

TOWN OF ACTON SELECTMEN'S MEETING
December 15, 2021
6:00 pm

1. CALL THE MEETING TO ORDER/PLEDGE OF ALLEGIANCE

Selectmen David Winchell Jr. introduced and welcomed Mr. Tom McGurty to the Board as the newly elected Selectmen.

2. TOWN ADMINISTRATOR WEEKLY UPDATE

Election recap of results – There were 375 ballots cast and the count was:

Margarita Borgal – 11 votes

Mike Demers – 48 votes

Tom McGurty – 208 votes

Chris Whitman – 108 votes

The Town Administrator thanked all the ballot clerks and wardens for their hard work; counting went smooth and numbers proved quickly.

Window Replacement – The Town Administrator received confirmation from the window company that the new windows will be installed beginning on Monday, December 20, 2021; completion expected by December 23, 2021. Selectmen David Winchell Jr. indicated that Ed Walsh was overseeing that project and that one of the Selectmen should stop in and check on it. Selectmen McGurty asked if all the windows were being replaced and their age. The Town Administrator responded their age varies and she would need to look that up. Discussion ensued regarding the state of the windows. The Board agreed nothing was needed from the Town Administrator.

Drummond and Woodsum Letter - The Town Administrator was asked to reached out to Ms. Leslie Berlan, Road Committee Chair and Will Langley, District 1 Road Commissioner for an update on the culvert. Mrs. Berlan will be able to attend the December 29, 2021 meeting and give an update then; the Town Administrator also indicated that Mr. Langley would also be able to give an update then as well. Mr. Langley from the floor indicated he was planning on giving an update tonight.

State Revenue Excess – The Town Administrator received a call from State Representative Ted Kryzak indicating there was an excess of state revenue funds coming down and he was looking to come before the Board the first week in January to talk about what that means for the Town of Acton and how they will be appropriated.

Town Attorney meeting – Reminder the Town's attorney will be meeting with the Board at 5 pm on December 16, 2021, Executive Session pursuant to 405 6-E regarding pending litigation. Discussion ensued regarding the procedure for handling the executive session.

Town Policies – With the new Selectmen on board, the Town Administrator is planning on printing all the policies in alphabetical order and review a few each week with the Board. This will assure all are up to date and have current signatures on them.

An email was received from the Warrant & Finance Chair asking if the Board would reconsider their decision on filming the meetings. Selectmen David Winchell asked Mr. Dennis Long to come to the podium and explain his request. Mr. Long approached the Board and explained that his request for reconsideration because he had been asked by several people why these were not being filmed and he himself believed that they should be filmed as both the minutes are done to record the actions but the taping had the details and this was what the Warrant & Finance committee as a whole expected for their minutes. Selectmen David Winchell Jr. explained that the Board's frustrations stemmed from the fact that the ordinance indicated that the Warrant & Finance Committee met when there was a warrant in front of them and there was no reason for the committee to even have a meeting with no budget item or warrant in front of them to review. Mr. Long indicated the Warrant & Finance meeting under discussion was a meeting an informational meeting with new members to review the ordinance, policies and procedures.

Selectmen Tom McGurty confirmed that he was at said meeting and found it educational and helped to prepare him for when it was time to review a warrant. From that perspective, Selectmen Tom McGurty continued that the Warrant & Finance Committee was a committee that was determined at Town meeting; the members are elected by the Town and it was a free-standing committee accountable to the Town. Selectmen Tom McGurty saw no reason to not have these meetings taped and felt he as Selectmen should be able to be a part of that vote and thus it should be reconsidered.

Selectmen Kimberly Stacey-Horn indicated that committees were here to work and should work together. Bashing of each other was not productive.

Selectmen David Winchell Jr. reminded Mr. McGurty that the ordinance indicates there has to be a warrant to review and that meeting was full of grandstanding. The Board can reconsider and was willing but the people on those committees need to do something that is constructive and that did not happen.

Mr. McGurty expressed that in government that there are many checks and balances and this committee was formed to do that but they answer to the Town not the Selectmen.

3. WARRANTS/BILLS - Signed

4. APPROVAL OF AGENDA

A motion was made by Selectmen Kimberly Stacey–Horn to approve the agenda as presented; seconded by Selectmen Tom McGurty. No discussion. All in favor.

5. MINUTES OF LAST MEETING -

A motion was made by Selectmen Kimberly Stacey–Horn to approve the minutes of December 8, 2021; seconded by Selectmen David Winchell Jr. Selectmen Tom McGurty abstained as he was not present. Motion carried 2-0-1

6. DEPARTMENT HEAD / COMMITTEE CHAIR UPDATES –

A) Mr. Will Langley, Road Commissioner District One approached the Board to give them an update on the culvert and how it pertains to Inland Fisheries. An engineering firm was hired to review the prospective work to be done and develop sketches. Numbers are expected at the end of the week. The purpose was to get different designs that could be put in there. A joint meeting will be had with all the abutters included regarding the project.

Discussion ensued on the designs being considered and their sizes. The gentleman from Inland Fisheries is aware of where the Town is coming from but wanted to remind all that it was state waters.

Selectmen Tom McGurty was concerned with spending design money until it can be determined what can get approved; whether it can be replaced in kind and clear the approvals. Can the State stop the process if replaced in kind.

The Town Administrator indicated that there are three different opinions on Inland Fisheries involvement and based on that, the Town may need to get their own attorney's opinion. It was suggested to be placed on an agenda item and let everyone get caught up.

Mr. Langley indicated that the engineer is only looking into giving options; there is no charge. Discussion ensued.

Mrs. Berlan approached the Board to state that the option that is chosen will depend on what can be done, the permitting process and Army Corps approval. It can't be done in kind because they won't approve it, however, there are ways that it can be done in kind without using any fill; if certain aspects are not disturbed.

Selectmen Tom McGurty indicated that what he was hearing was the things had to be cleared with the Army Corp of Engineers first; they are the principal approvers in this process. Once sketches are available they will be presented to the Board first. Further discussion ensued. The Board is holding off until more information is available.

It was further explained that the Town may be required to put in a larger culvert noting that Colin was here twice and told them the same thing both times; that they will require an extreme process to complete. Supposedly, there may be a way to do it without triggering their involvement. Selectmen McGurty stated, even now, if we can get the Army Corp. approval, it sounds as if Inland Fisheries are already indicating that they are expecting it to go through and that is why Drummond and Woodsum stepped in on behalf of Square Pond. She just disagrees with their stance, so we are planning on holding off.

Selectmen Winchell Jr. continued that as municipalities, we really spend the money, for example when the culvert was done on Wilson Lake (which is the same idea) it's a stream crossing, he related he met with the DEP and it was explained to him that those municipalities ran under different statutes and thus we were allowed to place what was in the roadway. The EPAs regulations are different from Army Corps. They work together well, but their requirements are different.

Mr. Langley finished his update with an inquiry asking the Board if they were okay with his replacing the posts and guardrails on H Road. If so, he would adjust his payroll to accommodate that project. The Town Administrator reminded Mr. Langley to keep this project separate for expenses as it is an insurance claim still being worked on. A separate invoice will be needed to submit to the insurance company.

Mr. Langley then asked what the plan was for the parking lot. He wanted to know if the Board wanted him to move forward on it. In the interim, Mr. Langley was trying to fill in down below next to the building now in preparation.

The Town Administrator responded this was an item slated for the agenda for next week. However, there are a couple of lengthy executive sessions going on, but it was determined that once the new Selectmen were on Board, the Board would start on figuring what they were going to do. The Board was welcome to answer now, but, hopefully there will be numbers next week available to be a part of what is being considered. As of right now, the Board has had no conversations with regard to what they are going to do with the building.

Mr. Langley continued the discussion inciting that there was money available to use and wanted to use it for that purpose. The Town Administrator understood but asked that the Board be able to discuss before the Road Commissioner talks about tearing the building down. The Board needs to make sure that this is what they want to do and they also want the public's input as well. There are plans to hold public hearings with regards to this issue. However, if Mr. Langley wants to get started by tossing numbers into the discussions, the Board would have some information on the costs to pave the parking lot. Budget season is coming and it would be something that will be asked for; the committees know there is money already, but you are talking about using the portion of the money that was already expended in the last budget. Mr. Langley responded, yes, there was a portion put away.

Selectmen Winchell Jr. agreed and indicated that it would be a wise thing to do because the voters have already approved it. It was believed that there was nothing saying it had to be spent this year, but the warrant article will need to be reviewed to verify and that there is approval to tear the building down.

Selectmen David Winchell Jr. stated what was done was that approximately \$500,000 was received from the School Department money last year and what was done was the Board put some money aside for the parking lot outside. There was an increase in some other areas and things were paid off. The Board found that it was a project that they probably wanted to proceed on and there was the extra money to do it. The unfortunate part was there was no plan in place yet. However, it is slated for future discussion as an agenda item and soliciting of the public's thoughts before the Board goes tearing it down and everybody gets upset that that was done.

The Town Administrator stated, so, the article says to see if the Town will vote to establish pursuant to 30 MSRA 508 Section 1, Capital Improvement Reserve Fund, to raise and appropriate \$75,000 for the same. However, it was not thought that would be enough to do a complete rehab because under discussion was some other work involving the library and lower

levels; as a reserve, more funds can be added to it. The town Administrator will place on next week's agenda.

7. OLD BUSINESS

A) Filming Warrant & Finance Meetings –

The Board was given an opportunity for further discussion.

Selectmen Tom McGurty had nothing further to say. Kimberly Stacey-Horn emphasized that the committee is to conduct business only and that things will go smoothly if that is what occurs. The ordinance indicates the Warrant and Finance committee has to have something to look at in order to meet and if that needs to be changed. The Town Administrator noted that everybody needs to be on the same page and know the difference between a warrant, a policy and an ordinance requirement. An ordinance can be adopted by the Board of Selectmen, but can only be changed by the voters as the Selectmen have no authority over it. If you look at the Warrant and Finance duties, the five duties listed are:

1. They are an advisory committee;
2. they shall review all proposed warrant articles;
3. after due consideration of the warrant article;
4. they may provide non-binding recommendations on warrant articles; and then
5. the committee shall make recommendations on the articles.

So, what Selectmen Winchell Jr. is indicating when he says the Warrant and Finance Committee has no authority to meet was reiterated and where it says what the duties are, cited again that the committee was in an advisory capacity and should review all proposed warrant articles except any article which involves the election municipal officer; obtain factual data to deter the effect on the Town. The main word here is article if there's no warrant. So, maybe the wording needs to be adjusted in the ordinance; maybe the Board needs to ask the voters if they want to adjust it to give it more wiggle room. In conclusion, Selectmen Winchell was willing to consider lifting the edict because the Finance Committee understands where the Board is coming from and maybe they can be a little bit more flexible and adjust the way they do some things too.

Selectmen Kimberly Stacey-Horn made a motion to restart the filming of the Warrant & Finance meetings; seconded by Selectmen Tom McGurty. All in favor. Motion carried to start re-filming the Warrant and Finance Committee meetings. Motion carried, all in favor.

8. NEW BUSINESS:

1. Resignation –

A resignation was received from Mr. Tom McGurty in light of yesterday's election vote from the Warrant and Finance Committee and the Capital Improvement Committee effective immediately. Mr. McGurty stated it was a pleasure serving in these capacities and looks forward to his new endeavors in serving the Town as a member of the Select Board.

Selectmen Kimberly Stacey-Horn made a motion to accept Tom McGurty's resignation from the Capital Improvement Committee and the Warrant and Finance Committee

effective immediately; seconded by Selectmen David Winchell Jr. Vote 2-0-1 (McGurty abstained)

The Town Administrator will advertise the Warrant and Finance position openings after reviewing with the Chair of the Committee.

When asked how it was advertised the Town Administrator responded what the process was. There are not a lot of options on where to advertise as Acton doesn't have a newspaper that goes home anymore and we normally pay to run it once in the newspaper, but that in not a lot more than what the Town's website can do; APAT will place on cable and a slide on the channel and it will be posted on Social Media. However, the Town Administrator was not sure where else it could be posted.

The Reporter is the only newspaper serving Acton but their publication needs to be picked up at places like the Town Hall as it is not delivered to residential homes. The Reporter is interested in more coverage area in Acton but has not been able to make those connections yet. The Town of Acton currently gives them at least two ads a week. Shapleigh has an actual reporter, Joanne Bargioni and everyone in Shapleigh knows that is who is contacted. The Town Administrator will reach out.

2. Appointment –

The Town Administrator updated the Board that the Conservation Forrest Committee garnered some interest when Mr. Roland Vallencourt, who is a year-round resident on Goose Pond Road expressed an interest in serving what was Wesley Ham's position as Mr. Ham was elected at Town Meeting. This is an elected committee, however, Mr. Ham after the Town election, declined and the Town has been searching for a replacement since June.

The Town Administrator presented an appointment to the Board for Mr. Vallencourt.

Selectmen Kimberly Stacey-Horn made a motion to accept the certificate of appointment to Roland Vallencourt as a Conservation Forest Committee member until June 30, 2024; seconded by Selectmen Tom McGurty. Motion carried, all in favor.

2. Executive Session pursuant to 405 6 A.1

A motion was made by Selectmen Kimberly Stacey-Horn to go into executive session pursuant of 405 6A – a review of office assistant resumes; seconded by Selectmen Tom McGurty. No discussion. All in favor.

A motion was made by Selectmen Kimberly Stacey-Horn to come out of executive session pursuant of 405 6 A; seconded by Selectmen Tom McGurty. No discussion. All in favor.

No decision was made and will be revisited next Wednesday.

3. Executive Session pursuant to 405 6 A.1

A motion was made by Selectmen Kimberly Stacey-Horn to go into executive session pursuant of 405 6 A 1 – review of Transfer Station Superintendent resumes; seconded by Selectmen Tom McGurty. No discussion. All in favor.

A motion was made by Selectmen Kimberly Stacey-Horn to come out of executive session pursuant of 405 6 A at 8:05 pm; seconded by Selectmen Tom McGurty. No discussion. All in favor.

No decisions have been made.

9. PUBLIC COMMENT

Ray Lopez approached the Board to ask about the window replacement. These have broken gaskets and seals. When were these installed and do they have a warranty on these windows from the company who initially installed them. The Town Administrator responded that she believed the Code Enforcement Officer worked on the Code Enforcement windows and did all the trim around them and perhaps replaced the windows too. There is paperwork which can be pulled from the file when the Board goes into the office for an executive session and might have something to bring back out to review. Secondly, thank you for passing the filming of the Warrant and Finance Committee. And last, I'd like to throw my hat into the ring for a Warrant & Finance seat.

Arnold Murray approached the Board to ask about a meeting with the Department Heads, where there was a request for a legal opinion from MMA as there was a question written whereas the ordinance says the duties that they are required to do and the response from MMA was that they are an elected independent body and they can have a meeting for whatever they want. It doesn't matter. What a duty is or is not, what you must accomplish, not what you can, we can have a meeting for Christmas time.

Selectmen Stacey-Horn responded. We didn't say they couldn't have meetings. Selectmen Winchell Jr. indicated that they just read the ordinance often and it specifically states warrant should be preseten. Discussion ensued. Selectmen McGurty asked, do you think the vote that was just taken resolved the matter? The vote that was just taken where it was agreed that we could continue to, that's the recording request. This is an entirely different issue. Selectmen Winchell asked if this was the subject that was brought up during candidates' night about how the Select Board won't allow the public or the Finance Committee to meet with department heads. Response was no.

Selectmen McGurty commented what he thought in the spirit of what was intended is accomplished by what was just voted as sort of acknowledging what you are saying and that it really is up to the Finance Committee to decide when it meets and what is discusses. The Selectmen have indicated that it should be videotaped and that the matter has been addressed. You can take away whatever you want about it, but I guess that depends at the end of the day when the committee starts having meetings again (which have already been scheduled for Monday). Discussion continued. The Board is obviously trying to make sure that this is all transparent and if the Finance Committee needs anything this year they will try to oblige and

they are not going to address any issues when there's not even an issue yet.

Bernard Broader approached the Board and indicated that he was speaking as an individual not as a member of any committee; my comments are my own. First, I want to thank the Board for revisiting the issue of filming and for the outcome of that and unfortunately because the last meeting was not recorded, you don't really have any way of knowing that there was a discussion during that meeting about what I would characterize as the dynamic between the Committee and the Board and that it's not a one-sided thing in my opinion. So, I think it is important that you know that there are people on the Committee who feel that the Committee needs to work better with the Board and vice versa. It was my opinion, as I stated during the meeting, that I'm not interested in having discussion during Board meetings about personalities or how people feel about the Select Board members and so forth. I'm there to do the work that I was elected to do. I don't think the general public, when they tune into a recording of a meeting, wants to listen to that stuff either. So, I just hope that this is a new chapter. I see the vote that you consider taking, the vote that you took as a good faith effort towards that and so what I would say is I made these comments at the meeting and I will continue to make those comments because I think it is a dynamic and I want any committee I'm on to do their part of moving things forward too. While I'm here, I also feel that way about out Select Board meetings in that I've seen things get heated a number of times. All of us have days when we don't put our best foot forward, where we might have said things differently or not said certain things at all, but again, I think it's a dynamic. Some of the people that I see get up to stand where I am now, don't necessarily approach the Board in a respectful or polite way and sometimes gets a reaction back. For that, ideally, they wouldn't get the reaction, but ideally, they wouldn't approach the Board the way they do. I often think when I watch these meetings what are we teaching our kids. If our kids are watching these meetings, is this the way we want them to see that adults communicate with each other? No, we want them to see that adults resolve conflicts and so forth and that is why I'm saying that as much as there have been things that I've seen at a meeting that I found distasteful, that I thought was not professional, it's not the way a Board should act. I also recognize and have stated many times to people that it's a dynamic. It's how you approach the Board, people are free to say what they want but what we choose to say and how we choose to say it matters. So, I again acknowledge that it's not one-sided and I hope that everyone will maybe think about that a little bit so that we can work together for the good of our community because that's why we're here hopefully and I guess that's all I need to say on that. We don't need to beat a dead horse but hopefully the horse doesn't need to be dead. I think we can keep the horse alive and start moving things forward. Thank you for your work and thank you especially for the work you did tonight. I think it's important for everybody.

The Board thanked Mr. Bernard for his comments.

□ Margarite Borgal approached the Board to ask if the Board was talking this evening about the parking lot and the building off to the side? Has there been any discussion about what to do with that building since the gym fell apart due to insurance and other reasons? Why hasn't the Board made a decision yet on what is going to be done? Response was that the Board planned on getting some input from the public before anything was done. Mrs. Borgal asked with the influx of additional residents, would it be something to reconsider using it again as the Gym? The Town Administrator explained that over the last 3 to 5 years Maine Municipal (the Town's

insurance carrier), they come down once a year and inspect all of our buildings. Their biggest concern with the Gym was that the Town isn't in the business of being a fitness center. The gym equipment came from a grant from the Fire Department so essentially, we had them take it all back over to the other building by the Fire Department and the firefighters use that for training and maintenance of themselves.

The building itself has been written up for a lot of reasons; it's an extremely old building that will require a lot of money to be put into it. It's certainly one of the conversations the Board would have but they don't believe it's safe to be in there as far as the air intake and it's got a lot of issues, for that reason, it's why it was emptied out. Combining the two reasons leaves it to still be up for discussion. The Gym was given a second chance, a lifeline per say, and the hope was that the Board was going to catch a lot of people coming in like gangbusters to get it going again, but it just did not pan out. The decision was it was time to close the facility. The Town didn't approve money for the facilities but more than anything, it was an insurance issue. It's great to talk more about it.

Selectmen McGurty asked is it structurally sound? Town Administrator indicated that overall the Town does not think it is sound; as the old Fire Station, it was built out of brick and cinder block. The only way to find out if it is sound is to get a structural engineer to go in. At one point we had Mr. Paul, the insurance company representative, and a Selectmen go in and inspect the building; there was a large list of items that had to be fixed; enough for people to say ok, it's not worth it. Gather a list of topics for the new year for the Selectmen to reopen discussions.

6. Mr. Robin Ham approached the Board to thank the Road Commissioners (past and present) for taking care of the trees in Town. The last windstorm two weeks ago, the Town's power went out only once whereas surrounding towns experienced dozens of outages. Thank you.

10. ANNOUNCEMENTS

12/20/2021	– Warrant & Finance	6 pm
12/22/2021	– Board of Selectmen	6 pm
12/29/2021	– Board of Selectmen	6 pm

11. MEMBERS PRESENT

Selectmen David Winchell Jr., Selectmen Kimberly Stacey-, Selectmen Tom McGurty and Town Administrator Jennifer Roux.

12. ATTENDANCE

Adam Doliber, Robin Ham, Will Langley, Dennis Long, Margarita Borgal, Arnold Murray, Deborah Lopez, Ramiro Lopez, Leslie Berlin, Rollin Waterhouse, Joyce Baski