Attorneys at Law

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September 6, 2023

VIA EMAIL ONLY

Linda Wollschlager, Chair Finance Committee Natick Town Hall 13 E. Central Street Natick, MA 01789

RE: Natick 2023 Fall Annual Town Meeting – Warrant Articles 32 and 33

Dear Ms. Wollschlager:

Upon your request, I have reviewed the Motions for Articles 32 and 33 for the 2023 Fall Annual Town Meeting. I address each Article separately, below. In reviewing these articles and accompanying motions, I have relied upon the Natick Home Rule Charter ("Charter"), the Natick Town Bylaws ("Bylaws") the Massachusetts General Laws ("General Laws"), and other legal sources.

1. Article 32: Paid Family Medical Leave for Town of Natick Employees

The proposed motion is as follows:

Move that pursuant to Massachusetts General Law - Part I, Title I, Chapter 4, Section 4 and Massachusetts General Law - Part I, Title XXII, Chapter 175M, Section 10, the Town accept the following Massachusetts General Laws pertaining to Paid Family Medical Leave:

M.G.L. Chapter 175M

With respect to legal issues concerning Article 32, Paid Family Medical Leave (PFML) is specifically exempted from application to municipalities, unless the municipality itself choses to accept the statute. That process is consistent with the motion provided by the sponsor, and acceptance of a local option statute under M.G.L. c. 4, section 4, simply requires a majority vote to accept the statute, in this instance, M.G.L. chapter 175M.

Once accepted, the Town is required to purchase a PFML policy, either from the Commonwealth, or from a private entity. Purchase from a private entity requires approval from the Commonwealth Department of Family and Medical Leave. There are detailed regulations concerning PFML at 458 CMR 2, which the Town would have to comply with, and the Town will likely need to either employ or contract with an administrator of this benefit.

Finally, it is important to note that even if Town Meeting accepts the statute, and the Town complies with the regulations and has an approved plan and plan administrator, it is unlikely that the benefit can be imposed on employees subject to collective bargaining agreements without some kind of bargaining. At this point in time,

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I decline to discuss or opine on the details of any such bargaining or the scope of the Town's obligation, as that is potentially a subject for future bargaining and bargaining strategy.

2. Article 33: Ensuring Stability: A Proposal for Fixed Annual Real Estate Tax for Long-Term Homeowner

The proposed motion is as follows:

Be it resolved that homeowners who have been residents of the Town of Natick for twenty-five years, have consistently paid their real estate taxes, and continue to live in the same residence, shall have their real estate tax amount fixed at the rate of the twenty-fifth year for as long as they remain in the home as their primary residence.

As an initial matter, this is motion is styled as a "resolution." Under Article 39 of the 2021 Fall Annual Town meeting, Article 3 of the Natick Town Bylaws was revised by adding a new section 12 concerning resolutions. Pursuant to Article 3, section 12, at Natick Town meeting, resolutions are either "complimentary," as provided in Town Meeting Time, or may be non-binding and submitted as a warrant article. As a result, I suggest that at the most, this article be considered as a non-binding resolution. This motion could not be more than a non-binding resolution, as it does not direct anyone in the Town to take any particular action, nor does it seek to amend the Bylaws, or the Charter, and as such has no method to implement and/or enforce its language.

Finally, it is my preliminary opinion that the action contemplated in the motion conflicts with state law concerning the provision of property tax abatements to residents, and with federal law under the Equal Protection doctrines, and potentially the Privileges and Immunities clause. Subject to further discussion with the Municipal Law Group of the Attorney General's Office, I do not believe a bylaw or charter provision creating a program consistent with the motion could be approved. In my opinion, the only possible way to effectuate such a program, if it could even be created, would be through a special act.

I hope this opinion is useful. Please contact me with any questions or concerns.

Sincerely,

Karis L. North /s/

Karis L. North

cc: Jamie Errickson, Town Administrator