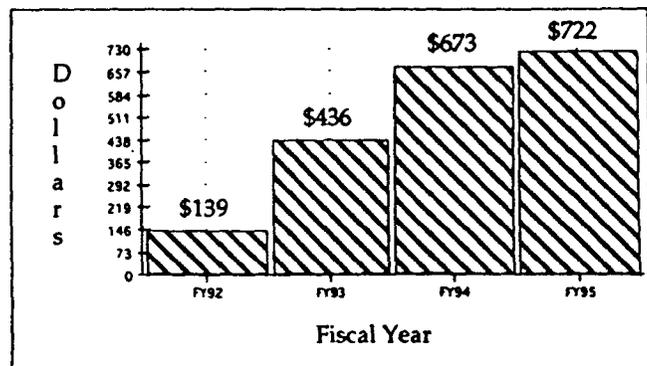
1. Per Pupil Expenditures, 1991-92, Massachusetts Department of Education. Newer figures are not yet available from the State (Regional districts are combined with the largest local feeder district for an overall average for purposes of comparability, K-12).

2. Average test scores from the last administration of the Massachusetts Educational Assessment Program, Massachusetts Department of Education: 1991-92-Grades 4,8,12, in Reading, Mathematics, Science and Social Studies (range of scores: 1000-1600).

Acton Public Schools  
History of the School Choice Budget  
(in thousands of dollars)



Acton-Boxborough Regional School District  
History of School Choice Budget  
(in thousands of dollars)



## OVERRIDE (con't from pg. 1)

We have already taken a number of cuts in this current year. With the override loss last spring, 9.4 FTE positions were eliminated from the appropriated budget.

Why, therefore, the increases in the budget we are requesting, both at the maintenance level and at the reduced level? Growth is the answer. We have more students in the local schools. In 1989 we had 1,663 students. For 1994-95 we project 2,174 students, including approximately 60 existing Choice students. People are moving into town at a remarkable rate; we must find a way to maintain the quality and extent of service. It is a challenge to the schools in three ways: to find space, to provide staff, and to secure provisions, such as materials and supplies without forced student transfers.

We brought Merriam back to being a K-5 school this year because we had to. We solved the overcrowding problem for the district; we did not hire five teachers we hoped to; rather we moved students - on a voluntary basis. Had we not reinstated Merriam for the current year, we would be opening it right now. Had we forced transferred students, we would have been contradicting one of the principles on which Acton has built its reputation.

The elimination of the items in the override will have serious effects on the town of Acton. The reason most people who move here now give for choosing Acton is the schools; if we do not maintain a comprehensive high quality program, we will not only not attract new residents for houses which are turning over (we are not even referring to new buildings ...), we will not attract Choice students and will not retain our own residents who can afford to send their children to private schools or to other public schools offering a better program. Ultimately, as you have heard before, the value of your homes will decline. Ask realtors. They will tell you what they tell us. The schools are the significant selling point.

Most of what we predict as a result of lower school budgets will take a few years to be realized - house values, lower test scores, altering patterns of post-high school acceptance do not show up immediately. Out-migration and lack of in-migration do. Those we will be able to see within a year.

*Our thanks to Claudia Abramson, elementary Art teacher, for the new masthead for the Lamplighter.*

## SUPERINTENDENT'S MESSAGE (con't from pg.1)

For the new world in which our students will live, they will need not only basic skills, but also know how to think critically and creatively, and act independently as well as cooperatively, and know how to use technology. For that we need to invest far more in technology than we have been. And we need to invest in professional development to give our staff the tools and knowledge to move students in the direction of the future.

One of the consequences of the Reform Legislation is that a minimum town contribution to education is established. Acton's minimum is reflected in the reduced local budget. With the override, we achieve a maintenance budget. This minimum is intended to provide equity among schools so that students get a good, basic education regardless of where they live. This minimum is not intended to prevent high performing school districts from increasing their standards or their levels of achievement or their levels of expectation. The minimum is not intended to be construed as a maximum.

There are many issues confronting us next year and in the foreseeable future. Even this budget, which we consider a reasonable request, enabling us to maintain the current level of services, does not represent all of our needs for the students of Acton and Acton-Boxborough. We are facing:

- √ increasing enrollment in both Acton and Boxborough;
- √ the loss of some School Choice income at the elementary level, eventually at the secondary level;
- √ increasing size of classes;
- √ loss of programs at the secondary level so that students have too much unscheduled time, for which there is no supervision.

The schools' success is also due in large measure to ingenuity and the entrepreneurial spirit which pervades this school system and to the generosity of parents and members of the community who privately support the school district at a level I have never seen in any other community.

We are proud to present our budget request for FY'95 for the Acton

Public Schools and the Acton-Boxborough Regional School District. We hope that our communities will continue to believe their investment in the schools, which is an investment in their children, is a profitable venture for everyone.

Page 4

*You are cordially invited to attend  
a retirement reception in honor of  
Cliff Card  
on Friday, April 8 at 7:00 p.m.,  
Boxborough Host Hotel.  
RSVP, Superintendent's Office, 264-4700*

IKZ

Acton Public Schools  
Acton-Boxborough Regional Schools

Local Postal Patron

Non-Profit Organization  
U.S. Postage Paid Permit No. 25  
Acton, MA Carrier Rt. Presort

ACTON PUBLIC SCHOOLS  
ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT  
16 Charter Road  
Acton, MA 01720  
(508) 264-4700 X 204 - Fax (508) 263-8409

DATE: March 9, 1994

TO: Don Johnson

FROM: Bill Ryan

RE: F.Y.'95 Acton Public School Costs in the Municipal Budget

Don - Just a reminder - we need to know the F.Y.'95 proposed local school costs that are in the town's operating budget. I am estimating \$517,898 (2.5% increase over F.Y.'94 numbers). As you know this number impacts the local school override amount.

Thanks,

Bill

cc: Isa Zimmerman

7/2/13

3/10

cc: JOHN / ROY -

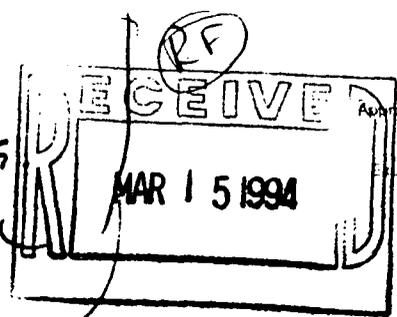
WE NEED TO PULL THIS NUMBER TOGETHER. DO WE NEED ANYTHING FROM THEM IN ORDER TO RESPOND?

am

CC: BOS 3/17  
CABLE ADVISORY COMMITTEE

THIS INFO. LOOKS INTERESTING

FCC 393 - PART I  
REQUEST FOR CABLE RATE APPROVAL  
COVER SHEET



Community Unit Identification Code <b>MA 0196</b>		Date <b>MARCH 3, 1994</b>	
Name of Cable Operator <b>A-R CABLE SERVICES, INC.</b>			
Mailing Address <b>E. MAIN STREET INDUSTRIAL PARK, 577 MAIN STREET</b>			
City <b>HUDSON</b>		State <b>MA</b>	ZIP Code <b>01749</b>
Person to contact regarding this form: <b>PAMELA J MONTAG</b>			
Telephone <b>(516) 496 - 1349</b>		Fax Number <b>(516) 364 - 4695</b>	

Local Franchising Authority <b>MASSACHUSETTS CABLE COMMISSION</b>		
Mailing Address <b>100 CAMBRIDGE STREET</b>		
City <b>BOSTON</b>		State <b>MA</b>
		ZIP Code <b>02202</b>

This form is being filed with respect to: (check one)

basic rate regulation or

cable programming service rate regulation

If this form is being filed in response to a complaint about your cable programming service rates, please attach a copy of the complaint to this cover sheet.

The following sections are to be completed after you have filled out the worksheets in PARTS II and III and calculated your actual and permitted rates.

**FOR BASIC SERVICE TIER AND EQUIPMENT**

Program Service Rate	
(1) Number of channels on basic tier:	<b>16</b>
(2) Current rate for basic service tier: (do not include any franchise fees)	<b>\$8.18</b>
(3) Maximum permitted per channel rate: (from Line 600, Part II)	<b>\$0.54</b>
(4) Maximum permitted rate for basic service tier (exclusive of any franchise fee): (multiply (1) by (3) above)	<b>\$8.61</b>

NOTE: If your current rate for the basic service tier (entry 2) exceeds the maximum permitted rate for that tier (entry 4), you must submit a cost-of-service showing or your basic service rate will be reduced to the maximum permitted level shown in entry 4.

Franchise fees have been excluded from this analysis in order to compare your monthly rate for the basic service tier to the maximum permitted level. Whether you itemize them or not, any franchise fees you pay for the basic service tier should be added to your monthly rate as part of the service when billing your subscribers. See 47 C.F.R Section 76.985.

EQUIPMENT AND INSTALLATION RATES

NOTE Your equipment and installation rates for the basic service tier must not be included in your program service rate for that tier, but rather must be completely unbundled. In addition, those equipment and installation rates must not exceed your actual costs, including a reasonable profit. The method for unbundling your equipment and installation rates from the basic service programming rate, and for determining your permitted equipment and installation rates, is prescribed in Part II (unbundling) and Part III (rate-setting) of this form. Enter in the spaces below the rate figures you have calculated in Part III of this form. Your actual basic service equipment and installation charges may not exceed these rates, although they may be lower.

	PERMITTED	ACTUAL
(1) Charges for basic service installations* (from Lines 6 or 7 of Equipment and Installation Worksheet)		
(a) Hourly rate: OR	N/A	N/A
(b) Average installation charges:		
(1) Installation of unwired homes	\$26.29	\$47.82
(2) Installation of prewired homes	\$19.72	\$29.89
(3) Installation of additional connection at time of initial installation	\$13.15	\$19.93
(4) Installation of additional connection requiring separate installation	\$19.72	\$29.89
(5) Other installations (specify):		
Item 1. Upgrade / VCR / PG	\$13.15	\$13.15
Item 2. Relocate	\$13.15	\$19.93
Item 3. Service Call	\$13.15	\$13.15
(2) Charge for changing tiers (if any) (from Line 29,30 or 31 of Equipment and Installation Worksheet)	**	**
(3) Monthly charge for lease of remote controls (from Line 14 in Equipment and Installation Worksheet)		
Remote control type 1:	\$0.07	\$0.05
Remote control type 2:		
Remote control type 3:		
(4) Monthly charge for lease of converter boxes (from Line 28 in Equipment and Installation Worksheet)		
Converter box type 1: Addressable	\$0.30	\$0.38
Converter box type 2: Non-Addressable	\$0.00	\$0.00
Converter box type 3:		
(5) Monthly charge for lease of other equipment (from Line 28 in Equipment and Installation Worksheet)		
Other equipment (specify):		

\* If you have further charges for additional connections beyond those reflected in your installation charge, attach a sheet explaining your calculations and setting forth those additional charges. SEE Note to Equipment and Installation Worksheet Instructions in Part III of this form

Addressable	\$0.00	\$0.00
Non - Addressable	\$19.72	\$19.93

FCC 393, Part I, Page 3  
**FOR CABLE PROGRAMMING SERVICE RATES AND EQUIPMENT**  
**Program Service Rates**

NOTE: If you have more than one cable programming service tier, attach additional sheets with the following information for each tier and provide brief description of the tier.

(1) Number of channels on cable programming tier:	30
(2) Current rate for cable programming tier: (do not include any franchise fees)	\$16.35
(3) Maximum permitted per channel rate: (from Line 600, Part II)	\$0.54
(4) Maximum permitted rate for cable programming service tier (exclusive of any franchise fee): (multiply (1) by (3) above)	\$16.15

NOTE: If your current rate for the cable programming services tier (entry 2) exceeds the maximum permitted rate (entry 4), you must submit a cost-of-service showing or your cable programming service rate will be reduced to the maximum permitted level shown in entry 4.

Franchise fees have been excluded from this analysis in order to compare your monthly rate for the cable programming service tier to the maximum permitted level. Whether you itemize them or not, any franchise fees you pay for the cable programming tier should be added to your monthly rate as part of the service when billing your subscribers. See 47 C.F.R Section 76.985.

**Equipment and Installation Rates**

NOTE: If equipment used for cable programming service is also used to receive the basic tier, then it must be included in basic service equipment. Similarly, if an installation involving cable programming services also involves the basic service tier, it must be included in basic service installations. We anticipate that virtually all equipment and installations will involve the basic service tier and there will thus be no need to complete this part of the cover sheet. However, if you lease equipment and/or provide some installation-related service that involves ONLY your cable programming services, you should complete the following section.

As for basic service, your equipment and installation rates for cable programming service must not be included in your program service rate, but rather must be completely unbundled. In addition, those equipment and installation rates must not exceed your actual costs, including a reasonable profit. The method for unbundling your equipment and installation rates from cable programming service rates, and for determining your permitted equipment and installation rates, is prescribed in Part II (unbundling) and Part III (rate-setting) of this form. Enter in the spaces below the rate figures you have calculated in Part III of this form. Your actual cable programming service equipment and installation charges may not exceed these rates, although they may be lower.

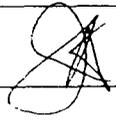
	Permitted	Actual
(1) Charge(s) for cable programming service installations* (from Lines 6 or 7 of Equipment and Installation Worksheet)		
(a) Hourly rate OR		
(b) Average installation charges:		
1. Installation of unwired homes		
2. Installation of prewired homes		
3. Installation of additional connection at time of initial installation		
4. Installation of additional connection requiring separate installation		
5. Other installations (specify)		
(2) Charge for changing tiers (if any) (from Line 29,30 or 31 of Equipment and Installation Worksheet)		

\* If you have further charges for additional connections beyond those reflected in your installation charge, attach a sheet explaining your calculations and setting forth those additional charges. SEE Note to Equipment and Installation Worksheet Instructions.

	Permitted	Actual
<b>(3) Monthly charge for lease of remote controls (from Line 14 in Equipment and Installation Worksheet)</b>		
Remote control type 1:		
Remote control type 2:		
Remote control type 3:		
<b>(4) Monthly charge for lease of converter boxes (from Line 21 in Equipment and Installation Worksheet)</b>		
Converter box type 1:		
Converter box type 2:		
Converter box type 3:		
<b>(5) Monthly charge for lease of other equipment (from Line 26 in Equipment and Installation Worksheet)</b>		
Other equipment (specify):		

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE TITLE 18, SECTION 1001), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).**

I certify that the statements made in this form are true and correct to the best of my knowledge and belief, and are made in good faith.

Name of Cable Operator	Signature
A-R CABLE SERVICES, INC.	
Date	Title
MARCH 3, 1994	Vice President and Controller

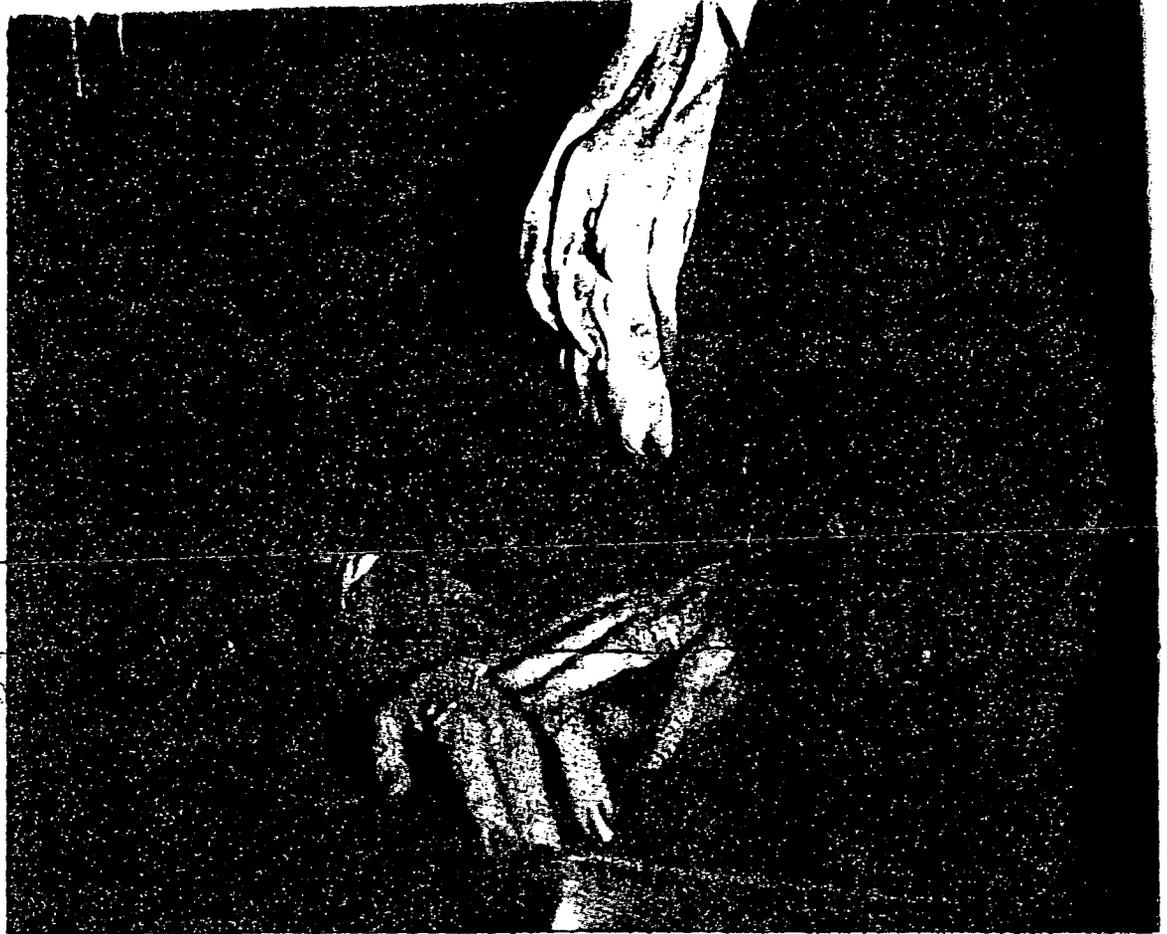
ADDITIONAL STATEMENT

Reference is hereby made to FCC Form 393, Part 1, page 2 attached hereto. The rates set forth in the chart titled Equipment and Installation Rates under the column heading "Actual" are the rates as calculated prior to September 1, 1993 and implemented on September 1, 1993. We expect to adjust our rates to the newly calculated permitted rate for each instance where our actual rates exceed the permitted rate, and we shall provide refunds to affected subscribers once the Commission has completed its review of the subject rates.

NOTE:

Remainder in Reading File

cc. BOS



Amy Sweeney photo

Former Wenham Selectman Marjorie Davis relaxes in her Grapevine Road home in Wenham. Davis, who was a selectman in that town for 17 years, agrees with many past and present area town leaders that the commitment of time is the heaviest requirement of the job.

## The 'perks' of leadership

### Among them, say area selectmen, are strong doses of abuse and time demands

By **TED GRIFFITH**  
Times staff

To many observers, it may seem like a selectman is guaranteed VIP treatment all over town.

After all, selectmen are the ones entrusted by their neighbors to run the town. And they are often the best known residents in their communities, whose populations typically number less than 5,000.

The selectmen themselves, however, say the treatment they receive is far from royal.

"Seeking public office is a little bit like putting a 'kick me' sign on your back," said James Engel, who served on the Ipswich Board of Selectmen for six years until he left last April. "You have to tolerate a lot."

Selectmen frequently draw the anger of their fellow townspeople because they are the ones responsible for making those

important — and often controversial — decisions.

There are budget issues to deal with, and personnel problems, and neighborhood disputes. Even seemingly mundane issues, such as a leash law or trash removal, can generate a storm of protest.

It's not surprising other veteran selectmen echoed Engel's statements. They offered the fol-

**Leadership, page A10**

## • Leadership has its costs

Continued from page 1

lowing advice to anyone planning to run for selectman in upcoming town elections: Learn quickly to tolerate abuse.

The key to longevity as a selectmen is developing an indifference to personal insults, said Bill George, who is seeking re-election to his fifth term as an Ipswich selectman.

George said even a late night call from an angry, drunken constituent is not a big problem if handled correctly.

"You get the occasional call from somebody that's had too much to drink, but it's not a big deal as long as you don't get upset," George said. "You have to be a resilient sort of person to be a selectman. If you get in an argument with someone you have to let it go after it's over. You can't hold grudges."

The selectmen also advised potential candidates to be prepared to dedicate a lot of time to the job. Recently, some selectmen said, their work has become more and more time consuming, in part, because of an increasing number of complex mandates from the state.

This week, Hamilton's selectmen Chairman Bill Heitz shocked his fellow board members and many townspeople by announcing he will not seek re-election this year to a second term.

Heitz, a retired elementary school teacher who was an outspoken critic of increased school spending, said he was often stymied by the "enormous stumbling blocks that are in the way to supporting good government."

Heitz said his "biggest disappointment" during his three-year term was "the lack of interest and support by far too many citizens" on a number of issues.

When two local selectmen, Paul Nowak of Topsfield and Robert Halloran of Boxford, announced recently that they were giving up their positions, they both cited excessive demands on their time as one of their reasons for leaving.

"To do this job right, you really have to put in a lot of time," said Nowak, who is in his third year on the board. "I'd like to put in the time, but I can't."

Marjorie Davis, a former Wenham selectman who served her town for 17 years, agreed with Nowak.

"The worst part of (the selectman's job) is the time commitment," said Davis, who has lived in Wenham all her life. "You could literally spend all your time doing it. Anybody who thinks it's just once a week for a meeting is wrong."

Despite the difficulties, all of the selectmen interviewed said they recommend the job to interested residents — provided the potential candidates have plenty of patience.

So what do they like about the job?

It's certainly not the pay. The selectmen in Hamilton, Wenham and Ipswich each receive small stipends, ranging from \$750 to \$4,000 a year, for their work. Selectmen in Manchester-by-the-Sea, Boxford and Topsfield represent the residents of their towns

for free.

Davis said she enjoyed being a selectman because it gave her a chance to meet many of the people in town.

"I think the best part had to be getting to know people," she said. "I liked learning about the townsfolk, and helping them solve their problems."

Sue Noble, a former selectmen chairman in Manchester, said she liked being a selectman, in part because it gave her access to various statewide governmental associations. Her membership in groups such as the Massachusetts Municipal Association gave her unique insight into how state and local governments operate, Noble said.

George said he enjoys being a selectmen because the position gives him a chance to improve himself and his town.

"I always recommend this job to young people because it gives you a terrific chance to hone your management skills," George said. "I know it's helped me. I have learned so much from the people I have worked with."

Engel said he enjoyed being a selectman because it allowed him to be heavily involved with the business of governing Ipswich. On some days, though, the best part of the job could turn into the worst, Engel said. He said sometimes he disliked his central role in town government because it took so much time away from his family and his work.

Once again, Engel's colleagues agreed. In addition to their own board meetings, selectmen say they often have to attend numerous other meetings of town boards. They also said they're always reading documents from the town and the state in an effort to keep informed.

Even when they're away from town hall, selectmen said, the job stays with them. They said no matter where they are — whether it's the beach or a cocktail party — people invariably ask questions or make comments about the way town government is run.

"You're always a selectman," George said. "It's not like shoveling snow — where you go out and do it and when you come back you don't have to worry about anymore. You're always thinking about your job."

To some, the selectman's job has grown even more demanding in the last few years.

"A lot of pressure has come on in the last couple of years with all these mandates from the state," said Bill Shailor, who is in his 11th year as a Wenham selectman. "It's not like we didn't have mandates before, but it seems worse now, particularly this Education Reform mandate. The state is forcing us to come up with extra money for education and that makes things tough."

The mounting pressure, Shailor said, led him to consider not running for re-election this year. He said he eventually decided to run because he wanted to help the recently hired town administrator adjust to her new job.

"I did really weigh my decision this year," Shailor said. "I thought about leaving, but I decided I just couldn't bring myself to leave the town at this time."

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION  
TOWN MANAGER'S OFFICE

\*\*\*\*\*

DATE: March 16, 1994

TO: Isa Zimmerman, Superintendent of Schools

FROM: Don P. Johnson, Town Manager

SUBJECT: DOR Waiver, APS

In preparing motions for Town Meeting we observed that we have never received word on the final disposition of the DOR Waiver request that was submitted for the Acton Public School System. We have contacted DOR and asked that they forward their response in time for us to make the appropriate motion at Town Meeting. I will advise you when the response is received.



cc: Bill Ryan  
Board of Selectmen

**TOWN OF ACTON**  
**INTERDEPARTMENTAL COMMUNICATION**  
**TOWN MANAGER'S OFFICE**

\*\*\*\*\*

DATE: March 18, 1994

TO: Dore' Hunter  
FROM: Don P. Johnson, Town Manager  
SUBJECT: Fincom Meeting

The Fincom meeting Monday, March 21, is scheduled for the Conference room, adjacent to the Library in the Junior High Building. Chuck Olmstead has scheduled the opponents of Adams Street to discuss that project with the Finance Committee at 7:30 PM. He suggests that they will be through by 7:45 and would like us to address the Fincom regarding their remaining questions at that time. (If you are able to attend, you might consider coming in after the Adams Street crowd leaves.)



cc: Board of Selectmen

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION  
TOWN MANAGER'S OFFICE

\*\*\*\*\*

DATE: March 18, 1994

TO: Board of Selectmen

FROM: Don P. Johnson, Town Manager

SUBJECT: Annual Town Meeting Preparation

Please let us know what kind of support you would like for your Town Meeting presentations. We are preparing slides of all of the Capital items and we will be happy to support you to any degree with your other preparations.



5

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION  
TOWN MANAGER'S OFFICE

\*\*\*\*\*

DATE: March 18, 1994

TO: Charles Olmstead, Chairman, Finance Committee

FROM: Don P. Johnson, Town Manager

SUBJECT: Budget and Warrant Questions

I promised answers to several questions that were raised by members of the Finance Committee during your meeting on Monday evening, March 14. There are also a number of outstanding questions that were contained in your recent letter, along with some that remain from my telephone conversations of March 10, with Herman Kabakoff. I will try to identify the person who generated each question (generally you or Herman) but I have chosen to answer all questions in this single package so that each member of the committee will have the information.

1. Q. (1) What has been Acton's population over the last 5 years? (2) What have been our total revenues over the past 5 years? (Please note that I have included Taxes, Cherry Sheets, Local Receipts and Enterprise Funds in this answer. Grants have not been included. Grant monies constitute a very small proportion of the total Municipal revenues and pulling the information would involve extensive research. If you really need the information we should talk further.) (3) What have been our total Municipal Labor and Benefits costs for the past five years? [Charles Olmstead]

A. <u>Subject</u>	<u>FY93</u>	<u>FY92</u>	<u>FY91</u>	<u>FY90</u>	<u>FY89</u>
Pop.	18,209	18,070	18,055	17,576	17,959
Revenue (000)	\$30,039	\$29,008	\$27,968	\$26,855	\$25,026
Labor (000)	\$5,840	\$5,551	\$5,377	\$5,433	\$5,090
Lab & Ben (000)	\$6,907	\$6,505	\$6,153	\$6,068	\$5,570

2. Q. Why can't we fix the Ladder Truck ... anything can be fixed. [Herman Kabakoff]

A. We are preparing a presentation for your meeting Monday, March 21. Both the Fire Chief and the Deputy Chief will be available to explain the gravity of the situation and answer your questions.

3. Q. How far will the road paving article take us? [Herman Kabakoff]

A. The paving planned under this article will cover approximately 7 miles of roadway.

4. Q. How far are we behind in our repaving program? [Herman Kabakoff]

A. The Town owns and maintains approximately 100 miles of roadway. Some of these roads are old, some new, some have good foundations and some do not. All of this is important to our projections of the length of service we expect from a given road. On whole, the average life

expectancy is 20 years. Therefor, one would expect a prudent program to include 5 miles (or 5%) of resurfacing to be scheduled annually. We have reviewed our records back to 1985 and find that we have repaved an average of only 3.6 miles per year over that period. As you can see, we are 14 miles behind schedule over the past 10 years. Our expected average cost per mile of repaving next year will be \$47,200. This computes to a current deficit of \$660,800 ... in addition to the 5% that we should pave as a normal maintenance obligation in FY95. The proposed program would provide our normal 5% and reduce the outstanding 14 mile deficit by 1/7th (2 miles).

5. Q. How have other communities handled exhaust fumes in their fire stations? [Herman Kabakoff]

A. The Fire Department has conducted a survey. A copy of their report is attached.

6. Q. How many "bad guys" have we caught with the mobile data equipment in the police cruisers? [Herman Kabakoff]

A. The Police Department has provided the attached analysis. At the end of the second paragraph you will note that they predict approximately 10 citations should have been expected during the 70 day test period. This would extrapolate to approximately 50 "bad guys" for this unit in a 12 month period.

7. Q. What is the NESWC Fund Balance? [Fincom]

A. John Murray has prepared the attached memo in response to this question.

I trust that you will find these answers responsive to your questions. If you need further clarification or other questions, please do not hesitate to call. We look forward to meeting with the Fincom Monday night.

A handwritten signature in black ink, appearing to be 'J. M. ...', located to the right of the main text block.

cc: Board of Selectmen

LOCAL FIRE DEPARTMENT  
EXHAUST FAN SURVEY

TOWN OF BOXBOROUGH - ONE STATION, MANNED 24 HOURS

Station currently does not have exhaust system in place but a warrant article for \$10,000 to install three automatically operated 36-inch fans will be considered this spring.

TOWN OF CONCORD - TWO STATIONS, MANNED 24 HOURS

Both stations have Idleman Vehicle Exhaust Systems which are tied directly to each individual vehicle and then vented to the exterior of the buildings using a flue pipe/ fan system. System was installed in 1991 at a cost of \$16,000 per station.

TOWN OF LITTLETON - ONE STATION, MANNED DAYS ONLY 8:00 AM - 4:00 PM

Station is equipped with Dayton Exhaust Fan System (42-inch fan) with automatic controls which operate when doors are opened. System was installed in 1989 at a cost of \$2500.00

TOWN OF MAYNARD - ONE STATION, MANNED 24 HOURS

Station is equipped with 36-inch fan which must be manually activated using several remote switches. System was installed in 1990 at a cost of \$2000.00. Chief has recieved quotes to add automatic door switches at a cost of \$1000.00.

TOWN OF STOW - ONE STATION, MANNED DAYS ONLY 7:00 AM - 7:00 PM

42-inch BFL Fan System installed during fall of 1993. System currently not equipped with automatic door switches but will be installed spring of 1994. Cost of fan system with remote switches was \$2200.00. Estimates for auto door switches range from \$800.00 - \$1000.00.

TOWN OF SUDBURY - THREE STATIONS, MANNED 24 HOURS

Central station was built in 1992. Station was equipped with dual 42-inch fan system with automatic door switches. Because system was tied to building cost, Chief could only estimate cost at \$3500.00 per fan. The other two stations are equipped with 36-inch Dayton fans with manual timer switches. Systems were installed in 1989 at a cost of \$1900.00 per station.

TOWN OF ACTON POLICE DEPARTMENT  
INTER-DEPARTMENTAL COMMUNICATION

TO: Don Johnson, Town Manager      DATE: March 17, 1994  
ROM: Lt. Frank Widmayer  
SUBJ: Citation count for license revocation.

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The Mobile data terminals which have been installed in two cruisers for over a year have been used on an experimental basis mostly. It was not until literally this week that we got the final bugs worked out of them and they are now in full use. I took the figures from the Traffic Enforcement Officer because he seemed the most likely person to use for these statistics. I compared a period of 70 days in 1993 with the same period for 1994 ending today. You will notice that citations are down significantly during the 1994 period probably due to the severe winter weather we have had this year resulting in a reduction in the number of speeding citations and the budget reductions which have required us to use the traffic officer in other capacities during busy periods.

During the 1993 time period there were no citations issued for operating after revocation and there were 5 citations issued in 1994. This is significant because the officer who was used for this study enforces traffic laws almost exclusively, is more likely than most to run license checks while the vehicle is stopped and therefore should be picking up a significantly higher percentage of revoked operators than a regular patrol officer. As you can see from the 1993 numbers this was not the case but has changed with the addition of the MDT. If these results were extrapolated to the normal amount of citations written by the traffic officer I would expect to see approximately 10 citations for operating after revocation.

One of the primary reasons for the Registry of Motor Vehicles to revoke a driver's license is for a conviction on operating under the influence of alcohol. It is a well known fact in Law Enforcement that these offenders continue to drive after having their licenses revoked. The capability of being able to run a license check in the cruiser without having to use the radio and wait for a dispatcher (who may also be busy with other officers and calls) to get the information back to you is very beneficial. Mobile data terminals in the cruisers will result in greater productivity for all officers on patrol who have access to this tool and result in better use of the dispatcher's time for answering calls and handling walk-in customers.

  
Lt. Frank Widmayer  
Special Services Division

Citations issued from 01/01/1993 to 03/11/1993 by PTL. CHRISTOPHER PREH

OFFICER	DATE	TICKET	FINE	TYPE	
37CP PTL. CHRISTOPHER PREHL	Type Totals:		9	\$0	Warning
			260	\$21,395	Civil
			1	\$500	Arrest
			-----		
			270	\$21,895	Tickets (Avg=\$81)
	Offense Totals:		28		90-20: Cert Inspe
			2		90-7: Def Equip
			1		85-2: DPW Signal
			1		54014.03: Fed regs
			1		90-24: Op under
		216		90-17: Unreas Spd	
		19		89-9: Fail Stop	
		4		90-9: Unregister	
		-----			
		272	\$21,895	Offenses (Avg=\$80)	
-----					
Grand Type Totals:			9	\$0	Warning
			260	\$21,395	Civil
			1	\$500	Arrest
			-----		
			270	\$21,895	Tickets (Avg=\$81)
-----					
Grand Offense Totals:			28		90-20: Cert Inspe
			2		90-7: Def Equip
			1		85-2: DPW Signal
			1		54014.03: Fed regs
			1		90-24: Op under
			216		90-17: Unreas Spd
			19		89-9: Fail Stop
			4		90-9: Unregister
			-----		
			272	\$21,895	Offenses (Avg=\$80)

Citations issued from 01/01/1994 to 03/11/1994 by PTL. CHRISTOPHER PREHL

OFFICER	DATE	TICKET	FINE	TYPE	
37CP PTL. CHRISTOPHER PREHL	Type Totals:		8	\$0	Warning
			147	\$10,750	Civil
			5	\$1,200	Complaint
	-----				
			160	\$11,950	Tickets (Avg=\$75)
	Offense Totals:		1		720-9.06: Fail use c
			64		90-20: Cert Inspe
			5		90-23: Op after
			83		90-17: Unreas Spd
			8		89-9: Fail Stop
		2		90-9: Unregister	
-----					
		163	\$11,950	Offenses (Avg=\$73)	
-----					
Grand Type Totals:		8	\$0	Warning	
		147	\$10,750	Civil	
		5	\$1,200	Complaint	
-----					
		160	\$11,950	Tickets (Avg=\$75)	
-----					
Grand Offense Totals:		1		720-9.06: Fail use c	
		64		90-20: Cert Inspe	
		5		90-23: Op after	
		83		90-17: Unreas Spd	
		8		89-9: Fail Stop	
		2		90-9: Unregister	
-----					
		163	\$11,950	Offenses (Avg=\$73)	

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION  
TOWN MANAGER'S OFFICE

\*\*\*\*\*

DATE: 3/18/94

TO: Don P. Johnson  
FROM: John Murray   
SUBJECT: NESWC Fund Balance

The amount of fund balance is comprised of two components. \$750,000 represents the amount of monies that are being held for settlement of the projected deficit in Acton's Stabilization account. \$150,000 represents the balance of the sinking fund for capital and equipment replacement. It is from this amount that we will fund the 10 wheel tractor purchase for FY95. Therefore, the available balance in the NESWC account is \$0.00

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION  
TOWN MANAGER'S OFFICE

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DATE: March 18, 1994

TO: Dore' Hunter  
FROM: Don P. Johnson, Town Manager  
SUBJECT: Vehicle Inventory

You have asked for an inventory of our vehicles. We have prepared the attached report but in a cursory review I found that it was not completely reliable. It would appear that in some cases we have failed to remove a vehicle when it was traded.

We will review this list further for accuracy but, in the meantime, I believe it will adequately serve your purpose in observing the magnitude of the replacement program proposed this year vs. the overall size of the fleet.



cc: Board of Selectmen

INS. I.D.	TOWN I.D.	DEPARTMENT	MODEL YEAR	MANUFACTURER	MODEL	VIN NO.	PLATE NO.	MILAGE	ORIGINAL COST	NEW/USED	PURCHASE DATE	DISPOSED DATE
2	69	HIGHWAY	1953	SCHRAMM	TRAILER, COMPRESSOR	37664	M16-74		1,000	N	7/06/53	
85	78	HIGHWAY	1955	CATERPILLAR	TRACTOR W/MNCH	59C181	M1851		150	U	10/09/55	
63	88	HIGHWAY	1956	HOMEMADE	TRAILER, ROLLER	NONE	M41-470		2,000	U	8/08/56	
74	81	HIGHWAY	1972	HOMEMADE	TRAILER, SIGN	C7227305	M36-350		2,000	U	8/26/72	
9309	67	HIGHWAY	1973	JOHN DEER	SHOVELDOZER	186565T		2090	28,600	N	7/08/73	
9307	72	HIGHWAY	1973	CATERPILLAR	FORKUFT	81M1274		625	22,400	N	7/25/73	
9308	73	HIGHWAY	1973	HUBER	ROLLER, STREET	8T1579		1300	15,600	N	8/26/73	
26	75	HIGHWAY	1973	KLAVER	SNOW BLOWER	14672CHA15447	M19-897	905	37,175	N	10/11/73	
25	95	HIGHWAY	1973	CENTERVILLE	TRAILER, TAG A LONG	15156HK	M19-899		3,500	N	7/14/73	
36	51	HIGHWAY	1974	MACK	TRUCK, TRASH	DM607X8454	M31-937	300000	17,653	N	8/23/74	
37	54	HIGHWAY	1974	MACK	TRUCK, DUMP	DM607X8455	M1850	30950	17,352	N	5/04/74	
43	62	HIGHWAY	1974	MACK	TRUCK, DUMP	RM6074X1004	M16-820	37850	39,000	N	5/04/74	
33	56	HIGHWAY	1974	MACK	TRUCK, DUMP	DM607X8457	M1865	56950	17,352	N	5/04/74	
38	55	HIGHWAY	1974	MACK	TRUCK, DUMP	DM607X8456	M1868	35800	17,352	N	5/04/74	
40	77	HIGHWAY	1978	DAVCO	TRACTOR, SIDEWALK	DW102	M26-321		19,750	N	3/30/78	
	50	HIGHWAY	1979	FORD	TRUCK, CATCHBASIN	F70AVFE8481	M1866		16,800	N		9/21/92
41	17	HIGHWAY	1979	FORD	TRUCK, PICKUP-F250	F258EFC3928	M17-566	110000	7,000	N	3/21/79	
9310	82	HIGHWAY	1982	MILLER	CURB MACHINE				8,000	U	6/12/82	
29	96	HIGHWAY	1982	HILL	TRAILER, DUMP	1H9DEE329C1022048	M30-883		22,275	N	3/25/82	
31	64	HIGHWAY	1983	FAT/ALLIS	LOADER	80UC0250	M1847		7,000	N	7/08/83	
9311	87	HIGHWAY	1984	GILSON	CEMET MIXER	0161J1493			1,800	N	6/08/84	
45	94	HIGHWAY	1984	ROGERS	TRAILER, FLATBED	1RBH40202EAR19983	M46-501		30,000	N	3/22/84	
44	65	HIGHWAY	1984	JOHN DEERE	LOADER, BACKHOE	T0710BD714055	M19-898		14,000	N	3/22/84	
83	70	HIGHWAY	1985	CATERPILLAR	LOADER	2KC00876	M35-595		42,000	N		9/23/92
64	76	HIGHWAY	1985	BOMBARDIER	TRACTOR, SIDEWALK	1830829	M37-025		23,400	N	3/12/86	
75	97	HIGHWAY	1985	HILL	TRAILER, TRASH	1H9SZT82XF1022086	M35-392		48,490	N	1/24/85	
9312	86	HIGHWAY	1985	WACKER	COMPACTOR	1261265			2,500	N	5/03/85	
76	98	HIGHWAY	1985	HILL	TRAILER, TRASH	1H9SZT82XF1022121	M35-394		48,490	N	1/24/85	
77	99	HIGHWAY	1985	HILL	TRAILER, TRASH	1H9SZT828F1022122	M35-393		48,490	N	1/24/85	
68	48	HIGHWAY	1985	CHEVROLET	TRUCK, RACK	1GBJK34M3FJ178313	M35-391	90000	12,700	N	3/28/85	
69	52	HIGHWAY	1986	MACK	TRUCK, TRACTOR	1M2N187Y7GA015902	M30-224	222216	65,500	N	7/24/86	
9313	71	HIGHWAY	1986	CATERPILLAR	BULLDOZER	8RC00488		2152	32,800	N	6/28/86	
56	1	HIGHWAY	1986	CHEVROLET	CELEBRITY	1G1AW19X3GG143558			10,641	N	6/16/86	7/01/93
66	47	HIGHWAY	1986	CHEVROLET	TRUCK, PICKUP-K30	1GBJK34M1GJ171345	M36-285	53123	17,000	N	7/26/86	
34	61	HIGHWAY	1987	MACK	TRUCK, DUMP	1M2P129C6HA011915	M37-769	32689	37,250	N	2/18/87	
82	10	HIGHWAY	1987	CHEVROLET	TRUCK, PICKUP-C20	1GCFR24K2HS185365	M38-332	75000	11,700	N	2/16/87	
32	60	HIGHWAY	1987	MACK	TRUCK, DUMP	1M2P129C1HA011918	M37-772	50300	37,250	N	2/18/87	
35	58	HIGHWAY	1987	MACK	TRUCK, DUMP	1M2P129CXHA011917	M37-771	40600	37,250	N	2/18/87	
39	57	HIGHWAY	1987	MACK	TRUCK, DUMP	1M2P129C8HA011916	M37-770	19100	37,250	N	2/18/87	
9315	90	HIGHWAY	1988	GRAVELY	TRACTOR, SWEEPER	604069			6,800	N	7/06/88	
9314	74	HIGHWAY	1988	BEUTHUNG	ROLLER, SIDEWALK	10718			6,800	N	9/14/88	
42	49	HIGHWAY	1988	CHEVROLET	TRUCK, DUMP-C70	1GBL7D1B2JV115188	M35-596	24400	17,000	N	2/10/88	
88	63	HIGHWAY	1988	CATERPILLAR	LOADER	3HD00164	M38-351	3885	65,000	N	2/10/88	
84	85	HIGHWAY	1988	INGERSOLL RAND	COMPRESSOR	167734U88176	M38-352		7,502	N	2/10/88	
91	53	HIGHWAY	1989	MACK	TRUCK, TRACTOR	1M2N187Y8KW029674	M38-368	111100	75,000	N	3/01/89	
9302	59	HIGHWAY	1990	MACK	TRUCK, DUMP	1M2P194C7MN008336	M45-037	26917	35,062	N	5/31/90	
30	11	HIGHWAY	1991	CHEVROLET	TRUCK, PICKUP-1500	1GCDC14K7MZ202412	M44-179	34100	14,421	N	2/28/91	
9301	92	HIGHWAY	1992	DIETZ	TRAILER, ARROW BOARD	1915-4200029ACI	M48-645		5,200	N	6/06/92	
9316	84	HIGHWAY	1992	CATERPILLAR	LOADER	1HF02497	M35-595	2265	55,019	N	9/23/92	
27	68	HIGHWAY	1992	MOBIL	SWEEPER, STREET	1A9T15DB2NR059013	M1858	605	70,000	N	6/15/92	
	77	HIGHWAY	1992	BOMBARDIER	TRACTOR, SIDEWALK	LD39618U504934W	M22-321					
9317	126	HIGHWAY	1993	MACK	TRUCK, CATCHBASIN	VG68A06B1FB000306	M47-323	2593	60,105	N	9/21/92	
	1	HIGHWAY	1993	FORD	CROWN VICTORIA	2FACP71W1PX183723	M1846	3400			7/01/93	

INS. I.D.	TOWN I.D.	DEPARTMENT	MODEL YEAR	MANUFACTURER	MODEL	VIN NO.	PLATE NO.	MILAGE	ORIGINAL COST	NEW/USED	PURCHASE DATE	DISPOSED DATE
21	18	FIRE	1936	SEAGRAVES	TRUCK, PUMPER	83501	FIRE 3976		4,000	N	7/01/37	
20	19	FIRE	1936	SEAGRAVES	TRUCK, PUMPER	83500	FIRE 4457		4,000	N	7/01/37	
87	45	FIRE	1953	STRICT	TRAILER, CABLE	3148	FIRE 895		1,000	U	4/02/53	
9305	43	FIRE	1965	F.W.D.	TRUCK, LADDER	M14222	FIRE 884	19974	32,000	N	9/01/65	
18	40	FIRE	1971	INTERNATIONAL	TRUCK, PUMPER	486070H101841	FIRE 888	8891	24,000	N	9/01/72	
10	38	FIRE	1973	MAXIM	TRUCK, PUMPER/SNORKEL	3107	FIRE 886	54652	40,000	N	3/01/73	
19	37	FIRE	1975	MAXIM	TRUCK, PUMPER	3333	FIRE 3894	35132	49,000	N	1/01/76	
24	34	FIRE	1976	GMC	TRUCK, AERIAL LIFT	TCL3361542606	FIRE 889	33231	20,993	N	8/04/76	
11	36	FIRE	1977	HENDRICKSON	TRUCK, PUMPER	13600	FIRE 4525		75,000	N	11/01/77	
86	46	FIRE	1980	BOYER	TRAILER, BOAT	NONE	FIRE 3912		1,000	N	6/04/80	
15	44	FIRE	1986	CHEVROLET	TRUCK, RESCUE	1GBK7D1Y8GV114135	FIRE 892	5204	71,595	N	3/01/86	
14	30	FIRE	1986	CHEVROLET	CELEBRITY	1G1AW19XXGG143119	FIRE 890	73113	10,537	N	6/16/86	
16	35	FIRE	1987	FORD	CROWN VICTORIA	2FABP72G7HX225140	FIRE 883	86306	12,800	N	7/01/87	
22	41	FIRE	1988	FORD	TRUCK, PUMPER	1FDYD80U8JVA04287	FIRE 893	29073	100,000	N	8/01/88	
12	39	FIRE	1988	FORD	TRUCK, PUMPER	1FDYD80U7JVA04295	FIRE 887	28475	100,000	N	8/01/88	
23	42	FIRE	1988	FORD	TRUCK, PUMPER	1FDYD80U0JVA04297	FIRE 885	7073	100,000	N	8/01/88	
13	33	FIRE	1991	FORD	AMBULANCE	1FDKE30M3MHA56242	FIRE 4303	28002	63,472	N	7/01/91	
17	32	FIRE	1992	FORD	CROWN VICTORIA	2FACP72W8NX224473	FIRE 882	25000	16,500	N	4/30/92	
51	3	HEALTH	1986	CHEVROLET	CAVALIER	1G1JC69PXGK160893	M18-536	55000	8,766	N	6/16/86	
28	13	HEALTH	1986	CHEVROLET	CAVALIER	1G1JC69P5GK160848	M30-880	60000	8,776	N	6/16/86	

INS. I.D.	TOWN I.D.	DEPARTMENT	MODEL YEAR	MANUFACTURER	MODEL	VIN NO.	PLATE NO.	MILAGE	ORIGINAL COST	NEW/USED	PURCHASE DATE	DISPOSED DATE
50	4	BUILDING	1986	CHEVROLET	CAVAUER	1G1JC69P7GK160852	M21-694	31359	8,766	N	6/16/86	
49	14	BUILDING	1986	CHEVROLET	CAVAUER	1G1JC69P5GK160896	M19-738	58259	8,766	N	6/16/86	
4	5	CEMETERY	1970	GIANT VAC	TRAILER, LEAF VAC.	E78864	M16-551		1,365	N	7/01/70	
1	6	CEMETERY	1984	GMC	TRUCK, PICKUP-1500	2GTEC14H5E1541138	M1872	97731	8,500	N	6/27/84	
3	66	CEMETERY	1989	JOHN DEERE	LOADER, BACKHOE	T0310CF55549	M38-358		36,048	N	3/04/89	
96	15	CEMETERY	1989	ANDREWS	TRAILER, UTILITY	46RFA1627KM002492	M45-030		1,650	N	6/18/90	
78	16	CEMETERY	1992	CHEVROLET	TRUCK, DUMP-K30	1GBJK34K5NE213533	M1873	10500	24,089	N	7/01/92	
8	119	CIVIL DEFENSE	1954	WILLYS	JEEP	8358352	M34-726		3,500	U	8/06/77	
97	126	CIVIL DEFENSE	1967	STEVENS	TRAILER	N11037/6J4M-85S	M43-870		250	U	9/08/90	
5	121	CIVIL DEFENSE	1967	WILLYS	JEEP	13873	M27-620		4,050	U	9/08/79	
98	123	CIVIL DEFENSE	1969	FORD	VAN, STEP SIDE	P35ALE33302	M24-241	40700	1,000	U	7/02/84	
80	125	CIVIL DEFENSE	1970	MICHIGAN ARROW	TRAILER, OFFICE	PHAD51201	M36-649		4,000	U	6/04/76	
9306	124	CIVIL DEFENSE	1972	GLOBESTAR	TRAILER, TRAVEL	25491	M43-869		1,000	U	9/24/87	
	121	CIVIL DEFENSE	1976	DODGE	POWER WAGON		M46-518	72675	3,000	U	4/14/83	
9	120	CIVIL DEFENSE	1980	CHEVROLET	TRUCK, VAN-C30	CCM33AV152096	M20-176	40700	9,530	U	7/01/80	
7	122	CIVIL DEFENSE	1983	CHEVROLET	TRUCK, PICKUP-K10	2GCEK14H3D1106619	M36-648	91393	8,900	U	6/23/89	
6	118	CIVIL DEFENSE	1985	DODGE	SEDAN	1B3BG264FX578659	M36-605	108109	11,400	N	7/02/85	
100	127	C.O.A.	1988	ELDORADO	BUS	L02155F629975	M37-824		12,841	U	8/06/88	
52	12	ENGINEER	1979	FORD	VAN, CARGO	E158H7C8965	M1877	50000	8,700	N	7/08/79	
48	2	ENGINEER	1986	CHEVROLET	CAVAUER	1G1JC69P5GK160882	M18-638	27450	8,766	N	6/16/86	

INS. I.D.	TOWN I.D.	DEPARTMENT	MODEL YEAR	MANUFACTURER	MODEL	VIN NO.	PLATE NO.	MILAGE	ORIGINAL COST	NEW/USED	PURCHASE DATE	DISPOSED DATE
65	9	MANAGER	1986	CHEVROLET	CELEBRITY	1G1AW19X5GG14362E	627FP	605543	10,841	N	6/16/86	
9303	104	MUNIC. PRO.	1966	STEVENS	TRAILER, UTILITY	5316	M40-382		2,000	U	1/30/89	
	104	MUNIC. PRO.	1976	DODGE	POWER WAGON	W24BE6S27897	M46-517	62396	3,000	U	4/14/93	
54	100	MUNIC. PRO.	1979	FORD	TRUCK, F600 W/CAB	F61CVFE0006	M38-357		9,818	N	9/24/79	
79	105	MUNIC. PRO.	1980	HUDSON	TRAILER	HS108148	M35-797		2,000	N	8/24/80	
46	102	MUNIC. PRO.	1980	JOHN DEER	TRACTOR, MOWER-950	13645	M24-242	2318	8,000	N	8/08/80	
73	110	MUNIC. PRO.	1985	OLATHE	TRAILER	MA19585	M35-798		2,500	N	3/22/84	
7	106	MUNIC. PRO.	1986	CHEVROLET	TRUCK, PICKUP-C10	2GCCC14N7G1205541	M31-935	50952	9,847	N	4/07/86	
72	108	MUNIC. PRO.	1986	CHEVROLET	TRUCK, PICKUP-C20	2GCEC24H2G1198460	M20-959	51854	11,589	N	4/07/86	
81	109	MUNIC. PRO.	1987	CHEVROLET	TRUCK, DUMP-K30	1GBJV34M5HJ171941	M38-333	37300	19,200	N	2/18/87	
101	79	MUNIC. PRO.	1988	JOHN DEERE	TRACTOR, MOWER	LOTS8202848823	M1869		25,000	N	9/16/88	
90	103	MUNIC. PRO.	1989	CHEVROLET	TRUCK, PICKUP-S10	1GCCS19E0K2249160	M40-399	31605	11,500	N	6/28/89	
9304	101	MUNIC. PRO.	1990	BANDIT INDUSTRIES	BRUSH CHIPPER	3945	M44-281		12,221	N	12/06/90	
	107	MUNIC. PRO.	1993	JACOBSEN	MOWER	6911802022	M46-521					
57	27	POLICE	1989	FORD	CROWN VICTORIA	2FABP72F4KX221576	POLICE 3675	60615	15,000	N	2/05/90	
92	20	POLICE	1989	FORD	CROWN VICTORIA	2FABP72F8KX216140	950BJY	100000	15,000	N	7/27/89	
59	31	POLICE	1989	FORD	CROWN VICTORIA	2FABP72FXKX216141	722GPE	114578	16,319	N	7/09/89	
95	26	POLICE	1991	FORD	CROWN VICTORIA	2FACP72F4MX131089	POLICE 3469	63941	18,325	N	9/07/90	
94	29	POLICE	1991	FORD	CROWN VICTORIA	2FACP72F7MX104937	765BSR	123651	18,100	N	6/22/90	
	19	POLICE	1991	FORD	VAN	1FMDA21X5MZA66664	916EJG	120000				
70	22	POLICE	1992	FORD	CROWN VICTORIA	2FACP72WXNX205049	POLICE 3470	113733	18,500	N	5/13/92	
60	23	POLICE	1992	FORD	CROWN VICTORIA	2FACP72WXNX205052	POLICE 3313	75901	18,000	N	5/13/92	
55	25	POLICE	1992	FORD	CROWN VICTORIA	2FACP72W8NX205051	POLICE 3585	66506	16,000	N	5/13/92	
93	24	POLICE	1992	FORD	CROWN VICTORIA	2FACP72W1NX205053	POLICE 3468	77661	18,500	N	5/13/92	
58	21	POLICE	1992	FORD	CROWN VICTORIA	2FACP72W8NX205048	POLICE 3467	49390	18,500	N	5/13/92	
102	28	POLICE	1992	FORD	CROWN VICTORIA	2FACP72W3NX205054	POLICE 6875	80376	18,500	N	5/13/92	
53	111	SCHOOL	1979	FORD	VAN, PASSANGER	E15GHFC8966	M1876		7,900	N		
61	112	SCHOOL	1983	GMC	TRUCK, UTILITY	1GTGK24M0CS53009	M30-865		8,650	N		
67	113	SCHOOL	1986	CHEVROLET	TRUCK, PICKUP-K30	1GBJK34M1GJ171327	M19-225		18,987	N		

TOTAL VALUE

115

2,518,799

FILE COPY  
3/29/94

March 25, 1994

TO: Board of Selectmen  
FROM: F. DORE' HUNTER, Chairman  
SUBJECT: SELECTMEN'S REPORT

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AGENDA  
ROOM 204  
MARCH 29, 1994

PLEASE NOTE THAT THIS MEETING BEGINS AT 8:00 P.M.

I. CITIZEN'S CONCERNS

II. PUBLIC HEARINGS & APPOINTMENTS

8:00 CHAIRMAN'S MINUTE

1. 8:01 BOSTON EDISON - CENTRAL STREET - Enclosed please find petition information and staff comment for Board action.
2. 8:02 BOSTON EDISON - POPE ROAD - Enclosed please find petition information and staff comment for Board action.
3. 8:03 BOSTON EDISON - SUMMER STREET - Enclosed please find petition information and staff comment for Board action.
4. 8:15 BOSTON EDISON - Jack Goggins, Boston Edison Representative will be in to present Boston Edison's position with the Board regarding the Citizen's Petition on the Annual Warrant that asks that a Municipal Power Organization Study Committee be formed.

III. SELECTMEN'S BUSINESS

5. Patriot's Day - Enclosed please find an invitation from the Boy Scouts and request that a Board Member attend and speak at the Welcoming Campfire activities on Saturday.
6. BOY SCOUT - Enclosed please find an invitation to a Scout Court of Honor for Michael Finn on Saturday, May 7, 1994 for Board assignment.

**IV. CONSENT AGENDA**

7. SPECIAL USE PERMIT # 1/12/94-342 - METROPOLITAN DELI - 208B MAIN STREET - Enclosed please the Decision for signature.
8. SPECIAL USE PERMIT # 1/14/94-343 - COSTA DONUTS TWO, INC. - 295-307 MAIN STREET - Enclosed please the Decision for signature.
9. ACCEPT GIFT - ACORN STRUCTURES, INC. - Enclosed please find a request that the Town accept the donation of a new gate Building at the Transfer Station.
10. ACCEPT GIFT - Enclosed please find a request for Board acceptance of a gift of \$15,000 from Co-operative Bank of Concord in accordance with the settlement agreement on Lot 4B Pope Road for Board action.

**V. TOWN MANAGER'S REPORT**

11. EDUCATIONAL EXPENSES - The Town Manager will discuss the enclosed memorandum with the Board Tuesday evening.
12. OFF SITE SIGN REQUEST - The Town Manager will discuss the enclosed memorandum with the Board Tuesday evening.

**VI. EXECUTIVE SESSION**

**MEETINGS**

- April 10, 1994 2-4 P.M. - Open House Senior Center

**ADDITIONAL INFORMATION**

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

**FUTURE AGENDAS**

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

APRIL 19 - Benjanrong Restaurant - Liquor and Common Victualer

3/29/94

①

Boston Edison  
Conduit and Manholes Installation

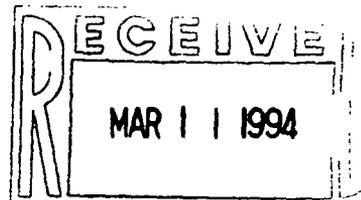
**NOTICE TO ABUTTERS**

In conformity with the requirements of Section 22 of Chapter 166 of the General Laws. (Ter. Ed.), 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 **29th day of March, 1994, at 8:01 P.M.**, o'clock, upon the petition of Boston Edison Company for permission to construct, and a location for, a line of conduits and manholes, with the necessary wires and cables therein, for the transmission of electricity, under the following public ways of said Town:

Central Street - westerly approximately 580 feet  
north of Arlington Street  
a distance of about 7 feet - conduit

**BOARD OF SELECTMEN**

Form 518D  
648ACS



TOWN OF ACTON  
INTER-DEPARTMENTAL COMMUNICATION

DATE: 3/9/94

TO: Board of Selectmen  
FROM: Dennis P. Ring, Engineering Assistant II *D.P.R.*  
SUBJECT: Boston Edison Petition - Central Street

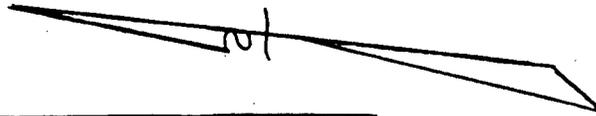
We have reviewed a petition from Boston Edison for the location referenced above and we have the following comments.

This petition is for the installation of a conduit to provide underground electrical service to a newly constructed house at 306 Central Street. We do not foresee any problems with granting this petition.

If you have any questions or require additional information, please call me.

.94\*164

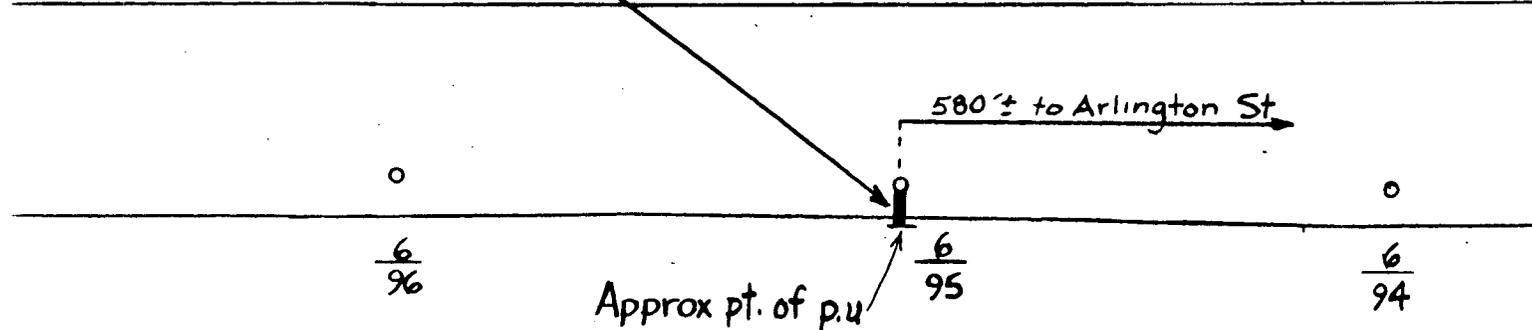
*306 P.O.*



CUST TO INSTALL  
1-1 1/4" GALV. STEEL  
PIPE ~7'±~

CENTRAL

ST.



PROPOSED CONSTRUCTION  
SHOWN THUS: ████████

THE LOCATION OF UNDERGROUND STRUCTURES  
ARE FROM PLANS AND RECORDS AND ARE  
APPROXIMATE ONLY.

**MASS. LAW**  
REQUIRES 72 HOURS ADVANCE  
NOTICE TO UTILITY COMPANIES  
BEFORE DIGGING BY ANYONE.  
CALL DIG-SAFE 1-800-322-4844

C#	
Plan Order #	2056
Work Order #	663799
Surveyed by	
Structures by	
Plotted by	MEO
Checked by	
APPROVED	
	R. RUSCITTO
	Superintendent

BOSTON EDISON COMPANY  
ECSO

Plan of CENTRAL ST - ACTON  
Plan # P-43

Showing proposed customer conduit location  
Scale 1 IN = 40 FT. Date JAN. 21, 1994

3/29/94  
②

Boston Edison  
Conduit and Manholes Installation

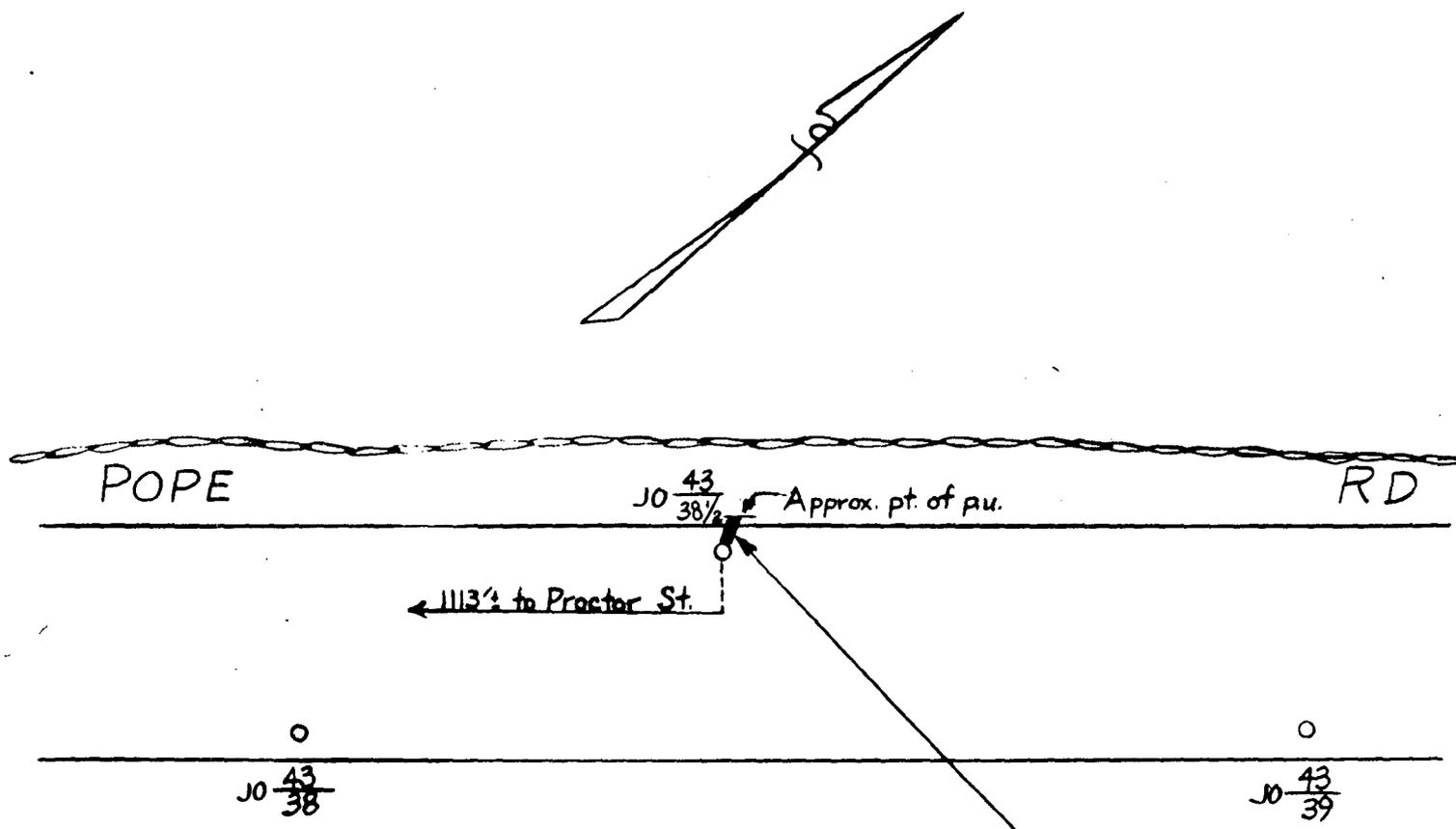
**NOTICE TO ABUTTERS**

In conformity with the requirements of Section 22 of Chapter 166 of the General Laws. (Ter. Ed.), 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 29th day of March, 1994, at 8:02 P.M., o'clock, upon the petition of Boston Edison Company for permission to construct, and a location for, a line of conduits and manholes, with the necessary wires and cables therein, for the transmission of electricity, under the following public ways of said Town:

Pope Road - northerly approximately 1113 feet  
northeast of Proctor Street  
a distance of about 6 feet - conduit

**BOARD OF SELECTMEN**

Form 518D  
648ACS



**THE LOCATION OF UNDERGROUND STRUCTURES ARE FROM PLANS AND RECORDS AND ARE APPROXIMATE ONLY**

*Customer to install  
 1-2" pvc Conduit  
 ~ 6' ± ~*

**MASS LAW**

**REQUIRES 72 HOURS ADVANCE NOTICE TO UTILITY COMPANIES BEFORE DIGGING BY ANYONE CALL DIG-SAFE 1-800-322-4844**

**PRO. CONST. SHOWN THUS-**

PLAN ORDER NO. <u>2072</u> ORDER NO. <u>66367L</u> SURVEYED BY _____ DRAWN BY <u>MEO</u> CHECKED BY _____ APPROVED BY <u>R.A. RUSCITTO</u> by: <u>RP</u> SUPT.	<b>BOSTON EDISON COMPANY</b> E.C.S.O. PLAN OF <u>POPE RD - ACTON</u>
	SHOWING PROPOSED CONDUIT LOCATION SCALE: <u>1" = 40' E.L. DAT</u> <u>B.14, 1994</u>

3/29/94  
③

Boston Edison  
Conduit and Manholes Installation

**NOTICE TO ABUTTERS**

In conformity with the requirements of Section 22 of Chapter 166 of the General Laws. (Ter. Ed.), 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 **29th day of March, 1994, at 8:03 P.M.**, o'clock, upon the petition of Boston Edison Company for permission to construct, and a location for, a line of conduits and manholes, with the necessary wires and cables therein, for the transmission of electricity, under the following public ways of said Town:

Summer Street - southwesterly at Woodfield Road  
a distance of about 33 feet - conduit

**BOARD OF SELECTMEN**

Form 518D  
648ACS

24 8:03 1994

TOWN OF ACTON  
INTER-DEPARTMENTAL COMMUNICATION

DATE: 3/15/94

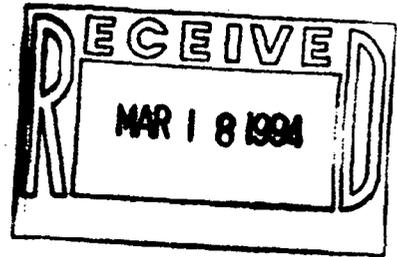
TO: Board of Selectmen  
FROM: Dennis P. Ring, Engineering Assistant II *D.R.*  
SUBJECT: Boston Edison Petition - Summer Street

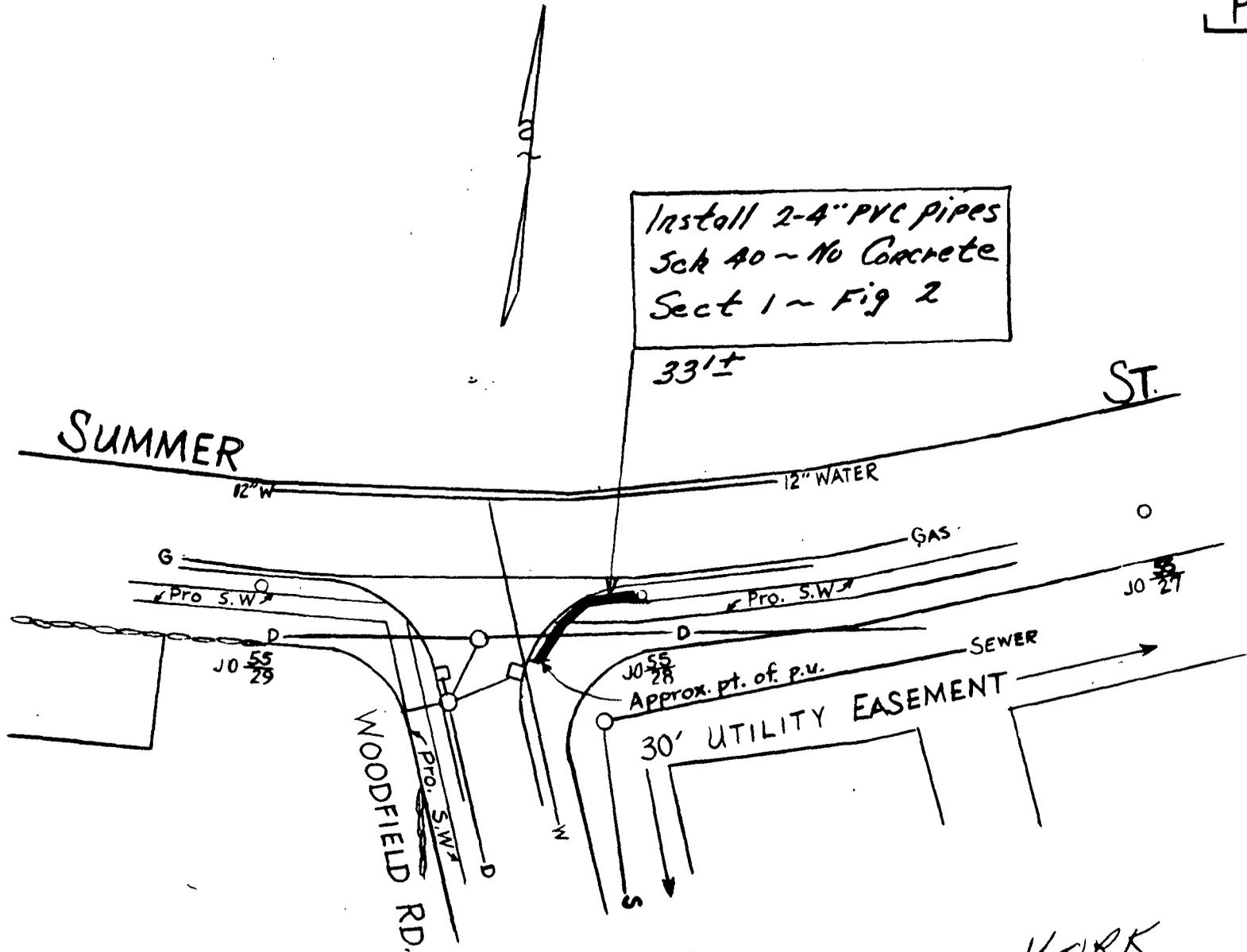
We have reviewed a petition from Boston Edison for the location referenced above and we have the following comments:

This petition is for the installation of a conduit which will provide underground electrical service to a recently approved residential subdivision on Summer Street. The Maple Creek subdivision consisted of two roads, Woodfield Road and Shady Lane. There will be approximately 15 lots served by this subdivision.

We do not foresee any problems with granting this petition. If you have any questions or need additional information, please let me know.

.94\*169





Install 2-4" PVC pipes  
Sch 40 - No Concrete  
Sect 1 - Fig 2

33'±

SUMMER

ST.

12" W

12" WATER

GAS

G

Pro. S.W.

Pro. S.W.

JO-55/27

JO-55/29

JO-55/28

Approx. pt. of p.v.

SEWER

30' UTILITY EASEMENT

WOODFIELD RD.

WORK

PROPOSED CONSTRUCTION SHOWN THUS: ██████████

THE LOCATION OF UNDERGROUND STRUCTURES ARE FROM PLANS AND RECORDS AND ARE APPROXIMATE ONLY.

**MASS. LAW**

REQUIRES 72 HOURS ADVANCE NOTICE TO UTILITY COMPANIES BEFORE DIGGING BY ANYONE. CALL DIG-SAFE 1-800-322-4844

CH	C-023-94
Plan Order #	2073
Work Order #	062947
Surveyed by	MEO
Structures by	
Plotted by	MEO
Checked by	
APPROVED	
	R.A. RUSCITTO
	Superintendent

BOSTON EDISON COMPANY  
ELECTRICAL CUSTOMER SERVICE ORGANIZATION

Plan of SUMMER ST - ACTON

Plan # P-24-B

Showing proposed conduit location

Scale 1 in = 40 ft. Date FEB. 23 1994

FORMS/SMPLAN.DWG



3/29/94

5

ACTON PUBLIC CEREMONIES COMMITTEE  
BOY SCOUTS SUB-COMMITTEE  
ACTON, MASS.

22 March 1994

SELECTMENS BUSINESS 3/29

Board of Selectmen  
Acton Town Hall  
Acton, MA  
Attn: F.Dore Hunter, Chairman

Dear Chairman Hunter,

I would like to extend an invitation to you to join us at our Boy Scout encampment celebrating Patriot's Day.

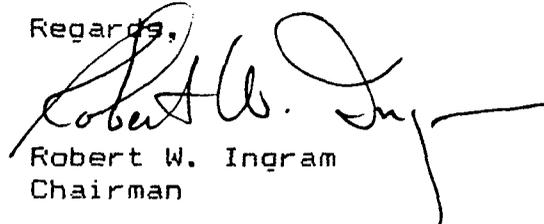
The event is being held on 16 and 17 April. We will not be making the march with the townspeople of Acton this year

We would appreciate a few words of welcome at our campfire which will be at 8:00 on Saturday evening at our campground off Wetherbee Street.

If you have any questions my phone is 263-2674.

We appreciate the support of the Selectmen and the Town in helping to bring this historic event closer to hundreds of boys.

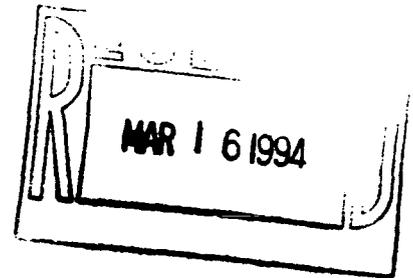
Regards,

  
Robert W. Ingram  
Chairman

3/29/94

⑥

BOY SCOUTS OF AMERICA  
Troop #32  
7 Lincoln Drive  
Acton, Massachusetts 01720  
March 13, 1994



Board of Selectmen  
Town of Acton  
Town Hall  
Acton, Massachusetts 01720

Dear Sir/Madam:

It is with great pleasure that I invite you to a Court of Honor being given for Michael Finn on Saturday evening, May 7, 1994 at 7:00 PM at St. Elizabeth of Hungary Church, 89 Arlington Street, Acton, Massachusetts. Michael will be receiving the highest honor Boy Scouting can give, the rank of Eagle Scout.

Mike has been involved in Scouting for ten years. He is a senior at Acton-Boxborough Regional High School and plans to attend college next year. He has shown many of the skills he will need in the future while doing his Eagle project. Planning, leadership and hard work went into his painting of the historical Bean House on property belonging to Acton Congregational Church. All citizens of Acton can be proud of Mike and the work he and his fellow Scouts did.

We hope you can join us in this tribute to Mike. Please R.S.V.P. to the above address.

Yours truly,

*Sharon Santillo*

Sharon Santillo  
Coordinator, Eagle Scout Advancement

3/29/94  
⑦

RESTAURANT SPECIAL USE PERMIT #1/12/94-342  
METROPOLITAN DELI  
208B MAIN STREET (HUNTER)

PAGE 1

\*\*\*\*\*

Decision of the Board of Selectmen (hereinafter the Board) on the Petition of Metropolitan Deli (hereinafter the Petitioner) for the property located at 208B Main Street, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map G2, parcel 117.

This Decision is in response to an application submitted to the Board on January 12, 1994 by the Petitioner for a Special Permit under Section 10.3 of the Acton Zoning Bylaw (hereinafter the Bylaw) to establish a restaurant.

After causing notice of the time and place of the public hearing and the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on March 15, 1994 at 8:00 p.m. in the Acton Town Hall, Acton, Massachusetts. Board members F. Dore' Hunter, Nancy Tavernier, Anne Fanton, Norman Lake and William Mullin were present through the hearing.

The record of the proceedings and submissions on which this permit is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation, prior to the close of the hearing, were the following exhibits:

**Exhibit I**

A properly executed application for a Restaurant Special Permit; a plan showing the layout of the restaurant.

**Exhibit II**

Interdepartmental Communication (IDC) from the Building Commissioner to the Board dated March 7, 1994; IDC from the Health Officer to the Town Manager dated March 1 1994; IDC from the Town Planner to the Town Manager, dated January 27, 1994; IDC from the Engineering Department to the Town Manager dated February 2, 1994; IDC from the Fire Chief to the Town Manager dated March 10, 1994.

**1.0 Findings and Conclusions**

Based upon its review of the exhibits and record of the proceedings, the Board found that:

1.1 The restaurant use is appropriate for the site in question.

1.2 The restaurant shall be limited to nineteen (19) seats unless otherwise approved by the Board of Health and Building Commissioner.

- \*\*\*\*\*
- 1.3 The parking is adequate for the intended use.
  - 1.4 The use, as proposed, is consistent with the Master Plan, is in harmony with the purpose and intent of this Bylaw, and will not be detrimental or injurious to the neighborhood.
  - 1.5 The septic system is questionable and the occupancy and future occupancy of the restaurant is conditioned to an acceptable septic system as approved by the Board of Health.
  - 1.6 The sprinkler system shall be connected to the fire station by a master fire alarm box. The deli is required to install a local alarm system with pull stations and audible horn lights connected into the building fire alarm panel which would be connected into the building fire alarm panel. A lock box is also required. These items will help ensure public safety.

Therefore the Board voted to GRANT the requested Special Permit with the benefit of the following limitations:

## 2.0 Limitations

- 2.1 The restaurant shall be run according to the submitted documents.
- 2.2 This decision applies only to the requested Special Permit, other permits or approvals required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 2.3 Effective Date of Special Permit - No special permit or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Middlesex County South District Registry of Deeds. Such decision shall bear the certification of the Town Clerk that 20 days has elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, it has been dismissed or denied.

## Appeals

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this        day of        , 1994.

---

F Dore' Hunter, Chairman

\*\*\*\*\*

I, Christine Joyce, hereby certify that this is a true copy of the decision of the Board of Selectmen.

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

\_\_\_\_\_  
Date filed with Town Clerk Catherine Belbin, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the decision of Metropolitan Deli has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Date Catherine Belbin, Town Clerk

- cc: Petitioner - Certified Mail #  
Building Commissioner  
Planning Board  
Engineering  
Conservation  
Board of Health  
Town Clerk  
Planning Boards - Littleton, Westford, Maynard, Carlisle, Concord,  
Boxboro, Stow, Sudbury

3/24/94  
8

RESTAURANT SPECIAL USE PERMIT #1/14/94-343  
COSTA DONUTS TWO  
299 MAIN STREET (LAKE)

\*\*\*\*\*

Decision of the Board of Selectmen (hereinafter the Board) on the Petition of Costa Donuts Two (hereinafter the Petitioner) for the property located at 299 Main Street, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map F3, parcel 89,97.

This Decision is in response to an application submitted to the Board on January 14, 1994 by the Petitioner for a Special Permit under Section 10.3 of the Acton Zoning Bylaw (hereinafter the Bylaw) to establish a restaurant.

After causing notice of the time and place of the public hearing and the subject matter thereof to be published, posted, and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on March 15, 1994 at 8:15 p.m. in the Acton Town Hall, Acton, Massachusetts. Board members F. Dore' Hunter, Nancy Tavernier, Anne Fanton, Norman Lake and William Mullin were present through the hearing.

The record of the proceedings and submissions on which this permit is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation, prior to the close of the hearing, were the following exhibits:

Exhibit I

A properly executed application for a Restaurant Special Permit; a plan showing the layout of the restaurant.

Exhibit II

Interdepartmental Communication (IDC) from the Building Commissioner to the Board dated March 8, 1994; IDC from the Health Officer to the Town Manager dated March 1 1994; IDC from the Town Planner to the Town Manager dated January 27, 1994; IDC from the Engineering Department to the Town Manager dated February 2, 1994; IDC from the Fire Chief to the Town Manager dated March 10, 1994.

1.0 Findings and Conclusions

Based upon its review of the exhibits and record of the proceedings, the Board found that:

- 1.1 The restaurant use is appropriate for the site in question.
- 1.2 The restaurant shall be limited to nineteen (19) seats unless otherwise approved by the Board of Health and the Building Commissioner.
- 1.3 The parking is adequate for the intended use.
- 1.4 The use, as proposed, is consistent with the Master Plan, is in harmony with the purpose and intent of this Bylaw, and will not be detrimental or injurious to the neighborhood.



\*\*\*\*\*

I, Christine Joyce, hereby certify that this is a true copy of the decision of the Board of Selectmen.

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

\_\_\_\_\_  
Date filed with Town Clerk

\_\_\_\_\_  
Catherine Belbin, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the decision of Costa Donuts Two has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Catherine Belbin, Town Clerk

- cc: Petitioner - Certified Mail #
- Building Commissioner
- Planning Board
- Engineering
- Conservation
- Board of Health
- Town Clerk
- Planning Boards - Littleton, Westford, Maynard, Carlisle, Concord,  
Boxboro, Stow, Sudbury



3/29/94

⑨

March 24, 1994

To Whom It May Concern,  
Town of Acton

Acorn Structures Inc. will, subject to your approval, design, prefabricate and donate to the Town of Acton a structure to be used as the new gate building at the Transfer Station.

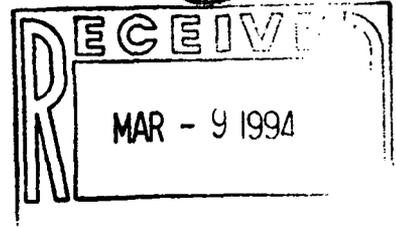
This building will be 10' by 16' and include clapboard siding. All material and labor will be provided by Acorn Structures Inc.

Acorn Structures is pleased to be in Acton and looks forward to your acceptance of this donation.

Acorn Structures Inc.

by: Henry Millette  
V.P.-Manufacturing

3/29/94 (10)



**PALMER & DODGE**

One Beacon Street  
Boston, Massachusetts 02108

Norman P. Cohen  
(617) 573-0386

Telephone: (617) 573-0100  
Facsimile: (617) 227-4420

CONSENT 3/29

March 8, 1994

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

Dear Don: (The Co-operative Bank of Concord  
v. The Conservation Commission  
of the Town of Acton)

Enclosed is information you will need to have the Board of Selectmen approve the receipt of \$15,000 by the Conservation Commission. If the Selectmen vote to approve the receipt of the funds at their next meeting, I shall make arrangements to send the check to Roy Wetherby for the Conservation Commission immediately thereafter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Norman P. Cohen".

Norman P. Cohen

NPC/db  
Enclosure



# THE CO-OPERATIVE BANK

April 29, 1993

Thomas Tidman  
Conservation Administrator  
Town of Acton  
Town Hall  
Acton, MA 01720

RE: Lot 4B Pope Road, Acton

Dear Tom:

In accordance with the Settlement Agreement, we are delivering a check in the amount of \$15,000.00 payable to Palmer & Dodge, Attorneys for the Town of Acton acting by and through its Conservation Commission. This money is to be held in escrow until the expiration of the appeal periods for the wetlands permit and DEP Order of Conditions for Lot 4B Pope Road, as stated in the Settlement Agreement. The gift letter to the Board of Selectmen will be delivered upon the expiration of the appeals periods and receipt of the letter from Town Counsel acknowledging the use of the gift.

This money is being delivered under the condition that an Amendment to the Order of Conditions Wetlands Protection Bylaw Chapter F is attached to the Order and incorporated therein. The Amendment serves to strike out certain General Conditions of the Order which contradict the Special Conditions negotiated under the Settlement Agreement.

Thank you for your assistance in correcting the most recent issues concerning the Order. It is our understanding that the Commission will now send a copy of the Commission's Order to DEP so that DEP may finalize their Order of Conditions.

If you have any questions, please call me at (508) 635-5004.

Sincerely,

*Lisa Bergemann*

Lisa Bergemann  
Senior Vice President

*rec'd 5/5/93  
BSCW*

Enclosures



THE CO-OPERATIVE BANK

12199

DATE  
04/30/93

CHECK NUMBER  
12199

PAY EXACTLY  
\$15,000.00\*\*\*\*\*

PAY EXACTLY\*\*\*Fifteen thousand and-----00/100

TO  
THE  
ORDER  
OF

Palmer & Dodge, Attorney for the Town  
of Acton, Acting by and through its  
Conservation Commission  
One Beacon Street  
Boston, MA 02108

The Co-operative Bank of Concord, MA 53 7032 / 2113

AUTHORIZED SIGNATURE

⑈012199⑈ ⑆211370325⑆ ??000000446⑈

3/29/94  
⑪

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION  
TOWN MANAGER'S OFFICE

\*\*\*\*\*

DATE: March 24, 1994

TO: Isa Zimmerman, Superintendent of Schools  
FROM: Don P. Johnson, Town Manager  
SUBJECT: Educational Expenses in Municipal Budget

Based on a conversation with you last night, Dore' Hunter has asked that I expedite our response to your request for a firm number related to Educational Costs contained in the FY95 Municipal Budget. As you are aware, the accounting for these costs is not reported on Schedule 19 until September, when Schools and Municipalities have a much better handle on such expenses. Any estimate of these costs at this time must be carefully qualified as just that ... an estimate. In any event, I will try to give you our best estimate at the moment and we will have no choice but to refine it, as appropriate, before submitting the Schedule 19 report 6 months from now.

I would remind you that this question was answered in December, 1993. When we communicated our computation of the Municipal Growth Factor on December 8, 1993, John Murray estimated the level of FY95 educational costs in the Municipal Budget to be \$523,659 ... using the same growth factor (3.64%).

John's estimate was subsequently countered in a memo from the School Administration dated March 9, 1994, wherein the Administration proposed that the FY95 number should be \$517,898.

(As I recall from earlier conversations, this was based on a suggested growth rate of 2.5% for these collective costs.) The memo went on to ask for a reconfirmation of our best estimate.

We, like you, have been consumed by the budget preparation process. In addition, we are charged with preparation of the entire Town Meeting Warrant. Nonetheless, I have broken budgetary staff away and asked them to prepare the necessary documentation to give you the best estimate we can at this time.

The attached report provides the FY94 numbers and the FY95 estimated costs, along with backup data in support of the FY95 projections. I bring your attention to two items in the FY95 column, "FICA/Medicare Taxes" and "Retiree's Health/Life Ins.". These items did not appear in the FY94 numbers. In our research of your inquiry we discovered that these direct expenses of the Local School System were being funded from the Municipal Budget. I have included supporting tables that appear to be complete but I have no way to confirm the accuracy or completeness of these lists since we do not maintain school personnel records.

I can only theorize as to why these costs may have found their way into the Municipal Budget ... the inadequacy of our Accounting software comes immediately to mind ... but, for whatever reason, they are there and they clearly belong in the Local School Budget. It is equally clear that we have more than enough tension between the Municipal and School organizations at this time. Consequently, I have conferred with Dore' and we both agree that we should take a proposal to the Board of Selectmen next Tuesday to leave both budgets as they are for FY95. We expect that the Board will concur and ratify this proposal. Imposition of "new" expenses of this magnitude on your budget, at this late date, could have a devastating effect while serving no good purpose. The Municipal Budget has already anticipated these costs so we will not be further hurt by retaining them through FY95. Obviously, we will need to properly reflect them on

Schedule 19 in September and move decisively next year to include them in your FY96 Budget. Neither of these actions should cause any disruption, though, since you will be able to incorporate both at the inception of your budget process.

I trust you will find our estimates and proposals reasonable. I look forward to your response.

A handwritten signature in black ink, appearing to be 'Dore' Hunter, written in a cursive style.

cc: Dore' Hunter  
Board of Selectmen

Town of Acton  
School Chapter 70 Report  
Schedule '19'

	1994		1995
1 Administration	154,558		153,686
6 Maintenance	6,835		7,168
7 Employee Benefits	198,454		200,462
Fica/Medicare Taxes		43,000	51,528
Retiree's Health/Life Ins.			78,497
8 Insurance	<u>145,419</u>		<u>158,752</u>
11 Total Spending	<u>505,267</u>		<u>650,092</u>
12 Revenue	169,242		
School Debt:			
Principal	232,250		222,500
Interest	<u>44,853</u>		<u>31,404</u>
Total	<u>277,103</u>		<u>253,904</u>
School Assessments:			
Acton - Boxbrough	7,248,912		8,035,260
Acton - Boxbrough Debt	317,763		
Minuteman	648,321		741,000
Other Tuitions	0		
Total	<u>8,214,996</u>		8,776,260

Town of Acton  
School Chapter 70 Report  
Schedule '19'

		1994		1995	
CLERK	SALARIES	0	0		0
	EXPENSES	0	0		0
CIVIL DEFENSE	SALARIES	0	0		0
	EXPENSES	4,217	2,109	4,300	2,150
ACCOUNTANT	SALARIES		104,325		188,869
	EXPENSES		2,264		6,400
TREASURER	SALARIES		206,735		141,122
	EXPENSES		71,250		37,550
COLLECTOR	SALARIES		0		0
	EXPENSES		0		0
ASSESSORS	SALARIES		0		0
	EXPENSES		0		0
POLICE	2 DARE OFF		33,187		35,012
TOTAL GENERAL & ADMINM. SE			419,869		411,103
AUDIT COST	(BY AGREEI	25,000	18,750	22,000	16,500
SCHOOL ENEGERY			0		0
MERRIAN ENEGERY			0		0
INSPECTIONAL SERVICES			2,600		2,700
SNOW & ICE – PER DICK HOWE			4,235		4,468
TOTAL OPERATING & MAINTENA			6,835		7,168
EMPLOYEE BENEFITS					
	PENSION A:		931,618		941,046
INSURANCE	WORKMEN'	180,674	132,669	198,741	145,936
	PROPERTY		7,059		7,059
	GENERAL L		3,542		3,542
	AUTO		662		728
	BOILER & M		1,428		1,428
	NURSES		59		59
			145,419		158,752

Town of Acton  
School Chapter 70 Report  
Schedule "19"

			1994			1995
BUDGET	SCHOOL	32.35%	9,160,034	33.37%		9,967,380
	TOWN	35.19%	9,966,410	35.06%		10,471,647
	OTHER	32.46%	9,192,996	31.57%		9,430,098
	TOTAL	100.00%	28,319,440	100.00%		29,869,125
TOTAL	SCHOOL	73.43%	*			
WORKMEN'S COMP.	TOWN	26.57%	*	(By Agreement Work. Comp %s are del		
PAYROLL	TOTAL	100.00%	*			
TOTAL	SCHOOL	21.30%	1,232,601			
PENSION	TOWN	78.70%	4,553,691			
PAYROLL	TOTAL	100.00%	5,786,292			
SCHOOL DEBT:						
	CONANT SC		0			0
	CONANT SC		0			0
	1982 GOB C	0	0			0
	1982 GOB C	0	0			0
	1986 GOB C	350,000	157,500	350,000		157,500
	1986 GOB C	61,500	27,675	40,500		18,225
	1987 GOB C	115,000	74,750	100,000		65,000
	1987 GOB C	26,428	17,178	20,275		13,179
	TOTAL	552,928	277,103	510,775		253,904

School Retiree's		Monthly Amount	Annual Amount
Ashline	Jean	68.69	824.28
Bassett,	Howard	216.79	2,601.48
Boornazian	M	68.69	824.28
Buckman	M	168.19	2,018.28
Bunker	Dorothy	1.35	16.20
Byron	Eileen	68.69	824.28
Chani	L	98.54	1,182.48
Conroy	Robert	136.03	1,632.36
Corrigan	Virginia	366.98	4,403.76
Cranna	M	136.03	1,632.36
Crosby,	Mary	1.35	16.20
Dwyer	A	1.35	16.20
Ewing,	Louise	169.54	2,034.48
Gangne	A	366.98	4,403.76
Goldstein	Lenore	168.19	2,018.28
Gonzales	Marianne	1.35	16.20
Goodall	Jane	1.35	16.20
Hayes,	Alice	1.35	16.20
Hellawell	W	136.03	1,632.36
Hill	E	56.85	682.20
Hinds	E	136.03	1,632.36
Holley	N	168.19	2,018.28
Jacobs	Anne	337.73	4,052.76
Joyce	M	236.88	2,842.56
King	H	67.34	808.08
Kingston	Madelene	68.69	824.28
Koch	D	68.69	824.28
Larsen	M	67.34	808.08
Lehto	M	151.89	1,822.68
Liebfried	M	68.69	824.28
Mutty	Nancy	337.73	4,052.76
Nichols	D	56.85	682.20
O'Hearn	Alice	68.69	824.28
Parker	Mary	732.60	8,791.20
Peterson	K	112.35	1,348.20
Richardson	T	67.34	808.08
Smith	J	366.98	4,403.76
Sparks	William	236.88	2,842.56
Travers	J	67.34	808.08
Turner	Joan	136.03	1,632.36
Tuttle	M	56.85	682.20
Wheeler	G	68.69	824.28
Wilson	P	169.54	2,034.48
Wright	Lavonne	1.35	16.20

73,020.12  
107.50%  
78,496.63

SCHOOL, FICA/MEDICARE

7/22	239.16	48.38	11.31	298.85	
8/5	235.80	122.63	28.69	387.12	
8/19	235.28	91.46	21.39	348.13	
9/2	1.09	23.25	5.44	29.78	
9/2	251.13	160.65	37.56	449.34	
9/16	768.03	262.68	61.40	1,092.11	
9/30	877.62	747.51	174.80	1,799.93	
10/14	944.99	773.00	180.82	1,898.81	
10/15		22.01	5.15	27.16	
10/28	900.67	740.69	173.29	1,814.65	
11/10	977.44	1,098.95	257.05	2,333.44	
11/20	909.76	1,126.86	263.57	2,300.19	
12/9	952.93	998.14	233.48	2,184.55	
12/16	148.01	2.95	0.69	151.65	
12/23	918.02	1,377.20	322.14	2,617.36	
1/6	961.18	759.52	177.65	1,898.35	
1/5	9.06			9.06	
1/20	893.58	945.31	221.12	2,060.01	
2/3	972.35	1,102.91	258.02	2,333.28	
2/17	915.54	1,258.79	294.46	2,468.79	
2/16		(2.34)	(0.55)	(2.89)	
3/3	903.68	898.57	210.21	2,012.46	
3/17	950.87	1,207.94	282.47	2,441.28	
					ANNUALIZED
TOTAL	13,966.19	13,767.06	3,220.16	30,953.41	42,357.30

T.MGR. REPORT 3/29

3/29/94

12

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION

DATE: March 15, 1994

TO: Don P. Johnson, Town Manager  
FROM: Garry A. Rhodes, Building Commissioner *GAR*  
SUBJECT: Friendly's off-site sign request

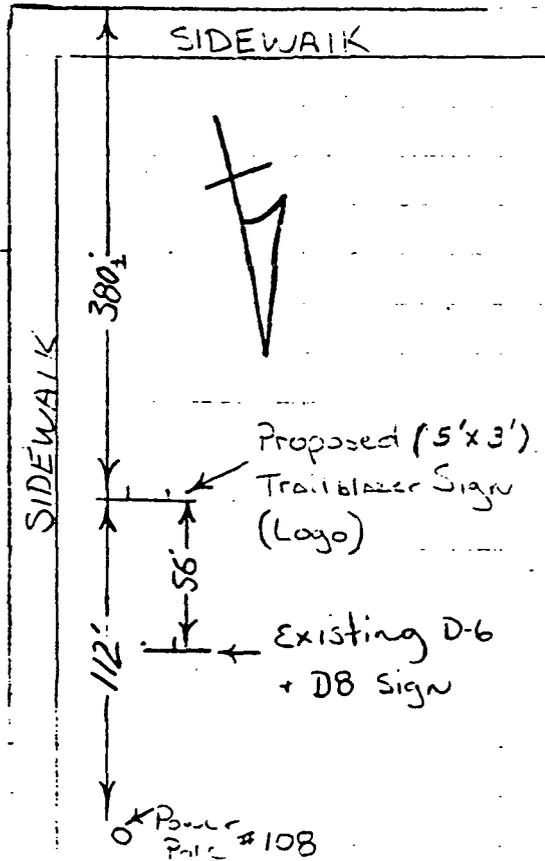
I am in receipt of a request from Friendly's to locate a sign within the layout of Main Street across from Quill and Press (see enclosed). They apparently have the approval of the District Highway Director to locate a sign eastbound on Route 2 subject to the Town of Acton approving this sign on Main Street. The requested sign is five (5) feet by three (3) feet. The Zoning Bylaw sec 7.3.3 provides for the Board of Selectmen to give written approval of such signs. I would caution you that this is the first such request that I have received and it is possible that more will apply in the future. The Mass Highway seems to be promoting "Service Signing Program" on state highways.

As a point of interest the State has already approved a sign westbound on Route 2 for Friendly's and signs for McDonalds within the state layout.

Acton Rte. 2  
Trailblazer Sign  
Location - Exit  
42

Massachusetts Ave. Rte. 111

MAIN ST. Rte. 27





Friendly Ice Cream Corporation 1855 Boston Road Wilbraham, Massachusetts 01095 (413)543-2400

---

## Great Food & Ice Cream

March 11, 1994

Mr. Gary Rhodes  
Town of Acton  
472 Main St.  
Acton, Ma. 01720

Dear Mr. Rhodes:

Friendly's is in the process of fulfilling requirements for obtaining Highway Logo Signs on Route 2, Exits 42 and 43 in Acton, Ma. These signs will alert motorists that food services are available at these exits.

In addition to providing a beneficial service to the motorists who use Route 2, the signs will help the business community at these exits by bringing in additional sales which will foster more employment and consumer spending.

By way of this letter, I am asking for your help in obtaining the signs. As mentioned in the enclosed copy of a letter from Mr. Peter J. Donohue, the District Highway Director of the Worcester Office, the Massachusetts Highway Department will allow the signs to be erected at Exit 42 provided the Town of Acton permits the installation of a Trailblazer Sign to direct traffic from Route 27 onto Massachusetts Ave. (Rt. 111). The Trailblazer Sign will be 5' by 3' in size, and will contain the word Friendly's in white scripting on a red background. It will be located as shown in the attached sketch that was provided by the Massachusetts Highway Department.

I would appreciate whatever you can do to bring this matter to the attention of the Board of Selectman and hopefully a vote in favor of the sign.

Thank you.

Sincerely,

Philip S. Orciuch  
Capital Improvements Coordinator

December 28, 1993

**ACTON - TRAFFIC**

Friendly Ice Cream Corporation  
1855 Boston Road  
Wilbraham, MA 01095

Attention: Philip S. Orciuch  
Capital Improvements Coordinator

Dear Mr. Orciuch:

Thank you for your interest in the Department's Service Signing Program. In reference to your application for Food Service Signs on Route 2 at Exit 43 in the Town of Acton, please be aware that Exit 43 has no exit ramp for eastbound vehicles. However, at Exit 42, Route 27, there is an exit for eastbound Route 2 vehicles at which your facility would be eligible for signing. Consequently, if your facility should desire signage at Exit 42 an additional trailblazer type sign is required in advance of the left turn from Route 27 onto Route 111 (Massachusetts Avenue). Because Route 27 at the proposed sign location is under the jurisdiction of the Town of Acton, their written approval is required before the Department can approve signs on the State Highway Route 2. A sketch is enclosed showing the location of the proposed five (5) feet by three (3) feet sign to assist you in applying for the required permission from the Town.

In any event, please be aware that your facility has been approved for Food Service Signing on westbound Route 2 at Exit 43 (Route 111). Therefore, notify this office as soon as possible of your intentions regarding Exit 42 eastbound signage so that the appropriate Agreements can be drawn up and executed between your company and the Department.

Again, thank you for your interest in the Service Signing Program and if further information is desired, please contact the District Traffic Engineer, M. William Kann, tel. no. (508) 754-7204 extension 230.

Very truly yours,



Peter J. Donohue  
District Highway Director

MWK.rmb  
cc: MWK  
File

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

Don P. Johnson  
Town Manager

---

March 16, 1994

Mr. Steven M. Rothstein  
Executive Director  
North East Solid Waste Committee  
109/123 Main Street  
North Andover, MA 01845

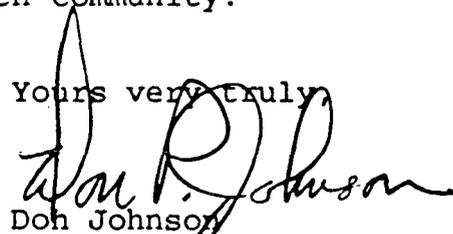
Dear Steve:

Enclosed is the Town of Acton's NESWC Stabilization Fund Account Reconciliation. For the period July 1, 1992 through October 15, 1993, we have identified overcharges to the Acton account of approximately \$320,000.

The problems found through our reconciliation process make us very concerned about the adequacy of the accounting controls over the Stabilization Fund. To the extent that the problems predate our current reconciliation and to the extent these problems affect other NESWC communities, it appears that there may be a multi-million dollar problem.

Please inform us as to your current position for correcting the stabilization fund account balance for each community.

Yours very truly,

  
Don Johnson  
Town Manager

Enclosure

TOWN OF ACTON  
NESWC STABILIZATION FUND  
ACCOUNT RECONCILIATION

MARCH 16, 1994

TOWN OF ACTON  
NESWC STABILIZATION FUND  
ACCOUNT RECONCILIATION

The Town of Acton (the Town or Acton) has reconciled its Stabilization Fund records with the available accounting information (i.e., for the period July 1, 1992 through October 15, 1993) from the North East Solid Waste Committee (NESWC). We will continue to update this process as soon as NESWC is able to provide more current information.

Exhibit A provides the reconciliation between the records of the Town and NESWC. Several overcharges against our account, along with other reconciling items, were located during this process. An explanation of the reconciliation process and the various reconciling items is presented below.

ACCOUNTS PAYABLE LEDGER

Attached is the Town of Acton's Community Stabilization Fund Accounts Payable Ledger (Exhibit B). The ledger sheet begins with NESWC's opening balance for Acton due to the Stabilization Fund on July 1, 1992 of \$59,646.68. For purposes of the present analysis only, this balance is assumed by the Town. (The Town reserves the right to contest the opening balance as well based on similar accounting errors that may underlie it.)

Exhibit B then tracks all actual monthly service fees for actual tonnage delivered by Acton to Massachusetts RefuseTech Inc. (MRI), all payments made by Acton and all miscellaneous adjustments to the Stabilization Fund through October 15, 1993. Acton's system was implemented to coincide with the Community Stabilization Fund accounting utilized by MRI. To provide continuity, Acton's ledger system remained consistent subsequent to NESWC acquiring the accounting for the Stabilization Fund. NESWC began accounting for the Stabilization Fund in February 1993.

## RECONCILIATION

Exhibit C is the Community Stabilization Fund accounting provided by MRI for the period June 1, 1992 through January 31, 1993. Exhibit D consists of the Community Fund accounting worksheets provided by NESWC for the period February 1, 1993 through October 15, 1993.

NESWC'S ending balance of \$509,506.71 as of October 15, 1993 is reconciled with Acton's accounts payable ledger as shown on Exhibit A. The following is an explanation of each of the reconciling items presented in Exhibit A.

### (A) Duplicate Charges for Overdeliveries

For the period June 1, 1992 through January 31, 1993, MRI consistently overcharged Acton's Stabilization Fund account balance. These overcharges equalled the tonnage delivered that exceeded Acton's Guaranteed Monthly Tonnage(GAT) times the level tip fee (Exhibit C). The adjustments were over and above Acton's actual tonnage delivered at the actual delivered rate. It is our understanding, with concurrence from NESWC and MRI, that all communities that delivered tonnage in excess of GAT were not only charged in full for the actual tonnage delivered but were also charged a second time for the overdelivered tonnage.

Because of this practice, both Acton and each other community that overdelivered were charged twice. Exhibit E recaps the MRI Community Stabilization Fund adjustments by community. These adjustments are most likely due to the duplicate charges noted by Acton.

The Town's contract with MRI expressly states that each community will pay a "per ton amount for tons delivered in excess of its guaranteed tonnage" (Section VI (1)(i)) but that the "same tons shall not be charged a premium twice" with respect to weekly versus annual tonnage premiums (Section

VI(2)(b). The Town has been charged its excess tonnage premium under the contract (Exhibit F). The Town has no agreement with either NESWC or MRI which allows these entities to impose additional charges against the Town's account greater than those expressly stipulated in the Town's contract with MRI.

The amount of these overcharges, \$183,892.51, has been deducted from the NESWC balance due the Stabilization Fund.

(B) Duplicate Charges for January Stabilization on NESWC Rollforward

NESWC began accounting for the Stabilization Fund in February 1993. At this time, NESWC tried to implement a form of "accrual accounting;" it began to account only for Stabilization Fund activity; and it began to account for activity on a bill-by-bill basis (i.e. estimated bills vs. actual monthly activity as was done by MRI).

During the transition process, NESWC inadvertently charged the Town of Acton an additional \$54,350.78 (Exhibit D, page 1) which related to the difference between Acton's estimated charges to its Stabilization Account for the month of January and the charges to the Stabilization Fund for its actual January deliveries. The entire actual January service fee had already been charged to Acton on the MRI accounting records, which included the \$54,350.78 charge. Presumably, all communities that overdelivered tonnage in January 1993 were similarly overcharged.

The erroneous charge of \$54,350.78 has been deducted from the NESWC balance due the Stabilization Fund.

(C) Second Payment of January Deliveries Not Credited

As stated above, NESWC neglected to consider certain charges by MRI which were already included in MRI's balances forward. MRI's accounting schedule had already charged Acton's Stabilization Account for the full amount of January's actual tonnage at the actual service fee rate. Acton made two payments toward these January charges. The first payment was

recorded by MRI on its Community Stabilization Fund schedule. However, the second payment for \$30,939.30 was received by NESWC but was never credited to Acton's Stabilization Fund balance. Presumably, all communities that overdelivered tonnage in January 1993 were similarly never given credit for second payments against January actual tonnage. Acton's concern is that NESWC is unable to account for these payments.

The Town has deducted the \$30,939.30 payment from the NESWC balance due the Stabilization Fund.

(D) Aged Accounts Receivable Included in Rollforward -- Not Owed

As stated above, when NESWC began accounting for the Stabilization Account NESWC attempted to produce an "accrual" type system. In so doing, NESWC picked up two very old invoices totaling \$12,156.60 (Exhibit D, page 1) from an MRI schedule. Acton should have received credit memos for these two invoices, since these invoices pertained to the Town's 1992 overdelivery adjustment on MRI's schedule and were originally issued in error. Then acting NESWC Executive Director Bob Moroney and MRI Comptroller Jim Steggall reconciled the 1992 fiscal year overdelivery adjustment and should be able to clarify this matter.

The total of these invoices has been deducted from the NESWC balance due the Stabilization Fund.

(E) Allocated Assessment from Stabilization Fund

The Bond Indenture requires the Stabilization Fund to maintain a balance of \$750,000. The Stabilization Fund Balance currently approximates \$1,500,000 - \$2,000,000. The Bond Indenture does not state that each community must individually contribute its GAT percentage of the \$750,000.

Acton's allocated charge of \$34,969.06 has been deducted from the NESWC balance due the Stabilization Fund.

(F) April Prepayment Not Charged Against Stabilization

Prior to the bond refinancing in February 1993, each community contributed an amount which would be later applied toward its April 1993 actual service fees. MRI accounted for this cash infusion by crediting each community's Stabilization Fund account. In April 1993, NESWC deducted these amounts from the April billing; however NESWC failed to charge each community's Stabilization Fund balances for these sums.

Acton has added the amount of \$62,393.80, Acton's April prepayment amount, to the NESWC balance due the Stabilization Fund. The Town will pay this charge, when the accounting records are corrected for all communities.

(G) Amounts Due the Revenue Fund

Because NESWC changed the accounting system from a system of accounting for the full billable amount in the Stabilization Fund to a system of accounting for only the Stabilization Fund portion of the MRI bills, Acton has to adjust its accounting records to recognize amounts which are due to or due from the Revenue Fund. The \$20,738.58 and the (\$54,296.02) are adjustments to recognize separate fund accounting between the Revenue Fund and the Stabilization Fund.

The \$20,738.58 is an amount which was inadvertently deducted by Acton from its September 1993 payment. It is owed to the Revenue Fund and has been deducted from the Acton balance to effect a Stabilization Fund accounting balance.

The \$54,296.02 is the prepayment amount against Acton's October 1993 service fee. This amount is a prepayment of charges and should be credited to Acton's Revenue Fund until such time as the actual service fee for the month is determined. The prepayment is an amount owed the Town by the Revenue Fund and Acton's balance has been adjusted to effect a Stabilization Fund accounting balance.

### Interest

Additionally, NESWC has charged the Acton Stabilization Fund for interest based on the balance due as shown in their records. Acton's interest charges must also be adjusted to reflect the corrected balance in Acton's account. The Town estimates this to be approximately \$3,675.

### CONCLUSION

The Town of Acton has spent considerable time reconciling the apparent errors in the MRI and NESWC accounting systems. We would greatly appreciate the cooperation of these entities in expediting a timely resolution to the issues presented. We also hope that our extended efforts will assist NESWC in accurately maintaining its future accounting records for these Funds.

However, the concerns Acton has raised with the NESWC accounting records, the inability of NESWC to reconcile the Funds, the lack of timely accounting information, and the refusal of NESWC to recognize and correct the apparent errors causes Acton a great deal of concern as to NESWC'S accounting practices regarding the Communities' monies.

EXHIBIT A  
STABILIZATION FUND  
ACCOUNT RECONCILIATION

TOWN OF ACTON  
 STABILIZATION FUND  
 RECONCILIATION  
 FOR THE PERIOD 7/1/92 THRU 10/15/93

EXHIBIT A

<u>Balance per NESWC</u>		(509,506.71)	Exhibit D p.9
Less:	(A) Duplicate charges for Overdeliveries	183,892.51	Exhibit C p.1
	(B) Duplicate charges for January on NESWC Rollforward	54,350.78	Exhibit D p.1
	(C) Second payment for January bill included in MRI's schedule but not credited on NESWC rollforward	30,939.30	
	(D) Aged accounts receivable included in rollforward not owed	12,156.60	Exhibit D p.1
	(E) Allocated assessment from Stabilization Fund	<u>34,969.06</u>	Exhibit D p.9
	Sub-total	(193,198.46)	
	(F) April Prepayment not charged to Stabilization in error	<u>(62,393.80)</u>	Exhibit C p.2
		<u>(255,592.26)</u>	
<u>Balance per Acton</u>		(222,034.81)	Exhibit B
Less:	(G) Amounts due revenue fund:		
	Invoice 309.01 9/15/93 deducted in error	20,738.58	
	Estimated Oct Payment - Prepaid	<u>(54,296.02)</u>	<u>(33,557.44)</u>
			<u>(255,592.25)</u>





EXHIBIT C  
MASSACHUSETTS REFUSETECH INC.  
COMMUNITY STABILIZATION FUND BALANCE  
FISCAL 1993

67-117-93

COMMUNITY STABILIZATION FUND BALANCE - FISCAL 1993

Final CSF

Exhibit C  
(page 1 of 4)

	ACTON	ANDOVER	ARLINGTON	BEDFORD	BELMONT	SCITBOROUGH	BURLINGTON	CARLISLE	DRACUT	HAMILTON	LEXINGTON	LINCOLN	MANCHESTER	NO. ANDOVER
Balance carried forward 6/30/92:	(159,646.68)	190,480.36	(121,594.32)	90,132.09	230,853.59	(110,499.16)	68,941.85	29,505.80	19,762.87	(17,876.22)	65,553.15	39,788.51	32,626.74	123,631.63
Adjustment fiscal'92:														
Dollar corrections made after 7/1/92:														
Corrected balance 7/01/92:	(159,646.68)	190,480.36	(121,594.32)	90,132.09	230,853.59	(110,499.16)	68,941.85	29,505.80	19,762.87	(17,876.22)	65,553.15	39,788.51	32,626.74	123,631.63
05/15/92 invoices:														
S/P payment received					107,919.47									
+/(-) April adjustment					0.00									
less May actual					(148,208.91)									
05/15/92 invoices:														
S/P payment received	34,356.02	85,481.85		39,596.55	106,850.70		106,513.37	13,428.90	77,400.00	28,351.91	79,173.75	16,544.25	18,227.70	57,824.25
FF 1992 Overdelivery Adj.	75,731.39	0.00	163,782.92	0.00	10,696.68	15,341.97	56,181.44	1,053.86	12,660.26	33,528.34	0.00	274.77	5,023.39	2,198.16
+/(-) May adjustment	(21,593.31)	0.00		0.00	0.00		(29,115.36)	0.00	0.00	(10,729.57)	0.00	0.00	0.00	0.00
less June actual	(77,607.33)	(100,732.44)		(47,018.15)	(145,197.14)		(112,304.04)	(15,675.12)	(93,071.86)	(47,392.19)	(93,818.11)	(19,620.31)	(21,501.57)	(66,836.59)
07/15/92 invoices:														
S/P payment received	58,187.50	75,373.20	259,024.13	34,912.50	104,911.78	23,301.67	80,759.05	11,840.50	69,720.00	0.00	69,807.50	14,588.70	16,070.60	50,983.10
+/(-) June adjustment	0.00	0.00	(111,606.93)	0.00	(10,696.68)	(15,341.97)	(12,513.65)	0.00	0.00	(12,758.76)	0.00	0.00	0.00	0.00
less July actual	(117,249.25)	(89,518.64)	(175,336.84)	(41,314.94)	(111,760.80)	(9,273.66)	(81,165.99)	(17,441.49)	(95,372.83)	(22,153.68)	(82,919.87)	(17,369.37)	(19,001.33)	(55,252.13)
08/15/92 invoices:														
S/P payment received	92,260.70	77,189.70	150,969.70	35,753.90	96,485.20	9,071.50	59,888.70	14,402.50	77,561.60	19,218.50	71,489.60	14,940.80	16,457.70	52,211.60
+/(-) July adjustment	(32,671.10)	0.00	0.00	0.00	0.00	0.00	0.00	(2,276.40)	(6,161.40)	0.00	0.00	0.00	0.00	0.00
less Aug. actual	(137,022.83)	(113,110.90)	(221,214.05)	(52,324.06)	(141,205.31)	(11,910.68)	(102,415.35)	(17,969.65)	(107,863.69)	(29,468.19)	(104,798.61)	(21,910.64)	(24,118.60)	(75,283.77)
09/15/92 invoices:														
S/P payment received	81,260.90	77,189.70	150,969.70	35,753.90	96,485.20	8,151.50	69,888.70	12,205.90	71,400.00	19,837.30	71,489.60	14,940.80	16,457.70	52,211.60
+/(-) Aug. adjustment	(21,671.30)	0.00	0.00	0.00	0.00	0.00	0.00	(79.80)	0.00	(618.80)	0.00	0.00	0.00	0.00
less Sep. actual	(126,702.60)	(100,717.74)	(209,263.81)	(46,357.04)	(125,236.91)	(10,391.12)	(91,094.40)	(15,799.01)	(100,777.68)	(26,538.77)	(93,305.83)	(19,520.97)	(21,435.71)	(66,771.10)
10/15/92 invoices:														
S/P payment received	85,470.70	79,913.40	162,347.50	37,015.30	99,890.70	8,439.20	72,355.50	12,553.80	75,982.20	20,580.70	74,012.40	15,467.90	17,038.70	54,054.00
+/(-) Sep. adjustment	(23,778.30)	0.00	(6,050.10)	0.00	0.00	0.00	0.00	0.00	(2,062.20)	(683.90)	0.00	0.00	0.00	0.00
less Oct. actual	(138,364.58)	(113,449.37)	(223,268.02)	(52,395.08)	(141,160.92)	(11,923.53)	(102,651.46)	(17,662.73)	(108,288.28)	(34,110.10)	(105,039.01)	(22,816.05)	(24,223.75)	(75,460.09)
11/15/92 invoices:														
S/P payment received	89,074.30	82,637.80	161,739.90	38,217.40	103,296.20	8,726.90	74,823.50	12,982.20	76,440.00	23,446.50	76,529.90	16,177.90	17,619.70	55,897.10
+/(-) Oct. adjustment	(25,278.60)	0.00	(114.10)	0.00	0.00	0.00	0.00	0.00	0.00	(2,871.40)	0.00	(373.10)	0.00	0.00
less Nov. actual	(111,550.73)	(90,706.21)	(178,075.72)	(41,882.68)	(112,564.53)	(9,533.42)	(82,070.89)	(14,235.58)	(86,983.55)	(22,543.62)	84,065.09	(17,669.28)	(19,306.91)	(60,238.92)
12/15/92 invoices:														
S/P payment received	76,256.70	70,832.30	138,536.30	32,809.90	88,529.50	7,480.20		11,127.20	65,520.00	17,635.80	65,601.90	13,710.20	15,102.50	47,911.50
+/(-) Nov. adjustment	(21,576.80)	0.00	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00
less Dec. actual	(159,558.01)	(95,819.70)	(187,125.00)	(44,195.86)	(118,964.67)	(9,525.50)		(17,471.18)	(91,926.31)	(29,490.55)	(88,774.97)	(20,577.12)	(20,398.66)	(68,849.74)
01/15/93 invoices:														
S/P payment received	92,005.20	61,751.20		28,602.70		6,521.20	88,167.80	10,722.60	57,120.00	17,785.50	57,191.60	12,795.30	13,166.30	
+/(-) Dec. adjustment	(37,323.30)	0.00		0.00		0.00	(21,256.70)	(1,022.00)	0.00	(2,404.70)	0.00	(842.80)	0.00	
plus Jan. actual	(168,608.89)	(90,406.55)		(41,809.75)		(9,504.99)	(145,791.31)	(16,344.15)	(86,025.16)	(22,529.36)	(83,644.73)	(18,792.91)	(19,257.68)	
02/15/93 invoices:														
S/P payment received														
+/(-) Jan. adjustment														

Ⓢ - \$183,892.51

Duplicate Charges  
for Overdeliveries

	ACTON	ANDOVER	ARLINGTON	BEDFORD	BELMONT	BOLBROOGE	BOZINGTON	CARLISLE	DRACUT	HAMILTON	LESLINGTON	LINCOLN	MARCHESTER	NO. ANDOVER
less Feb. actual														
03/15/93 invoices:														
S/P payment received														
+ / (-) Feb. adjustment														
less Mar. actual														
04/15/93 invoices:														
S/P payment received	62,393.80	80,822.00		37,436.00	101,023.40	8,535.10	73,177.30	12,696.00		20,122.90	74,853.80	15,643.60	17,231.90	54,668.60
+ / (-) Mar. adjustment														
less Apr. actual														
05/15/93 invoices:														
S/P payment received														
+ / (-) Apr. adjustment														
less May actual														
06/15/93 invoices:														
S/P payment received														
+ / (-) May adjustment														
less June actual														
Interest Earnings through 1/31/93:	799.32	1,035.40	2,025.07	479.59	1,294.23	109.24	937.47	162.66	957.74	257.79	958.94	200.41	220.76	700.35
BESVC Trans. to Adv. Bd. thro 1/31/93	(117,858.12)	(23,132.64)	(45,243.54)	(10,714.87)	(28,915.25)	(2,442.90)	(20,944.73)	(3,634.03)	(21,397.65)	(5,759.53)	(21,424.39)	(4,477.46)	(4,932.16)	(15,647.63)
Previous Activity Adjust. Paid Balance:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Trans (to)/from Cap. Res. Acct - 1/31/93	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Funds in excess/required for certif.	66,551.57	86,210.63	168,613.44	39,932.14	107,761.62	9,104.18	78,056.73	13,543.30	79,744.66	21,464.60	79,844.34	18,686.57	18,381.14	58,313.28
Previous CSP billings for FY 1993 on b/c	0.00	12,175.58	14,243.17	8,413.74	37,139.55	2,786.03	6,437.10	2,752.30	79,461.21	0.00	15,675.90	2,812.94	2,211.06	78,357.50
Payoff negative balance						10,499.16								
Balance - 1/31/93 + 2/20/93 Transfer:	\$476,709.43	\$163,498.93	\$87,240.60	\$81,102.38	\$209,238.40	\$18,317.22	\$22,704.43	\$19,108.38	\$36,202.25	\$55,785.90	\$212,527.75	\$30,802.74	\$31,661.72	\$130,633.30



COMMUNITY STABILIZATION FUND BALANCE - FISCAL 1993

Exhibit C  
(page 4 of 4)

	NO. READING	PRABODY	TRVESBURY	WATERBURY	VERBAX	WESTFORD	Y. NEWBURY	WILMINGTON	WINCHESTER	TOTAL
less Feb. actual										0.00
03/15/93 invoices:										
S/P payment received										0.00
+/(-) Feb. adjustment										0.00
less Mar. actual										0.00
04/15/93 invoices:										
S/P payment received	34,464.50	127,764.70	76,062.00	106,719.90	9,506.70	42,594.30	10,105.20	58,237.90		1,024,061.60
+/(-) Mar. adjustment										0.00
less Apr. actual										0.00
05/15/93 invoices:										
S/P payment received										0.00
+/(-) Apr. adjustment										0.00
less May actual										0.00
06/15/93 invoices:										
S/P payment received										0.00
+/(-) May adjustment										0.00
less June actual										0.00
Interest Earnings through 1/31/93:	441.52	1,636.78	974.62	1,367.18	121.79	345.67	129.45	746.08	1,041.39	17,143.35
HESBC Trans. to Adv. Bd. thru 1/31/93	(9,864.31)	(36,568.58)	(21,770.32)	(30,545.14)	(2,721.07)	(12,191.31)	(2,892.25)	(16,668.77)	(23,266.37)	(383,012.52)
Previous Activity Adjust. Fund Balance:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Trans (to)/from Can. Res. Acct - 1/31/93	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Funds in excess/required for certif.	36,762.23	136,283.63	81,133.55	113,835.51	10,140.86	45,434.52	10,778.82	62,121.09	86,709.03	1,427,409.50
Previous CSF billings for FY 1993 so blg	22,282.38	26,292.05	7,026.82	559.03	3,745.62	11,552.14	512.86	2,975.66	11,017.34	278,439.98
Payoff negative balance		21,331.05			12,170.36					44,000.57
<b>Balance - 1/31/92 + 2/20/93 Transfer:</b>	<b>\$45,230.84</b>	<b>(\$161,422.33)</b>	<b>\$173,619.76</b>	<b>\$53,143.02</b>	<b>\$28,234.21</b>	<b>(\$12,476.72)</b>	<b>\$74,592.73</b>	<b>\$82,912.69</b>	<b>(\$37,457.67)</b>	<b>\$609,033.82</b>
Less ending balance January 31, 1993 interest earned, Adv Bd transfers out & CSF transfers in:										\$825,937.14
Requirement - Add/(Deduct) to/(from) CSF:										(\$216,903.33)

EXHIBIT D

NORTH EAST SOLID WASTE COMMITTEE  
COMMUNITY BILLS, PAYMENTS AND BALANCES

12/12/93 3:11 PM WORKING DRAFT

NORTH EAST SOLID WASTE COMMITTEE  
COMMUNITY BILLS, PAYMENTS AND BALANCES

COMBLPYGXLS

Guaranteed Annual Tonnage (GAT) for fiscal 1993  
GAT (% of total): Used only for allocating \$1.352K loan

Action			
A. Beg balance	B. Inv/Inv pymt	C. Pymt/withdr	D. End balance

10,015  
4.66%

Beginning cash balance 2/26/93

(476,709.43) <sup>A</sup>

Beginning accrual balance  
A/R spec billing for greater of GAT or delivered  
Contr/withdr for 2/15/93 invoice  
Contr/withdr for 12/15/92 & 1/15/93 invoice  
Total balance at 2/26/93

(476,709.43) <sup>A</sup>			
(12,158.60) <sup>C</sup>		(12,158.60)	
(80,160.16) <sup>B</sup>		(80,160.16)	
		0.00	
(549,028.19)	(72,316.76)		

← <sup>C</sup> INVOICES BILLED  
IN ERROR

March  
Dates  
Total Level Tip Fee (enter data)  
Transfer from/(to) Stab Fund (enter data)  
Total com service fee

	3/15/93		
	84,748.20		
	23,731.61		
0.00	108,477.81		108,477.81

Library  
info

Transp Sharing (enter data)

0.00	(1,796.23)		(1,796.23)
------	------------	--	------------

Total NESWC Assessment (enter data)  
Operating account  
Capital reserve account  
Total NESWC assessment

0.00	1,427.67		1,427.67
0.00	0.00		0.00
0.00	1,427.67	0.00	1,427.67

Stabilization Fund  
Offset to cash payments or withdrawals  
Regular deposits/withdrawals from billings  
Special deposits/withdrawals  
Allocated interest (income)/exp  
Total Stabilization Fund transactions  
Stabilization Fund:  
B: (Owed)/prepay items; C: Cash balance

	23,731.61 <sup>C</sup>		
	(23,731.61) <sup>B</sup>		
		23,731.61 ✓	
		217.06 <sup>P</sup>	
(549,026.19)	0.00	23,948.87	(572,974.86)

→ STABILIZATION OWED TO  
NESWC ON AN ACCRUAL BASIS

Memo: Total Invoice (tot level tip fee + trns shr + NESWC Assmt)

(72,316.76)	(500,658.10)
84,377.64	CASH BALANCE IN FUND

<sup>A</sup> Agreed to including Balance plus MRI - 25% without  
✓ Agreed to 3/15/93. [unclear]  
<sup>B</sup> [unclear]

<sup>B</sup> Amount includes 54,350.78  
which were included in MRI's  
Schedule

12/12/93 3:11 PM WORKING DRAFT

NORTH EAST SOLID WASTE COMMITTEE  
COMMUNITY BILLS, PAYMENTS AND BALANCES

COMBLPYGXLS

Guaranteed Annual Tonnage (GAT) for fiscal 1993  
GAT (% of total): Used only for allocating \$1.352K loan

Action			
A. Beg balance	B. Inv/lnw pymt	C. Pymt/withdri	D. End balance
	10,015		
	4.86%		

April  
Dates  
Total Level Tip Fee (enter data)  
Transfer from/(to) Stab Fund (enter data)  
Total cum service fee

4/15/93			
	95,652.20		
	(8,847.30)		
108,477.81	86,804.90		195,282.71

Transp Sharing (enter data)

(1,786.23)	(1,205.89)		(3,002.12)
------------	------------	--	------------

Total NESWC Assessment (enter data)

Operating account	1,427.87	1,427.87	1,427.87	1,427.87
Capital reserve account	0.00	0.00		0.00
Total NESWC assessment	1,427.87	1,427.87	1,427.87	1,427.87

Stabilization Fund

Offset to cash payments or withdrawals		0.00		
Regular deposits/withdrawals		8,847.30 ✓		
Special deposits/withdrawals		0.00		
Allocated spec deposits (\$1,352,583.86) by GAT			(83,084.79) *	
Allocated interest (income)/exp			1,148.89 (P)	
Total Stabilization Fund transactions	(572,974.88)	8,847.30	(61,914.90)	(502,212.66)

Stabilization Fund:

B: (Owed)/prepay items; C: Cash balance

(83,489.48)	(438,743.20)
-------------	--------------

Memo: Total invoice (tot level tip fee + lms shr + NESWC Assmt)  
Credit for April prepay  
Net Invoice

95,873.98
62,393.80
33,480.18

✓ Agreed to 4/15/93 Invoice  
\* Recalculated @ 4.66% (Additional Borrowing)  
part of advances referred per [unclear] [unclear]

12/12/93 3:11 PM WORKING DRAFT

NORTH EAST SOLID WASTE COMMITTEE  
COMMUNITY BILLS, PAYMENTS AND BALANCES

COMBLPYG.XLS

Guaranteed Annual Tonnage (GAT) for fiscal 1993  
GAT (% of total): Used only for allocating \$1.352K loan

Action			
A. Beg balance	B. Inv/inv pymt	C. Pymt/withdrl	D. End balance
10,016			
4.66%			

May  
Dates  
Total Level Tip Fee (enter data)  
Transfer from/(to) Stab Fund (enter data)  
Total com service fee

5/15/93			
	123,808.80		
	(31,998.75)		
195,282.71	91,812.05		288,894.76

Transp Sharing (enter data)

(3,002.12)	(1,278.42)		(4,280.54)
------------	------------	--	------------

Total NESWC Assessment (enter data)

Operating account	1,427.67	1,427.67		2,855.34
Capital reserve account	0.00			0.00
Total NESWC assessment	1,427.67	1,427.67	0.00	2,855.34

Stabilization Fund

Offset to cash payments or withdrawals		63,646.50		
Regular deposits/withdrawals		31,998.75		
Special deposits/withdrawals			53,648.50	
Allocated interest (income)/exp			668.97	
Total Stabilization Fund transactions	(502,212.68)	85,643.26	64,215.47	(470,884.88)

Stabilization Fund:

B: (Owed)/prepay items; C: Cash balance

22,073.78	(492,958.67)
-----------	--------------

Memo: Total Invoice (tot level tip fee + trna shr + NESWC Assmt)

123,768.05

✓ Agreed to 5/15/93 Invoice

12/12/93 3:11 PM WORKING DRAFT

NORTH EAST SOLID WASTE COMMITTEE  
COMMUNITY BILLS, PAYMENTS AND BALANCES

COMBLPYG.XLS

Action			
A. Beg balance	B. Inv/Inv pymt	C. Pymt/withdr	D. End balance
Guaranteed Annual Tonnage (GAT) for fiscal 1993	10,015		
GAT (% of total): Used only for allocating \$1.332K loan	4.66%		
June			
Dates	6/15/93		
Total Level Tip Fee (enter data)	82,522.30		
Transfer from/(to) Stab Fund (enter data)	(10,941.16)		
Total com service fee	288,894.78	71,581.14	358,475.90
Transp Sharing (enter data)	(4,280.54)	(1,538.85)	(5,819.39)
Total NESWC Assessment (enter data)			
Operating account	2,855.34	1,427.67	4,283.01
Capital reserve account	0.00		0.00
Total NESWC assessment	2,855.34	1,427.67	4,283.01
Stabilization Fund			
Offset to cash payments or withdrawals	(31,998.75) <sup>Q</sup>		
Regular deposits/withdrawals	10,941.16 <sup>✓</sup>	(31,998.75) <sup>Q</sup>	
Special deposits/withdrawals			
Allocated Interest (Income)/exp		1,208.78 <sup>P</sup>	
Total Stabilization Fund transactions	(470,884.88)	(21,055.59)	(30,789.96)
Stabilization Fund:			
B: (Owed)/prepay items; C: Cash balance	1,018.20	(482,188.71)	
Memo: Total Invoice (tot level tip fee + trns shr + NESWC Assmt)	82,411.12		

✓ Agreed w/ 6-15-93 Invoice  
 P done

12/12/93 3:11 PM WORKING DRAFT

NORTH EAST SOLID WASTE COMMITTEE  
COMMUNITY BILLS, PAYMENTS AND BALANCES

COMBLPYG.XLS

Guaranteed Annual Tonnage (GAT) for fiscal 1993  
GAT (% of total): Used only for allocating \$1.352K loan

Acton			
A. Beg balance	B. Inv/Inv pymt	C. Pymt/withdri	D. End balance
10,015			
4.66%			

July

Dates

Total Level Tip Fee (enter data)

Transfer from/(to) State Fund (enter data)

Total com service fee

7/15/93			
	72,850.35		
	9,937.54		
358,475.80	82,787.89		441,263.79

Transp Sharing (enter data)

(5,819.39)	(1,141.83)		(6,961.22)
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Total NESWC Assessment (enter data)

Operating account

Capital reserve account

Total NESWC assessment

4,283.01	1,743.09		6,026.10
0.00	1,169.86		1,169.86
4,283.01	2,912.95	0.00	7,195.96

Stabilization Fund

Offset to cash payments or withdrawals

Regular deposits/withdrawals

Special deposits/withdrawals

Allocated Interest (Income)exp

Total Stabilization Fund transactions

Stabilization Fund:

B: (Owed)/prepay items; C: Cash balance

(10,941.16)			
(9,937.54)		(10,941.16)	
		885.47	
(461,160.51)	(20,878.70)	(10,055.69)	(471,973.52)
	(19,880.50)	(462,113.02)	

Memo: Total Invoice (tot level tip fee + trns shr + NESWC Assmt)

74,621.47

✓ Agreed w/ 7-5-93 Review  
Ⓟ Pass

12/12/93 3:11 PM WORKING DRAFT

NORTH EAST SOLID WASTE COMMITTEE  
COMMUNITY BILLS, PAYMENTS AND BALANCES

COMBLPYG.XLS

Action			
A. Beg balance	B. Inv/inv pymt	C. Pymt/withdrt	D. End balance
Guaranteed Annual Tonnage (GAT) for fiscal 1993	10,015		
GAT (% of total): Used only for allocating \$1.352K loan	4.66%		

August

Dates	8/15/93		
Total Level Tip Fee (enter data)	78,832.08		
Transfer from/(to) Stab Fund (enter data)	14,687.41		
Total com service fee	441,263.79	93,519.49	534,783.28

Transp Sharing (enter data)	(8,981.22)	(889.05)	(7,830.27)
-----------------------------	------------	----------	------------

Total NESWC Assessment (enter data)			
Operating account	6,026.10	2,024.50	8,050.60
Capital reserve account	1,169.86		1,169.86
Total NESWC assessment	7,195.96	2,024.50	9,220.46

Stabilization Fund			
Offset to cash payments or withdrawals	14,687.41		
Regular deposits/withdrawals	(14,687.41)		
Special deposits/withdrawals		14,887.41	
Allocated interest (income)/exp		1,009.73	
Total Stabilization Fund transactions	(471,973.52)	0.00	15,897.14
			(487,670.66)

Stabilization Fund:			
B: (Owed)/prepay items; C: Cash balance	(18,860.80)	(467,810.18)	

Memo: Total Invoice (tot level tip fee + trns shr + NESWC Assmt)	79,987.53		
--	-----------	--	--

✓ Agreed to 8/15/93 Invoice

12/12/93 3:11 PM WORKING DRAFT

NORTH EAST SOLID WASTE COMMITTEE  
COMMUNITY BILLS, PAYMENTS AND BALANCES

Guaranteed Annual Tonnage (GAT) for fiscal 1993  
GAT (% of total): Used only for allocating \$1.352K loan

Action			
A. Beg balance	B. Inv/Inv pymt	C. Pymt/withdrt	D. End balance
10,015			
4.66%			

September

Dates  
Total Level Tip Fee (enter data)  
Transfer from/(to) Stab Fund (enter data)  
Total com service fee

9/15/93		
	74,932.09	
	2,198.35	
534,783.28	77,130.44	611,913.72

Transp Sharing (enter data)

(7,830.27)	(1,218.44)	(9,048.71)
------------	------------	------------

Total NESWC Assessment (enter data)

Operating account	8,050.60	1,907.51		9,958.11
Capital reserve account	1,169.86			1,169.86
Total NESWC assessment	9,220.46	1,907.51	0.00	11,127.97

Stabilization Fund

Offset to cash payments or withdrawala  
Regular deposits/withdrawala  
Special deposits/withdrawala  
Allocated interest (income)/exp  
Total Stabilization Fund transactions

	8,937.54			
	(2,198.35)			
		8,937.54		
		1,132.57		
(487,670.66)	7,739.19	11,070.11		(491,001.58)

Stabilization Fund:  
B: (Owed)/prepay items; C: Cash balance

(12,121.31)	(478,680.27)
-------------	--------------

Memo: Total invoice (tot level tip fee + trns shr + NESWC Assm)

75,620.16

✓ Agreed w/ 9-15-93 invoice

12/12/93 3:11 PM WORKING DRAFT

NORTH EAST SOLID WASTE COMMITTEE  
COMMUNITY BILLS, PAYMENTS AND BALANCES

Guaranteed Annual Tonnage (GAT) for fiscal 1993  
GAT (% of total): Used only for allocating \$1.352K loan

Action			
A. Beg balance	B. Inv/Inv pymt	C. Pymt/withdrl	D. End balance

10,015  
4.66%

October  
Dates

10/15/93
82,087.70
(17,543.18)

Total Level Tip Fee (enter data)  
Transfer from/to) Stab Fund (enter data)  
Total com service fee

611,913.72	64,544.54	876,458.26
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Transp Sharing (enter data)

(9,049.71)	(1,309.03)	(10,358.74)
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Total NESWC Assessment (enter data)

Operating account  
Capital reserve account  
Total NESWC assessment

9,958.11	1,907.51	11,865.62
1,169.86	1,169.86	2,339.72
11,127.97	3,077.37	0.00
		14,205.34

Stabilization Fund

Offset to cash payments or withdrawals  
Regular deposits/withdrawals  
Special deposits/withdrawals  
Allocated interest (income)/exp  
Total Stabilization Fund transactions

2,198.35	17,543.18	2,198.35	1,079.22
(491,001.58)	19,741.51	3,277.57	(474,537.64)

Stabilization Fund:

B: (Owed)/prepay items; C: Cash balance

7,620.20	(482,157.64)
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Memo: Total invoice (tot level tip fee + trns shr + NESWC Assmt)

83,858.04

✓ Agreed w/ 10.15.93 Director

12/12/93 3:11 PM WORKING DRAFT

NORTH EAST SOLID WASTE COMMITTEE  
COMMUNITY BILLS, PAYMENTS AND BALANCES

Guaranteed Annual Tonnage (GAT) for fiscal 1993  
GAT (% of total): Used only for allocating \$1.352K loan

Acton			
A. Beg balance	B. Inv/inv pymt	C. Pymt/withdri	D. End balance
	10,016		
	4.66%		

Summary of Accrual Position

Stabilization Fund ending accrual balance	(474,537.64)
Share of \$750,000 minimum balance (by GAT)	34,889.06 *
Over/(under) minimum accrual balance	<u>(509,608.71)</u>

\* Assessment to maintain maximum balance in  
Stabilization Fund.

EXHIBIT E  
COMMUNITY STABILIZATION FUND  
OVERBILLING ADJUSTMENTS  
FISCAL YEAR 1993

CSF OVERBILLING ADJUSTMENTS  
FOR THE PERIOD MAY 1992 THRU DECEMBER 1992

EXHIBIT E

	ACTON	ARLINGTON	BELMONT	BOXBOROUGH	BURLINGTON	CARLISLE	DRACUT	HAMILTON	LINCOLN
MAY'92	21,593.31				29,113.38			10,729.57	
JUNE'92		111,606.93	10,696.68	15,341.97	12,513.65			12,758.74	
JULY'92	32,671.10					2,276.40	6,161.40		
AUGUST'92	21,671.30					79.80		618.80	
SEPTEMBER'92	23,778.30	6,050.10					2,062.20	663.90	
OCTOBER'92	25,276.40	114.10						2,871.40	373.10
NOVEMBER'92	21,576.80								
DECEMBER'92	37,323.30				32,256.70	1,022.00		2,408.70	842.80
<b>TOTAL '92</b>	<b>183,892.51</b>	<b>117,771.13</b>	<b>10,696.68</b>	<b>15,341.97</b>	<b>73,883.71</b>	<b>3,378.20</b>	<b>8,223.60</b>	<b>30,071.11</b>	<b>1,215.90</b>

	PEABODY	WATERTOWN	WENHAM	WESTFORD	W.NEWBURY	WILMINGTON	WINCHESTER	TOTAL
MAY'92				3,916.44				65,352.68
JUNE'92	30,992.90			56,575.53		3,883.55		254,369.95
JULY'92	33,314.40	8,285.90		3,859.80	834.40	4,024.30	2,264.50	93,692.20
AUGUST'92	20,043.10			1,883.00	1,683.50			45,979.50
SEPTEMBER'92	34,136.20	15,516.90		5,219.20	1,253.70	3,780.70		92,481.20
OCTOBER'92	9,033.50		413.00		638.40			36,721.90
NOVEMBER'92		26.70			820.40			22,425.90
DECEMBER'92				4,641.70			577.50	79,072.70
<b>TOTAL '92</b>	<b>127,520.10</b>	<b>23,831.50</b>	<b>413.00</b>	<b>76,095.67</b>	<b>5,230.40</b>	<b>11,688.55</b>	<b>2,842.00</b>	<b>692,096.03</b>

EXHIBIT F  
EXCESS TONNAGE PREMIUM  
BILLING  
FISCAL YEAR 1993

SCHEDULE D  
-----

ACTON  
EXCESS TONNAGE PREMIUM  
July 15, 1993 BILLING

SERVICE AGREEMENT  
SYMBOL  
-----

June 1993  
Actual  
-----

	Tons Delivered (7/1/92-6/30/93)	14,824.06
Tg	110% of Guaranteed Tonnage (7/1/92-6/30/93)	11,016.50
		-----
Te	Excess Tons	3,807.56
K3	\$2.50 x (151.2/69.4)	\$5.45
		-----
	Excess Tonnage Premium	\$20,738.58

-----  
\$20,738.58  
=====

Vendor •	3556
P.O. •	113185
Budget #	468
Article #	
TOTAL	20,738.58
Approved By: R. Home	Date 7/4/93

cc: BOS

INTERDEPARTMENTAL COMMUNICATION

TO: Don Johnson/Dore Hunter  
FROM: Anne Forbes, Historic District Commission AMF  
SUBJECT: HDC Bylaw Warrant Articles for Town Meeting  
DATE: 3/25/94

---

At our meeting and public hearing on March 21, the Historic District Commission voted to approve Article 60 in the 1994 Annual Town Warrant, to AMEND LOCAL HISTORIC DISTRICT BYLAW, with the exception of the wording of the new Section 9.1.2, which should have ", but not including parking lots" inserted at the end, hopefully at the time the article is read.

It appeared that this phrase, which was suggested by Town Counsel in his 3/8/94 letter, was inadvertently left out of the printing, as what remains as printed in the warrant is exactly the same as the present wording in the bylaw, and would thus make no sense to present to Town Meeting.

When I spoke to you, Don, on the day before this went to press, it was my guess that the Commission would agree to work on Counsel's bracketed phrase [for more than -- vehicles], for insertion in a later amendment. This is indeed the case, and Mike Lynch is currently revising his draft HDC guidelines for parking areas in the districts to address this in the meantime.

I assume that the Selectmen intend to make their final Warrant Article recommendations at their meeting on March 29. I will try to talk to one of you before that, and I will try to attend the meeting if at all possible. As we have discussed, I would be glad to have the HDC present this article at Town Meeting. If I cannot attend the BOS meeting, please let me know what the Selectmen decide.

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION

DATE: March 18, 1994

TO: Don P. Johnson, Town Manager  
FROM: Garry A. Rhodes, Building Commissioner *JAR*  
SUBJECT: West Acton Mobil Sign

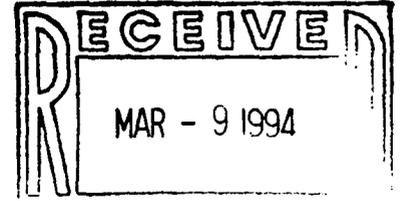
The Historic District Commission on March 7, 1994 denied Mobil's requested sign permit. As you are aware this sign is also subject to a Board of Appeals action. The Board of Appeals denied the requested sign and Mobil appealed the decision in court. I was attempting to resolve this issue but have been unable. I am now requesting that I be allowed to instruct Town Counsel to proceed with court action.

*GARRY - 3/25*  
*PERMISSION GRANTED.*  
*[Signature]*

*cc: BOS*

PALMER & DODGE

One Beacon Street  
Boston, Massachusetts 02108

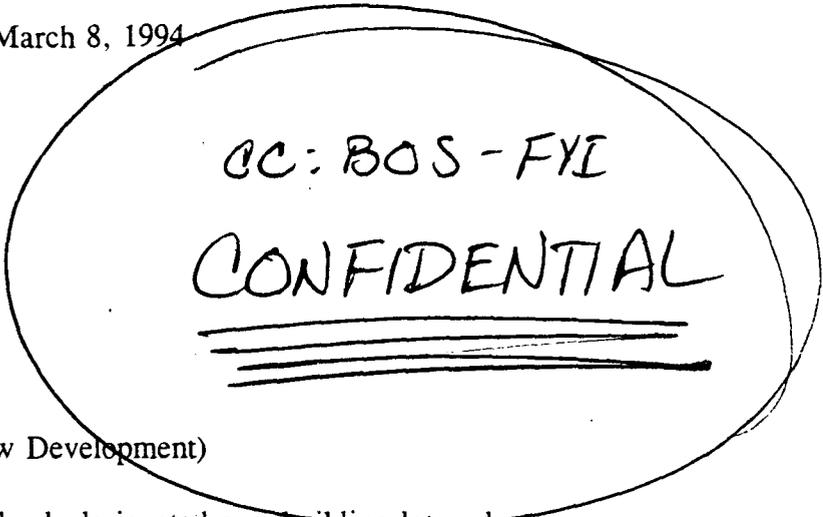


Acheson H. Callaghan, Esq.  
(617) 573-0178

Telephone: (617) 573-0100  
Facsimile: (617) 227-4420

March 8, 1994

Mr. Garry Rhodes  
Building Commissioner  
472 Main Street  
Acton, MA 01720



Dear Garry: (NuView Development)

You have asked whether a parcel of land, designated as a ~~building lot~~ under a previously approved "open space" special permit, may be used to satisfy the density requirements in an adjacent PCRC development. The issue is a complex one, which is not answered by any existing appellate decision I am aware of. For the reasons set out below, however, I conclude that the land can be used only for the purposes set forth in the original open space special permit, and may not be used to satisfy, or to increase, density in an adjacent PCRC development.

**Facts**

The facts, as I understand them, can be understood most easily by reference to the attached plan. At the left (or southerly) side is a four lot open space development known as Gregory Lane, which was approved under § 4.2 of the zoning by-law. It contains a total of 9.97 acres divided into three building lots (lots 1, 2 and 3 containing 1.38, 1.22 and 3.25 acres respectively), and 4.1 acres of common land, all served by a common driveway off Massachusetts Avenue.

It is now proposed that Lot 3 on the Gregory Lane plan be sold to and included in a larger development known as NuView, which is seeking a PCRC special permit under § 9 of the by-law. I understand that Lot 3 will be part of the common land, will not be built upon but will be used as the location of leaching areas for the septic system. In addition to being part of the land that satisfies the common land requirement (§ 9.6.3.1), the additional area will increase the number of dwelling units permitted on the parcel. See § 9.6.2.3.

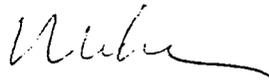
### Analysis

The Gregory Lane development could not have been approved if it did not include Lot 3, because it would not have complied with the minimum tract size of eight acres. In addition, the development is in an R-8 zone, which would require, apart from the open space special permit, 200 feet of frontage and 80,000 square feet of area for each building lot. Lots 1 and 2 would not meet the area requirement of the zoning by-law and neither lot 1, 2 nor 3 would meet the frontage requirement, apart from the special permit. Thus, the inclusion of Lot 3 in the Gregory Lane development was *necessary* to the granting of a special permit that allowed a development that was economically advantageous to the developer as well as meeting the public purposes of the open space by-law.

Consequently, I do not think the land shown as Lot 3 can not be used for some other "purpose" in connection with the NuView development. I recognize that under the Gregory Lane plan, Lot 3 could have been built on, and under the NuView proposal, it will not be. At first, this seems to be a less intensive use of the land, or perhaps what the court in *Tofias v. Bulter*, 26 Mass. App. 89, 95 (1988), calls an "abstract" use of the land. I do not think such an analysis is appropriate in this case. Here we have the use of the *same land* to meet the dimensional requirements of the by-law for both developments. That improperly "double counts" the land and violates the terms of the Gregory Lane special permit in much the same way as sale of part of a lot in the R-8 district would create a violation of the zoning by-law if it reduced the lot below 80,000 square feet.

I think that a different result might be appropriate if Lot 3 were really "unnecessary" to the Gregory Lane special permit. If, for example, Gregory Lane contained 20 acres, I do not think that sale of one of the building lots and its inclusion in an adjacent development would create the same problems. But, that would be because the Gregory Lane development would still meet the applicable requirements for a special permit.

Very truly yours,



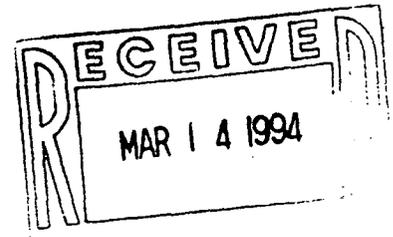
Acheson H. Callaghan

AHC/dcb  
Enclosure

cc: Don Johnson

PALMER & DODGE

One Beacon Street  
Boston, Massachusetts 02108



Acheson H. Callaghan, Esq.  
(617) 573-0178

Telephone: (617) 573-0100  
Facsimile: (617) 227-4420

March 10, 1994

Mr. Garry Rhodes  
Building Commissioner  
472 Main Street  
Acton, MA 01720

Dear Garry:

(NuView Development)

I have reviewed the memo from Peabody & Brown, which I received after writing my March 8 letter. I do not disagree with its statement of the issue or its implicit agreement that there is no case authority directly on point, but I do disagree with its conclusion. The argument that the same land may be used to meet area and other dimensional requirements for a lot is true but not relevant. Here, Lot 3 is being used to meet requirements for two *different* developments. That is analogous to claiming that the middle lot in a row of three one-acre lots can be used to meet a two-acre minimum lot size requirement for *both* adjoining lots, thus permitting the construction of two houses where the by-law allows only one. I recognize, however, that the Planning Board might have granted a special permit for the *combined* area with the same number and layout of dwellings as are being proposed. Although that is speculation, it might be the basis for a variance request if all the affected landowners could agree.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Acheson".

Acheson H. Callaghan

AHC/dcb

cc: Don Johnson

RECEIVED

17 1994

Those who cannot remember the past are condemned to repeat it—George Santayana

cc: BOS - FYE

To: DON JOHNSON  
JOHN MURRAY  
DICK HOWE  
GEORGE ROBINSON  
DEAN CHARTER  
CATHY BELBIN

## MIIA Loss Control Bulletin

Number 5  
March 10, 1994

### Potholes, Revisited

Although we sent you this bulletin on potholes last year, the winter of 1994 has proven to be so severe that we felt we couldn't do better than to send it again. Now that winter is winding down (we hope), pothole season is upon us once again. With its arrival, it is appropriate to review your procedures for dealing with pothole reporting and repair.

Massachusetts General Law (MGL Chapter 84, Section 15) provides that cities and towns in the commonwealth are liable for property damage and personal injuries caused by defects or lack of repair in roadways. This includes potholes. A cause of action might be brought under MGL Chapter 84, Section 15 for:

- Personal injury or property damage caused by a defect in the roadway.
- Damage that may have been prevented, or where the road may have been repaired by the exercise of due care and diligence.
- The town or city had either actual notice of or, through the exercise of due care, might have had notice of the defect.

The municipality's liability is capped at the greater of \$5,000 or one-fifth of one percent of the town's state valuation. In order to collect, the claimant must provide the city or town with notice within 30 days of the accident. The municipality is required to repair the defect within a "reasonable" period of time following notification of a defect. There is no specific time frame within which the defect must be repaired after notification.

Since there is no statutory deadline by which potholes must be repaired, a determination must be made as to the definition of what is a "reasonable" time following notification that a pothole exists. In determining what is "reasonable", MIIA's claim administrator suggests taking into account other conditions and the workload of the Public Works Department. For example, the winter of 1992-1993 was unusual in that there were a number of storms, coupled with heavy rains and flooding. As a result, there were a larger number of potholes and other adverse road conditions existing than usual. Given the large number of storms experienced this year, municipalities may find that the pothole they repaired yesterday has reappeared today, due to traffic conditions, plowing, etc. According to MIIA's claims staff, operations such as snow removal, sanding and emergency repairs take precedence over pothole repair. However, once a storm or emergency condition has passed, potholes must be repaired on a timely basis. Our claims administrator encourages that repairs be completed as soon as possible following notification.

In order to protect your municipality from pothole claims, it is extremely important that a system be set up whereby the highway department can respond quickly once notice of a defect is received. Generally, notice of a defect is received by telephone or letter, either by the highway department, the town manager's office or the police department. Response to pothole

notifications is simplified if the notice is received directly by the highway department. However, it has been our experience that a large number of complaints regarding potholes are received either by the police department or by the town manager's/selectmen's office. Literally speaking, the clock begins to run on the "reasonable" time frame once the complaint has been made to any town entity, not necessarily the highway department. Therefore, it is critical that municipalities have a procedure for assuring that the highway department is informed by any other town department on a daily basis whenever a pothole claim is received. If a department such as the police department or the town manager's office receives a call from someone complaining of a pothole, the pertinent information should be taken by whomever receives the call, rather than asking the caller to call the highway department. The information should then be transmitted to the highway department. While this may seem to be extra work, it reduces the chance of the caller becoming angry if he or she is unable to reach the highway department and becoming more likely to pursue a claim. A person who has struck a pothole, or who has narrowly missed one, is generally not in the best frame of mind and is likely to react poorly to being told to call someone else.

CALL  
Highway  
+ Leave  
Message

The following is the basic information which should be taken by anyone receiving notification from the public:

- Name of the road where the pothole has occurred,
- the location of the pothole,
- the time of day, and,
- the name of the individual who reports the pothole.

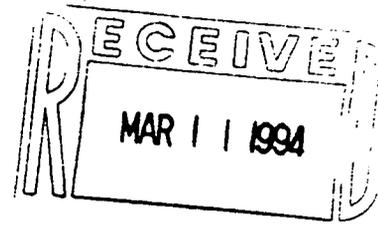
Under no circumstances should a town employee assume responsibility for damage. He or she should simply take down the information and indicate that it will be passed on to the highway department for action.

It is in the highway department's best interest to maintain a simple log of pothole complaints and action taken to repair them. A simple log includes the date the complaint was received, the location of the pothole, and the date the pothole was filled. A "pothole patrol" truck, filled with cold patch, is a good way to keep ahead of potholes. Some towns have pressed their police departments into service, requesting that officers report any potholes they note on their patrol routes. It is a good idea for the highway department to make contact with the police department each morning to see if any pothole complaints have been received or if individual police officers have reported potholes.

Potholes may be a fact of life in New England. However, by implementing the simple steps noted above, you can greatly reduce your town's exposure to pothole claims. By taking preventative action, you can save both a considerable sum of money and avoid the wrath of unhappy taxpayer/motorists.

For more information, call Jeff Siena at the MIIA offices at (1-800-882-1498).

Commonwealth of Massachusetts  
COMMUNITY ANTENNA TELEVISION COMMISSION



In Re )  
Cable Television )  
Disclosure by Community Access )  
Entities )

Docket No. R-21

February 28, 1994

REPORT AND ORDER  
(Proceeding Terminated)

A. Background

1. On September 28, 1992, the Community Antenna Television Commission (the "Commission") issued a Notice of Inquiry entitled "In Re: Cable Television Disclosure by Community Access Entities", CATV Docket No. R-21 (the "Notice"). The Notice outlined four (4) potential actions the Commission could take to monitor the operation and financial activity of access entities. These potential actions were:

- a. promulgate no further regulation;
- b. promulgate regulations requiring all access entities to file an annual report with the Commission;
- c. promulgate regulations requiring non-profit corporations to make certain documentation retained by law available to the public; and/or
- d. promulgate regulations requiring the issuing authority to hold one performance hearing a year which would be attended by the access entity.

2. The Commission received thirty (30) responses to the Notice. Twelve (12) of the responses were from community representatives and thirteen (13) were from access entities. Only one operator responded. The balance of the responses were from other interested parties.

B. Summary

3. The Commission has decided to take no further action in connection with the Notice at this time. This decision is based on several factors including: 1) the lack of evidence that abuses are widespread; 2) the existing availability of information regarding non-profits from the Attorney General and the Secretary of State; and 3) the strong response to the Notice in favor of the Commission not promulgating further regulations in this area. However, the Commission reserves the right to reconsider promulgating rules in connection with this matter at any time in the future. Further the Commission uses this Order as a vehicle to communicate to access corporations and issuing authorities alike the need for access entities to operate in a clear light of public review.

C. Discussion

4. Although several respondents noted that, in practice, there is little or no abuse of discretion in connection with the funding of access entities, there were respondents who alleged specific abuses and strongly advocated closer scrutiny of access entities. The Commission recognizes that the potential for abuse is a serious matter. The Commission is authorized by state statute to conduct investigations into the operation of business being conducted pursuant to a cable television license. In many instances, this "business" includes the operation of an access entity. The Commission has conducted such investigations in the past, and it will continue to do so in the future. In addition, the operator and the issuing authority may agree to amend a license in order to provide for an annual performance hearing. Moreover, as indicated above, certain information regarding non-profits can be obtained by issuing authorities or by members of the general public from the Attorney General's Office and the Secretary of State's Office.<sup>1</sup>

5. Historically, the Commission has carefully separated itself from the control of public access facilities. Moreover,

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<sup>1</sup> Attached to this Report and Order are copies of the form of annual report which non-profits are required to file with the Attorney General and the Secretary of State on an annual basis. The address and phone number for each of these offices is printed on each of the respective forms.

state law gives the Commission no special authority over access corporations as corporate entities. Yet, the Commission, like issuing authorities, has a right and a duty to ensure that there is an absence of financial impropriety within the licensing process that it is broadly empowered to oversee.

6. The Commission believes that is appropriate for issuing authorities, or the Commission, to ensure the absence of financial improprieties. Yet a review of this type should not, and must not, extend to questions of an access board's judgement, where its judgement was exercised within the realm of generally accepted accounting standards and legal behavior.

7. The Commission believes that a non-profit access entity has a duty to protect its independence and resist efforts by an issuing authority (or efforts by this or any other Commission) to exercise editorial control over the access facilities, whether these efforts are to directly control programming decisions or to indirectly control programming decisions through budgetary control. The Commission believes that non-profit access entities can best protect themselves from intrusion of this type by maintaining acceptable accounting practices that are open to public scrutiny. By maintaining open and accountable business practices, Massachusetts access entities will best protect their ability to service the public with community based programming.

8. In a related matter, as a result of the enactment of the Cable Television Consumer Protection and Competition Act of 1992, many cable operators are itemizing the part of a subscriber's bill which is attributable to costs for license requirements for franchise fees including public, educational and government ("PEG") programming. The Commission believes that, as operators more frequently itemize these costs, subscribers will have more information about and a better opportunity to understand these amounts. The Commission believes that as subscribers become more knowledgeable about these fees, they are likely to ask additional questions about how these monies are spent. In turn, this inquiry is likely to encourage a higher level of accountability on the part of access entities.

D. Order

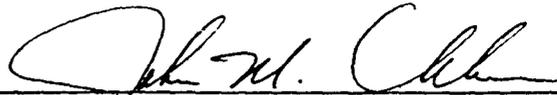
9. Accordingly, it is hereby

ORDERED: That the process commenced by the issuance of the Notice is hereby closed

CATV Docket R-21  
February 28, 1994  
Page 4

and that the Commission has neither proposed nor adopted further regulations in connection with this matter at this time.

By Order of the Community Antenna  
Television Commission



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John M. Urban, Commissioner

Attachments

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE: 3/24/94

TO: Planning Board

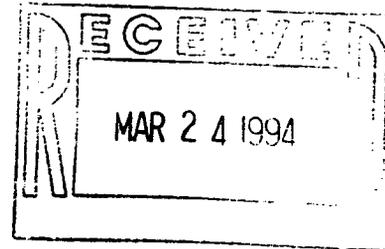
FROM: Donna Jacobs, Assistant Planner

SUBJECT: E.O.C.D. LISTED AFFORDABLE HOUSING UNITS  
AS OF 7/1/93

Total # of Residential Units: 6871

<u>Location</u>	<u># of Affordable Units</u>	<u>% of Affordable Units</u>
Windsor Avenue	68	.99%
Sachem Way	23	.33%
Sachem Way	12	.17%
Concord Road	12	.17%
Scattered Sites	9	.13%
Scattered Sites	<u>18</u>	<u>.26%</u>
	142 units	2.07%

cc: Board of Selectmen  
ACHC  
Acton Housing Authority  
MAGIC Housing Task Force



BOARD OF ASSESSORS

MINUTES

MARCH 21, 1994

1. The Board read and approved minutes of March 7, 1994.
2. The Board reviewed some data regarding an abatement application for Sudbury Road Associates - no decisions made at this time.
3. The Board reviewed many abatement applications and denied any abatements that lacked supporting evidence of their claim of valuation.
4. An abatement was granted by the Board on property at 61 Homestead Street in the amount of \$18,000 of valuation.
5. The Board agreed to abate property at 630 Massachusetts Avenue regarding a ATB hearing - amount of the abatement was \$21,200 in valuation.

Attendance: James Kotanchik  
Donald Rhude  
Brian McMullen

BOARD OF ASSESSORS

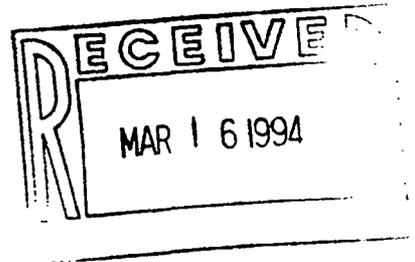
MINUTES

MARCH 7, 1994

1. The Board read and approved minutes from February 28, 1994 meeting.
2. Monthly real estate abatements were signed for FY 93 and FY 94.
3. FY 94 monthly exemptions were signed by the Board.
4. FY 93 and FY 94 motor vehicle abatements were signed.
5. The Board reviewed Clause 18 Hardship Exemptions - no decisions were made at this time.
6. The Board agreed to abate a portion of Cohen Properties (Iris Court Apartments).
7. The Board granted an abatement to Guy McKay - property at 982 Main Street.
8. The Board granted an abatement to Hirsch at 52 Ethan Allen for an easement on property.
9. The Board granted an abatement on excise for Hall - erroneous bill.
10. The Board denied an abatement on excise for Szewczyk - based on overvaluation.

Attendance: James Kotanchik  
Robert Adams (last meeting)  
Donald Rhude  
Brian McMullen

COMMONWEALTH OF MASSACHUSETTS  
COMMUNITY ANTENNA TELEVISION COMMISSION  
100 Cambridge Street, Suite 2003  
Boston, Massachusetts 02202  
(617) 727-6925



**ORDER REOPENING RECORD**

**Re:** Acton, Y-93  
Bedford, Y-93  
Boston, Y-93  
Braintree, Y-93  
Brookline, Y-93  
Fitchburg, Y-93  
Gardner, Y-93  
Georgetown, Y-93  
Groveland, Y-93  
Haverhill, Y-93  
Hudson, Y-93  
Leominster, Y-93  
Lexington, Y-93  
Lunenburg, Y-93  
Lynnfield, Y-93  
Maynard, Y-93  
Norwood, Y-93  
Peabody, Y-93  
Stow, Y-93  
Sudbury, Y-93  
Templeton, Y-93  
Westminster, Y-93  
Westwood, Y-93

The Commission hereby reopens the record of the above rate proceeding, for the sole purpose of allowing A-R Cable Services, Inc., Cablevision of Boston, L.P., Cablevision of Brookline, L.P., and CSC Acquisition - MA, Inc., to file corrected FCC Form 393s for the above issuing authorities, and for the filing of any comments thereon. The record will be open from Tuesday, March 15, 1994 to Tuesday, March 22, 1994, when it will close again.

**By Order of the  
Community Antenna Television Commission**

  
\_\_\_\_\_  
John M. Urban  
Commissioner

**Date:** March 11, 1994

# TOWN OF ACTON

## INTERDEPARTMENTAL CORRESPONDENCE

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March 21, 1994

TO: Don Johnson, Town Manager  
FROM: Cathy Belbin, Town Clerk  
RE: Annual Town Meeting / Don MacKenzie

*Don MacKenzie has confirmed that Thursday March 31, 1994 at 10:30 a.m. is good for a meeting between himself and Town Representatives to review the Warrant of the Annual Town Meeting. Final preparations will be made for the Town Meeting as well as discussion of carry-over night options.*

*For your information, Don has already informed me of a number of nights that he is available. They are:*

Available; Monday, Tuesday - April 4 and 5  
Monday through Wednesday - April 11 - 13  
Monday through Thursday - April 18 - 21

*Please inform those you deem appropriate of this information.*

*cc:*

*Board of Selectmen  
John Murray  
Roy Weatherbee  
Marcella Sultan*

Nancy - FYI

I REST MY CASE.

# ACTON FINANCE COMMITTEE AGENDA

3/18/94

*Caroline Bell*

To: Finance Committee Members  
From: Charles Olmstead, Chair  
Date: March 18, 1994  
Subject: Agenda for Finance Committee Meeting March 21st, 7:30 P.M.,  
Conference Room, Junior High School Library

1. Opening, review agenda.
2. Review minutes of previous meetings.
3. Presentation by South Acton residents with respect to proposed affordable housing project in their neighborhood.
4. Presentation by Town Manager, Fire Chief, *et.al.* to answer questions raised at the March 14th meeting.
5. Members' reports on warrant article requests for Town Meeting
6. Preparation for public budget hearing on March 23rd at Town Hall..
7. Review mail
8. Report on meetings attended, if any.
9. Other new business.
10. Adjourn

Next meeting is scheduled for Conference Room, Junior High School Library, 7:30 P.M.,  
March 28th.

cc: BOS

cc: BOS

Town of Acton

Planning Department

472 Main Street Acton, Massachusetts 01720

(508) 264-9636

INTERDEPARTMENTAL COMMUNICATION

TO: Planning Board DATE: March 23, 1994  
FROM: Roland Bartl, AICP, Town Planner R.B.  
SUBJECT: Zoning Articles - Additional Information

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ZONING ARTICLE 42 WEST ACTON VILLAGE (WAV), GENERAL BUSINESS (GB) AND LIMITED BUSINESS (LB) DISTRICTS IN WEST ACTON

Planning Board member assigned is William Shupert (WAVPC). Selectmen assigned is Anne Fanton. No additional information here. See extensive article summary and West Acton Village Plan.

ZONING ARTICLE 43 VILLAGE RESIDENTIAL DISTRICT IN WEST ACTON

Planning Board member assigned is William Shupert (WAVPC), also Rosalie DiQuattro (WAVPC). Selectmen assigned is Anne Fanton. No additional information here. See extensive article summary and West Acton Village Plan.

ZONING ARTICLE 44 PARKING IN VILLAGE DISTRICTS

Planning Board member assigned is William Shupert (WAVPC). Selectmen assigned is Anne Fanton. No additional information here. See article summary and West Acton Village Plan.

ZONING ARTICLE 45 SITE PLAN SPECIAL PERMIT IN VILLAGE DISTRICTS

Planning Board member assigned is William Shupert (WAVPC). Selectmen assigned is William Mullin. No additional information here. See article summary and West Acton Village Plan.

ZONING ARTICLE 46      TRACT OF LAND REQUIRED FOR CERTAIN DEVELOPMENTS

This article is on the consent agenda. Planning Board member assigned is David Hill. Selectmen assigned is Norman Lake.

The article summary really states the intent of the change: To give the Planning Board another tool and greater flexibility in siting housing and open space. It broadens the Board's opportunities to promote better land use planning and development design.

It should be added:

- a) This change will not allow more houses than already possible now, the language in the article specifically safeguards against that.
- b) This change is not a mandate nor a guarantee. No one will be required to develop land using this provision, and use of it is discretionary by the Planning Board.
- c) There is no current development proposal known to the Town that would directly benefit from this article. There have been some in the past, where this provision, if used, might have been helpful in preserving more natural resources and open space, and resulted in better siting of homes, streets and driveways. Looking into the future, this provision might be applied to land along both sides of Esterbrook Road, Newtown Road and Main Street to name some locations.

ZONING ARTICLE 47      MAXIMUM LIMIT FOR RESIDENTIAL COMPONENT IN PLANNED UNIT DEVELOPMENTS

This article is on the consent agenda. Planning Board member assigned is John Pavan. Selectmen assigned is Anne Fanton.

When PUD was first adopted in 1990, no one thought of the possibility, that such a project would be developed entirely residential. Surely, to maximize profits a developer would maximize the commercial component. Naturally then, only the commercial component was capped to ensure a mixed use project, which is what PUD seeks to accomplish.

Little did we know that the first PUD before the Town - Acorn Park, will in all likelihood, become a purely residential development, although the final word on that is still out. In some respect, this would be rather interesting, because it illustrates that the lack of commercial growth in Acton has little to do with Acton's zoning, as was claimed by some for a time following the 1990 adoption of master plan zoning changes, but all with the generally sluggish economy. In any case, Acorn Park will not be affected by this article due to zoning protections following the new subdivision plan. In the case of Acorn Park, the Planning Board remains free to decide what mix if any is most appropriate for the location.

ZONING ARTICLE 48      CORRECTIONS, CLARIFICATIONS AND MINOR  
ADJUSTMENTS TO THE ZONING BYLAW

This article is on the consent agenda. Planning Board member assigned is Greg Niemyski. Selectmen assigned is William Mullin.

The article summary really captures the essence of this article. With respect to the article items not highlighted in the summary, the following:

Part A makes it clear that in Section 4.3 capitalized words and terms are to be used as defined in the "definitions" section. This is consistent with the use of capitalized and defined words and terms throughout the Bylaw.

In Part B, the proposed replacement sentence eliminates a slight ambiguity.

Part C is explained in the article summary. The change is consistent with the entire conceptual approach of protection zones surrounding public wells.

Parts D and E, hopefully will clarify where subsurface disposal systems are permitted. The present language in part 18. of Table 4.3.7.2 and in the footnote (\*\*) states that subsurface disposal systems are only permitted on buildable lots. This is inconsistent with other parts of the Bylaw, which allow subsurface disposal systems on common land of certain types of developments. Common land is not the same as a buildable lot, say in the R-2 district having at least 20,000 square feet in area and 150 feet of frontage. The change will remove this apparent inconsistency.

Concerning Parts F and G: Section 5.2.7.2 is a subsection of 5.2 - Methods for Calculating Dimensional Requirements. Section 5.3, with all of its subsections, sets forth Special Provisions and Exceptions to Dimensional Requirements. The sentences to be removed from 5.2.7.2 in Part F are special provisions. In part G they are re-inserted into subsection 5.3.5 which stands under the general category of special dimensional provisions.

Also, Part G inserts a 60% open space requirement for buildings over 40 feet and up to 50 feet in height in the Industrial Park District (IP, Grace and Airco lands). The need for this change was overlooked when the IP District was established. The current language states that the building height in IP and General Industrial District can be increased over 40 feet and up to 50 feet, if the open space on the lot is increased to at least 45%. This makes sense in the General Industrial District where the base open space requirement is 35%, so there is a trade-off. But it is meaningless in the IP District where the base open space requirement is already 50%. The increase to 60% for the IP District in Part G provides for the same percentage trade off as it exists in the General Industrial District.

Part H, corrects the use of the term freshwater wetlands to be consistent with Mass. General Law, Ch.131, which is referred to in this section.

Part I is explained in the summary. I would add that there will be one unfortunate result. It will penalize those who would like to provide more floor space than the minimum required by the office for children.

Part J is a change which brings the Table of Standard Dimensional Regulations up to date with the rest of the Bylaw. Current cross references fit the Bylaw as it existed around 1986 or 1987. This change will bring things up to date. For instance, one cross reference currently at the top of the table refers to Cluster Developments in Section 4.2, but 4.2 has since been renamed to Open Space Development. For another

example, the last line of the table as currently written still lists PCRC (Planned Conservation Residential Community) as a separate zoning district. This is no longer so. PCRC is now in the same category of special permit projects as Open Space Development.

Part K is explained in the summary. The two garage space limitation makes sense in the context of attached housing units since too many garage doors can be rather overwhelming and unsightly. This is a lesser concern in the case of separate single family units.

Part L makes it clear that in Section 9A capitalized words and terms are to be used as defined in the "definitions" section. This is consistent with the use of capitalized and defined words and terms throughout the Bylaw.

#### ZONING ARTICLE 49      ACCOMMODATION OF HANDICAPPED AND VAN ACCESSIBLE PARKING

This article is on the consent agenda. Planning Board member assigned is Mary Giorgio. Selectmen assigned is William Mullin.

This article is a follow up from last year when the Commission on Disabilities requested that the zoning bylaw set forth specific requirements for van accessible parking consistent with the Americans with Disabilities Act (ADA). At that time it was suggested that such requirement is inappropriately placed in a local zoning bylaw and that it should rather remain the responsibility of the federal and state authorities charged with the enforcement of ADA. It was also found last year that the requirement can have a rather severe impact particularly on small and start-up businesses. The Planning Board promised to study the issue further and bring back to Town Meeting whatever action it would recommend as appropriate.

The zoning bylaw as currently written sets forth that a certain number of on-site parking spaces must be provided for each increment of building floor area or number of seats in a given establishment. That minimum required number changes with the size and the type of the establishment. But whatever the situation, parking spaces for persons with disabilities as they are required under ADA must be provided in addition to the basic number required under zoning. This change would simply allow the ADA required parking spaces to be counted within the overall requirement. In most cases this change will reduce the overall number of required parking spaces by an insignificant amount. However, in the extreme case of a hypothetical very small business, this could result in a situation where the only parking spaces required are those for persons with disabilities, which under ADA cannot be used by anyone else. Such a business can still add more parking for general use as needed.

ZONING ARTICLE 50      CHANGE SPECIAL PERMIT REQUIREMENT FOR  
COMMON DRIVES

This article is on the consent agenda. Planning Board member assigned is Greg Niemyski. Selectmen assigned is F. Dore' Hunter.

Not much needs to be added to the article summary. Only the standard line of assurances, that common drives do not allow any development that otherwise would not be possible; that they simply replace multiple individual driveways, thereby reduce multiple curb cuts to streets and reduce overall pavement area; that they do not create new frontage; and that all lots served by a common drive must have legal frontage on existing streets.

After several common drive special permit proceedings, Planning Department staff and, I believe too, the Planning Board, were left wondering why we spend precious time on these "no-brainers".

Oh yes, there will be some pain, perceived or real, as with any change. In one situation that came up a few days ago, a common drive is wanted for a third house (two are already on it) over an easement that is not wide enough to meet zoning requirements. Should we change the article. No! The article contains the same requirements which the Planning Board applies under its special permit. The next, time the easement is located where the grades don't work, or where the curves are too sharp. We can't provide for any and every potential problem. The solution? Get more easement. If you can't get more easement then, maybe, a variance is appropriate.

This is the first of a series of articles (#s 50 - 53) which propose elimination of special permit procedures in order to streamline the land use permit process and to free up staff and Board time for more important issues. Planning staff had originally drawn up a much longer list. Staff and the Planning Board agreed to go forward with these four articles at this time.

ZONING ARTICLE 51      ELIMINATE SPECIAL PERMIT REQUIREMENTS FOR  
CERTAIN ACCESSORY USES

This article is on the consent agenda. Planning Board member assigned is James Lee. Selectmen assigned is F. Dore' Hunter.

There are two parts.

Part A proposes to drop the use special permit requirement for bank drive-up windows. The ITE Trip generation manual indicates that vehicle trips for banks with drive-up windows is higher than for strictly walk in banks. However the difference is not well documented due to insufficient sample size.

All new banks with drive-up windows and bank expansions over 1200 square feet involving a drive-up window would still fall under site plan special permit, where potential impacts can be addressed.

In the circumstance were a drive-up window might be proposed without engaging the site plan review trigger, the Town would loose its ability to negotiate off-and on-site improvements. This would principally affect the ability to require sidewalk construction where there is no sidewalk. Driveways and curb cuts are

controlled under Section 6 (parking requirements); driveways are not expected to proliferate due to this change. Clearly, there may be some minor trade-offs, giving up some control for precious time.

Part B eliminates the requirement for a special permit to allow a greenhouse associated with an agricultural use. The basic question is why a greenhouse, but not a barn, farm stand or agricultural warehouse, should require a special permit. In addition there are few farms left in Acton. Why commit time to this matter? More importantly though, this special permit requirement appears to be questionable in light of the state law (chapter 40A), which says in part:

No zoning bylaw shall require a special permit for the use of land for the primary purpose of agriculture; nor require a special permit for the use, expansion, or reconstruction of existing structures for the primary purpose of agriculture; except that all such activities may be limited to parcels of more than 5 acres in areas not zoned for agriculture.

All zoning districts in Acton are zoned for agriculture.

#### ZONING ARTICLE 52      ELIMINATE PROHIBITION AGAINST AND SPECIAL PERMIT REQUIREMENT FOR TERTIARY WASTEWATER TREATMENT FACILITIES

This article is on the consent agenda. Planning Board member assigned is Douglas Carnahan. Selectmen assigned is F. Dore' Hunter.

As stated in the article summary, this change proposes to eliminate what essentially amounts to a third layer of approval authority for tertiary level treatment plants. In certain zones of the Groundwater Protection District currently a special permit under zoning is required. This special permit is in addition to the permits and reviews by the Mass. Department of Environmental Protection and the Acton Board of Health. This triple scrutiny is not warranted. The Planning Board has dealt with two treatment plant special permits to date. In both cases the Planning Board had little of significant substance to add.

The article would also remove the prohibition of tertiary treatment plants in certain other zones of the Groundwater Protection District. Again, two layers of control do exist. As the article summary explains, tertiary treatment plant technology has matured to the point where it is safe and reliable, and where it poses no threat to the groundwater quality.

#### ZONING ARTICLE 53      ELIMINATION OF SPECIAL PERMIT REQUIREMENTS FOR CERTAIN DIMENSIONAL PROVISIONS

This article is on the consent agenda. Planning Board member assigned is James Lee. Selectmen assigned is Norman Lake.

This article has three parts:

Part A, would eliminate a provision by which the Board of Appeals could grant a special permit to allow unlimited increases in building height (more accurately for appurtenant roof structures) beyond the standard limit set forth in the same section,

which is 45 feet including the entire building. This has not come up very often, but it appears questionable why the Town should commit potential time and resources to it. In addition, the provision which is proposed for elimination does not set any parameters as to how much higher an appurtenant structure could go under a special permit. This makes it suspect of being indeed a variance. Where hardship cases can be clearly demonstrated an increase to whatever height is still possible after this change through a variance. However, the standard of scrutiny under a variance is higher than under a special permit. Therefore, this change appears to better serve the interest of the Town's citizens.

Part B seeks to eliminate a special permit for which the Town's time commitment simply does not appear justified. The special permit proposed for elimination allows a small increase in building height by 5 feet, from 50 to 55 feet. This indeed is micro-management without achieving any measurable results. The change in part B would eliminate the 55 foot option.

Part C would eliminate a special permit requirement for single family homes in the multifamily R-A zoning district. This requirement seems rather odd. It was adopted during the master plan changes along with certain dimensional provisions for such single family homes. This change would eliminate the special permit requirement, but leave the special dimensional provisions intact.

ZONING ARTICLE 54      ASSOCIATE MEMBERS FOR PLANNING BOARD WHEN  
ACTING AS SPECIAL PERMIT GRANTING  
AUTHORITY

This article is NOT on the consent agenda. Planning Board member assigned is David Hill. Selectmen assigned is Norman Lake (change from Anne Fanton).

Nothing needs to be added to summary.

Associated with this article is Article 55, which is not a zoning article. Same argument as for Article 54. Planning Board member assigned to Article 55 is David Hill, Selectman assigned is Norman Lake. I assume that Article 55 will not be presented by the Planning Board.

ZONING ARTICLE 56      PETITION TO CHANGE ZONING OF LAND IN ACTON

This article is NOT on the consent agenda. Planning Board member assigned is (TO BE DETERMINED). Selectmen assigned is Anne Fanton. The Planning Board will NOT present this article.

The intent of this article is presented in its summary. The Planning Board has voted to recommend against its adoption. The principal reason is that no such change should occur until the East Acton Village plan has been completed. With this reasoning the Planning Board found little of this article to be in the public interest, at least at this time. Lacking the identification of a clear public interest or planning goal to be advanced, adoption of this article would seem to serve solely the interest of one individual, in this case one business.

Such a situation raises the concern of spot zoning, even though this term should be used with caution. Spot zoning has been defined over the years by the courts.

There is no definition in the statute. Therefore the meaning of the term spot zoning is not entirely firm. Planning literature generally defines spot zoning as the rezoning of a lot to benefit an owner for a use incompatible with surrounding uses, and not for the purpose or effect of furthering the comprehensive plan. It is clear that spot zoning does not describe the fact that a spot on the zoning map is zoned different from its surroundings, but rather it describes a set of circumstances, generally adverse to the public interest, under which a rezoning occurs.

**ZONING ARTICLE 57      PUBLIC USE OF LAND BY TOWN OR AGENCY OTHER  
                                 THAN THE TOWN OF ACTON AND THE WATER  
                                 SUPPLY DISTRICT OF ACTON**

This article is NOT on the consent agenda. Planning Board member assigned is (TO BE DETERMINED). Selectmen assigned is Anne Fanton. The Planning Board will NOT present this article.

Note: None of the zoning articles 46 - 54, 56 & 57, include a fiscal impact statement in their summaries. No measurable fiscal impact is predicted from any of these articles. The estimated cumulative fiscal impact for the West Acton Village articles 42 through 45 is detailed in the West Acton Village Plan, Part III., Section 9. The overall changes from the West Acton zoning articles are expected to have a positive fiscal impact.

xc: Don P. Johnson

[RHB.ZONE.94\*7]

BOARD OF LIBRARY TRUSTEES  
ACTON MEMORIAL LIBRARY  
Monthly Meeting - February 14, 1994

PRESENT Dennis Ahern, Ann Chang, Bob Ferrara, Susan Fingerman, Joe Grandine, Fran Moretti, Wanda Null, Director, and guest Florence Grandine.

ABSENT Brewster Conant, Henry Hogan, Fran Moretti, Ray Shamel

NEXT MEETING The next meeting will be Monday, March 14th, at 8P.M. The February minutes will be reviewed at that time.

DIRECTOR'S REPORT: Ann reported on the Municipal Forum meeting held earlier on 2/14. The funds needed to support the Education Reform Act have been steadily decreasing from the \$1M forecasted originally. It now appears that only \$48K for the local schools and \$31K for the Regional School District will be required. Both amounts will come from FY94 free cash. So there will be no further reductions in either the Town's or the AML's FY94 budget.

Regarding FY95, the State has disallowed using School Choice funds to lower the town assessment required by the Education Reform Act. The Regional School District will be lowering their Town assessment by about \$100K in FY95 in response to this ruling. Of the \$100K, \$82K would be Acton's share, with the remaining \$18K Foxborough's share.

The local schools may require as much as a \$500K override. Selectmen Chairman Dore Hunter is looking at adding Town needs to this and put a general override before the voters this spring.

Ann then reviewed the FY95 budget situation for the AML. Town and AML base "B" budgets (assuming no override) were distributed with the agenda, along with a Town-wide priority listing of additional items. Even with a major increase in its FY95 materials budget, the Library still has a \$15K shortfall in satisfying the 15% materials requirement of the MEG/LIG grants. This is a consequence of increasing the "effective" budget in FY94 by adding in health care costs. The 15% materials requirements thus applies to a larger base appropriation. Wanda noted there is also a current deficit in 'FY94 of about \$6K to qualify for the full MEG/LIG grant money available. It may be possible for trust fund and, more importantly, Foundation gifts to make up these shortfalls.

The Trustees then discussed how to approach the Selectmen, who have asked for our position on the Contingency Warrant Articles submitted earlier. Susan moved and Dennis seconded a motion that the Trustees support Ann to fight for restoration of items #18 (replace FTE cut in FY94 at \$30K) and items #30 (replace Friday hours at \$27K) as a minimum position. These item numbers refer the Town-wide priority ranking of items not yet included in the base "B" budget. Further, the Trustees requested that item #35 (expansion study at \$15K) be retained on the priority list. This passed unanimously.

Regarding the 2/23 Chamber of Commerce breakfast at AML, all agreed to support it given the timing of the event. Dennis, however, expressed reservations about the charging of an entry fee.

Susan moved and Dennis seconded a motion to expend \$1,059 from the Mildred Pope Moore Fund for a 1994 edition of the Encyclopedia Britannica.

Ann encouraged all Trustees to read the 30+ pages of draft revisions of state library aid. Wanda sees some dilution of standards for libraries of AML's size.

Susan raised a concern about extending the loan period for videos beyond the current 2 days. There was no agreement, but Wanda agreed to look into it further for our small (500 or so) video collection. Dennis would like to see the collection include "good" old films not found in video stores. Carole currently does the selection.

ARTHUR DAVIS EXHIBITION The AML owns 31 Davis paintings. Larry Powers may be able to help with the planned late spring exhibition of the recently acquired Davis sketchbooks (Joe noted that the Acton Historical Society bought the sixth sketchbook from 1888 - the one the owner did not want to sell). Larry suggested hanging our prints on foam core board, 4 to 5 prints per board. Ann wanted permanent, reusable panels so they could be left up a while. The target is the first Sunday in May. Dennis offered to work on the exhibition list. Fran will also be asked to help.

FOUNDATION REQUESTS Ann asked for input to the Foundation for gifts, etc. Continued funding of Sunday hours was a major priority. Others suggested CDROMS for the new CDROM player - like Books in Print, an index to Poems, or Delorme's Street Maps.

OTHER BUSINESS Dennis brought up the suggestion in Marlboro in which withdrawal of library privileges be a form of civil punishment. He has no enthusiasm for this. He also noted the \$43M cut of Federal support of library construction.

The meeting adjourned at 10:30P.M.

Respectfully submitted.



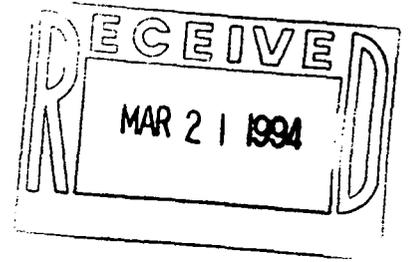
Robert V. Ferrara, Secretary

BOS  
FYI

LOWELL REGIONAL TRANSIT AUTHORITY

ADVISORY BOARD MINUTES

February 17, 1994



The meeting was called to order by Chairman Kenneth Stevens at 7:00 p.m. at the Lowell Regional Transit Authority Offices, 145 Thorndike Street, Lowell, MA. Mr. Charles Coppola of Tewksbury, Mr. Joseph Czarnionka of Pepperell, Mr. Arthur Doyle of Billerica, Mr. Donald Herskovitz of Acton, Mr. William Kavanagh of Westford and Mr. Timothy Lorden of Townsend were present. (Weighted vote present = 21.01 constituting a quorum.)

MINUTES:

Chairman Stevens presented the Minutes of January 20, 1994 Advisory Board Meeting for acceptance.

MR. DOYLE MOVED THAT THE MINUTES BE ACCEPTED AS PRESENTED, SECONDED BY MR. KAVANAGH, VOTED UNANIMOUSLY.

ADMINISTRATOR'S REPORT:

The Deputy Administrator's monthly financial status report was presented and the Administrative Assistant's report was presented also.

MR. COPPOLA MOTIONED THAT THE ADMINISTRATOR'S REPORT BE ACCEPTED AS PRESENTED, SECONDED BY MR. CZARNIONKA, VOTED UNANIMOUSLY.

REPORTS OF SUBCOMMITTEES: None

Mr. Coppola gave a report of progress on the Subcommittee on a "Code of Conduct". He stated that the Members of this Committee will be working on comparing a Code of Conduct to the personnel policy and will report back to the Advisory Board probably at the next Advisory Board meeting.

COMMUNICATIONS:

Chairman Stevens presented two communications:

- 1) To: Joint Committee on Transportation. Administrator Kennedy reported that the results of that Testimony was that the Senators agreed to increase the bond authorization from fifteen million dollars to fifty million dollars.
- 2) From: U Mass at Lowell regarding a joint effort between the LRITA and U Mass at Lowell to obtain funding for an electric powered bus to service students between the Gallagher Terminal and the University.

MR. COPPOLA MOTIONED THAT THE COMMUNICATIONS BE ACCEPTED AND PLACED ON FILE, SECONDED BY MR. LORDEN, VOTED UNANIMOUSLY.

At this point Chairman Stevens suggested that the order of business be changed and proceed with New Business as Mr. Henderson had to leave early.

NEW BUSINESS: FY' Budget Review/Management Letter Update

Mr. Henderson reported that after years of looking at budget deficits, he projects from the six month actual that the net cost of service will be under twenty-seven thousand (\$27,000) dollars in comparison to budgeted net cost of service. He attributes this to an increase in income from fares and a decrease in the amount of interest for bond payments. He also stated that regarding the interest payments, the budget for the fiscal year is set in the spring and the Authority does not borrow money until much later in the year. He said he was able to negotiate a lower interest rate than planned in the budget which accounts for the decrease in payments.

Administrator Kennedy thanked the staff, particularly Mr. Henderson, and the contractors for doing an excellent job.

Mr. Kennedy stated, as you remember, back in November we forecastd a substantial deficit in FY'94 due to the lowering of the State CAP from 105 to 103%. So, in that light it is really a major turn around. He also commented that the Authority could realize additional savings in the budget due to the installation of the new electronic fareboxes, a redesigned shuttle bus service and the Ackerley lease.

In reference to the Management Letter from KPMG as part of the Fiscal Year 1993 Audit, Mr. Motter has implemented suggestions given by KPMG regarding the parking garage, etc. Mr. Trombly commented that LoLaw will do one national advertisement for the sale of obsolete parts from the old buses and the new electronic fareboxes should show a 100% improvement in the security of cash handling.

Chairman Stevens inquired if everything in the Management Letter was being addressed and Mr. Henderson responded that it was. Mr. Henderson also referred to the recent letter received from KPMG Peat Marwick, our audit firm, expressing a positive reaction to the LRTA's activities regarding the Management Letter comments.

PROCUREMENT SCHEDULE FOR FIXED ROUTE BUSES:

Mr. Henderson stated that we are very tight in time. Delivery time of buses is required to be on or before September 30, 1994 as these buses are desperately needed before next winter and we are looking to try to determine if there are any Authorities who have buses in the pipeline that we could piggyback onto. Mr. Trombly stated that the older buses are just holding up and that the maintenance staff has done a wonderful job.

CURRENT BUSINESS:

Administrator Kennedy gave the following report:

MBTA/BILLERICA/BURLINGTON BUS

We can now report that all the "t's" have been crossed and the "i's" have been dotted. We are now ready to announce the LRTA linking up with the MBTA. We plan to initiate this new service on March 1, 1994 at which time a press conference will be held. A copy of the invitation is before you. We hope all Board Members can attend.

MBTA RECEIVABLE

MR. COPPOLA MOTIONED THAT THE BOARD NOW GO INTO EXECUTIVE SESSION TO CONSIDER THE RESPONSE TO RECENT DISCUSSIONS WITH THE MBTA REGARDING POTENTIAL LITIGATION, SECONDED BY MR. LORDEN. ON A ROLL CALL VOTE, IT WAS VOTED UNANIMOUSLY THAT THE BOARD GO INTO EXECUTIVE SESSION FOR THE EXPRESS PURPOSE AS STATED.

A record of this Executive Session is retained in the files of our LRTA office.

At 7:55 p.m. the regular meeting resumed.

NEW PARATRANSIT VEHICLES:

The Administrator reported that as of this date, Dracut, Townsend, Westford and Tyngsborough vehicles have been delivered. All of these events received very good coverage by the media. It was exciting for me to witness the enthusiasm and gratitude of so many of the elderly. It was great public relations.

UPDATE-ELECTRONIC FAREBOXES:

Mr. Trombly informed Board members that the twenty-two new electronic fareboxes have arrived and are at the Tewksbury location. On February 8 and 9 two maintenance personnel traveled to GFI in Chicago for training. On February 15 GFI began the installation of the fareboxes and had a technician on our property to oversee all functions.

MOTIONS: None

WARRANT:

MOTION MADE BY MR. LORDEN TO APPROVE THE WARRANT IN THE AMOUNT OF \$434,915.80 WITH A SUPPLEMENT AMOUNT OF \$21,640.69 (Gallagher Terminal) FOR A TOTAL OF \$456,556.49, SECONDED BY MR. COPPOLA, VOTED UNANIMOUSLY.

ADJOURNMENT:

ON A MOTION MADE BY MR. DOYLE, SECONDED BY MR. KAVANAGH AND VOTED UNANIMOUSLY, THE MEETING ADJOURNED AT 8:10 p.m.

I, William Kavanagh, duly elected and acting as Clerk of the Lowell Regional Transit Authority, do hereby certify that the foregoing minutes are a true and accurate record of the meeting of the Lowell Regional Transit Authority Advisory Board held on February 17, 1994.

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Date

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William Kavanagh

LOWELL REGIONAL TRANSIT AUTHORITY

ADVISORY BOARD MINUTES

January 20, 1994

The meeting was called to order by Chairman Kenneth Stevens at 7:05 p.m. at the Lowell Regional Transit Authority Offices, 145 Thorndike Street, Lowell, MA. Mr. Arthur Doyle of Billerica, Mr. Donald Herskovitz of Acton, Ms. Beth Kalhauser of Tyngsborough, Mr. Peter Lawlor of Chelmsford, Mr. Timothy Lorden of Townsend and Mr. John Lyons of Dracut were present. (Weighted vote present = 22.16 constituting a quorum.)

MINUTES:

Chairman Stevens presented the Minutes of November 18, 1993 Advisory Board Meeting for acceptance.

MR. DOYLE MOVED THAT THE MINUTES BE ACCEPTED AS PRESENTED, SECONDED BY MS. KALHAUSER, VOTED UNANIMOUSLY.

Chairman Stevens then presented the Minutes of December 16, 1993 Advisory Board Meeting for acceptance.

MR. LYONS MOVED THAT THE MINUTES BE ACCEPTED AS PRESENTED, SECONDED BY MR. LORDEN, VOTED UNANIMOUSLY.

ADMINISTRATOR'S REPORT:

The Deputy Administrator's monthly financial status report was presented and the Administrative Assistant's report was presented also.

MR. LYONS MOTIONED THAT THE ADMINISTRATOR'S REPORT BE ACCEPTED AS PRESENTED, SECONDED BY MR. DOYLE, VOTED UNANIMOUSLY.

REPORTS OF SUBCOMMITTEES: None

COMMUNICATIONS:

Chairman Stevens presented six communications:

- 1) From: Cong. Meehan dated December 13, 1993.
- 2) From: R. Grady dated December 8, 1993
- 3) From: Town of Wilmington dated December 16, 1993
- 4) From: Town of Burlington dated December 1 and December 17, 1993
- 5) To: FTA—Section 9 Grant Application
- 6) To: Lowell Sun—Letter to the Editor

Administrator Kennedy then distributed several communications from riders who are using the new UPS bus service and are very pleased with it.

MR. LYONS MOTIONED THAT THE COMMUNICATIONS BE ACCEPTED AND PLACED ON FILE, SECONDED BY MS. KALHAUSER, VOTED UNANIMOUSLY.

**CURRENT BUSINESS:**

Administrator Kennedy gave the following report on the items listed under Current Business:

RESULTS OF TRANSIT WEEK: I want to thank each and every member for their participation and help in transit week. As you can see from the statistics, transit week was a great success. The ridership on free ride day was up over 26%. The adjusted figures for the month of December showed an increase of over 10% and even the preliminary figures for January show that positive trend continuing.

One of the more exciting and helpful projects during transit week was our customer survey. We conducted approximately one thousand surveys using volunteers from our senior centers throughout the region, the results of which you have in front of you. The results that stood out were the large percentage of customers (93%) that rated the service of the LRTA either good or excellent. Also, it was noteworthy that the results of the service showed a larger percentage of women who used our service as opposed to men (62-38). Some of the more prevalent written comments on the survey were from those customers favoring extending service to area malls and providing evening service.

Finally, Tom Henderson and I met with EOTC officials recently and they were really pleased with the LRTA ridership campaign, particularly our radio and newspaper ads. They thought our transit map was the equal of the MBTA map. They asked for copies of the entire campaign so they could use it as a model for other transit authorities.

ELECTRONIC FAREBOXES:

The electronic fareboxes have arrived and are scheduled to be installed the second week of February. Orientation and training classes are being conducted today and tomorrow for all personnel at our facility on Clark Road. On February 8 and 9, two mechanics will travel to Chicago to attend school for the maintenance of the fareboxes. I will provide a more extensive report at our next meeting on how we plan to utilize the new electronic farebox system.

STATUS OF GRANT FOR FIXED ROUTE BUSES:

As you are aware, we have been awarded a three million dollar grant to replace 13 fixed route buses. We are presently preparing specifications for the new buses. That process will be completed by the end of this month. Our target date for advertising is the middle to late February. However, in discussions with numerous bus manufacturers, we are being told that the earliest delivery dates are in excess of one year.

As you know, the main reason we received this grant was our critical need to replace our old buses. The prospect of waiting over one year for new buses, to me, was unacceptable. After speaking with FTA officials about our dilemma, they informed me that there was the possibility of being granted a procurement waiver. This would enable us to piggyback onto an existing grant of another transit authority that presently has buses in production. We are presently reviewing that option. I will have more to report later.

BILLERICA/BURLINGTON BUS SERVICE:

After two months of negotiating with the Town of Burlington and the MBTA, we finally received our license to operate in the Town of Burlington subject to the MBTA General Manager's signature. This license enables us to significantly expand our service to our customers. Linkage to the MBTA and the Burlington bus line will enable our customers to travel to the Lahey Clinic, Burlington Mall and MBTA Alewife Station, as well as express service to Haymarket Square. As you can see from your attached schedule, the new services offered are convenient and extensive. We look forward to the inaugural and the public announcement of this service some time during the middle of February.

TOWN OF WILMINGTON:

Last Monday January 10, myself, Tom Henderson and our Legal Counsel Arthur Sullivan met with Michael Cairra the Town Manager of Wilmington and Selectman Michael McCoy, at their request, to discuss the possibility of the IRTA providing bus service to the Town. We explained that it was our opinion that the Town of Wilmington could not become a member of the IRTA while being a member of the MBTA. However, that would not preclude the Town from contracting for bus service directly with the IRTA.

We suggested that the Town do a needs assessment to determine what kind of service they would require. It was left that the Town would review their legal options and we would assist them in determining the cost of any such services requested.

ADA FY'94 ANNUAL UPDATE AND FY'94 TIP AMENDMENTS:

The following report was given by Mr. Tim Goddard:

The second annual update to the Complementary Americans with Disabilities Act (ADA) Paratransit service plan was presented for endorsement to the Advisory Board.

The ADA Annual Updates are progress reports to FTA that measure achievements and accomplishments made toward full compliance with ADA requirements. With 13 new lift-equipped buses having been approved by FTA and the arrival of nine new paratransit vehicles, the IRTA expects that this new found flexibility will result in full compliance with ADA during 1994.

Two amendments to the Northern Middlesex Transportation Improvement Program (TIP) were also presented.

MR. DOYLE MOTIONED TO APPROVE THE ADA COMPLEMENTARY PARATRANSIT SERVICE ELIGIBILITY POLICY AND STANDARDS, SECONDED BY MR. LAWLOR, VOTED UNANIMOUSLY.

MR. LAWLOR MOTIONED THAT THE AMERICANS WITH DISABILITIES (ADA) COMPLEMENTARY PARATRANSIT SERVICE PLAN ANNUAL UPDATE FOR FY'94, AS AMENDED, BE APPROVED, SECONDED BY MR. DOYLE, VOTED UNANIMOUSLY.

Regarding the TIP amendments, the first amendment involves moving several items under Section 9 Capital Assistance from FY'93 to FY'94 of the TIP. These items were recently submitted in a Section 9 Grant application that we expect will be acted upon in the second quarter of FY'94. The second amendment is moving Mobility Assistance Program (MAP) funding for three new Mobility Assistance vehicles to FY'95 as we anticipate receiving those vehicles in the next fiscal year.

Additionally, the Unified Planning Work Program (UWP) must be amended to reflect the TIP amendments in FY'94 and FY'95.

MR. DOYLE MOTIONED TO MOVE SECTION 9 CAPITAL PROJECTS IN FY'94 TRANSPORTATION IMPROVEMENT PROGRAM (TIP) FROM FY'93 TO FY'94, SECONDED BY MS. KALHAUSER, VOTED UNANIMOUSLY.

MR. DOYLE MOTIONED TO ACCEPT THE 1994 UNIFIED WORK PROGRAM, SECONDED BY MR. LORDEN, VOTED UNANIMOUSLY.

NEW BUSINESS:

REPORT ON AIDS ACTION COMMITTEE/CONDOM ADS

Administrator Kennedy reported the following:

Mr. Chairman, the request by the Aids Action Committee to advertise on our buses presents some real concerns because of the serious ramifications these ads present, particularly legal ramifications which I have asked our Legal Counsel Arthur Sullivan to address this evening.

Atty. Sullivan: The MBTA attempted to edit some of the six proposed ads and that prompted a law suit. The judge then ruled that the MBTA was wrong and could not edit these ads or "pick and choose" among them.

In 1991 the LRTA and four other authorities entered into an Agreement (Partnership) with Campbell Associates, leasing all the space on the buses for a minimum fee. Campbell Associates has the right to lease that space to other advertisers. Campbell agreed that the MARTA partnership has the right to reject any and all ads. The LRTA is half way in the partnership and agreed that it could opt out of the partnership anytime with a 30-day notice. The LRTA did not sign the extension to February 1994 with Campbell Associates.

The right to reject the ads is in the partnership. It is likely that the judge would apply the same logic as was applied to the MBTA.

MR. LAWLOR MOTIONED TO INSTRUCT THE ADMINISTRATOR TO TAKE WHATEVER STEPS NECESSARY TO ACCEPT PLACEMENT OF THESE SIX (6) ADS ON THE LRTA BUSES, THE ONLY EXCEPTION BEING IS THAT THE AD WHICH DOES NOT INCLUDE THE EXPRESSION ABSTINENCE, IF THEY WERE TO AMEND THAT AD TO INCLUDE ABSTINENCE, THAT WOULD BE A PERMISSIBLE CHANGE IN THE AD, SECONDED BY MR. LYONS. VOTED: SIX IN FAVOR, ONE OPPOSED. (WEIGHTED VOTE = 19.35 IN FAVOR, 2.81 OPPOSED)

#### REPORT ON ALLOCATION OF NEW PARATRANSIT VEHICLES

Administrator Kennedy reported the following:

Attached please find three tables describing the deployment of the nine new paratransit vehicles recently received by the LRTA. The deployment of these new vehicles was made on the basis of community need as defined in the vehicle utilization study submitted by Tim Goddard and is consistent with the directives we received from the Executive Office of Transportation and Construction as preconditions to obtaining these vehicles.

Beyond these nine vehicles, we anticipate receiving three additional Mobility Assistance vehicles in the next fiscal year. These additional vehicles will be deployed on a needs basis using the same criteria used for this round.

The additional nine new vehicles will enable us to address our most urgent needs, i.e., the Councils on Aging, the Downtown Shuttle and the Clean Air Act Amendments. Furthermore, we will increase our spare vehicle ratio enabling us to look at new programs and expanded service opportunities.

#### LEASE PROPOSAL FROM ACKERLEY COMMUNICATIONS

The following report was presented by Administrator Kennedy:

Ackerley Communications Corp. has requested permission to construct a billboard on a parcel known as 44.3 YMCA Drive in Lowell adjacent to the Gallagher Terminal.

This site comprises approximately nine thousand square feet (9,000 sq. ft.) of vacant land which abuts the Lowell Connector and the railroad right-of-way. The Massachusetts Bay Transportation Authority (MBTA) owns the site, but has leased it to the LRTA for ninety-nine (99) years under a master land lease dated April 16, 1980. That lease was the instrument for assembling all parcels of land needed to construct the Gallagher Terminal.

The LRTA, under this agreement, has the authority and power to lease the subject site and, by doing so, has an excellent opportunity to increase revenues as well as dedicated advertising space which would assist the LRTA in its efforts to increase ridership.

Over the years, Ackerley has been an excellent neighbor to the LRTA. In 1991, during the construction of the Gallagher Terminal Addition, Ackerley agreed to lease land, presently the site of our Trolley at the Lord Overpass, at no cost to the LRTA other than an agreement to provide minimal space for their billboards elsewhere on our property.

I believe that this is a very beneficial proposal for the LRTA and its ridership as well as for the City of Lowell. I have attached a copy of the lease agreement for your consideration.

At this point, Mr. Mark Fraser, Real Estate Manager, Ackerley Communications, Inc. introduced himself and gave a brief report on the Ackerley sign locations.

Mr. Fraser explained that the City of Lowell wants Ackerley Sign Co. to remove sixteen (16) billboards from the downtown historic area. The LRTA will receive one billboard per month at a location deemed appropriate to utilize as it sees fit.

Atty. Sullivan explained that billboards in the City of Lowell require permits.

Mr. Doyle stated that there should be a maintenance agreement and that he would abstain from voting on this issue due to the fact that the Town of Billerica is now in litigation with Ackerley Communications, Inc. because of a billboard that is falling apart. He also stated that this Agreement would be good for the LRTA.

MR. LYONS MOTIONED TO APPROVE THE LEASE AGREEMENT BETWEEN LRTA AND ACKERLEY COMMUNICATIONS, INC. SECONDED BY MR. LORDEN. VOTE: FIVE IN FAVOR, ONE OPPOSED, ONE ABSTAINED. (WEIGHTED VOTE = 16.55 IN FAVOR, 2.80 OPPOSED AND 2.81 ABSTAINED)

Mr. Lawlor explained the reason for his not voting for the billboard was because he didn't want people coming into Lowell looking at a billboard and, in his opinion, it would detract visually from the City.

MR. LYONS REQUESTED TO AMEND THE MOTION TO READ: MOTION TO APPROVE THE LEASE AGREEMENT BETWEEN LRTA AND ACKERLEY COMMUNICATIONS, INC., PROVIDING THAT THE CONDITION OF THE SIGNS REMAIN SAFE AND IN THE SAME CONDITION AS THEY WERE IN WHEN THEY WERE ERECTED, SECONDED BY MR. LORDEN. VOTE: FIVE IN FAVOR, ONE OPPOSED, ONE ABSTAINED. (WEIGHTED VOTE = 16.55 IN FAVOR, 2.80 OPPOSED AND 2.81 ABSTAINED)

MOTIONS: None

At this point, Mr. Lawlor requested the Administrator to provide him with a copy of the Management Letter from Peat Marwick. He also requested a game plan as to how the Administrator is going to get beyond some of the problems that he has inherited. Chairman Stevens assured Mr. Lawlor that the Administrator would come back with the budget showing where we stand and will have a full financial report at the February Advisory Board meeting.

WARRANT:

MOTION MADE BY MR. LAWLOR TO APPROVE THE WARRANT IN THE AMOUNT OF \$354,275.56 WITH A SUPPLEMENT AMOUNT OF \$16,370.62 (Gallagher Terminal) FOR A TOTAL OF \$370,646.18, SECONDED BY MR. LORDEN, VOTED UNANIMOUSLY.

ADJOURNMENT:

ON A MOTION MADE BY MR. DOYLE, SECONDED BY MR. LORDEN AND VOTED UNANIMOUSLY, THE MEETING ADJOURNED AT 9:05 p.m.

I, William Kavanagh, duly elected and acting as Clerk of the Lowell Regional Transit Authority, do hereby certify that the foregoing minutes are a true and accurate record of the meeting of the Lowell Regional Transit Authority Advisory Board held on January 20, 1994.

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Date

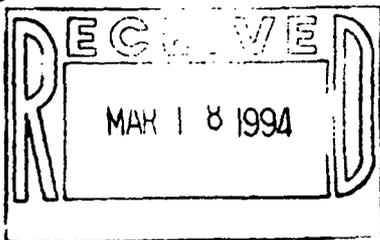
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William Kavanagh



**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

March 16, 1994

**ACTON-BOXBOROUGH**  
**REVISED ASSESSMENT FOR 1993-1994**

TOWN OF ACTON

cc: BOS  
Roy W.

- To: 1. ~~Acton Board of Selectmen~~  
c/o Executive Officer  
2. Chairman, Finance Committee  
3. Liaison Person, Finance Committee  
4. Town Manager  
5. Town Treasurer

By vote of the Acton-Boxborough Regional School Committee on March 3, 1994 your town's assessment for 1993-94 is: \$7,598,097. Enclosed is a Revised Schedule of Assessment Payments with the adjustment reflected in the April through June payments.

Also enclosed is a copy of the Recommendation to the school committee and the Table 6 Analysis of Assessment.

Sincerely,

*Bill*

William L. Ryan,  
Director of Business and  
Community Education

WLR/baw

- cc: Isa Zimmerman  
Pam Harting-Barrat  
Malcolm Reid  
Peter Beanland  
Roberta O'Connell  
Roy Wetherby  
Sharon Summers



**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

DATE: March 16, 1994  
TO: William L. Ryan  
FROM: Peter Beanland  
RE: Revised Schedule of Assessment Payments  
Town of Acton Fiscal Year 1994

MONTH	PERCENT	OPERATING ASSESSMENT	DEBT SERVICE	TOTAL ASSESSMENT
July, 1993	8.30%	\$604,076.00	\$26,480.25	\$630,556.25
August	8.30%	\$604,076.00	\$26,480.25	\$630,556.25
September	8.30%	\$604,076.00	\$26,480.25	\$630,556.25
October	8.30%	\$604,076.00	\$26,480.25	\$630,556.25
November	8.30%	\$604,076.00	\$26,480.25	\$630,556.25
December	8.30%	\$604,076.00	\$26,480.25	\$630,556.25
January, 1994	8.30%	\$604,076.00	\$26,480.25	\$630,556.25
February	8.30%	\$604,076.00	\$26,480.25	\$630,556.25
March	8.30%	\$604,076.00	\$26,480.25	\$630,556.25
April	8.44%	\$614,550.00	\$26,480.25	\$641,030.25
May	8.44%	\$614,550.00	\$26,480.25	\$641,030.25
June	8.44%	\$614,550.00	\$26,480.25	\$641,030.25
<b>TOTAL</b>	<b>100%</b>	<b>\$7,280,334.00</b>	<b>\$317,763.00</b>	<b>\$7,598,097.00</b>

cc: Roy Wetherby  
Sharon Summers  
Roberta O'Connell

COPY

ACTON PUBLIC SCHOOLS  
ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT  
16 Charter Road  
Acton, MA 01720  
(508) 264-4700 X 204 - Fax (508) 263-8409

DATE: February 25, 1994

TO: Isa Zimmerman

FROM: Bill Ryan

RE: Recommendations for March 3, 1994 Regional School  
Committee Meeting

Recommendations

1. Recommendation for Revised F.Y.'94 Acton-Boxborough Regional School District Budget and Assessments.

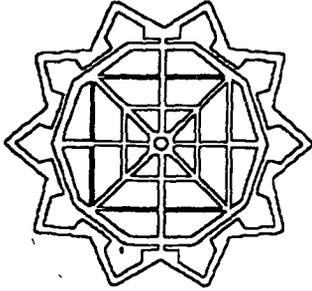
Enclosure 1 is a copy of the revised analysis of Assessments for F.Y.'94. As you are aware the Education Reform Act requires that this years' existing budget be increased by \$396,799. \$335,920 of this increase is covered by additional state aid and the remainder \$60,879 will come from the member towns. Acton's assessment will increase by \$31,422 and Boxborough's assessment will increase by \$29,457.

The Administration recommends that the total appropriation for the Acton-Boxborough Regional School District for the fiscal year July 1, 1993 through June 30, 1994 be set at \$12,108,786 and that member towns be assessed in accordance with the terms of the Agreement and amendments thereto as follows: Acton \$7,598,097, Boxborough \$1,576,744, remainder to be accounted for by the Anticipated Chapter 70 Base Aid, in the amount of \$1,719,222, Anticipated Chapter 70 Minimum Aid in the amount of \$82,120, Anticipated Chapter 70 Choice Aid in the amount of \$11,550, Transportation Aid Chapter 71, Sec. 16C, in the amount of \$377,734, Special Education Transportation Aid in the amount of \$70,377, Anticipated Aid, Construction of School Projects in the amount of \$293,598, School Choice revenue in the amount of \$279,000, Federal Aid, P.L. 81-874 in the amount of \$5,017 and Revenue from local sources in the amount of \$95,327.

DRAFT  
 TABLE 6  
 ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT  
 ANALYSIS OF ASSESSMENTS  
 Budget 1993-1994  
 To Meet Education Reform Requirements

	GROSS BUDGET 1993-1994	ACTON 82.92%	BOXBOROUGH 17.08%
NET SCHOOL SPENDING REQUIRED	\$11,057,017	\$9,145,149	\$1,911,868
REGULAR TRANSPORTATION	\$446,077	\$390,050	\$56,027
SPED TRANSPORTATION	\$271,205	\$224,883	\$46,322
DEBT SERVICE	\$334,487	\$317,763	\$16,724
GROSS BUDGET	\$12,108,786	\$10,077,845	\$2,030,941
<u>REVENUE FROM STATE SOURCES</u>			
CHAPTER 70 BASE AID	\$1,719,222	\$1,429,501	\$289,721
CHAPTER 70 MIN. AID	\$82,120	\$68,280	\$13,840
CHAPTER 70 CHOICE AID	\$11,550	\$0	\$11,550
TRANSPORTATION (Act87.4 Box12.6)	\$377,734	\$330,140	\$47,594
SPED TRANSPORTATION AID	\$70,377	\$58,357	\$12,020
CONSTRUCTION OF SCHOOL PROJECTS	\$293,598	\$278,918	\$14,680
SCHOOL CHOICE	\$279,000	\$231,347	\$47,653
<u>REVENUE FROM FEDERAL SOURCES</u>	\$5,017	\$4,160	\$857
<u>REVENUE FROM LOCAL SOURCES</u>			
TUITION	\$7,983	\$6,620	\$1,363
TRANSFER FROM E & D	\$87,344	\$72,426	\$14,918
TOTAL REVENUE	\$2,933,945	\$2,479,748	\$454,197
ASSESSMENTS	\$9,174,841	\$7,598,097	\$1,576,744
INCREASE OVER FY 94 EXISTING ASSESSMENT	\$60,879	\$31,422	\$29,457

February 11, 1994



# Massachusetts Municipal Association LEGISLATIVE BULLETIN

March 11, 1994

MAR 22 1994

## UNIONS RENEW PUSH FOR BINDING ARBITRATION

A labor-backed bill that calls for the reinstatement of compulsory binding arbitration will be heard by the House Public Service Committee on March 28.

Fourteen years ago the voters of Massachusetts eliminated binding arbitration on a referendum vote. The MMA is adamantly opposed to the reinstatement of binding arbitration because it would have a drastic, negative impact on union and management negotiations. Binding arbitration takes decisionmaking authority away from local labor and management and gives it to an unelected, unaccountable third party. The MMA believes that it encourages foot-dragging by disputing parties, discourages good faith bargaining, and, in some cases, invites parties to bypass negotiations by unilaterally declaring an "impasse."

Although labor unions have filed legislation to reinstate binding arbitration every year since 1980, and no attempts have made it out of committee, in recent years they have been much more ardent in their support for it. For example, at a hearing last year firefighters packed the room while 10 union presidents complained they were unable to get a "reasonable" contract. The labor leaders placed total blame on management without mentioning the \$600 million cut in local aid since 1988, the severe impact of the recession or the earmarking of local aid and property tax dollars by the new education reform law.

The bill, H. 2291, would provide for a three-member arbitration panel, or, when the parties mutually agree, for a single arbitrator. After hearings conducted by the arbitration panel, each party would submit a written statement containing its last and best offer on each of the issues in

dispute. The arbitrator would select either the last and best offer from the employer or the employee organization, or, the recommendations of the fact-finder — if a fact-finding report and recommendation had been issued. The selection would be final and binding upon the parties and the appropriate legislative body. The arbitrators would be able to remand the dispute to the parties for further collective bargaining for a period of up to three weeks.

While the MMA understands the frustration surrounding some protracted disputes, we do not feel it justifies a drastic change in policy. Binding arbitration will not speed collective bargaining or raise salaries. Municipalities have faced extremely tight fiscal constraints since the late 1980s and have struggled to provide public safety employee wage increases.

Reinstating compulsory binding arbitration would be a breach of the intent of Proposition 2 1/2. Compulsory binding arbitration was eliminated when Proposition 2 1/2 was approved 14 years ago and it was acknowledged that if local government's ability to raise revenues is limited, local spending could not be left vulnerable to an outside arbitrator's request.

While union arguments might appear unreasonable to local officials because so many police and fire unions are without contracts, some Public Service Committee members might be persuaded that something has to be done. The MMA is asking for as many local officials as possible to attend the March 28 hearing to offer rebuttal testimony to union claims. Officials planning to attend the hearing and offer testimony, please contact Marie Johnson at MMA 617-426-7272.

## **Tough Battles for Local Aid Resolution and Snow \$\$ Seen in Senate**

Local officials were encouraged by the strong action the House of Representatives took on March 2 on two items of keen interest to local government: Early Resolution of Local Aid and snow and ice money. Both items passed on voice votes after initial opposition of the House leadership.

However, it now appears that cities and towns are in for a fight in trying to get the Senate to adopt both measures in a timely manner. The *Boston Globe* reported that Sen. Thomas Birmingham (D-Chelsea), chair of the Senate Ways and Means committee, said he is skeptical the state can boost aid to cities and towns by \$40 million and provide \$15 million to municipalities to offset the cost of snow removal. In addition, Birmingham reportedly said the state Lottery might not generate enough revenue to fund the \$40 million increase and that providing snow and ice funds would "set a dangerous precedent."

House members rejected similar arguments from House Ways and Means Chairman Thomas Finneran (D-Boston). He argued on the House floor that while he felt comfortable with an Early Resolution on local aid that guaranteed the second installment of education reform funds (\$184 million) and level funding Additional Assistance (\$476 million) he thought it was "premature" to guarantee a \$40 million increase in lottery funds. However, the House adopted an amendment offered by Rep. Christopher Hodgkins (D-Lee) that included the \$40 million by an overwhelming 105-37 margin.

On snow and ice money, Finneran had been quoted in the *Boston Globe* as saying that helping cities and towns with their storm related deficits would set a bad precedent. However, the House adopted on a voice vote an amendment offered by Finneran, Rep. Michael Ruane (D-Salem), Rep. Frank Hynes (D-Marshfield) and Rep. Michael Sullivan (R-Abington) that would provide \$15 million in state assistance for snow and ice deficits. The House then passed the bill onto the Senate on a 140-0 roll call vote.

Both measures are now in the Senate. A local

aid resolution could be offered by any Senator and does not require action by Ways and Means. (Past practice and the MMA's preference would be for the Early Resolution to have the endorsement of the Ways and Means Committee.) Snow and ice funds are part of a supplemental appropriation bill and will be taken up only after the bill is reported out favorably by Sen. Birmingham's committee.

Senate approval may not be easily won because of Sen. Birmingham's apparent position. The MMA and municipal officials have mounted a vigorous campaign to convince Senate members that snow removal costs this year have reached extraordinary levels and special state assistance is warranted.

Preliminary results of an MMA survey on snow removal budgets for fiscal 1994 show that vast majority of cities and towns have exceeded their snow removal budgets, most by large margins.

## **AG, Malone Voice Gambling Concerns**

While Gov. Weld is counting on new gaming proceeds to yield a \$125 million in revenue in proposed fiscal 1995 budget, other high-ranking state officials have been less eager to make Massachusetts the gambling mecca of New England.

State Treasurer Joseph Malone said during a recent Committee on Government Regulations hearing on the governor's gambling plan, that the state should move cautiously in studying and implementing any expanded gaming in Massachusetts. Weld's plan calls for video poker and slot machines to be placed at the state's four horse and dog race tracks and for the operation of three floating casinos, one of which would be located in Fall River.

In his testimony, Malone expressed concern that expanded gambling may jeopardize the Massachusetts Lottery, which generates revenues for cities and towns. He also noted that the newly implemented Keno game has yet to be given a chance to show its true potential. According to Malone, about 3,000 keno machines should be operation by the end of 1995, and that the Lottery

Commission hoped to eventually have as many as 7,000 machines.

Meanwhile, Attorney General Scott Harshbarger has said he opposes expanded gambling. During a breakfast forum sponsored by the Greater Boston Chamber of Commerce last week, Harshbarger said supporters of proposed gaming legislation are only looking at gaming as a quick fix for the financial shortfalls in the state's economy. He said so far gambling has been introduced as the economic savior for the proposed megaplex, education reform, as well as the cleanup of Boston Harbor. He also noted that any social gains from gaming would be lost by increased costs to society, such as crime and compulsive gambling.

In the meantime, Massachusetts residents continue to vote with their cars by visiting the Foxwoods Casino in Connecticut in great numbers. In addition, there are some well-placed boosters of expanded gambling besides the Governor. Sitting on the panel with Harshbarger, for instance, was Sheldon Adelson, owner of the Sands Hotel in Las Vegas, and CEO of the Interface Group, headquartered in Needham.

Adelson said Massachusetts should adopt legislation that supports the implementation of expanded gaming. If Massachusetts fails to enact this legislation, he said, it will lose out to neighboring states that are considering gaming legislation.

Adelson, who stands to benefit from such legislation, recommended that Massachusetts seek assistance in drafting regulations pertaining to the establishment of gaming institutions. He suggested this aid should come from New Jersey and Nevada, which currently have successful gambling establishments and regulations.

### **North/South Rail Link Study Approved**

The Executive Office of Transportation and Construction last week signed an agreement to participate in an initial study of the viability of establishing a rail service linking North Station to South Station. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) contained \$4 million to research the viability of the project, and, if the rail link is constructed, it

would require a future commitment of more than \$4 billion. Federal and state officials had been in discussions with Amtrak about its participation in the research project. Amtrak operates the commuter rail system in Massachusetts.

### **Transportation Bond Bill Awaited**

The MMA still eagerly awaits the release of the Transportation Bond Bill, H. 1033, from the Joint Committee on Transportation. In the last *Legislative Bulletin*, we reported that the committee was busy drafting the bill during the school vacation week, and hoped to have it done by the second week in March. Sources within the committee have reported a delay until perhaps the third week in March. The committee is sensitive to the needs of local government and the construction industry, and hopes to take advantage of the upcoming 1994 construction season. The MMA looks forward to increased Chapter 90 funds, and a revision of the program to include more flexibility for communities in deciding which municipal projects to fund. The MMA will apprise members of any changes.

### **Veterans Agents' Bill Heard**

H. 2041, An Act Relative to Veterans Agents filed for the MMA by Rep. Douglas Petersen (D-Marblehead) was heard by the Joint Committee on Human Services and Elderly Affairs earlier this week. The bill would remove the requirement that communities with populations of 12,000 or more have a full-time veteran's agent, and would allow them to appoint or re-appoint part-time agents. The MMA would like to thank Rep. Petersen for taking the time to testify at the hearing, given the controversial nature of the issue.

# MUNICIPAL FORUM

## AGENDA

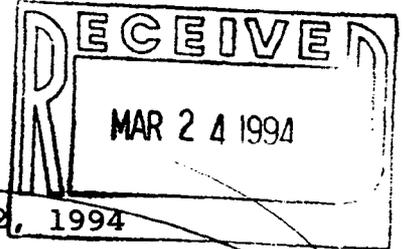
Monday, March 28, 1994  
7:15 a.m., Room #114, Junior High School

- 1) Minutes
- 2) Status of Visioning Process
- 3) Last minute issues related to Town Meeting
- 4) Observers' comments

After Town Meeting agenda items:

- 1) Future Debt Policy

BREWSTER CONANT  
562 MAIN STREET  
ACTON, MASSACHUSETTS 01720



March 22, 1994

Board of Selectmen  
Town Hall  
Acton, MA 01720

CHRIS - GET COMMENTS FROM  
ALL DEPTS. AND LET'S  
SEE IF BOS ACTION IS  
REQD.

Re: Town's Right of First Refusal  
Under Chapter 61 (Forestry Law)

Dear Board Members,

As you may know, the Annual Meeting of the Water Supply District of Acton voted March 16, 1994 to acquire (gift/exchange) approximately 24 acres of land of a parcel of land designated on Map E-4 parcel 47, for a well site.

The language of the Act before me reads "Land taxed under this Chapter shall not be sold for, converted to, residential, industrial, or commercial use while so taxed....."

The transaction would appear to be exempt, but I am writing to advise of same, and would appreciate hearing if the Town of Acton has any interest in exercising their option within the 120 days from receipt of this letter.

Please give a call if further information is needed.

Sincerely,

A handwritten signature in cursive script that reads "Brewster Conant". The signature is written in dark ink and is positioned below the typed name "Sincerely,".

cc: Planning Board  
Conservation Commission  
Board of Assessors  
Water Supply District of Acton - Charles E. Orcutt, Esq.

**SELECTMEN'S MEETING  
MARCH 1, 1994**

*Draft*

The Board of Selectmen held its regular meeting on Tuesday, March 1, 1994 at 7:30 P.M. Present were F. Dore' Hunter, Anne Fanton, William Mullin, Nancy Tavernier, Norman Lake and Town Manager Johnson.

{Representatives from cable were present}

**CITIZENS' CONCERNS**

Johnsua Chernin, Associate Member of the Planning Board urged the Selectmen to support the article on the warrant authorizing the additional members for the Planning Board. He stated that the membership is volunteer and the bylaw addresses any issue related to members missing meetings by capping the number of meetings that can be missed before a member is replaced.

**PUBLIC HEARINGS AND APPOINTMENTS**

**BOSTON GAS**

Chairman Hunter continued the hearing until the next meeting due to the lack of public hearing notice available for announcement and examination.

**STREET ACCEPTANCE - KENNEDY LANE**

Mrs. Whitehead of #4 Kennedy Lane asked for clarification with regard to the retention pond landscaping that has not been completed by the builder. She asked if it had any effect on the acceptance of the street. Engineering staff responded that it did not. The Board suggested that she contact her builder, Mr. Fenton, to obtain written assurance that the retention area would be completed by him in the manner originally proposed.

NORM LAKE - Moved to include Kennedy Lane for Acceptance on the 1994 Warrant. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

**VILLAGE SAAB**

**CLASS I DEALER LICENSE HEARING CONTINUED**

Atty. Charles Kadison outlined the proposed plan as it exists in progress. The Board asked that the Building Commissioner identify the legal spaces allowed under the plan as it is presented. They were concerned that the number of cars exceeds zoning and will address the number of cars allowed on site after review by the Building Commissioner. The screening issue was also discussed. The applicant is intending to complete the rather extensive and expensive buffer when Spring arrives. NANCY TAVERNIER - Moved to have the problems resolved and the plan presented within 90 days. ANNE FANTON - Second. UNANIMOUS VOTE.

**BOARD OF HEALTH  
NURSING SERVICE - PUBLIC HEALTH PROGRAMS**

Bill McInnis outlined the programs that they were proposing to conduct with fund balances in the Nursing Enterprise Fund. Nancy Tavernier reiterated that the money to be spent on these programs would not be the \$30,000 originally set aside for the consultant. She further urged them not to duplicate services already offered and to charge fees where appropriate. ANNE FANTON - Moved to approve the planned programs as presented without aerobics, the programs to be paid for out of the current Enterprise Fund Balance. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

**CONSENT CALENDAR**

Approved with Items 8 and 9 held for discussion. Item 8 - amend minutes of January 18 third paragraph amended. NANCY TAVERNIER - Moved to accept the Minutes as amended. NORM LAKE - Second. UNANIMOUS VOTE. Item 10 - Norm noted that he was not at the original hearing and therefore the decision should be amended to reflect this. BILL MULLIN - Moved to amend the Wendy's decision to reflect Norm's absence at the December 14th Meeting. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

**SELECTMEN'S BUSINESS**

Eagle Scout Court of Honor - Nancy to represent the Board.

Warrant Message - The Board discussed the Chairman's draft message for the warrant. Bill felt that it was fairly negative and suggests if its important we change it from legislature to State Government and Governor. It was suggested it be toned down political nature. Dore' said he would take the comments into consideration and do so<sup>redrafting</sup>. Anne concurs with some of the concerns Bill raises, but for the most part is comfortable with it if some changes are made to reflect a non- accusatory nature. The Board felt it was positive and responded to Town Meetings wishes. Dore' concurred and will make changes. Norm felt it is important that we are not blaming the schools and we are not feuding with the schools. Norm also noted that under ed reform, the school choice monies are not available for use.

WARRANT DISCUSSION CONTINUATION - Don outlined the items for bonding and the requirements for that bonding. Options for packaging the bonding articles and the need for 2/3 votes<sup>would</sup> be required for bonding items. Don cautioned that the payback would be high in 96 but the debt would be retired and payments would return to the normal schedule when the debt we already have gets retired. Dore' asked why we could not cut them out and put forward as a 2 1/2 debt exclusion. Nancy felt it would increase tax payments if an override was passed.

Don said that we needed to continue our debt to solve the problem of absorbing the costs into our budgets each year. Consensus is that the Board is happy with the bonding concept. Don urged the 2/3 vote was important and we need to let people know this will course will avoid possible overrides.

WILLIAM MULLIN - Move to pursue the bonding approach incorporating Plan #1 Manager's recommendations as budget. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

Base "B" Budget - 11 million, Bonding will be set aside as a group of articles or group. Dore' felt we needed to provide a logical way to group the articles for bonding and will work with staff to develop a grouping. The ladder truck will be in its own article as well as paving and the Blanchard Chimney Repair.

Planning Board member increase was discussed. NANCY TAVERNIER - Moved to defer until Planning is able to clarify any outstanding issues. BILL MULLIN - Second. 3-2 Dore' and Anne No.

Adams Street Land - Bill Mullin noted that he was not satisfied with the proposal since he had received responses to all his many questions. The units will be pre-sold so many issues of feasibility will be addressed. Profits will be used for affordable housing. NORM LAKE - Moved to recommend. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

NESWC- NANCY TAVERNIER - Moved to approve. ANNE FANTON - Second. 4-1 William Mullin, Abstaining.

Item 2, Bonding Package = WILLIAM MULLIN - Moved to recommend the Bonding Package listed as Item 2. ANNE FANTON - Second. UNANIMOUS

Command Vehicle - NORM LAKE - Moved to recommend and separate out as separate article. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

Impact Fee Bylaw - NANCY TAVERNIER - Moved to recommend. BILL MULLIN - Second. UNANIMOUS VOTE.

Establish Stabilization Fund Article - NORM LAKE - Moved to establish Article and to defer recommendation. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

Planning Articles - BILL MULLIN - Moved to defer on Planning Articles. No second. Motion Lost.

ANNE FANTON - Moved to recommend Articles p,q,r,s NANCY TAVERNIER - Second. UNANIMOUS VOTE.

NORM LAKE - Moved to defer on Citizens Petition FF. ANNE FANTON - Second. UNANIMOUS VOTE

NANCY TAVERNIER - Moved to recommend Article T. ANNE FANTON  
- Second. 4-1, Bill Mullin, No

NANCY TAVERNIER - Moved to recommend Article U. ANNE FANTON  
- Second. 3-2, Bill Mullin and Norm Lake, No

NORM LAKE - Moved to Defer Recommendation on Article V -  
BILL MULLIN - Second. UNANIMOUS VOTE.

NANCY TAVERNIER - Moved to recommend Article W. NORM LAKE  
- Second. UNANIMOUS VOTE.

NANCY TAVERNIER - Moved to recommend Article X. ANNE FANTON  
- Second. UNANIMOUS VOTE.

NORM LAKE - Moved to recommend Article Y with clearer  
summary. NANCY TAVERNIER - Second. 4-1 Bill Mullin, No.

NORM LAKE - Moved to recommend Article Z - NANCY TAVERNIER -  
Second. UNANIMOUS VOTE

ANNE FANTON - Moved to recommend Article AA - NANCY  
TAVERNIER - Second. 4-1 Bill Mullin, No.

ANNE FANTON - Moved to recommend Article DD - NANCY  
TAVERNIER - Second. UNANIMOUS VOTE.

NANCY TAVERNIER - Moved to Recommend T and DD and move to  
Consent, FF to be Deferred. NORM LAKE - Second. UNANIMOUS VOTE.

ANNE FANTON - Moved to recommend Article GG - NORM LAKE -  
Second. UNANIMOUS VOTE.

NORM LAKE - Moved to Recommend Article II and HH, Defer JJ,  
Recommend KK and make no recommendation on MM- NANCY TAVERNIER  
- Second. UNANIMOUS VOTE.

NORM LAKE - Moved to Defer NESWC Stabilization Article -  
NANCY TAVERNIER - Second. UNANIMOUS VOTE.

(Please Note that an Index will be attached for this version of  
the Articles dated 2.25.94)

NANCY TAVERNIER - Moved that all budgets presented at the  
1994 Annual Town Meeting be in a format that reflects spending  
requests equal to the total projected revenue available for  
FY1995. Any request for appropriation that would exceed this  
total projected revenue for FY1995 must be presented with

appropriate language making its appropriation contingent on the passage of a Prop. 2 1/2 override at a Special Election to follow. These override questions may be either general, debt exclusion or capital overrides. NORM LAKE - Second. UNANIMOUS VOTE.

#### TOWN MANAGER'S CONCERNS

Public Ceremonies Committee - Nancy discussed her research on this issue of appointing authority with respect to the PCC. It appears that the Charter supersedes and the Town Manager is responsible for appointing this committee. VCC will be asked to submit candidates to the Town Manager for possible appointment.

NANCY TAVERNIER - Moved to approve the request from staff to increase self funding in the amount of \$111,000. NORM LAKE - Second. UNANIMOUS

The Board adjourned at 11:45 P.M.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christine Joyce  
Recording Secty.  
cmjW11-(510)

FEBRUARY 25, 1994

TO: Board of Selectmen  
FROM: F. DORE' HUNTER, Chairman  
SUBJECT: SELECTMEN'S REPORT

#####

AGENDA

ROOM 204

MARCH 1, 1994

I. CITIZEN'S CONCERNS

II. PUBLIC HEARINGS & APPOINTMENTS

1. 7:31 CHAIRMAN'S MINUTE
2. 7:32 BOSTON GAS - GREAT ROAD - Enclosed please find petition information and staff comment for Board action.
3. 7:45 PUBLIC HEARING - STREET ACCEPTANCE - KENNEDY LANE
4. 7:50 VILLAGE SAAB - Class I License review continued from December Renewal action.
5. 8:15 BOARD OF HEALTH - William McInnis will present proposed Public Health programs for Board review and action.

III. SELECTMEN'S BUSINESS

6. EAGLE SCOUT - Enclosed please find a request for attendance at a Court of Honor from Troop 32 for assignment.
7. CONTINUED BUDGET DISCUSSION

IV. CONSENT AGENDA

8. MINUTES - Enclosed please find minutes of January 18, 1994 for Board approval.
9. WENDY'S SITE PLAN SPECIAL PERMIT - Enclosed is the Site Plan Special Permit decision for Board action.

10. ACCEPT GIFT - WEST ACTON CITIZEN'S LIBRARY - Enclosed please find three gifts of money for Board action.
11. PROCLAMATION - Enclosed please find a request from American Red Cross to proclaim March as American Red Cross Month for Board action.

V. TOWN MANAGER'S REPORT

VI. EXECUTIVE SESSION

MEETINGS

- February 27 - ACHC Adams Street Project at Town Hall
- April 10, 1994 2-4 P.M. - Open House Senior Center

ADDITIONAL INFORMATION

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

FUTURE AGENDAS

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

March 15, 1994

Metropolitan Deli - Special Use Permit  
Common Vic

Costa Donuts - Special Use Permit  
Common Vic.

NARA/Bldg. Commissioner Public Meeting  
Sichuan Pavilion, Inc. - LIQUOR RE-HEARING

MARCH 29 - 1994

Beginning at 8:00 P.M.

1994 ANNUAL TOWN MEETING WARRANT ARTICLE INDEX

<u>ARTICLE</u>	<u>ARTICLE TITLE</u>	<u>PAGE</u>
Article 1	Choose Town Officers	
Article 2	Hear and Accept Reports	
Article 3*	Council on Aging Van Enterprise Budget	
Article 4*	Nursing Enterprise Budget	
Article 5*	Septage Disposal Enterprise Budget	
Article 6*	NESWC Enterprise Budget	
Article 7*	Merriam School Enterprise Budget	
Article 8	Budget Transfer	
Article 9	Budget Article	
Article A*	Self Funding Program	
Article B	Budget Funding Memorial Library	
Article C#	West Acton Citizen's Library	
Article D	Blanchard Auditorium Chimney Repair	
Article E	Use of Funds to Reduce the Tax Rate	
Article F*	Storm Appropriation	
Article G*	Transfer of Funds Cemetery Land Fund	
Article H*	Alternative Revenue Sources	
Article I*	Chapter 90 Highway Reimbursement	
Article J*	Acceptance of Gifts of Land	
Article K*	Street Acceptance	
Article L*	Charter Road Sidewalk Easement - Richards	
Article M*	Charter Road Sidewalk Easement - Smith	
Article N*	Charter Road Sidewalk Easement - Sackman	
Article O*	Main Street Easement	
Article P	WEST ACTON VILLAGE (WAV) GENERAL BUSINESS (GB) AND LIMITED BUSINESS (LB) DISTRICTS IN WEST ACTON	
Article Q	VILLAGE RESIDENTIAL DISTRICT IN WEST ACTON	
Article R	PARKING IN VILLAGE DISTRICTS	
Article S	SITE PLAN SPECIAL PERMIT IN VILLAGE DISTRICTS	
Article T	TRACT OF LAND REQUIRED FOR CERTAIN DEVELOPMENTS	

Article U	MAXIMUM LIMITS FOR RESIDENTIAL COMPONENT IN PLANNED UNIT DEVELOPMENTS
Article V	CORRECTIONS, CLARIFICATIONS AND MINOR ADJUSTMENTS TO THE ZONING BYLAW
Article W	ACCOMMODATION OF HANDICAPPED AND VAN ACCESSIBLE PARKING
Article X	CHANGE SPECIAL PERMIT REQUIREMENT FOR COMMON DRIVES
Article Y	ELIMINATE SPECIAL PERMIT REQUIREMENTS FOR CERTAIN ACCESSORY USES
Article Z	ELIMINATE PROHIBITION AGAINST AND SPECIAL PERMIT REQUIREMENT FOR TERTIARY WASTEWATER TREATMENT FACILITIES
Article AA	ELIMINATION OF SPECIAL PERMIT REQUIREMENTS FOR CERTAIN DIMENSIONAL PROVISIONS
Article BB	ASSOCIATE MEMBERS FOR PLANNING BOARD WHEN ACTING AS SPECIAL PERMIT GRANTING AUTHORITY
Article CC	ASSOCIATE MEMBERS FOR PLANNING BOARD WHEN ACTING AS SPECIAL PERMIT GRANTING AUTHORITY - CHARTER CHANGE
Article DD	ACCEPTANCE OF LAND AND RELATED EASEMENTS HEARTHSTONE FARM SUBDIVISION
Article EE	Change in Requirements for Child Care Facilities in Residential Areas
Article FF#	Change in Zoning of land in Acton
Article GG	Public Use of Land by Town or Agency Other than the Town of Acton and the Water Supply District of Acton
Article HH	Acceptance of MGL Chapter 140, Section 147A
Article II	Dog Regulation Amendment to Town Bylaws
Article JJ	Amend Local Historic District Bylaw
Article KK*	Remove Police Chief Position from Civil Service
Article LL	Affordable Housing - Adams Street
Article MM#	Formation of a Municipal Power Organization
Article NN	School Teachers Early Retirement
Article OO	Traffic Signals at Route 62 and High Street
Article PP	Summer Assistant - Engineering Department
Article QQ	Engineering Department Software
Article RR	Engineering Department Van Replacement
Article SS	4X4 GVW Pickup 3/4 Ton Truck
Article TT	4X4 One Ton Dump Truck
Article UU	10 Wheel Tractor
Article VV	Front End Wheel Loader
Article WW	Pavement Program
Article XX	Replace Nursing Vehicle
Article YY	Renovation and Installation of Dispatch Console

Article ZZ	Mobil Data Terminals
Article AAA	Mobil Data Terminals
Article BBB	Mobil Data Terminals
Article CCC	Ladder Truck Replacement
Article DDD	Command Vehicle
Article EEE	Fire Alarm Equipment
Article FFF(a)	Exhaust Evacuation System
Article GGG(b)	Exhaust Evacuation System
Article HHH(c)	Exhaust Evacuation System
Article III	Staffing Restoration
Article JJJ	Restore Friday Library Hours
Article KKK	Library Expansion Study
Article LLL	Replace Circulation Desk
Article MMM	Purchase Health Department Computer
Article NNN	Replace Health Dept. Vehicles
Article OOO	Purchase Health Department Microfiche
Article PPP	Replace Dump Truck
Article QQQ	Memorial Library HVAC upgrade
Article RRR	Police Station Garage Roof Repairs
Article SSS	Ice House Pond
Article TTT	Additional Staffing in Planning Department
Article UUU	Impact Fee Bylaw
Article VVV	Kelley's Corner Plan

**\*Consent**

**#Inserted by Citizen Petition**

February 23, 1994 3:33 PM

**ACTON COMMUNITY HOUSING CORPORATION**

**ADAMS STREET AFFORDABLE HOUSING PROPOSAL  
ARTICLE 34 - APRIL TOWN MEETING**

**QUESTIONS AND ANSWERS**

**1. What action will be taken at Town Meeting on Article 34 - Affordable Housing - Adams Street?**

Town Meeting voters are being asked to approve a change in use for 4 acres of town-owned land located on Adams St. in South Acton, from sewage disposal to affordable housing. These 4 acres are part of a 20 acre parcel that was purchased by the Town in 1967 for the purpose of building a sewage disposal plant. The Town has no plans to build that plant.

A positive vote at Town Meeting will convey the 4 acres to the Board of Selectmen who will then enter into a competitive bidding process, to procure a developer who will build up to 8 units of affordable housing. This land will not be conveyed to the Board of Selectmen until a qualified developer has been selected, detailed plans have been approved, cost estimates are finalized, and approvals have been obtained from all appropriate Town boards and departments. The Acton Community Housing Corporation plans to bid on the development along with other interested parties.

The successful developer must guarantee that the single family homes can be sold to persons whose income qualifies under state and local guidelines for affordable housing; that 70% of the homes will be sold to those persons who work for or in Acton, live in Acton, or are children of current Acton residents; and, that all local zoning and environmental standards will meet compliance.

**2. Who is the Acton Community Housing Corporation (ACHC)?**

The Acton Community Housing Corporation (ACHC), established by the Acton Board of Selectmen in 1987, is a public, non-profit corporation which works to create affordable housing to low and moderate income families in Acton. The Town of Acton recognizes ACHC as its official representative in the affordable housing development process. The ten

volunteer members of the Board of Directors bring a rich variety of backgrounds and dedication to attaining the community goal of housing diversity. The ACHC works with private developers in the planning, development, and marketing stages of affordable homes. It is also the only organization that will monitor these homes to be sure that they remain affordable over the long term. In addition, the ACHC is charged with surveying town owned land, which would be suitable for housing development, and coordinates the eventual development of such land. The Adams St. plan is ACHC's first proposal for town-owned land.

**3. What exactly is the plan for the Adams St. housing proposal?**

The affordable housing proposal envisions the construction of up to eight 2 and 3 bedroom single family homes to be clustered on 4 acres of wooded land off of Adams St. near the intersection of Parker St. If the ACHC is the successful bidder, the homes will be constructed by Deck House, Inc., a distinguished Acton firm who has donated one home to the ACHC. If another developer is the successful bidder, they will still be required to construct no more than 8 homes and they must meet the affordability standards set out by the Board of Selectmen. The homes would have individual septic systems and would be tied into town water.

**4. What is the selling price of these homes?**

Local and State affordable housing guidelines set the price of these homes at \$94,500 to qualified First Time Homebuyers. These guidelines can be met through the use of town-owned land, there are no subsidies given to the home-owners. These are not subsidized homes. Any excess profit, generated by the difference between construction and selling prices, will be returned to the Town to be placed in a special fund used to create additional affordable housing opportunities in Acton. It is anticipated that this project will generate a profit which will be used to fund affordable housing in scattered sites around Acton.

**5. Who will be eligible to buy these homes?**

The ACHC is recommending that the Board of Selectmen use the state Local Initiative Program (LIP) which allows for local preference to be given to 70% of the qualified home owners. The ACHC has defined local preference as those persons who meet one of more of the following criteria: 1). employed by the Town of Acton, the Acton-Boxborough Regional School District, or the Acton Water District. 2). A current Acton resident. 3). A child of a current Acton resident. or 4). An employee

working in Acton. To be income eligible, a home buyer must have an annual household income of not more than \$40,000, be a first time home-buyer (no home ownership in last three years), and must be creditworthy. These homes will be pre-sold and the buyers will be pre-qualified by a local lender.

**6. How much tax revenue will these homes generate?**

While the selling price of the proposed homes is \$94,500, the assessed-taxable value of the homes will be determined by the Acton Board of Assessors. Some of the value of the land could be included in the total assessment. If the assessed value of the homes were \$94,500, then the Fiscal Year 1994 tax bill would be \$1686 for each home, based on the current residential tax rate of \$17.85 per \$1000 of assessed value. The town-owned Adams St. parcel currently generates no tax revenue.

**7. If these homeowners have school-aged children, will their tax bill only cover a portion of the cost of educating their children?**

Yes, and that is true for the majority of home owners in the Town of Acton. The average residential tax bill in Acton for 1994 is \$3101, including both condominiums and single family homes. The cost of educating one child in Acton is \$5600, however, state aid offsets 18.5% of that cost, bringing the total cost to \$4564 per pupil. Thirty-eight percent of the households in Acton have school-aged children. The cost of education in Acton is 66% of the total cost of local government. The property tax structure is designed to spread the cost of government over the entire tax base: residential, commercial, industrial, personal property and open space. Only homes assessed at \$255,000 or above, cover the cost of educating one pupil.

**8. Why not sell the Adams St. land to a developer so that the proceeds could help fund the school override or other capital needs?**

Selling any or all of the town-owned Adams St. land to a developer is outside the scope of the article at the April 1994 Town Meeting and such action is not under consideration by the ACHC or the Board of Selectmen. Theoretically, the land could be sold to a developer but would require a Town Meeting vote authorizing the sale, it would have to be competitively bid, and it would not necessarily be consistent with the

ACHC and Board of Selectmen's policy of creating affordable housing. There would be no guarantee that any affordable housing would be built by a successful bidder unless he desired to increase the density on the site.

The 1990 Town Meeting vote that created the Affordable Housing Overlay District designated the Adams St. parcel as appropriate for affordable housing. If a developer wanted to buy the 20 acres, he could increase the density allowed (1 per acre) by building 25 to 100 units as long as 15-40% of them were affordable. While that would be consistent with the ACHC's and Master Plan goal of providing more affordable housing, it would not be acceptable to the Adams St./Maillet Drive neighborhood, some of whom have stated they oppose any development of the area.

A one-time infusion of revenues, such as the proceeds from the sale of property, will not solve long term operating costs of the town. The Board of Selectmen are proposing to Town Meeting a fiscally sound method of paying for needed capital items that does not require the revenues that would be generated by the sale of town-owned land.

**9. Why can't existing properties, especially condominiums, be used for affordable housing?**

The Town of Acton, through its Master Plan Goals and Objectives voted at the 1990 Town Meeting, specifically recognizes that promoting a wide range of economic diversity in housing will enhance the public welfare of the entire town. Housing opportunities should be available to anyone and should not be restricted to multifamily dwellings or to a particular area of town. Equal access to housing is just that, equal access to any kind of housing that is affordable to any qualified individual. The average 1994 tax bill for condominiums in Acton is \$1397, which is nearly \$300 less tax revenue than the Adams St. proposed houses would generate.

**10. Wouldn't it be more desirable to build affordable housing units in scattered sites around the town or to purchase and rehabilitate existing properties?**

The ACHC agrees that this is a desirable goal and is working toward purchasing existing single or 2-family homes with the intention of placing deed restrictions on them to insure their permanent affordability. However, the ACHC and the Town of Acton currently have no funds to make these purchases. The Adams St. project is expected to generate approximately \$145,000 in "profit" which will be used as seed money to make such procurements as part of the ACHC's long range plan for

generating more affordable housing in Acton.

**11. How was the Adams St. parcel selected?**

At a special Town Meeting in November, 1990, the Affordable Housing Incentives and Overlay District was added to Acton's zoning bylaw with overwhelming support from Town Meeting voters. The Affordable Housing Overlay District identifies areas throughout Acton which the town recognizes as appropriate sites for affordable housing developments. The Adams Street site is included in Acton's Affordable Housing Overlay District. Because this land has remained unused for the past 27 years, the ACHC felt it was appropriate to make a portion of the land more productive for the town while satisfying a major town-wide goal of affordable housing. Preliminary tests have indicated that the soil is quite receptive to septic disposal and that it will have little environmental impact on the abutting neighborhood.

The only other town-owned parcel that was considered as part of the overlay district is a piece of land on Arlington St. that was purchased 20 years ago for the future expansion needs of the elementary schools. With continuing enrollment increases on the elementary level, it would not be advisable to take this land at this time. There is also concern by the Acton Health Department that the soil at the Arlington St. site is not as receptive to wastewater disposal as the Adams St. land.

**12. Will this housing proposal have an adverse impact on the abutting neighborhoods?**

The 4 acre portion of the Adams St. parcel is located at the far western section of Adams St. and only directly abuts two properties, both of which are across the street. The rest of the homes on Adams St. and Maillet Drive, and any nearby neighborhoods, will not be adversely effected by environmental or traffic changes. Some of these homeowners have stated that any trees that would be removed to make way for construction would have a detrimental effect on their homes due to the alleged existence of odors from the nearby Maynard Sewage Plant and its nighttime lighting.

A locus map will show that only two homes directly abut the proposed houses and the removal of trees could potentially affect them just as any development affects its adjoining neighborhood. The location of the proposed 8 houses is in a natural depression behind an embankment which blocks the treatment plant lights from them and the 2 neighbors

across the street. This embankment will not be disturbed. As for the issue of trees blocking odors, a survey of professional arborists has shown that this theory is simply not based in fact.

**13. Is it true that the proposed houses will be located next to the Maynard Treatment plant?**

The Maynard Treatment plant is located approximately 330 feet south of the closest proposed house on the site with heavy buffer of trees and undergrowth, as well as a naturally occurring embankment, in between. There are houses located on the Maynard side that are closer in proximity to the plant. A 50 ft. buffer of trees surrounding the housing site will be left intact to help mitigate any potential impacts generated by the treatment plant.

**14. What are the potential negative impacts of locating the houses next to the Maynard Treatment plant?**

It is true that the site is near an industrial use, the Maynard Treatment plant but the site is still marketable. There are many examples of homes located next to industrial sites in Acton. High-end market rate new homes are selling within sight of the W.R. Grace chemical company, high value homes are located near the Haartz Auto Fabric Company, and the entire up-scale housing development of Northbriar in North Acton is located across from a multi-use industrial area. All of these homes have held their value in spite of their location. The Adams St. houses will be pre-sold so if there is no market at that site, then the affordable housing project will not proceed.

There have been complaints about odors from the Maynard Treatment plant over the past 15 years, but few in the last 3 years. Some of the odor problems resulted from an accumulation of sludge in the Assabet River which was exposed several times in the past decade due to low water conditions brought on by a defective dam. The dam was repaired several years ago and now keeps the water at an appropriate level.

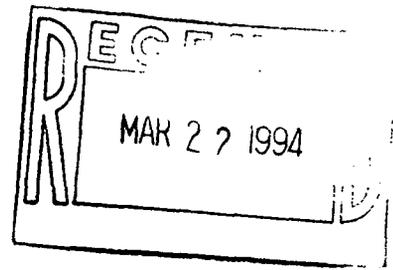
The Town of Maynard is under orders from the Department of Environmental Protection to upgrade their facility, adding state of the art equipment by 1996, which will decrease any existing odors substantially. The DEP will also insist that the sewage effluent should enter the Assabet River below the dam, in more turbulent water, which will further mitigate the odor problem. Any expansion of the facility will take place within the existing site and will not negatively impact the Adams St. houses.

Recently, current Adams St. residents have raised the issue of

nighttime lighting at the plant site. This lighting is only visible in the winter and should not affect the 8 proposed homes since they will be situated in a natural depression and will have an embankment between them and the treatment plant.

Prepared by Nancy Tavernier, Member  
Acton Community Housing Corporation  
Acton Board of Selectmen  
3/21/94

CC: BOS



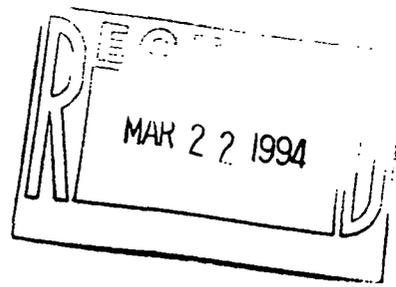
BOARD OF ASSESSORS

MINUTES

MARCH 7, 1994

1. The Board read and approved minutes from February 28, 1994 meeting.
2. Monthly real estate abatements were signed for FY 93 and FY 94.
3. FY 94 monthly exemptions were signed by the Board.
4. FY 93 and FY 94 motor vehicle abatements were signed.
5. The Board reviewed Clause 18 Hardship Exemptions - no decisions were made at this time.
6. The Board agreed to abate a portion of Cohen Properties (Iris Court Apartments).
7. The Board granted an abatement to Guy McKay - property at 982 Main Street.
8. The Board granted an abatement to Hirsch at 52 Ethan Allen for an easement on property.
9. The Board granted an abatement on excise for Hall - erroneous bill.
10. The Board denied an abatement on excise for Szewczyk - based on overvaluation.

Attendance: James Kotanchik  
Robert Adams (last meeting)  
Donald Rhude  
Brian McMullen



## TOWN OF ACTON

### INTERDEPARTMENTAL CORRESPONDENCE

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March 21, 1994

TO: Don Johnson, Town Manager  
FROM: Cathy Belbin, Town Clerk  
RE: Annual Town Meeting / Don MacKenzie

*Don MacKenzie has confirmed that Thursday March 31, 1994 at 10:30 a.m. is good for a meeting between himself and Town Representatives to review the Warrant of the Annual Town Meeting. Final preparations will be made for the Town Meeting as well as discussion of carry-over night options.*

*For your information, Don has already informed me of a number of nights that he is available. They are:*

Available; Monday, Tuesday - April 4 and 5  
Monday through Wednesday - April 11 - 13  
Monday through Thursday - April 18 - 21

*Please inform those you deem appropriate of this information.*

cc: Board of Selectmen  
John Murray  
Roy Weatherbee  
Marcella Sultan



# Suburban Coalition *Chronicle*

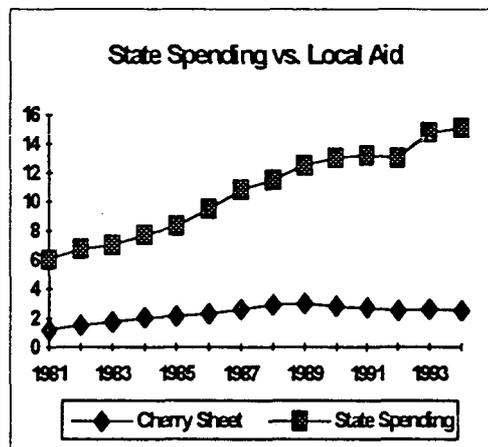
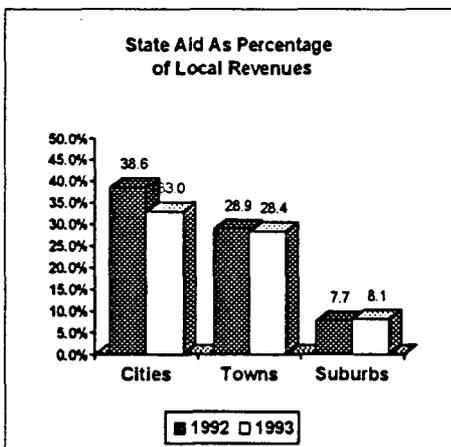
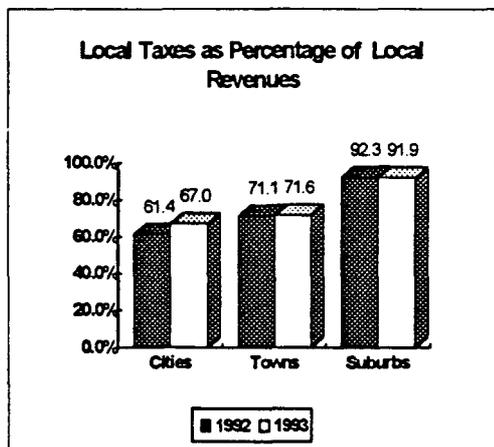
MAR 22 1994

Volume 2 Issue 1

Wayland Town Building - Wayland, MA 01778

Winter 1994

## Disproportionate Local Aid Continues into '94



**B**ob Hilliard, Research Director of the Suburban Coalition, has examined the most current statistical information provided by the Commonwealth. The data indicate that suburban communities still receive the smallest percentage of local aid and pay higher local taxes.

State spending continues to increase. Local aid remains at the same general level and will continue to do so

through fiscal '94 and '95.

Local aid in 1993 rose by a very small amount in suburban communities due to Education Reform.

Mr. Hilliard reported that suburban communities have passed a number of over-rides. Over-rides in cities have been very infrequent.

The Coalition continues to seek reliable estimates and timely distribution of "Cherry Sheet" dollars.

For more information on the Cherry Sheet data, contact Bob Hilliard at (508) 358-7701, Ext. 129 or FAX (508) 358-7798.

### Suburban Coalition Action List

**S**uburban Coalition Steering Committee voted unanimously to support an emerging proposal from the Massachusetts Municipalities Association to increase local aid.

■ The Steering Committee voted unanimously to endorse Frank LeBart's public affairs implementation plan designed to support the MMA initiative.

### Rep. Barbara Gardner Updates SC

**R**epresentative Barbara Gardner, (D-Holliston), Vice-Chairman of the Joint Committee on Education, the Arts and Humanities, addressed the Steering Committee of the Suburban Coalition in January.

Rep. Gardner anticipates that local aid resolution is a clear possibility because Education Reform requires that these funds be allocated in a timely manner. She further noted that local aid in general has continued to diminish since she first came to office in 1987.

The legislative response has been

to rejuvenate programs that had virtually disappeared instead of comprehensively looking at the local aid issue in its entirety. Examples of such programs are the Police Career Incentive Program and Payment In Lieu of Taxes Program.

Rep. Gardner offered that it may not have been fully appreciated how carefully the smaller communities are run and what steps they have taken, including regionalization, in order to continue to provide services.

(Continued next page.)

### Next Meeting

Thursday, March 31,  
3:30-5:30 PM  
Wayland Town Building

## Suburban Coalition Officers

Frank T. LeBart, Chairman  
(617) 934-7411

Louise Haldeman, Vice-Chairman  
(508) 369-8562

John B. Wilson, Executive Director  
(508) 358-2489

Robert Hilliard, Research Director  
(508) 358-7701, Ext 129  
(508) 358-7708 (FAX)

The *Suburban Coalition Chronicle* is published quarterly to provide concise, timely communication with members and friends. We welcome all comments and suggestions. Please contact Jessica Barnett, Editor (617) 639-0624.

### Membership Fees in the Suburban Coalition are:

Town Boards & Mayors	\$100
Civic & Community Groups	\$ 50
Individual Members	\$ 25

## Letter from the Suburban Coalition

At recent Suburban Coalition Steering Committee meetings, we have had a series of legislators in attendance at our request. These special guests have been most helpful in making us aware of legislative attitudes toward our concerns. And, their presence has helped us relate in some detail our agendas and the problems encountered by our constituency.

Senator Cile Hicks and Representatives Frank Hynes, Hasty Evans, and Barbara Gardner have been our most recent guest speakers.

Representative Doug Peterson, (D-Marblehead), has accepted our invitation to speak at the March 31 meeting.

We look forward to continuing to extend invitations to legislators to attend our monthly meetings as we believe this is a mutually effective and beneficial means of communication.

We invite all recipients of the *Chronicle* to attend Steering Committee meetings, to participate in the discussions, to share concerns, viewpoints and community issues, and to partake of these special opportunities to meet directly with legislators.

Jack Wilson, Executive Director

### Representative Gardner, continued from Front Page

In other discussions, Rep. Gardner advised the Suburban Coalition that Senator Cheryl A. Jacques, (D-Wellesley), is sponsoring a bill to allow advertising on the back of lottery tickets. The revenues, projected to be \$6 million, will be designated for unrestricted local aid.

## Suburban Coalition Chronicle

Wayland Town Building  
41 Cochituate Road  
Wayland, MA 01778



Town of Acton  
Board of Selectmen  
472 Main St  
Acton, MA 01720

**DRAFT**



ACTON PLANNING BOARD

Minutes of Meeting

March 14, 1994

Planning Board members in attendance were: David Hill, Chairman; William Shupert, III, Vice Chairman; Douglas Carnahan; Gregory Niemyski; John Pavan; Mary Giorgio and Associate Members Joshua Chernin and Richard Crosswell. Planning Board member James Lee was not in attendance. Town Planner Roland Bartl and Assistant Planner Donna Jacobs also attended.

I Consent Agenda

A. Minutes of the 2/14/94 meeting were approved with minor amendments.

II Discussion. Meeting with Selectmen on 3/15/94

Members agreed that the topics likely to be discussed were the Article for Associate Members for the Planning Board, the size of the Planning Board membership, and the citizen's petition.

Mr. Shupert advised the Board that he thinks the citizen may be looking to expand rather than relocate. Mr. Carnahan reminded the Board that the Acton Master Plan states that additional automobile dealers are not wanted on Route 2A and that this use is close enough to automobile dealer to be considered the same. Mr. Shupert said that the East Acton Village Plan should be completed prior to any rezoning in the district.

Mr. Bartl advised the Board that the citizen's petition could be considered "spot zoning" because it proposes a rezoning for the benefit of a single entity.

Mr. Niemyski moved that the Board vote not to recommend adoption of the article placed on the warrant by citizen's petition. Mrs. Giorgio seconded his motion which passed by unanimous vote.

III Mill Corner

A. Affordable Housing Units vs. Contribution for Sewage Treatment

Mr. Bartl reported that the last 4 units at Mill Corner are under agreement and that Mr. Sweeney intends to give money to the Town for a sewage treatment facility.

B. Setback issues; chimneys, decks - separation of buildings

Mr. Bartl informed the Board that he has spoken with the Fire Chief who reports that there are no problems with the specifics mentioned in the memo. Mr. Shupert said the Board should look at the future; the PCRC approval process has been a learning curve. However, now that the Board has more experience with PCRCs, he feels the Board should be clear in its requirements for separation of buildings.

Mr. Pavan asked whether there were just these three conditions or would more be coming in the future. Mr. Bartl replied that he asked the developer to list all issues; that he didn't want to receive them in bits and pieces. Mr. Niemyski said that the Board should allow the bulkheads and chimneys in this development, but that decks should be held to the 20' building separation requirement. Mr. Crosswell added that decks can be enclosed by a subsequent owner with no review by the Planning Board.

Mr. Niemyski moved that the Board vote to amend the decision for these specific units and site Section 9.6.2.2 as the rationale. Mr. Shupert seconded the motion which passed by unanimous vote.

IV Appointment - ACHC: Adams Village

Attorney Steven Graham made a presentation to the Board of the proposed affordable housing development known as Adams Village on behalf of the Acton Community Housing Corporation; several other members of the ACHC were also in attendance. Mr. Graham explained that the ACHC originally started with an ANR plan using 10 acres of Town land in the Affordable Housing Overlay District to produce 10 lots. The revised plan shows 8 units on 4 acres with a 1.5 acres buffer surrounding the site.

Mr. Graham explained that the process involves Town Meeting approval of the set-aside of the land for affordable housing. Once approved, the Board of Selectmen would issue an RFP hopefully with the conditions put forth in the current proposal: construction of affordable housing units; profits reinvested back into the Town for more affordable units; and deed restrictions on resale. Mr. Graham informed the Board that they have done a project proforma to show that the project should be profitable. Mr. Graham stated that the ACHC would like the support of the members as individuals as well as the support of the Planning Board for the development proposal.

Mr. Pavan asked for clarification of the ACHC's role in the development because he believes there is a need to tie the project to the land before issuing an RFP. Mr. Graham replied that the RFP will be very specific as to # of units, # of bedrooms, price of Units, reimbursement to the Town for legal costs incurred in reviewing/writing the RFP, etc.

Members suggested that the ACHC include the base zoning district information and how much build-out could occur on the parcel in the Affordable Housing Overlay District because the project could be far more dense than what has been proposed.

Mrs. Tavernier advised the Board that the ACHC has uncovered a backlash against residential development that is growing stronger. She feels that this development proposal is the only opportunity people have to say "no" to new

residential development. She also pointed out that the decision with regard to the number of units in the development rests with the Planning Board because the parcel is eligible for both a major and minor affordable housing development.

Mr. Carnahan asked whether the buffer area is well forested. Mr. Graham replied that it is fairly well covered, but that there is a knoll there which prevents and direct view and may prevent the odors. Mr. Graham advised the Board that the ACHC has hired an environmental consultant that will provide answers on the air flow and odor issues raised by the neighborhood.

Mr. Carnahan also questioned whether anyone has suggested the need for a traffic study. Mr. Crosswell recommended that the ACHC consider a common driveway as another means of access.

Mr. Shupert moved that the Board support the Article on the Warrant. Mr. Carnahan seconded the motion which passed by unanimous vote.

V Public Hearing Continuation, Washington Drive Ext. Definitive Subdivision

Mr. Shupert reconvened the public hearing. Mr. Chris Lorraine of LandTech, consulting engineer for the applicant and Mr. Mark White and Mr. Peter Kavanagh of Kavanagh Homes met with the Board. Mr. Lorraine informed the Board that they have resolved all of the outstanding issues except for the modification of the profile of Newtown Road. Mr. Lorraine said that the remaining comments from the Engineering Department can be addressed as conditions.

Mr. Lorraine stated that the developer has agreed to extend the water main, construct sidewalk along Newtown Road to where it will meet the existing sidewalk, and construct the emergency access road. Mr. Lorraine stated that his client has not agreed to complete the improvements to Newtown Road.

Mr. Pavan inquired about the waivers being sought by the applicant. Mr. Lorraine replied that they are seeking the following waivers: waiver of cul-de-sac, waiver from the requirement to construct the full length of Washington Drive at subdivision road width, waiver from the limit of the number of driveways on a cul-de-sac and a waiver for construction of the sidewalk along Washington Drive.

Mr. White suggested that the Board may want to consider a landscaped island on the Washington Drive cul-de-sac rather than the current expanse of pavement.

Mr. Shupert said that it was his understanding that the developer would either complete or contribute heavily to the improvements in Newtown Road. Mr. Lorraine stated that the applicant agreed to do the study, but not to complete the improvements.

Mr. Hill said that he would consider a waiver to allow a T-turnaround and no sidewalks on McKinley to offset the needed improvements on Newtown Road. Mr. Bartl pointed out that sight distance at the intersection of McKinley Drive and Newtown Road will not be adequate unless the improvements are made.

Mr. Bartl asked the Board to provide some guidance on the issue of the surplus cul-de-sac on Washington Drive. Mr. Carnahan said that it should be left as is. Mrs. Giorgio, Mr. Pavan and Mr. Shupert concurred.

Mr. Niemyski moved that the Board vote to close the public hearing. Mr. Shupert seconded the motion which passed by unanimous vote.

VI McGovern Estates - Vote on Decision

Mr. Shupert stated that the draft decision addresses his concerns about the SU-30 vehicles. Mr. Carnahan asked what would happen if both options are cost-prohibitive. Mr. Bartl explained that applicant could use Option 3 in that event.

Mr. Pavan asked about additional development potential for all land accessed by Robbins Street. Mr. Bartl replied that there may be some infill by one or more ANR lots, but that there will not be another subdivision due to development constraints.

Mr. Pavan stated that the safety and adequacy of the access is his single concern. He believes that Option #3 is not an Option because it doesn't improve safety or adequacy of access. Mr. Pavan stated that it's his opinion that neither Option #1 or Option #2 will bring the access up to measure.

Mrs. Giorgio pointed out that the applicant has reduced the number of lots. Mr. Carnahan stated that many of these issues were raised in the Meadowview approval process. Mr. Niemyski said that the options should be prioritized and that Option #2 should be re-numbered as Option #1. He believes that road improvement is the preferred choice and asked that it be coordinated with the Acton Water District's plans to replace the water main.

Mr. Pavan said that a statement should be added that requires the developer to exhaust all reasonable efforts for roadway improvement before substituting either of the other options is authorized.

Mr. Shupert moved that the Board vote to issue the decision approving the subdivision as modified. His motion was seconded by Mr. Niemyski and passed by a vote of 4/1. Mr. Pavan cast the dissenting vote.

VII Vote on Adoption of West Acton Village Plan

Mr. Niemyski moved that the Board vote to adopt the West Acton Village Plan as an addendum to the 1991 Acton Master Plan. Mr. Carnahan seconded the motion which passed by unanimous vote.

VIII Comments for Representative Resor on Mass. Planning & Development Act

Mr. Pavan said that he would prepare some comments for the next Planning Board meeting.

Other Business

Kelley's Corner Plan - Mr. Carnahan said that the Board should focus its planning efforts on a plan that will make a difference; the Kelley's Corner District. Mr. Carnahan stated that the South Acton Plan will not become a reality until the bridge is replaced and the sewer issue is resolved.

Mr. Bartl said that the South Acton Plan is about 60% complete and the draft plan should be ready for review and comment by the end of June, so he would like to continue this effort until it is completed.

Mr. Bartl reminded the Board that he has placed an article on the Town Meeting Warrant seeking funds to begin the Kelley's Corner plan. Mr. Carnahan urged the Board to initiate the Kelley's Corner planning effort before summer begins.

Residential Development - A resident of 31 Lawsbrook Road asked to address the Board about his concerns raised by the article that appeared in the recent issue of the Beacon. He said that the Board should not allow almost 200 hundred new lots because the Town cannot afford to educate the children that will live in these homes. He encouraged the Board to do some long-range planning that would prevent further residential development of this magnitude.

Mr. Niemyski informed the resident of eight months that Acton had recently completed a comprehensive Master Plan; an effort that took three years and received a national award for excellence. He informed the resident that the Master Plan did include down-zoning and suggested that he may wish to read the Plan which is available in both of Acton's libraries.

Mr. Hill explained that the state laws require the Board to allow development of land and suggested that the resident address his concerns to the state legislators.

Mr. Croswell said that the resident should let his legislators know that the current system of funding school systems is not appropriate. He stated that until a major change in state funding of education occurs, there is very little that the Town can do.

Mr. Bartl explained that the 1991 Master Plan looked at build-out potential, but that it was impossible to predict how fast build-out would occur.

The meeting adjourned at 10:30 PM.

Respectfully submitted,

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John Pavan, Clerk

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# DRAFT

## ACTON PLANNING BOARD

### Minutes of Meeting

February 28, 1994

Planning Board members in attendance were: William Shupert, III, Vice Chairman; Douglas Carnahan; Gregory Niemyski; John Pavan; James Lee; Mary Giorgio and Associate Members Joshua Chernin and Richard Crosswell. Town Planner Roland Bartl and Assistant Planner Donna Jacobs also attended. Member David Hill was not in attendance.

#### I Consent Agenda

A. Minutes of the 2/14/94 meeting were not available for approval. They will be placed on the next agenda.

B. Mill Corner Amendment - This item was removed from the Consent Agenda. Mr. Pavan asked for verification that the Board was being asked to address just 2 units. Mr. Pavan requested that the Fire Department be asked to review this issue because of the possibility that allowing the buildings to be closer than 20' may cause difficulties for fire-fighting and other public safety operations. Mr. Niemyski said that the Board should deal with only one issue (chimney, bulkhead) and put the other issue on a subsequent agenda after receipt of a letter from the developer. Mr. Bartl explained that the 20' building separation requirement in the PCRC development option is designed to provide separation of bulk/massing for design reasons rather than for public safety purposes.

The Board asked staff to send a letter to Mr. Sweeney stating that they want to investigate additional concerns that will need resolution before further work. They also wanted to advise Mr. Sweeney that they will be seeking input from the Fire Chief. Mr. Pavan asked whether a precedent would be established if the Board grants this request. Mr. Bartl replied that the Board's decision could be worded so as not to establish a precedent. He also explained that the PCRC really provides design guidelines for the project development. Mr. Chernin stated that the flexibility should be used up front in the design stage rather than during the construction stage.

Mr. Niemyski moved that the Board voted to allow the reduced separation for these two units only based on Section 9.8 of the Zoning Bylaw. Mr. Pavan seconded the motion which passed by unanimous vote.

II Public Hearing on Proposed Zoning Bylaw Amendments

Mr. Shupert opened the hearing and read the notice as published in the Beacon.

Child Care Facilities - no comments from the public. Mr. Bartl pointed out that the 1000 sq. ft. limitation will preserve the original intent of the bylaw.

Public Use of Land - Mr. Moe Carron from the Concord Water Department spoke about the Town of Concord's intent to construct a disinfection facility on residentially zoned property in Acton near Nagog Pond. Mr. Bartl explained the various methods of addressing this issue that were proposed by Town Counsel.

Mr. Shupert moved that the Board vote to close the public hearing. Mr. Pavan seconded the motion which passed by unanimous vote.

III Public Hearing Continuation, Washington Dr. Ext. Definitive Subdivision

Mr. Shupert reconvened the public hearing. Mr. Niemyski asked if the applicant would consider withdrawing the previous plan. Mrs. Jacobs explained that withdrawal is not necessary because much of the original submission has remained intact and that each subsequent revision has been identified by a revision date.

Mr. Lorraine of LandTech Consultants, engineering consultant to the applicant, presented the history of the plan revisions and described the latest proposal. Mr. Lorraine informed the Board that the Conservation Commission does not feel that the wetlands crossing is necessary. Mr. Lorraine presented a new Plan & Profile of Newtown Road showing the changes requested by the Engineering Department (fill in the sag). Mr. Lorraine stated that the developer intends to extend the sidewalk on Newtown Rd. and will extend the water main so that it connects with the main on Washington Drive.

An abutter expressed concern that the emergency access roadway could be changed to a full roadway at a later date. Mr. Shupert responded that the Town has no history of trying to convert such an emergency access. Mr. Lee stated that in this instance he believes that the turns are too tight to ever be used as a public way.

Mr. Peter Shanahan of the Conservation Commission informed the Board that the Conservation Commission is split on this issue and is waiting for a response from the Fire Chief which they hope to receive by the continuation of their public hearing on Wednesday, March 2nd.

Mr. Pavan stated that the emergency access road is fixing a past mistake of allowing Washington Drive to be constructed as an overly long dead end road. He said that the Board would not approve a dead end road of that length without a second access or an emergency access due to public safety concerns. Mr. Pavan also stated that the question of how much the emergency access road will be used is not appropriate.

Mr. Niemyski asked if there has been a response to the 2/4/94 memo from the Conservation Commission. Mr. Bartl explained that it is really an issue for the Fire Chief. Mrs. Jacobs advised the Board that she spoke to the Fire Chief and

that he intends to respond to the memo, but that he just received the revised plan on Friday. Mrs. Jacobs advised the Fire Chief that the Planning Board would be continuing the public hearing again to allow time for staff to review the latest plan revisions.

Mr. Crosswell pointed out that the driveway should be widened or separated from the emergency access road to prevent possible blockage by a car associated with the house on the adjacent lot. He also suggested that the developer consider a berm or guard rail at the T- turnaround due to the drop in grade at the end of the T.

Mr. Chernin asked for verification that the emergency access drive will be gated. Mr. Lorraine responded that it would have gates at both ends and that keys would be provided to the public safety departments.

Mr. Bartl also expressed concerns about the joint driveway/emergency access road. He advised the Board that the private driveway must be separated from the emergency access road. Mr. Bartl stated that the Board should provide some direction on the issue of the superfluous pavement on the Washington Drive cul-de-sac.

Mr. Pavan suggested that removal of the pavement would force people to use the T-turnaround. Mr. Lee stated that it should be left in because residents use it as a recreational area. Mr. Shupert advised the developer that the consensus of the Board is to remove the pavement, but not abandon the layout.

It was moved and voted to continue the public hearing until 3/14/94 at 8:30 PM.

#### IV Public Hearing Continuation, McGovern Estates

Mr. Shupert reconvened the public hearing and allowed a presentation from Mr. Chris Lorraine of LandTech Consultants, Inc, consulting engineer to the applicant, and Mr. Peter Kavanagh of Kavanagh Homes. Mr. Lorraine explained that the T-turnaround doesn't meet the current standards established in the newly revised Subdivision Rules and Regulations, but that the subdivision is governed by the previous set of regulations. He also stated that the comments submitted by the Engineering Department have been addressed with the exception of the T-turnaround which can be resolved.

Mr. Keith Gregory, abutter, asked about the proximity of the road to wetlands and suggested that if the roadway were pulled back no wetlands waivers would be needed. Mr. Gregory also questioned the size of the overall development, Meadowview plus McGovern. Mr. Gregory said that there were 44 homes before Meadowview was constructed and that 20+ have been added with Meadowview. The current proposal is to allow another 4 homes to be built on a single access road. He questioned when its became too many homes for a single access roadway. Mr. Gregory reminded the Board that the State law provides for waivers only when it benefits the Town and is in the public interest.

Mr. Niemyski stated that the Board can tell the developer that he can't build anything and questioned what number of homes is acceptable. Mr. Gregory responded that the Board should allow the developer to build as many homes as

are allowed under the Rules and Regulations, but not one more.

Mr. Lorraine reminded the Board that the Preliminary Plan was for a seven lot subdivision and that the developer has reduced the number of lots to four under the Definitive Plan. Mr. Pavan questioned whether the developer has given up the possibility of developing the rear land. Mr. Lorraine replied that they can't legally develop the rear land because of the configuration of the lots in the McGovern Estates subdivision.

Mr. Carnahan questioned whether the developer has any problem with granting a trail easement to adjacent Conservation land. Mr. Lorraine replied that it wouldn't be a problem, and that they will grant an easement between the drainage structure and the wetlands.

Mr. Carnahan expressed concerns about additional development off of Robbins Street and inquired about possible improvements to Robbins Street. Mr. Lorraine replied that the layout of Robbins St. is narrow and that easements and/or takings would be required. Mr. Lorraine suggested that the developer will build/donate 500 linear feet of sidewalk in another location in Town.

Mr. Carnahan asked whether they could take the peak off of Robbins Street. Mr. Lorraine responded that the takings/easements would still be required because of the road layout. Mr. Niemyski suggested that the developer work with the Acton Water District because they are planning to replace the water main on Robbins Street.

Mr. Pavan reminded the Board that Robbins Street is a very narrow road and that the Preliminary approval required off-site safety improvements. Mr. Bartl stated that the obvious improvements would be installing sidewalks or reducing the peak of the road.

Mr. Lee said that he agrees with the concerns expressed by the Board and stated that constructing sidewalks somewhere else in Acton won't fix the problems on Robbins Street. He also inquired whether anyone had approached the neighbors. Mr. Gregory stated that he was not authorized to speak for the neighborhood, but that they would probably have mixed feelings about safety improvements to Robbins Street.

Mr. Shupert moved that the Board vote to close the public hearing. His motion was seconded by Mr. Niemyski and passed by unanimous vote.

V MacGregor Lane Preliminary Subdivision

Mr. Shupert opened the public meeting. Mr. Bruce Stamski of Stamski & McNary, Inc. and Mr. James Fenton of Distinctive Acton Homes presented the Preliminary Plan for a 3 lot Residential Compound located on Piper Road. Mr. Stamski asked the Board whether it would be possible to provide access for the 2 existing houses at 45 & 47 Piper Road off of the common driveway rather than leave them at the curve on Piper Road. He advised the Board that the proposed common driveway has sufficient sight distance for a 40 MPH speed limit and the posted speed is only 25 MPH.

Mr. Crosswell said that the utility lines and septic pipes for Lot 1 will have to be located in a utility easement on the Definitive Plan. Mr. Pavan stated that Lot

1B is essential to Lot 1A and will need a deed restriction to prevent their separation.

Mr. Bartl informed the Board that the length of the road is approximately 520' and asked whether this presents a problem. Board members felt that the extra 20' is probably necessary due to site constraints, but asked Mr. Stamski to look into this issue when he designs the Definitive Plan.

An abutter asked what the maximum number of houses could be. Mr. Stamski replied that extensive testing of the site was performed and that sufficient septic area was found for only 3 houses. Another abutter pointed out the wetlands on each side of the site and cautioned against extensive tree removal which may impact these wetland areas. Mr. Stamski stated that the construction is proposed for the flat part of the parcel at the top of the hill and that there shouldn't be any need for tree removal adjacent to the wetlands other than what is shown on the plan.

Mr. Pavan moved that the Board vote to issue the decision approving the Preliminary Plan as drafted with one minor clarification. His motion was seconded by Mr. Niemyski and passed by unanimous vote.

#### VI Perkins Lane Preliminary Subdivision

Mr. Shupert opened the public meeting. Mr. Bruce Stamski of Stamski & McNary, Inc. and Mr. James Fenton of Distinctive Acton Homes presented the Preliminary Plan for a 4 lot subdivision located on Arlington Street. Mr. Stamski explained that the applicant is seeking a waiver from the grading off requirements to avoid wetlands filling. He proposes that the grades be stabilized with boulders.

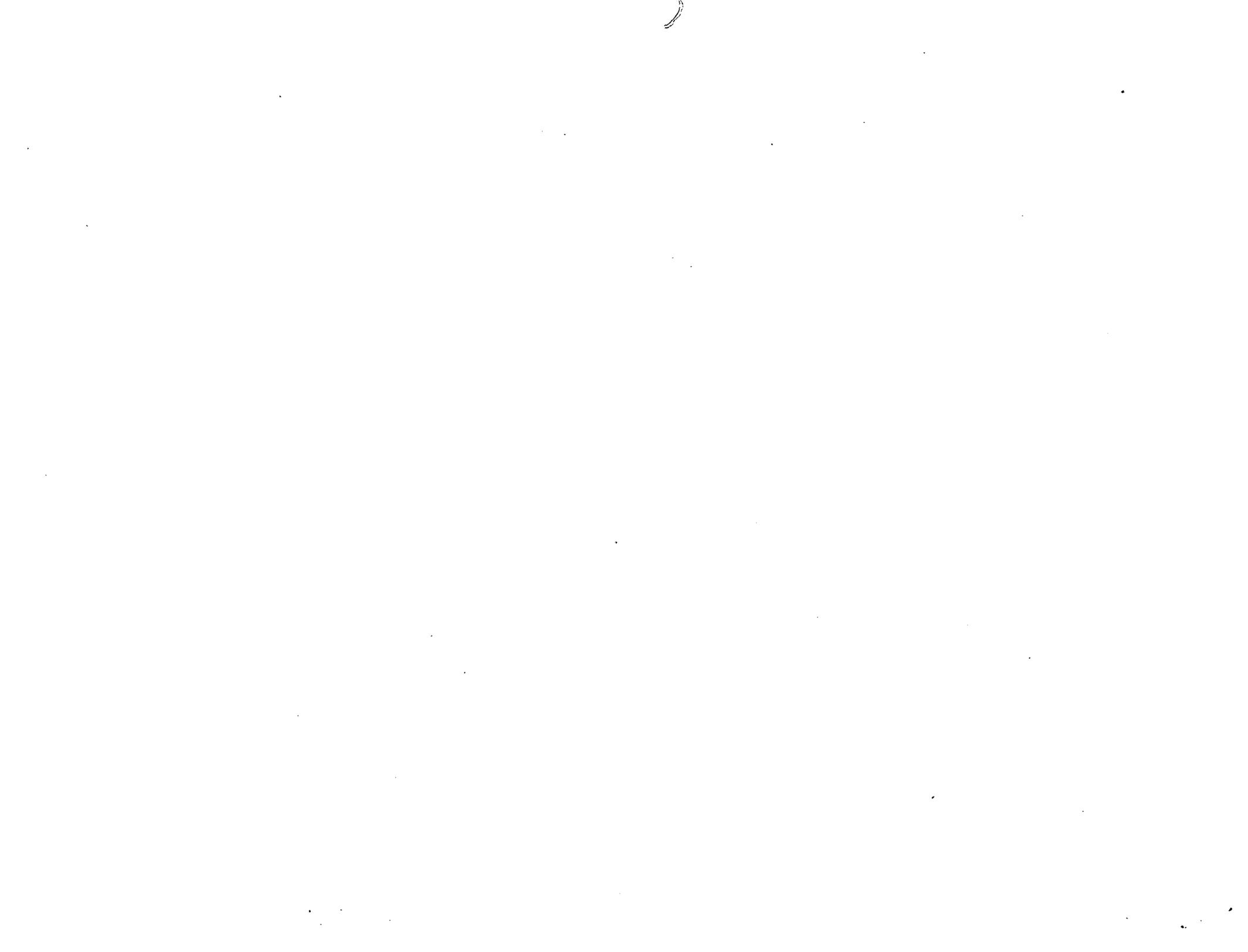
Mr. Niemyski asked about the construction of sidewalks. Mr. Stamski replied that he has spoken with staff about providing additional sidewalk along Arlington St. rather than in the subdivision. Mr. Fenton explained that he would like to negotiate the sidewalk issue with the Board because the sidewalk construction cost per foot along Arlington St. will be considerably higher than the cost of constructing sidewalks along the subdivision roadway. The Board indicated they were willing to negotiate as requested.

A couple of abutters asked about various setbacks of proposed houses to the lot line. Another abutter inquired whether the road will be public or private. Mr. Shupert responded that this question is decided on a case by case basis, but generally if roads are constructed to common driveway standards they remain private roads.

Mr. Stamski pointed out that the application had an error in the size of the parcel. It should read 7.6 acres. Mr. Lee moved that the Board vote to approve the Preliminary Plan as drafted with the correction in parcel size. His motion was seconded by Mrs. Giorgio and passed by unanimous vote.

#### VII Village Planning Update

Mr. Shupert announced that the final version of the West Acton Village Plan will be included in the Planning Board's packages for the next meeting.



VIII Public Hearing Continuation, Zoning Bylaw Amendments

Mr. Shupert reconvened the public hearing on the proposed amendments to the Acton Zoning Bylaw. He stated that the purpose of the continuation was to allow final staff comments on Article B.

Mr. Roy Smith of Acton Technology Park stated that he would like this article pulled or a provision added to protect projects that are already in the pipe line from having to comply with this change. Mr. Smith said that the change was helpful, but that he felt it wouldn't hurt anybody to have the change wait until further review of the implications can be completed.

Mr. Niemyski asked about grandfather protection. Mr. Bartl explained that the grandfather protection for Mr. Smith's subdivision expired about 1.5 years ago. Mr. Bartl went on to explain that the amendment will close a loop hole in the Bylaw that was discovered with this site plan was reviewed.

Board members agreed to exempt projects for which preliminary site plans and/or building permits have been filed until June 1, 1994.

Mr. Shupert moved that the Board vote to close the public hearing; to recommend adoption of all of the zoning articles except the citizen's petition; and to make no recommendation on the citizen's petition. His motion was seconded by Mr. Carnahan and passed by unanimous vote.

The meeting adjourned at 11:00 PM.

Respectfully submitted,

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John Pavan, Clerk

dw11.211

2

# Acton Public Schools and Acton-Boxborough Regional Schools the Lamplighter

Volume 10 Number 3

March 1994

## LOCAL SCHOOLS REQUIRE OVERRIDE

At the Acton Town Meeting we will be presenting a maintenance budget. It will require an override of \$397,272. This budget already reflects some cuts taken after the School Committee's review. It also includes a reallocation of \$82,070 from the regional schools' budget. Even the maintenance budget, which is based on the successful override, is not the desired budget.

If the override fails, the following will occur:

- a cut in instructional materials and supplies (\$63,000)
- the elimination of the last 1.0 FTE Reading position (\$31,000)
- the elimination of the only English as a Second Language Assistant (\$13,400)
- the elimination of the only Elementary Curriculum Specialist Secretary (\$10,000)
- the elimination of 5 FTE Central Office Administrator (\$35,000)
- a cut of 1.0 FTE classroom teacher (\$35,000) from the five additional proposed
- a reduction of the Art, Music, and Physical Education programs, K-2 (approximately \$145,000)
- the elimination of the only Library Media Coordinator (\$45,000)
- reductions in professional development (\$8,000); research and development (\$4,500); textbooks (\$4,000); and legal services (\$3,372).

This is the current proposal. The School Committee will undoubtedly review this list again.

We are presenting a maintenance budget out of deference to the financial constraints in the towns, not because we believe that a maintenance budget satisfies the educational needs of both students and adults in the community.

...cont'd on pg. 4

### TOWN ELECTIONS

Acton: Tuesday, March 29

Boxborough: Monday, May 16

### TOWN MEETINGS

Acton: Monday April 4, 7:30 p.m.

HS Auditorium

Boxborough: Monday, May 9, 7:30 p.m.,

Blanchard School

## OVERRIDE IMPACT



Based on a house

- with an assessed value = \$250,000
- the additional override = \$ 69.00 per year  
or  
\$1.33 per week

\* \* \*

## A MESSAGE FROM THE SUPERINTENDENT

This year's maintenance budget, which is dependent on the passage of the override, is being presented in a different format. You will notice a number of new features. There are three volumes to the budget book: the Acton Public Schools, the Acton-Boxborough Regional School District, and the revolving accounts.

This year we established a per pupil allocation (for materials and supplies) for each level of the school districts. After reviewing the expenditure history, we increased the elementary per pupil allocation to \$100 from \$70 to compensate for past years of level funding and to bring it more in line with the other two school levels. While it is understood that the secondary schools have a more complex organization and are more expensive to operate, a factor of two seemed out of line. The junior high per pupil allocation has been established at \$160 and the high school per pupil allocation at \$186.

Another new feature is a program called Professional Development. This is not to say that in-service opportunities have not been available in the past for staff. Rather that a coherent program has not been available for a long time. We have moved items from individual budgets to this new cost center and added money to it, based on the philosophy which we developed which is included in the budget volumes, and based on a mandate from the Reform Legislation.

When you look at the equipment category in the appropriated budget you will see many, many zeros. For the last few years, equipment has been purchased from the revenues generated by our involvement in School Choice. That "budget", which is still miniscule, can be found in the revolving account volume.

...cont'd on pg. 4

**ACTON AND ACTON-BOXBOROUGH REGIONAL SCHOOL  
PROPOSED BUDGETS - 1994-95**

The 1994-95 school budgets call for:

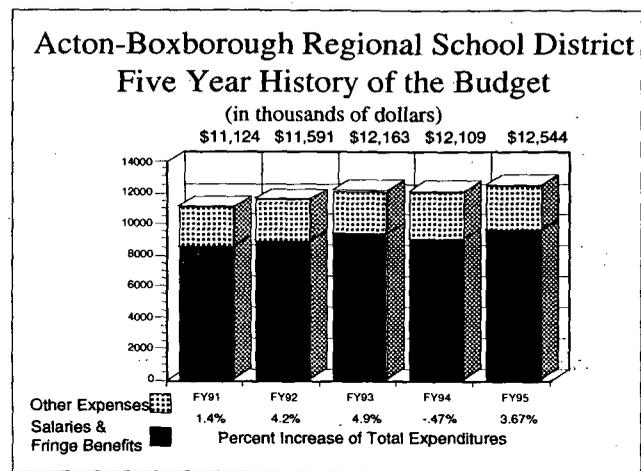
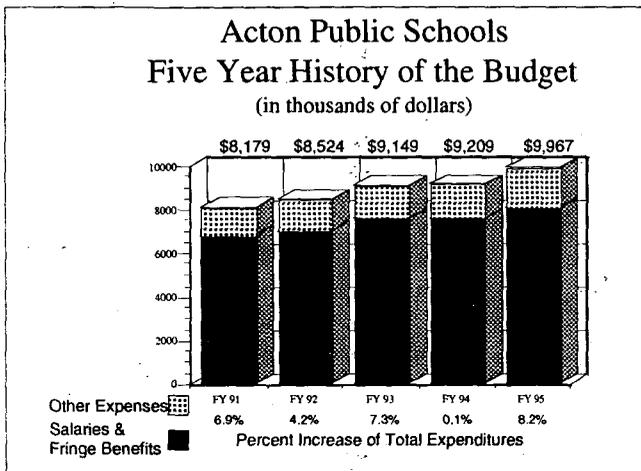
ACTON -	\$ 9,967,380
ACTON-BOXBOROUGH -	\$12,543,968

Available and anticipated Federal, State and local funds used to reduce school budgets amount to:

ACTON -	\$947,213
ACTON-BOXBOROUGH -	\$2,690,399

The net cost for the school budget is:

ACTON PUBLIC SCHOOLS -	\$9,020,167	ACTON-BOXBOROUGH -	\$9,853,569
		Acton's share -	\$8,035,260
		Boxborough's share -	\$1,818,309



**SUMMARY OF THE FY '95 PROPOSED BUDGET INCREASES**

	Acton <u>Public Schools</u>	% Inc. <u>Over FY'94</u>	A-B <u>Reg. Schools</u>	% Inc. <u>Over FY'94</u>
Salaries	\$501,983*	7.5%	\$584,897	8.1%
Special Education Tuition and Transportation	\$102,148	13.3%	\$57,517	5.7%
<u>All Other Categories</u>	<u>\$154,653</u>	<u>9.0%</u>	<u>\$&lt;207,232&gt;</u>	<u>&lt;5.3%&gt;</u>
<b>Total FY '95 Proposed Increases</b>	<b>\$758,784</b>	<b>8.2%</b>	<b>\$435,182</b>	<b>3.6%</b>

\* includes 5 new teachers to accommodate existing sections and growth

**HOW WILL THE MONEY BE SPENT?**

**In the Acton Public Schools**

- on 2,125 students
- on five elementary schools
- on 115.9 teachers, administrators and other professionals and
- on 65 support staff

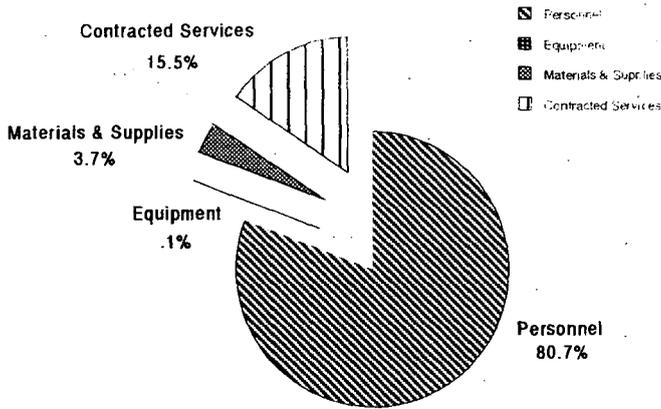
**In the Acton-Boxborough Regional Schools**

- on 1,886 students
- on the junior and senior high schools
- on 127.6 teachers, administrators and other professionals and
- on 58.2 support staff

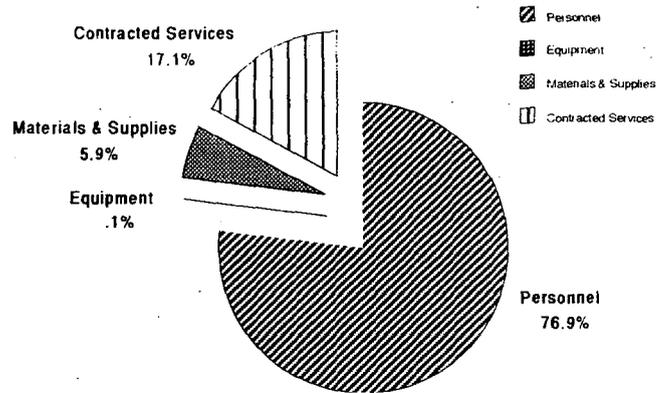
**In Special Education**

- on Chapter 766 services - \$3,609,181 or 16% of the total FY '95 budget

## FY 95 Budget Categories APS



## FY 95 Budget Categories ABRSD



### COMPARISONS WITH OTHER WEST SUBURBAN K-12 SCHOOL DISTRICTS \*

#### PER PUPIL EXPENDITURES<sup>1</sup>

1. Concord/Carlisle	\$8,569
4. Sudbury/Lincoln-Sudbury	6,906
7. Lexington	6,511
9. Harvard	6,322
13. ACTON/ACTON-BOXBOROUGH	5,618
19. MASSACHUSETTS	4,859

#### AVERAGE TEST SCORES<sup>2</sup>

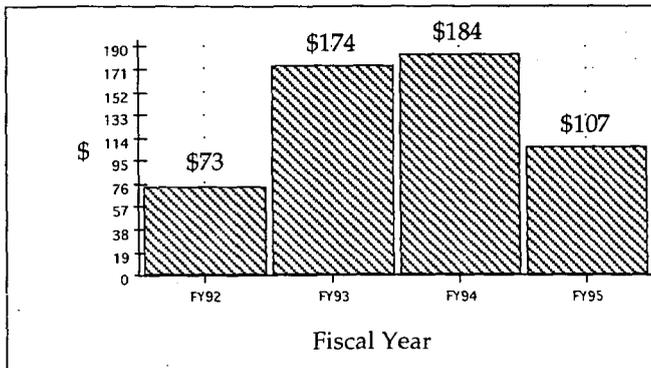
1. Lexington	1501
3. Concord/Carlisle	1489
4. ACTON/ACTON-BOXBOROUGH	1483
5. Sudbury/Lincoln-Sudbury	1481
6. Harvard	1478
18. MASSACHUSETTS	1326

\* The five systems listed were drawn from a rank order of 20.

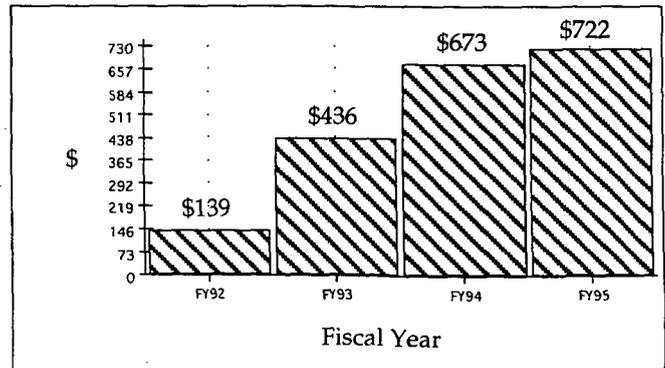
1. Per Pupil Expenditures, 1991-92, Massachusetts Department of Education. Newer figures are not yet available from the State. (Regional districts are combined with the largest local feeder district for an overall average for purposes of comparability, K-12.)

2. Average test scores from the last administration of the Massachusetts Educational Assessment Program, Massachusetts Department of Education: 1991-92-Grades 4,8,12, in Reading, Mathematics, Science and Social Studies (range of scores: 1000-1600).

Acton Public Schools  
History of the School Choice Budget  
(in thousands of dollars)



Acton-Boxborough Regional School District  
History of School Choice Budget  
(in thousands of dollars)



**OVERRIDE** (con't from pg. 1)

We have already taken a number of cuts in this current year. With the override loss last spring, 9.4 FTE positions were eliminated from the appropriated budget.

Why, therefore, the increases in the budget we are requesting, both at the maintenance level and at the reduced level? Growth is the answer. We have more students in the local schools. In 1989 we had 1,663 students. For 1994-95 we project 2,174 students, including approximately 60 existing Choice students. People are moving into town at a remarkable rate; we must find a way to maintain the quality and extent of service. It is a challenge to the schools in three ways: to find space, to provide staff, and to secure provisions, such as materials and supplies without forced student transfers.

We brought Merriam back to being a K-5 school this year because we had to. We solved the overcrowding problem for the district; we did not hire five teachers we hoped to; rather we moved students - on a voluntary basis. Had we not reinstated Merriam for the current year, we would be opening it right now. Had we forced transferred students, we would have been contradicting one of the principles on which Acton has built its reputation.

The elimination of the items in the override will have serious effects on the town of Acton. The reason most people who move here now give for choosing Acton is the schools; if we do not maintain a comprehensive high quality program, we will not only not attract new residents for houses which are turning over (we are not even referring to new buildings ...), we will not attract Choice students and will not retain our own residents who can afford to send their children to private schools or to other public schools offering a better program. Ultimately, as you have heard before, the value of your homes will decline. Ask realtors. They will tell you what they tell us. The schools are the significant selling point.

Most of what we predict as a result of lower school budgets will take a few years to be realized - house values, lower test scores, altering patterns of post-high school acceptance do not show up immediately. Out-migration and lack of in-migration do. Those we will be able to see within a year.

IKZ

*Our thanks to Claudia Abramson, elementary Art teacher, for the new masthead for the Lamplighter.*

**SUPERINTENDENT'S MESSAGE** (con't from pg.1)

For the new world in which our students will live, they will need not only basic skills, but also know how to think critically and creatively, and act independently as well as cooperatively, and know how to use technology. For that we need to invest far more in technology than we have been. And we need to invest in professional development to give our staff the tools and knowledge to move students in the direction of the future.

One of the consequences of the Reform Legislation is that a minimum town contribution to education is established. Acton's minimum is reflected in the reduced local budget. With the override, we achieve a maintenance budget. This minimum is intended to provide equity among schools so that students get a good, basic education regardless of where they live. This minimum is not intended to prevent high performing school districts from increasing their standards or their levels of achievement or their levels of expectation. The minimum is not intended to be construed as a maximum.

There are many issues confronting us next year and in the foreseeable future. Even this budget, which we consider a reasonable request, enabling us to maintain the current level of services, does not represent all of our needs for the students of Acton and Acton-Boxborough. We are facing:

- ✓ increasing enrollment in both Acton and Boxborough;
- ✓ the loss of some School Choice income at the elementary level, eventually at the secondary level;
- ✓ increasing size of classes;
- ✓ loss of programs at the secondary level so that students have too much unscheduled time, for which there is no supervision.

The schools' success is also due in large measure to ingenuity and the entrepreneurial spirit which pervades this school system and to the generosity of parents and members of the community who privately support the school district at a level I have never seen in any other community.

We are proud to present our budget request for FY'95 for the Acton Public Schools and the Acton-Boxborough Regional School District. We hope that our communities will continue to believe their investment in the schools, which is an investment in their children, is a profitable venture for everyone.

*You are cordially invited to attend  
a retirement reception in honor of  
Cliff Card  
on Friday, April 8 at 7:00 p.m.,  
Boxborough Host Hotel.  
RSVP, Superintendent's Office, 264-4700*

File  
Extra  
Info 3/1

2/26/94

Warrant Article Assignment List & Draft Order of Articles

Article	Short Subject	Selectperson
1	Chose Officers	-
2	Accept Reports	-
3*	COA Enterprise Fund	Norm
XX	Replace Nursing Svc Vehicle(NE Fund)	Bill
4*	Nursing Enterprise Fund Budget	Bill
NNN	Replace Health Dept. Vehicles(SE Fund)	Bill
OOO	Health Dept. Microfiche Equip.(SE Fund)	Ann
MMM	Health Dept. Computer(SE Fund)	Ann
5*	Septage Enterprise Fund Budget	Ann
UU	10 Wheel Tractor Replacement	Nancy
6*	NESWC Enterprise Budget	Nancy
7*	Merriam Enterprise Budget	Norm
8	Budget Transfer	Norm
9.1	Minuteman Ed Reform FY94 Levy	Doré
9.2	AB Region Ed Reform FY94 Levy	Doré
9.3	Acton Public Ed Reform FY94 Levy	Doré
9.4	Town Base B Budget	Doré
CCC	Fire Ladder Truck Replacement	Norm
D	Blanchard Chimney Repair	Nancy
RR	Engineering Van Replacement	Bill
YY	Police Dispatch Console Renovation	Norm
DDD	Fire Command 4WD Vehicle Supplement	Norm
PPP	2½ Ton Dump Truck	Bill
III	Replace Library 1.0 FTE	Norm
TTT	Planning staff partial restoration	Ann
UUU	Impact Fee formula	Ann
PP	Engineering Summer help	Ann
ZZ	Police Data Terminals 2 ea.	Nancy
FFF	West Acton Fire Exhaust System	Ann
VV	Highway Front End Loader Replacement	Norm
EEE	Fire Alarm Panel Replacement	Norm
QQQ	Library HVAC Controls	Bill
SS	Sign Truck Replacement	Bill
OO	Traffic Signals @ High & 62	Nancy
AAA	Police Data Terminals 2 ea.	Nancy
JJJ	Restore Library Friday Hours	Bill
HHH	South Acton Fire Exhaust System	Ann
RRR	Police Garage Roof Replacement	Nancy
VVV	Kelly's Corner Plan	Ann
KKK	Library Expansion Study	Bill
WW	Highway Paving Program	Norm
BBB	Police Data Terminals 4 ea.	Nancy
GGG	Center Fire Exhaust System	Ann
TT	1 Ton Dump Truck	Bill
QQ	Engineering Hydrology Software	Ann
LLL	Library Circulation Desk	Bill
SSS	Ice House Pond Excavation	Bill
9.A	Minuteman Region Assessment	Nancy
9.B	AB Region Assessment	Norm



9.C	Acton Public Budget	Doré
A*	Section 53E½ Revolving Funds	Nancy
C#	West Acton Citizens Library Budget	Ann
F*	Storm Appropriation	Nancy
E	Use of Free Case to Reduce Tax Rate	Nancy
LL	Affordable Housing-Adams Street	Nancy
G*	Cemetery Land Fund Transfer	Bill
H*	Alternative Revenue Sources	Ann
I*	Chapter 90 Highway Reimbursement	Nancy
J*	Acceptance of Land Gifts	Norm
K*	Street Acceptance	Bill
L*	Charter Road Sidewalk Easement-Richards	Doré
M*	Charter Road Sidewalk Easement-Smith	Doré
N*	Charter Road Sidewalk Easement-Sackman	Doré
O*	Main Street Easement	Bill
P	West Acton Village GB & LB Districts	Ann
Q	West Acton Village Residential District	Ann
R	Parking in Village District	Ann
S	Site Plan Special Permit Village Dist.	Bill
T	Tract of Land Required for Developments	Norm
U	Max. Residential Component in PUDs	Ann
V	Correction to Zoning By-Law	Nancy
W	Handicapped & Van Accessible Parking	Doré
X	Change Common Drive Special Permits	Doré
Y	Eliminate Certain Special Permits	Doré
Z	Permit Tertiary Wastewater Plants	Doré
AA	Eliminate Dimension Special Permits	Doré
DD	Hearthstone Farm Acceptances	Norm
FF#	Nashoba Valley Trailers Zoning Change	Norm
GG	Public Use of Land by other agency	Ann
II	Amend By-Law Chap. E re dog licenses	Doré
JJ	Amend Historic District By-Law	Doré
KK*	Remove Police Chief from Civil Service	Doré
MM#	Committee to Study Municipal Power	Bill
HH	Accept MGL c.140s.147A re Dog Fund	Nancy
NN	School Teachers Early Retirement	Bill

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BB	Planning Board Associates to Vote	Deleted 2/22?
CC	Charter Change for Planning Associates	Deleted 2/22?
EE	Change in Child Care Requirements	To Be Deleted

**FLANAGAN & HUNTER, P.C.**  
ATTORNEYS AT LAW  
AND  
PROCTORS IN ADMIRALTY  
211 CONGRESS STREET  
BOSTON, MASSACHUSETTS 02110-2434

**TELEPHONE: (617) 482-3366**

**FAX: (617) 482-3467**

**FAX COVER SHEET**

**DELIVER TO: DON JOHNSON**

**AT: Acton Town Hall**

**FAX NUMBER: 508-264-9630**

**FROM: F. DORÉ HUNTER**

**Number of Pages, Including this Cover Sheet: 3**

**COMMENTS: FOR SELECTMAN'S EXTRA INFORMATION.**

**DATE: February 28, 1994**

**FILE NO. None**

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2nd Draft Introduction for Warrant-2/28/94

**Differing Warrant Format & Size**

The format of this Warrant is different, and there are more Warrant Articles this year. This is largely due to the municipal financing changes brought about by the Legislature's enactment of the Education Reform Act of 1993.

**The Education Reform Act of 1993 Reduces Role of Town Meeting**

Although the wide ranging Reform Act addressed many educational matters, it also has an enormously negative impact on municipal finance. The Legislature decided to meet the Commonwealth's responsibility to adequately fund education, by taking discretion out of the hands of Town Meeting members as to how the local property tax revenues will be spent, and itself mandating the local appropriation of a large part of the locally raised money. As a condition for the transfer of some of the citizens' own tax dollars back from the state in the form of aid to education, restoring that aid level to about what it was in fiscal year 1989, the legislature and governor have imposed mandatory school formula spending requirements on municipalities. While undoubtedly benefiting the schools, the effect on the Town is that a progressively smaller share of the tax monies raised by the municipality will be available to provide non-education municipal services like police, fire, highway, library, health, zoning, etc.

More services are delivered to the average citizen by local government than other levels of government. Our Town Meeting form of self government, while some times inefficient, has been an outstanding vehicle for the involvement of a large number of citizens as governmental decision makers, determining for themselves what use would be made of the local portion of their tax dollars. Unfortunately the Education Reform Act of 1993 has taken a large part of local decision making discretion away from Town Meeting in the process of making the most radical change in municipal finance since the enactment of Proposition 2½ in 1981.

During the prosperity of the 1980s state aid to towns was markedly increased, and that combined with the tax limitations of Proposition 2½, helped to shift some of the overall tax burden away from the local property tax levy. At the same time school enrollments were declining, so the municipal services to which the taxpayers were accustomed were maintainable. In 1989 the "Massachusetts Miracle" collapsed, and state financing fell into chaos. During the next few years the legislature put the state financial house in order, in large part by drastically cutting back on local aid. During that period in Acton we continued to increase the overall monies spent on education, actually a state responsibility, and other municipal services, in part through overrides of Proposition 2½ - by raising local taxes. But we were

also forced to make cuts and reductions in some services. Those cuts and reductions were distributed relatively equally across the full range of municipal services, they fell on both the schools and Town sides. During the same period that the legislature was so markedly reducing state aid it increased the size of the state budget by about 30%.

In 1993 Acton voters declined to approve a Proposition 2½ override. In making that decision the Acton voters were aware that the impact would fall relatively equally on both the schools and the Town sides of municipal government. In 1993 the Legislature voted to return the local aid to about the 1989 level, but they also essentially earmarked it all for education. The legislature then intruded into the Town Meeting process to dictate to the Meeting how it must make its financial decisions in appropriating local revenues, if the community is to receive that aid.

#### **The Reform Act Formula**

Acton has had some of the best but also some of the most cost-efficient school systems in the state. But the new Education Reform Act requires that school systems spend an ever increasing sum of money, determined by a formula which does not distinguish between the spending practices of efficient managers and those of wasteful organizations. Acton has historically been one of the top communities in the Commonwealth in regard to the proportion of municipal revenues devoted to education, and co-relatively one of the lowest in proportion of revenues available for municipal government, but the application of the Reform Act formula to Acton requires that additional monies be retroactively provided by the Town to its school system during Fiscal Year 1994, the current budget year, over and above what Town Meeting appropriated last year. Therefore Articles Nos. \*\*\*\* and \*\*\*\* propose that \$\*\*\*\* be transferred to the schools immediately from free cash to spend as the school administration might chose. Such monies are entirely separate and distinct from the so-called School Choice monies which flow to the schools without appropriation and are spent entirely at the discretion of the School Committees. Articles Nos. \*\*\*\* and \*\*\*\* represent the final version of the retroactive levies dictated by the state Departments of Education and Revenue which the Board of Selectmen discussed at length during the Fall of 1993.

Although the retroactive financial impact of the Education Reform Act on the Town for fiscal 1994 can be resolved by the required appropriations from free cash, the situation for fiscal 1995 and future years is an entirely different matter. The Reform Act formula now determines the size of the schools' "B" Budget, i.e. the schools' non-Proposition 2½ override budgets. However, Proposition 2½ still remains in effect and continues to limit the total property taxes which can be levied by the Town. Absent any overrides of that tax limitation, the Town is left in the position of funding municipal programs out of those funds which are "left

over" after the Reform Act guaranteed amounts have been appropriated to the schools. Since the Reform Act requires school spending to increase annually by some incremental sum in excess of 2½% of the prior year's expenditures, incremental tax levy funding for municipal programs will therefore progressively decrease, year by year, unless the situation is altered through the passage of overrides. It is this declining municipal funding aspect of the Reform Act's formula that results in the significantly smaller percentage increase in the total non-Proposition 2½ funds available to the Town [1.9%, or about \$204,000], as compared with the Acton-Boxborough Regional School District's mandatory increase of about 6.86% above what was appropriated to it for FY 1994 last April and the Acton Public School's "B" Budget mandatory increase of about \*\*\*% above its original FY 1994 appropriation. [The Acton Public School's "A" Budget is currently projected at about 10.2% or \$522,000 above the original FY 1994 spending level.] In prior years the percentage increment for all three entities was approximately the same.

#### **School Financial Proposals for Town Meeting**

Despite the Reform Act guarantee of additional minimum local funding in fiscal 1995, the administration of the Acton Public Schools, because of increasing elementary enrollment, finds it necessary to recommend a general override of Proposition 2½ to the voters. That override request seeks an increase in the Acton Public Schools' operating funds for fiscal year 1995, and would increase its revenue base for subsequent years. This request will be initially voted on by Town Meeting and, if approved, will then go on a Special Election ballot for consideration by the electorate at large.

The Regional School District administration has determined that it can adequately operate that school system within the total funds that Town Meeting is now required by our legislators to appropriate to it for fiscal 1995, and its anticipated state aid, i.e. within its state mandated "B" Budget.

#### **Town Financial Proposals for Town Meeting**

The Reform Act's imposition of a formula driven minimum school property tax entitlement effectively ended the partnership approach that the schools and Town administrations had pursued for a number of years through the Coordinating Committee process. The Town's spending must now be held to whatever is left over after the state mandated school "B" Budget amounts have been subtracted from available revenues. The actual revenues depend on many factors, some of which are not certain until after the Annual Town Meeting, so it is necessary to make projections based on the best information available. At the same time, it must be recognized that the imposition of the Reform Act now means that any actual revenue shortfalls must be entirely offset by subtractions on the

Town side.

In addition to the dictates of the Reform Act, which actually pull in the opposite direction, the Selectmen also have this year considered the expressed wish of Town Meeting to be given a larger part in making spending decisions.

Given these factors, this years proposed municipal spending plan is composed of multiple parts and incorporates great flexibility. First there are a group of Articles, Nos. \*\*\*\* thru \*\*\*\*, under which Selectmen will seek Town Meeting approval for the various Enterprise Fund Budgets, and propose some capital expenditures to be funded out of the Enterprise Funds. The Article dealing with the largest part of the municipal budget, No. \*\*\*\*, follows. That Article encompasses the salaries for the existing Town staff and what the Selectmen consider to be the absolutely necessary expenses, it is referred to as the "Base B Budget". The Base B Budget is set forth in a "bottom line" format, continuing the policy of the last few years, to provide maximum management flexibility during the year to meet unexpected needs. The FY 1995 Base B Budget, as compared to the same items in the FY 1994 budget, represents a proposed increase of only \*\*\*\*. The next part of the proposed municipal spending plan consists of a series of Articles, Nos. \*\*\*\* thru \*\*\*\*, which set out individual spending proposals for equipment replacement, staff restoration, etc. which taken as a whole comprise a potential Town "A" Budget, i.e. proposals contingent upon a Proposition 2½ override in some form. The motions offered under most of those Articles will propose funding through issuance of bonds.

#### **Post-Town Meeting Plans**

It is the intent of the Board of Selectmen, should any of the Warrant Articles which are contingent on Proposition 2½ override votes, either general, capital or debt exclusion questions, be approved at Town Meeting, to then consider calling a Special Election. Such a Special Election, held after Town Meeting, would allow the voters to decide whether or not they wish to bear extra taxes in order to receive all, some or none of the services represented by the affirmative Town Meeting votes, if any. It is currently anticipated that such a Special Election, if called, would be held on \*\*\*\*, 1994.

#### **Citizen Involvement**

The Board of Selectmen encourages all citizens to attend the Preliminary Budget Hearing to be conducted by the Finance Committee in Town Hall on Wednesday, March 23, 1994 at 7:30 p.m. Please remember to vote in the Town Election on Tuesday March 29, 1994.

The Annual Town Meeting, which will begin at 7:30 p.m. on Monday, April 4, 1994, is open to all citizens.

March \*\*\*\*, 1994

F. Doré Hunter, Chair  
Anne Fanton, Vice-Chair  
William Mullin, Clerk  
Nancy Tavernier  
Norman Lake

**FLANAGAN & HUNTER, P.C.**  
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**AT:** **Acton Town Hall**  
**FAX NUMBER:** **508-264-9630**

**FROM:** **F. DORÉ HUNTER**

*Number of Pages, Including this Cover Sheet: 6*

**COMMENTS:** **ANOTHER ITEM FOR SELECTMAN'S EXTRA INFORMATION TONIGHT, A REVISION OF THE WARRANT INTRODUCTION INCORPORATING SELECTMEN WEEKEND COMMENTS.**

**DATE:** **March February 28, 1994**

**FILE NO.** **None**

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28 February 1994

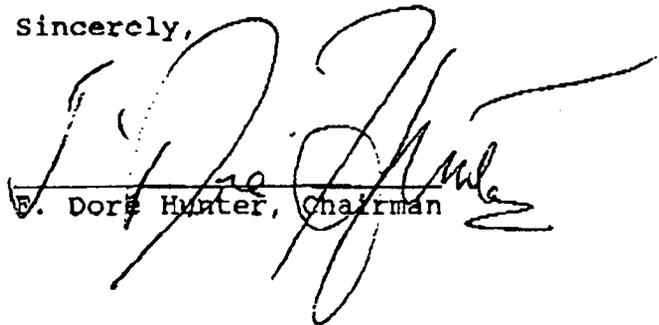
Karen Sharp  
Gates School PTO Chairman  
One Revolutionary Road  
Acton, MA 01720

Dear Mrs. Sharp,

This is in response to your letter of February 23, 1994 and confirms my telephone conversation with you on Sunday, February 27th. I will be delighted to appear at the PTO's budget information meeting, on Monday, March 28th at 7:30 p.m. in the High School auditorium, to make about a thirty minute presentation concerning the Town's budget requests and answer questions.

Thank you for the invitation.

Sincerely,



E. Doré Hunter, Chairman

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**AT:** Acton Town Hall

**FAX NUMBER:** 508-264-9630

**FROM:** F. DORÉ HUNTER

*Number of Pages, Including this Cover Sheet: 2*

**COMMENTS:** ANOTHER ITEM FOR SELECTMAN'S EXTRA INFORMATION.

**DATE:** February 28, 1994

**FILE NO.** None

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# EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT



William F. Weld, Governor  
Argeo Paul Cellucci, Lt. Governor  
Mary L. Padula, Cabinet Secretary

February 24, 1994

Ms. Betty McManus  
Acton Housing Authority  
P.O. Box 681  
Acton, MA 01720

RE: Local Initiative Program Long Term Use Restrictions

Dear Ms. McManus:

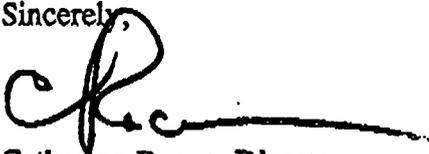
I am writing to confirm recent conversations you have had with Bert Rodiger of the Private Housing staff regarding the form of long term use restrictions used in the Local Initiative Program. The long term affordability of the affordable units is protected through restrictions incorporated into EOCD's standard LIP deed rider. I believe a copy of the standard LIP deed rider was recently forwarded to you. As you will note on page 12 of that document, affordability is restricted for a term of 50 years, and the term is renewed each time the property changes ownership.

This deed rider is intended for use with condominium or fee simple forms of ownership. The standard LIP deed rider has been approved by the Federal National Mortgage Association (Fannie Mae). Thus, mortgages originated with the LIP deed riders can be sold on the secondary mortgage market. This fact is of particular importance to originating lenders, since lenders typically want to sell the mortgages rather than hold them in portfolio.

While Local Initiative Program regulations do not prohibit the use of other forms of long term use restrictions, the legal costs incurred in developing different restrictions, as well as the costs associated with EOCD's review of such alternate forms of restriction, must be paid by the project sponsor. It is also important to note that alternative restrictions may not be acceptable to FNMA. For all of these reasons, the use of alternative long term deed restrictions is not recommended.

If you have any additional questions, please contact Bert Rodiger or me at 617-727-7824.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. Racer', with a long horizontal flourish extending to the right.

Catherine Racer, Director  
Bureau of Private Housing

Special

vided, however, that the vacancies may be filled as they occur; provided, further, that members who are required to be parents of public school children shall be replaced within one year of the date upon which they no longer have children attending a public school.

Special

SECTION 80. The board of education shall prepare a plan to extend the time during which students attend school to reflect prevailing norms in advanced industrial countries and to address the educational needs of children in the commonwealth. Said plan shall encourage the establishment of charter schools pursuant to section eighty-nine of chapter seventy-one of the General Laws which fulfill the goals of said plan. Said plan shall contain a practical, but timely, proposal for implementation and detail all associated costs. Said plan and recommended legislation shall be filed with the governor and the clerks of the house and senate no later than January first, nineteen hundred and ninety-five. The board of education is directed to evaluate and define the amount of time, exclusive of extracurricular activities including but not limited to lunch, recess, and other non-instructional activities, students spend in the classroom. Said report which details findings and recommendations shall be filed with the general court no later than September thirtieth, nineteen hundred and ninety-three.

GL c. 69 S 10 note

SECTION 81. The board of education shall, no later than January first, nineteen hundred and ninety-five, establish student academic standards as provided in section one D of chapter sixty-nine of the General Laws.

GL c. 69 S 10 note

SECTION 82. The student performance standards established by the board of education insofar as they apply to the criteria for the competency determination, the certificate of mastery and the certificate of occupational proficiency, established pursuant to the provisions of section one D of chapter sixty-nine of the General Laws shall apply to students entering the ninth grade as of September first, nineteen hundred and ninety-three; provided, however, that the competency determination shall not be a condition for high school graduation until September first, nineteen hundred and ninety-eight.

GL c. 32 S 1 note

SECTION 83. Notwithstanding the provisions of chapter thirty-two of the General Laws or any other general or special law to the contrary, any city, town, regional school committee, independent vocational school, county agri-

cultural school or educational coll  
this section in the manner hereinafte  
upon the prescribed notification to t  
under the provisions of section twent  
Laws, establish and implement an e  
bers of the teachers' retirement syst  
Boston; provided, however, that in c  
benefit options under such program, s  
town, regional school committee, or  
cultural school or educational collat  
of this section in a timely manner a  
eligible to receive a superannuation  
the provisions of subdivision (1)  
tion ten of said chapter thirty-two  
fied in his written application to  
retirement board of the city of Bost  
retirement twenty years of credit  
retirement system, as a teacher in t  
by subdivision (4) of section three  
bination thereof; and (iv) shall h  
of the application periods specified

The early retirement incentive p  
offered to teachers by any accept  
independent vocational school, count  
laborative in either nineteen hundre  
ninety-four, but not in both years  
centive shall be limited to two thou  
nineteen hundred and ninety-three  
employees in nineteen hundred and ni  
of the additional benefits payable i  
program established by this secti  
after the second enrollment period.  
cooperation of the Boston employ

cultural school or educational collaborative which accepts the provisions of this section in the manner hereinafter provided shall, in cooperation with and upon the prescribed notification to the teacher's retirement board established under the provisions of section twenty of chapter thirty-two of the General Laws, establish and implement an early retirement incentive program for members of the teachers' retirement system and teachers employed by the city of Boston; provided, however, that in order to be deemed eligible for any of the benefit options under such program, a member (i) shall be employed by a city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative which has accepted the provisions of this section in a timely manner as specified in this section; (ii) shall be eligible to receive a superannuation retirement allowance in accordance with the provisions of subdivision (1) of section five or subdivision (1) of section ten of said chapter thirty-two upon the effective retirement date specified in his written application to the teachers' retirement board or to the retirement board of the city of Boston; (iii) shall have by the date of his retirement twenty years of creditable service as a teacher in the teachers' retirement system, as a teacher in the Boston retirement system, as provided by subdivision (4) of section three of said chapter thirty-two, or in any combination thereof; and (iv) shall have filed a written application during one of the application periods specified in this section.

The early retirement incentive program authorized by this section may be offered to teachers by any accepting city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative in either nineteen hundred and ninety-three or nineteen hundred and ninety-four, but not in both years, as provided herein. Said retirement incentive shall be limited to two thousand five hundred eligible employees in nineteen hundred and ninety-three and to two thousand five hundred eligible employees in nineteen hundred and ninety-four. The annual cost to the state of the additional benefits payable in accordance with the retirement incentive program established by this section shall not exceed twenty million dollars after the second enrollment period. The teachers' retirement board, with the cooperation of the Boston employees' retirement board, if necessary, shall

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calculate the cost to the state of the additional benefits payable in accordance with said retirement incentive program for the first year of the incentive program and the projected cost to the state of the additional benefits payable in accordance with said retirement incentive program for the second year of the incentive program and shall report on the total actual and projected state cost of said additional benefits to the secretary of administration and finance, the joint committee on public service, and the house and senate committees on ways and means no later than December thirty-first, nineteen hundred and ninety-three. If the report finds that the actual and projected annual state cost of the additional benefits payable in accordance with said retirement incentive program will exceed twenty million dollars, the secretary of administration and finance shall recommend corrective legislation to reduce the cost of the second year of the retirement incentive to bring the cost to the state of said retirement incentive under twenty million dollars.

In order to offer the early retirement incentive program in nineteen hundred and ninety-three, any such city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative must accept this section on or after the effective date of this act but no later than thirty days after the effective date of this act. The application period in nineteen hundred and ninety-three for retirement under this program shall commence on July first, nineteen hundred and ninety-three and end on July thirty-first, nineteen hundred and ninety-three. Teachers retiring pursuant to this program in nineteen hundred and ninety-three shall be retired for superannuation as of August thirty-first, nineteen hundred and ninety-three.

In order to offer the early retirement incentive program in nineteen hundred and ninety-four, any such city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative must accept this section on or after January first, nineteen hundred and ninety-four but no later than April thirtieth, nineteen hundred and ninety-four. The application period in nineteen hundred and ninety-four for retirement under this program shall commence on June first, nineteen hundred and ninety-four and end on June thirtieth, nineteen hundred and ninety-four.

Teachers retiring pursuant to this section shall be retired for superannuation as of August thirty-first, nineteen hundred and ninety-four.

This section shall be accepted by the school committee and the mayor or city manager; in a town, by the town meeting; in a regional vocational school, by vote of the school committee and the county legislative body and of the town meeting; in a county agricultural school, with the approval of the county legislative body and of the county commissioners only; in a city, by the board of directors, with the approval of the board established by a special act of administration and finance or his designee, must also approve.

If, in either year of the retirement incentive program, the number of applications exceeds two thousand five hundred, the limits shall be proportionately reduced. In the case of a city, town, regional school committee, county agricultural school or educational collaborative, this section in the particular year shall apply only to applications in each such jurisdiction in which the total number of teachers who are members in-service of the Boston retirement system is less than the total number of accepting jurisdictions.

After the application deadline, the board may adjust said limits by the number of applications in accepting jurisdiction.



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than the authorized limit. The total unused authorized applications may then be redistributed to accepting jurisdictions where the number of applications exceeded the limit. The number redistributed to any such jurisdiction shall be proportional to the ratio of total applications in the jurisdiction to the total of all applications in the accepting jurisdictions where applications exceeded the application limit; provided, however, that the adjusted limit, which equals the sum of the number of reallocated authorized applications and the amount of the original limit, shall not exceed the total number of actual applications in a jurisdiction. Within each such city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative, if the number of applications exceeds the adjusted limit, the teachers' retirement board and the city of Boston retirement board, if applicable, shall prioritize and award acceptable applications on the basis of length of creditable service as a public school teacher.

Notwithstanding any provisions of said chapter thirty-two to the contrary, the normal yearly amount of the retirement allowance for an eligible employee who is employed by a city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative which accepts the provisions of this section and who has paid the full amount of regular deductions on the total amount of regular compensation as determined under paragraph (a) of subdivision (2) of section five of said chapter thirty-two, shall be based on the average annual rate of regular compensation as determined under said paragraph (a) and shall be computed according to the table contained in said paragraph (a) based on the age of such member and his number of years and full months of creditable service at the time of his retirement increased by up to five years of age or by up to five years of creditable service or by a combination of additional years of age and service the sum of which shall not be greater than five; provided, however, that the city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative may limit the amount of additional credit for service or age or a combination of service or age offered and the number of employees for whom it will approve a retirement calculated under the provisions of this section; provided, further, that if participation is

limited by the city, town, regional school, county agricultural school, county agricultural school or educational collaborative, the retirement benefit in accordance with section twelve of said chapter thirty-two and shall be so subject to the provisions of said chapter thirty-two; provided, however, that the system retired under the provisions of said chapter thirty-two shall be deemed to be retired for superannuation if his retirement had not been under the provisions of said chapter thirty-two.

For the purposes of this section, the meaning of "teacher" shall be defined as a person who is employed by a city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative which accepts the provisions of this section and who has paid the full amount of regular deductions on the total amount of regular compensation as determined under paragraph (a) of subdivision (2) of section five of said chapter thirty-two; provided, however, that the system retired under the provisions of said chapter thirty-two shall be deemed to be retired for superannuation if his retirement had not been under the provisions of said chapter thirty-two.

The total normal yearly amount of any employee who retires and is eligible for a retirement incentive program in accordance with the provisions of section twelve of said chapter thirty-two shall not exceed four-fifths of the average annual rate of his regular compensation received during any period of service for which the rate of compensation was not consecutive, constituting his preceding retirement, whichever is less.

For any married employee who is eligible for a retirement incentive program under the provisions of this act, the provisions of section twelve of said chapter thirty-two shall apply, provided (if) it is accompanied by the written consent of the member's spouse's knowledge and

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authorized applications may then  
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 however, that the adjusted limit,  
 allocated authorized applications and  
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 each such city, town, regional school  
 county agricultural school or educa-  
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 of city of Boston retirement board, if  
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 school teacher.  
 chapter thirty-two to the contrary,  
 allowance for an eligible employee  
 school committee, independent voca-  
 or educational collaborative which  
 who has paid the full amount of  
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 annual rate of regular compensation  
 shall be computed according to the  
 d on the age of such member and his  
 le service at the time of his re-  
 age or by up to five years of cred-  
 lonal years of age and service the  
 ; provided, however, that the city,  
 ent vocational school, county agri-  
 e may limit the amount of addition-  
 on of service or age offered and  
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 , further, that if participation is

limited by the city, town, regional school committee, independent vocational  
 school, county agricultural school or educational collaborative, the retire-  
 ment of employees with greater creditable service shall be approved before ap-  
 proval is given to employees with lesser creditable service.

For the purposes of this section, words shall have the same meanings as in  
 chapter thirty-two of the General Laws, unless otherwise expressly provided or  
 unless the context clearly requires otherwise; provided, however, that the  
 meaning of "teacher" shall be as defined in section one of said chapter  
 thirty-two without the exclusion in said definition of a teacher in the public  
 schools in the city of Boston. An employee who retires and receives an addi-  
 tional benefit in accordance with the provisions of this section shall be  
 deemed to be retired for superannuation under the provision of said chapter  
 thirty-two and shall be so subject to any and all provisions of said chapter  
 thirty-two; provided, however, that a teacher in the city of Boston retirement  
 system retired under the provisions of this section shall be subject to the  
 provisions of said chapter thirty-two only to the extent that he would have  
 been if his retirement had not been in accordance with the provisions of this  
 section.

The total normal yearly amount of the retirement allowance, as determined  
 in accordance with the provisions of section five of said chapter thirty-two,  
 of any employee who retires and receives an additional benefit under the re-  
 tirement incentive program in accordance with the provisions of this section  
 shall not exceed four-fifths of the average annual rate of his regular compen-  
 sation received during any period of three consecutive years of creditable  
 service for which the rate of compensation was the highest or of the average  
 annual rate of his regular compensation received during the periods, whether  
 or not consecutive, constituting his last three years of creditable service  
 preceding retirement, whichever is greater.

For any married employee who retires and receives an additional benefit  
 under the provisions of this act, an election of a retirement option under the  
 provisions of section twelve of said chapter thirty-two shall not be valid un-  
 less (1) it is accompanied by the signature of the member's spouse, indicating  
 the member's spouse's knowledge and understanding of the retirement option se-

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lected, or (ii) a certification by the teachers' board of retirement or the retirement board of the city of Boston, if applicable, that such spouse has received notice of such election as hereinafter provided. If any member who is married files an election which is not so signed by his spouse, the teachers' board of retirement or the retirement board of the city of Boston, if applicable, shall within fifteen days notify the member's spouse by registered mail of the option election, and the election shall not take effect until thirty days following the date on which such notification is sent, and such election may be changed by the member at any time within thirty days, or at any other time permitted under said chapter thirty-two. Nothing in this section shall be deemed to affect the effective date of any retirement allowance, but in the event of any election having been filed which is not so accompanied, the payment of any allowance so elected shall not be commenced earlier than thirty days after the sending by the appropriate board of retirement of the notice required hereunder.

The teachers' board of retirement or the retirement board of the city of Boston, if applicable, shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program established by this section. Such counseling shall include, but not be limited to, the following: (i) a full explanation of the retirement benefits provided by this section; (ii) a comparison of the expected lifetime retirement benefits payable to such employee under the retirement incentive program and under the existing provisions of chapter thirty-two of the General Laws; (iii) the election of a retirement option under the provisions of section twelve of said chapter thirty-two; (iv) the restrictions on employment after retirement; (v) the provisions of health care benefits under the provisions of chapter thirty-two B of the General Laws; (vi) the provisions of law relative to the payment of cost-of-living adjustments to the retirement allowance in years in which there is such an adjustment; and (vii) the effect of federal and state taxation on retirement income. Each such employee shall sign a statement that he has received such counseling or that he does not want to receive such counseling prior to the approval by the teachers' board of retirement or the retirement board of the city of Boston, if applicable, of such

employee's application for superannuation provided by this section.

The commissioner of the public health shall analyze, study, and value the cost of the additional benefits provided by this section of the retirement law for each city, town, county or district; provided, that said commissioner shall submit his findings for said city, town, county or district to the city, town, regional school district, county agricultural school or educational institution, as applicable, provided, further, that said report shall be submitted on public service and the House of Representatives, the teachers' retirement board and the commissioner of the public health on or before December thirty-first.

The teachers' retirement board shall pay fifty percent of the costs and the commissioner of the public health shall pay the additional benefits payable under this section with the provisions of this section of the commonwealth which shall reflect the additional benefits attributable to the additional benefits provided by this section of the retirement law; provided, however, that said schedules shall be submitted to the city, town, county or district and the commissioner of the public health, two thousand and ten; provided, further, that the board shall consider the provisions of law relative to the payment of cost-of-living adjustments to the retirement allowance in years in which there is such an adjustment; and (vii) the effect of federal and state taxation on retirement income. Each such employee shall sign a statement that he has received such counseling or that he does not want to receive such counseling prior to the approval by the teachers' board of retirement or the retirement board of the city of Boston, if applicable, of such

teachers' board of retirement or the applicable, that such spouse has after provided. If any member who signed by his spouse, the teachers' board of the city of Boston, if applicable, shall not take effect until such notification is sent, and such time within thirty days, or at thirty-two. Nothing in this section shall apply to any retirement allowance which is not so accompanied shall not be commenced earlier than the appropriate board of retirement of

the retirement board of the city of Boston shall provide counseling to employees who are to retire under the retirement incentive program. Such counseling shall include, but not be limited to, a full explanation of the retirement incentive program; a comparison of the expected lifetime benefits under the retirement incentive program with the provisions of chapter thirty-two of the General Laws; (iv) the restrictions on employment under the provisions of section 26B; (v) the health care benefits under the provisions of chapter 149A; (vi) the provisions of law relating to adjustments to the retirement allowance; and (vii) the effect of the retirement allowance on the employee's income. Each such employee shall be given the opportunity to give his approval or that he does not want approval by the teachers' board of retirement of the city of Boston, if applicable, of such

employee's application for superannuation benefits and the additional benefit provided by this section.

The commissioner of the public employee retirement administration shall analyze, study, and value the costs and the actuarial liabilities attributable to the additional benefits payable in accordance with the provisions of this section of the retirement incentive program established by this section for each city, town, county or district which accepts the provisions of this section; provided, that said commissioner shall file a report in writing of his findings for said city, town, county or district on or before December thirty-first, nineteen hundred and ninety-four, and shall send a copy thereof to the city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative as the case may be; provided, further, that said reports shall be filed with the joint committee on public service and the house and senate committees on ways and means, the teachers' retirement board and the commissioner of the department of revenue on or before December thirty-first, nineteen hundred and ninety-four.

The teachers' retirement board shall prepare a funding schedule for each applicable city, town, county or district which shall reflect the payment of fifty percent of the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement incentive program in accordance with the provisions of this section and a funding schedule for the commonwealth which shall reflect fifty percent of the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement incentive program in accordance with the provisions of this section; provided, however, that said schedules shall be designed to reduce the applicable city, town, county or district and the commonwealth's additional pension liability attributable to such costs and liabilities to zero on or before June thirtieth, two thousand and ten; provided, however, that in preparing such schedules, the board shall consider the analysis of the commissioner of public employee retirement administration filed in accordance with the provisions of this section; provided, further, that said board shall triennially update such schedules until said June thirtieth, two thousand and ten; provided, further, that the commonwealth's funding schedule and updates shall be subject to the

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approval of the secretary of administration and finance. Said board shall file such funding schedules with the joint committee on public service and the house and senate committees on ways and means on or before March first, nineteen hundred and ninety-five, and shall file updates thereto triennially on or before March first of each year. In each of the fiscal years until the actuarial liability determined under this section shall be reduced to zero, it shall be deemed an obligation of the applicable city, town, county or district which has accepted the provisions of this section to appropriate annually an amount sufficient to meet fifty percent of the additional costs and liabilities attributable to the additional benefits payable under the retirement incentive program and said applicable city, town, county or district shall pay the same to the commonwealth's pension liability fund annually; provided, however, that if any such city, town, county or district fails to make said payment, the commissioner of the department of revenue shall deduct such liability from the annual education aid provided pursuant to chapter seventy to said city, town, county or district; provided, further, that such liability deducted shall be appropriated to the commonwealth pension liability fund; provided, further, that ancillary costs attributable to any employee who retires under the retirement incentive program established by this section, limited to the payment of accrued vacation, unused sick leave or any other severance payment, shall be the financial obligation of such city, town, county or district paid out of the sums appropriated or otherwise made available to the appropriate city, town, county or district for the fiscal year nineteen hundred and ninety-five; provided, further, that there shall be no supplemental state funds for the payment of said ancillary costs; and provided, further, that fifty percent of the total premium cost for health insurance provided to any employee who so retires shall also be paid out of the sums appropriated or otherwise made available for the fiscal year nineteen hundred and ninety-five; provided, further, that any employee who so retires shall not pay more than the percentage contribution charged to any other retiree comparable health insurance coverage; provided, further, that there shall be no additional state supplemental funds to pay said insurance costs.

The board of education shall...  
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SECTION 84. The department  
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Said demonstration project  
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The board of education shall list each position made vacant by the retirement of an employee under the retirement incentive program and receiving an additional benefit in accordance with the provisions of this section and shall file such list with the joint committee on public service and the house and senate ways and means committees on or before December first, nineteen hundred and ninety-four; provided, however, that for each position, such list shall include the classification title of such position, the salary range for such title and the salary payable to the person who so retired from such position.

SECTION 84. The department of education is hereby authorized and directed to establish a demonstration project on or before September first, nineteen hundred and ninety-four, to assess various models of parent outreach programs in working with families of children between the ages of one and three years. Said project shall gather data and test a variety of parent outreach programs, in order to choose the model most effective and most compatible with the overall system in the commonwealth for universal implementation by January first, nineteen hundred and ninety-seven. The models selected shall be tested within urban, suburban, and rural school settings. Models chosen for the demonstration project shall include, but not be limited to, the following: home visits by parent educators to educate parents about the physical, mental and emotional development of children; assistance and support to parents for meeting their own educational needs; promotion of literacy within the home; substantial parental involvement in activities for children; guidance at each stage of a child's development; periodic health screening and testing of children to check language and motor development; and group visits with other participating parents.

Participation by parents during the demonstrations project and thereafter shall be voluntary. Parent outreach programs shall be made available to all parents free of charge. Outreach efforts, initially, should focus on populations of children identified as educationally at risk.

Said demonstration projects shall terminate on December first, nineteen hundred and ninety-six. The department of education shall file a report of its findings, together with its recommendations and drafts of legislation necessary to implement a model program, by filing the same, on or before the

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**TOWN OF ACTON  
INDEBTEDNESS COMPARISON BY INDIVIDUAL MUNICIPALITY**

Rating	Acton Aa	Sudbury Aa	Hudson Baa1	Maynard A	Concord Aaa	Littleton A1	Westford Baa1	Chelmsford A1	Harvard A
Long-Term Debt:									
Outstanding (02/01/94)	\$1,350,000	\$6,595,000	\$6,405,000	\$5,920,000	\$16,260,000	\$3,922,700	\$17,997,447	\$24,765,000	\$8,387,000
Per Capita (02/01/94)	\$75	\$445	\$369	\$565	\$935	\$545	\$1,039	\$755	\$693
% of Assessed Value (02/01/94)	0.1%	0.5%	0.7%	1.1%	0.9%	0.7%	1.5%	1.2%	1.9%
% of per Capita Income (02/01/94)	0.3%	1.3%	2.0%	2.9%	3.0%	2.8%	4.8%	3.5%	3.9%
% to be paid within 10 Years	100.0%	86.7%	93.6%	76.1%	75.4%	98.7%	67.0%	98.8%	100.0%
Debt Service as a %of Net Revenues(1994)	2.0%	3.7%	5.7%	6.2%	8.3%	9.6%	10.4%	10.7%	15.4%

Source: Moody's Massachusetts Municipal Credit Analysis Report

Key:

Per Capita	Per Capita Income as of 7/92-- U.S. Dept of Commerce, Bureau of the Census
Assessed Value	Assessed valuation of real estate and personal property for fiscal year ending 6/30/94-- Massachusetts Dept of Revenue
Per Capita Income	Per Capita Income for 1989 -- U.S. Dept of Commerce, Bureau of the Census
Revenues	Tax Levy plus estimated receipts and other revenue sources for fiscal year ending 6/30/94-- Massachusetts Dept of Revenue
Debt Service as a %of Net Revenues(1994)	Principal debt payments/Total Amount of Revenue to be Raised (Tax Recap Form - Line II-E)

COUPON RATE -----

4.00%

FIRST YEAR IMPACT OF EACH ITEM

DEPARTMENT	ITEM	Priority			Amount	FIRST YEAR IMPACT OF EACH ITEM			FISCAL 1996 TOTAL
		#	cl	Life		7/15/95 PRINCIPAL	7/15/95 INTEREST	1/15/96 INTEREST	
LOCAL SCHOOL	Blanchard Aud			10	25,000.00	2,500.00	1,000.00	450.00	3,950.00
FIRE	Ladder Truck Replacement (#2)	4	a	15	450,000.00	30,000.00	18,000.00	8,400.00	56,400.00
POLICE	Communication Center, E-911	10	a	5	60,000.00	12,000.00	2,400.00	960.00	15,360.00
ENGINEERING	Bridge, Concord Road	11	a	10	40,000.00	4,000.00	1,600.00	720.00	6,320.00
ENGINEERING	Bridge, Wetherbee Street	12	a	5	40,000.00	8,000.00	1,600.00	640.00	10,240.00
MUNICIPAL PROPERTIES	Mortar Repair, Mem. Lib.	13	a	10	20,000.00	2,000.00	800.00	360.00	3,160.00
HIGHWAY	Eng. Van Replacement	14	a	5	18,000.00	3,600.00	720.00	288.00	4,608.00
MUNICIPAL PROPERTIES	2 1/2 Ton Dump Truck Replacement	17	a	5	35,000.00	7,000.00	1,400.00	560.00	8,960.00
POLICE	Mobile Data Terminals, 2 ea	22	a	5	8,000.00	1,600.00	320.00	128.00	2,048.00
FIRE	Exhaust System, West Acton Station	23	a	10	3,300.00	330.00	132.00	59.40	521.40
HIGHWAY	Loader Replacement	24	b	5	95,000.00	19,000.00	3,800.00	1,520.00	24,320.00
FIRE	Alarm Panel Upgrade	25	b	5	15,000.00	3,000.00	600.00	240.00	3,840.00
MUNICIPAL PROPERTIES	HVAC Controls, Mem. Lib.	26	b	5	10,000.00	2,000.00	400.00	160.00	2,560.00
HIGHWAY	Sign Truck Replacement	27	b	5	18,000.00	3,600.00	720.00	288.00	4,608.00
ENGINEERING	Traffic Signal @ High & 62	28	b	10	48,000.00	4,800.00	1,920.00	864.00	7,584.00
POLICE	Mobile Data Terminals, 2 ea	29	b	5	8,000.00	1,600.00	320.00	128.00	2,048.00
FIRE	Exhaust System, West Acton Station	31	b	10	3,300.00	330.00	132.00	59.40	521.40
MUNICIPAL PROPERTIES	Garage Roof Replacement, Police Station	33	b	10	10,000.00	1,000.00	400.00	180.00	1,580.00
PLANNING	Kelly's Corner Plan	34	b	5	10,000.00	2,000.00	400.00	160.00	2,560.00
LIBRARY, MEMORIAL	Expansion Study	35	b	5	15,000.00	3,000.00	600.00	240.00	3,840.00
HIGHWAY	Paving Program	36	c	10	331,800.00	33,180.00	13,272.00	5,972.40	52,424.40
POLICE	Mobile Data Terminals, 4 ea	37	c	5	16,000.00	3,200.00	640.00	256.00	4,096.00
FIRE	Exhaust System, Acton Center Station	38	c	10	3,400.00	340.00	136.00	61.20	537.20
HIGHWAY	1 Ton Dump Truck Replacement	39	c	5	25,000.00	5,000.00	1,000.00	400.00	6,400.00
MUNICIPAL PROPERTIES	Ice House Pond Excavation	51	c	10	30,000.00	3,000.00	1,200.00	540.00	4,740.00
					1,337,800.00	156,080.00	53,512.00	23,634.40	233,226.40

COUPON RATE -----

4.00%

## FIRST YEAR IMPACT OF EACH ITEM

DEPARTMENT	ITEM	Priority			Amount	FIRST YEAR IMPACT OF EACH ITEM			FISCAL 1996 TOTAL	CUMMULATIVE
		#	cl	Life		7/15/95 PRINCIPAL	7/15/95 INTEREST	1/15/96 INTEREST		
FIRE	Ladder Truck Replacement (#2)	4	a	15	450,000.00	30,000.00	18,000.00	8,400.00	56,400.00	
HIGHWAY	Paving Program	36	c	5	331,800.00	66,360.00	13,272.00	5,308.80	84,940.80	
LOCAL SCHOOL	Blanchard Aud.			10	25,000.00	2,500.00	1,000.00	450.00	3,950.00	3,950.00
POLICE	Communication Center, E-911	10	a	5	60,000.00	12,000.00	2,400.00	960.00	15,360.00	19,310.00
ENGINEERING	Bridge, Concord Road	11	a	10	40,000.00	4,000.00	1,600.00	720.00	6,320.00	25,630.00
ENGINEERING	Bridge, Wetherbee Street	12	a	5	40,000.00	8,000.00	1,600.00	640.00	10,240.00	35,870.00
MUNICIPAL PROPERTIES	Mortar Repair, Mem. Lib.	13	a	10	20,000.00	2,000.00	800.00	360.00	3,160.00	39,030.00
HIGHWAY	Eng. Van Replacement	14	a	5	18,000.00	3,600.00	720.00	288.00	4,608.00	43,638.00
MUNICIPAL PROPERTIES	2 1/2 Ton Dump Truck Replacement	17	a	5	35,000.00	7,000.00	1,400.00	560.00	8,960.00	52,598.00
POLICE	Mobile Data Terminals, 2 ea	22	a	5	8,000.00	1,600.00	320.00	128.00	2,048.00	54,646.00
FIRE	Exhaust System, West Acton Station	23	a	10	3,300.00	330.00	132.00	59.40	521.40	55,167.40
HIGHWAY	Loader Replacement	24	b	5	95,000.00	19,000.00	3,800.00	1,520.00	24,320.00	79,487.40
FIRE	Alarm Panel Upgrade	25	b	5	15,000.00	3,000.00	600.00	240.00	3,840.00	83,327.40
MUNICIPAL PROPERTIES	HVAC Controls, Mem. Lib.	26	b	5	10,000.00	2,000.00	400.00	160.00	2,560.00	85,887.40
HIGHWAY	Sign Truck Replacement	27	b	5	18,000.00	3,600.00	720.00	288.00	4,608.00	90,495.40
ENGINEERING	Traffic Signal @ High & 62	28	b	10	48,000.00	4,800.00	1,920.00	864.00	7,584.00	98,079.40
POLICE	Mobile Data Terminals, 2 ea	29	b	5	8,000.00	1,600.00	320.00	128.00	2,048.00	100,127.40
FIRE	Exhaust System, West Acton Station	31	b	10	3,300.00	330.00	132.00	59.40	521.40	100,648.80
MUNICIPAL PROPERTIES	Garage Roof Replacement, Police Station	33	b	10	10,000.00	1,000.00	400.00	180.00	1,580.00	102,228.80
PLANNING	Kelly's Corner Plan	34	b	5	10,000.00	2,000.00	400.00	160.00	2,560.00	104,788.80
LIBRARY, MEMORIAL	Expansion Study	35	b	5	15,000.00	3,000.00	600.00	240.00	3,840.00	108,628.80
POLICE	Mobile Data Terminals, 4 ea	37	c	5	16,000.00	3,200.00	640.00	256.00	4,096.00	112,724.80
FIRE	Exhaust System, Acton Center Station	38	c	10	3,400.00	340.00	136.00	61.20	537.20	113,262.00
HIGHWAY	1 Ton Dump Truck Replacement	39	c	5	25,000.00	5,000.00	1,000.00	400.00	6,400.00	119,662.00
MUNICIPAL PROPERTIES	Ice House Pond Excavation	51	c	10	30,000.00	3,000.00	1,200.00	540.00	4,740.00	124,402.00
					556,000.00	92,900.00	22,240.00	9,262.00	124,402.00	

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

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

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

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

*Excerpt from MGL Ch. 40A Section 9, Special Permits*

Procedural Requirements  
for Special Permits

Zoning ordinances or by-laws may provide that certain classes of special permits shall be issued by one special permit granting authority and others by another special permit granting authority as provided in the ordinance or by-law. Such special permit granting authority shall adopt and from time to time amend rules relative to the issuance of such permits, and shall file a copy of said rules in the office of the city or town clerk. Such rules shall prescribe a size, form, contents, style and number of copies of plans and specifications and the procedure for a submission and approval of such permits.

Mandatory Rules by Special  
Permit Granting Authority

Associate Members  
for Planning Boards When  
Acting as Special Permit  
Granting Authority

Zoning ordinances or by-laws may provide for associate members of a planning board when a planning board has been designated as a special permit granting authority. One associate member may be authorized when the planning board consists of five members, and two associate members may be authorized when the planning board consists of more than five members. A city or town which establishes the position of associate member shall determine the procedure for filling such position. If provision for filling the position of associate member has been made, the chairman of the planning board may designate an associate member to sit on the board for the purposes of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the planning board or in the event of a vacancy on the board.

Application Filed with  
Municipal Clerk

Each application for a special permit shall be filed by the petitioner with the city or town clerk and a copy of said application, including the date and time of filing certified by the city or town clerk, shall be filed forthwith by the petitioner with the special permit granting authority. The special permit granting authority shall hold a public hearing, for which notice has been given as provided in section eleven, on any application for a special permit within sixty-five days from the date of filing of such application; provided, however, that a city council having more than five members designated to act upon such application may appoint a committee of such council to hold the public hearing. The decision of the special permit granting authority shall be made within ninety days following the date of such public hearing. The required time limits for a public hearing and said action, may be extended by written agreement between the petitioner and the special permit granting authority. A copy of such

Public Hearing Within  
65 Days After Filing

Decision Within 90 Days  
After Hearing

Mutual Extension of Time

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

*John Murray*

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

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

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

Thank you for your time and consideration

PALMER AND DODGE INTERNAL QUESTIONNAIRE

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

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

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



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

Name of department/board CONSERVATION

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

**WETLANDS PROTECTION ACT**

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

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

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

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

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

Conservation will require advise on issues related to the Wetlands Protection Act with respect to our updated Bylaw, and Rules and Regulations. In this document we have created "setbacks" around all wetlands in Acton that could be challenged at some time in the next three years.

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

The establishment of no-build setbacks around wetlands could be challenged. Atty. A.H. Callaghan and Atty. Webber are very qualified to handle matters regarding local wetlands bylaw enforcement.

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

N/C

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

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

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

November 1991 until March 1992 - \$4,000.00

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

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

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

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

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

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

Atty. Acheson H. Callaghan

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

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

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

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

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

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



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

Name of department/board \_\_\_\_\_ Conservation Commission  
Andrew Sheehan, Chairman

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

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

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

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

Dates: 11/91 to PRESENT

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

Mike Callaghan and Rebecca Webber

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

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

For Conservation I expect it to be challenges to the Board's rulings under the Bylaw. The best lands in town are developed and development will occur on primarily marginal lands, cases similar to 163 Pope Road are likely to occur again - we would also seek legal advice on any changes to the Bylaw or Rules and Regulations, as in the past.

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

I feel they are sufficiently able to represent Conservation in matters of litigation involving the Wetlands Bylaw. The representatives we have met with have both environmental litigation experience and experience evaluating the strength of the case as it pertains to Conservation.

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

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

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

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

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

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

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

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

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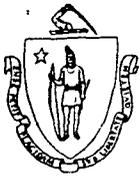
Atty. Acheson H. Callaghan

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

Four (4)

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

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



# Massachusetts Office On Disability

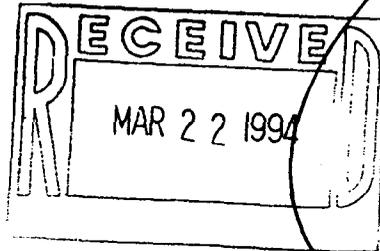
One Ashburton Place, Room 1305

Boston, MA 02108

William F. Weld, Governor  
R. Speed Davis, Director

[617] 727-7440 Voice & TTY  
[800] 322-2020 Voice & TTY  
[617] 727-0965 FAX

March 15, 1994



cc: BOS  
D. HOWE  
GARRY RHODES  
CATHY BELBIN

FYI

Dear Friend:

It's been a long, hard winter, but I'm assured that spring is indeed on its way.

It's been a very busy time here at MOD. With so many people isolated at home due to the bad weather, our phones have been ringing non-stop. This is at a time that we are short-staffed due to budget cuts.

As you can see from the attached material, much planning and other activity has been taking place here. We hope you will be able to participate in some of the upcoming trainings and/or legislative efforts. It's only with your participation that this office is effective.

I hope to see you soon.

Sincerely,

R. Speed Davis  
Director



# Massachusetts Office On Disability

One Ashburton Place, Room 1305

Boston, MA 02108

William F. Weld, Governor  
R. Speed Davis, Director

[617] 727-7440 Voice & TTY  
[800] 322-2020 Voice & TTY  
[617] 727-0965 FAX

March 14, 1994

TO: Interested Persons  
FROM: Kathy Gips  
Assistant Director for Community Services

The snow is finally melting and we are looking forward to warmer and more accessible weather! Here is a variety of information and activity that we thought you should know about:

- Please save the dates - the New England Disability and Business Technical Assistance Center (N.E.DBTAC) is sponsoring an Americans with Disabilities Act Conference on Thursday June 9 and Friday June 10 at the Royal Plaza Hotel in Marlborough. People from all of the New England states will be invited to participate. Officials from the Department of Justice, the Equal Employment Opportunity Commission, the U.S. Access Board and the Department of Transportation will present information and answer questions on ADA policy, implementation and enforcement. Registration costs will be minimal. There will be some stipends available. You will be receiving the brochure and registration form by the beginning of May.

- The Community Access Monitor (CAM) training schedule for 1994 is shaping up:  
April 20 and 21 - Wareham (almost Cape Cod)  
May 18 and 19 - Somerville (near Boston)  
June 29 and 30 - Springfield (Western Mass.)

September, October and November - Milford (Central Mass.), Taunton (Southeast Mass.) and Northeast (probably Haverhill area). Not necessarily in that order. We will send out a more definite fall schedule in a few months. Unfortunately we have had to cut the number of CAM trainings from 10 a year to 6 a year because of budget restrictions.

For anyone who doesn't know, the Community Access Monitor Project is an effort to increase compliance with the Americans with Disabilities Act (ADA) and the Mass. Architectural Access (AAB) regulations in businesses, non-profit organizations, state agencies, county government and municipalities through monitoring and advocacy by volunteers. The two day training covers the requirements of the AAB and Titles II and III of the ADA. People who agree to be monitors are expected to conduct a minimum of four access surveys a year. The training is beneficial for anyone who wants to learn more. You do not have to become a monitor to attend.

Flyers and registration forms are sent to everyone on our mailing list who lives in and near the municipality where the training is being held. If you would like to receive information on a training outside your area please call the office and leave your name and address and the training in which you are interested.

- Speaking of access, Town Meetings are upon us. Is yours accessible? As I hope you are aware, access means more than ramps and grab bars. Your Town Meeting should include sign language interpreters for people who are deaf, assistive listening devices for people who are hard of hearing, braille or audio tape of print material for people who are blind and large print material for people who have low vision. At a minimum these items should be provided upon request and notice of such should be sent out as part of the Town Meeting notice. We have fact sheets on all these items. Please call if you need information.

- Two recent Americans with Disabilities Act legal decisions particularly affect municipalities. One concerns curb cuts and street resurfacing and the other concerns TDD/tty requirements for municipalities that have emergency 911 services.

A Court of Appeal upheld a federal district court ruling that the resurfacing of streets triggers a duty under Title II of the Americans with Disabilities Act to install curb cuts. The suit concerning Philadelphia compels the installation of curb cuts on all streets resurfaced since January 26, 1992, the effective date of Title II of the ADA. Under Mass. Architectural Access Board regulations the reconstruction of sidewalks (but not streets) triggers a requirement for curb cut. This federal ruling clarifies that the ADA requirements go beyond our state requirements. Departments of Public Works (municipal, county and state) take note!

New York City discriminated against people with hearing and speech disabilities by failing to provide direct access to 911 emergency phone services for TDD/tty users according to another federal district court. Requiring TDD/tty users to use a seven digit number or to use the relay system violates Title II of the Americans with Disabilities Act which went into effect January 26, 1992. Municipalities in Massachusetts should not wait for E911 to provide direct access for TDD/tty users. If your municipality has 911 service it must respond to TDD/tty calls now.

- Money - There's not much available, but municipalities should be aware of a few federal and state programs. The federal Land and Water Conservation Fund program and Mass. Self-Help/Urban Self-Help grant programs may be used by municipalities for development of outdoor recreation projects: fishing piers, playgrounds, stadiums, picnic areas, etc. Many municipalities have used these funds to make existing facilities accessible or to build new, accessible facilities. The grants are competitive. Application filing deadline is June 1. For more information call the Division of Conservation Services (617) 727-1552 ext. 290.

Community Development Block Grants are another source of funds for municipalities. Communities with populations 50,000 and over plus some smaller communities are "entitlement" communities and receive a certain amount of Block Grant funds from the U.S. Department of Housing and Urban Development every year. Communities with

population under 50,000 are eligible for the funds through the Small Cities Program, a competitive program which is administered by the Mass. Executive Office of Communities and Development. The money may be used for a variety of access projects. In entitlement communities contact your municipal office of planning and community development (the name is somewhat different in different communities) to find out how the money gets dispersed. To find out more about the Small Cities Program contact the Mass. Executive Office of Communities and Development (617) 727-0494.

- Several communities are starting volunteer accessible parking patrols. The patrol usually members of the disability commission, monitors accessible parking spaces (often called "handicap" spaces) and submit information on violations to the police for ticketing. Acton, Natick and several other commissions are pioneering the process. (See enclosed legislation information on a parking patrol initiative.)

We are also encouraging municipalities to use the money from accessible parking violations to benefit people with disabilities in the community. Mass. General Law Chapter 40 Section 22G allows municipalities to funnel the funds to "be used solely for the benefit of persons with disabilities...upon the recommendation of the commission on disabilities". For more information on the patrol or the law call our office.

- Many people have been asking about the amendments to the Architectural Access Board's regulations which were proposed in the fall. The amendments are intended to make our state regulations substantially equivalent to the Americans with Disabilities Act Access Guidelines (ADAAG). The Board is in the process of reviewing all the comments and will probably not amend the regulations before this summer. Meanwhile the U.S. Department of Justice is considering adopting an amended version of ADAAG which will contain requirements for courthouses, detention and correction facilities and residential housing. In the next few years ADAAG will probably be amended to include requirements for children's areas and recreation areas. We will try to keep you informed as these changes become law.

- We've been conducting Americans with Disabilities Act presentations in many cities and towns for municipal department heads and/or the business community. If you would like to set-up something in your community please give us a call.

- We keep lists of all the commissions on disability and municipal ADA coordinators in the state. If you change chairpersons, add new members, change the name of the commission or change ADA coordinators please send us the information so that we can keep our lists current. Call if you would like a copy of either list. If you want to form a commission on disability in your community call and we'll send you the necessary information.

- Please look over the attached list of legislative priorities. We'll be glad to send out copies of any of the bills and/or a list of legislators' names, districts, and phone numbers.

- If you would like future mailings in large print, braille or audio tape let us know.

## **SPONSOR LIST GROWS FOR HEALTH CARE RALLY!**

The Rally for Health Care for Americans with Disabilities is gaining great momentum. The sponsor list has reached 21 organizations, with groups joining daily. Check out the list at the bottom of the page and call if you wish to join.

Also, the rally date, time, and location has been set:

## **RALLY FOR REAL HEALTH CARE FOR AMERICANS WITH DISABILITIES**

**FRIDAY, APRIL 8, 12:00 NOON START**

**BOSTON CITY HALL PLAZA**

People can park their cars and vans on the plaza right outside the rally site, while the accessible T stops, Downtown Crossing on the Orange Line and Park Square on the Red Line, are a couple blocks away. The rally area is covered and will be shielded from wet weather. This is a rain - or - shine event!

The speaker list is being honed down. All of the Massachusetts Congressional delegation have been asked to attend. Please contact your Congressman; ask him to attend to show his support for a national attendant program, no more pre-existing condition clauses, and benefit packages that address the needs of all Americans.

For more information contact Fred Fay at (508) 371-0992 or Bill Henning at CORD at (508) 775-8300.

Current sponsors include:

ADAPT of Massachusetts, Ad Hoc Committee on Health Care Reform on Disability, Bay State Council of the Blind, Boston Center for Independent Living, Boston Woman's Health Book Collective, Cape Organization for Rights of the Disabled, Disability Rights in Voter Empowerment, Federation for Children with Special Needs, Greater Boston Chapter National Spinal Cord Injury Association, Health Care For All, ILC North Shore, Massachusetts Coalition of Citizens with Disabilities, Massachusetts Coalition of Disabled Advocates, Massachusetts Developmental Disabilities Council, Massachusetts Home Care Coalition, Massachusetts Office on Disability, Massachusetts Woman's Health Care Coalition, Northeast Independent Living Center, Self Help for Hard of Hearing - North of Boston, Southeast Center for Independent Living, Stavros Independent Living Center, United Cerebral Palsy Metro Boston.

cc: BOS

# VOTE NO On Article 34

## **PROPERTIES ALREADY AVAILABLE IN ACTON**

Between December 1992 and March 1, 1994, 65 condominiums priced from \$20,800 to \$100,000 were sold in Acton thus providing housing for low and moderate income families. One of every four housing units in Acton is a condominium with an average 1994 assessed valuation of \$78,272. Current State funding for affordable housing provides strong financial preference to rehabilitation with minimal dollars designated to new construction. ACHC has stated that they prefer new homes over resales to avoid repairs. They have also stated that they have a mandate from the Master Plan to create affordable housing. The Master Plan sets many goals including preservation of open space, clean air, protection of property values as well as affordable housing. We believe that the primary purpose of the Master Plan is to protect the interests of the citizens *currently* living in Acton.

## **"LOCAL PREFERENCE" MISSES TARGET BUYERS**

ACHC plans to sell the houses to any financially qualified, first-time buyer who is: 1) a town employee, 2) a current Acton resident, 3) an adult child of an Acton resident or 4) any person working in Acton. The fact is that *anyone* who desires to live in Acton is eligible for a number of these houses.

## **NO GUARANTEES**

ACHC is asking voters for a blank check. "The vote will not approve any particular development plan" (ACHC Letter to the Editor, March 10, 1994 Beacon). Article 34 states that the development plan must be approved by relevant town boards. However, there is no guarantee that the environmental concerns of surrounding neighborhoods will even be addressed. This blank check approach is scary. Once the check is signed, voters lose control of the development.

*If you would like more information, please contact any of the following:*

**Ben V. Walker — 897-5253**

**Laura and Julian Horn — 897-6167**

**Mrs. William Jones — 897-4611**

**Bruce and Barbara Hettick — 897-5332**

**IMPORTANT INFORMATION FOR ACTON VOTERS**

# ACTON TOWN LAND GIVEAWAY AT WHAT COST!

***Vote NO on Article 34 at the Acton Town Meeting on April 4, 7:30 PM at the Acton-Boxborough Regional High School.***

Acton Community Housing Corporation (ACHC), a private corporation, wants voters to donate town-owned land on Adams and Parker Streets for the purpose of building low-cost, prefabricated subsidized housing. We are Acton residents who have researched and evaluated this article and we have walked the land. This article is not in the best interest of taxpayers, surrounding neighborhoods, and potential buyers.

***Vote NO for the following reasons:***

## **ADVERSE ENVIRONMENTAL IMPACT ON NEIGHBORHOODS**

The Adams Street land abuts the soon-to-be upgraded and expanded Maynard sewage plant and functions as a natural but narrow buffer between surrounding homes and the plant. The persistent sewage odor and industrial strength lighting are now blocked by the mature forest growth. Removal of any of this growth for any construction would increase detrimental effects to the neighbors and the new buyers. Locating new homes within clear sight and smell of the sewage plant is absurd. Some homes will be sited within 100 feet of the plant. Many residents feel that it is inappropriate for the Town of Acton to locate subsidized housing on such an offensive site.

Acton is currently negotiating with Maynard to use the Maynard sewage plant to service problem septic areas in Acton. As septic systems age, more areas will need to hook up. Enlargement of the plant is inevitable. Maintaining the current narrow buffer of trees is critical. As the plant engineer says, "We ain't growing roses down here."

## **INCREASED COST TO TAXPAYERS**

ACHC has stated that building houses on this land would create revenue for Acton. But at what cost! The yearly taxes from the 8 houses priced at \$94,500 will meet only a fraction of the cost of town provided services. Since these units are subsidized housing, their future values will be capped; consequently, they will never generate enough taxes to pay the escalating costs of town services. Annual taxes from each house would be \$1,700 while the cost of educating one pupil in Acton is \$5,600 per year. Acton taxpayers will support an increased tax burden. The Adams Street land currently provides a valuable environmental function at no cost to the town.

IMPORTANT INFORMATION FOR ACTON VOTERS

cc: BOS

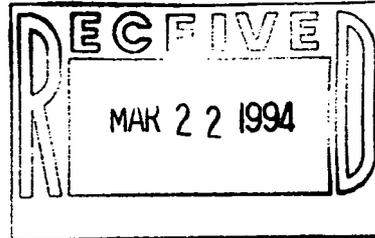
D. CHARTER - PLEASE COMMENT.

PATRICIA FONDA SAWYER

127 CONCORD ROAD

ACTON, MASSACHUSETTS 01720

V  
3/23



March 18, 1994

Board of Selectmen  
Town Hall  
Acton, MA. 01720

Dear Mr. Mullin,

I am writing in regard to Article 26 on the Town Warrant.

Last summer I put in an exhaustive study on repairs to the "existing" dam at Ice House Pond. I started with Mr. Rhodes to Mr. Apt. to Mr. Richards (it may not be in that order). I was finally put in contact with Alan Vitukevich of Aberjona Engineering Inc. in Winchester, MA. Through Alan I was sent to Anticeto in Milford, MA. At my own expense I had a second study done as one was done in 1991. Anticeto proposed a detailed estimate on the work to the dam. I have it here. The total came to \$24,000.

I feel it would be a huge cost to the Town to construct another control structure when you already have one. Dana and I have for years offered to work with the Town on this issue. I would like my dam fixed and you would like to control the water. Could we not work together?

I don't think the Town's people really know what is involved in the control of this water. I have documents that date back into the 1800's concerning water flow and water rights etc. This could become a huge issue with all sorts of departments if another structure were to be built.

I also have the State dam inspection reports from Mr. Paul Silva which I received in 91.

Look forward to hearing from you.

Sincerely,

*Patricia Sawyer*

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION  
TOWN MANAGER'S OFFICE

\*\*\*\*\*

DATE: March 25, 1994

\*\*\*\*\*  
\*\*\* ULTRA CONFIDENTIAL \*\*\* ULTRA CONFIDENTIAL \*\*\*  
\*\*\*\*\*

TO: Board of Selectmen  
FROM: Don P. Johnson, Town Manager  
SUBJECT: Maynard Negotiations

Doug Halley, John Murray and I met with Mike Gianotis and Walter Sokolowski on Tuesday, March 22, for approximately 1 1/2 hours. The meeting was originally intended to be a negotiating session to determine what costs would be incurred and how they might be shared if we proceeded to develop preliminary information to support the decision making process. We then planned to return to DEP and discuss the type(s) of information that we might need and the support they might be able to give to the process.

During the session with Mike and Walter we spent no time on any of the intended discussions. Instead, we discussed the growing political problem with this issue in Maynard. Apparently they are being attacked personally and, at a minimum, their staff does not seem to have confidence in this endeavor.

The first indication that I had of a cooling on this matter was when I had difficulty getting the meeting scheduled. During the course of the meeting this sense was underscored in several ways:

1. They are being accused of violating the intent of the previous Town Meeting vote that instructed Maynard officials not to negotiate with Acton.
2. They are being accused of being the aggressors in pushing the Acton connection and they do not wish to be seen in this light. Consequently, they (staff) have asked that Acton initiate all future communications. (There is a belief on our side that they may even want such initiation to be written ... so they will have a paper trail.)
3. They have an Article on the Warrant for their May Town Meeting to appropriate design funds. Their feeling is that this Article can in no way refer to Acton or it will be defeated.
4. They are reluctant to be involved in the development of any technical information that would in any way relate to Acton. Therefor, they have suggested that we hire a consultant to revue public documents (their's) and determine answers to the technical and financial questions concerning any Acton tie-in. They have also expressed a preference that we not retain Dufresne and Henry for this purpose ... the concern being that Dufresne and Henry might be tainted, in the view of Maynard citizens, by their association with Acton.

I hasten to advise the Board that our relationship with the Maynard staff is quite amicable and, I believe, very straight forward and honest. I am confident that they are willing to put their best energies into a strong effort to see what is best for their community. Unfortunately, they seem to be receiving tremendous pressure from the community that tells them there will

be no deal, at any cost/benefit. With this kind of public reaction, I believe we are doing little more than going through the motions.

The sad part of all of this is that I see little way for us to do anything but proceed in good faith to develop information that will ultimately require someone to make a decision. I do not believe the decision will be made until folks are faced with a fish-or-cut-bait ultimatum. Actually, this is the only way Acton stands a chance of a favorable decision. If this issue should get to the Maynard voters with no more information than we or they currently have it would appear that the question would be defeated soundly, for the foreseeable future.

We are scheduled to meet with DEP on March 31. Hopefully we will find some way (the outfall pipe, for instance) that Acton becomes vital to the Maynard design. This would at least improve our negotiating position.

I will keep you advised.

A handwritten signature in black ink, appearing to be 'J. M. ...' or similar, written in a cursive style.

## Essential Information About the Local School Budget

In response to a request from our Interschool Council Representatives, Supt. Isa Zimmerman has provided the following answers to some of the budget questions frequently asked in our elementary schools. Additional information may be found in the Town Meeting Warrant and the school budget books which are available at the libraries, town clerk's office and police station. All budget articles will be discussed and voted on at Town Meeting, beginning Monday, April 4 in the high school auditorium and continuing for several nights. Each evening begins at 7:30PM and ends around 11 PM.

1. **Would you explain the school budget that is being presented at Town Meeting?** The budget being presented, referred to as the Maintenance Budget, continues to provide the services we are offering this year. It does not restore cuts made in previous years, but because of the growing school population, includes 5 additional teachers in order to maintain current class sizes. Because we have level funded the total cost of instructional materials for the past 3 years while school population grew 25.5% and inflation increased the cost of materials, we have also included an increase in the per pupil amount for FY '95 from \$70 to \$100. The Maintenance Budget requires passage of an override of \$397,272. The budget of the regional schools will not require an override vote.

2. **What happens if the Maintenance Budget is not approved at Town Meeting?** In that case, we will operate under the Reduced Budget which would require cuts totaling \$397,272 (see list below). An Override Election will not be scheduled.

3. **What happens if the Maintenance Budget is approved at Town Meeting but the override is defeated?** Again, the Reduced Budget would automatically go into effect requiring the following cuts:

- \* elimination of the Art, Music and Physical Education programs K-2, approximately (\$145,000). Phys. Ed. would be taught by classroom teachers.
- \* a cut of 1 FTE classroom teacher (\$35,000) from the additional proposed.
- \* elimination of the last 1 FTE Reading position (\$31,000).
- \* elimination of the only English as a Second Language Assistant (\$13,400).
- \* elimination of the proposed increase for instructional materials and supplies (\$63,000).
- elimination of the only Elementary Curriculum specialist secretary (\$10,000).

- \* elimination of .5 FTE Central Office Administrator (\$35,000).
- \* elimination of the only Library\Media Coordinator (\$45,000).
- \* reductions in professional development (\$8,000); research and development (\$4,500); textbooks (\$4,000); and legal services (\$3,372).

The list may be reviewed and revised by the School Committee but \$397,272 will need to be cut if the override fails.

The alternative to making these cuts is increasing class sizes beyond this year's numbers. Although we considered this option, class sizes are now the highest they have been in fifteen years. Currently, 64 of the 84 sections of the elementary school classes exceed the School Committee's class size policy. Grades 1-3 have classes ranging from 24-27 and grades 4-6, from 22-29.

4. **Why do we need an override?** The main reason we need an override is school growth. Since September '92, we have experienced a 25.5% increase in the elementary school population. Since September '86, the numbers have increased 39.2%. More students need more teachers, materials and classroom space.

Acton also has a very high proportion of households with school age children. The tax revenue derived from each household with children does not begin to cover the cost of school and town services.

5. **Is it true that the schools did not do what they said they would do after the override failure last year?** What is true is that 6 classroom teachers were not hired (one was ultimately funded by parents); reading services were reduced; 1 ESL assistant was eliminated; evening custodial services were cut, forcing users (scouts, etc.) to pay the cost of keeping the building open; curriculum specialists were reduced; reductions were made in maintenance, SPED administration, secretarial staff for facilities and business; and, the national California Achievement testing program was cut.

Contrary to our predictions, Merriam did open. This provided us the physical space needed and allowed us to move teachers and students voluntarily rather than by force. Minimal funding was provided to re-equip the classrooms. No library or cafeteria was provided and class sizes and funding per pupil were the same as in the other four schools. Parents and teachers contributed labor and money to subsidize the opening.

**6. Would you explain administrative staffing?** The Central Office has 5 administrators, 3 coordinators and 10 support staff. Support staff includes a telephone operator, secretaries, and staff in payroll and accounts payable. They administer both local and regional school systems with 4011 students and are responsible for combined budgets totaling \$21,268,820 and revolving accounts and grants totaling approximately \$4.5 million. Food Service, SPED transportation and Community Education are revolving accounts which are virtually self-funding.

For 2 of the past 3 years, one of the five Central Office administrative positions has been vacant. During the last year, reductions have been made in SPED administration and secretarial support for principals and business and facilities. The maintenance foreman's position was cut by 50%.

**7. Is School Choice causing the increases in class sizes?** We have accepted School Choice students only at grade levels where space was available. Currently, we have about 60 students in our elementary schools, including children of staff from other towns. Over the three years since the program began, we have received \$2,777,420 which has been used to hire staff, reduce assessments/costs to the town and provide materials, supplies and equipment. We project receiving approximately \$1 million in FY '95 of which \$120,000 will go to the local schools. This revenue will decrease over the next few years as our increasing in-town student population eliminates available elementary school seats.

**8. How is Education Reform affecting our local school budget?** The state has set a foundation budget that every community must meet in the next seven years. The Acton Public Schools are currently \$620,000 (calculated in FY '94 dollars) under the foundation level of spending set by the state. This amount will be adjusted each year under a complex formula to reflect growth in municipal revenue and school population. By approving the Maintenance Budget at Town Meeting and passing an override to fund that budget, we are able to close that gap more quickly.

The intent of the Ed. Reform Bill was to ensure that

communities fund at least a minimum level of education so that there will be greater equity throughout the state. Acton has received \$50 per pupil this year; next year, we expect \$25 per pupil. Due to its economic status, Acton will be expected to reach the foundation level primarily on its own.

**9. How would an override affect my taxes?** This year's override is the lowest ever requested in Acton. The cost of this override on a \$250,000 house would be approximately \$69 a year or \$1.33 a week.

**10. Will there also be an override for other town services?** No. Our municipal government has been able to remove major equipment purchases from their operating budget and ask that they be "bonded" over several years. Each of these items will be discussed and voted on at Town Meeting.

Additional information is available in the Town Warrant and the school budget book at the libraries, the town hall and the police station.

There will also be opportunity for discussion of all Warrant Articles at the Town Meeting beginning April 4 at the high school auditorium. The proceedings will be broadcast on local Cable Channel 61. All voting takes place at the Town Meeting.

If an override election is required, it will be scheduled in mid May.

Distribution paid for by Elementary School  
PTOs/PTSOs. 3/28/94

TOWN OF ACTON  
INTERDEPARTMENTAL COMMUNICATION  
TOWN MANAGER'S OFFICE

\*\*\*\*\*

DATE: March 28, 1994

TO: Charles Olmstead, Chairman, Finance Committee  
FROM: Don P. Johnson, Town Manager  
SUBJECT: FY95 Debt Proposal

During the Fincom's Budget Hearing on March 23, a question was asked regarding the influence of Excluded Debt on the Town's proposed borrowing plans. Upon reflection we see why the question occurred. This is the old story of being so close to the plan that we neglected to make the answer crystal clear in our presentation. The question was evidence that we should have been even more thorough in our annotation of the Chart on page 13 of the Warrant.

The Chart depicts total debt, including excluded and non-excluded debt. As either element changes the chart reflects the total change. The fact is that (without the proposed new program) both elements are declining at varying increments over the next several years. This is the phenomenon of which we propose to take advantage.

We have already indicated that the reduction of non-excluded debt costs will fund this proposed program, with the exception of a "blip" in FY96. The Chart properly shows this single-year problem. Our non-excluded costs will be reduced by \$59,000 in FY96 while the debt service on the first year of the proposed program is projected to be approximately 228,000 (based on



assumed issuing and interest costs, along with assumed duration of the various borrowing proposals). We have proposed a "Stabilization" Article to secure any unexpended or unanticipated revenues from Town Meeting and earmark them to be placed toward this condition. We would plan to continue to work toward a solution to this one-time problem but, obviously, any shortfall that might remain when we get to the FY96 Budget will have to be taken from the Municipal appropriation.

In FY97 we will see our total current debt decrease by another \$212,000. This will give us a total decline of \$271,000 over the two years. The total reduction in the non-excluded portion will be approximately \$203,000 by this time and our FY97 debt service on the proposed program would be only \$195,000. As you can see, the reduction in non-excluded will cover this cost.

FY97 requires the largest payment of any of the remaining fiscal year payments for the proposed new issue; therefore, once the non-excluded portion is reduced below this level in FY97, we will have covered the ongoing costs of the program. This is clearly a one-time opportunity to take advantage of the non-excluded portions of our debt costs.

I trust this helps to clarify why we believe so strongly in the program. Again, I am sorry that the Chart is not as descriptive as it might have been.

A handwritten signature in black ink, appearing to be 'Dan', is located to the right of the text block.

cc: Board of Selectmen

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

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

Name of department ~~Board~~ Planning

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

*Zoning - Review of Articles, Permit Decisions*

*Subdivision - Rules & Regulations, Decisions*

*General land use law & litigation (Acheson H. Callaghan; R.D.)*

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

*Meadowview Subdivision appeal 1988-1991*

*Foster Masonry Subdivision appeal 1985-1990*

*Lead counsel: Mike Callaghan*

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

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

*None*

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

Continued legal support on Zoning & Subdivision permits.

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

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

Best qualified for general Zoning & Subdivision.

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

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

Don't know

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

None

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

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

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

~ \$15,000. —

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

See answer to question #2.

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

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

See answer to question #2.

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

none

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

*In range of 1/3 or more for senior counsel (such as Mike Callaghan) of the broad range charged for town counsel services.*

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

*Mike Callaghan*

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

*5*

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

*No reason*

FILE COPY

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

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

Name of department/board Planning Board

1. What types of legal questions does your department currently and regularly need advice upon? (As to each such legal question please state the general area(s) of law practice involved). *Questions on proposed Zoning Bylaw amendments; review of draft decisions (subdivisions, special permits); review of proposed amendments to Subdivision and Special Permit Rules & Regs; and disposition of pending cases. General area = land use, municipal law*
2. Please list a specific legal matter in which you were pleased with representation. Please list the dates over which representation was extended, what areas of law practice were/are involved, the name(s) of the lead counsel on this matter, and the specific reasons that you were pleased.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*None*

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

*None*

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

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

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

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

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

*Unable to determine a fair compensation rate.*

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

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

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

*2*

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

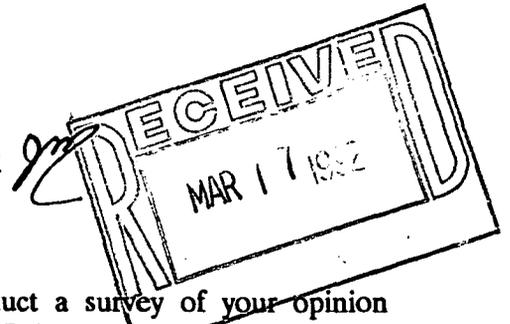
*If the Town retains Palmer & Dodge as Town Counsel, we should take advantage of the <sup>B</sup> broad range of experts & specialists available at the firm to send their best representative for a particular circumstance.*

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### *Comments on Survey*

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

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



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

Name of department/board assessors

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

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

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

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

*We've never been displeased*

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

*Appellate Tax Board*

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

*Appellate tax board work is our only need.*

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

*ditto*

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

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

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

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

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

So far \$6000

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

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

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

Please refer to question #2

most of our other cases were settled.

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

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

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

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

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

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

Unknown to me.

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

4

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

Continuity

Past Performance Rating

Diversity of their staff

Resources available to a large law firm with a good reputation

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

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

Name of department/board Police

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

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

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

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

*Civil Suits, Labor, Personnel*

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

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

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

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

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

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

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

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

1. The first part of the document discusses the importance of maintaining accurate records of all transactions.

2. It is essential to ensure that all entries are supported by appropriate documentation and receipts.

3. Regular audits should be conducted to verify the accuracy of the records and to identify any discrepancies.

4. The second part of the document outlines the procedures for handling any identified errors or discrepancies.

5. It is important to maintain a clear and concise record of all actions taken to resolve any issues.

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

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

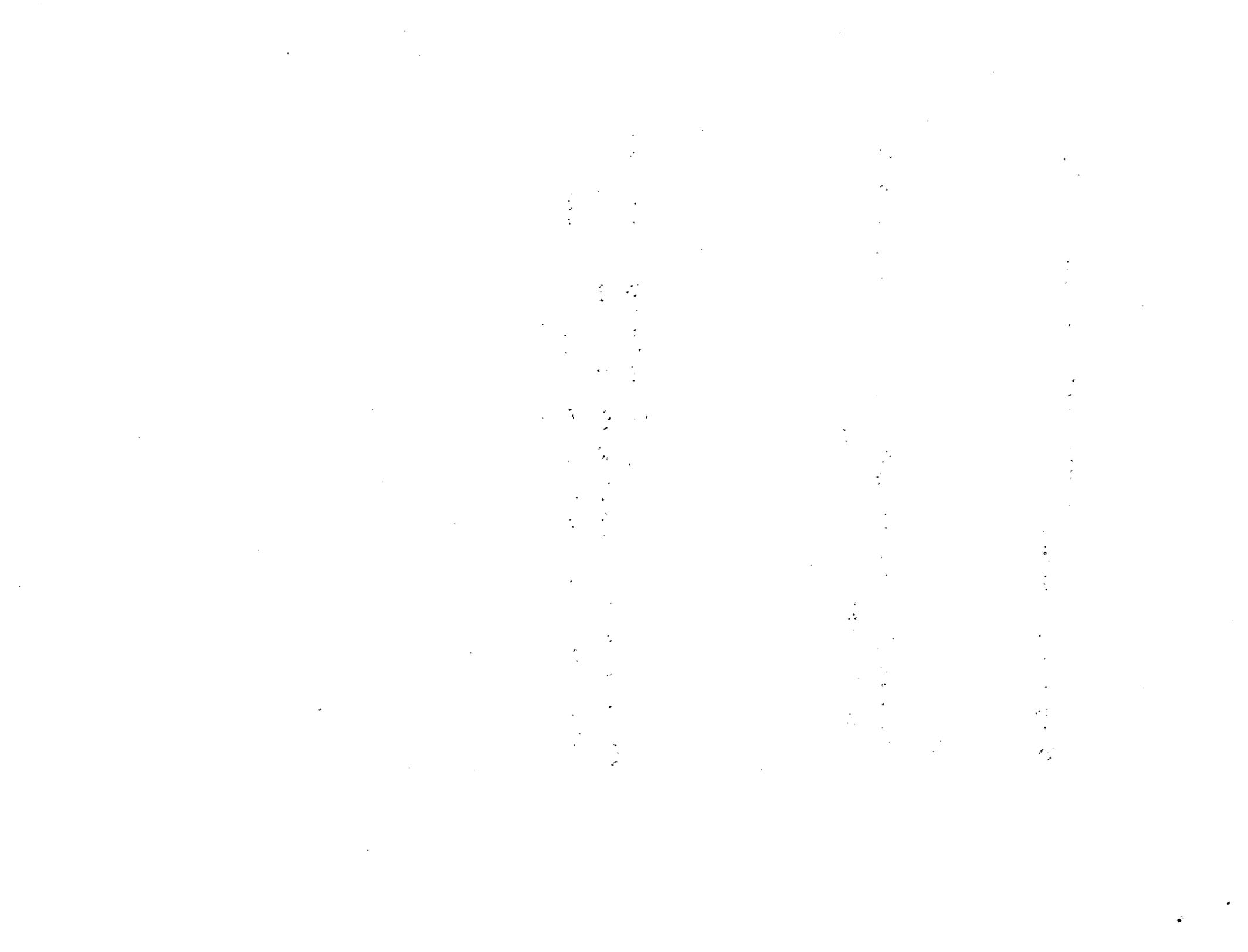
*Prevented the use of 111F benefits when sick time was the proper way to go.*

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

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

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

*N/A*



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

*The service is of high value. I don't know what they charge or what another ~~top~~ high powered firm ~~at~~ would charge so I can't compare to establish a rate. Every problem is different and requires a different level of expertise, the rates should reflect that level.*

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

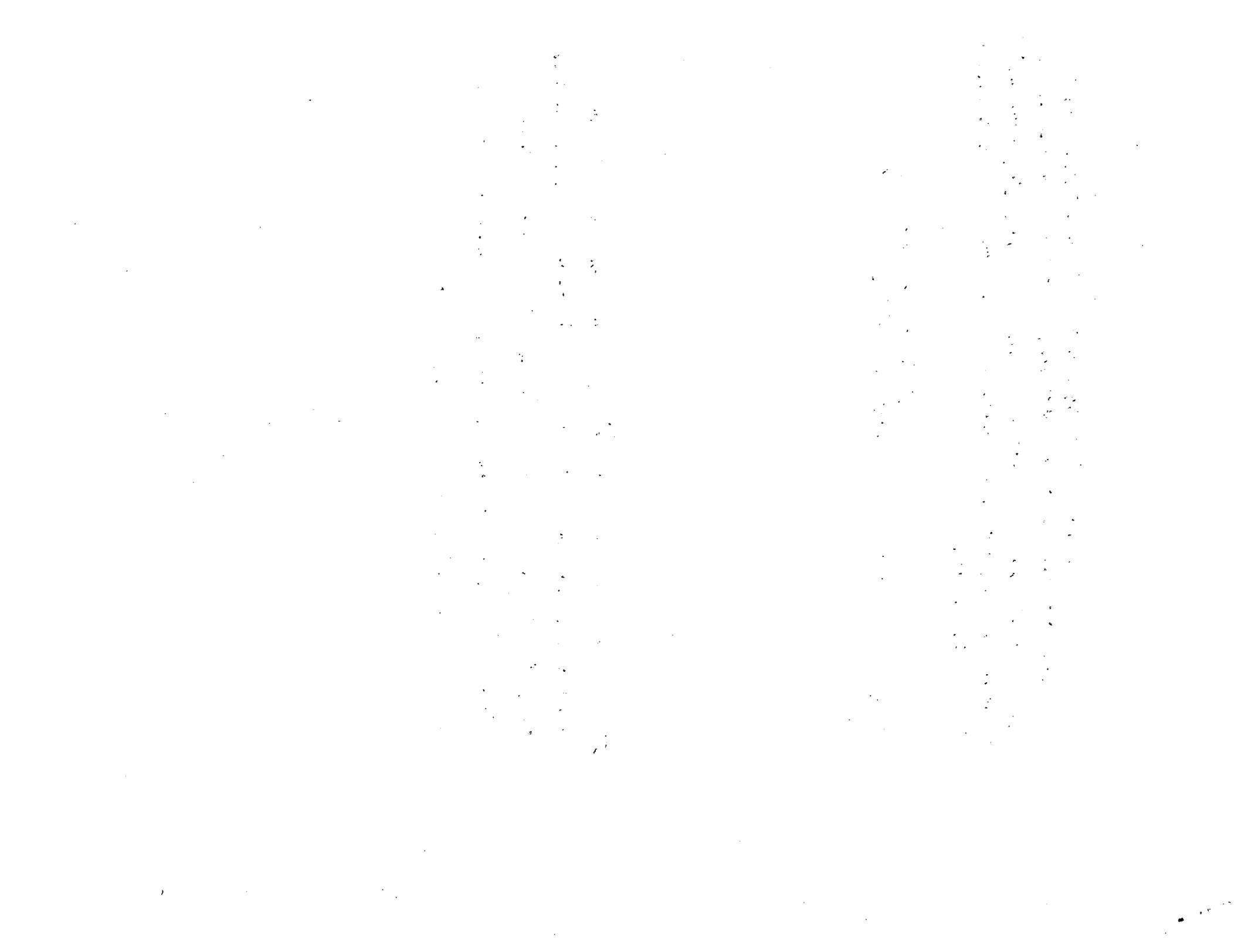
*This is usually done by Callaghan or through the managers office*

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

*4*

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

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



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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I do not have any needs that are not fulfilled.

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

Negotiations over legal actions, thereby saving legal expenses.

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

\$10,000      75 hours

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

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

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

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

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

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

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

Between \$100 and \$200 per hour.

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

Acheson Callaghan

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

5

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

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

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



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

Name of department/board BOARD OF APPEALS

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

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

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

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

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

None

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

To continue as needed.

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

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

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

None

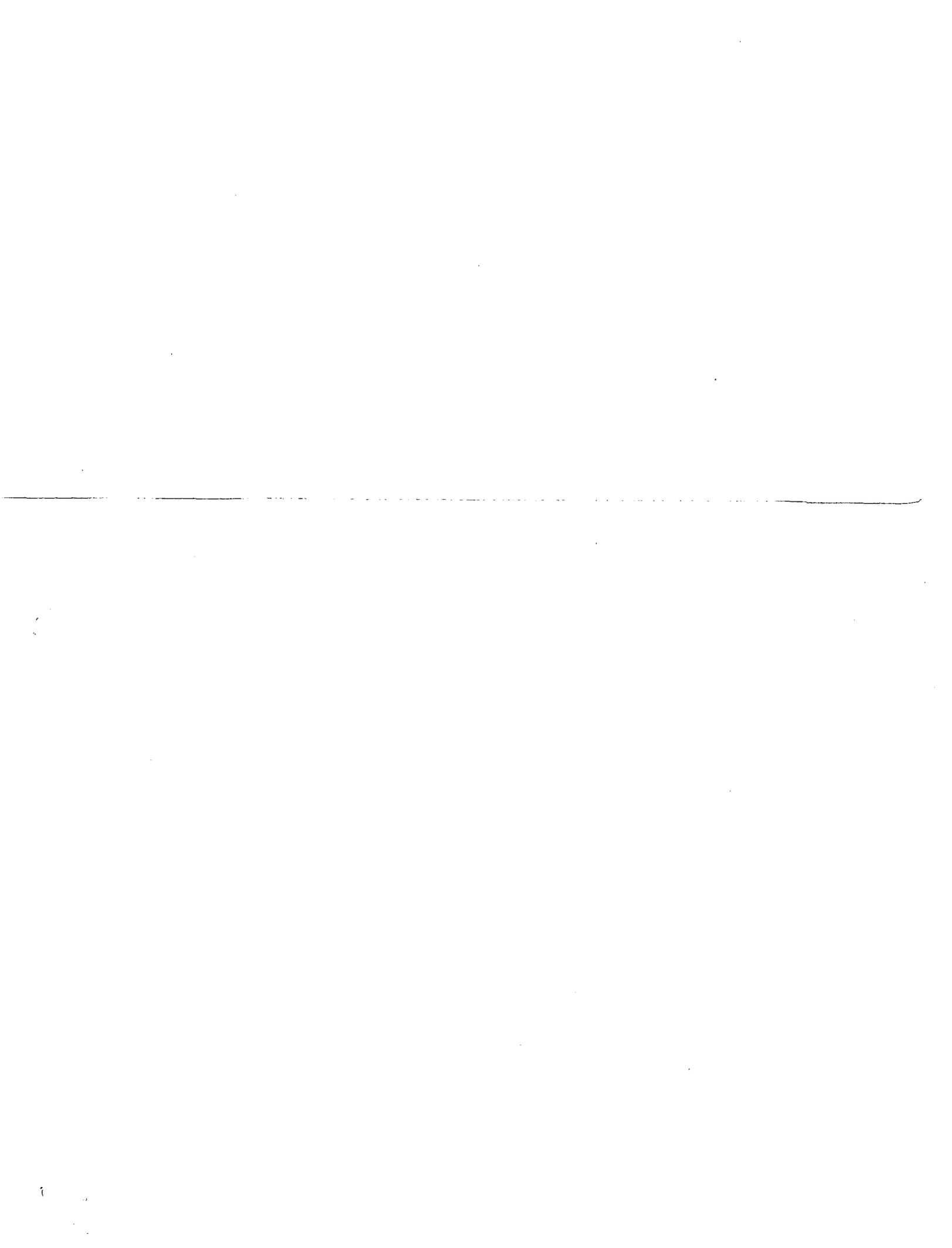
8. What, if anything, distinguishes the quality of the legal services offered by Palmer and Dodge?

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

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

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

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



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

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

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

5

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

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

MAR 17 1992

ACTION BOARD OF HEALTH

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

Name of department/board Health

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

HEALTH & ENVIRONMENTAL  
Contracts & Regulations

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

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

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

Drummer Farms Swimming Pool 1990 - 1991

Matthew McGrath

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

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The text also notes that clear and concise reporting is necessary for effective communication between different levels of management and for the public.

2. The second part of the document focuses on the role of internal controls in ensuring the reliability of financial information. It describes how a well-designed system of internal controls can help to minimize the risk of errors and misstatements. The text also discusses the importance of regular monitoring and evaluation of these controls to ensure they remain effective over time.

3. The third part of the document addresses the need for transparency and accountability in financial reporting. It highlights the importance of providing timely and accurate information to stakeholders and of being open to scrutiny. The text also discusses the role of external audits in providing an independent assessment of the financial statements.

4. The final part of the document discusses the importance of ethical behavior in the financial industry. It emphasizes that a strong ethical culture is essential for the long-term success and sustainability of any organization. The text also discusses the role of professional associations and regulatory bodies in promoting and enforcing ethical standards.

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

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

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

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

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

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

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

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

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

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



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

Have not utilized Palmer & Dodge this fiscal year

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

see question 2

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

see question 2

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

see question 3

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

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

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

Norm Cohen or Mike Callaghan

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

3

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

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

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The text notes that without reliable records, it would be difficult to track the flow of funds and identify any irregularities.

2. The second part of the document focuses on the role of internal controls in ensuring the accuracy of financial reporting. It describes how internal controls are designed to prevent errors and misstatements, and to ensure that all transactions are properly authorized and recorded. The text highlights that strong internal controls are a key component of an organization's risk management strategy.

3. The third part of the document discusses the importance of transparency and accountability in financial reporting. It notes that providing clear and concise information to stakeholders is essential for building trust and confidence in the organization's financial performance. The text also emphasizes the need for regular communication and reporting to ensure that all parties are kept up-to-date on the organization's financial status.

4. The fourth part of the document discusses the importance of compliance with applicable laws and regulations. It notes that organizations must ensure that their financial reporting practices are in full compliance with all relevant laws and regulations, including those related to accounting standards and financial reporting requirements. The text emphasizes that failure to comply with these requirements can result in significant penalties and reputational damage.

5. The fifth part of the document discusses the importance of ongoing monitoring and evaluation of financial reporting practices. It notes that organizations should regularly review their financial reporting processes to identify any areas for improvement and to ensure that they are keeping up-to-date with the latest best practices and regulatory requirements. The text also emphasizes the need for a strong culture of continuous improvement and learning within the organization.

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

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

Name of department/board Fire Department

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

Personnel Issues  
Collective Bargaining } Labor Law  
Grievances / Arbitration }

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

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

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

None

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

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

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

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

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

None

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

None

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

Nothing in particular - quality is adequate.

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

Hours - Several Hundred

Dollars - Not Known specifically.

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

No particular examples of cases having a particularly beneficial effect.

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

No particular examples of cases having a particularly beneficial outcome.

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

None

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

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

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

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

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

*4*

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

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

*Det C. Lang  
Acting Fire Chief*

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

MAR 18 1992

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

Name of department/board ENGINEERING

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

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

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

STREET ACCEPTANCES, YEARLY CATCH SPILLING

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

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

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

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

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

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

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

DON'T KNOW OF ANY -

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

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

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

DEPTH AND DIVERSITY OF STAFF

01

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

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

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

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

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

N.A.

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

N.A.

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

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

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

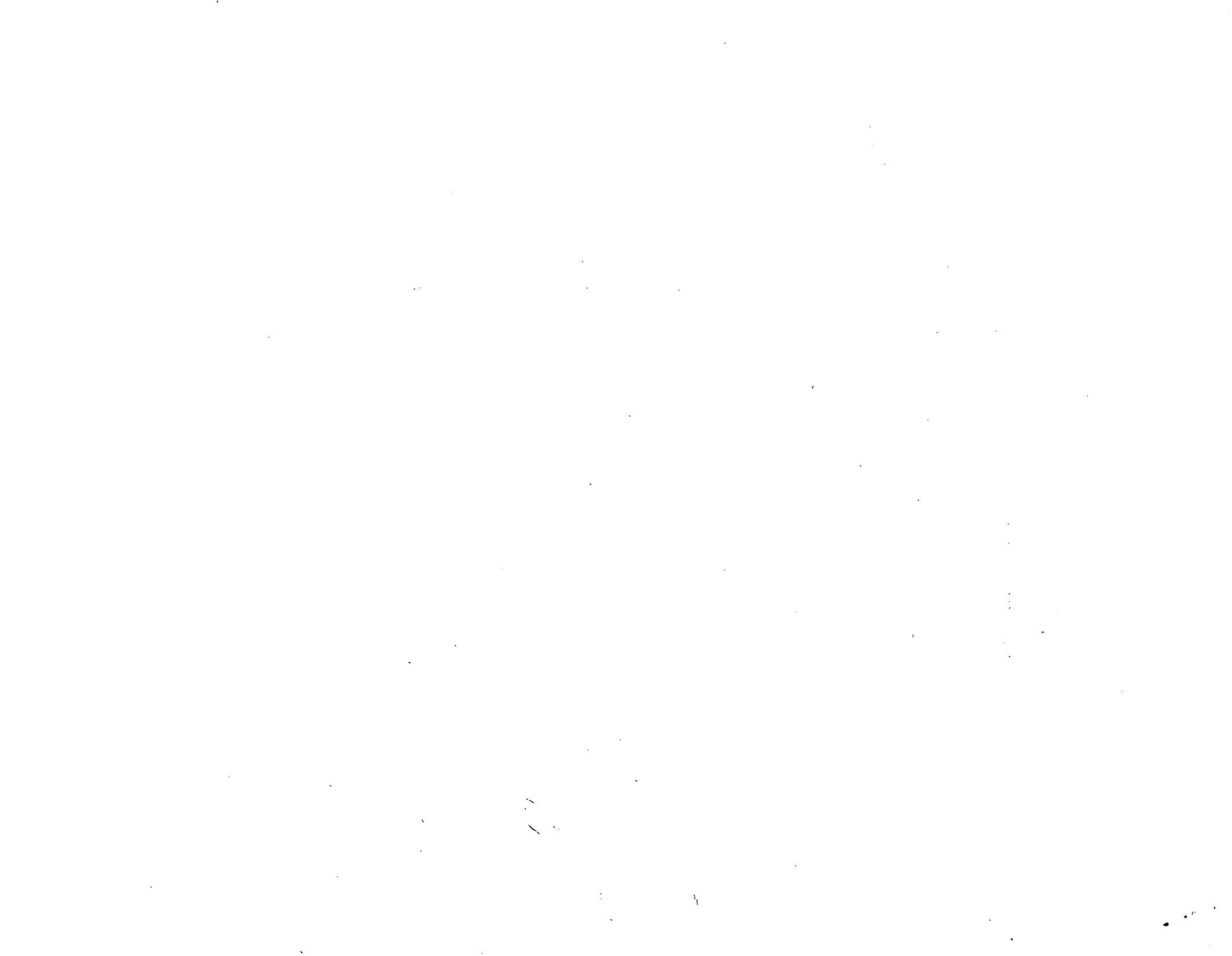
I THINK IT GENERALLY IS NORM COLTEN

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

4

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

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



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



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

Name of department/board MUNICIPAL PROPERTIES

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

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

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

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



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

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

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

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

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

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

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

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

HAVE NEVER GONE TO LITIGATION

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

SEE # 11 ABOVE



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

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

MIC CALAHAN, NOEM COHEN

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

4

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

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



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

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

MAR 25 1992

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

March 25, 1992

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

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

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

cc: Doug Halley, Health Director

SPR 2 1985

3, 17, 92-2

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



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

Name of department/board Nursing

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

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

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

We have received no legal representation to my knowledge.

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

N/A

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

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

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

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

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

**As above.**

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

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

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

**Not qualified to answer.**

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

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

# Legalities of Home Care

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## Facsimile Systems Revised: Focus on Confidentiality and Privacy

By Nancy J. Brent, RN, MS, JD

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

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

### PRIVACY AND CONFIDENTIALITY DEFINED

There is no question that a home healthcare agency and its

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

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

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

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

### SPECIAL GROUPS AND CONFIDENTIALITY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The presence or absence of a

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

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

In short, focusing on a preven-

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

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

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#### References

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

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## Letters to the Editor

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

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

2. We are not currently accepting facsimile transmissions from

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

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

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

Editor

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

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

Marge Middaugh, LPN

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

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

MAR 25 1992



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

Name of department/board Town Accountant

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

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

I would only use legal counsel if the Town Manager requested.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

Name of department/board Council On Aging

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

No need to date.

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

Have not needed representation to date.

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

N/A

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

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

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

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

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

See above.

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

No information for an opinion.

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

No experience with firm.

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

None

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

No case involving COA.

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

No case involving COA.

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

See above

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

Firm not used by COA.

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

See above.

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

No experience with this firm.

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

No opinion based on no experience with this firm.

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



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

Name of department/board Acton Memorial Library

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

In past years, the library has consulted Town Counsel about the status of library employees, relationship of Library Trustees to the Town Charter and Trust Funds. These inquiries required interpretation of state statutes.

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

Town Counsel has not represented the library.

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

Town Counsel has not represented the library.

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

The Memorial Library does not anticipate needing the services of Town Counsel within the designated time period. However, the Selectmen should be aware that there is always the possibility of a censorship related issues which would require legal services.

With respect to the Town's needs, it seems counsel would be required for issues related to zoning and appeals, tax-taking and union related concerns.

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

Not applicable

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

The Board of Trustees is unaware of Palmer & Dodge's expertise with library related issues (e.g. censorship, patron record confidentiality)

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

Not applicable

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

Palmer & Dodge is a well-established, respected firm with the ability to advise the Town on many issues. Is there any documentation on how many occasions lawsuits are settled without going to trial? If the incidence is high, it may be because the firm's reputation eliminates frivolous/nuisance complaints.

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

Zero

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

No examples

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

No examples

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

No examples

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

No experience

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

Town Manager's office

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

The library's limited experience would rate "4". In past years the Board of Trustees has requested (and received) opinions from Town Counsel, through the Town Manager's office. In some cases, it would have been helpful to have had direct access to counsel and been able to discuss the issue.

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

The library has insufficient experience with Town Counsel to offer an opinion. However, should a different firm be contracted for legal services would that decision not require a massive investment of staff time? It would seem that in many instances the new counsel would want past decisions, practices, cases reconstructed.

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



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

Name of department/board Town Clerk's Office

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

The Town Clerk's office uses legal counsel on election/town meeting questions, but very infrequently

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

N/A

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

N/A

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

I foresee no additional need for legal counsel in the next few years.

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

N/A

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

N/A

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

N/A

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

My experience with legal services provided for town clerk questions is limited to dealings with Palmer & Dodge (more specifically Mike Callaghan & Norm Cohen). Thus, I cannot make any comparison.

On a strictly "professional services" basis Palmer & Dodge shines, providing prompt, complete and definitive responses.

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

About one hour of service plus/minus \$100.

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

N/A

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

N/A

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

N/A

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

Refer to #9

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

N/A

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

5

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

From discussions of town clerks' problems with other town clerks, I have noted that Acton's legal service/support is far better than many towns. The only other town clerk who appears content with the town's legal services is the Lexington town clerk where Palmer & Dodge serves as legal counsel.

Since Palmer & Dodge is a top legal firm with a diversified staff which serves Acton well, I would vote to maintain it.



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



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

Name of department/board Citizens Library/Board of Trustees

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

The Citizens Library/Board of Trustees have not used the legal service of Palmer and Dodge.

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

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

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

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

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

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

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

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

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

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

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





3/1/94  
full copy

9.C	Acton Public Budget	Doré
A*	Section 53E½ Revolving Funds	Nancy
C#	West Acton Citizens Library Budget	Ann
F*	Storm Appropriation	Nancy
E	Use of Free Case to Reduce Tax Rate	Nancy
LL	Affordable Housing-Adams Street	Nancy
G*	Cemetery Land Fund Transfer	Bill
H*	Alternative Revenue Sources	Ann
I*	Chapter 90 Highway Reimbursement	Nancy
J*	Acceptance of Land Gifts	Norm
K*	Street Acceptance	Bill
L*	Charter Road Sidewalk Easement-Richards	Doré
M*	Charter Road Sidewalk Easement-Smith	Doré
N*	Charter Road Sidewalk Easement-Sackman	Doré
O*	Main Street Easement	Bill
P	West Acton Village GB & LB Districts	Ann
Q	West Acton Village Residential District	Ann
R	Parking in Village District	Ann
S	Site Plan Special Permit Village Dist.	Bill
T	Tract of Land Required for Developments	Norm
U	Max. Residential Component in PUDs	Ann
V	Correction to Zoning By-Law	Nancy
W	Handicapped & Van Accessible Parking	Doré
X	Change Common Drive Special Permits	Doré
Y	Eliminate Certain Special Permits	Doré
Z	Permit Tertiary Wastewater Plants	Doré
AA	Eliminate Dimension Special Permits	Doré
DD	Hearthstone Farm Acceptances	Norm
FF#	Nashoba Valley Trailers Zoning Change	Norm
GG	Public Use of Land by other agency	Ann
II	Amend By-Law Chap. E re dog licenses	Doré
JJ	Amend Historic District By-Law	Doré
KK*	Remove Police Chief from Civil Service	Doré
MM#	Committee to Study Municipal Power	Bill
HH	Accept MGL c.140s.147A re Dog Fund	Nancy
NN	School Teachers Early Retirement	Bill
-----		
BB	Planning Board Associates to Vote	Deleted 2/22?
CC	Charter Change for Planning Associates	Deleted 2/22?
EE	Change in Child Care Requirements	To Be Deleted

**FLANAGAN & HUNTER, P.C.**  
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211 CONGRESS STREET  
BOSTON, MASSACHUSETTS 02110-2434

**TELEPHONE: (617) 482-3366**

**FAX: (617) 482-3467**

**FAX COVER SHEET**

**DELIVER TO: DON JOHNSON**

**AT: Acton Town Hall**

**FAX NUMBER: 508-264-9630**

**FROM: F. DORÉ HUNTER**

**Number of Pages, Including this Cover Sheet: 3**

**COMMENTS: FOR SELECTMAN'S EXTRA INFORMATION.**

**DATE: February 28, 1994**

**FILE NO. None**

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2nd Draft Introduction for Warrant-2/28/94

**Differing Warrant Format & Size**

The format of this Warrant is different, and there are more Warrant Articles this year. This is largely due to the municipal financing changes brought about by the Legislature's enactment of the Education Reform Act of 1993.

**The Education Reform Act of 1993 Reduces Role of Town Meeting**

Although the wide ranging Reform Act addressed many educational matters, it also has an enormously negative impact on municipal finance. The Legislature decided to meet the Commonwealth's responsibility to adequately fund education, by taking discretion out of the hands of Town Meeting members as to how the local property tax revenues will be spent, and itself mandating the local appropriation of a large part of the locally raised money. As a condition for the transfer of some of the citizens' own tax dollars back from the state in the form of aid to education, restoring that aid level to about what it was in fiscal year 1989, the legislature and governor have imposed mandatory school formula spending requirements on municipalities. While undoubtedly benefiting the schools, the effect on the Town is that a progressively smaller share of the tax monies raised by the municipality will be available to provide non-education municipal services like police, fire, highway, library, health, zoning, etc.

More services are delivered to the average citizen by local government than other levels of government. Our Town Meeting form of self government, while some times inefficient, has been an outstanding vehicle for the involvement of a large number of citizens as governmental decision makers, determining for themselves what use would be made of the local portion of their tax dollars. Unfortunately the Education Reform Act of 1993 has taken a large part of local decision making discretion away from Town Meeting in the process of making the most radical change in municipal finance since the enactment of Proposition 2½ in 1981.

During the prosperity of the 1980s state aid to towns was markedly increased, and that combined with the tax limitations of Proposition 2½, helped to shift some of the overall tax burden away from the local property tax levy. At the same time school enrollments were declining, so the municipal services to which the taxpayers were accustomed were maintainable. In 1989 the "Massachusetts Miracle" collapsed, and state financing fell into chaos. During the next few years the legislature put the state financial house in order, in large part by drastically cutting back on local aid. During that period in Acton we continued to increase the overall monies spent on education, actually a state responsibility, and other municipal services, in part through overrides of Proposition 2½ - by raising local taxes. But we were

also forced to make cuts and reductions in some services. Those cuts and reductions were distributed relatively equally across the full range of municipal services, they fell on both the schools and Town sides. During the same period that the legislature was so markedly reducing state aid it increased the size of the state budget by about 30%.

In 1993 Acton voters declined to approve a Proposition 2½ override. In making that decision the Acton voters were aware that the impact would fall relatively equally on both the schools and the Town sides of municipal government. In 1993 the Legislature voted to return the local aid to about the 1989 level, but they also essentially earmarked it all for education. The legislature then intruded into the Town Meeting process to dictate to the Meeting how it must make its financial decisions in appropriating local revenues, if the community is to receive that aid.

#### **The Reform Act Formula**

Acton has had some of the best but also some of the most cost-efficient school systems in the state. But the new Education Reform Act requires that school systems spend an ever increasing sum of money, determined by a formula which does not distinguish between the spending practices of efficient managers and those of wasteful organizations. Acton has historically been one of the top communities in the Commonwealth in regard to the proportion of municipal revenues devoted to education, and co-relatively one of the lowest in proportion of revenues available for municipal government, but the application of the Reform Act formula to Acton requires that additional monies be retroactively provided by the Town to its school system during Fiscal Year 1994, the current budget year, over and above what Town Meeting appropriated last year. Therefore Articles Nos. \*\*\*\* and \*\*\*\* propose that \$\*\*\*\* be transferred to the schools immediately from free cash to spend as the school administration might chose. Such monies are entirely separate and distinct from the so-called School Choice monies which flow to the schools without appropriation and are spent entirely at the discretion of the School Committees. Articles Nos. \*\*\*\* and \*\*\*\* represent the final version of the retroactive levies dictated by the state Departments of Education and Revenue which the Board of Selectmen discussed at length during the Fall of 1993.

Although the retroactive financial impact of the Education Reform Act on the Town for fiscal 1994 can be resolved by the required appropriations from free cash, the situation for fiscal 1995 and future years is an entirely different matter. The Reform Act formula now determines the size of the schools' "B" Budget, i.e. the schools' non-Proposition 2½ override budgets. However, Proposition 2½ still remains in effect and continues to limit the total property taxes which can be levied by the Town. Absent any overrides of that tax limitation, the Town is left in the position of funding municipal programs out of those funds which are "left

over" after the Reform Act guaranteed amounts have been appropriated to the schools. Since the Reform Act requires school spending to increase annually by some incremental sum in excess of 2½% of the prior year's expenditures, incremental tax levy funding for municipal programs will therefore progressively decrease, year by year, unless the situation is altered through the passage of overrides. It is this declining municipal funding aspect of the Reform Act's formula that results in the significantly smaller percentage increase in the total non-Proposition 2½ funds available to the Town [1.9%, or about \$204,000], as compared with the Acton-Boxborough Regional School District's mandatory increase of about 6.86% above what was appropriated to it for FY 1994 last April and the Acton Public School's "B" Budget mandatory increase of about \*\*\*% above its original FY 1994 appropriation. [The Acton Public School's "A" Budget is currently projected at about 10.2% or \$522,000 above the original FY 1994 spending level.] In prior years the percentage increment for all three entities was approximately the same.

#### **School Financial Proposals for Town Meeting**

Despite the Reform Act guarantee of additional minimum local funding in fiscal 1995, the administration of the Acton Public Schools, because of increasing elementary enrollment, finds it necessary to recommend a general override of Proposition 2½ to the voters. That override request seeks an increase in the Acton Public Schools' operating funds for fiscal year 1995, and would increase its revenue base for subsequent years. This request will be initially voted on by Town Meeting and, if approved, will then go on a Special Election ballot for consideration by the electorate at large.

The Regional School District administration has determined that it can adequately operate that school system within the total funds that Town Meeting is now required by our legislators to appropriate to it for fiscal 1995, and its anticipated state aid, i.e. within its state mandated "B" Budget.

#### **Town Financial Proposals for Town Meeting**

The Reform Act's imposition of a formula driven minimum school property tax entitlement effectively ended the partnership approach that the schools and Town administrations had pursued for a number of years through the Coordinating Committee process. The Town's spending must now be held to whatever is left over after the state mandated school "B" Budget amounts have been subtracted from available revenues. The actual revenues depend on many factors, some of which are not certain until after the Annual Town Meeting, so it is necessary to make projections based on the best information available. At the same time, it must be recognized that the imposition of the Reform Act now means that any actual revenue shortfalls must be entirely offset by subtractions on the

Town side.

In addition to the dictates of the Reform Act, which actually pull in the opposite direction, the Selectmen also have this year considered the expressed wish of Town Meeting to be given a larger part in making spending decisions.

Given these factors, this years proposed municipal spending plan is composed of multiple parts and incorporates great flexibility. First there are a group of Articles, Nos. \*\*\*\* thru \*\*\*\*, under which Selectmen will seek Town Meeting approval for the various Enterprise Fund Budgets, and propose some capital expenditures to be funded out of the Enterprise Funds. The Article dealing with the largest part of the municipal budget, No. \*\*\*\*, follows. That Article encompasses the salaries for the existing Town staff and what the Selectmen consider to be the absolutely necessary expenses, it is referred to as the "Base B Budget". The Base B Budget is set forth in a "bottom line" format, continuing the policy of the last few years, to provide maximum management flexibility during the year to meet unexpected needs. The FY 1995 Base B Budget, as compared to the same items in the FY 1994 budget, represents a proposed increase of only \*\*\*\*%. The next part of the proposed municipal spending plan consists of a series of Articles, Nos. \*\*\*\* thru \*\*\*\*, which set out individual spending proposals for equipment replacement, staff restoration, etc. which taken as a whole comprise a potential Town "A" Budget, i.e. proposals contingent upon a Proposition 2½ override in some form. The motions offered under most of those Articles will propose funding through issuance of bonds.

#### **Post-Town Meeting Plans**

It is the intent of the Board of Selectmen, should any of the Warrant Articles which are contingent on Proposition 2½ override votes, either general, capital or debt exclusion questions, be approved at Town Meeting, to then consider calling a Special Election. Such a Special Election, held after Town Meeting, would allow the voters to decide whether or not they wish to bear extra taxes in order to receive all, some or none of the services represented by the affirmative Town Meeting votes, if any. It is currently anticipated that such a Special Election, if called, would be held on \*\*\*\*, 1994.

#### **Citizen Involvement**

The Board of Selectmen encourages all citizens to attend the Preliminary Budget Hearing to be conducted by the Finance Committee in Town Hall on Wednesday, March 23, 1994 at 7:30 p.m. Please remember to vote in the Town Election on Tuesday March 29, 1994.

The Annual Town Meeting, which will begin at 7:30 p.m. on Monday, April 4, 1994, is open to all citizens.

March \*\*\*\*, 1994

F. Doré Hunter, Chair  
Anne Fanton, Vice-Chair  
William Mullin, Clerk  
Nancy Tavernier  
Norman Lake

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**AT: Acton Town Hall**

**FAX NUMBER: 508-264-9630**

**FROM: F. DORÉ HUNTER**

**Number of Pages, Including this Cover Sheet: 6**

**COMMENTS: ANOTHER ITEM FOR SELECTMAN'S EXTRA INFORMATION TONIGHT, A REVISION OF THE WARRANT INTRODUCTION INCORPORATING SELECTMEN WEEKEND COMMENTS.**

**DATE: March February 28, 1994**

**FILE NO. None**

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28 February 1994

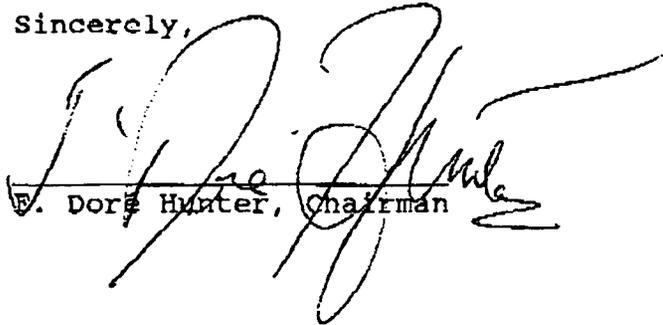
Karen Sharp  
Gates School PTO Chairman  
One Revolutionary Road  
Acton, MA 01720

Dear Mrs. Sharp,

This is in response to your letter of February 23, 1994 and confirms my telephone conversation with you on Sunday, February 27th. I will be delighted to appear at the PTO's budget information meeting, on Monday, March 28th at 7:30 p.m. in the High School auditorium, to make about a thirty minute presentation concerning the Town's budget requests and answer questions.

Thank you for the invitation.

Sincerely,



E. Dore Hunter, Chairman

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# EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT



William F. Weld, Governor  
Argeo Paul Cellucci, Lt. Governor  
Mary L. Padula, Cabinet Secretary

February 24, 1994

Ms. Betty McManus  
Acton Housing Authority  
P.O. Box 681  
Acton, MA 01720

RE: Local Initiative Program Long Term Use Restrictions

Dear Ms. McManus:

I am writing to confirm recent conversations you have had with Bert Rodiger of the Private Housing staff regarding the form of long term use restrictions used in the Local Initiative Program. The long term affordability of the affordable units is protected through restrictions incorporated into EOCD's standard LIP deed rider. I believe a copy of the standard LIP deed rider was recently forwarded to you. As you will note on page 12 of that document, affordability is restricted for a term of 50 years, and the term is renewed each time the property changes ownership.

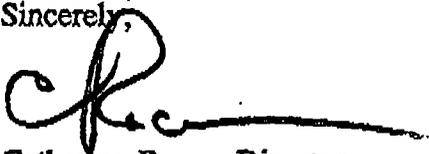
This deed rider is intended for use with condominium or fee simple forms of ownership. The standard LIP deed rider has been approved by the Federal National Mortgage Association (Fannie Mae). Thus, mortgages originated with the LIP deed riders can be sold on the secondary mortgage market. This fact is of particular importance to originating lenders, since lenders typically want to sell the mortgages rather than hold them in portfolio.



While Local Initiative Program regulations do not prohibit the use of other forms of long term use restrictions, the legal costs incurred in developing different restrictions, as well as the costs associated with EOCD's review of such alternate forms of restriction, must be paid by the project sponsor. It is also important to note that alternative restrictions may not be acceptable to FNMA. For all of these reasons, the use of alternative long term deed restrictions is not recommended.

If you have any additional questions, please contact Bert Rodiger or me at 617-727-7824.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Racer', with a long horizontal flourish extending to the right.

Catherine Racer, Director  
Bureau of Private Housing

