

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

DATE: April 1, 1994

TO: Board of Selectmen

FROM: Town Manager's Office

SUBJECT: Town Meeting materials

We are in the process of developing any outstanding materials/information for your individual articles and Town Meeting. We anticipate forwarding them to you over the week-end or on Monday.

ACTON TOWN MEETING MOTIONS

1994 ANNUAL TOWN MEETING

DRAFT 4/1/94 7:00 PM

CONSENT

CALENDAR:

Mr Hunter moves that the Town take up the 26 Articles as listed in the consent calendar on pages 14, 15 and 16 of the Warrant.

Moderator calls individual articles:

* 2/3 VOTE REQUIRED

- 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 NESWC Stabilization Fund
- Article 8 Merriam School Enterprise Budget
- Article 30 Self Funding Programs
- Article 32 Emergency/Disaster Aid Appropriation
- Article 35 Cemetery Land Fund Transfer
- Article 36 Chapter 90 Highway Reimbursement
- Article 37 Acceptance of Gifts of Land
- Article 38 Acceptance of Gifts of Land
- Article 39 Street Acceptances
- Article 40 Charter Road Sidewalk Easements
- Article 41 Main Street Easement
- * Article 46 Zoning Bylaw Amendment
- * Article 47 Zoning Bylaw Amendment
- * Article 48 Zoning Bylaw Amendment
- * Article 49 Zoning Bylaw Amendment
- * Article 50 Zoning Bylaw Amendment
- * Article 51 Zoning Bylaw Amendment
- * Article 52 Zoning Bylaw Amendment
- * Article 53 Zoning Bylaw Amendment

ACTON TOWN MEETING MOTIONS

1994 ANNUAL TOWN MEETING

DRAFT 4/1/94 7:00 PM

Article 58 Accept M.G.L Chapter 140, Section 147A

* Article 59 Zoning Bylaw Amendment

Article 61 Remove Police Chief Position from Civil Service

Moderator asks that the consent calendar, absent those articles put on hold, now be passed.

Article 1

Mrs. Tavernier moves that the Town fix the compensation for elected officers as shown in the Warrant on page 18.

Malcolm S. MacGregor, Sr. nominates Edward Bennett as Trustee of the West Acton Fireman's Relief Fund, term to expire in 1997.

William Klauer nominates Allen Nelson as Trustee of Acton's Fireman's Relief Fund, term to expire in 1997.

Shirley Towle nominates Mabel Grekula as Trustee of Charlotte Goodnow Fund, term to expire in 1997.

Cornelia Huber nominates Edwin Miller as Trustee of the Elizabeth White Fund, term to expire in 1997.

Frances Bissell nominates Madeleine Kaduboski as Trustee of the Citizen's Library Association of West Acton, term to expire in 1997.

Article 2

Mr Hunter moves that the Town accept the reports of the various Town officers and boards as set forth in the 1993 Town Report and that the Moderator call for any other reports.

Article 3

Mrs. Tavernier moves that the Town raise and appropriate \$32,846.00 for the purpose of providing a van service, and to raise such amount \$32,846.00 be transferred from the Council on Aging Van Enterprise Fund.

Article 4

Mr. Mullin moves that the Town raise and appropriate \$460,178.00 for the purpose of providing public health nursing services, and to raise such amount \$460,178.00 be transferred from the Nursing Enterprise Fund.

ACTON TOWN MEETING MOTIONS

1994 ANNUAL TOWN MEETING

DRAFT 4/1/94 7:00 PM

- Article 5 Mrs. Fanton moves that the Town raise and appropriate \$200,000.00 for the purpose of septage disposal, and to raise such amount \$200,000.00 be transferred from the Septage Disposal Enterprise Fund.
- Article 6 Mrs. Tavernier moves that the Town appropriate \$1,507,100.00 for the purpose of solid waste disposal, and to raise such amount \$1,507,100.00 be transferred from the NESWC Enterprise Fund.
- Article 7 Mr. Mullin moves that the Town appropriate \$476,000.00 for the purpose of replenishing the NESWC Stabilization Fund, and to raise such amount \$476,000.00 be transferred from the NESWC Enterprise Fund Balance.
- Article 8 MRS. Stuntz moves that the Town appropriate \$73,709.00 for the purpose of maintaining the Merriam School, and that the receipts from the rental of the Merriam school be set aside as a separate fund under M.G.L., Chapter 44, Section 53E to meet this appropriation.
- Article 9 Mr. Lake moves that the Town BUDGET TRANSFER
- Article 10 Mr. Wiltse moves to take no action.
- Article 11 Mrs. Harding-Barrat moves that \$31,422.00 be appropriated to pay the Acton Boxborough School District Assessment in Fiscal Year 1994 in order to meet the Town's obligation under the 1993 Education Reform Act.
- Article 12 Mrs. Stuntz moves to take no action.
- Article 13 Mr. Hunter moves that the Town Budget for the period July 1, 1994 to June 30, 1995, in the amount of \$11,125,485.00 be raised and appropriated in its entirety, except that \$65,000.00 be transferred from Cemetery Trust Funds for Cemetery use, and that \$4,000.00 be transferred from the County Dog Fund for library use, and that \$14,300.00 be transferred from Wetland filing fees for the Conservation Department, and further that the Town Manager be authorized to sell, trade, or dispose of vehicles being replaced.
- Article 14 Mr. Lake moves to raise and appropriate \$15,000.00 to expended by the Town Manager to purchase and equip a Command Vehicle for the Fire Department.
- Article 15 Mrs. Fanton moves to raise and appropriate \$10,000.00 to be expended by the Town Manager for the purpose of developing and drafting an Impact Fee Formula.

ACTON TOWN MEETING MOTIONS

1994 ANNUAL TOWN MEETING

DRAFT 4/1/94 7:00 PM

- Article 16 Mrs. Tavernier moves to raise and appropriate \$~~xxx,xxx.xx~~ for the Stabilization Fund in accordance with M.G.L. Chapter 40, Section 5B.
- Article 17 Mr. Lake moves that the Town appropriate the sum of \$382,000.00 to be expended by the Town Manager to purchase and equip an Aerial Ladder Truck for the Fire Department; and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$382,000.00 under M.G.L. Chapter 44, Section 7(9).
- Article 18 Mrs. Tavernier moves that the Town appropriate the sum of \$332,000.00 to be expended by the Town Manager for the permanent pavement program for the Highway Department; and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$332,000.00 under M.G.L. Chapter 44, Section 7(5).
- Article 19 Mrs. Stuntz moves to take no action.
- Article 20 Mr. Lake moves that the Town appropriate the sum of \$92,000.00 to be expended by the Town Manager to renovate the dispatch center and to purchase equipment as defined in this article; and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$92,000.00 under M.G.L. Chapter 44, Section 7.
- Article 21 Mr. Lake moves that the Town appropriate the sum of \$60,000.00 to be expended by the Town Manager for remodeling, reconstructing and making extraordinary repairs to the Concord Road Bridge over Nashoba Brook and for engineering and design services for the Wetherbee Street Bridge; and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$60,000.00 under M.G.L. Chapter 44, Section 7.
- Article 22 Mr. Lake moves that the Town appropriate the sum of \$65,000.00 to be expended by the Town Manager for repairs and equipment as listed in this article; and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$65,000.00 under M.G.L. Chapter 44, Section 7.
- Article 23 Mr. Mullin moves that the Town appropriate the sum of \$191,000.00 to be expended by the Town Manager to replace Departmental Equipment as listed in this article; and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$191,000.00 under M.G.L. Chapter 44, Section 7(9).

ACTON TOWN MEETING MOTIONS

1994 ANNUAL TOWN MEETING

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- Article 24 Mrs. Tavernier moves that the Town appropriate the sum of \$48,000.00 to be expended by the Town Manager for the installation of traffic signal equipment at the intersection of Powder Mill Road (Route 62) and High Street; and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$48,000.00 under M.G.L. Chapter 44, Section 7(14).
- Article 25A Mrs. Fanton moves that the Town appropriate the sum of \$25,000.00 to be expended by the Town Manager for Engineering Plans for Kelley's Corner and for Acton Memorial Library expansion; and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$25,000.00 under M.G.L. Chapter 44, Section 7(22).
- Article 25B Mrs. Fanton moves that the Town appropriate the sum of \$25,000.00 to be expended by the Town Manager for Engineering Plans for Kelley's Corner and for Acton Memorial Library expansion.
- Article 26 Mr. Mullin moves that the Town appropriate the sum of \$30,000.00 to be expended by the Town Manager for dredging, and related work to provide for outdoor recreation at Ice House Pond; and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$30,000.00 under M.G.L. Chapter 44, Section 7(25).
- Article 27 Mr. Wiltse moves that the Minuteman Technical School Assessment for the period July 1, 1994 to June 30, 1995, in the amount of \$497,496.00, be raised and appropriated in its entirety.
- Mr. Wiltse moves that the Minuteman Technical School Assessment for the period July 1, 1994 to June 30, 1995, in the amount of \$497,496.00, be raised and appropriated and that an additional amount of \$243,504.00 be raised and appropriated subject to Department of Education certification that the additional funds are mandated by the Educational Reform Act of 1993.
- Article 28 Mrs. Harding-Barrat moves that the Acton Boxbrough School Assessment for the period July 1, 1994 to June 30, 1995, in the amount of \$8,035,260.00, be raised and appropriated in its entirety.

ACTON TOWN MEETING MOTIONS

1994 ANNUAL TOWN MEETING

DRAFT 4/1/94 7:00 PM

- Article 29 Mrs. Stuntz moves that the Town appropriate the sum of \$9,967,380.00 for the Acton Local Schools for the period July 1, 1994 to June 30, 1995,, however of this amount the appropriation of \$397,000.00 shall be contingent upon the passage of an override question at a town election pursuant to the provisions of Section 21C(g) of Chapter 59 of the General Laws (Proposition 2 1/2).
- Article 30 Mrs. Tavernier moves that revolving funds for the Historic District Commission, Building Department and Sealer of Weights and Measures be established for the Fiscal Year 1994 in the amounts and for the purposes as set forth in the summary of this article on page 35 of this Warrant.
- Article 31 Mrs. Lenicheck moves to take no action.
- Article 32 Mr. Mullin moves in the words of the article.
- Article 33 Mrs. Tavernier moves to take no action.
- Article 34 Mrs. Tavernier moves that the land described in the article be transferred to the Board of Selectmen for affordable housing purposes, and the Board of Selectmen be authorized to convey such land to a developer for one dollar and on such other terms as they may deem advisable, including upon the terms and conditions set forth in this article.
- Article 35 Mr. Mullin moves that the Town appropriate \$10,000.00 to be expended by the Town Manager for the design, development, landscaping, roadways, and drainage of new sections of Woodlawn Cemetery and Mount Hope Cemetery, and to raise such amount \$10,000.00 be transferred from the Cemetery Land Fund.
- Article 36 Mrs. Tavernier moves the Selectmen are authorized to accept Highway funds from all sources and such funds are hereby appropriated for highway purposes.
- Article 37 Mr. Lake moves in the words of the article.
- Article 38 Mr. Lake moves in the words of the article.
- Article 39 Mr. Mullin moves that the Town accept as a public way the Street listed in the Article, as laid out by the Board of Selectmen according to the plans on file with the Town Clerk, and authorize the Board of Selectmen to take the fee or easements for drainage, utility, or other purposes where shown on said plan or described in the Order of Layout.

ACTON TOWN MEETING MOTIONS

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- Article 40 Mr. Mullin moves in the words of the article.
- Article 41 Mr. Shupert moves in the words of the article.
- Article 42 Mr. Shupert moves that the Zoning Bylaw be amended as set forth in the article.
- Article 43 Mrs. DiQuattro moves that the Zoning Bylaw be amended as set forth in the article.
- Article 44 Mr. Shupert moves that the Zoning Bylaw be amended as set forth in the article.
- Article 45 Mr. Shupert moves that the Zoning Bylaw be amended as set forth in the article.
- Article 46 Mr. Hill moves that the Zoning Bylaw be amended as set forth in the article.
- Article 47 Mr. Pavan moves that the Zoning Bylaw be amended as set forth in the article.
- Article 48 Mr. Niemyski moves that the Zoning Bylaw be amended as set forth in the article.
- Article 49 Mrs. Giorgio moves that the Zoning Bylaw be amended as set forth in the article.
- Article 50 Mr. Niemyski moves that the Zoning Bylaw be amended as set forth in the article.
- Article 51 Mr. Lee moves that the Zoning Bylaw be amended as set forth in the article.
- Article 52 Mr. Carnahan moves that the Zoning Bylaw be amended as set forth in the article.
- Article 53 Mr. Lee moves that the Zoning Bylaw be amended as set forth in the article.
- Article 54 Mr. Hill moves that the Zoning Bylaw be amended as set forth in the article.
- Article 55 Mrs. Fanton moves that the Zoning Bylaw be amended as set forth in the article.
- Article 56 Mr. Hirsch moves that the Zoning Bylaw be amended as set forth in the article.
- Article 57 Mrs. Fanton moves that the Zoning Bylaw be amended as set forth in the article.

ACTON TOWN MEETING MOTIONS

1994 ANNUAL TOWN MEETING

DRAFT 4/1/94 7:00 PM

- Article 58 Mrs. Tavernier moves that the Town accept M.G.L. Chapter 140, Section 147A to allow the Town to withdraw from the Middlesex County Dog Fund.
- Article 59 Mr. Hunter moves that the Town's Bylaw be amended as set forth in the article.
- Article 60 Mr. Hunter (TO BE FURNISHED LATER)
- Article 61 Mr. Hunter moves that the Town authorize the Town Manager to take the appropriate steps to remove the Police Chief's position from Civil Service status, and authorize the Board of Selectmen to petition the General Court for an Act to permit such removal.
- Article 62 Mr. Schwap moves in the words of the article.
- Article 63 Mrs. Stuntz moves that the Town accept the provision Section 83 of Chapter 71 of the Acts of 1993, as amended, to provide for and Early Retirement Incentive Program for the members of the Massachusetts Teachers Retirement System employed by the Acton Public Schools.

INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

File copy

DATE: 3/28/94

TO: Town Clerk

FROM: Board of Selectmen

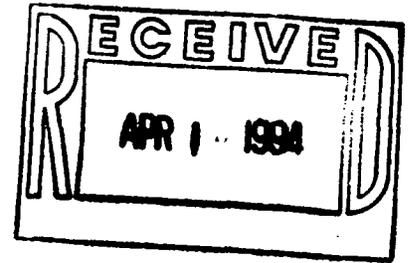
SUBJECT: Pre-Town Meeting Meetings

The Board of Selectmen will be meeting at 6:30 p.m. each evening that Town Meeting is held beginning April 4th in the Guidance Office off of Common C. in the High School.

Posted 3/31/94

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION



DATE: March 31, 1994
TO: All Staff
FROM: Cathy Belbin
SUBJECT: ANNUAL TOWN MEETING

Don MacKenzie, Town Moderator, has advised that he is available for the Annual Town Meeting on April 4th, 5th, and 6th.

Please adjust your schedules accordingly.

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: March 28, 1994

TO: Isa Zimmerman, Superintendent of Schools
FROM: Don P. Johnson, Town Manager
SUBJECT: Teacher's Early Retirement Incentive

We have reviewed both the ERI legislation and the information provided by your staff in this regard. We have also spoken with other communities where the program has been accepted and attended the meeting Mac Reid arranged with the Teacher's Retirement Board representative. After all is said and done I must tell you that we have only questions ... not answers.

I encourage all interested parties to consider the following questions and comments before making any decisions:

THE LEGISLATION:

1. This is legislation that must be accepted locally, as provided in the law. This wording is quite direct. There appears to be no room for a conditional vote that might allow acceptance subject to the accuracy and continuation of all of the interpretations we are being given that support the apparently favorable aspects of this program.

Q. Does a legal opinion exist that would allow a conditional acceptance until such time as the unknowns and the financial questions have been resolved?

Q. If this legislation is accepted is the Town or Regional School District required to participate or is there a mechanism for getting out if we find that conditions are not as expected?

2. The opportunity to participate exists for only two years ... 1993 and 1994.
3. The incentive is limited to 2500 eligible employees in 1993 and 2500 eligible employees in 1994. [This has subsequently been amended to limit the number of participants to 700 in each year.]

Q. Is there a known reason for this severe reduction in the maximum number of participants?

Q. Has the reduced number been instituted because the program is being administered incorrectly, causing the State's share of the costs to be much higher, per participant, than the Legislature intended?

Q. If the answer to the last question is yes, is there a risk that the State will institute corrective legislation, thereby significantly increasing the required local contribution?

4. The annual cost to the State for the additional benefits payable under this program "... shall not exceed twenty million dollars after the second enrollment period"

[emphasis added]. This has subsequently been amended to provide that if the costs to the State do exceed \$20 million, "municipalities will have their applications prorated".

Q. We have been informed that an additional \$20 million has been appropriated for 1995. Does this simply cover the ongoing costs incurred for 1994 or does it make available a total of \$40 million to fund the retirees from 1994 plus additional retirees in 1995? Has the appropriation been made?

Q. What is the meaning of the term "municipalities will have their applications prorated"? Maybe more important, how will this phrase be interpreted and applied? Does it mean the community's proportionate share will be increased?

5. The Teachers' Retirement Board, "if necessary", is required to calculate the State's share of the costs for the first year and project the estimated cost for the second year. If the board finds that the actual and projected State cost of the additional benefits will exceed \$20 million, the Secretary of Administration and Finance is required to recommend corrective legislation to reduce the cost of the second year to bring the cost to the State under \$20 million.

Q. Has the Retirement Board completed this calculation?

Q. Relating to the question in the section above, is the total annual benefit package funded by the State limited to \$20 million? If so, did the State's contribution fail to reach this level in 1994; therefor, leaving a balance for

funding additional retirees in 1995? If not, has the required State cap been exceeded and will the Secretary of Administration and Finance be making adjustments to bring the State's obligation back down ... leaving a deficit to be funded locally?

6. In order to offer this program in 1994, the legislation must be accepted no later than April 30, 1994. [This has subsequently been amended to extend the 1994 acceptance period to June 10, 1994.]

7. The legislation shall be accepted "only in the following manner ... in a town, by vote of the school committee, the selectmen, and the town meeting; in a regional school district ... by vote of the regional school committee". The Teacher's Retirement Board has given us an interpretation of this provision with respect to the Local School District. Their interpretation is that the School Committee must approve first, followed by the Board of Selectmen and then Town Meeting. Their further opinion is that if the School Committee or Town Meeting rejects the question, it fails. If both of these bodies approve and the Selectmen disapprove, their interpretation is that the Town Meeting vote is a directive to the Board of Selectmen to reconsider.

Q. Does a formal interpretation exist?

8. If, in either year, the total number of applications exceeds 2500, the Teachers' Retirement Board is required to limit the number of accepted applications on a proportionate basis.

9. A qualifying employee is allowed to increase his retirement eligibility by up to 5 years of age or by up to 5 years of creditable service or by a combination of additional years of age and service, the sum of which shall not be greater than 5.

10. The Town or Regional School Committee may limit the additional credit for service, age or a combination of both that it offers. The number of employees for whom the Town or Regional School will approve retirement under this program may also be limited by the jurisdiction.

Q. Is there any plan or recommendation to place a local limit on the credit or the number of participants?

11. "The total normal yearly amount of the retirement allowance ... of any employee who retires and receives an additional benefit under the retirement incentive program ... shall not exceed four-fifths of the average annual rate of his regular compensation received during ..." the highest three years of creditable service.

12. The Commissioner of the Public Employee Retirement Administration is required to analyze, study and valuate the costs and the actuarial liabilities attributable to the additional benefits under this program for each community or district which accepts this legislation. The Commissioner is then required to file a written report of his findings for the Town or District on or before December 31, 1994.

Q. Is there any report of this nature that might be reviewed before acceptance, rather than after we are in the program and liabilities have been incurred?

13. The Teachers' Retirement Board is required to prepare a funding schedule for each applicable town or district to reflect the payment of 50% of the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement incentive program and a funding schedule for the Commonwealth which shall reflect 50% of the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement incentive program. These schedules are required to be designed to reduce the Town, District and Commonwealth's additional pension liability attributable to such costs and liabilities to zero on or before June 30, 2010.

Q. The rough cost estimates that have been provided for our review at this time appear to indicate that the annual local share of the cost of a typical retiree will be approximately \$2000 while the State's share seems to be in the \$22,000 range. If the funding schedule for the Town/District is to reflect 50% of the costs, etc. and the funding schedule for the Commonwealth is to reflect 50% of the same described elements, how does the local cost compute to less than 10% of the State's cost?

14. The Town or Regional School is considered obligated to make the necessary annual appropriation sufficient to meet 50% of the additional costs and liabilities attributable to the additional benefits of this program.

Q. We have had difficulty in years past with this type of reference to "the town". Specifically, when legislation made reference to certain educational costs to be paid by "the town", the School District argued that the costs were not the responsibility of the School Budgets. Is there an interpretation that clearly indicates the party responsible for paying these retirement costs?

Q. Assuming that a clear interpretation exists to provide assurance that the costs would not be charged to the Municipal Budget while the benefits accrue to the School Budget, does a reliable interpretation exist with respect whether these additional retirement costs would be added to the existing minimum school spending requirements or whether they would be absorbed within the current minimum?

15. Ancillary costs attributable to an employee who retires under this incentive program, "limited to the payment of accrued vacation, unused sick leave or any other severance payment" are the financial obligation of the Town or District.

Q. Does an analysis exist related to the costs?

Q. Has the bargaining unit agreed to waive any local early retirement incentive in lieu of this program? If not, what will be their incentive to do so if Town Meeting has already accepted the legislation?

16. The Town or District is required to pay at least 50% of the total premium cost for health insurance for the retiring employee. This is an incidental comment at the end of this part of the legislation yet, under the interpretations and computations we have seen thus far, its magnitude is approximately twice that of the local cost of the retirement itself. To date, we have not seen these costs factored into the amortization program that has been presented.

Q. Has this cost been factored into the analysis?

COMMENTS:

We see little evidence that the words of the legislation have been followed to date. Virtually all of the computations and applications seem to be from interpretations and those interpretations seem to be inconsistent with the law. Nonetheless, as it is being administered, the program seems to be one that would be beneficial ... even though the benefits appear to be overstated at the present time.

If adequate assurances could be put in place I might be able to recommend this to the Board of Selectmen. Without such assurances I would not be able to do so.

A handwritten signature in cursive script, appearing to be the name 'D. W. ...', is written in black ink.

cc: Board of Selectmen
Finance Committee

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: 3/31/94

TO: The Board of Selectmen, Staff, & Memorial Library Trustees
FROM: John Murray
SUBJECT: FINCOM Positions for the Articles at the Annual Town Meeting

Over the last few days FINCOM has taken official positions on all the articles contained in the Warrant. The FINCOM approved or chose not to make a recommendation on all the municipal articles with the exception of the following:

1. ARTICLE 25 - Kelly's Corner Plan & Memorial Library Expansion Plan. (FINCOM has indicated that they would support these items, if they were appropriated)
2. ARTICLE 26 - Ice House Pond
3. ARTICLE 34 - Adams Street

cc: Fincom



MASSACHUSETTS DEPARTMENT OF REVENUE

DIVISION OF LOCAL SERVICES

P.O. Box 9655

Boston 02114-9655

MITCHELL ADAMS
Commissioner

(617) 727-2300
FAX (617) 727-6432

ESLIE A. KIRWAN
Deputy Commissioner

cc: BOS

March 29, 1994

Donald Johnson
Town Manager
472 Main Street
Acton, MA 01720

Dear Mr. Johnson:

This letter is to respond to your request for a waiver of Acton's local contribution to meet the spending requirements prescribed by the Education Reform Act, Chapter 110, of the Acts of 1993.

Based on our review of the town's application and Section 316 of Chapter 110 as amended, we have determined that the town qualifies for a reduction of \$165,922 in its FY94 minimum contribution and net school spending requirements for its local schools. As a result, the town's FY94 minimum contribution and net local spending requirements for its local schools are reduced to \$8,278,975 and \$9,028,462, respectively.

The FY94 waiver amount of \$165,922 is comprised of a revenue waiver based on the use of non-recurring levels of free cash used for operating purposes in FY93. The revenue waiver, if exercised by town meeting, results in a permanent reduction in the town's spending requirement.

Very truly yours,

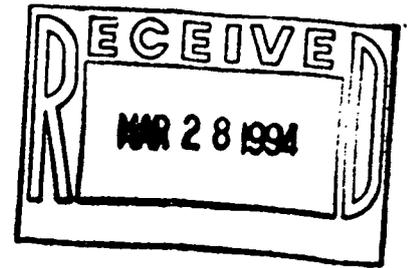
Leslie A. Kirwan

Leslie Kirwan
Deputy Commissioner

cc: Board of Selectmen
Town Accountant
Superintendent of Schools
Tom Collins, Department of Education

PALMER & DODGE

One Beacon Street
Boston, Massachusetts 02108



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

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

March 23, 1994

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

Dear Don:

I enclose our bill for services through January. The bill contains a substantial amount for duplication, which represents production of the lengthy record and briefs in the DiDuca cases. These amounts are recoverable as costs if we win the appeal. Otherwise, I have substantially reduced our time charges on that matter.

If you have any questions, please let me know.

Very truly yours,

Acheson H. Callaghan

CARRIS - PLS. PREPARE
FOR PYMT.

AHC/deb

Enclosure

CC: BOS
BLDG. COMM.
ASSESSOR
PLANNING

} COVER LTR. &
SUMMARY.

4/11

March 23, 1994

PALMER & DODGE

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

FEDERAL ID NUMBER 04-2170798

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

PLEASE RETURN THIS COPY WITH YOUR
PAYMENT TO ENSURE PROPER CREDIT

For professional services through January, 1994, as follows:

General Town Matters

Review and revision of zoning articles for annual Town Meeting warrant;	\$ 775.00
Review and advice on various zoning issues, including Clayton Land and definition of frontage;	1,840.00
Advice regarding presentation of letter of credit of LMI;	225.00
Services in connection with appellate tax board matters;	1,000.00
Services in connection with collective bargaining and personnel matters;	5,400.00
Miscellaneous other services;	225.00

Litigation and Related Matters

Preparation of record appendix, research and drafting of brief in <i>DiDuca v. Planning Board</i> (subdivision appeal); revision of brief in <i>DiDuca v. Town of Acton</i> (zoning appeal); and miscellaneous services related thereto in both cases; and	22,000.00
Preparation for trial and attendance at in <i>Wagner v. Board of Appeals</i> .	<u>1,300.00</u>

TOTAL SERVICES \$ 32,765.00

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

DUE AND PAYABLE WITHIN THIRTY DAYS

Disbursements

Clerical overtime	\$ 752.00
Computer Research	432.39
Duplication (DiDuca)	5,953.09
Express delivery	36.30
Food services	6.90
Hand delivery	8.95
Photography (DiDuca)	105.00
Telecopier	167.00
Telephone	34.74
Travel & Related Expenses	166.00
Velobind (DiDuca)	<u>118.00</u>

TOTAL DISBURSEMENTS 7,780.37

AMOUNT DUE \$ 40,545.37

cc: BOS
ROY WETHERBY

411

Town of Acton

Planning Department

472 Main Street Acton, Massachusetts 01720

(508) 264-9636

INTERDEPARTMENTAL COMMUNICATION

TO: Don P. Johnson, Town Manager ✓
Don MacKenzie, Moderator
Catherine Belbin, Town Clerk
DATE: March 29, 1994

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

SUBJECT: ATM 94, Movers of Zoning Articles, Planning Board Speakers on other Articles

The following Planning Board and West Acton Village Planning Committee (WAVPC) members will move the following zoning articles:

After ARTICLE 41: William Shupert (Pl. Board, WAVPC) hopes to present overview for Articles 42 through 45 as requested in previous letter to the Moderator.

ZONING ARTICLE 42 WEST ACTON VILLAGE (WAV), GENERAL BUSINESS (GB) AND LIMITED BUSINESS (LB) DISTRICTS IN WEST ACTON

William Shupert (Pl. Board, WAVPC)

ZONING ARTICLE 43 VILLAGE RESIDENTIAL DISTRICT IN WEST ACTON

Rosalie DiQuattro (WAVPC)

ZONING ARTICLE 44 PARKING IN VILLAGE DISTRICTS

William Shupert (Pl. Board, WAVPC)

ZONING ARTICLE 45 SITE PLAN SPECIAL PERMIT IN VILLAGE DISTRICTS

William Shupert (Pl. Board, WAVPC)

ZONING ARTICLE 46* TRACT OF LAND REQUIRED FOR CERTAIN DEVELOPMENTS

David Hill (Pl. Board)

ZONING ARTICLE 47* MAXIMUM LIMIT FOR RESIDENTIAL COMPONENT IN PLANNED UNIT DEVELOPMENTS

John Pavan (Pl. Board)

ZONING ARTICLE 48* CORRECTIONS, CLARIFICATIONS AND MINOR ADJUSTMENTS TO THE ZONING BYLAW

Gregory Niemyski (Pl. Board)

- ZONING ARTICLE 49* ACCOMMODATION OF HANDICAPPED AND VAN ACCESSIBLE PARKING
Mary Giorgio (Pl. Board)
- ZONING ARTICLE 50* CHANGE SPECIAL PERMIT REQUIREMENT FOR COMMON DRIVES
Gregory Niemyski (Pl. Board)
- ZONING ARTICLE 51* ELIMINATE SPECIAL PERMIT REQUIREMENTS FOR CERTAIN ACCESSORY USES
James Lee (Pl. Board)
- ZONING ARTICLE 52* ELIMINATE PROHIBITION AGAINST AND SPECIAL PERMIT REQUIREMENT FOR TERTIARY WASTEWATER TREATMENT FACILITIES
Douglas Carnahan (Pl. Board)
- ZONING ARTICLE 53* ELIMINATION OF SPECIAL PERMIT REQUIREMENTS FOR CERTAIN DIMENSIONAL PROVISIONS
James Lee (Pl. Board)
- ZONING ARTICLE 54 ASSOCIATE MEMBERS FOR PLANNING BOARD WHEN ACTING AS SPECIAL PERMIT GRANTING AUTHORITY
David Hill (Pl. Board)

In addition, the following Planning Board members are prepared to speak to the following articles:

- ARTICLE 15 CONSTRUCT IMPACT FEE FORMULA, Gregory Niemyski
- ARTICLE 25 (Part B) KELLEY'S CORNER PLAN, Mary Giorgio
- ARTICLE 34 AFFORDABLE HOUSING - ADAMS STREET, Douglas Carnahan
- ARTICLE 38 ACCEPTANCE OF GIFT OF LAND AND RELATED EASEMENTS - HEARTHSTONE FARM SUBDIVISION, John Pavan
- ARTICLE 39 STREET ACCEPTANCES, John Pavan
- ZONING ARTICLE 56 PETITION TO CHANGE ZONING OF LAND IN ACTON, John Pavan
- ZONING ARTICLE 57 PUBLIC USE OF LAND BY TOWN OR AGENCY OTHER THAN THE TOWN OF ACTON AND THE WATER SUPPLY DISTRICT OF ACTON, James Lee

*Consent

cc David Hill, Chairman, Planning Board

rzone.94*9



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
Isa Kafal Zimmerman
Superintendent of Schools

FAX TRANSMISSION COVER SHEET

DATE: 3-30-94

PLEASE DELIVER THE ATTACHED TO:

NAME: Kirwin Morgan

FIRM: _____

FAX NO: 617-743-6751

THIS MESSAGE IS BEING SENT FROM:

NAME: Sharon Groose / Mac Reid
Acton Public Schools

FIRM: Acton-Boxborough Regional Schools

FAX NO: 1 (508) 263-8409

WE ARE TRANSMITTING 3 PAGES, INCLUDING THIS COVER SHEET.

MESSAGE: Any questions, please give us a call!

cc: BOS - RE TEACHER'S EARLY RETIREMENT.

DRAFT

EARLY RETIREMENT INCENTIVE (ERI)

Recommendation

I. Preliminary Assumptions for Calculating Costs/Savings

- \$20,000 annual savings - retiring vs. replacement of teachers
- Average teacher would retire at 62, which is when we start funding health insurance anyway.
- Additional annual retiree health insurance costs to the system = \$4,000 per person
- APS and A-B: 6 - 10 estimated total slots from MTRB (24 applicants)
- State will fund program
 - Peter Hapgood (Assistant Director of MTRB) said it is funded for FY '94 and their legislative liaison is confident for FY '95.
 - Senator Bob Durand's Aide, Erika, said:
 - Chair of Ways and Means is supportive;
 - If no funding, two choices:
 - State could absorb cost anyway;
 - MTRB would offer us zero slots
- Town and School would enter into an agreement that the cost of the ERI program would be absorbed by the School Districts.

II. Calculations

- Total cost to Town/District of ERI program = \$919,132
- Estimated additional insurance costs

(Formula: Number of staff x average years until age 62 x estimated annual cost of 50% insurance premiums = total annual cost of insurance)

• A-B:	12	x	5.4	x	\$4,000	=	\$259,200
• APS:	12	x	3.8	x	\$4,000	=	<u>182,400</u>
• Total estimated insurance costs						=	\$441,600

ERI Recommendation

page 2

III. Summary of Finances

- \$ 919,137	Town/District's share of additional ERI benefits (figure checked by retirement board)
- 441,600	Estimated additional health insurance costs
+ 1,440,000	3-year salary savings (20,000 x 24 people x 3 years)
+ \$ 79,263	3-year total savings - but no single fiscal-year deficits

IV. Additional Assumptions

- Total ERI cost (\$919,137) is based on 15-year payback – MTRB has said total will be less if paid back sooner.
- Additional health insurance costs should be conservative estimate because some staff would:
 - retire earlier than age 62;
 - receive health insurance benefits from a spouse;
 - have insurance benefits picked up by a new employer.
- The 3-year total salary savings may be somewhat less depending on our ability to hire all replacements at a \$20,000 savings, and this difference being maintained for three years.

V. Recommendation

The administration recommends that the School Committee vote to participate in the ERI program. We believe that the costs can be spread over three years and be totally offset by salary savings.

VI. Why Participate?

Assuming the cost to the Town/District is \$0, we believe it is in the best interests of the Schools and Town to participate because:

1. it allows new staff to be incorporated into the system;
2. there should continue to be salary savings after the 3-year payback period;
3. there are teachers very interested in a change.

TOWN OF ACTON POLICE DEPARTMENT
INTER-DEPARTMENTAL COMMUNICATION

TO: Board of Selectmen DATE: March 31, 1994
FROM: Acton Police Department
SUBJ: Accident Stats Rt. 62/High St. Area

Year	Rt. 62 & High St.	Rt. 62 & Sudbury Rd.	Purity Ent.	Total
1986	5	6	6	17
1987	8	7	4	19
1988	5	5	15	25
1989	7	5	4	16
1990	11	5	2	18
1991	6	2	0	8
1992	5	1	0	6
1993	6	3	2	11
1994/Apr	1	0	0	1

NANCY TAVERNIER - PER YOUR REQUEST.
CC: BOS

cc: BOS
Summary of Proposed State Reform Money Expenditures

Priority	Description	Pri. Cost
	Central Office/Systemwide/Pupil Services	
1	Legal Fees	\$50,000
2	Department of Environmental Protection	\$10,000
3	Pupil Services: Register SW & Computers	\$8,500
4	CO Share of Networking	\$25,000
5	Pupil Services:Counseling & SPED Hardware	\$22,000
	CO/SW/PS Total	\$115,500
	Junior High School	
1	Macintosh LC III Computers -Writing Lab	\$14,985
2	Mac School Scheduling/Reporting Package	\$15,882
3	Technology Lab	\$17,597
4	Network - JHS Share	\$25,000
5	Assorted Capital Outlay Requests	\$11,829
6	Graphing Calculators	\$1,230
7	Library Technology	\$5,500
8	Hood for Science Lab	\$1,000
9	Boiler Repairs	\$2,000
10	Fire Safety Equipment Repairs	\$6,000
	Junior High School Total	\$101,023
	High School	
1	Mac School Scheduling/Reporting Package	\$35,431
2	Hood Space - Chemistry Lab	\$5,200
3	FAX Machine - Main Office	\$500
4	Library Upgrade - Automation Project	\$11,800
5	Laser Printers (Social Studies & Foreign Lang.)	\$1,800
6	Carts/Camcorders for Science	\$1,950
7	Easels/Sketchboards	\$1,500
8	Video Units	\$7,000
9	Mobile Multimedia Units (CD-ROM, Comp. etc.)	\$21,489
10	Physics MiniLab (6 Macs, printer, Software)	\$9,996
11	Copy Machine (Math/Science)	\$8,500

Summary of Proposed State Reform Money Expenditures

Priority	Description	Pri. Cost
	High School (continued)	
12	Floor Scrubber	\$6,000
13	NEC Computer Lab Upgrade	\$9,000
14	Follow-up Study - HS Graduates	\$5,950
15	Circuit Training - Physical Education	\$7,000
16	Laser Printers (Macintosh Lab)	\$1,800
17	Laminator	\$1,000
18	Duplicator	\$1,500
19	Color Printer	\$1,000
20	Macintosh Computers	\$12,000
21	Overhead Projection Systems	\$12,500
22	Camcorder	\$1,000
23	R&D (Climate/Interviewing/Handbook)	\$3,060
24	30 Second Clocks	\$1,800
25	Boiler Repairs	\$11,500
	High School Total	\$180,276
	Total Proposed Expenditures	\$396,799
	CO/SW/PS Percentage	29.11%
	Junior High School Percentage	25.46%
	High School Percentage	45.43%

CC: BOS - RE ICE HOUSE POND

BILL MULLIN - PLS. NOTE!!

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

March 25, 1994

TO: Don P. Johnson, Town Manager
FROM: Dean A. Charter, Municipal Properties Director *(DAC)*
SUBJECT: Ms. Sawyer's letter of March 18, 1994 re Ice House Pond

I am in receipt of a copy of Ms. Sawyer's letter regarding the control structure for Ice House Pond. As you can see from the attached copies of my correspondence, I was in contact with her in February, and she indicated to me that all such contacts should go through her attorney, Mr. Charles Kadison. The "Draft" letter attached had been sent to Mr. Kadison several weeks ago, and he visited me in my office yesterday to discuss her concerns so we can try to work out an agreement. I am happy to either deal with Ms. Sawyer directly, or through her lawyer, whichever is more suitable to her. The initial request was for access to her property so that we could see the exact condition of the dam, which would be a prerequisite to discussion of an agreement on the renovation and management of the existing dam or the construction of the new dam. Based on that inspection, which we still do not have her permission to make, we could develop a proposal which would have to be reviewed by the Federal Emergency Management Agency (FEMA).

From some preliminary conversations with David Abbt and representatives of FEMA, it appears that the upgrading of the existing structure might actually be the preferred method of approach, pending approval of the federal funding and resolution of some other issues that are of concern to Ms. Sawyer (siltation of her holding ponds). One of the complications of this entire project is that there are so many players, including the landowners, Town, State, and Federal officials, and others, and this project is still evolving; we need funding, permits, permissions, surveys, and designs, and each step seems to depend upon some other step. The warrant article was crafted in a sufficiently broad fashion to encompass as many options as possible, but someone has to make the first move.

Hopefully, we will be able to get permission to perform our inspection and make an informed recommendation to the Town later this summer. In any case, the \$30,000 requested at Town Meeting would go towards dredging the existing pond, and the \$40,000 of federal funds would go towards the as yet undetermined control structure.

cc.: Engineering

DAC/412/3

DRAFT

March 11, 1994

Ms. Pat Sawyer
127 Concord Road
Acton, Ma., 01720

Dear Ms. Sawyer,

Your attorney, Mr. Charles Kaddison, has been in contact with me regarding my letter of February 10, 1994, in which I requested permission from you to conduct a survey on your property to help in the design of a possible new control structure for Ice House Pond.

My understanding is that you will consider giving such permission, if you could get some help from the Town in resolving a long term siltation problem in the holding ponds located between Concord Road and the dam. I have discussed this issue with David Abbt, Engineering Administrator, Richard Howe, Highway Superintendent, and Don Johnson, Town Manager, and we all feel that there is room for a suitable compromise.

If the funding for the dredging of Ice House Pond is approved, from either Town, State, or Federal funds, and if all environmental permits are obtained, and if the project is in fact undertaken, the Town will arrange to excavate a quantity of silt from the holding ponds. It must be clearly understood that this is a one time only endeavor, and that we do not concede that the Town has any long range maintenance responsibilities in this project. We will also require an agreement from you holding us harmless for any damage to the holding ponds, retaining walls, and landscaping that might become damaged as a result of the project. Finally, we will need to be able to bring heavy equipment across your property, and possibly remove trees and other vegetation to get access to the holding ponds.

I expect that you might want to review this letter with your attorney, and I hope that we can come to an agreement this Spring to allow the planning and design process to continue. Please feel free to contact me if you need further information.

Sincerely,

Dean A. Charter
Municipal Properties Director

February 10, 1994

Ms. Pat Sawyer
127 Concord Road
Acton, Ma., 01720

Dear Ms. Sawyer,

As you are probably aware, I have been pursuing a variety of State and Federal grants that could be used to perform various improvements to the Ice House Pond, including dredging the pond and/or building a new control structure that would take some of the pressure off the dam that you now operate. Several weeks ago I met with representatives of the Federal Emergency Management Agency (FEMA), who indicated to me that up to \$40,000 of Federal funds might be available for these improvements, provided we are able to show a proper design, obtain necessary permits, and provide an "In Kind Match" to prove Town support.

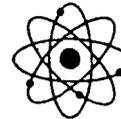
Following the meeting with FEMA, David Abbt and I met with representatives of VHB, the engineering firm that is designing the Concord Road bridge. VHB provided us with a proposed Scope of Services for the preliminary design of a control structure that could be built in addition to the bridge replacement. One of the items that we would be required to provide to VHB to facilitate their design, is a detailed survey of the existing dam, retaining walls, drainage structures, and other features of your lot that might impact the design. This survey would be done by Town employees or our agents, and we could notify you by telephone prior to entering your property. When completed, copies of all plans relating to your lot would be made available to you at no charge.

It is important for me to note here that, as of this time, no firm decision has been made as to the design possibilities, the design firm, or even if the Town will pursue the project at all. The preliminary survey that I am asking you to approve will have to be performed as time and other priorities allow, so it is important that we have your agreement in hand so that we can move quickly if the opportunity presents itself. What is certain is that virtually any work on a control structure for the pond will require the detailed survey of your lot noted above, and that any work we do will be of direct or indirect benefit to both you and the general public.

Please contact me at your convenience so that we can set up a meeting to discuss any concerns or questions you might have about this possible project.

Sincerely,

Dean A. Charter
Municipal Properties Director



ASSESSMENT J

March 28, 1994

Subject: Minuteman Assessments Under Existing Law

- To:
1. Chairpersons, Boards of Selectmen
 2. Chairpersons, Fincoms
 3. Town Executive Officers

Since town meetings are now underway, we are now sending-out "official" assessment figures under separate cover subject to any change in state law. These figures are the SAME as in my memorandum of March 4, 1994, as follows:

a.	Acton --	\$497,496
b.	Arlington --	2,229,199
c.	Belmont --	456,664
d.	Bolton --	107,111
e.	Boxboro --	185,417
f.	Carlisle --	149,107
g.	Concord --	359,941
h.	Dover --	25,395
i.	Lancaster --	199,125
j.	Lexington --	612,806
k.	Lincoln --	98,898
l.	Needham --	522,929
m.	Stow --	304,504
n.	Sudbury --	313,488
o.	Wayland --	237,662
p.	Weston --	39,424

cc: BOS
RE MINUTEMAN
BUDGET ARTICLE.

If a change in state law or budgeting takes place, we shall then follow that change with new "official" figures if that is possible.

Sincerely,

Ron Fitzgerald
Ron Fitzgerald
Superintendent

NYNEX Information Resources Company
280 Locke Drive, A-408, Marlboro, MA 01752

Donald MacKenzie
Chairman
508 460 4900

NYNEX
Information Resources

March 21, 1994

Don Johnson
Town Manager
Town Hall
Acton, MA 01720

Don,

Due to the complexity of this year's Town Meeting Warrant I'd like all motions made available to me by Friday, April 1, 1994. As you can imagine it's very difficult, even in a simple Town Meeting, to receive motions on the evening of the session. Now, I find, that my advanced age and arbitrary nature, makes this need all the more important!

Thanks

Don MacKenzie



cc: BOS

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

FINANCE DEPARTMENT

TO: William Ryan April 1, 1994

FROM: Marcella L. Rivard-Sultan

SUBJECT: Town Meeting - Facilities Requirements
Addendum To Memo Dated March 25, 1994

As brought to our attention by Don Gilberti, the following items regarding audio/visual requirements were inadvertently omitted from my memo of March 25, 1994:

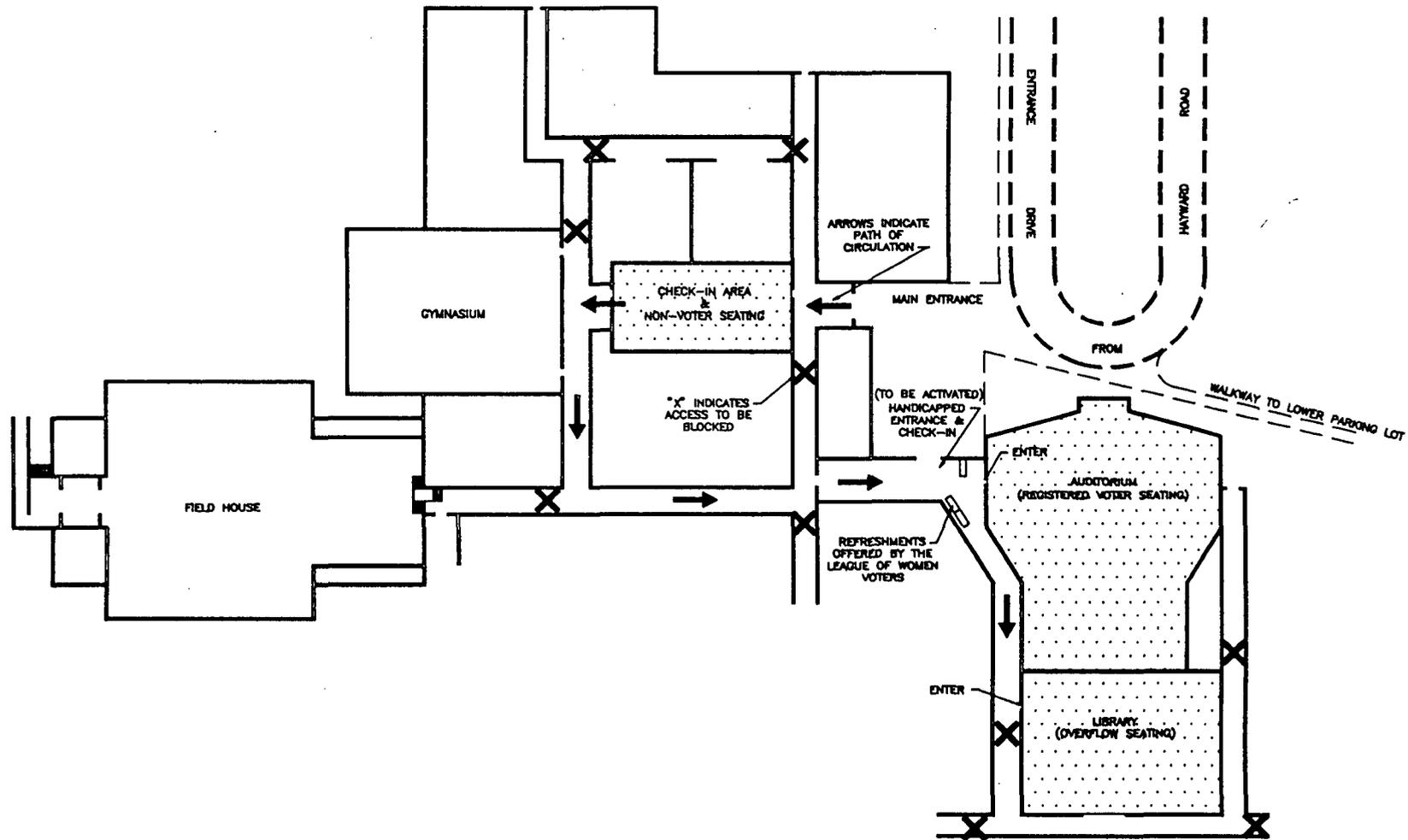
A sound system for the hearing impaired; and
VHS video and/or audio tape recording. The Town will be happy to supply the blank VHS tapes.

Additionally, Don has made some excellent suggestions, which have caused us to make minor revisions on the set-up diagrams of March 25, 1994 (revised diagrams attached).

We'd like to express our sincere appreciation to Don and to Arthur Berry for the attention and input they have provided.

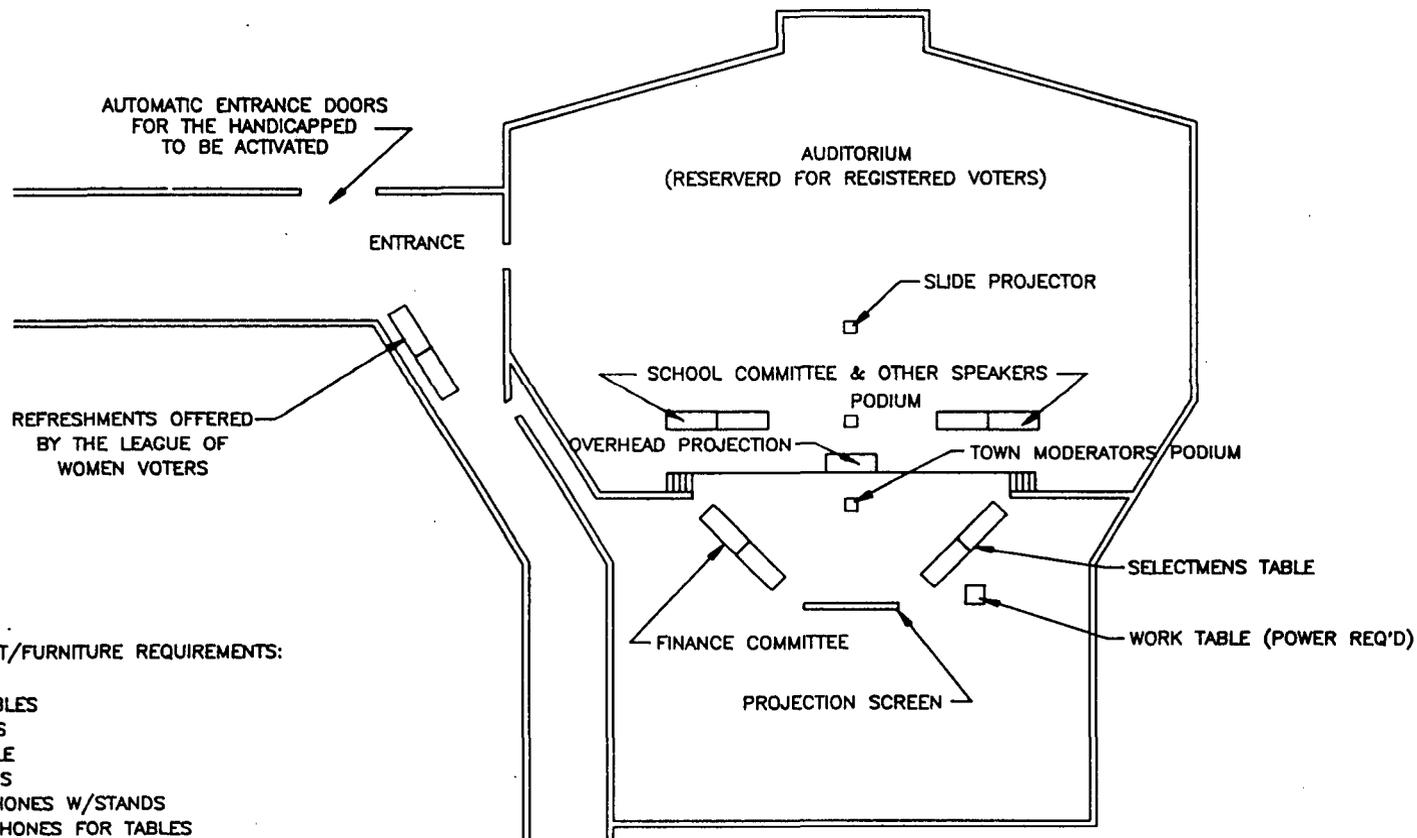
cc: Isa Zimmerman
Don Johnson
John Murray
Garry Rhodes
Cathy Belbin
Don Gilberti
Steve Desy

ANNUAL TOWN MEETING - APRIL 4th, 1994 CIRCULATION PLAN OF ACTON-BOXBOROUGH REGIONAL HIGH SCHOOL



ANNUAL TOWN MEETING – APRIL 4th, 1994

AUDITORIUM & STAGE AREA



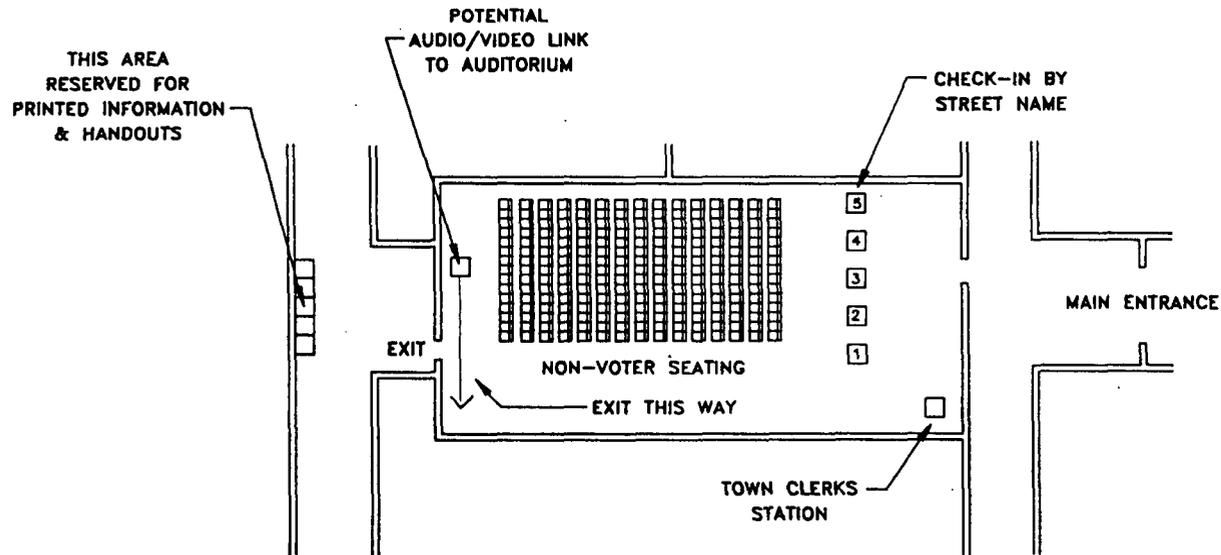
EQUIPMENT/FURNITURE REQUIREMENTS:

- 11 8' TABLES
- 50 CHAIRS
- 1 3' TABLE
- 2 PODIUMS
- 8 MICROPHONES W/STANDS
- 4 MICROPHONES FOR TABLES
- SLIDE PROJECTOR WITH TABLE
- OVERHEAD PROJECTOR

ANNUAL TOWN MEETING – APRIL 4th, 1994

CHECK-IN AREA & NON-VOTER SEATING

THIS AREA RESERVED
FOR OVERFLOW SEATING



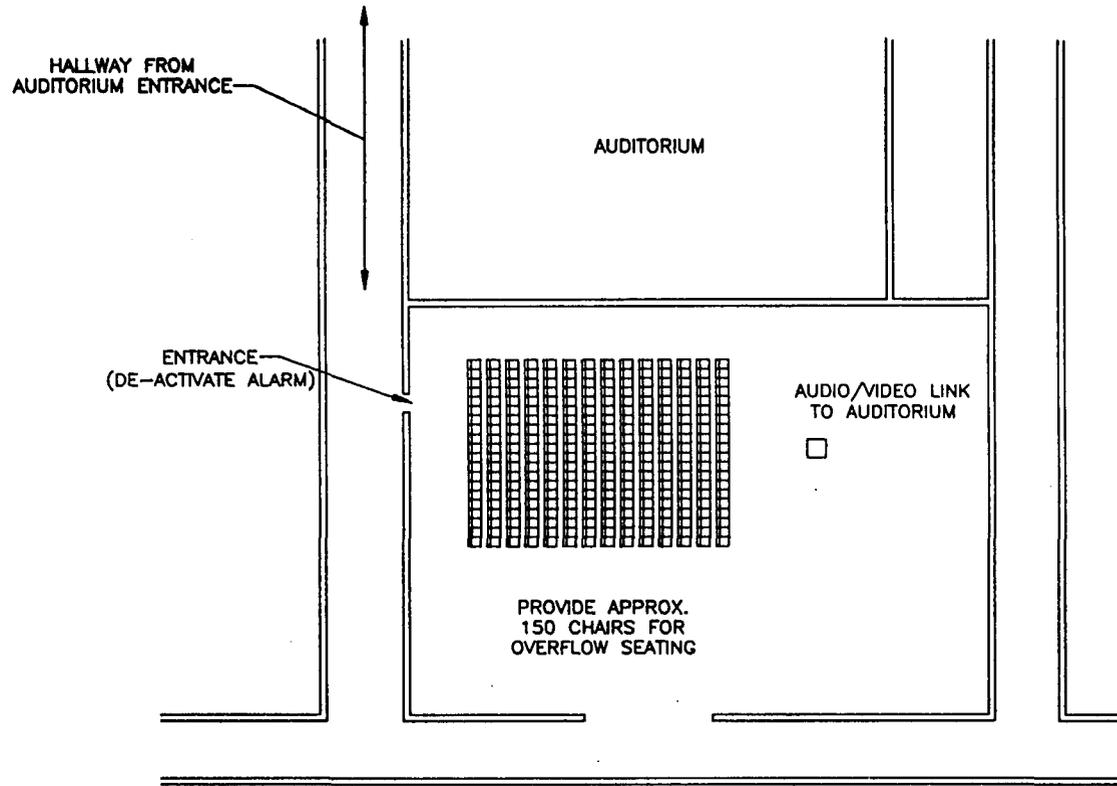
CHECK-IN BY STREET NAME
AT THE APPROPRIATE TABLE:

TABLE 1	A-C
TABLE 2	D-H
TABLE 3	I-M
TABLE 4	N-R
TABLE 5	S-Z

EQUIPMENT/FURNITURE REQUIREMENTS:

- 5 CHECK-IN TABLES W/2 CHAIRS @ EACH
- 1 TABLE W/2 CHAIRS FOR TOWN CLERKS STATION
- 2 LARGE TABLES FOR HANDOUTS
- 200 (+/-) STACKING CHAIRS AVAILABLE AS NEEDED FOR NON-VOTER SEATING

ANNUAL TOWN MEETING – APRIL 4th, 1994
A.B.R.H.S. LIBRARY – OVERFLOW SEATING AREA



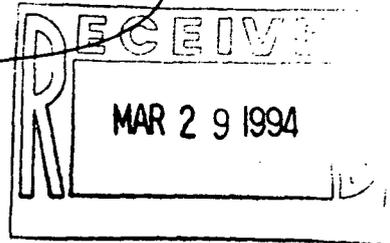
cc: BOS - FYL

Row Johnson

TOWN OF ACTON

INTERDEPARTMENTAL COMMUNICATION

FINANCE DEPARTMENT



TO: William Ryan March 25, 1994

FROM: Marcella L. Rivard-Sultan

SUBJECT: Town Meeting - Facilities Requirements

As a follow-up to our meeting of March 24, 1994 regarding use of the Auditorium and an Overflow Area for Town Meeting, we have reviewed the suggested areas and decided that logistically the LIBRARY would be the optimal overflow area.

Audio/Visual

To accommodate Town Meeting, the following audio/visual communication will be required:

- * A sound system within the Auditorium;
- * Visual and two-way communication between the Auditorium and the Library;
- * A television in Common C which will be run through the cable system;
- * A speaker in the hallway outside the Auditorium;
- * A screen, stage lighting and an overhead projector to be set-up in the Auditorium.

As discussed, we will need all audio/visual equipment to be set up and operational no later than 4:00 p.m. on April 4, 1994. We will be setting-up a secondary system at exactly 4:00 p.m. and the school's audio/visual crew will need to have completed their work before we can begin. Garry Rhodes will contact Don Gilberti as to any specific requirements regarding the audio/visual system.

Based upon our contact with Cable Vision, Cable Vision has indicated that someone from their organization will be broadcasting Town Meeting during its entirety.

Facilities Set-up

Attached is a diagram of the area which will be used for Town Meeting. Table and chair set-up is depicted in the diagram. The custodians should start setting-up as early as possible on the 4th. Cathy Belbin and I will meet the custodians in Common C at 3:30 p.m. on April 4, 1994 to answer any questions that may arise during set-up. Set-up should be completed no

later than 4:00 p.m. It appears that we will require two custodial staff to set-up and one to break down.

In addition to setting up tables and chairs, we will also require certain entrances/hallways to be either locked or taped-off, in order to prevent unregistered entrance to Town Meeting. However, adequate safety exits in case of emergency evacuation is of primary concern.

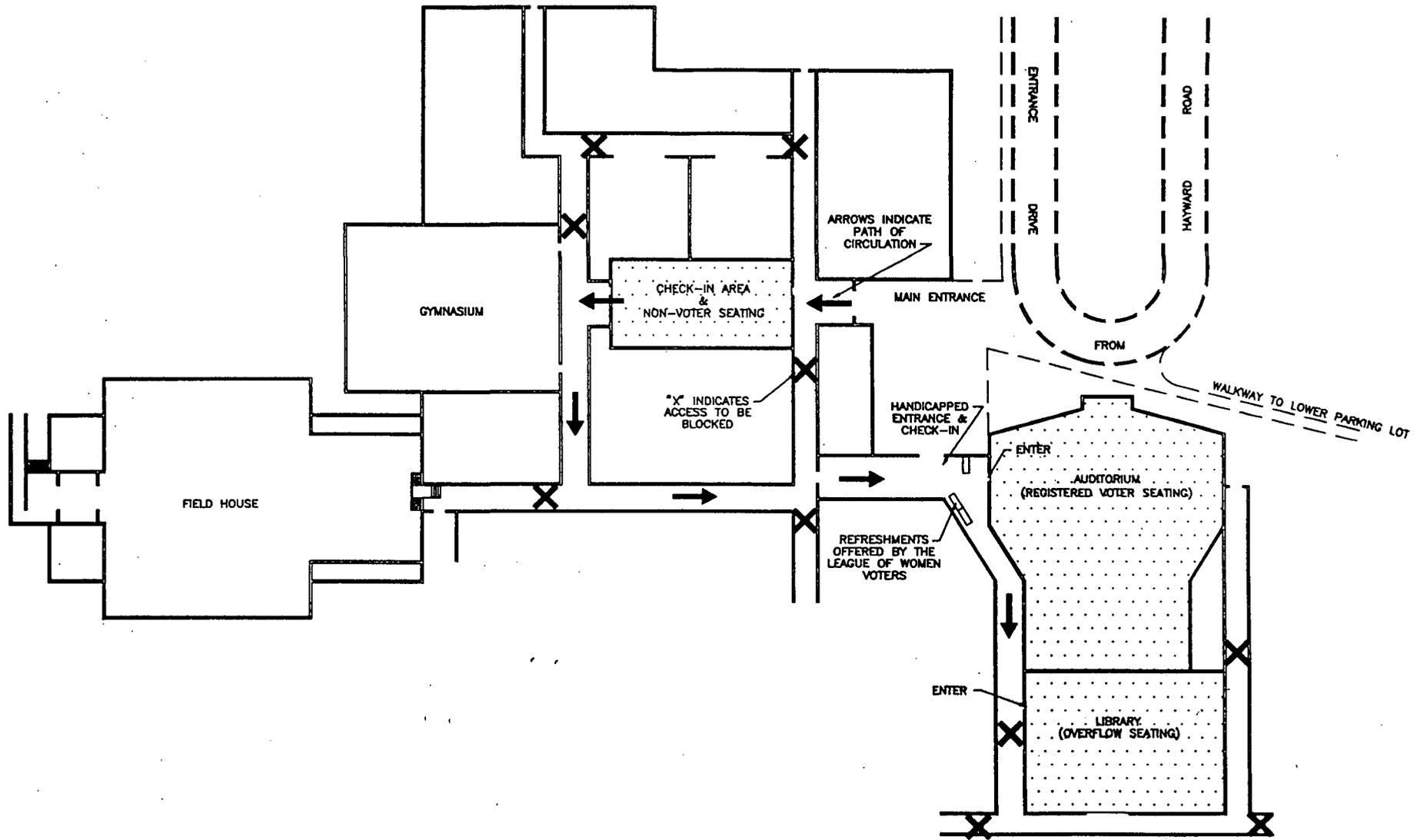
Bill, Cathy and I would like to meet with you at 3:15 p.m. on April 4, 1994 to go over last minute changes, if any. If you or your staff encounter any problems, please let me know as soon as possible.

The customary cooperation of the school department in preparing for this event is, as always, greatly appreciated.

Attachments

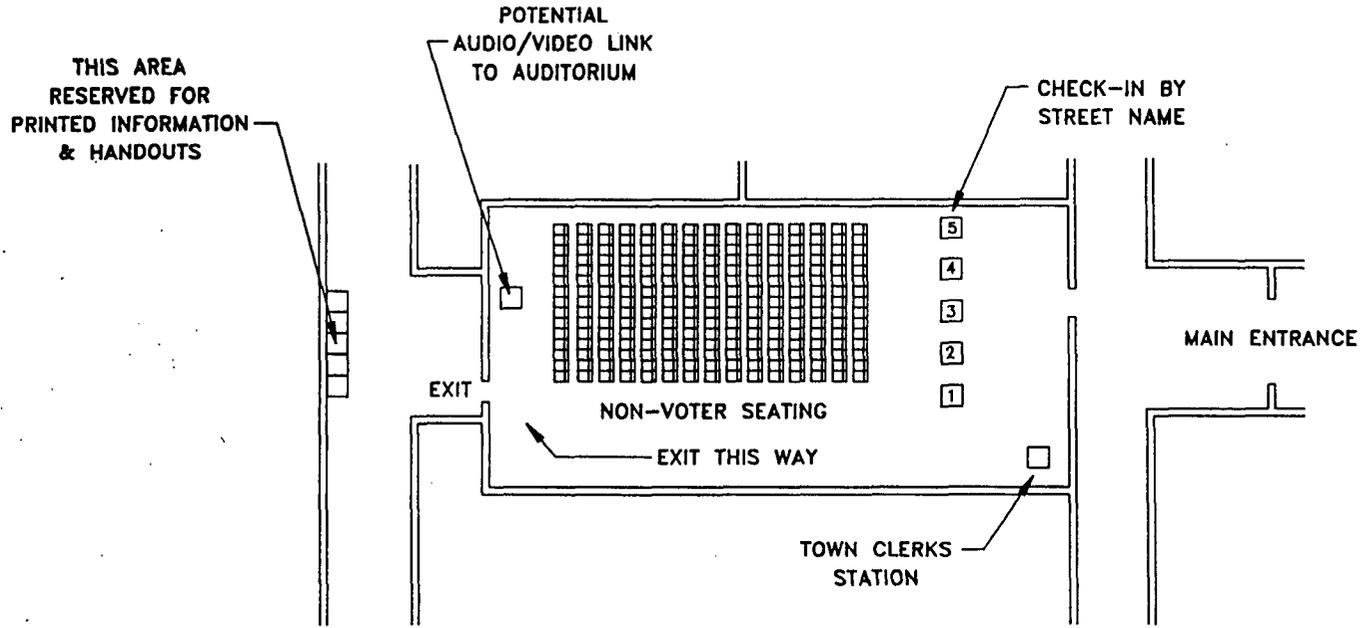
cc: Isa Zimmerman
Don Johnson
John Murray
Garry Rhodes
Cathy Belbin
Don Gilberti
Steve Desy

ANNUAL TOWN MEETING — APRIL 4th, 1994
CIRCULATION PLAN OF ACTON-BOXBOROUGH REGIONAL HIGH SCHOOL



ANNUAL TOWN MEETING – APRIL 4th, 1994 CHECK-IN AREA & NON-VOTER SEATING

THIS AREA RESERVED
FOR OVERFLOW SEATING



CHECK-IN BY STREET NAME
AT THE APPROPRIATE TABLE:

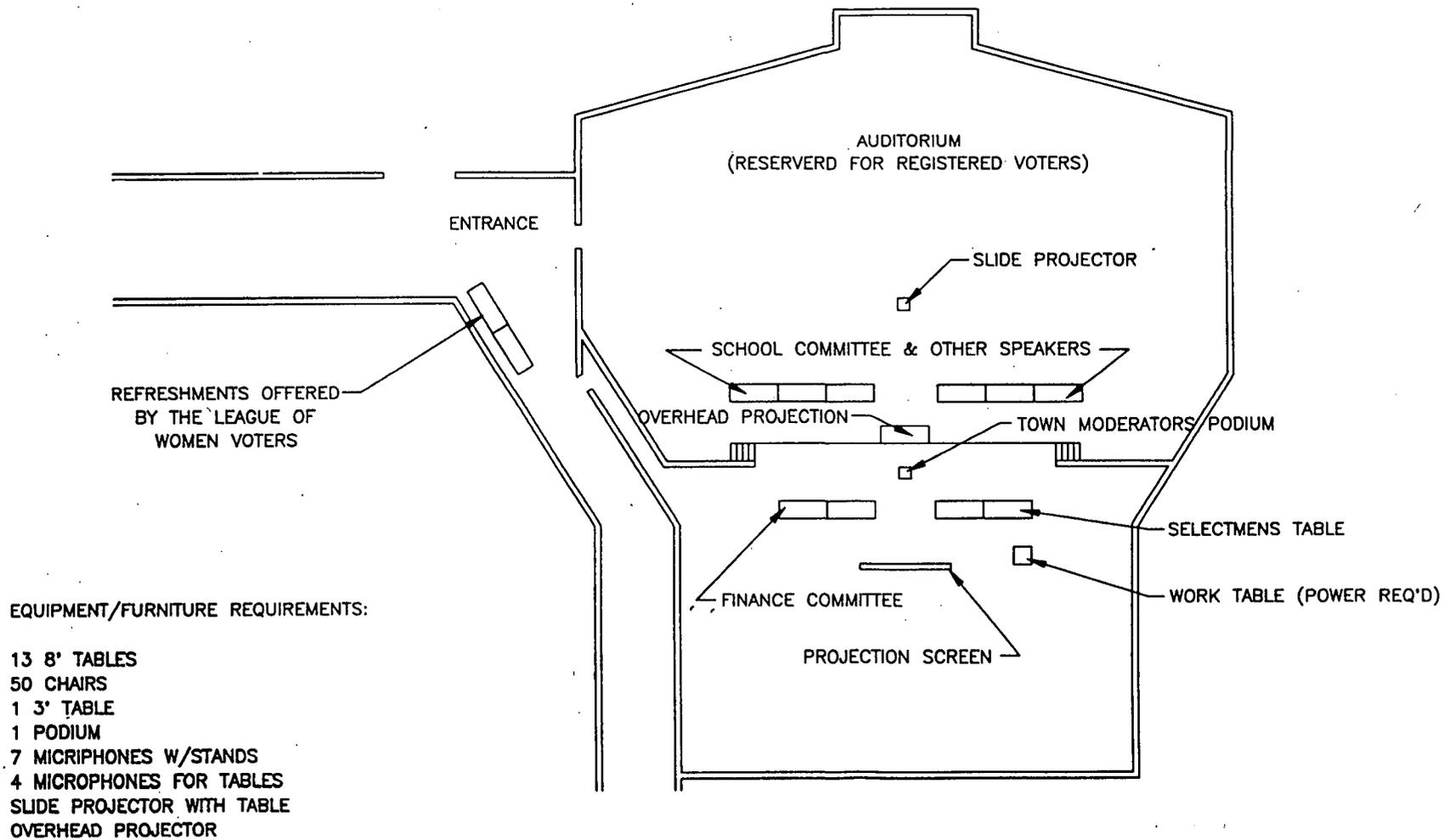
TABLE 1	A-C
TABLE 2	D-H
TABLE 3	I-M
TABLE 4	N-R
TABLE 5	S-Z

EQUIPMENT/FURNITURE REQUIREMENTS:

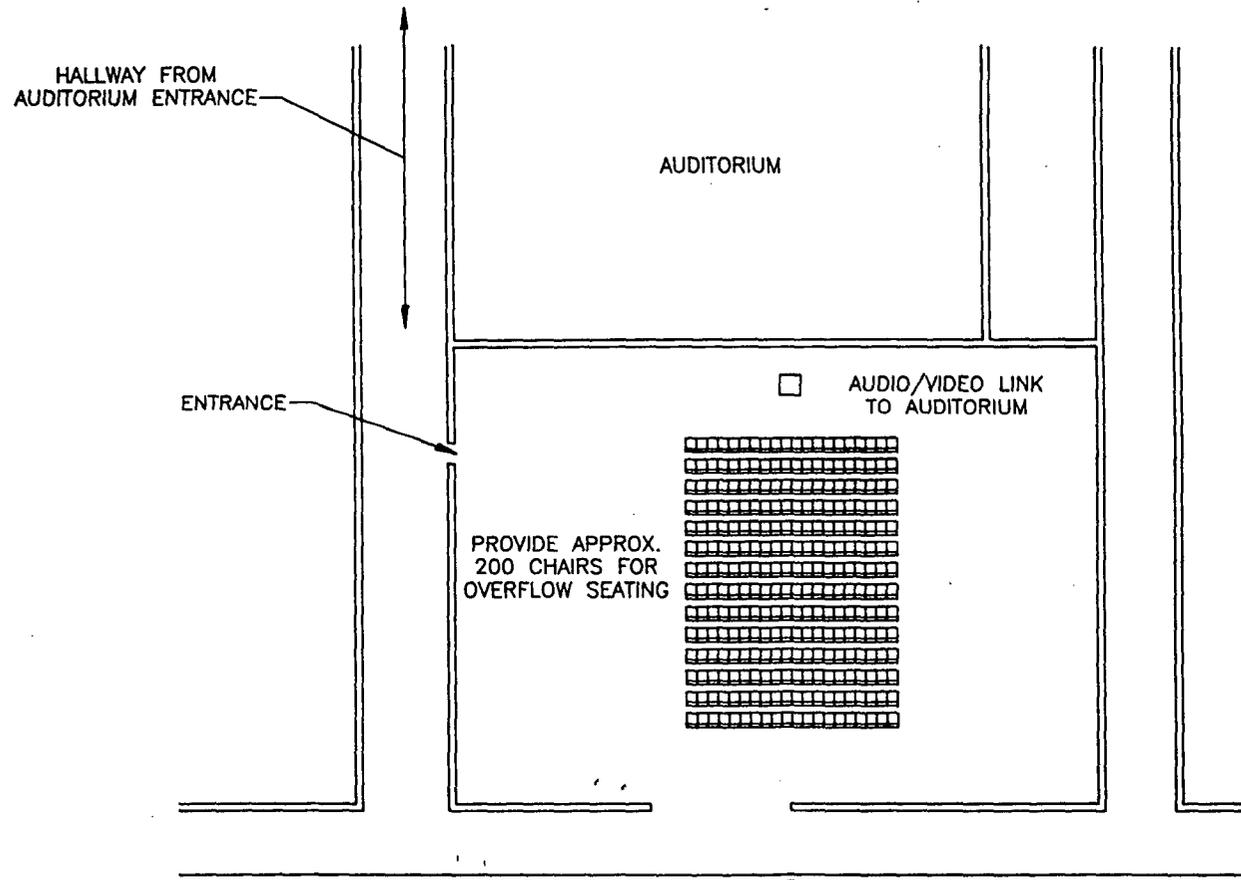
- 5 CHECK-IN TABLES W/2 CHAIRS @ EACH
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- 2 LARGE TABLES FOR HANDOUTS
- 200 (+/-) STACKING CHAIRS AVAILABLE AS NEEDED FOR NON-VOTER SEATING

ANNUAL TOWN MEETING – APRIL 4th, 1994

AUDITORIUM & STAGE AREA



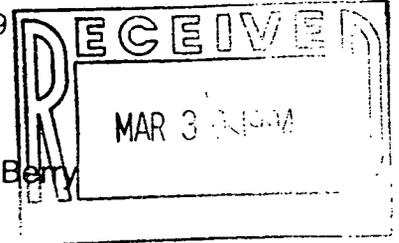
ANNUAL TOWN MEETING - APRIL 4th, 1994
A.B.R.H.S. LIBRARY - OVERFLOW SEATING AREA



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 29, 1994

TO: Steve Desy, Don Gilberti, Linda Mathinos, Mary Branon and Art Berry

FROM: Bill Ryan

RE: *Preparation of Acton Annual Town Meeting*

Attached are memorandums regarding the set up for the upcoming Acton Town Meeting. Please read the enclosed memorandums.

1. Steve - Please make sure that the town meeting set up is consistent with Marcella Sultan's March 25, 1994 memorandum. Make sure you review Cathy Belbin's (Town Clerk) memos also. Cathy will meet with two custodians at 2:00 p.m. (April 4th) in the High School Library to go over the town meeting set up. Please have Arthur Berry meet with Cathy also.
 - Assign two custodians for set up. Only one custodian will be needed after set up is completed and town meeting is in session. Two custodians will be required after town meeting is completed each evening to get the library, commons areas, hallways etc. ready for school the next day.
 - Make sure Cathy Belbin is given the names of custodians assigned to town meeting for each evening (give me a copy also). Please direct custodians to be visible and to let Cathy know where they are at all times. Bathrooms, hallways, the commons area and entrances should be monitored and picked up on a regular basis during the evening.
 - Make sure the auditorium is thoroughly cleaned before town meeting begins next Monday (4/4/94).
2. Don - As you know the High School Library will be set up as an overflow area. Let me know if you have any problems implementing the audio-visual requests in Marcella Sultan's 3/25/94 memo. Consistent with your memo (3/17/94) please have T.V. monitors and a two way audio/one way video communication between the library and the main auditorium set up. Also please have a T.V. (cable coverage) hooked up in Commons C for the precinct workers. The town has requested that your set up be completed by 4:00 p.m. (4/4/94) if possible. Please keep me informed regarding any concerns or issues regarding the town meeting set up.

Thanks,

Bill

WLR/baw

Att: 4

: Isa Zimmerman

~~Don Johnson~~

Cathy Belbin

Marcella Rivard-Sultan



The Commonwealth of Massachusetts

The Alcoholic Beverages Control Commission

cc: BOS

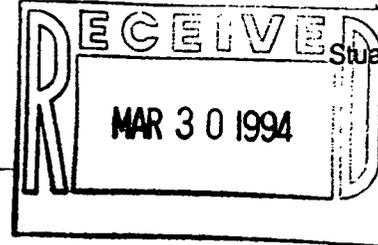
Leverett Saltonstall Building, Government Center
100 Cambridge Street, Boston, Mass. 02202-0002

William F. Weld
Governor

Telephone: (617) 727-3040
Fax: (617) 727-1258

Priscilla H. Douglas
Secretary

Argeo Paul Cellucci
Lieutenant Governor



Stuart P. Krusell
Chairman

TO: Local Licensing Boards
FROM: Stuart P. Krusell, Chairman
DATE: March 22, 1994
RE: Massachusetts Lottery Keno

The Massachusetts Lottery has begun licensing sales agents to sell the game of Keno at various locations across the state. These locations include restaurants, bars, clubs, etc. licensed under Chapter 138, Section 12.

The Lottery is undertaking this activity as required under legislation passed as an outside section of the 1994 budget.

Primary supervision of retail liquor business in your community is vested in your Board. However, selection and supervision of which of these businesses receives Lottery sales agent licenses is strictly up to the Lottery.

If your Board objects to the issuance of a Lottery sales agents license, it must do so under the guidelines of chapter 10, section 27 of the Massachusetts General Laws.

This program was undertaken not only as a revenue source, but because of the adverse effects of the present epidemic level of the illegal gambling in licensed premises and the resulting:

- * flagrant participation by otherwise law-abiding citizens
- * loss of tax revenue
- * possible organized crime involvement
- * unsupervised and possibly unfair gaming

Diversion of this business to legal, licensed Lottery sales agents will help minimize these negative effects.

The ABCC believes that it is essential that local boards, the ABCC and the Lottery work cooperatively to ensure that those establishments which become licensed for keno are of the highest integrity and quality. We ask that you assist in this effort to the benefit of the Commonwealth and its citizens.

The ABCC welcomes your questions and comments. Further information is available directly from the Massachusetts State Lottery, by contacting Terry McGann at 849-5564.

MAR 29 1994

ACTON PUBLIC SCHOOLS
ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT
16 Charter Road
Acton, Massachusetts 01720

CC: BOS FYI RE OVERRIDE ELECT. ANTICIPATION.

- Principal
- Custodian
- Foods Director
- Cafeteria Manager
- Facilities
- Audio Visual
- Evening Assistant
- Authorized Rep.
- File

MAR 28 1994

APPLICATION FOR USE OF SCHOOL FACILITIES

Complete and file with the Acton-Boxborough Community Education Office, 16 Charter Road, Acton, MA 01720 (Tel. 264-4700 x5014) at least **FOUR WEEKS** prior to the date desired.

DATE OF APPLICATION March 25, 1994 PERMIT NO: JH375

Town Club's Office (Name of Organization) Catherine Belbin (Authorized Representative)

472 Main St (Address) Town Hall (Address)

Telephone 264-9615 Telephone 263-9768 (Home) 264-9615 (Work)

DATE(S) REQUESTED May 16, 17 & 18, 1994 Day of Week Mon. Tues. Wed.

BUILDING REQUESTED: SENIOR HIGH, JUNIOR HIGH DOUGLAS, CONANT, MCCARTHY-TOWNE, GATES, MERRIAM

FACILITY REQUESTED (Please check)

- Auditorium
- Gymnasium
- Counseling Center
- Cafetorium
- Kitchen
- Music Room
- Classroom(s)
- Library
- Other

TYPE OF ACTIVITY Special Town Election (Be Specific) Preparation 5/16/94

WILL FOOD/BEVERAGES BE SERVED? Yes IF YES, be specific Coffee/doughnuts Departing 5/18/94

APPROXIMATE NUMBER OF PEOPLE ATTENDING? _____ NO. OF Adults SUPERVISING? _____

ENTRANCE TIME TO FACILITY: 5/16/94-8:30 AM TIME OF ACTIVITY 7:00 AM CLOSE AT 9:00 PM

EQUIPMENT NEEDED:

- Chairs 20 No. Needed
- Tables 18 No. Needed
- Slide projector
- Stage Lighting
- Screen
- Movie Projector
- Public Address System
- Overhead projector
- Record player

FOR USE OF AV EQUIPMENT CALL 264-4700 x ~~5961~~ 425

SERVICES NEEDED

- Custodian
- Police
- Audio-visual operators
- Other

ESTIMATED RENTAL FEES:

Custodial \$ _____ /hour min. 3 hr. Kitchen \$ _____ /hour Bldg. Rental \$ _____ /hour Other \$ _____ /hour

CLASS# 1

I HAVE READ THE RULES AND REGULATIONS GOVERNING THE USE OF SCHOOL FACILITIES AS ADOPTED BY THE THE SCHOOL COMMITTEE AND AGREE TO ABIDE BY THEM IN THEIR ENTIRETY. THE LESSEE OR USER OF THE FACILITY WILL HOLD THE SCHOOL COMMITTEE (ACTON PUBLIC AND ACTON-BOXBOROUGH REGIONAL) AND ALL ITS AGENTS AND ITS AGENTS HARMLESS FROM ANY PROBLEM RESULTING FROM THE LEASING OR UTILIZATION OF THE PREMISES. THE ACTON PUBLIC DOR ACTON-BOXBOROUGH REGIONAL SCHOOL COMMITTEE(S) RESERVES THE RIGHT TO CANCEL ANY PERMISSION .HENEVER, IN ITS DISCRETION, SUCH CANCELLATION SEEMS ADVISABLE. ORGANIZATIONS USING SCHOOL FACILITIES MUST CONCLUDE THEIR ACTIVITIES BY 11:00 PM.

Catherine Belbin
(Representatives Signature)

March 25, 1994
(Date)

PERMIT FOR USE OF SCHOOL FACILITIES

- THIS APPLICATION IS APPROVED FOR USE OF FACILITIES AS SCHEDULED
- THIS APPLICATION IS DENIED FOR THE FOLLOWING REASONS:

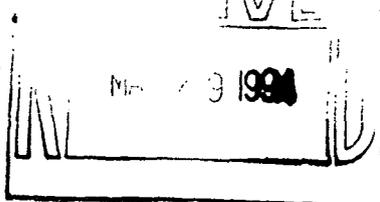
Permit issued by Linda Mathner 3/28/94
Assistant Community Education Coordinator OR Date
Director of Business and Community Education

REPORT OF CUSTODIAN OR BUILDING REPRESENTATIVE: (Please check)

- Used as Scheduled - No additional services
- Not Used as Scheduled - See below

Items Damaged _____
Additional Hours _____
Items Missing _____
Comments _____

Signed _____



ACTON PUBLIC SCHOOLS
ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT
16 Charter Road
Acton, Massachusetts 01720

- Principal
- Custodian
- Foods Director
- Cafeteria Manager
- Facilities
- Audio Visual
- Evening Assistant
- Authorized Rep.
- File

APR 28 1994

APPLICATION FOR USE OF SCHOOL FACILITIES

Complete and file with the Acton-Boxborough Community Education Office, 16 Charter Road, Acton, MA 01720 (Tel. 264-4700 x5014) at least **FOUR WEEKS** prior to the date desired.

DATE OF APPLICATION March 25, 1994 PERMIT NO: C181

Town Club Office (Name of Organization) Catherine Bellin (Authorized Representative)

472 Main St (Address) Town Hall (Address)

Telephone 264-9615 Telephone 263-9768 (Home) 264-9615 (Work)

DATE(S) REQUESTED May 16, 17 & 18, 1994 Day of Week Mon, Tues, Wed

BUILDING REQUESTED: SENIOR HIGH, JUNIOR HIGH, DOUGLAS CONANT, MCCARTHY-TOWNE, GATES, MERRIAM

FACILITY REQUESTED (Please check)

- | | | |
|---------------------------------------|---|--|
| <input type="checkbox"/> Auditorium | <input checked="" type="checkbox"/> Gymnasium | <input type="checkbox"/> Counseling Center |
| <input type="checkbox"/> Cafetorium | <input type="checkbox"/> Kitchen | <input type="checkbox"/> Music Room |
| <input type="checkbox"/> Classroom(s) | <input type="checkbox"/> Library | <input type="checkbox"/> Other |

TYPE OF ACTIVITY Special Town Election (Be Specific) Preparation 5/16/94
Questioning 5/18/94

WILL FOOD/BEVERAGES BE SERVED? _____ IF YES, be specific _____

APPROXIMATE NUMBER OF PEOPLE ATTENDING? _____ NO. OF Adults SUPERVISING? _____

ENTRANCE TIME TO FACILITY: 5/16 - 10:00 AM TIME OF ACTIVITY 7:00 AM CLOSE AT 9:00 PM

EQUIPMENT NEEDED: 5/17 6:00 AM
5/18 10:00 AM

FOR 5/17/94 ONLY

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Chairs <u>14</u> No. Needed | <input type="checkbox"/> Stage Lighting | <input type="checkbox"/> Public Address System |
| <input checked="" type="checkbox"/> Tables <u>10</u> No. Needed | <input type="checkbox"/> Screen | <input type="checkbox"/> Overhead projector |
| <input type="checkbox"/> Slide projector | <input type="checkbox"/> Movie Projector | <input type="checkbox"/> Record player |

FOR USE OF AV EQUIPMENT CALL 264-4700 x 5961 425

SERVICES NEEDED

- Custodian
- Police
- Audio-visual operators
- Other

ESTIMATED RENTAL FEES:

Custodial \$ _____ /hour min. 3 hr. Kitchen \$ _____ /hour Bldg. Rental \$ _____ /hour Other \$ _____ /hour

CLASS# 1

I HAVE READ THE RULES AND REGULATIONS GOVERNING THE USE OF SCHOOL FACILITIES AS ADOPTED BY THE THE SCHOOL COMMITTEE AND AGREE TO ABIDE BY THEM IN THEIR ENTIRETY. THE LESSEE OR USER OF THE FACILITY WILL HOLD THE SCHOOL COMMITTEE (ACTON PUBLIC AND ACTON-BOXBOROUGH REGIONAL) AND ALL ITS AGENTS AND ITS AGENTS HARMLESS FROM ANY PROBLEM RESULTING FROM THE LEASING OR UTILIZATION OF THE PREMISES. THE ACTON PUBLIC OR ACTON-BOXBOROUGH REGIONAL SCHOOL COMMITTEE(S) RESERVES THE RIGHT TO CANCEL ANY PERMISSION NEVER, IN ITS DISCRETION, SUCH CANCELLATION SEEMS ADVISABLE. ORGANIZATIONS USING SCHOOL FACILITIES MUST CONCLUDE THEIR ACTIVITIES BY 11:00 PM.

Catherine Bellin (Representatives Signature)

March 25, 1994 (Date)

PERMIT FOR USE OF SCHOOL FACILITIES

) THIS APPLICATION IS APPROVED FOR USE OF FACILITIES AS SCHEDULED

) THIS APPLICATION IS DENIED FOR THE FOLLOWING REASONS:

Permit issued by Jinda Mathew
Assistant Community Education Coordinator OR
Director of Business and Community Education

3/28/94
Date

REPORT OF CUSTODIAN OR BUILDING REPRESENTATIVE: (Please check)

) Used as Scheduled - No additional services

) Not Used as Scheduled - See below

Items Damaged _____

Additional Hours _____

Items Missing _____

Comments _____

Signed _____

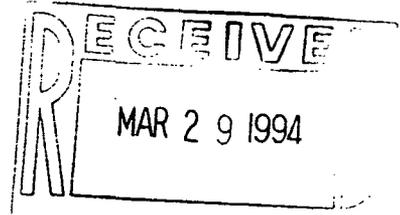
cc: BOS

ACTON-BOXBOROUGH REGIONAL SCHOOL COMMITTEE

Library
Junior High School

March 31, 1994
7:15 p.m.

AGENDA



- I. CALL TO ORDER
Presentation from ABSAF
- II. EXECUTIVE SESSION (15 min.)
- III. APPROVAL OF MINUTES OF MARCH 3, 1994 and STATEMENT OF WARRANT
- IV. CHAIRMAN'S INTRODUCTION
- V. PUBLIC PARTICIPATION
- VI. OLD BUSINESS
 - 1. Early Retirement Incentive Update (*under separate cover*)
- VII. NEW BUSINESS
 - 1. Leaves of Absence Policy - First Reading
 - 2. Approval of Revised Distribution of Materials Policy
 - 3. Acceptance of Gift from Jack Finley
 - 4. Budget Process Evaluation Form
 - 5. Vote on Custodial Contract
- VIII. FOR YOUR INFORMATION
 - 1. Spring Athletic Coaches
 - 2. Grant Awards - Update
 - 3. Summary Report of Winter Season Activity Fees
 - 4. Monthly Enrollment Figures
 - 5. 20-Year Chair Reception Invitation
 - 6. ABRHS Monday Memos
 - 7. *The Spectrum* - March 10 edition
 - 8. Letter from DEC
 - 9. Junior High -FYI - April 1994
 - 10. School Object Report
 - 11. Report of 1994 ASCD Conference in Chicago
 - 12. Memo from Steve Donovan re: High School course of study
 - 13. AEA Contract, Section 7.3 re: teachers' prep. time
- IX. WARRANT DISCUSSION
- X. CONCERNS OF THE COMMITTEE
- XI. NEXT MEETING- May 5 - JH Library
- XII. ADJOURNMENT

ACTON SCHOOL COMMITTEE

Library
Junior High School

March 31, 1994
8:30 p.m.

AGENDA

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES OF MARCH 3, 1994, and STATEMENT OF WARRANT
- III. CHAIRMAN'S INTRODUCTION (2 min.)
- IV. PUBLIC PARTICIPATION (10 min.)
- V. OLD BUSINESS
 1. Review/Revote FY'95 Budget
 2. Early Retirement Incentive Update (*under separate cover*)
- VI. NEW BUSINESS
 1. Leaves of Absence Policy - First Reading
 2. Revised Distribution of Materials Policy - First Reading
 3. Vote on Custodial Contract
- VII. FOR YOUR INFORMATION
 1. Gates School Faculty Play
 2. *City & Town* - February 1994
 3. School Council Minutes
 4. *McCarthy-Town Bulletin*
 5. *Merriam School Community News*
 6. *Conant Current Events*
 7. E.S.L. Program for 1994-95
 8. Letter from Marilyn Leeds re: Town Meeting and Superintendent's response
 9. March 16 Memo from Don Johnson re: DOR Waiver
 10. School Object Report
 11. Gifts to McCarthy-Towne School (3)
- VIII. WARRANT DISCUSSION
- IX. CONCERNS OF THE SCHOOL COMMITTEE
- X. NEXT MEETING - May 12 - Conant School
- XI. ADJOURNMENT

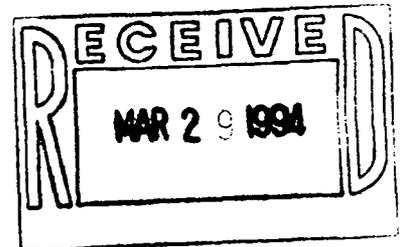


TOWN OF ACTON
HISTORIC DISTRICT COMMISSION
472 Main Street Acton, MA 01720

CC: BOS

NOTICE OF PUBLIC HEARING

The ACTON HISTORIC DISTRICT COMMISSION will hold a PUBLIC HEARING on Wednesday, April 13, 1994, at 8:00 p.m. in ROOM 204, ACTON TOWN HALL, 472 MAIN STREET for an APPLICATION FOR A CERTIFICATE OF APPROPRIATENESS on the following item: ACTON CONGREGATIONAL CHURCH: changes to parking lot design and landscaping plan at 20 Concord Road, Acton Center Historic District. Copies of the application are available from the Historic District Commission and the office of the Town Clerk.



3/28/94

MMA Action



SENATE DELAYS ACTION ON LOCAL AID RESOLUTION AND SNOW AND ICE FUNDS

On March 2, the House of Representatives passed a meaningful Early Resolution on Local Aid, and also approved \$15 million in emergency snow and ice funds for cities and towns. Unfortunately, the Senate has not acted on these key municipal items in the intervening three weeks. It now appears that the Senate will not be in a formal session to take up these matters until the beginning of April at the earliest.

The Local Aid Resolution would ensure at least \$40 million in new lottery funds, \$184.4 million to fully fund education reform, and \$476 million to level fund the Additional Assistance line item. As reported to you earlier, Senator Thomas Birmingham, the Chair of the Senate Ways and Means Committee, has voiced skepticism about the state's ability to "afford" the \$40 million in new lottery aid that is contained in the Early Resolution passed by the House.

We are asking you to do two things:

- **First, please call your Senator once again and ask him or her to call on the Senate President to bring the Senate into to a formal session in order to approve the Early Resolution on local aid and the \$15 million in snow and ice funds; and**
- **Second, in order to raise public awareness of these key issues please send a letter to the editor (a sample can be found on the reverse side of this alert) to your local newspapers.**

So far this year, local officials have worked cooperatively and in a spirit of partnership with state officials to try and bring predictability and stability to the local aid process for FY '95. The Senate must act in order to maintain the progress we have made on local aid.

(SEE BACK)

SAMPLE LETTER TO THE EDITOR

Dear Editor,

As (your city or town) prepares its budget for the coming fiscal year, we are once again left in the dark as to how much local aid we will receive from the state.

We had hoped things would be different this year, as the Governor submitted and the House of Representatives passed a resolution on local aid that told the (your city or town) precisely how much we could expect from the state.

Unfortunately, the Senate has not followed the lead of the Governor and the House. Indeed, some Senate leaders are balking at returning the projected \$40 million growth in lottery funds to cities and towns. Perhaps they are eying these local aid dollars as a source of funds for state programs. Our share of the new lottery revenue would be \$__*; these funds are desperately needed to help us pay for important local programs.

The citizens of (your city or town) deserve better than delay and inaction. Therefore, we are urging Senator (name) to press for quick action by the Senate to pass a local aid resolution, so that we can more realistically budget for basic services the people of (your city or town) rely on each and every day.

We hope every taxpayer joins with us in calling for an immediate response from the Senate on this important matter.

Sincerely,

Name
Title

* see our letter of January 26 for your community's share of the \$40 million in lottery funds.

cc: BOS

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (508) 264-9628
Fax (508) 264-9630

West Acton Village Planning Committee

March 17, 1994

Sal's Auto & Truck Repair
Willow Street
Acton, MA 01720

re: West Acton Village Plan

Dear Mr. & Mrs. Panetta:

The West Acton Village Planning Committee is pleased to report that the West Acton Village Plan is now complete. The articles that will begin to implement the action recommendations of the Village Plan will be presented at the 1994 Annual Town Meeting, including the re-zoning of several parcels of land in West Acton Village. I have enclosed a copy of the Executive Summary of the West Acton Village Plan for your personal use which discusses the goals, objectives and action recommendations of the Village Plan and includes the build-out analysis of all of the parcels within the village planning area. I have also enclosed a copy of the four articles that pertain to the West Acton Village Plan as they will be on the Town Meeting Warrant.

The West Acton Village Planning Committee proposed that your parcels be rezoned from the Limited Business District to a combination of West Acton Village District and Residence 2 District.

As you requested at an October 1993 public hearing, the Planning Committee reviewed your concerns on rezoning your parcels. We have discussed various potential development options for your parcels under current zoning and under other zoning alternatives. Based upon this review we are confident that our original proposal benefits both you as the property owner and West Acton Village.

Specifically, the Planning Committee proposes that parcel F-2B/37 and the portion of parcel F-2B/41(32) which is east of the drainage easement be rezoned to the West Acton Village District. The portion of parcel F-2B/41(32) west of the drainage easement is proposed to be rezoned to the Residence 2 District. The following table shows our estimates what the commercial development potential of your parcels will be under both the current zoning and the proposed re-zoning (in square feet).

<u>Parcel #</u>	<u>Current Build-Out at .20 FAR</u>	<u>Current Additional at .20 FAR</u>	<u>Proposed Build-out at .40 FAR</u>	<u>Proposed Additional at .40 FAR</u>
F-2B/37	13,765	5,701	27,530	19,466
F-2B/41(32)	41,382	26,454	31,363	16,435
	55,147	32,155	58,893	35,901

In addition to the commercial development potential illustrated in the above table, the

3+/- acre portion of F-2B/41(32) which is proposed to be re-zoned into the Residence 2 District could yield up to 6 residential lots by creating a 40' subdivision roadway off of Willow Street. The build-out analysis shows that the proposed re-zoning will not decrease the development potential of your parcels from what is allowed under current zoning provisions.

This proposal allows you additional building potential as well as new development options, and it could increase the market value of your parcels should you ever decide to sell the property. The proposal benefits West Acton in that it ensures that any new commercial development on those parcels will be similar in size, scope and character to that in the West Acton Village District. Let me emphasize that, as much as we can see, there is no negative impact to you as the property owner in rezoning the parcels as described above.

Please feel free to contact me or the Planning Department staff at Town Hall if you have any further questions.

Thank you for your consideration.

Sincerely,



Roland Bartl, AICP
Town Planner

for

William H. Shupert, III, Chairman
West Acton Village Planning Committee

cc: Planning Board
Board of Selectmen ✓
Donna Jacobs

.wav*114

Selectman

FINAL

CC: BOS

MARCH 29, 1994
ANNUAL TOWN ELECTION

Vote Count :	PREC. 1	PREC. 2	PREC. 3	PREC. 4	PREC. 5	TOTALS	%
10:00 A.M.	12	29	19	22	30	112	21.1
1:00 P.M.	14	29	31	27	12	113	21.3
4:00 P.M.	10	30	32	20	22	114	21.5
8:00 P.M.	10	42	56	34	39	181	34.2
TOTALS	46	130	138	103	103	520	98.1
PLUS MANUAL BALLOTS	1	2	1	2	4	10	1.9
FINAL TALLY	47	132	139	105	107	530	OK

TOTAL NUMBER OF REGISTERED VOTERS 10,320 TURN OUT 5.0

Offices/Candidates	PREC. 1	PREC. 2	PREC. 3	PREC. 4	PREC. 5	TOTALS	%
MODERATOR							
Blanks	3	10	10	7	11	41	7.7
Donald MacKenzie	44	121	128	98	96	487	91.9
Write-ins :							
JAMES AARON	0	1	0	0	0	1	0.2
ROBERT MATSON		0	1			1	0.2
	47	132	139	105	107	530	
SELECTMAN							
Blanks	11	26	25	17	22	101	19.1
Wayne L. Friedrichs	36	105	110	87	84	422	79.6
Write-ins :							
SELMA GARBER	0	0	0	1	0	1	0.2
WAYNE WISNER		1				1	0.2
MISC WRITE-INS			4		1	5	0.9
	47	132	139	105	107	530	
SCHOOL COMMITTEE							
Blanks	19	70	88	54	55	286	27.0
Pamela Harting-Barrat	36	92	92	77	81	378	35.7
Lees N. Stuntz	39	100	94	79	76	388	36.6
Write-ins :							
ALDEN HARRIS	0	1	0	0	0	1	0.1
CHARLES ROMEO		1				1	0.1
MISC WRITE-INS			4		2	6	0.6
	94	264	278	210	214	1060	
TRUSTEE OF THE MEMORIAL LIBRARY							
Blanks	3	17	17	12	7	56	10.6
Loretta P. Roscoe	44	115	121	93	100	473	89.2
Write-ins :							
SHIRLEY SALAMONE	0	0	1	0	0	1	0.2
						0	0.0
						0	0.0
	47	132	139	105	107	530	

FINAL

TALLY SHEET MARCH 29, 1994 ANNUAL TOWN ELECTION

QUESTION 1	PREC. 1	PREC. 2	PREC. 3	PREC. 4	PREC. 5	TOTALS	%
Shall Section 4-2 of the Acton Town Charter be amended by increasing the membership of the Commission on Disabilities from 7 to 9 members ?							
Blanks	1	5	10	2	6	24	4.5
YES	30	81	74	76	58	319	60.2
NO	16	46	55	27	43	187	35.3
	-----	-----	-----	-----	-----	-----	-----
	47	132	139	105	107	530	

ACTON WATER DISTRICT

Offices/Candidates	PREC. 1	PREC. 2	PREC. 3	PREC. 4	PREC. 5	TOTALS	%
MODERATOR							
Blanks	6	16	19	12	16	69	13.0
Charles E. Orcutt Jr.	41	116	119	93	91	460	86.8
Write-ins :							
ROBERT MATSON	0	0	1	0	0	1	0.2
						0	0.0
						0	0.0
	-----	-----	-----	-----	-----	-----	-----
	47	132	139	105	107	530	
COMMISSIONER							
Blanks	5	19	27	13	17	81	15.3
Leonard A. Phillips	42	113	111	92	90	448	84.5
Write-ins :							
ROBERT MATSON	0	0	1	0	0	1	0.2
						0	0.0
						0	0.0
	-----	-----	-----	-----	-----	-----	-----
	47	132	139	105	107	530	
CLERK							
Blanks	6	17	22	12	13	70	13.2
Anita E. Page	41	114	116	93	94	458	86.4
Write-ins :							
SUSAN HARRIGAN	0	1	0	0	0	1	0.2
ROBERT MATSON			1			1	0.2
						0	0.0
	-----	-----	-----	-----	-----	-----	-----
	47	132	139	105	107	530	

CONFIDENTIAL

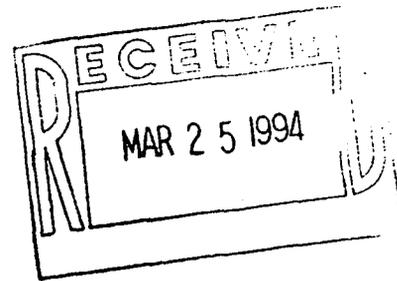
cc: BOS - FYI

THIS MAY GET STICKY! PALMER & DODGE

One Beacon Street
Boston, Massachusetts 02108



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



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

March 23, 1994

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

PRIVILEGED & CONFIDENTIAL

Dear Garry:

(NuView)

I have considered the suggested solution to the zoning problem that has been proposed by counsel for NuView. In substance, it involves splitting Lot 3. Part of the land, enough to meet the eight acre minimum tract requirement for the Gregory Lane development, would remain subject to that special permit. The rest would be subject to a new special permit for NuView. Although this would reduce the total number of units allowed in NuView below the number they wanted, the proponents are apparently willing to do that. The proposal would meet all by-law requirements applicable to the two developments considered separately and would, therefore, satisfy the by-law, assuming the Planning Board approved both special permits.

The only question is whether the Gregory Lane plan and permit can be modified without the agreement of all the landowners. The issue is novel, and the answer is not entirely clear, but I believe that, in the circumstances of this case, the Planning Board has authority to modify the permit at the request of the owner of Lot 3. If the proposal were to reduce the area or modify the use of the common land, I think a good argument could be made, based on some notion of protecting the expectations of the purchasers of all lots in Gregory Lane, that the permit could not be changed without consent of all the owners. Here, on the other hand, the purchasers of Lots 1 and 2 bought with the expectation that there would be a house on Lot 3. Under the current proposal, that land will be left open, and it is difficult to see how they have a right to block that result. It is equally difficult for me to see how they have a right to object to the reduction in the size of Lot 3, provided it is not reduced below the minimum required to meet the by-law requirement for the Gregory Lane permit, which will not be done.

March 23, 1994

Page 2

In short, I think that the proposal is a fair and workable solution to a difficult problem. In the absence of clear authority to the contrary, I hesitate to say that it is beyond the authority of the Planning Board. I would caution the NuView applicants, however, that they should be prepared to defend the Board's action if it is challenged by the abutters.

Very truly yours,


Acheson H. Callaghan

AHC/dcb

cc: Don Johnson

CC: BOS - FYI

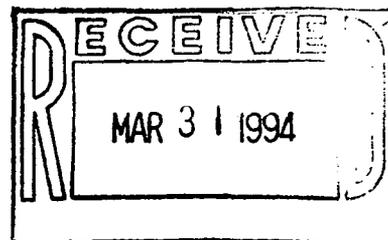
TOWN OF ACTON
BUILDING DEPARTMENT

GARRY A. RHODES
BUILDING COMMISSIONER

472 Main Street Acton, Massachusetts 01720

(508)264-9632

March 31, 1994



Philip S. Orciuch
Friendly Ice Cream Corp.
1855 Boston Road
Wilbraham, MA 01095

Re: Sign Request/Route 27, Main Street

Dear Mr. Orciuch:

As per your request, I forwarded your letter dated March 11, 1994 to the Board of Selectmen. They considered your petition to locate a sign on Main Street in connection with signs located on Route 2.

This is the first such request that the Board has considered in connection with Highway Logo signs. The Board expressed concerns that this may be the start of numerous off-premise signs and denied your request as the Board has always discouraged the use off-premise signs and wish to continue this policy.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Garry A. Rhodes".

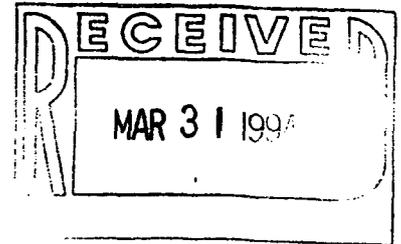
Garry A. Rhodes
Building Commissioner

/vjs

cc: Peter J. Donohue, District Highway Director
Town Manager

cc: BOS

**Town of Acton
Finance Committee Minutes
March 28 , 1994**



Present:

Mary Donald, Sharron Gaudet, Sidney Johnston, Herman Kabakoff, Kirwan Morgan, Charles Olmstead, John Rogers, Dave Steinhilper, Elliott Whitney.

Minutes:

Motion: Accept minutes for March 14, 1994 . Motion, Kirwan Morgan ; second, John Rogers.

Elections:

Nominate and elect a Clerk and Vice Chair for the Finance Committee.

Motion to nominate Herman Kabakoff as Vice Chair. Motion: Sidney Johnson; Second: Sharron Gaudet. Elected unanimously.

Motion to nominate John Rogers as Clerk. Motion: Mary Donald; Second: Kirwan Morgan. Elected unanimously.

Volunteered as Finance Committee representatives to Municipal Forum: Sidney Johnson and Mary Donald.

Warrants:

The committee reviewed their recommendation on the remaining warrants.

Articles 5, 6, 7, 14, 15, 17, 18, 20A, 20B, 27, 28, 29, 33 and 47 were "recommended".

Article 34 was "not recommended".

Articles 50, 56, 60, 61 were designated as "no recommendation".

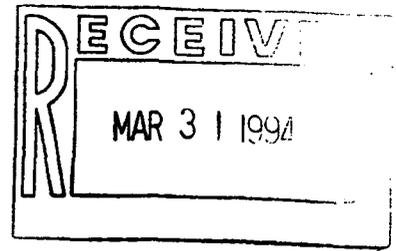
Next Meeting:

The next meeting is scheduled for March 30th at the Town Hall.

Adjourn:

The meeting was adjourned at 11:10.

cc: BOS



**Town of Acton
Finance Committee Minutes
March 7, 1994**

Present:

Mary Donald, Sharron Gaudet, Sidney Johnston, Herman Kabakoff, Kirwan Morgan, Charles Olmstead, John Rogers, Dave Steinhilper, Elliott Whitney.

Minutes:

Motion: Accept minutes for February 28, 1994. Motion, Mr. Johnston; second, Mr. Morgan.

Meetings:

Mr. Johnston reported on the Selectman's meeting and reviewed the list of items they approved to be included in the bonding warrants.

Ms. Donald reviewed the discussions at the recent Municipal Forum where the override was discussed.

Mail:

Mr. Olmstead reviewed the mail. A letter from the Massachusetts Department of Revenue - Assistant Director of Accounts certified the town's free cash as \$165,000 as of July 1, 1993.

Warrants:

Members reported on work they had done on Warrant Articles for the Town Meeting.

Next Meeting:

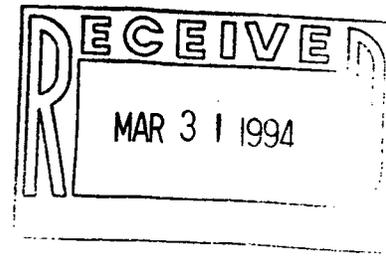
The next meeting will be on March 14th at the Junior High Library, 7:30 PM.

Adjourn:

The meeting was adjourned at 10:15.

cc: BOS

ACTON FINANCE COMMITTEE



To: Finance Committee Members
From: Charles Olmstead, Chair
Date: March 16, 1994
Subject: Minutes of Finance Committee meeting March 14, 1994

Meeting called to order at 7:35 P.M.

Present at the meeting were:

Doré Hunter, Bill Mullin, Don Johnson, John Murray, Sharon Summers, and Marcella Sultan representing the Town administration; Dr. Isa Zimmerman, Bill Ryan, and Mac Reid representing the School administration; Dr. Mary Donald, Sharron Gaudet, Sidney Johnston, Herman Kabakoff, Paul Kohout, Kirwan Morgan, Charles Olmstead, John Rogers, David Steinhilper, and Elliott Whitney Committee members; Steve Aronson and one other person.

Dr. Zimmerman presented the proposed School budgets with support from Bill Ryan and Mac Reid responded to questions asked by various Committee members.

Doré Hunter presented the proposed Town budget with support from Don Johnson, John Murray, and Bill Mullin and responded to questions asked by various Committee members. Certain additional data and information are to be furnished to the Finance Committee by the Town administration.

The meeting adjourned at 10:35 P.M.

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

DATE: 3/31/94

TO: Town Report Committee

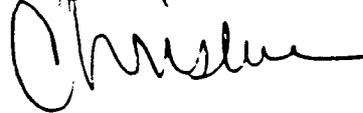
FROM: Christine Joyce, Town Manager's Office

SUBJECT: Thank You!

Congratulations on another great publication! Thank you very much for your kind reference to me in this, your final Town Report as a Committee. I truly appreciate the time you all put in to "pull it together" each year despite my inability to assist you as much as I would have liked to. These last four years have been the most time consuming, hectic times experienced in my tenure with the Town, due mostly to the loss of the Selectmen's Secretary position in our office as well as the increased responsibilities and requirements of town government.

I have asked VCC to recruit new members, but to date have not received any leads on warm bodies! Any one interested in re-upping? I promise I won't spit fire and take hostages as much!

Regards,

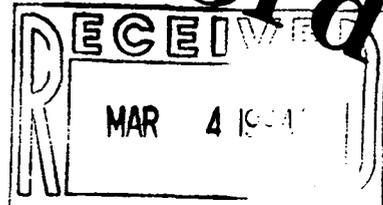


cc: Town Manager ✓

Don
F.Y.I

The Public Recorder

cc: BOS



Volume 44 No. 2

Published By The Massachusetts Town Clerks' Association

February 1994

NOTES FROM SECRETARY CONNOLLY'S ELECTIONS DIVISION

MOTOR VOTER SIGNED INTO LAW

Secretary Connolly is proud to announce that "Motor Voter", a bill making sweeping changes in state voter registration procedures, is now law. The Massachusetts Town Clerk's Association, led by its President, Nancy Norris, and the Lobbyist for the clerk's Association, Steve Roche, deserve a lot of credit for lobbying this bill through the Legislature.

The bill, officially titled "An Act Increasing Electoral Participation in the Commonwealth", was enacted as Chapter 475 of the Acts of 1994. As of July 1, 1994, there will be voter registration by mail in the Commonwealth. The Secretary's office will be printing and distributing a mail-in voter registration form, which will be postage prepaid. Citizens will be able to register to vote by filling out this form, signing it under the penalties of perjury, and mailing it or delivering it to the city or town clerk where they live. Once it is received, the clerk must send the voter a notice acknowledging receipt, and add the person's name to the voting list. In addition, the bill immediately directs the Secretary to prepare a report

for the Legislature on the costs and implementation of a central registry of voters. This report will be available by the first Wednesday of March.

The bill also immediately establishes a special commission to recommend legislation implementing alternatives to the annual street listing. This legislation, abolishing the street listing and recommending some type of substitute, will not take effect until January 1, 1998. A voter registration reform advisory commission is also immediately established to study the implementation of the voter registration process and the appropriateness of the twenty day voter registration deadline.

Most of the other provisions of the bill will take effect on January 1, 1995. These include:

- * *Allowing voter registration at the registry of motor vehicles and at designated state agencies;*
- * *Eliminating and/or shortening most of the required registration sessions, including the Saturday registration session;*
- * *Changing the last day to register to vote from 28 days to 20 days before the state primary and election;*
- * *Allowing unenrolled voters to remain unenrolled when they vote in a party primary (except a presidential primary);*
- * *Greatly increasing Penalties for Election Fraud*

The Elections Division will be conducting training sessions and supplying written materials relating to the implementation of this new law. Please call us with any questions at 1-800-462-VOTE, or (617) 727-2828.



Inside this Issue:

Motor Voter Signed Into Law	1	Certifying Signatures/Info to Jury Commission	5
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MTCA Establishes Two Committees	4	Condolences Former Paxton Town Clerk	6
Condolences To Lois Ennis	4	Records Mgmt. Train./EL-80 Coding Available	6
Wooden Ballot Boxes For Sale/Spring Luncheon	4	MTCA Lobbyist Report	8/11

cc: BOS

MAPC NEWS



A Monthly Publication of the Metropolitan Area Planning Council

Winter Meeting Highlights

In her first public appearance since taking over as head of the BRA, Marisa Largo, Boston's new Chief Economic Development Officer addressed MAPC's Winter meeting on March 2nd at the Sonesta in Cambridge. Joined by Michael Hogan of the Massachusetts Office of Business Development, and Richard Walker of the Federal Reserve Bank of Boston, the group discussed business and government sector economic development initiatives underway in the region and explored opportunities for cooperation.

A new economic development component of MetroPlan 2000, MAPC's regional development plan, was also introduced at the Winter meeting. The plan calls for increased capital financing for regional projects, and expanded private sector investments and small business financing opportunities.

After months of review by a special committee of local and regional officials, the Council designated areas of Malden, Natick and Waltham as Concentrated Development Centers (CDCs). "Concentrating development where the infrastructure exists to support it, is one of the keys to sustaining metropolitan prosperity while reducing the negative impacts of suburban sprawl" notes David Soule, MAPC's Executive Director. Soule believes that "regional concentrations of physical infrastructure, the availability of educational and research institutions, a skilled labor pool, and the network of quasi-public development finance agencies will provide the foundations for the region's economic recovery."

Contact: Donna Howard

A New Look!

MAPC News has expanded to bring you the most comprehensive, up-to-date information on regional developments in transportation, housing, water and land resources, the environment, demographics and more!

The News is published monthly by the Metropolitan Area Planning Council (MAPC) for the citizens of greater Boston. Subscription is free. As the regional planning agency for 101 greater Boston communities, MAPC serves as a central resource for information about the region and works at various levels of municipal, state and federal government to address issues of regional significance. News submissions are subject to editing and should be sent to the Public Information Officer, MAPC, 60 Temple Place, Boston, MA 02111, (617) 451-2770; fax (617) 482-7185.

<i>President</i>	Edmund P. Tarallo	<i>Director</i>	David C. Soule
<i>Vice President</i>	William G. Constable	<i>Editor</i>	Donna J. Howard
<i>Secretary</i>	Dianne M. Shea	<i>Designer</i>	Susan P. Pawlowski
<i>Treasurer</i>	Richard A. Easler		

Clean Cities

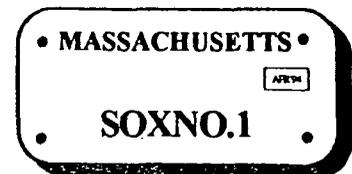
U.S. Department of Energy Secretary, Hazel O'Leary joined MAPC's President, Edmund Tarallo, Boston's Mayor Menino, Senator John Kerry, Lt. Governor Cellucci, and other city and state leaders on Friday, March 20th at Boston City Hall, for a ceremony formally designating Greater Boston as a U.S. DOE Clean City.

Participants affirmed their commitment to the use of alternative fuel vehicles (AFV) and the development of AFV refueling and maintenance facilities with the signing of a Memorandum of Understanding outlining public/private sector initiatives to attain the goals set forward by DOE's Clean Cities Program: to put 250,000 alternative fuel vehicles on the road and 500 to 1,000 refueling stations in 50 cities across the nation by 1996.

Upon acceptance of the designation, Tarallo applauded the Clean Cities Program as a way to spur the Massachusetts economy while improving air quality and pledged MAPC's commitment to secure federal, state and local resources to implement alternative fuel vehicle use in the region.

Contact: Donna Howard

License Plate



SWAP Water Supply Protection Plan

MAPC has just released the South West Water Supply Protection Plan to Boards of Selectmen, Planning Boards, Boards of Health, Conservation Commissions, and Water Departments in the nine participating communities.

The study area encompasses 51,672 acres of land identified as aquifer and watershed recharge areas. An inventory of potential sources of contamination in these areas identified 246 underground storage tanks containing gasoline or diesel fuel, 592 underground heating oil tanks, 67 federally-registered hazardous waste handlers, 35 confirmed hazardous waste sites, and 18 suspected hazardous waste sites. The plan analyzes local protection measures already in place in the communities and recommends additional measures—such as zoning overlay protection, underground storage tank bylaws, and hazardous materials bylaws—to increase protection of water supplies.

Because many of the communities water supply recharge areas extend beyond their boundaries, inter-community cooperation to protect water supplies is critical. MAPC is encouraging chief elected officials to sign a Memorandum of Understanding that will foster continued inter-community cooperation on water supply issues.
Contact: Mary Ellen Schloss

Transportation Plan

An update to the Regional Transportation Plan is underway. MAPC and CTPS will be meeting with the subregions over the next three months to identify issues, develop potential planning strategies to evaluate the issues, and make recommendations for changes to the Regional Transportation Plan.
Contact: Dan Fortier

Have You Been Trying to Tap the Local Government Market?

Regional councils represent 34,000 of the 38,500 local governments across the nation and on Memorial Day Weekend, May 28 - 31, they'll be in Boston for the National Association of Regional Council's (NARC) 28th Annual Conference and Trade Show.

NARC conferees manage millions of state and local dollars in a wide variety of program areas. They are mayors, city councilors, selectmen and regional planners — representative of the rapidly growing regional government marketplace.

Ensure your company's visibility in this new and expanding arena. Call Donna Howard at (617) 451-2770 to learn about sponsorship opportunities that will bring national exposure to your company for months to come.

Environmental Reviews

MAPC has reviewed and distributed the following environmental reviews:

- ◆ Boston/274-278 Summer Street/License Existing Structures
- ◆ Wilmington/White Pines Crossing
- ◆ Hudson/Heritage Drive Subdivision
- ◆ Lynn/The Village At Stonybrook
- ◆ Marblehead/Goldfield/License Existing Seawall And Stairs
- ◆ Quincy/Moon Island Police Firing Range
- ◆ Boston/Asphalt Batching Plant
- ◆ Chelsea/Chelsea High School
- ◆ Canton/Water Supply Well #9
- ◆ Cambridge/Super Stop & Shop
- ◆ Braintree/The Plaza At Braintree

Waste Oil Collection

The Metro Boston Local Governance Committee invites the communities of Boston, Braintree, Chelsea, Everett, Lynn, Milton, Nahant, Quincy, Revere, Saugus, Swampscott and Winthrop to improve storm water quality by establishing oil collection centers for local residents to change their own motor oil. The Committee will contribute up to \$2,500 towards the purchase of three above ground double-walled waste oil collection tanks for three member communities. The estimated cost of the tanks is \$4,000.

Selections will be based on (among other things) the community's ability to allocate up to \$1,500 in matching funds; the suitability of the collection center site, and demonstrated success in the management of waste disposal plans. Applications must be submitted by 5:00 p.m. on May 6th.

Contact: Bill Clark at MAPC

Save the Date

The April hearing date for the proposed Massachusetts Planning and Development Act legislation is scheduled for: Tuesday, April 12th at 10:30 a.m., Gardner Auditorium, State House, Boston, MA.

Call for Model TDM By-Laws

MAPC is preparing a handbook on Transportation Demand Management (TDM) strategies for local governments and employers. We need your ideas — especially those that use zoning laws to reduce parking requirements in exchange for programs that encourage transit, ridesharing, bicycling and walking.

Contact: *Judith Alland*

“HOME” \$\$s Available

EOCD has announced the availability of \$5 to 6 million in federal HOME funds for rental production, project-based homeownership, and purchaser-based homeownership. Applications are already being accepted. Subject to continuing availability of funds, applications will be accepted until May 1, 1994 and will be reviewed on a rolling basis according to competitive criteria.

The HOME program is an important opportunity for communities — especially those not receiving housing funds directly from HUD — to create or preserve affordable housing. For applications and program information call EOCD's Office of Private Housing (617) 727-7824.

Contact: *Judith Alland*

Transportation Improvement Program (TIP)

Submittal deadlines for TIP roadway, transit and enhancement projects lapsed in March. MAPC is currently reviewing and evaluating TIP submittals for design detail, potential construction date, and consistency with the regional plan goals. A draft TIP will be available for public review by June 1, 1994.

Contact: *Dan Fortier*

Walk For Hunger

On May 1st, more than 46,000 people will take giant steps towards feeding the hungry of Massachusetts by participating in Project Bread's 25th Anniversary Walk For Hunger. Registration will be from 7:00 to 9:00 a.m. on the Boston Common. The Walk For Hunger is the largest one-day fundraiser in America and the biggest walkathon in the world. Emergency meal programs in 120 communities in the Commonwealth will benefit from the Walk, expected to raise some \$3 million in 1994. Individuals and organizations interested in participating should call Project Bread at (617) 723-5000.

Planners Forum

Local planners from around the region convened at Wellesley Town Hall on March 15th to address some of the critical issues facing their communities. Transportation planning and funding, local master planning and consistency with MetroPlan 2000, and the grow smart legislation were some of the issues addressed at this meeting. The next meeting is scheduled for Tuesday, June 14th at a location to be determined. Stay tuned for details.

Contact: *Martin Pillsbury*

Grant Alert

All communities interested in applying to EOCD's Community Development Block Grant and Municipal Incentive Grant Programs, are now required to submit a Community Action Statement (CAS) to qualify for funding. The CAS is a three-year action plan that assists local officials and policy makers in establishing community goals and priorities. The CAS due date is Friday, July 1, 1994. Grant applications for both programs are available now. The application deadline for the Community Development Block Grant Program is August 1, 1994. The application deadline for the Municipal Incentive Grant Program is July 1, 1994. EOCD has scheduled informational meetings about the grant programs and the CAS requirement:

◆
Tuesday, April 12th

9:30 a.m. - 12:30 p.m.

West Springfield Municipal Building

Thursday, April 14th

9:30 a.m. - 12:30 p.m.

Gardner City Hall Council Chambers

~
Wednesday, April 20th

9:30 a.m. - 12:30 p.m.

Andover Library Memorial Hall,
Route 28

Thursday, April 21st

12:30 - 3:30 p.m.

Wareham Town Hall Auditorium

◆
MAPC is working to arrange an information session in the MAPC region and will notify communities upon confirmation. For more information call (617)727-7001 or the toll free number 800-392-6445 to leave a message.

MAGIC Water Supply Plan

Efforts to develop a water supply protection plan for eight communities in the MAGIC subregion are underway. In January MAPC officials met with the inter-community water supply committee, formed to assist in the plan development. Chief elected officials in the participating communities have appointed two local representatives to serve on the committee. The next meeting will be held on April 18th in Acton. Development activities will continue throughout the Spring and Summer months with a draft plan expected in September.

Contact: *Mary Ellen Schloss*

Open Space Bond Bill Refiled

The \$300 million open space bond bill has been refiled for the current legislative session. The public hearing process resulted in a number of changes to the bill including an increase in the allocation of open space grants under the Self Help and Urban Self Help grant programs; expanded and clarified eligibility requirements for the urban open space projects; and an increase in the amount authorized for compliance with the Americans with Disabilities Act.

Contact: *Joan Blaustein*

\$4 Million Available in State Open Space Grants

The Division of Conservation Services (DCS) has announced that preliminary applications are due June 1, 1994 for the state's Self-Help and Urban Self-Help grant programs. Grants are available for the acquisition of conservation land and for the development or renovation of park and recreation land. Complete program details and eligibility criteria are available from DCS. If there is enough interest, a workshop on how to apply for these grants will be scheduled in the Boston area. For more information or if you would like to attend a workshop, call Jennifer Soper at (617) 727-1552 ext. 292.

Contact: *Joan Blaustein*

April Calendar

1	10:00 a.m.	MPO Liaison Committee
4	12:00 p.m.	Officers Meeting
5	9:00 a.m.	MetroPlan Committee
6	12:00 p.m.	Legislative Committee
12	8:30 a.m.	Subregional Chairs Meeting
	12:00 p.m.	Finance Committee Meeting
13	8:30 a.m.	NSPC Meeting
	3:30 p.m.	Full JRTC Meeting @ STB
	7:30 p.m.	MetroWest, Sudbury
14	8:30 a.m.	NSTF Meeting
18		Holiday
20	9:00 a.m.	Executive Committee
	4:00 p.m.	TRIC Meeting
21	3:00 p.m.	SWAP Meeting
	7:30 p.m.	MAGIC Housing Task Force, Acton
	7:30 p.m.	South Shore Coalition Meeting
27	3:30 p.m.	JRTC Steering Committee @ STB
	7:30 p.m.	MAGIC, Stow
28	12:00 p.m.	Economic Development Policy Committee



**METROPOLITAN AREA
PLANNING COUNCIL**
60 Temple Place, 6th Floor
Boston, Mass. 02111

WALTER KIVER -

4/1/94

YOUR BYLAWS HAVE LITTLE TO DO WITH THIS ISSUE. YOU ARE CONTROLLED BY STATE LAW AND YOU CLEARLY CANNOT GIVE THE MONIES TO FAD. SEE

2. Places of food and drink.
3. Public gathering places including schools and town facilities.
4. Entertainment

JOHN MURRAY BEFORE YOU GO MUCH FURTHER, PLEASE

Because some of these categories contain numerous establishments, the commission has decided to reach many of them by mail surveys instead of through field surveys. Although information gathered in mail surveys might not be as accurate as that gained in the field, the commission believes it has enough knowledge to evaluate the accuracy of the responses. The commission would work through the Chamber of Commerce.

The mail questionnaire will be developed at the January meeting. To help members prepare their recommended questions, Joan Burrows will send the access standards to each of them.

B. GIFT ACCOUNT

The commission discussed the proper use of its gift account. This is an important subject as Ed Kelly has donated \$650 to it with the only apparent guidelines being that the money go to individuals living in Acton.

According to section 8J of the by-laws, the commission is supposed to spend its funds on town projects and for town purposes not for individuals. In question is whether the gift account is an appropriate endeavor for the commission or whether its monies should be turned over to FAD.

The commission decided that Ed's guidelines need to be clarified. If he indeed wishes monies to go to individuals, the commission must determine how this can best be accomplished without violating its by-laws.

C. VAN LISTING

The Beacon has agreed to carry information about the availability of the Suburban Manor van in its Bulletin Board. Joan Burrows will write up and place the listing.

V. NEW BUSINESS

A. FESTIVAL OF TREES

The commission discussed the December Festival of Trees in which it participated. The Kids on the Block puppet was especially successful with townspeople.

B. MEDI-PLEX RAMP

Stan Freeman-Gerson of the Mental Health Association has the commission's advice as to where Medi-plex might donate an

cc: BS

4/1

access ramp originally planned for an area company that no longer needs its. The commission discussed some of the schools and Boundaries on Route 2A.

VI. SWEARING IN OF NEW MEMBERS

Town Clerk, Cathy Belbin swore in new commission members Mary Billingsley, Joanne Dillon and Carol Stimmel.

New members were then given Handicap Parking Violators Forms together with an explanation of their proper use.

VII. ADJOURNMENT

The meeting was adjourned at 9:10PM.

Submitted by Carol F. Stimmel

~~XXXXXXXXXX~~
22

TOWN OF ACTON
COMMISSION ON DISABILITY

MINUTES
DECEMBER 9, 1993

Members Present: Walter Kiver, Wayne Geehan, Mary Ellen Mayo, Mary Billingsley, Joanne Dillon, and Carol Stimmel.

Others Present: Joan Burrows and Natalie Lipman.

I. The meeting was called to order by Walter Kiver at 7:17PM.

II. APPROVAL OF NOVEMBER MINUTES

The minutes were approved with corrections.

III. TREASURER'S REPORT

Of the \$1,500 anticipated as the commission's 1994 budget, \$234.55 has been spent or encumbered leaving a balance of \$1265.45. Mary Ellen Mayo discussed the procedures that members should follow to pay for and to get reimbursed for commission related expenditures. She also explained when the use of a Purchase Order would be required.

IV. BOOK PURCHASE

The commission voted unanimously to purchase the following books:

No Pity by Joseph Shapiro (approximately \$25) on the history of the disability/access movement. This will be donated to the Acton library.

Wheelchair Etiquette by Steve Klemz, MS, MSW which would make a good commission handout both to disabled and non-disabled people. The commission voted to make a one-time payment of \$300 to the author for the right to print or copy the booklet as often as it wishes.

V. OLD BUSINESS

A. ACCESS BOOK - PRIORITIES

The commission established the following access priorities using the Mass. AG's Disability Rights Project Questionnaire as a guide. Religious organizations were not discussed as they have already been surveyed:

1. Sales, rentals and essential services including medical facilities.

cc. T.M. BOS, Planning, Engineering

cc. BOS

MINUTES OF THE MAGIC/ROUTE 2 CORRIDOR ADVISORY COMMITTEE
December 9, 1993

The meeting of the Route 2 Corridor Citizens Advisory Committee was held Thursday, December 9, 1993 at the Massachusetts Highway Department (MHD) District 4 Office at 519 Appleton Street in Arlington. Ken Miller chaired the meeting on behalf of Dan Beagan. The following were in attendance:

Ken Miller, BTP&D-EOTC
Kojo Fordjour, MHD, Envir. Division
Efi Pagitsas, CTPS
Bill Bent, CTPS
Bob MacDonald, MHD, District 4 Projects Development Engineer
Jack Wood, MHD, District 4 Planning
Michael Karas, MHD, District 4 Traffic Operations
Preston Huckabee, MHD, District 4 Projects
Anne Fanton, Selectman, Town of Acton
Judy Walpole, Selectman, Town of Concord
Gail B. Jewell, Planning Board, Town of Concord
Dilla Tingley, Planning Board, Town of Lincoln

Anne Fanton began with comments on the Minutes for the September 16th meeting. She requested that language be added to the fourth sentence of the fourth paragraph on the second page to read as follows: "They are not interested in giving up more than they already lost without total improvement." Dilla Tingley requested that the last paragraph on the second page be changed as follows: "Harriet Todd has given a 5 page memo to Kojo which outlines the Town of Lincoln's concerns relative to any safety improvements on Route 2 from Bedford Rd. through Crosby Corner. Because of the number of private homes along that stretch whose only access is Route 2 a two frontage road concept may be required".

Bill Bent summarized the results of the Route 2 Concord Rotary Study. For a short term solution, he recommended that the design shown on Figure 3 be used which can be implemented by the placement of pavement markings. He added that the study laid the foundation for long term improvements by presenting potential improvements which involve geometric changes and the installation of traffic signals.

Anne asked if it was possible to go with the Figure 4 option even though it does not meet MUTCD standards. Mike Karas said that an experimental project approval would be required. The lane lines shown in Figure 4 meet MUTCD standards but not the yield lines. Anne suggested that a combination of Figures 3 and 4 be used. Bill said that there is not enough information to prove that lane lines would be better. Efi Pagitsas said that

lane lines will help to channelize traffic which will increase capacity some and driver awareness. However she feels that it will present maintenance problems as well as the enforcement issue. She pointed out that if there is initial enforcement, then it will show drivers that these measures are important. Anne recommended that MHD do all the painting that meets MUTCD standards, then do observations to see if there are improvements.

Ken Miller agreed that monitoring and enforcement will be necessary especially at the Commonwealth Avenue approach. Bill said he can foresee problems for vehicles coming from Commonwealth Avenue destined for Route 2 westbound. Mike said he would go along with everything in Figure 4 except the yield lines and the "Right Lane Must Turn Right" sign (before the Route 2 eastbound departure lane). He believes that this restriction would be unenforceable. Ken recommended a sign that would suggest that right turning traffic stays to the right such as "Watch Out Right Lane Turning Right." He also recommended that Bill work with Mike to come up with an alternative which will address the problems with Commonwealth Ave. traffic entering the rotary.

Anne wanted to know how soon pavement markings can be installed. Bob MacDonald said that a project request for a resurfacing project has been submitted, but it is not on the TIP yet. After new pavement goes down, then pavement markings can be placed. This should occur in the next construction season.

Kojo Fordjour reported that negotiations have been completed with the consultant for the Crosby's Corner Improvement Project. Funding should be included in next years Bond issue. The contract will include all environmental studies and a 25% design. A request for Federal participation has been made to CEPO.

The issue of whether the Route 2/Route 126 intersection can be included was brought up. Efi and Bob said that the FHWA will not fund improvements for this location until Crosby's Corner is done. There are problems with doing the Route 126 project with a grade separated diamond interchange. Without the diamond design, it should go forward with federal approval.

Anne wanted to know if the decision is made not to build a grade separated interchange at Route 126, will the effect preclude a decision for grade separation on Route 2 in Acton? Bob said that would be a different situation.

The next item on the agenda was the Route 2 Corridor Feasibility Study. Kojo said he did not know what CTPS was commissioned to do. Efi said that CTPS would be testing alternatives from a traffic point of view. It does not include the feasibility of implementation at this point and it may not necessarily recommend improvements for all locations.

Ken said there will be an in-house meeting to decide on a

schedule and scope for the feasibility study. When the study is completed, scopes for the EIR's for specific projects will be developed. The towns need to provide improvement alternatives.

The date for the next meeting was set for Thursday, March 10 at 8:00 a.m. The agenda will include updates on: short term improvements for the Concord rotary, a draft outline scope of the Route 2 Corridor Feasibility Study and the Route 2 resurfacing project.

JRW/jw



CC: BOS
PLANNING BOARD • Town of Acton

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

DECISION
94-4

Washington Drive Extension
Definitive Subdivision

March 28, 1994

RECEIVED & FILED

DATE March 29, 1994

Barbara Brown
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 03062 for property located in Acton, Massachusetts between Washington Drive and Newtown Road, owned by Peter Whitcomb of Hayward Road in Acton, MA 01720. The 17.5 acre site of the proposed subdivision is shown on the 1993 Acton Town Atlas Map E-3 as parcels 63-0 through 63-10.

This DECISION is in response to an application for approval of a Definitive Subdivision Plan entitled "Definitive Subdivision in the Town of Acton, Massachusetts - Washington Drive Extension" (hereinafter the Subdivision) 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, continued on February 28, 1994, and March 14, 1994. 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.. Board members William Shupert III, Vice-Chairman; John Pavan, Clerk; Gregory Niemyski; 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 - Washington Drive Extension" dated November 5, 1993, last revised February 17, 1994, consisting of 8 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 1/3/94;
Acton Tree Warden & Municipal Properties Dir., dated 11/23/93;

Acton Engineering Department, dated 3/9/94, 3/1/94, 1/26/94 & 12/8/93;
Acton Building Department, dated 11/15/93;
Acton Water District, dated 12/13/93;
Acton Fire Chief, dated 1/7/94;
Acton Tax Collector, dated 11/15/93;
Acton Conservation Commission, received 12/6/93 & another dated 2/2/94;
Acton Historical Commission, dated 12/10/93; and
Acton Planning Department, dated 3/11/94, 2/25/94 & 1/4/94.

- EXHIBIT 4 Correspondence from the LandTech Consultants, Inc. to the Town Planner dated 1/10/94; to the Planning Board dated 2/23/94 & 1/20/94; to the Engineering Administrator dated 2/23/94 & 1/20/94 and to the Town Clerk, dated 11/12/93.
- EXHIBIT 4 Correspondence from the Town Planner to the Conservation Commission, dated 3/2/94; from the Acton Fire Chief to the Conservation Commission, dated 3/2/94; from the Assistant Planner to LandTech, dated 1/26/94, and to the Fire Chief, dated 12/6/93; from LandTech to the Acton Water District, dated 11/18/93.
- EXHIBIT 5 A petition asking the Board not to connect Washington Drive to Newtown Road signed by area residents and received on 12/6/93.
- EXHIBIT 6 Agreements dated 1/10/94 and 3/14/94 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 April 1, 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 a subdivision of approximately 17.5 acres into 9 residential lots, and a parcel A containing an emergency access way. In all 3.4 acres are wetlands.
- 1.2 The proposed Subdivision is located within the Residence 2 (R-2) and Residence 4 (R-4) Zoning Districts and is contained within Zone 4 of the Groundwater Protection District.
- 1.3 The proposed use is an allowed use in the R-2 and R-4 Districts. The proposed lots comply with the area and frontage requirements of the Acton zoning bylaw in the respective zoning districts.
- 1.4 The Plan shows two streets connected by an emergency access way. The first street, Washington Drive Extension, extends Washington Drive from its current terminus by ± 290 feet. The second street, McKinley Drive enters from Newtown Road for a distance of ± 400 feet. In both streets the proposed layout is 50 feet and the pavement width is 20 feet.
- 1.5 The Applicant has requested numerous waivers from the Rules. Part 2 of this Decision evaluates these requests in detail.
- 1.5 The proposed Subdivision is subject to the Rules in effect at the time the preliminary plan was submitted in July 1993. Since then the Board amended its Rules allowing a T-shaped turnaround.
- 1.6 Newtown Road in the vicinity of the proposed McKinley Drive follows a sharp crest vertical curve and features a low sag vertical curve just a little further to the west, resulting in a blind spot at station 35+50 of Newtown Road. As a result sight distance for vehicles turning in and out of McKinley Drive does not meet the 275 feet required by the Rules for collector streets such as Newtown Road. As this situation would be very unsafe for vehicles during turning movements in and out of the proposed McKinley Drive, and because it is not in compliance with the Rules, Section 8, Table III, the Subdivision cannot be approved without significant sight distance improvements in Newtown Road.

- 1.7 Washington Drive has an existing turnaround which is rendered superfluous by the new turnaround in the proposed extension. If left in place it would leave the existing street in an uncoordinated state of affairs with an excessive and useless pavement area. The old turnaround should be removed once the new one has been constructed to ensure that the proposed street is contiguous in alignment with the existing street network as required in Section 8.1.3 of the Rules.
- 1.8 Chapter J of the Bylaws of the Town of Acton identifies Newtown Road as a Scenic Road.
- 1.9 The proposed emergency access road will serve public safety purposes as well as provide a non-vehicular connection between the two subdivision streets. However it is not designed adequately for SU-30 design vehicles. Minor widening of radii and width of gravel surface should be sufficient to address this problem.
- 1.10 The driveway for lot 9 is shown as joining the emergency access road before entering the street. This could raise potential conflicts between private and public interests.
- 1.11 The Plan fails to show landscaping of the cul-de-sac island in McKinley Drive as required by the Rules, Section 8.1.18.
- 1.12 The width of the Washington Drive Extension layout measures 50 feet but this is not indicated on the Plan.
- 1.13 The Subdivision is proposed on the same land where a previous subdivision, Patriots Hill IV endorsed by the Board on September 8, 1969 and modified on February 11, 1980, was recorded. Therefore, this Subdivision must be considered a modification of the Patriots Hill IV subdivision pursuant to M.G.L. Chapter 41, Section 81W.
- 1.14 The Plan shows a sidewalk along Newtown Road but no information is available of engineering details or trees that might have to be avoided or removed.

BOARD ACTION

Therefore, subject to and with the benefit of the following waivers, plan modifications, conditions and limitations, the Board votes unanimously to APPROVE the Definitive Subdivision - Washington Drive Extension.

2. WAIVERS

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

2.1.1 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 provide 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.**

2.1.2 Waiver from Section 8.1.12 (Table I) to allow a center line radius in the Washington Drive Extension of 75 feet rather than the minimum required 110 feet. The waiver has been requested in order to reduce wetlands impacts. The curve is at the very end of the street where vehicles will move slowly in any case. **THE WAIVER IS GRANTED.**

- 2.1.3 Waiver from Section 8.1.17 to allow an existing 750 foot long single access street to be extended by an additional 290 feet. Section 8.1.17 limits the length of single access streets to 500 feet. Subsections of 8.1.17 lists criteria for exemption from this requirement, but the Subdivision does not meet any of those criteria. On the other hand, the Plan shows a Parcel A, which contains a proposed emergency access road connecting Washington Drive Extension and McKinley Drive. The Conservation Commission has approved the wetlands crossing necessary to build the emergency road. This emergency road addresses public safety concerns arising from the resulting 1040 feet single access street. **THE WAIVER IS GRANTED.**
- 2.1.4 Waiver from Section 8.1.18 to allow a "hammerhead- or T-" turnaround in the Washington Drive Extension. The waiver has been requested in order to avoid adverse impacts on surrounding wetland areas. The new Subdivision Rules, Section 8.1.18.2, in effect since November 1993 allow such a turnaround and set forth certain design standards. The proposed turnaround meets those standards. **THE WAIVER IS GRANTED.**
- 2.1.5 Waiver from section 8.1.18 to allow three driveways and the proposed emergency access road to enter within the McKinley Drive turnaround. Multiple driveways make it difficult to plow these turnarounds. **FOR THE EMERGENCY ACCESS ROAD THE WAIVER IS GRANTED, but FOR THE THIRD PRIVATE DRIVEWAY THE WAIVER IS NOT GRANTED.**
- 2.1.6 Waiver from Section 9.1.1 and 9.6.1 to allow Washington Drive Extension to be constructed without a sidewalk. There is a sidewalk in the existing portion of Washington Drive. The Board finds that this sidewalk should be continued to the new end of the street. **THE WAIVER IS NOT GRANTED.** The new sidewalk shall be connected to the existing sidewalk.
- 2.2 The Plan shows a sidewalk to be built along the existing Newtown Road frontage of the Subdivision as required in the Rules. The Plan also shows an additional ± 260 feet of sidewalk to be constructed to the east along Newtown Road to connect with the existing sidewalk there. The Board also found that there exists a serious sight distance problem along Newtown Road in the vicinity of the proposed McKinley Drive which causes the proposed intersection to be unsafe (see part 1.6 above), and requires the Applicant to correct this situation (see part 4.2 below). To assist the Applicant with his task to deliver on these safety improvements which are of overriding concern, **THE BOARD HEREBY GRANTS THE FOLLOWING ADDITIONAL WAIVERS** from the Rules:
- 2.2.1 Waiver from Section 9.1.1 and 9.6.1 allowing McKinley Drive to be constructed without a sidewalk. There is a greater public benefit to build a sidewalk and improve the sight distance along Newtown Road, a Collector Street with a daily traffic volume of ± 2500 vehicles, than to build a sidewalk along the new McKinley Drive which will only be a local access street with ± 60 vehicles per day.
- 2.2.2 Waiver from Section 8.1.18 to allow a T-shaped turnaround in McKinley Drive in compliance with Section 8.1.18.2 of the Rules in effect since November 2, 1993. This alternate turnaround reduces cost, the amount of pavement and runoff, and results in a lesser impact on adjacent wetlands.

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 require modifications under part 2, Waivers above.
- 3.2 Modify the emergency access road by widening curve and intersection radii to ensure maneuverability for SU-30 units. It will be acceptable design to assume that an SU-30 vehicle must make one back-up maneuver to enter and exit the emergency road at its terminals on Washington Drive and McKinley Drive.
- 3.3 Relocate the lot 9 driveway to be entirely separate from the emergency road.
- 3.4 If the McKinley Drive cul-de-sac is to remain as proposed, show landscaping for the island as required by the Rules, subject to approval by the Board or its designee.
- 3.5 Indicate the width of the layout for the Washington Drive Extension.
- 3.6 Widen the curb radii in the turnaround of Washington Drive Extension to 30 feet. If the waiver in part 2.2.2 is used, the same shall apply to the T-shaped turnaround in McKinley Drive.

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 This Decision shall be regarded as a modification of the Patriots Hill IV definitive subdivision, endorsed by the Board on September 8, 1969 and modified on February 11, 1980. Prior to the issuance of any building permit within the Subdivision, the Applicant shall have complied with the requirements of M.G.L. Chapter 41, Section 81W.
- 4.2 The Applicant shall improve sight distance along Newtown Road in the vicinity of the proposed McKinley Drive. The Applicant shall be responsible for all engineering and construction work, and obtain any and all necessary easements. Prior to the issuance of a building permit for any lot on McKinley Drive, the Applicant shall submit for the Board's approval a plan and profile, prepared by a registered professional engineer, for Newtown Road improving the sight distance in said location to the largest degree possible (+200 feet). Prior to the issuance of an occupancy permit for any house on McKinley Drive, the reconstruction work in Newtown Road shall be completed, or the Applicant shall secure this work with the Board in accordance with Section 6 of the Rules. If the Town of Acton Highway Department elects to do the work in Newtown Road, the Applicant may turn over the execution of the project to the Town, provided the Applicant has completed all engineering plans to the satisfaction of the Board, obtained all necessary easements, and paid the Town for all expenses for materials incurred by the Town in connection with the reconstruction work. In the event that the Board of Selectmen

disapprove this reconstruction work, the Applicant shall not be obliged to comply with this condition 4.2.

- 4.3 Prior to the issuance of a building permit the Applicant shall submit for the Board's approval a detailed plan, prepared by a registered professional engineer, for the sidewalk to be constructed along Newtown Road. The Applicant shall secure this work with the Board in accordance with Section 6 of the Rules prior to the endorsement of the Plan.
- 4.4 The Applicant shall remove the existing turnaround at the current end of Washington Drive so that Washington Drive continues through as a linear street to the new proposed T-turnaround; properly grade, loam and seed the area from which pavement has been removed; and extend the private driveway for the Weissman lot to the new pavement edge. The Applicant shall be responsible for all engineering and construction work. Prior to the issuance of a building permit for any lot in the Washington Drive Extension, the Applicant shall submit for the Board's approval a plan, prepared by a registered professional engineer, for the pavement removal work. Prior to the issuance of an occupancy permit for any house on the Washington Drive Extension, this work shall be either completed or secured with the Board in accordance with Section 6 of the Rules. If the Town of Acton Highway Department elects to do this pavement removal work, the Applicant may turn over the execution of the project to the Town, provided the Applicant has completed all engineering plans to the satisfaction of the Board and paid the Town for all expenses for materials incurred by the Town in connection with the pavement removal work. In the event that the Board of Selectmen disapprove the removal of this old turnaround, the Applicant shall not be obliged to comply with this condition 4.4.
- 4.5 Parcel A shall be conveyed to the Town along with the conveyance of the streets in the Subdivision.
- 4.6 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.
- 4.7 All septic systems shall be installed in compliance with Acton Board of Health requirements.
- 4.8 All water service lines shall be installed in accordance with Acton Water Supply District specifications.
- 4.9 Except as otherwise specified herein, the Plan and all work performed in the Subdivision shall comply with the applicable Rules.
- 4.10 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.
- 4.11 Prior endorsement of the Plan the Applicant shall submit a performance guarantee in accordance with Section 6 of the Subdivision Rules.
- 4.12 No construction shall commence within the Newtown Road layout, until after a scenic road public hearing has been held and all changes subject to review under the scenic road bylaw have been approved by the Board and the Tree Warden.

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

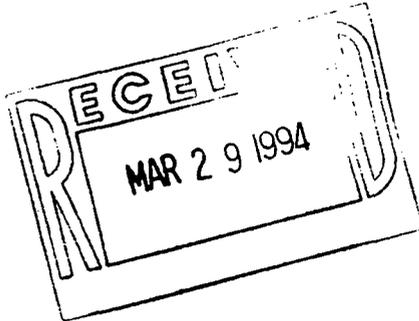
[RHB.subd.94*4]



CC: BOS

PLANNING BOARD • Town of Acton

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



RECEIVED & FILED

DATE *March 29, 1994*

ACTON PLANNING BOARD

Minutes of Meeting

Barbara Brown
for TOWN CLERK, ACTON

February 14, 1994

Planning Board members in attendance were: William Shupert, III, Vice Chairman; Douglas Carnahan; John Pavan; Mary Giorgio and Associate Members Joshua Chernin and Richard Crosswell. Town Planner Roland Bartl and Assistant Planner Donna Jacobs also attended. Members Gregory Niemyski, James Lee and David Hill were not in attendance.

I. Meeting with Representative Pamela Resor

Board members met with Representative Resor to discuss several bills that have been filed in the legislature and the Subcommittee on Regionalism's Report, "Regionalism: Moving Massachusetts into the 21st Century". Bills of interest to the Planning Board include the following:

Massachusetts Planning & Development Act;

H 3984 Coordinated Review of Subdivision Plans & Special Permits;

H 3986 Administrative Review of Zoning Appeals;

S 882 Amend Zoning Act to Require Protection of Drinking Water Supply;

H 3306 Provide Open Space & Housing Funds in Certain Municipalities;

"Regionalism: Moving Massachusetts into the 21st Century"; and

"County Government - Transferring its Functions to the Commonwealth".

H 3984 Coordinated Review of Subdivision Plans & Special Permits.

Mr. Pavan asked if the bill was filed because the permitting process seems disjointed. Rep. Resor responded that it was for this reason. Mr. Carnahan asked whether the joint hearing requirement would be over and above the now required hearing. Rep. Resor replied that it would be in place of the present hearing requirements. Mr. Carnahan expressed concern that it was a lot to expect from a single joint hearing. Mr. Pavan inquired whether there has been a response from the Governor on this bill. Rep. Resor replied that there has not been a response from the administration.

"County Government - Transferring its Functions to the Commonwealth".

Mr. Chernin stated that Sen. Chase's bill to abolish county government had some valid points. He believes that there is a need for a middle layer of government for provision of services, but the present system isn't working. Mr. Chernin inquired whether anyone had checked on the financial cost savings touted by the bill. Rep. Resor replied that the committee has the same concern and has asked Sen. Chase for a detailed report on his assumptions regarding cost benefits.

H 3306 Provide Open Space & Housing Funds in Certain Municipalities. Mr. Chernin raised concerns about this bill. Representative Resor informed the Board that the bill has been refiled annually since the late 1980's. It does not appear that it will pass this session.

Massachusetts Planning & Development Act.

Board members discussed the bill filed by 1000 Friends of Massachusetts with Representative Resor. Mrs. Resor explained that the bill is in the hearing process and may be reported out of committee in April. She does not expect the bill to be enacted this year because it has a lot of re-work that will need to be completed before it will be acceptable to the legislature. Mr. Shupert asked what the Board can do to help. Rep. Resor asked the Board to prioritize its concerns and send written comments to her office. Board members thanked Representative Resor for meeting with them and agreed to schedule this on the agenda for the 3/14/94 meeting.

II. Public Hearing on Proposed Zoning Bylaw Amendments

Mr. Pavan moved that the Board vote to waive the reading of the public hearing notice that was published twice in the Beacon. His motion was seconded by Mr. Carnahan and passed by unanimous vote. Mr. Shupert informed the Board and audience that he will summarize each article and then ask for comments.

West Acton Village District, General Business and Limited Business Districts in West Acton

No questions or comments from the public.

Village Residential (VR) District

Martin Graetz questioned why some parcels were re-zoned in Article 1 and then re-zoned again in Article 2. Mr. Shupert explained that the goal of the first article is to reduce the size of the West Acton Village District. In large part, the reduction is accomplished by rezoning parcels currently in residential use to a residential district. The goal of the second article is to create a new residential district. Anne Fanton suggested that the Board speak with the Town Moderator about the need for an overall presentation before each separate article is addressed by Town Meeting. Mr. Shupert replied that it was the Board's intention, but the Board is waiting until numbers have been assigned to each article on the warrant.

Parking in Village Districts

Mr. Bartl explained that some minor changes have been made to sections 6.9.2.3, 6.9.2.5, & 6.9.2.7 to delete the role of the Building Commissioner. There were no comments from the public.

Site Plan Special Permit in Village Districts

No questions or comments.

Tract of Land Required for Certain Developments

No questions or comments on this article.

Maximum Limits for Residential Component in Planned Unit Developments

Anne Fanton expressed her support of this article. She suggested that an additional phrase be added to the summary as follows: "Acton could become

exclusively residential, which is not consistent with the purpose of the Bylaw provision nor in the best interest of the Town's tax base."

Mr. Bartl discussed his cover memo to the Board which included some additional options. Mr. Pavan expressed concern that 15 acres may be too small for a PUD to be effective. He recommended that the Board think about increasing the minimum size requirement for the tract of land. Mr. Pavan also noted that the PUD allows residential development in commercial districts which could create an island of residential use among commercial uses.

Mr. Carnahan and Mrs. Giorgio agreed with Mr. Pavan that 15 acres is probably too small for a PUD. Mr. Shupert stated that the Board wants to increase the size requirement for the tract of land. Mr. Bartl replied that it would require a new public hearing because it is beyond the scope of the advertised notice. Mrs. Giorgio said that the Board could move forward with the advertised amendment and do another amendment at the next Town Meeting.

Mrs. Fanton stated that she supports eliminating the PUD provision from the Bylaw. Mr. Bartl stated that the Board could do an article to eliminate the PUD, but this would also require another public hearing. Mr. Shupert responded that the Board is not prepared to decide on this issue tonight. Mr. Carnahan suggested that the Board agree to move forward with the article as drafted. Mrs. Giorgio and Mr. Chernin supported this position.

Corrections, Clarifications and Minor Adjustments to the Zoning Bylaw

Mr. Roy Smith questioned Part B of the Article which proposed an amendments to Section 4.3.6.3 of the Bylaw. Mr. Smith said that the Bylaw requires an open storage pond on the site. His prospective tenant, a child care facility, believes this would be an attractive nuisance. Mr. Bartl explained the circumstances to the Board and discussed the revision of 2/14/94. Mr. Bartl explained that because Mr. Garry Rhodes, Building Commissioner, is away, he has not had an opportunity to obtain his interpretation of the latest revision.

Accommodation of Handicapped and Van Accessible Parking

There were no questions or comments on this article.

Change Special Permit Requirement for Common Drives

There were no questions or comments on this article.

Eliminate Special Permit Requirements for Certain Accessory Uses

No questions or comments received.

Eliminate Prohibition Against and Special Permit Requirement for Tertiary Wastewater Treatment Facilities

There were no questions or comments on this article.

Elimination of Special Permit Requirements for Certain Dimensional Provisions

Mrs. Fanton suggested that the summary be re-phrased to clearly state that under the current provisions the ZBA can grant a special permit to allow a building to exceed the height limitation.

Associate Members for Planning Board When Acting as Special Permit

Granting Authority

Mr. Carnahan stated that he believes this should be adopted because it provides a valued Board member the option of missing a meeting when he is called away for business or emergency reasons. Mrs. Fanton questioned how frequently the Board acts as a permit granting authority. She was advised that almost all of the applications before the Board are for special permits that usually require at least one continuation of the public hearing.

Citizen's Petition - Petition to Change Zoning on Land in Acton

Mr. Bartl noted that as written the petition does not define what zoning action is being requested. The Petitioner advised that he has refiled the petition with the Town Clerk.

Mr. Shupert moved that the Board vote to continue the Public Hearing on February 28, 1994 at 10:00 PM. His motion was seconded by Mr. Pavan and passed by unanimous vote.

III. Consent Agenda

Item A and B, minutes of the 1/10/94 and 1/24/94 meetings, were approved with minor amendments by unanimous vote.

Item C, vote to recommend acceptance of Kennedy Lane, was approved by unanimous vote.

IV. Village Planning Update

West Acton Village Planning Committee

Mr. Shupert reported that the WAVPC will be meeting again on 2/15/94. The WAVPC has begun preparation for presentation of the Village Plan related articles at Annual Town Meeting. Focus is being made on outreach.

South Acton Village Planning Committee

Mr. Shupert reported that the SAVPC will be meeting monthly until after the West Acton Village Plan is completed.

V. Legislative Update. Actions on Massachusetts Planning & Development Act

Board members agreed to address this agenda item during the Board meeting on March 14, 1994.

VI. Additional Warrant Articles on Zoning Bylaw

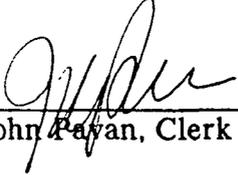
Mr. Bartl reviewed the proposed additional articles, "child care facility" and "other public use" that are scheduled for public hearing on 2/28/94. Board members stated that a representative from the Town of Concord should be in attendance during the public hearing.

VII. West Acton Train Stop - Next Steps?

Members discussed what information would be needed for an initial meeting with the MBTA. Mr. Graetz asked the Board to inquire how the MBTA justified the Silver Hill reopening as a "halt". He also suggested that the Board find out if West Acton is closer to S. Acton than Hastings is to Kendall Green.

The meeting adjourned at 10:00 PM.

Respectfully submitted,



John Pavan, Clerk

dw11.206

CDM

environmental engineers, scientists,
planners, & management consultants

CC: BOS - TRANSMITTAL LTR. ONLY.
FULL REPORT IN RF/RETAIN.
CAMP DRESSER & MCKEE INC.

Ten Cambridge Center
Cambridge, Massachusetts 02142
617 252-8000

March 29, 1994

Ms. Lynne Jennings
Waste Management Division
U.S. Environmental Protection Agency
Region I
90 Canal Street
Boston, Massachusetts 02114

Mr. Edmond Benoit
Regional Engineer
Massachusetts Department of
Environmental Protection
75 Grove Street
Worcester, Massachusetts 01605

Subject: W.R. Grace, Acton, Massachusetts
Soil/Sludge Evaluation Sampling and Analysis Plan for the North Lagoon,
Primary Lagoon, Secondary Lagoon and Emergency Lagoon

Dear Ms. Jennings and Mr. Benoit:

On behalf of W.R. Grace & Co., Camp Dresser & McKee Inc. (CDM) hereby submits the Soil/Sludge Evaluation Sampling and Analysis Plan for the North Lagoon, Primary Lagoon, Secondary Lagoon and Emergency Lagoon. This plan has been revised based on comments received in our telephone conference on March 24, 1994. Sampling is scheduled to start on April 4, 1994 and is anticipated to take approximately 4 weeks to complete. Please contact me at (617) 252-8832 if you have any questions.

Very truly yours,

CAMP DRESSER & MCKEE INC.

Bruce R. Conklin
Bruce R. Conklin, P.E.
Vice President

BRC:paa

Enc.

798-142-SS-CHAR

Distribution: Lynne Jennings (6); Edmond Benoit (3)

cc D. Halley, Acton (3)
R. Sullivan, GZA (1)
L. Ingram, Grace (1)
M. Johns, Grace (1)
T. Stoneman, Canonie (1)
J. Swallow, Pine & Swallow (1)
W. Cheeseman, FHE (1)
D. Johnson, Acton (1)

C. Tuttle, DEP Boston (2)
J. DeStefano, GZA (1)
S. Anderson (1)
H. Fox, Sierra Club (1)
C. Myette, Wehran-MDEP (1)
M. Moore, Concord Board of Health (1)
R. Eisengrein, ACES Tag Mgr. (1)

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

DATE: 3/30/94

TO: Don P. Johnson

FROM: Engineering Dept.

SUBJECT: Adams Street Housing - Article #34

In response to Nancy Tavernier's request for information on the proposed Adams Street housing project and the Maynard Sewage Treatment Plant, we have the following information to offer:

1. The distance from the treatment plant to Adams Street is approximately 460 feet.
2. The distance from the treatment plant to the nearest proposed dwelling is approximately 330 feet.
3. The distance from the treatment plant to the farthest proposed dwelling is approximately 545 feet.

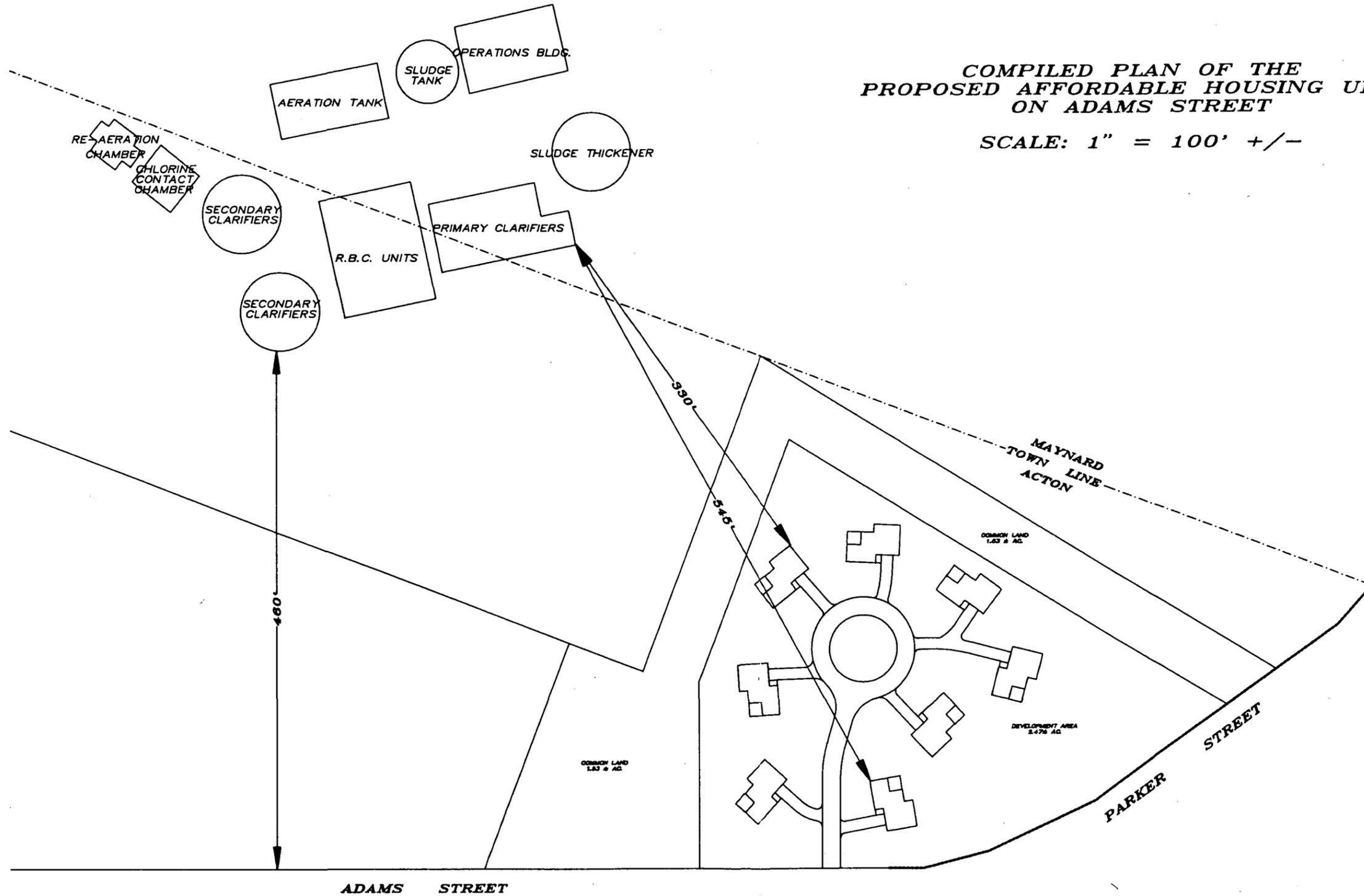
I should stress that these distances are only approximate. The location of the components of the Maynard Treatment Plant were obtained from a plan produced by the Town of Maynard and are not based on field survey by the Engineering Department. If you have any questions or need additional information please let us know.

Dennis Ring *DR* *J.A.*
Engineering Asst. II

MAYNARD SEWAGE TREATMENT PLANT

COMPILED PLAN OF THE
PROPOSED AFFORDABLE HOUSING UNITS
ON ADAMS STREET

SCALE: 1" = 100' +/-



BASE PLAN OF HOUSING UNITS
WAS PROVIDED BY
ACTON SURVEY & ENGINEERING, INC.

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: April 1, 1994

TO: Dore' Hunter, Chairman, Board of Selectmen
FROM: Don P. Johnson, Town Manager
SUBJECT: HDC Bylaw Changes

You have asked that I provide the Board with a clean copy of the recommended wording for the HDC Bylaw amendments in the Annual Town Meeting Warrant. In order to clear up any confusion and help the Board follow Town Counsel's comments, I offer the following, reasonably short, explanation of the evolution.

We originally placed your recommended changes in the Warrant. This was later followed by the HDC's version, as printed on their letterhead in the attached exhibits. (The only exception to this verbatim version was your indication that the word "area", at the end of their definition of STRUCTURE, should be replaced by the word "lot".

When Town Counsel's comments were received (copy attached) I spoke with you and we agreed that we should incorporate his comments in the expectation that the HDC would find them acceptable. This proved to be a little tricky to follow but I have shown the various changes as follows:

DEFINITION OF STRUCTURE

EXHIBIT 1:

1. Change of wording to "lot".
2. Phrase "or paved parking lot" retained per Town Counsel's suggestion at "A" in his letter.

EXHIBIT 2:

1. Phrase "but not limited to" was not in Town Counsel's version at "B" in his letter but I retained it as reinforcement of HDC's position.
2. Town Counsel, at "B", also suggested the additional wording "but not including a public way or street". I modified slightly to read more consistently with the way we normally phrase ... "but not including public streets or ways".

I would recommend leaving the new definition of STRUCTURE as it is printed in the Warrant.

EXCLUSIONS

EXHIBIT 3:

1. As with the definition of STRUCTURE, you suggested that we place the HDC's wording in the Warrant. This was done verbatim. Town counsel reviewed the HDC version and then recommended wording of his own. (This wording is found at "C" in Town Counsel's letter.) For the most part, Counsel

simply cleaned up the HDC wording ... until he got to the end of their words. At that point he proceeded to recommend wording in accordance with the suggestion at "D" in his letter.

2. Again, per our discussion, I included Counsel's full recommendation at this point and inserted the number "10" in the bracketed blank.
3. A copy was then forwarded to Anne Forbes for her review and comment. I spoke with her by phone that evening and discussed the various changes.
4. My notes of the discussion were that everything was acceptable except that she was uncomfortable with the implicit definition of a parking lot that resulted from specifying a size limit. She indicated that the Commission was wrestling with such a limitation but, until they had resolved the question, she preferred to not have the reference in the bylaw. Unfortunately, my understanding of our discussion was that she preferred to remove the entire reference and end the list of exclusions at the point that the HDC had originally ended their list ... after the words "grade level". This is the version that reached the Warrant.

I certainly have no problem with reinstating Town Counsel's words by adding "but not including parking lots" to the end of this paragraph. The resultant wording would read exactly like Counsel's recommendation at "C" except that the bracketed phrase would be eliminated.

All other aspects of the Article seem to be acceptable to everyone so I have not considered them in these comments.

A clean copy of the Warrant with the revised wording as suggested above is attached as Exhibit 4. For the record, with the exception of the minor changes that I have noted above, this wording is Town Counsel's recommended wording.

In conversation with you this afternoon you asked that I also provide versions with (1) all references to parking removed and (2) with a limit of 5 spaces in the bracketed phrase. These versions are shown as Exhibits 5A and 5B.

Per your request, I have attached a full copy of Chapter P "Local Historic District Bylaw" as Exhibit 6.

Finally, we will prepare motions that will cover Exhibits 4, 5A and 5B.

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

cc: Board of Selectmen
Historic District Commission

PALMER & DODGE

One Beacon Street
Boston, Massachusetts 02108

Acheson H. Callahan, Esq.
(617) 573 0178

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

March 8, 1994

cc: BOS
A. FORBES/HDC

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

Dear Don:

(Historic District By-Law)

I have reviewed the proposed changes in the historic district by-law and the various memoranda from Ann Forbes and others, and will attempt to answer what I understand to be the underlying legal questions.

1. Parking Lots.

I think that the statute permits the Commission to require approval of the construction of parking lots in a historical district. Section 8 of c. 40C provides that no "building or structure" may be "constructed or altered" without Commission approval. The quoted words are defined in § 5, and "structure" is broadly defined to mean "a combination of materials, including a sign, fence, wall, terrace, walk, or driveway." A parking lot is similar to but potentially more intrusive in a historic district than a "terrace, sidewalk, or driveway." My view of the meaning of the statutory definition is consistent with the views expressed in Mr. Moore's letter to the Hamilton Commission which you sent me.

Section 8(a) of the statute provides that a town may exclude certain categories of buildings or structures from review by so providing in its by-law. Section 9 of the present by-law does exclude, in accordance with § 8(a)(2), "terraces, walks, driveways, sidewalks and similar structures" from Commission review. I think that "parking lots" are arguably "similar structures" and are thus arguably excluded from Commission review by § 9. If the Commission does not intend this result, I think it should amend the by-law to make it clear that parking lots are included in the definition of structure, but are not included among the categorical exemptions in § 9.

"A"

"D"

The proposed change in the definition of structure is appropriate to do this, but there is an extra "or" in the draft. With respect to § 9.1.2, I suggest the following language:

"C" →

9.1.2 Terraces, walks, driveways, sidewalks and similar structures, provided that any such structure is substantially at grade level, but not including parking lots [for more than _____ vehicles.]

The bracketed phrase is not necessary, but would provide a distinction between small parking lots and larger parking lots, if the town wanted to make such a distinction.

2. Streets.

On the other hand, I do not think that public ways or streets are within the statute. I doubt that the legislature intended to regulate the construction or repair of streets, which would ordinarily be existing streets, in a historical district. The fact that the statute defines "exterior architectural feature" as the portion of a building or structure open to view "from a public street [or] public way ..." tends to support this construction. So does the fact that the principal enforcement mechanism under the statute is the issuance of a building permit, which is not required for the construction of public ways.

On the other hand, streets are sufficiently similar to sidewalks and driveways so that it would be helpful to clarify their status. I think it could be done by adding the phrase, "but not including public streets or ways" to the definition of *structure*. I think it is better to put it in here than in the "exclusion," because that implies that public ways would otherwise be within the Commission's jurisdiction, which, as I said before, I think it is not consistent with the statutory intent.

I would, therefore, revise the definition of structure to read as follows:

"B" →

STRUCTURE: A combination of materials other than a BUILDING, including a SIGN, fence, wall, TERRACE, WALK or DRIVEWAY, but not including a public way or street.

3. Procedure for Determinations of Applicability.

Your last question involves the problem of how the Commission should deal with doubtful cases. In part, this is an unavoidable problem. Words, particularly general words, have an indefinite range of reference, which makes the application of the statute and by-law to particular cases doubtful. Ann Forbes' memorandum provides an illustration. I think that "stone walls" are structures within the statutory (and by-law) definitions, and § 9 does not provide an exclusion, so I read the existing by-law to mean that the construction or demolition of such walls, at least when visible from the street, are subject to the Commission's approval. If an owner thinks that "stone walls" are not "structures," he may

just go ahead with the work, in which the Town would ordinarily proceed with enforcement action, or he may apply for a certificate of non-applicability, in which case the board can rule that the by-law applies and deny the certificate of non-applicability and grant, if appropriate, a certificate of approval. The Commission should maintain a file of such decisions available to the public so that a future applicant knows in advance that the Commission believes stone walls are covered and that he must file an application for approval. That is the way that "precedent" develops in any legal system in this country. In addition, in a situation as common as stone walls in Acton, it may be desirable to amend the by-law definition to make it clear that they are covered. In either case, it is important that a record of the Commission's precedents be maintained and that the Commission treat similar cases in the same way.

As Dore points out, "driveways" present a different case. They are within the statutory and by-law definition of "structure," but they are specifically *excluded* by section 9. In such cases, I do not think it is appropriate to require an owner to file an application for a certificate of non-applicability. Section 9 provides a *categorical* exclusion. That means that an owner may go ahead with work on anything that is fairly within the meaning of "driveway."

But, even in this situation, there may be doubtful cases. For example, most "driveways" are ten or twelve feet wide, and perpendicular to the street frontage. If an owner proposes a semi-circular drive, with two entrances, and a thirty foot wide paved area in front of the house, this is arguably not within the usual meaning of "driveway," and the Commission may think it should be reviewed. If the situation is truly novel and not covered by prior decisions, it is appropriate to require the applicant to file for a certificate of non-applicability and for the Commission to rule on the question, just as in the "stone wall" example previously. If the applicant refuses and the Commission feels strongly about the matter, it can and should take an appropriate enforcement action. But, it is also helpful, both to owners and to the Commission, to have a procedure for informal consultation. The proposed § 7.14 allows this and notifies applicants that the process is available, but does not bind the Board in the way a final decision on an application for a certificate of non-applicability would.

4. Miscellaneous.

The proposed addition to § 8.2 falls into the "stone wall" category. That is, it may involve an issue that comes up often enough so that it is desirable to have an explicit provision about it in the by-law. The draft seems fine, except there should be a semi-colon after the words "grade level."

March 8, 1994

Page 4

Finally, I note that a *two-thirds* vote of town meeting is necessary to amend the historic commission by-law. G.L. c. 40C, § 3.

Very truly yours,



Acheson H. Callaghan

AHC/dcb

Town of Acton

Historic District Commission

472 Main Street

Acton, MA 01720

ARTICLES FOR 1994 ANNUAL TOWN MEETING

February 7, 1994

AMENDMENTS TO CHAPTER P: LOCAL HISTORIC DISTRICT BYLAW

Public Hearing: March 21, 1994
(Advertised: February 24, 1994)

ARTICLE ____: AMENDMENTS TO CHAPTER P: LOCAL HISTORIC DISTRICT BYLAW (2/3 vote required)

To see if the Town of Acton will vote to amend the Local Historic District Bylaw as follows:

Section 2. DEFINITIONS. Delete definition of STRUCTURE. Replace with the following new definition:

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

LOT
← PER FDH

PHRASE "OR PAVED PARKING LOT" RETAINED PER SUGGESTION OF TOWN COUNSEL @ END OF P.1 OF HIS LTR. (SEE "A")

Section 7. PROCEDURES FOR REVIEW OF APPLICATIONS. Add new Section 7.14:

Nothing contained in this Bylaw shall be deemed to preclude any person contemplating construction or alteration of a BUILDING or STUCTURE within a DISTRICT from consulting informally with the COMMISSION before submitting an application referred to in this Bylaw on any matter which might possibly be within the scope of the Bylaw. Nothing contained in this Bylaw 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

Town of Acton

Historic District Commission

472 Main Street

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ARTICLES FOR 1994 ANNUAL TOWN MEETING

February 7, 1994

AMENDMENTS TO CHAPTER P: LOCAL HISTORIC DISTRICT BYLAW

Public Hearing: March 21, 1994
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ARTICLE ____: AMENDMENTS TO CHAPTER P: LOCAL HISTORIC DISTRICT BYLAW (2/3 vote required)

To see if the Town of Acton will vote to amend the Local Historic District Bylaw as follows:

Section 2. DEFINITIONS. Delete definition of STRUCTURE. Replace with the following new definition:

RETAINED FROM HDC MEMO ... NOT INCLUDED AS PART OF TOWN COUNSEL'S RECOMMENDATION. (SEE "B")
STRUCTURE: a combination of materials other than a BUILDING, including (but not limited to) a SIGN, fence, wall, terrace, walk, driveway, or paved parking ~~area~~ *LOT* **BUT NOT INCLUDING A PUBLIC WAY OR STREET.**
PER TOWN COUNSEL.

Section 7. PROCEDURES FOR REVIEW OF APPLICATIONS. Add new Section 7.14:

Nothing contained in this Bylaw shall be deemed to preclude any person contemplating construction or alteration of a BUILDING or STUCTURE within a DISTRICT from consulting informally with the COMMISSION before submitting an application referred to in this Bylaw on any matter which might possibly be within the scope of the Bylaw. Nothing contained in this Bylaw 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

Town of Acton

Historic District Commission

472 Main Street

Acton, MA 01720

Section 8. CRITERIA FOR DETERMINATIONS. Amend Section 8 as follows:

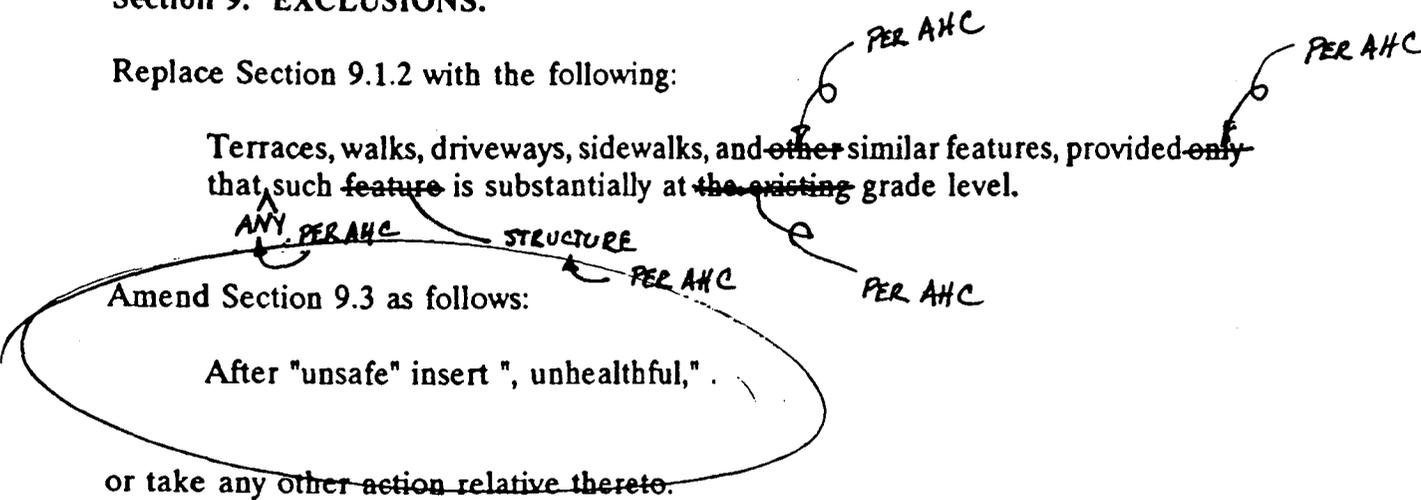
Add new Section 8.6:

"The COMMISSION may impose requirements for the screening and location of above-ground features of septic systems. Such requirements shall not conflict with the requirements of the Acton Board of Health."

Section 9. EXCLUSIONS.

Replace Section 9.1.2 with the following:

Terraces, walks, driveways, sidewalks, and other similar features, provided ~~only~~ that such feature is substantially at the existing grade level.



Amend Section 9.3 as follows:

After "unsafe" insert ", unhealthy,"

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 from the state enabling 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.

ARTICLE 60 AMEND LOCAL HISTORIC DISTRICT BYLAW
(2/3 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, driveway or paved parking lot but not including public streets or ways.

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 new section 8.6:

8.6 The COMMISSION may impose requirements on the screening and location of above ground features of septage 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 and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level, but not including parking lots.

Amend Section 9.3 as follows:

REFERENCE TO PARKING
LOTS ADDED.

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 from the State enabling legislation, MGL Chapter 40C. The new wording proposed for Section 2:

DEFINITIONS and Section 9.1.2 of the EXCLUSIONS more closely matches common s features found within the Town of Acton. The proposed additions to Section 8 Section 9.3 are a response to the updated technology and more stringent regulations for septic systems that have appeared since Chapter 40C was writt The new Section 7.14 should make it clear to readers of the Bylaw that informal, preliminary discussion w 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. 263-2227
Selectman Assigned: F. Dore' Hunter

- (S) Recommendation Deferred
- (F) Recommendation Deferred

ARTICLE 60 AMEND LOCAL HISTORIC DISTRICT BYLAW
(2/3 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:

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2. DEFINITIONS

STRUCTURE: A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway, but not including public streets or ways.

A REFERENCE TO PARKING LOTS ELIMINATED.

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 its functions under this By-Law.

Amend Section 8, by the addition new section 8.6:

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Amend Section 9. with the following:.

Replace 9.1.2 with the following:

9.1.2 EXCLUSIONS Terraces, walks, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level.

A REFERENCE TO PARKING LOTS ELIMINATED.

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 from the State enabling legislation, MGL Chapter 40C. The new wording proposed for Section 2:

DEFINITIONS and Section 9.1.2 of the EXCLUSIONS more closely matches common s
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Direct inquiries to: Anne Forbes, Local Historic District Comm. 263-2227
Selectman Assigned: F. Dore' Hunter

(S) Recommendation Deferred

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(2/3 Vote Required)

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

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

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 new section 8.6:

8.6 The COMMISSION may impose requirements on the screening and location of above ground features of septage 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 and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level, but not including parking lots for more than 5 vehicles.~~

Amend Section 9.3 as follows:

After "unsafe" insert, "unhealthful,".

or take any other action relative thereto.

BRACKETED PHRASE
INCLUDED WITH LIMIT
OF 5 VEHICLES.

SUMMARY

This article, if adopted, will clarify some of the wording in the Acton Historic District Bylaw which presently comes verbatim from the State enabling legislation, MGL Chapter 40C. The new wording proposed for Section 2:

DEFINITIONS and Section 9.1.2 of the EXCLUSIONS more closely matches common features found within the Town of Acton. The proposed additions to Section 8 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. 263-2227
Selectman Assigned: F. Dore' Hunter

- (S) Recommendation Deferred
- (F) Recommendation Deferred

CHAPTER P

LOCAL HISTORIC DISTRICT BYLAW

The Town of Acton hereby creates a Local Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws, Chapter 40C, as amended.

P1. Purpose

The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Acton, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the existing architecture.

P2. Definitions

The terms defined in this section shall be capitalized throughout this Bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Bylaw the following terms shall have the following meaning:

- "Alteration",
or "To Alter" :** *The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.*
- "Building" :** *A combination of materials forming a shelter for persons, animals or property.*
- "Certificate" :** *A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this Bylaw.*
- "Commission" :** *The Historic District Commission as established in this Bylaw.*
- "Construction"
or "To Construct" :** *The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.*
- "Display Area" :** *The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The DISPLAY AREA of an individual letter SIGN or irregular shaped SIGN shall be the area of the smallest rectangle into which the letters or shape will fit. Where SIGN faces are placed back to back and face in opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.*
- "District" :** *The Local Historic District as established in this Bylaw consisting of one or more DISTRICT areas.*

(P2. Definitions - Continued)

- "Exterior Architectural Feature" :** *Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.*
- "Person Aggrieved" :** *The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; an owner of property within 100 feet of said DISTRICT area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, BUILDINGS or districts.*
- "Signs" :** *Any symbol, design or device used to identify or advertise any place of business, product, activity or person.*
- "Structure" :** *A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway.*
- "Temporary Structure or Building"** *A BUILDING not to be in existence for a period of more than two years. A STRUCTURE not to be in existence for a period of more than one year. The COMMISSION may further limit the time periods set forth herein as it deems appropriate.*

P3. District

The DISTRICT shall consist of one or more DISTRICT areas as listed in Section 13 (Appendices) of this Bylaw.

P4. Commission

4.1 *The DISTRICT shall be overseen by a COMMISSION consisting of six members, to be appointed by the Board of Selectmen, two members initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years.*

4.2 *The COMMISSION shall include, if possible, one member from two nominees solicited from the Acton Historical Society, one member from two nominees solicited from the chapter of the American Institute of Architects covering Acton; one member from two nominees of the Board of Realtors covering Acton; and one property owner from within each of the DISTRICT areas. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Board of Selectmen may proceed to make appointments as it desires.*

4.3 *The Board of Selectmen may appoint up to four alternate members to the COMMISSION. Each alternate member shall have the right to act and vote in the place of one regular member should such regular member be absent from a meeting or be unwilling or unable to act or vote. Said alternate members shall initially be appointed for terms of two or three years, and for three year terms thereafter.*

(P4. Commission - Continued)

4.4 *Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.*

4.5 *Meetings of the COMMISSION shall be held at the call of the Chairman, at the request of two members and in such other manner as the COMMISSION shall determine in its Rules and Regulations.*

4.6 *Four members of the COMMISSION shall constitute a quorum.*

P5. Commission Powers and Duties

5.1 *The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATION of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.*

5.2 *The COMMISSION may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for CERTIFICATES, fees, hearing procedures and other matters. The COMMISSION shall file a copy of any such Rules and Regulations with the office of the Town Clerk.*

5.3 *The COMMISSION, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Acton, may adopt and from time to time amend guidelines which set forth the designs for certain EXTERIOR ARCHITECTURAL FEATURES which will meet the requirements of the DISTRICT. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the COMMISSION for approval.*

5.4 *The COMMISSION shall at the beginning of each fiscal year hold an organizational meeting and elect a Chairman, a Vice Chairman and Secretary, and file notice of such election with the office of the Town Clerk.*

5.5 *The COMMISSION shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.*

5.6 *The COMMISSION shall undertake educational efforts to explain to the public and property owners the merits and functions of a DISTRICT.*

P6. Alterations and Construction Prohibited Without Certificate

6.1 *Except as this Bylaw provides, no BUILDING or STRUCTURE or part thereof within a DISTRICT shall be CONSTRUCTED or ALTERED in any way that affects the EXTERIOR ARCHITECTURAL FEATURES as visible from the public way on which the lot or property containing such BUILDING or STRUCTURE has frontage, unless the COMMISSION shall first have issued a CERTIFICATE with respect to such CONSTRUCTION, or ALTERATION. Where a lot containing such BUILDING or STRUCTURE has frontage on more than one public way or ways, the COMMISSION shall limit its review powers established under this Bylaw to the public way from which the view of the BUILDING or STRUCTURE is, in the opinion of the COMMISSION, most relevant to the integrity of the DISTRICT.*

6.2 *No building permit for CONSTRUCTION of a BUILDING or STRUCTURE or for ALTERATION of an EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT and no demolition permit for demolition or removal of a BUILDING or STRUCTURE within a DISTRICT shall be issued by the Town or any department thereof until a CERTIFICATE as required under this Bylaw has been issued by the COMMISSION.*

P7. Procedures for Review of Applications

7.1 *Any person who desires to obtain a CERTIFICATE from the COMMISSION shall file with the Town Clerk and the COMMISSION an application for a CERTIFICATE of Appropriateness, or non-Applicability or of Hardship as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the COMMISSION to enable it to make a determination on the application. The date of the filing of an application shall be the date on which a copy of such application is received by the office of the Town Clerk.*

7.2 *The COMMISSION shall determine within fourteen (14) days of the filing of an application for a CERTIFICATE whether said application involves any EXTERIOR ARCHITECTURAL FEATURES which are within the jurisdiction of the COMMISSION.*

7.3 *If the COMMISSION determines that an application for a CERTIFICATE does not involve any EXTERIOR ARCHITECTURAL FEATURES, or involves an EXTERIOR ARCHITECTURAL FEATURE which is not subject to review by the COMMISSION under the provisions of this Bylaw, the COMMISSION shall forthwith issue a CERTIFICATE of Non-Applicability.*

7.4 *If the COMMISSION determines that such an application involves any EXTERIOR ARCHITECTURAL FEATURE subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The COMMISSION shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Acton. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the COMMISSION to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the COMMISSION shall deem entitled to notice.*

(P7. Procedures for Review of Applications - Continued)

7.4.1 *A public hearing on an application for a CERTIFICATE need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application for a CERTIFICATE may be waived by the COMMISSION if the COMMISSION determines that the EXTERIOR ARCHITECTURAL FEATURE involved, or its category, is so insubstantial in its effect on the DISTRICT that it may be reviewed by the COMMISSION without a public hearing. If the COMMISSION dispenses with a public hearing on an application for a CERTIFICATE, notice of such application shall be given to the owners of all adjoining property and of other property deemed by the COMMISSION to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the COMMISSION may act upon such application.*

P7.5 *Within sixty (60) days after the filing of an application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall issue a CERTIFICATE or a disapproval. In the case of a disapproval of an application for a CERTIFICATE, the COMMISSION shall set forth in its disapproval the reasons for such disapproval. The COMMISSION may include in its disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features which, if made and filed with the COMMISSION in a subsequent application, would make the application acceptable to the COMMISSION.*

7.5.1 *Prior to the issuance of a disapproval of an application for a CERTIFICATE of Appropriateness, the COMMISSION may, at its sole discretion, notify the applicant in writing of its proposed action accompanied by specific recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the COMMISSION. If within fourteen (14) days of the receipt of such notice the applicant files a written modification of his application in conformity with the recommended changes of the COMMISSION, the COMMISSION shall issue a CERTIFICATE of Appropriateness.*

P7.6 *The concurring vote of four members of the COMMISSION shall be required to issue a CERTIFICATE.*

P7.7 *In issuing CERTIFICATES, the COMMISSION may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this Bylaw.*

P7.8 *If the COMMISSION determines that the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the DISTRICT, the COMMISSION shall issue a CERTIFICATE of Appropriateness.*

(P7. Procedures for Review of Applications - Continued)

P7.9 *If the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a CERTIFICATE of Hardship, the COMMISSION shall determine whether, owing to conditions especially affecting the BUILDING or STRUCTURE involved, but not affecting the DISTRICT generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. If the COMMISSION determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the COMMISSION shall issue a CERTIFICATE of Hardship.*

7.10 *The COMMISSION shall send a copy of its CERTIFICATES and disapprovals to the applicant and shall file a copy of its CERTIFICATES and disapprovals with the office of the Town Clerk and the Building Commissioner. The date of issuance of a CERTIFICATE or disapproval shall be the date of the filing of a copy of such CERTIFICATE or disapproval with the office of the Town Clerk.*

7.11 *If the COMMISSION should fail to issue a CERTIFICATE or a disapproval within sixty (60) days of the filing of the application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall thereupon issue a CERTIFICATE of Hardship due to Failure to Act.*

7.12 *Each CERTIFICATE issued by the COMMISSION shall be dated and signed by its chairman or such other person designated by the COMMISSION to sign such CERTIFICATES on its behalf.*

7.13 *A PERSON AGGRIEVED by a determination of the COMMISSION may, within twenty (20) days of the issuance of a CERTIFICATE or disapproval, file a written request with the COMMISSION for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the Metropolitan Area Planning Council. The finding of the person or persons making such review shall be filed with the Town Clerk within forty-five (45) days after the request, and shall be binding on the applicant and the COMMISSION, unless a further appeal is sought in the Superior Court as provided in Chapter 40C, Section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the Town Clerk.*

P8. Criteria for Determinations

8.1 *In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES in the surrounding area.*

(P8. Criteria for Determinations - Continued)

8.2 *In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the appropriateness of the scale, shape and proportion of the BUILDINGS or STRUCTURE both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw, however, such requirements shall not further limit the maximum floor area ratio and height of a BUILDING as defined and permitted in the Acton Zoning Bylaw.*

8.3 *When ruling on applications for CERTIFICATES on solar energy systems as defined in Section 1A of Chapter 40A, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.*

8.4 *The COMMISSION shall not consider interior arrangements or architectural features not subject to public view.*

8.5 *The COMMISSION shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the DISTRICT.*

P9. Exclusions

9.1 *The COMMISSION shall exclude from its purview the following:*

- 9.1.1 *Temporary BUILDINGS, STRUCTURES or SIGNS subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the COMMISSION may reasonably specify.*
- 9.1.2 *Terraces, walks, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level.*
- 9.1.3 *Storm windows and doors, screen windows and doors, and window air conditioners.*
- 9.1.4 *The color of paint.*
- 9.1.5 *The color of materials used on roofs.*
- 9.1.6 *Signs of not more than two (2) square feet in DISPLAY AREA in connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each BUILDING or STRUCTURE which is not more than six (6) square feet in DISPLAY AREA, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.*
- 9.1.7 *The reconstruction, substantially similar in exterior design, of a BUILDING, STRUCTURE or EXTERIOR ARCHITECTURAL FEATURE damaged or destroyed by fire, storm, or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.*

(P9. Exclusions - Continued)

P9.2 Upon request the COMMISSION shall issue a CERTIFICATE of Non-Applicability with respect to CONSTRUCTION or ALTERATION in any category not subject to review by the COMMISSION in accordance with the above provisions.

P9.3 Nothing in this Bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any CONSTRUCTION or ALTERATION under a permit duly issued prior to the effective date of this Bylaw.

P10. Categorical Approval

The COMMISSION may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Acton, that certain categories of EXTERIOR ARCHITECTURAL FEATURES, STRUCTURES or BUILDINGS under certain conditions may be CONSTRUCTED or ALTERED without review by the COMMISSION without causing substantial derogation from the intent and purpose of this Bylaw.

P11. Enforcement and Penalties

11.1 The COMMISSION shall determine whether a particular activity is in violation of this Bylaw or not, and the COMMISSION shall be charged with the enforcement of this Bylaw.

11.2 The COMMISSION, upon a written complaint of any resident of Acton, or owner of property within Acton, or upon its own initiative, shall institute any appropriate action or proceedings in the name of the Town of Acton to prevent, correct, restrain or abate violation of this Bylaw. In the case where the COMMISSION is requested in writing to enforce this Bylaw against any person allegedly in violation of same and the COMMISSION declines to act, the COMMISSION shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within twenty-one (21) days of receipt of such request.

11.3 Whoever violates any of the provisions of this Bylaw shall be punishable by a fine of up to \$300.00 for each offense. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

11.4 The COMMISSION may designate the Building Commissioner of the Town of Acton to act on its behalf and to enforce this Bylaw under the direction of the COMMISSION.

P12. Validity and Separability

The provisions of this Bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bylaw shall continue to be in full force and effect.

P13. Appendices

Appendix 1: South Acton District

The South Acton District shall be a DISTRICT area under this Bylaw. The location and boundaries of the South Acton District are defined and shown on the Local Historic District Map of the Town of Acton, Sheet 1 - 1990 which is a part of this bylaw. Sheet 1 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1.

Appendix 2: Acton Centre District

The Acton Centre District shall be a DISTRICT area under this Bylaw. The location and boundaries of the Acton Centre District are defined and shown on the Local Historic District Map of the Town of Acton, Sheet 2 - 1990 which is a part of this bylaw. Sheet 2 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 2.

Appendix 3: West Acton District

The West Acton District shall be a DISTRICT area under this Bylaw. The location and boundaries of the West Acton District are defined and shown on the Local Historic District Map of the Town of Acton, Sheet 3 - 1990 which is a part of this Bylaw. Sheet 3 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 3.



MASSACHUSETTS DEPARTMENT OF REVENUE

DIVISION OF LOCAL SERVICES

P.O. Box 9655

Boston 02114-9655

MITCHELL ADAMS
Commissioner

LESLIE A. KIRWAN
Deputy Commissioner

(617) 727-2300
FAX (617) 727-6432

cc: BOS

March 29, 1994

Donald Johnson
Town Manager
472 Main Street
Acton, MA 01720

Dear Mr. Johnson:

This letter is to respond to your request for a waiver of Acton's local contribution to meet the spending requirements prescribed by the Education Reform Act, Chapter 110, of the Acts of 1993.

Based on our review of the town's application and Section 316 of Chapter 110 as amended, we have determined that the town qualifies for a reduction of \$165,922 in its FY94 minimum contribution and net school spending requirements for its local schools. As a result, the town's FY94 minimum contribution and net local spending requirements for its local schools are reduced to \$8,278,975 and \$9,028,462, respectively.

The FY94 waiver amount of \$165,922 is comprised of a revenue waiver based on the use of non-recurring levels of free cash used for operating purposes in FY93. The revenue waiver, if exercised by town meeting, results in a permanent reduction in the town's spending requirement.

Very truly yours,

Leslie A. Kirwan

Leslie Kirwan
Deputy Commissioner

cc: Board of Selectmen
Town Accountant
Superintendent of Schools
Tom Collins, Department of Education

Dore'

Minimum Contribution	8,651,514
+ Base Aid	749,487
+ Minimum Aid	47,300
+ New Choice Aid	<u>29,799</u>
New School Spending - FY95	9,478,100

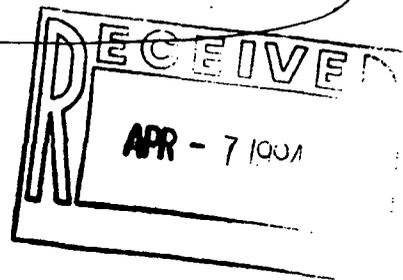
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NOTE CIRCLED REFERENCE ON P. 3.



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

Water Withdrawal Permit Applications Received by the Water Management Program for the Nashua & Concord River Basins

The following permit applications were filed with DEP for Water Management permits in the Nashua River Basin. The permits requested will authorize water withdrawals through the year 2014 under the Water Management Act (MGL 21G). Comments will be accepted until May 18, 1994. A copy of each application is available for review from 9:00 am - 5:00 pm, Monday through Friday, at DEP's Division of Water Supply, Boston Office, One Winter Street, Boston, MA (617) 292-5706.

PWA Decor Inc. a manufacturer of decorative laminating paper has applied for a permit to withdraw up to 1.31 mgd directly from the Nashua River. The withdrawal point is located at Mill #4 at 642 River Street in Fitchburg. The applicant has been manufacturing paper on this site since 1910. The applicant failed to register with the Water Management Program in 1987.
Latitude 42-34-35 Longitude 71-50-07

Holden Department of Public Works has applied for a permit to increase their 1.15 mgd registered system wide withdrawal volume by up to 0.30 mgd from their 4 existing groundwater sources and Muschopauge Pond. Muschopauge Pond is located on Muschopauge Road in Rutland. All four of Holden's groundwater points are located in Holden. The Spring Street Well is adjacent to Asnebumskit Brook and Christian Hill. The Quinapoxet Wells off Wachusett Street (Route 31) are located adjacent to the Quinapoxet River and Asnebumskit Brook. The Mill Street Well is also located adjacent to the Quinapoxet River. The Mason Road Wells are located south of Cournoyer Pond and next to Trout Brook.

Muschopauge Pond	Latitude 42-22-47	Longitude 71-55-11
Spring St. Well	Latitude 42-22-10	Longitude 71-52-54
Quinapoxet Wells	Latitude 42-22-33	Longitude 71-51-09
Mill St. Wells	Latitude 42-22-44	Longitude 71-51-19
Mason Rd. Wells	Latitude 42-23-55	Longitude 71-51-00

Lancaster Water Department has applied for a permit to increase their 0.53 mgd registered system wide withdrawal volume by up to 0.08 mgd. The increased withdrawal volumes will come from Lancaster's two existing wells. Stations 1 & 2 are located

off Bolton Station Road near the intersection of Mill Street in Lancaster.

Station #1 Latitude 42-26-28 Longitude 71-39-43

Station #2 Latitude 42-26-27 Longitude 71-39-43

The BFGoodrich Company, an industrial user in Leominster, has applied for a permit to withdraw up to 0.12 mgd from a well in the Nashua Basin. The water to be withdrawn is primarily used for industrial non-contact cooling. The well is located at 300 Whitney Street, near Monoosnoc Brook in Leominster.
Well 1 Latitude 42-31-45 Longitude 72-45-05

Wachusett Mountain Associates has applied for a permit to increase their 0.23 mgd registered system wide withdrawal volume by up to 0.57 mgd. The increased withdrawal volumes will come from two existing sources and a proposed well(s), and will be used for snowmaking. Water from an existing unnamed pond off Route 140 (Worcester Rd.) and the proposed well(s) located near the intersection of Worcester Road and Mile Hill Road in Westminister will be pumped approximately a mile to the existing snowmaking pond at the base lodge on 499 Mountain Road in Princeton. This will be the final withdrawal point.
Pond #1 Lodge Latitude 42-30-10 Longitude 71-53-10
Pond #2 Latitude 42-30-59 Longitude 71-53-12
Proposed Well(s) Latitude 42-30-54 Longitude 71-53-06

Sterling Department of Public Works has applied for a permit to increase their 0.40 mgd registered system wide withdrawal volume by up to 0.23 mgd. The increased withdrawal volumes will come from Sterling's existing Well #3 and two proposed wells (Wells 4 & 5) at this site. All three wells are located off Redemption Rock Trail (Route 140) near the confluence of East Wachusett Brook, Bailey Brook and the Stillwater River in Sterling.

Well #3 Latitude 42-26-34 Longitude 71-48-16

Well #4 Latitude 42-26-34 Longitude 71-48-16

Well #4 Latitude 42-26-34 Longitude 71-48-16

Westminister Water Department has applied for a permit to increase their 0.24 mgd registered system wide withdrawal volume by up to 0.33 mgd. The increased withdrawal volumes will come from Westminister's only registered water source, Meetinghouse Pond. Meetinghouse Pond is located on South Street in Westminister.
Meetinghouse Pond Latitude 42-32-00 Longitude 72-54-45

Worcester Department of Public Works has applied for a permit to increase their 9.85 mgd registered system wide withdrawal volume in the Nashua by up to 6.65 mgd. The increased withdrawal volumes will come from Worcester's three registered water sources in the Nashua Basin, Kendall Reservoir, Pine Hill Reservoir, and Quinapoxet Reservoir. All three reservoirs are located in Holden. Water from Pine Hill Reservoir and Quinapoxet Reservoir will be transferred to Kendall Reservoir where it is withdrawn for the Worcester

supply system.

Kendall Reservoir	Latitude 42-20-00	Longitude 71-53-15
Pine Hill Reservoir	Latitude 42-20-45	Longitude 71-55-10
Quinapoxet Reservoir	Latitude 42-23-30	Longitude 71-53-00

Concord Basin

The Department of Environmental Protection will accept written comments on the Water Management permit application filed for the permitting of the Concord River Basin. The permit requested will authorize water withdrawals through the year 2011 under the Water Management Act (21G). Comments will be accepted until May 18, 1994.

Concord Water Department has applied for a permit to increase their 2.10 mgd registered system wide withdrawal volume by up to 0.46 mgd from an existing surface water withdrawal point, a proposed well and existing groundwater withdrawal points in Concord. The existing withdrawals include the Deaconess Well located at 363 Old Road to Nine Acre Corner, the J. Dugan Well at 977 Old Marlboro Road, the Second Division Well at 167 Border Road, the White Pond Well at 205 Hemlock Street, and the Hugh Cargill Well at 446 Walden Street. Concord's existing surface water source is Nagog Pond on Great Road in Acton. The proposed source is the Robinson Well off Sudbury Road near Fairhaven Hill and the Sudbury River in Concord.

Deaconess Well	Latitude 42-26-30	Longitude 71-22-30
J. Dugan Well	Latitude 42-26-19	Longitude 71-23-45
Second Division Well	Latitude 42-26-21	Longitude 71-24-53
White Pond Well	Latitude 42-25-23	Longitude 71-23-20
Hugh Cargill Well	Latitude 42-27-16	Longitude 71-20-43
Robinson Well	Latitude 42-26-20	Longitude 71-22-00
Nagog Pond	Latitude 42-30-50	Longitude 71-26-03

MASS HIGHWAY

William F. Weld
Governor

Argeo Paul Cellucci
Lieutenant Governor

James J. Kerasiotes
Secretary

Laurinda T. Bedingfield
Commissioner

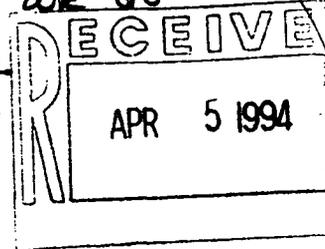
cc: JOHN -

LET'S WRITE BACK AND DISCUSS POTENTIAL
4 HR. MINIMUMS, STATE'S REFUSAL TO PAY OUR SCALES
ON OTHER JOBS AND THEIR DECISION NOT TO PAY OUR
OVERHEAD COSTS FOR DETAILS. MAYBE WE GO
ALONG BUT MAYBE THEY SHOULDER THEIR
RESPONSIBILITIES.

April 4, 1994

BOARD OF SELECTMEN
TOWN HALL
ACTON, MA

01720



Dear Sir:

Please be advised that non-scheduled traffic signal repairs at intersections by Massachusetts Highway Department (MHD) employees are now considered emergency work. The repair of state-maintained traffic control devices is a public safety issue which must be responded to in an immediate and expeditious manner while providing as safe an intersection as possible.

It is requested that the Police Department in your municipality assist us in this non-planned work, by providing traffic control at these sites. The duration of the repair work would be less than an hour. We would pay for the repairs and would appreciate the municipality absorbing the cost of the police protection.

The traffic signal repair would be on local state roads in your community. This work, with police assistance, would allow the intersection/roads to return to normal operating status in the quickest possible time under the safest condition for both the workers and the motoring public.

We appreciate your providing us with this assistance. If you have any questions please contact Charles F. Sterling III, P.E., State Traffic Engineer, at (617) 973-7360.

Sincerely,

Ross B. Dindio

Ross B. Dindio, P.E.
Chief Engineer

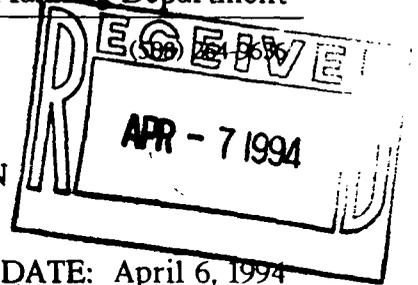
TJS/mc

CC: BOS

Town of Acton

Planning Department

472 Main Street Acton, Massachusetts 01720



INTERDEPARTMENTAL COMMUNICATION

TO: Board of Appeals
FROM: Roland Bartl, AICP, Town Planner
SUBJECT: Shell Oil, Variance Request #94-5

R.B.

DATE: April 6, 1994

Clearly this is a unique site that can hardly meet the precise standards for the LB district in which this site is located. However, the request to allow only a 3 foot front setback is the boldest I have seen for canopies so far. If allowed, the canopies would severely close in on the street, which is directly in conflict with the objectives of the existing zoning under the Master Plan.

The Bylaw already has a provision to address lots in the LB district with insufficient depth: While the standard front yard setback is 75 feet, footnote (5) in the Dimensional Table allows a reduction to 30 feet under certain circumstances. This site largely meets those circumstances. The variance request before you asks for a full 90% reduction from this already reduced requirement.

For comparison, the variances from front yard setbacks for canopies previously granted are:

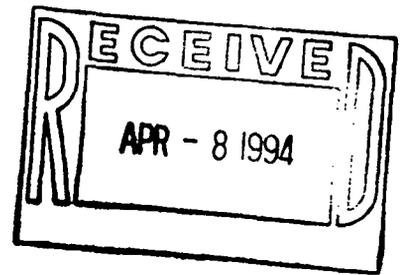
Table with 4 columns: Location, Standard, Variance, Reduction. Rows include West Acton Mobil, Main Street Mobil, and Main Street Exxon.

Also, note that the Zoning Bylaw does not even allow signs to be erected within 5 feet of the front lot line.

Other gas stations have partially or completely rebuilt and thus avoided or minimized variances. It seems that here, too, a more thorough reconstruction could significantly reduce the degree to which a variance would be necessary.

I recommend to deny this variance request for the above reasons.

xc: Don P. Johnson



10 Wingate Lane
Acton, MA 01720
April 7, 1994

Board of Selectmen
Acton Town Hall
472 Main Street
Acton, MA 01720

Dear Selectmen:

Subject: Acton Garden Club Annual Plant Sale
Saturday, Msy 14, 1994

I am requesting permission to place a sandwich board sign on town property between Town Hall and the library approximately ten (10) days before and up to the May 14 Plant Sale.

Please send me a letter of acknowledgement. Thank you very much.

Yours truly,

Peggy Garrison

Peggy Garrison
Chairman, Plant Sale

GARRY RHODES
PLEASE COMMENT.

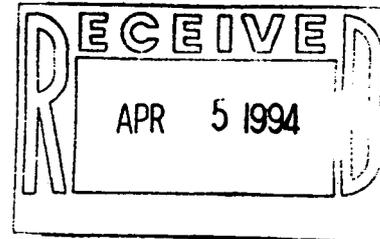
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211



April 4, 1994

Mr. Thomas L. Stoneman
Camp Dresser & McKee Inc.
Ten Cambridge Center
Cambridge, MA 02142

Re: Approval of Sludge/Soil Evaluation Sampling & Analysis Plan
for the North Lagoon, Primary Lagoon, Secondary Lagoon and
Emergency Lagoon dated March 29, 1994

Dear Mr. Stoneman:

The U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection (the Government Parties) have reviewed the Sludge/Soil Evaluation Sampling & Analysis Plan for the North Lagoon, Primary Lagoon, Secondary Lagoon and Emergency Lagoon submitted by Camp Dresser and McKee (CDM) on March 29, 1994 (the Plan). By this letter, the Government Parties are providing approval of the Plan.

According to the March 28, 1994 schedule for preconstruction activities submitted by CDM, work under the Plan is scheduled to begin on April 4, 1994. The Government Parties are approving the schedule for this work with one exception. Please insure that your contractor retains one boring per lagoon for splitting samples with EPA's contractor, Ebasco. I will notify you when our contractual arrangement with Ebasco has been finalized and when Ebasco will be in the field to conduct the split sampling activities.

Also, please note that this approval does not imply that the Plan fulfills all the requirements of the Government Parties March 15, 1994 letter. The March 15, 1994 letter also requires characterization of sinking pond. A plan for characterizing sinking pond has not yet been submitted to the Government Parties.

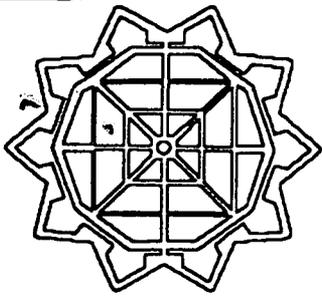
If you have any questions regarding this letter, please contact me at (617)573-9634 or Michael LeBlanc at (508) 792-7653.

Sincerely,

Lynne A. Jennings



cc: Gretchen Muench, EPA
Bill Pencola, Ebasco
Michael Leblanc, MADEP
Donald Hanson, MADEP
Charles Tuttle, MADEP
Louis Ingram, W.R. Grace
Mark Stoller, W.R. Grace
Bruce Conklin, CDM
William Cheeseman, Foley, Hoag & Elliot
Don Johnson, Town of Acton
Doug Halley, Town of Acton (3)
Paul Reiter, GZA (2)
Steven D. Anderson, Anderson & Kreiger
B. Leach, Town of Concord
Robert Eisengrein, ACES
John Swallow, Pine & Swallow Associates, Inc.



Massachusetts Municipal Association LEGISLATIVE BULLETIN

cc: BOS

April 1, 1994

APR 4 1994

SENATE PASSES EARLY RESOLUTION ON LOCAL AID

The Massachusetts Senate unanimously passed an Early Resolution on Local Aid which includes the critical \$40 million in new lottery funds on March 30. The Early Resolution passed by the Senate differs from the Resolution passed by the House, in that the Senate actually increased Chapter 70 assistance by \$5.2 million, according to the most recent figures from the Department of Education. Chapter 70 funds now total \$189.6 million rather than \$184.4 million. Because the Senate used the most up-to-date population figures to calculate town-by-town distribution of lottery funds, there may be a one-half of 1 percent variance in municipalities' shares of the new lot-

aid compared to the figure passed by the House. In any event, the total amount of lottery funds in the state budget would increase to \$389 million. The Additional Assistance line item, meanwhile, is the same in both resolutions at \$476 million.

The Department of Revenue has indicated that cherry sheets will be sent out to cities and towns approximately two to three weeks after it has confirmed that the House agrees with the Senate's use of the more recent DOE numbers and population figures used in calculating the lottery distributions.

The MMA has thanked Sen. Thomas Birmingham (D-Chelsea), chair of the Ways and Means Committee, and Sen. Lucile Hicks (R-Wayland) for their leadership in winning passage of the Resolution.

Approves \$15M in Snow and Ice \$\$

In addition, the Senate engrossed a supplemental budget that includes \$15 million to help cities and towns deal with staggering snow and

ice deficits caused by the record winter of '94. The MMA had pushed for this relief measure after surveying communities and projecting a statewide municipal snow and ice deficit of \$65 million by June 30.

The Senate is using the lottery formula to distribute the \$15 million in snow and ice funds. The House instructed the DOR to create a formula based on road mileage, population, and snowfall amounts. The \$15 million figure will be sent to the governor's desk once a conference committee agrees on the distribution plan.

Binding Arbitration Hearing Held

Union representatives were out in force at the Legislature's Public Service Committee hearing on March 28 to support bills that call for the reinstatement of compulsory binding arbitration for police and fire personnel, teachers and other groups of municipal employees.

The bills contain "last best offer" arbitration, which requires each party to submit a written statement containing its last and best offer on the issues in dispute, and an arbitrator would select either offer for each issue. The selection would be final and binding on the parties and the municipal legislative body. This procedure would replace the current non-binding system of arbitration for police and fire negotiations conducted by the Joint Labor Management Commission (JLMC).

Union leaders testified that their members are frustrated with the current system, which they feel has favored management,

and complained that the system causes delays in settling contracts and prevents members from "getting what they deserve." Concerning the reinstatement of binding arbitration, one labor official said: "If need be, we'll ask the Legislature to override Prop. 2 1/2. We overrode 2 1/2 with the cancer (presumption) bill."

Other union representatives, in testimony said they were concerned about the lack of retroactive increases in wages, and asked that municipalities be required to separate funds for salary increases so the funds can't revert to free cash. The MTA testified in favor of binding arbitration for teachers.

JLMC Chairman John Dunlop countered the union claims of delays at the JLMC by presenting data showing that the JLMC's volume of work has grown steadily in the last three years.

Three local officials testified in opposition to binding arbitration. Mayor Judy Robbins stated that the "last best offer" practice is "distressing," and "has a history of suppressing collective bargaining." While noting that she understood the difficulty in three, four and five-year delays in contract settlements and that there may be a need for studying long standing impasses, she stressed that resorting to binding arbitration is not the answer. Seekonk Executive Secretary Robert Canevazzi testified that binding arbitration would lead to artificial settlements and that labor negotiations at the local level would reach impasse very quickly. Brookline Personnel Director Gerry Hayes also testified against binding arbitration, noting that the current system is working well. He cautioned against making any quick changes to the law.

The MMA also testified in opposition to binding arbitration, emphasizing that it would not guarantee an increase in salaries. He reminded the committee that municipalities have faced extremely tight fiscal constraints since the late 1980s, and have struggled to provide public safety wage increases. He noted that the MMA is philosophically opposed to an unelected third party making decisions for a municipality, and that reinstating compulsory binding arbitration would be a breach of the intent of Prop. 2 1/2. Fourteen years ago binding arbitration was eliminated when 2

1/2 was approved, with the acknowledgement that if local government's ability to raise revenues is limited, local spending could not be left vulnerable to an outside arbitrator's order.

At the conclusion of the opposing testimony Senate Chairman Michael Morrissey stated that the MMA "has a political position, not a realistic one." However, Morrissey invited the MMA to sit down to work out a solution.

The committee appears eager to take action on binding arbitration. The MMA will meet with the committee chairmen, and share its concerns with the governor at the April 12 LGAC meeting. Please keep legislators informed of opposition to binding arbitration. A letter to the Public Service Committee would also help. (Senator Michael Morrissey, Representative Byron Rushing, Chairmen, Joint Committee on Public Service, Room 39, State House, Boston 02133). The MMA needs your help to ensure that this proposal does not get enacted.

Transportation Bond Bill Update

The Transportation Bond Bill remains before the House Ways & Means Committee. The bill, which would make the \$300 million available to cities and towns under the state's Chapter 90 Bond program, includes many changes favorable to local government that were not in the governor's bill.

The MMA is concerned that another construction season will come and go without any new funding for roads and bridges, which are in a dangerous state of disrepair. Reports have been circulating that the bond bill will be taken up after the budget is resolved by the House, which could be as late as May. One of the most severe winters in recent memory, has battered local roads and there is a clear need for road construction funds. The MMA asks members to contact legislators and urge them to ask House Speaker Charles Flaherty and Ways & Means Chairman Thomas Finneran to make the bond bill a priority, and to move the legislation immediately.

Relief from School Spending Mandate Available for Some Cities and Towns

A complex and little-known provision of the school finance law may allow some communities adjust their mandated school spending levels.

Cities and towns that have built new schools or incurred debt for other school capital projects may be able to find some relief from the minimum spending requirement imposed by the new school finance law.

Chapter 70 of the Massachusetts General Laws provides that the minimum required local contribution (MRLC) calculated for any city or town for a fiscal year shall be reduced by the excess debt service (EDS) amount, if any. EDS is a measurement of the amount by which long-term debt service for schools in a city or town exceeds the state-wide average. For regional school districts the EDS amount is allocated by the district agreement. For municipalities with net school spending in excess of the foundation budget, use of the EDS reduction could not result in net school spending dropping below the foundation budget amount.

The Department of Education did not use the .98 factor in calculating the MRLC for fiscal 1994 or for the preliminary MRLC for fiscal 1995. For fiscal 1994, the factor was applied if the city or town requested it. It appears that the DOE intends to adopt this same practice for fiscal 1995.

The actual EDS calculation is as follows: the municipality's share of long term debt service in support of school construction, on a per pupil basis, minus the statewide average local share of long term debt service in support of school construction, on a per pupil basis; multiplied by the foundation students in a city or town. Debt service amounts are reduced by any reimbursements through the school building assistance program.

Contact the Department of Education to see if your community can take advantage of this formal relief item.

Tenure Sought for Police Chiefs

The Massachusetts Association of Police Chiefs is pushing hard to pass legislation, S.1180 and H.575, that would require reappointments for police chiefs except for just cause. The chiefs are claiming that they need this legislation to remove politics from the chief of police position. MMA is opposed to this proposal. As with any top management job in the public or private sector, a chief should not be guaranteed life-time tenure.

Health Insurance Survey Reminder

More than 100 communities have returned their health insurance surveys. If you have not done so, please complete as much of the survey as you can and return it to Christine Litchfield at the MMA. The information will be very valuable in our lobbying efforts concerning state and federal health care reform.

"Growing Smart" Legislation Filed

Rep. Barbara Gray (D-Framingham) House chair of the Joint Committee on Local Affairs, has sponsored an initiative drafted by 1000 Friends of Massachusetts called the "Growing Smart" legislation, which is an attempt to promote economic development by establishing a new level of regional home rule for land use planning, development, and conservation plans. Communities would elect officials within each of several designated regions to a new regional commission, prepare regional policy plans consistent with state goals and develop local comprehensive plans with designated growth centers. Funding for communities to develop plans would be derived from a "1 percent set-aside" of the proceeds from the Commonwealth's bond issues for land acquisitions and capital improvements. The funding would supplement the existing per capita assess-

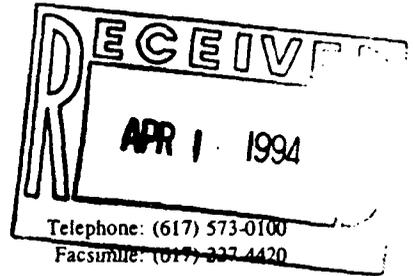
ment from the municipalities and other monies currently received by regional planning agencies.

The legislation would create an expert quasi-judicial Board of Land Appeals appointed by the governor to hear appeals on developments of regional impact. Appeals of these decisions would be directed to the Appeals Court. A council on planning and development would be chaired by the governor and comprised of five executive office secretaries and six public members who would administer the state funding, coordinate capital facilities planning and review regional policy plans.

Gray has held informational sessions throughout the state on the bill, and will conclude the process with a public hearing April 12 before the Joint committee on Local Affairs at 10:30 a.m. in Gardner Auditorium in the State House. The MMA's Municipal Regional Policy Committee has been reviewing the legislation, and intends to make a recommendation to the Board of Directors on the bill at the April 12 meeting. Several communities have written to the MMA to express their opposition to the bill.

PALMER & DODGE

One Beacon Street
Boston, Massachusetts 02108



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

March 25, 1994

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

Dear Don:

I enclose our bill for services through February.

If you have any questions, please let me know.

Very truly yours,

Acheson H. Callaghan

AHC/dcb

Enclosure

CHRIS.

PLS. PREPARE FOR PYMT.

cc: BOS
PLANNING
ASSESSING

} COVER & SUMMARY PAGE.

March 25, 1994

PALMER & DODGE

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

FEDERAL I.D. NUMBER 04-2170788

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

PLEASE RETURN THIS COPY WITH YOUR
PAYMENT TO ENSURE PROPER CREDIT

For professional services through February, 1994, as follows:

General Town Matters

Review, revision and advice concerning zoning and other articles for the annual town meeting;	\$ 2,675.00
Miscellaneous other services, as shown on the attached invoices;	350.00
Services in connection with appellate tax board matters;	1,500.00
Services on collective bargaining and personnel matters;	7,200.00

Litigation and Related Matters

Services in connection with <i>DiDuca</i> appeals; and	250.00
Services in <i>Wagner v. Board of Appeals</i> .	<u>175.00</u>

TOTAL SERVICES \$ 12,150.00

Disbursements

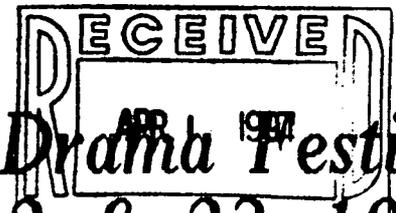
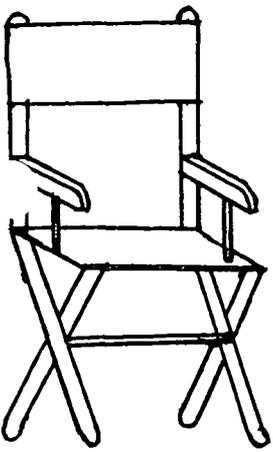
Computer research	\$ 5.63
Duplication (<i>DiDuca</i>)	1,310.61
Hand delivery	20.00
Telecopier	21.00
Telephone	20.65
Travel & Related Expenses	50.40
UPS	<u>5.01</u>

TOTAL DISBURSEMENTS 1,433.20

AMOUNT DUE \$ 13,583.30

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

DUE AND PAYABLE WITHIN THIRTY DAYS



The New England Drama Festival
April 21, 22, & 23, 1994
Acton-Boxborough Regional High School
Acton, Massachusetts 01720

31 March 1994

Dear Nancy,

At this time I should like to invite you and any member of the Board of Selectmen to welcome the visiting schools at one of the sessions of the 66th Annual New England Drama Festival which ABRHS is hosting.

Sessions of the Festival will begin on the following times: Thursday, 3:00 p.m. and 6:15 p.m.; Friday, 2:00 p.m. and 6:00 p.m.; and Saturday, 10:30 a.m. and closing ceremonies at 2:30 p.m. Please select a time which is convenient for you. I will call you next week to finalize your choice, assuming that you are able to make an appearance at the Festival. You might like to consider that Lieutenant Governor Paul Celucci will be at the Friday evening session during which Hingham, Massachusetts will be performing.

Thank you for your continued support and assistance.

Sincerely,

Vin Parrella

Vin Parrella
Festival Coordinator

cc: BOS

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: April 7, 1994

TO: Mac Reid

FROM: Don P. Johnson, Town Manager

SUBJECT: Teachers' Early Retirement Incentive

The Board of Selectmen has asked that I invite you to discuss the ERI Article with them Monday, April 11, at 6:30 PM, prior to Town Meeting. Their meeting will be in the Guidance Library at the High School.

The Board remains concerned with the lack of concrete information for such a significant vote. Their current voted position is not to support the Article but they remain open to input that would change their vote.

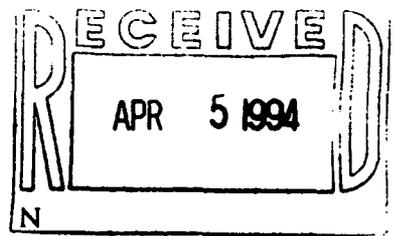
The Board has received all of the information you have provided me to date. If you have any specific materials you would like them to review or re-review before Monday night's meeting, please forward it to us by early afternoon tomorrow (Friday) and we will send it out in their weekend packet.

cc: Board of Selectmen

Isa Zimmerman



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



NOTICE OF PUBLIC HEARING

The ACTON HISTORIC DISTRICT COMMISSION will hold a PUBLIC HEARING on Wednesday, April 13, 1994, at 8:00 p.m. in ROOM 204, ACTON TOWN HALL, 472 MAIN STREET for an APPLICATION FOR A CERTIFICATE OF APPROPRIATENESS on the following item: ACTON CONGREGATIONAL CHURCH: changes to parking lot design and landscaping plan at 20 Concord Road, Acton Center Historic District. Copies of the application are available from the Historic District Commission and the office of the Town Clerk.

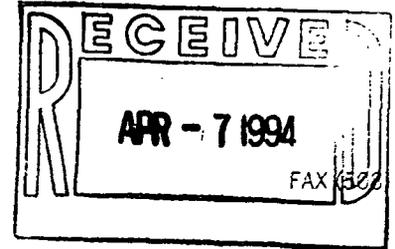
CC: BOS - FYI

3/28/94

Water Supply District of Acton

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

TELEPHONE (508) 263-9107



COMMISSIONERS MEETING
WATER SUPPLY DISTRICT OF ACTON
HARLAN TUTTLE BUILDING
693 MASSACHUSETTS AVENUE
ACTON, MA 01720

APRIL 11, 1994

AGENDA:

7:30 P.M. CALL TO ORDER

7:31 P.M. COMMENTS FROM CITIZENS AND OPEN DISCUSSION

 ACCEPT MINUTES OF MEETING MARCH 28, 1994

NEW BUSINESS

WARRANTS & COMMUNICATIONS

NEW BACKHOE/LOADER

DEMAND FEES & REGULATIONS FOR INSTALLING
SERVICES, ETC.

APPOINTMENTS OF DISTRICT OFFICERS

CHAIRMAN OF COMMISSIONERS

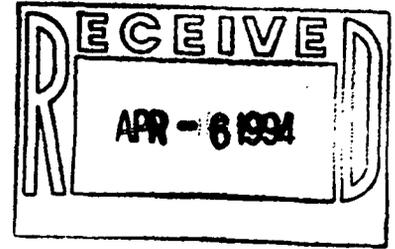
OLD BUSINESS

EMPLOYEE MANUAL

NEW OFFICE BUILDING

WATER WORDS

SALE OF LAB EQUIPMENT



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

6 April 1994

Dear Don:

Allard Management Co. Inc., has been recently notified by the Trustee of Acton Technology Park Real Estate Trust, Roy Smith, that it has been awarded the contract, as general contractor, for the installation of the Post Office Square Traffic Signals at the intersection of Route 27 and Post Office Square.

In accordance with the provisions of Article II, paragraph 2, of the Agreement between the Town of Acton and Roy Smith, Trustee of Acton Technology Park Real Estate Trust, it is requested that Allard Management Co. Inc. be given written approval as general contractor by the Town of Acton.

In addition, it is requested that the Town of Acton give Allard Management Co. Inc. written approval to begin construction in accordance with the provisions of Article I, paragraph 3.

As soon as the written approvals above are received, Allard Management Co. Inc. will obtain an electrical wiring permit from the Building Department and a Permit to Construct within a Public Way from the Engineering Department.

Sincerely yours,

L. Charles Allard
L. Charles Allard
President

cc: Roy Smith, Trustee, Acton Technology Park Real Estate Trust
Garry Rhodes, Building Commissioner
David Abbt, Engineering Administrator

DAVID ABBT -
PLEASE REVIEW. PREPARE
ANY APPROPRIATE RESPONSE FOR
MY REVIEW & SIGNATURE. ALSO,
PLEASE ADVISE OF REQUIRED BONDS
AND SECURITY BEFORE ALLARD MGMT.
STARTS PROJECT.

CC: BOS - FYI

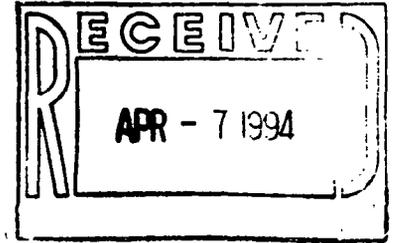
Wm

CC: BOS - NOTICE ONLY
FULL APP. IN RF

Selectmen



MASSACHUSETTS
BOARD OF APPEALS



HEARING #94-5

NOTICE OF PUBLIC HEARING

The Board of Appeals will hold a Public Hearing on Monday,

May 2, 1994, at 8:00 P.M. in the TOWN HALL Room 126

on the following petition:

by Charles G. Kadison, Jr., Esq., 179 Great Road, Acton,
Attorney for Shell Oil Company, 400 Blue Hill Drive,
Westwood, MA 02090 and 341 Great Road, Acton, for a
VARIANCE from the requirements of Section 5 of the Zoning
Bylaw to allow the construction of two canopys within
three (3) feet of the property line at 341 Great Road,
Map D4/Parcel 38 and Map D5/Parcel 40.

Petitioner must be present, or send authorized representative

BOARD OF APPEALS

By

Duncan Wood

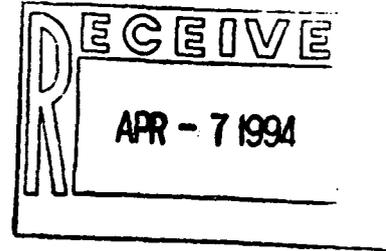
Clerk

CC: BOS - NOTICE ONLY
Full App. in RF.

Selectmen



MASSACHUSETTS
BOARD OF APPEALS



HEARING #94-6

NOTICE OF PUBLIC HEARING

The Board of Appeals will hold a Public Hearing on Monday,

May 2

1994, at 8:15 P.M. in the TOWN HALL Room 126

on the following petition:

by Jim Byron, Store Manager for Somerville Lumber Company,
281 Winter Street, Waltham, MA and 976 Main Street for a
VARIANCE from the requirements of Section 7.7 of the
Zoning Bylaw to allow Somerville Lumber Company to post
signs indicating product categories that are available in
their yard and warehouse. Signs will be posted on the
building at 976 Main Street, Map B6/Parcel 2.

Petitioner must be present, or send authorized representative

BOARD OF APPEALS

By

Duncan Wood

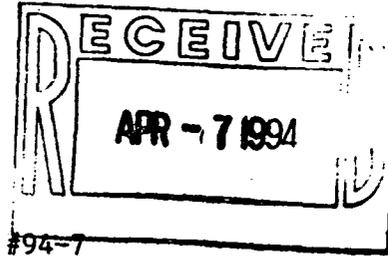
Clerk

cc: BOS - NOTICE ONLY
Full App. in RF.

Selectmen



MASSACHUSETTS
BOARD OF APPEALS



HEARING #94-7

NOTICE OF PUBLIC HEARING

The Board of Appeals will hold a Public Hearing on Monday,

May 2, 1994, at 8:30 P.M. in the TOWN HALL Room 126

on the following petition:

by Bradley C. Botkin & Renee J. Robins, 90 Main Street for a
PETITION FOR A SPECIAL PERMIT from the requirements of
Section 5.2.4 of the Zoning Bylaw to allow a small addition
to be built which will be closer to the lot line than current
setback requirements, but not as close as the existing structure.

Petitioner must be present, or send authorized representative

BOARD OF APPEALS

By

Duncan Wood

Clerk

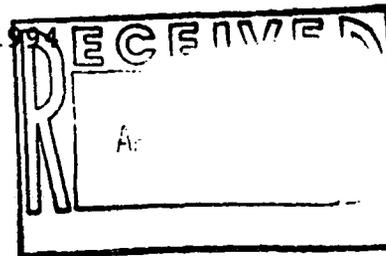


The National Arbor Day Foundation

211 No. 12th St. • Lincoln, NE 68508 (402) 474-5655

LEAN - CONGRATULATIONS,
cc: BOS

April 1, 1994



HONORARY TRUSTEES

STEWART UDALL
Chairman
Former Secretary of Interior

EDDIE ALBERT
Entertainer

WILLIAM H. BANZHAF
Executive Vice President
Society of American Foresters

DONALD BORUT
Executive Director
National League of Cities

DOUGLAS BEREUTER
U.S. Congressman

ROGER A. CARAS
Special Correspondent
ABC TV News

DICK CAVETT
Entertainer

J. THOMAS COCHRAN
Executive Director
U.S. Conference of Mayors

MRS. EUGENE A. DAVIDSON
Great-granddaughter of
J. Sterling Morton

J. JAMES EXON
U.S. Senator

LADY BIRD JOHNSON
Stonewall, Texas

BILL KRUIDENIER
Executive Director
Intl. Society of Arboriculture

JACK LORENZ
Executive Director
Izaak Walton League

J. MICHAEL McCLOSKEY
Chairman
Sierra Club

MAXINE (Mrs. Frank) MORRISON
Coordinator, National
Awards Ceremonies

JAMES C. OLSON
J. Sterling Morton
Biographer

R. NEIL SAMPSON
Executive Vice President
American Forestry Association

ERNEST C. SHEA
Executive Vice President
Nat. Assn. of Conservation Districts

R.E. "TED" TURNER
Chairman
Turner Broadcasting System

LAURENCE D. WISEMAN
President
American Forest Council

BOARD OF TRUSTEES

JIM LEUSCHEN
President

MRS. LEE A. (Carolyn) CRAYTON JR.
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DR. GARY HERGENRADER
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DALE BREE
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HELEN BOOSALIS

CHARLES CHACE

DR. ROBERT LIVINGSTON

DR. JAMES O'HANLON

SUSAN SEACREST

EXECUTIVE DIRECTOR

JOHN ROSENOW

Mr. Don P. Johnson
Town Manager
472 Main St.
Acton, MA 01720

Dear Mr. Johnson:

Congratulations to Acton on being named as a 1993 Tree City USA!

A community's tree-planting program is a living memorial to the citizens' concern for the quality of life. The trees we plant and care for today will increase property values, cool and beautify our cities, fight pollution, conserve energy, and give wildlife a home for years to come.

The Tree City USA award indicates that you take your municipal tree-care responsibilities seriously.

An effective community forestry program is an ongoing process of growth and renewal--a program of planting and care that continues through the years. As a Tree City USA, you have a solid foundation for that process of improvement.

Tree City USA is sponsored in cooperation with the National Association of State Foresters. State foresters are responsible for the presentation of the Tree City USA flag and other materials. We will forward your awards to Charles Burnham in your state forester's office. They will be coordinating the presentation with you. It would be especially appropriate to make the Tree City USA award a part of your Arbor Day ceremony.

Again, congratulations on receiving this national recognition for your tree-care program.

Best regards,

John Rosenow
Executive Director

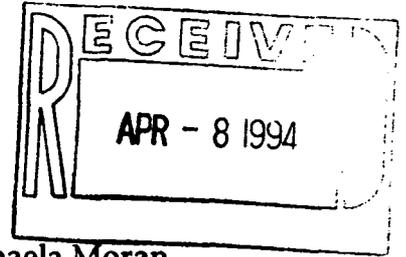
JR/tk

cc: Charles Burnham
Dean A. Charter

Americans dedicated to tree planting and environmental stewardship.



CC: BOS



**HISTORIC DISTRICT COMMISSION MINUTES
MARCH 7, 1994 7:30 p.m. Town Hall, Room 204**

Members present: Chris Dallmus, Anne Forbes, Joan Gates, Michaela Moran, Whit Mowry, Sandy Schmidt, and Alternates Mike Lynch and Tom Peterman.

7:40 p.m. PUBLIC HEARING ON APPLICATION # 9403 --W. ACTON BAPTIST CHURCH, 592 Mass. Ave. to remove and replace front steps and lighting fixtures.

It was noted that the fee of \$10 was paid, notices to abutters were sent February 3, and legal notices appeared on Feb. 10. The HDC has three copies of the final plans as requested and has been notified by the Building Commissioner as to where it fits in zoning regulations. Bob Ingram appeared for the church.

Chris moved *that the HDC find as a fact that the proposed stair for the West Acton Baptist Church, Application # 9403, if constructed according to the plans submitted on 3/7/94, is not incongruous with the character of the district, in that its general design, materials, scale and architectural detail are generally in harmony with the West Acton Historic District; it is also in sympathy with the religious use of the building.* Whit seconded the motion. **It was voted unanimously.**

Chris moved *that based on the preceding findings of fact, the HDC grant a Certificate of Appropriateness to the West Acton Baptist Church for Appl. #9403, subject, however, to the following conditions: 1) where there is contradictory information contained in the drawings, that drawings dated by the architect "2/28/94" shall supersede all other information, 2) site conditions shall dictate the number of risers to grade. We would also recommend that the stair treads and landings be made of the same material, either pine or fir being appropriate.* Whit seconded the motion. **It was voted unanimously.** The hearing was adjourned.

8:45 p.m. Continuation of PUBLIC HEARING ON APPLIC. #9316, WEST ACTON MOBIL STATION, 553 Mass. Ave., for sign. No one appeared for the applicant. Selectman Norm Lake and Building Commissioner Garry Rhodes attended.

Anne moved *that the HDC find as a fact that Application #9316 for a proposed Mobil Sign does not conform to the special permitting regulations under Section 7.12.5; the HDC has authority to issue special permits as long as a sign meets the requirements of the sign bylaw as provided for in section 7.12.1. We find that: 1) the location is within the West Acton Historic District, 2) that the sign is not excluded from review by Section 9 of the HDC bylaw, 3) since the proposed sign falls under HDC authority given to us under Section 7.12.5 of the Acton Zoning Bylaw, it is appropriate for the HDC to review the sign for a Certificate of Appropriateness, 4) however, according to Section 7.12.5 of the zoning bylaw any sign approved under our authority must comply with Section 7 of the Acton Zoning Bylaw. As the proposed sign as presented does not comply with Section 7.8.2 and Section 7.12.13 of the Acton Zoning Bylaw, it cannot be approved by us in the proposed location, 5) because the appropriateness of such features as shape, materials, height, illumination, and overall dimensions etc. are closely linked to the location of any sign, the Commission finds that review of the proposed sign under the*

HDC Bylaw at this time is premature. The motion was seconded by Whit. It was unanimously voted.

Anne moved to *deny Application # 9316, based upon the findings 1-5.* Chris seconded. It was voted unanimously. Anne moved that the Commission further finds that because alternate locations exist on site and alternate designs for signage which conform to Section 7 of the Acton Bylaw could be proposed, failure to approve the proposed sign will not result in substantial hardship, financial or otherwise to the applicant. Whit seconded. It was voted unanimously. The hearing was adjourned at 9:45 p.m.

After a brief discussion with Building Commissioner Garry Rhodes about sign violations in the historic districts, and those he has in process, Whit asked that a new list of sign violations be read into the minutes.

TOWN OF ACTON

ADDITIONAL SIGN VIOLATIONS

to: HISTORIC DISTRICT COMMISSION 3/7/94 from Whit Mowry

WEST ACTON VILLAGE DISTRICT

Old sign post at corner of Windsor Ave. and Mass. Ave. at sidewalk and parking lot edge still has old sign on it. Uses advertised have been discontinued for at least 6 months or more.

SOUTH ACTON VILLAGE DISTRICT

EXCHANGE HALL has additional signs affixed to building.

Also, "Art Group" frequently has a sandwich board sign out at the corner of Main and School Sts.

9:45 p.m.. PROPOSED REVISIONS TO CERTIFICATE #9317--ACTON CONGREGATIONAL CHURCH--preliminary discussion with Bill Givens and Peter Bollier. Chris Dallmus and Joan Gates, announcing they were abutters, stepped down from the HDC board for the proceedings. Gates stopped taking minutes at 9:45 p.m..

Gates resumed taking minutes at 10:05 p.m.

10:05 PUBLIC HEARING ON APPLICATION #9402, NAOMI ROSENFELD, FOR ALTERATIONS TO 541 MASS. AVE. Michael Rosenfeld, architect, explained that he had received a comprehensive building permit for two properties. By the time he was ready to do this part, Building Commissioner Garry Rhodes told him that he had to conclude that the permit had expired and he must come to the HDC. He noted that he had done demolition and site work and has the foundation in for the addition, and the piers are in for the deck and back stairs. He said he would agreed to set the skylight as low to the roof line as possible to be nearly even with the ridge vent.

Whit moved that the HDC find as a fact that the proposed project, under Application # 9402, for 541 Mass. Ave, 1) is within the West Acton Historic District; 2) if constructed according to plans submitted 3/7/94, L-1, A-3, A-3A, A5, is not incongruous with the character of the district or with the building itself. Height, setback, materials, massing, fenestration and detailing are generally in harmony with the character of the adjoining properties and the historic district.; 3) we find as well that the proposed wood deck, sidewalks, rear stairs, and ramp, being substantially at grade level, or not visible from the street, are not within our jurisdiction (Section 6.1 and Section 9.1.2); 4) some aspects of the proposed project in the application have already been started under a previous building permit, including piers for the deck and stair, site work, retaining walls, foundation for the addition, and some demolition. Joan seconded. It was voted unanimously.

Whit moved based on the preceding findings of fact, that the HDC grant a Certificate of Appropriateness to Naomi Rosenfeld for the proposed Application # 9402, subject, however, to the following conditions: 1) L-1, corner of exterior stair shall be screened by an evergreen shrub to be at least three feet high at maturity, 2) the proposed skylight shall be set as low to the ridge line as possible, 3) design for west elevation shall be that shown on A-3A, 4) the south facade can be left as is, but if altered it shall have two double-hung windows on the second floor as shown on A-3 and may have an entry as shown on A-3A, the detail to be submitted for approval in a future application. Michaela seconded. It was voted unanimously.

The hearing and the meeting were adjourned at 12:05 a. m.



TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: 4/8/94

TO: Don P. Johnson
FROM: John Murray
SUBJECT: Teacher's Early Retirement Incentive

I have spoken with Kristin Keel of the State's Administration and Finance Budget Bureau yesterday. A&F has confirmed that in the Governor's Budget Proposal (House 1) \$40,000,000 (\$20,000,000 to cover the second year's payment for the teachers who retired this fiscal year and \$20,000,000 for teachers who decide to retire next fiscal year (FY95)) has been included. She also agreed that they must continue to appropriate \$40,000,000 per year for the on going costs.

It is her opinion that each Town or District is responsible for 50% of the pension (not the incentive) paid to each retired teacher for the 5 year period. When informed that the MTRB had indicated that the Town would be responsible only for 50% of the incentive, she stated that A&F would need to talk to MTRB.

Today, I have been playing telephone tag with a John Williams of A&F, but we have not made contact with each other. I expect to have further clarification for Monday evening.

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: April 8, 1994

TO: Dore' Hunter
Nancy Tavernier
Bill Mullin

FROM: Don P. Johnson, Town Manager

SUBJECT: Municipal Forum

This is a reminder that there will be a Municipal Forum meeting Monday morning, April 11.



cc: Board of Selectmen

File
Copy

April 15, 1994

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

#####

AGENDA
ROOM 204
APRIL 19, 1994

I. CITIZEN'S CONCERNS

II. PUBLIC HEARINGS & APPOINTMENTS

7:31 CHAIRMAN'S MINUTE

7:32 BOARD REORGANIZATION

- 1. 7:40 BENJARONG RESTAURANT - 214 Main Street - Common Victualler's License - Enclosed please find application and staff comment for Board action.
- 2. 7:45 BENJARONG RESTAURANT - 214 Main Street - Liquor License Transfer - Enclosed please find application and request to Transfer an all alcoholic beverage license from Candlewood to Benjarong Restaurant along with staff comment for Board action. This application also requests that the license be amended from six days to seven.
- 3. 8:00 METROPOLITAN DELI, 208B Main Street - Common Victualler's License - Enclosed please find application and staff comment for Board action.

III. SELECTMEN'S BUSINESS

- 4. ACTON GARDEN CLUB REQUEST - Enclosed please find a request from the Acton Garden Club for permission to place a sign on town property along with staff comment for Board review and action.

IV. CONSENT AGENDA

- 5. ACCEPT MINUTES - Enclosed please find minutes for the March 1, 1994 meeting for Board acceptance.

6. ONE DAY LIQUOR LICENSE - Enclosed please find a request from Chez Claude for permission to serve liquor on Mother's Day, May 8th, for Board action.

7. ACCEPT GIFT - Enclosed please find a request for Board acceptance of a money gift to the West Acton Library for Board action.

8. ACCEPT GIFT - Enclosed please find a request for Board acceptance of computer equipment to be utilized by the Fire Department for Board action.

V. TOWN MANAGER'S REPORT

9. South Acton Bridge - The Town Manager will report briefly concerning status of the South Acton Bridge and seek Board comment on alternatives

10. Liquor License Survey - The Town Manager will seek the Board's direction concerning the enclosed materials.

VI. EXECUTIVE SESSION

11. The Town Manager will explain the enclosed draft materials and seek board input/direction.

MEETINGS

New England Drama Fest. - April 21, 22, & 23

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.

May 2, 1994

Site Plan, 5-7 Post Office Sq. (Serendipity) Tavernier assigned

TOWN OF ACTON
NOTICE OF HEARING

4/19/94 (1)

Notice is hereby given under Chapter 140 of the General Laws, that the Board of Selectmen will hold a hearing in Room 204 in the Acton Town Hall on April 19, 1994 at 7:40 P.M. on the application of Sahapanit Corporation, 31 Elbridge Street, Worcester, MA d/b/a, Benjarong Restaurant for a Common Victuallers License at 214 Main Street, Acton

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



TOWN OF ACTON
MASSACHUSETTS

License or Permit Application

4/19/94
①

..... March 19.94

To the Licensing Authorities of Acton:

The undersigned hereby makes application for the following described license, in accordance with the provisions of the General Laws, and amendments thereto:

CHECK THE APPROPRIATE BOX INDICATING THE LICENSE OR PERMIT FOR WHICH APPLICATION IS BEING MADE:

- Auction
- Entertainment
- Flea Market
- One-Day Liquor
- One-Day Beer and Wine
- Other... Common Victualler

(Please print or type)
 Name of Organization/Applicant... SAHAPANIT CORPORATION.....
 Location of Event... 214 Main Street, Acton, Massachusetts.....
 Name of Owner of Premises... Acton Supply, Inc.....

DESCRIPTION OF EVENT (i.e; fee or donation to be charged?, name of operators of event?, purpose of event?, parking availability?, etc.):
 seeking common victualler's license to operate a Thai
 Restaurant and Entertainment license to play background music, possible television in
 the lounge.....

Day and Date of Event: weekly..... Hours of Event: 11 a.m.-10 p.m. Mon - Thurs.
 11 a.m.-10:30 p.m. Fri. & Sat
 4 p.m.-10 p.m. Sunday

DESCRIPTION OF APPLICANT

Name of person making application ... Sahapanit Corp.....
 Occupation..... N/A.....
 Residential Address... N/A.....
 Business Address... 214 Main Street, Acton, Massachusetts.....
 Telephone: Home... 799-8913..... Business... none yet.....
 Date of naturalization, if not born in U.S..... Have you ever been arrested for any law violation?.....
 Male or Female..... If so, when.....
 Date of birth..... where.....
 Place of birth..... State briefly.....
 Father's name.....
 Mother's maiden name.....

 Height.....ft. in.....
 Weight.....
 Complexion.....
 Hair.....
 Eyes.....

References: (Names and addresses)

1.
2.
3.

Remarks: SAHAPANIT CORPORATION.....

Signature of Applicant By: Srirath Kaewsiripong
 Srirath Kaewsiripong

INTER-DEPARTMENTAL COMMUNICATION

To: Don P. Johnson, Town Manager

From: Rose *ER* Erdozaincy, R.S.

Date: April 12, 1994

Re: Liquor License Transfer, Common Victualler's Application
Benjarong Restaurant - 214 Main St.

The applicant has met with me to discuss the requirements of the Health Department, and provided us with relevant information. I am in the process of reviewing the submitted plans and have no immediate objection to the granting of the Common Victualler's License and Liquor License Transfer.

The Health Department reserves the right to impose additional requirements as more information is obtained, and the project develops.

INTERDEPARTMENTAL COMMUNICATION

TO: BOARD OF HEALTH AND BUILDING COMMISSIONER

FROM: TOWN MANAGER'S OFFICE

SUBJECT: Common Vict. - Benjarong Restaurant
214 Main Street

Enclosed please find a copy of the application for a Common Victuller's for BENJARONG RESTAURANT, 214 Main Street, Acton, MA.

The public hearing is scheduled for April 19, 1994 at 7:40 P.M. Please send your comments and recommendations.

cc: Police Chief
Fire Chief

4/19/94

②

TOWN OF ACTON
NOTICE OF HEARING

Notice is hereby given under Chapter 138 of the General Laws, that the Board of Selectmen will hold a hearing in Room 204 in the Acton Town Hall on April 19, 1994 at 7:45 P.M. on the application of Sahapanit Corporation, 31 Elbridge Street, Worcester, MA 01609 for the transfer of an All Alcoholic License as a Common Victualer from Jackelen L. Oliveto, JACKELEN, Inc., d/b/a Candlewood Restaurant, 214 Main Street, Acton to Sahapanit Corporation, Srirath Kaewsiripong, President, 31 Elbridge Street, Worcester, d/b/a, Benjarong Restaurant.

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

March 18, 1994

Assabet Valley Beacon
20 Main Street

Gentlemen:

Attached please find a copy of advertisement to appear in your newspaper on Thursday, March 31, 1994 in the Legal Section.

Please send bill to:

Kirk A. Carter, Esquire
Fletcher, Tilton & Whipple, PC
370 Main Street
Worcester, MA 01608

Please send Two tear sheets to Town Manager's Office, 472 Main Street, Acton, MA for our records.

Very truly yours,


Christine M. Joyce
Town Manager's Office

cc: Kirk A. Carter

INTERDEPARTMENTAL COMMUNICATION

TO: BOARD OF HEALTH AND BUILDING COMMISSIONER

FROM: TOWN MANAGER'S OFFICE

SUBJECT: LIQUOR LICENSE TRANSFER - Benjarong Restaurant
214 Main Street

Enclosed please find a copy of the application for liquor license Transfer from Jackelen Oliveto, JACKELEN, Inc., 214 Main Street, Acton, MA. to Benjarong Restaurant.

The public hearing is scheduled for April 19, 1994 at 7:40 P.M. Please send your comments and recommendations.

cc: Police Chief
Fire Chief

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION

DATE: March 24, 1994

TO: Don P. Johnson, Town Manager
FROM: Garry A. Rhodes, Building Commissioner *JAR*
SUBJECT: Liquor License & Common Victuller
214 Main Street Benjarong Restaurant

I have reviewed the application and have the following to offer. The Benjarong Restaurant will be replacing the Candlewood Restaurant. It is unclear what the applicant means by "play background music". In most cases this will not result in any problems as it pertains to zoning but it will be helpful to know. There does not appear to be any external changes proposed to the building. It will be necessary for the applicant to obtain a new sign license when the existing sign is replaced. They are proposing to increase the occupancy to 99 people. Our records indicate that they are permitted to have 95 people. I would recommend that they be limited to 95 until such time as they are approved by the Board of Health and Building Department.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

General questions to be answered by all applicants.
Please type or print legibly in ink.

Fee _____

Type of alcoholic beverages license: (check only ONE)

- Restaurant Restaurant-Commercial Club Innholder General On Premises Tavern Club
 Package Goods Store Other (specify): _____

Class of license: All Alcoholic Beverages Wine and Malt Beverages

- Applicant is an Individual Partnership Limited Partnership Business Corporation
 Non-profit Corporation Other (specify): _____

i. If applicant is an individual, partnership, general partnership or limited partnership, state the following in a, b, and c:

a. For each person - FULL NAME HOME ADDRESS SOCIAL SECURITY NO.

N/A _____

b. Firm or trade name, address and telephone no: _____

c. Business name (d/b/a) if different: _____

Address: _____ Telephone no: _____

(If applicant has a d/b/a, applicant must include a copy of the certificate of doing business, required under Massachusetts General Law Chap 110, Sect. 5, regardless of which name will appear on the license)

ii. If applicant is a corporation:

a. List the titles of all officers, the manager, and all members of the board directors. Below these list all stockholders (as defined in the instruction sheet). Then give the full name, home address and the number of shares of stock for each:

TITLE	FULL NAME	HOME ADDRESS	SOCIAL SECURITY NO.	NO. OF SHARES OF STOCK OWNED OR CONTROLLED, IF ANY
*President & Director	Srirath Kaewsiripong	31 Elbridge Street Worcester, MA 01609	565-83-1625	500
Treasurer	Khenthong Inthavongsa	30 Somerset Street Apt. 3, Worcester, MA 01609	033-66-7335	300
Clerk	Prayong Techasouvapak	31 Elbridge Street Worcester, MA 01609	546-93-7890	200
Director	Phet Phouthavong	20 Shepard Street Apt. , Worcester, MA 01610	574-36-6627	0
Director & Manager	Souksavanh Vongkhamheuang	30 Somerset Street Apt. 3, Worcester, MA 01609	038-52-2581	0

b. Corporation name: SAHAPANIT CORPORATION

Address 31 Elbridge Street, Worcester, Massachusetts 01609 Telephone no. (508) 799-8913

c. Business name (d/b/a) if different: "Benjarong Restaurant"

Address 214 Main Street, Acton, Massachusetts 01720 Telephone no. _____

(If applicant has a d/b/a, applicant must include a copy of the certificate of doing business required under Massachusetts General Law Chap. 110, Sect. 5, regardless of which name will appear on the license)

5. - cont.

Date of incorporation: 03/01/94 State of incorporation: MA Date qualified to do business in the Commonwealth of Massachusetts: _____
 (attach a copy of approved certificate of organization)

6. If applicant is a club, association, limited partnership, or other type of organization:

a. List for each principal officer: (Note - Each association member who signs this application must answer this question)

TITLE	FULL NAME	HOME ADDRESS	TELEPHONE NUMBER
N/A			

b. Trade, firm or business name: _____

Address: _____ Telephone no. _____
 (If applicant has a d/b/a, applicant must include a copy of the certificate of doing business, required under Massachusetts General Law Chap. 110, Sect. 5, regardless of which name will appear on the license)

7. State name, address and telephone number of a person who can be contacted concerning this application:

Kirk A. Carter, Esquire, Fletcher, Tilton & Whipple, P.C., 370 Main Street, Worcester, MA

8. Address and telephone of premises to be licensed: (508) 798-8621 01608
214 Main Street, Acton, Massachusetts (no phone yet)

9. Give a full and complete description of the premises to be licensed, including location of all entrances and exits:

a single story restaurant structure, measuring approximately 40 feet by 55 feet, containing a floor area of approximately 2,200 square feet, including main dining room, kitchen and lounge, 2 entrances/exits one in dining area, one in lounge. Mens and ladies rooms in dining area.

10. a. Will there be any major remodeling, redecorating or building on the premises in preparation for acquisition of this license?

Yes No If yes, complete b, c, d, and e.

b. Give a brief description of the planned changes: only planning to replace carpet, paint and install

some additional equipment in kitchen

c. Estimated costs: \$20-30,000. d. ^{Estimated} construction schedule: 2-4 weeks

e. State all sources of financing: Family resources and savings

11. a. Does the applicant own the premises to be licensed? Yes No If no, state:

1. Names, addresses and telephone number of owners:

Acton Supply, Inc.

222 Main Street, Acton, MA

(508) 263-7754

2. Indicate whether applicant will be a Lessee Sublessee Assignee or Other

Specify other: _____

12. If applicant will be leasing the premises to be licensed, state:
 a. \$ 2,000.00 per month b. Beginning date of lease May 1, 1994 est. Ending date of lease April 30, 1999
(MONTH, YEAR, ETC.)

13. a. State the names, addresses, and telephone numbers of all persons or entities who will have any direct or indirect beneficial or financial interest in this license, as required by Massachusetts General Law c. 138, s. 15A:

<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE NUMBER</u>
<u>Srirath Kaewsiripong</u>	<u>31 Elbridge Street, Worcester, MA 01609</u>	<u>(508) 799-8913</u>
<u>Prayong Techasouvapak</u>	<u>31 Elbridge Street, Worcester, MA 01609</u>	<u>(508) 799-8913</u>
<u>Kenthong Inthavongsa</u>	<u>30 Somerset Street, Apt. #3, Worcester, MA 01609</u>	<u>(508) 754-7505</u>

b. Describe all types of financial and beneficial interest each person or entity will have in this license:

interest as shareholder of corporation holding license

14. a. Does any person or entity listed in question 13 have any direct or indirect beneficial or financial interest in any other type of license granted under Mass. General Law 138? Yes No b. If yes, state for each person or entity:

<u>NAME</u>	<u>TYPE OF LICENSE</u>	<u>LICENSE ADDRESS</u>	<u>DESCRIPTION OF INTEREST</u>
-------------	------------------------	------------------------	--------------------------------

15. a. Has any person or entity named in question 13 ever held a license under G.L. c. 138 which he/she/it does not presently hold? Yes No

b. If yes, state for each:

<u>NAME</u>	<u>TYPE OF LICENSE</u>	<u>LICENSE ADDRESS</u>	<u>DATE LICENSE GRANTED</u>
-------------	------------------------	------------------------	-----------------------------

16. a. Has any person or entity named in question 13 ever had his/her/its license revoked or cancelled? Yes No

b. If yes, state for each name the date and reasons why the license was revoked or cancelled:

17. Has any person or entity named in question 13 ever been convicted of violating any state or federal law? (exclude minor traffic violations) Yes No If yes, attach a statement of details.

18. If applicant is an individual, answer the following questions: N/A

a. Are you a United States Citizen? Yes No b. Are you at least twenty years old? Yes No
 (If yes provide a copy of birth, naturalization or registered voter certificate)

If applicant is a partnership, answer the following questions: N/A

a. Are all the partners United States Citizens? Yes No b. Are all of the partners at least twenty years old? Yes No
 (Provide copies of birth, naturalization or registered voter certificates for each partner)

20. If the applicant is a corporation, answer the following questions: (Corporate applicants must include with this application a copy of the vote by the board of directors appointing the manager or other principal representative)

- a. Are the majority of directors United States Citizens? Yes No
- b. Are the majority of directors citizens of the Commonwealth of Massachusetts? Yes No
- c. Is the manager or principal representative a United States Citizen? Yes No
- d. How many shares of stock are authorized? 2000 e. How many shares of stock are issued? 1000
- f. Will any stock be pledged as collateral for this license? Yes No If yes, to whom?
- g. Will this license be pledged as collateral? Yes No If yes, to whom?

NOTE: If applicant is an association, a copy of the birth certificate, naturalization certificate, or registered voter certificate for each member who signs at the end of this form must be included with this application.

NOTICE

The accompanying General Instructions are incorporated herein by reference.

SIGNED AND SUBSCRIBED TO UNDER PENALTY OF PERJURY THIS ninth DAY OF March, 1994

BY: SIGNATURE OF FULL NAME TITLE

Eric L. Anderson President

- Note:
1. Individual applicant(s) must sign above.
 2. Applications by a partnership must be signed by a majority of the partners.
 3. Applications by a corporation must be signed by an officer authorized by a vote of the corporation's board of directors. A copy of the vote of authorization must be included with this application.
 4. Applications by an association must be signed by a majority of the members of the governing body. All the signers must have answered question 6a.

Name of attorney, if any, filing application on behalf of licensee. Telephone number

Kirk A. Carter, Esquire, Fletcher, Tilton & Whipple, P.C. (508) 798-8621

Office address 370 Main Street, Worcester, MA 01608

Time of filing 11:00 Date of filing 3/18/94 Name of newspaper publishing notice of application Worcester Telegram 6 day 7 day license granted

Space below may be used by local licensing authorities for additional information.

QUESTIONS TO BE ANSWERED ONLY BY APPLICANTS FOR A RESTAURANT ALCOHOLIC BEVERAGE LICENSE

21. Does the applicant have a duly issued and valid common victualler's license? Yes No
22. a. Does the applicant have an entertainment permit? Yes No
- b. If yes, date of issuance: _____
- c. If no, does the applicant intend to obtain an entertainment permit? Yes No
23. What proportion of your business receipts is expected to be from alcoholic beverages? 10% From food? 90%
24. Does applicant plan to offer a full service or limited menu? Full Service Menu
25. a. What is applicant's proposed maximum occupancy? 80-100
- b. What is applicant's proposed maximum seating capacity? 99
26. a. Is the kitchen a separate room or rooms? Yes No
- b. If yes, state how large the total floor space of the kitchen will be: 16 x 16 = 256 square feet
- c. If yes, what cooking equipment is or will be in the kitchen? stove, wok, fry-o-later, grill, refrigerator, dishwasher and other miscellaneous appliances.
- d. If no, describe the types of cooking equipment and where they are or will be located:
- _____
- _____
27. a. How many function rooms or other rooms will be used for the sale, service or dispensing of alcoholic beverages?
Two dining rooms and a lounge
- b. State the name, if any, used to identify each room, and the floor on which each room is located:
Both the dining room and lounge are located on the ground floor level.
28. a. Are there sufficient toilets for men on the premises? Yes No.
- b. Are there sufficient toilets for women on the premises to be licensed? Yes No.

THIS FORM IS COMPLETED WHEN THERE IS A CHANGE IN THE MANAGER OF A CORPORATION.

INSERT THE NAME OF THE LICENSEE ON LINE BELOW.

Sahapanit Corporation(508) 799-8913(TELEPHONE NUMBER)NAME OF NEW MANAGER: Souksavanh VongkhamheuangHOME ADDRESS: 30 Somerset Street, Apt. 3, Worcester, MA 01609PLACE OF BIRTH: Vientiane, LaosDATE OF BIRTH: February 10, 1971 REGISTERED VOTER: YES NO ARE YOU A CITIZEN: YES NO COURT AND DATE OF NATURALIZATION: Boston, MA - February 3, 1992FATHER'S NAME: Houmphanh Bouphavichith MOTHER'S MAIDEN NAME: Khamphiou Prachith

POLICE RECORD: (LIST FELONY OR ANY DRUG CONVICTIONS)

None

PRIOR EXPERIENCE IN THE LIQUOR INDUSTRY:

Served liquor as a waitress at Thai Orchid in Worcester and Framingham, Massachusetts
1991 - 1992

FINANCIAL INTEREST, DIRECT OR INDIRECT, IN ANY OTHER LIQUOR LICENSE:

None

EMPLOYMENT FOR THE LAST TEN YEARS: (Dates, Position, Employer, Address)

8/14/94 to Present	Quality Control Inspector	Nypro, Inc., Clinton, Massachusetts
1991 - 1992	Waitress	Thai Orchid Restaurant, Worcester & Framingham, Massachusetts
8/90 to 8/92	Customer Service	Filene's Basement, 200 Front Street, Worcester, Massachusetts
/90 to 10/90	Waitress	Friendly's Restaurant, Worcester, Massachusetts
01/89		SEE OVER
1/89 to 4/90	Teller	Marquette Credit Union, Woonsocket, Rhode Island
2/88 to 2/89	Clerk	Newton Buying Corp., Worcester, Massachusetts

THE COMMONWEALTH OF MASSACHUSETTS

Town of Acton

March 15 1994

To the Licensing Board for the sale of All Alcoholic Beverages
(type of license)

The undersigned hereby make application for a
transfer of _____ ALCOHOLIC BEVERAGE LIC.
(TRANSFeree)

as a _____
(Individual or a Partnership)

from JACKELLEN, INC.
(TRANSFORER)

to SAHAPANIT CORPORATION
(TRANSFeree)

The above named proposed transferee hereby joins in this
petition for transfer of said license, and respectfully
petitions the Board to grant such transfer.

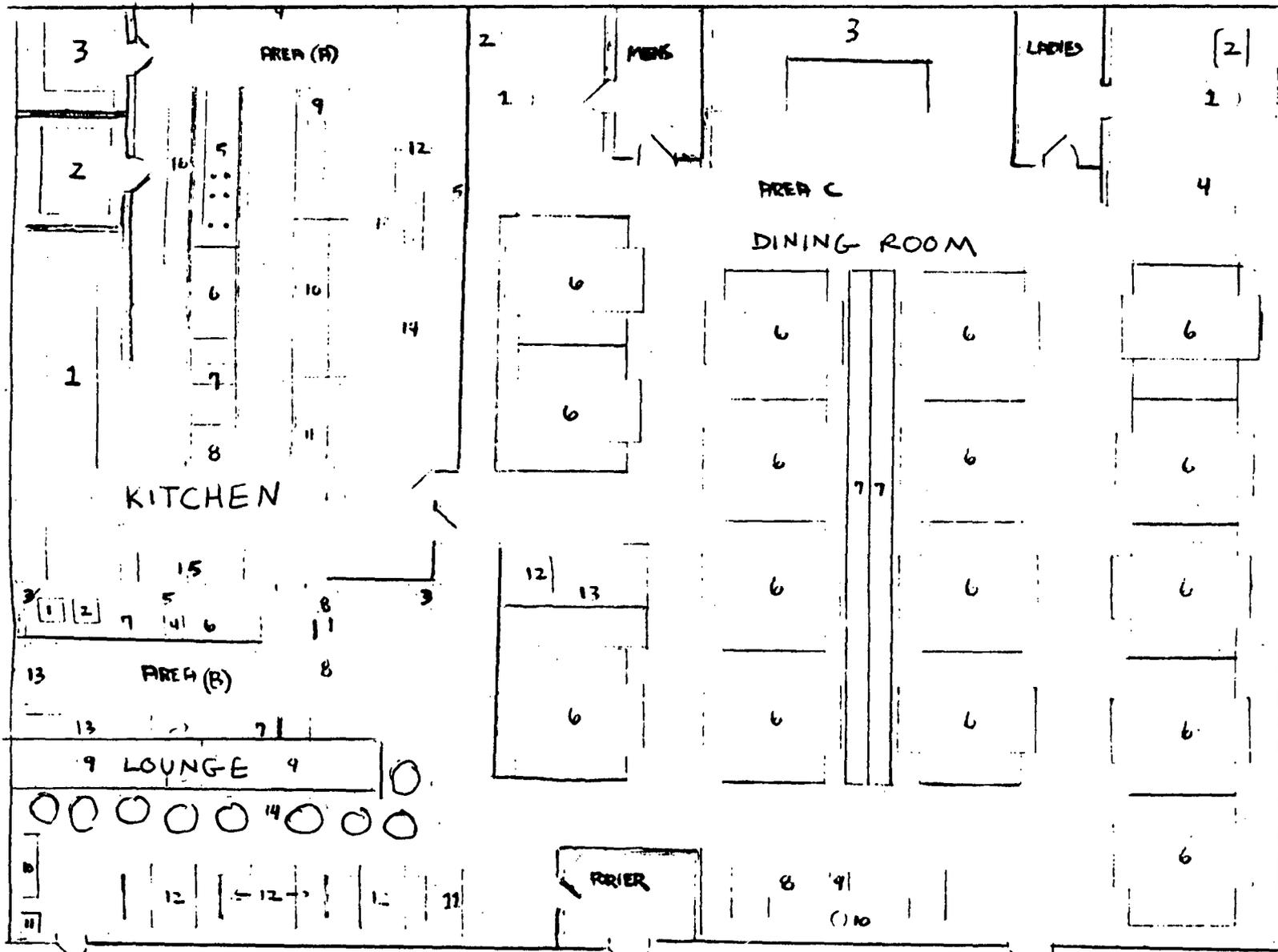
Signature of LICENSEE Jackellen L. Elliott Inc. President

X (If an Individual, or a partnership all of the partners
must sign.)

Signature of proposed TRANSFeree

X Sriyal Kesavany
(If an Individual, or a partnership all of the partners
must sign.)

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- AREA (C) DINING ROOM
- 1) LAV
- 2) MEN
- 3) BOOTH STATION
- 4) CASH REGISTER
- 5) ICE MACHINE
- 6) SEATING TABLE
- 7) BOOTH DIVIDER
- 8) WORK STATION
- 9) CASH REGISTER
- 10) CHAIR
- 11) CASH REGISTER
- 12) ICE MACHINE
- 13) BOOTH STATION

DOOR
STORAGE
SINK
TABLES

EMERGENCY EXIT

MAIN ENTRANCE

EMERGENCY EXIT

ACTON, MASSACHUSETTS
FLOOR PLAN
NOT TO SCALE

FORM C

THIS FORM FOR FINANCING "CAPITALIZATION"

* IS LICENSE PART OF COLLATORAL? YES X NO _____
(Using Liquor License to secure financing)

* THIS QUESTION MUST BE ANSWERED BEFORE THE FORM IS SUBMITTED

PURCHASE PRICE: \$110,000

WHAT WAS PURCHASED: restaurant equipment, furniture, liquor license

SHARES OF STOCK: 1000 shares to be pledged to seller

ASSETS: no yes
(Building) (License)

OTHER ASSETS: see above

WHO PURCHASED: SAHAPANIT CORPORATION

HOW FINANCED: cash, \$55,000 Note back to Seller, JACKELLEN, INC.
(Cash - Loans - Mortgage - Bank - Seller - etc.)

PREMISES: Leased from Acton Supply, Inc.
(Owned - Leased - Rented)

IF THIS IS A CLUB LICENSE, HAS THERE BEEN A "SALE" OR "DISSOLUTION"
OF CLUB? _____ CHANGE IN OFFICERS OR CLUB ORGANIZATION? _____

ANY ADDITIONAL INFORMATION THAT YOU MAY HAVE THAT WOULD HELP THE
COMMISSION IN DETERMINING THE STATUS OF THIS APPLICATION: _____

Source of funds is family and individual savings of shareholders

IT IS IMPORTANT TO KEEP ALL INFORMATION CONFIDENTIAL.

Signature of Investigator Date



Commonwealth of Massachusetts

Department of Revenue

Taxpayer Service

Certificate Unit

215 First Street

Cambridge, MA 02142

March 3, 1994

JACKELN, INC.
214 MAIN STREET
ACTON, MA 01720

CERTIFICATE OF GOOD STANDING

It is hereby certified by the Commissioner of Revenue of the Commonwealth of Massachusetts as of the above date, that the above named corporation is a domestic corporation organized in Massachusetts on August 14, 1990 and that said corporation is in good standing with respect to any and all returns due and taxes payable to the Commonwealth under General Laws, Chapter 62C, and the statutes referred to in Section 2 thereof.

This certificate does not certify the corporation's standing as to unemployment insurance taxes under G.L.Ch. 151a or taxes under any other provisions or law.

No. 17370

By

A handwritten signature in cursive script, reading "Stephen A. Lawrence".

Deputy Chief,
Taxpayer Assistance Bureau

THIS IS NOT A WAIVER OF LIEN ISSUED UNDER GENERAL LAWS, CHAPTER 62C, SECTION 52,
AND CANNOT BE USED FOR SUCH PURPOSE.

5066 - 25025

Mitchell Adams
Commissioner

Mark McQuillen
Deputy Commissioner

FILE COPY

TOWN OF ACTON
NOTICE OF HEARING

4/19/94

③

The Board of Selectmen of the Town of Acton will hold a public hearing under Section 140 of the Mass General Laws on Tuesday, April 19, 1994 at 8:00 P.M. on the application of Metropolitan Deli & Catering Co., Inc. owned by Joseph Motzi, for a Common Victuallers License at 208B Main Street, Acton, MA.

Application is on file in the Selectmen's Office and may be viewed during normal working hours.

F. DORE' HUNTER
ANNE B. FANTON
WILLIAM C. MULLIN
NORMAN D. LAKE
NANCY E. TAVERNIER

BOARD OF SELECTMEN



TOWN OF ACTON
MASSACHUSETTS

License or Permit Application

4/5 1994

To the Licensing Authorities of Acton:

The undersigned hereby makes application for the following described license, in accordance with the provisions of the General Laws, and amendments thereto:

CHECK THE APPROPRIATE BOX INDICATING THE LICENSE OR PERMIT FOR WHICH APPLICATION IS BEING MADE:

- Auction
- Entertainment
- Flea Market
- One-Day Liqueur
- One-Day Beer and Wine
- Other..... Common Victualer

Name of Organization/Applicant..... Metropolitan Deli & Catering Co. INC.

Location of Event..... 208 B Main St. Acton MA 01720

Name of Owner of Premises..... Michael LaFoley

DESCRIPTION OF EVENT (i.e; fee or donation to be charged?, name of operators of event?, purpose of event?, parking availability?, etc.):

Deli & catering facility 19 seats

Day and Date of Event:..... Hours of Event:.....

DESCRIPTION OF APPLICANT

Name of person making application..... Joseph J. Motzi

Occupation..... owner

Residential Address..... P.O. Box 585 Acton MA 01720

Business Address..... 224 Littleton Rd. Westford MA 01886

Telephone: Home..... 263-1733 Business..... 698-1819

Date of naturalization, if not born in U.S.....

Have you ever been arrested for any law violation?..... NO

Male or Female..... Male

If so, when.....

Date of birth..... 6/12/49

where.....

Place of birth..... Waltham

State briefly.....

Father's name..... Joseph

References: (Names and addresses)

Mother's maiden name..... Maria Schuth

1. Jim Lowe Acton MA.

Height..... 5' ft. 7" in.

2. Larry Casey Acton MA.

Weight..... 155

3. Joe Cuggero Acton MA.

Complexion..... Caucasian

Remarks:

Hair..... Brown

Eyes..... Brown

Signature of Applicant..... Joseph J. Motzi

INTER-DEPARTMENTAL COMMUNICATION

TO: Don P. Johnson, Town Manager

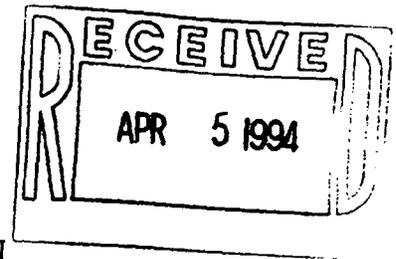
FROM: Rose  Erdozaincy, R.S.

DATE: April 12, 1994

RE: Common Victualler's License - 208 Main St. Metropolitan Deli

The applicant is in the process of complying with our requirements and those set forth by the State Sanitary Code for Food Establishments. Once compliance has been obtained, this department will issue a permit to operate. I have no objection to the issuance of a Common Victualler's License at this time.

Please note, the applicant should be aware of the Board of Health stipulations (IDC from Health Dept., March 1) regarding the existing septic system, its impending replacement, and any potential impacts on the food operation.

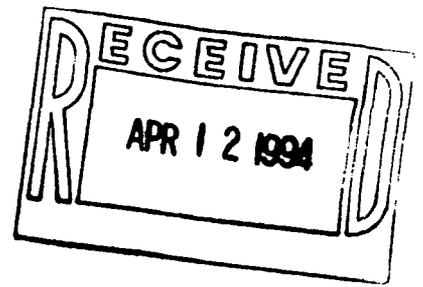


TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION

DATE: April 5, 1994

TO: Don P. Johnson, Town Manager
FROM: Garry A. Rhodes, Building Commissioner *GAR*
SUBJECT: Common Victualer License 208B Main Street

I have reviewed the requested license application. I find that it is consistent with the recently granted Special Use Permit, for a restaurant, at this location. Therefore, I do not have any objections if the Board of Selectmen issue this license.



TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION

DATE: April 11, 1994

4/19/94
④

TO: Don P. Johnson, Town Manager
FROM: Garry A. Rhodes, Building Commissioner *GAR*
SUBJECT: Acton Garden Club Annual Plant Sale
Sign Request May 14, 1994

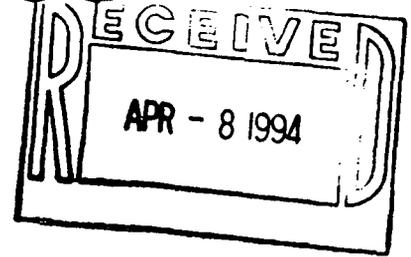
The Board of Selectmen under Acton Zoning Bylaw section 7.3.3. may grant this type of sign. As of this date they have not established any policy or regulations except to maintain a laissez faire approach to such signs.

4/13/94

CHRIS -

PLS. SCHEDULE FOR BOARD ACTION UNDER
SELECTMEN'S BUSINESS.

dm



10 Wingate Lane
Acton, MA 01720
April 7, 1994

Board of Selectmen
Acton Town Hall
472 Main Street
Acton, MA 01720

Dear Selectmen:

Subject: Acton Garden Club Annual Plant Sale
Saturday, May 14, 1994

I am requesting permission to place a sandwich board sign on town property between Town Hall and the library approximately ten (10) days before and up to the May 14 Plant Sale.

Please send me a letter of acknowledgement. Thank you very much.

Yours truly,

Peggy Garrison

Peggy Garrison
Chairman, Plant Sale

GARRY RHODES
PLEASE COMMENT.

[Handwritten signature]

4/19/94
5

**SELECTMEN'S MEETING
MARCH 1, 1994**

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

Joshua 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 suggested that if it's important to assign responsibility for the Ed Reform Formula, we change it from legislature to State Government and Governor. It was suggested that its political nature be toned down. Dore' said he would take the comments into consideration and do some redrafting. 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 and add the choices offered to Town Meeting as a major change this year. 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 that would 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 capital 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 course avoid possible overrides.

WILLIAM MULLIN - Move to pursue the bonding approach incorporating Plan #1 Manager's recommendations as presented. 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 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

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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 Endl 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

4/19/94
6

CHEZ CLAUDE RESTAURANT
5 Strawberry Hill Rd.
Acton, Ma. 01720

April 5th, 1994.

BOARD OF SELECTMEN
TOWN OF ACTON

Gentlemen:

We are requesting your authorization to serve
alcoholic beverages on Mother's Day, Sunday May 8.

Thank you in advance for your attention.

Truly Yours,



Claude Miquel
F/Chez Claude Restaurant

4/19/94 (7)

TOWN OF ACTON

Inter-Departmental Communication

DATE: 6 April 1994

TO: Selectmen/Finance Committee
FROM: Trustees, West Acton Citizens Library
SUBJECT: Restricted Gift

Trustees request you accept the gift noted below and credit to our gift account #751. The gift will be used to cover the cost of books/expenses.

Suzi Pomeroy
Suzi Pomeroy

Librarian

Roy Wetherby is holding the check.

Post-it routing request pad 7664

ROUTING - REQUEST

Please

- READ
 - HANDLE
 - APPROVE
- and
- FORWARD
 - RETURN
 - KEEP OR DISCARD
 - REVIEW WITH ME

To _____
WHAT GIFT?

How Much?

FROM WHO?

Waiting to

hear from

Roy's office!

Date _____

From _____

TOWN OF ACTON

4/19/94 (8)

Inter-Departmental Communication

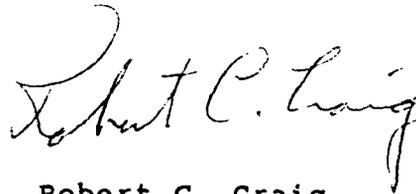
DATE: April 14, 1994

TO:
FROM: Don P. Johnson, Town Manager
SUBJECT: Fire Chief
Acceptance of Donation--Computer Equipment

Don:

Attached please find a letter offering used computer equipment to the Acton Fire Department. I would ask that this letter of donation be forwarded to the Board of Selectmen with the request that the equipment be accepted, as it would be useful and compatible with our present system.

Thank you.



Robert C. Craig
Fire Chief

200 Littleton Road
Westford, MA 01886
April 4, 1994

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

Dear Chief Craig:

It is my understanding that your department has recently upgraded your computer system and may be able to utilize various pieces of Digital computer hardware. I would like to make available to your department the following used equipment: Three Digital terminals and two Digital printers as a charitable contribution.

If this donation is acceptable, please let me know as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "David Watson", with a large, stylized initial "D" and a horizontal line extending to the right.

David Watson

4/19/94
10

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

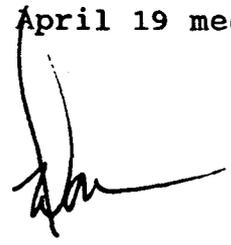
DATE: April 5, 1994

TO: Board of Selectmen
FROM: Don P. Johnson, Town Manager
SUBJECT: Liquor Purchases by Minors

Attached are several reports from the Police Department regarding their findings in the course of their regular monitoring of liquor licenses. This did not seem to be a serious problem in January, when the Police Chief first reported to me. The latest "survey", however, seems to indicate that there might be a significant number of establishments allowing liquor purchases by minors.

In his memo of January 5, the Police Chief suggested several courses of action. I would recommend, at a minimum, that the Board meet informally with each establishment and "call them on the carpet". This would give them one warning with an opportunity to correct any training/policy deficiencies before the Board moved to more drastic action.

I shall seek your direction at your April 19 meeting.



TOWN OF ACTON POLICE DEPARTMENT

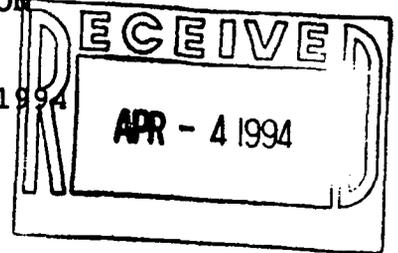
INTER-DEPARTMENTAL COMMUNICATION

TO: TOWN MANAGER

DATE: April 4, 1994

FROM: POLICE CHIEF

SUBJ: Liquor Purchase by Minors at Bars



In the normal course of business the Department checks different bars licensed by the Town for sales of liquor to under aged persons. This was done using the same individual as referred to in my memo of January 5, 1994 (attached). This was an administrative inspection and the same options hold true as in the previous memo. Please find Lt McNiff's report attached which points out purchases made from three establishments in Acton on April 1, 1994. The establishments not inspected will be in the near future.

TOWN OF ACTON POLICE DEPARTMENT

INTER-DEPARTMENTAL COMMUNICATION

TO: Chief Robinson

DATE: April 1, 1994

FROM: Lt. McNiff

SUBJ: Liquor purchase by minors at restaurants

At approx. 2030 hrs on this date I met with Kristin Dineen, 10 Dignon Rd. Billerica, DOB 11/7/73 as previously arranged. Ms Dineen has been utilized by this department in the past for the purposes of buying liquor by a minor. She was accompanied by her boyfriend Steven Quintin, 724 Shawaheen St., Tewksbury, DOB 5/8/73. Both subjects agreed to attempt to purchase alcohol at various restaurants in Acton.

We attempted to purchase liquor at five restaurants. One of these has no bar in service as yet. However, of the other four we were successful at three of them.

Sichauan Pavilian - had no bar in operation at this time.

Scupper Jacks - Both Steven and Kristin entered Scupper Jacks and were seated on the stools in the bar area but not at the bar itself. They ordered and were served two Killian Red Beers by Christynn Rothmel, the waitress. I entered the bar area and observed these beers on the small table in front of them. I identified myself to Ms Rothmel and we went to the office of the manager where I met Jack Mendosa. I explained to him the situation and he asked Ms Rothmel if she had requested an ID from either of these customers. She stated that she had not. Mr. Mendosa told me that it was their policy to request IDs from anyone who appeared 25 years of age or younger. I informed Mr. Mendosa that I would be filing my report but action, if any against his restaurant would come from the licencing authority.

Cross Roads - Both subjects entered Cross Roads Restaurant and Kristin was served 1 Rolling Rock Beer and 1 Zima brew (a beer-like beverage that contains about the same amount of alcohol as beer) over

TOWN OF ACTON POLICE DEPARTMENT
INTER-DEPARTMENTAL COMMUNICATION

the bar by Glenn Matot, the bartender. I entered the bar area and observed these beverages being delivered to Kristin. I then met Jay Manning and explained the situation to him. He introduced me to Glenn Matot who stated that he did not request an ID from Kristin because he thought she was over 21. Checking IDs at Cross Roads is a matter left to the discretion of the server. Occasionally Mr. Manning works a doorman at which time he checks the IDs but such was not the case this evening. I explained to Mr. Manning that action, if any would come from the licencing authority.

Makaha - requested identification from Kristin and when she was unable to provide same they were told to leave the lounge.

Golden Bull - Both subjects entered the lounge and were served two Miller Lite Beers by Psoy Yee Than the waitress. I entered the lounge and observed the beer on the table before them. I then identified myself to the manager Kenny Lung. As above, he was informed that action, if any would come from the licencing authority.

Both the Candelwood and Kormet were closed by the time we attempted to enter. The Beef 'N Ale and New London Pizza, being restaurants without lounges will be tested at a future date during the lunch hour towards which their business is directed.

TOWN OF ACTON POLICE DEPARTMENT
INTER-DEPARTMENTAL COMMUNICATION

TO: TOWN MANAGER
FROM: POLICE CHIEF
SUBJ: Package Stores, Administrative Survey

DATE: January 5, 1994

COPY

During the time frame of December 21 to 30, 1993 this Department conducted a routine administrative survey of the licensed package stores within town. We were not acting on a complaint but as a matter of course in our prevention program. Please find attached reports from Lt McNiff of the procedures used and the results (two sales). Please be advised we intended this to be an administrative survey and not a criminal investigation which would require a greater standard of evidence.

I would like to suggest some options:

1. Formal hearing before the BOS resulting in formal action.
2. Informal meeting with the BOS resulting in a) extensive explanation by the establishments and, or b) voluntarily close down by the establishment for a specified time.
3. No action if the BOS deems this appropriate.

* Note attached is a report dated 5/29/93 re Acton Wine and Spirits

TOWN OF ACTON POLICE DEPARTMENT
INTER-DEPARTMENTAL COMMUNICATION

TO: Chief Robinson
FROM: Lt. McNiff
SUBJ: Liquor purchase

DATE: December 22, 1993

Below please see the attached report from Kristin Dineen, 10 Dignon Rd., Billerica, MA DOB 11/7/73 tel # 508-667-2677. Ms Dineene was referred to me by Mr. Don Melisi of Middlesex Community College, Department of Criminal Justice at my request to attempt to purchase alcohol at various locations in Acton. Ms Dineene was sold a six-pack of Bud Lite from the Acton Convenience Store, RT 2A, Acton at approx. 1045 hrs on 12/22/94, Ms Dineen being 20 years of age. The beer was delivered to me in the parking lot of the ~~Acton Convenience Store~~ immediately upon her departure from said store. I then entered said store and observed a w/m behind the counter. I asked to see the manager and was told that he was the assistant manager and the only one on duty at the time. I identified myself as a police officer and told him that he had just sold beer to a 20 year old girl. He identified himself as Stephen C. Egan, 61 Acton Rd. Chelmsford, MA, DOB 11/20/66, ss # 018243412. I asked him if he asked for her ID and he said no. I advised him that this department would be in touch as to action that would be taken.

Store owner: Sam Hatzis tel # 392-1155 (Westford store) 263-8639 (Acton store).

I contacted Mr. Hatzis by phone and explained what had transpired to him. He was very concerned and anxious to work with us. He told me that it is the policy of the store to card anyone under what appears to be age 30. This, of course was not done in this matter.

Report by Kristin Dineen:

I, Kristin Dineen was contacted by Mr. Melisi on 12/18/93 regarding a service of purchasing liquor in the town of Acton. Mr. Melisi gave me

TOWN OF ACTON POLICE DEPARTMENT

INTER-DEPARTMENTAL COMMUNICATION

the number of a Lt. Mc Niff, Acton P.D. to contact which I did so on the 21st of December. Lt. Mc Niff and I scheduled to meet on Wednesday 12/22/93 at 10:30 at the Acton Police department. At this time on 12/22/93 Lt. Mc Niff informed me that he wanted me to try and purchase a six pack of beer from several stores. At the first store I was not able to purchase any liquor. Lt. Mc Niff and myself proceeded to a local convenience store where I was able to purchase a six pack of Bud light from a young white male, brown hair 6ft. The young male was attending the store at this time, he did not ask for any identification of any kind.

PROOF
AGREEMENTS
INDEMNITIES
BYLAWS

4/19/94
⑪

ANDERSON & KREIGER

Attorneys at Law

STEPHEN D. ANDERSON
(Also admitted in CT)
ARTHUR P. KREIGER
(Also admitted in NY)
GEORGE A. HALL, JR.

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Cambridge, MA 02141
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CYNTHIA HESLEN
(Also admitted in VT)
WILLIAM H. BRACK
(Also admitted in DC)

FACSIMILE TRANSMISSION

COVER SHEET

CONFIDENTIAL

DATE: April 14, 1994

TO: Don Johnson

FROM: Stephen D. Anderson

CLIENT/MATTER: ACT/NESWC3

NO. OF PAGES: 13
(Including Cover Sheet)

DESTINATION FAX NO. (508) 264-9630

DESCRIPTION: Letter w/draft Complaint

COMMENT:

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ANDERSON & KREIGER

Attorneys at Law

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WILLIAM H. BRACK
(Also admitted in DC)

April 14, 1994

BY FAX

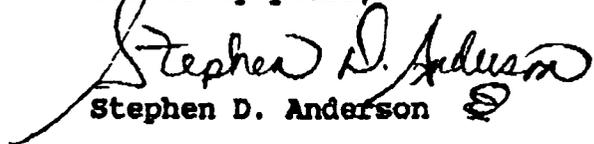
Don Johnson
Town Manager
Town Hall
Acton, MA 01720

RE: Town of Acton v. Massachusetts Refusatech, Inc., et al

Dear Don:

As we discussed, enclosed is a rough first draft of the Verified Complaint in the above matter.

Sincerely yours,


Stephen D. Anderson

SDA/jec
Enclosure

ACTON/NESWC/502/Johnson.005

DRAFT

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Superior Court Department
Civil Action No.

TOWN OF ACTON,	Plaintiff,	}
v.		
MASSACHUSETTS REFUSETECH, INC. and NORTH EAST SOLID WASTE COMMITTEE,	Defendants.	}

WHAT DOES THIS MEAN?

VERIFIED COMPLAINT

A. The Parties

1. The plaintiff Town of Acton ("the Town") is a municipality located in Middlesex County, Massachusetts.

2. The defendant Massachusetts REFUSETECH, Inc. ("MRI") is a corporation organized under the laws of Delaware with a principal place of business in Hampton, NH.

3. The defendant North East Solid Waste Committee ("NESWC") is a body politic of the Commonwealth of Massachusetts established under Chapter 328 of the Acts of 1988. See Exhibit 1. NESWC is comprised of 23 Massachusetts municipalities, including the Town. Prior to the enactment of Chapter 328 of the Acts of 1988, NESWC was an unincorporated association of Massachusetts municipalities each of which is a party to a Solid Waste Disposal Service Agreement described below.

SP

B. The NESWC Service Agreements

4. At its Annual Town Meeting in April, 1981, the Town authorized the Board of Selectmen to execute a 20-year contract

for the operation of a solid waste disposal and resource recovery facility in North Andover. See Exhibit 2. The warrant article stated, among other things, that the contract for the facility would provide for similar commitments by other municipalities and be generally in the form of a proposed contract on file at the Town.

5. On May 12, 1981, pursuant to its authority from the Town, the Acton Board of Selectmen executed an agreement with MRI entitled NESWC Service Agreement - April 8, 1981 ("the Acton-MRI Agreement"). MRI executed the Acton-MRI Agreement on June 12, 1981. A true copy is attached as Exhibit 3. The Acton-MRI Agreement is substantially identical to the proposed contract approved by the Town.

6. At approximately the same time, each of approximately 20 other municipalities ("the Contract Communities") and MRI executed service agreements substantially identical to the Acton-MRI Agreement. Some time thereafter, the final two NESWC Contract Communities (Dracut and West Newbury) executed Service Agreements substantially identical to the Acton-MRI Agreement. All of these agreements, including the Acton-MRI Agreement, are hereinafter collectively referred to as "the Service Agreements." The Service Agreements, including any validly enacted amendments thereto, are and have been in full force and effect from their execution throughout the period relevant to this action.

7. The Service Agreements established a system of regional solid waste disposal and resource recovery.

8. The Service Agreements provided for UOP Inc. to enter into an agreement with MRI to construct a solid waste and resource recovery and electric generating facility in North Andover. The construction of that facility was to be financed with the proceeds from the sale of industrial development revenue bonds issued by the Town of North Andover through its Industrial Development Financing Authority. Exhibit 3, pp. 1-2.

9. The facility was constructed and financed as described in the Agreements. The trustee for the bondholders is State Street Bank in Boston, Massachusetts.

10. The Service Agreements each contain the following "Whereas" clauses or clauses substantially identical thereto:

[T]he Contract Communities have determined that such a regional plan can be achieved only through a long-term agreement which ... assures that each will make certain minimum payments for solid waste disposal services to pay for the operation and maintenance and the capital costs of a regional solid waste disposal and resource recovery system;

[T]he basic and primary intent of this Agreement and similar agreements entered into between MRI and each of the other Contract Communities is to produce an arrangement with each of the Contract Communities and with MRI ... wherein each Contract Community can rely on the commitment of each other Contract Community and MRI...; and

[A]ll of the Contract Communities have entered or will enter into agreement substantially identical in form and substance to this Agreement[.]

Exhibit 2, pp. 1-2.

11. Relying on those mutually dependent commitments, the Town and each of the other Contract Communities agreed to deliver certain types of solid waste to the NESWC facility for 20 years

and to make certain payments to MRI, described below. *Id.*, pp. 8-9, 32. In general, the Service Agreements provide that each Contract Community shall deliver all acceptable wastes, as defined in the Agreement, which the Contract Community is either legally obligated to accept or has the right to dispose of, to the Facility or to certain identified transfer stations for subsequent delivery to the Facility; and the Agreements provide that MRI shall operate and maintain the facility so as to be capable of receiving and processing those acceptable wastes up to the guaranteed plant capacity.

12. Under the Service Agreements, each Contract Community is assigned a guaranteed annual tonnage ("GAT") of acceptable waste for each fiscal year. Each Contract Community's guaranteed annual tonnage (T_g) and the aggregate of all communities' aggregate annual tonnages (TG) factor into the calculation of each community's base fee and other contractual payments and credits under the Service Agreements.

13. In the Service Agreements each Contract Community agreed to pay MRI based on a guaranteed annual tonnage of solid waste delivered to the facility ("GAT"), regardless of whether the community delivered that much solid waste to the facility in a particular year. The Service Agreements also establish a system of excess tonnage premium payments for overdeliveries as compared to GAT. The Service Agreements provide specific mathematical formulas for calculating the base fee and the excess tonnage premium.

14. The Service Agreements also provide that:

No amendment to this Agreement will be effective until reduced to writing and executed and delivered by MRI and the Customer [defined as the respective town] and, if such amendment would adversely effect [sic] the other Contract Communities, unless approved in writing by the Contract Community Representative.

Exhibit 3, p. 38. The Contract Community Representative is a central person designated by the Contract Communities to perform certain designated functions or responsibilities on behalf of those communities. The Contract Community Representative is currently the Executive Director of NESWC.

C. The NESWC Bylaws

15. On May 22, 1986, the Contract Communities established a revised set of bylaws to implement those provisions of the Service Agreements which are concerned with action by the Contract Community representatives and to set forth the relationship between the NESWC Advisory Board and the NESWC Executive Committee on the one hand and the Contract Community representatives on the other. Those bylaws have been amended from time to time, including amendments in January of 1993 and April of 1993. Attached hereto as Exhibit _____ is a true copy of the 1986 bylaws with all amendments to date. The bylaws did not modify the contractual rights and obligations of the Contract Communities under the Service Agreements.

300000 2

D. The Community Stabilization Fund

16. By a Supplemental Indenture dated October _____, 1985, a Community Stabilization Fund was created to stabilize annual disposal or "tipping" fees at the North Andover Facility.

The Community Stabilization Fund ("CSF") provided a mechanism whereby Contract Communities would pay a flat rate monthly tipping fee instead of a variable monthly tipping fee. The Indenture establishing the Community Stabilization Fund did not modify the contractual rights and obligations of the Contract Communities under the Service Agreements. Rather, it simply provided a mechanism to level monthly tipping fees.

17. Beginning in fiscal year 1988, NESWC began to utilize the Community Stabilization Fund ("CSF"), including a system of charges and credits to NESWC's Contract Communities.

18. On information and belief, NESWC's system of charges to the CSF, as implemented and administered by NESWC and MRI during the period from fiscal year 1988 to March 1993, double billed Contract Communities who overdelivered to the NESWC Facility as compared to the charge that was applicable under the Service Agreements for the overdelivered tonnage. On information and belief, this practice of double billing to the stabilization fund balance occurred during the period from fiscal year 1988 to March 1993.

1993

1983.

? SAME METHOD?

19. On information and belief, NESWC also implemented a system of credits to the stabilization fund balance in which it double credited Contract Communities that underdelivered to the Facility as compared to GAT. On information and belief, this practice of double crediting continued from fiscal year 1988 to approximately November 1991.

20. During fiscal year 1993, the Town of Acton consistently overdelivered as compared to its GAT to the NESWC Facility. The Town of Acton fully paid MRI all amounts due and owing under the Service Agreement for these deliveries to the Facility. However, as a result of the policy of double billing to the CSF, Acton has been double billed by NESWC in the amount of \$269,182.59 toward its stabilization fund balance. The Town of Acton believes that it does not owe this amount to the Community Stabilization Fund.

21. On information and belief, during the period that NESWC and MRI implemented the system of double billing and double credits, NESWC and MRI reconciled its books by implementing an artificial accounting entry entitled "funds in excess/(required) for certification." Using this line item, NESWC and MRI redistributed to each Contract Community its alleged share of funds in excess or funds required to balance MRI's actual expenditures versus MRI's estimated expenditures. Because NESWC and MRI had implemented a system of double charges and double credits, the amount of money redistributed by this system was not accurately redistributed to the Contract Communities in accordance with the Service Agreements. Instead, the amount redistributed was a function of NESWC's double billing and double credits. As a result, Acton, and any other Contract Community that delivered in accordance with its GAT during the applicable time period, received a smaller credit of funds in excess than it should have received as compared to other Contract Communities that underdelivered during the same time period.

Town's rights and duties under the Service Agreement, the fiscal risks raised by the system of charges and credits are of paramount importance. The absence of a proper accounting for the CSF balance threatens irreparable harm to the Town.

COUNT 1
(Breach of Contract)

25. The Town incorporates into this paragraph the allegations of Paragraphs 1-24, above.

26. By implementing and/or administering the system of charges and credits to the CSF, MRI has breached the Acton-MRI Service Agreement.

COUNT 2
(Interference with Contractual Relations)

27. The Town incorporates into this paragraph the allegations of Paragraphs 1-26, above.

28. By implementing and/or administering the system of charges and credits to the CSF, NESWC has interfered with the Acton-MRI Service Agreement.

COUNT 3
(Declaratory Judgment)

29. The Town incorporates into this paragraph the allegations of Paragraphs 1-28, above.

30. NESWC's implementation and/or administration of the system of charges and credits to the CSF has created an actual controversy between and among the parties as to the validity and effect of the system of charges and credits and the account balances in the CSF.

22. At a meeting with NESWC's Advisory Board on October 20, 1988, the Assistant Treasurer of MRI, Brian Anderson, presented a discussion of the way in which credits and charges to each Contract Community's balance in the CSF would be applied to the overdelivery or underdelivery of tonnage to the NESWC facility. On information and belief, this presentation did not clearly identify and articulately explain that MRI and NESWC would implement a system of double billing to the CSF for communities that overdelivered to the Facility. In any event, no motion was made and no action was taken to approve such overdelivery and underdelivery charges and credits; NESWC has never adopted a bylaw governing such charges and credits to the CSF; and no amendment to the Service Agreements has ever been adopted governing such charges and credits to the CSF.

23. Rather, in a memorandum dated March 2, 1992 from NESWC's Executive Director to NESWC's Chief Executive Officers, Advisory Board Members and Overseers of Solid Waste, a true copy of which is attached hereto as Exhibit ____, NESWC's Executive Director emphatically stated that no double billing had been created by the system of charges and credits to the CSF.

C. Irreparable Harm

[TO FOLLOW]

24. Since the Town's initial participation in the Service Agreement was expressly authorized at Town Meeting, and since the system of charges and credits has significantly changed the

31. Without limitation, the system of charges and credits to the CSF are ultra vires and are in violation of the Town of Acton's rights under the Service Agreement, the Supplemental Indenture, Chapter 328 of the Acts of 1988 and the NESWC bylaws.

WHEREFORE, the Town requests that the Court:

1. Enter judgment that MRI's actions described above have breached the Acton-MRI Agreement,
2. Enter judgment that NESWC's actions described above have interfered with the Acton-MRI Agreement,
3. Declare that MRI's and NESWC's system of charges and credits to the Community Stabilization Fund are ultra vires and are in violation of the Town of Acton's rights under the Service Agreement, the Supplemental Indenture, Chapter 328 of the Acts of 1988 and the NESWC bylaws.
4. Issue an Order to Show Cause returnable forthwith why the relief requested in prayer number 5 should not be granted.
5. Issue temporary, preliminary and permanent injunctions ordering NESWC and MRI to perform an accounting of the Community Stabilization Fund and to adjust the Town of Acton's balance therein to eliminate the inappropriate charges identified in this Complaint, and
6. Grant such further relief as is just and proper.

By its attorneys,

Stephen D. Anderson (BBO #018700)
Arthur P. Kreiger (BBO #279870)
ANDERSON & KREIGER
47 Thorndike Street
Cambridge, MA 02141
(617) 252-6575

Dated: July , 1992

VERIFICATION

I, Don Johnson, Town Manager of the Town of Acton, state under the penalties of perjury that I have read this Verified Complaint, that I have personal knowledge of the facts it alleges, and that those allegations are true to the best of my knowledge, information and belief.

Don Johnson

ACTON/NESWC/S02/Complain

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: April 15, 1994

TO: Board of Selectmen
FROM: Don P. Johnson, Town Manager
SUBJECT: WR Grace Consultant Interviews

I have attached resumes and brochures from several consulting firms with respect to our need to replace GZA on the WR Grace closure work. Doug Halley, Steve Anderson and I have been busy in recent days interviewing these folks as the closure activity at Grace moves forward very rapidly.

At the end of March we found that GZA was indeed jumping ship and we would be needing a new consultant. Concurrently, the project seemed to leap into high gear and our Town Meeting started. There was virtually no opportunity to proceed through the normal RFP process without the loss of a great deal of participation by our consultant. As a result, I asked Steve Anderson to consider his work in the environmental field and recommend any consultants that he felt might fit our needs. (We have defined our role as oversight to this process. EPA, DEP and numerous consultants will be doing the technical work ... we simply need to be sure that the project stays on track and they adequately address the Town's concerns for health and safety. In this role our needs are rather modest.)

Steve recommended that we interview two firms, O'Reilly & Talbot, Inc. of Springfield, MA and Ground Water Consultants, Inc. of Beverly, MA. Both of these firms are small (Ground Water Consultants is a sole proprietor) but both would bring significant skills and experience to the job. Additionally, I had been contacted by Steve Lewis of Roy F. Weston (the second bidder to GZA on the contract that GZA took with Grace), who expressed their interest in our side of the project. Roy F. Weston represents the other end of the consulting spectrum. They are a larger, national/international consultant with offices across the country. All three were contacted and informed that if they were interested in the job, they should attend one or more of the WR Grace meetings that took place over the last week or so. Our objective was to determine how quickly and thoroughly they might come up to speed.

Interviews were conducted last Tuesday, April 12. The two small firms each sent a single representative. The large firm sent four. Upon completion of the interviews, we compared notes and unanimously agreed that O'Reilly & Talbot seemed to offer the most appropriate representation for the Town. They have a good understanding of EPA and talk their language, they understand fully (and can articulate) the Town's needs and they present a demeanor that we believe would benefit the Town as this project proceeds.

Under other circumstances I would move directly to contract for their services. In this instance, however, the consultant is in more of a public relations role for the Board of Selectmen than normal. As a consequence, I believe it is important for the Board to at least be aware of the process we have followed and advise me as to whether you have any problems or concerns. If the Board wishes, we could have Steve Anderson come in and give you an overview of the activities that will be taking place at Grace, along with his views as to the preference for O'Reilly &

Talbot. (If you choose to hear from Steve prior to moving forward with the selected firm, we will need a special meeting in the very near future. The activity on this project is such that we dare not delay bringing our consultant on Board.)

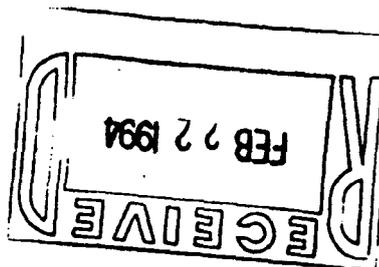
I will be prepared to discuss this matter with the Board on Tuesday. Executive Session might be in order, depending on the level of discussion the Board desires.

A handwritten signature in cursive script, appearing to be 'Don', is written in black ink.

PS: I have attached a copy of the GZA "Chinese Wall" proposal we received from GZA in February. We are still negotiating elements ... most notably, their financial contribution to bring our replacement consultant up to speed and our demand to see the proposal GZA submitted to WR Grace.

cc: BOS

February 18, 1994



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



Re: Town of Acton: W.R. Grace & Co.--Conn.

Dear Mr. Johnson:

I am General Counsel and Secretary of GZA GeoEnvironmental Technologies, Inc. ("GZEA"), a public corporation which is the sole stockholder of each of GZA GeoEnvironmental, Inc. ("GZA", former corporate name "Goldberg-Zoino & Associates, Inc."), and GZA Remediation, Inc. ("GZAR"). I also serve as General Counsel of both GZA and GZAR, and Clerk of each of those subsidiaries.

320 Needham Street
Newton Upper Falls
Massachusetts 02164
617-630-6209
FAX 617-969-0715

This letter is in response to the letter of Stephen D. Anderson, Esquire, of January 7, 1994 directed to William Cheeseman, Esquire, of Foley, Hoag & Eliot, regarding the performance of remedial work by GZAR for W.R. Grace & Co.--Conn. ("Grace") at the Grace Acton Facility.

In my capacity as General Counsel and Secretary and as Clerk of the subsidiary corporations, I assure you that GZEA, GZA and GZAR will each maintain in place an absolute bar to any communication, formal or informal, between,

GROUP I: Being any present or past employee of GZA who assisted the Town of Acton concerning the Grace Facility, including John E. Ayres, Paul F. Reiter and Matthew J. Barvenik, and any other GZA employee, past or present, who may have carried out any work for the Town of Acton related to the Grace Acton Facility (the "Group I Services"), and,

GROUP II: Being any GZAR or GZA employee who may perform any services under, or be involved, in any way, in the work under the contract between GZAR and Grace concerning the Grace Acton Facility (the "Group II Services"), including any other person acting on behalf of Grace in respect to that contract.

In implementation of our undertaking to maintain such an absolute bar to any communications, formal or informal, between the two groups denoted in the foregoing

policy, GZEA, the parent corporation, and each of its subsidiaries, GZA and GZAR, have implemented the following plan:



1. GZEA, GZA and GZAR will have posted prominent notices ("Chinese Wall Notices") advising their employees of their agreement with the Town of Acton to bar all communications, formal, or informal, direct or indirect, between persons in Group I and persons in Group II which, in any way, relate to any aspect of the Grace Acton Facility or the performance of services by GZA or GZAR for the Town of Acton or for Grace with respect to such Facility.
2. Each of John E. Ayres, Paul F. Reiter and Matthew J. Barvenik will have received a personal copy of this letter and of the "Chinese Wall Notice", and will execute a written acknowledgement that each understands the conditions set forth herein, and agrees to refrain from any conduct, or communication with any GZA or GZAR employees, which might be violative of the requirements of this letter.
3. GZAR has issued a "File Security Protocol" directing that all project files related to the Group I Services shall be maintained in a secure condition, in separate file cases, with access to those file cases limited to employees in Group I; and a "File Security Protocol" directing that all project files related to Group II Services be maintained in a secure condition, in separate file cases, with access to those file cases limited to employees in Group II.

I trust that this letter, the "Chinese Wall Notice", and the "File Security Protocols", (copies enclosed) are a satisfactory response to the conditions set forth in Paragraph 2 of the letter of Stephen Anderson, Esq., of January 7, 1994.

Sincerely,

GZA GEOENVIRONMENTAL TECHNOLOGIES, INC.

Leon Birnbaum

Leon Birnbaum

LST

LB:bjc

**"IMPORTANT CHINESE WALL NOTICE"
TO BE POSTED AT GZEA, GZA AND GZAR OFFICES**

Subject: W.R. Grace & Co.--Conn. - Acton Facility

GZA Remediation, Inc. is entering into a contract with W.R. Grace & Co.--Conn. for the performance of certain technical and remediation services with respect to the Grace Facility located in the Town of Acton, Massachusetts.

In the past, GZA GeoEnvironmental, Inc. (under its former name, Goldberg-Zoino & Associates, Inc.) provided advice to the Town of Acton with respect to the W.R. Grace & Co.--Conn. Acton facility. Those past services were carried out, principally, by John E. Ayres, Paul F. Reiter and Matthew J. Barvenik, over several years.

W.R. Grace & Co.--Conn. now intends to carry out remediation activities at the Grace Acton Facility. GZAR bid the work and has been selected.

Since GZA has provided advice to the Town, the Town is entitled to the maintenance of confidentiality. All past or present GZA employees, including Ayres, Reiter and Barvenik, who were in any way involved in providing services and advice to the Town are hereby ordered and directed not, directly or indirectly, formally or informally, to have any communications regarding such services nor to disclose any information regarding such services, with or to any employees of GZAR or GZA who may be involved in the prosecution of any aspect of the work required under the contract between W.R. Grace & Co.--Conn. and GZAR.

Any employee, subcontractor or consultant working for, or engaged by GZAR or GZA, in respect to any aspect of the GZAR contract for remediation services at the Grace Acton Facility, is hereby ordered and directed not to have any contact with, discussion of, or dealings or communication, review of documents, or any other activities, with John E. Ayres,

Paul F. Reiter, Matthew J. Barvenik, or any other GZA employee, present or past, who was involved, in any way, in the investigations, collection of data, and providing of advice by GZA to the Town of Acton with respect to the Grace Acton Facility.

The purpose of this regulation is to ensure that there is no inappropriate transmission of any information, or influence, in any aspect of GZAR's performance of services at the Grace Acton Facility, by any GZA employee who had been involved in the services performed by GZA for, and advice provided to, the Town of Acton, Massachusetts.

GZAR has issued "File Security Protocols" limiting access to the Town of Acton project files to those employees who worked for the Town and limiting access to the W.R. Grace project files to those employees working for W.R. Grace. Copies of the Protocols will be posted on the respective file cases containing Town of Acton and W.R. Grace project files.

In the event that there is any question regarding such project files, you shall immediately refer that question to the General Counsel, Leon Birnbaum, Esquire, for investigation and disposition.

Exceptions to the foregoing policy will be made only with the express consent, on a case-by-case basis, of both the Town of Acton and W.R. Grace. Any exception should first be cleared with GZA's in-house counsel.



Number:	00001
Date:	January 31, 1994
Supersedes:	none
Approved:	Leon Birnbaum
Sponsoring Function:	General Counsel
Page:	1 of 1

© 1994 GZA GeoEnvironmental Technologies, Inc.

**FILE SECURITY PROTOCOL
GZA REMEDIATION, INC.
W.R. GRACE ACTON FACILITY PROJECT FILES**

Your attention is directed to the "IMPORTANT CHINESE WALL NOTICE" posted in GZEA, GZA and GZAR offices relative to the work being undertaken by GZAR at the W.R. Grace & Co.--Conn.-Town of Acton Facility.

To ensure the integrity and confidentiality of the project files this protocol is being issued which limits access to the Grace Acton Facility Project Files to only those employees who, because of their work on the GZAR-Grace contract, require access to the project files.

Only those individual employees who have been specifically assigned to work on the W.R. Grace Project shall have access to the files and only to the extent required to perform their specific functions. Individuals not falling into the above category will be denied access. There will be no exceptions to this protocol without the express written permission of the General Counsel.

The following notice will be placed in a conspicuous place on the front of every file cabinet containing the W.R. Grace/Action Facility Project files:

**"NOTICE"
RESTRICTED PROJECT FILES
ACCESS ALLOWED TO APPROVED PROJECT PERSONNEL ONLY
SEE GZAR PROJECT FILE ADMINISTRATOR FOR ACCESS**

No access to project files under any circumstances will be allowed to John E. Ayres, Paul F. Reiter, Matthew J. Barvenik or any other GZA employee, present or past, who was involved, in any way, in the investigations, collection of data, and providing of advice by GZA to the Town of Acton with respect to the Grace Acton Facility.

Date



Number:	00001
Date:	January 31, 1994
Supersedes:	none
Approved:	Leon Birnbaum
Sponsoring Function:	General Counsel
Page:	1 of 1

© 1994 GZA GeoEnvironmental Technologies, Inc.

FILE SECURITY PROTOCOL

GZA GEOENVIRONMENTAL, INC.
TOWN OF ACTON - W.R.GRACE FACILITY

Your attention is directed to the 'IMPORTANT CHINESE WALL NOTICE' posted in GZEA, GZA and GZAR offices relative to the work being undertaken by GZAR at the W.R. Grace & Co.-Conn. - Town of Acton Facility.

To ensure the integrity and confidentiality of the project files this protocol is being issued which limits access to the Town of Acton files related to the W.R. Grace Facility to only those employees who worked for the Town of Acton in connection with such facility.

Individuals not falling into the above category will be denied access. There will be no exceptions to this protocol without the express written permission of the General Counsel.

The following notice will be placed in a conspicuous place on the front of every file cabinet containing the Town of Acton files related to the W.R. Grace Facility:

'NOTICE'
RESTRICTED FILES
ACCESS ALLOWED TO APPROVED PERSONNEL ONLY
SEE GZA PROJECT FILE ADMINISTRATOR FOR ACCESS

Date

ANDERSON & KREIGER

Attorneys at Law

STEPHEN D. ANDERSON
(Also admitted in CT)

ARTHUR P. KREIGER
(Also admitted in NY)

GEORGE A. HALL, JR.

The Bulfinch Building
47 Thorndike Street
Cambridge, MA 02141
(617) 252-6575
Fax: (617) 252-6899

CYNTHIA HESLEN
(Also admitted in NY)

WILLIAM H. BRACK
(Also admitted in DC)

March 24, 1994

BY FAX

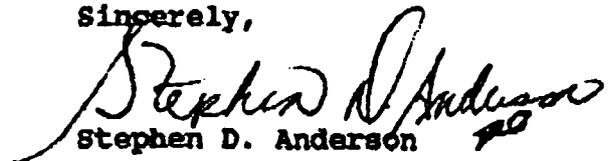
Don Johnson, Town Manager
Town of Acton
Town Hall
Acton, MA 01720

Re: N.R. Grace

Dear Don:

Cynthia Heslen and I have taken the liberty of obtaining a proposal from Jim Okun of O'Reilly & Talbot, Inc. to come up to speed as the Town's replacement consultant on the Grace matter. Enclosed is the proposal. Mr. Okun had worked on the Grace matter while at EPA in the late 70's and early 80's, and he later worked at GZA before joining his new firm. Please let me know whether you would like us to pursue proposals from other qualified consultants.

Sincerely,


Stephen D. Anderson

SDA/jec
Enclosure

cc: Doug Halley
Cynthia Heslen, Esq. (w/out enclosure)

Act/Ga/Johnson.035

O'Relly & Talbot, Inc.

60 Westbrook Drive
Springfield, Massachusetts 01129

FAX COVER SHEET

Pages: (including this one):

Call 413-783-6705
Fax 413-783-6687

To: Stephen Anderson	Company: Anderson + Kreiger
Fax No: 617-252-6899	From: Jim Okun
Date: 3-24-94	Time: 10:25
Subject: Acton	

Message:

Per my conversations with Cynthia this is my proposal for Grace oversight work. Getting involved with this again would be a real treat!

Regards Jim Okun

cc Cynthia Heston
Fax 413-774-2845

P-022-01-01
March 23, 1994

Stephen Anderson
Anderson & Kreiger
The Bulfinch Building
47 Thorndike Street
Cambridge, Massachusetts 02141

Re: Proposal for Services
Town of Acton
W. R. Grace Technical Support

Dear Steve:

I am pleased to present this proposal for technical support services in connection with the Town of Acton's overview of the Grace site environmental activities. As you know well, I am not a stranger to the situation; I have past involvement with the site during my employment by EPA from 1979 to 1982. I do not perceive this to pose a conflict in that first, considerable time has elapsed since my agency involvement and second, EPA's and the Town's interests were in close alignment during my earlier efforts.

If retained, I would be in a position to offer the Town the benefit of my Grace site experience plus my professional expertise (please see the attached resume) and, as needed, the strengths of my firm's other partners. As I understand it a key concern within the Town is the potential for adverse health and safety effects arising out of the proposed remedial program. My background in environmental chemistry, risk assessment and risk management based decisions makes me well suited to assist the Town.

SCOPE OF SERVICES

At this point the precise nature of the scope of services is difficult to define, but I am suggesting the following tasks as a basis for discussion.

Task 1.00 Review of Recent Technical Reports and Regulatory Records

Given the complexity and extended history of environmental activities at the site, time needs to be allowed for me to prepare for playing a constructive role. Depending on how the Town seeks to define their interests, I anticipate between 20 and 80 hours of time will be needed for me to come up to speed. Documents of particular interest would include:

- ▶ the ROD
- ▶ all recent regulatory correspondence

O'REILLY & TALBOT, INC.

- ▶ recent meeting records
- ▶ remedial action planning and implementation documents
- ▶ the RI report

Projected costs for this task are shown on the attached table.

Task 2.00 Meeting with GZA Technical Experts

I believe it is advisable to have a meeting with GZA's experts, assuming they are still available to us, to permit them to brief me on their conclusions and recommendations. The Town has a considerable investment in GZA's knowledge of the site and it is likely I could pick up useful tips from them. Presumably GZA would extend the courtesy of offering their people for a meeting without fee. It should not require more than 3 to 4 hours for this meeting.

Task 3.00 Meeting with Town Representatives

At some point it will be appropriate for me to meet with you and/or Town officials to identify the Town's objectives in the proceedings. This will permit me to focus on the issues of concern to the Town and thus use resources most economically. This meeting would be in the range of 3 to 4 hours.

Task 4.00 Attendance at Project Meetings, Review of New Documents and Preparation of Comments

For my involvement in project meetings, review of additional reports and correspondence and the preparation of comments for the Town, our work would be on a time and material basis in accordance with the terms of this proposal. For each subtask under this heading we would develop a budget upset for that effort.

PROJECT FEES AND BASIS OF BILLINGS

Projected costs for the first three tasks in this proposal are shown on the attached table. My hourly consulting rate for this project would be \$90 per hour. Travel time to meetings will be billed as if my origination point was Newton, Massachusetts, assuming 45 minutes to Acton and 30 minutes to Cambridge. Expenses will be billed at cost plus 15%.

CONDITIONS OF ENGAGEMENT

Our services will be subject to the attached Statement of Terms and Conditions, which are an integral part of our agreement with you.

ACCEPTANCE

This proposal may be accepted by signing in the appropriate spaces below and returning one copy

O'REILLY & TALBOT, INC.

Town of Acton/W. R. Grace
March 23, 1994

to us.

This proposal is valid for a period of 30 days from the date of issue.

Sincerely yours,
O'Reilly & Talbot, Inc.

James D. Okun
Principal

jdo/P210101.naw

This Proposal for Services and the Statement of Terms and Conditions are hereby accepted and executed by a duly authorized signatory, who by execution hereof, warrants that he/she has full authority to act for, in the name, and on behalf of Client.

Town of Acton c/o Anderson & Kreiger

By: _____ Its: _____

Typed Name: _____

Date: _____

Attachments:
Terms and Conditions
Resumes

Feb 24, 1994 10:22 AM FROM O'REILLY & TALBOT

TERMS & CONDITIONS OF ENGAGEMENT

THESE TERMS AND CONDITIONS AND THE "PROPOSAL" DATED MARCH 23, 1994 SUBMITTED BY O'REILLY & TALBOT, INC. ("COMPANY") TO ANDERSON & KREIGER, ("CLIENT"), MAKE UP THE "AGREEMENT" BETWEEN CLIENT AND COMPANY.

1. **SERVICES AND STANDARD OF CARE:** THE SERVICES REFERENCED IN OUR PROPOSAL DATED MARCH 23, 1994 WILL BE PERFORMED FOR THE EXCLUSIVE USE OF CLIENT. SERVICES PERFORMED BY COMPANY UNDER THIS AGREEMENT WILL BE CONDUCTED IN A MANNER CONSISTENT WITH THAT LEVEL OF CARE AND SKILL ORDINARILY EXERCISED BY MEMBERS OF THE PROFESSION CURRENTLY PRACTICING IN THE SAME LOCALITY UNDER SIMILAR CONDITIONS. NO OTHER REPRESENTATION, EXPRESSED, OR IMPLIED, AND NO WARRANTY OR GUARANTY IS INCLUDED OR INTENDED IN THIS AGREEMENT, OR IN ANY REPORT, OPINION, DOCUMENT, OR OTHERWISE.

2. **GOVERNING LAW; SEVERABILITY:** THIS AGREEMENT SHALL BE GOVERNED AND ENFORCEABLE IN ACCORDANCE WITH THE LAWS OF MASSACHUSETTS. ANY ELEMENT OF THIS AGREEMENT LATER HELD TO VIOLATE A LAW OR REGULATION SHALL BE DEEMED VOID, AND ALL REMAINING PROVISIONS SHALL CONTINUE IN FORCE.

3. **ASSIGNMENT:** NEITHER PARTY TO THIS AGREEMENT SHALL ASSIGN ITS DUTIES AND OBLIGATIONS HEREUNDER WITHOUT PRIOR WRITTEN CONSENT OF THE OTHER PARTY, EXCEPT THAT COMPANY MAY USE THE SERVICES OF PERSONS AND ENTITIES NOT IN ITS EMPLOY, WHEN IT IS NECESSARY OR COMPANY DEEMS APPROPRIATE. SUCH PERSONS AND ENTITIES MAY INCLUDE, BUT ARE NOT NECESSARILY LIMITED TO, SURVEYORS, SPECIALTY CONSULTANTS, DRILLING CONTRACTORS, AND TESTING LABORATORIES.

4. **TERMINATION:** CLIENT MAY TERMINATE THIS AGREEMENT WITHOUT PENALTY UPON SEVEN (7) CALENDAR DAYS WRITTEN NOTICE TO COMPANY, PROVIDED, THAT CLIENT SHALL BE OBLIGATED PURSUANT TO THE TERMS HEREOF FOR ALL SERVICES PERFORMED AND OBLIGATIONS INCURRED BY COMPANY ON CLIENT'S BEHALF AS OF THE EFFECTIVE DATE OF TERMINATION. SUCH SERVICES SHALL INCLUDE THOSE RENDERED UP TO THE DATE OF TERMINATION, AS WELL AS THOSE REASONABLE COSTS ASSOCIATED WITH THE TERMINATION ITSELF, SUCH AS DEMOBILIZATION.

COMPANY MAY TERMINATE THIS AGREEMENT UPON SEVEN (7) CALENDAR DAYS WRITTEN NOTICE TO CLIENT OF NON-PAYMENT OF INVOICES WITHIN THE THIRTY (30) DAY PERIOD DESCRIBED IN ARTICLE 5 OF THIS AGREEMENT. IN THE EVENT OF TERMINATION FOR NON-PAYMENT OF INVOICES CLIENT WILL BE RESPONSIBLE FOR ALL REASONABLE TERMINATION COSTS INCURRED BY COMPANY.

5. **PAYMENT:** PAYMENT IS DUE UPON INVOICE PRESENTATION AND NO LATER THAN THIRTY (30) DAYS FROM INVOICE DATE. THE UNPAID BALANCE AFTER 30 DAYS WILL BE SUBJECT TO A FINANCE CHARGE OF 1-1/2 PERCENT PER MONTH, OR THE MAXIMUM LAWFUL ANNUAL INTEREST RATE, WHICHEVER IS LESS. ANY OBJECTION TO AN INVOICE MUST BE MADE BY CLIENT, IN WRITING, WITHIN 10 DAYS OF THE MAILING DATE OF INVOICE OR THE OBJECTION WILL BE WAIVED.

6. **RIGHT OF ENTRY:** CLIENT SHALL PROVIDE TO COMPANY, AND ITS SUBCONTRACTORS, ACCESS TO ANY SITE NECESSARY TO PERFORM THE SCOPE OF SERVICES INCLUDED HEREUNDER. CLIENT UNDERSTANDS THAT CERTAIN TASKS, SUCH AS FIELD EXPLORATIONS, MAY CAUSE DAMAGE.

THE COMPANY SHALL NOT BE RESPONSIBLE FOR THE CORRECTION OF DAMAGE, UNLESS SUCH DAMAGE IS CAUSED BY THE NEGLIGENCE OF COMPANY OR ITS SUBCONTRACTORS.

7. UNDERGROUND STRUCTURES: IF SUBSURFACE EXPLORATIONS ARE PERFORMED, COMPANY WILL CONTACT THE APPROPRIATE GOVERNMENT OR PRIVATE AGENCY WHICH LOCATES SUBSURFACE UTILITIES. CLIENT WILL PROVIDE COMPANY WITH ALL PLANS AND OTHER INFORMATION IN CLIENT'S POSSESSION OR CONTROL CONCERNING SITE UNDERGROUND STRUCTURES. ON SITES NOT OWNED BY CLIENT, WE WILL REQUEST UTILITY LOCATIONS AND OTHER PLANS FROM THE SITE OWNER OR OTHER PERSON(S) DESIGNATED BY CLIENT. CLIENT AGREES TO ACCEPT THE RISKS OF DAMAGE AND LOSS ASSOCIATED WITH REPAIR OR RESTORATION OF ANY IMPROVEMENTS NOT LOCATED ON PLANS AND OR IDENTIFIED BY INFORMATION PROVIDED TO COMPANY.

8. SAMPLES/MANIFEST: UNLESS OTHERWISE REQUESTED IN WRITING, COMPANY MAY DISPOSE OF ALL SOIL, ROCK, WATER AND ALL OTHER SAMPLES THIRTY (30) DAYS AFTER COMPANY SUBMITS ITS FINAL REPORT FOR THE SERVICES DESCRIBED IN THIS AGREEMENT. UNLESS OTHERWISE INDICATED, COSTS ASSOCIATED WITH TESTING, STORAGE AND DISPOSAL OF ANY SAMPLES WHICH COULD BE CONSIDERED HAZARDOUS UNDER STATE OR FEDERAL LAW OR REGULATIONS HAVE NOT BEEN INCLUDED IN COST ESTIMATES PROVIDED TO CLIENT. ARRANGEMENTS FOR TRANSPORT, TREATMENT, STORAGE, AND DISPOSAL (INCLUDING SAMPLES NOT SO REMOVED), WILL BE MADE BY CLIENT, AT CLIENT'S EXPENSE.

9. FIELD OBSERVATION SERVICES: COMPANY'S SERVICES WILL NOT INCLUDE THE DIRECTION OR SUPERVISION OF A CONTRACTOR OR SUBCONTRACTOR OTHER THAN THOSE CONTRACTED DIRECTLY BY COMPANY. OUR SERVICES DO NOT INCLUDE RESPONSIBILITY FOR HEALTH AND SAFETY PRACTICES PERFORMED BY OTHERS ON THE SITE.

10. OWNERSHIP OF DOCUMENTS: ALL REPORTS, BORING LOGS, FIELD DATA, FIELD NOTES, LABORATORY TEST DATA, CALCULATIONS, ESTIMATES, AND OTHER DOCUMENTS PREPARED BY COMPANY AS INSTRUMENTS OF SERVICE SHALL REMAIN THE SOLE PROPERTY OF COMPANY. COMPANY SHALL RETAIN RECORDS FOR A PERIOD OF THREE YEARS. AT CLIENT'S REQUEST, COMPANY WILL PROVIDE REASONABLE ACCESS OR COPIES OF SUCH DOCUMENTS. REPRODUCTION COSTS WILL BE AT CLIENT'S EXPENSE.

11. DISCLOSURE OF INFORMATION: CLIENT WILL INFORM COMPANY OF ALL INFORMATION IN CLIENT'S POSSESSION OR CONTROL RELEVANT TO THE PERFORMANC OF COMPANY'S SERVICES. THIS INFORMATION INCLUDES, BUT IS NOT LIMITED TO ALL PRIOR SITE REPORTS, WASTE DISPOSAL MANIFESTS, PERMITS, AND ANALYTICAL DATA. CLIENT WILL INDEMNIFY, DEFEND, AND HOLD COMPANY HARMLESS OF AND FROM ALL LOSS OR DAMAGE RESULTING FROM ANY CLAIM THAT ARISES, IN WHOLE OR IN PART, AS A RESULT OF INFORMATION CLIENT FAILS TO DISCLOSE TO COMPANY.

12. THIRD PARTY RIGHTS: UNLESS OTHERWISE SPECIFIED IN THE AGREEMENT, THE AGREEMENT SHALL NOT CREATE ANY RIGHTS OR BENEFITS TO PARTIES OTHER THAN CLIENT AND COMPANY.

13. LIMITATION OF PROFESSIONAL LIABILITY: CLIENT AGREES TO LIMIT COMPANY'S LIABILITY TO CLIENT AND ALL THIRD PARTIES ARISING FROM COMPANY'S PROFESSIONAL ACTS, ERRORS, AND OMISSIONS, SUCH THAT THE AGGREGATE LIABILITY OF COMPANY AND ITS EMPLOYEES, AND PERSONS OR ENTITIES ACTING ON COMPANY'S BEHALF SHALL NOT EXCEED \$ 50,000 OR COMPANY'S TOTAL FEE FOR SERVICES UNDER THIS AGREEMENT, WHICHEVER IS GREATER.

JAMES D. OKUN

EDUCATION

B. S., 1975, Chemistry, Massachusetts Institute of Technology
S. M., 1978, Toxicology, Massachusetts Institute of Technology

PROFESSIONAL REGISTRATIONS AND AFFILIATIONS

Licensed Site Professional: Massachusetts
Chair, Licensed Site Professional Association Subcommittee on Ecological Risk Characterization
Member, Connecticut Low Level Radioactive Waste Advisory Committee

PROFESSIONAL EXPERIENCE

O'Reilly and Talbot, Inc. - 3/94 to Present
GZA GeoEnvironmental, Inc. - 1/84 to 2/94
GHR - 1992 to 1993
U. S. Environmental Protection Agency - 1979 to 1982

SUMMARY OF PROJECT EXPERIENCE

James Okun is a chemist and toxicologist with over 15 years experience in investigation and remediation at industrial and hazardous waste sites. He has been responsible for directing studies to assess the impacts of releases of oil and hazardous materials on the environment. In this capacity he directs hydrogeologists, remedial engineers, public health scientists, industrial hygienists and other professionals to determine the nature, extent and severity of releases. He oversees the development of sampling and analysis plans for the assessment of volatile/semivolatile organic compounds, PCBs, metals, cyanide, oil, asbestos, and other waste constituents in soil, groundwater, building interiors and air. Mr. Okun is responsible for opinions stemming from these assessments including recommendations for remedial action. He also routinely serves as a senior reviewer of environmental site assessments prepared by others.

Mr. Okun spent three years with the U. S. Environmental Protection Agency working in the CERCLA, RCRA and TSCA programs, where he gained familiarity with environmental regulations. Mr. Okun has been an active participant in the Connecticut and Massachusetts Department of Environmental Protection Task Forces responsible for developing state-wide cleanup standards for chemically contaminated sites. Following his appointment by the Connecticut state legislature, he has served as the representative of the scientific community on the Connecticut Low Level Radioactive Waste Advisory Committee. He is also a member of the Ellington, Connecticut Board of Education.

Relevant project experience includes:

Project Manager, Silvrain Superfund Site, Lowell, Massachusetts. Managed the use of chemical, geohydrological, and air dispersion modeling to develop an exposure

assessment predicting possible public health impacts to residents adjacent to this hazardous waste site.

Project Manager, Confidential Industrial Client, Southeastern Massachusetts. Developed and implemented a study to assess the impact of airborne beryllium wastes at a former manufacturing facility. Study included evaluation of possible exposures to both past employees and to the neighboring community.

Project Manager, Costley Landfill Superfund Site, North Hampton, New Hampshire. Managed an exposure and risk assessment study to evaluate public health and environment impacts of the landfill. Risk assessment involved determination of possible impacts from both chemical and radiological sources using groundwater modeling to predict present and possible future impacts.

Project Manager, Confidential Client, Massachusetts. Project began as a site assessment on a property which had been occupied by a pesticide applicator. The property had a subsurface disposal system consisting of an unlined dry well. Following study completion a remedial action plan was developed and implemented including the removal of the disposal system and the off-site disposal of contaminated soils.

Principal - in - Charge, Confidential Industrial Client, Chester, Connecticut. Oversaw the investigation and planned the remediation of this site with a contaminated septic system. Volatile organic compounds had been disposed of into a domestic septic system and may have been partly responsible for an aquifer contamination.

Risk Management Specialist, Department of Economic Development, Hartford, Connecticut. Planned and implemented a public health risk assessment for the proposed Performing Arts Center in Hartford, Connecticut. This involved identifying completed exposure pathways and quantifying the risk for each of those pathways. Following this played a key role in risk management decisions on planned development.

Principal-in-Charge, Confidential Industrial Client, Everett, Massachusetts. Directed environmental investigations, risk assessment, and remediation efforts in several areas of this +/- 80-acre chemical manufacturing facility. Acted as lead contact and strategist in developing problem-solving approaches emphasizing innovative technical solutions, productive negotiations with regulators, and cost-effectiveness.

Project Manager, Adams-Russell, Inc., Several Locations in Massachusetts and Maine. Developed hazard communication plan and implemented a series of seminars on the Right-to-Know law for this high-tech semi-conductor manufacturer. Performed two complete industrial hygiene surveys to assess compliance with OSHA standards.

Project Manager, Confidential Industrial Client, Southeastern Massachusetts. Developed and implemented study to assess the impact of airborne beryllium wastes at a former manufacturing facility. Study included evaluation of possible exposures to both past employees and to the neighboring community.

Project Manager, Belcher of New England, Chelsea, Massachusetts. Conducted evaluation of public health impacts resulting from emissions of heated asphalt storage facility. Work included source chemical characterization, air dispersion modeling, and exposure characterization. Based on data gathered, a quantitative risk assessment was performed to predict possible adverse health effects.

Project Manager, Right-to-Know Training, City of Brockton Employees, Brockton, Massachusetts. Developed compliance program for the City of Brockton. Scope of services was provided in three phases including definition of nature and extent of work, compiling Material Safety Data Sheets for all substances used by employees, and training all employees who had worked with hazardous materials.

Project Manager, Treatment, Storage, and Disposal Facility, Boston, Massachusetts. Coordinated and managed site closure of a hazardous waste storage facility which included a treatment plant and several surface impoundments. Conducted geohydrological studies, designed and implemented remediation system consisting of groundwater pump and treat system.

Project Manager, Confidential Client, Boston Metropolitan Area, Massachusetts. Conducted evaluation of public health impacts resulting from emissions of heated petroleum product storage facility. Work included source chemical characterization, air dispersion modeling, and exposure characterization. Based on data gathered, a quantitative risk assessment was performed to predict possible adverse health effects.

oreilly@talbot.com

KEVIN J. O'REILLY

EDUCATION

S. M., 1980, Geotechnical Engineering, Massachusetts Institute of Technology
B. S., 1979 Civil Engineering, University of Notre Dame
B. S., 1977, Geology, University of Notre Dame

PROFESSIONAL REGISTRATION AND AFFILIATIONS

Licensed Site Professional: Massachusetts
Board of Directors: Licensed Site Professional Association
Regulatory Committee: Licensed Site Professional Association

PROFESSIONAL EXPERIENCE

O'Reilly & Talbot, Inc. - 1/94 to Present
GZA GeoEnvironmental, Inc. - 5/83 to 1/94
Dames & Moore - 6/80 to 3/83

Kevin O'Reilly is a geologist and civil engineer with over thirteen years performing and managing a wide range of hazardous waste site investigations and remediation projects. Mr. O'Reilly has been in charge of over 200 groundwater studies in New England, including projects involving hydrogeological characterizations, sludge disposal landfills, slurry walls, groundwater modeling, and soil and groundwater remediation. Mr. O'Reilly has served as an expert witness in several litigation cases involving determination of responsible parties and remedial response costs at hazardous waste disposal sites.

Relevant environmental project experience includes:

Ottati & Goss Superfund Site, Kingston, New Hampshire. Project Manager. Managed the remedial investigation/feasibility study at this Superfund site. The project included development of a groundwater flow model.

Industrial Facility Closure, Central Massachusetts. Associate-in-Charge. Responsible for performance of a large, fast tracked environmental site assessment of a closed industrial facility which formerly produced automobile parts. The project involved the installation of numerous groundwater monitoring wells and soil borings to assess the limits of soil and groundwater contaminated with chlorinated solvents and the lateral extent of a separate phase floating petroleum layer as well as testing and removal of over twenty underground storage tanks, and decommissioning of areas of the facilities involved in the handling of oil and hazardous wastes. Mr. O'Reilly directed the preparation of an environmental site assessment report and assisted the client in obtaining approval of the proposed remedial actions by the Massachusetts DEP.

Groundwater Investigation, Confidential Industrial Client, Palmer, Massachusetts.

Associate-in-Charge. Mr. O'Reilly directed an approximately \$ 400,000 Phase II Remedial Site Investigation a priority disposal site in Palmer, Massachusetts. The study delineated a descending plume of chlorinated solvent contaminated groundwater, which was alleged to have impacted a public well field located downgradient of the site. An on-site source of contamination was identified and a short-term measure was proposed remediate soils using soil vapor extraction. Mr. O'Reilly has worked with the Client and legal counsel to arbitrate resolution of state and municipal claims for response costs of agency actions taken to date.

Industrial Site, Easthampton, Massachusetts. Associate-in-Charge. Mr. O'Reilly has directed a Phase II Remedial Investigation and a Phase III Feasibility Study at a priority disposal site in Easthampton, Massachusetts. The site was originally listed as a priority site due to a suspected threat of an on-site chlorinated solvent plume to impact a municipal water supply well located approximately 1/4 mile from the site. The Phase II Study, supported by an aquifer pump test and a public health risk assessment demonstrated that the plume did not pose a threat to public health. On this basis, DEP allowed reclassification of the site to non-priority and a waiver of subsequent DEP approvals was obtained. Based on the Phase III study, and Phase II results, a no further action determination was made.

Industrial Site, Orange, Massachusetts. Associate-in-Charge. Mr. O'Reilly has directed a fast-tracked Phase II investigation of a hexavalent chromium spill at a waived site in Orange, Massachusetts. The study involved the innovative use of a Spectro-photometer (S-P). The S-P was used to field screen groundwater samples obtained from low cost probes. The technique generated reliable hexavalent chromium concentration data to map the chromium plume emanating from the spill area. The procedure enabled real-time characterization of the plume. There was excellent correlation between field and laboratory test results.

Industrial Site, Central, Massachusetts. Associate-in-Charge. Petroleum was identified in a wetland adjacent to an industrial facility within days after an integrity test was conducted on a 10,000 gallon No. 4 fuel oil tank. Mr. O'Reilly directed a study to determine whether the release was attributable to the integrity test. Through the use of dye tests, subsurface testing and hydrocarbon testing the source was identified as a faulty gasket which allowed oil to spill from the tank during testing. A soil excavation program was undertaken to remove impacted soil from around the tank. Through soil and groundwater testing, the study was able to demonstrate that further response actions were not necessary. The study was also used to support cost recovery actions against the tank test contractor.

MICHAEL J. TALBOT, P. E.

EDUCATION

M. S., 1982, Civil Engineering (Geotech. Spec.), University of California at Berkeley
B. S., 1978, Civil Engineering, Merrimack College

PROFESSIONAL REGISTRATION AND AFFILIATIONS

Registered Professional Engineer: Massachusetts, Connecticut, California
Licensed Site Professional: Massachusetts
President-Elect: Connecticut Society of Civil Engineers

PROFESSIONAL EXPERIENCE

O'Reilly & Talbot, Inc. - 1/94 to Present
Louis Berger & Associates, Inc. - 1/93 to 1/94
GZA GeoEnvironmental - 7/85 to 1/93
J. H. Kleinfelder & Associates, Inc. - 6/82 to 7/85
U. S. Army Corps of Engineers - 6/78 to 9/81

Mr. Talbot is a civil engineer with extensive experience in geotechnical engineering, groundwater contamination assessments, and landfill and hazardous waste site design and closure. He has worked on a number of projects involving geotechnical engineering, groundwater contamination investigations, environmental site assessments, and landfill design and closure. Mr. Talbot has performed and managed engineering aspects of a wide range of projects including the subsurface explorations, laboratory testing, computer analyses, engineering design, report preparation, permit application preparation, and construction monitoring. Projects include large office buildings, parking garages, hospitals, earth dams and residential developments. He has also prepared construction specifications and bid packages, has assisted clients in soliciting construction bids and selecting a contractor, and has performed administration during construction contracts.

Mr. Talbot's project experience includes:

Pacific Bell Administration Building, San Ramon, California. Project Engineer. Design and construction engineer for geotechnical aspects of a large (1,000,000+ sq. ft.) office building. Involved in subsurface explorations, deep foundation and seismic design, pile load testing and construction monitoring.

New Shriners Hospital, Springfield, Massachusetts. Project Manager. Managed foundation design and construction observation services for the construction of a new hospital. Managed subsurface explorations, engineering analyses, and design report preparation. The structure was founded on a loose saturated sand which was potentially liquefiable under earthquake loads.

Vibroflotation was selected to densify the soil and allow the building to be founded on traditional spread footings.

BayState Medical Center, Springfield, Massachusetts. Project Manager. Managed a subsurface exploration program foundation design and construction observation services for the construction of a new parking garage and a medical building. The parking garage was founded on drilled shafts bearing on glacial till. The medical building contained a one story basement and was founded on spread footings. The office building involved the design of a permanent dewatering system.

Yawards Superfund Site, Canterbury Connecticut. Project Manager. Prepared Remedial/Design Remedial Action (RD/RA) Work Plan and post closure plan for lagoon closure. The closure involved a double composite cap meeting Resource Conservation and Recovery Act (RCRA) guidance document requirements. Design included the evaluation of long term settlement and slope stability of the cap, and the design of flood protection features. Following approval of plan by the United States Environmental Protection Agency (USEPA) Region 1, prepared construction specifications and contract documents, and assisted potentially responsible parties in selection of a contractor. Provided contract administration, quality assurance testing, and documentation during construction. Prepared closure certification, following construction, which was accepted by the USEPA.

Geotechnical Engineering Investigation, Industrial Building, Hatfield, Massachusetts. Project Manager. Performed geotechnical investigations, foundation design, and construction observation services for a large industrial building in Hatfield, Massachusetts. The building was constructed over a 100-foot-thick layer of soft, glacial lake clay. Significant geotechnical issues included post-construction settlements due to foundation loads and the weight of a 5-foot-thick building pad, and groundwater control. Provided geotechnical control testing during construction.

Hotel Northampton, Northampton, Massachusetts. Performed geotechnical explorations and foundation design for the expansion of the existing hotel. Evaluated foundation, groundwater control, and lateral support requirements for the proposed expansion and settlement of the existing hotel and adjacent historic buildings. Various configurations were evaluated including multiple basements and different foundation types.

Department of Energy Programmatic Environmental Impact Statement (PEIS), Environmental Restoration. Senior Engineer. Responsible for coordinating the formulation and performance of Environmental Restoration (ER) analyses including liaison with the U.S. Department of Energy (DOE) National Laboratories associated with the ER activities. Also responsible for technical aspects including site assessments, contaminant characterizations, remedial feasibility analysis, constructibility assessments, and cost estimates for cleanup of over 25 sites selected as representative of the contamination problems within the DOE nationwide complex which includes an estimated 7700 waste sites. Implementation of federal and state cleanup regulations including RCRA, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), USEPA Water Quality, and various other laws and guidelines were included. Contaminants included radionuclides, metals, organic, and several other toxic and

hazardous materials. Contaminated sites included reactors, injection wells, marshy areas, sludge lagoons, underground storage tanks, surface spills, and burial grounds.

Industrial Facility Closure, Central Massachusetts. Project Manager. Performed a large environmental site assessment of a closed industrial facility which formerly produced automobile parts. Directed the installation of numerous groundwater monitoring wells and soil borings to assess the limits of soil and groundwater contaminated with chlorinated solvents and the lateral extent of a separate phase floating petroleum layer. Managed the removal of solvent contaminated soil, floating layer recovery, and long-term groundwater monitoring.

Chicopee River Technology Park, Chicopee, Massachusetts. Project Manager. Performed a fast-track environmental site assessment of a 70-acre undeveloped property for a municipal development agency at a planned industrial park. This study identified lead contaminated soils from a former rifle range, and an unpermitted landfill.

Wason-North Industrial Park, Springfield, Massachusetts. Project Manager. Performed environmental site assessments for eight separate parcels of industrial land for the redevelopment of an industrial park by a municipal agency. Contamination consisting of separate phase petroleum layers, and chlorinated solvent and BTEX contaminated groundwater was discovered on several parcels. Assisted the municipal agency in negotiating with the former property owner.

RCRA Closure, Century Brass Products, Inc., Waterbury, Connecticut. Project Manager. Prepared closure and post-closure plans and a RCRA Part B Application for a hazardous waste sludge lagoon at the former Century Brass facility. The closure plan included the design of a low permeability cap and the preparation of construction specifications. Following approval of the closure plan prepared a construction bid package and assisted the site owner in selecting a contractor. Performed monitoring during construction. Performed a groundwater quality assessment to address the nature, rate and extent of contamination emanating from the lagoon and from a Solid Waste Management Unit (SWMU) located on the facility.

RCRA Compliance and Groundwater Monitoring, Town Landfill, Plainfield, Connecticut. Project Manager. Prepared a Part B Application and performed quarterly groundwater monitoring for a closed sludge cell at the landfill. Oversaw the initiation of a groundwater quality assessment program to assess contamination resulting from the cell.

TOTAL P. 15

TOTAL P. 17

GROUND WATER CONSULTANTS, INC.

DAVID J. LANG

Registered Professional Geologist

Licensed Site Professional

Mr. Lang, a Registered Professional Geologist and a certified Licensed Site Professional with degrees in both Civil Engineering and Hydrology, has an extensive background in the areas of ground-water modeling, engineering and hydrogeologic analysis, fate and transport studies, and sophisticated remediation techniques. His professional experience includes over seventeen years with the U.S. Geological Survey, the U.S. Environmental Protection Agency and private industry.

For the past six years, as founder and President of Ground Water Consultants, Inc. (GWC), Mr. Lang has served as an expert in the field of hydrology in the areas of regulatory compliance, environmental assessment and contaminant fate and transport. He has extensive experience relating to solid waste planning and hazardous waste evaluation and remediation. The first major bioremediation project of contaminated soils approved by the Connecticut Department of Environmental Protection was designed and implemented by Mr. Lang.

Prior to GWC, at U.S. EPA, he provided technical support in Region 1. As a technical expert for the Superfund Program, he provided advice and expertise in negotiations for settlements with Responsible Parties in hazardous waste investigations. He also reviewed and advised on technical reports for over 50 Superfund sites and advised regulatory officials on all Records of Decision. He was the founder and chairman of the National Superfund Ground Water Forum and was also active with several other national task forces and work groups that evaluated and revised EPA technical policy.

As a Senior Staff Hydrologist with the United States Geological Survey, Water Resources Division, Mr. Lang conducted water resource evaluations throughout the United States. His work includes several analytical computer models for ground-water resource evaluations throughout the Charles River Basin. He also designed, managed and implemented numerous water resources investigations in Riverside, San Diego and San Bernadino Counties as well as the Mojave River Basin, California; Charles River Basin, Quabbin Reservoir, Massachusetts; Montgomery, Frederick and Cumberland Counties, Maryland; and Richmond, Virginia.

As manager of the Ground-Water Services Program at Anderson-Nichols & Co., Mr. Lang designed and implemented studies relating to ground water assessments, aquifer protection and restoration, landfill closures and site assessments. These studies often included surface geophysical techniques, soil gas surveys and chemical sampling.

GROUND WATER CONSULTANTS, INC.

CURRENT SUPERFUND SITES

<u>SITE NAME</u>	<u>LOCATION</u>	<u>CLIENT PRP GROUP</u>
Rose Hill PRP Group	South Kingstown, RI	PRP Group
Shaffer Landfill	Billerica, MA	PRP Group
Kalama Chemical Specialty, Inc.	Beaufort, SC	Kalama Chemical
Cortese Landfill	Narrowsburg, NY	Chemical Waste Mgmt.
Cannons-Bridgewater	Bridgewater, MA	Chemical Waste Mgmt.
Cannons-Plymouth	Plymouth, MA	Waste Management N.A.
Phofl Brothers	Cheekawonga, NY	Waste Management N.A.
Auburn Road	Londonerry, NH	Waste Management N.A.
Coakley Landfill	Hampton, NH	Waste Management N.A.
Shpack Landfill	Attleboro, MA	Waste Management N.A.
Davis Landfill	Smithfield, RI	U.S. Dept. of Justice
Fletcher Paint	Newington, NH	U.S. Dept. of Justice
Tibbetts Road	Barrington, NH	U.S. Dept. of Justice
Charles George Landfill	Tyngsboro, MA	U.S. EPA
Nianza Chemical	Ashland, MA	U.S. EPA
Pasco Landfill	Pasco, WA	Kalama Chemical

Papers, Publications and Conferences

"Water Resources Evaluations for Perris Valley, Riverside County, Ca.", Lang, David J.; 1981 U.S. Geological Survey, Open File Report 79-1256 WRI - 48 pages

"Aquifer Recharge to the Mojave River Aquifer", Buono, Anthony J. and Lang, David J.; 1982 U.S. Geological Survey, WRI - 58 pages,

"Chemical Input to Chesapeake Bay via the Susquehanna, Potomac and James Rivers" Lang, David J.; 1982 Interim Data Report, U.S. Geological Survey

"Chemical Input to Chesapeake Bay via the Susquehanna, Potomac and James Rivers" Lang, David J. and Grason, David; 1982 Water Resources Investigation, U.S. Geological Survey

"Field Techniques for Characterizing Hazardous Waste Sites", Lang, David J.; U.S. Geological Survey National Toxic Waste Conference, Pensacola Beach; Florida, March 1987

"The Time to Remove Volatile Organics from an Aquifer" Tabak, Mary and Lang, David J.; 1988 National Water Well Association 2nd Annual Outdoor Action Conference, Las Vegas Nevada, May 1988.

"An Approach to Ground Water Contamination Clean Up at Superfund Sites", Haley, Jennifer and Lang, David J.; 1988, HMRI Conference, Washington DC, December 1988

"EPA's Approach to Evaluating and Cleaning Up Ground Water Contamination at Superfund Sites", Haley J.L., Lang, David J., and Herrington, L.; Ground Water Monitoring Review, Fall 1989.

"In Situ Bioremediation of Petroleum Contaminated Soils", Lang, David J.; New England Environmental Expo, Boston Massachusetts, April 1990

"Treatment of Contaminated Soils with Sewage Sludge", Lang, David, J.; Petroleum Hydrocarbons and Organic Compounds in Ground Water Conference, Houston Texas, October 1990

"Capabilities of Ground Water Treatment Technologies", How Clean is Clean International Specialty Conference, Boston Massachusetts, Session Chairman, November 1990.

"Effectiveness of Ground Water Treatment at a New Hampshire Superfund Site", Lang, David J.; How Clean Is Clean International Specialty Conference, Boston Massachusetts, November 1990

"Ground Water Remediation at Superfund Sites, A Status Report", Lang, David J.; Conference on Land Use and Development Implications at Superfund Sites, Scottsdale, Arizona, October 3-4, 1991.

"Land-treating Petroleum Contaminated Soils With Sewage Sludge", Lang, David, J.; Underground Tank Technology Update, Volume 5, Number 6; University of Wisconsin, Madison WI., Department of Engineering Professional Development, December 1991.

"Current Trends in Remediation", Lang, David J.; Strategic Advice for Local Officials Superfund Conference; International City County Managers Association, Park Plaza Hotel, Boston, MA, March 5-6, 1992

"What To Do If EPA Is Investigating Your Property", Lang, David, J.; Strategic Advice for Local Officials Superfund Conference, International City County Managers Association, Park Plaza Hotel, Boston, MA, March 5-6, 1992

"Scenes From a Superfund Negotiation", New England Environmental Expo, Hynes Convention Center, Boston MA., April 1992

"Biodegradation of Trichloroethylene with the G-4 Strain Microorganism", Shields, M., Shamutt, R., Cherry, J.A., Lang, David J., Conant, B.; Proceedings, Annual Meeting, American Society of Microbiology, May 26-30, 1992, New Orleans, LA

David J. Lang

Page 4

"How To Avoid Ground Water Contamination Problems in the Dry Cleaning Industry", David J. Lang; U.S. Environmental Protection Agency Conference-Dry Cleaning in the 90's; Waltham MA.; September, 1992

"Bioreactor Technology for the Degradation of Creosote and Pentachlorophenol: Pilot-Scale Demonstration Under the U.S. EPA SITE Program", Mueller, J., Lang D. et al; Proceedings, Annual Meeting, American Society of Microbiology, May 26-30, 1992, New Orleans, LA

Professional Affiliations

American Society of Civil Engineers
Association of Ground Water Scientists and Engineers
National Ground Water Association
Massachusetts Licensed Site Professional Association
Registered Professional Geologist, South Carolina Registration # 321
Licensed Site Professional, Massachusetts Registration # 7877

Education

University of Arizona	B.S. Hydrology
Wentworth Institute	A.S. Civil Engineering
Johns Hopkins University	Graduate Studies, Environmental Engineering
U. S. Geological Survey National Training Center	Advanced Studies in Aquifer Mechanics, Ground-water Modeling, Geochemical Modeling, Surface Water Hydraulics, Water Quality.
Environmental Protection Agency	Courses in Risk Assessment, Field Methods for Conducting Investigations at Hazardous Waste Sites, RCRA/CERCLA Remediation Alternative Technologies, National Contingency Plan Workshop, RI/FS Implementation Workshop, DNAPL Identification

Patents

Inventors: E.S. Vales, J.A. Cherry, D.J. Lang
Title of Invention: Baskette Removal Structure for Funnel-and-Gates Water Treatment System, filed February 1994 in USA and Canada

ENVIRONMENTAL ASSESSMENTS

Environmental regulations have increased the responsibility and liability of property owners and facility operators in the management of industrial waste. Environmental assessments are used extensively by owners, operators, financial institutions and attorneys to evaluate the environmental conditions present on a particular parcel of land. The scope of these studies depends on a number of factors including the regulatory history, location, and the prior use of the site and its abutters. Ground Water Consultants' diverse assessment experience varies from the corner dry cleaners to large federal Superfund sites. We have the strong technical background to determine the depth and scope of the assessment, to work with the necessary regulatory agencies on our client's behalf and to solve complex contamination problems in air, soil and water.

REPRESENTATIVE PROJECTS

Oil Terminal Facility, Hartford, Connecticut Designed and managed a major environmental assessment at a 16-acre former oil terminal. Monitoring wells, test pit wells and chemical sampling were completed under the direction of the Connecticut Department of Environmental Protection.

Gasoline Spill, New Hampshire Supplied technical support in an investigation to locate the source of gasoline seeping into a nearby river in Plymouth, New Hampshire. Four potential source areas were identified.

Landfill Siting, Northern New Jersey Designed and managed a comprehensive site investigation at a 70-acre potential landfill site for a Municipal Authority. Geotechnical and environmental sampling were completed and revealed isolated pockets of heavy metal and organic contamination.

Real Estate Environmental Evaluations Designed and implemented a variety of environmental assessments in response to the Massachusetts MCP legislation, the Connecticut Superlein and the New Jersey ECRA, one of the nation's most comprehensive environmental laws.

Framingham, Massachusetts Managed and coordinated the removal of approximately 30 underground storage tanks in compliance with the Resource Conservation and Recovery Act at a major manufacturing facility.

GROUND WATER CONSULTANTS, INC.

LITIGATION SUPPORT

Public awareness of environmental contamination and potential liability continues to increase. Concerns regarding landfill siting, contamination migration, regulatory compliance and toxic tort are now common issues faced by today's legal profession. Ground Water Consultants' diverse experience in solid waste and hazardous waste assessment and remediation, has enabled us to provide the necessary technical advise and litigation support to a variety of regulatory officials and private law practices. Ground Water Consultants' familiarity with the federal CERCLA and RCRA Programs, Connecticut's Superlein Law, New Jersey's ECRA Program, the Massachusetts' MCP and Pennsylvania's Act 101 allows us to supply the necessary technical support required by private law practices. Our unique approach to problem solving allows flexibility to propose secondary strategies when conditions warrant, while continuing with the primary approach. We apply state-of-the-art techniques to solve the complex problems associated with ground-water flow and contaminant transport.

REPRESENTATIVE PROJECTS

Picillo Pig Farm Provided technical case development and expert witness testimony in hydrogeology for U.S. Department of Justice relating to cost recovery at this federal Superfund site.

Superfund Landfill Expert witness in hydrogeology on a federal Superfund site located in the northeastern United States. Supplied client with the necessary technical support in case strategy, depositions of other experts and various document submittals to the court.

Natural Resource Damage Case Expert witness in hydrogeology on a Natural Resource Damage case. This suit involved present and future damages to a ground water aquifer allegedly polluted by a nearby landfill.

Insurance Claims Provided a chemical fate and transport evaluation for insurance claim coverage at a federal Superfund site. Central issues included whether releases to ground water were "imminent and immediate" or continuous during facility operation.

Confidential Client, Massachusetts Assisted a Boston law firm in preparing and implementing an effective strategy to support a damage claim generated from off-site migration of ground-water contamination.

Region I, Superfund, Boston, Massachusetts Provided technical expertise to the EPA Regional Counsel on negotiations and strategy for settlements and litigations with responsible parties in Region I Superfund Program. Reviewed Records of Decision and made recommendations on their technical merits to federal regulatory officials.

GROUND WATER CONSULTANTS, INC.

Scientists and engineers must utilize all available analytical methods in order to address the complex problems associated with hazardous waste management and ground-water protection. Ground-water models have been widely used for the past 15 years to simulate a particular hydrologic system. When properly developed they can be a valuable tool in evaluating ground-water systems for future development or to assess the impact of nearby sources of contaminants. Ground-water models rely on sound scientific principles and data to accurately predict aquifer behavior. Ground Water Consultants has a broad background in the collection and analysis of the appropriate hydrologic data. Considerable experience with both analytical and computer flow models allows us to serve a wide range of client needs.

REPRESENTATIVE PROJECTS

Elm Bank Aquifer, Massachusetts Developed a three-dimensional ground-water flow model in a highly transmissive aquifer bordering the towns of Wellesley, Natick, Needham and Dover, Massachusetts. Purpose of modeling was to predict maximum safe yield of the aquifer and the resultant effect of this pumping on low flows in the Charles River.

Spencer, Massachusetts Developed a two-dimensional flow model to predict the zone of contribution to the primary water supply to the Town. Results indicate the town's landfill was well within the wellfield's zone of capture and that it posed a potential threat to future water quality.

Nantucket Salt Water Intrusion, Massachusetts Evaluated the potential for salt water intrusion to the Town's municipal supply well with a steady state fresh water/salt water interface model. The Town was concerned that increased ground-water withdrawal due to development pressures would cause ocean water to contaminate the municipal well. The results determined the maximum pumping rate to achieve a stable transition zone that would discharge only fresh water.

Charles River Evaluation, Massachusetts Evaluated the yields of 13 potential aquifers throughout the Charles River Basin. Potential aquifer yields were derived from a variety of methods including measurements of intercepted ground-water discharge, digital and analytical ground-water models, surface geophysics, and a streamflow water accounting model. Results indicated significant potential for additional ground-water development, but future withdrawal would diminish the flows in the Charles River.

MWRA Landfill Evaluation, Massachusetts Provided a Massachusetts municipality with an assessment of the technical accuracy of criteria used for the MWRA residuals landfill siting. Prepared a complete technical analysis on the Zone II ground-water modeling used in the siting process. Developed a separate multi-layered numerical model to test assumptions and conditions used by MWRA in siting landfill.

GROUND WATER CONSULTANTS, INC.

GROUND WATER RESOURCE EVALUATION

Augmentation of existing water supplies is often necessary for water resource managers. Ground-water resource evaluations assess the potential for water supply development. Ground Water Consultants utilizes state-of-the-art geological engineering techniques to fully analyze a particular hydrologic environment. These methods have included fracture trace analyses, seismic reflection and refraction surveys, numerical modeling and tubular well installations. Our years of experience conducting water resource evaluations throughout the United States have led to a highly successful record of providing clients with comprehensive studies and productive water supplies to meet their present and future needs.

REPRESENTATIVE PROJECTS

Manufacturing Facility, Lowell, Massachusetts Designed a tubular well field for a large manufacturing facility estimated to yield 2 MGD. Area had previously been investigated and determined that the permeable deposits were too thin for water supply development.

Norfolk, Connecticut Developed two shallow bedrock wells to replace existing surface water supply. Wells were located using lineament analysis of topographic and aerial photography.

Elm Bank Aquifer, Massachusetts Designed, implemented and managed an extensive investigation to determine the maximum safe yields of the most transmissive aquifer in eastern Massachusetts. Testing included monitoring well installation, a six-day pump test, chemical sampling and digital modeling.

Quabbin Reservoir, Massachusetts Directed a complex water resource investigation with wells and lysimeters in two river basins feeding Quabbin Reservoir. The purpose of the investigation was to measure the impact of acid rain and the buffering potential of area soils. Ground water and surface water samples were collected biweekly to note patterns of acidification in greater Boston's major water supply.

March Air Force Base, California Investigated the impact of increased ground-water withdrawal to changes in water surface elevation. Historical measurements in the early 1940's were used as a baseline for comparison.

GROUND WATER CONSULTANTS, INC.

LANDFILL EVALUATION

Solid waste disposal has become a critical concern to municipal officials. Escalating costs associated with landfill siting, monitoring and regulatory compliance, call for prudent planning and preparation.

Ground Water Consultants has worked with municipalities and regulatory agencies throughout the Northeastern United States and Canada addressing the difficult problems involved with all facets of solid waste management and landfill evaluation. We provide advice and expertise in siting, maintenance and closure of a variety of solid waste facilities.

REPRESENTATIVE PROJECTS

Spencer, Massachusetts Designed and updated monitoring plan to evaluate the impact of the town landfill on the nearby municipal water supply. Ground-water computer models and field studies were included in the assessment.

Quebec, Canada Evaluated several sites for potential incinerator ash disposal for a northern New England Authority.

Wayland, Massachusetts Designed and updated a sampling and analysis plan for an active municipal landfill. Landfill was adjacent to several manufacturing facilities where environmental contamination was suspected.

Reading, Pennsylvania Evaluated approximately twenty locations for a long-term county landfill. Participated in numerous municipal and county meetings and hearings concerning the landfill siting. Participated in negotiations for finalization of landfill siting.

Superfund Sites, New England Provided technical support and analysis on contaminant fate and transport at numerous federal Superfund sites throughout New England. The landfill sites included: Southington, and Laurel Park, Connecticut; Charles George, Haverhill and Schpack, Massachusetts; Dover/Somerworth, Hampton and Keys, New Hampshire; LR&R, Rhode Island; Winthrop, Maine; and Old Springfield, Vermont.

Integrated waste management includes source reduction controls, an effective recycling program and proper disposal of the remaining waste through resource recovery systems or landfill facilities. As trash disposal prices continue to rise, recycling of glass, newspaper, aluminum, plastic, cardboard, leaves and other materials becomes a viable economic choice. Ground Water Consultants' experience in solid waste management enables us to provide our municipal clients with the state-of-the-art options available to deal effectively with proper waste removal, processing and disposal. Our emphasis on recycling minimizes future environmental liability and disposal needs. We are committed to assisting municipalities with cost effective choices for waste management systems.

REPRESENTATIVE PROJECTS

Landfill Site Evaluation Appraisal of current engineering and environmental conditions at existing and potential landfill sites throughout New England, Canada, New Jersey and Pennsylvania. Evaluations provided disposal options to municipal clients in search of landfill capacity to meet future growth.

Recycling Procurement Development Assisted in a detailed development of a recycling procurement for a Multi-Material Recycling Facility (MMRF). Process included negotiation sessions with qualified bidders, development and negotiation of service agreements, as well as technical specifications for the proposed MMRF management.

Solid Waste Plan Development Managed numerous consulting engineering firms and construction contractors in the development and successful implementation of several Solid Waste Management Plans in Mercer and Hudson Counties, New Jersey and Berks County, Pennsylvania.

Recycling Program Implementation Assisted in the successful implementation of a fast track recycling program for Mercer County, New Jersey. Program included design/construction of temporary recycling platform, negotiations for materials vendors and a County information program. Initial materials included steel aluminum cans, plastic beverage containers and newsprint.

Hydrogeologic and Engineering Evaluation Provided technical review and engineering evaluation at over 50 Superfund sites. Evaluations included determination of ground-water flow direction, contaminant fate and transport, and hydrogeologic modeling. Routinely advised federal officials of EPA on the technical merits of remedial actions during the Record of Decision process. Provided headquarters and research laboratories with expert evaluations on the appropriate utilization of various remediation techniques.

BOS -
THIS IS ONLY A
FRACTION OF THE
WESTON SUBMISSION!

Proposal For:

**ENVIRONMENTAL MANAGEMENT SERVICES
W.R. GRACE REMEDIATION PROJECT
Acton, Massachusetts**

7 April, 1994

Prepared For:

**Town of Acton
472 Main Street
Acton, MA 01720**

Prepared By:

**Roy F. Weston, Inc.
187 Ballardvale Street
Wilmington, MA 01887**

**Contact: Todd K. Walles
(508) 988-7000**



P.O. BOX 979
525 BROOK STREET
ROCKY HILL, CT 06067
203-257-3320 • FAX: 203-257-3689

7 April 1994

Board of Health
Town of Acton
472 Main Street
Acton, MA 01720

Attention: Mr. Doug Halley
Health Director

Proposal No. P-94-1326

Re: Proposal For Environmental Management Services
W. R. Grace Remediation Project

Dear Mr. Halley:

Roy F. Weston, Inc. (WESTON®) is pleased to have this opportunity to submit a proposal entitled "Environmental Management Services" to the Town of Acton. The proposal is prepared to address your request for consulting and construction oversight services pertaining to the W. R. Grace Remediation Project.

As is evident in our proposal, we have a long history of knowledge relevant to the W. R. Grace project and the Town of Acton. Our staff have been involved with various aspects of the Grace project from its start nearly 15 years ago to attending project meetings as your invited guest earlier this week.

We have assembled a qualified project team that includes personnel from our local offices who are already familiar with the project site, existing conditions and remediation plans. WESTON's staff have extensive experience in performing similar remediation projects involving the excavation and handling of contaminated wastes, air monitoring and emissions, drainage controls, public relations and the closure of landfills. Our personnel are supported by the Corporate resources and expertise needed to provide the Town with a safe, high quality project at a reasonable cost.

Conducting and overseeing remediation is a major component of WESTON's business. At this time, WESTON is providing oversight and CQA on a number of Superfund site remediations. These and other relevant projects are highlighted in Appendix C. Also provided are references that can be contacted by the Town concerning the quality of



Mr. Doug Halley
Health Director

-2-

7 April 1994

WESTON's effort in providing activities of this type.

We look forward to meeting with you on Tuesday, 12 April, 1994 at 3pm to present our qualifications.

Thank you for this opportunity to provide the Environmental Management Services, we look forward to working with the Town of Acton. Please contact us or Mr. Todd Walles at (508) 988-7000 should you have any questions.

Sincerely,

ROY F. WESTON, INC.


By Stephen G. Lewis
Vice President
New England Regional Manager

cc: J. O'Rourke
T. Walles

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Introduction

Roy F. Weston, Inc. (WESTON®) has been providing quality services to clients for 35 years. An innovative leader in the environmental field, WESTON provides diversified environmental engineering, design, and consulting services and has successfully completed projects throughout the world.

The philosophy of the WESTON organization is to enhance the quality of human life and the physical environment through the creative and sound application of human, economic, and natural resources; advanced science; and applied technology. Our objective is to provide comprehensive and integrated professional services efficiently and effectively.

WESTON's staff of more than 3,000 employees represents a variety of disciplines, including chemical, civil, and environmental engineering, as well as analytical services, biosciences, computer and information sciences, computer simulation and modeling, construction management, ecology, geosciences, hazardous waste management, occupational health and safety, toxicology, and water resource management. The availability of these skills in-house allows WESTON to develop feasible and cost-effective solutions to environmental control and energy problems from technical, economic, and social perspectives.

Services to Clients

WESTON provides a full range of services in the following areas:

- Air Quality Management*
- Analytical Services - Air, Water, and Solid Waste*
- Biosciences*
- Community Relations/Public Involvement*
- Computer Systems/Data Management*
- Concept Engineering and Design*
- Construction Management/Remediation*
- Drainage and Flood Control*
- Energy Engineering and Management*
- Environmental Studies and Assessments*
- Facility Engineering and Design*
- Geophysical Surveying*
- Geotechnical Engineering*
- Groundwater Investigations and Remediation*

Services to Clients

(Continued)

Hazardous Waste Management
Health Effects Analysis
Information Sciences
Occupational Health and Safety
Regulatory Interface and Permitting
Remedial Design/Remedial Action
Remedial Investigation/Feasibility Study
Resource Recovery
Risk Assessment/Hazard Analysis
Solid Waste Management
Toxicology
Wastewater Collection, Treatment, and Disposal
Water Resource Management and Pollution Control
Water Supply, Treatment, and Distribution

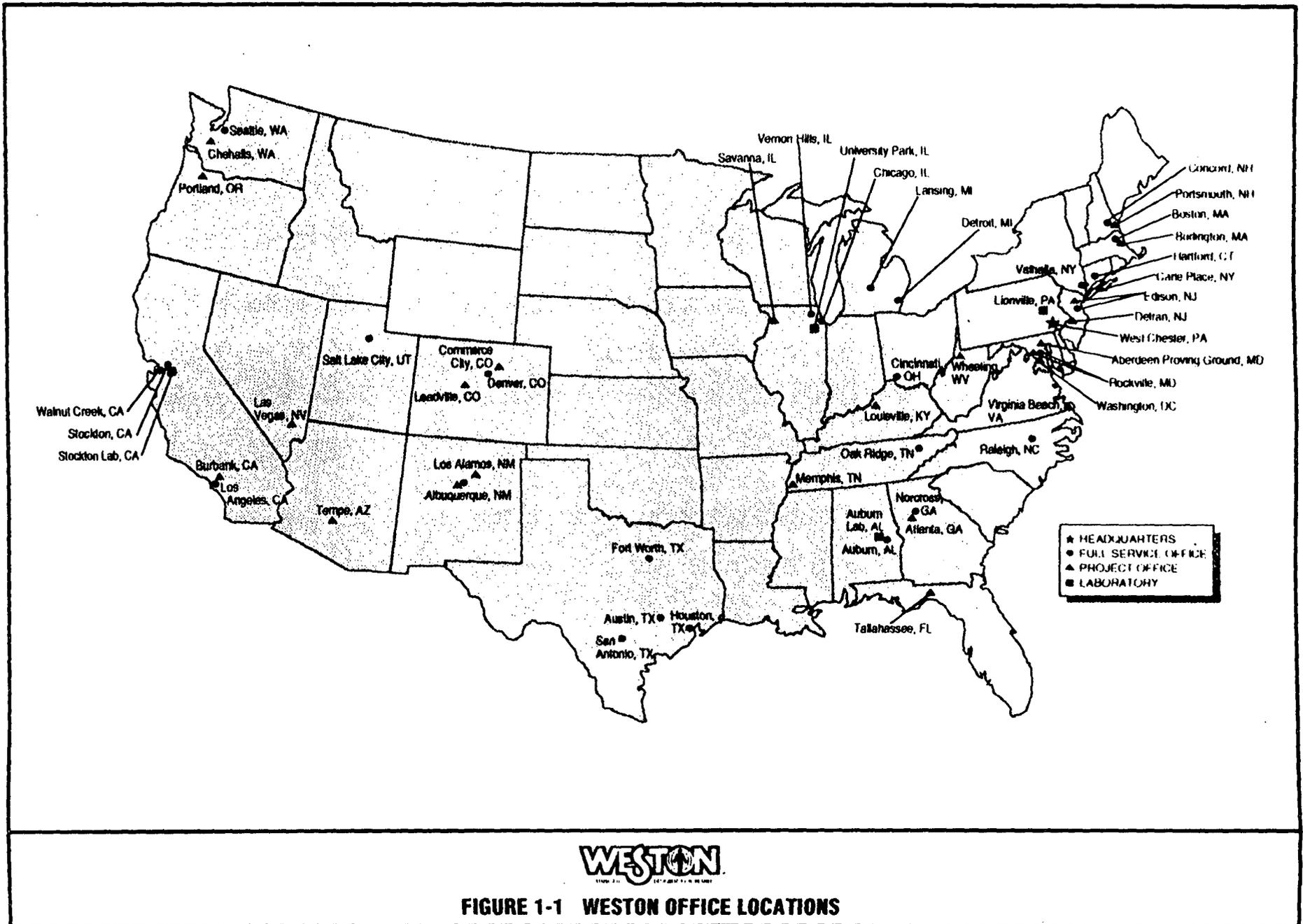
WESTON has served over 4,500 clients since 1957, including industrial, institutional, and commercial clients, and local, state, and federal governments.

The key to WESTON's success is the ability to work effectively with clients to define, address, and resolve their environmental concerns. WESTON offers the technical talent, specialized expertise, physical resources, and requisite facilities that are so important in responding to environmental issues.

The success of the organization is demonstrated by the fact that 85% of WESTON's business is from repeat clients who have been satisfied with our ability to meet their needs.

WESTON provides services to clients from its corporate headquarters, located in West Chester, Pennsylvania, and from region/branch offices located throughout the country. Office locations are shown in Figure 1-1.





WESTON Personnel

WESTON's leadership in the environmental services industry is clearly based on the technical expertise and quality of our staff. WESTON's staff is exceptionally well qualified to assist clients in managing a full range of contemporary environmental issues. Staff members maintain a current knowledge of state-of-the-art technologies and management practices in a diversity of professional disciplines.

WESTON's staff includes more than 200 registered professional engineers, as well as registered professional geologists, accredited industrial hygienists, and other staff members who have achieved distinction in their fields. In addition, WESTON employees are active members in a wide variety of professional and technical associations, which enables them to keep abreast of the newest technologies.

Figure 1-2 demonstrates the diversity of WESTON personnel available to support project assignments.

Commitment to Quality

The quality of work is of paramount importance in each assignment we undertake. We recognize that the information we develop and the professional conclusions and advice we provide are used by our clients to support important management decisions. These decisions often involve human health and environmental protection issues that may require the commitment of significant financial resources. WESTON maintains a corporate-level Quality Assurance Program that directs attention toward quality issues throughout the WESTON organization. WESTON's laboratories are certified by numerous government programs that mandate standard, accepted procedures and the frequent analysis of quality control check samples.



FIGURE 1-2 WESTON'S DIVERSE PERSONNEL RESOURCES

908-7730 9/15/93

WESTON Facilities and Equipment

WESTON has the following facilities and specialized equipment available in-house to support our clients:

Full-Service Analytical Laboratories located in Pennsylvania, Illinois, California, and Alabama that provide routine monitoring and analytical services and a broad spectrum of specialized advanced testing and analytical services.

Real-Time Environmental Monitoring (REM) Mobile Laboratory for on-site identification and quantification of trace components in air and gas and solid and liquid matrices.

Process Development Laboratory with complete research and development capabilities to provide treatment research, bench-scale testing, and pilot plant testing of remedial concepts.

Advanced Computer Facilities for data processing and management, mapping, environmental modeling, and engineering design.

Geophysical and Remote Sensing Capabilities including borehole logging, earth resistivity, ground-penetrating radar, magnetometry, electromagnetics, and standard remote sensing equipment.

Construction Equipment and Field Support Facilities to support and implement remedial action programs.

Complete Safety and Decontamination Equipment Protocols for mobilization of fully equipped field teams.

Technical Information Center with computerized document retrieval and literature search capabilities and access to a diversity of commercial and technical databases.

Publications Center that provides comprehensive technical writing and editing, word processing, graphic design, and printing services for the production of high quality documents that fulfill clients' needs for accurate, readable publications.

1.0 INTRODUCTION

This proposal is prepared at the request of the Town of Acton's Director of Public Health, Mr. Doug Halley. The objective of the proposal is to provide the Town with a comprehensive project team that is capable of assisting with various environmental management services throughout implementation of the W.R. Grace Remediation project. WESTON's project team and resources are currently available to assist immediately, and are assembled in a manner to adapt to potential variations in work load and schedules as the remediation project progresses.

The proposed scope of services includes the following:

- Project Start Up: Review available documentation necessary to enhance our current understanding of the site and project requirements;
- Health & Safety: Provide technical expertise in relation to air monitoring and emissions, safety-related issues and public health;
- Regulatory Compliance & Public Relations: Provide consultation regarding technical and regulatory concerns during implementation of the remediation project, and assist in responding to concerns raised by the residents of Acton;
- Construction Oversight: Perform inspections during implementation of the remediation activities to document that the Work is completed in accordance with the approved plans and specifications, and to the satisfaction of the Town.

The following sections present an overview of our existing knowledge of the Grace Remediation project, and our qualifications and experience in performing similar work.

2.0 WESTON PROJECT TEAM

We have assembled a team of experienced staff to assist the Town with the various activities planned as part of the Grace remediation project. The organization chart presented in Figure 1 illustrates WESTON's key personnel and the integration of the necessary disciplines. Since the nature of the project will change over time, the level and type of involvement of WESTON's project team must be flexible to accommodate such variations.

For example, it is expected that consulting services such as air monitoring and regulatory compliance issues may necessitate active participation early in the project. These tasks will entail reviewing the General Contractor (GC) plans for completeness in respect to issues affecting the Town. Other "front-end" tasks will include providing assistance to the Town

W.R. GRACE REMEDIATION PROJECT ACTON, MASSACHUSETTS

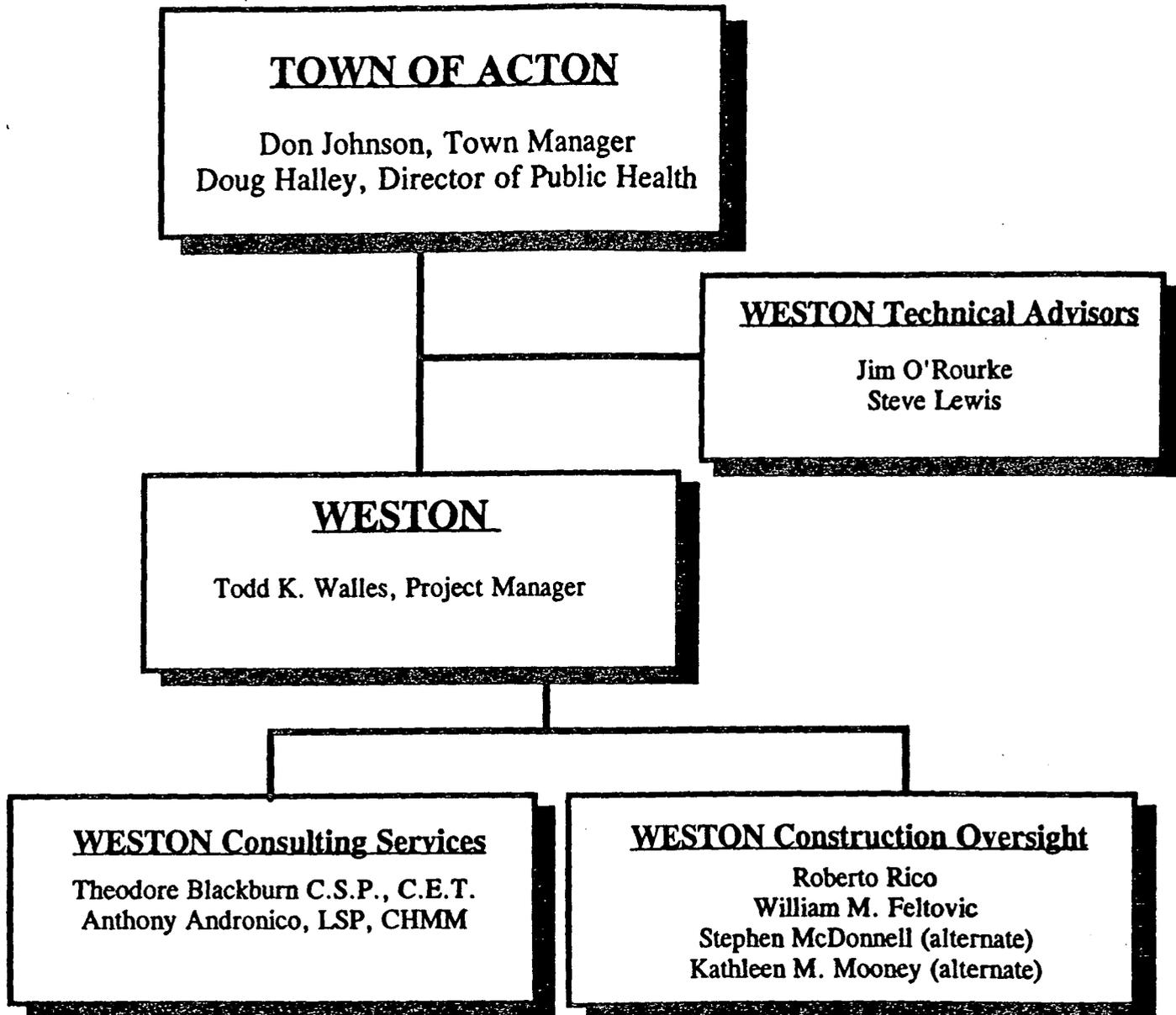


FIGURE 1
WESTON Project Team



at meetings with the Town officials and the public. The level of effort from these specialists will likely be intermittent during implementation of the remediation activities.

Similar to the above example, WESTON's construction oversight staff must also be flexible to variations in schedule during implementation, and be capable of adding staff during periods of multiple, concurrent activities and demobilizing when work is suspended or routine tasks are being conducted. WESTON has assembled the project team with adequate staff that are already familiar with the project and ready to assist when necessary. The project team will be briefed on a monthly basis by the Project Manager to facilitate scheduling and to maintain updated communication of events and work-in-progress.

In most cases, we anticipate that WESTON's staff will assist with consulting and construction tasks on a part-time, as-needed basis. Other support staff will be available as substitutes during periods of extended work hours or scheduling conflicts. Our depth of resources enables us to adapt to any variations in the work load and schedule.

2.1 Roles and Responsibilities

WESTON's Project Manager, Mr. Todd Wallis, leads our Construction and Remediation Department in New England and has more than nine years of experience with WESTON involved with all phases of engineering design and construction. He has managed several multi-million dollar construction and remediation projects, and most recently lead our effort in bidding on the Grace Remediation Contract. He is thoroughly familiar with the Grace site history, parties involved, technical and physical site features, remedial design, and procedures for implementation of the project. Mr. Wallis will be the point of contact for the Town and any related parties. As WESTON's Project Manager he is responsible for the technical, financial and operational performance of WESTON on this project, and reports directly to the Regional Manager. Mr. Wallis will attend Town and project-related meetings when necessary.

Mr. James O'Rourke, PhD, P.E. and Mr. Stephen G. Lewis will provide senior technical leadership for the WESTON team. Both of these individuals are familiar with the technical and regulatory history regarding the Grace site. Mr. O'Rourke and Mr. Lewis will be available on an as-needed basis for reference to historical data pertaining to the project and public relations. Mr. O'Rourke formerly worked on the Grace project from 1979 to 1989. Mr. Lewis is WESTON's New England Regional Manager, a resident of Acton, and sponsor for our project team to interface with the Town and Government Parties, as required.

Our project team includes three personnel with specialty training and qualifications in the work areas and technical disciplines requested by the Town, more specifically, Health and Safety/Air Monitoring, Regulatory Compliance/Public Relations, and Construction Oversight.

Mr. Theodore Blackburn is WESTON's Regional Safety Director and a Certified Safety

Professional and Environmental Trainer. He has more than 14 years of environmental experience, and will be available to assist with technical questions, consultation and meetings regarding air monitoring and emissions, interpretation of analytical reports, and public health concerns.

Mr. Anthony Andronico is a Massachusetts Licensed Site Professional and a Certified Hazardous Materials Manager. He has eleven years of experience in the environmental field, and will provide consulting for regulatory compliance issues, public relations and meetings, and related technical concerns.

Mr. Roberto Rico has more than 20 years of experience in the construction industry, and will lead the construction oversight focused at observing and documenting work-in-progress, construction costs and schedules, traffic, and recordkeeping related to the quality of work and factors affecting the Town's property and public concerns.

The specialists described above will be supported on an as-needed basis by WESTON's project engineer(s) or scientist(s). Figure 1 indicates staff that are currently familiar with the project, and available to work on various tasks. Each person has extensive health & safety training including being certified according to OSHA regulations as Site Health and Safety Coordinators (SHSCs). These staff are trained in the use of all types of air monitoring instrumentation and personal protective equipment. Each is certified for Level B, C and D Hazardous Waste operations, and are currently in compliance with a comprehensive medical monitoring program.

In addition to their expertise in the preparation and implementation of health and safety programs, each of these individuals has relevant experience in providing oversight of construction activities including, but not limited to, the excavation and handling of contaminated wastes, the installation and operation of decontamination facilities, the use and requirements for drainage and erosion controls, and other general construction operations.

2.2 Relevant Local Experience

Two members of our project team have long term local knowledge of the project site and the Town that are highlighted below.

The WESTON Corporate Official for this project is Stephen G. Lewis, Vice President and New England Regional Manager. He will be responsible for ensuring that WESTON meets the needs of the Town of Acton on this project.

Among his other responsibilities at WESTON, Mr. Lewis is WESTON's Program Manager for the US EPA Region I Superfund Program. In this capacity he directs many New England ongoing hazardous waste projects involving all of the types of remediation activities which will take place at the Grace site. These activities in support of US EPA and involved

communities include site assessments and investigations, as well as oversight of remedial designs and remedial actions. Community relations and public communications are fundamental part of a number of these projects.

Mr. Lewis is a thirty-year resident of Acton and is recognized for his work in support of the community. After serving for a number of years as a member of the Sewerage Study Committee, the Solid Waste Committee and the Finance Committee, he was elected Selectman. From 1972 to 1978 he served on the Board and as its Chairman in 1975. He was later elected to the Acton Charter Commission serving as its Chairman to draft the current Acton Town Charter.

Mr. Lewis is closely familiar with the Town and its people and will be a valuable consultant in helping the Town to understand and address issues arising from the Grace site remediation.

Dr. O'Rourke's involvement in the Grace site remediation project dates back to 1979 after contamination was first discovered in the Acton Water District Wells. He was the officer in charge of all the work performed by Camp Dresser & McKee (CDM) for Grace over the next ten years. Dr. O'Rourke was directly involved in the development of groundwater modeling to design the interceptor well systems to reduce the contamination to the Acton water supply. In addition, his work included the remedial investigations to characterize the nature and extent of the contamination, the evaluation of technologies, the formulation of the remedial action plans, and finally, the preliminary design which lead to the remedial design to comply with the Record of Decision (ROD). He was actively and intimately involved with the discussions and negotiations among the various parties and their consultants, including the Town of Acton, US EPA Region I, and the Massachusetts Department of Environmental Protection (MA DEP, formerly the MADEQE). Dr. O'Rourke was the only individual who had continuous involvement with the project from the time that the first action was taken by US EPA under Section 7003 of the Resource Conservation and Recovery Act (RCRA) up to the formulation of the ROD under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). He will serve as a WESTON technical advisor during the performance of the site remediation.

In addition, Dr. O'Rourke and his family resided in the Town of Acton for 22 years, from mid 1969 through mid 1991. He served on the local and regional school committees from 1972 through 1978 and served one year as the Chairman of the committee.

Both individuals are sensitive to the nature of Acton and knowledgeable on the many issues that are important to the citizens of the Town. They are cognizant of the potential traffic issues, particularly along High and Parker Streets, and the potential emissions problems that may result from inadequate monitoring. These issues along with the need for public relations, can be addressed by WESTON.

2.3 Relevant Project Experience

A profile illustrating the credentials and professional experiences of each member of our team is included in Appendix B.

3.0 TECHNICAL APPROACH

A brief description of the scope of services to be provided by WESTON is included in the following subsections. Since the Town's requirements for environmental management services may vary during implementation of the Grace Remediation project, we presented an overview of tasks typically provided by WESTON on similar projects, with the understanding that the type and frequency can be determined by the Town.

3.1 Project Startup

As a result of our historical involvement in this project, and our attendance at recent meetings held on 1 April and 5 April of this year, we are currently updated on the remediation project plans, and most of the existing site conditions, public concerns and regulatory issues. Our project team consists of personnel that have historical knowledge of the project, and/or were integrally involved in the preparation of our construction bid last fall. Therefore we anticipate that the "ramp up" time required to completely understand the project requirements will be expedited, and result in cost and schedule savings to the Town.

During the initial phase of work, referred to herein as "Project Startup", our focus will include acquiring copies of updated documents such as design changes and the ROD, along with recently submitted plans by the GC. Additionally, WESTON will attend meetings on an as-needed basis, to assist the Town in reviewing technical issues and public concerns. For the basis of our Lump Sum estimate to perform Project Startup tasks, we assumed that five (5) meetings will be required with the Town and/or other involved parties.

3.2 Health & Safety

As part of the Project Startup phase, WESTON will review available analytical and waste characterization data, and assess the completeness of the GC's Health and Safety Plan (HASP), and the requirements of the design documents. Particular attention will be made to items relating to the safety and public health of nearby residents and the transportation routes to the site. WESTON will propose modifications and/or improvements of the air monitoring and emissions plans, as well as other applicable safety issues, if necessary. The requirements for perimeter (Grace property line) and offsite (neighborhood) air sampling will be carefully assessed.

During implementation of the remediation project, WESTON can mobilize specialty air monitoring instrumentation (real-time, personal, and fixed site samplers) within 24 hours or less, to perform quality assurance sampling and analyses, if needed. We recognize that the

responsibility for conducting air sampling clearly lies with the GC and CDM (CQA managers), however, there may be situations where the Town wishes to collect confirmation, duplicate, and/or split samples to examine the effectiveness of the specified project testing requirements. WESTON is equipped and ready to assist should the need for such verification sampling arise.

WESTON's project team is trained in the use and calibration of such instruments, as well as interpreting the results provided by other parties. When required, the staff will be equipped with personal protective equipment to observe restricted work in the exclusion areas.

The WESTON site engineer/scientist will prepare a detailed HASP for our oversight activities prior to starting work on site. This plan can be efficiently prepared with the current knowledge and information available in our files. The HASP will be reviewed and approved by WESTON's Regional Safety Director, and be in accordance with OSHA requirements and state and local regulations.

3.3 Regulatory Compliance & Public Relations

Throughout implementation of this project, it is likely that numerous regulatory compliance issues will arise that pertain to federal, state and local statutes. WESTON will assist the Town, when necessary, in reviewing such occurrences and taking appropriate corrective measures. The scope and frequency of such issues may include items such as permitting, violations of safety or technical requirements, disruptions to public welfare, changes to the scope/cost/schedule of remediation activities, and other variations to the approved plans.

The regulatory compliance issues described above may impact or cause concern from the public, local citizen's groups, and other parties. Our regulatory specialist, who is a Massachusetts Licensed Site Professional and a Certified Hazardous Materials Manager, will assist in monitoring the Project's public relations program including attending meetings when necessary, and responding to concerns raised by the Town and/or the residents.

3.4 Construction Oversight

Oversight of the remediation activities will likely be a more regular activity than the consulting services described previously. Many of the technical and operational concerns already identified by the Town in the design phase will need to be closely monitored during remediation. WESTON proposes to conduct inspections during periods of intrusive activities, or as requested by the Town. The tasks that relate most directly to the Town's concerns include the excavation, handling and placement of contaminated wastes, operation of the VFL solidification process, and closure of the industrial waste landfill. During all of these activities, the greatest potential exists for air emissions and exceedances, and the movement of trucks to and from the site.

Unless desired by the Town, WESTON does not propose to provide oversight during periods of non-intrusive activities, or periods of lesser activity such as during surveying, settlement monitoring, and restoration. We expect that the level of oversight required by the Town to ensure that effective documentation is collected and communicated will be further discussed during negotiation of a contract. Our project team is uniquely qualified to adapt to changes and interruptions in the work schedule, both in terms of adding staff to oversee concurrent tasks, and in reassigning staff during inactive periods.

Typical tasks that will be performed by WESTON's construction inspectors will include the following:

- Review shop drawings, plans, as-builts and other submittals that may affect the design intent or otherwise impact the concerns of the Town and public. This task will not include standard GC submittals such as liner materials, manholes and pipe details, etc. since this activity is performed and approved by the CQA manager, (i.e. CDM).
- Review ongoing waste characterization data, air monitoring and emissions data, and other testing results, again in relation to how they impact the concerns of the Town and public.
- Perform offsite inspections of the vehicular routes to ensure compliance with local traffic, safety, and policing requirements.
- Perform onsite inspections of the remediation activities within the exclusion zones, and sitewide as needed to document the quality of work-in-progress both in writing and with photographs. The recorded information will be summarized and provided to the Town on a weekly basis, or less frequently if warranted.

Our success in providing the Town with environmental management services will be enhanced by establishing an effective communication program between WESTON and the Town's representatives, and the citizens. We are experienced in creating positive climates for the exchange of information including joint working sessions, routine briefings and/or presentations, and written or electronically-transmitted reports. To initiate such a working relationship, we propose that the involved representatives from WESTON and the Town meet together early in the project to review contract requirements, operational procedures, deliverables and recordkeeping, communications, and other related objectives.

4.0 SUPPORT SERVICES AND RESOURCES

WESTON support services and resources greatly enhance the effectiveness of our staff by providing the equipment, tools, and information systems necessary to implement all phases of engineering and remediation projects. Although not all of these resources may be used

on this project, a few examples of these services include the following:

- **Management Information Services (MIS):** Numerous computer-based, electrically-transmitted programs and databases to control cost and schedules, perform research or identify specialty services at remote locations, and track documents, regulations, and deliverables.
- **Central Equipment Stores (CES):** Several regionally located warehouses of WESTON-owned equipment, materials, and supplies available to support all tasks related to sampling, investigations, health and safety monitoring and remediation.
- **Analytical Laboratory Services:** Complete in-house laboratories for the analysis of all types of media, and mobile equipment for projects requiring more rapid turnaround times.
- **Technical and Administrative Staff:** Sufficient home office personnel are available to assist project teams with administrative issues such as word processing and contract negotiation. Additionally, in both regional and corporate locations, WESTON project teams have direct access to electronic mail for communicating with technical experts in all environmental and safety disciplines.

Two areas of our support services and resources that may be particularly helpful on this project are highlighted below. Additionally, an overview of the WESTON Analytic Laboratory services and regulatory databases are presented in Appendices D and E.

4.1 Management Information Services (MIS)

WESTON uses construction cost management practices that involve detailed planning and review, and cost and schedule control.

The basic design criterion of WESTON's Project Control System (PCS) is to provide any financial information requirements that can reasonably be expected in the conduct of a project. The following series of reports are routinely produced through PCS and illustrate the flexibility of PCS use and outputs:

- **Weekly Detail Reports:** Show current period transaction details and inception-to-date accumulations by activity. Serves as the Project Manager's reference document for incurred costs versus budgets.
- **Invoices, Supporting Cost Detail Reports, and Monthly Financial Status Reports:** Aggregated cost categories showing all necessary transactions.

- **Estimated Cost at Completion (ECAC) Master File Worksheet:** Provides the means for updating the Estimated Cost at Completion; shows the budget, prior ECAC, and incurred cost, and project milestones.

The Project Manager has the ability to forecast future resource requirements and carefully allocate resources to ensure that work is performed in a timely and approved manner. Primavera software provides an integrated analysis of labor, resources, and critical path scheduling.

4.2 Central Equipment Stores (CES)

WESTON's field operations are supported by inhouse Central Equipment Stores (CES). The inventory maintained within our CES includes sampling and monitoring instrumentation such as photoionization detectors, personal protective equipment (PPE), personal air sampling pumps, tools, and other supplies. All instruments are maintained and calibrated on a regular schedule and then field calibrated by the staff prior to use on site. The monitoring instruments and supplies can be mobilized to any project site within 24 hours notice, or less if not already available at our local Massachusetts office. The CES inventory is described in a 75-page catalogue that presents rental and expendable rates for all items. A complete copy of the rates associated with this resource can be furnished if requested.

5.0 FINANCIAL

At your request, WESTON has divided our cost proposal into two areas; more specifically, a Lump Sum cost to complete tasks described herein as "Project Startup", and unit rates for completion of consulting and construction quality assurance services.

5.1 Project Startup

It is anticipated that approximately three weeks will be required to perform the work described in Section 3.1 of this proposal. This projected schedule is based on our current familiarity with the project and estimate for collecting additional records and reviewing recent submittals. Completion of this phase will require part-time, intermittent involvement from primarily two team members, our regulatory and safety specialists. Performance of this work will be coordinated with applicable project meetings relative to finalization and approval of the design documents (and resolution of Town-related concerns such as perimeter and off-site air monitoring, traffic, etc.).

WESTON proposes to complete this work for the Lump Sum price of Nine Thousand Eight Hundred Dollars (\$9,800). As noted previously, this amount was prepared using an estimated number of five meetings that will be required with the Town and/or other parties during this phase.



5.2 Unit Rate Contract

If awarded this contract, WESTON proposes to enter into a Basic Ordering agreement (BOA) for Environmental Management Services with the Town. The BOA will specify contract terms and conditions, insurance coverages, and reference work order authorizations for selected services.

The BOA will establish the general contract terms and conditions, and allow the Town and WESTON a flexible means for authorizing work. For example, given our current understanding of the required services, the Town and WESTON can execute a work authorization based upon the current scope. If at some time in the completion of the Grace project the scope changes, or additional services are required, the BOA allows easy modification by detailing and approving a new work order authorization under the existing contract. This approach may be easier to administer should conditions change or in the event that additional services are warranted.

As per your request, WESTON has included in Appendix A a list of rates proposed for the Grace Remediation Project. These rates will be incorporated into the BOA during negotiations. A copy of WESTON's standard Terms and Conditions are also included in Appendix A.



**APPENDIX A
WESTON RATE SCHEDULE**

Town of Acton Proposal

Effective January 1, 1994 to December 31, 1994

<u>Classification</u>	<u>Rate</u>	<u>Classification</u>	<u>Rate</u>
Senior Technical Advisor	\$125.00	Project Engineer	\$55.00
Senior Project Manager	\$95.00	Project Scientist	\$55.00
Health and Safety Specialist	\$85.00	Crew Chief/Foreman	\$40.00
Regulatory Specialist	\$85.00	Hazardous Waste Technician	\$35.00
Construction Manager	\$90.00	Project Analyst	\$35.00
Senior Construction Engineer	\$70.00	Secretary	\$30.00

Time Charging

The above rates represent all WESTON direct salary costs, overhead, and profit. The time charged for services performed will be the actual number of hours worked. Travel time shall be billed as worked time.

Charges for Automobiles, Trucks, Vans

<u>Vehicle Type</u>	<u>Daily Charge</u>	<u>Excess Mileage</u>
Cars	\$40.00	\$0.10 per mile
Vans	\$52.00	\$0.10 per mile
Light/Pickup Trucks	\$52.00	\$0.10 per mile

Daily charge includes 100 free miles, gasoline, maintenance, and insurance. Monthly discount - 10% off daily charge only.

Annual adjustment of rates to be based on the cost of living increases as determined by the U.S. Bureau of Labor Statistics. The client shall be responsible for any state sales or use taxes. These taxes are not included within the cost of this proposal, unless otherwise noted.

Material, Travel, Subsistence, and Other Direct Costs

Material, travel, subsistence, long distance telephone calls, miscellaneous materials, and supplies, and out-of-pocket expenses are to be paid for by client at direct cost plus an administrative handling charge to be determined by work assignment.

Charges for Reproduction and Computer Services

Prices for publications, reproduction, and computer services will be provided upon request.

Charges for Laboratory Services

Analytical services are provided on a per analysis basis; price lists are available on request.

PROFESSIONAL PROFILE

STEPHEN G. LEWIS

Fields of Competence

Environmental program management, solid and hazardous wastes, Superfund program management, facility privatization, contractor and facility procurement, policy analysis, public information programs and hearings, financing of environmental facilities, contract negotiations and risk analysis, state and local government administration and management, solid waste management planning and feasibility studies, waste-to-energy and recycling.

Experience Summary

Over 35 years experience in government and industry. Twenty years experience in the environmental field. Currently serves as WESTON's Northeast Regional Manager directing 250 staff in six offices located in New Jersey, New York, Connecticut, Massachusetts and New Hampshire. Currently serves as WESTON's National Practice Leader in Solid Waste Management. Provided comprehensive technical services in Solid Waste Management to state and local governments and Federal agencies. Consultant to Federal agencies and U.S. Congress in resource recovery policy and strategy. Planned and developed state and local Solid Waste programs specializing in legal, financial, procurement, political, and organizational issues. Developed strategies and negotiated resource recovery contracts for construction and operation and for energy sales. Developed processes and procedures for procurement of resource recovery facilities and services. Prepared feasibility reports for facility financings. Developed and managed projects for hazardous wastes and alternative energy systems.

Credentials

B.S., Industrial Engineering — Virginia Polytechnic Institute and State University, (1954).
M.S., Industrial Engineering and Operations Research — University of Southern California, (1963).
Graduate Studies, Computer Systems, Massachusetts Institute of Technology (1964-1965)
GRCDA (Governmental Refuse Collection and Disposal Association) Chairman of Consulting Committee (1981-1982)
U.S. Conference of Mayors — Consultant on Economic Development and Resource Recovery (1980)
U.S. Conference of Mayors — National Resource Recovery Association Advisory Committee (1987-1988)
ASME (American Society of Mechanical Engineers) Solid Waste Processing Division
American Society for Testing and Materials — E-38 (Resource Recovery Committee)
American Association for the Advancement of Science — Resource Recovery Committee — Task Force Organizer
Local elected official, Acton, Massachusetts: Selectman, six years; Chairman of the Board, 1975-1976; Charter Commission Chairman, 1980-1981
Appointed official — Local Finance Board, Solid Waste Committee, and Sewerage Committee

PROFESSIONAL PROFILE

STEPHEN G. LEWIS
(continued)

Credentials (continued)

Massachusetts Selectman's Association

Employment History

1981-Present WESTON
1963-1981 The MITRE Corporation
1959-1963 North American Rockwell, Inc.
1955-1959 United States Air Force (Pilot)
1954-1955 Olin Industries

Key Projects

Responsible for directing, consulting and engineering projects in solid waste management. Directed and/or managed major solid waste planning and facility development projects, including:

Bay County, Florida; Johnston, Rhode Island; Passaic County, New Jersey; Massachusetts Resources Recovery Program (various projects), RESCO, Saugus, Massachusetts; Montgomery County, Maryland; San Diego County, California; U.S. Virgin Islands; Montgomery County, Ohio; South Central, Michigan, Islip, New York; Pigeon Point, Delaware

Honolulu, Hawaii -- Project Director for feasibility study and procurement planning; developed new state legislation needed for procurement, waste control, and financial arrangements; conducted briefing sessions for state legislators; and provided testimony.

U.S. EPA - Program Manager for the U.S. EPA's Region I Superfund Program.

Montgomery County, Ohio -- Project Director for feasibility study and RFP development.

U.S. Congress Office of Technology Assessment -- Resource Recovery Consultant

RESCO, Saugus, Massachusetts -- Conducted technical and economic analysis of feasibility and served as the thirdparty consultant to RESCO and nine Boston-area cities in the development and negotiation of the RESCO waste delivery and disposal agreement.

Developed and wrote EPA's Guide for Local Officials on Resource Recovery Procurement. Developed a two-step cost-competitive resource recovery procurement procedure for the State of Hawaii.

PROFESSIONAL PROFILE

STEPHEN G. LEWIS
(continued)

Key Projects (continued)

Bay County Florida - Prepared the feasibility study for financing of a waste-to-energy facility.

Georgia's Hazardous Waste Authority - Developed the process and directed the preparation of procurement documents and contracts for State privatization of a comprehensive hazardous waste facility.

U.S. EPA, President's Urban Program -- Project Director in delivering resource recovery technical services to EPA and 63 state and local resource recovery projects. Planned and conducted resource recovery educational activities for local officials. Directed the development of EPA's Resource Recovery Management Model and Resource Recovery Guides on Financing, Risk Management, Markets, and Siting and Environmental Analysis.

Directed projects for U.S. Departments of Energy and Commerce on resource recovery research and development programs.

State of Massachusetts -- Deputy Director of State's modernization Systems Unit (consulting contract). Analyzed, designed, and implemented a new cabinet structure and management and financial procedures for the state's entire Executive Branch. New state-wide organization was passed into law in 1969 and into operation in 1971.

PROFESSIONAL PROFILE

JAMES T. O'ROURKE, Ph.D., P.E.

Registration

Registered Professional Engineer in the states of Alabama, Connecticut, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Tennessee, Texas, Vermont, and the Commonwealths of Kentucky, Massachusetts, Pennsylvania, and Virginia

Fields of Competence

Remedial program management and remediation oversight; design of remedial systems for hazardous waste sites; environmental assessments and site evaluations; evaluation, design, and removal of underground storage tanks; regulatory compliance and negotiations; process design of groundwater, industrial wastes, and soil treatment systems; expert testimony in hazardous waste litigation.

Experience Summary

- Over 30 years of comprehensive experience in environmental engineering field, including industrial water and waste water treatment systems, hazardous waste site remediation, environmental restoration, chemical storage and handling systems, solid and hazardous waste management, and contaminated soil and groundwater treatment systems.
- Direction of a large, multidisciplined environmental engineering business unit providing service to industry and government. Management of all business and technical activities including marketing and sales, technical competence of staff; hiring and training, quality control, financial management, and overall business unit management.

Credentials

Ph.D., Civil Engineering — Stanford University (1968)
M.S., Sanitary Engineering — Sever Institute of Technology — Washington University (1962)
B.S., Civil Engineering — University of Rhode Island (1960)
Diplomate, American Academy of Environmental Engineers
Tau Beta Pi, National Engineering Honor Society
Sigma Xi, Society for the Promotion of Research and Science
Listed in Who's Who in Engineering; Who's Who in Technology Today; and Who's Who in Environmental Engineering
American Society of Civil Engineers
Program, Hazardous Waste, and Industrial Waste Committees, Water Environmental Federation
Special Technical Master to Robert C. Zampano, Senior Judge of the U.S. District Court for the District of Connecticut



PROFESSIONAL PROFILE

JAMES T. O'ROURKE, Ph.D., P.E.
(continued)

Credentials (continued)

Co-Chairman, Hazardous Waste Committee, The New England Council, Inc.,
American Institute of Chemical Engineers, Environmental Division
National Society of Professional Engineers, Engineers in Private Practice Division
Advisory Panel on Hazardous Waste Technology Evaluation, Office of Technology
Assessment, U.S. Congress
Member and Chairman, Advisory Council to the School of Engineering, University of Rhode
Island

Employment History

1993-Present WESTON
1989-1992 ENVIRON Corporation
1988-1989 Perland Environmental Technologies Inc.
1978-1988 Camp Dressler & McKee Inc.
1975-1978 Bethel, Duncan, O'Rourke, Inc.
1968-1975 Metcalf & Eddy, Inc.
1961-1969 Ryckman, Edgerly, Tomlinson & Associates

Key Projects

Remediation of Natural Gas Compressor Stations, Various Locations, Confidential Client, Project Manager. Provided engineering design services and site remediation oversight at numerous gas compressor stations on a major natural gas pipeline. Conducted feasibility studies to evaluate a wide range of technologies that affect the treatment and disposal of PCB-contaminated soils and sediments. Prepared remedial design and provided oversight during the implementation of remedial actions at selected stations.

Remediation of Chemical Plant, Confidential Client, Project Manager. Prepared design, evaluation of proposals, and contractor selection to remediate soil and groundwater at a former chemical plant. Remediation included the interception and removal of a large dense non-aqueous product layer (DNAPL), and excavation of soils for treatment and disposal.

Underground Storage Tanks (USTs), Expert Witness. Provided technical assistance and expert testimony during litigation regarding alleged damages resulting from a leaking underground storage tank. Participated in the successful defense of a client in which the plaintiff claimed over \$8 million in damages.

Feasibility Studies, Paulsboro, NJ, First Brands, Technical Manager. Provided engineering services during studies to select appropriate remedies, and designed a cleanup plan under the

PROFESSIONAL PROFILE

JAMES T. O'ROURKE, Ph.D., P.E.
(continued)

Key Projects (continued)

Environmental Cleanup Responsibility Act (ECRA) for a chemical blending and packaging facility. Evaluated bioremediation and vapor gas extraction of petroleum hydrocarbons and volatile organics, using both bench-scale and field-scale pilot studies.

Remedial Design, Superfund Site, Whitmayer Laboratories, Engineering Manager. Engaged by potentially responsible parties (PRPs) to prepare remedial design, including pre-design studies, on a major Superfund site. Conducted feasibility studies to evaluate incineration and chemical fixation of soils and sludges, and the chemical/physical and biological treatment of ground water. Evaluated the efficacy of the technologies included in the selected remedy.

Evaluation of Treatment Technologies, Millville, NJ, American National Car, Project Manager. Provided technical expertise in the evaluation of treatment technologies. Designed and provided field oversight of remedial systems implemented under an ECRA cleanup plan for a large container factory. Designed and evaluated results of full-scale field ex situ and in situ bioremediation to reduce petroleum hydrocarbons to acceptable levels.

ECRA Cleanup Plans, Newark, NJ, Former Textron Facility, Project Manager. Provided guidance and design assistance in the preparation of an ECRA cleanup plan at a large resin and coating plant. Services included several unique features, such as excavation of contaminated soils from beneath an existing building that was constructed circa 1910 and was supported by wooden pilings. Used low-temperature thermal extraction to remediate soils for removal of volatile organics and base/neutrals.

Remediation of Precious Metals, Newark, NJ, Engelhard, Engineering Manager. Conducted extensive investigations and designed a cleanup plan for the remediation of a precious metals processing facility constructed on the site of a former municipal solid waste dump. Studied soil sorting techniques designed to remove the bulk of the heavy metal contamination by removing the fine-grained soils with potential industrial contaminants, while leaving coarser fraction and debris deposited in the dump.

Groundwater Contamination Projects, Acton, MA, W.R. Grace, Project Manager. Provided technical expertise on numerous groundwater contamination projects, including all phases of groundwater investigation, monitoring, and modeling of both flow and contaminant transport. Included aquifer restoration programs, recovery well design, and protection of potable water supplies.

Landfill Closure Design, Orrington, ME, IMC, Project Manager. Designed the landfill closure, post-closure plan, and groundwater monitoring system. Prepared construction drawings

PROFESSIONAL PROFILE

JAMES T. O'ROURKE, Ph.D., P.E.
(continued)

Key Projects (continued)

and specifications for a Maine minerals and chemicals plant. The impervious cap with gas vents included both synthetic membrane and natural clay materials.

Remediation of Contaminated Soil, Terre Haute, Indiana, IMC, Project Manager. Evaluated biological, chemical and physical treatment methods to remediate soil contaminated with Lindane and related compounds. Designed an on-site containment system, including the preparation of construction drawings and specification, and oversaw construction.

Emergency Response, Allentown, PA, IMC, Project Manager. Removed wastewater from unlined lagoons for a polyfunctional alcohol manufacturer. Limestone formations under the lagoons contained many solution cavities, potentially endangering the local groundwater aquifer.

Construction of Waste Storage Lagoon, Utah, IMC, Project Manager. Evaluated liner materials, then designed and oversaw the construction of a 3,500,000-gallon nitric acid waste storage lagoon for an explosives manufacturer.

Remedial Investigation/Feasibility Study, Acton, MA, W.R. Grace, Project Manager. Performed site characterization and evaluation of remedial alternatives for a Fortune 500 chemical plant. Remedial action included aquifer restoration and stabilization, and landfill capping. Installed ground water recovery and monitoring systems.

Lagoon Closure, Everett, MA, Exxon, Project Manager. Performed site assessment, regulatory interface, and lagoon closure for a large petroleum receiving terminal. Conducted a drainage study and designed improvements. Designed a treatment system to remove petroleum product contaminants.

Groundwater and Soil Evaluation, Lodi, CA, Nestle, Project Manager. Evaluated soil and groundwater contaminated with chlorinated solvents at a food processing facility. Designed and installed a groundwater treatment system. Designed, tested, and installed a vapor extraction system to remove solvents from the vadose zone.

Oil Recovery System, Acton, MA, W.R. Grace, Project Manager. Evaluated, designed, and installed an oil recovery system (oil and hexane mixture) to remove floating product layer at a large chemical plant. Oil/hexane mixture was recovered and groundwater was returned to the aquifer through recharge trenches.

Groundwater/Soil Contamination, Confidential Client, Project Manager. Assessed the limits of contamination of groundwater and soil at an electronics manufacturing plant using soil gas analyses. Conducted treatability and pilot plant studies to evaluate treatment processes.

PROFESSIONAL PROFILE

JAMES T. O'ROURKE, Ph.D., P.E.
(continued)

Key Projects (continued)

Designed, prepared construction drawing, and provided construction management, including startup and testing of groundwater treatment systems.

Groundwater Studies, Bound Brook, NJ, American Cyanamid, Project Manager. Conducted groundwater studies in a complex aquifer and fractured bedrock, using down-hole video and multiple level monitoring wells at a pharmaceuticals plant.

PCB Contamination, Lawrence, MA, Diversitech, Project Manager. Conducted studies to delineate the extent of PCB contamination on a 25-acre site that included 1,000,000 square feet of turn-of-the-century mill space. Designed and oversaw the decontamination and demolition of structures adjacent to a public drinking water supply stream. PCBs were found throughout the buildings, grounds, and hydraulic structures.

Site Remediation, Elizabeth, NJ, Singer, Project Manager. Conducted the evaluation and site remediation under New Jersey ECRA of a sewing machine plant. Site included 160 acres and many buildings. Over 200,000 square feet of building floors and walls were decontaminated and wash waters were treated prior to discharge into local sewer system.

Groundwater Extraction Studies, Freehold, NJ, Nestle, Project Manager. Conducted groundwater and vacuum extraction studies at a coffee production plant. Designed systems to remove trichloroethylene from the site's aquifer and vadose.

Remedial Design, Kingston, NH, IMCERA, Project Manager. Provided a New Hampshire chemicals manufacturing firm with technical support during litigation. Prepared a remedial design for surface cleanup action. Prepared drawings and specifications, evaluated bids, and provided oversight during implementation.

Pollution Control Project, Various Locations, Multiple Clients. Responsible for a wide range of pollution control projects for various industries. Following are selected projects typical of this experience:

- Performed a wastewater treatment study for a foods manufacturing company. Evaluated the potential for the evaporation of highly colored waste streams, and for the biological treatment of clear waste streams; coordinated liquid and solid waste disposal systems and stream generation facilities; and conducted chemical oxidation studies for color reduction.

- Helped develop a master plan to renew and update sanitary and storm systems to prevent discharge of contaminated wastewaters into a municipal sewer system. Also recommended appropriate treatment procedures for wastewater.

PROFESSIONAL PROFILE

JAMES T. O'ROURKE, Ph.D., P.E.
(continued)

Key Projects (continued)

- Designed a pilot-scale wastewater treatment plant for a petrochemical plant in Taiwan and a wastewater reclamation facility for a steel mill in Japan.
- Advised an Italian chemical company on how to reduce nitrogen discharge from three large chemical plants surrounding the Venice lagoon.

Publications

O'Rourke, J.T. 1988. "RCRA Corrective Actions." Presented at the Market Opportunities in Asbestos and Hazardous Waste Conference, Sponsored by *Professional Services Management Journal*, Washington, DC.

O'Rourke, J.T. 1988. "Water Recycling in the Textile Industry in the United States." Presented at the European Symposium on Textile Effluents: "Recycling, Reuse and Reduction of Pollution." Centre Cultural de la Caixa de Terrassa, Catalunya, Spain.

O'Rourke, J.T., and T. Pekin. 1985. "Sludge Reduction: How and Why?" In: *Michigan Industrial Waste Conference, RCRA Changes and Waste Reduction*.

O'Rourke, J.T. 1984. "The Engineer's Perspective." In: *The McGraw-Hill Environmental Auditing Handbook*, L.L. Harrison (ed), McGraw-Hill Book Company, New York.

O'Rourke, J.T. 1984. "Metallic Waste Reduction — An Overview." Presented at the Metallic Waste Source Reduction Seminar, Department of Environmental Management, Commonwealth of Massachusetts, Clinton, MA.

Kracht, J.K., and J.T. O'Rourke. 1983. "Water Reuse and Recycling in Industry." Presented at the Arizona Water Pollution Control Association Conference.

O'Rourke, J.T. 1983. "Effluent Guidelines and Pretreatment Standards Here to Stay." *Waste Management Report*.

O'Rourke, J.T. 1983. "Hazardous Waste Management in New England." Presented at the Fall 1982 New England Council Conference: "Eyes on Tomorrow — Engineering, Tools, Toys and Technology." Boston, MA.

O'Rourke, J.T. 1981. "Achieving Compliance — The Technology and Cost Hurdles." Presented at the Industrial-Municipal Pretreatment Program: "Implementation: Can it Really

PROFESSIONAL PROFILE

JAMES T. O'ROURKE, Ph.D., P.E.
(continued)

Publications (continued)

Be Done?" Conference series sponsored by the Association of Metropolitan Sewage Agencies (AMSA), Atlanta, GA; Atlantic City, NJ; Houston, TX.

O'Rourke, J.T. 1977. "Principles and Requirements Necessary to an Effective Indoctrination Program on Good Housekeeping — A Manual of Savings." Paper Presented at the Sixth International Pollution Exposition and Congress in Conjunction with the Southern Plan Engineering and Maintenance Show and Conference, Atlanta, GA.

Gassett, R., J.T. O'Rourke, and B.J. Sloan. 1974. "Developments in Treatment Technology." Paper presented before the Third Annual International Pollution Engineering Congress, Chicago, IL.

Bowers, C.W., T. Colina, and J.T. O'Rourke. 1974. "Industrial Waste Treatment at Scovill Manufacturing Company: Operating Performance." Presented at the 29th Purdue Industrial Waste Conference, Purdue University, West Lafayette, IN.

O'Rourke, J.T. 1972. "Joint Industry - Municipal Waste Treatment." Presented at the PEECON - 1972 Meeting, New York, NY.

O'Rourke, J.T., and C.N. Sawyer. 1969. "River Basin Approach to Water Quality Control." Presented Before the Virginia Water Pollution Control Association Meeting, Natural Bridge, VA.

Burbank, Jr., N.C., J.T. O'Rourke, and H.D. Tomlinson. 1968. "Variation of ORP in an Activated Sludge Plant with Industrial Waste Loads." *Industrial Water and Wastes* 8.

McCarty, P.L. and J.T. O'Rourke. 1967. "Anaerobic Waste Treatment at Reduced Temperature." Presented at the 40th Annual Water Pollution Control Federation Conference, New York, NY.

O'Rourke, J.T., R.D. Swisher, and H.D. Tomlinson. 1964. "Fish Bioassays of Linear Alkylate Sulfonates (LAS) and Intermediate Biodegradation Products." *Journal of American Oil Chemists' Society* 40.

O'Rourke, J.T. and H.D. Tomlinson. 1962. "Effects of Brewery Wastes on Treatment." *Industrial Water and Wastes* 7, September-October 1962. Also in *American Brewer* 96.

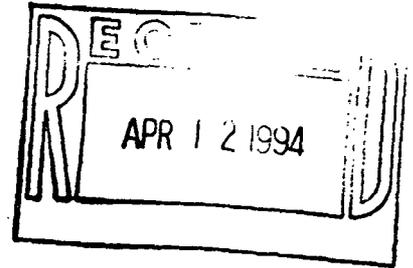


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

cc: BOS / RETAIN



April 7, 1994

Mr. Thomas L. Stoneman
Camp Dresser & McKee Inc.
Ten Cambridge Center
Cambridge, MA 02142

Re: Off-Site Policy

Dear Mr. Stoneman:

As discussed at our meeting on April 5, 1994, enclosed is some information on the Off-site Rule. Prior to removing any waste off-site for disposal, GZA must request and receive EPA approval of the disposal facility. Such request must be in writing and identify the amount of material, the nature of the waste, a list of proposed facilities for disposal and the schedule for off-site removal. This information must be submitted two weeks prior to conducting the work. EPA Region 1 will get in contact with the EPA Region where the proposed disposal facilities are located and determine if they are in compliance. EPA will notify you in writing of our findings. After receiving our approval, the material can then be shipped off-site. Please make sure that GZA incorporates these procedures in their Site Workplan. If you have any questions regarding this letter, please contact me at (617)573-9634.

Sincerely,

Lynne A. Jennings

- cc: Gretchen Muench, EPA
- Bill Pencola, Ebasco
- Michael Leblanc, MADEP
- Donald Hanson, MADEP
- Charles Tuttle, MADEP
- Louis Ingram, W.R. Grace
- Mark Stoler, W.R. Grace
- Bruce Conklin, CDM
- William Cheeseman, Foley, Hoag & Elliot
- Don Johnson, Town of Acton
- Doug Halley, Town of Acton (3)
- Steven D. Anderson, Anderson & Kreiger
- B. Leach, Town of Concord
- Robert Eisengrein, ACES
- John Swallow, Pine & Swallow Associates, Inc.



REMEMBER



The Off-site Rule applies to any remedial or removal action under any CERCLA authority or using any Fund money; response actions under §311 of the Clean Water Act (except cleanup of petroleum products); and cleanups at Federal Facilities under §120 of SARA.



Ensure that a receiving facility's permit or interim status authorizes the receipt of the wastes anticipated to be transferred.



Contact the appropriate ROC immediately prior to sending wastes off-site to ensure the receiving facility is acceptable.



Wastes that are treated on-site are still subject to the rule when transferred off-site.



PRPs must have prior approval from an OSC before sending waste to a facility in an emergency situation when human health or the environment is threatened.

Regional Off-site Contacts February, 1993

Region 1	Lynn Hanifan	(617) 573-5755
Region 2	Greg Zaccardi	(212) 264-9504
Region 3	Sarah Caspar	(215) 597-8174
Region 4	Edmund Burks	(404) 347-7603
Region 5	Gertrude Matuschkovitz	(312) 353-7921
Region 6	Ron Shannon	(214) 255-2192
Region 7	Gerald McKinney	(913) 551-7816
Region 8	Terry Brown	(303) 293-1823
Region 9	Diane Bodine	(415) 744-2130
Region 10	Ron Lillich	(206) 553-6646

EPA Overview of the Off-site Rule for OSCs and RPMs

The Procedures for Planning and Implementing Off-site Response Actions (September 22, 1993) describes procedures that should be observed when a response action under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) involves off-site storage, treatment, or disposal of CERCLA waste.

The purpose of the Off-site Rule is to avoid having wastes from CERCLA-authorized or -Funded response actions contribute to present or future environmental problems by directing these wastes to management units determined to be environmentally sound.

CERCLA §121(d)(3) requires that hazardous substances, pollutants or contaminants transferred off-site for treatment, storage or disposal during a CERCLA response action be transferred to a facility operating in compliance with §3004 and §3005 of RCRA and all other applicable Federal laws and all applicable state requirements.

Role Of OSCs and RPMs

OSCs and RPMs play a critical role in ensuring effective implementation of the Off-site Rule. They must determine if the facility's permit or interim status authorizes: 1) the receipt of the wastes that would be transported to the facility; and 2) the process contemplated for the waste. They are also responsible for contacting the Regional Off-site Contact (ROC) in the region where the receiving facility is located prior to wastes being shipped.

Acceptability Status

The ROC will provide the current acceptability status of the facility to receive CERCLA waste. Often, an off-site determination is specific to particular units within a facility, rather than to an entire facility. Because of the dynamic nature of compliance conditions at these units or facilities, it is important to recheck a facility's status prior to each shipment of waste.

A facility that has received a notice of unacceptability (issued by the ROC) has a 60-day period during which it may continue to receive CERCLA wastes while it addresses the violations cited. The ROC and OSC/RPM should maintain close coordination throughout the 60 day period. On the 60th day after issuance of the unacceptability notice, the OSC or RPM must stop transfer of wastes to the facility and/or stop the transfer of CERCLA waste

already received by the facility from its storage unit to an unacceptable unit if the facility or receiving unit has not regained its acceptability. Transfers within a facility are more difficult for a ROC to monitor and thus the Agency contemplates that restrictions on such transfers under the Off-site Rule will be included in contracts for off-site disposal or treatment of wastes. If the primary facility becomes unacceptable, the acceptability status of the backup or secondary receiving facility must be checked with the ROC.

The disposal contract between the Agency and the company chosen to manage the disposal of CERCLA wastes off site should specify the primary facilities that will receive the wastes for ultimate treatment, storage or disposal, as well as alternate facilities.

Emergencies

Although compliance with the rule is mandatory for removal and remedial actions, OSCs may determine that an emergency exists and that the need for fast action prevents ensuring that all of the criteria in the rule are met. This exemption may be used if the OSC believes the threat to human health and the environment posed by the substances requires a removal action without observing the rule procedures. Temporary solutions, such as interim storage, should be considered to allow time to locate an acceptable facility. If this exemption is used, the OSC must provide a written explanation to the Regional Administrator within 60 days of taking the action.

Inspections

OSCs and RPMs do not have the authority to conduct inspections for purpose of compliance determinations under the rule. If a facility has not been inspected for off-site acceptability, contact the ROC to get that facility on the inspection schedule. In emergency situations, the OSC should make every effort to use the most environmentally sound facility.

If you have any questions regarding the Off-site Rule, contact Ellen Epstein at (202)260-4849.



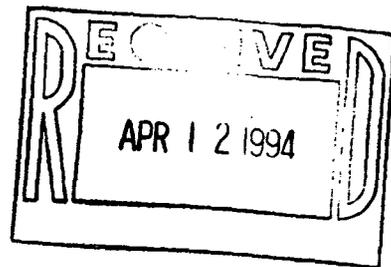
Commonwealth of Massachusetts
Executive Office of Environmental Affairs

Department of Environmental Protection

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

cc: BOS
D. HOWE
J. MURRAY

7/15



April 7, 1994

IN OTHER WORDS,
WE WILL BE CHARGED
NEXT YEAR FOR THIS
STATE SERVICE.

Dear Chief Elected Official:

I am pleased to inform you that the Department of Environmental Protection is awarding all municipalities a 1-year membership to MassRecycle.

This nonprofit and member-operated organization is dedicated to bringing together the diverse interests of individuals, local and state governments, industry, and environmental groups to facilitate waste reduction, reuse and recycling. The value of your Associate Membership is between \$50 and \$150 per year, based on your municipality's population.

I challenge you to actively participate in this organization in order to build its ability to serve your needs. In addition, please look to the MassRecycle membership for some important and valuable benefits, such as:

- *The MassRecycler* quarterly newsletter
- Access to MassRecycle's Speakers Bureau, Skills Bank and Resource Library
- Discounts to MassRecycle sponsored conferences and forums
- Product and service discounts including printing services and environmental publications
- Networking through meetings, conferences and forums

Also, as a reminder, you are invited to the New England Environmental Expo. Municipal officials may attend this conference free of charge by registering before April 15. See the attached information for details.

Please forward this information to your recycling program coordinator. If you have any questions, please contact Joseph Lambert, Solid Waste Recycling Regional Planner, at (617) 574-6875. Thank you for your continued dedication to recycling and environmental protection.

Sincerely,

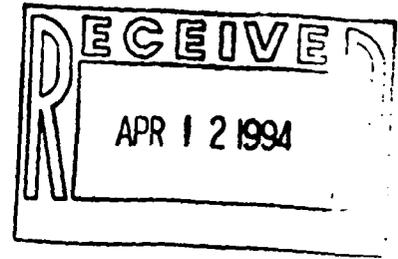
Thomas B. Powers



Commonwealth of Massachusetts
Executive Office of Environmental Affairs

Department of Environmental Protection

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



DATE: March 24, 1994

TO: Municipal Officials

FROM: Division of Solid Waste Management, DEP

SUBJECT: MUNICIPAL WORKSHOPS - NEW ENGLAND ENVIRONMENTAL EXPO

MUNICIPAL OFFICIALS WHO REGISTER IN ADVANCE NO LATER THAN APRIL 15TH CAN REGISTER AT NO CHARGE FOR THE NEW ENGLAND ENVIRONMENTAL EXPO BY CALLING (401) 766-4142. The Department of Environmental Protection would like to highlight the following workshops that are being presented by DEP that will assist you in addressing various solid waste issues and challenges facing your municipality:

Session Title: LOCAL PUBLIC POLICY ISSUES IMPACTING RECYCLING
Date: Wednesday, April 27, 1994
Time: 3:30 - 5:00 p.m.
Description:

This panel discussion will cover the issues impacting recycling in the mid-90's: Privatization, Regionalization, Independent markets and state funding. There will be discussions about:

- * The financial problems facing municipalities and one city's efforts to privatize their solid waste and recycling collection programs
- * The "Put or Pay" issue that affects many communities
- * Independent recycling markets and private market development
- * Funds available from DEP in fiscal year 1995 through the equipment grant program and a new technical assistance program.

This session will be most valuable to a wide spectrum of municipal officials, solid waste managers, recycling coordinators, private recycling companies, solid waste facility owners, and environmental managers.

(Please Turn Over)

Session Title: BUYING RECYCLED PRODUCTS: A HOW-TO SESSION FOR MUNICIPALITIES
Date: Thursday, April 28, 1994
Time: 10:00 am - 12:00 noon
Description:

This session will present the how's and why's of buying recycled for local governments, and provide practical information and references to help them initiate or expand their purchase of recycled products. Topics to be covered will include sample ordinances and policies, how to define and where to find recycled products, and two case studies of municipalities that are trying to buy more recycled products. The last half hour of the session will be a roundtable discussion where attendees have the opportunity to share their experiences of recycled purchasing.

The workshop will be most valuable to municipal purchasing officials or to those interested in helping these officials (including recycling coordinators/representatives, non-profits, and volunteers) to increase their purchases of recycled products.

Session Title: COMPOST UTILIZATION AND MARKETING
Date: Thursday, April 28, 1994
Time: 1:30 - 3:00 p.m.
Description:

This panel discussion will focus on state policies on compost utilization, marketing and demonstrating how states have differed in addressing the need to recycle composted organic material back into the soils. There will be representatives from the states of Massachusetts, Maine and New Hampshire. The panel discussion will be followed by 30 minutes of discussion/debate with presenters and the audience.

Other Composting Sessions:

Session Title: IMPLEMENTING AND EXPANDING COMPOSTING PROGRAMS
Date: Thursday, April 28, 1994
Time: 8:00 - 9:30 a.m.

Session Title: SUCCESSFUL MANAGEMENT OF COMPOSTING SITES
Date: Thursday, April 28, 1994
Time: 10:00 - 11:30 a.m.

To register for the conference and to obtain a complete program schedule for the EXPO, please call N.E. Environmental Expo at (401) 766-4142.

DRAFT

**SELECTMEN'S MEETING
MARCH 15, 1994**

DRAFT

The Board of Selectmen held its regular meeting on Tuesday, March 15, 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

NONE EXPRESSED

CHAIRMAN'S MINUTE

Chairman Hunter announced that the Senior Center dedication ceremonies would be held on April 10th, beginning with the ribbon cutting ceremony at 2:00 and invited those interested to attend.

Chairman Hunter announced the Joint Budget Meeting which has been scheduled for March 23, 1994 and invited all to attend.

The Acton Boxborough Regional High School has been selected to host the New England Drama Festival to be held on April 21, 23, and 24. Chairman Hunter noted what a honor it was to have the high school chosen to host this Festival and asked the Board to attend and welcome the participants.

PUBLIC HEARINGS AND APPOINTMENTS

**BOSTON GAS
GREAT ROAD**

NANCY TAVERNIER - Moved to approve. ANNE FANTON - Second.
UNANIMOUS VOTE.

**SICHUAN PAVILION, INC.
LIQUOR LICENSE TRANSFER - NAGOG SQUARE**

The Board noted staff comment that was a re-submittal required after ABCC review of the original submittal.

NANCY TAVERNER - Moved to approve the Liquor License as re-submitted. ANNE FANTON - Second. UNANIMOUS VOTE.

**SPECIAL USE PERMIT #1/12/94-342
METROPOLITAN DELI
208B MAIN STREET**

Joseph Motzi outlined his proposal to open a satellite deli in Acton. No cooking will be done at the Acton store. The

Landlord will be handling any outstanding issues with regard to the septic system as required by the Board of Health.

NANCY TAVERNIER - Moved to approve. ANNE FANTON - Second.
UNANIMOUS VOTE

**SPECIAL USE PERMIT #1/14/94-343
COSTA DONUTS, TWO
295-307 MAIN STREET**

Attorney Alex Para representing the Dunkin Donuts franchisee outlined the proposed plan for this store. They will not be cooking on site. There will be no exterior changes. They will have 18 seats and will be open from 5:00 A.M. to 11:00 P.M. They plan on having three employees on site. No additional traffic is anticipated. A small cargo van will make delivery to the store. Anne asked about the contribution to the future traffic study in that area. Staff felt that it could be addressed later as the area is still owned by one person and to require contributions in the mall in a piece meal fashion would not be feasible. The Board reminded them that they would require a 24 hour permit if they intended to open before 6:00 A.M.

NORM LAKE - Moved to approve conditioned that they be open 6:00A.M. - 11:00 P.M.. NANCY TAVERNIER - Second. UNANIMOUS VOTE

**NORTH ACTON RECREATION AREA
RECREATION COMMISSION PRESENTATION**

Bruce Stamski, and representatives of the Recreation Commission, said the \$15,000 has been set aside and the study for the feasibility for the pond has been done. The neighbors were notified that a public meeting would be held to address questions with regard to traffic and other issues of importance. The Town owns most of the property and they would hope to have hiking, swimming pond on the 10 acres, the balance would be playing fields, picnic and possible bandstand area. They want to address traffic and listen to what abutters have to say. They have the conservation permits, Board of Appeals and Army Corps of Engineers permits. They are looking toward phase II and have a few ideas toward this. They felt the gravel will generate funds to stabilize the area and grade. They felt we could fund raise to build bath houses, etc. They would want to see what the value of the gravel is on site.

Dore' asked about build out? Newly created village zone with both entrances coming through. They felt they could have a one way traffic flow.

Nancy thanks them for their work. The Board needs to give direction and to prioritize the plan. They might set up a revolving fund. There was concern about the potential for good water quality and quantity for flushing cycle. Dore' said he was happy with the report. Bruce said he had checked the water level

pipes and they were good after a very dry summer which gave him confidence in the report. He said the worst case could be it would have to closed at times as they do at other sites.

The RFP for gravel had been prepared and there were questions and perhaps issues have not been resolved. Don felt they were held until EPA and the project got back on track. It is anticipate that there is 230,00 yards of gravel and the price would be at market value.

Nancy asked about phasing in the construction and asked what they would choose to have, Bruce responded the swimming area.

Anne would support priorities as set forth by Bruce as substantiated by the Master Plan feed back. Anne wanted the options and cost and real projection need to be brought forward to Town Meeting. She noted the on-way concept was for safety and urged its retention.

Bill asked about the well that was mentioned and wanted clarification on the use of the Pond. Bruce though we should not second guess the report, they said you can build and its will be good for a swimming area, perhaps not 100% of the time.

Leo Gano, representative of Rex Lumber read a prepared statement opposing the project. Messrs., Robert Niland and Palmer thought it was a good idea. Ian McPherson urged that it be patrolled and that a fence be installed and that it needed more study. Gorden Priest spoke about the financial situation of the Town and felt the Town should look at the financial impact at this time.

It was the consensus of the board to go ahead with the RFP to frame the cost. Dore' felt we needed to gather questions and to find out what degree they need to be addressed. The sense of the Board was to go to town meeting and the key is timing.

Bill wanted questions from staff and Rex Lumber answered point by point and presentation back before the Board.

PLANNING BOARD CLARIFICATION/PRESENTATION OF WARRANT ARTICLES

The Planning Board made expanded presentations on the articles on the Town Meeting Warrant. Anne Fanton stressed her concern with the increase of Associate members. Nancy felt they should let the Planning Board decide since they are the ones that deal with these issues.

NANCY TAVERNIER - Moved to Recommend Article 54. NORM LAKE - Second. 4-1 Anne Fanton, No. Norm was reassigned to represent the board on this article. Anne further expanded on the issues of extra members, she felt that attendance was the issue as well as the large size of the Board.

Article 56 - The Planning Board voted not to recommend because of the spot zoning being illegal and next to East Acton Village.

NANCY TAVERNIER - Moved to not recommend. NORM LAKE - Second. UNANIMOUS VOTE.

CONSENT CALENDAR

NANCY TAVERNIER - Moved to accept the Consent Calendar as printed. - ANNE FANTON - Second. UNANIMOUS VOTE.

SELECTMEN'S BUSINESS

Eagle Scout Court of Honor - Nancy to represent the Board.

Water Ban - Nancy noted the collection of the fine by our police department. Dore' was concerned this appeared to be a permanent ban and suggested the growth of the Town could be controlled by the available water supply. Nancy felt it was a bylaw to formalize the action taken to comply with DEP regulations. Don Johnson was concerned with the police as enforcing agent.

JENK'S FUND APPLICATIONS - The Board discussed the requests and the available funds to fund them. Nancy and Anne felt that ADAPT request could be addressed by the Nursing programs.

NORM LAKE - Moved to award the available Jenk's Fund to the following: \$600 to the Memorial Library Summer reading, \$300.00 for 1/2 Summer Intern to the Children's Discovery Museum, Acton Housing Authority and the balance of \$367 to the Playground Committee. NANCY TAVERNIER - Second. UNANIMOUS VOTE.

MARSHALL PROPERTY - 61A Right of First Refusal - NORM LAKE - Moved to take no action on the Right of First Refusal - NANCY TAVERNIER - Second. UNANIMOUS VOTE.

MAPC Representative - It was noted that the Acton's Representative to MAPC had not attended the winter meeting. Anne urged the Board to have a back-up person perhaps from Planning as our Representative.

MMA - Dore' stated that while he was sympathetic he felt the Board could simply advertise these matters at the board meeting and publicly address.

CAC- Anne expressed her interest in continuing and urged a alternate be assigned. She is still willing to coordinate future meetings. She also wanted to have a representative appointed to MAGIC, Bill is will to take a stab at it.

DRAMA FESTIVAL - Nancy will speak on behalf of the Board.

TOWN MANAGER'S CONCERNS

AC CHEVROLET - Don updated the Board on the issue of the driveway on Esterbrook Road. It was decided to let the neighborhood know that a request had been received and hold a public hearing. It was noted that moving the gate make be a viable suggestion.

NESWC - Staff updated the Board on the issues that they have been dealing with in regard to the suspected over charging at NESWC and the partial settlement that has been worked out.

EXECUTIVE SESSION

The Board voted to go into Executive Session for the purpose of discussing potential litigation.

Roll Call was taken all ayes.

The Board adjourned at 11:35 P.M.

Clerk

Date

Christine Joyce
Recording Secty.
cmjW11-(468)

EXECUTIVE SESSION
MARCH 15, 1994

NESWC

The stabilization Fund issues were discussed. Don updated the board on the issues that he and John and Marcella have been dealing with over the last several weeks. We have paid \$193,198 and now feel we will not require the stabilization fund article on the warrant. Don and John will update the board as research into possible over charges continue.

MOBIL OIL

The Board asked that Mobil be sent a letter ordering them to remove the sign.

The Board adjourned at 11:45 P.M.

Clerk

Date

Christine Joyce
Recording Secty.
cmjW11-(468)

March 11, 1994

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

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AGENDA

ROOM 204

MARCH 15, 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 SICHUAN PAVILION, INC. - Liquor License Hearing - Enclosed please find revised documents for Board review and Action. The Board previously approved this application, however, after ABCC review it was determined that the Corporate Officers and Corporation name had changed necessitating this re-submittal.
4. 8:00 SPECIAL USE PERMIT # 1/12/94-342 - METROPOLITAN DELI - 208B MAIN STREET - Enclosed please find an application and staff comment for Board review.
5. 8:15 SPECIAL USE PERMIT # 1/14/94-343 - COSTA DONUTS TWO, INC. - 295-307 MAIN STREET - Enclosed please find an application and staff comment for Board review.
6. 8:30 NARA - Enclosed please find materials and comments developed by the Recreation Commission and staff for Board review.
7. 8:45 PLANNING BOARD - The Planning Board will be in to discuss the articles on the 1994 Annual Warrant.

III. SELECTMEN'S BUSINESS

8. WATER DISTRICT WATER BAN - Enclosed please find a copy of the proposed Water Ban Article on the 1994 Annual Water District Warrant for Board discussion.
9. JENK'S FUND APPLICATIONS - Enclosed please find the requests received for allocations from the Jenk's Fund for Board review.
10. 31 CARLISLE ROAD - MARSHALL LAND - Enclosed please find a request from the Mary Marshall Trust and staff comment relative to the Board's Right of First Refusal for review and action.

IV. CONSENT AGENDA

11. MINUTES - Enclosed please find minutes of February 1, 15, 22, 1994 for Board approval.
12. ONE DAY LIQUOR LICENSE - Enclosed please find a request from Chez Claude for a One Day Liquor License for Easter Sunday.
13. ACCEPT GIFT - CIVIL DEFENSE - Enclosed please find a request to accept a donation on behalf of the Civil Defense Agency for Board action.

V. TOWN MANAGER'S REPORT

14. AC CHEVROLET - The Town Manager will seek the Board's direction on enclosed memo.
15. NESWC - Staff will provide a presentation on the budget for this Enterprise Fund, as requested by the Board.

VI. EXECUTIVE SESSION

MEETINGS

- JOINT FIN COM/SCHOOL COMMITTEE MEETING - MARCH 23, 1994
- 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 29 = 1994

Beginning at 8:00 P.M.

829 acs

SELECTMEN'S MEETING
APRIL 4, 1994

The Board of Selectmen held a pre-Town Meeting meeting in the Guidance Library at the Sr. High at 6:30 P.M. on Monday, April 4, 1994. Present were F. Dore' Hunter, Anne Fanton, William Mullin, Nancy Tavernier, Norman Lake, Town Manager Johnson, and Assistant Town Manager Murray. Guest: Anne Forbes

CHAIRMAN'S MINUTE

PUBLIC HEARINGS/APPOINTMENTS

None scheduled due to Town Meeting

SELECTMEN'S BUSINESS

ANNE FANTON moved to approve West Acton Village Plan as addendum to the Acton Master Plan. NANCY TAVERNIER - Second. 4-0 Unanimous vote.

Historic District Article Wording - ANNE FANTON - Moved to recommend to HDC that they take no action. NORM LAKE - Second. They felt that this is last minute decision and would recommend to HDC to take no action. Could have trouble on the floor, could get into more trouble with changes than it is worth. Nancy doesn't think conflict is good reason not to present. Norm is opposed to the article without limit on parking lot. Dore' agrees with Anne, the Board is still debating and should be of one mind when it is presented to the Annual Town Meeting. Anne Forbes is still reacting to Church's letter (Only saw it two hours ago) If Board of Selectmen votes HDC wording she will Move the article, if not, she would not want to move it.

Bill Mullin asked if there were any middle ground? Anne Fanton doesn't think so... but church wants to think about it.

Nancy wants to know if part of the changes could go forward. Dore' doesn't think so, would be difficult motion and muddy the water. Bill felt that "take no action" places us in better position later because we tried to work with them.

Norm was concerned with the impact on a single parking space in a driveway in front of a house.

The Board then discussed several items as listed below:

-To continue to present the Motion under Article 25 "Capital Improvements - Engineering studies" as a bonding motion, in spite of the FinCom's preference for appropriation.

-To present the motion for Minuteman Regional Votech budget based on 3.04% MGF.

-To move \$77K as amount into Municipal Stabilization Fund.

-To move "take no action" on HDC Article.

Staff advised the Board that there was no new information regarding Teacher's Early Retirement incentive since the weekend packet. A conference call has been scheduled for Tuesday with the School staff and Teacher's Retirement Board.

CONSENT CALENDAR

No Items for Consent Calendar

TOWN MANAGER'S CONCERNS

None

The Board adjourned into Town Meeting at 7:30 P.M.

Clerk

Date

DON P. JOHNSON
Recording Secty, Pro Temp.

HDC: This letter went to the church
today -

April 4, 1994

Mr. Gil Carley
Moderator
Acton Congregational Church
12 Concord Road
Acton, MA 01720

Dear Gil,

Your letter of March 31 revives the parking lot issue of several months ago, and urges members to raise their voices, or at least hands, at the forthcoming Town Meeting.

Barbara & I were baffled at the previous episode. The church seemed charmingly innocent of the burdens imposed by community zoning controls. We had been close observers of development & zoning affairs in Rack Bay & Beacon Hill for many years. One precept from that experience applies here: the petitioner rarely has standing to revise the zoning code. The state enabling legislation seems to indicate the HDC's right to review parking lots and septic systems.

The wiser policy is to apprehend the intent of the code, (as well as the concerns of the neighborhood) and to attempt to comply with them. It is hard to have sympathy with protests over the approval process (application, drawings, public hearing); later on, those who have passed the barriers often enjoy the security of knowing the obstacles are a bit higher for the next petitioner. Zoning controls are, of course, protection against disorder.

This church may be enthusiastic about parking now, but it is not likely anyone wants the drive-in ministries which are seen in California & Arizona: church-goers drive up to a post with a speaker, and never leave their cars. I would expect church members to endorse the proposition that parking lots are unattractive, and should be out of view--and as small as possible. It is the mission of the Historic District Commission to include the impact of parking lots in their deliberations. It should be possible for the church to fulfill its mission without acquiring the flexibility of parking cars as it alone may desire.

This may be a moment for members to apply church teachings to themselves: "Render unto Caesar...etc." We urge members to sit out Warrant Article No. 60. Very likely, the HDC will continue to exercise its limited powers in a responsible manner.

Very truly yours,

Hal & Barbara Smith, Church Members

Hallam & Barbara Smith
159 Central Street
Acton, Ma 01720

~~BB Smith~~
CC: BOS - 4/5/94
ANNE FORBES DELIVERED THIS
TO MY OFFICE THIS AFTERNOON. DON

SELECTMEN'S MEETING
APRIL 5, 1994

The Board of Selectmen held a pre-Town Meeting meeting in the Guidance Library at the Sr. High at 6:30 P.M. on Tuesday, April 5, 1994. Present were F. Dore' Hunter, Anne Fanton, William Mullin, Nancy Tavernier, Norman Lake, Wayne Freidrichs Town Manager and Asst. Murray

PUBLIC HEARINGS/APPOINTMENTS

None scheduled due to Town Meeting

SELECTMEN'S BUSINESS

Anne described her plan for presentation of study articles. Nancy described her plan for presentation of ACHC Article. Board discussed Local School Budget contingent Motion and relationship of Minuteman Contingent Monies to Local School needs. Board prefers to take position on Regional School since it is at spending requirement budget. Dore' plans only to point out factual impact of Local Budget. Moved into discussion of override election and whether to take position. Nancy urges Board to take position on override if contingency is passed.

NANCY TAVERNIER - Moved to not recommend Article 63 (Teachers Early Retirement Incentive). NORM LAKE - Second. UNANIMOUS VOTE.

NANCY TAVERNIER - Moved to move Article 60 (HDC Bylaw Amendments) as "motion as written". NORM LAKE - Second. 4-0 (Anne had left to meet with Anne Chang)

The Board discussed the schedule for the next pre-Town Meeting Board Meeting and asked that it be posted for 7:00 P.M. on 4/6/94.

CONSENT CALENDAR

No Items for Consent Calendar

TOWN MANAGER'S CONCERNS

Staff was asked to schedule the Board reorganization for the regularly scheduled April 19th meeting.

The Board adjourned into Town Meeting at 7:30 P.M.

Clerk

Date

DON P. JOHNSON
Recording Secty, Pro Temp.

**SELECTMEN'S MEETING
APRIL 6, 1994**

The Board of Selectmen held a pre-Town Meeting meeting in the Guidance Library at the Sr. High at 7:00 P.M. on Wednesday, April 6, 1994. Present were F. Dore' Hunter, Anne Fanton, William Mullin, Nancy Tavernier, Norman Lake, Town Manager and Asst. Murray

PUBLIC HEARINGS/APPOINTMENTS

None scheduled due to Town Meeting

SELECTMEN'S BUSINESS

The Board discussed a possible "No Position" for the Board of Selectmen with regard to the Town Meeting article on Early Teachers Retirement. It was decided to let the Town Meeting take whatever action it chooses, then the Board will decide before deadline in June. For the moment, the Board's official position remains opposed. Staff was requested to schedule Monday night meeting at 6:30 P.M. and invite the schools in to meet with the Board at that time.

The Town Manager reported that there are several technical aspects of the Civil Service Law regarding Police Chief's that remain unclear. The Town Manager will meet with the Department of Personnel Administration prior to the next session of Town Meeting and report the results to the Board.

CONSENT CALENDAR

No Items for Consent Calendar

TOWN MANAGER'S CONCERNS

The Board adjourned into Town Meeting at 7:30 P.M.

Clerk

Date

DON P. JOHNSON
Recording Secty, Pro Temp.

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

John Murray
Assistant Town Manager

April 14, 1994

Mr. Mark E. Robinson
Secretary of Administration and Finance
The State House
Boston, MA 02133

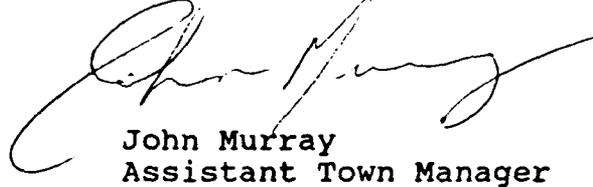
Dear Secretary Robinson,

The Selectmen of the Town of Acton are carefully reviewing the option of electing the "Teacher Early Retirement Incentive" for fiscal year 1995, contained in the Education Reform Act. In reviewing the statute, we became concerned over the segment of the law which states that the Commonwealth and the Town shall share (50%-50%) the cost of the "incentive". In order to fully understand all the implications for the Town, we contacted both the Teacher's Retirement Board and The Budget Bureau. Unfortunately, we are not sure that we fully understand all the implications. Therefore, I respectfully ask that you confirm or deny the following understanding:

If a teacher retires with a highest 3 year average wage rate of \$50,000 per year and is eligible for an 80% retirement benefit, after the incentive is factored in, then the retirement wage would be \$40,000 per year. Therefore, the Commonwealth would contribute approximately \$38,000 per year and the Town would be required to contribute \$2,000 per year for the 5 year incentive period.

We would ask respectfully that your written response be delivered prior to June 1, 1994, due to the fact that the Board of Selectmen must act prior to June 10, 1994 under the terms of the statute. Thank you for your time and consideration in this matter.

Sincerely Yours,



John Murray
Assistant Town Manager

CC: The Acton Board of Selectmen ✓
The Acton Public School Committee
The Acton-Boxborough Regional School Committee
The Acton Finance Committee

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

Don P. Johnson
Town Manager

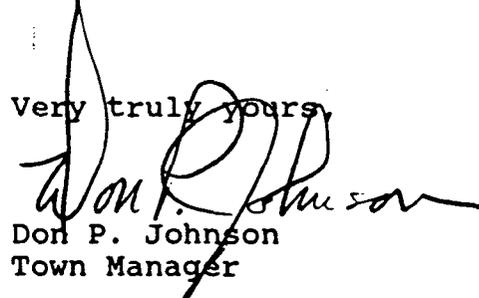
April 14, 1994

Mr. Al Baird, Yard Manager
Rex Lumber Company
840 Main Street
Acton, MA 01720

Dear Mr. Baird:

As you are aware, your consultant recently testified before the Board of Selectmen regarding a development proposal known as North Acton Recreation Area. Given the material available and presented to the public at that hearing, along with the implied depth of your consultant's preparation for the hearing (without debating the merits of all of his comments), I assume that you have received answers to the questions you asked in your letter of September 3, 1993 (copy attached).

Very truly yours,


Don P. Johnson
Town Manager

cc: Board of Selectmen
Bruce Stamski

September 3, 1993

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

Dear Mr. Johnson:

It is my understanding that the Army Corp of Engineers has approved the plans for the Recreation Area Project. Being an abutter who will be affected by this project, I have several concerns regarding the design:

- a) Is a berm still included in the design? This might have a negative effect on air flow in our air drying field.
- b) Are security fences included in the design plan?
- c) Has the access road been relocated as discussed in a preliminary meeting with Bruce Stamski in March, 1993?

I would like an opportunity to discuss these and other concerns with you and Bruce Stamski at your earliest convenience. I look forward to your prompt response.

Very truly yours,

Al Baird
Yard Manager
Rex Lumber Company

AB/lc

The Return of the Village

Cohousing offers a chance to counteract the infamous isolation of suburbia.

by Lois Josimovich

Members plan to share resources as much as possible—meal preparation, child care, carpooling, and household tools.

"We all won't have to go out and buy mowers," said Steve Hecht, a chiropractor with an office in Brookline.

There will be a common house, with common dinners, music, theater, and community get-togethers.

"I'm looking forward to this," said Hecht's wife, Dori Smith, a technical editor for Digital, "all the activities right here without having to drive all over the place."

The group is trying to be as inclusive as possible—young children, senior citizens, several single mothers, and four single women over age fifty-five. There will be a great sense of extended family.

"I think the multigenerational part of this is important," said Smith.

The idea is to create a diverse community.

"What we're intending to do is build a neighborhood for ourselves; we're looking for a real social security," said Hecht, "not just a check from the government. Besides, I never wanted to move out to suburbia."

When goals began forming for the first cohousing development in the Boston area several years ago, ecologically sound practices and natural beauty were two of the six points labeled "absolutely essential" by members of the planning group.

Sustainability has been a priority in cohousing since this new form of community developed in Denmark twenty years ago. Now the concept has taken hold in sites throughout Europe and much of North America. About 150 cohousing groups exist across the United States, and at least five Massachusetts cohousing projects are in various stages of development, including a Pioneer Valley group, which broke ground last fall at a site in North Amherst. The Boston-area group, known as the New View Neighborhood Development, will begin building in Acton this summer if no hitches develop in the permitting process.

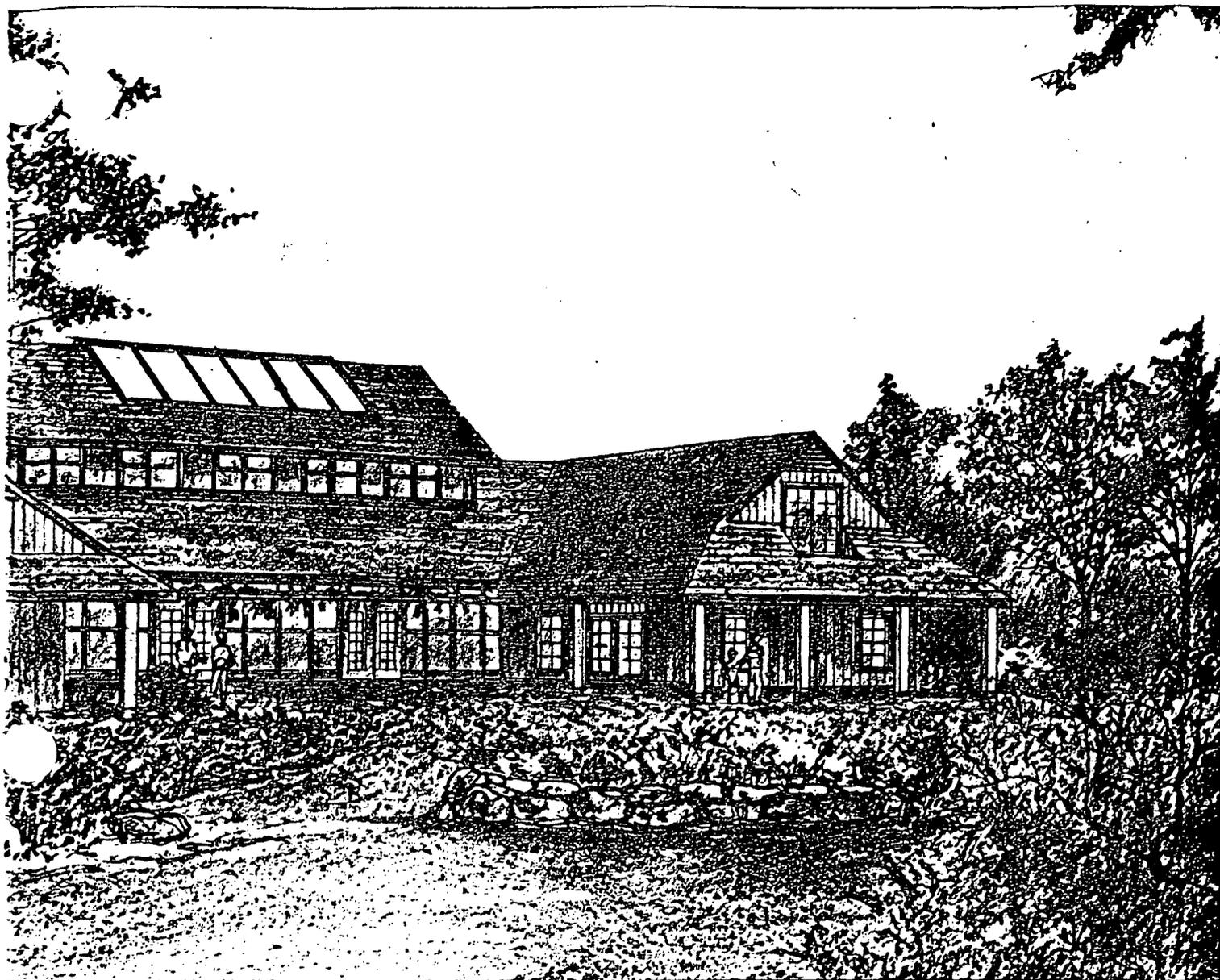
"So far we've had nothing but cooperation from the Acton government," said New View member Hécht, who has been heavily involved in the planning process.

Cohousing is a community commonly containing a



cluster of one to three dozen private homes, a large area of open green space, and a common house with shared facilities. The common house has a kitchen and dining area for shared meals and generally also features a variety of meeting and activity rooms for both adults and children in the community. The concept combines aspects of the commune, the condominium complex, and the country village. Residents can join in group meals and activities as often as they want without sacrificing the privacy of their own homes. They plan and manage the community themselves and have control over its philosophy and future, but there is no prevailing religion or ideology.

"I really like the village feel of it," said Yvonne Bauer, a mother of two who lives in Reading and was one of the founding group members. Bauer said she began exploring cohousing in the late 1980s "to



have more of a sense of community in my life, a place where I fit in, a place where I feel comfortable with my neighbors.”

Key concepts for the Acton cohousing group mirror those in other groups—a less burdensome lifestyle, affordability, diversity of people, and conservation of natural resources.

Members must participate in the consensus decision-making process. During the planning phase, members have been attending frequent meetings of ten different committees. “Each household has to be represented on a committee,” Hecht explained.

The group has bylaws and will encourage all members to be community-minded, but rules will be kept to a minimum, according to Hecht and Smith.

The idea of sustainability has been included in every

aspect of the development—public transportation access (residents can carpool or walk to the commuter rail), energy-crafted homes, which use about half the energy of standard new housing, composting toilets in some units, and solar-assisted energy production in the common house.

“It’s an alternative to a way of life that’s very consuming of resources,” said Dori Smith, a member of its design committee.

“We’re hoping that the common house will be a model in terms of energy efficiency,” Hecht added.

Recycling, low-toxicity building materials, “healthy-home” design, multipurpose landscaping, and a plan for water conservation are all incorporated into the plans as well.

The Northeast CoHousing Quarterly, a nonprofit newsletter based in Amherst, devoted its entire winter

1992 issue to the topic of sustainability and provided numerous resources for cohousing groups like New View.

The New View development ultimately will consist of twenty-five to twenty-nine homes and a 6,700-square-foot common building.

Vehicle access is limited to a single drive to scattered pocket parking lots. The houses are connected by a footpath and a pedestrian lane, and there are plans for community gardens, play areas, and preserved meadows. The site lies on about twenty-two acres of land off Central Street in Acton, bounded on the west by conserva-



tion land and on the southeast by a stream. A nearby farm and year-round market known as Idylwilde and stores in South Acton will satisfy many of the community's buying needs.

Because it preserves open space throughout the site, the development fits into Acton's Planned Conservation Residential Community zoning. The cohousing group owns part of the site already and had a purchase and sale agreement on the rest at press time. The group planned to close on the property when it received a building permit, according to Hecht, who like his wife has dedicated much of the past four years to the project.

The Acton group had a stroke of luck in that the town planner, Roland Bartl, hails from a small village in Germany, which allowed him to see the rationale behind cohousing. "He understood the idea immediately," said Hecht. Smith said that Bartl has helped the planning group with some of the difficult technical aspects of the development, of which there are many from soil percolation for the septic system to converting the existing \$500,000 house on the property into four units.

"It's been such a roller-coaster ride," said Bauer. Allowing ten months to a year for building once construction and septic system permits are granted, the whole cohousing development process will have taken nearly six years by the time it is completed in Acton. The process can vary quite a bit in other parts of the country, depending on environmental conditions, finances, local acceptance of the cohousing concept, and other factors.

Hecht and Smith said that the group's architectural firm, Amacher Quinn, with Peter Quinn, project architect, and their landscape architect, Elena Saporta,

both located in Cambridge, have been "outstanding" in their work with the New View project and fully support the cohousing group's goal of sustainability.

The New View plan was hatched in 1989 when a group of five Boston-area households, including

Bauer's, got together to discuss the cohousing concept. They had read about it in a 1988 book called *CoHousing: A New Approach to Housing Ourselves*. The book, which was largely responsible for popularizing cohousing in the United States, was authored by the California-based husband-and-wife design team of Kathryn McCamant and Charles Durrett,

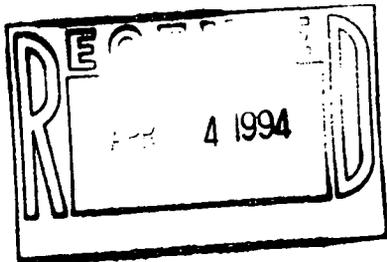
who had studied the new communities springing up in Europe.

The New View group wrote a charter and then began inviting more people to join the prospective community in 1990. "We spent the next year basically researching what we wanted to do and where we wanted to be," said Hecht. Group members were looking for a good-sized piece of land no more than forty-five minutes from Boston, with access to green space, a good school system, and appropriate zoning. They settled on an Acton site in 1991 and worked with the developer for eight months, only to have the plans fall through when the developer's goals diverged from those of the group. The second, current site was chosen in 1992, and the project proceeded.

The past year has been devoted to designing the site, the homes, and the common house. The overall style of the buildings will be simple, rustic, and natural, according to Smith. To conserve space and energy, Hecht added, the houses will be smaller than typical American homes but larger than some of the European models, with from one to four bedrooms. House prices will probably range from around \$120,000 for the one-bedrooms to \$260,000 for the four-bedrooms.

Twenty-six households had already signed up by early December 1993 as New View members, drawn mostly by word of mouth and through advertising in local newspapers and food co-op publications. A network of cohousing umbrella groups with newsletters also exists throughout the country and helped put the word out. New View even has a sizeable waiting list that helps fill vacancies when members drop out because of changing circumstances. ▲

Lois Josimovich is a free-lance writer who lives in Cambridge.



Don
your
copy

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

Don P. Johnson
Town Manager

March 28, 1994

cc: BOS - FYI

Mr. Peter J. Donohue
District Highway Director
Massachusetts Highway Department - District 3
403 Belmont Street
Worcester, MA 01613-0885

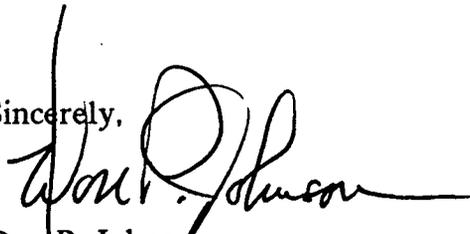
REGARDING: FY 95-97 TIP, Proposed Acton Projects

Dear Peter:

I am writing to ask you for your support for several new projects Acton has requested for inclusion in the upcoming FY 95-97 Transportation Improvement Program (TIP). The list of these projects was submitted to the Metropolitan Area Planning Council (MAPC) on March 8 and March 17, 1994. I enclose this list with a short project description and a locus map for your reference.

These projects are selected from the many needed repairs and improvements we have identified over the years. Acton has either already funded their design or is committed to do so within the FY 95-97 TIP time frame.

I understand that MAPC will produce a draft TIP by May. I would therefore appreciate your prompt attention to this matter. Please contact Engineering Administrator David Abbt if you any questions or would like to arrange for a site visit. His telephone number is (508) 264-9628.

Sincerely,

Don P. Johnson
Town Manager

[RHBLET.94*7]

ACTON - Proposed FY95-97 TIP Projects

BRIDGES

1. Wetherbee Street Bridge Replacement
Bridge replacement for Wetherbee Street crossing Nashoba Brook, East Acton. The bridge is in poor condition and has grossly inadequate load capacity (3 ton weight limit). Wetherbee Street links Route 2A with Route 2. The bridge design is 70% complete. Vanasse Hangen Brustlin (VHB) provides engineering design services. Estimated total project cost is \$360,000.00. To date, the Town has spent \$42,263.49 for design services.
2. Stow Street Bridge Replacement
Bridge replacement for Stow Street crossing Fort Pond Brook, South Acton. The bridge is in poor condition and has inadequate load capacity (6 ton weight limit). Acton has completed temporary deck repairs in 1989 at a cost of \$5,000.00. Estimated cost for bridge replacement is \$250,000.00. Stow Street is the main connector between South Acton and the Town of Stow.

ROADWAYS

8. Route 62 / High Street Signal
This project would fund the installation of signal equipment at this intersection. With the assistance of private funding, design has been completed by VHB. Construction work in the roadway has been completed by the Town of Acton. Only the signal equipment, signs and pavement markings are still missing due to lack of available funds. The cost of the signal equipment, signs and markers is estimated at \$48,000.00.

ENHANCEMENT PROJECTS

11. School Street/Lawsbrook Road Sidewalk
From Piper Road to Concord town line. 4000± feet of continuous sidewalk on School Street from Piper Road to Sandy Drive, plus additional 3000± feet of sidewalk segments to link existing segments along School Street and Lawsbrook Road to the existing sidewalk in Concord leading to West Concord Center. (See also application for ISTEPA funding dated Feb. 16, 1994, attached). School Street and Lawsbrook Road are old narrow town ways with traffic volumes nearing 5000 vehicles per day. The total estimated cost for this sidewalk is \$210,000.00 based on a per foot cost of \$30.00.
15. Route 27 Sidewalk
From Post Office Square north to Carlisle town line (±18000 feet), and in South Acton from end of existing sidewalk to connect with existing sidewalk in Maynard (±3000 feet). Route 27 is an arterial street with traffic volume ranging from about 8000 to nearly 20000 vehicles per day depending on the location. It is relatively narrow and winding and without sidewalks unsuitable for pedestrian and bicycle use. Very small segments of sidewalks exist within the identified

portions of Route 27. Also, Acton has received some commitments for private contribution for short additional segments. The total estimated cost for this sidewalk is \$630,000.00 based on a per foot cost of \$30.00.

16. **Route 2A Sidewalks**

From the Concord town line to the Littleton town line (+21000 feet). Route 2A is an arterial street with traffic volume around 20000 vehicles per day. There are many business and multifamily residences along this road. Due to the high traffic volume it is unsuitable for pedestrian and bicycle use without sidewalks. Small segments of sidewalks exist within the identified portions of Route 2A. Also, the town has received some commitments for private contribution for short additional segments. The total estimated cost for this sidewalk is \$630,000.00 based on a per foot cost of \$30.00.

17. **General Sidewalk Improvements**

In addition to the specific sidewalks identified in 11. through 16. above, there is a need to construct sidewalks along several smaller roadway segments throughout Acton, approximately 20,000 feet, particularly near School facilities. The total estimated cost for these sidewalks is \$600,000.00 based on a per foot cost of \$30.00.

18. **Bicycle Racks and Bicycle Lockers at South Acton Train Station**

This would fund bike racks and lockers similar to those funded at the Concord Center station in 1993. Estimated cost \$30,000.00 (+40 lockers plus regular racks).

20. **Bike Way on Inactive MBTA Maynard Spur**

From the Route 27 bridge in South Acton, crossing Mill Pond to the Maynard town line (1 mile). Possibilities for continuation into downtown Maynard would need to be further investigated. Estimated cost \$250,000.

22. **Acton Center Sidewalk Reconstruction and Underground Utilities**

Acton Center is a National Register Historic District, and a local historic district. This project, using enhancement funding, would complete sidewalk reconstruction efforts and bury unsightly utility lines in the historic Acton Center, between Newtown Road and and Nagog Hill Road (±1200 feet). Estimated Cost is \$350,000.

rlet.94*7

cc: BOS



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

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

April 5, 1994

Acton Board of Selectmen
472 Main Street
Acton, MA 01720

Dear Chairman Hunter and Board Members:

I would like to take this opportunity to update you relative to the resolution pertaining to local aid for cities and towns.

I am happy to report that the Senate undertook and endorsed the local aid resolution which will aid cities and towns by providing you with the information you need to submit realistic budgets.

The resolution aid package approved by the Senate increases local aid by \$229 million. Of that amount, \$189 million is Chapter 70 school aid and \$40 million is additional unrestricted lottery aid for fiscal year 1995. All other local aid accounts reflect the figures approved by the Governor and House of Representatives.

Furthermore, a supplemental budget, also approved by the Senate, appropriates \$15 million for cities and towns to help reduce the debt incurred due to snow removal costs.

As a member of the Senate Ways and Means Committee, I advocated for a timely local aid resolution and I am hopeful it will be of assistance as you plan your budgets for the coming fiscal year.

I hope this information has been helpful and if there are any additional questions or comments, please do not hesitate to contact me.

Very truly yours,

ROBERT A. DURAND
STATE SENATOR

Municipality	Local and Regional Public Schools Receiving Chapter 70	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution	Lottery Distribution Increase *
ABINGTON	Abington	4,142,862			
	South Shore	314,690			
	TOTALS	4,457,552		933,624	152,297
ACTON	Acton	826,586			
	Acton Borborough	1,531,781			
	Minuteman	210,886			
	TOTALS	2,569,253	37,368	604,239	121,419
ACUSHNET	Acushnet	2,640,203			
	Old Colony	588,451			
	Bristol County	8,338			
	TOTALS	3,236,992	30,043	725,930	111,812
ADAMS	Adams				
	Adams Cheshire	4,577,206			
	Northern Berkshire	464,670			
	TOTALS	5,041,876	44,096	1,027,029	135,604
AGAWAM	Agawam	6,481,768			
	TOTALS	6,481,768		1,697,549	288,898
ALFORD	Alford				
	Southern Berkshire	81,268			
	TOTALS	81,268		8,038	1,042
AMESBURY	Amesbury	5,377,531			
	Whittier	283,465			
	Essex County	79,769			
	TOTALS	5,740,765		934,509	142,529
AMHERST	Amherst	3,363,921			
	Amherst Pelham	3,997,267			
		7,361,188	280,503	3,453,217	648,595
ANDOVER	Andover	2,064,206			
	Greater Lawrence	126,302			
	Essex County	61,233			
	TOTALS	2,251,741		695,537	157,246
ARLINGTON	Arlington	2,962,323			
	Minuteman	773,778			
	TOTALS	3,736,101	5,652,310	2,066,731	383,114
ASHBURNHAM	Ashburnham	17,399			
	Ashburnham Westminster	2,636,736			
	Montachusett	115,263			
	TOTALS	2,769,398		243,314	57,546
ASHBY	Ashby				
	North Middlesex	1,397,953			
	Montachusett	123,579			
	TOTALS	1,521,531		159,768	30,802
ASHFIELD	Ashfield	225			
	Ashfield Plainfield				
	Mohawk Trail	691,950			
	TOTALS	692,175		67,485	13,943
ASHLAND	Ashland	787,806			
	South Middlesex	131,264			
	TOTALS	919,070	366,937	360,290	92,311
ATHOL	Athol				
	Athol Royalston	8,666,244			
	Montachusett	314,361			
	TOTALS	8,980,605	5,507	852,782	191,954

* Note: The Lottery Distribution Increase includes \$20 million formerly referred to in the FY94 Budget as a one-time payment of municipal stabilization local aid.

SNOW

mittees on ways and means with a list each month of the facilities which received a settlement payment in the prior month and the final amount of the settlement received by each facility \$71,000,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6030-7203 For payments to hired equipment vendors used in the removal of snow and ice on state highways; provided, that no funds appropriated herein shall be expended for the compensation of state personnel, or for the costs of sand, salt, or any other control chemicals or for any other costs which are not directly related to payment of hired equipment vendors; provided further, that the department of highways shall make all payments owed to hired equipment vendors within thirty days of the effective date of this act \$37,574,171
Highway Fund..... 100%

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the funds appropriated in item 0611-5502 of section two A of this act shall be distributed according to the schedule listed below:

Municipality/Town	Distribution
Abington	\$38,408
<u>Acton</u>	<u>\$30,561</u>
Acushnet	\$28,358
Adams	\$33,734
Agawam	\$72,598
Alford	\$260
Amesbury	\$35,743
Amherst	\$161,688
Andover	\$39,902
Arlington	\$95,715
Ashburnham	\$14,577
Ashby	\$7,833
Ashfield	\$3,479

Town of Acton

472 Main Street Acton, Massachusetts 01720

CC: BOS - 4/15
I AM AWARE OF SOME INTEREST
IN THIS PROJECT BY MEMBERS OF THE BOARD.
YOU MAY FIND THIS
REPORT OF INTEREST.

Planning Department

(508) 264-9636

APR 15 1994

INTERDEPARTMENTAL COMMUNICATION

TO: Planning Board DATE: April 12, 1994
FROM: Roland Bartl, AICP, Town Planner R.B.
SUBJECT: New View PCRC - Plan Review

Applicant: New View Neighborhood Development Corporation (New View)
Application Date: February 17, 1994
Project Manager: Stockard & Engler & Brigham (Robert Engler)
Location: 344 Central Street & 3 Gregory Lane (north and west slopes of Mead Hill)
Map & Parcel: E2-239 and F2A-11-1
Number of Units: 25 (10 single detached, 6 duplex, 1 triplex)
Land Area: 18.7 acres
Common Land: 12.5 acres (67%)
Road Length: 950 feet
Zoning: R 8/4, Minor Aff. Housing Dist., GPD Zones 2, 3 & 4.

Public Hearing: April 25, 1994
Decision Date: June 27, 1994 (due 7/21/94)

Staff comments and various correspondences are attached for your review. Some of them are rather significant. All should be addressed by New View during the hearing or better with a revised plan and appropriate responses by the design team.

Overall, this is a very exciting project that uses architecture and site layout designed for people's joy and comfort. It looks beyond the house as living unit and seeks to design the entire development as an integrated space for living, working and playing. Frankly, I wish more developments of this type would cross my desk. However, no matter how well thought out, every development has its problems, so does this. Following are my observations, comments, and highlights of issues that must still be resolved:

1. Proposed Street is Private: The application is for a PCRC special permit. No application has been filed for a subdivision approval which is the prerequisite for a new public way. The application form states in part 5.g) that the proposed street will be private. This is acceptable as long as New View agrees to a future connection (street or way as indicated on plan) to any possible future development on the adjacent Mead land.
2. Condominium: The application follows a now familiar scheme: Condominium

with exclusive use areas and common septic. Note that the plan attempts to separate out three types of land allocations:

- * Exclusive use areas for the residential buildings;
- * Common Land as required under PCRC zoning for conservation, recreation and horticultural uses;
- * Condominium land for the roads, common house, parking areas, etc.

3. **Insufficient Land Area to Support Number of Proposed Units:** New View must resolve a major zoning problem before the public hearing can be closed:

Lot 3 of Gregory Lane is proposed as part of the overall PCRC development area. Lot 3 is also a building lot in the Gregory Lane OSD approved by the Board a few years ago. It was never built upon. See attached correspondence by Matthew Kiefer of Peabody & Brown. Initially I thought that using lot 3 for density and common land calculations for the New View PCRC, while keeping it in the Gregory Lane OSD to meet minimum tract requirements (8 acres) would not be in conflict with zoning, and I had advised New View accordingly.

However, the Building Commissioner in his March 11, 1994 review ruled that the land of Gregory Lane lot 3 cannot be applied in this way. It appears that only the part of lot 3 which yields excess tract of land area for the Gregory Lane OSD can be counted towards the New View PCRC (Building Commissioner 3/29/93). Also, New View seeks extra credit from its co-ownership of the Gregory Lane Common land. New View had been advised all along that this would not be permissible. Town Counsel (March 8 and March 10, 1994) confirmed the Building Commissioner's Ruling.

This will reduce the tract of land area for New View, the number of permitted units, possibly the number of proposed affordable housing units and very likely other aspects of the development proposal. New View must revise its plans to show the Planning Board how it will adjust to Acton's zoning realities.

4. **Location of Leaching Reserve Area:** The Health Director in his 3/25/94 report questions the viability of the proposed reserve leaching areas on lot 3 since lot 3 cannot be included as part of the PCRC. This should not be a problem from a zoning or health perspective since New View could own lot 3 simply as excess land. The Health Director agrees.

5. **Setbacks and Distances:** Section 9.6.2.2 of the Zoning Bylaw sets forth certain dimensional standards. On plan sheet CE1.1, New View requests a number of exceptions and indicates them on the plan. These requested exception are to allow less than 30 feet between some residential buildings and the common land boundary. With one or two exceptions, all such lesser distances are towards the interior common land areas, the five "neighborhood commons". This arrangement appears appropriate. The "neighborhood commons" will probably result in a rather pleasant and desirable neighborhood design, even though it causes the common land to be rather fragmented. I also note that non-residential buildings on the condominium land (common house, garages, etc.) have little or no setbacks to the common land.

To prevent future encroachments towards the common land, or at least to define the limits for future additions and expansions, I suggest that the record plans show building envelopes for each exclusive use area and for the buildings and structures on the condominium land. No building or structure should then extend beyond the limits of these envelopes, including any bulkheads, chimneys, decks, porches, garages (attached or detached), or sheds. These building envelopes should essentially comply with the standards for residential buildings, except as noted now otherwise on the plan, and as approved otherwise by the Board before plan approval. But once they are established they should be final.

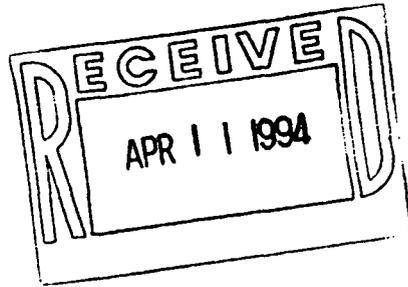
6. **Documents regarding Common Land Ownership and Maintenance:** We don't enjoy reading condo deeds and bylaws, but I think we need to review recordable documents before final approval of the project. For the purpose of the application, New View has provided sufficient information to indicate their intent which seems consistent with the Bylaw.
7. **Traffic Impact Mitigation:** I agree with report in New View's application concerning the vehicular traffic impact. The 4% volume increase does not warrant any roadway or intersection work nearby. But I think it appropriate to ask New View to build a sidewalk from their development into the West Acton Center and to Idlewylde. I will meet before the hearing with the Highway Superintendent, and the Engineering and Conservation Administrators to evaluate the stretch of roadway in question.
8. **Performance Guarantee:** I recommend that the Board require a performance guarantee to secure construction of the proposed street and driveway loop, the common drives, utilities and emergency access way, the grading, loaming, seeding and landscaping associated with those facilities, and the entire erosion and sedimentation control measures.
9. **Affordable Housing:** I did not review New View's specific proposal as it is likely to change due to the adjustments necessary to meet zoning requirements.
10. **Miscellaneous Items:**
 - The "future workshop" and dumpster should be shown as included in parcel 2B, so as to be consistent with the land use description on plan sheet MP1.1.
 - The zoning information on the record plan is incomplete (see PCRC Rule 3.14.3.4), only Groundwater Protection and Flood Plain Districts are shown.
 - This is not a subdivision. The planning board signature block is not quite appropriate on the record plan sheets. Rather it should be a signature block normally used for ANR plan with a dated reference of the PCRC zoning special permit (see Rules 3.14.3.8 & 3.14.3.9). The signature block on the other sheets should also make the reference to the Planning Board's decision document.
 - The references to covenants and other restrictions must be added to the record plan (see Rule 3.14.3.10). At least for lot 3 Gregory Lane such covenants do exist.
 - The existing conditions plan remains unclear as to the final disposition of the existing features (see Rule 3.14.4.2).
 - The site development plan is lacking many details and notes necessary for proper construction (mostly radii and dimensions). I also suggest to draw the site development plan sheets at a larger scale, perhaps 1"=20' to make room for the necessary notes and details.
 - The site development plan lacks information regarding water mains, fire hydrants, fire alarms and alarm conduits, sewer lines and other proposed utility lines (see Rules 3.14.5.22-24 and 3.14.5.26).
 - The planting plan sheet LA3 lacks a north point.
 - I suggest that the plan should be reviewed and revised as necessary to remove any evergreens from the south side of streets, driveways, parking areas and houses. The winter sun can be better utilized this way.
11. The Fire Chief has not commented in writing at this time. He indicated verbally that an emergency access from Mass. Ave. via Gregory Lane, and sprinkler systems should be installed.

xc: Don P. Johnson ✓
David Abbt

rspp94*6

GRACE

April 8, 1994



Grace Environmental, Inc.

W.R. Grace & Co.
100 North Main Street
Memphis, Tenn. 38103

TEL: (901) 522-2000

Fax: (901) 522-2350
(901) 522-2144

cc: BOS

To: Distribution (see attached)

Attached, for your information, is an advance copy of an upcoming Grace news release on its plant site in Acton, MA. The release will be given to The Beacon, the Middlesex News, and the Lowell Sun for publication under a dateline of April 14.

Yours very truly,

A. D. Laehder
Remediation Management Department

ems

Attach.

DISTRIBUTION

Ms. Lynne Jennings (EPA) (4)

Mr. Edmond Benoit (MADEP) (3)
Mr. Charles Tuttle (MADEP) (2)

Mr. Donald Johnson (Town of Acton)
Mr. Doug Halley (Town of Acton) (3)
Mr. Michael Moore (Town of Concord)

Mr. Robert Eisengrein (ACES)
Mr. Howard Fox (Sierra Club)

Mr. Steven Anderson, Esq. (Anderson & Kreiger)
Mr. William Cheeseman, Esq. (Foley, Hoag & Eliot)

Mr. Bruce Conklin (CDM)
Mr. John DeStefano (GZA)
Mr. Charles Myette (Wehran EnviroTech)
Mr. William Pencola (Ensearch) (2)
Mr. Thomas Stoneman (Canonie)
Mr. Robert Sullivan (GZA)
Mr. John Swallow (Pine & Swallow)
Mr. William Swanson (CDM)

Mr. Louis Ingram (Grace - Memphis)
Ms. Maryellen Johns (Grace - Lexington)
Mr. Mark Stoler, Esq. (Grace - Boca Raton)

4/8/94

GRACE NEWS

Corporate Communications Division

W. R. Grace & Co.
One Town Center Road
Boca Raton, FL 33486-1010

CONTACT: Chuck Suits, 407-362-2600 or
800-GRACE99

GRACE REITERATES COMMITMENT TO ACTON CLEANUP' PREPARATIONS FOR REMEDIAL WORK UNDERWAY

ACTON, Mass., April 14, 1994--W. R. Grace & Co. (NYSE: GRA) today reiterated its commitment to work with the local community and state and federal regulators, to assure a complete cleanup of its Acton site. Steps are presently being taken to prepare the site for cleanup.

"Our goal is a safe, thorough, and timely cleanup program, undertaken in a spirit of cooperation with the Town of Acton and its citizens, the U.S. Environmental Protection Agency, and the Massachusetts Department of Environmental Protection," said Louis E. Ingram, head of the Grace Remediation Management Department.

"We are working closely with state and federal authorities to make sure that our final site work plan provides for a cleanup that protects the public and the environment. We are prepared to dedicate the resources necessary to accomplish this objective," he continued.

Grace is currently undertaking a number of preconstruction activities in preparation for site cleanup with EPA oversight. These include establishing an onsite

(more)

office with a full-time manager, Thomas L. Stoneman, to direct the effort and answer community questions.

Mr. Stoneman can be reached by telephone at (508) 897-7121.

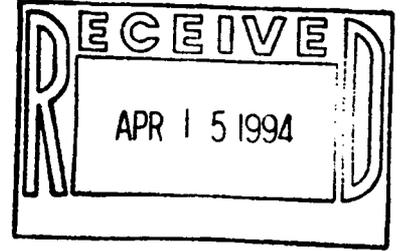
"In the next several weeks, residents can expect to see fencing installed around the work site in preparation for final cleanup activities," said Tom Stoneman. "We will also be installing utilities and bringing crushed stone in by truck to prepare roadways and work areas for soil remediation."

"Actual soil cleanup will not be started until final work plans are approved by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection. As remedial work gets underway, a public meeting will be held in order to keep local residents and officials informed. Every member of our team is personally committed to doing the best job possible."

Grace is the world's largest specialty chemicals company with a leadership position in specialized health care.

###

cc: BOS



BOARD OF ASSESSORS

MINUTES

APRIL 6, 1994

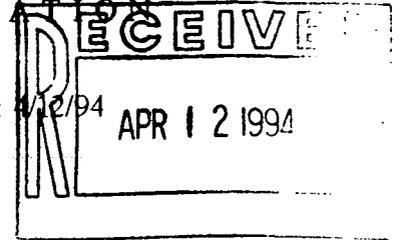
1. The Board reviewed several ATB cases including John Folsom and Marvin Pope - they decided to abate no further.
2. The Board agreed to abate Acton Tech Center down to \$4,260,000 for FY 92 and \$3,900,000 for FY 93.
3. The Board agreed to abate property at 68 Taylor Road - building lot not buildable parcel (parcel F3-110).
4. The Board signed the tax defferal for Irene Young.
5. The monthly list of exemptions were signed.
6. The 93-94 monthly list of abatements were signed.
7. The 92-93-94 monthly lists of motor vehicle abatements were signed.
8. The following exemptions were signed for Tolley (17D), Ray (17D & 41C) and Dolan (17D).
9. North Star Realty Trust received an abatement on their condominium.
10. The Board agreed to abate property at 30 Nagog Hill Road-Rear - unbuildable.
11. The following personal property accounts were abated in part - Worldspan, Finkel Keats and Federal Leasing.

Attendance: James Kotanchik
Donald Rhude
Brian McMullen

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION

TO: Don P. Johnson, Town Manager
FROM: Donna Jacobs *D. Jacobs*
SUBJECT: 1994 Transportation Bond Bill
Chapter 90 Monies

DATE: 4/12/94 APR 12 1994



Just a note to advise you of some information which I received at an MAPC meeting this morning. Because Ways & Means didn't act on the Transportation Bond Bill before receipt of the Governor's budget, action has been postponed until after the Governor's budget is addressed. A member of the Ways & Means Committee is working to get the Chapter 90 monies acted upon separately to enable early distribution of funds to the communities.

MAPC suggests that Selectmen & Town Managers contact their legislators to lobby in favor of this attempt to separate the Chapter 90 monies and/or to contact the Ways & Means Committee directly.

P.S. The Chapter 90 portion of the Bond Bill is \$272.6 Million (up 51.44% from the \$180 Million last year).

4/13
JOHN -
PLS. FOLLOW-UP.
Wan
cc: BOS

Town of Concord

53-139

113

139

Massachusetts

CHECK NO. 046614

DATE

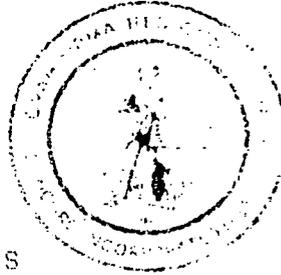
CONTROL NO.

31-MAR-94

5922

CENTURY BANK & TRUST CO.
SOMERVILLE, MA 02145

PAY TO THE ORDER OF:



TOWN OF ACTION
PO BOX 2212
BOARD OF ASSESSORS
ACTION, MA 01720

AMOUNT
*****909.01

VOID AFTER 90 DAYS

⑈046614⑈ ⑆011301390⑆ ⑈00 04090 8⑈

T. Lyall
TREASURER

4-12-94
Don -
Foragor information -
paper in form of tapes
from Concord.
Tess

BOS -
FOLLOW-UP TO
TOWN MTG. QUESTION
IN THIS REGARD. FYI
Tom

PO NO.	INVOICE NO.	TOWN OF CONCORD DEPT.	INVOICE AMOUNT
	93	PROPERTY TAX WATER OPER	\$441.81
	94	PROPERTY TAX	\$467.20

Town of Concord

046614

WARRANT NO 139
CHECK NO 5922
VOUCHER NO 5922
DATE 31-MAR-94

CHECK TOTAL \$909.01
PAID TO:
TOWN OF ACTION

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: April 14, 1994

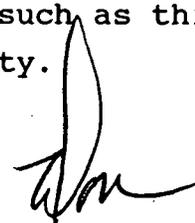
TO: Board of Selectmen
FROM: Don P. Johnson, Town Manager
SUBJECT: Staff "Awareness" Training

With Town Meeting finally over, we are trying to catch up on various items that were secondary to Town Meeting preparations over the past weeks. One such item is this brief advisory to the Board concerning an important training session held for our Department Heads in March.

On March 9, members of the Commission on Disability conducted a 2 hour program following our regular Wednesday morning Staff Meeting. All Department Heads attended and I was quite pleased with their interest and response to the session.

The Commission on Disability provides these types of programs for organizations throughout the community and I highly recommend them as an enlightening way to increase one's awareness of the challenges that face all of us ... not just those identified as "challenged". We often find it difficult to fit programs of this nature into our schedules but, I must say, this was well worth the time.

We will continue to look for opportunities such as this to broaden our experience, awareness and sensitivity.

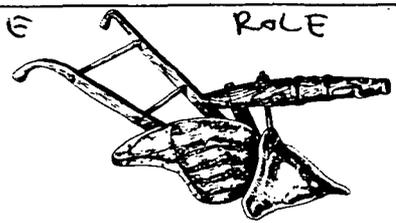


cc: Commission on Disability

THESE NEWSLETTERS ARE INTERESTING AND A WASTE OF TAXPAYER MONEY. ACTON HAS NO BUSINESS OFFERING ADDITIONAL, EXPENSIVE SERVICES THAT ITS RESIDENTS DO NOT WANT, OR TOWN OF ACTON WISH TO PAY FOR.

THIS IS NOT THE ROLE OF LOCAL GOVERNMENT

MUNICIPAL



QUARTERLY

VOLUME 2 NUMBER 2

April 1994

ACTON, MASSACHUSETTS

CC: BOS - FYI
REC'D UNSIGNED.

In Acton's Finance Office, Accountability is not Synonymous with Accounting:

Acton's citizens rightfully demand the highest level of services and productivity from government officials. At all levels we are engaging in programs to "reinvent government". We are facing up to the challenges of increasing demand for existing services, demands for new services, and diminishing resources in inflation adjusted dollars. (Please see the Proposition 2 1/2 insert written by Moody's Investment Services.) Streamlining operations, contracting out services, creative financing and the overall improvement of municipal services are in the forefront of our efforts today.

An important focus of the Finance Department is measuring productivity and performance which plays a critical role in helping the Board of Selectmen improve the quality of municipal services. (Educational services are managed by the School Committees.) These measurements provide the factual basis needed by your public officials to make sound funding decisions and they allow the Town Manager to assess the economy, and to determine the efficiency and effectiveness of programs. Therefore, ensuring that public funds are spent in accordance with law and regulation is only the first step that the Town's financial managers pursue toward meeting their responsibility for accountability. The Town's financial team also serves the public by ensuring that programs and activities meet their assigned objectives and are operated economically and efficiently.

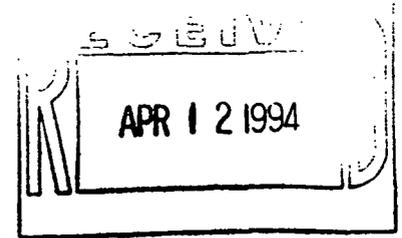
VERNAL POOLS

This spring the Acton Conservation Commission and staff will be visiting a number of the town's vernal pools. The purpose of these visits will be to improve our understanding of the amphibians who use these seasonal ponding areas as breeding habitats.

Vernal pools are isolated woodland ponding areas formed as a result of seasonally high groundwater and snow melt. They generally exist for only a few months during spring and early summer, and have no defined inlet or outlet. The absence of a stream entering or exiting the vernal pool prevents predators, such as fish, from entering the ponding area. The fact that the pools dry up in the summer also eliminates any possibility of a mature fish populations developing. These unique characteristics make vernal pools an ideal environment for larval amphibians.

Several species of quite rare salamanders, commonly known as mole salamanders, breed in Acton's vernal pools. Because mole salamanders spend almost their entire lives hidden beneath the forest leaf litter, the study of these rare and secretive animals is difficult. In late March or early April, they emerge from the dense forest floor to spend a very brief period above ground to breed in our vernal pools. The protection of Acton's remaining vernal pool ecosystems is crucial to ensure the continued existence of these rare amphibians. One of the Conservation Commission's objectives is to study and identify the inhabitants of these unique spring pools. If you have any questions, please call the Conservation Department at 264-9631.

EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT



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

April 8, 1994

cc: BOS

Chairperson
Board of Selectmen
Town Hall
472 Main Street
Acton, MA 01720

Dear Chairperson:

It gives me great pleasure to provide you with a copy of the Community Profile for the town of Acton. The profiles were a major project for the Executive Office of Communities & Development and required almost a year of planning and data collection. I would like to extend my thanks to all of you who helped us in this monumental task by providing information, reviewing the profiles and making suggestions.

This is the first edition of a series which we expect to update as new federal, state and local data becomes available. We anticipate that the profiles will become an extremely useful tool to local planners and policy makers in each community. The Community Profiles provide a single referral source where local demographic and budgetary information is easily accessible. Further, the Community Profiles can be useful to private companies who may be thinking about relocating their business in Massachusetts communities.

Please do not hesitate to contact us with your comments or suggestions. If you need any additional copies, please contact Joan Donaghue at (617) 727-7147 ext. 219. In order to cover our printing and mailing costs, EOCD is charging \$2.00 for each additional copy plus \$0.60 for delivery. Full sets, including every Commonwealth community, can be purchased for \$500.00 plus \$6.50 for delivery. I hope you will find your Community Profile useful and interesting.

Sincerely,

Mary L. Padula
Cabinet Secretary



A Community Profile
1993

Prepared by the
Executive Office of Communities & Development
Commonwealth of Massachusetts
100 Cambridge Street, Room 1804
Boston, MA 02202
(617) 727-7765



Acton is a suburban community located 25 miles northwest of Boston. Although Acton's population has almost tripled in the last three decades, the town has retained much of its rural New England character, as evidenced by the traditional town center and green, with fine examples of historic architecture, and the stone walls and tree-lined country roads.

However, Acton is well prepared for the 21st century. Acton affords a full range of services to its residents and businesses, including an active town government, top-notch libraries, a nationally accredited police department, a full-time fire department, and local and regional school systems that are ranked among the top in the state.

Commerce continues to thrive and grow in Acton due in large part to its prime location along Routes 2, 27 and 111, the commuter train stop, and its proximity to Route 495. A wide range of retail stores and services, a community theater, various types of commercial recreation and several museums, can all be found in Acton.

(Seal and narrative supplied by community)

ACTON

Middlesex County

GEOGRAPHY

Location

Eastern Massachusetts, bordered by Carlisle and Concord on the east, Westford and Littleton on the north, Sudbury on the south, Maynard and Stow on the southwest, and Boxborough on the west. Acton is 25 miles northwest of Boston, 14 miles south of Lowell, 29 miles northeast of Worcester, and 203 miles from New York City.

Total Area: 20.29 sq. miles

Land Area: 19.98 sq. miles

Population: 17,872

Density: 894 per sq. mile

Climate *(National Climatic Data Center)* *(Bedford Station)*

Normal temperature in January	24.3°F
Normal temperature in July	71.2°F
Normal annual precipitation	44.8"

U.S.G.S. Topographical Plates

Maynard, Westford

Regional Planning Agency

Metropolitan Area Planning Council

Metropolitan Statistical Area

(1993 Definition)

Boston

GOVERNMENT

Municipal Offices

Main Number: (598) 264-9615

Form of Government

Board of Selectmen

Town Manager

Open Town Meeting

Year Incorporated

As a town: 1735

Registered Voters *(Secretary of State 1992)*

	<i>Number</i>	<i>%</i>
Total Registered	11,402	
Democrats	1,986	17.4
Republicans	1,562	13.7
Other parties	42	0.4
Unenrolled Voters	7,812	68.5

Legislators

US Senator Edward M. Kennedy

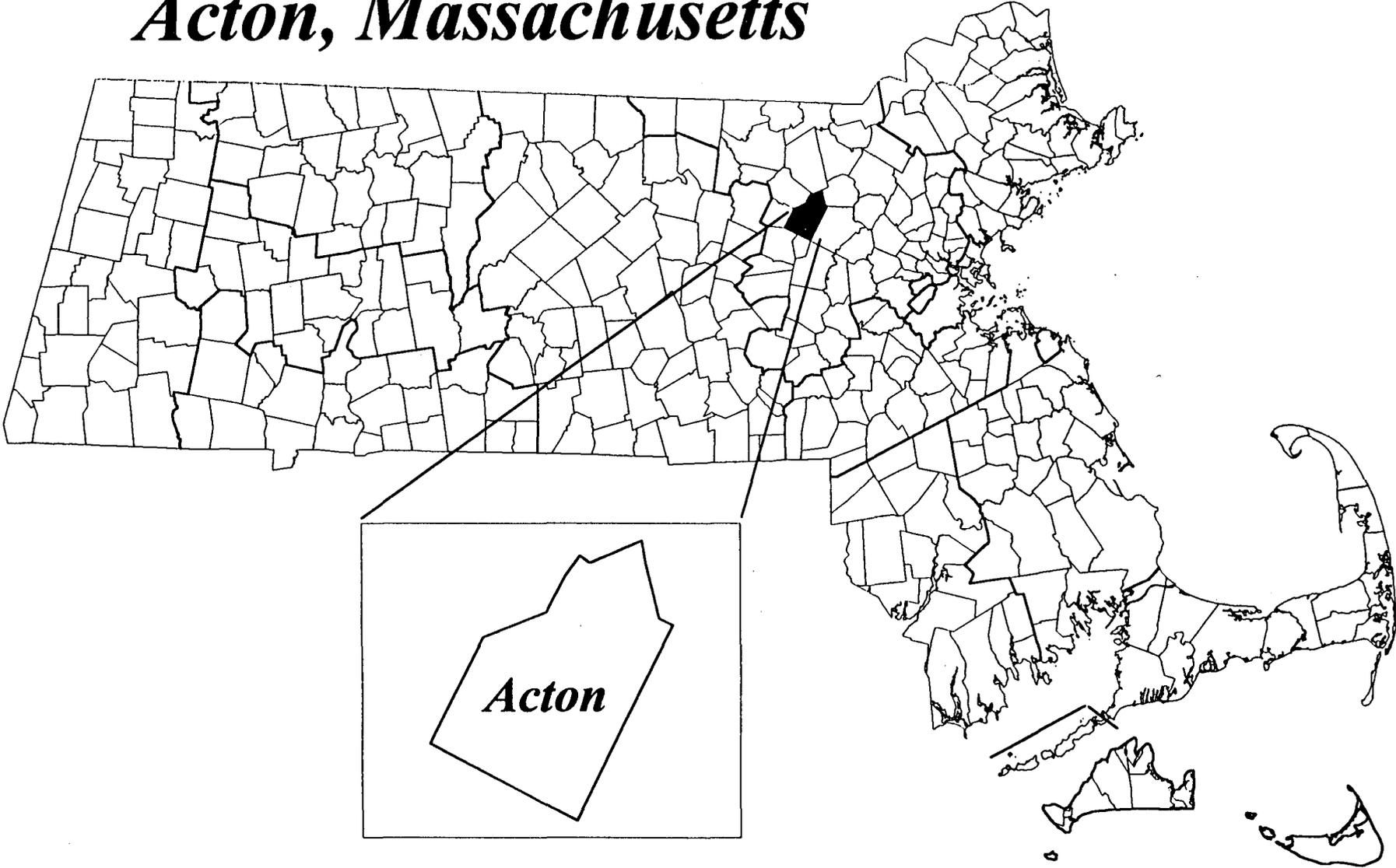
US Senator John F. Kerry

US Congressman Martin T. Meehan

State Senator Robert A. Durand

State Rep. Pamela P. Resor

Acton, Massachusetts



DEMOGRAPHICS

Population Trends	(M.I.S.E.R.)	
	Persons	% change
1980	17,544	
1990	17,872	+1.9
1995	18,497	+3.5
2000	19,121	+3.4

Persons by Sex	(1990 US Census)
Male	8,752
Female	9,120

Age Distribution	(1990 US Census)	
	Persons	%
Under 5	1,240	6.9
5-14	2,461	13.8
15-44	8,878	49.7
45-64	4,107	23.0
65 & over	1,186	6.6

Vital Statistics	(Dept. of Public Health 1992)	
	Statewide	
1991 Resident Births	226	
per 1,000 women 15-44	50.5	59.4
1991 Resident Deaths	87	
per 100,000 residents	487	881

Race & Ethnicity	(1990 US Census)	
	Persons	%
White	16,788	93.9
Black	149	0.8
Am. Indian, Eskimo or Aleut	19	0.1
Asian or Pacific Islander	646	3.6
Hispanic Origin	260	1.5
Other	10	0.1

Households	(1990 US Census)	
		% change
1980	5,986	
1990	6,600	+10.3

Household Size (1990 US Census)
2.69 persons per household

Households by Type	(1990 US Census)	
	Households	%
Married Couple Family	4,166	63.1
Male Householder	144	2.2
Female Householder	566	8.6
Non-Family Household	1,724	26.1

Income Distribution	(1990 US Census)	
	Households	%
Less than \$5,000	72	1.1
\$5,000 - \$9,999	213	3.2
\$10,000 - \$24,999	661	10.0
\$25,000 - \$34,999	703	10.7
\$35,000 - \$49,999	995	15.1
\$50,000 - \$74,999	1,405	21.3
\$75,000 - \$99,999	1,152	17.5
\$100,000 or more	1,373	20.8

Median Household Income \$61,394
state rank 23
% of state average 166.1%

Per Capita Income \$25,792
state rank 27
% of state average 149.7%

Sources of Income	(1990 US Census)	
	Number of Households	Average Income
Wage & salary	5,914	\$63,889
Nonfarm self-employed	1,209	22,508
Farm self-employed	53	3,272
Social Security	872	8,601
Public assistance	129	4,198
Retirement	724	13,688
Interest	4,382	6,678
Other	786	6,306

Poverty Status	(1990 US Census)	
		Statewide
Persons for whom status determined	17,732	5,812,415
Below poverty level	403	519,339
	2.3%	8.9%

HOUSING CHARACTERISTICS

Housing Units (1990 US Census)		
	Units	%
Total Units	6,891	
Total Occupied	6,600	
owner occupied	4,654	70.5
renter occupied	1,946	29.5
Total vacant	291	
for sale	46	15.8
for rent	163	56.0
other vacant	82	28.2
Owner Vacancy Rate		1.0
Rental Vacancy Rate		7.7

Median Value (owner occupied)	\$242,800
Median Contract Rent (renter occupied)	\$685

Type of Structure (1990 US Census)		
	Units	%
Single Unit	4,675	67.8
2-4 Units	415	6.0
5 or More Units	1,749	25.4
Other	52	0.8

Year Structure Built (1990 US Census)		
	Units	%
1989-March 1990	37	0.5
1980-1988	632	9.2
1970-1979	2,179	31.6
1960-1969	2,056	29.8
1950-1959	973	14.1
1940-1949	164	2.4
1939 or earlier	850	12.3

Home Sales (Banker & Tradesman)		
	Number	% change
1990	318	-6.7
1991	467	+46.9
1992	500	+7.1

Median Sales Price (Banker & Tradesman)		
	Price	% change
1990	175,000	-18.6
1991	181,825	+3.9
1992	191,500	+5.3

Residential Building Permits (US Census Bureau 1992) (New Construction)		
	Single Family	Multi Family
1990	73	0
1991	77	0
1992	74	0

Subsidized Housing Units (EOCD 1993)	
Aggregate Number	142
% Subsidized	2.07

Public Housing Units (EOCD 1993)	
Conventional State	142
Conventional Federal	0

Rental Assistance (EOCD 1993)	
State (MRVP)	29
Federal (Section 8)	82

Value: Value is the Census respondent's estimate of how much the property, including lot, would sell for if it were for sale.

Home Sales & Home Prices: Data for all transactions between \$25,000 and \$1,000,000. Condominium sales and prices are included.

Subsidized Housing Units: The number of housing units which count toward the municipality's 10% goal for low- and moderate-income housing. It includes both subsidized affordable units and market rate units in certain eligible subsidized developments.

EDUCATION

Student Population *(Dept. of Education)*

Total students 91/92		3,239
at public schools	98.4%	
at private schools	1.6%	

Pupil Cost *(Dept. of Education)*

Integrated Per Pupil Cost 91/92		\$5,949
state average	\$5,034	

Educational Attainment *(1990 US Census)*

High School Graduate or Higher	93.6%
Bachelor's Degree or Higher	55.0%

School District Membership *(Dept. of Education)*

Acton	(K-06)
Acton Boxborough	(07-12)
Minuteman	(09-13)

School Enrollment *(Dept. of Education)*

	<i>Enrollment 91/92</i>	<i>Change 1981-91</i>	<i>Statewide</i>
Acton	1,800	-19.9%	-15.5%
Acton Boxborough	1,722	-28.7%	
Minuteman	703	-39.9%	

Dropout Rate *(Dept. of Education)*

	<i>Rate 90/91</i>	<i>Statewide</i>
Acton	0.0%	4.0%
Acton Boxborough	0.4%	
Minuteman	0.0%	

Average Teacher Salary *(Dept. of Education)*

	<i>Salary 91/92</i>	<i>Statewide</i>
Acton	\$42,002	\$37,845
Acton Boxborough	\$42,836	
Minuteman	\$44,739	

Public Schools *(Dept. of Education)*

Acton	
Mccarthy-Towne	K-06
Douglas	K-06
Gates	K-06
Luther Conant	K-06
Acton Boxborough	
Raymond J Grey Reg JH	07-08
Acton-Boxborough Reg High	09-12
Minuteman	
Minute Man Voc Tech High	09-13

Colleges and Universities

(Higher Education Coordinating Council)

None

For further school district information contact:
 Information & Outreach Services
 Department of Education
 350 Main Street
 Malden, MA 02148
 Phone: (617) 388-3300

ECONOMIC DEVELOPMENT

ECONOMIC BASE

Labor Force	<i>(1990 US Census)</i>	
Employed		10,202
Unemployed		344
Unemployment Rate		3.3%
statewide		6.7%

Industry Groups of Residents	<i>(1990 US Census)</i>	
Agriculture		65
Mining		4
Construction		465
Manufacturing		2,797
Transportation & Communication		290
Wholesale & Retail Trade		1,689
Finance, Insurance & Real Estate		749
Government		259
Services		3,884
Total		10,202

EMPLOYMENT, PAYROLL & SALES

Average Annual Employment by Place of Work *(Dept. of Employment & Training 1991)*

Agriculture	51
Mining	C
Construction	285
Manufacturing	2,687
Transportation & Communication	131
Wholesale & Retail Trade	2,715
Finance, Insurance & Real Estate	256
Government	859
Services	1,993
Total	8,989

Total Annual Payroll (\$,000) 259,069

Average Annual Wage (\$) 28,821

Number of Establishments 639

Largest Employers *(Supplied by community 1993)*

	<i># employees</i>
DEC	1,230
ENSR	330
Data Instruments	240
Haartz Corporation	200
Lau Technologies	171

Retail Establishments *(US Census of Retail Trade 1987)*

Establishments	150
Sales (\$,000)	233,178
Per Capita Sales (\$)	13,047
Paid Employees in work week	2,434

Retail Sales by Retail Group

(US Census of Retail Trade 1987)

	<i>Establishments</i>	<i>Sales (\$,000)</i>
Bldg. materials, garden supplies	9	22,289
General merchandise	3	D
Food stores	15	36,665
Automotive dealers	8	58,170
Gasoline service stations	10	9,395
Apparel, accessories stores	25	17,796
Furniture, home furnishings	13	9,737
Eating & drinking places	26	15,022
Drug & proprietary stores	7	11,077
Misc. retail stores	34	D

ECONOMIC DEVELOPMENT ORGANIZATIONS

(Supplied by community 1993)

Acton Chamber of Commerce
Master Plan Coordinating Committee
West Acton and South Acton Village Study Committees

Employment & Wages: Data for employment and wages covered by unemployment compensation. Data is confidential (identified with a "C") if there are less than three reporting units in the total, or if one unit accounts for 80% or more of the total. Reporting problems of multi-location employers may result in some over or under reporting.

Retail Establishments & Sales: Data is reported for municipalities of 10,000 inhabitants or more. Sales is withheld (indicated with a "D") where it would disclose the operations of individual companies or businesses.

ECONOMIC DEVELOPMENT

TRANSPORTATION AND ACCESS

Acton is situated in the Greater Boston Area, which has excellent rail, air, and highway facilities. State Route 128 and Interstate Route 495 divide the region into inner and outer zones, which are connected by numerous "spokes" providing direct access to the airport, port, and intermodal facilities of Boston.

Major Highways

Principal highways are State Routes 2, 2A, 27, and 111.

Rail

Commuter rail service is available from South Acton to North Station, Boston. Travel time 44-51 minutes; 287 MBTA parking spaces available. The Bay Colony Railroad provides freight rail service to North Acton. Contact number: (617) 380-3556. Freight rail service is also available from the Springfield Terminal Railway. Contact number: (508) 663-1073

Bus

Acton is a member of the Lowell Regional Transit Authority (LRTA). No fixed bus service is available, but the LRTA Road Runner Program and the Council on Aging provide paratransit services for the elderly and disabled. Yankee Bus Line, Inc., offers limited commuter service to Boston.

Other

Acton is within easy reach of the Boston docks and Logan International Airport. L.G. Hanscom Field in Bedford is a Reliever Airport with Commercial Service: a 5,106' long asphalt runway and a 7,001' long asphalt and concrete runway. Instrument approaches available: Precision and non-precision.

Commuting to Work. (1990 US Census)

Drove alone	84.3%
Carpools	7.5%
Public transportation	3.5%
Other means	0.8%
Walked or worked at home	3.9%
Average time to work (mins)	25.9

LAND USE CLASSIFICATION

(Office of Environmental Affairs 1985)

	Acres	
Residential	3,755	29.0%
Commercial	248	1.9%
Industrial	335	2.6%
Transportation	122	0.9%
Agriculture	616	4.8%
Urban Open Land	313	2.4%
Recreation	36	0.3%
Water	177	1.4%
Other	7,365	56.8%

ZONING REGULATIONS

(Supplied by community 1993)

	Single Family	Two Family	Multi Family
Minimum lot size (sf)	20,000	n/a	100,000
Minimum lot width or frontage (ft)	50	n/a	50

GROWTH MANAGEMENT

(Supplied by community 1993)

Comprehensive Plans	Yes
Rent Control	No
Condominium Controls	Yes
Groundwater Protection	Yes
Subdivision Control Laws	Yes
Site Plan Approval Required	Yes
Other Growth Limits	Yes
Private Septic Systems Only	

CULTURE AND RECREATION

LIBRARIES

(Board of Library Commissioners 1991/92)

Acton Memorial Library
486 Main St.
(508) 264-9641

		<i>Statewide</i>
Total Holdings	74,756	
per capita	4.18	4.73
Total Circulation	251,071	
per capita	14.05	6.76

MUSEUMS

(American Association of Museums)

The Discovery Museums
177 Main Street
(508) 264-4200

Iron Work Farm In Acton, Inc.
Faulkner House
5 High Street
(508) 263-5543

RECREATION

Recreation Department

(Supplied by community 1993)

Municipal Properties Department
472 Main Street
Acton, MA 01720

Acton Boxborough Regional School District
Community Education Department

Recreational Facilities

(Department of Environment Management)

Largest recreational sites, and activities:

Boxford State Forest (869 acres)
cross country skiing, fresh water fishing, hiking, horseback riding, hunting, nature observing, snowmobiling, walking/jogging

Spring Hill Conservation Land (183 acres)
cross country skiing, hiking, horseback riding, nature observing, picnicking, walking/jogging

Acton Town Lands (175 acres)
cross country skiing, hiking, horseback riding, nature observing

Nagog Hill Area (158 acres)
boating-non motor, cross country skiing, fresh water fishing, hiking, horseback riding, hunting, nature observing

Pat Palmer Shtng Prs (134 acres)
cross country skiing, hiking, hunting, nature observing, picnicking, target archery

Heath Hen Conservation Area (98 acres)
cross country skiing, fresh water fishing, general play, hiking, horseback riding, nature observing

Wetherbee Street Farm (92 acres)
hiking, horseback riding, nature observing

Acton Arboretum (90 acres)
cross country skiing, fresh water fishing, hiking, horseback riding, nature observing, organized event, sight seeing, walking/jogging

MISCELLANEOUS

HEALTH FACILITIES

(Dept. of Public Health 1992)

Hospitals
None

Long Term Care
Suburban Manor Conv. & Nursing Home

Hospices
None

Rest Homes
None

UTILITIES

(Office of Business Development)

Electric	Boston Edison Co.
Gas	Boston Gas Co.
Sewer	No Municipal Service
Water Sources	Ground

PUBLIC SAFETY

(Office of Public Safety 1992)

		Statewide
Total Crimes Reported	n/a	
rate per 1,000 persons		51.51
change from 1991		-7%
 Violent Crimes	 n/a	
rate per 1,000 persons		8.17
change from 1991		1%
 Property Crimes	 n/a	
rate per 1,000 persons		43.33
change from 1991		-8%

WELFARE ASSISTANCE

(Department of Public Welfare 1992)

	Cases
Cash Assistance	
Refugee Assistance	0
Supplemental Security Income (SSI) - Aged	40
Aid to Families with Dependent Children (AFDC)	59
Supplemental Security Income (SSI) - Disabled	84
Emergency Aid (formerly General Relief)	5
 Medicaid Only	
Aged	13
Families	31
Disabled	15
Children	2
 Food Stamps Only	 38
Total	287

DPW caseloads are compiled by zip code. The cases shown are for the zip code(s) in which the community is located, and may include cases for other communities with the same code.

MUNICIPAL FINANCE

(Department of Revenue)

ESTIMATED REVENUES BY SOURCE (\$,000)

	FY89	FY90	FY91	FY92	FY93
Tax Levy	18,809	20,578	22,321	24,304	25,040
State Aid	2,918	2,180	1,941	1,559	1,458
Local Receipts	2,995	3,398	3,307	2,795	3,150
Other	1,455	1,174	679	172	1,989
Total Revenues	26,178	27,330	28,249	28,831	31,636

ACTUAL EXPENDITURES (\$,000)

(Source: Schedule A. Expenditures are from general fund only. Spending from special revenue, enterprise, capital projects, or trust funds are not reflected in these figures.)

	FY89	FY90	FY91	FY92
General Government	1,908	1,797	1,692	
Police	1,166	1,325	1,374	
Fire	1,540	1,541	1,534	
Other Public Safety	126	117	180	
Education	14,034	15,145	15,818	
Public Works-Highway	1,319	1,168	1,002	
Public Works-Other	72	133	154	
Human Services	265	198	171	
Culture & Recreation	406	444	384	
Debt Service	1,227	1,204	1,044	
Fixed Costs	1,417	1,742	1,885	
Intergovernmental	46	49	59	
Miscellaneous				
Total Expenditures	23,529	24,864	25,297	

MUNICIPAL FINANCE

(Department of Revenue)

TAX RATES, TAX LEVIES, ASSESSED VALUES

	FY89	FY90	FY91	FY92	FY93
Tax Rates (\$)					
Residential	10.90	11.48	12.32	16.31	16.88
Open Space					
Commercial	10.90	12.97	13.92	18.43	18.51
Industrial	10.90	12.97	13.92	18.43	18.51
Personal Property	10.90	12.97	13.92	18.43	18.51
Tax Levies (\$,000)					
Residential	14,932	15,798	17,197	18,706	19,535
Open Space					
Commercial	2,577	3,204	3,418	3,650	3,600
Industrial	1,100	1,339	1,446	1,576	1,520
Personal Property	200	237	260	373	385
Assessed Values (\$,000)					
Residential	1,369,874	1,376,117	1,395,856	1,146,902	1,157,290
Open Space					
Commercial	236,459	247,044	245,576	198,021	194,466
Industrial	100,957	103,238	103,889	85,507	82,110
Personal Property	18,330	18,279	18,669	20,231	20,812
Proposition 2 1/2 Levy Limits (\$)					
Limit before Debt Exclusion	17,866,871	19,509,757	21,354,326	23,375,001	24,318,568
Limit with Debt Exclusion	18,895,727	20,580,206	22,326,281	24,311,156	25,045,398
Total Tax Levy	18,809,253	20,578,047	22,321,378	24,304,266	25,039,709
Excess Capacity	86,474	2,159	4,903	6,890	5,689
Excess as % of Limit	0.46	0.01	0.02	0.03	0.02
Levy Ceiling	43,140,500	43,616,925	44,099,762	36,266,547	36,366,953
Override Capacity	25,273,629	24,107,168	22,745,436	12,891,546	12,048,385
Tax Levy as % Full Value	1.09	1.18	1.27	1.68	1.72

MISCELLANEOUS

Date of Next Revaluation: FY95

Moody's Bond Rating	AA	AA	AA	Aa
Long Term Debt (\$,000)	4,850	4,040	3,230	
per capita (\$)	271.37	226.05	180.73	

MUNICIPAL FINANCE

(Department of Revenue)

STATE AID RECEIPTS (\$)

	FY90	FY91	FY92	FY93
School Aid Chapter 70	501,091	481,047	481,047	481,047
Additional Assistance	656,924	630,647	37,368	37,368
County Jail Grants				
Racial Equality				
Lunch Programs	7,549	7,637	7,613	7,796
Equal Education Opportunity				
School Improvement Council	4,062	2,908		
Per Pupil Aid				180,000
Horace Mann Teachers	1,624	768		
School Transportation	143,963	114,982	131,103	141,636
School Construction	104,196	95,724	52,927	52,927
Tuition State Wards	7,933			
Special Needs Education				
Retired Teachers Pension				
Transportation of Pupils				
Water Pollution				
Public Libraries	14,160	13,566	13,675	13,694
Additional Library	1,543			
Regional Libraries				
Police Career Incentives				
Urban Renewal				
Veterans Benefits		11,293	7,060	6,600
Highway Fund	75,183		246,849	134,939
Additional Highway	59,768			
Lottery, Beano & Charity	561,997	561,997	561,997	604,239
Local Share of Racing Tax				
Urban Redev Corp Excise				
Abatements Vets, Blind, Surv Spouse	9,541	9,166	8,601	8,462
Abatements Elderly	8,805	11,412	11,136	12,366
State Owned Land				36,940
Total Estimated Receipts	2,158,339	1,941,147	1,559,376	1,718,014

For further municipal finance information contact:

Division of Local Services
 Department of Revenue
 100 Cambridge Street
 Boston, MA 02202

Phone: (617) 727-7300

ACKNOWLEDGEMENTS

The Executive Office of Communities and Development would like to thank the many government agencies noted as having provided information for the community profiles. In addition to these agencies, the Regional Transit Authorities assisted with the transportation component of the profiles. We gratefully acknowledge the assistance of many city and town officials, which enabled us to include information obtainable only at the local level. EOCD would also like to thank the following individuals for providing special help: Leslie A. Kirwan, Deputy Commissioner, Division of Local Services, Department of Revenue; Richard Shilbey, Deputy Secretary of State; Bob Beattie of the Department of Public Health; Charles W. Clifford from the Martha's Vineyard Commission; Dennis Coffey of the Executive Office of Transportation and Construction; Donna Fletcher and Christian Jacqz of the Executive Office of Environmental Affairs; James Griffin from the MBTA; Karen Loh from Banker & Tradesman; Todd Maio from the Department of Welfare; Geoffrey Morton from the Election Division of the Secretary of State's Office; Stephen R. Muench of the Massachusetts Aeronautics Commission; Rol Murrow of the Aircraft Owners and Pilots Association; Mary Ann Neary and Emmanuelle Fletcher, reference librarians at the State House Library; Jeff Nellhaus from the Department of Education; and George Sanborn, reference librarian at the State Transportation Library.

NOTE: The COMMUNITY PROFILE draws information from a diversity of sources. The main source of information is listed under each section. In some instances comments submitted by the municipality were incorporated to correct and/or enhance the information obtained from the main source. However, no changes were made to those data bases which must be consistent throughout the state. EOCD has made efforts to ensure the accuracy of all data in the COMMUNITY PROFILES, but cannot take responsibility for any consequences arising from the use of the information contained in this document.

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Canter v. Planning Board of Westborough, 7 Mass. App. Ct. 805 (1979)	30
Castle Estates, Inc. v. Park & Planning Board of Medfield, 344 Mass. 329 (1962)	21, 28, 29, 31
Daley Construction Co., Inc. v. Planning Board of Randolph, 340 Mass. 149 (1959)	26
Ronald G. Balas v. Zoning Board of Appeals of Plymouth, 13 Mass. App. Ct. 995 (1982)	14

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Himelfarb v. Town of Brooklyn, 19 Mass. App. Ct. 980 (1985)	16
MP Corp. v. Planning Board of Leominster, 27 Mass. App. Ct. 812 (1989)	21
Mac-Rich Realty Constr. Inc. v. Planning Board of Southborough, 4 Mass. App. Ct. 79 (1976)	25
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c. 240, § 14A	2n

COMMONWEALTH OF MASSACHUSETTS.

APPEALS COURT.

No. 93-P-1527.

SUFFOLK COUNTY.

ROSEMARIA SULLIVAN AND HARRIET MCFARLAND,
TRUSTEES OF THE DIDUCA FAMILY TRUST,
PLAINTIFFS-APPELLEES,

v.

THE PLANNING BOARD OF THE TOWN OF ACTON,
DEFENDANT-APPELLANT.

ON APPEAL FROM A JUDGMENT OF THE LAND COURT.

Brief for Appellees.

Issues Presented.

I. Whether a condition of approval of a definitive subdivision plan (hereinafter the "Plan"), requiring the Appellees to dedicate a portion of their land to the widening of a public way and to improve the public way at their expense, violated the provisions of G.L. c. 41, § 81Q.

II.. Whether the Appellant exceeded its authority in leaving final approval of the layout of Esterbrook Road to the unfettered discretion of the Town Planner.

III. Whether conditions of approval of the Plan, requiring the Appellees to: make improvements to a state highway; undertake a traffic signal justification study for the state highway, and prohibiting curb cuts onto the state highway, were beyond the jurisdiction of the Appellant.

IV. Whether a condition of approval of the Plan, requiring the Appellees to make improvements to a state highway and undertake a traffic signal justification study for the state highway, exceeded the authority of the Appellant under the applicable subdivision rules and regulations.

Statement of the Case.

This is an appeal pursuant to G.L. c. 41, § 81BB, from certain conditions imposed by the Appellant on the approval of the Plan. The disputed conditions do not relate to the subdivision itself, but require the Appellees, in summary, to make improvements to a state highway, widen a town way and prohibit access to the state highway from the subdivision.

The case was tried on December 7, 1992, December 8, 1992, and December 10, 1992.¹ At trial, the parties submitted a "Stipulation of Facts and Admissibility of Evidence" (A. 1-23 to 1-33). A transcript of the testimony given at trial was produced (A. 4-1044 to 4-1517), and the court took a view of the subject property and its environs (A. 1-52).

¹ This case was consolidated for purposes of trial with an action brought pursuant to the provisions of G.L. c. 240, § 14A, challenging the validity of certain amendments to the Acton Zoning Bylaw as they applied to the property which is the subject of the Plan. The trial court's Judgment in that action is the subject of an appeal by the Town of Acton to this court, docket number 93-P-1528.

On April 1, 1993, the Land Court Department of the Trial Court entered Judgment holding that the conditions of approval of the Plan in question were invalid and not in accordance with law (A. 1-31 to 1-38).

The Acton Planning Board appeals from the Judgment.

Statement of the Facts.

The Appellees are the owners of a 16.3 acre parcel of land ("Locus") in Acton, situated at the junction of Route 2A (Great Road) and Esterbrook Road (A. 1-24 to 1-25). Locus has approximately 810 feet of frontage on Route 2A and approximately 570 feet of frontage on Esterbrook Road (A. 1-64 and 1-211).

It was stipulated at trial that:

Route 2A is an Arterial Highway as defined in Section 2.1 of the Subdivision Rules and Regulations of the Town of Acton. . . .

(A. 1-25).

The "Town of Acton, Massachusetts Subdivision Rules & Regulations" (A. 1-69 to 1-157) (hereinafter the "Rules and Regulations"), adopted pursuant to the provisions of G.L. c. 41, § 81Q, provide, in relevant part:

ARTERIAL HIGHWAY: A HIGHWAY primarily for fast and heavy through traffic, usually on a continuous route with intersections at grade, direct access to abutting property and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic; as for instance, Great Rd. – Rte. 2A.

Rules and Regulations, Section 2.1 (A. 1-75).

It was also stipulated at trial that:

Route 2A . . . is a state highway as defined in G.L. c. 81, but is not a limited access highway, as defined in c. 81, § 7A.

(A. 1-25).

Accordingly, Route 2A is subject to the exclusive jurisdiction of the Department of Highways of the Commonwealth of Massachusetts. G.L. c. 81, § 8.²

On October 25, 1990, the Appellees submitted the Plan of Locus to the Appellant for approval pursuant to the provisions of the Subdivision Control Law, particularly G.L. c. 41, § 81U (A. 1-30). The Plan showed a cul-de-sac off Esterbrook Road approximately 217 feet (A. 1-211) from the junction of Esterbrook Road and Route 2A and the division of Locus into three separate lots (A. 1-210 to 1-216).

During the review process, various Town officials submitted comments, including the Town Planner (A. 1-245 to 1-248). Although the Town Planner recommended that the Appellant require the Appellees to make geometric improvements to Route 2A and Esterbrook Road at their intersection and noted that such improvements could be made within the existing layouts of both Route 2A and Esterbrook Road, notably absent from the Town Planner's report was any recommendation that the layout of Esterbrook Road be widened (A. 1-248).

On January 29, 1991, the Appellant rendered a decision (hereinafter the "Decision") approving the Plan, subject to numerous limitations, conditions and required Plan modifica-

²G.L. c. 81, § 8, provides, in relevant part:

"The construction of all state highways shall be under the supervision and subject to the approval of the department and in accordance with plans and specifications furnished by it. . . ."

See also *V.S.H. Realty Trust v. Zoning Board of Appeals of Plymouth*, 30 Mass. 530 (1991).

tions (hereinafter collectively referred to as the "Conditions of Approval") (A. 1-31; 1-250 to 1-257). The Decision contains very limited findings of fact (A. 1-252), although it does contain some speculation about possible future traffic generation under a maximum build out of the commercially zoned portion of Locus (A. 1-252).

The Decision relies in part upon the Town of Acton's Master Plan as a basis for some of the Conditions of Approval (A. 1-252). The Master Plan, however, was not published until February, 1991 and was not adopted until May 20, 1991 (A. 1-30), more than one year after the Decision (A. 1-68).

At trial, it was stipulated that:

Subsequent to the Decision, DiDuca has agreed to modify the Definitive Plan and to comply with certain of the other Conditions of Approval. The only Conditions of Approval of the Decision which the plaintiffs have not complied with and which remain in dispute are Conditions of Approval 3.1, 4.5, 4.6, 4.8.

(A. 1-32).

These Conditions of Approval, which do not relate to the adequacy of the Plan, but only to the adequacy and use of the public ways, are summarized as follows:³

1. Condition of Approval 3.1 requires the Plan to be modified to show an additional 30 foot wide street layout on the southerly side of Esterbrook Road extending from the entrance of the proposed subdivision road to Route 2A, which layout is to be subsequently approved by the Town Planner, with actual construction of any additional lane within this layout to be done at the Appellee's expense.

³The full text of the conditions is set forth in the Addendum to this brief.

2. Condition of Approval 4.5 requires that, prior to the issuance of a certificate of occupancy for any building intended for business use, the Appellees make, at their own expense, improvements to the intersection of Route 2A and Esterbrook Road in the form of a left turn lane east bound into Esterbrook Road and a right turn taper west bound into Esterbrook Road and additional pavement width and travel lane on Esterbrook Road utilizing the additional layout required under Condition of Approval 3.1.

3. Condition of Approval 4.6 requires that when a site plan special permit or other permit is required for the establishment or expansion of any business use on the site, the Appellees submit a traffic signal justification study and, if such study indicates the need for a signal at the intersection of Route 2A with Esterbrook Road, to install a traffic signal at their expense.

4. Condition of Approval 4.8 prohibits any curb cuts or driveways from Locus directly onto Route 2A unless the net floor area dedicated to business uses within the subdivision exceeds 40,000 square feet, in which event one curb cut designed with a configuration that only allows right turns in from Route 2A west bound and right turns out onto Route 2A would be permitted.

(A. 1-253 to 1-255).

In short, none of the Conditions of Approval relate to inadequacies in the design of the Plan, but rather relate solely to inadequacies in the public ways or to the Appellees' use of the public ways.

At trial, and in its brief (see Appellant's Brief, p. 5, n. 4), the Appellant has conceded that Conditions of Approval 4.5 and 4.6, requiring the Appellees to make improvements to Route 2A and to undertake a traffic signal justification study

for the intersection of Route 2A and Esterbrook Road, are invalid as written. Although the Appellant offered at trial to modify these Conditions of Approval so as to only require the Appellees to submit plans and studies to the Commonwealth and, thereafter, to do only such work as required by the Commonwealth, the Appellant has not modified its approval pursuant to the provisions of G.L. c. 41, § 81W.⁴

Summary of Argument.

Condition of Approval 3.1 which requires the Appellees to dedicate a 30 foot wide strip of their land running from Route 2A to the proposed subdivision way is in violation of G.L. c. 41, § 81Q, which prohibits a planning board from imposing a requirement that a portion of the subdivision be dedicated for use as a public way without just compensation (pp. 8-14).

Condition of Approval 3.1 is additionally invalid because it leaves the approval of the layout of the public way to the unfettered discretion of the Town Planner (p. 14).

Conditions of Approval 4.5, 4.6 and 4.8 which require the Appellees to make improvements to a state highway and undertake a traffic signal justification study for the state highway, and prohibit or restrict curb cuts onto the state highway, exceed the authority of the Appellant as they relate to matters which are the subject of the exclusive jurisdiction of the Commonwealth of Massachusetts (pp. 15-20).

Conditions of Approval 4.5, 4.6 and 4.8 which require the Appellees to make improvements to a state highway and undertake a traffic signal justification study for the state highway and prohibit or restrict curb cuts onto the state highway, exceed the authority of the Appellant as the Rules and Regulations make no provision for same (pp. 20-23).

⁴G.L. c. 41, § 81W, provides, in relevant part, that "[a] planning board, on its own motion . . . shall have power to modify . . . its approval of a plan of a subdivision. . . ."

Argument.**I. THE APPELLANT WAS WITHOUT AUTHORITY TO REQUIRE THE APPELLEES TO DEDICATE THEIR LAND TO A WIDENING OF THE PUBLIC WAY.**

As set forth above, Condition of Approval 3.1 requires that the Plan be modified to show an additional 30 foot wide street layout on the southerly side of Esterbrook Road extending from the entrance of the proposed subdivision to Route 2A. As set forth in the condition, the purpose of this additional layout of Esterbrook Road was to provide for the construction of adequate turning radii at Route 2A and at the proposed subdivision road, as well as the construction of an additional lane on Esterbrook Road (A. 1-253).

The trial court's Judgment found Condition of Approval 3.1 to be invalid as it requires the Appellees to:

. . . undertake at their expense improvements to a public way located outside the proposed subdivision and requires the plaintiffs to dedicate a portion of their property to the town for this purpose . . .

(A. 1-37).

This is not an issue as to whether the Appellant has the authority to require an applicant for subdivision approval to make improvements to a public way within the existing layout of the public way, but rather is an issue as to whether the Appel-

lant can, in effect, make a taking for the purpose of widening a public way as a condition of approval of the Plan.⁵

The Appellees respectfully submit that such a taking is expressly prohibited under the provisions of G.L. c. 41, § 81Q. G.L. c. 41, § 81Q, provides, in relevant part:

No rule or regulation shall require, and no planning board shall impose, as a condition for the approval of a plan of a subdivision, that any of the land within said subdivision be *dedicated to the public use, or conveyed . . . to the . . . town in which the subdivision is located, for use as a public way . . .* without just compensation to the owner thereof. [Emphasis added.]

Simply stated, the express language of G.L. c. 41, § 81Q, prohibits this Condition of Approval.

A planning board may not impose, as a condition of its approval, a requirement that any land within a subdivision be conveyed for any public purpose (in the absence of just compensation to the owner).

Young v. Planning Board of Chilmark, 402 Mass. 841, 844-845 (1988), citing G.L. c. 41, § 81Q.

In *North Landers Corp. v. Planning Board of Falmouth*, 382 Mass. 432 (1981), it was held that the planning board could properly take into consideration the inadequacy of the public way:

⁵ Compare *North Landers Corp. v. Planning Board of Falmouth*, *supra* in which the adequacy of the width of the paved portion of the public way, 18 feet, was considered, although the public way was laid out to a width of 40 feet. *Id.*, at 435.

. . . in conjunction with the inadequacy of the access from the public way to the subdivision, especially where, as in this case, it magnifies the inadequacy of the access from the subdivision to the public way because of the potential hazard to be created by the inability of the public way to deal reasonably with the traffic generated by the subdivision.

Id., at 437, n. 6.

In that case, however, the court was not considering a condition requiring the applicant to dedicate a portion of its property to widening its layout of the public way. It does not follow that merely because the Appellant may have the authority under *North Landers, supra*, to consider the adequacy of the public way as it affects the access to a subdivision, that it has the authority to require an applicant to widen the layout of the public way, not only at the point of its intersection with the subdivision way, but also for several hundred feet beyond the intersection as a Condition of Approval.⁶

Nor is it of any avail to the Appellant that the purpose of the Subdivision Control Law, G.L. c. 41, §§ 81K through 81GG, is to require and regulate the laying out of ways within subdivisions. The Appellees concede that one of the main purposes of the Subdivision Control Law is to regulate the laying out of ways within subdivisions. Condition of Approval 3.1, however, does not relate to the laying out of ways within the subdivision, but, to the contrary, requires the dedication

⁶Contrary to the Appellant's assertions, the court in *North Landers* never discussed or reached the issue of whether a subdivision rule or regulation could validly require an applicant to dedicate a portion of its land for use as a public way. In that case, the court was only addressing whether the regulation was sufficiently definite to provide adequate notice to the developer that the adequacy of the public way would be considered in passing on the subdivision. See *North Landers, supra* at 437. In any event, the Rules and Regulations in this case nowhere require an applicant to dedicate a strip of its land to improvements of the public ways adjacent to the subdivision. See the Rules and Regulations, Section 8.1.6 (A. 1-97).

of a portion of the subdivision to the layout of a public way outside of the subdivision.

The Appellant has no authority to regulate or require the laying out of public ways. In towns, only the selectmen or road commissioners have the authority to lay out a public way:

The selectmen or road commissioners of a town . . . may lay out, relocate or alter town ways, for the use of the town . . . , and private ways for the use of one or more of the inhabitants thereof. . . .

G.L. c. 82, § 21.

Once laid out, only the town meeting has the authority to accept such a way:

No town way or private way which has been laid out, relocated or altered by the selectmen or road commissioners shall, except as hereinafter provided, be established until such laying out, relocation or alteration, . . . is accepted by the town at a town meeting.

G.L. c. 82, § 23.

Further, only the selectmen have the power to authorize takings of land necessary for the purposes of a town way laid out by them and approved by the town meeting:

If it is necessary to acquire land for the purposes of a town way . . . which is laid out . . . by the selectmen, road commissioners or other officers of a town under this chapter, such officers shall, within one hundred twenty days after the termination of the town meeting at which the laying out, alteration or

relocation of such town way . . . is accepted by the town, acquire such land by purchase or otherwise. . . .

G.L. c. 82, § 24.

Consistent with all of the foregoing, the Subdivision Control Law expressly provides:

The subdivision control law shall not abridge the powers of the . . . selectmen . . . in regard to public ways in any manner . . . and shall not authorize the taking of land nor authorize a . . . town to lay out or construct any way which may be indicated on any plan of a subdivision until such way is laid out as a public way in the manner prescribed by law. . . .

G.L. c. 41, § 81DD.

In short, the Appellant has no authority whatsoever with respect to the laying out of public ways, but only has regulatory authority under the Subdivision Control Law over the layout of subdivision ways within a subdivision. Even as to subdivision ways, nothing in the Subdivision Control Law authorizes the Appellant to require that subdivision ways be dedicated to public use or conveyed to any governmental entity. In fact, contrary to the assertion of the Appellant, its Rules and Regulations acknowledge that the Appellant has no authority to require even subdivision ways to be dedicated to public use:

When a ROAD or STREET in a SUBDIVISION has been completed in a manner fulfilling the requirements of the BOARD, the subdivider may request the BOARD to inspect the ROAD in order to give a recommendation to the Board of Selectmen who will consider the question of laying out said STREET or ROAD under M.G.L. c. 82. . . .

Rules and Regulations, Sections 10.9 (A. 1-116).

Alternatively, the Appellees recognize that a town will not generally accept as public ways ways approved and constructed under the Subdivision Control Law unless the owners of such ways waive their rights to land damages. The *quid pro quo* for such a waiver is that the town thereafter agrees to undertake the responsibility of maintaining the ways, thereby relieving the owners thereof of these responsibilities. The waiver of damages and request for acceptance are voluntary. See *Miles v. Planning Board of Millbury*, 29 Mass. App. Ct. 951 (1990). In contrast, Condition of Approval 3.1 is not a voluntary exchange, but is, in effect, a taking, without the Appellees' agreement.

The Appellant's reliance on *McDavitt v. Planning Board of Winchester*, 2 Mass. App. Ct. 806, 807 (1974) is misplaced. In that case, the planning board merely required as a condition of approval that the subdivision way be extended to the boundary line of the subdivision so as to meet a cul-de-sac in an abutting subdivision. The court, in that case, held that the condition was not invalid as there was no evidence that the plaintiffs were required to dedicate land for public use or to convey or release land to the town for use as a public way. *Id.* at 807.

Nothing in *McDavitt* indicated that the applicant was required to grant the public a right to use the subdivision way. The applicant, in that case, was free to prohibit the use of the subdivision way by the public unless and until the Town made a taking of the subdivision way, in which event the applicant would be entitled to land damages pursuant to G.L. c. 79 for the value of what had been lost, in that case, the use of one of the lots.

In conclusion, the Appellees respectfully submit that, irrespective of whether the Appellant has the authority to require the Appellees to make improvements to the adjacent public ways within the bounds of their existing layouts, the Appellant

has no authority to require the Appellees to dedicate a portion of their land to widening the layout of the adjacent public way.

II. CONDITION OF APPROVAL 3.1 EXCEEDED THE APPELLANT'S AUTHORITY BECAUSE IT WAS NOT A FINAL DECISION, BUT LEFT FINAL APPROVAL TO THE UNFETTERED DISCRETION OF THE TOWN PLANNER.

Condition of Approval 3.1 is also invalid because it is not a final decision and leaves the final decision regarding approval of the layout to the unfettered discretion of the Town Planner. Such a condition violates the provisions of G.L. c. 41, § 81U, which designate the Planning Board as the entity required to approve the Plan or to state:

. . . in detail wherein the plan does not conform to the rules and regulations of the planning board . . .

G.L. c. 41, § 81U.

Having left open the approval of the required layout to a different entity (" . . . [t]he layout shall be approved by the Acton Town Planner. . . ") (A. 1-253) to occur at a later date, the Appellant has failed to render a decision which advises the Appellees what they must do in order to receive full and final approval of the Plan. A subsequent decision in the Town Planner's unfettered discretion as to what the layout should be, which the Appellees may disagree with, would not be appealable pursuant to G.L. c. 41, § 81BB. *Cf. Balas v. Board of Appeals of Plymouth*, 13 Mass. App. Ct. 995 (1982). Therefore, the Appellees' rights to contest the ultimate decision of the Town Planner can only be preserved by an appeal presently, thereby determining the exact scope of the Appellees' obligations. See *Rounds v. Board of Water & Sewer Commissioners of Wilmington*, 347 Mass. 40 (1964); *Marino v. Board of Appeal of Beverly*, 2 Mass. App. Ct. 859 (1974).

III. AS ROUTE 2A IS A STATE HIGHWAY, THE APPELLANT WAS WITHOUT AUTHORITY TO REQUIRE THE APPELLEES TO UNDERTAKE A TRAFFIC SIGNAL JUSTIFICATION STUDY AND MAKE IMPROVEMENTS TO A STATE HIGHWAY AND WITHOUT AUTHORITY TO PROHIBIT CURB CUTS ONTO THE STATE HIGHWAY.

Conditions of Approval 4.5, 4.6 and 4.8 requiring specific alterations to the layout and construction of Route 2A and its junction with Esterbrook Road and prohibit direct access to Route 2A of driveways servicing Locus.

The purported reasons for these Conditions of Approval relate to traffic on Route 2A. However, neither the Appellant, nor the Town of Acton, generally, has any regulatory authority with respect to traffic control on Route 2A, as Route 2A is a "state highway" as that term is used and defined in G.L. c. 81.

G.L. c. 81 provides a comprehensive regulatory scheme for state highways subject to the sole jurisdiction of the Department of Highways. Thus, G.L. c. 81, § 8, provides, in relevant part:

The construction of all state highways shall be under the supervision and subject to the approval of the department and *in accordance with plans and specifications furnished by it . . .* [Emphasis added.]

Similarly, G.L. c. 81, § 21, provides, in relevant part:

No state highway shall be dug up, nor opening made therein for any purpose, nor shall any material be dumped or placed thereon or removed therefrom, and no tree shall be planted or removed or obstruction or structure placed thereon or removed therefrom or changed without the written permit of the department, and then only in accordance with its regulations, and the work shall be done under its supervi-

sion and to its satisfaction . . . Any person who builds or expands a business, residential, or other facility intending to utilize an existing access or a new access to a state highway so as to generate a substantial increase in or impact on traffic shall be required to obtain a permit under this section prior to constructing or using such access.

In summary, neither the Appellant nor the Town of Acton has the authority, either to grant a permit to do work within the layout of Route 2A or to grant a curb cut permit or, in the alternative, to prohibit such work or curb cuts. See *V.S.H. Realty, Inc. v. Zoning Board of Appeals of Plymouth*, 30 Mass. 530, 534 (1991); see also *Himelfarb v. Town of Brooklyn*, 19 Mass. App. Ct. 980 (1985) and *Sloper v. Quincy*, 301 Mass. 20 (1938) [as to both, it is the responsibility of the Commonwealth to maintain and repair state highways].

In *V.S.H. Realty, Inc.*, *supra*, the Court held that the Plymouth Board of Appeals was without authority to condition a special permit upon making improvements to Route 44, a state highway, because the making of such improvements was solely within the control of the Commonwealth. The Court stated simply:

It is not disputed that the required road work can only be done by the governmental authorities responsible for [the state highway], and the performance of that work — if it is to be done at all — will be a governmental decision beyond the control of the [applicant] . . .

It is unreasonable to impose a condition, the performance of which lies entirely beyond the applicant's power.

Id. at 534.

Moreover, as in *V.S.H. Realty Trust, Inc.*, Condition of Approval 4.5 prevents the issuance of a Certificate of Occupancy for any building used for business purposes until the improvements to Route 2A have been made. As was said in that case:

putting to one side the questions of the authority of the Board to order the suspension of a certificate of occupancy . . . , the condition effectively precludes construction of the project. No rational applicant would build (nor would a rational lender finance) a shopping center knowing beforehand that occupancy would be forbidden until governmental authorities elected to widen Route 44 to the extent 'necessary'.

V.S.H. Realty Trust, Inc., *supra*, at 535.

In summary, the Commonwealth of Massachusetts, through its Department of Highways, has exclusive jurisdiction to determine whether and what improvements may be made to a state highway.

Similarly, the Appellees respectfully submit that the Commonwealth has exclusive jurisdiction to determine whether and where curb cuts may be made onto Route 2A. The Appellant is without authority to either prohibit or allow curb cuts for driveways onto Route 2A:

No state highway shall be dug up, *nor opening made therein for any purpose* . . . without the written permit of the department [of highways], and then only in accordance with its regulations, and the work shall be done under its supervision and to its satisfaction. . . .

G.L. c. 81, § 21.

The Appellant has no authority to object thereto. Only the Board of Selectmen may object to such a curb cut, and then only based upon highway safety:

In the case of a driveway opening on a state highway, the said department shall not grant a permit for a driveway location or alteration if the [board of selectmen] . . . has notified the department . . . of their objection to the driveway; provided, that such objection shall be based on highway safety and accepted by the said department.

G.L. c. 81, § 21.

In contrast, the jurisdiction of the Appellant is limited to the authority granted it by the Subdivision Control Law which does not extend to prohibiting access to state highways.⁷

Depending on the nature of any future development, the Commonwealth may permit or deny additional curb cuts and may or may not prefer traffic to be directed onto Esterbrook Road or directly onto Route 2A.* Additionally, the Common-

⁷ Apart from the lack of clarity of Section 8.1.8 of the Rules and Regulations, see p. 29, *infra*, since the Commonwealth has exclusive jurisdiction over curb cuts and access to state highways, it is doubtful that Appellant may require so-called "MARGINAL ACCESS STREETS", as a means of limiting access to Route 2A. See pp. 19-20, *infra*.

*The Town Planner testified at trial that the purpose of the Condition of Approval prohibiting additional curb cuts was to prevent the resubdivision by plans endorsed "Approval Under the Subdivision Control Law Not Required" pursuant to the provisions of G.L. c. 41, § 81P, of that portion of Locus fronting on Route 2A (A. 4-1264 to 4-1265). Since there are no physical obstacles preventing access to Route 2A, the Appellees could do so presently, without regard to the subdivision, provided that the division of the frontage on Route 2A complied with the applicable zoning requirements for frontage. *Sturdy v. Planning Board of Hingham*, 32 Mass. App. Ct. 72 (1992). The Appellees further respectfully submit that a condition prohibiting redivision is only appropriate where there is an issue as to the adequacy of the subdivision way to serve the lots in the subdivision. *Cf. Hamilton v. Planning Board of Beverly*, 35 Mass. App. Ct. 386 (1993), where it was held that a planning board could properly limit the number of lots to be served by a proposed subdivision

wealth may or may not want traffic signal justification studies and may or may not want improvements made to the intersection of Route 2A. In any event, however, the decision is solely that of the Department of Highways of the Commonwealth and not of the Town of Acton.

The Appellant's argument that these conditions can be modified (although they have not been) by making the proposed work in the state highway subject to the approval of the Commonwealth, misses the mark because it assumes that the Commonwealth wants the required studies and plans made and submitted. It is not for the Appellant to determine what studies or plans shall be submitted to the Commonwealth for its review or when. State highways are made subject the exclusive jurisdiction of the Commonwealth because they form a network of intermunicipal roads which cannot reasonably be administered on a municipality by municipality basis. The unsolicited submission of studies and plans at isolated locations along the state highway would do nothing to advance the purposes of the Commonwealth's exclusive jurisdiction to manage state highways in an integrated fashion and would, therefore, defeat the very purpose of the Commonwealth's jurisdiction. Contrary to the Appellant's assertion, there is nothing to suggest that the Commonwealth would be "glad" to receive free studies and plans of improvements to the state highway in such a haphazard manner. See Appendix B to Appellant's Brief.

way based upon the adequacy of the subdivision way. In the instant case, there is no issue as to the adequacy of the subdivision way and the limit on curb cuts does not relate in any way to the adequacy of the proposed subdivision way to serve the subdivision, but prohibits the use of any alternative and unrelated means of access to the subdivision. Under these circumstances, the Appellees may, as a matter of right, redivide that portion of Locus having frontage on Route 2A and provide access to same directly from Route 2A. See G.L. c. 41, § 81O which provides, in relevant part:

" . . . the number, shape and size of the lots shown on a plan so approved may, from time to time, be changed without action by the board . . . "

The Commonwealth has adequate authority under G.L. c. 81, both to determine what studies it may require of applicants for curb cuts in the future and what improvements it may require as a result. Further, the Commonwealth has the authority to limit the number of curb cuts which may be granted for Locus.

Similarly, the Appellant's contention that Condition of Approval 4.8, limiting curb cuts, is not inconsistent with the Commonwealth's jurisdiction, assumes without any basis that the Commonwealth would prefer access via Esterbrook Road than from curb cuts. There is no basis whatsoever for that assumption.

In conclusion, Conditions of Approval 4.5, 4.6 and 4.8 exceed the authority of the Planning Board because access to and use of the state highway is within the exclusive jurisdiction of the Commonwealth.

III. THE APPELLANT WAS WITHOUT AUTHORITY TO REQUIRE THE APPELLEES TO UNDERTAKE A TRAFFIC SIGNAL JUSTIFICATION STUDY AND MAKE IMPROVEMENTS TO A STATE HIGHWAY BECAUSE SUCH REQUIREMENTS ARE NOT PROVIDED FOR IN THE RULES AND REGULATIONS.

A. *The Appellant may not impose conditions not provided for in rules and regulations which are sufficiently definite.*

G.L. c. 41, § 81M, provides, in relevant part:

It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive approval of such board if such plan conforms . . . to the reasonable rules and regulations of the planning board pertaining to subdivisions of land . . .

Therefore, a planning board may neither disapprove a plan which conforms to applicable rules and regulations, see *Patelle v. Planning Board of Woburn*, 6 Mass. App. Ct. 951 (1978); see also *MP Corp. v. Planning Board of Leominster*, 27 Mass. App. Ct. 812, 819-820 (1989) and *Baker v. Planning Board of Framingham*, 353 Mass. 141, 144 (1967), nor may it impose conditions or modifications to subdivision plans which go beyond the requirements of the applicable rules and regulations.

The planning board, in any event, cannot impose conditions of this type upon its approval of subdivisions, where it has not included (or incorporated by reference to other regulatory provisions), in its regulations defining . . . what standards are to be applied by the board in exercising any powers given to it by the regulations . . . to impose conditions and . . . what those powers are. The subdivision control law attaches such importance to planning board regulations as to indicate to us that regulations should be comprehensive, reasonably definite, and carefully drafted, so that owners may know in advance what is or may be required of them and what standards and procedures will be applied to them. Without such regulations, the purposes of the law may easily be frustrated.

Castle Estates, Inc. v. Park & Planning Board of Medfield, 344 Mass. 329, 334 (1962).

In the instant case, however, the Appellees respectfully submit that nothing in the Rules and Regulations authorizes the Appellant to require the Conditions of Approval.

B. The Rules and Regulations do not authorize the Appellant to require improvements to Route 2A, as Route 2A is an "ARTERIAL HIGHWAY".

Conditions of Approval 3.1 and 4.5 require the Appellees to make geometric improvements within the layout of Route 2A and to the intersection of Route 2A and Esterbrook Road and to widen Esterbrook Road from its junction with Route 2A to the proposed subdivision way.

The only Rule or Regulation on which the Appellant relies to support its contention that it has the authority to require the Appellees to make improvements to public ways, is Section 8.1.6 which states, in relevant part:

The BOARD may require appropriate and reasonable improvements in adjacent STREETS and WAYS to minimize congestion, to insure safe and adequate access to the proposed SUBDIVISION. . . .

(A. 1-97).

Section 8.1.6 of the Rules and Regulations does not authorize the Appellant to require the Appellees to make improvements to Route 2A as Route 2A is neither a "STREET" nor a "WAY" within the meaning of Section 8.1.6 of the Rules and Regulations, but rather, as stipulated by the parties (A. 1-25) is an "ARTERIAL HIGHWAY" as defined in Section 2.1 of the Rules and Regulations (A. 1-75).

Wherever in the Rules and Regulations (A. 1-69 to 1-209) terms appear all in capital letters, reference is being made to those terms as they are defined in Section 2.1 of the Rules and Regulations:

The words defined below are capitalized throughout these Rules. Where a defined word has not been capitalized, it is intended that the meaning of the word be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context.

(A. 1-75).

Section 2.1 of the Rules and Regulations contain separate definitions for the terms "ARTERIAL HIGHWAY", for various different kinds of "STREETS" and for "WAYS" (A. 1-75 to 1-77). The Rules and Regulations consistently make distinctions between "STREETS", "WAYS" and "ARTERIAL HIGHWAYS", as illustrated by the definition of so called:

FEEDER STREETS: STREETS which carry local traffic from collector systems to a major system of ARTERIAL HIGHWAYS . . .

(A. 1-76).

Accordingly, Section 8.1.6 of the Rules and Regulations does not authorize the Appellant to require the Appellees to make improvements to Route 2A, as Route 2A is not a "STREET" or "WAY", but is an "ARTERIAL HIGHWAY" excluded from the provisions of Section 8.1.6 of the Rules and Regulations.⁹ Therefore, the Appellant may not rely on Section 8.1.6 of the Rules and Regulations for authority to require improvements to Route 2A.

⁹The Appellant's argument that the term "STREET", as used in Section 8.1.6 of the Rules and Regulations, was intended and used in its common meaning to include Route 2A is belied by the express provisions of Section 2.1 of the Rules and Regulations defining Route 2A as an "ARTERIAL HIGHWAY", a fact which was stipulated to by the parties (A. 1-25).

C. *The Appellant may not validly require improvements to be made to adjacent public ways, except insofar as necessary to provide access to the subdivision at the point of intersection with the subdivision way.*

To the extent that a planning board may, by its rules and regulations, require improvements to public ways adjacent to a proposed subdivision way, such rules and regulations must be construed in the light of *North Landers Corp. v. Planning Board of Falmouth, supra*. In that case, the applicant had submitted a definitive subdivision plan showing approximately 447 buildable lots and a golf course. The sole public way leading to the subdivision way, although laid out to a width of 40 feet, was paved only 18 feet across. Additionally, "because the [public way] winds and dips, it would have to be straightened and widened in order to accommodate the traffic from the proposed subdivision." *Id.*, at 435. Without making any rulings as to whether the planning board could have properly denied approval of the plan on the basis of the inadequacy of the public way alone, the trial court ruled that:

. . . [T]he inadequacy of the public way . . . may be taken into consideration in conjunction with the inadequacy of the access from the public way to the subdivision, especially where, as in this case, it magnifies the inadequacy of the access from the subdivision to the public way because of the potential hazard to be created by the inability of the public way to deal reasonably with the traffic generated by the subdivision.

Id., at 437, n. 6.

Based on the foregoing, the Supreme Judicial Court only held that a planning board may consider the inadequacy of adjacent ways insofar as it relates to design changes and improvements to be made to the subdivision ways and the intersection thereof with the public ways, but declined to rule as to whether a planning board could deny approval based on the inadequacy of the public way alone. *Id.*, at 437, n. 6.

In the instant case, no issue has been raised as to the adequacy of the design of the intersection of the subdivision way and Esterbrook Road or of the adequacy of the subdivision way (A. 1-250 to 1-257).

In fact, the Appellant made no findings as to the inadequacy of Esterbrook Road either (A. 1-250 and 1-257). Conditions of Approval 3.1, 4.5 and 4.6 exceed the scope of what was approved in *North Landers, supra*, not only in that they are unrelated to the adequacy of the access to the subdivision provided by the subdivision way from the public way, but also because they require improvements to be made along the entire distance of Esterbrook Road from its intersection with the subdivision way to its intersection with another public way, Route 2A. The Appellant respectfully submits that, no issues having been raised with regard to the adequacy of the design of the subdivision, the sole reason for the Conditions of Approval here in question is that the subdivision may, if developed at some future time, impose additional burdens on the public ways. The Appellant respectfully submits that such a Condition of Approval, even if provided for in the Rules and Regulations, would exceed the authority conferred by the Subdivision Control Law:

An otherwise proper subdivision plan may not be disapproved on the grounds that the subdivision will adversely affect traffic patterns or municipal services in the community as a whole.

Mac-Rich Realty Constr. Inc v. Planning Board of Southborough, 4 Mass. App. Ct. 79, 84 (1976).

The fact that a proposed subdivision may impose additional burdens on public ways, services and utilities does not support denial or conditions of approval of a definitive subdivision plan:

In effect, the board here has denied to the owner the opportunity to subdivide its land, not because of any impropriety in the proposed plan for its use, but because the supply of water for the town, possible inadequate unless augmented from new sources, will be further depleted by use in the buildings to be constructed.

Daley Construction Co., Inc. v. Planning Board of Randolph, 340 Mass. 149, 152 (1959) [holding that a definitive subdivision plan which complied with applicable rules and regulations for the installation of a water distribution system could not be denied approval on the grounds of an existing municipal water shortage].

Similarly, in the instant matter, no issue has been raised as to whether the Plan is in compliance with the Rules and Regulations.

In conclusion, all of the Conditions of Approval here in question relate to the adequacy and use of the public ways generally and not to the adequacy of the subdivision way to provide access to the subdivision. The Appellees respectfully submit that *North Landers, supra*, provides no support for the Appellant's position that it may impose a requirement to undertake the municipal responsibility of providing and maintaining public ways.

D. *Nothing in the Rules and Regulations authorizes the Appellant to require a traffic signal justification study.*

With respect to Condition of Approval 4.6, nothing in the applicable Rules and Regulations authorizes the Appellant to require the Appellees to perform a traffic signal justification study and install a traffic light at the intersection of Route 2A and Esterbrook Road.

The installation of a traffic light at the intersection of Route 2A and Esterbrook Road would constitute an improvement within an "ARTERIAL HIGHWAY" and, for the same reasons set forth above relative to the geometric improvements to Route 2A, is not provided for in Section 8.1.6 of the Rules and Regulations, because Route 2A is not a "STREET" or "WAY" within the meaning of Section 8.1.6.

Further, the Appellees respectfully submit that nothing in the Rules and Regulations, even if applicable to an ARTERIAL HIGHWAY, authorizes the Appellant to require a traffic signal justification study and, if justified, the installation of a traffic signal at the intersection of two public ways more than 200 feet away from the entrance to the proposed subdivision way under *North Landers, supra*.

E. Nothing in the Rules and Regulations authorizes the Appellant to prohibit, limit or restrict curb cuts on Route 2A.

Although the trial court did not rule on the issue of whether the Rules and Regulations authorized the Appellant to limit or prohibit curb cuts on Route 2A. The Appellant has raised the issue in its brief and has asserted that Section 8.1.8 of the Rules and Regulations authorizes it to limit or prohibit curb cuts on Route 2A.¹⁰

There is nothing in the Rules and Regulations which authorizes the Appellant to restrict or prohibit driveways having access onto Route 2A. Section 8.1.8 of the Rules and Regulations, on which the Appellant solely relies, only provides:

¹⁰ The Appellant's concession at trial that the conditions relating to improvements to Route 2A and the traffic signal justification study were invalid unless conditioned upon state approval, did not extend to the prohibition against curb cuts, although the Appellant acknowledges in its brief that "the State Department of Highways has jurisdiction over Route 2A, and has ultimate control over the number and location of curb cuts" (Appellant's Brief, p. 14).

Where a SUBDIVISION abuts or contains an existing or proposed ARTERIAL HIGHWAY, the BOARD may also require MARGINAL ACCESS STREETS, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep LOTS with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(A. 1-98).

The foregoing regulation is unclear as to its meaning and violates the *Castle Estates, supra*, standard that regulations must be sufficiently definite and carefully drafted so that developers may know in advance what may be required of them. *Id.*, at 334. The term "reverse frontage" is not defined in the Rules and Regulations; nor is the term "deep" quantified in any manner; and there is no description whatsoever of what the term "such other treatment as may be necessary" includes.

The only defined requirement of Section 8.1.8 of the Rules and Regulations which relates to access to "ARTERIAL HIGHWAYS" is the requirement for "MARGINAL ACCESS STREETS", which are defined as:

LOCAL STREETS auxiliary to, and located on, the side of an ARTERIAL HIGHWAY for service to abutting property and adjacent area, and for control of access.¹¹

(A. 1-76).

¹¹The confusion generated by the lack of clarity of Section 8.1.8 is illustrated by the fact that the Appellant argues that the subdivision way is a "MARGINAL ACCESS STREET". The Appellees respectfully submit that the proposed subdivision way is not a "MARGINAL ACCESS STREET" as defined in Section 2.1 of

In the instant case, the Appellant did not require a "MARGINAL ACCESS STREET", but only prohibited the use of curb cuts for providing access onto Route 2A. Since the prohibition of curb cuts does not fall under a requirement for "MARGINAL ACCESS STREETS", the only basis in Section 8.1.8 for the prohibition against curb cuts must be in the provision thereof that permits the Appellant to require "such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic" (A. 1-98).

Nothing in the Rules and Regulations assists in defining what "such other treatment as may be necessary" would consist of and, therefore, Section 8.1.8 of the Rules and Regulations does not give adequate notice to the Appellees that the Appellant could, as a Condition of Approval, prohibit such curb cuts. Therefore, the aforesaid rule is insufficiently definite to support Condition of Approval 4.8 because it does not apprise applicants in advance of what is or what may be required of them. See *Castle Estates, supra*.

Further, contrary to the rationalization provided by the Appellant after the fact, it is clear from the Decision that the Appellant was not relying upon Section 8.1.8 of its Rules and Regulations, but rather was relying upon a Master Plan which was neither completed nor adopted at the time of the Decision.¹²

the Rules and Regulations because it is not "auxiliary to, and located on, the side of" Route 2A (A. 1-76). Further, even if the proposed subdivision way was a "MARGINAL ACCESS STREET", that fact would not mean that the Appellant has the additional authority not provided for in the Rules and Regulations to prohibit curb cuts on a state highway.

¹²The Decision approving the Plan was filed with the Town Clerk on January 29, 1991 (A. 1-29 to 1-31). The Master Plan, however, was published in February, 1991 and was not adopted until May 20, 1991 (A. 1-30).

1.6 Although no traffic study has been submitted¹³, it is clear that the subdivision, if developed, will cause significant increases in traffic volume and turning movements at the site. *The Acton Master Plan recommends the consolidation of curb cuts and driveways along Great Road (Route 2A) as well as the provision of turning lanes into intersecting streets and major driveways in order to accommodate additional growth and to maintain adequate vehicle carrying capacity.* [Emphasis added.]

(A. 1-252).

Even where the applicable planning board regulations permit or authorize a planning board to require a plan to comply with aspects of a master plan, the absence of a master plan renders such a regulation invalid:

With regard to this particular provision, the lack of a master plan is fatal to the validity of the regulation. Without a master plan [the regulation] is unclear as to what may be required of the plaintiffs and as to what standard will be applied to them.

Canter v. Planning Board of Westborough, 7 Mass. App. Ct. 805, 812 (1979).

Similarly, where, as here, there is no applicable regulation requiring conformity to the Master Plan, the Appellant is without authority to deny approval until a Master Plan has been adopted:

¹³ The Rules and Regulations do not require a traffic study. In any event, a traffic study could not rationally have been performed at the time the Plan was submitted to the Appellant because there were no specific development plans for Locus. The Appellant, on its own, made an assumption based upon the maximum commercial development that development would result in excess of 9,000 daily trip ends, but there was no evidence submitted at the public hearings (A. 4-1055 to 4-1058).

This legislative history . . . gives no indication that planning boards were to have freedom to disapprove plans which comply with applicable standards merely because the board feels general public considerations make such action desirable.

Pieper v. Planning Board of Southborough, 340 Mass. 157, 163-164 (1959) [holding that the planning board exceeded its authority in denying approval of a definitive subdivision plan on the grounds that the board felt that it essential to have a master plan available before approving any further subdivision plans].

To the extent that master plans bear any relevance to decisions under the Subdivision Control Law, they may form the basis for adopting zoning bylaws and appropriate subdivision rules and regulations, but they are no substitute for definite subdivision rules and regulations sufficient to advise a land owner of what may be required in order to gain approval of a definitive subdivision plan. See *Castle Estates, supra*.

Further, the Rules and Regulations could not validly prohibit curb cuts onto a public way under the Subdivision Control Law:

Except insofar as it may require compliance with the requirements of existing zoning . . . bylaws, no [subdivision] rule or regulation shall relate to the . . . use of lots within a subdivision . . . [Emphasis added.]

G. L. c. 41, § 81Q.

While this type of condition may be proper consideration in connection with the approval of a particular use, it is unrelated to the purposes of the Subdivision Control Law.

The Town of Acton is not without regulatory controls, but has the ability to impose appropriate conditions at the time

special permit site plan approval under Section 10.4 of the Zoning Bylaw, a requirement of every business use, is applied for.¹⁴ This is not a case where the adequacy of the subdivision way is in any way in question. If, at some later date, specific development plans, with specific proposed uses, are generated, which plans and uses make it appropriate and to provide access to such lots, not by the use of the subdivision way, but by curb cuts onto Route 2A, appropriate determinations can be made at that time pursuant to the site plan approval provisions of the Zoning Bylaw. See, e.g., *Prudential Ins. Co. of America v. Board of Appeals of Westwood*, 23 Mass. App. Ct. 278 (1986). That the Appellant is attempting to make determinations appropriate to site plan approval and not the Subdivision Control Law is clearly illustrated by the provisions in Condition of Approval 4.8 that a curb cut is permitted for a business use of more than 40,000 square feet and by the provisions of Condition of Approval 4.6 that “[a]t such time when a site plan special permit or other permit is required . . . the petitioner shall submit a traffic signal justification study. . . .”

In summary, the Rules and Regulations do not support the imposition of any of the Conditions of Approval, and the Conditions of Approval should, therefore, as a matter of law, be annulled, as:

¹⁴Section 10.4.1 of the Zoning Bylaw provides, in relevant part, that “a site plan special permit shall be required in all instances for the initial development of land specified in Section 3, Table of PRINCIPLE USES, as requiring a Site Plan Special Permit . . .”. Section 3, Table of PRINCIPLE USES, requires site plan approval for all business uses.

Section 10.4.3.1 of the Zoning Bylaw provides, in relevant part:

Site Design Standards for Site Plan Special Permits The purpose of the following site design standards is to ensure that adequate consideration will be given to the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, to public convenience and safety and to the suitability of a proposed USE on a site. . . .

(A. 5-385 to 5-389).

It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive the approval of such board if said plan conforms . . . to the reasonable rules and regulations of the planning board pertaining to the subdivisions of land. . . .

G. L. c. 41, § 81M.

The Plan, being in compliance with the Rules and Regulations, should be approved without the Conditions of Approval in issue.

Conclusion.

In stark contrast to the provisions of G.L. c. 41, § 81M, none of the Conditions of Approval here in question relate in any way to the adequacy of the proposed subdivision way, but relate solely to the possible uses by the Appellees of the public ways. The Conditions of Approval are not permitted by the Subdivision Control Law nor provided for in the Rules and Regulations. The Appellant has improperly sought to extend its jurisdiction to the laying out and acceptance of public ways and to the alteration and improvement of state highways and has left the approval of the final layout to the unfettered discretion of the Town Planner. For the all reasons set forth above,

the Appellees respectfully submit that the Appellant has exceeded its authority and the judgment of the trial court should be affirmed in all respects

Respectfully submitted,

F. ALEX PARRA,

BBO #390315,

LOUIS N. LEVINE,

BBO #296880,

D'AGOSTINE, LEVINE & GORDON, P.C.,

268 Main Street,

Acton, Massachusetts 01720.

(508) 263-7777

April 1, 1994

Addendum.

- 3.1 In order to accommodate traffic entering and exiting the subdivision from Great Road (Route 2A), to eliminate potential traffic congestion and provide for the safety and welfare of vehicular and pedestrian traffic, the Plan shall be modified to show an additional 30 foot wide street layout on the southerly side of Esterbrook Road extending from the entrance of the proposed subdivision road to Great Road (Route 2A). The sidewalk may be located within this layout but it shall be relocated accordingly to the most easterly edge of this layout. This layout shall be widened where necessary to allow for adequate turning radii at Great Road and the proposed subdivision road. The layout shall be approved by the Acton Town Planner. Actual construction of any additional lane within this layout shall be done at the expense of the petitioner or his/her successors, assigns or designees at the same time as the geometric improvements required for the intersection of Great Road (Route 2A) with Esterbrook Road under Condition 4.5 of this Decision are implemented.

- 4.5 Prior to the issuance of a Certificate of Occupancy for any building in the proposed subdivision which is intended for business use, the petitioner or his/her successors, designees or assigns shall have caused at his/her expense geometric improvements to be completed at the intersection of Great Road (Route 2A) and Esterbrook Road and on Esterbrook Road as follows: widen roadway on Great Road (Route 2A) to accommodate a left turn lane east bound into Esterbrook Road and a right turn taper west bound into Esterbrook Road, essentially as shown in the preliminary sketch plan prepared by Eric Durling dated January 1, 1991, and provide additional pavement width

and travel lane on Esterbrook Road utilizing the additional layout required under Plan Modification 3.1 of this Decision.

- 4.6 At such time when a site plan special permit or other permit is required for the establishment or expansion of any business use on the site, the petitioner shall submit a traffic signal justification study based on anticipated traffic volumes using ITE estimates. If such signal justification study indicates the need for a signal at the intersection of Great Road (Route 2A) with Esterbrook Road, the petitioner or his/her successors, designees or assigns shall cause such signal to be installed at his/her expense.

- 4.8 No curb cut or driveway shall be established to provide direct access to the land in the subdivision from Route 2A unless the net floor area dedicated to a business use within the subdivision exceeds 40,000 square feet. Such driveway shall be designed with a configuration that only allows right turns in from the Great Road (Route 2A) westbound lane and right turns out onto the Great Road (Route 2A) westbound lane. All left turns in and out of such driveway shall be prohibited with appropriate signage and the driveway shall be designed to physically discourage left turns in and out. Expansion of the existing agricultural use shall be exempt from this condition, provided such use falls within the definition of agricultural uses for which zoning exemption is provided under G. L. c. 40A, § 3, and, provided further, that no curb cut shall be permitted in addition to the one existing curb cut.

MASSACHUSETTS GENERAL LAWS.

41:81BB. Appeal to superior court; counsel; costs; speedy trial; surety or bond.

Section 81BB. Any person, whether or not previously a party to the proceedings, or any municipal officer or board, aggrieved by a decision of a board of appeals under section eighty-one Y, or by any decision of a planning board concerning a plan of a subdivision of land, or by the failure of such a board to take final action concerning such a plan within the required time, may appeal to the superior court for the county in which said land is situated or to the land court pursuant to the provisions of clause (k) of section one of chapter one hundred and eighty-five; provided, that such appeal is entered within twenty days after such decision has been recorded in the office of the city or town clerk or within twenty days after the expiration of the required time as aforesaid, as the case may be, and notice of such appeal is given to such city or town clerk so as to be received within such twenty days. The court shall hear all pertinent evidence and determine the facts, and upon the facts so determined, shall annul such decision if found to exceed the authority of such board, or make such other decree as justice and equity may require. The foregoing remedy shall be exclusive, but the parties shall have all rights of appeal and exceptions as in other equity cases.

A city or town may provide any municipal officer or board with legal counsel for appealing, as provided in this section, a decision of a board of appeals or a planning board and for taking such other subsequent action as parties in other equity cases are permitted to take.

Costs shall not be allowed against the planning board or board of appeals unless it shall appear that such board acted with gross negligence or in bad faith.

The court shall require nonmunicipal appellants to post a surety or cash bond in a sum of not less than two thousand nor more than fifteen thousand dollars to secure the payment of any costs incurred by the appellee as a result of the appeal of a decision approving a subdivision plan if it appears to the court that said appellant or

appellants acted in bad faith or with malice in making the appeal to the court. 33
34

All issues in any proceeding under this section may be advanced for speedy trial over other civil actions and proceedings. 35
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41:81Q. Planning board; adoption of rules and regulations.

Section 81Q. After a public hearing, notice of the time and place of which, and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing or if there is no such newspaper in such city or town then by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of such hearing, a planning board shall adopt, and, in the same manner, may, from time to time, amend, reasonable rules and regulations relative to subdivision control not inconsistent with the subdivision control law or with any other provisions of a statute or of any valid ordinance or by-law of the city or town. Such rules and regulations may prescribe the size, form, contents, style and number of copies of plans and the procedure for the submission and approval thereof, and shall be such as to enable the person submitting the plan to comply with the requirements of the register of deeds for the recording of the same, and to assure the board of a copy for its files; and shall set forth the requirements of the board with respect to the location, construction, width and grades of the proposed ways shown on a plan and the installation of municipal services therein, which requirements shall be established in such manner as to carry out the purposes of the subdivision control law as set forth in section eighty-one M. Such rules and regulations shall not require referral of a subdivision plan to any other board or person prior to its submission to the planning board. In establishing such requirements regarding ways, due regard shall be paid to the prospective character of different subdivisions, whether open residence, dense residence, business or industrial, and the prospective amount of travel upon the various ways therein, and to adjustment of the requirements accordingly; provided, however, that in no case shall a city or town establish rules or regulations regarding the laying out, construction, alteration, or maintenance of ways within a particular 1
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subdivision which exceed the standards and criteria commonly applied 33
 by that city or town to the laying out, construction, alteration, or 34
 maintenance of its publicly financed ways located in similarly zoned 35
 districts within such city or town. Such rules and regulations may set 36
 forth a requirement that a turnaround be provided at the end of the 37
 approved portion of a way which does not connect with another way. 38
 Any easement in any turnaround shown on a plan approved under the 39
 subdivision control law which arises after January first, nineteen 40
 hundred and sixty, other than an easement appurtenant to a lot 41
 abutting the turnaround, shall terminate upon the approval and 42
 recording of a plan showing extension of said way, except in such 43
 portion of said turnaround as is included in said extension, and the 44
 recording of a certificate by the planning board of the construction of 45
 such extension. Such rules and regulations may set forth a require- 46
 ment that underground distribution systems be provided for any and 47
 all utility services, including electrical and telephone services, as may 48
 be specified in such rules and regulations, and may set forth a 49
 requirement that poles and any associated overhead structures, of a 50
 design approved by the planning board, be provided for use for police 51
 and fire alarm boxes and any similar municipal equipment and for use 52
 for street lighting. The rules and regulations may encourage the use 53
 of solar energy systems and protect to the extent feasible the access 54
 to direct sunlight of solar energy systems. Such rules and regula- 55
 tions may include standards for the orientation of new streets, lots 56
 and buildings; building set back requirements from property lines; 57
 limitations on the type, height and placement, of vegetation; and 58
 restrictive covenants protecting solar access not inconsistent with 59
 existing local ordinances or by-laws. Except in so far as it may 60
 require compliance with the requirements of existing zoning ordi- 61
 nances or by-laws, no rule or regulation shall relate to the size, shape, 62
 width, frontage or use of lots within a subdivision, or to the buildings 63
 which may be constructed thereon, or shall be inconsistent with the 64
 regulations and requirements of any other municipal board acting 65
 within its jurisdiction. No rule or regulation shall require, and no 66
 planning board shall impose, as a condition for the approval of a plan 67
 of a subdivision, that any of the land within said subdivision be 68
 dedicated to the public use, or conveyed or released to the common- 69
 wealth or to the county, city or town in which the subdivision is 70
 located, for use as a public way, public park or playground, or for any 71
 other public purpose, without just compensation to the owner thereof. 72

The rules and regulations may, however, provide that not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the city or town, without the consent of the planning board, and that such consent may be conditional upon the providing of adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision. A true copy of the rules and regulations, with their most recent amendments, shall be kept on file available for inspection in the office of the planning board of the city or town by which they were adopted, and in the office of the clerk of such city or town. A copy certified by such clerk of any such rules and regulations, or any amendment thereof, adopted after the first day of January, nineteen hundred and fifty-four shall be transmitted forthwith by such planning board to the register of deeds and recorder of the land court. Once a definitive plan has been submitted to a planning board, and written notice has been given to the city or town clerk pursuant to section eighty-one T and until final action has been taken thereon by the planning board or the time for such action prescribed by section eighty-one U has elapsed, the rules and regulations governing such plan shall be those in effect relative to subdivision control at the time of the submission of such plan. When a preliminary plan referred to in section eighty-one S has been submitted to a planning board, and written notice of the submission of such plan has been given to the city or town clerk, such preliminary plan and the definitive plan evolved therefrom shall be governed by the rules and regulations relative to subdivision control in effect at the time of the submission of the preliminary plan, provided that the definitive plan is duly submitted within seven months from the date on which the preliminary plan was submitted.

81:7A. Acquisition of land to alter ways connecting with state highways.

Section 7A. In connection with the laying out, alteration or reconstruction of a state highway, the department may alter or relocate connecting ways as may be necessary. Land or rights in land may be acquired for this purpose by eminent domain under chapter seventy-nine by the department in behalf of the city or town in which the land

lies, or in behalf of the commonwealth, at the option of the department. The department may take or acquire by eminent domain under said chapter, easements in land outside the location of limited access state highways, said easements to be taken in behalf of those owners of land abutting said highways, whose rights of access to and egress from their land, and any other rights necessary to make the same available for use, will become inoperative due to the construction of said highway. Control of the land or rights in the land acquired under this section shall not vest in the city or town until such time as the work for which the land or rights in land have been acquired has been completed by said department, except that the city or town shall be responsible for snow and ice control on such portions of the highway as may be opened to traffic prior to final completion or acceptance of the project. Any person whose property has been taken or injured by any action of said department under authority of this section may recover from the commonwealth under chapter seventy-nine such damages therefor as he may be entitled to.

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240:14A. Municipal zoning ordinances, etc.; petition for judicial determination of validity.

Section 14A. The owner of a freehold estate in possession in land may bring a petition in the land court against a city or town wherein such land is situated, which shall not be open to objection on the ground that a mere judgment, order or decree is sought, for determination as to the validity of a municipal ordinance, by-law or regulation, passed or adopted under the provisions of chapter forty A or under any special law relating to zoning, so called, which purports to restrict or limit the present or future use, enjoyment, improvement or development of such land, or any part thereof, or of present or future structures thereon, including alterations or repairs, or for determination of the extent to which any such municipal ordinance, by-law or regulation affects a proposed use, enjoyment, improvement or development of such land by the erection, alteration or repair of structures thereon or otherwise as set forth in such petition. The right to file and prosecute such a petition shall not be affected by the fact that no permit or license to erect structures or to alter, improve or repair existing structures on such land has been applied for, nor by the fact that no architects' plans or drawings for such erection, alteration, improvement or repair have been prepared. The court may make binding determinations of right interpreting such ordinances, by-laws or regulations whether any consequential judgment or relief is or could be claimed or not.

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File Copy
4/22/94

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: April 19, 1994

TO: Dore' Hunter ✓
Nancy Tavernier ✓
Bill Mullin ✓

FROM: Don P. Johnson, Town Manager

SUBJECT: Municipal Forum

School and Town Staff met this morning. After some discussion we realized that there was very little or nothing of pressing importance to warrant a Municipal Forum meeting next Monday morning (April 25). Consequently, we agreed to cancel the previously scheduled meeting for the 25th.

Clearly, there are several issues that must be addressed in the weeks ahead. We will continue to develop an agenda and contact everyone to establish a new meeting date.

cc: Finance Committee Representatives
Isa Zimmerman



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

Don P. Johnson
Town Manager

April 19, 1994

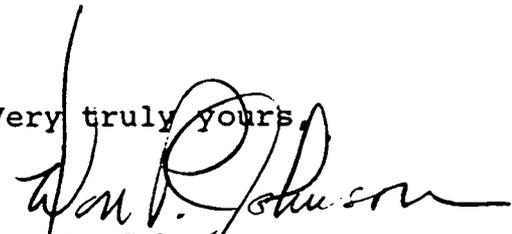
Mr. Henry Millette, Vice President
Acorn Structures, Inc.
PO Box 1445
Concord, MA 01742

Dear Mr. Millette:

The Acton Board of Selectmen gratefully accepts your generous offer to design, prefabricate and donate a new 10' by 16' gate house for use at the Acton Transfer Station. This new structure will help us improve the efficiency and delivery of municipal solid waste and recycling services.

The Town of Acton is truly fortunate to have a business community comprised of companies such as Acorn Structures. We deeply appreciate this donation and we wish you continued success as a leader in the construction industry.

Very truly yours,


Don P. Johnson
Town Manager

cc: Board of Selectmen ✓
Richard Howe

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: April 19, 1994

TO: Board of Selectmen ✓
FROM: Don P. Johnson, Town Manager
SUBJECT: Time off

Now that Town Meeting is finally behind us, I have scheduled a little R&R. I plan to take next week, the week of April 25, and get away from the office. We will be staying on the Cape and Christine will have the number in the event of an emergency.

John, Christine and Sheryl have all been notified and will handle the office in my absence (as they do in my presence).

cc: John
Christine
Sheryl



TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: April 20, 1994

TO: Isa Zimmerman, Superintendent of Schools
FROM: Don P. Johnson, Town Manager
SUBJECT: Override

Under separate cover, John Murray has notified you of the Selectmen's vote to hold a Special Town Election for the Local School Override question on May 17. The Board postponed voting it's position on this question until the next scheduled meeting on May 3.

The Selectmen have asked me to extend an invitation to the Local School Committee to join them at 7:45 PM on May 3 and discuss this matter. The Selectmen would welcome any presentation that the School Committee might wish to offer in order to help the Board make it's decision.

Additionally, the Selectmen plan to discuss the Board's thoughts/position as to the future of the Municipal Forum at their May 3 meeting. They would welcome the School Committee to that part of their agenda as well.



cc: Board of Selectmen ✓

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: April 19, 1994

TO: Board of Selectmen
FROM: Don P. Johnson, Town Manager
SUBJECT: Time Off

Now that Town Meeting is finally behind us, I have scheduled a little R&R. I plan to take next week, the week of April 25, and get away from the office. We have no definitive plans at this time but I will advise staff as they develop.

John, Christine and Sheryl have all been notified and will handle the office in my absence (as they do in my presence). I will advise Christine as to how to reach me in the event of an emergency.



cc: John
Christine
Sheryl

ACTON FINANCE COMMITTEE AGENDA

cc: BOS

To: Finance Committee Members
From: Charles Olmstead, Chair
Date: April 19, 1994
Subject: Agenda for Finance Committee Meeting Wednesday April 27th,
7:30 P.M., Room 126, Town Hall

PLEASE NOTE MEETING IS WEDNESDAY

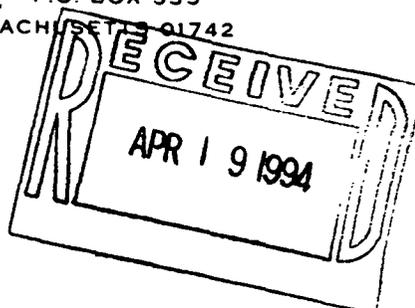
1. Opening, review agenda.
2. Review minutes of previous meeting.
3. Review mail.
4. Report on meetings attended, if any.
5. Discuss issue of recent election for Vice Chairperson.
6. Reaffirm Committee's vote that authorized transfer to pay for chimney repair to Junior High School
7. Assignment for Police Station data for Maynard Finance Committee.
8. Report on progress in implementing model for financial reporting from School Administration.
9. Discuss project to implement a model for financial reporting from Town Administration.
10. Discuss process for developing and maintaining a three-year strategic fiscal plan and a three-year budget.
11. Discuss process for developing and maintaining a schedule of equipment, buildings, roads and bridges, and all other capital items should be maintained indicating estimated replacement dates, estimated replacement costs, and estimated annual maintenance expenses.
12. Schedule next Committee meetings.
13. Adjourn.



OLD NORTH BRIDGE

TOWN OF CONCORD

TOWN HOUSE - P.O. BOX 535
CONCORD, MASSACHUSETTS 01742



April 14, 1994

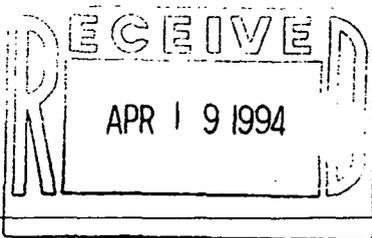
Acton Board of Selectmen
472 Main Street
Acton, MA 01720

Dear Board Members,

On behalf of the Concord Board of Selectmen, I would like to express our sincerest appreciation to your Board for the support and assistance you provided in the effort to amend the Zoning Bylaw through the approval of Article 57 on the 1994 Acton Town Meeting warrant. This amendment clarifies matters for officials in both communities, and its strong support at Town Meeting demonstrates a wonderful spirit of cooperation. We appreciate the initiative the Acton Board of Selectmen showed in bringing this matter to the voters for action. The Concord Water Division has a very tight State-imposed deadline to meet concerning the disinfection of our surface water supply, and your assistance in this matter has been truly helpful. We appreciate your assistance in steering us through the Town Meeting process, and are particularly grateful for Ann's concise and articulate summary of the issues.

We wish you a successful conclusion to the Town Meeting and budgeting season and look forward to cooperating with you on matters of mutual concern in the future.

Sincerely,
Carolyn H. Flood
Carolyn H. Flood, Chairman
Concord Board of Selectmen



cc: BOS

Town of Acton

Planning Department

472 Main Street Acton, Massachusetts 01720

(508) 264-9636

South Acton Village Planning Committee (SAVPC)

Minutes for Meeting of:

November 9, 1993

Members in attendance: Betsy Eldridge, William (Trey) Shupert, Sushama Gokhale, Roger Andrews, Bob Pion. Also present: Roland Bartl (Town Planner).

Minutes of October 12, 1993:

Discussion:

- Meetings will still be once a month through December and January considering outstanding work and Trey's schedule.
- In February the committee wants to hold a public meeting to give an update and to receive public feedback and comment. The draft plan must be completed before such a meeting.
- In light of outstanding pieces to the plan document, Roger will incorporate in his draft capital plan a description of South Acton's existing infrastructure.
- It may be a good idea to get for the plan document some photos of South Acton from the Historical Society.
- Sandra must be contacted to let her know that her portion of the plan has reduced, but that the committee is still hoping that she could write the village character portion. Trey will contact Sandra.

Following this discussion, the Minutes of October 12, 1993 were accepted.

Sewers:

The committee discussed the sewer district issue and the status of the Mill Corner Development. The committee understands that bonding of the gift money is still an issue, but feels that this should not be allowed to prevent South Acton from seizing this opportunity. The committee agreed to write a letter to this end to the Board of Selectmen. Trey Shupert will draft.

Sidewalk:

The committee also discussed the sidewalk along Main Street from Nylander Way to School Street which was required as part of the Mill Corner approval, and asked when it would be built. Roland explained that the sidewalk as designed requires a safety fence between it and Main Street. The design, and particularly the fence, must still be approved by the Historic District Commission.

Plan Document:

Roland completed the drafts of the Economic Resources and Property Valuation sections. They were reviewed quickly and approved in general.

Next meeting:

The next meeting will be on TUESDAY, DECEMBER 14, 1993.

Minutes approved: April 12, 1994

cc: Town Clerk, Planning Board, Board of Selectmen ✓

rsavpc*1

RECEIVED & FILED

DATE April 13, 1994 2:25 P.M.

Daryl Powell
TOWN CLERK ACTON

APR 19 1994

cc: BOS

Town of Acton

Planning Department

472 Main Street Acton, Massachusetts 01720

(508) 264-9636

South Acton Village Planning Committee (SAVPC)

Minutes for Meeting of:

January 11, 1994

Members in attendance: William (Trey) Shupert, Roger Andrews.
Also present: Roland Bartl (Town Planner).

Meeting of December 14, 1993: Had been cancelled.
Minutes of November 9, 1993: Not voted due to few members present.

Roger Andrews presented his first draft of the capital improvement section of the village plan. other members and staff commented and made suggestions for changes and additions.

Members present agreed to recommended to keep the meeting the meeting schedule light until all the work is in and until trey has completed his commitments in west acton.

Next meeting will be on Tuesday, February 8, 1994.

Minutes approved:

cc: Town Clerk, Planning Board, Board of SELECTMEN ✓

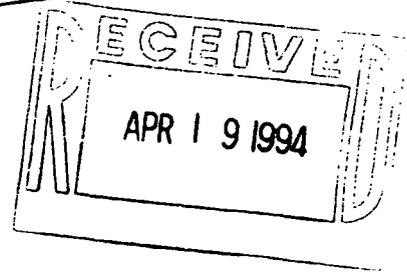
RSAVPC*1

RECEIVED & FILED

DATE April 13, 1994 2:25 P.M.

David Powell
for TOWN CLERK, ACTON

CC: BOS



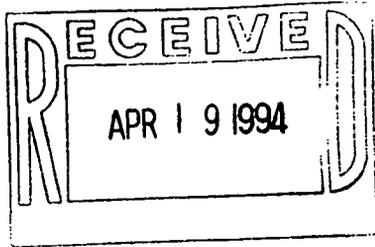
BOARD OF ASSESSORS

MINUTES

MARCH 28, 1994

1. The minutes of March 21st were read and approved.
2. The Board agreed to abate property tax for Ernie's Excavating in full-erroneous billing.
3. The Board reviewed and agreed to abate property at 40 Piper Road, if agreeable with taxpayer, per ATB case.
4. The Board reviewed many abatement applications and no decisions were made at this time.

Attendance: James Kotanchik
Donald Rhude
Brian McMullen



cc: BOS

BOARD OF ASSESSORS

MINUTES

APRIL 6, 1994

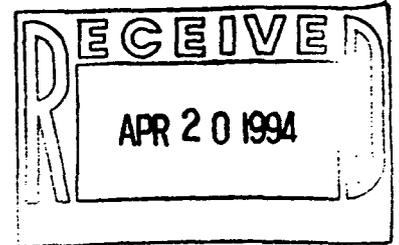
1. The Board reviewed several ATB cases including John Folsom and Marvin Pope - they decided to abate no further.
2. The Board agreed to abate Acton Tech Center down to \$4,260,000 for FY 92 and \$3,900,000 for FY 93.
3. The Board agreed to abate property at 68 Taylor Road - building lot not buildable parcel (parcel F3-110).
4. The Board signed the tax deferral for Irene Young.
5. The monthly list of exemptions were signed.
6. The 93-94 monthly list of abatements were signed.
7. The 92-93-94 monthly lists of motor vehicle abatements were signed.
8. The following exemptions were signed for Tolley (17D), Ray (17D & 41C) and Dolan (17D).
9. North Star Realty Trust received an abatement on their condominium.
10. The Board agreed to abate property at 30 Nagog Hill Road-Rear - unbuildable.
11. The following personal property accounts were abated in part - Worldspan, Finkel Keats and Federal Leasing.

Attendance: James Kotanchik
Donald Rhude
Brian McMullen

Susan R. Wachter
11 Algonquin Rd.
Acton , Massachusetts 01720

Diane Yasgur
518 Tumbling Hawk

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



April 15, 1994

To the Editor,

We are writing because of our concerns about this year's Town Meeting. Town Meeting is a forum that is supposed to encourage open dialog and opportunity for all to address the issues on the table in a fair and equitable manner. These attributes foster a desire to continue this sometimes cumbersome process of citizen participation.

We are disappointed at the callous disregard toward the proponents of the Acton School Budget. We witnessed speakers being interrupted, unfairly cut-off while speaking to the issue, (as in the case of Ms. Leeds on Tuesday night), while others were allowed to speak for lengthy periods of time on irrelevant issues (as in the case of Mr. Kadlec on Tuesday night who focused on Education Reform). We also witnessed Dr. Zimmerman and Mr. Ryan being interrupted during the presentation of the School Budget by known opponents to the Budget. This leads us to believe that the proponents of the Acton School Budget had little or no voice at the meeting, and certainly no support by the Selectmen.

The Town of Acton has approved new housing starts all over the town. Most of these are houses built for families with children. How can Acton encourage the building of such homes while at the same time neglect the needs of the Acton School Administration? Such action neglects the currently enrolled students in the system and those who are encouraged to move into our community. The budget presented by Dr. Zimmerman and the School Board was a minimal budget. A budget that does not replace lost programs nor reduces class size. This budget merely maintains the level of services that our very dedicated staff has had to work with over the past lean years. It is unconscionable that the Selectmen could not openly endorse this budget.

Our children are not yet voting members of the community. Children rely adults to vote their best interest. It is a sacred responsibility that each voter must take very seriously. This pattern of differential treatment towards citizens with differing views from those on the dais at Town Meeting needs to be critically reviewed.

Respectfully,

A handwritten signature in cursive script that reads "Susan Wachter + Diane Yasgur".

Susan Wachter & Diane Yasgur