

10/18/10

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**BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING**  
**August 23, 2010**

**Acton Town Hall**  
**Francis Faulkner Hearing Room**  
**Regular Meeting begins at 7:00 P.M.**

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**Executive Session, Room 126, 6:00 P.M.**

Present: Lauren Rosenzweig Morton, Michael J. Gowing, Terra Friedrichs, Absent, Janet K. Adachi, Pamela Harting-Barrat. Town Manager, Recording Secretary; Christine Joyce. The Meeting was televised for regular session

Ms. Rosenzweig Morton – Moved to open into public session only to go into Executive Session to discuss strategy with respect to litigation, Crossroad Development, LLC and declares that an open meeting may have a detrimental effect on the negotiation position of the Board of Selectmen, further, that Mr. Douglas Wilkins Esq. be allowed in the Executive session. Mr. Gowing took Roll Call, All AYES

**CITIZENS' CONCERNS**

Mary Michleman – spoke about WR Grace Report received this morning. She noted that there is no time noted for turn around regarding the Landfill Capture Zone Evaluation. Lauren asked that our consultant be contacted to look in to this.

**CHAIRPERSON'S UPDATE**

Passed over

**OPERATIONAL MINUTE**

Town Manager will discuss town issues. Mr. Ledoux publically announced that Karen Kucala, Town Accountant is leaving to take a position as the Comptroller in Natick and we will miss her and it will be hard to replace her. We will discuss later in the Agenda.

Steve reported on the collective bargaining with Highway and Police Patrol and hopefully we can settle in time for inclusion on the Special Town Meeting.

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Towne School Project (Old High School Commons) has put their financing together and are positive about moving forward. Mr. Ledoux contacted the Middlesex Bank and they are planning to pick up the last 25% tax credits for the project.

**PUBLIC HEARINGS & APPOINTMENTS**

**CHRISTOPHER MILES, CONCERNED ABOUT STATE SEX OFFENDER REGISTRY**

Presented his slide show and he wants to propose a Town Bylaw that would restrict level 2 and 3 sex offenders from areas of town where children and other vulnerable populations frequent. He is concerned

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that these released sex offenders are at a risk to reoffend, and if they are kept away from vulnerable potential victims they will be less likely to reoffend, keeping children and others safer. He wants to set up a committee of citizens, BOS member Representative from Police and Town Counsel to come to a consensus of what makes sense for Acton.

Chief Widmayer discussed the proposed concerns. Currently, there are 11 Bylaws in large population communities with larger police departments. It is his responsibility to enforce and the laws not create them. His concerns are the civil crime enforcement with no provision that the suspect must identify themselves as Registered Sex Offenders. Existing sex offenders will not be affected by this bylaw. The Attorney General will need to approve the vote of the Town Meeting action and does not think the Attorney General will approve. The more cumbersome the bylaw gets the more there will be a problem to enforce. The zone is restricted by the bylaw and he feels it will not pass Attorney General's review and people in the neighborhoods will be furious. This is a State law and he thinks the State should fix it and he is not comfortable with a Town Bylaw, but will do this if he has to. It would be nice if it was fixed at the State level so that we don't have to do this at the town level.

Mr. Gowing asked about what a level 1, 2 and 3 offenders. Level 3 is highest and most likely to re-offend. He asked about violent crime and re-offenders.

Ms. Harting-Barrat asked about number offenders that offend in communities they live in vs. work. Officer Heffernan said he had not numbers on that. She wants to be sure that someone will not come in and not register because of stringent rules in Acton.

Ms. Adachi she understands concerns of the parents and questioned if the law has been helpful or not. She is concerned that they have served and technically have paid their dues and if they are a problem they will have more restraints. She has many concerns with this bylaw and agrees with the Police Chief that this is fraught with peril.

Ms. Rosenzweig Morton noted that we want to keep citizens informed. She is concerned that 90% of those getting their life on track and working the other 10% is what concerns her. She did not want to make people go underground or become homeless. She wants to take a multi-prong approach with schools, social worker and others in town to interact with them. She wants to take time and research it further

John Covert – They looked at this issue with ACAT and bylaws and cannot restrict sex offenders from using the facilities, of course, they would be escorted to and from the facility.

John Peterson (speaking as a resident ) said his daughter walks to school. He supported Chris's work but said that teaching, it would be great to put our children to be wary of dangerous situations in general would be more protective. Statistically the frequency of this crime is low, though he can understand why it creates much fear there will always be issues.

Resident of 25 Revolutionary Road. Got a flyer and was glad to have the notice in his mailbox. He thinks the town should look into the concerns and the children need to be protected.

Ms. Rosenzweig Morton noted we will look at this and discuss it again as a board.

## **HISTORIC DISTRICT COMMISSION ANNUAL OVERSIGHT MEETING**

Kathy Acerbo-Bachmann is the new Chairman. Mr. Gowing gave an overview. Ms. Acerbo-Bachmann said that they are trying to improve the districts and provide educational opportunities. They focused on

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education this past year. She wanted to have the staff support, such as an Historic Preservation Planner, that was not funded due to budget cuts. Mr. Gowing asked if they wanted to expand the Districts, she said yes they would. Ms. Rosenzweig Morton suggested the possible use of CPA Funds to fund a study.

**COMMON VICTUALLER LICENSE, 340 MAIN STREET (WITHDRAWN BY APPLICANT)**

Ms. Rosenzweig Morton read the notice and declared the petition was withdrawn

**ECD ANNUAL OVERSIGHT MEETING**

Doug Tindal noted that they have been active for years, and have gone through changes and modifications. The July 15 Minutes provides a good snap shot about what they are doing. They wanted to do education, and support the business community. They are working closely with EDC and things the Chamber of Commerce to publicize the assistance the EDC can provide.

**CHANGE OF MANAGER, NOT YOUR AVERAGE JOE'S**

Was not present, Christine will call to reschedule

**CAPIZZI AND COMPANY, SITE PLAN SPECIAL PERMIT #6/11/10-427, 820 MAIN STREET**

Sidewalk construction was discussed. They have agreed to have the town construct the sidewalk at \$50 foot or \$20,100. Ms. Rosenzweig Morton noted that it costs more for us to construct. She feels the applicant could construct it quicker. Roland noted that the bond can be held, but if they can't do it less expensively we take the donation. The Town Planner is to call the adjacent property owner to let them know it is time to fulfill the agreement

Mr. Gowing – Moved to close the Public Hearing. Ms. Adachi – second. UNANIMOUS VOTE.

**COMMON VICTUALLER LICENSE, GREAT ROAD PUB & GRILLE, INC., 166 GREAT ROAD**

The applicant outlined the service they will implement. Mr. Gowing asked about the 40 seats limit. They are comfortable with that. Mr. Gowing – Moved to approve the Common Victualler License. Ms. Harting-Barrat – second. UNANIMOUS VOTE

**TRANSFER OF FULL LIQUOR LICENSE AS A RESTAURANT, GREAT ROAD PUB & GRILL, INC, 166 GREAT ROAD**

Ms. Rosenzweig Morton read the legal notice. They have been in business for 18 months in Clinton and propose to operate the same way in Acton. Their employees will all be TIP Trained. They have not had any violations or need to call the Police in Clinton.

Mr. Gowing – Moved to approve the Full Liquor License as a Common Victualler. Ms. Harting-Barrat – second. UNANIMOUS VOTE

**SELECTMEN'S BUSINESS**

**SPECIAL TOWN MEETING DISCUSSION**

There is a need for Planning Articles, Caouette Land, Shuttle Service needs as well as possible union contract negotiations.

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Town Planner, Roland Bartl went over the proposed warrant articles from the Planning Board. Ms. Harting-Barrat – Moved to put them on the Special Town Meeting Warrant. Mr. Gowing – second. UNANIMOUS VOTE

### **ACAT DISCUSS REPLACEMENT FOR BRENDAN HEARN'S POSITION**

The President and Treasurer of ACAT were present.

Mr. Gowing outlined the need to have ACAT come before us to discuss the vacancy. The Board wanted the chance to screen the applicants and to use other media. John Covert noted that the BOS can provide a nomination to the committee and ACAT we will put out the word with the needs. Mr. Gowing asked them for their input on what the Board would be looking at in potential candidates. They want someone with a legal degree and someone with accounting would be helpful. Ms. Rosenzweig Morton wanted someone with marketing and programming experience. Ms. Rosenzweig Morton suggested that they meet with Mr. Gowing and bring it back to the Board for discussion about their report. John Covert urged we need more volunteers.

### **TOWN ACCOUNTANT/ASST. FINANCE DIRECTOR RESIGNATION**

Mr. Ledoux noted that the Board needed to vote an Acting Town Accountant. Mr. Gowing – Moved to accept Ms. Kucala's resignation and to appoint Stephen Barrett as the Town Accountant temporarily. Ms. Harting-Barrat – second. UNANIMOUS VOTE. Ms. Rosenzweig noted Ms. Kucala's valuable contributions to the Town.

### **MORRISON FARM REUSE CONTINUING DISCUSSION**

Continuing discussion on what the Board wanted to see moving forward.

Mr. Gowing will talk about options and what we want to see happen and we will have to restate at another public meeting.

Farmed area keep the current garden plots reserved for town's people, leave as is. Janet likes what is going on there and possible expand the area.

Ms. Harting-Barrat noted her experience in New York with CSA. She would love to see this here, expanding the garden plots and leave CSA to the folks who are familiar with it. She wanted to expand the organic garden plots and look at CSA later.

Ms. Rosenzweig Morton did not want to expand the garden plots. She feels it is more important to save as much of the meadow as possible. Three to expand the current plots and one to no expansion

Sports field two choices lower meadow area leave as is 6.5 acres reduce area to accommodate fields and gardening and CSA. Ms. Harting-Barrat said it was very compelling to not put sports fields there and questioned the need for the fields. She could support some variation mentioned above.

Ms. Adachi wishes that active play fields would be somewhere else, but she as a Board member has received some blowback on this issue, unless we get some recreational component suggestions from the Recreation people she wants to have the fields until those using the fields say they don't want them anymore.

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Ms. Rosenzweig said she agreed with Ms. Adachi to use the meadow area at the pond for active recreation, and save as much as the back meadow toward the stone wall will be ideal and the woods as possible to have meadow enhancement

Mr. Gowing thinks we should honor those who voted this and to let the committee address this and if there is not strong support for sport fields we look at this Recreation component

**ACTON COMMUNITY HOUSING CORPORATION REQUEST FOR SPENDING AUTHORIZATION, MCCARTHY VILLAGE II**

Ms. Adachi - Moved to use \$20,000 from Community Preservation Fund held by ACHC for housing and Habitat builds. The Housing Authority is short the \$20,000 to provide buffering contingent on the Boards vote and be held until they move forward. Ms. Adachi – Moved to authorize the \$20,000 and set a side until such time as they need it, Ms. Harting-Barrat – second. UNANIMOUS VOTE

**RECOMMENDED AMENDMENTS TO THE TRAFFIC RULES AND ORDERS, COMMUTER LOT SHUTTLE SERVICE**

Mr. Ledoux updated the Board on the Shuttle Service and we will be utilizing the parking lot behind the West Acton fire station. We will need to update the Traffic Rules and Orders for the needs for the shuttle that will be dropping commuters and pick up at the Train Station. He noted that Mt. Calvary Church may also have to be approved at a later date in the future to provide Shuttle services for the side of Town. Ms. Harting-Barrat – Moved to make the amendments to the Traffic Rules and orders. Mr. Gowing – second. UNANIMOUS VOTE

**TD BANK N.A. CONTINUATION OF SITE PLAN SPECIAL PERMIT #4/30/10/424 HEARING, 408 MASS AVE.**

Ms. Adachi noted that she felt strongly that we did not want a denial but that an approval would have conditions.

The plan we saw from the applicant had the constraints with corporate policy. It was emphasized at the hearing that we needed a super majority vote to make an enforceable.

Ms. Rosenzweig Morton said that we want them in town and they have worked with the Town. Her concern about moving the building forward were mostly traffic flow and a need to make this pedestrian friendly. She feels that Sovereign Bank was asked to accommodate to bring the building forward.

Mr. Gowing said we have talked extensively about moving the building forward and other issues of retaining the two curb cuts. He noted the right of way issue and do we know what will be done with the remaining land. There is a need to make this walk-able. He also noted the number of parking spaces and does not see the demand for this amount of parking.

Ms. Harting-Barrat thanked Janet for her work on the decision. Ms. Adachi spoke about her minor changes to the Draft Decision as given to the Board on Friday in the packet.

Mr. Gowing – Moved to accept the Draft Decision as modified by Ms. Adachi. Ms. Harting-Barrat – second. UNANIMOUS VOTE

**SELECTMEN'S REPORTS**

Mr. Gowing reported on Acton Water and Boxborough regarding taking back their rights. He had a meeting with legislators, Mr. Ledoux, Selina Shaw, Boxborough Town Administrator, and Boxborough Board of Selectmen members Frank Powers and Raid Suleiman The Water District staff—Chris Allen and Matt Mostoller were also present, as well as Water District Commissioner Steve Stuntz.. We need to discuss with Water District prior to January filing date so we can let the legislators know if we support or not. Staff was asked to schedule at an upcoming meeting.

Ms. Rosenzweig Morton outlined the ALG first meeting that she attended to set ground rules and to talk about some of the ways going forward. Mike noted that when we will review the ALG spread sheet numbers will be what goes to develop a way that will have it more clearly reflect how it relates to the budgets voted at Town Meeting.

Ms. Rosenzweig Morton noted that the DRB has begun to plan a way to develop design preferences for the suggested areas for out reach—multi family and municipal buildings.

Ms. Harting-Barrat noted that the Clearwater cell application was not approved by the Planning Board. Sidewalk committee excited about Capizzi sidewalk. She noted the comments made by David Honn about the SACAC. She spoke about AHA Sachem Way and we got the funding to move forward. Recreation Dept. has prepared a list of improvements for consideration.

Mr. Gowing reported on the Commission on Disability issues.

Ms. Adachi spoke about the scanning of ACHC Documents. They have been scanned by Iron Mountain. ConsCom is working on the Open Space Committee. WANT is meeting every two weeks and she is attending those meetings.

**CONSENT**

The Board asked that the 10/10/10 concert One day Liquor License be Pulled. Ms. Rosenzweig Morton noted it was the Town Manager's opinion that we should deny this application for liquor – Ms. Harting-Barrat – Moved to deny the One Day Liquor License. Mr. Gowing – second. second UNANIMOUS VOTE

Ms. Rosenzweig Morton – Moved to accept the items listed under Consent excluding the 10/10/10 concert One day Liquor. Mr. Gowing– second UNANIMOUS VOTE

**EXECUTIVE SESSION**

To discuss Litigation, Crossroads Development, LLC

Motion to adjourn

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Christine Joyce, Recording Secty

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Clerk  
Date:\_\_\_\_\_