

Town of Acton

Special Town Meeting Warrant



Wednesday, November 12, 2014

**The Special Town Meeting will convene at 7:00 PM in the
Acton-Boxborough Regional High School Auditorium
36 Charter Road**

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Free Transportation to Town Meeting

Don't miss Town Meeting because you can't get a ride!



The Town of Acton is offering free door-to-door van rides to the Special Town Meeting. The Town Meeting starts at 7 PM.

The MinuteVan Dial-A-Ride will have a driver available to provide rides from 6:15 PM to 10:30 PM for each night of Town Meeting.

The Dial-A-Ride dispatch service will be open until 4:00 PM on the day of each meeting for anyone that wants to book a ride to/from Town Meeting that night. They will be able to book a reservation with the Dispatcher at (978) 844-6809.

The service will run even if there are no reservations, as we will take walk-ons from Town Meeting that would like a trip home. There will be no charge to passengers for any of these Town Meeting trips.

When the van is not in use from 6:15 PM to 10:30 PM, it will be parked in a visible location in the Acton-Boxborough High School Parking Lot where Town Meeting is being held. The van's engine will not idle; interested riders may approach the vehicle at any time during the evening and the driver will give them a ride.

MinuteVan Dial-A-Ride is a unique transportation service offered by the Town of Acton. It is available to all citizens Monday through Friday, except holidays, for rides around town and to nearby locations. Hours of operation are 8 AM - 11 AM and 1:15 PM - 6:15 PM.

Trips within Acton cost \$2/trip, \$1/trip for seniors and disabled.

Out-of-town trips (within 3.5 mile radius of Acton Town Hall) are \$4/trip, \$1.50/trip for seniors/disabled. Locations served include: West Concord Center, Emerson Hospital, Maynard Center, Skating Rink and Food Pantry in Boxborough, and more. Policies may be reviewed on-line at www.minutevan.net.

Board of Selectmen's Message

This Special Town Meeting Warrant is sent to all the households in the Town of Acton to inform the citizens of important decisions to be made for the town. Acton has an Open Town Meeting form of municipal government. The Town Meeting serves as the legislative body. This warrant contains proposals for the Town to vote on. The proposals are called Warrant Articles. Please read through this Warrant thoroughly. Any inquiries you may have in the days ahead of the meeting may be answered by contacting the person listed at the end of the article.

The Special Town Meeting will be held on Wednesday, November 12 at 7:00 PM in the Acton-Boxborough Regional High School Auditorium. The Special Town Meeting will be led by our Town Moderator, Don MacKenzie. He will explain the Town Meeting process. Articles are presented, and Town Meeting attendees may ask questions, ask for clarifications, and offer their opinions on the article, for and against. The Moderator follows Town Meeting procedures, and keeps the debate moving in a fair, orderly, respectful, and civil fashion.

You must be a registered voter in the Town of Acton to vote, but all members of the community are welcome to attend.

At times, articles have been voted up or down by only one vote. Truly, at Town Meeting every vote counts.

Please take the time to review this important document, and attend the Special Town Meeting.

Mike Gowing, Chair
Katie Green, Vice-Chair
Peter Berry, Clerk
Janet K. Adachi
Franny Osman

Board of Selectmen

Consent Calendar

In an effort to streamline Town Meeting, the Board of Selectmen and Town Moderator use the concept of a Consent Calendar. The use of Consent speeds the passage of articles which the Selectmen feel should generate no controversy and can be properly voted without debate. Its purpose is to allow motions under these articles to be acted upon as units and to be passed without debate.

When the Consent motion is read, the Moderator will call out the article numbers one-by-one.

Articles on Consent are distinguished from other articles by the asterisk (*) notation following each article number in the index above, as well as in the title of each article.

If **two or more** voters object to any particular Article being included in the Consent Calendar, they should say the word “**hold**” in a loud voice when the number is called. The Article will then be removed from the Consent Calendar, to be debated and voted in the usual manner, **immediately following** the vote on the Consent motion.

After the calling of the individual items in each Consent Calendar, the Moderator will ask that all remaining articles be passed **as a unit** by the voters.

Please carefully review the articles and motions. Summaries are also included with each article printed in this Warrant. Motions for consent articles are included under the text of each article.

If you have any questions about the Consent articles, motions or procedure, please feel free to contact the official listed in the summary of the article or to contact the Town Manager’s Office, by e-mail at manager@acton-ma.gov or by telephone at (978) 929-6611, before Town Meeting.

Donald MacKenzie
Town Moderator

I served with General Washington in the Legislature of Virginia before the Revolution and, during it, with Dr. Franklin in Congress. I never heard either of them speak ten minutes at a time, nor to any but the main point which was to decide the question. They laid their shoulders to the great points, knowing that the little ones would follow of themselves.

– Thomas Jefferson

Special Town Meeting Warrant



*Town of Acton
Commonwealth of Massachusetts, ss.*

To either of the Constables of the Town of Acton, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the legal voters of said Town of Acton, qualified to vote at Town Meetings for the transaction of Town affairs, to meet at the Acton-Boxborough Regional High School Auditorium in said Acton on **Wednesday, November 12 at 7:00 PM**, then and there to act on the following articles.

One or more of the following symbols may appear following an Article number:

*	This article is on the Consent Calendar
#	This article was submitted by Citizens' Petition

One or more of the following recommendations may appear at the end of an Article's summary:

Recommended	This board voted to <u>recommend</u> passage by Town Meeting.
Not Recommended	This board voted to <u>not recommend</u> passage by Town Meeting.
Deferred	A recommendation will be made by this board when the Article is considered at Town Meeting.
No Recommendation	This board voted to make no specific recommendation to Town Meeting.

Article 1 **Resolution of the Town of Acton Related to the**
(Majority vote) **Operation and Funding of the Acton Nursing Service**

Whereas, the Acton Nursing Service has been part of the Town’s municipal government since 1923.

Whereas, the Acton Nursing Service has a distinguished record of providing highly professional, compassionate and sustained care recognized for its excellence, including being chosen in 2013 as one of the top 500 home care providers in the nation.

Whereas, the operation of the Acton Nursing Service within Town Hall enhances the availability of the state-mandated public health services.

Whereas, in addition to the mandated public-health services the Acton Nursing Service provides a full range of home care services including skilled nursing, home health care assistance, medical social services, and physical, occupational and speech therapy.

Whereas, the demographics of the Acton population indicate a growing number of older residents, many living alone, who are more likely to need home care.

Whereas, the national and state healthcare systems are undergoing unpredictable changes which are likely to adversely affect the financial viability of those healthcare providers who rely solely on revenue from insurance reimbursements and donations.

Whereas, the trend is to limit hospital stay and to rely more on home care.

Whereas, continuing to maintain full local support and control of the Acton Nursing Service assures that it can provide care for all residents regardless of ability to pay, and that it can coordinate closely with other Town departments, especially Fire and Police.

Whereas, re-creating the Acton Nursing Service would be extremely difficult if not impossible should its present operation be terminated or transferred to an outside organization.

Now, therefore be it resolved that :

1. the Acton Board of Selectmen direct the Town Manager to provide for the continuation of the operation of the Acton Nursing Service as part of the town municipal government.
2. the Acton Nursing Service continue to operate as a CMS certified home care provider.
3. the cost of operating the Acton Nursing Service be included in the Town of Acton yearly municipal budget starting with Fiscal Year 2016, and the Nursing Service Enterprise Fund be terminated at the end of Fiscal Year 2015.
4. the Town of Acton Finance Department set up an account to accept donations designated for the Acton Nursing Service.
5. the Board of Selectmen direct the Town Manager to develop and implement a business plan for the Acton Nursing Service.

————— **Summary** —————

This Resolution is being offered to allow this Special Town Meeting to reaffirm the voters’ support of the Acton Nursing Service (ANS). For the last three years, voters at the Annual Town Meeting have overwhelmingly approved appropriations needed to continue to operate this important service, unique to Acton, and now in danger of being terminated because “it is losing money”. Although this service ranks among the best and most important of the Town services, and the subsidy is relatively small compared to the total town revenue, closing the ANS has become a current issue, unknown to most Acton residents.

The ANS receives reimbursements for its service if those it serves have the appropriate insurance. For the last several years, the healthcare system has been undergoing substantial changes which have reduced payments to providers and generally made “making a profit” much more difficult even for organizations structured for that purpose, which the ANS is not – it is focused on providing the best possible care.

The home care business has become extremely competitive, with many providers identifying and competing for those “clients” who are likely to produce a profit, or at least break-even, and avoid cases which are clearly money-losers. The ANS does not do any “marketing” and therefore has been at a great disadvantage, financially, in this environment. This was recognized more than two years ago, with the recommendation that at the very least, the municipal administration should make sure that Acton residents know that ANS exists, and even more importantly, that they know that they – nobody else – have the right to decide which home care service they want when the need arises.

This recommendation has not been implemented, as confirmed at the September 22, 2014 meeting of the Board of Selectmen. Even simple steps, such as giving the ANS some visibility on the Town website have not been taken. Not surprisingly, the ANS financial situation has deteriorated, requiring a supplemental subsidy for the current fiscal year, per another Article for this Special Town Meeting. The recommendation is still valid, and implementing it would reverse the ANS financial problems. First, however, the ANS has to be kept under local control and its finances stabilized by including the cost of its operation in the yearly municipal budget – that is the purpose of this Resolution.

The consultant hired by the Town to evaluate the ANS noted that although there are many home care providers in this area now, most of them will probably be out of business in a year or two. When that happens, the importance and value of the Acton Nursing Service will increase for all Acton taxpayers.

Direct inquiries to: Charlie Kadlec: ANS.2014.STM@stolab.com / (978) 263-4361

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 2 **Nursing Service Enterprise Fund**
(Majority vote) **Supplemental Appropriation to Continue to Operate**

To see if the Town will vote to raise and appropriate, appropriate from available funds, and/or transfer to the Nursing Service Enterprise Fund an amount of money for Fiscal Year 2015, above the amount appropriated under Article 7 at the 2014 Annual Town Meeting, to continue to operate the Acton Nursing Service, or take any other action relative thereto.

————— **Summary** —————

The Nursing Service operates as a Medicare Certified Home Care provider. Annually its budget is balanced between expenses for providing home care with reimbursements from Medicare and Third Party Insurance Providers, augmented by the use of the Nursing Service Enterprise Fund balance. Recent changes required by the Affordable Care Act have had a severe affect on reimbursement rates and the referral base of the Nursing Service. These changes have contributed to a revenue shortfall in FY 15.

This Article will appropriate the necessary funds to ensure that the Nursing Service will continue to operate as a Medicare Certified Home Care for the remainder of FY 15. The Nursing Service has been recognized by Home Care Elite as in the top 25% of home care providers in 2009 and 2011 and as one of the top 500 in 2012 and 2013. Approval of this article will continue the quality care for Acton patients through this fiscal year. Budget planning for the Nursing Service in FY 16 will take into account the vote on this Article and be presented at the 2015 Annual Town Meeting.

Direct inquiries to: Doug Halley, Health Director: dhalley@acton-ma.gov / (978) 929-6632

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 3 **Nursing Service Enterprise Fund**
(Majority vote) **Supplemental Appropriation to Implement Health Navigator and**
 Wind Down Nursing Service

To see if the Town will vote to raise and appropriate, appropriate from available funds, and/or transfer to the Nursing Service Enterprise Fund an amount of money for Fiscal Year 2015, above the amount appropriated under Article 7 at the 2014 Annual Town Meeting, to implement a Health Navigator program, to continue public health nursing services, and to wind down the other operations of the Acton Nursing Service, or take any other action relative thereto.

————— **Summary** —————

This Article will be considered if the previous Article fails or will be moved to be passed over if the previous Article passes. This Article will wind down the Medicare Certified Home Care operations of the Acton Nursing Service. During that wind down period patients will either be given care until discharged or will transition to Parmenter Community Health Care (Parmenter). In addition, Nursing Service employees providing the home care services would be provided an opportunity to transition to Parmenter. The Article will appropriate necessary funds to cover expenses related to the transition of patients and employees.

Part of the services currently provided by the Nursing Service is to act as a health navigator for its patients and Acton residents to ensure that they are connected to health services. With the winding down of the Nursing Service Medicare Certified Home Care these health navigator services would also be lost. This Article will appropriate the necessary funds for FY 15 to continue Health Navigator services to the Senior population and expand Health Navigator services to all ages.

The changes implemented by the Affordable Care Act are making it more difficult for some of Acton’s residents to access health care. The Health Navigator program will assist residents in bridging the gap in much the same way as the Community Services Coordinator, Veterans’ Service Officer and the Council on Aging Outreach Coordinator assists in bridging the social gap needs of the residents.

The Public Health Nursing services, which were dependent on the administrative assistant support provided by the Medicare Certified services, will be supplemented with additional administrative assistant hours to ensure M-F coverage but will otherwise continue as approved at the 2014 Annual Town Meeting. This Article will appropriate necessary funds for FY 15 to continue the level service of Public Health Nursing.

Direct inquiries to: Doug Halley, Health Director: dhalley@acton-ma.gov / (978) 929-6632

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 4 **Nursing Service Enterprise Fund**
(Majority vote) **Supplemental Appropriation to Wind Down Nursing Service**

To see if the Town will vote to raise and appropriate, appropriate from available funds, and/or transfer to the Nursing Service Enterprise Fund an amount of money from Fiscal Year 2015, above the amount appropriated under Article 7 at the 2014 Annual Town Meeting, to continue public health nursing services and to wind down the other operations of the Acton Nursing Service by a date certain to be determined by Town Meeting, or take any other action relative thereto.

————— **Summary** —————

This Article will be considered if the previous two Article fail or will be moved to be passed over if either of the previous two Articles pass. This Article will wind down the Medicare Certified Home Care operations of the Acton Nursing Service. During that wind down period patients will either be given care until discharged or will transition to Parmenter Community Health Care (Parmenter). In addition, Nursing Service employees providing the home care services would be provided an opportunity to transition to Parmenter. The Article will appropriate necessary funds to cover expenses related to the transition of patients and employees.

The Public Health Nursing services, which were dependent on the administrative assistant support provided by the Medicare Certified services, will be supplemented with additional administrative assistant hours to ensure M-F coverage but will otherwise continue as approved at the 2014 Annual Town Meeting. This Article will appropriate necessary funds for FY 15 to continue the level service of Public Health Nursing.

Direct inquiries to: Doug Halley, Health Director: dhalley@acton-ma.gov / (978) 929-6632

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 5 **Nursing Service Enterprise Fund**
(Majority vote) **Authorization to Revoke**

To see if the Town will vote, effective as of the close of Fiscal Year 2015, to revoke the provisions of Chapter 44, Section 53F½ of the Massachusetts General Laws as to the Nursing Service Enterprise Fund; to close the Nursing Service Enterprise Fund balance to the General Fund and transfer any assets, debts and long-term liabilities of the Nursing Service Enterprise Fund to the General Fund; and to authorize the Town Manager and the Board of Selectmen to take all steps necessary to combine, reorganize, or discontinue any remaining operations of the Acton Nursing Service, or take any action relative thereto.

————— **Summary** —————

This Article is required if the Article to continue funding of the Medicare Certified Agency fails. The Nursing Service Enterprise Fund’s purpose is to receive reimbursements for care provided and to pay for the services providing that care. With those services winding down within FY 15 the need for this Enterprise Fund is no longer required.

This Article will also be considered if the Article to continue funding of the Medicare Certified Agency passes. Under the current provisions of the Affordable Care Act the Nursing Service is unable to function as a self supporting enterprise. Those same provisions delineate the need of nursing services to bridge the gap of residents seeking to access quality home care services. Revocation of the Enterprise Fund combined with the continued funding of the Medicare Certified Agency would transition the funding of these services to the General Fund and would recognize the service is needed but can no longer operate as a self supported enterprise.

Direct inquiries to: Doug Halley, Health Director: dhalley@acton-ma.gov / (978) 929-6632

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 6 Home Rule Petition – Exempt Police Force from Civil Service

(Majority vote)

To see if the Town will vote to petition the Massachusetts General Court for special legislation as set forth in the following Act, to exempt Acton Police Patrol Officers from the provisions of Chapter 31 Civil Service. This Article is contingent upon the passing of **Articles ‘X’ and Article ‘X’**. All Articles must pass affirmatively by a Town Meeting vote in order for any of these three Articles to be implemented.

An Act Exempting the Acton Police Patrol Officers from the provisions of the Civil Service Law

Section 1: Notwithstanding the provisions of any general or special law to the contrary, Chapter 212 of the Acts of 1954, entitled, “An Act Placing the Positions Of the Regular Or Permanent members Of The Police Force Of The Town Of Acton Under The Civil Service Laws”, is hereby rescinded.

Section 2: As of the effective date of this Act, all offices and positions in the Acton Police Patrol Officers Association shall be exempt from the provisions of Chapter 31 of the General Laws.

Section 3: Section 2 shall not impair the Civil Service status of any person employed as a Patrol Officer in the Town of Acton on the effective date of this Act.

Section 4: This Act shall take effect upon its passage.

————— **Summary** —————

The article would ask Town Meeting to vote on items contained in the Memorandum of Agreement with Town of Acton Police Patrol Officers union and Superiors union. Under the provision of Massachusetts General Law Chapter 212 of The Acts of 1954, it placed the positions of the regular or permanent members of the police force of the Town of Acton under the Civil Service Laws. At a May 17, 1954 Special Town Meeting, the Town voted affirmatively to accept Chapter 212 of The Acts of 1954. If the language is approved, the Town is obligated to enact such change. **If the article is rejected by Town Meeting, this article will not be implemented, nor Articles ‘X’ or ‘X’.**

Direct inquiries to: Frank Widmayer, Police Chief: fwidmayer@acton-ma.gov / (978) 263-2911

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 7 Appropriation – Civil Service, Patrol

(Majority vote)

To see if the Town will vote to raise and appropriate, transfer and/or appropriate from available funds a sum of money necessary to fund the cost items contained in memorandum of Agreement between the town and its **police patrol officers union** as filed with the Town clerk, or take any other action relative thereto. This article is contingent upon the passing of **Articles ‘X’ and Article ‘X’**. All articles must pass affirmatively by a Town Meeting vote in order for any of three Articles to be implemented.

————— **Summary** —————

The article would ask Town Meeting to fund cost items contained in the Memorandum of Agreement relative to an Education Incentive with **Town police patrol officers union**, under the provision of Massachusetts General Law, Chapter 150E, Section 7. When a tentative agreement is reached with a union, the Town will bring a funding request for the financial elements of the agreement to the first available Town Meeting for approval. If the funding is approved, the Town is obligated to fund the remaining years of the contract. If the funding request is rejected by town meeting, the Education Incentive will not be implemented, nor Articles ‘X’ or ‘X’.

Direct inquiries to: Frank Widmayer, Police Chief: fwidmayer@acton-ma.gov / (978) 263-2911

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 8 Appropriation – Civil Service, Superiors

(Majority vote)

To see if the Town will vote to raise and appropriate, transfer and/or appropriate from available funds a sum of money necessary to fund the cost items contained in memorandum of Agreement between the town and its **police patrol officers union** as filed with the Town clerk, or take any other action relative thereto. This article is contingent upon the passing of **Articles ‘X’ and Article ‘X’**. All articles must pass affirmatively by a Town Meeting vote in order for any of three Articles to be implemented.

————— **Summary** —————

The article would ask Town Meeting to fund cost items contained in the **Memorandum of Agreement relative to an Education Incentive with Town police patrol officers union**, under the provision of Massachusetts General Law, Chapter 150E, Section 7. When a tentative agreement is reached with a union, the Town will bring a funding request for the financial elements of the agreement to the first available Town Meeting for approval. If the funding is approved, the Town is obligated to fund the remaining years of the contract. If the funding request is rejected by town meeting, the Education Incentive will not be implemented, nor Articles ‘X’ or ‘X’.

Direct inquiries to: Frank Widmayer, Police Chief: fwidmayer@acton-ma.gov / (978) 263-2911

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 9 **Amend Zoning Map – Brookside Shops**

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw, Map Number 1, by changing the zoning district designation for Town Atlas parcel F-4/37 (145 to 149 Great Road) from Residence 8 (R-8) to Limited Business (LB), or take any other action relative thereto.

————— **Summary** —————

The property at 145-149 Great Road is the site of Brookside Shops, currently the location of Staples, Trader Joe’s, Talbots, and others. Originally zoned for General Business, the site was rezoned to single-family residential (R-8) in 1990 as part of a comprehensive zoning plan for Great Road. The then-owners of the subject site objected to the rezoning of their property and availed themselves of statutory grandfathering protection devices to preserve the pre-1990 General Business zoning for their property. Brookside Shops was built about ten years ago under these grandfathering protections in conformance with pre-1990 General Business District zoning requirements.

Today, the grandfathering protections for the subject property have expired, and the site is subject to R-8 zoning regulations. Severe non-conformity restrictions result from the mismatch between the established commercial use and the residential zoning regulations. This makes it often impossible for the existing businesses to implement changes to their establishments, or to change business establishments in the plaza, without frequent involvement by the Board of Appeals for special permits or variances. This article is intended to acknowledge the commercial nature of the property that now exists.

The General Business District no longer exists in Acton. The proposed LB zoning is consistent with other business properties along Great Road. LB zoning for the site will not eliminate all non-conformities, but will reduce them considerably.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations: **Board of Selectmen** **Finance Committee** **Planning Board**

Article 10 **Amend Zoning Bylaw – Outdoor Sales (Farmers’ Markets)**

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 3.8 – ACCESSORY USE Regulations, by amending subsection 3.8.4.8e (Farmers’ markets) as follows:

3.8.4.8 e) The farmers’ market shall not recur more than one day per week, with the exception of sales of holiday trees and related items within the months of November and December.

[Note: Subsection 3.8.4.8e currently reads:

The farmers’ market shall not recur more than one day per week.]

, or take any other action relative thereto.

————— **Summary** —————

Subsection (e) currently limits farmers’ markets to one day per week. Typically holiday tree lots or businesses operate every day after Thanksgiving until December 25th. This article exempts the sales of holiday trees and other seasonal items from the 1 day per week limitation in subsection (e).

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Planning Board

Article 11 Amend Zoning Bylaw – Pharmacy and Bank Drive-Up Window

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw section 3.8.2 (Accessory Use Permitted in the Office, Business, and Industrial Districts) by deleting subsection 3.8.2.2 and replacing it with the following:

3.8.2.2 Drive-up facilities in a bank or pharmacy subject to the grant of a special permit by the Board of Selectmen and the following requirements and limitations:

- a) Drive-up facilities shall be located only on the side or rear of a BUILDING; not on the front of a BUILDING that faces a street. In cases where a BUILDING has more than one front facing a street the Board of Selectmen may grant exceptions to this rule.
- b) Pharmacies shall be allowed only one drive-up lane and window in a pharmacy; such drive-up window shall be integrated with or attached to the pharmacy BUILDING, and drive-up window customer service shall only occur from the public access restricted pharmacy area within the store.
- c) Drive-up facilities at pharmacies shall be limited to prescription services for customers.

[Note: Subsection 3.8.2.2 currently reads:

3.8.2.2 Drive-up facilities in a bank.]

, or take any other action relative thereto.

————— **Summary** —————

Currently, the zoning bylaw allows drive-up facilities in a bank by right. It does not allow drive-up facilities in pharmacies. This article would provide that drive-up facilities in banks and pharmacies are allowed by special permit from the Board of Selectmen subject to certain requirements and limitation on location, size, and use. The zoning bylaw will continue to prohibit all other drive-up facilities.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Planning Board

Article 12 Amend Zoning Bylaw – Political Signs

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 7.5 – ACCESSORY USE Regulations, by deleting subsection 7.5.12 (Political SIGNS) and replacing it with a new subsection as follows:

7.5.12 Political SIGNS – In addition to WINDOW SIGNS, SIGNS may be ERECTED on a LOT displaying political messages. Such SIGNS shall be stationary and shall not be illuminated. The height of such SIGNS shall not exceed 4 feet and the DISPLAY AREA of each sign shall not exceed 6 square feet. SIGNS associated with a political event such as elections, primaries, balloting, or voter registration shall be removed within 5 days after the event.

[Note: Subsection 7.5.12 currently reads:

Political SIGNS – In addition to WINDOW SIGNS, SIGNS may be ERECTED on a LOT displaying political messages. Such SIGNS shall be stationary and shall not be illuminated. The height of such SIGNS shall not exceed 4 feet and their DISPLAY AREA shall not exceed 6 square feet. SIGNS associated with a political event such as elections, primaries, balloting, or voter registration shall be removed within 5 days after the event.]

, or take any other action relative thereto.

————— **Summary** —————

This article clarifies the original intent of this section to allow multiple political signs.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Planning Board

Article 13 Amend Zoning Bylaw – Public Acquisition

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 8.8 – Public Acquisition, by deleting Section 8.8 and replacing it with a new subsection as follows:

8.8 Public Acquisition – If the area, FRONTAGE, width or other dimensions of a LOT, parcel or TRACT OF LAND is altered by a taking or acquisition of part of such land by the Town of Acton or the Water Supply District of Acton for public purposes, no such LOT, parcel or TRACT OF LAND nor any existing USE, BUILDING or STRUCTURE located on, or dependent upon the existing area or other dimensions of such LOT, parcel or TRACT OF LAND for compliance with the requirements of this Zoning Bylaw, shall be rendered non-compliant, nonconforming, or more nonconforming solely by reason of such taking or acquisition.

*[Note: Section 8.8 currently reads:
Public Acquisition – If the area, FRONTAGE, width or other dimensions of a LOT, parcel or TRACT OF LAND is decreased by a taking or acquisition of part of such land by the Town of Acton or the Water Supply District of Acton for public purposes, no existing USE, BUILDING or STRUCTURE located on, or dependent upon the existing area or other dimensions of such LOT, parcel or TRACT OF LAND for compliance with the requirements of this Zoning Bylaw, shall be rendered non-complying solely by reason of such taking or acquisition.]*

, or take any other action relative thereto.

————— **Summary** —————

Section 8.8 of the Zoning Bylaw offers certain protections for zoning compliance to land, land uses and structures following a public acquisition or taking. This article clarifies the original intent of this section and extends the protections so that after and as a result of a public acquisition or taking the affected properties or uses will be deemed to (1) retain their prior status with respect to zoning compliance, (2) retain their prior zoning conformance status, and (3) not have any existing nonconformities increased. A non-compliant property or use constitutes a violation of the zoning bylaw. A lawful nonconforming use or property may continue, but any changes or expansions, or increases in nonconformity, are either prohibited or subject to special permits, which may be granted or denied.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations: **Board of Selectmen** **Finance Committee** **Planning Board**

Article 14 Amend Zoning Bylaw – Reduce Special Permits

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw as follows:

A. Restaurant

1. In Section 3 - Table of Principal Uses, replace “SPS” with “Y” in the fields in columns VR, EAV, EAV-2, NAV, SAV, WAV, OP-2, KC, LB, PM and TD, line 3.5.5 Restaurant.
2. In Section 3 – Notes for Table of Principal Uses, delete Note (9) and replace it with the following:

(9) A Special Permit shall be required for a Restaurant with more than 125 seats.

[Note (9) currently reads:

No Special Permit shall be required for a Restaurant with 10 seats or less.]

B. Commercial Recreation

1. In Section 3 - Table of Principal Uses, replace “SPS” with “Y” in the fields in columns EAV, EAV-2, NAV, SAV, WAV, OP-1, OP-2, KC, LB, PM, GI, LI, LI-1, SM(1) and TD, line 3.5.15 Commercial Recreation.
2. In Section 3 – Notes for Table of Principal Uses, delete Note (10) and replace it with the following:

(10) A Special Permit shall be required for Commercial Recreation facilities operating at night between the hours of 10PM and 5AM.

[Note (10) currently reads:

No Special Permit shall be required for Commercial Recreation facilities with a NET FLOOR AREA of less than 2,000 square feet.]

3. In Section 3 – Table of Principal Uses and Notes to Table of Principal Uses, delete Note (11) from the field in column EAV, line 3.5.15 Commercial Recreation.

[Note (11) reads:

No Special Permit shall be required for this Use if its NET FLOOR AREA is 5,000 square feet or less.]

4. In Section 5.5A.1 – Maximum Floor Area of Businesses and Industries Table, delete “NR” from the field in columns NAV and SAV, line 3.5.15 Commercial Recreation and replace it with the following:

In field column NAV, 7,500.

In field column SAV, 5,000.

C. Non-Conforming Lots

1. In Section 8.1.4 – Extensions, alterations, or changes of Single and Two-Family Dwellings on Nonconforming Lots, delete the existing section and replace it with the following:

One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 30% of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that the LOT became nonconforming, whichever is later.

[Note Section 8.1.4 currently reads:

One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15% of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that the LOT became nonconforming, whichever is later.]

, or take any other action relative thereto.

————— Summary —————

The intent of this article is to streamline permitting processes for existing and proposed uses that are historically approved without much, if any public concern during the special permitting process, and to address those concerns through bylaw amendments as shown above. Uses requiring a special permit are more discretionary than uses allowed by-right. Special permits require a public hearing, necessitating additional time, cost and uncertainty to the applicant as well as considerable bureaucratic cost and effort to the Town.

Part A. Currently, only restaurants with 10 seats or less are allowed by-right; meaning a use special permit is required for all restaurants with more than 10 seats. This article increases the allowed by-right seat capacity in restaurants from 10 to 125 seats. The Acton 2020 Comprehensive Community Plan states that residents desire to encourage activity in village and key centers by promoting a variety of different uses including restaurants. Increasing the by-right restaurant seat capacity from 10 seats to 125 seats will reduce barriers for existing restaurants to expand and for prospective restaurants from locating in Acton, and reduce overall permitting cost to the Town. For the last 10 years the Town has not denied any restaurant special permit application. In the village districts the size of restaurants remains capped at 5,000 square feet of floor area (Zoning Bylaw, section 5.5A.1).

Part B. This article will remove the special permit requirement for Commercial Recreation facilities entirely except for facilities operating during night hours. This bylaw also introduces a maximum area of 7,500 square feet in the North Acton Village (NAV) district consistent with limits in the East Acton Village district, and 5,000 square feet in the South Acton Village (SAV) district consistent with limits in the West Acton Village district. Currently, Commercial Recreation facilities over 2,000 square feet require a special permit. Special Provisions for Village Districts under Section 5.5A.1 restrict the net floor area of commercial recreational facilities. Currently, the North Acton Village (NAV) and South Acton Village (SAV) rely on the Table of Principal Uses 2,000 square foot special permit threshold but do not have any additional restrictions under Section 5.5A.1. For the last 10 years the Town has not denied any Commercial Recreation facility special permit application. A proposed facility with night hours was approved with conditions.

Part C. This article increases the by-right threshold for extensions, alterations or changes to a single or two-family dwelling on a non-conforming lot from 15% to 30%. There are many lots in Acton that are non-conforming with respect to minimum frontage or area. Without some accommodation in the zoning

bylaw, State law requires that every extension, alteration, or change to a dwelling on a non-conforming lot is subject to a special permit. Currently, the zoning bylaw provides that a by-right extension, alteration or change to a single or two-family dwelling on a non-conforming lot is limited to a 15% increase to the size of the existing structure. Any increase above 15% requires a special permit. Since the adoption of the 15% threshold in April 2013 there have been numerous special permit applications under this bylaw section, and all were granted.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Planning Board

Article 15 **Amend Zoning Bylaw – Senior Housing**

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 9B – SENIOR RESIDENCE, by deleting subsection 9B.12.9.2 (Affordability, Monetary contributions) and replacing it with a new subsection as follows:

9B.12.9.2 Monetary contributions in support of affordable housing made to the Acton Community Housing Program Fund. To be eligible for this alternative, the Planning Board, upon recommendation from the Acton Community Housing Corporation, must determine that there will be an extraordinary benefit or advantage to achieving the Town’s affordable housing objectives as a result of allowing a monetary contribution rather than providing the AFFORDABLE DWELLING UNITS as otherwise required herein. The amount of the contribution shall be determined as the total of (a) the amount equal to the product of the otherwise required number of AFFORDABLE DWELLING UNITS times the difference in sale price between the AFFORDABLE DWELLING UNITS and the equivalent market-rate units, plus (b) all avoided costs associated with that number of otherwise required AFFORDABLE DWELLING UNITS including, but not limited to (1) preparation and recording of affordable housing restrictions or deed riders, (2) preparation of cost, income and eligibility certifications, (3) marketing and lottery administration, (4) closing costs, and (5) costs to obtain the inclusion of those units in Acton’s subsidized housing inventory under M.G.L. Chapter 40B.

[Note – Section 9B.12.9.2 currently reads: Monetary contributions for affordable housing programs made to the Acton Community Housing Program Fund in an amount sufficient for the Town or its designee to create off-site affordable family or individual persons’ housing, as the Planning Board may determine, and eligible for inclusion in Acton’s subsidized housing inventory under M.G.L. Chapter 40B.]

, or take any other action relative thereto.

————— **Summary** —————

The zoning bylaw allows for a monetary contribution in-lieu of providing affordable housing units on site but does not specify how the monetary contribution is calculated. This article provides a calculation method for determining the fee-in lieu based on the difference between the market and affordable unit sale.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Planning Board

Article 16 **Amend Zoning Bylaw – Walkways, Sidewalks, Bikeways in**
(Two-thirds vote) **Front, Side and Rear Yards**

To see if the Town will vote to amend the Zoning Bylaw as follows:

- A. Delete section 6.7.2 and replace it with a new section 6.7.2 as follows:

6.7.2 Set-Backs – Except as may be required elsewhere in this Bylaw, no parking space or other paved surface, other than ACCESS driveways, common driveways, walkways, sidewalks or bikeways, shall be located within 30 feet of the front LOT line and within 10 feet of the side and rear LOT lines, and notwithstanding the foregoing, no parking space or other paved surface, other than ACCESS driveways, common driveways, walkways, sidewalks or bikeways, shall be located within the limits of a landscaped buffer area required under Section 10.4.3.5 and Section 10.4.3.6.

[Note: Section 6.7.2 currently reads:

6.7.2 Set-Backs – Except as may be required elsewhere in this Bylaw, no parking space or other paved surface, other than ACCESS driveways, common driveways or walkways, shall be located within 30 feet of the front LOT line and within 10 feet of the side and rear LOT lines, and notwithstanding the foregoing, no parking space or other paved surface, other than ACCESS driveways, common driveways or walkways, shall be located within the limits of a landscaped buffer area required under Section 10.4.3.5. and Section 10.4.3.6.]

- B. Section 10.4.3.6 – Special Landscaping Provisions Applicable to the Limited Business District, Office Districts, Small Manufacturing District, and Light Industrial-1 District, by deleting subsection 1) and replacing it with a new subsection 1) as follows:

- 1) No STRUCTURE, pavement, display of goods, materials or vehicles, or other impervious materials, other than allowed ACCESS driveways, walkways, sidewalks, bikeways, landscaping elements and signs, shall be placed within the minimum front yard.

[Note: Subsection 10.4.3.6.1) currently reads:

No STRUCTURE, pavement, display of goods, materials or vehicles, or other impervious materials, other than allowed ACCESS driveways, landscaping elements and signs, shall be placed within the minimum front yard.]

, or take any other action relative thereto.

————— **Summary** —————

This article clarifies and expands accommodations for non-motorized transportation facilities.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Planning Board

Article 17 **Amend Zoning Bylaw - Placeholder**
(Two-thirds vote)

————— **Summary** —————

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations: **Board of Selectmen** **Finance Committee** **Planning Board**

Article 18 **Amend Zoning Bylaw – Groundwater Protection District**

(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw Section 4.3 – GROUNDWATER PROTECTION DISTRICT, by amending subsections ----- as follows:

4.3 **GROUNDWATER Protection District**

4.3.1 Purpose – GROUNDWATER is the sole source of drinking water available to the residents, businesses and industries of the Town of Acton. The purpose of the GROUNDWATER Protection District is to protect the public health, safety, and welfare by protecting the Town's limited present and future drinking water supply, to ensure a sufficient quantity of potable pure drinking water for the present and future residents of Acton, to prevent temporary and permanent contamination of GROUNDWATER and SURFACE WATER, and to limit the adverse effects of the USE and development of land on the quality and quantity of the GROUNDWATER and SURFACE WATER resources of the Town of Acton.

The GROUNDWATER Protection District is an overlay district whose boundaries are superimposed on all districts established by this Bylaw and whose regulations are in addition to any other regulations established by this Bylaw. The regulations in this district are not intended to supersede or limit the protections contained in state or federal GROUNDWATER protection programs, but to supplement protections contained in other statutes and regulations. The GROUNDWATER Protection District encompasses the entire Town, but it is divided into four separate protection zones, the regulations for which vary depending on their proximity to the Town's present and future drinking WATER SUPPLY wells.

4.3.2 District Boundaries – The GROUNDWATER Protection District is divided into four protection zones, as follows:

4.3.2.1 ZONE 1 - Well Protection Area – The area from which GROUNDWATER will travel to a pumping municipal well within a one year time period, based on average recharge conditions and anticipated pumping, as established in the "Groundwater Protection District Map of the Town of Acton, January 1989", prepared by Goldberg, Zoino and Associates (GZA) in the "Final Report - Aquifer Protection Zones, Town of Acton, Massachusetts, January 1989".

4.3.2.2 ZONE 2 - The Recharge Protection Area – The area within which GROUNDWATER will move toward a pumping municipal well at the end of a 180 day period of no surficial recharge and full design capacity pumping of the well (as more fully defined by the Massachusetts Department of Environmental Protection in 310 CMR 22.02), established in the "Groundwater Protection District Map of the Town of Acton, January 1989", as last amended and most recently adopted by Town Meeting. For the Clapp/Whitcomb and the School Street well fields, the Zone 2 delineation was prepared by Goldberg, Zoino and Associates (GZA) in the "Final Report - Aquifer Protection Zones, Town of Acton, Massachusetts, January 1989". For the Conant I and II well fields, the ZONE 2 delineation was prepared by Dufresne-Henry, Inc. for the Acton Water District in the "Report on Conant II Pumping Test", dated January 1993. For the Kennedy/Marshall well fields, the ZONE 2 delineation was prepared by Dufresne-Henry, Inc. for the Acton Water District in the "Report on Kennedy No.1 and Marshall Wellfields Zone II Delineation", dated October 1996. For the Assabet well fields, the ZONE 2 delineation was prepared by Stantec Consulting for the Acton Water District in the report "Prolonged Pumping Test Assabet Well No. 3", dated May 2008 and revised by Stantec Consulting in a letter report dated January 2009. All ZONES 2 have been approved by the Massachusetts

Department of Environmental Protection (DEP) as the State approved Zones II, and all ZONES 2 described and referred to herein shall be deemed identical to the DEP approved Zones II.

- 4.3.2.3 ZONE 3 - The AQUIFER Protection Area – The Area of the TOWN underlain with the geologic formation of STRATIFIED DRIFT, based on the U.S. Soil Conservation Service's (SCS) soil map field sheets 1988 and Interim Soil Survey Report, 1986; and based on the United States Geologic Survey's (USGS) Surficial Geology Maps for the Hudson Maynard Quadrangle, 1956, and the Assabet River Basin, Hydrologic Investigations Atlas, 1969.
- 4.3.2.4 ZONE 4 - The Watershed Protection Area – Consists of the entire TOWN including ZONES 1-3 and separates the TOWN into watershed areas along the existing GROUNDWATER divides. The areas of ZONE 4 outside from the boundaries of ZONES 1, 2 and 3 consist primarily of bedrock, glacial till and small isolated sand and gravel deposits. Water from these areas will eventually recharge into the areas of ZONES 1, 2 and 3, although at a rather slow rate. Recharge from these areas into ZONES 1, 2 and 3 occurs through movement of GROUNDWATER and SURFACE WATER. The purpose of ZONE 4 is to promote public awareness that all GROUNDWATER areas in the Town are interconnected and to prevent contamination of the GROUNDWATER from any source.
- 4.3.2.5 Boundary Determination – The locations of the various ZONES are shown on the "Groundwater Protection District Map of the Town of Acton, January 1989", as last amended, consisting of Map Number 3A showing all ZONES at a scale of 1"=1200', and of Map Number 3B. Map Number 3B consists of sheets 3B-1 through 3B-18 showing ZONE 1 and ZONE 2 at a scale of 1"=200'. The sheets 3B-1 through 3B-18 correspond to the matching town atlas pages, which are also indicated on these sheets, and the ZONE delineations are either traced on these corresponding town atlas pages or on matching overlays to these pages. The "Groundwater Protection District Map of the Town of Acton, January 1989", as last amended, is available at the office of the Town Clerk and the Engineering and Planning Departments. Actual site locations of the ZONE 1 and ZONE 2 boundary lines shall be determined by scaling from the Map Number 3B. Actual site location of the boundary line between ZONE 3 and ZONE 4 shall be located by the Zoning Enforcement Officer, or in the case of a Special Permit under Section 4.3.8, by the Planning Board, based on information from Map Number 3A. Locating the boundary between ZONE 3 and ZONE 4 may be assisted through field investigations conducted by a Certified Professional Soil Scientist (CPSS) certified by the Soil Science Society of America (SSSA), a soil scientist who is certified as a Professional Member of the Society of Soil Scientist of Southern New England (SSSSNE), by a Certified Professional Geologist (CPG) certified by the American Institute of Professional Geologists (AIPG), or by a Massachusetts Registered Professional Engineer versed in soil identification and classification.
- 4.3.2.6 Split ZONE LOTS – Notwithstanding any other provisions of this Bylaw, whenever a GROUNDWATER Protection District ZONE boundary line divides a LOT, each portion of the LOT shall comply with the requirements of this Bylaw applicable to its respective ZONE, subject to the provisions set forth in section 4.3.6.5.
- 4.3.3 Definitions – For the purpose of the GROUNDWATER Protection District the following terms shall have the following meaning. The terms defined below are capitalized in this Section 4.3 in addition to the terms defined in Section 1.

- 4.3.3.1 AQUIFER – A geologic formation composed of FRACTURED BEDROCK, sand or gravel that contains significant amounts of potentially recoverable groundwater.
- 4.3.3.2 DIVERSION BOX – A precast concrete box or similar STRUCTURE, designed and positioned to direct a defined initial portion of runoff from a storm event in one direction and to direct remainder of the runoff water in another direction.
- 4.3.3.3 PRIMARY, SECONDARY, TERTIARY TREATED EFFLUENT – As defined from time to time in the applicable regulations of the Massachusetts Department of Environmental Protection.
- 4.3.3.4 FILL – Any material taken from on-site or off-site used for the purpose of augmenting or altering existing on-site topography, including but not limited to, landscaping, grading, or leveling of naturally occurring depressions in the land or of man-made excavations.
- 4.3.3.5. *FRACTURED BEDROCK – FRACTURED BEDROCK is an alternative AQUIFER to STRATIFIED DRIFT AQUIFERS. FRACTURED BEDROCK typically underlies the overlying sand and gravel and glacial till deposits. Recharge to the FRACTURED BEDROCK is typically from these overlying deposits. Although the Town of Acton has not yet utilized FRACTURED BEDROCK AQUIFERS as a source of drinking water, protection of them is vital as GROUNDWATER from a FRACTURED BEDROCK AQUIFER can recharge the overlying sand and gravel deposits and other surface water bodies.*
- 4.3.3.6 GENERATOR OF HAZARDOUS MATERIALS OR WASTE – Any individual or business that produces, uses or stores (stores: within the meaning of STORAGE) on site HAZARDOUS MATERIAL OR WASTE, as a PRINCIPAL or ACCESSORY USE and in quantities exceeding normal household or BUILDING maintenance needs.
- 4.3.3.7 GROUNDWATER – Water beneath the ground surface in the zone of saturation where every pore space between sediment particles or all open fractures in FRACTURED BEDROCK is saturated with water.
- 4.3.3.8 HAZARDOUS MATERIAL OR WASTE – Any substance, including petroleum, coal, or derivatives thereof, or combination of substances which because of their quantity, concentration, physical, chemical, infectious, flammable, combustible, radioactive, or toxic characteristics, may cause or significantly contribute to a present or potential risk to human health, safety or welfare; to the GROUNDWATER resources; or to the natural environment. Any substance, including but not limited to those regulated under the applicable Acton Board of Health regulations and under any of the following State and Federal laws and regulations, or any amendments thereof, shall be considered HAZARDOUS MATERIAL OR WASTE:
- M.G.L., Chapter 21C, 315 C.M.R. 2.04;
 - M.G.L., Chapter 21E, 310 C.M.R. 40.00;
 - M.G.L., Chapter 111F, 105 C.M.R. 670.00;
 - M.G.L., Chapter 148, Section 13;
 - Toxic Substances Control Act - 15 U.S.C s.2601 et seq.;
 - Federal Insecticide, Fungicide and Rodenticide Act -7 U.S.C s.136 et seq.;
 - Resource Conservation and Recovery Act - 42 U.S.C s.6901 et seq.;
 - Comprehensive Environmental Response, Compensation and Liability Act of 1980 - 42 U.S.C s. 9601 et seq.;

Federal Clean Water Act - 33 U.S.C s.1251 et seq..

For the purposes of this Section, sanitary domestic wastes from residential sources shall not be considered a HAZARDOUS MATERIAL OR WASTE.

- 4.3.3.9 IMPERVIOUS COVER – Refers to material covering the ground, with a coefficient of runoff greater than 0.7 (as defined in Data Book for Civil Engineers by Seelye; $C = \text{runoff}/\text{rainfall}$) including, but not limited to, macadam, concrete, pavement and BUILDINGS.
- 4.3.3.10 LEACHABLE WASTES – Waste materials including SOLID WASTE, sludge, agricultural wastes, and composts that are capable of releasing water borne contaminants to the surrounding environment including the AQUIFERS of the Town.
- 4.3.3.11 MAXIMUM GROUNDWATER ELEVATION – The height of the GROUNDWATER table when it is at its maximum level or elevation. This level is usually reached during the months of December through April. Determination of the MAXIMUM GROUNDWATER ELEVATION shall be made based upon the historical high GROUNDWATER table as most recently determined by the United States Geological Survey (USGS), Acton Board of Health records, data from monitoring wells or other adequate field testing, whichever indicates the highest elevation. Where applicable, the determination of the MAXIMUM GROUNDWATER ELEVATION shall be made with the additional assumption that any well, which during pumping would draw down the GROUNDWATER table at the site, is not operating and that the GROUNDWATER table is leveled off to its natural state.
- 4.3.3.12 PETROLEUM PRODUCT – PETROLEUM PRODUCT means oils of any kind or origin or in any form (M.G.L. c. 21E, § 2) and includes, but is not limited to, fuel oil; gasoline; diesel fuel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; coal tar emulsions, driveway sealers, or other liquid hydrocarbons regardless of specific gravity. PETROLEUM PRODUCT shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.
- 4.3.3.13 SOLID WASTE – For the purpose of this Section, SOLID WASTE shall mean any unwanted or discarded solid material, as defined in 310 C.M.R. 19, with the exception of brush, yard trimmings and grass clippings.
- 4.3.3.14 SPECIAL WASTE – SPECIAL WASTE means any solid waste that is determined not to be a hazardous waste pursuant to 310 CMR 30.000 and that exists in such quantity or in such chemical or physical state, or any combination thereof, so that particular management controls are required to prevent an adverse impact from the collection, transport, transfer, storage, processing, treatment or disposal of the solid waste. Without limitation, SPECIAL WASTE includes waste that will require special management to ensure protection of public health, safety, or the environment based upon the physical, biological, or chemical properties of the waste. SPECIAL WASTES include but are not limited to: asbestos waste, infectious wastes except as specified in 310 CMR 19.061(3)(b), sludges including wastewater treatment sludges and industrial process wastewater treatment sludges. For purposes of this Bylaw, SPECIAL WASTE does not include drinking water treatment sludges.
- 4.3.3.15 STRATIFIED DRIFT – Permeable, porous deposits of glacial outwash, consisting primarily of sand and gravel. The particular deposits referred to herein are those occurring in glacial river valleys in which the town's drinking WATER SUPPLIES are located. These deposits are defined in the United States Geologic Survey's (USGS) Surficial Geology Maps for the

Hudson Maynard Quadrangle, 1956, and the Assabet River Basin, Hydrologic Investigations Atlas, 1969, and in the U.S. Soil Conservation Service's (SCS) soil map field sheets, 1988, and Interim Soil Survey Report, 1986; soil types associated with STRATIFIED DRIFT listed in the Interim Soil Survey Report are: Agawam series, Amostown series, Birdsall series, Carver series, Deerfield series, Freetown series, Freetown-ponded, Hadley series, Haven series, Hinkley series, Hinkley series-bouldery, Limerick series, Merrimac series, Merrimac-urban land complex, Ninigret series, Occum series, Pipestone series, Pootatuck series, Quonset series, Raynham series, Rippowam series, Saco series, Scarboro series, Scio series, Sudbury series, Suncook series, Swansea series, Tisbury series, Walpole series, Windsor series, Winooski series; also Udorthents, Gravel Pits, Landfills, and Urban Land Complexes when surrounded by or primarily associated with soil types listed above. The above referenced soil types are associated with STRATIFIED DRIFT in general, however, not necessarily every listed soil type does occur within the boundaries of the Town of Acton.

- 4.3.3.16 STORAGE – On-site containment or retention of materials (liquid, gas, solid) for PRINCIPAL or ACCESSORY USE for a period of more than 24 hours and occurring with a frequency of more than once a month.
- 4.3.3.17 SURFACE WATER – All surface water bodies and wetlands protected under Massachusetts General Laws, Chapter 131, Section 40.
- 4.3.3.18 UNDISTURBED OPEN SPACE – An area within the OPEN SPACE that lies outside of any disturbances due to clearing, grading, paving, building, landscaping or other site development activities. It may be subject to limited and selected cutting of trees, removal of dead wood, or yearly mowing of grass and brush.
- 4.3.3.19 WATER SUPPLY – A GROUNDWATER AQUIFER and SURFACE WATER recharge to a GROUNDWATER AQUIFER, which is a present or potential future drinking WATER SUPPLY source for the Town of Acton.
- 4.3.4 OPEN SPACE and LOT cover – The following requirements shall apply for OPEN SPACE, UNDISTURBED OPEN SPACE and IMPERVIOUS COVER:
 - 4.3.4.1 ZONE 1 – In the Well Protection Area (ZONE 1) a minimum of 90% of every LOT shall remain OPEN SPACE, 50% of every LOT shall remain as UNDISTURBED OPEN SPACE. No more than 10% of every LOT shall be covered with IMPERVIOUS COVER.
 - 4.3.4.2 ZONE 2 – In the Recharge Protection Area (ZONE 2) a minimum of 70% of every LOT shall remain OPEN SPACE, 40% of every LOT shall remain as UNDISTURBED OPEN SPACE. No more than 30% of a LOT shall be covered with IMPERVIOUS COVER.
 - 4.3.4.3 ZONE 3, ZONE 4 – In the Aquifer Protection Area (ZONE 3) and in the Watershed Protection Area (ZONE 4) the OPEN SPACE requirements of the underlying Zoning District shall apply.
 - 4.3.4.4 Outdoor STORAGE – Outdoor STORAGE areas shall not be considered a part of the OPEN SPACE of any LOT.
- 4.3.5 Depth to GROUNDWATER – Except for single FAMILY residential USES or BUILDINGS, no land within ZONES 1, 2 and 3 of the GROUNDWATER Protection District shall be developed or used except in accordance with the following requirements:

- 4.3.5.1 Minimum Distance to GROUNDWATER – The vertical distance between the existing or pre-development land surface and the MAXIMUM GROUNDWATER ELEVATION shall generally not be reduced, except when necessary to properly grade and construct STREETS, driveways, parking facilities and BUILDING sites, in order to comply with applicable regulations and to meet generally accepted ACCESS and safety standards.
- 1) The minimum distance between the finished or post-development grade from the MAXIMUM GROUNDWATER ELEVATION shall be not less than ten (10) feet, except as provided in Section 4.3.5.2.
 - 2) If the distance between the existing or pre-development land surface and the MAXIMUM GROUNDWATER ELEVATION is less than ten (10) feet, the distance may be reduced in accordance with Section 4.3.5.2.
- 4.3.5.2 Maximum Allowed Reduction within 10 ft. of GROUNDWATER – Where the existing or pre-development land surface is less than 10 feet above the MAXIMUM GROUNDWATER ELEVATION, the vertical distance between the finished or post-development grade to the MAXIMUM GROUNDWATER ELEVATION may be not less than ninety (90) percent of the pre-development distance.
- 4.3.5.3 GROUNDWATER Recharge Facilities – The bottom elevation of a leaching pond, or the bottom elevation of the stone layer in a leaching galley or trench shall be not less than two (2) feet above the MAXIMUM GROUNDWATER ELEVATION. This Section shall apply to STRUCTURES associated with surface drainage only.
- 4.3.6 Other Design and Operation Requirements – Except for single FAMILY residential USES or BUILDINGS, no land within ZONES 1, 2 and 3 of the GROUNDWATER Protection District, and with respect to Sections 4.3.6.1 and 4.3.6.2 no land within the entire GROUNDWATER Protection District, shall be developed or used except in accordance with the following requirements:
- 4.3.6.1 FILL – FILL material shall not contain HAZARDOUS MATERIAL OR WASTE, SPECIAL WASTE, or SOLID WASTE. This Section shall also apply in ZONE 4.
- 4.3.6.2 Watershed Recharge – The amount of annual precipitation being captured and recharged to the GROUNDWATER on site shall not be reduced due to development related surface runoff from the site when compared to pre-development conditions. Where a Special Permit or Subdivision Approval is required the Special Permit Granting Authority or the Planning Board, **or the Zoning Enforcement officer if no Special Permit is required**, shall require a hydrologic budget or water balance calculation for the site, showing pre- and post-development conditions, prepared by a Certified Professional Soil Scientist (CPSS) certified by the Soil Science Society of America (SSSA) or a Massachusetts Registered Professional Engineer experienced in hydrogeology. This Section shall also apply in ZONE 4.
- 4.3.6.3 Treatment and Renovation of Runoff – All water runoff from IMPERVIOUS COVERS shall be funneled into gas trap catch basins. In addition, the first (1st) inch of every storm event shall be directed into a retention pond(s), where it shall be retained for an average of at least 3 days prior to recharge into the ground or discharge from the site. The retention pond(s) shall be exposed to sunlight, vegetated, and lined with soil featuring a permeability of 0.0001 cm/sec (0.1417 in/hr) or less. A DIVERSION BOX shall direct all water, which falls onto the site in excess of one (1) inch during a single storm event, toward additional storage, direct infiltration, or discharge from the site. Alternate methods of runoff treatment and renovation

may be approved by the Special Permit Granting Authority if the Special Permit Granting Authority determines the intent of this Section is met, **or by the Zoning Enforcement officer if no Special Permit is required, if he determines the intent of this section is met.**

4.3.6.4 Pollution Safeguards – (1) Drainage facilities shall be designed to prevent leaks and shall be equipped with emergency slide gates or similar provisions to be closed in the event of an emergency. (2) Loading and unloading areas for HAZARDOUS MATERIALS OR WASTE, including fuel and heating oils, shall be equipped with a containment dike. (3) Compliance with the Acton Hazardous Materials Control Bylaw shall be required.

4.3.6.5 Location – Where a LOT is divided into two or more protection ZONES, potential pollution sources, such as HAZARDOUS MATERIALS OR WASTE processing, storage and disposal systems, septic systems, or wastewater treatment plants, shall be located on that portion of the LOT which is in the ZONE farthest away from the public wells. Where the ZONE boundary in question is one between ZONE 3 and ZONE 4, septic systems and waste-water treatment plants may be located in either ZONE, subject to certain restrictions contained in Section 4.3.7 of this Bylaw.

Where a LOT is partly in ZONE 4 and partly in another ZONE of the GROUNDWATER Protection District, IMPERVIOUS COVER runoff, generated in the ZONE 4 portion of the LOT but infiltrated, or discharged from the LOT, in a ZONE 1, 2 or 3 portion of the LOT, shall meet the same quality standard at the point of infiltration or discharge as if the runoff had been generated in ZONES 1, 2 and 3.

4.3.7 GROUNDWATER Protection District USE Regulations - No land which lies in ZONE 1, 2, and 3 of the GROUNDWATER Protection District shall be used and no activity shall be conducted on any land within these ZONES of the GROUNDWATER Protection District except in conformance with the following regulations:

4.3.7.1 Permitted USES all ZONES – All USES allowed in the underlying zoning district except those which are prohibited or regulated in Section 4.3.7.2 are permitted.

4.3.7.2 Prohibited USES – In the following table of USE regulations "N" indicates that the USE is prohibited. "Y" indicates that a USE is permitted.

TABLE 4.3.7.2			
USE Regulations within the GROUNDWATER Protection District			
	ZONE 1 Well Protection Area	ZONE 2 Recharge Protection Area	ZONE 3 Aquifer Protection Area
1. Sanitary landfill/solid waste disposal site, refuse treatment and disposal facility, landfilling of sludge and septage, storage of sludge and septage except for municipal USES as defined in Section 3.4.1 of this Bylaw associated with the provision of public sewer services	N	N	N

TABLE 4.3.7.2

USE Regulations within the GROUNDWATER Protection District

	ZONE 1 Well Protection Area	ZONE 2 Recharge Protection Area	ZONE 3 Aquifer Protection Area
2. GENERATOR OF HAZARDOUS MATERIALS OR WASTE, except for municipal USES as defined in Section 3.4.1 of this Bylaw associated with the provision of public water and sewer services	N	N	Y
3. Vehicle Repair or Vehicle Body Shop	N	N	Y
4. Vehicle STORAGE for the purposes of leasing, rental, sale, resale, parts recovery, or similar USES	N	N	Y
5. Car, truck and equipment washing facility	N	N	Y
6. Aboveground STORAGE of PETROLEUM PRODUCTS for purposes other than heating the premises on which it is located****	N	N	Y****
7. Underground STORAGE of PETROLEUM PRODUCTS or other HAZARDOUS MATERIALS OR WASTES	N	N	N
8. Underground STORAGE of PETROLEUM PRODUCTS, or other HAZARDOUS MATERIALS OR WASTES associated with residential USE	N	N	N
9. Commercial Laundries	N	N	Y
10. Dry cleaners with on-site cleaning facilities	N	N	Y
11. Furniture/wood stripping, painting & refinishing	N	N	Y
12. Disposal of snow contaminated with deicing chemicals and originating from a protection ZONE further distant from a public well than the location of disposal	N	N	N
13. Outdoor STORAGE of fertilizer, animal manure, soil conditioner, pesticide, herbicide and deicing chemicals	N	N	N
14. Chemical, bacteriological, biological or radiological laboratory or production facility	N	N	N
15. Subsurface disposal of wastewater effluent at a rate of less than 3.5gpd/1000sf of land area	Y	Y	Y
16. Subsurface disposal of wastewater effluent at a rate of 3.5gpd or more per 1000sf of land area but at a rate of less than 6gpd/1000sf of land area	N	Y	Y
17. Subsurface disposal of wastewater effluent at a rate of 6gpd or more per 1000sf of land area	N	N	Y
18. Subsurface disposal of wastewater effluent on a parcel of land which is not a buildable LOT as defined in footnote	N	N	N

TABLE 4.3.7.2			
USE Regulations within the GROUNDWATER Protection District			
	ZONE 1 Well Protection Area	ZONE 2 Recharge Protection Area	ZONE 3 Aquifer Protection Area
(**)			
19. Subsurface disposal of wastewater effluent at a rate of less than 750gpd per buildable LOT(**)	Y	Y	Y
20. Subsurface disposal of wastewater effluent at a rate of 750gpd or more per buildable LOT(**) but at a rate of less than 2,000gpd per buildable LOT(**)	N	Y	Y
21. Subsurface disposal of wastewater effluent at a rate of 2,000gpd or more per buildable LOT(**) but at a rate of less than 6,000gpd per buildable LOT(**)	N	N	Y
22. Subsurface disposal of wastewater effluent at a rate of 6,000gpd or more per buildable LOT(**)	N	N	N
23. Subsurface disposal of TERTIARY TREATED wastewater EFFLUENT	Y	Y	Y
24. Any activity, construction or installation conducted solely for the purpose of environmental clean-up or remediation, and required or approved by the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection	Y	Y	Y
25. Treatment or disposal works for non-sanitary wastewater that are subject to 310 CMR 22.21 (2)(a)6 as amended, except the treatment and discharge of surface water runoff in compliance with section 4.3.6.3 of this bylaw	N	N	Y
NOTES:			
(*) A USE may fall under one or more categories listed in this Table. Any USE must be able to qualify for a Y or a SP in every applicable category, in order to be considered allowed (Y) or in order to be considered eligible for consideration of a special permit (SP), as the case may be.			
(**) For the purpose of this table, buildable LOT shall mean: a) A LOT that is shown on a plan recorded in the Middlesex County Registry of Deeds or the Land Court, and that complies with all requirements of this bylaw pertaining to the LOT and the STRUCTURES thereon; and b) Common Land as provided for in sections 4.2, 4.4, 9, and 9B of this bylaw.			
(***) <i>See Hazardous Materials Control Bylaw.</i>			
(****) <i>Aboveground storage of quantities greater than 1,320 gallons requires compliance with Federal SPCC regulations (Spill Prevention Control and Countermeasures Plan; 40 CFR 112)</i>			
gpd	Gallons per day		
sf	Square feet		

4.3.8 Special Permit for the change or extension of nonconforming USES in the Groundwater Protection District.

4.3.8.1 The Planning Board may grant a Special Permit for any change or substantial extension of any PRINCIPAL or ACCESSORY USE designated with “N” in Table 4.3.7.2 that is in existence as of April 7, 1997. Change or substantial extension as referred to herein shall include but not be limited to: Any change or increase in HAZARDOUS MATERIALS OR WASTE produced, used or stored; any change or increase in the outdoor STORAGE of fertilizers, animal manure, soil conditioners, pesticides, herbicides or deicing chemicals; any increase in wastewater effluent flow other than TERTIARY TREATED EFFLUENT; any change in the grade of the land or the drainage system for the LOT, which affects the flow of GROUNDWATER or SURFACE WATER; any expansion in ground area by 500 square feet or more of impervious material or any area devoted to the conduct of the PRINCIPAL or ACCESSORY USE.

4.3.8.2 Action by the Planning Board, Criteria for Special Permit – After notice and public hearing, and after due consideration of all reports and recommendations submitted to the Planning Board regarding the Special Permit application, the Planning Board may grant such a Special Permit provided that it shall make the following findings:

- a) Maintain GROUNDWATER Quality – That the change or extension of the USE will not cause the GROUNDWATER quality at the down-gradient property boundary to fall below the drinking water standards established by the Acton Water District, or where no such standards exist, below standards established in 314 C.M.R. 5.00, Massachusetts Drinking Water Standards, or by the Acton Board of Health. Where existing GROUNDWATER quality is already below those standards, the Planning Board may grant such Special Permit upon determination that the change or expansion of the USE will not result in further degradation of the GROUNDWATER quality, and will not impede its improvement over time.
- b) Protection of Overall WATER SUPPLY – That the change or extension of the USE will not, during construction or thereafter, have an adverse effect on the GROUNDWATER, SURFACE WATER and overall WATER SUPPLY of the Town of Acton and the resulting USE after the change or extension will be in harmony with the specific purpose and intent of this Section to protect the GROUNDWATER, SURFACE WATER and overall WATER SUPPLY of the Town of Acton.
 - c) *Compliance – That the changed or extended USE is in harmony with the purpose and intent of this Section and complies with the standards of Section 10.3.5 of this Bylaw. In making such determinations, the Planning Board shall give consideration to the proposed USE, the demonstrated reliability and feasibility of the proposed pollution control measures associated with the USE, and the degree of pollution threat to the GROUNDWATER which would result if the control measures perform at less than design specifications. The Planning Board may impose such conditions, safeguards, and limitations as it deems appropriate to protect the GROUNDWATER and SURFACE WATER resources of the Town of Acton.*
 - d) *The Planning Board may impose conditions in the special permit to protect the GROUNDWATER, SURFACE WATER and overall WATER SUPPLY of the Town of Acton, including without limitation conditions to require the placement and periodic sampling and testing of GROUNDWATER monitoring wells or SURFACE WATER at the applicant’s expense around any aboveground or underground storage tank, SOLID or HAZARDOUS WASTE area, or any structure or activity that may adversely affect an AQUIFER ZONE as defined in Section 4.3.2. The Planning Board may require that the sampling be paid for by the applicant and conducted by an agent of the Acton Water District.*

- 4.3.8.3 Filing Requirements – The Planning Board shall promulgate and adopt rules and regulations governing this Special Permit pursuant to Section 10.3.1 of this Bylaw. Such rules and regulations shall set forth the application filing requirements to ensure that the application, including any plans and accompanying text, provides sufficient information for a full evaluation of resulting impacts on the GROUNDWATER resources, and to allow the Planning Board an evaluation of the application under the criteria set forth in section 4.3.8.2 above.
- 4.3.8.4 Submittal of "As Built" Plan – Upon completion of any work authorized through a Special Permit under this Section, an "as built" plan prepared by a Registered Professional Engineer, showing all improvements authorized or required, shall be submitted to the Zoning Enforcement Officer for approval prior to the issuance of an Occupancy Permit.

, or take any other action relative thereto.

————— **Summary** —————

[to be inserted by Acton Water District]

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations: **Board of Selectmen** **Finance Committee** **Planning Board**

Article 19 * Acquisition of Real Property Interests –
(Two-thirds vote) **Assabet River Rail Trail Right of Way**

To see if the Town will vote to authorize the Board of Selectmen, for purposes of establishing, constructing, operating, maintaining, repairing and using a multi-use rail trail/bicycle path for non-motorized transportation, open space and recreation purposes and for all other purposes for which rail trails are now or hereafter may be used in the Commonwealth, (1) to acquire by purchase, gift, eminent domain or otherwise, on such terms and conditions as the Selectmen may determine, fee, easement, leasehold, license and/or other real property interests in, on, over, across, under and along all or any portion of the land, premises, easements, rights-of-way and other rights in Acton comprising the former Boston & Maine Railroad Maynard Branch right-of-way, and contiguous, abutting, and underlying properties, and (2) to amend, relocate, acquire by purchase, gift, eminent domain or otherwise, and relinquish, all on such terms and conditions as the Selectmen may determine, covenants and easements for rail-trail purposes on, over, under, across, along, through and within the burdened property referenced in that certain Declaration of Covenants and Grant of Easements between Robert E. Anderson, Trustee of the Wedgewood Realty Trust, and the Town of Acton, dated as of May 9, 2005, filed for registration with the Middlesex South Land Registration District of the Land Court on September 13, 2005, as Document No. 1387934, noted on Certificate of Title No. 169457 in Registration Book 977, Page 101 and recorded with the Middlesex South District Registry of Deeds on September 13, 2005 in Book 46076, Page 394, and other property of the Trust referenced in the deed recorded at Book 14527, Page 405; all as necessary for clearing title to said railroad right-of-way, laying out a multi-use rail trail/bicycle path within that right of way and within associated easements and other real property interests in said properties, providing access thereto, and enabling the construction, operation, maintenance, repair and use of the multi-use rail trail/bicycle path, and further to see if the Town will raise, appropriate, transfer from available funds, or accept gifts for these purposes; or take any other action relative thereto.

_____ **Motion** _____

Move that the Town

_____ **Summary** _____

This article authorizes the Board of Selectmen to acquire necessary and appropriate real property interests to establish the Assabet River Rail Trail (ARRT) in Acton, including but not limited to the full length and width of the former Boston & Maine railroad right-of-way in Acton from the Acton/Maynard town line to the South Acton Train Station, comprising approximately 1.2 ± miles. The Town has acquired 0.8 ± miles of the former B&M corridor from the MBTA in 2007. The Town will acquire portions of the remaining former B&M corridor and associated land and easements to complete the .4 ± miles of the trail. This will include the relocation of certain easements initially acquired by the Town in 2005 for the ARRT but which need to be relocated now based on the updated layout and design of the ARRT. The ARRT is a multi-use path for non-motorized transportation from Acton to Marlborough. The first section of the ARRT from Lincoln Street in Marlborough to Cox Street in Hudson has been constructed. The Maynard-Acton section is currently in design. The other phases to the south of Maynard are in various stages of planning or design.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 20 * Accept Trail Easements – Wright Hill

(Two-thirds vote)

To see if the Town will vote to authorize the Board of Selectmen to acquire, on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise and to accept a deed or deeds of easement interests for purposes of establishing and maintaining a trail or trails for public non-motorized use on, the entirety of that certain land shown as “Proposed Access Easement” on the land identified as “Lot 14” on a plan entitled “Plan of Land in Acton, Massachusetts, No. 18 Wright Terrace” dated March 27, 2014, prepared by Stamski and McNary, Inc., and filed with the Middlesex South Registry District of the Land Court as Plan No. 2006 of 2014 in Plan Book 1458, Page 14 and noted on Certificate of Title No. 257358, or take any other action relative thereto.

_____ **Motion** _____

Move that the Town authorize the Board of Selectmen to acquire and accept the trail easements as set forth in the Article and on such terms and conditions as the Selectmen may determine.

_____ **Summary** _____

The 2014 Annual Town Meeting authorized and funded the acquisition of 14 ± acres of open space at 18 Wright Terrace for conservation purposes (Lot 13), which did not include the 3.7 ± acre lot with the existing house on it (Lot 14). This article authorizes the Board of Selectmen to accept a public pedestrian or trail easement over Lot 14 that facilitates access between Lot 13 and Wright Terrace and Mead Terrace, and more generally helps connect a system of trails on Wright Hill.

Direct inquiries to: : @acton-ma.gov / (978) 929-

Selectman assigned:

Recommendations: **Board of Selectmen** **Finance Committee**

Article 21 Land Acquisition – **Dunn Conservation Land**

(Two-thirds vote)

Corey

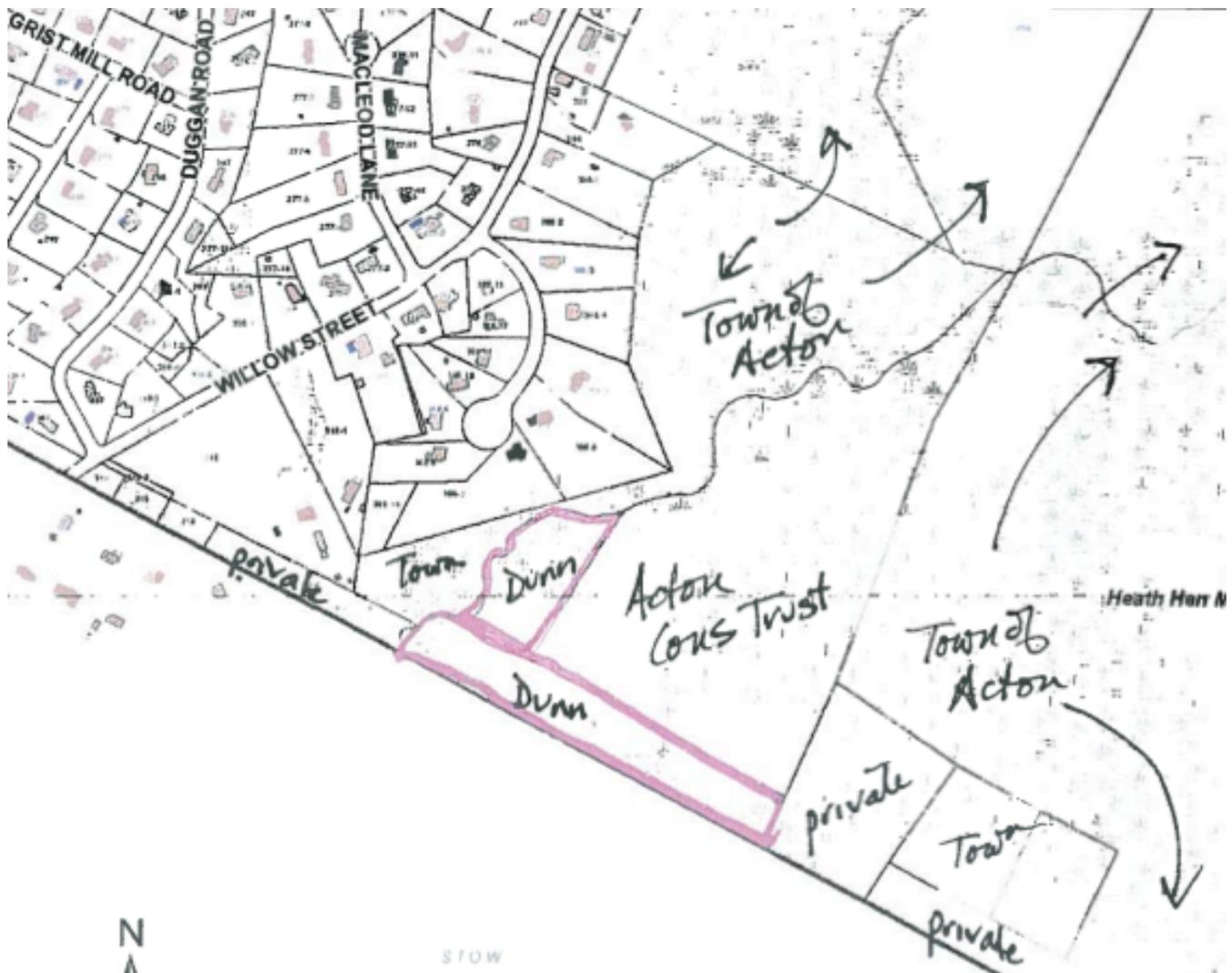
Summary

Tom T to insert after this draft is released.

Dunn Estate - Notes for Discussion - 6/9/14

Acton - est. $3.96 + 2.5 = 6.46$ acres, assessed at \$33,000; purchase price \$28,500 + title search.

\$5K down, \$70K at closing, assignable, extendable, deposit refundable
Contingencies: Approximate Division of Property, Appraisal supporting price, Survey, Title, Buyer able to secure funding, Town of Acton/ACT agree to participate in funding/ownership



Direct inquiries to: : @acton-ma.gov / (978) 929-

Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 22
(TBD)

Water Resources Advisory Committee

————— **Summary** —————

Direct inquiries to: : @acton-ma.gov / (978) 929-

Selectman assigned:

Recommendations: **Board of Selectmen** **Finance Committee**

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

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

Given under our hands at Acton this 29th day of October, 2014.

Mike Gowing, Chair
Katie Green, Vice-Chair
Peter Berry, Clerk
Janet K. Adachi
Franny Osman

Board of Selectmen

A true copy, Attest:

Constable of Acton

Town Meeting Parliamentary Procedure

Town Meeting is an old and honored tradition in New England. After more than 200 years we can say it still works – it does its job – and hopefully it’s more than a little enjoyable for you, the voters. It’s also the only form of government where the leaders must face the citizenry directly to answer all reasonable queries – and perhaps even some not so reasonable! However, to work well it must have rules of order – and it does. Town Meetings operate under what is generally called “parliamentary procedure” – in our case, as spelled out in Town Meeting Time. Unfortunately, this wonderful little book is widely read only by Moderators, Town Clerks, Town Counsels and a few others with unusual tastes. In addition to such formal procedures Town Meetings also are subject to relatively arbitrary rules of order set forth by the Moderator and precedent. The following information puts forth the most widely used of these “rules of the road” as an effort to help you enjoy and participate in our Town Meetings.

Moderator’s Rules

These are quite arbitrary, but hopefully are consistently applied:

1. Any registered voter may speak to any article, but all must speak politely and respectfully to other voters and members of town boards. Civility is required at all times.
2. Since many voters may wish to speak, brevity of comment is appreciated. In addition, speakers are encouraged to add new points to the debate as opposed to repeating what others have already stated.
3. Voters may speak to an issue more than once, but generally “first time” speakers will be recognized before “repeaters”.
4. Remember to listen closely to the motion as stated. The motion puts the warrant article “in play” and it is the motion that is voted on, not the article as written in the warrant. However, there should be a strong similarity between motion and article.
5. Most motions must be “seconded”. Seconding motions is an easy way for newcomers to participate in the meeting. One does not even need to stand or be directly recognized. Generally calling out “second” at the right time will suffice.
6. Voting is most often done by voice. As the Moderator’s hearing fails, “standing” counts may be taken. The last resort, due to time constraints, is to take a counted vote by teller.
7. Although not encouraged, the Moderator’s judgment can be questioned as to the accuracy of the vote as announced. If seven (7) people request a “recount” of a voice or standing votes, it shall be done.
8. The Moderator will generally accept the motion to “move the previous question”, or more easily understood, “to cut off debate.” Many people think this motion is somewhat unfair, but it has been my experience that, more often than not, it is passed unanimously or by overwhelming numbers. In the past, the Moderator has been accused of knowing who plans to make such a motion – generally such accusations are accurate!
9. After a motion has been made and seconded, the mover of the motion speaks first, followed by the appropriate Town Boards (generally the Selectmen and the Finance Committee) who state their opinions. The motion is then available for general discussion – pro, con, or questions.
10. Other than when seconding a motion or requesting a point of order, speakers must be recognized by the Moderator before they launch into their point or question. For the most part this “rule of the road” is rigorously enforced.

More Formal Parliamentary Procedure

There are many types of motions that may come before a meeting. The table below is far from all-inclusive, but indicates the most commonly used motions.

Motion	Second Required	Debatable	Amendable	Vote Required	May Reconsider	May Interrupt
Dissolve	Yes	No	No	Majority	No	No
Fix the Time to Adjourn	Yes	Yes	Yes	Majority	Yes	No
Lay on the Table	Yes	No	No	Two-thirds	Yes	No
Previous Question	Yes	No	No	Two-thirds	No	No
Limit Debate	Yes	No	No	Two-thirds	Yes	No
Postpone to a Time Certain	Yes	Yes	Yes	Majority	Yes	No
Amend	Yes	Yes	Yes ¹	Majority	Yes	No
Postpone Indefinitely	Yes	Yes	No	Majority	Yes	No
Point of Order	No	No	No	None	No	Yes
Main Motion	Yes	Yes	Yes	Varies	Yes	No
Reconsider²	Yes	Yes	No	Two-thirds	No	No

1 In Acton, we generally do not accept amendments to amendments – too confusing.

2 Controlled by Town bylaw – 2/3 Vote same night; 3/4 Vote, plus posting ensuing nights.

Some of the motions listed above may not be totally understandable in table form only. The following elaboration may help.

The motion to *dissolve* ends the Town meeting and is appropriate only when all business is completed.

Fix the time to adjourn is a motion often made by the Selectmen and indicates when a given Town Meeting session will end and when the next session will begin.

Lay on the table is a motion used to end debate temporarily or permanently on a given motion. A motion laid on the table may remain there forever, or may be retrieved by the appropriate “take from the table” vote.

The previous question cuts off debate immediately and causes a vote on the article or amendment under discussion.

Limit debate is a motion generally used to put a specific time limit on a motion or time limits on individual speakers.

Postpone to a time certain is a motion generally used to rearrange the order of the articles (or a single article) in the warrant.

Amend – Many types of motions can be amended or altered to bring them to an even higher state of perfection. Of course, since amendments are a little like “beauty being in the eye of the beholder,” they sometimes fail to pass. In any event, after the amendment is disposed of by a vote, the primary motion, either so amended or not, comes back to the assemblage for further discussion and vote.

Postpone Indefinitely serves the same basic purpose as laying a motion on the table except that it is debatable and requires only a majority vote. If the postpone motion carries, the motion to which it applies is dead – in parliamentary terms, at least.

Point of Order – Anyone at any time may rise to a point of order and interrupt the speaker, simply stating, “Point of order, Mr. Moderator.” The Moderator will immediately stop discussion, listen to the point of order and rule on its validity. Points of order may relate to many issues, for example, the right of a speaker to the floor, proper procedures, indecorous conduct or rarely, but within the realm of possibility, some error that the Moderator is committing.

Main Motions are made when no other business is pending and are the devices used to bring the warrant articles to the Town Meeting floor for discussion.

Reconsideration may be used to bring an article (or motion) which has already been disposed of back for a second time. If reconsideration is passed, it nullifies the previous vote and the article is re-discussed and re-voted. Many people feel that reconsideration is unfair, but it is a valid procedure and is occasionally used. In Acton, a Town Bylaw controls the vote quantum rather than Town Meeting Time. Anyone who wishes to reconsider a motion, particularly on a different night from the original vote, would be well advised to consult the Town Clerk on proper procedures.

Parliamentary procedure is not really complex, but the rules, like the rules of golf, do not always make sense. However, they should be consistently applied. If they are, then the Town Meeting can conduct its business in both an orderly and a fair fashion.

I hope this small treatise is helpful to you and adds to your understanding and enjoyment of a most precious right – TOWN MEETING.

Don MacKenzie
Town Moderator

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Acton, MA 01720**

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