

TOWN OF NATICK

Meeting Notice

POSTED IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. CHAPTER 30A, Sections 18-25

Natick Finance Committee

PLACE OF MEETING

School Committee Meeting Room, 3rd
Floor, Natick Town Hall 13 East Central
St.

DAY, DATE AND TIME

September 17, 2019 at 7:00 PM

MEETING AGENDA

Posted: Wednesday, September 11 2019 8:30 AM

1. Call to Order

- a. Pledge of Allegiance & Moment of Silence
- b. Advisement of Pegasus Live Broadcast and Recording for On-Demand Viewing
- c. Review of Meeting Agenda and Ordering of Items

2. Announcements

3. Public Comments

- a. Committee policy & procedures available via this link and also at the meeting location

4. Meeting Minutes

5. 2019 Fall Town Meeting Warrant Articles - Public Hearing (Articles expected to be heard in order listed)

- a. Article 19: Amend Article 79A of the Town of Natick By-Laws: Stormwater Management and Erosion Control
- b. Article 21: West Natick Fire Station Signal Controls
- c. article 27: Real Estate Transfer Surcharge In Support of Affordable Housing
- d. Article 41: Contact Information Requirement for Town Meeting Members and Elected Officials
- e. Article 25: Access to Hunnewell Fields -POSTPONED to October 1, 2019
- f. Article 26: 22 Pleasant Street -POSTPONED to October 1, 2019

6. Committee and Sub-Committee Scheduling

7. Committee Discussion (for items not on the agenda)

8. Adjourn

Meeting may be televised live and recorded by Natick Pegasus. Any times listed for specific agenda items are approximate and not binding. Please note the committee may take the items on this agenda out of order.

SUBMITTED BY

ITEM TITLE: Pledge of Allegiance & Moment of Silence
ITEM SUMMARY:

ITEM TITLE: Advisement of Pegasus Live Broadcast and Recording for On-Demand Viewing

ITEM SUMMARY:

ITEM TITLE: Review of Meeting Agenda and Ordering of Items

ITEM SUMMARY:

ITEM TITLE: Committee policy & procedures available via this link and also at the meeting location
ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Finance Committee Policy and Procedures for Public Comments	2/21/2019	Exhibit

Finance Committee Policy & Procedures for Public Comments:

Public Comments at the start of the meeting:

- *A time not to exceed 4-5 minutes per resident/taxpayer and/or 15 minutes in total time for all resident/taxpayer speakers, to allow for brief resident/taxpayer comments on topics within the scope of the Committee charge but not on the current agenda*
- *There is no debate or discussion between the resident/taxpayer and the committee except as determined by the Chair*

Public Comments on a specific agenda item:

- Following the sponsor presentation, the Finance Committee enters into discussion with questions and answers from the sponsor and others as determined by the Chair. This is not a time that residents and taxpayers ask questions or offer comments.
- Upon the completion of the discussion/Q&A period, as determined by the Chair, the committee moves in to citizen comments. The same policy as stated above is used.
 - *A time not to exceed 4-5 minutes per resident/taxpayer to allow for brief resident/taxpayer comments on topics within the scope of the agenda item before the Committee at that point in time*
 - *There is no debate or discussion between the resident/taxpayer and the sponsor/presenter or the committee except as determined by the Chair*
 - *Any question is to be directed to the Chair and only the Chair will decide whether to allow the question or just ask that it be recorded in the minutes.*

Procedural guidance for public comments:

- Once being recognized by the Chair please go to the podium, stand close to the microphone and speak loudly
- You must introduce yourself by stating your full name and your address in Natick
- It's requested the speaker not use the names of any individual. You may refer to the person's title, or use the expression "a previous speaker...)
- The committee is interested in hearing your comments of a substantive and material nature in regard to the subject matter before the committee. The Chair will politely encourage you to stay on topic and to quickly make the point
- If you're running out of time, the Chair will advise you that you have 30 seconds left at which time you will need to wrap things up.

ITEM TITLE: Article 19: Amend Article 79A of the Town of Natick By-Laws: Stormwater Management and Erosion Control

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Article 19: FINAL MOTION (replaces all others)	9/17/2019	Exhibit
Updated MOTION as of Sept 14	9/15/2019	Exhibit
Article 19 - MOTION	9/13/2019	Exhibit

2019 FALL ANNUAL TOWN MEETING

Article 19

Amend Article 79A of the Town of Natick By-Laws: Stormwater Management and Erosion Control

WARRANT

To see if the Town will vote to amend the existing Stormwater and Erosion Control By-Law, as codified in Article 79A of the Natick Town Bylaws, to optimize the Town's regulation of land disturbance activity, for purposes that shall include, but shall not be limited to the following: (1) the protection of local drinking water supply; (2) the reduction of stormwater runoff; (3) compliance with new Municipal Separate Storm Sewer System (MS4) regulations; (4) the preservation of natural resources; and (5) the achievement of recommendations proposed in the 2019 Natick 2030+ Master Plan, 2018 Hazard Mitigation Plan and the 2018 Community Resilience Building Report; or otherwise act thereon.

MOTION:

Move that the Town vote to amend the Natick Town ByLaws, Article 79A "Stormwater Management and Erosion Control By-Law," as follows:

Delete Sections 1 through Section 16, as follows, in their entirety and replace with the following text in its entirety:

"Section 1 Purpose

A. Increased volumes of Stormwater, contaminated Runoff from Impervious Surfaces, and Soil Erosion and Sedimentation are major causes of:

- 1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- 2) contamination of drinking water supplies;
- 3) Erosion of stream channels;
- 4) alteration or destruction of aquatic and wildlife habitat;
- 5) flooding; and,
- 6) overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified Sedimentation from Land Disturbance activities and polluted Runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the Disturbance of Land and the creation of Runoff is necessary for the protection of the water bodies and groundwater resources within the Town of Natick, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. The objectives of this By-Law are to:

- 1) protect water resources;
- 2) require practices that minimize or eliminate Erosion and Sedimentation and maintain Sediment on construction sites;
- 3) control the volume and rate of Stormwater resulting from Land Disturbance Activities in order to minimize potential impacts of flooding;

- 4) require practices to manage and treat Runoff generated from new development and redevelopment, with a preference for Low Impact Development techniques;
- 5) promote infiltration and the recharge of groundwater;
- 6) maximize recharge of groundwater in the Natick Aquifer Protection District as defined by Section III-A.5 of the Natick Zoning By-Law;
- 7) ensure that Erosion, Sedimentation, and Runoff are minimized through Site planning, design and implementation;
- 8) ensure adequate long-term operation and maintenance of Best Management Practices;
- 9) require practices to control Construction and Waste Materials that may cause adverse impacts to water quality;
- 10) comply with state and federal statutes and regulations, including the Municipal Separate Storm Sewer System (MS4) Permit, relating to Stormwater discharges; and
- 11) establish the Town of Natick's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring and enforcement.

Section 2 Definitions

For the purposes of this By-Law, the following shall mean:

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of Runoff flowing from the area. Such changes include: change from distributed Runoff to confined, discrete discharge; change in the volume of Runoff from the area; change in the peak rate of Runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any Person requesting a Stormwater and Erosion Control Permit.

APPLICATION: A standard form for application as issued by the Conservation Commission and any other documentation, which shall include, but shall not be limited to, plans, charts, drawings, specifications, narratives, or any other documents or pieces of information required by applicable federal, state or local laws, rules and/or regulations, submitted in connection with a Stormwater and Erosion Control Permit, as applicable, and as defined in the regulations promulgated by the Conservation Commission in support of this By-Law.

AUTHORIZED ENFORCEMENT AGENCY: Conservation Commission and its employees or Designated Agent.

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent or reduce the quantity of, or improve the quality of Runoff.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or Site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction Site.

CLEARING: Any activity that removes the vegetative surface cover.

DESIGNATED AGENT: The Conservation Agent or any person or entity designated by the Conservation Commission to assist in the administration, implementation and enforcement of this By-Law and

its regulations. The designation of a person or entity other than the Conservation Agent shall be made in writing upon a majority vote of the Conservation Commission.

DRAINAGE FACILITY: Any constructed or engineered feature that collects, conveys, stores, treats, or otherwise manages Stormwater or surface water, or any land and improvements thereon, if altered for the purpose of conveyance, storage or infiltration.

ENVIRONMENTAL SITE MONITOR: A registered and professional engineer (P.E.) or other trained professional selected by the Conservation Commission and retained by the holder of a Stormwater and Erosion Control Permit to periodically inspect the work and report to the Conservation Commission or Designated Agent, as applicable.

EROSION: The wearing away of the ground surface by natural or artificial forces and the subsequent detachment and transportation of Soil.

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of Clearing ground surface by digging or grinding up roots and stumps.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying ground. Impervious Surface includes, without limitation, roads, paved parking lots, sidewalks, and rooftops. Impervious Surface also includes Soils, gravel driveways, and similar surfaces with a Runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including, without limitation, Clearing, Grubbing, Grading, digging, cutting, removal of vegetation, excavation, placement of fill, resurfacing and construction that causes a change in the position or location of Soil or a change in the patterns of drainage and/or infiltration of water.

LOW IMPACT DEVELOPMENT (LID): A comprehensive land planning and engineering design strategy that seeks to maintain a Site's pre-development ecological and hydrological function through the protection, enhancement, or mimicry of natural processes. LID systems and practices emphasize reduction of effective imperviousness and conservation and use of existing natural Site features integrated with distributed small-scale Stormwater controls to result in the treatment, infiltration, evapotranspiration, and/or use of Stormwater close to its source.

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Standards issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c. 131 §40 and the Massachusetts Clean Waters Act M.G.L. c. 21, §§ 23-56, and any successor statutory provision.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying Stormwater, including, without limitation, any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.

OWNER: A Person with a legal or equitable interest in property.

PERMITTEE: The Person who holds a Stormwater and Erosion Control Permit.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete means of conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

RESPONSIBLE PARTIES: Owner(s), Persons with financial responsibility, Persons with operational responsibility, or Persons with administrative responsibility.

RUNOFF: Rainfall, snowmelt or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic Soil material that is transported by wind or water, from its origin to another location; the product of Erosion processes.

SEDIMENTATION: The process or act of deposition of Sediment.

SITE: Any lot or parcel of land or area of property where Land-Disturbing Activities are, were, or will be performed.

SOIL: Any earth, sand, rock, stone, gravel, loam, clay, sod, fill, mineral products, eroded matter or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or slow down Erosion.

STORMWATER: Runoff from precipitation, snowmelt or drainage.

STORMWATER AND EROSION CONTROL PERMIT: A Major Stormwater and Erosion Control Permit or a Minor Stormwater and Erosion Control Permit issued by the Authorized Enforcement Agency, after review and approval of an Application, which is designed to protect the environment of the Town from the effects of uncontrolled and untreated Runoff, as defined in Section 4 herein.

WETLANDS: Freshwater wetland, marsh, bog, wet meadow and swamp as defined in M.G.L. c. 131, §40, the Town of Natick Wetland Protection By-Law, or any successor statutory provision.

Section 3 Authority

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the Federal Clean Water Act

(found at 40 CFR 122.34 published in the Federal Register on December 8, 1999, as amended). No change to the aforementioned regulations should affect the validity of this By-Law.

Section 4 Applicability

A. This By-Law shall apply to any Land-Disturbing Activity within the jurisdiction of the Town, including, but not limited to, any activities that require a permit. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick, and may promulgate and enforce guidelines, regulations and standards relevant thereto.

B. This By-Law shall apply to land or parcels of land held in common ownership (including, but not limited to, ownership by related or jointly-controlled Persons or entities), if the total Land-Disturbing Activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section 4.C and are not exempted by Section 4.D, and no such activity shall commence until a Stormwater and Erosion Control Permit under this By-Law has been issued. Land Disturbing Activities shall not be segmented or phased in a manner to avoid compliance with this By-Law.

C. **Permit Thresholds** - A Stormwater and Erosion Control Permit shall be required for any of the following, except for an activity exempt per Section 4.D:

1) Minor Stormwater and Erosion Control Permit

- (a) Any Land Disturbance greater than 3,000 square feet, but not exceeding 20,000 square feet.
- (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 3,000 square feet, but not exceeding 20,000 square feet.
- (c) The addition, on-Site redistribution or export of greater than or equal to 500 cubic yards, but not exceeding 750 cubic yards, of Soil.

2) Major Stormwater and Erosion Control Permit

- (a) Any Land Disturbance greater than 20,000 square feet.
- (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 20,000 square feet.
- (c) The addition, on-Site redistribution, or export of more than 750 cubic yards of Soil.

D. **Exempt Activities** - The following activities are exempt from the requirements of this By-Law, provided that appropriate Best Management Practices are used:

- 1) Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act 310 CMR 10.00 and G.L.c. 40A, §3, and any successor regulatory or statutory provision.
- 2) Reasonable and ordinary maintenance of existing lawn, landscaping, or gardens areas, provided such maintenance does not include the addition of more than 50 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.
- 3) Repair or replacement of damaged roofs
- 4) Renovation of a single-family dwelling that does not expand beyond the dwelling's existing footprint.

- 5) Repair of septic systems when required by the Board of Health.
- 6) Construction of fencing that will not alter existing terrain or drainage patterns.
- 7) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain, ground cover or drainage patterns.
- 8) Projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions.
- 9) Any logging that is consistent with a Forest Cutting Plan approved under the Forest Cutting Practices Act by the Massachusetts Department of Conservation and Recreation.
- 10) The maintenance or reconstruction of any public way, in accordance with Town policy developed by the Natick Board of Selectmen and Conservation Commission.
- 11) The temporary stockpiling of Soil by a landscaper, excavator, or similar commercial enterprise for reuse elsewhere, so long as BMPs are used.

Section 5 Administration

A. The Conservation Commission shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Conservation Commission through this By-Law, to the extent allowed by law, may be delegated in writing to its Designated Agent.

B. Stormwater and Erosion Control Permits shall be issued as follows:

- 1) Minor Stormwater and Erosion Control Permits shall be issued by the Designated Agent of the Conservation Commission. Review by the Conservation Commission is not required.
 - (a) The Applicant shall submit an Application, fees, and any other permit submission requirements, as specified in this By-Law or the regulations of this By-Law, and shall also comply with any requirements of the Designated Agent.
 - (b) The Designated Agent shall review the submittal for compliance with this By-Law and the By-Law's regulations. The Designated Agent shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.
- 2) Major Stormwater and Erosion Control Permits shall be reviewed and issued by the Conservation Commission.
 - (a) The Applicant shall submit an Application, fees, and any permit submission requirements, specified in this By-Law or the regulations for this By-Law, and shall also comply with any requirements of the Conservation Commission.
 - (b) The Conservation Commission shall review the submittal for compliance with this By-Law and the By-Law's regulations as part of the Conservation Commission's public hearing process on the proposed project. The Conservation Commission shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.

Section 6 Regulations

The Conservation Commission may adopt, and periodically amend rules and regulations to effectuate the purposes of this By-Law. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

Section 7 Permits

Permit issuance is required prior to any activity disturbing 3,000 or more square feet of land, or as otherwise specified in this By-Law. The Site Owner or his agent shall apply for the permit with the Conservation Commission. While an Application may be submitted by a representative, the Permittee must be the Owner of the Site.

A. **Applications** - An Application shall be made to the Conservation Commission in a form and containing information as specified in this By-Law and in the regulations adopted by the Conservation Commission. Applications for Major Stormwater and Erosion Control permits also require distribution to the Department of Public Works, and the Board of Health for review and comment, and shall be accompanied by certification of delivery to these Town entities when submitted to the Conservation Commission.

B. **Fees** - Fees shall be established by the Conservation Commission to cover expenses connected with public notice, Application review, and monitoring permit compliance. The fee shall be sufficient to also cover professional review. The Conservation Commission or Designated Agent is authorized to retain a registered professional engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The Applicant for a Stormwater and Erosion Control Permit may be required to cover the costs of the consultant through an account established pursuant to M.G.L. c. 44, §53G, and any successor statutory provision..

C. **Information Requests** - The Conservation Commission or Designated Agent may request such additional information as is necessary to determine whether the proposed Land-Disturbing Activity will protect water resources and comply with the requirements of this By-Law.

D. **Determination of Completeness** - The Conservation Commission or Designated Agent shall make a determination as to the completeness of the Application and adequacy of the materials submitted. No review shall take place until the Application has been found to be complete.

E. **Coordination with Other Town Entities** – The applicant shall distribute one copy each to the Department of Public Works and the Board of Health for review and comment. These Town entities shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission. The Conservation Commission shall not hold a hearing on the Major Stormwater and Erosion Control Permit until 1) receipt of reports from Town entities or 2) twenty (20) calendar days after the distribution of the Major Stormwater and Erosion Control Permit Application, whichever occurs first.

F. **Entry** - Filing an Application for a Stormwater and Erosion Control Permit grants the Conservation Commission or Designated Agent permission to enter the Site to verify the information in the Application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. **Hearing** - Within thirty (30) calendar days of receipt of a complete Application for a Major Stormwater and Erosion Control Permit, the Conservation Commission shall hold a public hearing. Notice of the public hearing shall, at least seven (7) calendar days prior to said hearing, be given by publication in a paper of general circulation serving the Town of Natick, and by posting the notice at the Town Hall. The Conservation Commission shall be responsible for such public notice as described above. The Conservation Commission shall make the Application available for inspection by the public during business hours at the Town of Natick's Conservation Office.

H. Action and Appeal Process

1) Minor Stormwater and Erosion Control Permit

- (a) **Action** – The Application for a Minor Stormwater and Erosion Control Permit shall be acted upon within ten (10) business days (Saturdays, Sundays and legal holidays excluded) of the date the Designated Agent determines the Application is complete, unless such Application has been withdrawn from consideration. The Designated Agent may:
- i. **Approve the Application and issue a permit** if it finds the proposed plan meets the objectives of and complies with the requirements of this By-Law;
 - ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Designated Agent determines are required to ensure the project will meet the objectives of and comply with the requirements of this By-Law;
 - iii. **Disapprove the Application and deny a permit** if the Designated Agent finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or if the Designated Agent finds that the Applicant has submitted insufficient information to confirm the proposed plan meets the objectives of and complies with the requirements of this By-Law; or
 - iv. **Determine that a Minor Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

(b) Appeal of Disapproved Applications

- i. The Applicant may modify the Application to meet the objectives of and comply with the requirements of this By-Law and resubmit it to the Designated Agent.
- ii. The Applicant may appeal a permit denial by the Designated Agent by requesting the Conservation Commission review the Application. Such review shall take place with a public hearing as described in Section 7.G. and shall be subject to any review fees or additional submittal requirements as specified in the regulations for this By-Law.

2) Major Stormwater and Erosion Control Permit

- (a) **Action** – The Conservation Commission shall take action on a Major Stormwater and Erosion Control Permit within thirty (30) calendar days from the close of a public hearing as described in Section 7.G, unless such time is extended by agreement between the Applicant and the Conservation Commission. The Conservation Commission shall take one of the following actions:
- i. **Approve the Application and issue a permit** if it finds that the proposed plan will meet the objectives of and complies with the requirements of this By-Law;
 - ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Conservation Commission determines are required to ensure that the project will meet the objectives of and comply with the requirements of this By-Law;
 - iii. **Disapprove the Application and deny a permit** if it finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or

that the Applicant has submitted insufficient information to confirm the proposed Application meets the objectives of and complies with the requirements of this By-Law; or

- iv. **Determine that a Major Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

Permittee, or his or her agent, must notify the Conservation Commission or Designated Agent in writing of any change or alteration of a Land-Disturbing Activity before the change or alteration occurs. If the Conservation Commission or Designated Agent determines that the change or alteration is significant, based on the design requirements listed in the regulations adopted by the Conservation Commission under this By-Law, the Conservation Commission or Designated Agent may require that an amended Application or a full Application be filed in accordance with Section 7. If any change or alteration from the Stormwater and Erosion Control Permit occurs during Land-Disturbing Activities, the Conservation Commission or Designated Agent may require the installation of interim Erosion and Sedimentation control measures before approving the change or alteration. This shall not affect any other obligations the Applicant shall have under M.G.L. c. 121, §40, the Natick Wetlands Protection By-Law, or any other regulation pertinent, or any successor statutory or regulatory provision.

Section 8 Plans

Regulations promulgated by the Conservation Commission shall set forth the types of plans required by a Minor Stormwater and Erosion Control Permit and a Major Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 8A - 8D below. Further requirements may be specified by the Conservation Commission or Designated Agent and this By-Law; the provisions herein are not intended to be an exhausted clarification on the specific details of plan requirements.

A. The **Erosion and Sedimentation Control Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed Erosion and Sedimentation controls to be used during pre construction and construction. The Erosion and Sedimentation Control Plan shall fully describe the project in drawings, and narrative and be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS). The Applicant shall submit such material as is necessary to show that the proposed Land Disturbing Activity will comply with the design standards and contain the information listed in the regulations adopted by the Conservation Commission for administration of this By-Law.

B. The **Low Impact Development (LID) Plan** shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the acceptability of: the Site planning process; the anticipated impacts of the proposed Land Disturbing Activity on the ecological and hydrological functions of the Site; any measures proposed by the Applicant to maintain ecological and hydrological functions of the Site. The LID Plan shall fully describe the project in drawings, narrative, and calculations, if applicable. The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law. The LID plan shall be designed to comply, to the maximum extent practicable, with all standards for LID set forth by the regulations adopted by the Conservation Commission for the administration of this By-Law.

C. The **Stormwater Management Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed BMPs for the permanent management and treatment of Stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by

the Applicant for reducing adverse impacts from Stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II, and any other Stormwater standards set forth in the regulations adopted by the Conservation Commission for the administration of this By-Law. The Stormwater Management Plan shall fully describe the project in drawings, and narrative and be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS). The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law.

D. **An Operation and Maintenance Plan - (O&M Plan)** for the permanent Stormwater management system is required at the time of application for all Stormwater and Erosion Control Permits. The maintenance plan shall be designed to ensure compliance with this By-Law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 or any successor regulations are met in all seasons and throughout the life of the system. The O&M Plan shall include any requirements deemed necessary by the Conservation Commission or Designated Agent. The Conservation Commission or Designated Agent shall determine what maintenance option is appropriate in a given situation. The Conservation Commission or Designated Agent will consider natural features, proximity of Site to water bodies and Wetlands, extent of Impervious Surfaces, the size of the Site, the types of Stormwater management structures, BMPs, and the potential need for ongoing maintenance when making this decision. Once approved by the Conservation Commission or Designated Agent, the O&M Plan shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Permittee, shall run with the land, shall remain on file with the Conservation Commission, and shall be an ongoing requirement. The O&M Plan shall conform to the requirements listed in the regulations adopted by the Conservation Commission for the administration of this By-Law. Stormwater management easements shall be provided by the property Owner(s) in areas and as necessary to carry out the required maintenance.

1) **Changes to Operation and Maintenance Plans**

- (a) The Owner(s) of the Stormwater management system must notify the Conservation Commission or Designated Agent of changes in ownership or assignment of financial responsibility.
- (b) The maintenance schedule in the O&M Plan may be amended to achieve the purposes of this By-Law by mutual agreement of the Conservation Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Once the amended Plan is signed, the Conservation Commission shall file it at the Commonwealth of Massachusetts Middlesex South Registry of Deeds at the expense of the current Owner(s).

Section 9 Inspection and Site Supervision for Stormwater and Erosion Control Permits

A. **Pre-Construction Meeting** - Prior to the commencement of any Land Disturbing Activity requiring a Stormwater and Erosion Control Permit, the Applicant, the Applicant's technical representative, the general contractor, pertinent subcontractors, and any Person with authority to make changes to the project, shall meet with the Conservation Commission or Designated Agent to review the permitted plans and proposed implementation.

B. **Inspection** – For all projects requiring a Stormwater and Erosion Control Permit, the Conservation Commission or Designated Agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the Permittee if the work fails to comply with the approved plans and any conditions of approval. One copy of the approved plans and conditions

of approval, signed by the Conservation Commission or Designated Agent, as applicable, shall be maintained at the Site during the progress of the work. In order to obtain inspections, the Permittee shall notify the Conservation Commission or Designated Agent at least three (3) business days (Saturdays, Sundays and legal holidays excluded) before each of the following events:

- 1) Erosion and Sedimentation control and tree protection measures are in place and stabilized;
- 2) Site Clearing and rough Grading have been substantially completed;
- 3) Final Grading has been substantially completed;
- 4) Bury Inspection: prior to backfilling of any underground drainage or Stormwater conveyance structures;
- 5) Close of the Construction Season; and
- 6) Final landscaping (permanent Stabilization) and project final completion.

C. **Permittee Inspections** - The Permittee or the Permittee's agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of inspections will be to determine the overall effectiveness of the Erosion and Sedimentation Control plan, and the need for maintenance or additional control measures. The Permittee or the Permittee's agent shall submit monthly reports to the Conservation Commission or Designated Agent in a format approved by the Conservation Commission. The Conservation Commission or Designated Agent may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission or Designated Agent, be retained by the Applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or Designated Agent.

D. **Access Permission** - To the extent permitted by law, or if authorized by the Owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary to determine compliance with the permit.

Section 10 Surety for Stormwater and Erosion Control Permits

The Conservation Commission or Designated Agent may require the Permittee to post before the start of the Land-Disturbing Activity subject to a Stormwater and Erosion Control Permit, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Conservation Commission to ensure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond, as a proportion of the completed phase(s), but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 11 and issued a certificate of compliance pursuant to Section 13.

Section 11 Final Reports for Stormwater and Erosion Control Permits

Upon completion of the work under a Stormwater and Erosion Control Permit, the Permittee shall submit a report certifying that all Erosion and Sedimentation control devices, elements of the Application, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter. In addition, the final report for a Major Stormwater and Erosion Control permit shall include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor. As a condition of plan approval for a Minor Stormwater and Erosion Control project, the Conservation

Commission's Designated Agent may require that the final report include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor.

Section 12 Enforcement

A. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick. The Conservation Commission or Designated Agent shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

- 1) The Conservation Commission or Designated Agent may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include, but are not limited to, the following:
 - (a) a requirement to cease and desist from the Land-Disturbing Activity until there is compliance with the By-Law and/or the provisions of the Stormwater and Erosion Control Permit;
 - (b) maintenance, installation or performance of additional Erosion and Sedimentation control measures;
 - (c) monitoring, analyses, and reporting; and/or
 - (d) remediation of Erosion and Sedimentation resulting directly or indirectly from the Land-Disturbing Activity.
- 2) If the Conservation Commission or Designated Agent determines that abatement or remediation of Erosion and Sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or Owner fail to abate or perform remediation within the specified deadline, the Town of Natick may, at its option, undertake such work, and the Owner shall reimburse the Town for its expenses.
- 3) Within thirty (30) calendar days after completing all measures necessary to abate the violation or to perform remediation, the violator and the Owner shall be notified of the costs incurred by the Town of Natick, including administrative costs. The violator or Owner may file an appeal objecting to the amount or basis of costs with the Conservation Commission within thirty (30) calendar days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal within thirty (30) calendar days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the Owner and shall constitute a lien on the Owner's property for the amount of such costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in M.G.L. c. 59, §57, or any other successor statute, after the thirty-first calendar day following the calendar day on which the costs were due.

C. **Criminal Penalty** - Any Person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00 for each offense. Each calendar day that such violation occurs or continues shall constitute a separate offense.

D. **Non-Criminal Disposition** - As an alternative to criminal prosecution or civil action, the Town of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch.. 40, §21D in

which case the Conservation Commission or Designated Agent shall be the Authorized Enforcement Agency. The penalty for each violation shall be \$300.00. Each calendar day that such violation occurs or continues shall constitute a separate offense.

E. **Appeals** - All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

F. **Remedies Not Exclusive** - The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 13 Certificate of Stormwater and Erosion Control Permit Compliance

Since a Stormwater and Erosion Control Permit runs with the title of a property, the Permittee shall request the Conservation Commission to issue a Stormwater and Erosion Permit Certificate of Compliance upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law. The Certificate of Compliance shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Owner(s).

Section 14 Severability

If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any Person, establishment or circumstance shall be held invalid for any reason, all other provisions, to the maximum extent permitted by law, shall continue in full force and effect.”

2019 FALL ANNUAL TOWN MEETING

Article 19

Amend Article 79A of the Town of Natick By-Laws: Stormwater Management and Erosion Control

WARRANT

To see if the Town will vote to amend the existing Stormwater and Erosion Control By-Law, as codified in Article 79A of the Natick Town Bylaws, to optimize the Town's regulation of land disturbance activity, for purposes that shall include, but shall not be limited to the following: (1) the protection of local drinking water supply; (2) the reduction of stormwater runoff; (3) compliance with new Municipal Separate Storm Sewer System (MS4) regulations; (4) the preservation of natural resources; and (5) the achievement of recommendations proposed in the 2019 Natick 2030+ Master Plan, 2018 Hazard Mitigation Plan and the 2018 Community Resilience Building Report; or otherwise act thereon.

MOTION:

Move that the Town vote to amend the Natick Town ByLaws, Article 79A "Stormwater Management and Erosion Control By-Law," as follows:

Delete Sections 1 through Section 16, as follows, in their entirety and replace with the following text in its entirety:

"Section 1 Purpose

A. Increased volumes of Stormwater, contaminated Runoff from Impervious Surfaces, and Soil Erosion and Sedimentation are major causes of:

- 1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- 2) contamination of drinking water supplies;
- 3) Erosion of stream channels;
- 4) alteration or destruction of aquatic and wildlife habitat;
- 5) flooding; and,
- 6) overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified Sedimentation from Land Disturbance activities and polluted Runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the Disturbance of Land and the creation of Runoff is necessary for the protection of the water bodies and groundwater resources within the Town of Natick, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. The objectives of this By-Law are to:

- 1) protect water resources;
- 2) require practices that minimize or eliminate Erosion and Sedimentation and maintain Sediment on construction sites;
- 3) control the volume and rate of Stormwater resulting from Land Disturbance Activities in order to minimize potential impacts of flooding;

- 4) require practices to manage and treat Runoff generated from new development and redevelopment, with a preference for Low Impact Development techniques;
- 5) promote infiltration and the recharge of groundwater;
- 6) maximize recharge of groundwater in the Natick Aquifer Protection District as defined by Section III-A.5 of the Natick Zoning By-Law;
- 7) ensure that Erosion, Sedimentation, and Runoff are minimized through Site planning, design and implementation;
- 8) ensure adequate long-term operation and maintenance of Best Management Practices;
- 9) require practices to control Construction and Waste Materials that may cause adverse impacts to water quality;
- 10) comply with state and federal statutes and regulations, including the Municipal Separate Storm Sewer System (MS4) Permit, relating to Stormwater discharges; and
- 11) establish the Town of Natick's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring and enforcement.

Section 2 Definitions

For the purposes of this By-Law, the following shall mean:

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of Runoff flowing from the area. Such changes include: change from distributed Runoff to confined, discrete discharge; change in the volume of Runoff from the area; change in the peak rate of Runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any Person requesting a Stormwater and Erosion Control Permit.

APPLICATION: A standard form for application as issued by the Conservation Commission and any other documentation, which shall include, but shall not be limited to, plans, charts, drawings, specifications, narratives, or any other documents or pieces of information required by applicable federal, state or local laws, rules and/or regulations, submitted in connection with a Stormwater and Erosion Control Permit, as applicable, and as defined in the regulations promulgated by the Conservation Commission in support of this By-Law.

AUTHORIZED ENFORCEMENT AGENCY: Conservation Commission and its employees or Designated Agent.

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent or reduce the quantity of, or improve the quality of Runoff.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or Site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction Site.

CLEARING: Any activity that removes the vegetative surface cover.

DESIGNATED AGENT: The Conservation Agent or any person or entity designated by the Conservation Commission to assist in the administration, implementation and enforcement of this By-Law and

its regulations. The designation of a person or entity other than the Conservation Agent shall be made in writing upon a majority vote of the Conservation Commission.

DRAINAGE FACILITY: Any constructed or engineered feature that collects, conveys, stores, treats, or otherwise manages Stormwater or surface water, or any land and improvements thereon, if altered for the purpose of conveyance, storage or infiltration.

ENVIRONMENTAL SITE MONITOR: A registered and professional engineer (P.E.) or other trained professional selected by the Conservation Commission and retained by the holder of a Stormwater and Erosion Control Permit to periodically inspect the work and report to the Conservation Commission or Designated Agent, as applicable.

EROSION: The wearing away of the ground surface by natural or artificial forces and the subsequent detachment and transportation of Soil.

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of Clearing ground surface by digging or grinding up roots and stumps.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying ground. Impervious Surface includes, without limitation, roads, paved parking lots, sidewalks, and rooftops. Impervious Surface also includes Soils, gravel driveways, and similar surfaces with a Runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including, without limitation, Clearing, Grubbing, Grading, digging, cutting, removal of vegetation, excavation, placement of fill, resurfacing and construction that causes a change in the position or location of Soil or a change in the patterns of drainage and/or infiltration of water.

LOW IMPACT DEVELOPMENT (LID): A comprehensive land planning and engineering design strategy that seeks to maintain a Site's pre-development ecological and hydrological function through the protection, enhancement, or mimicry of natural processes. LID systems and practices emphasize reduction of effective imperviousness and conservation and use of existing natural Site features integrated with distributed small-scale Stormwater controls to result in the treatment, infiltration, evapotranspiration, and/or use of Stormwater close to its source.

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Standards issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c. 131 §40 and the Massachusetts Clean Waters Act M.G.L. c. 21, §§ 23-56, and any successor statutory provision.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying Stormwater, including, without limitation, any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.

OWNER: A Person with a legal or equitable interest in property.

PERMITTEE: The Person who holds a Stormwater and Erosion Control Permit.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete means of conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

RESPONSIBLE PARTIES: Owner(s), Persons with financial responsibility, Persons with operational responsibility, or Persons with administrative responsibility.

RUNOFF: Rainfall, snowmelt or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic Soil material that is transported by wind or water, from its origin to another location; the product of Erosion processes.

SEDIMENTATION: The process or act of deposition of Sediment.

SITE: Any lot or parcel of land or area of property where Land-Disturbing Activities are, were, or will be performed.

SOIL: Any earth, sand, rock, stone, gravel, loam, clay, sod, fill, mineral products, eroded matter or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or slow down Erosion.

STORMWATER: Runoff from precipitation, snowmelt or drainage.

STORMWATER AND EROSION CONTROL PERMIT: A Major Stormwater and Erosion Control Permit or a Minor Stormwater and Erosion Control Permit issued by the Authorized Enforcement Agency, after review and approval of an Application, which is designed to protect the environment of the Town from the effects of uncontrolled and untreated Runoff, as defined in Section 4 herein.

WETLANDS: Freshwater wetland, marsh, bog, wet meadow and swamp as defined in M.G.L. c. 131, §40, the Town of Natick Wetland Protection By-Law, or any successor statutory provision.

Section 3 Authority

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the Federal Clean Water Act

(found at 40 CFR 122.34 published in the Federal Register on December 8, 1999, as amended). No change to the aforementioned regulations should affect the validity of this By-Law.

Section 4 Applicability

A. This By-Law shall apply to any Land-Disturbing Activity within the jurisdiction of the Town, including, but not limited to, any activities that require a permit. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick, and may promulgate and enforce guidelines, regulations and standards relevant thereto.

B. This By-Law shall apply to land or parcels of land held in common ownership (including, but not limited to, ownership by related or jointly-controlled Persons or entities), if the total Land-Disturbing Activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section 4.C and are not exempted by Section 4.D, and no such activity shall commence until a Stormwater and Erosion Control Permit under this By-Law has been issued. Land Disturbing Activities shall not be segmented or phased in a manner to avoid compliance with this By-Law.

C. **Permit Thresholds** - A Stormwater and Erosion Control Permit shall be required for any of the following, except for an activity exempt per Section 4.D:

1) Minor Stormwater and Erosion Control Permit

- (a) Any Land Disturbance greater than 3,000 square feet, but not exceeding 20,000 square feet.
- (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 3,000 square feet, but not exceeding 20,000 square feet.
- (c) The addition, on-Site redistribution or export of greater than or equal to 500 cubic yards, but not exceeding 750 cubic yards, of Soil.

2) Major Stormwater and Erosion Control Permit

- (a) Any Land Disturbance greater than 20,000 square feet.
- (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 20,000 square feet.
- (c) The addition, on-Site redistribution, or export of more than 750 cubic yards of Soil.

D. **Exempt Activities** - The following activities are exempt from the requirements of this By-Law, provided that appropriate Best Management Practices are used:

- 1) Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act 310 CMR 10.00 and G.L.c. 40A, §3, and any successor regulatory or statutory provision.
- 2) Reasonable and ordinary maintenance of existing lawn, landscaping, or gardens areas, provided such maintenance does not include the addition of more than 50 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.
- 3) Repair or replacement of damaged roofs
- 4) Renovation of a single-family dwelling that does not expand beyond the dwelling's existing footprint.

- 5) Repair of septic systems when required by the Board of Health.
- 6) Construction of fencing that will not alter existing terrain or drainage patterns.
- 7) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain, ground cover or drainage patterns.
- 8) Projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions.
- 9) Any logging that is consistent with a Forest Cutting Plan approved under the Forest Cutting Practices Act by the Massachusetts Department of Conservation and Recreation.
- 10) The maintenance or reconstruction of any public way, in accordance with Town policy developed by the Natick Board of Selectmen and Conservation Commission.
- 11) The temporary stockpiling of Soil by a landscaper, excavator, or similar commercial enterprise for reuse elsewhere, so long as BMPs are used.

Section 5 Administration

A. The Conservation Commission shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Conservation Commission through this By-Law, to the extent allowed by law, may be delegated in writing to its Designated Agent.

B. Stormwater and Erosion Control Permits shall be issued as follows:

- 1) Minor Stormwater and Erosion Control Permits shall be issued by the Designated Agent of the Conservation Commission. Review by the Conservation Commission is not required.
 - (a) The Applicant shall submit an Application, fees, and any other permit submission requirements, as specified in this By-Law or the regulations of this By-Law, and shall also comply with any requirements of the Designated Agent.
 - (b) The Designated Agent shall review the submittal for compliance with this By-Law and the By-Law's regulations. The Designated Agent shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.
- 2) Major Stormwater and Erosion Control Permits shall be reviewed and issued by the Conservation Commission.
 - (a) The Applicant shall submit an Application, fees, and any permit submission requirements, specified in this By-Law or the regulations for this By-Law, and shall also comply with any requirements of the Conservation Commission.
 - (b) The Conservation Commission shall review the submittal for compliance with this By-Law and the By-Law's regulations as part of the Conservation Commission's public hearing process on the proposed project. The Conservation Commission shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.

Section 6 Regulations

The Conservation Commission may adopt, and periodically amend rules and regulations to effectuate the purposes of this By-Law. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

Section 7 Permits

Permit issuance is required prior to any activity disturbing 3,000 or more square feet of land, or as otherwise specified in this By-Law. The Site Owner or his agent shall apply for the permit with the Conservation Commission. While an Application may be submitted by a representative, the Permittee must be the Owner of the Site.

A. **Applications** - An Application shall be made to the Conservation Commission in a form and containing information as specified in this By-Law and in the regulations adopted by the Conservation Commission. Applications for Major Stormwater and Erosion Control permits also require distribution to the Department of Public Works, and the Board of Health for review and comment, and shall be accompanied by certification of delivery to these Town entities when submitted to the Conservation Commission.

B. **Fees** - Fees shall be established by the Conservation Commission to cover expenses connected with public notice, Application review, and monitoring permit compliance. The fee shall be sufficient to also cover professional review. The Conservation Commission or Designated Agent is authorized to retain a registered professional engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The Applicant for a Stormwater and Erosion Control Permit may be required to cover the costs of the consultant through an account established pursuant to M.G.L. c. 44, §53G, and any successor statutory provision..

C. **Information Requests** - The Conservation Commission or Designated Agent may request such additional information as is necessary to determine whether the proposed Land-Disturbing Activity will protect water resources and comply with the requirements of this By-Law.

D. **Determination of Completeness** - The Conservation Commission or Designated Agent shall make a determination as to the completeness of the Application and adequacy of the materials submitted. No review shall take place until the Application has been found to be complete.

E. **Coordination with Other Town Entities** – The applicant shall distribute one copy each to the Department of Public Works and the Board of Health for review and comment. These Town entities shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission. The Conservation Commission shall not hold a hearing on the Major Stormwater and Erosion Control Permit until 1) receipt of reports from Town entities or 2) twenty (20) calendar days after the distribution of the Major Stormwater and Erosion Control Permit Application, whichever occurs first.

F. **Entry** - Filing an Application for a Stormwater and Erosion Control Permit grants the Conservation Commission or Designated Agent permission to enter the Site to verify the information in the Application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. **Hearing** - Within thirty (30) calendar days of receipt of a complete Application for a Major Stormwater and Erosion Control Permit, the Conservation Commission shall hold a public hearing. Notice of the public hearing shall, at least seven (7) calendar days prior to said hearing, be given by publication in a paper of general circulation serving the Town of Natick, and by posting the notice at the Town Hall. The Conservation Commission shall be responsible for such public notice as described above. The Conservation Commission shall make the Application available for inspection by the public during business hours at the Town of Natick's Conservation Office.

H. Action and Appeal Process

1) Minor Stormwater and Erosion Control Permit

- (a) **Action** – The Application for a Minor Stormwater and Erosion Control Permit shall be acted upon within ten (10) business days (Saturdays, Sundays and legal holidays excluded) of the date the Designated Agent determines the Application is complete, unless such Application has been withdrawn from consideration. The Designated Agent may:
- i. **Approve the Application and issue a permit** if it finds the proposed plan meets the objectives of and complies with the requirements of this By-Law;
 - ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Designated Agent determines are required to ensure the project will meet the objectives of and comply with the requirements of this By-Law;
 - iii. **Disapprove the Application and deny a permit** if the Designated Agent finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or if the Designated Agent finds that the Applicant has submitted insufficient information to confirm the proposed plan meets the objectives of and complies with the requirements of this By-Law; or
 - iv. **Determine that a Minor Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

(b) Appeal of Disapproved Applications

- i. The Applicant may modify the Application to meet the objectives of and comply with the requirements of this By-Law and resubmit it to the Designated Agent.
- ii. The Applicant may appeal a permit denial by the Designated Agent by requesting the Conservation Commission review the Application. Such review shall take place with a public hearing as described in Section 7.G. and shall be subject to any review fees or additional submittal requirements as specified in the regulations for this By-Law.

2) Major Stormwater and Erosion Control Permit

- (a) **Action** – The Conservation Commission shall take action on a Major Stormwater and Erosion Control Permit within thirty (30) calendar days from the close of a public hearing as described in Section 7.G, unless such time is extended by agreement between the Applicant and the Conservation Commission. The Conservation Commission shall take one of the following actions:
- i. **Approve the Application and issue a permit** if it finds that the proposed plan will meet the objectives of and complies with the requirements of this By-Law;
 - ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Conservation Commission determines are required to ensure that the project will meet the objectives of and comply with the requirements of this By-Law;
 - iii. **Disapprove the Application and deny a permit** if it finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or

that the Applicant has submitted insufficient information to confirm the proposed Application meets the objectives of and complies with the requirements of this By-Law; or

- iv. **Determine that a Major Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

Permittee, or his or her agent, must notify the Conservation Commission or Designated Agent in writing of any change or alteration of a Land-Disturbing Activity before the change or alteration occurs. If the Conservation Commission or Designated Agent determines that the change or alteration is significant, based on the design requirements listed in the regulations adopted by the Conservation Commission under this By-Law, the Conservation Commission or Designated Agent may require that an amended Application or a full Application be filed in accordance with Section 7. If any change or alteration from the Stormwater and Erosion Control Permit occurs during Land-Disturbing Activities, the Conservation Commission or Designated Agent may require the installation of interim Erosion and Sedimentation control measures before approving the change or alteration. This shall not affect any other obligations the Applicant shall have under M.G.L. c. 121, §40, the Natick Wetlands Protection By-Law, or any other regulation pertinent, or any successor statutory or regulatory provision.

Section 8 Plans

Regulations promulgated by the Conservation Commission shall set forth the types of plans required by a Minor Stormwater and Erosion Control Permit and a Major Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 8A - 8D below. Further requirements may be specified by the Conservation Commission or Designated Agent and this By-Law; the provisions herein are not intended to be an exhausted clarification on the specific details of plan requirements.

A. The **Erosion and Sedimentation Control Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed Erosion and Sedimentation controls to be used during pre construction and construction. The Erosion and Sedimentation Control Plan shall fully describe the project in drawings, and narrative and be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS). The Applicant shall submit such material as is necessary to show that the proposed Land Disturbing Activity will comply with the design standards and contain the information listed in the regulations adopted by the Conservation Commission for administration of this By-Law.

B. The **Low Impact Development (LID) Plan** shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the acceptability of: the Site planning process; the anticipated impacts of the proposed Land Disturbing Activity on the ecological and hydrological functions of the Site; any measures proposed by the Applicant to maintain ecological and hydrological functions of the Site. The LID Plan shall fully describe the project in drawings, narrative, and calculations, if applicable. The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law. The LID plan shall be designed to comply, to the maximum extent practicable, with all standards for LID set forth by the regulations adopted by the Conservation Commission for the administration of this By-Law.

C. The **Stormwater Management Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed BMPs for the permanent management and treatment of Stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by

the Applicant for reducing adverse impacts from Stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II, and any other Stormwater standards set forth in the regulations adopted by the Conservation Commission for the administration of this By-Law. The Stormwater Management Plan shall fully describe the project in drawings, and narrative and be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS). The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law.

D. **An Operation and Maintenance Plan - (O&M Plan)** for the permanent Stormwater management system is required at the time of application for all Stormwater and Erosion Control Permits. The maintenance plan shall be designed to ensure compliance with this By-Law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 or any successor regulations are met in all seasons and throughout the life of the system. The O&M Plan shall include any requirements deemed necessary by the Conservation Commission or Designated Agent. The Conservation Commission or Designated Agent shall determine what maintenance option is appropriate in a given situation. The Conservation Commission or Designated Agent will consider natural features, proximity of Site to water bodies and Wetlands, extent of Impervious Surfaces, the size of the Site, the types of Stormwater management structures, BMPs, and the potential need for ongoing maintenance when making this decision. Once approved by the Conservation Commission or Designated Agent, the O&M Plan shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Permittee, shall run with the land, shall remain on file with the Conservation Commission, and shall be an ongoing requirement. The O&M Plan shall conform to the requirements listed in the regulations adopted by the Conservation Commission for the administration of this By-Law. Stormwater management easements shall be provided by the property Owner(s) in areas and as necessary to carry out the required maintenance.

1) **Changes to Operation and Maintenance Plans**

- (a) The Owner(s) of the Stormwater management system must notify the Conservation Commission or Designated Agent of changes in ownership or assignment of financial responsibility.
- (b) The maintenance schedule in the O&M Plan may be amended to achieve the purposes of this By-Law by mutual agreement of the Conservation Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Once the amended Plan is signed, the Conservation Commission shall file it at the Commonwealth of Massachusetts Middlesex South Registry of Deeds at the expense of the current Owner(s).

Section 9 Inspection and Site Supervision for Stormwater and Erosion Control Permits

A. **Pre-Construction Meeting** - Prior to the commencement of any Land Disturbing Activity requiring a Stormwater and Erosion Control Permit, the Applicant, the Applicant's technical representative, the general contractor, pertinent subcontractors, and any Person with authority to make changes to the project, shall meet with the Conservation Commission or Designated Agent to review the permitted plans and proposed implementation.

B. **Inspection** – For all projects requiring a Stormwater and Erosion Control Permit, the Conservation Commission or Designated Agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the Permittee if the work fails to comply with the approved plans and any conditions of approval. One copy of the approved plans and conditions

of approval, signed by the Conservation Commission or Designated Agent, as applicable, shall be maintained at the Site during the progress of the work. In order to obtain inspections, the Permittee shall notify the Conservation Commission or Designated Agent at least three (3) business days (Saturdays, Sundays and legal holidays excluded) before each of the following events:

- 1) Erosion and Sedimentation control and tree protection measures are in place and stabilized;
- 2) Site Clearing and rough Grading have been substantially completed;
- 3) Final Grading has been substantially completed;
- 4) Bury Inspection: prior to backfilling of any underground drainage or Stormwater conveyance structures;
- 5) Close of the Construction Season; and
- 6) Final landscaping (permanent Stabilization) and project final completion.

C. **Permittee Inspections** - The Permittee or the Permittee's agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of inspections will be to determine the overall effectiveness of the Erosion and Sedimentation Control plan, and the need for maintenance or additional control measures. The Permittee or the Permittee's agent shall submit monthly reports to the Conservation Commission or Designated Agent in a format approved by the Conservation Commission. The Conservation Commission or Designated Agent may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission or Designated Agent, be retained by the Applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or Designated Agent.

D. **Access Permission** - To the extent permitted by law, or if authorized by the Owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary to determine compliance with the permit.

Section 10 Surety for Stormwater and Erosion Control Permits

The Conservation Commission or Designated Agent may require the Permittee to post before the start of the Land-Disturbing Activity subject to a Stormwater and Erosion Control Permit, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Conservation Commission to ensure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond, as a proportion of the completed phase(s), but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 11 and issued a certificate of compliance pursuant to Section 13.

Section 11 Final Reports for Stormwater and Erosion Control Permits

Upon completion of the work under a Stormwater and Erosion Control Permit, the Permittee shall submit a report certifying that all Erosion and Sedimentation control devices, elements of the Application, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter. In addition, the final report for a Major Stormwater and Erosion Control permit shall include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor. As a condition of plan approval for a Minor Stormwater and Erosion Control project, the Conservation

Commission's Designated Agent may require that the final report include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor.

Section 12 Enforcement

A. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick. The Conservation Commission or Designated Agent shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

- 1) The Conservation Commission or Designated Agent may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include, but are not limited to, the following:
 - (a) a requirement to cease and desist from the Land-Disturbing Activity until there is compliance with the By-Law and/or the provisions of the Stormwater and Erosion Control Permit;
 - (b) maintenance, installation or performance of additional Erosion and Sedimentation control measures;
 - (c) monitoring, analyses, and reporting; and/or
 - (d) remediation of Erosion and Sedimentation resulting directly or indirectly from the Land-Disturbing Activity.
- 2) If the Conservation Commission or Designated Agent determines that abatement or remediation of Erosion and Sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or Owner fail to abate or perform remediation within the specified deadline, the Town of Natick may, at its option, undertake such work, and the Owner shall reimburse the Town for its expenses.
- 3) Within thirty (30) calendar days after completing all measures necessary to abate the violation or to perform remediation, the violator and the Owner shall be notified of the costs incurred by the Town of Natick, including administrative costs. The violator or Owner may file an appeal objecting to the amount or basis of costs with the Conservation Commission within thirty (30) calendar days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal within thirty (30) calendar days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the Owner and shall constitute a lien on the Owner's property for the amount of such costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in M.G.L. c. 59, §57, or any other successor statute, after the thirty-first calendar day following the calendar day on which the costs were due.

C. **Criminal Penalty** - Any Person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00 for each offense. Each calendar day that such violation occurs or continues shall constitute a separate offense.

D. **Non-Criminal Disposition** - As an alternative to criminal prosecution or civil action, the Town of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch.. 40, §21D in

which case the Conservation Commission or Designated Agent shall be the Authorized Enforcement Agency. The penalty for each violation shall be \$300.00. Each calendar day that such violation occurs or continues shall constitute a separate offense.

E. **Appeals** - All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

F. **Remedies Not Exclusive** - The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 13 Certificate of Stormwater and Erosion Control Permit Compliance

Since a Stormwater and Erosion Control Permit runs with the title of a property, the Permittee shall request the Conservation Commission to issue a Stormwater and Erosion Permit Certificate of Compliance upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law. The Certificate of Compliance shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Owner(s).

Section 14 Severability

If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any Person, establishment or circumstance shall be held invalid for any reason, all other provisions, to the maximum extent permitted by law, shall continue in full force and effect.”

ITEM TITLE: Article 21: West Natick Fire Station Signal Controls

ITEM SUMMARY:

ATTACHMENTS:

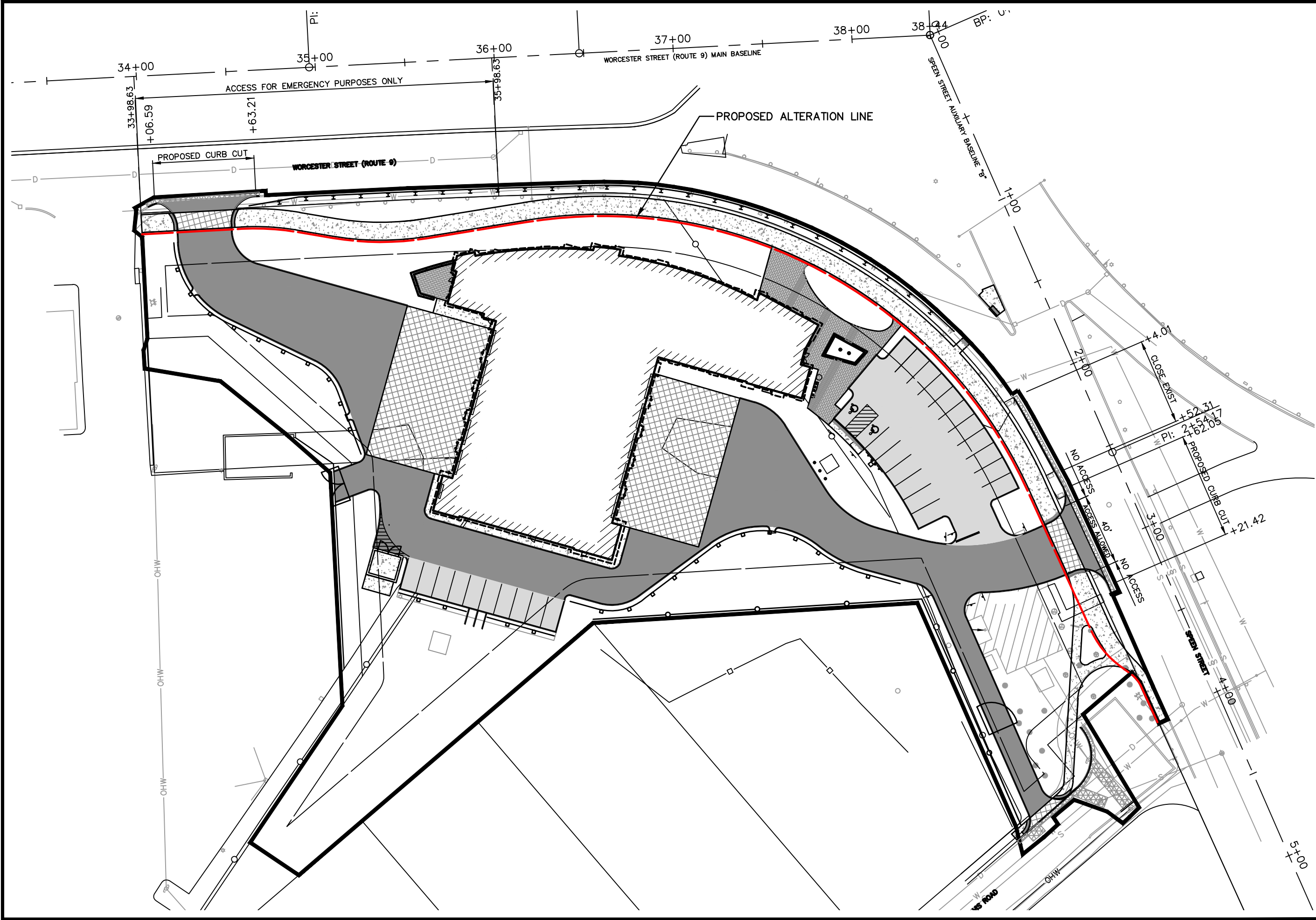
Description	Upload Date	Type
Article 21: MOTION	9/15/2019	Exhibit
Highway Alteration Plan for Article 21	9/15/2019	Exhibit

ARTICLE 21

West Natick Fire Station Signal Controls (Board of Selectmen)

MOTION:

Move that the Town vote, subject and pursuant to General Laws Chapter 40, Section 3, Section 4, and Section 15, and any other enabling law, to authorize the Board of Selectmen to release and convey all right, title and interest held by the Town, to the Commonwealth of Massachusetts Department of Transportation, on such terms and conditions, which may be nominal consideration, as the Board of Selectmen deems appropriate, of a portion of certain Town property located at 268 Speen Street for a shared use walkway for pedestrian travel to be located within the state highway layout; the portion to be discharged [will not exceed “x” s.f. and] is to be located one (1) foot from the innermost side of the shared use walkway that travels along the Route 9 off-ramp; and to take all action necessary or appropriate to accomplish the purposes of this article.



TOWN OF NATICK
CONCEPTUAL STATE HIGHWAY ALTERATION
WEST NATICK FIRE STATION 4

NATICK

MASSACHUSETTS

FUSS & O'NEILL
1550 MAIN STREET, SUITE 400
SPRINGFIELD, MA 01103
413.452.0445
www.fussandoneill.com

SCALE:	HORIZ.: 1"=50'
VERT.:	
DATUM:	
HORIZ.:	
VERT.:	
GRAPHIC SCALE	

PROJ. No.: 20170065.S10
DATE: APRIL 2019

ITEM TITLE: article 27: Real Estate Transfer Surcharge In Support of Affordable Housing
ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Article 27 Questionnaire with MOTION	9/13/2019	Exhibit

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

Email: randynatick@gmail.com

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 $1/.038 = 26\times$ 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.

-- end --

ITEM TITLE: Article 41: Contact Information Requirement for Town Meeting Members and Elected Officials

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Questionnaire with MOTION	9/13/2019	Exhibit

Section III – Questions with Response Boxes – To Be Completed By Petition Sponsor

Article # 41	Date Form Completed: Aug 28, 2019
Article Title: Contact Information Requirement for Town Meeting Members and Elected Officials	
Sponsor Name: Patricia Sciarra	Email: psciarranatick@gmail.com

Question	Question
1	Provide the article motion exactly as it is intended to be voted on by the Finance Committee.
Response	Move that the Town vote to add the practice that Town Meeting Members and Elected Officials provide contact information in the form of an email address and/or phone number to the Town Clerk following their being sworn in. And that the practice go into effect following the 2020 Spring Annual Town Election.
2	At a summary level and very clearly, what is proposed purpose and objective of this Warrant Article and the required Motion?
Response	The purpose is to provide constituents better and easier access to their elected town meeting members and elected officials. This gives constituents an easy way to participate their government and to ask questions and offer opinions on town issues. It also will make it easier for town agencies, other elected officials and TMM to contact each other.
3	What does the sponsor gain from a positive action by Town Meeting on the motion?
Response	The sponsor as well as Natick residents gain the ability to easily obtain the contact information necessary to communicate with their TMM and elected officials.
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	Currently there is no easy way to contact TMM on a timely basis. The proposed solution would allow Natick residents to have the information necessary to timely contact them. The town website currently lists each precinct's meeting member names and addresses. Adding an email address to this existing list will add value by providing an avenue to contact representatives in an expedient way.
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	This article seeks to establish a practice and therefore does not impact the Town Bylaws or capital plan. For a minimal cost of maintaining and publishing a list, we could substantially improve communications.

6	Have you considered and assessed, qualified and quantified the various impacts to the community such as:
	<ul style="list-style-type: none"> • Town infrastructure (traffic, parking, etc.) • Neighbors (noise, traffic, etc.); • Environment and green issues (energy conservation, pollution, trash, encouraging walking and biking, etc.);
Response	Email communication has no cost and could save residents the cost of mailing information to their representatives which includes the cost of paper and printing.
7	<p>Who are the critical participants in executing the effort envisioned by the article motion?</p> <p>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?</p>
Response	The town clerk's office would be responsible for collecting and maintaining the contact information. It should be noted that the town clerk's office already has an excel list of elected officials and this is already published on the website. We met with the town moderator, the town clerk and the town's information officer to discuss how to implement this article. All agreed that it could be easily accomplished.
8	<p>What steps and communication has the sponsor attempted to assure that:</p> <ul style="list-style-type: none"> • Interested parties were notified in a timely way and had a chance to participate in the process, that • Appropriate town Boards & Committees were consulted • Required public hearings were held
Response	See response above.
9	Why is it required for the Town of Natick AND for the sponsor(s)?
Response	This is not required but shows that the town is interested in citizen participation in town government. It also improves communications within the government.
10	Since submitting the article petition have you identified issues that weren't initially considered in the development of the proposal?

Response	No additional issues identified.
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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	There are other towns in the area that have a representative town government and are publishing e-mail addresses and/or telephone numbers on their town websites.
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	If this article is not approved, we will continue to deny citizens 21 st century access to their elected officials and town meeting members.

ITEM TITLE: Article 25: Access to Hunnewell Fields -POSTPONED to October 1, 2019

ITEM SUMMARY:

ITEM TITLE: Article 26: 22 Pleasant Street -POSTPONED to October 1, 2019

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Article 26-MOTION	9/13/2019	Exhibit
Article 26-Questionnaire	9/13/2019	Exhibit

22 Pleasant Street

“Move that the Town vote to amend its previous votes under Article 35 of 2015 Spring Annual Town Meeting, Article 29 of 2016 Spring Annual Town Meeting, Article 27 of 2017 Fall Annual Town Meeting which votes authorized negotiation, appropriation of funds borrowing for the acquisition of property known as 22 Pleasant Street; being shown as Assessors Map 64, Lot 44 in South Natick (the Site) by purchase, gift, eminent domain, or otherwise but which contain a condition that Board of Selectmen were not authorized to acquire said property unless a Purchase and Sale Agreement, satisfactory to the Board of Selectmen, is entered into with the owner of said property in order to

- 1) Amend the condition which currently reads “provided that the Board of Selectmen is not authorized to acquire said property unless a Purchase and Sale Agreement, satisfactory to the Board of Selectmen, is entered into with the owner of said property” so that such condition now reads “provided, in the event of a fee purchase of said property, that the Board of Selectmen is not authorized to acquire said property unless a Purchase and Sale Agreement, satisfactory to the Board of Selectmen, is entered into with the owner of said property and that such requirement for a Purchase and Sale Agreement shall not apply to acquisition by eminent domain taking or gift”
- 2) Amend the condition of Article 35 of Spring 2015 which currently reads “to authorize the Board of Selectmen to negotiate with the Owner of the 22 Pleasant Street Property to purchase and acquire the property for park and recreation purposes. Said property is to be acquired free and cleaned of all contamination for its intended use and purpose ” to now read “to authorize the Board of Selectmen to negotiate with the Owner of the 22 Pleasant Street Property to purchase and acquire the fee simple interest in the property for park, recreation access and related parking purposes. Said fee simple interest in the property is to be acquired free and cleaned of all contamination for its intended use and purpose”

and to provide an additional and alternative authorization for the Board of Selectmen

- a) To purchase, acquire, accept by gift, or take by eminent domain a comprehensive surface and air rights easement for park, recreation, access, and related parking purposes (“Comprehensive Easement”) for all, or substantially all, of the Site;
- b) To purchase, acquire, accept by gift, or take by eminent domain a limited or total sub surface easements for all or portions of the Site in conjunction with a Comprehensive Easement
- c) To vary any subsurface easement in depth and/or in lateral scope within the Site in order to avoid areas of i) underground contamination, including but not limited to any areas of contamination that rise or fall with periodic changes in the water table, ii) underground tanks and iii) underground areas containing any undesirable feature or condition
- d) That such Comprehensive Easement may alternatively be used for portions of the Site in conjunction with fee acquisition for other portions of the Site, provided that such combination result, at a minimum, in acquisition of all or substantially all the surface and air rights of the Site; and/or
- e) To use a Comprehensive Easement for all or substantially all of the Site either on a standalone basis or in combination with fee acquisition to acquire all beneficial surface and above ground rights, uses, buildings, structures, trees, areas of now or former canals located east of Pleasant

Street, and the like, in conjunction with limited or total subsurface easements for improvements for utilities and drainage or other subsurface areas; and/or

- f) To negotiate and/or to impose an Activity and Use Limitation to encompass and/or to encapsulate and/or to pave over or otherwise restrict use of any areas of or over identified contamination;
- g) To allow access, whether by right, permission or otherwise, through designated portions of the Site once acquired under this Article for the use of the Wellesley Cooperative Nursery School (or any similar charitable trust successor) located on deed restricted land under the deed of Isabella Pratt Hunnewell Shaw at Merrill Road (a private way) abutting Hunnewell Park
- h) In connection with any fee acquisition, Comprehensive Easement, or combination thereof, either to permit or to require the owner of the Site or other party to:
 - i) remove all or part of the existing building,
 - ii) fill any basement or substructure areas that are removed with clean fill,
 - iii) excavate, remove and replace any contaminated soil with clean fill,
 - iv) excavate and remove any underground tanks and replace same with clean fill,
 - v) excavate and remove any underground wheels, machines, generators, water flow harnessing devices, and the like and replace same with clean fill,
 - vi) the preference being that areas of now or former canals east of Pleasant St not be filled in such a way that such canal use cannot be revived
 - vii) specify that such removal and replacement activities may occur either before or for a period of time after the closing on or eminent domain taking of the Town contemplated under this Article,
 - viii) that access may be allowed for the owner or other party after the closing, or eminent domain taking for such period of time as the Selectmen may negotiate to accomplish the purposes of this Article, and/or
 - ix) that such subsequent access may include monitoring of the Site
- i) To acquire as part of any Comprehensive Easement or fee include:
 - i) the portions of the Charles River that are recorded as part of the 22 Pleasant Street lot; and
 - ii) any and/or all above ground, surface and/or subsurface utilities serving or accessible to 22 Pleasant Street; and
 - iii) any and/or all rights of 22 Pleasant St on, of and/or to lands, flow lands, dam access and repair, submerged lands and or all other real property interests and rights located to the west of Pleasant Street.

Further, to authorize the Board of Selectmen and other applicable boards, commissions, and personnel to apply for and receive grants or gifts for the purposes of this Article and to take all action necessary or appropriate to accomplish the purposes of this Article;

And further provided that the term “substantially all” shall have the meaning provided under the warrant article

And further provided that all other provisions of the votes of Article 35 of Spring 2015 Town Meeting, Article 29 of Spring 2016 Town Meeting and Article 27 of Fall 2017 Town Meeting shall remain in full force and effect.

Warrant Article Questionnaire Non-Standard Town Agency Articles

Section III – Questions with Response Boxes – To Be Completed By Petition Sponsor

Article # 26	Date Form Completed: 9/9/2019
Article Title: 22 Pleasant Street	
Sponsor Name: Park and Recreation Commission & Seth Levine et al.	Email: nrpdjason@gmail.com

Question	Question
1	Provide the article motion exactly as it will appear in the Finance Committee Recommendation Book and presented to Town Meeting for action.
Response	Please see attached motion.
2	At a summary level and very clearly, what is the proposed purpose and objective of this Warrant Article and the accompanying Motion?
Response	<p>Access to the Hunnewell Park fields was been revoked by the owner of 22 Pleasant St. on November 28, 2018 effective as of the earlier of 12/01/19 or sale of the property. The Board of Selectmen and Town Administration received this letter, return receipt registered mail, in early December 2018. The letter is attached.</p> <p>The purpose is to acquire a Comprehensive surface and air rights of 22 Pleasant Street to accomplish four key objectives in one acquisition: 1) to gain unfettered access rights to Hunnewell Park fields, 2) to gain ability to park on 22 Pleasant Street in addition to or instead of on Hunnewell Park gravel lot, 3) to complete an assemblage of recreation, open space land and 4) to avoid any Town involvement with the underground contamination that was the stated reason for the Board of Selectmen not following through on the fee simple purchase of 22 Pleasant Street.</p> <p>The concept of a Comprehensive surface and air right easement is a straightforward concept used routinely in the commercial real estate world. In fact, a form of such easement was used by the Town to acquire Pegan Hill in 2016.</p> <p>22 Pleasant St is essential to the access to and any meaningful use of Hunnewell Park fields.</p>
3	Has this article or one of a very similar scope and substance been on a previous Warrant Article and what has been the actions taken by Finance Committee, other Boards or Committees and Town Meeting?

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Response	<p>Three previous articles for the fee acquisition of 22 Pleasant Street were approved by Town Meeting by overwhelming 2/3's plus votes. The minutes for these articles and actions of Town Meeting are attached. These minutes include the Finance Committee recommendations.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <th style="width: 25%;">Warrant Period</th><th style="width: 25%;">Other Committees</th><th style="width: 25%;">FinCom Action</th><th style="width: 25%;">Town Meeting</th></tr> <tr> <td>FTM 2016</td><td></td><td></td><td></td></tr> <tr> <td>SATM 2016</td><td></td><td></td><td></td></tr> <tr> <td>FTM 2015</td><td></td><td></td><td></td></tr> <tr> <td>SATM 2015</td><td></td><td></td><td></td></tr> <tr> <td>Prior</td><td></td><td></td><td></td></tr> </table> <p style="margin-top: 20px;">Comments:</p>	Warrant Period	Other Committees	FinCom Action	Town Meeting	FTM 2016				SATM 2016				FTM 2015				SATM 2015				Prior			
Warrant Period	Other Committees	FinCom Action	Town Meeting																						
FTM 2016																									
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4	Why is it required for the Town of Natick and for the Town Agency sponsor(s)?																								
Response	<p>Access to the Hunnewell Park fields was been revoked by the owner of 22 Pleasant St. on November 28, 2018 effective as of the earlier of 12/01/19 or sale of the property. The Board of Selectmen and Town Administration received this letter, return receipt registered mail, in early December 2018. The letter is attached.</p> <p>The acquisition of surface and air rights easement is the only cost effective way to <u>assure</u> access to Hunnewell Park. Although a gift of access is theoretically possible, reliance on a possible gift is a bad strategy. There can be no assurance that a gift of access would be given. There is also no assurance that a gift of access is possible either on a timely basis or ever.</p> <p>The issue of access was extensively analyzed by the 22 Pleasant Street Study Committee in 2014. The report which included the key findings on access is available. (The chair and vice chair have prepared a detailed and further explanation of various access ideas and related problems.) The key findings from the 2014 committee work – which were analyzed and written with the assistance of Town Counsel - are:</p> <ol style="list-style-type: none"> 1) The Town has no right of access through 22 Pleasant St. 2) The Town cannot obtain access by asserting adverse possession or prescriptive easement. 																								

Warrant Article Questionnaire Non-Standard Town Agency Articles

- 3) The Town cannot use any form of zoning or special permit or variance to trade for access rights. Such would be an illegal use of “police power” with serious US constitutional issues involving land takings without compensation.
- 4) The Town's only possible existing access connection is a 15 foot wide cart path that extends 382 feet from Pleasant St to the Hunnewell Park dirt and gravel lot.
- 5) This 15 foot wide corridor is actually 12.5 feet because the stone wall is on the 15 foot wide strip of Town land. Either way, it is too narrow for two vehicles to pass and is located too close (4 feet+/-) to the driveway of 22 Pleasant St to be a safe means of access and egress.
- 6) The Town's zoning bylaws and other regulations could actually be used against the Town if the Town were to try to create separate or joint access.

The Board of Selectmen were informed of these access problems in July 2014 by the study committee, were urged to seek an access solution and cautioned that it might not/would not be cheap because of the complexity of the 22 Pleasant St. property. The Board of Selectmen and Town Administration should have been aware as early as 2009 that access was an issue. Temporary access barriers were installed by the owner at that time.

Last November 2018, the owner of 22 Pleasant St revoked the Town's access privileges effective at the earlier of 12/01/19 or sale of the property. This letter and this fact were withheld by the Selectmen and Town Administration for over 8 months. The existence of this letter has only recently emerged. (Note: The letter itself is NOT executive session or confidential material.) Without access, the Town's ability to use Hunnewell Park and its ballfields is seriously impaired if not ruined. Because of the threat to the Town's ability to use Hunnewell Park, the Recreation and Parks Commission and the citizens sponsored this article.

The Town has four options to consider:

- 1) lose access or Field Two,
- 2) hope for a gift of access,
- 3) pay all the costs for and attempt to acquire access only or
- 4) acquire a Comprehensive Surface and Air Rights Easement for the whole property.

Option 1 is unacceptable. Option 2 is a problematic strategy. Option 3 will not be cheap and could cost \$1.5 to \$2.5 million because of the possible effects of taking access. In any eminent domain taking, damages are due not only for what is taken but also for the effects of the taking on any land not taken. (For convenience, these are referred to in this write-up as the direct damages and the consequential damages respectively.) Option 4 would secure access, avoid the cost of re constructing the driveway, provide rights parking areas of 22 Pleasant St that are already used extensively by the Town, complete an assemblage of park and recreation land and avoid underground contamination.

Option 1: Lose Access or Field Two

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Losing access is unacceptable. Although it is theoretically possible to create access in through Field Two and around to the gravel parking lot, this would result in the loss of Field Two. That is unacceptable.

Option 2: Hope for a Gift of Access of Rights

Any gift of access would need to be a true gift. It could not be coerced or compelled. A gift would require the consent of the owner of the property, any tenant for the property and any mortgage lender. The current owner has sent us an access revocation notice; not a gift. Any buyer could not give us access until they owned the property. If they used a mortgage lender, that lender would need to agree to release those rights from their collateral. If the property is rented, the tenant would need to agree. If a buyer or tenant needed a special permit before buying the property, attempts to conflate access and special permit could result in legal claims and damages against the town by the buyer and/or the seller (or the tenant and/or landlord) for interference in a transaction. If a transaction does not happen soon, we would be dealing with the existing owner – who sent us the revocation notice. New buyer might understandably want to understand what the level of access demand and effects on their property are before considering a gift.

A gift would also raise complicating issues of insurance and maintenance. A gift of access would cross part of 22 Pleasant St. In today's world of liability, very few if any businesses can get their insurance company to cover extensive use of their property by non company and non business related traffic. Employees, customers, deliveries and visitors would be likely covered. However, 1,100 to 1,00 Little Leaguers and their parents, siblings and grandparents most likely won't. A company giving a gift would need to consider whether they would be covered or self-insured. Maintenance expenses and responsibilities would be a similar issue.

The Town has been incredibly fortunate that Mr. James Knott, Sr. who owned the property personally allowed us access privileges for so long. It's not clear the Town ever even said "Thank you". It is not clear if Mr. Knott was personally covered under a large person umbrella insurance policy or was not concerned about such issues. Fifty six years ago when he purchased the property, personal injury and liability insurance concerns are not what they are today. A new owner could understandably have serious reservations and problems with any gift of access.

Reliance on a gift of access is essentially a pure hope on the generosity of a commercial party. This is not a strategy to secure access. It is simply a hope. Further it is a hope with serious impediments.

Options 3: Pay All the Costs For and Attempt to Acquire Access Only

This option is not part of this article. This option is not cheap, will not be timely, presents numerous potential litigation problems and could even be prevented by an owner of 22 Pleasant St. These factors are explained below and make this option problematic.

22 Pleasant St. access will not be cheap.

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The front part of 22 Pleasant Street consists of RG zoned land but has frontage on a private way from a 1911 recorded plan. This private way runs from Pleasant St. to the Charles River. Town Counsel advised that this private way could be used as legal frontage although the private way would need to be constructed to current and wider standards. Even with these standards, the RG portion of 22 Pleasant St. appears adequate for three residential lots. RG land allows for single family or two family duplexes on each lot. A Town driveway through this RG land could render these lots worthless requiring full compensation for that portion of the land. Take your estimate of a residential lot in South Natick and multiply by three. However, there are potential costs and value effects on the Ind -1 part of the property.

As determined by the study committee and town counsel, the existing building could be converted as of right to an office building or even demolished and rebuilt in the same location as a fully modern office building. Both an office and an industrial use would require access and egress. Town interference with those access rights could lead to further damages in addition to damages for taking the RG lots. The fact is that all of the access and egress rights currently belong to the owner of 22 Pleasant St. None belong to the Town.

The Town would need to consider effect of the Town's traffic in and out of 22 Pleasant Street. 22 Pleasant Street has approximately 120 to 125 feet of frontage on Pleasant Street. However, the actual driveway of 22 Pleasant St. is about 40 to 45 feet wide at the line of Pleasant St. The driveway cannot be widened and cannot be relocated because of the state bridge abutment. This means two way (in and out) Town access would have to use part of the existing driveway at least at the entrance /exit. This creates a potential traffic conflict with traffic for the existing building in the industrial I part of 22 Pleasant St. in addition to safety issues.

Potential traffic conflicts between the youth baseball and softball programs and a commercial use of the Ind -1 part of 22 Pleasant St could conceivably deprive the Ind -1 part of the site of most if not all of its value depending on the type of commercial use. For example, an owner might claim to be unable to rent the building to tenants who need unimpeded access in and out of 22 Pleasant St at the beginning and end of each business day throughout the year; not just outside of baseball season. The Town's use of 22 Pleasant St would not support the town's position to the contrary. Baseball and softball parking of 20 or more vehicles regularly sprawls onto 22 Pleasant St and sometimes even takes all of the parking including the entire length of the existing driveway. Whether these vehicles continue to do that and have to be ticketed and towed, park instead on Pleasant St, create traffic problems in/out of 22 Pleasant St., or otherwise, serious adverse effects could result for the commercial use. The extent of any such damages would be the subject of expert (not legal) analysis and testimony. The cost of litigation , expert reports and additional damages should not be dismissed. If the Town were to lose, it would have to pay.

Cart Path Cannot be Combined with 22 Pleasant Street or Used in Isolation

The Town has a 15 foot wide strip of land that runs 382 feet from Pleasant St. to the gravel /dirt parking lot which is also located on Town land. This 15 foot wide street is part of Hunnewell

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	<p>Park. Although the town owns this 15 foot wide strip, surveys indicate that an historic stone wall is located along this strip of land and that the actual available width is 12.36 feet.</p> <p>This strip of land is not wide enough for two vehicles to pass. This strip of land is not a driveway, does not have a curb cut and is only 4-5 feet from the driveway of 22 Pleasant St. The Town's strip of land at the Pleasant St. line ends directly at a pedestrian walkway with handicapped access paving. It would require a curb cut and permitting as a driveway. (See further discussion below.) In the unlikely event that it was successfully permitted, it would require expensive police details at each end of the 382 foot length. The current cost of these details – just for the Little League season of April, May and June would be approximately \$120,000 per season. At a 4% discount rate and no inflation, that is a present value cost of \$3,000,000 just for police details. There would be additional costs for paving the new driveway.</p> <p>All of Hunnewell Park is Article 97 protected land. Article 97 prevents this 15 foot wide strip from being combined with land from 22 Pleasant St. for either a shared driveway or a new street. Any conversion of Article 97 land to a non park use requires a unanimous vote of the Selectmen, a 2/3's vote of Town Meeting for this purpose, preparation and filing of an Environmental Notification Form to the Secretary of Energy and Environmental Affairs, related MEPA approval including mitigation lands, a 2/3's roll call vote of the Massachusetts House of Representatives and a 2/3's roll call vote of the Massachusetts Senate. A shared driveway also presents permitting obstacles and risks as discussed below.</p> <p>If a new driveway were 30 feet or more in width and opened to the public, it would be a street under the Zoning ByLaw. As a street it would need to terminate into a cul de sac that is 120 feet in diameter. Such a cul de sac could not be located in Article 97 land, would need to be located entirely on 22 Pleasant St., and would add to the damages for RG lots and could add to the damages for traffic conflicts. Further costs and time delays would be needed for the construction of a new street.</p> <p style="text-align: center;"><u><i>Litigation Risks and Permitting Barriers and Requirements Exist w/ Option 3</i></u></p> <p>Any change in the existing driveway would require a special permit and site plan review. Driveways which are located too close to one another cannot be permitted. If permitted, they can be appealed. In fact any special permit and site plan can be appealed. Such appeals, if sustained by a court, could prevent an access only solution.</p> <p>Shared driveways are also prohibited in the current zoning bylaw. A zoning bylaw change would be needed. Any zoning bylaw change would apply throughout town and might be a problematic idea. Significant litigation costs, delays and uncertainties could occur.</p> <p style="text-align: center;"><u><i>Significant Implementation Problems and Delays Exist w/Option 3</i></u></p> <p>To implement an access only solution will likely require the use of eminent domain. We should remember that the owner has revoked access privileges. The above problems would or could occur <u>after</u> an eminent domain taking. Before an eminent domain taking, detailed plans would</p>
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	<p>need to be prepared locating the taking . Appraisal would need to be obtained before the taking. Reportedly, no such plan has been prepared and no appraisal commissioned. Both would need to be completed before Fall Town Meeting dissolves.</p> <p>Once a taking and amount of money were approved by Town Meeting, order of taking would need to be drafted, voted and then recorded at the Registry of Deeds by the Selectmen. Then the permitting process and potential litigation over damages could commence. The permitting could not be started without a zoning change which is not on the warrant. Once all of these were accomplished and assuming that no litigation was filed for an unsafe driveway, the Town could begin work on the new driveway sometime next June after Spring 2020 Town Meeting votes the money to build the driveway. The 2020 youth baseball and softball season would not occur. Access would not be available until after a driveway was completed. If a new driveway was successfully appealed, the current youth baseball and softball programs would cease to exist.</p> <p>For all of these and other reasons, the sponsors believe that attempts at access only solutions are highly problematic and potentially as costly or more costly than outright acquisition of 22 Pleasant St especially when costs are measured not only in terms of Town funds but also in terms of the costs and consequences to programs. For these reasons, the sponsors wrote the article to prevent misguided efforts to use this article for access only.</p> <p><u>Option 4: Acquire a Comprehensive Surface and Air Rights Easement for the Whole Property</u></p> <p>This option definitively secures access and does so on a timely basis without any permitting or construction costs, litigation and time delays. This option is the only option that secures and assures access. The only litigation risk is for extra damages. Although possible, this is unlikely. The existing Town Meeting appropriation for \$3.2 million is also the listing price on LoopNet. One broker lists it for 3.4 million. However, an owner would be hard pressed to demonstrate further damages if the Town met a published list price.</p> <p>The Comprehensive Surface and Air Rights Easement would take all of the beneficial uses of 22 Pleasant St but would avoid the underground contamination. Such an easement is a traditional solution when there is something underground that the buyer (us) doesn't want or something valuable underground that the Seller does not want to give up.</p> <p>The acquisition costs under this article are fairly fixed and do not have permitting, litigation or additional damages risks. The existing driveway would be used but only by the Town. This driveway is covered under zoning. Properly negotiated or even coordinated with an eminent domain taking, the current owner would be able to remove the under ground contamination which necessitates knocking the existing building down. The current owner could remove the contamination and get their family/company out of likely future environmental liability. An activity and use limitation i.e. for parking over any area of current or former contamination – similar to the Rail Trail and Mechanic Street, could ensure this. Properly negotiated, this Option</p>
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	<p>4 could result in the cleanup of underground contamination next to the Charles River. This is something no other option provides.</p> <p>This Comprehensive Surface and Air Rights Easement approach also provides other benefits.</p> <p>People would be able to park on the paved area of 22 Pleasant St. The overcrowded parking conditions would be relieved. Over time new fields (baseball, softball or other) could be designed either on the current gravel lot or on the RG part of 22 Pleasant St. Parking could be provided in the area of the current building. The assemblage of 22 Pleasant St with the Hunnewell Park land creates any number of possibilities that could never otherwise even be considered. The sponsors note that the boundary line between Hunnewell Park and 22 Pleasant St is approximately 1,000 feet long and runs from Pleasant St to the Charles River.</p> <p>In addition, 22 Pleasant St sits in the center of extensive town park lands on the other side of Pleasant Street that consist of almost 16 acres. These parklands are partly wet a seasonal basis and other parts always dry. These lands are not well used because they lack parking which 22 Pleasant St could provide. Further the Town owns park and conservation land on the other side of the Charles. Prior to the great depression, canoeing and boating were available on both sides of Pleasant St. The possibility exists to revive these uses and include kayaking.</p> <p>One Selectmen has remarked that we should never buy land without knowing the definitive plan. That is not the way the real estate world works. Any assemblage inherently has value and allows that planning to then take place. This assemblage also definitively secures access and adds parking.</p> <p>The game of Monopoly was patterned after the way the real estate world works. In Monopoly getting all the colors is the real world equivalent of completing the assemblage. Even children understand the benefit of owning Boardwalk and Park Place and then figuring out if your building houses or hotels. Once you own all the colors the value goes up and then you get flexibility to do things that otherwise are not possible. The game is a simplified version of reality but the principle holds. And in a certain sense our Hunnewell Park is the Boardwalk to 22 Pleasant Street's Park Place.</p>
5	Does this article require funding, how much, from what source of funds and under whose authority will the appropriation be managed and spent?
Response	This article seeks to amend the previous borrowing authorization and appropriation for the fee simple purchase of 22 Pleasant Street by adding the surface and air rights as a use if the funds. The previous appropriation and borrowing authorization of \$3.2 million would be unchanged.

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6	<p>Does this article act in any way in concert with, in support of, or to extend any prior action of Natick Town Meeting, Massachusetts General Laws or CMR's or other such legislation or actions?</p> <p>Does this article seek to amend, rescind or otherwise change any prior action of Natick Town Meeting?</p>
Response	<p>This article is in concert with three previously voted article of Town Meeting i.e. Article 35 of Spring 2015, Article 29 of Spring 2016, and Article 27 of Fall 2017.</p> <p>Yes, this motion seeks to amend the previous purchase authorizations to allow acquisition of surface and air rights instead of the fee ownership to the center of the earth. The motion also seeks to apply the condition of a purchase and Sale agreement only to a fee simple purchase. The relaxation of this provision would permit eminent domain which would otherwise be precluded. Because the motion seeks a surface and air rights easement and allows subsurface easements if the underground contamination is avoided and because the reported contamination is underground, the motion also seeks to relax the requirement that the property be free and clear of contamination. Such restriction would not be relevant to surface and air rights. However, the motion permits an activity and use limitation over any area of underground contamination which is not remediated.</p> <p>The article permits and the motion includes amendments to the previously voted town meeting actions. These amendments are contained in the motion.</p>
7	<p>How does the proposed motion (and implementation) fit with the relevant Town Bylaws, financial and capital plan, comprehensive Master Plan, and community values as well as relevant state laws and regulations?</p>
Response	<p>The proposed motion and its implementation are not affected by the Towns ByLaws. The Town does not have a financial plan so called. The item is not on the capital plan but then again neither is the loss and replacement of Hunnewell Park. The motion is highly consistent with the Open Space Plan and Master Plan.</p>
8	<p>Who are the critical participants in executing the effort envisioned by the article motion?</p>

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Response	(Type response here)
9	<p>What steps and communication has the sponsor attempted to assure that:</p> <ul style="list-style-type: none"> • 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	<p>Multiple attempts were made to communicate with the Board of Selectmen who indicated a) they would be unable to meet with the citizen sponsors before the warrant closed, b) had no plans for any access or other article for 22 Pleasant St. c) wanted to wait until after the warrant closed, and d) could not have any communication outside of executive session.</p> <p>The citizen sponsors went to the effort of writing up detailed analysis to get the Selectmen to focus. Selectperson Adelman Foster actually read it.</p> <p>In Spring 2015, the Board of Selectmen actually sponsored an article (Article 34 of Spring 2015) for acquiring access by purchase or eminent domain. They requested and received Referral to the Sponsor. The sponsors of this Article 26 suggest that the Finance Committee compare the language of Article 25 on the current warrant to Article 34 on the Spring 2015 warrant and note the greater precision of the 2015 article. There have been 8 annual and several special Town Meetings since that request for referral for the Selectmen to have proposed a potential access idea.</p> <p>During the preceding 5 years no member of the Board of Selectmen or Town Administration had any interest in meeting with members of the study committee on the details and problems of access. Last September and October, after concerns about underground contamination were made public (after the then warrant had closed), member of the study committee informed the then Chairperson of the Board of Selectmen about the ability to avoid contamination concerns by using a surface and air rights easement concept. The idea was summarily rejected without consideration or opportunity to explain the concept.</p>
10	Since submitting the article have you identified issues that weren't initially considered in the development of the proposal?
Response	(Type response here)

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11	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	<p>The Town will likely lose access to the Hunnewell Park fields either for the 2020 youth baseball season or permanently. The youth baseball and softball programs could be impaired or shut down. The Town would also forfeit a once in 100 year opportunity to complete a large recreation land assemblage in South Natick.</p> <p>Under an alternative article, the Town could also find itself paying equivalent money just for an access driveway, being embroiled in lengthy and losing litigation and finding the required permits for its access driveway overturned by the courts on safety, zoning and other grounds.</p> <p>The time frame for the implementation of this article is straightforward and direct. The Town could take the surface and air rights easement by eminent domain within 45 days of the dissolution of Fall 2019 Town Meeting. This time period would give the Boar of Selectmen time for a meeting to draft, approve and record the order of taking and pay the associated funds. The Town already has an appraisal for the full property.</p> <p>Under an alternative article, the Board of Selectmen would need to layout and define what would be taken, get an appraisal for that, and then draft and approve and record the order of taking and then begin a Special Permit process and Site Plan Review for a new or altered driveway which could be appealed by the property owner or any abutter.</p> <p>The order of taking for all of the surface and air rights under this article is rather easy to draft: it's everything. No special permit would be required because the pre-existing driveway would be used and would be only for one use.</p> <p>Drafting a partial taking for a driveway requires detailed survey and engineering plans to determine the location of the easement. Such an easement would be complicated by issues of responsibility for insurance and maintenance. The alternative also requires either alteration of the existing driveway to accommodate two uses or construction of a second driveway – at least in part. This construction would add to the time frames for the alternative.</p>