



## BOARD OF SELECTMEN

Meeting Minutes *Amended*

Monday, April 30, 2019

7:00 PM

ROOM 204, ACTON TOWN HALL, 472 MAIN STREET

**Present:** Joan Gardner, Jon Benson, Dean Charter, David Martin, Peter Berry arrived at 7:04 PM

**Absent:**

### 1. Opening

Ms. Gardner opened the meeting at 7:00 PM

### 3. New/Special Business

#### A. Board to Discuss Committee Appointment, Danny Factor, Planning Board

Ms. Gardner opened the meeting at 7:00 and read a statement *regarding admission of violating the open meeting law* to the public. Ms. Gardner began by apologizing to Danny Factor and stated the Board was meeting this evening to reconsider his candidacy as a member of the Planning Board. Ms. Gardiner further stated that the process used at its meeting on April 22 in considering Mr. Factor's candidacy did not meet the standards to which the Board of Selectmen should be held and as chair of the Board apologized to Mr. Factor. Ms. Gardiner acknowledged speaking to a quorum of the Board of Selectmen, outside of a public meeting, as to the substance of their votes on Mr. Factor's application and in doing so unknowingly violated the Open Meeting Law. Although no Open Meeting Law complaint had been filed to date, Ms. Gardiner asked Town Counsel to conduct an investigation of communications between Board members outside of a duly noticed public meeting.

Town Counsel Nina Pickering-Cook reported after individually speaking with all members of the Board, concluded that there were eight separate communications by the Board on Mr. Factor's candidacy for the Planning Board outside of a duly-noticed meeting. In summary, she noted the serial nature of the communications between Chairwoman Joan Gardner and members Jon Benson and Dean Charter likely violated the Open Meeting.

Ms. Gardner outlined the procedure for tonight's hearing. In particular, Ms. Gardiner noted that this evening's hearing would be conducted as if the April 22 hearing had not taken place. All remarks made by Board members and members of the audience at the April 22 hearing would need to be repeated tonight to be included in the record.

Mr. Factor read a prepared statement to the Board of Selectmen. Mr. Factor began by thanking the Volunteer Coordinating Committee for forwarding his application to the Planning Board to the Board of Selectmen for their consideration. Mr. Factor also thanked the Board for this evening's re-hearing, including the opportunity for the public to offer comments. Mr. Factor spoke about his family, including his late life partner and



son, Mandella, now a college sophomore. He spoke about how much Mandella enjoyed growing up in Acton and his praise for the high school.

Mr. Factor stressed his work as a public interest lawyer, his pride in being an active citizen, his nine years of service on the Council for Disabilities and as a member of the Green Acton board of directors. Mr. Factor emphasized his core beliefs that all voices matter, the need to see other peoples' points of view, to reach consensus and to support constructive discourse.

Living in a rental apartment, Mr. Factor maintained he would add economic diversity to the Planning Board as well as his experience of working with townspeople with disabilities and his knowledge of economic sustainability would bring added perspectives. He strongly maintained that being in lockstep with a majority of the town should never be a measure in serving on a town committee.

Mr. Factor pointed out that the fifteen e-mails the Board received in support of his candidacy were from conservative, liberal and independent members of the community.

In conclusion, Mr. Factor pledged to be fair to all, would promote compromise and consensus (adding he excelled in constructive discourse) and would use discretion in his public statements.

Mr. Martin asked several questions regarding Kelley's Corner Project, developments in town, how he would work with other Planning Board members. Mr. Berry commented on personal experience as a member of several Boards and since being elected to the Board of Selectmen and concerns on his ability to work collaboratively with other Planning Board members. Ms. Gardner commented on the COD meetings not running very smoothly and with some discord at times. Mr. Factor pointed out accomplishments with the COD. Mr. Berry questioned his ability dealing with discretionary decisions. Questioned about some people in town believe there is a conspiracy regarding the Planning Staff with developers to push development in town. Mr. Benson asked opinion on the West Acton Villageworks. Mr. Charter commented about speaking to the Chair of the Planning Board Ray Yacoub and felt progress is made if members are all on the same page. Questioned if it would be cooperative work towards the town's master plan if he were to be appointed to the Planning Board, commented about a communication with Nancy Tavernier and her concern for his opposition towards housing for moderate and low income housing.

Jim Snyder Grant, West Acton – commented on an email he sent to the Board of Selectmen, and to think of Danny as an individual

Terra Friedrichs, West Acton – spoke on behalf of his character

Shauna Wilkins, West Acton – spoke on behalf his character

Karen Gutent, West Acton – spoke on behalf of his character

Susan Jakes, West Acton – spoke on behalf of his character

Alan Niles, Acton – made a comment about a room full of cheerleaders



Gregory Bishop 190 Main Street – spoke on behalf of his character  
Mike Gowing, Harris Street – spoke on behalf of his character and the Board  
Board members made final comments regarding the appointment of Danny Factor. Mr. Martin that he will vote for the appointment. Mr. Berry commented his concern about the way he expresses his viewpoints. Willing to support the appointment. Mr. Benson commented about recent town article 29 to reduce the membership of the current Planning Board. Stressed the Planning Board is not an advisory board and must come onto the Board with no personal agenda. Feels that Mr. Factor will come in with personal agenda. Read from statements written on social media by Mr. Factor and will not support appointment to the Planning Board. Mr. Charter bases vote on philosophical basis. Will not support the appointment. Ms. Gardner commented on previous comment from the April 22, 2019 and will not be supporting the appointment. Mr. Martin moves to appoint Mr. Factor to the Planning Board, Mr. Berry seconds. The Board voted 2-3. The motion does not pass.

## **5. Adjournment**

At 8:38 p.m., it was moved and seconded to adjourn the meeting.  
The motion was approved unanimously.

## **Documents and Exhibits Used During this Meeting**

- Memo from Nina Pickering-Cook on meeting outline
- Statement read by Joan Gardner
- Statement read by Danny Factor
- Volunteer Coordinating Committee Recommendation
- Citizen Email Comments