

**Selectmen's Minutes**  
**APRIL 25, 2005**  
**7:00 P.M.**

**EXECUTIVE SESSION BEGINS AT 6:30 P.M.**

**Present:** F. Dore' Hunter, Peter Ashton, Walter Foster, Lauren Rosenzweig; Robert Johnson absent, Town Manager and Assistant Town Manager. Meeting was televised.

**CITIZENS' CONCERNS**

Terra Friedrichs asked that meetings put on web. She further spoke about committees forgetting what their charge is. She suggested that the Board and Committee's Charges be posted on the net.

Ann Chang – Wanted to say she is disappointed in Dore'.

**SEWER COMMISSIONERS' BUSINESS**

**OPERATIONAL MINUTE** – Don reported that the Public Safety Facility has been moved into.

**BOARD REORGANIZATION** - Board Reorganization - Dore' Hunter -Moved to appoint Peter Ashton as Chair, Walter Foster, second. Peter Ashton moved to appoint Walter Foster as Vice-Chair, Dore' Hunter – Second. Peter Ashton moved to appoint Bob Johnson as Clerk, and Dore' Hunter Seconded, UNANIMOUS VOTES.

**TRANSFER OF BEER AND WINE PACKAGE STORE LICENSE FROM WINE CASK CELLARS, 100 POWDERMILL ROAD TO WEST ACTON MARKET, 586 MASSACHUSETTS AVE.** - Peter asked where the Beer and Wine will be stored and shelved. They plan to have it in the Middle isle back to the beverage cooler and it will be blocked when the sale of liquor is not legal. All employees will be TIPS trained.  
DORE' HUNTER - Moved to approve, WALTER FOSTER – Second. UNANIMOUS VOTE.

**TRANSFER OF FULL LIQUOR PACKAGE STORE FROM 11 SPRUCE STREET TO 100 POWDERMILL ROAD, AND A PLEDGE OF LICENSE TO ROBERT MALNATI TO RALPH ROTOLANTI, WINE CASK CELLARS** -

Peter asked about the requested pledge.

Dore' discussed the ID policy and questioned the proof of age with Military pass.

DORE' HUNTER - Moved to approve, WALTER FOSTER – Second. UNANIMOUS VOTE.

**FRANK CHEN, 124 MAIN STREET, COMMON VICTUALLER'S LICENSE FOR THE COFFEE SHOP** - Mr. Chen wants to open a coffee shop and ice cream shop and some simple breakfast for the train users. Hours to be open 6 A.M. for coffee and 12 Noon to 10 p.m. Walter asked about the parking for those not using the train and they have 10 spaces. WALTER FOSTER – Moved to Approve. DORE' HUNTER – Second, UNANIMOUS VOTE

**BOSTON EDISON/NSTAR, POLE LOCATIONS HEARING, ELM STREET.**

Continued to May 23 at 7:15 p.m.

**BOSTON EDISON/NSTAR, DOUBLE POLES** - Anne Marie Walsh, Richard Tobin Mgr. of Construction and Maintenance – Dore' was concerned with the double poles around town. Mr. Tobin said that NSTAR is working hard to get rid of them in town. They have attached the list of the double poles. They show 278 poles in Acton which require removal. They have moved their plant off the all poles. Dore' was concerned and asked that they take steps to correct it. Peter noted that a resident reports poles that there not on the list. The list is changing every day as they move wires. And then the next one on the pole is notified to remove their wires.

Walter discussed the listing they provided. He was asked if Cable had been contacted on the 128 poles that cable was on. Lauren asked if this was the case though out the State. Dore' thanked them for coming in. Don noted that we need to have Tobin work with the Fire Dept. It was suggested that we contact others as we remove ours Comcast be notified and then Verizon.

**SPECIAL PERMIT #401, 301 MAIN STREET, NOT YOUR AVERAGE JOE'S**

Alex Para the attorney for a special permit for a 200 seat restaurant at the former location of Woodworkers Warehouse. They have 9 other restaurants in the area. Hours Monday – Tuesday, until 11:30 pm. He discussed the IDC's from Staff. Peter had two issues, Water wanted to address the sidewalk issue. Mr. Silberstein spoke about two issues. Dore' said that he had a question about the sidewalk in that location, but noted that they are a tenant.

Walter was in favor of side walk.

Lauren felt that a meandering type of walk would work with few obstructions.

Alex wanted to address the sidewalk issue and noted it is out of the applicant's control. He noted Dunkin Donuts did not require side walk nor did TC Landau's.

Paul Sweeney felt that we should not ask for sidewalks and put the responsibly to the building owners.

A donation was to be asked for in lieu of side walks at that location. WALTER FOSTER – Moved to close the hearing and take under advisement. LAUREN ROSENZWEIG – Second. UNANIMOUS VOTE

**SITE PLAN SPECIAL PERMIT, #398, 19 RAIL ROAD STREET**

Mr. Gertuler discussed the 12 foot addition. They spoke about the HDC comments regarding the addition to the Building. Tom Peterman discussed the work that they have been doing regarding the addition. DORE' HUNTER – Moved to take under advisement. WALTER FOSTER – Second. UNANIMOUS VOTE

## **COMMITTEE INTERVIEW, PLANNING BOARD ASSOCIATE POSITION, MICHAEL DENSEN**

Peter thanked him for volunteering, Dore' asked why he volunteered for this opening, as well as his experience. He is a 10 year resident and concerned about the split tax as well as other growth related issues. The Board noted that they have other candidates to interview and will get back to him when a decision is made regarding the Appointment.

## **SELECTMEN'S BUSINESS**

### **BUSINESS CENTER OPTION AT THE LANDFILL**

Home Depot –Peter gave an overview of how we got here. Our contract with NESWC expires in September. We sent out RFP'S and got one for the Business Center. The Board voted not to include the articles on the June 13 Special Town Meeting. There will be issues of great concern regarding trash disposal even though they will not include the Articles.

Dore' addressed the Home Depot Business Center Option, He wanted to know that we may or may not have to cap the landfill, it appears from verbal from DEP are satisfied at this point as they will not issue the decision in writing. We will test the decision by asking for a permit from DEP and this will spur them to give us approval even if we don't exercise it. He wanted to look at a broader range of alternatives without a strict time line and would require us to withdraw the proposal by Dickenson. We may not want to build anything big on that site because of recapping the landfill. He thinks we should start over with a larger committee to come to a consensus. He is willing to withdraw and proposal and look at other issues. The Town Manager will be asked to draft a use for DEP review and approval. Don outlined the meeting he had with DEP and their atty. explained to them the situation and indicated that we are considered closed and that it was capped properly. The water tests are good and what you see in a closed landfill. They have said they have no interest in coming after us.

David Dirkeron 16 year resident complemented Dore's idea to look at other options.

David Stone – 24 Liberty St, and member of LAN and Fin Com. He wanted to address the going down the tunnel, they are not they are looking at all other uses.

Paul Sweeney 68 Taylor, he too thanked Dore' on his leadership and courage to move forward. He said we need to think about open discussion on this asset and what to do with it, including doing nothing.

Gena Manalan – She would like to see this proposal stopped at this time. She was unhappy with the process thus far.

Charlie Kadlec –urged that we either stop it or withdraw it. We need to find out where we are. We need to reject it now.

Herman Kabakoff – he agrees with the facts, and that there was a procedure that was followed. He thinks he is not if favor, and is not sure he has all the facts and details. The proponent went to a detailed and response and felt that we needed to have a meeting with them to discuss it pro or con. He is swayed to the negative, but notes he does not have all the information. He wanted to encourage the discussion let the town residents make the decision,

David Stone – He noted that the procedure has been followed by LAN.

Mr. Connelly – Speaking as an environmental engineer said that he feels the BOS should consider if 1.5 million is a reasonable price.

William Sawyer – spoke about it and felt that the Planning board should be addressing. Do we need more commercial land in Acton and suggested this is the last place to put it.

Debra Sons Concord Road – asked about the state highway and Dore' said it would need permission for the fly over bridge. She asked about the 3 million we have set aside for capping the landfill. She doesn't support the project.

Mary Michelman – she wanted to ask questions on how much detail would be in the letter to the State.

Mary Sweeny is disappointed that the debate being cut off.

Walter discussed the process.

Peter doesn't think the process was as flawed as has been noted. He felt we may have written the RFP either to fine eyed or to strict.

Lauren said the Committee did the due diligence and they were given a task and did it the best they could. DORE' HUNTER – Moved to continue the discussion to May 9 at 7:45. WALTER FOSTER – second. UNANIMOUS VOTE.

## **GOALS FOR THE COMING YEAR**

Goals at the next meeting. Peter wanted to be sure we work though the ACHC and Planning Board that we set the process in motion.

## **BOARD AND COMMITTEE ASSIGNMENTS**

Committee Assignments – Dore' will take LRTA, Walter asked to be A/B Arts Council, JTAC is gone and Lauren will be MAPC/MAGIC as well as cable as well as any of Trey's.

It was noted that we need to list Yin Peet Sculpture Park and South Acton Commuter Rail Taskforce to the list. Dore' also wanted to be on the Commuter Task force Committee.

## **BOARD OF SELECTMEN RECUSAL POLICY**

Don briefed the Board on the policy and questions with the Ethics Commission after reading Steve' comments. The law could be read two ways. The Ethics Commission doesn't seem to have a problem leaving the table and speaking as a citizen. Dore' said that we should make a policy more restrictive. If you want to speak, contact the Board of Selectmen.

It was asked that we have something drafted for next meeting. It might be crafted to notice the Recusal Policy.

## **WHITLEY SUIT REGARDING RADIO TOWERS**

Don reported that Counsel contacted Whitley counsel and said that they asked for money. Dore' said that any citizen can apply for bylaw change, Mrs. Whitley choice to spend money rather than to come forward as a citizen, Any thing beyond the \$750 was unacceptable and he

was willing to litigate so that no one would try this again although the cost to litigate it would be more than what they are asking for.

**ARRT – FEDERAL FUNDS DISPOSITION**

Don has spoken with Roland and funds can only be used to purchase right of way. WALTER FOSTER Moved to send a letter to remaining cities and towns about the monies available for acquisition of trail property. DORE' HUNTER - second. UNANIMOUS VOTE. Peter wanted to make sure that the Anderson issue is taken care of before any money was released.

**OTHER BUSINESS**

**CONSENT AGENDA**

LAUREN ROSENZWEIG – Moved to approve the Consent Calendar. WALTER FOSTER – second. UNANIMOUS VOTE. Lauren asked that a Thank you Note be written regarding the donations.

**TOWN MANAGER’S REPORT**

**EXECUTIVE SESSION**

Peter Ashton - Moved to go into executive session for litigation, etc.

Roll call taken all ayes.

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Christine Joyce

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Clerk, Board of Selectmen

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Date

April 22, 2005

**TO:** Board of Selectmen, Sewer Commissioners

**FROM:** F. Dore' Hunter, Chairman

**SUBJECT:** Selectmen and Sewer Commissioners' Report

**APRIL 25, 2005**  
**SPECIAL EXECUTIVE SESSION**  
**6:30 P.M.**  
**REGULAR MEETING BEGINS AT 7:00 P.M.**

**I CITIZENS' CONCERNS**

**II SEWER COMMISSIONERS' BUSINESS**

**III PUBLIC HEARINGS & APPOINTMENTS**

1. 7:01 **OPERATIONAL MINUTE** – The Town Manager will give the Board a brief update on various topics.
2. 7:05 **BOARD REORGANIZATION**
3. 7:10 **TRANSFER OF A BEER AND WINE PACKAGE STORE LICENSE FROM WINE-CASK CELLARS, 100 POWDER MILL ROAD TO WEST ACTON MARKET, INC., 586 MASSCHUSETTS AVE.**- Enclosed please find materials in the subject regard for the transfer of a Beer and Wine Package Store license, for Board consideration
4. 7:15 **WINE CASK-CELLARS, FULL PACKAGE STORE LICENSE TRANSFER, TRANSFER OF LOCATION AND PLEDGE OF LICENSE.** - Enclosed please find materials in the subject regard for permission to Transfer a Full Package Store License from Drinks and Company, 11 Spruce Street to Wine-Cask Cellars at 100 Powder Mill Road, for Board consideration.
5. 7:30 **FRANK CHEN, 124 MAIN STREET- COFFEE SHOP, COMMON VICTUALLER'S LICENSE** –Enclosed please find materials in the subject regard, for Board consideration.
6. 7:45 **BOSTON EDISON/NSTAR, POLE LOCATION HEARING, ELM STREET** – Enclosed please find materials in the subject regard, for Board consideration. Anne Marie Walsh, Community Rep. and Dick Tobin, Service Center Manager will be present to address questions from the Board regarding the status of double poles and condition of poles in town.
7. 8:00 **SPECIAL PERMIT #03/03/05-401, 301 MAIN STREET, NOT YOUR AVERAGE JOE'S** – Under separate cover please find materials in the subject regard, for Board consideration.
8. 8:15 **SITE PLAN SPECIAL PERMIT #04-30-04-398, 19 RAIL ROAD STREET** – Enclosed please find materials in the subject regard, for Board consideration.

9. 8:30 **MICHAEL DENSEN, PLANNING BOARD, ASSOCIATE MEMBER** – Enclosed please find Mr. Densen's VCC application and recommendation for appointment as an Associate Member of the Planning Board, for Board consideration.

#### **IV SELECTMEN'S BUSINESS**

10. **BUSINESS CENTER OPTION AT LANDFILL** – Enclosed please find materials in the subject regard, for Board consideration.
11. **GOALS FOR THE COMING YEAR** - Enclosed please find materials in the subject regard, for Board consideration.
12. **BOARD AND COMMITTEE ASSIGNMENTS** - Enclosed please find materials in the subject regard, for Board consideration.
13. **BOARD OF SELECTMEN RECUSAL POLICY** - Enclosed please find materials in the subject regard, for Board consideration.
14. **WHITLEY SUIT REGARDING RADIO TOWERS** - Enclosed please find materials in the subject regard, for Board consideration.
15. **ARRT – FEDERAL FUNDS DISPOSITION** - Enclosed please find materials in the subject regard, for Board consideration.
16. **OTHER BUSINESS**

#### **V CONSENT AGENDA**

17. **EDWARD STARZEC, ASSOCIATE MEMBER OF THE PLANNING BOARD** – The Planning Board has asked that Mr. Starzec be elevated to a Full Member to fill Lauren Rosenzweig's unexpired term to June 30, 2007, for Board consideration.
18. **ACTON COMMUNITY HOUSING CORPORATION (ACHC), REQUEST FOR APPROVAL OF TRANSFER OF FUNDS** - Enclosed please find materials in the subject regard, for Board consideration.
19. **ONE DAY LIQUOR LICENSE** – Enclosed please find a request from the Pelagic Sailing Club, Inc., for a One Day Liquor License in conjunction with their Annual Clam Bake at NARA, for Board consideration.
20. **CAMPERSHIP REQUEST** – Enclosed please find a Confidential request for a Camp Scholarship to NARA, for Board consideration.
21. **ACCEPT DONATION** – Enclosed please find a request from the Recreation Director for acceptance of a grant in the amount of \$750.00 from the United States Tennis Association, for Board acceptance.
22. **ACCEPT DONATION** – Enclosed please find a request from the Director of Municipal Properties for the acceptance of 24 assorted pieces of office furniture from 524 Main, Inc. for use in the Public Safety Building, for Board consideration.

#### **VI TOWN MANAGER'S REPORT**

## **VII EXECUTIVE SESSION**

23. There will be a need for Executive Session

### **ADDITIONAL INFORMATION**

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

### **FUTURE AGENDAS**

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

May 9, May 23

June 6

June 20

### **GOALS 2004-2005**

1. Produce Morrison Farm Development Master Plan (Bob/Walter)
2. Improving Inter Board Communication (Dore')

### **GOALS carried forward**

3. Monitor Labor Negotiations (Peter/Trey)
4. Improve Communication with Town Boards (ALL)
5. Revisit 2020 planning process for direction to make this process more beneficial towards implementation of long-term vision, and to get a first rough cut of what happens next year before school is out for the summer (Trey/Peter)
6. ALG process be used for purpose of Budget Planning for FY05 (Dore'/Peter)
7. Process Planning for "Life after NESWC" (Bob)
8. Joint IT process-organizational change (Walter/Dore')
9. Middlesex Pension Alternatives (Walter/Trey)