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# Selectmen's Minutes

## December 13, 2004

7:00 P.M.

**Present:** F. Dore' Hunter, Robert Johnson, Walter Foster, Trey Shupert, Town Manager and Assistant Town Manager. Meeting was televised.

### CITIZEN'S CONCERNS

Trey Shupert announced to the citizens that he will not be seeking a third term. He thanked the Board and staff as well as the citizens of Acton for the opportunity to serve.

Dore' Hunter announced that he will run for re-election after 20 years of service on the Board of Selectmen.

Mrs. Kabakoff was present to let the Town know that the Sweet Adeline's will be singing on the Town Hall front stairs/porch on December 23, 2004, at 7:00 and she invited all to attend.

Residents of S. Acton were in to discuss the parking at Jones Field. Margaret Milley spoke about parking, trains and increased traffic. She asked that they be contacted to discuss the situation. Dore' spoke about where they stood on the Sidewalk program. Don reported that he received a set of recommendations from staff to try to give a recommendation on their priorities. It is a five year plan and they fall in 2010 plan. Don noted that there is no funding on the horizon and it doesn't rise to the top in the plan. Walter noted that there are several areas in South Acton being commercially developed. Walter suggested that they discuss this with TAC and the Planning Board to get their feedback. Dore' spoke about easements,

Young Master Zarvovls of 45 Martin Street said that he and his family are concerned about the safety on his street and wants his sister to be safe when going to Jones Field.

Claire Siska, Martin Street resident spoke about metering of Jones field. Staff is looking at this currently. She spoke about Jones Field as a recreational site and felt it is under utilized. She did not want to have it metered, she felt it was unsightly and felt the parking for the train should be at the train station.

Chris Stockman, 62 Liberty Street noted that he and his family were part of the effort in rebuilding of Jones field. The priority is parking for playground, not commuters.

Shawn Hanley 16 Maple Street, asked about the sidewalk to be built in conjunction with the development on Rail Road Street. He wanted to know why the Board did not require them to build the sidewalk and instead put the money into the sidewalk fund.

Trey suggested that staff put information on the web site regarding this issue and when we would be meeting to discuss it further. The Board scheduled the continued discussion for Jan 3 at 7:15.

# SEWER COMMISSIONER'S REPORT

No Sewer Issues

## PUBLIC HEARINGS & APPOINTMENTS

**UPDATE MINUTE** - Don spoke about the budget presentation that will be presented later on tonight. He further spoke about the storm on the 6<sup>th</sup> and the accidents that took place. The Police Chief has notified them of an attack on Newtown Road and asked the citizens to keep watch of their surroundings.

**FAULKNER MILL SITE PLAN SPECIAL PERMIT #09/24/04-399, 4 HIGH STREET – CONTINUED FROM 11/15/04** – The petitioner's engineer updated the Board on the changes that have been made to the buildings in response to staff and committee concerns. Bob asked about the access to the site and spoke about the steep driveway. The traffic will be separated from Erickson's Grain Mill and will help the traffic at Erickson's as well. The engineer noted that this is a significant driveway situation. They have already made a request to be in the Sewer district.

Trey asked about the lighting plan, they are working on it and noted it is more complicated than it looks, and they have someone working on this part of the project. The petitioner wanted to use more period appropriate lighting fixtures.

Dore' noted the developer will have a family member residing in the building.

Dave Wooden, resident of Audubon Hill spoke about the increased traffic and sewer issues that he was concerned about. He wanted to present a petition asking that the project be disapproved and signed by 42 residents. He was concerned about future access into the sewer system if this project was approved.

Mr. Fallon, Faulkner Hill Resident was concerned about the ownership of these units.

Ron Nealy still is concerned about the number of units and the extra traffic. He wanted to have the number reduced to 15.

Anne Forbes she said the HDC have not been able to review the changes in the plan. They would like to talk with the developer further. Anne asked about the discussion of concerns about the size and density of the project. She wanted to know what the development would be like if they did not go through Site Plan Special Permit. She noted that on the site they could by right have the same number of units and density and would not have to come to the Board for any approvals. Dore' noted that the site would allow people that wanted to take the train access and felt it was like the State's Smart Growth Plan.

BOB JOHNSON -Moved to continue the hearing to January 3, at 8:45. WALTER FOSTER, Second, UNANIMOUS VOTE

## **ACTON JAZZ CAFÉ LIQUOR LICENSE VIOLATION REVIEW**

Gwenn Vivian said that the employees that were on duty that day were present. She said that the person who violated was a regular customer. The customer ordered an Irish coffee and 15 minutes later she asked for the bill so she could get on her way. Ms. Vivian said that she served her one drink. She left at dusk and came in during the jazz jam. She said they are very diligent over carding and service of drinks. She said she would be more diligent.

Dore' noted that the age for carding and suggested they increase to 50.

Chief Widmayer asked that they check more closely in the future. He also felt that the age should be 50 for carding.

Dore' noted that he was not inclined to take action on the license at this time and asked that they do better in the future so as not to violate again.

Walter wanted to underscore what the Chairman said. He was given pause that she knew the offender and suggested she be more diligent.

Frank wants last call issue with the glass wear removed from the bar at Midnight.

Trey noted the number of drinks per hour it takes to be come intoxicated.

## **DANIELA'S TACORITO, LIQUOR LICENSE VIOLATION REVIEW**

The attorney for the Tacorito was present and Ms. Boyd spoke about the situation. She said she reviewed the evening after being notified of the violation. She did research about the incident. She said that there were three people's drinks on the check and she said that was a little over three hours and 10 drinks.

The bartender said that he remembers the three gentlemen who were their watching the Red Sox's game. He was concerned because they did not seem intoxicated to him. He noted that he did not know the patrons, but they did not appear intoxicated while at the Restaurant.

Dore' was concerned about this being the third time that they were before us for essentially the same situation. He asked that they put in a camera, they have, and she said however, they don't keep the tapes very long. Dore' suggested they get more tapes. He said that we will need to take action if this continued. He will vote for suspension if they are back again.

Frank spoke about the notation in the number of guests being served at the bar. She was asked to revise their policy for serving.

Trey was concerned about the number of violations. He was concerned that we might be giving them too many chances without the Board taking action.

Walter asked them about the drinks on the check. He too was concerned about taking no action. He was concerned about the fact that the owner was not present. He did not

feel that they were doing their best to be more diligent. He was concerned about the allegation of the after hours serving. He noted he wanted to take some action tonight.

She noted that to her knowledge they do not serve after hours.

Boyd's attorney was concerned about the anonymous phone call made to the police. He asked how you defend that situation.

Walter said that we need to suspend the license for a set time and require a rewrite of the policy for serving liquor. Suspension of three days to cover a weekend time period. Walter also continued to express the lack of the owner at this hearing. He urged them to get more tapes and keep on file for a set period of time.

Trey supported Walter's suggested action. He also supported the changes to the alcohol policies. Dore' suggested that they not allow customers on site after hours.

WALTER FOSTER – Moved to suspend their liquor license from Thursday December 16 through Saturday. TREY SHUPERT - second. UNANIMOUS VOTE

The Board asked that the rewritten policy be sent to Christine by Monday.

#### **MAKAHA RESTAURANT, LIQUOR LICENSE VIOLATION REVIEW**

Todd Fenniman, their attorney made a disclosure about his defending of the two prior criminal complaints. Todd said that the Makaha has hired a consultant to be retained for one year.

Dore' asked about the video surveillance installation. It has not been installed and is still on the table. Dore' noted that the violator had three drinks of hard liquor. Mr. Cheng said it was three drinks on the tab over the period of two hours. Dore' said again that it would be in their best interest to install the camera and then there would not be any doubt of the condition of the patrons leaving.

Mr. Cheng too was concerned about the incident.

Walter asked about how they shut down the operation each night. They have patrons leave at 12:30 at the latest. He said he felt that they should have their license suspended.

Trey was disappointed that they have violated again. He noted he would vote for a suspension. He felt that a lot of these things are easy addressable. He wanted to know exactly what actions they have taken regarding the noted suggestion from the consultant.

Trey said he was not opposed to staying the suspension for 4 months

Walter was in favor of a 3 day suspension.

TREY SHUPERT – Moved to suspend the liquor license for a period of three days with the dates of suspension being a Thursday, Friday and Saturday, such suspension to be stayed until after a review of the amendments and changes to their policy with the

consultant, and further, to have them return on March 28, 2005. WALTER FOSTER – Second. UNANIMOUS VOTE.

**JESSE LIBERTY – ACTON 2005 TOWN MEETING NON-BINDING RESOLUTION, SAME SEX MARRIAGES** -Trey supports the resolution. Walter said it will be very interesting and he cannot take a position until he can review the materials.

Bob supports not having a constitutional amendment made. He said the debate will be not on this but same sex unions. He said that he too supported the resolution.

Herman Kabakoff, speaking as an individual wanted to make a few points. He agreed with Bob Johnson's comment. He questioned the appropriateness of bringing this to town meeting. He noted that these subjects are social and suggested that the Board not take a position on this and asked the petitioner to consider a small wording change. He felt that the reference to Acton approving this resolution be changed to majority of citizens who attended the Annual Town Meeting.

**BUDGET PRESENTATION** – Dore' updated the Board on the actions taken at ALG. The Board of Selectmen agreed with ALG suggestion for adoption of a \$3.8M override question, plus a second level (Pyramid form) override question of \$4.5M, with the \$700K increment being split 50/50.

Don presented his pro-forma budget.

Trey spoke about this issue and the effect that the proposed cuts will have.

Dore' would offer a reasonable upper choice override. He will take it to ALG and try to come to a consensus on Friday.

Trey said he could support the 3.8 Million amount with a split of 78/22. A 50/50 split was discussed. Trey will vote for the 3.8M and split but noted we are at failure and would have liked to see a revenue shift if only 1 percent. He could support a 4 million override with the split at 50/50.

Walter noted he could support an operational override at 3.8M, and could support a higher amount.

Herman commented on the pro-forma budget presentation. He asked about a separate Capital Override. Herman spoke about the basic split 22/78 he felt it is time for the schools to have the door swing towards the town side. He urged that the split be addressed.

## **SELECTMEN'S BUSINESS**

**2005 LICENSE RENEWAL PROCESS** – BOB JOHNSON – Moved to approve the 2005 License Renewals. TREY SHUPERT – Second. UNANIMOUS VOTE.

**COMMUNITY PRESERVATION ACT (CPA) WALTER FOSTER** – Moved that the draft letter to send to other MAPC and CPA communities needs to be revised. TREY SHUPERT –second. UNANIMOUS VOTE

**MMA CREDENTIAL VOTE FORM** – TREY SHUPERT - Moved to nominate Peter Ashton to serve as voting authority, and In Peter's absence nominate Don Johnson. WALTER FOSTER - Second.

**MIIA NOMINATING FORM AND VOTING DELEGATE FORM** – TREY SHUPERT - Moved to nominate Peter Ashton to serve as voting authority, and In Peter's absence nominate Don Johnson. WALTER FOSTER - Second.

**TOWN E-MAIL SHELLS-** The Board discussed the issue of a request to be removed from the E-mail Shell. It was noted that it is a policy maker and that they will be accessible through the Email shell, and that we would not give out their personal e-mail address. They asked the Manager draft a policy statement regarding appropriate language so that every body is on the same page

#### **OTHER BUSINESS**

Dore' updated the progress on the Public Safety Facility.

TREY SHUPERT – Moved to Close the 2005 Annual Town Meeting Warrant at 5:00 p.m., December 30, 2004. WALTER FOSTER – second. UNANIMOUS VOTE

Walter noted that CPC is meeting on Thursday. He further noted the good job refurbishing the Isaac Davis Monument.

### **CONSENT AGENDA**

BOB JOHNSON – Moved to approve. – TREY SHUPERT – Second. UNANIMOUS VOTE

## **TOWN MANAGER'S REPORT**

### **EXECUTIVE SESSION**

BOB JOHNSON –Move to go into Executive Session for the purpose of discussing Contract Negotiations, only to return to regular meeting, to adjourn. – Second. Roll Call was taken, All AYES

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Christine Joyce  
Recording Clerk

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Clerk

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Date

December 10, 2004

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

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

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

**DECEMBER 13, 2004**

**7:00 P.M.**

**I CITIZENS' CONCERNS**

**II SEWER COMMISSIONERS' BUSINESS**

**III PUBLIC HEARINGS & APPOINTMENTS**

1. 7:05 – **UPDATE MINUTE** – The Town Manager will give the Board a brief update on various topics.
2. 7:30 **FAULKNER MILL SITE PLAN SPECIAL PERMIT #09/24/04-399, 4 HIGH STREET – (continued from 11/15/04)** – Enclosed please find materials in the subject regard, for Board consideration.
3. 7:45 **ACTON JAZZ CAFÉ LIQUOR LICENSE VIOLATION REVIEW** – Enclosed please find materials in the subject regard, for Board consideration.
4. 8:00 **DANIELA'S TACORITO, LIQUOR LICENSE VIOLATION REVIEW-** Enclosed please find materials in the subject regard, for Board consideration.
5. 8:15 **MAKAHA RESTAURANT, LIQUOR LICENSE VIOLATION REVIEW** – Enclosed please find materials in the subject regard, for Board consideration.
6. 8:45 **JESSE LIBERTY- ACTON 2005 TOWN MEETING NON-BINDING RESOLUTION, SAME SEX MARRIAGES** – Enclosed please find materials in the subject regard, for Board consideration.
7. 9:15 **FY06 BUDGET PRESENTATION**

**IV SELECTMEN'S BUSINESS**

8. **2005 LICENSE RENEWAL PROCESS** – Enclosed please find the 2005 renewal motions, for Board consideration.
9. **COMMUNITY PRESERVATION ACT (CPA)** – Enclosed please find materials regarding MAPC actions with respect to the CPA, for Board consideration.
10. **MMA CREDENTIAL VOTE FORM** – Enclosed please find the subject form for Board consideration.

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)