ARTICLE 3

Don Johnson

From: Don Johnson
Sent: Thursday, June 09, 2005 4:26 PM
To: Peter Ashton
Cc: Board of Selectmen
Subject: FW: Acton/Gen Sel - Citizens' Bylaw

scan.pdf (209 KB)

Forwarded for your information.

Regards,
Don

-----Original Message-----
From: Stephen Anderson
Sent: Thursday, June 09, 2005 3:22 PM
To: Don Johnson; John Murray
Subject: Acton/Gen Sel - Citizens' Bylaw

<<scan.pdf>>
Gentlemen:

I spoke today to Kelly Ganagan, the AG's Bylaw coordinator. It seems that the citizens emailed the AG the draft of the Bylaw on the STM warrant. They wanted to know what the AG thought of it. The AG has asked DEP for its input. She hopes to have DEP's comments by Monday and will share them with us when she does. She mentioned that DEP has statewide policies for landfills and would be concerned if a number of towns prohibited these materials at landfills, because it ultimately leads to the question, where can the materials go? So DEP or the AG may raise the Wendell case and preemption. Stay tuned.

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TELECOPY COVER SHEET

DATE: 6/9/05
TO: Attorney Stephen Anderson
FAX: 617-252-6899

FROM: Kelli E. Gunagan, Assistant Attorney General
By-law Coordinator
Municipal Law Unit
(413) 784-1240 x 117

TELEPHONE:
FAX:
PAGES: 3 + cover sheet

NOTES: attached is a proposed by-law that was emailed to us for informal review. When you get a moment (hopefully, when your voice is better!), please give me a call to discuss. Thanks

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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), tremoliteactinolite, 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," "asbestoscontaining 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

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