

BOARD OF SELECTMEN AND SEWER COMMISIONER'S MEETING

**RECEIVED**

November 13, 2017

Francis Faulkner Room 204

Regular Meeting 7:00 PM

*To view the full meeting, please [click here](#)*

JAN 09 2018

**TOWN CLERK  
ACTON**

Present: Janet K. Adachi, Katie Green, Joan Gardner, Chingsung Chang, Peter J. Berry, Town Manager Steve Ledoux, and Shannon Hurley, Recording Secretary

**Citizen Concerns**

Terra Friedrichs, West Acton: 40B manual still does not mention state required process for dealing with historic structures. Kmart still listed as one of top 10 most profitable in world. Hoping to engage in eminent domain – wants a hearing on that for cost and rent would cover cost. Would like board to consider official change Columbus Day to be Indigenous People Day to support people who live here as opposed to genocide. Hope that board consider revising parking band on town streets – police have started to ticket the poorest people who have to sleep some place.

**Chairman Update/Operational Update**

Ms. Adachi - Veterans Day observance, Saturday, 11/11 at 11. Sunny w/blue skies if also very gusty w/bone-chilling temperatures. Long-time celebrations organizer Gail Sawyer and Veterans Service Officer James MacRae did a fine job as usual, with Acton Minuteman and womenfolk adding historical color and music and drumrolls, and Girl Scouts assisting during Dave Crosby's flag history presentation. New this year: a tribute by a rep of the Vets of Foreign Wars, and laying of a wreath by Concord chapter of DAR in honor of Vietnam vets (ribbons were red, green, yellow, which are colors of Vietnam War service medal).

- Opioid crisis public information session, tomorrow, Tuesday, 11/14, 10:30 am, Human Services and Senior Center facility, 30 Sudbury Road. Pre-register with Health Department. Contact Sheryl Ball at [sball@acton-ma.gov](mailto:sball@acton-ma.gov).
- Holiday fair sponsored by Friends of COA at Human Services and Senior Center facility, Saturday, 11/18, 9 am-2 pm. Gift items for purchase, raffles, breakfast and lunch available in dining room. All proceeds go toward Senior Center programs.
- 161 Newtown Road walk sponsored by Acton Conservation Trust, Saturday, 11/18, 2-3 pm. Proposed purchase of this parcel will be on the 12/4 Special Town Meeting warrant. Meet at Church of Good Shepherd, Newtown and Arlington Roads.
- Chris Herren, Fall River native and former Boston Celtics player will be back at AB to share the inspirational story of his recovery from addiction . AB Auditorium, Monday, 11/20, 7 pm. Free of

charge. Sponsored by AB Family Learning Series, AB Regional PTSO, ABUW, Danny's Place, Town of Acton.

- CPR training, Tuesday, 11/21, 5:30 pm, PSF. \$65 charge, need to pre-register. Contact Tom Matthews, tmatthews@acton-ma.gov.
- Voter registration for any resident eligible to vote who isn't registered and wants to be able to participate upcoming 12/4 Special Town meeting. Town Clerk's office will have extended hours, Friday, 11/24, 8 am-8 pm.
- Household Goods blanket drive in collaboration with Acton Real Estate. Drop off gently used blankets and comforters at Acton RE, 525 Mass Ave, #105 or call 978-263-1166 for pickup. Through 12/30. If you're a LWV member and plan to attend the annual Chat 'N Cheer next month, someone will be collecting blankets there, too.
- Nagog Pond water treatment plant: special BOS meeting for reopened hearing next Monday, 11/20, 7:00 pm, Room 204.
- Acton Chinese-American Civic Association – Yanni Gou proposal for socializing/education event w/BOS; originally proposed for year-end, but Ms. Adachi suggested post-2018 after Town Meeting would be better.
- Finally, today is Joan Gardner's birthday.

Mr. Ledoux – Took CPR class, it was just terrific. Process of working budget will be presenting the budget 12/18 - finalizing budget. Lisa sent email to board since losing regular meeting do to Special Town Meeting - Monday 12/11 to have a make up for 12/4. Heard from majority and ok on that. Won't be able to attend next meeting Monday meeting because of medical procedure.

#### **Public Hearings and Appointments**

7:10 PM Stormwater Bylaw, Chapter X: Drafts are available at Land Use Department and Town Clerk's Office. Matthew Selby, Director of Land Use Department and Paul Campbell, Town Engineer. By-law Pass 11/10/2015 sometime in last 18 months board designated jointly Land Use Department and Engineering Department as the implementing authorities for the bylaw. Draft regulations for approval tonight.

Mr. Campbell: Bylaw is intended to address gaps in jurisdiction for Stormwater management. Number of projects that in the gaps between those. Same standards as everything else but just covering the gaps in that bylaw. Couple of projects now - A&R subdivisions – subdividing land along a road already exists would be regulated under this bylaw to control size of projects. Wrote carefully, also helps with our MS4 permit town with EPA to regulate Stormwater. Updated as that becomes more final permit. Mr. Campbell gave a brief overview of Stormwater presentation.

Ms. Green: Thank you for putting this together. Confirming that implementing authorities and these don't have to go before the BOS?

Mr. Campbell and Mr. Selby: Yes.

Ms. Green: You mentioned this would impact developers and people who know general regulations like this; are you planning education or do you think most of the people who pull a permit already deal with these regulations in other city and towns and don't need to know more intricate information on Acton?

Mr. Campbell: I tried reaching out but there wasn't much interest, basically "tell us what you want and we'll do it." It will be a learning process with them. We are required in new MS4 permit to provide training. Slowly work this in over the winter

Mr. Berry: Saw ability if permit is denied to appeal but there are no standards or description of the process.

Mr. Campbell and Selby: Appeal process in bylaw and I think it jumps right to court. There is nothing local for the appeal process. It is outlined in the bylaw.

Mr. Berry: Hasn't the EPA come up with requirements for upgraded MS4 permits and put off for a year? Will we have to redo these in the future?

Mr. Selby: The regulations as drafted are in concert with the existing 2016 general permit, the only difference is that required that the 1<sup>st</sup> inch of run off is to be captured and treated and the state DEP Stormwater standards only require ½ inch, it is consistent with the Acton and federal permits when it becomes effective.

Ms. Adachi: Question about information dated back in February when original presentation and slides and draft that was red lined and there were comments in purple, it looked as if that was an attorney? Did you incorporate the comments in purple?

Mr. Selby: Yes we did run this by council and those comments in purple were incorporated.

Ms. Adachi: Have you gotten input from the water district, planning board or other departments?

Mr. Selby: Public works and Land Use Departments, yes. But we did not reach out to greater boards, figured reinforcement were in house.

Ms. Adachi: Suggested to let to water district know - they may have perspective or may be fine with it because of interest. I can send this edit on the permit check list to you. First line of permit check list it is singular and plural mixed together. Thank you, did you use a template?

Mr. Campbell: Used Site Plan Special Permit process and had council review it.

Terra Friedrichs, West Acton: Is this that you are deciding tonight for regulations outside or part of bylaw?

Mr. Selby: Pursuant to the bylaw – regulations that are adopted by agency or office. Pursuant to accordance with the bylaw

Ms. Friedrichs: Could this be changed by the board with another vote?

Mr. Selby: Intentional but in event that changes implementing officials want to make with our approval and don't have to go to town meeting.

Ms. Friedrichs: So the Town has the ability to loosen regulation with a simple vote?

Mr. Campbell: Minimum standards are in effect for last 18 months.

Ms. Friedrichs: Would this make it tighter?

Mr. Campbell: Yes.

Ms. Friedrichs asked Mr. Selby to look and see if there is a limit to removing land and would like a formal response. Only stumbled upon this, just thought it was a review.

Danny Factor, 11 David Road: Is there a date that this would go into effect?

Mr. Selby: Immediately.

Mr. Factor: If Green Acton wanted to consult would you be willing to do that prior to putting this into effect? Can we amend the proposal to go into effect at some prospective date?

Mr. Selby: Sure.

Ms. Adachi: Would like the Water District way in on the draft.

Ms. Green: Put into effect now and if comments and need to put date come back and update them later, handle in the interim instead of waiting. Agendas are packed.

Ms. Green moved to approve to adopt Stormwater Bylaw, Chapter X. Ms. Gardner seconded. All Ayes.

### **Selectmen Business**

RFP Review for 43-45 School Street: Mr. Ledoux: Explained that town acquired property through nonpayment of back taxes, it is a duplex building that had no electricity or heat for 20 years. Mr. Selby gave brief description about the RFP for affordable housing purposes. Habitat for Humanity was interested, 2 other potential applicants, but not enough profit for them for the affordable housing – income restrictions. Offering \$1.00 for Habitat to purchase. In order for the development to work Habitat will be seeking grants from community preservation committee. Nancy of ACHC explained that ACHC gave the \$1.00 from its CPA funds in order to make the project eligible for affordable housing. In order to be eligible the property had to be acquired with CPA funds. Counsel said yes and would be fine. Habitat doesn't have contractors lined up at moment. Habitat general contractor taking care of project. Historic District Committee came to see the house. HDC's main concern is the exterior and retaining original windows and doors. Habitat will also apply for a CPA grant to bridge the gap for windows and doors. The siding will be sanded and retained.

Ms. Adachi: Thinks this is outcome is fantastic. There's other leverage so to speak.

Mr. Berry: CPC received Habitats applications this week; will be meeting on Thursday and going over all applications. Recommends to point out real estate taxes. Condition that taxes be assessed based on the sale price of the property and not the appraised value.

Mr. Selby explained that Habitat will resell the units to the buyers at affordable prices.

Ms. Green: Thank you to HPHP. What happens if doesn't receive CPA grants for full amount? Is there a backup plan on how to get that money, ability to preserve make up cost what typically budget?

Carolyn Reed, HPHP MCM: Excited to be building in Acton again. Absence of CPA funds we would raise funds – We don't open applications until we have building permit. Preference is to people who already live in Acton.

Ms. Green: Great, put together application - look forward to having it here.

Terra Friedrichs, West Acton: So excited and love the project. Because property was free we are in position to ask to go to extremely low and be first purchase in MA and hope board considers that. Environmental concern: the old wood is often way better than new wood. Windows should be retained and refurbished and that can be done affordably.

Ms. Reed: In order to put in CPC we did meet with historical person who seems as though he can restore these windows to their natural state.

Ms. Green motioned to award RFP for 43 School Street to Habitat for Humanity. Ms. Gardner seconded, All Ayes.

Acton-Boxborough Building Project Presentation:

Short presentation video. Dennis Bruce, School Committee Douglas School and Marie Altieri. We are on year 3 of master plan. Partner with MSPA- one of 87 submittals and 1 of 17 that were selected. Process we are following to max reimbursement. Year 3, entering phase 4, which will be 7-9 years depending on approval process and construction. Preferred option, a twin school, for two pre-K – 6<sup>th</sup>, elementary school. Gates is first to be looking at. Will explore Conant as needed. Treated as a campus and school will be built on Gate's side, parking and playgrounds build on Douglas side. Better walkable bridge would connect two sites. Construction can take place while school is in session, once complete they will both be torn down. 21 K-6 classrooms, art and music, special education, small group spaces like OT PT, English language and reading would all be separate. 8 pre-school classes with access to art music and physical therapy in elementary school - do not have access those now. Costs: 12/04 will vote feasibility study \$1.3 million, MSBA will reimburse 45.3% = \$590,000, ABRS responsible for \$710k. Needs approval from both Acton and Boxborough to spend the money set aside. No increase at all to town tax payers. \$1.3 million will be used for site-civil analysis and architectural fees. \$1.3M can be rolled back into project.

Projected Costs: \$100 million - \$120 million overall project, MSBA may give \$40 million – \$54 million reimbursement. With twin building we could go another route to do repairs to do ADA requirements. MSBA perspective we have been accepted for Douglas School. Repairs: \$39,000,000. Best use of the towns resources and go through MSBA process and standards.

Ms. Adachi: Really interesting, familiar with the project. Good to have quick overview.

Ms. Green: Thank you for coming. Commend the district of process and get here and to the preferred option. Asked to clarify things like consideration how energy efficient the building would be and if go for led certification does that happen during the feasibility stage or design stage?

Ms. Altieri: During design phase. We will do everything we can to be as energy efficant as we can. The districts has awards for being national recognized for energy efficiency. In addition to that MSBA reimburses at a higher rate for more energy efficient.

Ms. Green: Would it be a bump for regional? Hopefully that is still the case. Enough money into proposed feasibility study to do a thorough analysis to do two sites if Gates does not work?

Ms. Altieri: Yes, we went a little higher on the feasibility study, have to log in cost of project with MSBA and total amount they will reimbursement and know about any ledge or water etc. so there is money in there for issues.

Ms. Green: Extra money can be rolled into next phase of project? Asked Ms. Altieri to talk briefly about the status of the A&D fund.

Ms. Altieri: Currently \$4 million balance which is 4.3% of budget, we would be taking out the \$710k and that would leave us at about 3.5%.

Ms. Gardner wondered if it was at Gates will the two schools maintain own identities? And the answer was yes.

Mr. Berry fully supports the project.

Ms. Adachi: Do you have to front the full \$1.3K and the reimbursement gives you a net expenditure of \$710?

Ms. Altieri: The warrant is to approve expenditure \$1.3M, MSBA will reimburse as expenses as they come in, will not have to front more than the \$710k.

Terra Friedrichs, West Acton: By your slide to me over 10-20 years the enrollment increases by 10-15% is that right?

Ms. Altieri: Enrollment projections changed a bit in last 2 years based on sales of existing homes.

Looking to increase about 200 students at elementary level in 10-12 year, 8%. There was a decrease from 2008-2013 and picked up rapidly increased 65% between 2015 and 2017.

Ms. Friedrichs: Understands the need for Douglas to be replaced. Concerned that there has been grand decision of primary option that should have been made at Town Meeting vote, without respect to carbon footprint. Hope there is enough money in there to do 2-3 sites - Urged to revise proposal and look at 3 options in detail and make decisions afterwards.

Presentation of Special Town Meeting Zoning Articles: Ray Yacoby, Chair, Planning Board

1) Marijuana Establishment Temporary Moratorium.

2) Brookside Shops, board familiar with. This article basically grandfathered now zoned residential and limits what currently can do with property. Changing nature of retail, landscape and what you can and can't do with retail and the nature going to change dramatically. Proposed to zone as being used – limited business. New owner has done a very good job working with neighbors and BOS. Only concern that Mr. Knowland had was if there was a change in ownership we should pull this back.

Ms. Green asked for clarification on what Mr. Knowland meant. Ray responded stating before September because of the history of broken promises. If there will be a change before 12/04 meeting.

Ms. Green: Owners have been significantly better working with us and town staff and neighbors.

3) Shopping Center Parking - Ms. Kristen Guichard: Essentially the current definition requires a shopping center to include 2 or more retail stores. If it does not include 2 or more retail stores it is not categorized as such. Would have to take a look at every single unit in that plaza and functions all other and not moving their space. Speaks to what we have been seeing.

4) Parking Facilities in South Acton Village District – Ray: Origination of this property owner in South Acton wanted to do parking. We have issue in South Acton as a town. Article presented the owner wanted to do commercial parking facilities by right. Heard push back from neighbors saying do it by special permit. Town Meeting went forward with this it can generate a lot of push back to what it intended to be. If BOS recommends not doing this – I won't stand at Town Meeting to present.

Ms. Adachi: Ray and I have discussed this, keeping mind open until this meeting confirmed with Kristen based on all I gotten I don't think it is a well advised proposal.

Mr. Berry: Involved with train station from beginning and dealing on behalf of the town with property owner. He was told he could not put parking, town enforced zoning bylaw, planning board to ask for

change in zoning to allow parking lot. Mr. Berry expressed strong opposition to this article. Very serious mistake for this board to set precedence.

Ms. Green: Recommends we pull this article and enforce current zoning.

Mr. Chang: Agreed to pull.

David Martin, High Street: Stated that there is a process problem.

Terra Friedrichs, West Acton: General public, if you don't go to meetings you don't see development of happening. Agreed there are process issues and option to do more outreach - impacts all South Acton.

Ms. Guichard: Clarified the process – particular case Gordon Richards consider it for the public hearing from what I understand some citizen interested to move it forward to public hearing. Clarified intention of Planning Department - not having article move forward to public hearing, requested to voice their concerns and by right by property owner.

David Honn, 105 School Street: Appreciates if board pulls. Urge selectmen to help Selby to find money and do traffic analysis.

Danny Factor, 11 Davis Road: Shopping center parking issue of safety and parking lots, more crowded with pedestrians 2 fatalities Trader Joes and Westford. People with disabilities with vehicles. Interested whether this is something that came up and enhancing safety or at least neutral on the matter

Ms. Guichard: Yes, talking about the uses and number of parking spaces. No site layout what is categorized as shopping plaza.

Robert Boren, West Acton: Relative to Article 5, doesn't agree that the property owner should have gone against the law, deceitful. Relative to Article 6, marijuana being called a gateway drug is a ludicrous notion. Stated that children in town have access to drugs and will get them even without a store in town. Continued on with statement regarding personal stories regarding marijuana and marijuana polices. Against Article 6.

Terra Friedrichs, West Acton: Don't think marijuana should go forward. I've stated positions in earlier meetings it is not dangerous and getting from a store it is the safest way. Organic locally grown all around and preventing from getting it local from local farms. Really sad.

Presentation about Citizen Petition Article about Recreational Marijuana:

Member of Acton Cares: Thank BOS for present tonight. Asked board to support citizen's petition. Went on to speak about recreations marijuana and that message it sends to the children and other towns if the store is introduced into Acton. Continued by stating that we already have an opioid epidemic and would increase the emergency personnel because of this. Ended with stating that pro marijuana industry headlines won't mention social cost on the communities. As town leaders please consider our petition it will touch our culture and effect Town of Acton for years to come. Thank you for consideration and time.

Mr. Chang: Knows we often don't take positions of citizen petitions I am not going to speak to that. Personally voting against mostly because premise doesn't agree that it is not dangerous, argument that commercializing and legalization are two different things are ridiculous at its core. Legalization of a commodity tend to be commercialized if money to be made for selling them. End of the day think that voters vote on it is fine and happy to have it on Town Meeting but voting against.

David Martin, 71 High St: In favor of recreational marijuana. Why would we object to dispensary in town if no less dangerous than alcohol? There is more harm comes from banning than not banning it. Look at prohibition.

Angie Tso, 2 Bramble Way: Requesting board to support citizen petition – the legalization of marijuana is different than bringing it to town, there is traffic impact after you bring store in town. Surrounding towns all already instituted a ban. Study shows on regular basis 80% are addicted to drugs. Bright side on headlines you can see how much revenue it can bring to the town. Negative impact the increase law enforcement and emergency vehicles. For the law enforcement, fire code has to be updated in 2018 fire hazard to marijuana business. Do we want to increase the accessibility to the AB students there? Brain doesn't develop until age 26- early access to drug, permanent brain damage.

Ms. Adachi: Presentation we heard just earlier was the presentation. We don't have more than one presentation on given article. Impact on youth, law enforcement, and traffic. I don't see there's a need for you to reiterate the same arguments we just heard from your colleague.

Angie Tso, 2 Bramble Way urged BOS to support citizen petition.

Mr. Berry: If you want a presentation at town meet you need to be in touch with town moderator.

Robert Boren, West Acton: Commented to what had to be stated. Do not have right to oppose on liberty. How it can be presumed that what was already written in bylaw citizens by the state can be over turned by town and change what you can't over turn it because you have fears. What is the difference between commercial; and recreation marijuana? Studies funded by whom? Negative impact and negative revenue is already being exchanged – have cash in hand giving it to someone with otherwise get if store was brought into place.

Margaret Busse, 64 Washington Drive: The issue is important understanding that town voted for this a year ago. A lot of people's minds about legalization and not different than commercializing it. When they were voting with legalization we wanted to make sure people weren't going to prison for smoking pot. Not envisioning that there would be shops in town that there would be accessible to folks. For me I voted against. Do we want this in our town right around the corner? Nimbyism is ok in this regard. Determine the destiny of the town regardless of how I thought about this issue I'd want this town to have a robust discussion about this looking at if you allowed this to go forward. Supporting this citizen's petition.

Ms. Adachi: 51% for and 41% against. I voted against it not because I'm opposed. I didn't like the draft. I wasn't comfortable a draft law.

Ally Lee, Acorn Park: Many people voted from good heart and don't want to criminalize. Never thought the store would come to the town and become eventually a sociality to promote this. Legal or not legal this is the bottom standard to behave in society. Recreational marijuana is not a good representation of town years of effort to build community and school district. Can be destroyed easily if we are not careful. Plea to BOS to support the article. Hope we can protect our town's character and set a good role model for our kids.

Corinne Hogseth, Seminole road: Support ban and most of towns around us put them in place.

Difference between plants in house and a store down the street. See no reason for Acton to lead the charge on this. Let's see how the other towns work out the case. I hope you would support putting this on the ballot

Danny Factor, 11 Davis Road: Concerned that board might not always take an opinion just whatever board decides, board should take an opinion. Lot of talk more democratic process BOS should vote against a vote on a ban. Create democracy responsibility and protecting dignity as well.

Robert Boren, West Acton: Misperception of voters is no reason to rescind the law. Establishing store and cultivation in town is an obscene notion to be a cannabis "hub" other towns.

Jenny, Resident: Asked BOS to support a moratorium and ban recreational marijuana.

Yingmu Zhong, 17 Hazelnut Street: Urge BOS to support Action Cares petition for our kids, school and community.

Member of Acton Cares: Mentioned that 65% increase in house sales - new owners came here because of the school district. Would like BOS to support this petition.

Angie Tso, 2 Bramble Way: Marijuana business is mostly cash business they can make most of the business is cash based. 1<sup>st</sup> time in 2016 marijuana use has outpaced tobacco use after legalization.

Terra Friedrichs: I went to school here in Acton always proud of town and allowing kids to do what they want and not to over make good decision. That was an innovated thing back then. Vote no on this because we have good students and want to have good students.

Mr. Berry: Difficult decision for the health and welfare of our youth. Top priority of town, I have 2 children that went through AB school district and I'm now a grandparent. Social issues were all debated, prohibition hasn't worked. Marijuana is widely accessible now and don't see it being more accessible. The money goes to criminals and drug cartels. Regulation is a better solution to the problem. If you have to go to a criminal they will be selling harder drugs. Finally, I do vote to support the moratorium.

Ms. Adachi: Concerned that people who are unsuspecting –i.e. edibles. Reservations about the ban, respect all residents who have come out to support the ban. These are a different product than in my college days.

Ms. Gardner: I will support this article; the citizens have gone through a lot of trouble to get this on the article

Conversation ensued about whether or not to move the marijuana articles on the warrant. Board is comfortable where the articles are.

#### Board to Take Position on Warrant Articles:

Article 1: Ms. Green is assigned, recommended 5-5

Article 2: Mr. Berry is assigned, recommended 5-5

Articles 3, 4: Ms. Gardner is assigned, recommended 5-5

[Article 5: Deleted from warrant pursuant to Board vote, 5-5.]

Article 6: Ms. Adachi is assigned, recommended 4-1 (Mr. Chang opposed)

Article 7: Ms. Adachi assigned, not recommended 4-1 (Ms. Gardner opposed)

Articles 8- 12 (consent agenda): Mr. Chang assigned, recommended 5-5, except for Article 10, on which vote was 4-0-1 (Mr. Berry abstained)

#### **Consent Agenda**

Ms. Green moved to approve consent items 7-15, Ms. Gardner seconded. All Ayes.

Ms. Green moved to adjourn, Mr. Chang seconded. All Ayes.

Meeting adjourned at 10:07PM.

Shannon Hurley  
Shannon Hurley, Recording Secretary

Joan Gardner  
Joan Gardner, Clerk