

Warrant Article Questionnaire

Citizen Petitions Articles

Article #27

Form completed 9/12/19

Article Title: Authorize Special Legislation – Real Estate Transfer Fee
for Affordable Housing

Sponsor: Natick Affordable Housing Trust

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Question 1: Provide the article motion exactly as it is intended to be voted on by the Finance Committee.

Response 1: Move that the Town authorize the Board of Selectmen to petition the General Court for special legislation substantially in the form below that would impose a real estate transfer fee to be used by the Town for the purposes of acquiring, creating, preserving, rehabilitating, restoring and supporting affordable housing in the Town:

“An act establishing a real estate transfer fee upon the transfer of property in the Town of Natick”

SECTION 1. There is hereby imposed a real estate transfer fee, hereafter “the fee,” equal to 0.5 per cent of the portion of the purchase price exceeding \$650,000 upon the transfer of:

- (i) any real property interest in any residential property situated in the Town of Natick, or
- (ii) a controlling interest in a trust, limited liability company, or other entity that directly or indirectly holds an interest in any class of residential real property situated in the Town of Natick. The fee shall be the liability of the purchaser of such property interest, and any agreement between the purchaser and the seller or any other person with reference to the allocation of the liability for the fee shall not affect such liability of the purchaser to the Town. The Town may define by bylaw what constitutes a controlling interest and the calculation of the fee.

SECTION 2. The following transfers of real property interests shall be exempt from the fee established in Section 1:

- (i) transfers to the federal government, the Commonwealth, the Town, and any of their instrumentalities, agencies or subdivisions, including the Natick Housing Authority;
- (ii) transfers of the portion of a real property subject to an affordable housing

restriction;

(iii) transfers made without additional consideration to confirm, correct, modify or supplement a transfer previously made;

(iv) transfers to a charitable organization, as defined in clause Third of section 5 of chapter 59 of the General Laws, or a religious organization, provided, however, that the real property interests so transferred will be held solely for public charitable or religious purposes; and

(v) transfers between family members, including spouses, parents and children, grandparents and grandchildren, step-parents and step-children, siblings or step-siblings.

SECTION 3. The fee shall be paid to the Town. The Town shall have such remedies to collect the fee as provided by law with respect to the collection of real property taxes. The Town may, by bylaw, adopt additional requirements, exemptions, and regulations to implement or enforce said fee, consistent with this act. The Town may not, by bylaw or otherwise, eliminate or reduce any exemption set forth in this act.

SECTION 4. All fees received pursuant to this act shall be deposited in the Natick Affordable Housing Trust Fund established pursuant to section 55C of chapter 44 of the General Laws.

SECTION 5. A copy of the deed or other instrument evidencing such transfer shall be provided to the Town and shall be accompanied by:

(i) an affidavit signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting to the purchase price;

(ii) the applicable fee owed or, if applicable, an affidavit of intent to seek one of the permissible exemptions, as described in Section 2, for that property by the purchaser; and

(iii) the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from said fee. Upon receipt of the transfer fee or satisfactory evidence of exemption, the Town or its designee shall promptly thereafter issue a certificate indicating that the fee has been paid or that the transfer is exempt from the fee. The Middlesex Registrar of Deeds shall not record or register a deed unless the deed is accompanied by such certificate.

SECTION 6. The Town shall prepare and issue an annual report that:

(i) identifies fee receipts and

(ii) quantifies affordable housing programs funded, including type and purpose; and
(iii) evaluates the impact of said affordable housing programs, including but not limited to, to the extent reasonably possible and permitted by applicable law, the number and demographics of individuals and families served as well as measures of housing stability and wealth generation in the community.

SECTION 7. Acceptance of this act by the Town of Natick shall be first by vote of approval at an annual Town Meeting, to be followed by an affirmative vote of a majority of the voters at any regular or special election at which the question of acceptance is placed on the ballot. Sections 1 to 6, inclusive shall take effect 30 days after such acceptance by the Town.

Question 2: At a summary level and very clearly, what is proposed purpose and objective of this Warrant Article and the required Motion?

Response 2: The purpose is to provide a robust funding source for the implementation of the mission of the Natick Affordable Housing Trust that is independent of the tax levy.

Question 3: What does the sponsor gain from a positive action by Town Meeting on the motion?

Response 3: Allowing the legislative process to proceed toward achieving the above objective. Implementing the fee is a five-step process: a positive vote of Town Meeting is the first step. Others are a vote of the Selectmen, approval by the State Legislature, another vote of Town Meeting (to put the question on the ballot) and approval by the public.

Question 4: Describe with some specificity how the sponsor envisions how: the benefits will be realized; the problem will be solved; the community at large will gain value in the outcome through the accompanied motion?

Response 4: Financial support for the Natick Affordable Housing Trust has only become part of the Town budget in the last three years, and the Town has thus far been unable to provide funding at a level which would allow the Trust to make significant inroads into Natick's affordable housing needs. Implementation of the proposed real estate transfer fee would provide substantial funding, and at the same time would remove Trust funding from the tax levy.

Natick's need for affordable housing is well known and well documented in the Housing Production Plan and the Master Plan; the Town has managed to bring its Subsidized Housing Inventory (SHI) above 10% by requiring multiple-unit

developers to include affordable units in their complexes. But ‘affordable’ has different meanings: the Commonwealth has one definition, the Federal government has another, and *reality* – what low-income individuals and families can *actually* afford – is different still. The Trust seeks to provide housing that is affordable in the latter sense, but can only do so at funding levels substantially greater than those currently afforded by the Town. In addition, the Trust’s efforts support the housing needs of under-served populations through projects targeted at this purpose.

Barnstable Nantucket and Dukes counties impose a transfer tax of \$1.56 per thousand (over and above the State’s \$4.56/thousand), and Somerville and Concord both have bills currently before the State legislature to impose the sort of fee we contemplate. Concord (which also receives Community Preservation Act [CPA] funds) seeks to impose a 1% fee on all residential transactions in excess of \$600K: we propose 0.5% on amounts over \$650K.

Question 5: How does the proposed motion (and implementation) fit with the relevant Town Bylaws, financial and capital plan, comprehensive plan, and community values as well as relevant state laws and regulations?

Response 5: To the best of our knowledge, the proposed motion and implementation do not conflict with any Town By-laws, financial and capital plans, comprehensive plan, community values, or relevant state laws and regulations.

Regarding cost implications to the Town: current funding of the Trust would be removed as a line item on the budget, freeing up \$50K-\$80K of the tax levy to be used for other purposes.

It has been purported that imposition of a transfer fee would reduce the assessed values of \$650K or greater properties, and therefore reduce the tax levy. The Trust strongly disputes this: the following analysis will show why:

If the proposed transfer fee had been in place in CY2017, it would have raised \$182K for affordable housing. There were 457 residential sales that year, of which 163 (36%) would have paid some transfer fee. (The remaining 294 all had sale prices less than \$650K.)

If the aggregate assessed value of those 163 properties were to drop by \$182K, then we might assume that the tax levy for those houses would drop by \$2455 (\$182K x \$13.49 [FY2017 tax rate]). Further, applying the unlikely assumption that the reduced assessment would affect *all* similarly-priced houses (not just the ones that sold) and that the turnover rate in Natick is approximately 457 sales/12,000 residences = 3.8%, then the loss in tax revenue would in fact be $1/.038 = 26X$ higher, or \$64K/year.

If the number of home sales at prices over \$650K were to remain relatively constant from year to year, then every year the transfer fee would raise \$182K for affordable housing, at a maximum cost to the tax levy of \$64K.

In addition, assessors have advised us that they feel they're 'doing well' if they can assess a home to within $\pm 10\%$ of its true market value, and that changes of \$250 in the price of a \$700K house (0.03%) or \$1750 on the price of a \$1M house (0.02%) are *de minimus* and would be essentially undetectable in their analyses.

It has also been purported that the imposition of a real estate transfer fee might negatively impact the Town's borrowing capacity. At this time, no quantitative explanation of this objection has been offered and we are therefore unable to respond to it.

Question 6: Have you considered and assessed, qualified and quantified the various impacts to the community such as: • Town infrastructure (traffic, parking, etc.) • Neighbors (noise, traffic, etc.); • Environment and green issues (energy conservation, pollution, trash, encouraging walking and biking, etc.);

Response 6: We see no way that imposition of a residential real estate transfer fee would impact the community in any of the ways described above, other than supporting the objective of the Trust to create additional affordable dwelling units.

Question 7: Who are the critical participants in executing the effort envisioned by the article motion? To this point what efforts have been made to involve those participants who may be accountable, responsible, consulted or just advised/informed on the impacts of executing the motion?

Response 7: Critical participants would be the Treasurer/Collector's office and the Assessors. The proposal has been discussed with the Assessor's office, but not – at the time of this writing – with the Collector/Treasurer.

Question 8: What steps and communication has the sponsor attempted to assure that:

- ☐ Interested parties were notified in a timely way and had a chance to participate in the process
- ☐ Appropriate Town Boards & Committees were consulted
- ☐ Required public hearings were held

Response 8: The issue was on the printed agenda, and was discussed in open session at the Trust's August 12, 2019 meeting. Beside our discussion with the Assessor's office and advising the Town Administrator of our intent to file the Article, we have not entered into any discussions regarding the proposed fee with any Town office.

Question 9: Why is it required for the Town of Natick AND for the sponsor(s)?

Response 9: Natick has often voiced its understanding of the need for affordable housing in the Town; the responsibility for working to meet that needs falls in part on the Affordable Housing Trust. If the Trust is to carry out its mandated mission on behalf of the Town, funding must be provided that substantially exceeds the amounts voted by the Town in the last three years.

Question 10: Since submitting the article petition have you identified issues that weren't initially considered in the development of the proposal?

Response 10: It was recently purported that imposition of the proposed fee could impact the Town's borrowing capacity. The Town Finance Director, when questioned, said that he could not see how the fee could have any effect on the Town's ability to borrow.

Question 11: What are other towns and communities in the Metro West area, or the Commonwealth of MA doing similar to what your motion seeks to accomplish?

Response 11: The Commonwealth currently imposes a transfer tax on all real estate transactions of \$4.56/thousand. Barnstable, Nantucket and Dukes counties impose a transfer tax of \$6.12/thousand: the revenues raised from the additional \$1.56 are retained by the counties, but the use of those monies is not restricted (e.g., for affordable housing).

Somerville submitted a bill similar to Natick's last year, but the Legislature failed to vote on it. Somerville has resubmitted its bill, and Concord has similar legislation pending in the Senate.

Question 12: If this Warrant Article is not approved by Town Meeting what are the consequences to the Town and to the sponsor(s)? Please be specific on both financial and other consequences?

Response 12: If the Article fails to be approved at Town Meeting, the Natick Affordable Housing Trust will continue to seek funding from the tax levy, and the projects it undertakes will remain commensurate in size and scope to this level of funding.

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