Town of Acton

Special Town Meeting Warrant

Monday, June 13, 2005

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

Notice of Meeting

Special Town Meeting
Monday, June 13, 2005
7:00 P.M.
Acton-Boxborough Regional High School Auditorium

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♦ Article requested by a Citizen Group

Board of Selectmen's Message

This Town Meeting Warrant is your invitation to participate in the legislative portion of Acton's town government. Acton citizens have a longstanding tradition of governing themselves by means of an open Town Meeting. In order to achieve the best results we need your participation and encourage all Acton residents to attend. All registered voters are urged to participate in the debate and vote on the Articles presented. Other residents, even if they are not registered voters, are invited to attend and observe, or to view the proceedings on cable television channel 8.

Peter K. Ashton, Chair
Walter M. Foster, Vice-Chair
Robert Johnson, Clerk
F. Doré Hunter, Member
Lauren Rosenzweig, Member

Board of Selectmen

TOWN OF ACTON
SPECIAL TOWN MEETING WARRANT

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 Meeting for the transaction of town affairs, to meet in Acton-Boxborough Senior High School Auditorium, 36 Charter Road, Acton, Massachusetts on June 13, 2005 at 7:00 PM for a Special Town Meeting.

Introduction to Articles 1 & 2 – Transfer Station Operational Hours and Pricing

Articles 1 and 2 of this Warrant address the operations of the Transfer Station.

The Annual Town Meeting this April (2005) approved a reduced operating budget for the Transfer Station, based on reducing the days of operation to two days per week (Wednesday and Saturday), beginning July 1, 2005. The Selectmen have heard from a number of individuals who would prefer to remain with the current five day per week schedule. In order to give the voters a voice/choice in this question, the Selectmen offer Article 1, which would provide supplemental funding to allow the Transfer Station to remain open on the current five day-per-week schedule, if that is the voters' preference.

The Selectmen have also heard from a number of citizens who wish to consider a different approach to pricing for this service. Article 2 would advise the Board of Selectmen and the Town Manager that the citizens would prefer to institute a "Pay-As-You-Throw" pricing model for the period of September 1, 2005 through August 31, 2006. The "Pay-As-You-Throw" (PAYT) pricing model proposed in this article combines a flat fee (for access to the facility) plus a charge per bag of trash discarded (PAYT charge). There is **no** PAYT charge for materials that are placed in the recycling containers, the grass clippings and leaf drop-off area, the clothing boxes or the Community Supper container. Surcharges for appliances and other items will continue.

This is an opportunity for the voters of Acton to vote for or against a five day schedule as opposed to the planned two day per week schedule for the transfer station and to choose to maintain the current annual flat fee pricing model or to change to the "Pay-As-You-Throw" pricing model as described above. Unlike a standard Town Meeting article, Articles 1 & 2 have been structured to provide the voter a choice between different operational hours and different pricing structures. While offering choices, they also have the potential to create confusion. The purpose of this preamble is to explain these choices so that voters are assured that their wishes are properly portrayed by their votes at the Special Town Meeting.

Taken together, these two articles offer voters four potential choices:

(1) Maintain the Status Quo (operate the transfer station on a five days per week schedule and pay a flat annual sticker fee – Vote Aye on Article 1 and No on Article 2,

(2) Operate the transfer station on a two days per week schedule and pay a flat annual sticker fee – Vote No on Article 1 and No on Article 2,

(3) Operate the transfer station on a five days per week schedule, pay an access charge and convert to a "Pay-As-You-Throw" volume pricing model – Vote Aye on Article 1 and Aye on Article 2,

(4) Operate the transfer station on a two days per week schedule, pay an access charge and convert to a "Pay-As-You-Throw" volume pricing model – Vote No on Article 1 and Aye on Article 2.

ARTICLE 1 NESWC ENTERPRISE BUDGET
(Majority vote)

To see if the Town will raise and appropriate, or appropriate from available funds a sum of money in addition to the sum appropriated at the April 2005 Annual Town Meeting for the purpose of solid waste disposal in accordance with Massachusetts General Law, Chapter 44, Section 53F½, Enterprise Fund Law, or take any other action relative thereto.

SUMMARY

At the April 2005 Annual Town Meeting the voters funded a two days per week (Wednesday and Saturday), Transfer Station operation for residents only.

The approval of this article for approximately $40,000 would fund operation of the Transfer Station (residents only) on a five days per week basis. The amount requested under this article would be funded from a surcharge placed on first sticker sales at the Transfer Station. The surcharge is expected to be approximately $15 per sticker. A further explanation is included immediately after the summary for Article 2.

Direct inquiries to: Bruce Stamski, P.E., Director of Public Works
engineering@acton-ma.gov / (978) 264-9628
Selectman assigned: Peter Ashton: bos@acton-ma.gov

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

ARTICLE 2 **NON-BINDING RESOLUTION – TRASH FEE PRICING MODEL**
(Majority vote)

NON-BINDING RESOLUTION

Whereas the Town owns and operates a Solid Waste Transfer Station on land located off Route 2.

Whereas the Town's long-term NESWC Service Agreement is expiring on September 25, 2005.

Whereas, in connection with that expiration, the Board of Selectmen is evaluating the operations and pricing methodologies at the Transfer Station.

Whereas the transfer station is an important amenity for many Town residents

Whereas many in State Government and the environmental field assert that there are both financial and environmental benefits associated with a pricing model based upon the volume of trash discarded by each user ("pay-as-you-throw").

NOW THEREFORE, BE IT RESOLVED, that Town Meeting requests that the Board of Selectmen and the Town Manager implement a pricing model at the Transfer Station that is a combination flat fee (for an access sticker) plus a charge per bag of trash discarded (pay-as-you-throw charge) for the trial period of October 1, 2005 through September 30, 2006, and provide an interim report as to the benefits and drawbacks of such a pricing model to the April 2006 Annual Town Meeting.

SUMMARY

This Article would replace the current annual flat fee charge at the transfer station with a "Pay-As-You-Throw" (PAYT) pricing model, which is a combination flat fee (for an access sticker) plus a charge per bag of trash discarded (pay-as-you-throw charge). There is **no** PAYT charge for materials, which are placed in the recycling containers, the grass clipping, and leaf drop-off area, the clothing boxes or the Community Supper container. Surcharges for appliances and other items will continue.

Direct inquiries to: John Murray, Assistant Town Manager
manager@acton-ma.gov / (978) 264-9612
Selectman assigned: Peter Ashton: bos@acton-ma.gov

Recommendations:	**Board of Selectmen**	**Finance Committee**
	Deferred	**Not Recommended**

ARTICLE 3 **ENVIRONMENTAL STANDARDS FOR FILL MATERIAL BYLAW**
(Majority vote)

To see if the Town will vote to amend the general Bylaws of the Town by adding the following new chapter U after chapter T:

Chapter U: Environmental Standards for Fill Material Bylaw

1. Authority

This Bylaw is adopted by the Town under its Home Rule Authority, its Police Powers to protect the public safety and welfare and its authorization under Massachusetts's General laws, c. 40, section 21 and c. 111, section 31.

2. Purpose

The purpose of this Bylaw is to protect, preserve, and maintain the Town's existing and potential groundwater supply, groundwater recharge areas, surface waters, air quality and natural environment and to assure public health and safety through the proper management of materials regulated herein.

3. Definitions

For purposes of this bylaw, the following terms shall have the following meanings:

3.1 "Asbestos" means all asbestiform varieties of the mineral family called silicates including: serpentinite (chrysotile), riebeckite (crocidolite), cuming- tonitegrunerite (atmosite), tremolite-actinolite, and anthophyllite as defined in the DEP Air Quality Regulations at 310 CMR 7.00.

3.2 "Asbestos-Containing Material" means friable asbestos and any material containing 1% or more asbestos by weight. This term includes but is not limited to sprayed-on and troweled-on materials applied to ceilings, walls, and ceilings, walls, and other surfaces, insulation on pipes, boilers, tanks, ducts, and other equipment, structural members, tiles, shingles or asbestos-containing paper, as defined in the DEP Air Quality Regulations at 310 CMR 7.00.

3.3 "Asbestos-Containing Waste Material" means any friable asbestos-containing material removed during a demolition/renovation project and anything contaminated in the course of a demolition/renovation project including asbestos waste from control devices, bags or containers that previously contained asbestos, contaminated clothing, materials used to enclose the work area during the demolition/renovation operation, and demolition/renovation debris, as defined in the DEP Air Quality Regulations at 310 CMR 7.00.

3.4 "Asbestos in Soil" means unconsolidated fibers of asbestos contained in the soil matrix that did not originate from asbestos manufacturing, fabricating, milling, or spraying. Asbestos in soil does not include "Asbestos-Containing Material" or "Asbestos-Containing Waste Material" as those terms are defined in the DEP Air Quality Regulations at 310 CMR 7.00.

3.5 "Asbestos Waste" shall mean any material containing one percent or more asbestos by weight and anything contaminated with asbestos such as asbestos from pollution control devices, bags or containers that previously contained asbestos, contaminated clothing, demolition/renovation debris. As defined herein "asbestos waste" shall include, but is not limited to, "asbestos waste," "asbestos-containing material" and asbestos-containing waste materials" as defined in 310 CMR 7.00 and 310 CMR 19.00, as amended.

3.6 "Board" shall mean the Town of Acton Board of Health.

3.7 "Bylaw" shall mean this Environmental Standards for Fill Material Bylaw.

3.8 "Construction and Demolition Debris" shall mean the waste building materials and rubble resulting from the construction, remodeling, repair or demolition of buildings, pavements, roads or other

structures. "Construction and demolition waste" shall include, but is not limited to, concrete, bricks, lumber, masonry, road paving materials, rebar and plaster and all other "construction and demolition waste" as defined in Massachusetts Solid Waste Regulations 310 CMR 19.00, as amended.

3.9 "Contaminated soil" shall mean soil that contains oil and/or hazardous materials as a result of a release to the environment. This includes anthropogenic contaminants, regardless of whether the contaminant levels exceed the applicable Reportable Concentration (RC) under section 310 CMR 40.1600 of the Massachusetts Contingency Plan (MCP). As defined herein, "contaminated soil" shall include, but is not limited to, "contaminated soil" as defined in DEP's Policy COMM-97-001.

3.10 "DEP" shall mean the Department of Environmental Protection and/or its successors.

3.11 "Landfill" shall mean the former Town of Acton municipal landfill located on Town Map G-4 Parcels 140, 75, 76, and 167-1, but excluding the paved area and buildings of the Town of Acton Highway Department, DPW Garage, Transfer Station, recycling area, salt and sand sheds, associated access areas, tanks, pumps and related facilities (collectively the "DPW Garage and Transfer Station" located principally on the northern portion of parcel 76.

3.12 "Person" as used in this Bylaw shall include any individual, group of individuals, association, partnership, corporation, or business organization, trust or estate, the Commonwealth, or any political subdivision thereof, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representatives, agents or assigns.

4. General Rules

4.1 No person shall use asbestos, asbestos in soil, asbestos waste, construction and demolition debris, or contaminated soil as solid fill, daily cover, intermediate cover, and/or pre-capping contour material on the former town of Acton municipal landfill.

4.2 Nothing in this Bylaw shall prohibit the Town of Acton from conducting any of the following activities at the DPW Garage and Transfer Station: (a) storing and mixing salt and sand; (b) storing new or used granite curbing (including curbing that may have been recovered from road demolition or reconstruction projects); (c) temporary storage of road demolition materials and debris for off-site disposal of contaminated soil or other materials excavated during road construction projects; (f) acceptance of limited quantities and types of construction and demolition debris at the Transfer Station for off-site disposal; and (g) other ordinary and necessary activities incidental to the operation of the DPW Garage and Transfer Station.

5 Penalties for Violation

Violation of this Bylaw, as determined by the Town of Acton Board of Health, shall be punishable by a fine of three hundred dollars per offense. Each day a violation continues shall be considered a separate offense. Any sums of money collected as fines shall be paid forthwith into the general revenues of the Town.

6 Severability

In case any section, paragraph or part of this chapter is for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

7 Effective Date

This chapter shall take effect in accordance with M.G.L. c.40, section 32. This Bylaw shall not apply to any materials used or stockpiled for later use on the former town of Acton municipal landfill.

Or take any other action relative thereto.

SUMMARY

This article strengthens the standards for fill allowed at the landfill for additional water, air, and natural environment protection, and to assure public health and safety through the proper management of materials regulated herein.

Direct inquiries to: Susan Kennedy, (978) 264-9165
Selectman assigned: Peter Ashton: bos@acton-ma.gov

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

ARTICLE 4 **NON-BINDING RESOLUTION - DEVELOPMENT OF MUNICIPAL LAND**
(Majority vote)

NON-BINDING RESOLUTION

Whereas Article 3.5.1 of the Zoning BYLAW states in pertinent part:

> "Retail Store-An establishment with not more than 60,000 square feet in NET FLOOR AREA selling merchandise within a BUILDING to the general public. Said merchandise is not intended for resale. A Retail Store may have one or more vendors within it and may occupy one whole BUILDING, its retail space shall be separated from other Retail Stores by complete walls or partitions, and customers must pay for purchases and exit the Retail Store before entering another Retail Store. A garden center, florist, or commercial greenhouse may have open-air display of horticulture products."

NOW THEREFORE, BE IT RESOLVED, to instruct all Town Boards, Committees and Departments, to neither issue any request for proposals nor accept any proposal for development of municipal property that does not conform to the Town's Master Plan and Section 3.5.1 of the Zoning BYLAW, nor to enter into any purchase and sales agreement for municipal property that does not conform to the Town's Master Plan and Section 3.5.1 of the Zoning BYLAW.

SUMMARY

This article requests the Town Boards and Officials to get direction from the voters before funds are expended for Request for Proposal (RFP) that are in conflict with the existing Acton Master Plan and Acton Bylaws, as voted by Town Meeting.

Direct inquiries to: Susan Kennedy, (978) 264-9165
Selectman assigned: Peter Ashton: bos@acton-ma.gov

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

ARTICLE 5 **SEWER EASEMENT – 82 POWDER MILL ROAD**
(Two-thirds vote)

To see if the Town will vote to authorize the Board of Selectmen to acquire or take, on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise, and to accept an easement in, over, under, on, across and through a portion of the real property located at and known as 82 Powder Mill Road, Acton, MA, which is shown as Assessors' Map ID No. J3/34/8 (the so-called "Powder Mill Plaza Property"), for the purpose of locating, erecting, constructing, reconstructing, installing, operating, maintaining, accessing, patrolling, inspecting, repairing, replacing, altering, extending and/or removing a sewer pumping station and associated sewer lines, pumps, tanks, wells, utilities, manholes, equipment, conduits, appurtenances and attachments incidental thereto to serve the needs of the Town and the present and/or future needs of users of the Middle Fort Pond Brook Sewer District, upon such terms and conditions as the Board of Selectmen deem appropriate, and further to see if the Town will raise, appropriate, transfer from available funds, or accept gifts for this purpose, or take any action relative thereto.

SUMMARY

This article seeks to authorize the Board of Selectmen to accept as a gift, take by eminent domain or otherwise acquire an easement for purposes of a sewer pump station on property known as Powdermill Plaza, 82 Powder Mill Road. The property owner seeks to connect to the Town's sewage treatment facility serving the Middle Fort Pond Brook Sewer District (MFPBSD). The property is currently outside the sewered area of the MFPBSD. The Selectmen are negotiating toward an agreement with the property owner to (a) require the property owner to pay all costs for the construction of the new sewer pump station and associated public sewer lines that would allow connection of this property and future connection of other properties in the area to the Town's sewer system, (b) to convey the sewer pump station easement to the Town without charge, and (c) to pay an appropriate sewer privilege fee for the connection to the Town's system. Negotiations are ongoing. The Selectmen would only accept this easement if they determine that the negotiations have produced an agreement suitably beneficial to the Town to allow this construction and expansion to proceed. Having Town Meeting's authorization to accept this easement when and if appropriate will enhance the Selectmen's negotiating position to reach a satisfactory agreement with the property owner.

Direct inquiries to: Don Johnson, Town Manager
manager@acton-ma.gov / (978) 264-9612
Selectman assigned: Peter Ashton: bos@acton-ma.gov

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

ARTICLE 6 **ACQUISITION OF STATE-OWNED LAND**
(Two-thirds vote)

To see if the Town will authorize the Board of Selectmen to acquire or take, on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise and to accept deeds of the fee simple interest in two certain parcels of land together comprising approximately 7.646 +/- acres located off Charter Road adjacent to Route 2, identified as Acton Assessor's Map E3, Parcel 85, and Map E3, Parcel 93, and described in two separate deeds recorded in the Middlesex South District Registry of Deeds in Book 7650, Page 311 and in Book 7866, Page 367, and further to see if the Town will raise, appropriate, transfer from available funds, or accept gifts for this purpose, or take any other action relative thereto.

SUMMARY

The Commonwealth's Division of Capital Asset Management ("DCAM") has scheduled an auction for June 28, 2005, of two abutting parcels of surplus state-owned land adjacent to Route 2. The land is vacant, relatively flat, and vegetated. It was acquired by the state for highway purposes but is no longer needed for that purpose. The land has no access to Route 2 and is apparently land-locked. However, in combination with a frontage parcel, the land has significant development potential. The Town would acquire the land for general municipal purposes and determine at a future Town Meeting the appropriate use or disposition of the property.

Direct inquiries to: Don Johnson, Town Manager
manager@acton-ma.gov / (978) 264-9612
Selectman assigned: Walter Foster: bos@acton-ma.gov

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

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 twenty-third day of May, 2005.

Peter K. Ashton, Chair
Walter M. Foster, Vice-Chair
Robert Johnson, Clerk
F. Doré Hunter, Member
Lauren Rosenzweig, Member

Board of Selectmen

A true copy, Attest:

Constable of Acton

PRSRT STD

US POSTAGE PAID
PERMIT #67
ACTON, MA 01720

POSTAL PATRON
ACTON, MA 01720

Don Johnson

From: Doug Halley

Sent: Tuesday, June 07, 2005 8:38 AM

To: Don Johnson

Subject: Environmental Standards for Fill Material Bylaw

The Board of Health reviewed the proposed Environmental Standards for Fill Material Bylaw at their regularly scheduled meeting last night. While they are in agreement with the goal of the bylaw (preventing additional contaminated soils from being placed on the landfill) they are concerned that the bylaw as currently written is ambiguous and open to wide interpretation. As the Board assigned to enforce the Bylaw their concerns are interpreting violations as determined by the Board, the targeting of one piece of property of a regulation, the lack of any variance procedures, the citation of future regulations and the possibility that historical solid fill, daily cover, intermediate cover, and/ or recapping material could be construed as within the purview of the Bylaw. Pam Harting-Barrat has been assigned by the Board to discuss these issues so that a consensus can be built before the Special Town Meeting. Should you have any questions please let me know.