

## BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING

July 8, 2013  
Executive Session, 6:00 p.m.  
Francis Faulkner Hearing Room 7:00 p.m.

Present: Ms. Adachi, Mr. Gowing, Ms. Green, Mr. Clough, Mr. Sonner, BY REMOTE PARTICIPATION, Town Manager Ledoux, Recording Secretary; Christine Joyce. The meeting was televised.

### EXECUTIVE SESSION – 6:00 p.m.

Chair: "I'll entertain a motion to enter executive session to discuss strategy with respect to litigation."

- a. Mr. Clough "So moved."
- b. Ms. Green: "Second."

Chair: "Before the roll call vote to enter executive session, let me state:

- c. "In the executive session, the Selectmen will discuss with Town Counsel potential litigation to enforce Town Bylaw Chapter R relative to the proposed imminent shutdown and removal of WR Grace Northeast Area Remedial Action."
- d. "An open meeting may have a detrimental effect on the litigating position of the Town."

Chair: "Mr. Sonner is participating remotely because of geographic distance<sup>1</sup>. Under the Attorney General's regulations, Mr. Sonner, do you confirm that no other person is present and/or able to hear the discussion at the remote location?"

- e. Mr. Sonner: "Yes."

Chair: "Would the clerk please call the roll." Roll Call taken all AYES

Chair: "At the conclusion of the executive session, the Board will reconvene in open session."

<sup>1</sup> Permissible reasons for remote participation are (a) Personal illness; (b) Personal disability; (c) Emergency; (d) Military service; or (e) Geographic distance.

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## **CITIZENS' CONCERNS**

**None**

## **CHAIRMAN'S UPDATE & OPERATIONAL MINUTE**

Ms. Adachi – attended the Selectmen's Concert and dinner at NARA Park, and on the same night, she and Katie attended the Acton Woman's Club open house to view the improvements to their house that they made with the help of CPC funds. Janet, joined by Katie, Mike, and Steve Ledoux served lunch to the seniors at the Senior Center. She also enjoyed the Fourth of July events at NARA, which was well attended by the public. During the ceremonies, she helped them officially rename the Park the Nathaniel Allen Recreation Area. At the next meeting the Town Manager's review will be on the agenda. Panera is also scheduled to be back before the board at the next meeting.

Mr. Ledoux – Dean Charter's mother passed away and the Town and the Board offer their condolences to Dean and his family. The bid for the work at NARA pavilion structure has been awarded, it was noted that we came in under bid. Five staff members will be graduating from the MMA Suffolk program and Mr. Ledoux will attend the graduation ceremony. Solar panels have been delivered and are scheduled to start providing electricity on Sept. 1<sup>st</sup>.

## **PUBLIC HEARINGS & APPOINTMENTS**

**None**

## **LEGISLATORS ANNUAL MEETING WITH THE BOARD**

Senator Eldridge and Representatives Benson and Atkins were present to report on issues important to Acton and to hear from the Board.

The status of changes in the budget was discussed. Sen. Eldridge feels we need to acknowledge that it is a positive budget and that revenues are up. The budget included good numbers for Chapter 70 and Lottery Aid as well as significant increases in affordable housing and human services line items.

Rep Benson agreed with the Senator's thoughts and noted increases to the smaller items that fund local services, for example the COA formula was increased \$8 per elder. She spoke about transportation issues. She also noted the Health Care Finance committee voted a bill to make sure we are in-line with the federal government for health care.

Rep Atkins spoke about new things in the budget and reported on her committees, including her work as Chairman of the Tourism, Arts, and Cultural Development Committee.

Mr. Sonner said that the board requests work on OPEB and hopes that the legislature will do something to address this issue sooner rather than later. He also spoke about the Open Meeting Law and understands its intent but noted that the down side includes less participation and a lack of ability to send email to address the business of the Board. He felt it would increase participation if you could have people follow the emails from a site at the State. The legislators will look into this.

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Ms. Green spoke about how many citizens serve on committees in Acton and noted that people are moving off committees due to the constraints of OML. She would like to see the legislators focus on Regional Transportation Aid and Regional Bonus Aid next year in the budget as these are crucial items for the newly regionalized school district.

Mr. Gowing said he felt the delegation had done a good job this year. He noted that we are going to have to visit the transportation issues as they are tied to the development of business in this region. The MBTA needs to address a reverse commute, and he would like the delegation to ask the MBTA look at this. He also talked about filing for additional senior tax relief and said we still need to address this as the taxes are increasing. He also discussed making changes to the Circuit Breaker formula.

Mr. Clough spoke about the goals discussed by the Board, including items such as OML, trying to bring back the Senior Center Expansion, and working on what we can do to help small businesses in town. He discussed ideas to help get us to the 10% threshold for affordable housing.

Ms. Adachi spoke about housing issues and asked that the legislature not follow the Governor's proposal to regionalize the local housing authorities. She said we need to look at OML and issues surrounding it. She also spoke about 40B's and the need to modify 40B to make it easier for towns to reach 10%. She noted that we need to strike a better balance between local needs and the developers' needs. We have friendly 40B' in our community and they work.

OML – Rep. Benson said she understand the difficulties but knows of and has seen some boards/committees who previously decided what was going to happen the evening before the meeting. All the legislators agreed that we need to address this issue and they will talk with Attorney General's office.

### **O&M FY14 SEWER RATES**

Stephen Barrett was before the Board for the setting of the FY14 sewer rates. The Residential Rate will not need to be raised. Mr. Gowing asked about the average gallons per day increasing while usage was going down. Mr. Barrett said this had to do with additional hook ups and also noted the Water District's efforts in raising awareness and citizen's participation in conserving water. Mr. Gowing Moved to set the Residential rate at \$.0171 cents per gallon and Commercial rate of \$.0243 per gallon. Ms. Green second. Roll call taken, All Ayes, Motion Passes

### **COMMON VICTUALLER'S LICENSE – THE RED RAVEN, INC., NAGOG PARK**

The proponents were before the board outlining their plans for this new business. They noted that this restaurant will be at the same location as the former Scupper Jacks. Mr. Clough asked if the owners had any experience with restaurants in other locations. The proponents noted that they formerly ran a restaurant for a long time in another town in Massachusetts. Mr. Gowing asked about the planned seating numbers for the restaurant and if they were working to make the restaurant ADA compliant. The proponents said they have been working closely with the building department to meet all requirements. Mr. Gowing – Moved to approve. Mr. Clough – second. Roll call vote all Ayes, Motion Passes

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### **ENTERTAINMENT LICENSE- THE RED RAVEN, INC., NAGOG PARK**

Mr. Gowing – Moved to approve. Mr. Clough – second. Roll call vote all Ayes, Motion Passes

### **ACTON HOUSING AUTHORITY ELECTION/APPOINTMENT**

Bob Whittlesey and the members of the Housing Authority introduced themselves and discussed the appointment of Ryan Bettez. They are very happy to have someone with a background such as Mr. Bettez serving on the Authority.

The Board discussed his qualifications. Mr. Sigha-Hughes - Moved to appoint Ryan Bettez to the Acton Housing Authority. Mr. Clough - second. Roll call taken All Ayes

### **SPRUCE STREET CAFÉ – CARRY IN LIQUOR PERMIT, 5 SPRUCE STREET**

The proponents spoke about how they are now open in the early evening for dinner and have had customers asking to bring in beer and wine. They feel it will be good to have this permit, as they would like to grow the business. Mr. Clough asked if they were any town wide limits on the number of carry-in permits we can give out; there are no limits. Mr. Sonner asked that the proponents have a written policy and procedure for allowing alcohol in the restaurant before they are given the permit. He noted that we have asked this of other applicants in the past.

Mr. Gowing – Moved to approve the License upon completion of a liquor policy. Mr. Clough – second. Roll call taken, all Ayes

### **SELECTMEN'S BUSINESS**

#### **AUDUBON HILL SEWER DISCUSSION**

Mr. Ledoux outlined the issue for the Board. The Audobon Hill North Condo Association has asked the town to contribute 20% of the cost for repairs to their septic system, or \$40,000. They arrived at this number because they were required to increase the capacity by 20% to account for use by the Senior Center. Steve Anderson felt it was not the town's obligation to pay for the repairs according to our lease with the condo association.

Mr. Sonner asked if we have any other similar arrangements in town. Mr. Ledoux said no.

Ms. Green said it is not a legal issue but more a moral obligation. She feels we could pay our share of what we use.

Mr. Gowing agrees that we are using the center in good faith and that while it is not an obligation, as Ms. Green said, it is more of a moral obligation and he thinks we pay or share the costs.

Mr. Clough asked about the flow for the Center and cost of connection to the town sewer, and felt we should think about this. He feels we should be doing something and wanted more data.

Ms. Adachi said we need to revisit this issue and formalize any decision in our agreement so the town's obligations are clear for the future. She does not like a moral obligation and wants it based more on principle and a data review. She also had questions about how we originally

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came to the lease agreement with the condo association and noted that there must have been an upside for them. She would also like to see an explanation of the payment we made in 2007, which was used by the association as an argument for the town to pay now.

Mr. Sonner agreed with the need to formalize the lease agreement going forward.

Mr. Kabakoff, a former Selectman, noted that there was a quid pro for the rent of \$1.00/year when we initially negotiated the lease because we agreed to maintain the building and typically a tenant does not take care of the building and grounds.

Stacy Angle – President of the Condo association and author of the two letters said the lease agreement specifically says septic and other utilities shall be metered and paid by the tenant.

Mr. Gowing asked about hooking up to sewer and is that something they would like to do. Mr. Angle said it would be very expensive. They discussed the water usage at the senior center. The actual use is for 400 gallons per day the lease calls for 11,000 per day. The Board had a number of questions relating to water usage and Title V requirements that they would like to ask the Health Director.

Mr. Clough said we need to review this more before we take any action.

Resident of 115 Audubon said we should pay part of the leaching field and noted that since the town paid for some of the leaching field in the past, this precedent should be followed.

Mr. Sonner feels we need to come to an agreement before we take a vote. Mr. Gowing said we should codify this somehow and noted a future board cannot be tied to an agreement of a previous board.

The Board agreed that we need to do more research and get data and history before we go forward.

Mr. Clough asked the Town Manager look into the cost of the re-sizing. And if ready we can look at it again at the July 22<sup>nd</sup> Meeting.

## **SELECTMEN'S REPORTS**

Mr. Sonner - Spoke about 2020 committee pursuing a technology assistance project for Kelley's Corner before they go out for the RFP for the overall project.

Mr. Clough – Noted the changes by the State to CPA guidelines and said the CPC is starting to work on pulling together the docket for the 2014 year.

Ms. Adachi – ABCC is still working on finalizing the sculpture donation for NARA. The Land Steward Committee also met and discussed conservation areas in town that need mowing.

Mr. Gowing – HDC has several applications that are delaying their discussion of the WAVE project. ALG reaffirmed their policy and heard from the schools and the town on their expected turn backs. The Morrison Farm Committee reviewed the various plan elements and discussed which ones they would like to move forward with for next year. The LRTA received two grants that will allow them to expand evening service. He was elected to the Financial Committee of the LRTA.

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Ms. Green –Attended the No place for Hate meeting where they discussed their focus and planned activities for the coming year. They are leaning toward focusing on the immigrant experience in Acton.

**CONSENT**

Mr. Gowing - Moved to approve the Consent Items - Mr. Clough - second. UNANIMOUS VOTE

Roll call vote all ayes

Mr. Gowing Moved to adjourn. Mr. Clough – second. Roll call taken, All Ayes.

\_\_\_\_\_  
Christine Joyce  
Recording Secty

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Clerk

\_\_\_\_\_  
Date