

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

October 1, 2019 at 7:00 PM

MEETING AGENDA

Posted: Friday, September 27, 2019 at 10:00 AM

1. **Call to Order**
2. **Announcements**
3. **Public Comments**
 - a. Committee policy & procedures available via this link and also at the meeting location
4. **Meeting Minutes**
 - a. Review & Approve September 10, 17, 19, 24 and 26 2019 Meeting Minutes
5. **2019 Fall Town Meeting Warrant Articles - Public Hearing**
 - a. Article 19: Amend Article 79A of the Town of Natick By-Laws: Stormwater Management and Erosion Control - Continuation
 - b. Article 20: Transfer of land to Conservation Commission: Portions of 165 Mill Street Parcel - Possible Reconsideration
 - c. article 27: Real Estate Transfer Surcharge In Support of Affordable Housing
 - d. Article 12: Capital Improvements - Motion A2 Only: Hunnewell Field Improvements
 - e. Article 25: Access to Hunnewell Fields
 - f. Article 26: 22 Pleasant Street
 - g. Article 9: Rescind Authorized, Unissued Debt
 - h. Article 2: Stabilization Fund
 - i. Article 3: Operational/Rainy Day Stabilization Fund
 - j. Article 4: Capital Stabilization Fund
 - k. Article 5: Other Post-Employment Benefits (OPEB) Appropriation or Transfer of Funds
 - l. Article 6: Collective Bargaining
 - m. Article 7: Personnel Board Classification and Pay Plan
 - n. Article 8: PEG Access and Cable Related Fund - Possible Reconsideration

6. **Committee Discussion (for items not on the agenda)**

- a. Town Meeting Recommendation Book - draft

7. **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: 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: Review & Approve September 10, 17, 19, 24 and 26 2019 Meeting Minutes

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Sept 10 Minutes draft 2	9/30/2019	Exhibit
Sept 17 Minutes draft 1	9/30/2019	Exhibit
Sept 19 Minutes Draft 1	9/30/2019	Exhibit



Natick Finance Committee

Pursuant to Chapter 40, Section 3 of the Town of Natick By-Laws, I attest that the attached copy is the approved copy of the minutes for the following Meeting:

Town of Natick Finance Committee

Meeting Date: September 10, 2019

The minutes were approved through the following action:

Motion:	TBD
Made by:	name
Seconded by:	name
Vote:	vote
Date:	date, 2019

Respectfully submitted,

Bruce Evans

Clerk

Natick Finance Committee

NATICK FINANCE COMMITTEE MEETING MINUTES



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 10, 2019 at 7:00 PM

MEMBERS PRESENT:

Linda Wollschlager, Vice-Chairperson
Bruce Evans, Clerk
Michael Linehan, Member
David Coffey, Member
Jim A. Scurlock, Member
Daniel Sullivan, Member
Philip Rooney, Member
Jeff DeLuca, Member
Jerry Pierce, Member
Tony Lista, Member

MEMBERS ABSENT:

Kristine Van Amsterdam, Member
Patrick Hayes, Chair
Dirk Coburn, Member
Bill Grome, Member

AGENDA:

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
 - d. Swearing in of New and Newly Appointed Member
2. Announcements
3. Public Comments
 - a. Committee policy & procedures available via this link and also at the meeting location
4. Meeting Minutes
 - a. Discuss and Approve Meeting Minutes for: March 19, March 21, April 4, Sept 3, 2019
5. 2019 Fall Town Meeting Warrant Articles - Public Hearing
 - a. [Article 15: Street Acceptance-Eliot Hill Road, Merifield Lane, Woodcock Path](#)
 - b. [Article 16: Street Acceptance – Michael Terrace](#)
 - c. [Article 17: Street Acceptance – Clearview Terrace](#)
 - d. [Article 18: Amend Article 70 of the Town of Natick By-Laws: Public Works Regulations](#)
 - e. [Article 20: Transfer of land to Conservation Commission: Portions of 165 Mill Street Parcel](#)
 - f. [Article 22: Amend Article 20 of the Natick Town Bylaws](#)
 - g. [Article 23: Alteration of Layout of North Main Street \(Route 27\) and Adjacent Streets](#)
 - h. [Article 24: Transfer of Land and Grant of Easement to Natick Affordable Housing Trust: 299-301 Bacon Street](#)
6. Committee and Sub-Committee Scheduling
7. Committee Discussion (including items not on the meeting agenda)
8. Adjourn

CALL TO ORDER

Meeting called to order at 7:00 p.m. by Vice Chair, Linda Wollschlager. Ms. Wollschlager said that the Finance Committee would review the articles in this order: 20, 18, 17, 15, 16, 22, 23, and 24.

ANNOUNCEMENTS/CITIZENS CONCERNS:

None

PUBLIC COMMENTS

Ms. Cathi Collins, Member School Committee read the following letter.



September 10, 2019

Dear Board of Selectmen,

We write to you to share our serious concern about the impact the current town government accounting process has on the school department. There have been several attempts to improve the process over the past two years, and more specifically over the past four months, but the efforts have fallen short. **This issue is particularly urgent because the school department is currently unable to close the books for FY19 due to lack of information.** We feel it is important to have a public discussion of the issue so that we can share the negative impact the current process has on the ability of the school department to function efficiently and transparently.

Timeliness of requisition and purchase order process

The first issue is the speed at which purchase orders are processed and invoices paid. The process is paper-intensive and centrally controlled. Use of paper increases time for processing and central control means very few individuals can process requests. The school department has had to develop “work-arounds” simply to make it possible for teachers and staff to be able to purchase the supplies they need to operate. The following work-arounds have been utilized to ensure schools can operate in service to students:

4. “Open” purchase orders - created at start of year
5. Invoices paid without purchase orders - “non-p.o warrants”
6. Reimbursements to employees for charges made

The School Committee believes the current system is unacceptable. The Town of Natick employs a powerful accounting system in MUNIS. We should not be operating outside of it, tracking requisitions, purchase orders, and invoices on Excel spreadsheets and paying for items without the appropriate tracking procedures. It is our responsibility as School Committee members to accurately track the budget and ensure funds are being spent as the citizens of Natick intended. We cannot do so within the current system.

We can tell you that the impacts of this outdated, slow and lengthy process are

very real for our students and staff as well. In May, just before the busy spring concert season, our music software system was shut down because payment had not been received. In July, the school department came within one day of having our entire network shut down because a requisition had not been converted to a purchase order. As we know you understand, this situation is untenable.

As alluded to earlier, the current process is controlled by the very few individuals who have access to the municipal finance system MUNIS. At a meeting in May, a commitment was made to expand access to MUNIS within the schools such that the purchase order process could be initiated by a larger number of users. Increased access to MUNIS is imperative so that we can more effectively manage the school budget and track expenses in a timely manner throughout the year.

While increased access has been granted, there has been no agreement on internal process to capitalize upon that increased access. This increased access is useless without meaningful reform to the internal process. There has been no attempt to discuss any revisions to the process that would allow the school department to operate in a fully transparent and efficient way. We are appreciative that Mr. Townsend accompanied Dr. Gray on a site visit to another school district on August 7th to learn more about the ability of MUNIS to increase transparency within the purchase order process. However, there has been no follow up to the visit and no indication of any change.

Day-to-Day Financial Management

Currently, the business office of the district is not able to input any of their own accounting records, such as “journal entries.” This is not a matter of control, but rather a necessary practice for the district to actively manage and monitor funds in various accounts. Relying upon individuals outside the district office, who understandably operate under different timelines and time constraints, is not an effective or transparent method of financial management.

We believe it is important to remember that the school department operates differently than other town departments. According to state law, “the city of town appropriating body is authorized to make non-binding monetary recommendations to increase or decrease certain items allocating such appropriations, but it may not limit the school committee's authority to determine expenditures within the total appropriation. (G.L. c. 71, [[section]] 34) The school committee remains the body responsible for approving and transmitting school department expenditures to the municipal accountant for the drawing of warrants.” In addition to state law, The Town of Natick Home Rule Charter states: “ He (Town Administrator) shall be

responsible for the purchase of all supplies, materials and equipment, and shall award all contracts for supplies, materials and equipment for all departments and activities of the town, **except for the school department.”**

Staffing and Scope of Responsibility

Because the current system requires all items go through town accounting department, it is inevitable that responses are delayed and items overlooked given the sheer volume of requests received. In addition, the school department continues to receive questions regarding purchases that are beyond the scope of responsibility of town staff. Unlike other town departments, the school department, per state statute, employs not only a chief financial officer, but also a fully staffed business office to manage and provide oversight for the day-to-day financial practices of the district. Recent questions regarding payment of Kennedy Building invoices, as well as a proposal to manage the \$110 million Kennedy project with separate purchase orders, has sparked deep concern about knowledge and capacity within town departments.

We know the financial management process in town government is complex and checks and balances are necessary to ensure precision, transparency, and accuracy. However, the current processes are impeding the ability of the school department to function effectively. It is within your purview to take action to reform this process, both to allow the school department to operate more transparently and to better serve the citizens of the town.

Sincerely,

The Natick School Committee

Julie McDonough, Chair

Matthew Brand, Vice-Chair

Donna McKenzie, Clerk

Cathi Collins

Shai Fuxman

Henry Haugland

Hayley Sonneborn

Mr. Michael Hickey, Chair, Board of Selectmen acknowledged the receipt of this letter and would review the letter and try to address the concerns and develop workarounds.

MOTION

Mr. Evans moved to open the 2019 Fall Annual Town Meeting Warrant Article Public Hearing, seconded by Mr. Coffey, Voted 10 – 0 – 0.

[Article 15: Street Acceptance-Eliot Hill Road, Merifield Lane, Woodcock Path](#)

Presenters:

Mr. Jeremy Marsette, Director Dept. of Public Works (DPW)

Mr. Michael Hickey, Chair, Board of Selectmen

Mr. Bill Chenard, Deputy Town Administrator, Operations

Mr. Hickey said that there are cases where the roadway was not accepted even though there was an approved subdivision plan. Some roads had portions that accepted roadways whereas other parts of the roadway were unaccepted.

Clearview Terrace and Michael Terrace are two such examples and were on the Roadway Improvement plan. Without Articles 15, 16, & 17, the town would only be able to re-pave portions of these two roads which is unacceptable.

Mr. Chenard noted that all roadways in Articles 15, 16, & 17 have a subdivision plan with street layouts that is on file at the Middlesex South Registry of Deeds, so there is no design cost to layout these roadways. The only costs are legal fees and the cost to implement this acceptance following Town Meeting approval.

Mr. Marsette noted that several years ago, Natick created a simplified procedure for street acceptance that was approved by the State Atty. General. These procedures apply to roadways that were approved by the Planning Board under the Modern Subdivision Control Regulations. Unfortunately, this procedure doesn't apply to all 26 miles of private ways, only somewhere on the order of 4-5 miles. However, it still requires that all abutters agree to this street acceptance which means they relinquish their property rights to the roadway via a "gift" to the town, resulting in a permanent transfer of ownership to the town. Most of the abutters on these roadways have signed a letter of intent with the town to accept the roadway. Approximately, 2600 feet of Eliot Hill Road, 660 feet of Merifield Lane, 450 feet of Woodcock Path, 380 feet of Michael Terrace, and 640 feet of Clearview Drive would be accepted under these motions. In the past, there have been three acceptances of sections of Eliot Hill Road in 1970, 1975 and 1978 and this will enable the entirety of Eliot Hill Road to be an accepted roadway and be re-paved next year. All told, it's a little less than one mile of previously private roadways that will become accepted roadways. Chapter 90 funding is not simply based on roadway miles, but this additional mile will provide an estimated \$7800 in additional annual roadway maintenance funding.

Questions from the Committee

Mr. Rooney asked for clarification of the term "abutters". In this context, Mr. Marsette said it is both property owners adjacent to the roadway as well as roadway owners.

Mr. Rooney asked whether individual lots on unaccepted roadways owned by individual owners or a subdivision developer. Mr. Marsette said that these subdivisions were approved in the 1960s according to the plans of record and the roadways were built shortly after that and have had this layout – street layout, sidewalk, drainage since that time. These have all been sold off to private owners of the property.

Mr. Rooney asked whether the town had reached out to all residents of a street both the accepted and unaccepted portions. Mr. Marsette said they had only

reached out to those on the unaccepted portions since those on the accepted portion of these roadways aren't affected by this acceptance of the previously unaccepted portion of the roadway. Residents on the accepted portion have been informed that the road is on the 5-year re-paving plan.

Mr. Sullivan asked whether this situation is unique to Natick or common to other communities and noted that a study showed that Natick seemed to have a disproportionate number of unaccepted roadways. Mr. Marsette said this is an issue that confronts many communities. Mr. Chenard added that the reason for the unaccepted roads is developers who did not follow through to completion the roadway acceptance process; in some cases due to the developer bankruptcy. Mr. Scurlock asked for clarification of what the purpose of \$1000 request was.

Mr. Chenard confirmed that it was legal and filing fees.

Mr. Linehan asked what was meant by "accepted incrementally" since the definition of "accepted" may have shifted from concrete curbing to granite curbing to Cape Cod berms. Mr. Marsette said these roads were built publicly 50 years ago and they look very similar to publicly accepted roads of this vintage – with granite curbing on the radius and bituminous berms in the case of Eliot Hill Road and grass strips and sidewalks.

Mr. Evans provided a point of information on Cape Cod berms which is a bituminous berm that is rounded and high enough to keep water flowing in the street toward catch basins.

Ms. Wollschlager asked for confirmation of whether any of the subdivision plans would need to be re-examined. Mr. Chenard noted that they have examined the subdivision plans and compared them to the actual roadways. There is only one change that affects Article 15 – when the town accepted those roadways, the names on the original plans are different from the names of today's owners that should not affect the ability to accept the road, but has been noted for tracking purposes.

Mr. Pierce moved Favorable Action on subject matter of Article 15, seconded by Mr. Sullivan, Voted 10 – 0 – 0.

[Article 16: Street Acceptance – Michael Terrace](#)

Mr. Jeremy Marsette, Director Dept. of Public Works (DPW)
Mr. Michael Hickey, Chair, Board of Selectmen
Mr. Bill Chenard, Deputy Town Administrator, Operations

Concurrent discussion of Articles 15, 16, & 17

Mr. Evans moved Favorable Action on subject matter of Article 15, seconded by Mr. DeLuca, Voted 10 – 0 – 0.

[Article 17: Street Acceptance – Clearview Terrace](#)

Mr. Jeremy Marsette, Director Dept. of Public Works (DPW)
Mr. Michael Hickey, Chair, Board of Selectmen
Mr. Bill Chenard, Deputy Town Administrator, Operations

Concurrent discussion of Articles 15, 16, & 17

Comments from the Public

Mr. Jonathan Faigel, 16 Clearview Drive said he has lived there for 25 years and noted it will be a great benefit to the neighborhood to improve road safety since many children ride their bikes on this road.

Mr. Evans moved Favorable Action on subject matter of Article 15, seconded by Mr. Scurlock, Voted 10 – 0 – 0.

[Article 18: Amend Article 70 of the Town of Natick By-Laws: Public Works Regulations](#)

Mr. Jeremy Marsette, Director Dept. of Public Works (DPW)
Mr. Michael Hickey, Chair, Board of Selectmen
Mr. Bill Chenard, Deputy Town Administrator, Operations

Mr. Hickey said this article and (Articles 16 & 17) deal with how the town deals with unaccepted roads (also known as private ways). Article 18 is part of a larger discussion of how the DPW services unaccepted roads. Article 18 is phase one of this plan and seeks to update the town bylaws pursuant to authority provided to towns to in MGL c. 40, §6N that allows towns to achieve a measure of liability protection that we don't have in our existing bylaws. At the same time, it will allow for better conformity with town DPW practices. The Board of Selectmen considers this a "best practice" in terms of mitigating the town's liability in how DPW works on unaccepted roads.

Mr. Marsette noted that this Article would update Article 70 of the town bylaws and is a cleanup item that is the starting point to formalize current DPW practice. Natick has about 26 miles of unaccepted roadways and 128 miles of accepted roadways. The town's annual practice has been to repair unaccepted roadways – potholes and curb repairs due to plowing. The town plows both unaccepted and accepted roads. The MGL that allowed this was not adopted by the town. In researching this article, we noted that the town did not accept MGL c. 40, §6N that allows temporary repairs to unaccepted roads or private ways. Each year, DPW scours the town to fill potholes on all roads. There is a fairly comprehensive presentation on the town web site under Public Works Engineering Division regarding private ways and includes details on this bylaw. Also, on the web site is a listing of accepted / unaccepted roadways that is updated annually by the Town Clerk in concert with the Engineering Division of DPW. It removes the 2nd, 3rd, and 4th paragraphs in Article 70 § 6 "Public Works Regulations". These paragraphs are in conflict with current DPW practice and would insert a new § 8 titled "Private Ways" that specifies that the DPW would provide snow removal, remove barriers removed on order of the Police or Fire Chief, at the expense of the owner the private way, and the scope of temporary repairs to private ways. Should this Article pass, the Board of Selectmen would create a policy that would have more detail as to how this bylaw would be put in force. DPW has provided a draft of such a policy and the Board of Selectmen will review it in a public

hearing. We made these changes based on what neighboring communities that have successfully changed their bylaws.

Article 18 Motion

Move that the Town vote to amend Article 70 of the Town of Natick Bylaws as follows:

1. Remove the second, third and fourth paragraph of Section 6; and,
2. Insert new Section 8 with the wording:

“Section 8 Private Ways

Snow and Ice Removal. The Town may remove snow and ice from such private ways for emergency vehicle access in accordance with Massachusetts General Laws and Board of Selectmen regulations and policies.

Barriers. Barricades, obstacles, or vehicles on private ways that are a barrier to prompt and appropriate emergency access shall be removed on order of the Police or Fire Chief, at the expense of the owner or owners of the private way. However, if the barrier is a vehicle, it shall be removed on order of the Police or Fire Chief and at the expense of the owner of the vehicle.

Temporary Repairs. The Town may perform temporary repairs to private ways that have been open to the public for a period of at least six (6) years. The Town may only perform temporary repairs in accordance with regulations and policies issued by the Board of Selectmen and that are determined by the Director of Public Works to be required for public necessity.

Said temporary repairs shall be considered necessary if they abate an immediate hazard. They shall not be considered as maintenance of the private way nor shall the way be considered a public way. Cash deposits or payments shall not be required and betterment charges shall not be assessed for said temporary repairs. The Town shall not be liable for any damage to private property caused by such repairs, except as otherwise provided by law. The Town shall not incur any liability whatsoever on account of action or inaction resulting pursuant to this Bylaw.”

Questions from the Committee:

Mr. Pierce asked what the difference is between an unaccepted street and a private way. Mr. Marsette said that the terms are frequently used interchangeably. In general, a private way is considered to be designed to be a private way “forever” and an unaccepted road is a road that is planned to be an accepted roadway but the formal process of road acceptance has not taken place. By definition, private ways are not owned by the town.

Mr. Sullivan asked what the current policy for snow removal on private ways is. Mr. Marsette said all private ways are on the plow list. Best practices are to have a list of private ways that is reviewed by the roadway commissioners (in Natick, this is the Board of Selectmen).

Mr. Sullivan asked whether there are any private ways that are in such poor shape that temporary repairs are not completed. Mr. Marsette said there have been no instances of private ways not receiving temporary repairs during his tenure with the town.

Mr. Rooney asked whether the owners of a private way could request that the town re-pave their private way. Mr. Marsette said the owners could petition the

town for betterment to the roadway or sidewalks or draining and the owners would fund this, with the town helping finance it at reduced or low-cost interest. Generally, private ways looking for these betterments would also petition to become an accepted roadway.

Mr. DeLuca asked whether there are any public easements on private ways. Mr. Marsette said that there are not, but the town tries to ensure access to private ways for emergency vehicles (Police, Fire). The Commonwealth of Mass. has a classification of private ways open for public use (a through roadway) that has a higher classification than a private way that's not open for public use. Mr. Hickey added that he lives on a private way and the town plows, picks up his trash and recycling and removes trees that block public safety vehicles from getting through. Another benefit to this Article is moving away from the term unaccepted road to private way.

Mr. Linehan asked what the mechanism is for private way owner(s) to determine the cost of the betterment. Mr. Marsette said that the DPW Engineering Division could assist with estimating the cost.

Mr. Lista asked whether the town would net any additional Chapter 90 moneys by adopting this provision. Mr. Marsette said it would not. It would only increase if the private way goes through the road acceptance process and is approved by the Board of Selectmen.

Mr. DeLuca asked whether police can issue tickets for blocking the street during a snow emergency. The traffic rules that the Board of Selectmen have adopted and update occasionally apply to accepted roadways only. These rules do apply to private roadways that are open to public use and are through streets. However, a dead end street, for example, would not be subject to these rules.

Ms. Wollschlager noted that the process for assessing betterments looks like it's being deleted and wanted to ensure that is still a process in place to assess betterments. Mr. Marsette said that they are removed the process for assessing betterments for temporary repairs only. MGL governs the process for betterments (MGL c. 40 §6) so the town doesn't need its own process.

Mr. Sullivan moved Favorable Action on subject matter of Article 15, seconded by Mr. Evans, Voted 10 – 0 – 0.

Debate:

Mr. Sullivan noted that in a previous town, he was on the Board of Selectmen and spent a disproportionate amount of time discussing private ways and services provided, and expressed appreciation for town administration taking steps to make this work better.

Mr. Evans said this clarifies a number of things and limits the town's liability.

Mr. DeLuca said he lives on an unaccepted narrow road and confirmed that the town does provide all the services that Mr. Marsette describes on that unaccepted road and appreciates what the DPW currently does and feels this will increase clarity.

Ms. Wollschlager said that she appreciated town administration taking on this thorny issue. I'm hopeful that this will move forward at a rapid pace.

[Article 20: Transfer of land to Conservation Commission: Portions of 165 Mill Street Parcel](#)

Ms. Melissa Malone, Town Administrator

Mr. Bill Chenard, Deputy Town Administrator, Operations; Member Kennedy MS Building Committee

Mr. Matthew Gardner, Chair, Natick Conservation Commission

Ms. Malone stated that Article 20 deals with an agreement with the Army Corps of Engineers (ACOE) on the building site for the new Kennedy Middle School. This site does have wetlands and pursuant to law were required to consult with the ACOE. Included in your information packet is the agreement with the ACOE that was negotiated and drafted by Town Counsel and approved by ACOE. It is consistent with practices that the town has undertaken in the past. Engineers that are involved in this project have told us that it is not buildable property. I can speak to any specifics in the letter and Mr. Gardner and Mr. Chenard can speak to the meaning of executing this agreement.

Questions from the Committee

Mr. Linehan asked for confirmation of whether even though the wetlands area was not buildable; one could have access to property through those wetlands. Mr. Gardner said that is permissible.

Mr. Linehan asked if there were any potential negative impacts from transferring this land into Conservation Commission control. Mr. Gardner stated that this is not buildable, but the question of putting the unbuildable land into permanent conservation restriction versus paying a \$132 K fee is a no-brainer. As part of the review process, public safety was consulted to ensure that all emergency access was included and they approved this plan.

Ms. Anna Nolin, Superintendent, Natick Public Schools added that the KMS Building Committee consulted extensively with the ACOE on this piece of property. Because this property has vernal pools on it, it was highly unlikely that we would ever be able to get ACOE permission to build on that area. Ms. Nolin continued that they asked ACOE if the vernal pools dried up, would that make any difference. ACOE said it was very unlikely that the vernal pool would dry up and it's a lengthy process (estimated 10-20 years) after confirmation that the vernal dried up before the land would be available.

Mr. Linehan asked whether the vernal pools are equally distributed in the 5.2 acres. Mr. Chenard said the vernal pools are mostly to the north of this section of the lot and there is a stream that runs straight to the middle portion of the lot and runs under the parking lot.

Mr. Linehan asked whether transfer to the Conservation Commission would preclude something such as underground conduits. Mr. Gardner confirmed that it would.

Mr. Pierce asked who the owners of the land are. Mr. Gardner said that it was transferred from the School Committee to the Board of Selectmen, and the article proposes transferring it to the Conservation Commission.

Mr. Pierce asked how much of that land plays into the design of the new KMS. Mr. Chenard said the specified land is adjacent to the road that leads to Brown

Elementary School. In addition to offsetting the elimination of 0.22 acres of vernal pools, it is adjacent to the power lines owned by EverSource. Dr. Nolin noted that the \$132K should be considered a fine for not putting compensatory land into conservation restriction.

Mr. Lista asked whether this requirement was just discovered. Mr. Chenard said that it was a long-standing negotiation with the ACOE that was settled after Spring Town Meeting had ended so this is the first time that we can bring it to Town Meeting. Mr. Evans, speaking as the Finance Committee representative to the Building Committee, this is the first opportunity to bring this matter to Town Meeting.

Mr. Lista asked if the Conservation Commission would place any restrictions or require buffer zones for this land. Mr. Gardner said the Conservation Commission would not put any further restrictions other than the Article 97 requirements. There is a brook that runs through the property that may be protected as a “river”. The vernal pool and the brook all have buffer zones associated with them and any work that may impact these buffer zones must be reviewed and allowed by the Conservation Commission.

Mr. Lista asked whether any maintenance would be required in these buffer zones and if yes, who would be responsible for that maintenance. Mr. Gardner said there is no required maintenance. However, the Conservation Commission is working with the town’s conservation agent to develop plans for regular maintenance for properties under the care, custody and control of the Conservation Commission. There could be some activities such as removing invasive species, but not any regular maintenance.

Mr. Evans moved Favorable Action on subject matter of Article 20, seconded by Mr. Linehan, Voted 10 – 0 – 0.

Mr. Evans gave kudos to the KMS Building Committee and its contractors and Town Administration for flagging this as issue, working with ACOE to get resolution. This was a hurdle that had the potential to severely delay the project. Mr. Linehan thanked the speakers for answering the questions and he wanted assurance that everything was thoroughly vetted and there weren’t any bad unintended consequences.

Mr. Rooney requested that Article 20 be put on the consent agenda, seconded by Mr. Pierce, Not Voted.

Debate:

Mr. Sullivan noted that this article required responses to a significant number of questions and is too complex to include on the consent agenda.

Mr. Evans agreed that it was too complicated for the consent agenda and even though tonight, the Finance Committee voted to unanimously support it, it is worthwhile for the information we considered to be included in the Recommendation Book so Town Meeting members understand our rationale.

Mr. DeLuca said that he went through Massachusetts conservation law and agreed that the complexity excludes it from being a consent agenda item.

[Article 22: Amend Article 20 of the Natick Town Bylaws](#)

Mr. Hickey, Chair, Board of Selectmen

Article 22 pertains to multi-member bodies appointed by the Town Administrator as set forth in the town bylaws and deals specifically with the Commission on Disability. The town has experienced problems attracting and retaining volunteers and during the process of soliciting volunteers for the Commission on Disability, it was noted that its members were appointed by the Town Administrator whereas state statute indicates that the Board of Selectmen can make these appointments. The town researched why this quirk existed and found no basis for it being exceptional, so the Board of Selectmen sponsored this article to eliminate this exception.

Questions from the Committee

Mr. Linehan noted that the motion only specified deletion and requested confirmation that this is due to the state law providing this authority to the Board of Selectmen. Mr. Hickey confirmed this.

Mr. Lista asked whether this would pose any problems with volunteers appointed by the Town Administrator. Mr. Hickey said he did not believe so because the Town Administrator would name candidates and the Board of Selectmen would affirm them, but would confirm whether his understanding is correct.

Mr. Linehan moved Favorable Action on subject matter of Article 15, seconded by Mr. Pierce, Voted 10 – 0 – 0.

Mr. Linehan moved to recommend adding Article 22 to the Consent Agenda, seconded by Mr. Sullivan, Voted 10 – 0 – 0.

[Article 23: Alteration of Layout of North Main Street \(Route 27\) and Adjacent Streets](#)

Ms. Melissa Malone, Town Administrator

Mr. Bill Chenard, Deputy Town Administrator, Operations

Mr. Michael Hickey, Chair, Board of Selectmen

Ms. Malone stated that this article refers to the acceptance of a roadway plan for alteration of the layout of North Main Street (Route 27). As you may recall from prior Town Meetings, the town has invested \$3 million for the acquisition and design of this roadway. The actual price of this roadway improvement including infrastructure, sidewalks and roads is \$18.6 million and that money is sourced from the Federal government and Commonwealth of Massachusetts. Yesterday, the Commonwealth of Mass. DOT put this project out to bid, with a closing date of January 7, 2020. Earlier today, I testified at the State House with respect to a small portion which is Snake Brook, which is on the Wayland-Natick line concerning an improvement to property that is held by Department of Conservation and Recreation (DCR). The town currently has requested a temporary construction easement and the Governor and our state delegation were

very positive so we're hopeful that this will pass in the next few months. The last part of this project that was begun under the supervision of Mr. Errickson is the final acceptance of the roadway plan. We respectfully request the Finance Committee's approval to proceed with this plan.

Questions from the Committee:

Mr. Linehan asked for clarification on the Snake Brook issue. Ms. Malone noted that the reason Snake Brook was highlighted was the final issue from the state's perspective to moving ahead with this project. Snake Brook is located in Natick right before the town line of Wayland and is DCR property. This project will be improving the water run-off to Snake Brook which flows into Lake Cochituate, so we needed approval from the DCR to proceed. DCR is very supportive of the changes that we are making, has received all the plans and provided legal opinions to our Town Counsel supporting this plan.

Mr. Linehan asked whether there would be any impact to the Snake Brook Trail. Mr. Chenard said there would not.

Mr. Lista asked for confirmation that the plan would include a roundabout at the intersection of Pine Street and Route 27. Ms. Malone said it will be a roundabout, but it is a separate project also funded by the state.

Mr. Rooney wondered why the town planned to use a roundabout since the state seems to discourage roundabouts. Mr. Hickey noted that the state where he grew up started discouraging use of roundabout 15 years ago, but said that the current thought is that the roundabouts help to keep traffic moving as opposed to queuing. There are a series of traffic lights before and after this proposed roundabout. Mr. Chenard added that there are several state-funded TIP projects that are employing roundabouts, including some major roadways.

Ms. Wollschlager asked whether the temporary and permanent easement work was completed. Ms. Malone noted that this work was already completed and the Board of Selectmen had approved the acquisition and acceptance of these easements.

Mr. Rooney asked whether any of the adjoining streets included in this plan were unaccepted roads. Ms. Malone confirmed that there are streets along Route 27 that are unaccepted roadways but these aren't part of this plan.

Mr. Sullivan moved Favorable Action on subject matter of Article 23, seconded by Mr. Evans, Voted 10 – 0 – 0.

Debate

Mr. Sullivan noted that there were some vacancies in the Community and Economic Development Office and lauded those who stepped up to continue the forward momentum of this project.

Mr. Evans highlighted the excellent work of the previous Town Engineer, Mark Coviello, now semi-retired to get all the easement and property details worked out so this project could move forward. Mr. Evans also thanked Town Administration for shepherding the project through many convoluted steps.

[Article 24: Transfer of Land and Grant of Easement to Natick Affordable Housing Trust: 299-301 Bacon Street](#)

Ms. Malone, Town Administrator

Ms. Malone said in 2008, the Board of Selectmen received this property from the Bernardi Group and the Board of Selectmen agreed to transfer this property to the Affordable Housing Trust. It was recently learned that the transfer to the Affordable Housing Trust was not effectuated so Article 24 is provided to complete that process and update the land records so that the property is appropriately registered.

Questions from the Committee

Mr. Lista asked what the town's status is on affordable housing. Ms. Malone said that the town is currently in safe harbor status, pending the result of the 2020 census. The census is completed every 10 years and at that point, a town knows whether it is over / under the 10% threshold for affordable housing. We will be in safe harbor status into 2021 when the results of the census are known.

Mr. Pierce asked for confirmation that this is the property where the Affordable Housing Trust built two affordable housing units. Ms. Malone confirmed that is correct.

Mr. Linehan asked what the relationship is between the town and the Affordable Housing Trust. Ms. Malone said that the Affordable Housing Trust is a separate entity that is established pursuant to MGL. All procurement and work is done through the Affordable Housing Trust, not the town.

Mr. Linehan asked whether the force main (sewer) and sewer connections work had been completed. Mr. Chenard said that the contract for this has been awarded and will be paid by the Affordable Housing Trust.

Mr. Linehan moved Favorable Action on subject matter of Article 24, seconded by Mr. Pierce, Voted 10 – 0 – 0.

Mr. Evans moved to recommend adding Article 24 to the Consent Agenda, seconded by Mr. DeLuca, Voted 10 – 0 – 0.

Mr. Linehan moved to close the public hearing on the 2019 Fall Annual Town Meeting warrant review, seconded by Mr. Evans, Voted 10 – 0 – 0.

Meeting Minutes

March 12, 2019:

Mr. Linehan moved to approve, as amended, seconded by Mr. Pierce, voted 9.0.1.

March 21, 2019:

Mr. Linehan moved to approve, seconded by Mr. Pierce, voted 9.0.1.

April 4, 2019:

Mr. Linehan moved to approve, as amended, seconded by Mr. Pierce, voted 8.0.2.

ADJOURN

Mr. Pierce moved to adjourn, seconded by Mr. Linehan, voted by 10 – 0 – 0.

Meeting adjourned at 8:58 p.m.



Natick Finance Committee

Pursuant to Chapter 40, Section 3 of the Town of Natick By-Laws, I attest that the attached copy is the approved copy of the minutes for the following Meeting:

Town of Natick Finance Committee

Meeting Date: September 17, 2019

The minutes were approved through the following action:

Motion: Approval

Made by:

Seconded by:

Vote: x – x – x

Date: , 2019

Respectfully submitted,

Bruce Evans

Clerk

Natick Finance Committee

NATICK FINANCE COMMITTEE MEETING MINUTES

MEMBERS PRESENT:

Patrick Hayes, Chair
Linda Wollschlager, Vice-Chair
Bruce Evans, Clerk
Michael Linehan, Member
David Coffey, Member
Jim A. Scurlock, Member
Daniel Sullivan, Member
Philip Rooney, Member
Jerry Pierce, Member
Tony Lista, Member
Bill Grome, Member
Dirk Coburn, Member

MEMBERS ABSENT:

Kristine Van Amsterdam, Member
Jeff DeLuca, Member

AGENDA:

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
 - d. Swearing in of New and Newly Appointed Member
2. Announcements
3. Public Comments
 - a. Committee policy & procedures available via this link and also at the meeting location
4. Meeting Minutes
 - a. Discuss and Approve Meeting Minutes for: March 19, March 21, April 4, Sept 3, 2019
5. 2019 Fall Town Meeting Warrant Articles - Public Hearing
 - 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 (including items not on the meeting agenda)
8. Adjourn

CALL TO ORDER

Meeting called to order at 7:04 p.m. by Chair, Patrick Hayes.

ANNOUNCEMENTS/CITIZENS CONCERNS:

None

PUBLIC COMMENTS

None

Mr. Evans moved to open the 2019 Fall Annual Town Meeting Warrant Article Public Hearing, seconded by Ms. Wollschlager, Voted 12 – 0 – 0.

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

Presenters:

Ms. Jillian Wilson-Martin, Sustainability Coordinator, Natick

Ms. Victoria Parsons, Conservation Agent / Planner, Natick

Ms. Wilson-Martin provided an overview of the need for amendment of Article 79A. This is the culmination of a few years of research that identified the need to amend this bylaw article. Several years ago, we received funding from MetroWest Foundation and Mass Audubon to assess our land use regulations - the town's zoning, stormwater, subdivision rules and regulations, cluster development. The result of that assessment was that Natick's land-use regulations weren't aligned with the best practices that the Commonwealth recommends. Further, the development of the Master Plan, the Hazard Mitigation plan and the Massachusetts Environmental Protection (MEP) Community Resilience Building (CRB) plan all pointed to the need for improved stormwater management. At the same time, the town is subject to a new stormwater permit (MS4). We were able to receive funding through the MEP grant action program that enabled us to hire a consultant to review our regulations and craft new language. We worked with numerous people to draft this bylaw including any member of town staff that touches stormwater. The Stormwater Management Oversight Committee which includes the Health department, DPW Town Engineer, and the Water & Sewer Department along with the Sustainability Coordinator and the Conservation Agent.

Questions from the Committee

Mr. Linehan asked about section 4C.1c) "The addition, on-site redistribution or export of greater than or equal to 500 cubic yards, but not exceeding 750 cubic yards, of soil." Below that in 4D.2 it states "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."

Mr. Linehan pointed out that this means above 50 cubic yards but less than 500 yards, nothing is required and asked whether it should be 500 cubic yards in both locations. Ms. Wilson-Martin said it should be 500 cubic yards in both places. The intent is that if you're adding more than 500 cubic yards you would be required to get a permit.

Mr. Linehan asked about the phrase "construction of any walls" and whether it was defined in the bylaw. Ms. Wilson-Martin said this is the current wording in the bylaw – the intent to disqualify walls is that a former conservation agent had a number of projects where walls were added and these are not considered ordinary maintenance. Mr. Linehan suggested adding language of walls over one foot high and Ms. Wilson-Martin agreed to do so.

Mr. Linehan noted that section 1H.1i) states "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;" and that the requirements are more quantitative and the objectives are qualitative and open to interpretation. Ms. Parsons said that they would be developing a set of regulations as part of this bylaw change and that could be used to clarify the objectives.

Mr. Linehan said it appears that Section 7 specifies that a person must hire a registered professional engineer or other professional consultant to advise the Conservation Commission and the applicant must pay review fees before the review process may begin. Mr. Linehan asked what the review process would be for the Conservation

Commission, particularly for minor permits. Ms. Wilson-Martin said that minor permits would be administered by either the Conservation Agent working closely with the Conservation Commission. Ms. Parsons noted that minor permits did not require review by the Conservation Commission and said that it was unlikely that a minor permit would need to submit all the plans specified in Section 8 of the bylaw. Ms. Wilson-Martin noted that the regulations would specify what types of plans would be required for which permit type.

Mr. Linehan asked for confirmation that the “Operation and Maintenance Plan” must be approved prior to the start of the project. Ms. Wilson-Martin confirmed yes. Mr. Linehan asked whether a change to the O&M plan would require a re-filing. Ms. Wilson-Martin said yes.

Mr. Linehan asked how the town would enforce these regulations. Ms. Wilson-Martin said 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. Ms. Parsons said once the O&M plan is approved by the Conservation Commission or Designated Agent it is recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Permittee and shall remain on file with the Conservation Commission, and shall be an ongoing requirement. An order of conditions is required to be recorded at the Registry, but isn’t always recorded. When an order of conditions is recorded, we ask for formal notification that the order of conditions has been recorded. We could adopt a similar procedure to ensure that the O&M plans are properly recorded.

Mr. Rooney asked what was meant by the statement that our water bodies are listed as “impaired”. Ms. Wilson-Martin said that that statement doesn’t pertain to the drinking water aquifers but refers to recreational bodies of water. Ms. Parsons said the Massachusetts listing of water bodies grades their safety for various activities and compliance with the Clean Water Act.

Mr. Coburn asked for information on the review process of this proposed bylaw change. Ms. Wilson-Martin said that it has been reviewed extensively. The Board of Selectmen voted unanimously to support the motion. Mr. Hayes noted that the Board of Selectmen is the sponsor of this article and voted to support the proposed bylaw change. The Conservation Commission has approved it, and it has been reviewed by the town Stormwater Committee that includes the DPW Director, Town Engineer, the School Department and the Director of the Health Department. It was also reviewed and approved by the town MS4 consultant. It was shared with the Building Commissioner and they are supportive, although they haven’t seen the final draft yet. The Building Commissioner noted that they see a lot of practices on the part of construction developers that aren’t up to standard for site stormwater management practices. It has also been reviewed by the Mass. Department of Environmental Protection (DEP) as well as Mass. Audubon.

Mr. Coburn asked whether it would be reviewed by the Planning Board. Ms. Wilson-Martin said they declined to review because a member, Susan Simone-Kang has been advising us on the crafting of the bylaw. Mr. Hayes noted that this is a town bylaw and the Planning Board is not required to hear this article.

Mr. Pierce asked how property owners would be notified of the requirements for minor stormwater & erosion control permits. Ms. Wilson-Martin noted that the 3,000 sq. ft. of land disturbance is the typical disturbance associated with the construction of a new home. Our vision, pending approval of the Conservation Commission and Building Commissioner is to have a field in the Building Permit for this type of permit as a check-off item.

Ms. Wollschlager suggested that Town Meeting be provided with a redlined version of the bylaw that shows how the changes integrate and/or modify the existing bylaw. Ms. Wilson-Martin said Town Counsel advised them not to distribute a redlined version. Even though there is a lot of the original bylaw that has been retained, there are changes required to integrate the two types of permits (minor, major), capitalized and defined terms and deleted definitions in the previous bylaw that weren't used in the bylaw or any other portion of the zoning bylaw or general bylaw. We believed showing all the tracked changes would create a very confusing motion. Ms. Wollschlager asked whether a summary of these changes could be made available for inclusion in the Recommendation Book. Ms. Wilson-Martin said this summary is available in our response in section 1 of the Finance Committee questionnaire (this was inadvertently not distributed prior to the meeting and will be sent out later). Ms. Wilson-Martin also noted that this bylaw change puts us in line with other comparable communities with similar building density (more urban less rural than other communities). Ms. Parsons indicated that the town might be able to get grant funding to do educational outreach on the benefits of this bylaw.

Mr. Coffey asked whether town projects would be held accountable for these standards. Ms. Wilson-Martin said they would be subject to the same regulations for construction projects. However, roadway construction or re-construction is exempted in section 4D.10) "the maintenance or reconstruction of any public way, in accordance with Town policy developed by the Natick Board of Selectmen and Conservation Commission". This doesn't mean that DPW will not follow best practices for stormwater management, but it will permit them to avoid having to review every roadway project with the Conservation Commission, providing them with the latitude that they need to keep the roadways in good condition.

Mr. Linehan asked whether construction of a new home would require a permit. Ms. Wilson-Martin said that she and the Building Commissioner believe that any new construction would require a minor permit whereas an addition to a house would not and the Building Commissioner estimates that this would be approximately 30 minor permits per year.

Mr. Lista asked what other town's experiences have been as they decreased the disturbance threshold. Ms. Wilson-Martin said she spoke with the DEP Stormwater Coordinator who is also the Chair of the Needham Conservation Commission and oversaw their changes to their bylaw. In Needham, since 2006, only 50 land disturbance permits were issued. In addition, Dedham had similar experience in that few permits were required and the permit process was not viewed as problematic.

Mr. Rooney moved Favorable Action on subject matter of Article 19, seconded by Mr. Hayes, Not voted,

Mr. Linehan moved postponement of Article 19 until October 1, 2019, seconded by Mr. Lista, Voted 10 – 0 – 2

Debate

Mr. Linehan said he's very supportive of this change, but since it is a bylaw, there are some things that need to be nailed down. Postponement would enable the proponents to make these changes to get it closer to the asymptotic approach to perfection.

Mr. Lista agreed that more time is needed to perfect this motion.

Mr. Rooney said that this article improves the bylaw and the questions seemed to me to be more about implementation than the bylaw construction and I think that even with additional time you're going to be able to meet every possible contingency.

Mr. Hayes said he was comfortable with what Mr. Rooney said and added that the sponsor said at least three times that this is the bylaw, not the regulation and that's an important distinction because the regulations drive a level of detail that the bylaw was never intended to do. Conservation Commission is responsible for developing these regulations that are under their purview.

Mr. Coffey said he believes there were enough questions asked and gray areas identified so postponement makes sense to get a clean version to Town Meeting.

Mr. Coburn expressed strong support of the objectives and intent of the proposed bylaw and noted that there are provisions in the bylaws that we are voting for that have criminal penalties accountable to an appointed body so I would like to see that this bylaw come back clean.

Mr. Evans said that he supports the objective, acknowledged that it has received extensive review, but would like to read the sponsor's questionnaire responses prior to the October 1 meeting.

[Article 21: West Natick Fire Station Signal Controls](#)

Presenter:

Mr. Bill Chenard, Deputy Town Administrator, Operations

Mr. Chenard passed a revised Article 21 motion that corrects a misstated measurement from "x sq. ft." to "0.35 acres". This article transfers land to Mass. DOT per their request to be part of the state layout for the ramp so that a sidewalk can be part of the state layout. You have a map of the layout of that sidewalk and the motion provided tonight. The Board of Selectmen voted to support this motion last evening.

Questions from the Committee

Ms. Wollschlager asked the purpose of the curvature in the sidewalk design (beyond the contour of the road). Mr. Hayes said during the West Natick Fire Station Committee's review with the Planning Board, the Board requested addition of a sidewalk and guardrails. Mr. Chenard noted that the land being transferred is one foot inside the sidewalk. Mr. Hayes added the map is for reference only and not part of the motion.

Public Comments

None

Mr. Coburn moved Favorable Action on subject matter of Article 21, seconded by Mr. Linehan, Voted 12 – 0 – 0.

[Article 27: Real Estate Transfer Surcharge In Support of Affordable Housing](#)

Mr. Hayes said there was a miscommunication between the Chair and the proponent so this article will be reviewed on October 1, 2019.

[Article 41: Contact Information Requirement for Town Meeting Members and Elected Officials](#)

Presenters;

Ms. Patti Sciarra, Town Meeting member, Precinct 7

Ms. Sue Salamoff, Town Meeting member, Precinct 8

This article requests that the Town vote to add the practice that Town Meeting Members and Elected Officials voluntarily provide contact information in the form of an email address and/or phone number to the Town Clerk following their swear-in and to have this practice go into effect following the 2020 Spring Annual Town Election. We believe that this will help residents who are not Town Meeting members to participate in the political process and the running of town government.

Questions from the Committee

Mr. Coffey asked whether the “and/or” can be struck from this motion because he is amenable to receiving emails but doesn’t want to provide his phone number. Ms. Sciarra noted that the “and/or” indicates that providing a phone number would be optional. Ms. Salamoff added that the “and/or” was added following discussion with the Town Clerk, Town Moderator, and Town Information Officer where we were informed that some Town Meeting members are visually impaired and would prefer to receive phone calls. Mr. Sullivan asked where this information would be listed. Ms. Sciarra said Town Meeting members are listed in a spreadsheet on the town website with names and physical addresses. This would add a column for email addresses. Ms. Sciarra added that the email addresses would also be linked to precinct numbers so residents would know who their Town Meeting members are. Ms. Salamoff added that this information would be a resource that Committees would be able to utilize.

Ms. Wollschlager asked whether there was any thought of providing town email addresses for each Town Meeting member as the Finance Committee does since that provides collaboration opportunities. Ms. Salamoff said that this was investigated with the town IT department and the cost for the Gmail suite was prohibitively expensive. Mr. Coffey requested confirmation that should Town Meeting members communicate amongst themselves they wouldn’t violate Open Meeting Law (OML). Mr. Hayes confirmed that Town Meeting is exempted from OML.

Mr. Linehan moved Favorable Action on subject matter of Article 41, seconded by Mr. Pierce, Voted 12 – 0 – 0..

Mr. Linehan opined that it’s incredible that this information is not available. At some point, this information was available at least for elected town officials.

Mr. Pierce said this will be real timesaver.

Mr. Coburn stated that a number of the elected boards do provide email addresses for their members and this article would disseminate that information. Mr. Coburn suggested

that information on how to obtain no-cost email accounts be included in the Town Meeting Handbook (guide for Town Meeting members).

Ms. Wollschlager expressed disappointment that it was too expensive to provide town email addresses to Town Meeting members because it would foster a better two-way communication vehicle.

Mr. Coburn moved to close the public hearing on the 2019 Fall Annual Town Meeting warrant review, seconded by Mr. Evans, Voted 12 – 0 – 0.

Meeting Minutes

None

ADJOURN

Mr. Pierce moved to adjourn, seconded by Mr. Linehan, voted by 12 – 0 – 0.
Meeting adjourned at 8:53 p.m.



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 19, 2019 at 7:00 PM

MEMBERS PRESENT:

Patrick Hayes, Chairperson
Linda Wollschlager, Vice-Chairperson
Bruce Evans, Clerk
Bill Grome, Member
Daniel Sullivan, Member
Jerry Pierce, Member
Kristine Van Amsterdam, Member
Robert McCauley, Member
Tony Lista, Member
Dirk Coburn, Member
Jeff DeLuca, Member

MEMBERS ABSENT:

Dave Coffey, Member
Philip Rooney, Member
Bob Linehan, Member
Jim A. Scurlock, Member
Robert McCauley, Member

AGENDA:

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
 - d. Swearing in of New and Newly Appointed Member
2. Announcements
3. Public Comments
 - a. Committee policy & procedures available via this link and also at the meeting location
4. 2019 Fall Town Meeting Warrant Articles - Public Hearing
 - a. [Article 30: Amend Zoning By-laws: Creative Production Use Zoning Amendment](#)

- b. [Article 31: Amend Zoning Bylaws: Specialty Craft Fabrication Zoning Amendment](#)
 - c. [Article 32: Amend Zoning By-Laws: Downtown Business \(DB\) District Zoning Amendment](#)
 - d. [Article 33: Amend Zoning By-Laws: Non-Conforming Uses, Large Residential Additions Zoning Amendment](#)
 - e. [Article 34: Amend Zoning By-Laws: Alternate Uses In Residential Districts Zoning Amendment](#)
 - f. [Article 35: Amend Zoning Bylaw – Retail Marijuana Overlay Districts](#)
- 5. Meeting Minutes
 - 6. Committee and Sub-Committee Scheduling
 - 7. Committee Discussion (including items not on the meeting agenda)
 - 8. Adjourn

CALL TO ORDER

Meeting called to order at 7:00 p.m. by Chairman, Patrick Hayes. The agenda will be heard in order as listed – Article 30, Article 31, Article 32, Article 33, Article 34 and Article 35.

ANNOUNCEMENTS/CITIZENS CONCERNS:

Mr. Evans announced The Friends of the Morse Institute Library is having a book and bake sale September 21st from 8:30- 5:00 and the 22nd from 12:00-3:00. There will be many books, DVDs and music available for purchase.

PUBLIC COMMENTS

None

Mr. Evans moved to open the 2019 Fall Annual Town Meeting Warrant Article hearing, seconded by Ms. Wollschlager Voted 10 – 0 – 0.

Article 30: Amend Zoning By-laws: Creative Production Use Zoning Amendment

Presenters:

Mr. Fields, Senior Planner – Community and Economic Development Dept. (CED)

Ms. Evans, Member – Planning Board

Mr. Fields: This article will create a new definition in the zoning By-Laws for creative production and is similar to the Arlington Zoning By-Law that combine office, research, development and creative uses. With updates to the zoning regulations schedule this would be allowed in the Downtown Mixed Use (DMU) and business zones and would permit use in the HM-II, LC and HM-III zoning districts and create a standard for off-street parking. The genesis for this article is recommendations of the 2030 Master Plan and recent permitting experiences in the community from the Community and Economic Development Department where similar types of modern uses have sought permission to locate in Natick. Our current zoning code does not cover those elements and this article fills that gap.

Questions from the Committee:

Mr. Hayes asked why we are going with n when the insert HM-II for users under the site plan has a small n for creative production when it currently ends in l. Mr. Fields said he will change the l to an n and provide an updated copy from March 2019 of the site plan.

Mr. Pierce inquired where in Natick this would be used. Mr. Fields replied they are envisioning the DMU and business district as well as the East Natick Industrial Park and the Natick Business Park in West Natick. Those are two current industrial zones although I could see them in other commercial corridors as well.

Mr. Lista asked if Arlington's modification created the type of zoning they were looking for. Mr. Fields replied the modification has permitted some of these types of businesses there which made permitting those uses easier for them.

Mr. Lista inquired if these types of creative production businesses are precluded now in the Natick downtown area. Mr. Fields replied they do not fit into current use categories easily so it creates a challenge for the Community and Economic Development staff to say whether they are allowed by right or special permit in the given zoning district.

Mr. Lista asked what this zone would look like at five to 10 years from now. Mr. Fields opined that, depending on which zone you are referring to, it would help ease the vacancy situations we see. It would make permitting modern types of businesses that are attracted to certain areas easier and make those more vibrant and healthy.

Mr. Lista asked if this particular creative production area included combined living and working arrangements. Mr. Fields replied it does not at present; it might be better to include residential arrangements later based upon our initial experience with these types of uses.

Mr. Coburn noted that we have had businesses in town under the definition of creative production and asked whether the town knows of businesses that have gone elsewhere or been turned away. Mr. Fields responded that he has not seen businesses turned away in the three years he has been in CED. I have been told the Economic Development Committee has had trouble finding areas in Zoning By-Law to efficiently permit these types of use. Many of them do not fit in the current categories we have now. Ms. Evans added that the use table is what allows the Building Commissioner to determine what is permitted.

Mr. Coburn asked if we start putting this use on specific districts and not others whether these businesses may be excluded from areas where they might have previously located. Mr. Fields replied that this type of use is allowed or permitted on most commercial types of districts in town and if there are districts not included there will be opportunities to add them at a later date. The Building Commissioner has used his best judgment to place these uses into different types of zoning definitions; however it makes more sense to have a clear use category. Ms. Evans opined this is exciting because it is an indicator of the sorts of businesses that are interested in locating in Natick and we see a startup culture that is increasingly attracted here. When these uses are integrated in a process like this it is difficult to pick out which is the dominant and which is incidental this backs off from that and responds to the nature of the creative process increasing that we see at heart of the businesses.

Mr. Grome noted that the first definition of "creative production" in Section 200 talks about the actual performance of technologies available in these districts. The use table talks about the same definitions of "creative production" but instead it is about environmental and similar issues that are confined to premises. Sections 2C and 2D add the qualification which says features generated are minimized and confined to the premises. Those words are left out of the other definition in the table.

Ms. Evans said. in most instances, there is a difference between the definition in Section 200 and which is the overall definition of the term and the language in the use table that will have some sort of constraint. If you look at other definitions in the use table, there is often a reference to noise, vibration and sound management. When creative production, as defined in Section 200, these specified things will apply. In a

creative production site, these are the applicable environmental circumstances that apply in that zone. If someone meets the definition in Section 200 this is the charging instruction about what they may or may not do in these districts which is reiterated in the individual sections below. It is not uncommon for that language to be more regulatory for the use table as opposed to descriptive in the definitions.

Mr. Grome asked whether the omission of the words “generated minimized” could cause confusion in 38C, since the overall definition of the use table is not included.

Ms. Evans suggested changing the wording in the 38C in the Use Table to “minimized and confined”. Mr. Fields agreed to do so.

Mr. DeLuca asked within applicability section is any mitigation is in place since the term “creative” can be stretched in many ways. if some of these areas are not industrial because it is created?

Mr. Fields replied that the definitions in 38C, 2B, 2C and 2D where all the objectionable environmental elements are minimized and contained within the structure there is one limiting factor when impacting other abutting uses. Since this is a less intensive use than industrial uses allowing this in industrial zones allows current industrial zones to be modernized and less industrialized. It lessens the impacts on other industrial zones and does not increase impacts created by other commercial zones where these are permitted. .

Ms. Wollschlager asked if a landlord owns a building with multiple spaces and rents out part of it, how enforcement of this bylaw would be affected. and what is the review process. Mr. Fields replied where these uses are allowed by right and a business locates in a space, this is a change of use. As a new change of use, it is reviewed by the Planning Board under the site plan review procedure and the Zoning By-Law. If this kind of use is allowed by special permit, a special permit is required for that use in that type of zone and that special permit is granted at the discretion of the Planning Board.

Ms. Wollschlager asked how the process happens and how a business would be aware of it if no town permits are needed. Mr. Fields said when there is a change of use and there no town permits are needed, businesses must meet with the Community Economic Development for other various permits that triggers the Building Commissioner’s review for zoning bylaw compliance. Ms. Evans added that if no building permit or other licensing element is required and they do not come in contact with the town. Occasionally, a business may move into a space and use that space for a different use and we may learn about it belatedly. However, this rarely happens because landlords and business owners are aware that towns have a community set permitting process in place.

Mr. Wollschlager asked if “adult-content”-related uses would be prohibited Mr. Fields said his perception is that the existence of the current adult regulations would cover that type of content but he will research this.

Mr. Coburn said he thought adult content regulations referred to live entertainment. Mr. Fields said the definition of adult use covers more than live entertainment The first definition of **Adult Use:** An establishment: (1) having at least fifteen (15%) percent of its business inventory, stock in trade or other materials for sale, rental or display at any point in time, or deriving at least fifteen (15%) percent of its revenues from; or presenting for at least fifteen (15%) percent of the time the establishment is open for business, materials which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct as defined in M.G.L. c. 272, § 31, such as but not limited to an adult bookstore, adult motion picture theater, adult paraphernalia store or adult video store.

Mr. Coburn asked if they could sharpen the definition of adult use in a way it could not be legally overturned and it was agreed they would do so. Ms. Evans said that they could increase the clarity at a future Town Meeting. Mr. Hayes asked for clarification of what they would be modifying and revising. Ms. Evans said there was nothing unique in the “creative production” use that would allow this and cited that if someone were in the film production business, but suggested that the Planning Board could look at tightening the language for any use that might be used by a film production business.

Mr. Hayes determined why the lettering was off in the proposed motion because Article 31 takes the letter that was missing, so my suggestion when you go before Town Meeting, you request that Article 31 be heard prior to Article 30. However, Ms. Evans noted that a better solution would be to reverse the letters between “m” and “n” and leave Article 30 as “m” and Article 31 a “n”. Mr. Fields explained the required changes as follows:

- 1) Article 30 motion 2B would read “*m . Creative Production*”. Article 31 motion 2B it will read “*n. Specialty Craft Fabrication*”.
- 2) Article 30 motion 2C would read “*r. Creative Production*”. Article 31 motion 2C it will read “*s. Specialty Craft Fabrication*”.
- 3) Article 30 motion 2C it would read “*u, Creative Production*” . Article 31 motion 2C will read “*v. Specialty Craft Fabrication without accessory space...*” and “*w. Specialty Craft Fabrication with accessory space...*”.

Questions/Comments from the Public:

Mr. Julian Munnich, Member, Planning Board. Regarding the last enumeration on the letters is certainly helpful for Town Meeting debate> However if one motion passes and one does not, then everything re-scrambles itself. When the Attorney General’s (AG) Office reviews zoning by-Laws, they accept enumeration changes created by the Town Clerk. Town Clerk is empowered to make it work when they submit the paperwork to the AG.

Article 30 – Motion

*Mr. Coburn moved Favorable action on Article 30 as amended, seconded by Mr. Evans, **voted 10-0-0.***

Mr. Coburn said this is an area of economic activity that Natick wants to keep its economy going and keep its commercial tax base valuable and this article aligns many processes and resources in the town for that purpose. These outweigh any of the concerns that the Finance Committee has raised which have largely been addressed.

Mr. Evans added it makes the Building Commissioner’s job much easier as they do not have to invent a new use each time something comes up before them and makes it more uniform and defensible. Businesses have started up in town have grown larger and remained in town. For example, eXponent is a business that has expanded to another location in Natick. It’s worth providing businesses a good experience here so hopefully they will remain in Natick through their expansion and increase tax revenues.

Mr. Sullivan was gratified that all the expense, effort and time put into the Natick 2030+ master plan process that we are beginning to make some changes based on those plans.to help the town be competitive as a community in 2030 and beyond.

Mr. Lista said he fully endorses this but wonders if may be an article in the hopes those creative businesses will come in and fix an economic development problem we have. He’d prefer that the market fix those things rather than zoning changes and asked how we would measure the success of these

changes.

Mr. Wollschlager asked if modifications discussed tonight as well as the changes Mr. Grome had indicated can get updated and copied with full revision for the recommendation book. Ms. Evans said the Planning Board will have to re-vote because of the changes to the motion. You will see our recommendation, the amended motion after our meeting October 2nd. However you will be able to receive it before it has been voted on by the Planning Board.

[Article 31: Amend Zoning Bylaws: Specialty Craft Fabrication Zoning Amendment](#)

Presenters:

Mr. Fields, Senior Planner – Community and Economic Development Dept. (CED)

Ms. Evans, Member – Planning Board

Mr Fields: This article establishes another definition for a new type of business use in Natick for Specialty Craft Fabrication that determines which zoning districts this is allowed by right and special permit as well as other regulations that govern such use. This article is meant to define small artisanal enterprises where an artisan will produce goods that are sold on-site and, ideally, in an open environment where watching production is part of the entertainment value. This includes food and beverage processing uses including the distillation of alcohol and may contain a retail component not to exceed thirty-three percent of the gross square footage permitted as an accessory use. Goods and products produced on the premises may be displayed, sold or consumed. It may include a seasonal outdoor area that is permissible as part of the accessory retail use, but that optional outdoor area shall not be included in the square footage for zoning compliance. That type of accessory use may include other uses such as a restaurant if otherwise permitted in the underlying zoning district. There are changes in the motion to Section 3A.2 the Use Regulation Table indicating where these types of specialty craft fabrication uses may be located. They are now permitted in the Commercial II (C-II) zone, industrial zones, the HMII and the Limited Commercial (LC) and other areas such as number of spaces per square footage for accessory uses. and permitted by special permit in the DMU zoning district. The last part of the motion establishes the requirements for off-street parking for these types of uses – one for specialty craft fabrication without an accessory and one for specialty craft fabrication with an accessory use.

Ms. Evans advised the words minimized and be added to the Use Table as was done in Motion 30

Questions from the Committee:

Mr. Grome asked if any type of shop is permitted to sell food and alcohol under this definition and/or would require a special permit. Ms. Evans said that this bylaw would not cover this if the alcohol or food was not produced on premises.

Mr. DeLuca noted that the East Natick Industrial Park has a lot of child-centered businesses and asked if there were any mitigations in place prohibiting businesses where alcohol is served from being located next to child-centered businesses and schools Ms. Evans provided an example where residents at Town Meeting voted to modify the Zoning bylaws to allow a retail accessory use for a business currently allowed in the East Industrial Park under regulations that do not constrain its adjacency to childcare or educational premises. Mr. Fields added we continued that trend in developing these regulations.

Ms. Wollschlager asked whether a restaurant is considered a retail component and would it have the same space limitations. Mr. Fields said it would be included under the retail accessory component. The intent is to have 2/3 of said space be for Specialty Craft Fabrication and up to a 1/3 for accessory uses. Ms. Wollschlager opined that was not clear in the definition. Ms. Evans suggested a clarification by changing *retail or dining component* where it says “*Specialty Fabrication Sites may include retail or dining*

component not to exceed 33%.

Mr. Sullivan requested an example of a business that is unable to go into the zone today but would allowed to do so in the future if this article passes.

Mr. Fields gave an example of a small-scale glass blowing business in Providence where patrons are able to watch the process and are able to make purchases in the retail area and would add some examples in the definition.

Mr. Hayes asked how the maximum of 7500 sq. ft. was calculated. Mr. Fields said they looked at similar types of businesses in other communities and 7500 sq. ft. seemed to be the upper limit for the size of these businesses and seemed appropriate for our current commercial lots.

Mr. Hayes asked if these types of businesses could be located in places that were not retail stores where Mr. Fields replied yes.

Mr. Hayes said 7500 square feet may not be enough to accommodate the machinery and storage that craft breweries would require and may keep them out. Ms. Evans cited paying a visit to Dogfish Head craft brewery in Delaware in 1995 where their entire brewery would fit on this table. The hope is if they start out small and outgrow the space they will relocate to a larger location in town.

Mr. Hayes opined that based on the number of craft breweries currently operating in Massachusetts, it's likely that square footage would be needed quickly. Ms. Evans said if this works well, the town may consider a separate square footage for downtown so but see what comes with a 7500 square foot space. The industrial parks have the capacity because of the accessory use clause to accommodate a larger facility.

Mr. Hayes asked if the 7500 square feet is part of the accessory clause.

Ms. Evans said in the bylaw where we allowed the ancillary use allows it on a greater scale than 7500 square feet in the two industrial parks. If a business wanted to relocate to a larger space, Town Meeting did not necessarily want it located in Natick Center. We are erring on the side of caution because there is a tool that can be used for the industrial zones.

Questions/Comments from the Public:

NONE

Article 31 - Motion

*Mr. Evans moved Favorable action on subject matter Article 31 as amended for the numbering changes and adding the words for dining, seconded by Mr. Coburn, **voted 9-1-0.***

Mr. Evans said this was a good opportunity to expand our economic base. Mr. Coburn agreed.

Ms. Wollschlager recommended eliminating square feet from the definition and adding it elsewhere.

Mr. Hayes said some of the places that are becoming an allowed use are not exactly in downtown. A larger building to separate the breweries accessory use from the heavy production area would be an ideal space. In the craft brewery business you need to have the space to scale quickly in order to make a profit. I would ask if you could return in the spring and bring some modified language around the industrial

zones.

[Article 32: Amend Zoning By-Laws: Downtown Business \(DB\) District Zoning Amendment](#)

Presenters:

Mr. Fields, Senior Planner – Community and Economic Development Dept. (CED)

Ms. Evans, Member – Planning Board

Mr. Fields: This article creates a new downtown business district within the DMU district, a = roughly a four block area centered from Middlesex Avenue and South Middlesex Avenue in the north to Central Street in the south along Main Street and part of Washington Street. This would be a commercial district only. The residential uses allowed in the DMU zone would not be allowed in this downtown business zone. The purpose is to establish a compact center that is centrally located and designed primarily for shoppers, diners, business proprietors and mercantile uses. It preserves the core of the downtown business district in Natick Center for commercial and mercantile uses. This was recommended by the town's planning consultant based on testimony from several property owners in the affected area. It was the general opinion of the consultants that if the residential conversion of properties within this proposed zone were to take place, there is a good possibility that commercial businesses would never come back to that area and it was important to maintain the commercial and mercantile nature of this small section of Natick's Center and the value it gives to the history and character of the town.

Questions from the Committee:

Ms. Wollschlager asked why this was limited to north of Route 135 and not extended further south down by Route 27 where there is existing retail business in the downtown district. Mr. Fields said they focused on the unique historic commercial buildings between north Middlesex Avenue, South Middlesex Avenue and Central Street. There was debate on whether to extend further south but felt the area, as demarcated, was the most logical and defensible from a historic commercial point of view. MS. Evans added that the neighborhood to the south of the downtown mixed district transitions more rapidly to residential than the area that is defined to the north. It was the recommendation of the consultants that limiting it to this core area would then allow a ring of mixed use to the surrounding businesses which is what is proposed as the downtown business district but still preserve this small heart that was purely business zone.

Mr. Lista asked whether there was overlap between the Article 30 zone and this zone. Mr. Fields replied creative production uses and our specialty craft fabrication are allowed in this zone by special permit.

Mr. Lista asked if the work/live arrangements in Article 30 could be addressed later and Mr. Field replied yes.

Mr. Lista asked if there are any residences in this zone currently. Mr. Fields said there are not and that the upper floors of these buildings within the zone are zoned for commercial uses.

Mr. Lista asked if analysis of the tax revenue impact of these zoning changes would be Mr. Fields replied that this analysis wasn't done.

Ms. Evans added that a mixed use project being proposed on Washington Street which is not within this zone.

Mr. Hayes asked if the specialty craft fabrication uses in Motion C and A, page 4 is based on the fact we might pass the prior motions and Mr. Field answered yes. Mr. Hayes asked if those motions do not pass this would be removed by default and Mr. Fields replied that in that scenario they would be removed

Article 32 – Motion A

Mr. Evans moved Favorable action on Article 32 Motion A, seconded by Mr. DeLuca, voted 10-0-0.

Mr. Evans thanked everyone for all the questions and to looking at the correct version and reconciling the issues. The objective of this article is sound.

Mr DeLuca added that the cyclical nature of businesses and the boom/bust of both real estate and commercial. When either real estate or commercial business is developed in an area in a boom time and then it goes through a bust. This helps alleviate the bust cycle and helps the town keep these historical sites vital to keep the character of a town.

Article 32 – Motion B

Mr. Evans moved Favorable action on Article 32 Motion B, seconded by Ms. Amsterdam, voted 10-0-0.

Mr. Evans said that this follows through on the initial idea.

Article 32 – Motion C

Mr. Evans moved Favorable action on Article 32 Motion C, seconded by Ms. Amsterdam, voted 10-0-0.

Article 32 – Motion D

Mr. Evans moved Favorable action on Article 32 Motion D, seconded by Ms. Amsterdam, voted 10-0-0.

Mr. Evans expressed his thanks for the map for illustrative purposes.

Ms. Wollschlager expressed a desire to include a disclaimer on the map.

[Article 33: Amend Zoning By-Laws: Non-Conforming Uses, Large Residential Additions Zoning Amendment](#)

Presenters:

Mr. Fields, Senior Planner – Community and Economic Development Dept. (CED)

Ms. Evans, Member – Planning Board

Mr. Fields: Residents have communicated to the Economic Development Department their view that the demolition and reconstruction of small residential properties in old residential neighborhoods and replacement with larger dwellings that are out of character with established construction is not desirable. This formalizes an existing policy of the Building Commissioner in regards to residential properties and also follows the practice in Arlington to regulate large additions. In this case, defined as the alteration or demolition or addition reconstruction that increases the gross floor area (FAR) of a single- or two-family dwelling greater than 1000 square feet or more than 50% of the dwelling whichever is less. Such large additions requires going before the Zoning Board of Appeals for a special permit process with specified criteria for determination are stipulated in Motion B. Ms. Evans said almost 70% of residential lots in Natick are nonconforming lots and we are looking at other means to address that. If someone wants to do a major demolition, the current practice is to apply to the Zoning Board of Appeals for a Section 6 Finding. This article establishes a more formal review process with site plan review that will provide an important tool to manage the increasing number of

demolitions and mega rebuilds. Mr. Fields added that when the addition is constructed entirely within the foundation and not outside of the foundation it is exempted from this motion.

Questions from the Committee:

Mr. Lista asked if this is directed at developers, current owners or both. Mr. Fields said it is directed at any property that is purchased and then reconstructed with a large addition. It would include owners who want to expand it beyond 50% of the gross FAR or a new buyer who wants to demolish and rebuild into a larger format. Ms. Evans added that this tends to occur most often when a property is sold whether to an individual or to a developer.

Mr. DeLuca asked how the footprint of the structure is defined in the 50% of square footage such as a detached garage or any separate outbuildings not attached to the livable structure. Mr. Fields said if an existing garage is attached to the primary dwelling it would be included, however if it is separate it would not count because it is not the primary married dwelling. Generally, out-buildings are not considered not habitable structures.

Mr. Coburn asked if a homeowner wanted to add a second floor addition that included a roof overhang that extended beyond the foundation, would that be considered part of this definition. Mr. Fields replied that extension over the vertical plane of the foundation would trigger this definition, depending on the additional space involved.

Ms. Wollschlager opined that the phrase *nonconforming single- family or two-family dwelling* is unclear and could be interpreted as nonconforming single- or two-family dwelling which may be conforming or nonconforming. Ms. Evans said by striking the word two-family after single- clarifies that and will be modified throughout the document.

Mr. Pierce asked how the town aware that this was a problem throughout Natick. Mr. Fields replied the testimony of several residents during the compilation of the 2030 Master Plan and has been a recurring subject of discussion and consternation with the Affordable Housing Trust (AHT). Several members of the AHT sought the assistance of CED) and the Planning Board to find ways to combat this problem.

Mr. Hayes asked if there was a maximum house size for any given lot size in residential zoning districts and Mr. Fields replied there is. Mr. Hayes asked if this motion worked in conjunction with that lot restriction or whether this motion allows more. Mr. Fields said this governs expansion for properties that are already nonconforming with a stricter set of characteristics than the Section 6 process.

Mr. Hayes asked how the Building Commissioner defined “attached”. Mr. Fields replied it is not defined in existing By-Laws, but would ask the Building Commissioner and get back to the Finance Committee with an answer. Mr. Hayes asked that CED and the Planning Board think about the ways people creatively figure out how to add additions to their house and return in the spring with tighter language on this topic.

Article 33 – Motion A

*Mr. Evans moved Favorable action on subject Article 33 Motion A, seconded by Mr. Sullivan, **voted 8-1-1.***

Mr. Evans thanked both the Planning Board and the CED for bringing this forward in order to establish clear ground rules so when construction projects are taking place they do not damage the character of the surrounding neighborhood. Driving around Natick, you see ample evidence of tear-downs and replacement with out-sized homes that change the character of neighborhoods. Mr. Evans expressed happiness that this bylaw takes it out of the realm of a judgment call where the ZBA might rule one way for one project and differently for another project. This establishes clear ground rules to guide the ZBA,

Mr. Sullivan added the value of homes could adversely be affected and has a negative financial impact on homeowners directly adjacent to those types of environments without clear guidelines in place.

Mr. DeLuca said there was a lot of hard work that went into this although he would like to see more clarification of attached focus on the garage element so loopholes are not exploited.

Mr. Lista said he is in support of this and it is important for preserving the character of the town. I hope there will be considerations for existing homeowners who would like to expand the footprint of their home they purchased not knowing their lot was nonconforming outside those exceptions that are in place. Mr. Lista also expressed concerns about the effect this might the passage of houses from one generation in a family to the next generation of a family.

Mr. Grome agreed and preferred to see two separate articles to make a specific differentiation between the existing homeowner and a demolition rebuild project. He stated, for that reason, he will not support this article because it does not make this differentiation.

Article 33 – Motion B

*Mr. Evans moved Favorable action on subject Article 33 Motion B, seconded by Mr. DeLuca, **voted 8-1-1.***

Mr. Evans said this establishes the processes that the ZBA will use to handle large additions and tear-downs.

Mr. DeLuca said we have a mix of housing stock covered under the regulations. We have a lot of high-end housing and some affordable housing, but everything in between is vulnerable to be purchased by developers and turned into top-end housing stock. This article helps sustain the middle-tier housing stock within the town.

Mr. Pierce said agreed. but is concerned about the goals of the 2030 Master Plan because the out-of-town developers are already shaping what Natick is going to look like in the future He expressed appreciation for this work to protect Natick residents.

Article 33 – Motion C

*Mr. Evans moved Favorable action on Article 33 Motion C, seconded by Mr. DeLuca, **voted 8-1-1.***

Mr. Evans echoed what Mr. DeLuca said on Motion B. Developers are not building affordable housing. The best way the town can preserve affordability and this is the best vehicle that we have to keep the character of existing neighborhoods is to support this. Mr. DeLuca agreed.

[Article 34: Amend Zoning By-Laws: Alternate Uses In Residential Districts Zoning Amendment](#)

Presenter:

Mr. Julian Munnich, Town Meeting member, Precinct 5?

Article 34 is a component of Article 27 of 2019 Spring Annual Town Meeting where I assisted in combining two divergent articles on home dog kennels into a single motion that both parties would agree on. However, one component was beyond the scope of the article. The people that wanted to protect the neighbors from onerous uses saw in other parts of the By-Laws where we already had established that if it is a use that is not normal to a residential neighborhood you did not have to put that activity into the setbacks as opposed to just buildings being set back. There needed to be a separate section as defined through the By-Laws. The problem with that was it technically may have encompassed other uses besides the kennel and the Moderator decided that was beyond the scope. There was a promise made to the proponents of the kennel that we would return with an article that would be allowed. We discovered three other for-profit uses that would be affected by this and four items would now have this exclusion. If any other of these uses came along, neighbors would expect that any activity that goes with them would also be excluded from the setbacks. The wording is the same as what was excised in the spring. The Planning Board and the Finance Committee had approved the wording in Spring 2019.

Questions from the Committee:

NONE

Mr. Hayes advised the committee that the proponent of Article 27, Mr. Beaumont has indicated he is in strong support of this article's motion and sent this email.

September 18, 2019

Re: Article 34

Dear Members of the Finance Committee,

My apologies for not attending in person. I am writing in support of Article 34. As a sponsor in the spring town meeting of article 26 and a principal of article 27, I would like to say that the setback requirements noted in Article 34 are in the spirit of Article 27 which was passed in the spring. These requirements should have been in article 27 and this new article 34 corrects the situation. I am in full support of article 34.

Thank you,
Signed,

Saul Beaumont
3 Fieldstone Lane
Natick, MA

Article 34 – Motion

*Mr. Coburn moved Favorable action on Article 34, seconded by Ms. Amsterdam, **voted 10-0-0.***

Mr. Coburn said this was very straight forward and stymied procedurally but otherwise supported.

Ms. Van Amsterdam said she appreciates the follow through on this article.

Article 35: Amend Zoning Bylaw – Retail Marijuana Overlay Districts

Presenters:

Mr. Fields, Senior Planner – Community and Economic Development Dept. (CED)

Ms. Evans, Member – Planning Board

Ms. Evans: The Planning Board has updated the map that incorporates the creation of three marijuana retail districts voted by Town Meeting. The lots marked in red in the Golden Triangle District were inadvertently omitted. Several maps marked in purple are the lots in the district being removed and designated by a tiny purple mark in the east near the Wellesley line is a small finger of lots located in the residential zone which should never have been included and will be removed.

Questions from the Committee:

Ms. Wollschlager asked if the parcel that was removed is the one located closest to the Wellesley line.

Ms. Evans confirmed it was a piece of a lot near Jennings Pond that when voted was the entire lot when it should have been that portion that is in the C-II Commercial District so the map shows you the physical interpretation of the definition change. Ms. Wollschlager asked if it could be made more visible. Ms. Evans said they could zoom in on the one in the east side and make sure their color choices shows a pattern to make it easier to pick out and will include it in the book.

Article 35 – Motion

*Mr. Evans moved favorable action on subject Article 35, seconded by Ms. Wollschlager, **voted 9 – 0 - 1.***

Mr. Evans noted that this article corrects errors in the previous zoning map.

Ms. Wollschlager thanked Ms. Evans for following up on this and finding the errors and when this comes before us in the future if we can have this checked beforehand to identify parcels that have been added or deleted erroneously. Ms. Evans agreed to do so.

Meeting Minutes:

Mr. Evans brought forth meeting minutes for approval.

*Mr. Hayes moved favorable action on Meeting Minutes March 19, 2019, seconded by Ms. Wollschlager, **voted 9 – 0 - 1.***

*Mr. Hayes moved favorable action as amended on Meeting Minutes September 3, 2019, seconded by Ms. Wollschlager, **voted 9 – 0 - 1.***

*Mr. Hayes moved favorable action as amended on Meeting Minutes September 5, 2019, seconded by Ms. Wollschlager, **voted 9 – 0 - 1.***

Mr. Evans will bring forth meeting minutes for September 10, 2019 at next Tuesday's meeting and possibly September 17, 2019 and tonight's at next Thursday's meeting.

Mr. Evans moved to close the public hearing on 2019 Fall Annual Town Meeting Warrant article review,

seconded by, Ms. Wollschlager, voted 10 – 0 – 0.

ADJOURN

Mr. Pierce moved to adjourn, seconded by Ms. Van Amsterdam, voted 10 – 0 – 0. Meeting adjourned at 9:17 pm.

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

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Article 19 MOTION as of 9-26-19	9/30/2019	Exhibit
Article 19 Motion redline version	9/30/2019	Exhibit
Article 19- email from Ms. Wilson-Martin re: questions asked	9/30/2019	Exhibit
Town By-Law 79A - proposed changes	9/30/2019	Exhibit
Picture of Truck	9/30/2019	Exhibit
Article 19 Questionnaire & Responses	9/30/2019	Exhibit
Article 19: FINAL MOTION (old version)	9/17/2019	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 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 100 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 100 cubic yards of soil material, construction of walls greater than one foot in height, 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** – Applications for Major Stormwater and Erosion Control permits require distribution to the Department of Public Works and the Board of Health as noted in Section 7.A. 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.

The 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, including, but not limited to, circumstances in which plans must be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS), may be specified by the Conservation Commission or Designated Agent; 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. 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. 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

Regulations promulgated by the Conservation Commission for the administration of this By-Law shall set forth the inspection and site supervision requirements required for a Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 9A – 9D.

A. Pre-Construction Meeting - Prior to the commencement of any Land Disturbing Activity requiring a Stormwater and Erosion Control Permit, a pre-construction meeting may be required as specified in the regulations promulgated by the Conservation Commission for the administration of this By-Law. If required, 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 required by the regulations promulgated by the Conservation Commission for the administration of this By-Law. The Conservation Commission or Designated Agent 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 require any modifications to the work to ensure full compliance with the permit. 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. 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 as required in the regulations promulgated by the Conservation Commission for the administration of this By-Law, 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 reports to the Conservation Commission or Designated Agent in a frequency and format required by the regulations promulgated by the Conservation Commission for the administration of this By-Law. 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 or Designated Agent 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.”

And to take all such action necessary and appropriate to accomplish the purposes of this article.

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 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 100 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 100 cubic yards of soil material, construction of walls greater than one foot in height, 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** – Applications for Major Stormwater and Erosion Control permits require distribution to the Department of Public Works and the Board of Health as noted in Section 7.A. 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.

The 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, including, but not limited to, circumstances in which plans must be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS), may be specified by the Conservation Commission or Designated Agent; 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. 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. 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

Regulations promulgated by the Conservation Commission for the administration of this By-Law shall set forth the inspection and site supervision requirements required for a Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 9A – 9D.

A. **Pre-Construction Meeting** - Prior to the commencement of any Land Disturbing Activity requiring a Stormwater and Erosion Control Permit, a pre-construction meeting may be required as specified in the regulations promulgated by the Conservation Commission for the administration of this By-Law. If required, 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 required by the regulations promulgated by the Conservation Commission for the administration of this By-Law. The Conservation Commission or Designated Agent 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 require any modifications to the work to ensure full compliance with the permit. 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. 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 as required in the regulations promulgated by the Conservation Commission for the administration of this By-Law, 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 reports to the Conservation Commission or Designated Agent in a frequency and format required by the regulations promulgated by the Conservation Commission for the administration of this By-Law. 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 or Designated Agent 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.”

And to take all such action necessary and appropriate to accomplish the purposes of this article.

**Fwd: Follow Up on Article 19**

1 message

Patrick Hayes <phayes.fincom@natickma.org>

Wed, Sep 25, 2019 at 7:56 PM

To: Bill Grome <wgrome.fincom@natickma.org>, Bruce Evans <bevans.fincom@natickma.org>, Dan Sullivan <dsullivan.fincom@natickma.org>, David Coffey <dcoffey.fincom@natickma.org>, Dirk Coburn <dcoburn.fincom@natickma.org>, Jeff DeLuca <jdeluca.fincom@natickma.org>, Jerry Pierce <jpierce.fincom@natickma.org>, Jim Scurlock <jscurlock.fincom@natickma.org>, Kristine VanAmsterdam <kvanamsterdam.fincom@natickma.org>, Linda Wolschlager <lwolschlager.fincom@natickma.org>, Mike Linehan <mlinehan.fincom@natickma.org>, Patrick Hayes <phayes.fincom@natickma.org>, Philip Rooney <prooney.fincom@natickma.org>, Tony Lista <tlista.fincom@natickma.org>

A follow up from Mr. Wilson-Martin regarding requested information and action on Article 19. Please read and if you have any remaining questions please send to me by mid-afternoon Friday. It is my hope that we have all questions asked and answered in ADVANCE of taking this back up on Tuesday, October 1. I'm not anticipating that we spend much time at all on this article. If you were not in attendance for the initial hearing, please watch the VOD so you know everything that was covered.

Patrick

----- Forwarded message -----

From: Jillian Wilson-Martin <jwmartin@natickma.org>

Date: Tue, Sep 24, 2019 at 2:28 PM

Subject: Follow Up on Article 19

To: Patrick Hayes <phayes.fincom@natickma.org>

Cc: Michael Hickey <mhickey@natickma.org>, Matthew Gardner <matthew.gardner@sustainerv.com>, Marianne Iarossi <miarossi@natickma.org>, Karis North <knorth@mhtl.com>

Dear Patrick,

Thank you to you and your Committee for your review of the proposed motion for Article 19.

During last week's hearing, a few questions came up that we have responded to below. We have also attached the following to this email:

- A revised motion based on feedback from Fin Com (two versions are attached, one in track changes from the last version and one clean version)
- A "compare changes" document that was prepared using the existing By-Law and the revised motion, as requested
- Our original responses to the Fin Com questionnaire as provided on 9/12
- A photo of myself with a dump truck (more detail below!)

Please note the revised motion has been reviewed by Town Counsel, the Chair of the Conservation Commission, the Town Engineer and Mass DEP's Stormwater Coordinator.

To-date, we have not received any additional questions from the Finance Committee regarding Article 19. If possible, given the number of stakeholders involved in drafting this motion, we would greatly appreciate it if the Committee could send any additional questions by Friday, 9/27.

I also wanted to flag for you that Matt Gardner, Chair of the Conservation Commission, will be joining us for your meeting on October 1.

Best,
Jillian

Response to Questions on Exempt Activities

Two questions came up regarding Section 4D.2, which exempts reasonable and ordinary lawn maintenance and landscaping activities.

The first question was regarding the height of walls. We agree with Finance Committee member, Mr. Linehan, that the height of a wall should be clarified and have revised our motion to clearly state that walls greater than one foot in height would be exempt.

The second question was regarding the addition of 50 cubic yards of soil. During the meeting, the presumption was that this was a typo and that the figure in Section 4D.2 should read 500 cubic yards of soil. The conversation focused on what happens to projects that move between 51-499 cubic yards of soil. This was a great question and, while this grey area exists in the current By-Law and, in conversations with DEP, it also exists in other communities' Stormwater By-Laws, we agree it would be much cleaner to close the gap.

Upon further reflection, we do not believe exempting up to 500 cubic yards is responsible. As context, 500 cubic yards of soil is the equivalent of filling about 35 of the Town's 10-wheel dump trucks (see attached awkward photo of myself with one of these trucks) or about 60 of the Town's 6-wheel dump trucks.

So what is the right threshold? We investigated a few alternatives and believe 100 cubic yards of soil makes sense and is consistent with other language in the By-Law. (100 cubic yards of soil is the equivalent of filling a 3,000 sq ft area with one foot of soil, which would align with the language in 4D.2 regarding the alteration of existing grades by more than a foot.)

As such, we now recommend 1) changing Section 4D.2 from 50 cubic yards of soil to 100 cubic yards and 2) revising the Minor Permit's soil redistribution threshold from 500 cubic yards to 100 cubic yards. These changes are reflected in the attached revised motion.

Response to Question on Costs to Develop Required Plans

Mr. Linehan also asked what additional costs this By-Law may add to the cost of constructing a new, single family home, given the potential need to hire a professional engineer to develop necessary plans. While the Conservation Commission's regulations will ultimately define which plans are necessary for which project, it is reasonable to anticipate a Minor Permit associated with the construction of a new home would require an Erosion and Sedimentation Control Plan. Since speaking with you, we confirmed that the Building Department requires stamped plans for the construction of a new home. We spoke with the Town Engineer and he noted that, given a developer of a single family home is already working with a Professional Engineer, that the development of an Erosion and Sedimentation Control plan would add minimal costs. If an Erosion and Sedimentation Control plan was required by a project that did not already have a PE on board (e.g., the clearing of 3,000 sq ft of land for no development purpose), he estimated that the cost of hiring a professional engineer for this purpose could range from \$1,000-\$3,000.

At their meeting on 9/19, the Conservation Commission confirmed their goal is not to place an unnecessary burden on small residential projects. As such, in both response to Mr. Linehan's question and to provide greater flexibility within the By-Law, we propose revising the motion (as shown in the attached) to clarify that both plan preparation requirements and inspection and site supervision requirements will be defined in the By-Law's accompanying regulations.

Jillian Wilson-Martin
Sustainability Coordinator
Town of Natick
75 West Street
Natick, MA 01760

508-647-6555

--
Patrick Hayes
(508)-333-4994 (m)


Finance Committee Chairman
-Planning Governance Sub-Committee Chair

Financial Planning Committee Member-----
West Natick Fire Station Building Committee Member-----
Town Meeting Member**5 attachments**

Jillian and a 10 Wheel Dump Truck.jpg
808K

9/30/2019

Town of Natick Mail - Fwd: Follow Up on Article 19

 **Article 19 - Motion and Responses to Fin Com Questionnaire.docx**
504K

 **ARTICLE 79A - Red Line of Proposed Changes 9.24.19.docx**
66K

 **Article 19 - Motion Rev 9.24.19 FINAL.docx**
41K

 **Article 19 - Motion Rev 9.24.19 TRACKED.docx**
42K

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 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 100 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 100 cubic yards of soil material, construction of walls greater than one foot in height, 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** – Applications for Major Stormwater and Erosion Control permits require distribution to the Department of Public Works and the Board of Health as noted in Section 7.A. 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.

The 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, including, but not limited to, circumstances in which plans must be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS), may be specified by the Conservation Commission or Designated Agent; 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. 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. 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

Regulations promulgated by the Conservation Commission for the administration of this By-Law shall set forth the inspection and site supervision requirements required for a Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 9A – 9D.

A. Pre-Construction Meeting - Prior to the commencement of any Land Disturbing Activity requiring a Stormwater and Erosion Control Permit, a pre-construction meeting may be required as specified in the regulations promulgated by the Conservation Commission for the administration of this By-Law. If required, 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 required by the regulations promulgated by the Conservation Commission for the administration of this By-Law. The Conservation Commission or Designated Agent 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 require any modifications to the work to ensure full compliance with the permit. 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. 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 as required in the regulations promulgated by the Conservation Commission for the administration of this By-Law, 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 reports to the Conservation Commission or Designated Agent in a frequency and format required by the regulations promulgated by the Conservation Commission for the administration of this By-Law. 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 or Designated Agent 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.”

And to take all such action necessary and appropriate to accomplish the purposes of this article.

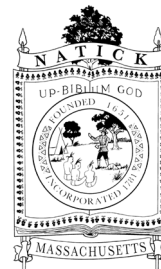


September 12, 2019

Prepared by:

Jillian Wilson Martin, Sustainability Coordinator

Marianne Iarossi, Conservation Agent



2019 Fall Town Meeting, Article 19 Responses to Finance Committee Questionnaire

1: Provide the article motion exactly as it will appear in the Finance Committee Recommendation Book and presented to Town Meeting for action.

Please see attached Appendix I for the motion. In summary, the motion proposes the following significant changes to Article 79A in the Town of Natick's General Bylaw: revisions to permit thresholds, clarifications and additions to exempt activities and the addition of a low impact development plan to the types of plans the Conservation Commission may require from applicants. Additional detail on each of these changes is provided below.

Minor edits are also proposed throughout the By-Law to resolve inaccuracies with existing language (e.g., reference the MA Stormwater Standards instead of the currently referenced MA Stormwater Policy, which is not the official name) and to capitalize defined terms.

While much of the language in the existing Article 79A would remain, codifying the proposed changes throughout the document require edits to every section, and Town Counsel recommends a "delete and replace" motion due to the complexity of the edits proposed.

Summary of Proposed Changes

1. Permit Thresholds

The current By-Law requires a Land Disturbance Permit only if 40,000 sq ft of land is disturbed. As such, the Conservation Commission only reviews a handful of Land Disturbance permits each year.

The proposed motion changes the thresholds required to apply for a permit and replaces the Land Disturbance Permit with two new permits:

- Minor Stormwater and Erosion Control Permit

This permit is for projects that meet one or more of the following criteria:

- ✓ Result in a Land Disturbance greater than 3,000 square feet, but not exceeding 20,000 square feet.

- ✓ The construction of a new drainage facility or the alteration of an existing drainage facility greater than 3,000 square feet, but not exceeding 20,000 square feet.
- ✓ The addition, on-site redistribution or export of greater than or equal to 500 cubic yards, but not exceeding 750 cubic yards of earth materials including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.

Minor permits would be reviewed and approved by the Conservation Commission's Designated Agent, and would not be subject to a public hearing. If the applicant disagreed with the Agent's decision, he/she would have the opportunity to appeal a permit denial to the Conservation Commission in a public hearing.

For perspective, 3,000 square feet of land disturbance is typical for the construction of a new house, but extremely unusual for an addition. As such, staff estimate the addition of this permit would result in approximately 30 Minor Stormwater and Erosion Control Permit applications each year.

- Major Stormwater and Erosion Control Permit

This permit is for projects that exceed the criteria defined for Minor Permits. Projects that are subject to a Major Permit would follow a similar process as projects subject to the current By-Law. The Conservation Commission would be responsible for reviewing the application and making a decision, in conjunction with a public hearing. Because the proposed changes to the By-Law exempt projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions, the expectation is that this motion will result in very few additional Major Permits.

2. Clarity and Addition of Exempt Activities

The proposed By-Law would require best management practices (BMPs) are followed for all projects and add exemptions for:

- The reconstruction of a single family home within the current building footprint
- Logging in accordance with Dept of Conservation and Recreation Forest Cutting Plans
- Repair or replacement of damaged roofs
- The maintenance or reconstruction of any public way, in accordance with Town policy developed by the Natick Board of Selectmen and Conservation Commission.
- The temporary stockpiling of Soil by a landscaper, excavator, or similar commercial enterprise for reuse elsewhere, so long as BMPs are used.

3. Addition of Low Impact Development Plan

The motion proposes the addition of a Low Impact Development (LID) Plan to the list of plans the Conservation Commission may require from an applicant. This provides applicants the flexibility to incorporate LID techniques into their design and to use nature-based solutions to comply with the Commission's regulation of this By-Law.

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

While a more detailed list of the By-Law's purpose and objectives are provided in the motion (see Appendix I), our ultimate objectives are to protect local water resources and reduce flooding.

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 the Finance Committee, other Boards or Committees and Town Meeting?

The Town has an existing Stormwater and Erosion Control By-Law (Article 79A of the General Bylaw) that we seek to revise. Article 79A was unanimously recommended by the Finance Committee to Town Meeting and was approved at the 2006 Spring Annual Town Meeting.

Other Boards, including the Conservation Commission, the Stormwater Advisory Committee and the Board of Selectmen, and Town staff with stormwater expertise, including the Director of Public Works, Town Engineer, the Conservation Agent, Senior Planner of Community and Economic Development, and the Director of Health have reviewed the proposed changes and recommend their adoption.

4. Why is it required for the Town of Natick and for the Town Agency sponsor(s)?

The cumulative impact of development in Natick, as currently regulated, is having a negative effect on local water bodies and our community's resilience.

Nearly every water body in Natick is categorized as impaired by the [Massachusetts Year 2016 Integrated List of Waters](#) (a publication prepared by MassDEP related to the Clean Water Act). The main source of pollution to these water bodies is stormwater, which flows directly into our lakes and rivers, untreated.

Without proper regulation, development will typically result in an increase in impervious surface, which results in an increase in stormwater runoff and higher stormwater peak flows. This can cause the transport of runoff containing phosphorus, pesticides, bacteria and chemicals from driveways into catch basins and straight into our waters. Coupled with rising levels of precipitation and the more frequent occurrence of high rainfall events, these higher stormwater peak flows can also increase area flooding.

At present, the Town of Natick, as led by the Conservation Commission, only regulates large development projects - those requiring more than 40,000 sq ft of land disturbance - for stormwater impacts. However, in a community that is largely built out, few projects meet that threshold, and, since Article 79A went into effect in 2006, less than 50 projects have required the Conservation Commission's review.

Indeed, as shown in Appendix II, only 10% of private parcels located in Natick are more than 40,000 sq ft in size, meaning 90% of parcels are not subject to the Conservation Commission's stormwater regulations. A more meaningful summary of this challenge becomes clear when parcels are categorized

by their ‘stormwater watershed’ or the water body the nearest catch basin drains into (see Appendix III). An analysis of Dug Pond, home to the Town’s only public beach, finds that only 3% of private properties have the minimum space required to potentially meet Article 79A’s threshold. The takeaway? Natick’s current regulations do not effectively protect Dug Pond, Lake Cochituate, the Charles River and our other local water bodies and lower thresholds are needed.

Updating our stormwater regulations to include a threshold that is more in line with our level of development is also consistent with the approach other communities are taking. A review of area stormwater bylaws found that every community treats stormwater differently. However, a correlation exists between land disturbance thresholds and a community’s level of development, as illustrated in the below table.

Community	Level of Development	Land Disturbance Threshold
Charlton	Low	43,560 sq ft
Franklin	Low	40,000 sq ft
Holliston	Low/Medium	10,000 sq ft
Hopkinton	Low	10,000 sq ft
Burlington	Medium	10,000 sq ft
Acton	Low/Medium	5,000 sq ft
Dedham	Medium	500 sq ft
Newton	High	400 sq ft

Given Natick’s highly developed nature, it makes sense for the Town to adopt regulations that optimize the Conservation Commission’s ability to regulate projects that result in a significant disturbance of land (e.g., the clearing of land for the construction of a new home) and take a more comprehensive and thoughtful approach to managing stormwater impacts. This is in line with communities that are similar to Natick in size and level of development.

The proposed changes will also update Natick’s regulations to reflect changing Federal regulations, such as the new Municipal Separate Storm Sewer System (MS4) permit, and will encourage the adoption of Low Impact Development (LID) techniques by providing a pathway to increase infiltration via nature-based solutions.

5. Does this article require funding, how much, from what source of funds and under whose authority will the appropriation be managed and spent?

The article does not require funding and it is not expected to result in a need for additional staff.

6. 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? Does this article seek to amend, rescind or otherwise change any prior action of Natick Town Meeting?

Yes, this article would extend prior action of Town Meeting in that it would amend an existing Town of Natick General By-Law, Article 79A, adopted in 2006.

7. 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?

The proposed changes are in response to recommendations identified in the 2019 Natick 2030+ Master Plan, 2018 Hazard Mitigation Plan and the 2018 Community Resilience Building Report. The changes also address the requirements of the new Municipal Separate Storm Sewer System (MS4) permit.

The proposed changes are not expected to have a significant impact on Natick's financials, however, they will result in additional permits and their associated fees. The Conservation Commission will establish the fee for relevant permits via the regulations it adopts to effectuate the purpose of this By-Law.

8. Who are the critical participants in executing the effort envisioned by the article motion?

Ultimately, the Conservation Commission and Conservation Agent are the most critical participants in executing the effort envisioned, and they are in favor of this article.

9. 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**

Each of the below Boards/individuals has reviewed and expressed their support for the proposed changes. Many have been active participants in the crafting of this motion. Other external stakeholders, including Mass Audubon's Shaping the Future of Your Community program, MassDEP, and the Environmental Partners, Natick's MS4 consultant were provided with a draft of proposed changes and their feedback was incorporated.

- Conservation Commission
- Board of Selectmen
- Conservation Agent, Marianne Iarossi and former Conservation Agent, Victoria Parsons
- Senior Planner, Community & Economic Development, Ted Fields

- Building Commissioner, David Gusimini
- Director of Public Health, James White
- Director of Public Works, Jeremy Marsette, P.E.
- Town Engineer, William McDowell, P.E.

Members of the public were made aware of the Town's intent to pursue changes to the existing Stormwater By-Law, Article 79A, at the Planning Board's meeting on May 22, 2019 and at the Board of Selectmen's August 5, 2019 meeting. Following that meeting, Town staff were contacted by a local developer to discuss proposed changes, which were viewed as favorable by the developer.

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

No.

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?

Natick will be at risk of further polluting local water bodies and flooding.

APPENDIX I

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:

- (1) Delete Sections 1 through Section 16, as follows, in their entirety:

“Section 1 Purpose

A. Increased volumes of stormwater, contaminated stormwater 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 stormwater 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 stormwater 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 eliminate soil erosion and sedimentation;
3. control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
4. require practices to manage and treat stormwater runoff generated from new development and redevelopment;
5. protect groundwater and surface water from degradation;
6. promote infiltration and the recharge of groundwater;
7. maximize recharge of groundwater in the Natick Aquifer Protection District as defined by Section III-A.5 of the Natick Zoning By-Law;
8. prevent pollutants from entering the municipal storm drain system;
9. ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;

10. ensure adequate long-term operation and maintenance of structural stormwater best management practices;
11. require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
12. comply with state and federal statutes and regulations relating to stormwater discharges; and
13. 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:

ABUTTER: The owner(s) of land abutting the activity.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

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" as defined below requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: Conservation Commission and its employees or agents designated to enforce this By-Law.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity of or improve the quality of stormwater 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 that may adversely impact water quality.

CLEARING: Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

ENVIRONMENTAL SITE MONITOR: A Registered Professional Engineer or other trained professional selected by the Conservation Commission and retained by the holder of a Minor Land Disturbance Permit or a Full Land Disturbance Permit to periodically inspect the work and report to the Conservation Commission.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a registered professional engineer (PE) or a registered professional land surveyor (PLS), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

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

GRUBBING: The act of clearing land 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 soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops. 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, excavation of soil, placement of fill, and construction that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

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 ENDANGERED SPECIES ACT: (M.G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy 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 MGL c. 131 s. 40 and the Massachusetts Clean Waters Act MGL c. 21, ss. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying

stormwater, including 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 of Natick.

OPERATION AND MAINTENANCE PLAN: A plan describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a discernible, confined point source or discrete conveyance into waters of the Commonwealth.

OUTSTANDING RESOURCE WATERS (ORWs): Waters designated by the Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

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

PERMITTEE: The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

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.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source that is considered toxic or detrimental to humans or the environment and may be introduced into the municipal storm drain system or into any water, watercourse or waters of the Commonwealth.

PRE-CONSTRUCTION: All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RESPONSIBLE PARTIES: owner(s), persons with financial responsibility, persons with operational responsibility, and 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.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL: Any earth, sand, rock, gravel, or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a registered professional engineer (PE) or a registered professional land surveyor (PLS), which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

TSS: Total Suspended Solids. Material, including but not limited to trash, debris, and sand suspended in stormwater runoff.

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

WATERCOURSE: A natural or man-made channel through which water flows, including a river, brook, stream, underground stream, pond or lake.

WETLAND RESOURCE AREA: Area specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, s.40 and in the Town of Natick Wetland Protection By-law.

WETLANDS: Freshwater wetland, marsh, bog, wet meadow and swamp are defined in M.G.L. Chapter 131, Section 40, and are collectively known as vegetated wetlands. Credible evidence as to wetland affinities of other vegetation in an area shall be considered in making wetland determinations.

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 pursuant to 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.

Section 4 Applicability

This By-Law shall apply to all land-disturbing activities within the jurisdiction of the Town of Natick. Except as permitted by the Conservation Commission, or as otherwise provided in this By-Law, no person shall perform any activity that results in land disturbance of 40,000 square feet or more.

A. Regulated Activities - Regulated activities shall include, but not be limited to:

1. Land disturbance of greater than 40,000 square feet, associated with construction or reconstruction of structures.
2. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 40,000 square feet or more of land,
3. Paving or other change in surface material over an area of 40,000 square feet or more causing a significant reduction of permeability or increase in runoff,
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 40,000 square feet,
5. Any other activity altering the surface of an area exceeding 40,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system, OR
6. Construction or reconstruction of structures where more than 40,000 square feet of roof drainage is altered.

B. Erosion and Sedimentation Control Requirement - A project which includes land disturbance of less than 40,000 s.f. shall be considered to be in conformance with this By-Law if soils or other eroded matter have been or will be prevented from being deposited onto adjacent properties, rights-of-ways, public storm drainage system, or wetland or watercourse. The design, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards specified in the Regulation to the By-Law.

C. Exempt Activities - The following activities are exempt from the requirements of this By-Law:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act.
2. Repair of septic systems when required by the Board of Health for the protection of public health and compliance with Section 4, Paragraph B.
3. Normal maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling 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.

4. The construction of fencing that will not alter existing terrain or drainage patterns.
5. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.
6. Projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions.

Section 5 Administration

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 may be delegated in writing by the Conservation Commission to its employees or agents.

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 40,000 or more square feet of land. The site owner or his agent shall apply for the permit with the Conservation Commission. While application may be made 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 and shall be accompanied by payment of the appropriate application and review fees.

B. **Fees** - Fees shall be established by 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 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 Land Disturbance Permit may be required to cover the costs of said consultant through an account established pursuant to GL. c. 44§53G.

C. **Information Requests** - The Conservation Commission may request such additional information as is necessary to enable the Conservation Commission to determine whether the proposed land disturbance activity will protect water resources and comply with the requirements of this By-Law.

D. **Determination of Completeness** - The Conservation Commission 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 Boards** - On receipt of a complete application for a Land Disturbance Permit the Conservation Commission shall distribute one copy each to the Planning Board, Department of Public Works, Board of Health, and the Building Inspector for review and comment. Said agencies 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 Land Disturbance Permit

until it has received reports from said agencies or until said agencies have allowed twenty (20) days to elapse after receipt of the application materials without submission of a report thereon.

F. **Entry** - Filing an application for a land disturbance permit grants the Conservation Commission or its 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) days of receipt of a complete application for a Land Disturbance Permit, the Conservation Commission shall hold a public hearing and shall take final action within thirty (30) days from the close of the hearing unless such time is extended by agreement between the applicant and the Conservation Commission. Notice of the public hearing shall, at least seven (7) days prior to said hearing, be given by publication in a local paper of general circulation, and by posting. The Conservation Commission shall be responsible for publishing the notice in the local newspaper and posting the notice at the Town Hall. The Conservation Commission shall make the application available for inspection by the public during business hours at the Town of Natick Conservation Office.

H. **Action** - The Conservation Commission may:

1. **Approve** the Application and issue a permit if it finds that the proposed plan will protect water resources and complies with the requirements of this By-Law;
2. **Approve the Application and issue a permit with conditions**, modifications or restrictions that the Conservation Commission determines are required to ensure that the project will protect water resources and complies with the requirements of this By-Law; or
3. **Disapprove** the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives of and to comply with the requirements of this By-Law. If the Conservation Commission finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Conservation Commission may disapprove the application, denying a permit.

I. **Project Changes** - The permittee, or his or her agent, must notify the agent of the Conservation Commission in writing of any change or alteration of a land-disturbing activity before the change or alteration occurs. If the agent of the Conservation Commission determines that the change or alteration is significant, based on the design requirements listed in Part II or Part III of the Regulations adopted by the Conservation Commission under this by-law, the agent of the Conservation Commission may require that an amended application or a full application be filed in accordance with this Section. If any change or alteration from the Land Disturbance Permit occurs during land disturbing activities, the agent of the Conservation Commission may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

Section 8 Erosion and Sedimentation Control Plan

The Erosion and Sedimentation Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development 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.

Section 9 Stormwater Management Plan

The **Stormwater Management Plan** shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission 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 Policy and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. The applicant shall submit such material as is required by the Regulations adopted by the Conservation Commission for the administration of this By-Law.

Section 10 Operation and Maintenance Plans

A. **An Operation and Maintenance Plan - (O&M Plan)** for the permanent storm water management system is required at the time of application for all projects. 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 are met in all seasons and throughout the life of the system. The Operation and Maintenance plan shall include any requirements deemed necessary by the Conservation Commission to insure compliance with said plan, including without limitation a covenant. The Conservation Commission shall make the final decision of what maintenance option is appropriate in a given situation. The Conservation Commission will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. Once approved by the Conservation Commission the Operation and Maintenance Plan shall be recorded at the South Middlesex 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 Operation and Maintenance 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.

B. Changes to Operation and Maintenance Plans

1. The owner(s) of the stormwater management system must notify the Conservation Commission or its agent of changes in ownership or assignment of financial responsibility.
2. The maintenance schedule in the Maintenance Agreement 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. Responsible Parties shall include owner(s), persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility. Once the amended Plan is signed the Conservation Commission shall file it at the Registry of Deeds at the expense of the current owner(s).

Section 11 Inspection and Site Supervision

A. **Preconstruction Meeting** - Prior to clearing, excavation, construction, or any land disturbing activity requiring a 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 its designated agent to review the permitted plans and proposed implementation.

B. Commission Inspection - The Conservation Commission or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein 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 shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Agent of the Conservation Commission at least three (3) working days before each of the following events:

1. Erosion and sediment control measures are in place and stabilized;
2. Rough Grading has 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 his/her 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 such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Conservation Commission or designated agent in a format approved by the Conservation Commission. The Conservation Commission may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission, be retained by the applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or its 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 12 Surety

The Conservation Commission may require the permittee to post before the start of land disturbance activity, 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 insure 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 each phase is completed in compliance with the permit but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 13 and issued a certificate of completion.

Section 13 Final Reports

Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a Registered Professional Engineer (P.E.) or Registered Professional Land Surveyor certifying that all erosion and sedimentation control devices, 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.

Section 14 Enforcement

A. The Conservation Commission or an authorized agent of the Conservation Commission 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 an authorized agent of the Conservation Commission may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include:

- a. a requirement to cease and desist from the land-disturbing activity until there is compliance with the By-Law and provisions of the land-disturbance permit;
- b. maintenance, installation or performance of additional erosion and sedimentation control measures;
- c. monitoring, analyses, and reporting;
- d. remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity

2. If the enforcing person 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 property owner fail to abate or perform remediation within the specified deadline, the Town of Natick may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.

3. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Natick, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation Commission within thirty (30) 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 a protest or within thirty (30) 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 property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in G.L. Ch. 59, § 57, after the thirty-first day following the 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 day or part thereof 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 authorized agent shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof 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 15 Certificate of Completion

The Conservation Commission will issue a Certificate of Completion 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 Completion shall be recorded at the Registry of Deeds by the Owner(s).

Section 16 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 shall continue in full force and effect to the extent permitted by law.”

(2) Insert 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

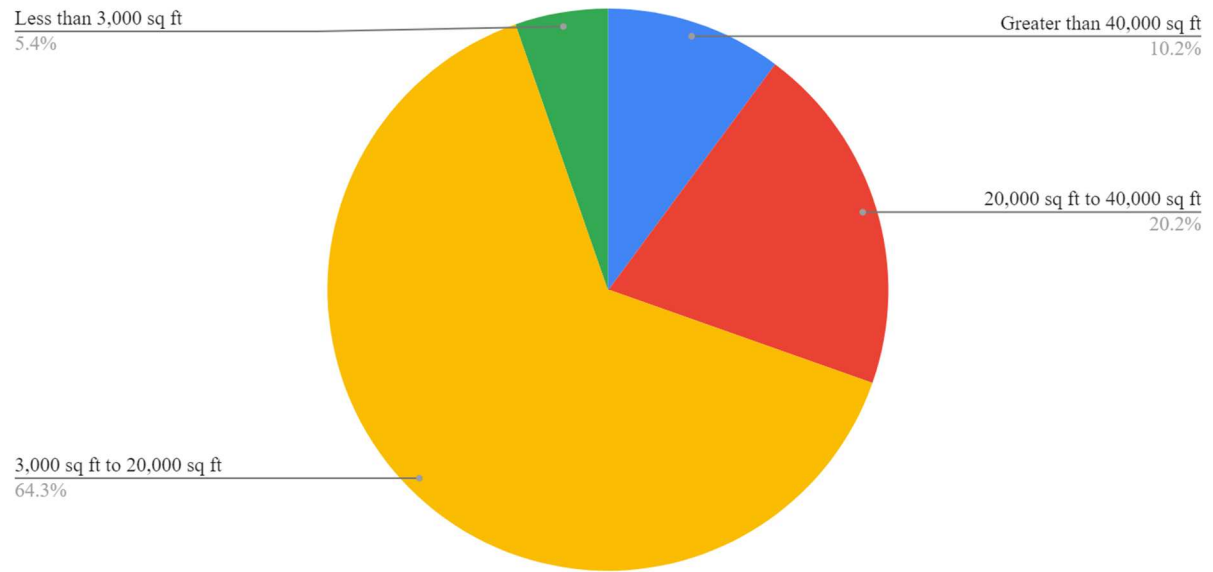
Since a Stormwater and Erosion Control Permit runs with the title of a property, the Permittee shall request the Conservation Commission to issue a Stormwater and Erosion Permit Certificate of Compliance upon receipt and approval of the final reports and/or upon otherwise determining that all work of 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.”

APPENDIX II

Analysis of Private Parcels in Natick, by Size



APPENDIX III

Analysis of Private Parcels in Natick by Receiving Waterbody

Receiving Waterbody	Total Parcels	Parcels > 40KSq Ft	Parcels 20- 40K sq ft	Parcels 3- 20K sq ft	Parcels <3K sq ft
Beaverdam Brook	1398	52	118	1146	81
Charles River (southeast corner of Town)	678	361	108	183	25
Course Brook	408	18	62	313	15
Davis Brook	738	440	153	131	14
Dug Pond	1039	29	89	848	72
Fiske Pond	113	12	21	74	5
Indian Brook	179	110	32	33	3
Jennings Pond	237	3	8	214	10
Lake Cochituate	2670	130	348	1970	221
Morses Pond	464	20	93	336	15
Nonesuch Pond	458	99	173	150	35
Unnamed Branch to the Charles River	275	45	132	89	7
Unnamed Tributary to Jennings Pond	1614	87	268	1206	28
Unnamed Tributary to the Sudbury River	204	49	26	123	6

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 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.”

And to take all such action necessary and appropriate to accomplish the purposes of this article.

ITEM TITLE: Article 20: Transfer of land to Conservation Commission: Portions of 165 Mill Street Parcel - Possible Reconsideration

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Article 20: MOTION	9/6/2019	Exhibit
Memo from Julian Munnich	9/19/2019	Exhibit
Art 20 info	9/10/2019	Exhibit
Art 20 letter	9/10/2019	Exhibit
Article 20 - Email from Dr. Nolan 9-25-2019	9/30/2019	Exhibit

ARTICLE 20 – 2019 FATM

Transfer of land to Conservation Commission: Portions of 165 Mill Street Parcel
(Board of Selectmen)

MOTION:

Move that the Town vote to transfer from the School Committee and the Board of Selectmen to the Conservation Commission, the care, custody, management, and control of a portion of land adjoining the Kennedy Middle School, identified as 5.28 acres, located at 165 Mill Street, as shown on a Plan entitled "Town of Natick Kennedy Middle School, 165 Mill Street, Natick, Massachusetts, Permitting Documents, Submitted to the Department of Environmental Protection" revision date February 6, 2019, portion identified on that Plan as "Potential Conservation Easement NAE-2019-01219 12-13-2018," and available for inspection in the Board of Selectmen's office, for the purposes of dedicating the land in perpetuity for conservation purposes and subject to the strictures and the protections of Article 97 of the Amendments to the Massachusetts Constitution, as required by the permit for File Number NAE-2019-01219, issued by the U.S. Army Corps of Engineers to the Natick School Department on April 16, 2019 ; and to take all action necessary or appropriate to accomplish the purposes of this article.

**Kennedy Middle School
Building Committee**

Memo

To: Building Committee
From: Julian Munnich
cc:
Date: September 10, 2019
Re: Fall Annual Town Meeting; Article 20

FATM Article 20 is the mechanism for the Town to transfer 5.28 acres of the Kennedy/Brown campus parcel into permanent control of the Conservation Commission under the restrictions of Article 97 of the Massachusetts Constitution. Such a transfer would cause multiple detrimental effects on the near term utility of the campus site, and would irreparably damage the Town's options for the future required development of the campus.

This issue arises from the placement of the new KMS onto several isolated wetland pockets that are the vestigial remains of engineered site drainage features that were not maintained and through negligence became list qualifying features. As such, the Mass DEP permitting process made their removal subject to Army Corps of Engineers regulation.

The ACOE permitting essentially leaves the Town with three options.

- Transfer a mitigating area of land away from school/town use to an Article 97 restricted status under the separate control of the Conservation Commission.
- Making a one-time indulgence payment in the form of a deterrent "fine" of \$132,247.36 as compensation for disturbing the vestigial drainage system.
- Presenting an alternative area/configuration of land for mitigating transfer.

Time-lines:

Developing an alternative land mitigation plan, while perhaps saving some nominal monies, is not practicable as it would harm the tight scheduling of the KMS project.

Paying the compensating amount would be an instantaneous settling of the issue, with the matter being resolved on the presentation of payment.

The voting of the transfer of land to Article 97 restriction would not take effect until the close of Town Meeting and the passage of time for certification of votes and potential appeal of Town Meeting action.

Strategic harm of transferring the land from school/town use to Article 97 restriction:

An undisputable consideration is that the Brown Elementary School will have to be replaced in the near coming decades. Furthermore; even the current new KMS project has made provision for expansion of footprint and capacity. These inevitable future demands on the capacity of the campus site are disadvantaged or rendered impossible by the following considerations.

- Strategic site expansion options eliminated.
 - The utility of, and access to, the school owned frontage and land area of 104 Hartford Street would be permanently removed from the Campus
 - The expansion potential for parking, fields, and facilities on lands of 108 Hartford Street (EverSource parcel) would be practically cut off and distanced from core school facilities. (Even the current ad hoc trail access could not be formalized and improved).
 - The school owned land at 112 Harford Street, with its strategic frontage on Mill Street would be rendered useless for school expansion options.
- Current site utilization options reduced/eliminated.
 - “Lands and easements taken or acquired for such purposes shall not be used for other purposes or otherwise disposed” (Article XCVII)
 - Under zoning the maximum Floor Area Ratio for the site is 0.17
 - The current Kennedy/Brown Campus is 35.2 acres (1,533,312 s.f.) which at 0.17 FAR enables 260,663 s.f. of construction
 - The transfer of 5.28 acres (229,997 s.f.) would reduce the permissible build-out construction by 39,099 s.f. to a new limit of 221,564 s.f.
 - Subject to an audit of space utilization; the proposed transfer of land may even put the current building project into violation of zoning and the terms of its permitted Site Plan

In light of; the multiple considerations of project time-line, strategic site flexibility considerations, protecting maximum site build-out, and avoiding placing the project into violation of zoning; it is recommended that the Building Committee implement the payment of \$132,247.36.

The preferred option for Town Meeting action on Article 20 is “Referral of the subject matter of Article 20 to the Kennedy Middle School Building Committee”.



Fwd: Article 20 - transfer of land to Conservation Commission pursuant to NAE-2018-01219 Kennedy Middle School

1 message

Patrick Hayes <phayes.fincom@natickma.org>

Mon, Sep 9, 2019 at 12:37

To: Linda Wollschlager <lwollschlager.fincom@natickma.org>, Bruce Evans <bevans.fincom@natickma.org>

FYI

Sent from my iPhone

Begin forwarded message:

From: Karis North <knorth@mhtl.com>

Date: September 9, 2019 at 4:37:09 PM GMT+2

To: Michael Hickey <mhickey@natickma.org>, "mmalone@natickma.org" <mmalone@natickma.org>, Patrick Hayes <phayes.fincom@natickma.org>

Subject: Article 20 - transfer of land to Conservation Commission pursuant to NAE-2018-01219 Kennedy Middle School

Mike/Melissa/Patrick - I am attaching for your information the Army Corps of Engineers permit for the KMS project, which makes a condition of that permit approval the transfer of 5.28 acres of land (as set forth in the attached plan) to the Natick Conservation Commission, subject to Article 97. The protection of the 5.28 acres is required mitigation for the permanent filling of 0.22 acres of palustrine forested wetland. After Town Meeting approval, the Town Meeting vote must be recorded within 60 days, to make the protections official and consistent with Article 97 and the applicable case law. The land is currently held by the Town, through the Board of Selectmen and the School Committee (it is part of two separate parcels).

If the transfer is not approved at this Town Meeting, the Town must inform the Corsep within 30 day, and make a payment of \$132,247.36 (or may propose alternative mitigation).

This permit condition was negotiated with the Corps, in lieu of placing a Conservation Restriction (CR) on the 5.28 acres, because such a restriction would have been expensive as a third party would have been the holder of the restriction, and would have required some payment for the Town for so doing. This transfer is intended as a permanent protection of the 5.28 acre parcel, in a similar fashion as a CR. My memo to the Corps, which is included within the permit, explains the legal underpinnings for the process.

Please let me know if you have any questions, or require further information in considering this article. As mentioned to Mike, I am not available to participate in the meeting tomorrow night, but happy to answer any questions in advance.

Thanks,
KLN

Karis L. North
Murphy, Hesse, Toomey & Lehane, LLP
300 Crown Colony Drive
Quincy, MA 02169
Tel.: 617.479.5000
Direct Dial: 617.691.1948
Fax: 617.479.6469
knorth@mhtl.com

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NAE-2018-01219 Permit to E-mail.pdf

2 MB



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

April 16, 2019

Regulatory Division
File Number: NAE-2018-01219

Town of Natick School Department
Anna Nolin
13 East Central Street
Natick, Massachusetts 01760

Dear Ms. Nolin:

We have reviewed your application to place 9,632 square feet (0.22 acre) of permanent fill in palustrine forested wetlands and to place 1,535 square feet (0.04 acre) of temporary fill in palustrine forested wetlands associated with the construction of a new J. F. Kennedy Middle School. This project is located in waters and wetlands associated with Beaver Brook at 165 Mill Street in Natick, Massachusetts. The work is shown on the enclosed plans entitled "TOWN OF NATICK KENNEDY MIDDLE SCHOOL 165 MILL STREET NATICK MASSACHUSETTS PERMITTING DOCUMENTS Submitted to the: Department of Environmental Protection", on 66 sheets, and with a revised date of "February 6, 2019" and the mitigation area to be preserved is shown on the enclosed plan entitled "POTENTIAL CONSERVATION EASEMENT NAE-2018-01219 12-13-2018."

Based on the information you have provided, we have determined that the proposed activity, which includes work and/or a discharge of dredged or fill material into waters of the United States, including wetlands, will have only minimal individual or cumulative environmental impacts. Therefore, this work is authorized under the enclosed April 2018 Massachusetts General Permits (MA GPs), specifically GP 8 and GP10, under the pre-construction notification process. This work must be performed in accordance with the terms and conditions of the GPs and also in compliance with the following special conditions:

1. In order to mitigate for the unavoidable permanent impacts to 0.22 acre of palustrine forested wetlands, the permittee shall preserve 5.28 acres of land on the western side of the project vicinity. The area to be preserved contains vernal pools, wetlands, and uplands and is shown in red hatching on the enclosed plan entitled "POTENTIAL CONSERVATION EASEMENT NAE-2018-01219 12-13-2018."
2. The 5.28 acres of land shall be placed under the protections of Article 97 of the Amendments to the Massachusetts Constitution as described in the enclosed letter submitted by Karis North of Murphy Hesse Toomey & Lehan LLP on March 15, 2019. A two-step process will be involved. First the land shall be transferred to the care, custody and control of the Natick Conservation Commission for conservation purposes and subject to the strictures of Article 97 by the affirmative vote of the Natick Town Meeting. This step shall occur at Natick's 2019 Fall

Town Meeting. The second step shall be recording the affirmative Town Meeting vote with the existing deeds- and subject to certain restrictions on the use of the property- at the Middlesex South Registry of Deeds.

3. Restrictions on the use of the 5.28 acre mitigation area shall be recorded with the affirmative meeting vote and existing deeds and are enumerated in the enclosed document entitled "NAE-2018-01219 Restrictions to be placed over the 5.28 acre Mitigation Site." Any use of the mitigation area that conflicts with these restrictions must obtain any needed approvals subject to Article 97 but will also require prior written consent from the Army Corps of Engineers. Note that any future approved use of the mitigation site that conflicts with the conservation goals and restrictions may be considered a loss of mitigation and therefore may result in a requirement for alternative replacement mitigation.

4. Within 60 days of an affirmative town meeting vote, the town shall submit documentation of recordation along with the list of restrictions to this office.

5. Should the 2019 Fall Town Meeting vote to subject the 5.28 acres of mitigation to the strictures of Article 97 fail, alternative mitigation will be required to offset the project impacts and may consist of an in-lieu fee payment of \$132,247.36. The town shall contact this office within 30 days of a failed vote with an alternative mitigation proposal.

6. The 5.28 acre preservation area shall be marked by permanent signs or by an equivalent, permanent marking system designating the area a protected area.

7. In order to attempt to deter vernal pool species from entering the new parking lot, a series of logs will be placed end to end along a portion of the edge of the wooded boundary of the preservation parcel. The proposed work is shown on sheets C2.2 and C6.7 of the plan set referenced above.

8. All wetlands that are not proposed to be impacted but that occur within 50 feet of proposed site work should be clearly marked with wetland flagging before site work begins.

9. The 0.04 acre of wetlands temporarily impacted for the temporary access parking in Phase 1 will be restored as soon as the temporary access parking is no longer needed. Wetland restoration will consist of removing the fill and restoring the wetland to pre-existing grades, seeding the wetland with an approved wetland seed mix, and installing plantings. **The proposed wetland seed mix and planting plan shall be submitted for Corps approval within 60 days of permit issuance.**

10. You must complete and return the enclosed Work Start Notification Form to this office at least two weeks before the anticipated starting date.

11. You must complete and return the enclosed Compliance Certification Form to this office within one month of completion of all authorized work.

You are responsible for complying with all of the GPs' requirements. Please review the enclosed GPs carefully, in particular the general conditions beginning on Page 19, to be sure that you understand its requirements. You should ensure that whoever does the work fully understands the requirements and that a copy of the GPs and this authorization letter are at the project site throughout the time the work is underway.

This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law. Performing work not specifically authorized by this determination or failing to comply with any special condition(s) provided above or all the terms and conditions of the GPs may subject you to the enforcement provisions of our regulations.


This authorization becomes valid only after the Massachusetts Department of Environmental Protection (MassDEP) issues or waives Water Quality Certification (WQC) as required under Section 401 of the Clean Water Act. In the event the MassDEP denies the 401 WQC, this determination becomes null and void.

This authorization expires on April 5, 2023, unless it is modified, suspended, or revoked before then. You must commence or have under contract to commence the work authorized herein by April 5, 2023 and complete the work by April 5, 2024. If not, you must contact this office to determine the need for further authorization before beginning or continuing the activity. We recommend that you contact us *before* this authorization expires to discuss a time extension or permit reissuance. Please contact us immediately to discuss modification of this authorization if you change the plans or construction methods for work within our jurisdiction. This office must approve any changes before you undertake them.

We continually strive to improve our customer service. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Please contact Ruthann Brien of my staff at ruthann.a.brien@usace.army.mil or at (978) 318-8054 if you have any questions.

Sincerely,



Barbara Newman
Chief, Permits & Enforcement Branch A
Regulatory Division

Enclosures

cc:

Briscoe Lang, Pare Corporation, Lincoln, RI; blang@parecorp.com

Ed Reiner, U.S. EPA, Region 1, Boston, MA; reiner.ed@epa.gov

David Simmons, USFWS; david_simmons@fws.gov

Pam Merrill, DEP NERO, Wetland and Waterways, Wilmington, MA;
pamela.merrill@state.ma.us

Natick Conservation Commission; vparkers@natickma.org



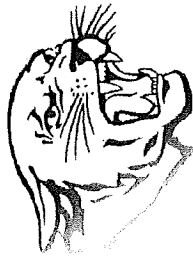
400 Libbey Parkway
Weymouth, MA 02189
Main: 781.952.6000

VERTeXENG.COM

TOWN OF NATICK

KENNEDY MIDDLE SCHOOL

165 MILL STREET - NATICK MASSACHUSETTS



FEBRUARY 6, 2019

NATICK PUBLIC SCHOOLS

A13 PROJECT NO. 1605.00

PERMITTING DOCUMENTS

Submitted to the: Department of Environmental Protection

Revised February 6, 2019

NOTE: THIS PLAN SET INCORPORATES REVISIONS MADE AS A RESULT OF AN ONGOING COOPERATION WITH THE NADCO CONSERVATION COMMISSION, MASSDEP AND THE US ARMY CORPS OF ENGINEERS. THE PLAN SET IS THE PROPERTY OF THE TOWN OF NATICK AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT PERMISSION IN WRITING FROM THE TOWN OF NATICK.

OWNER NATICK PUBLIC SCHOOLS 114 CENTRAL STREET NATICK, MA 02459	MECH., ELEC., PLUMBING & FIRE PROTECTION ENGINEERS GRIFFITH & VART, INC. 200 Main Street Natick, MA 02459 Tel: 508.251-4220 Fax: 508.251-4221
ARCHITECT JAB ARCHITECTS, LLC 50 Main Street Weymouth, MA 02190 Tel: 781.952.6000 Fax: 781.952.6001	LANDSCAPE ARCHITECT TRAVERSE LANDSCAPE ARCHITECTS 300 Main Street Natick, MA 02459 Tel: 508.251-4220 Fax: 508.251-4221
CIVIL ENGINEERS THE VERTeX COMPANY, INC. 400 Libbey Parkway Weymouth, MA 02189 Tel: 781.952.6000 Fax: 781.952.6001	STRUCTURAL ENGINEER ENGINEERS DESIGN GROUP, INC. 300 Main Street Natick, MA 02459 Tel: 508.251-4220 Fax: 508.251-4221

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NAE-2018-01219 Restrictions to be placed over the 5.28 acre Mitigation Site:

1. In reference to the 5.28 acre mitigation area for NAE-2018-1219 Kennedy Middle School:
 - a. there shall be no placement of fill material or installation of temporary or permanent roads;
 - b. there shall be no placing, storing, or dumping of soil, refuse, trash, or debris
 - c. there shall be no commercial, industrial, agricultural, residential developments, buildings, or structures, including but not limited to: signs, billboards, other advertising material, or other structures placed on the mitigation site;
 - d. there shall be no removal or destruction of trees or plants, mowing, draining, plowing, mining, removal of topsoil, sand, rock, gravel, minerals or other material except with the exception of managing vegetation to control invasive species or to prune dead limbs for safety purposes;
 - e. there shall be no operation of snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any other types of motorized vehicles, except as necessary to manage vegetation to control invasive species;
 - f. there shall be no application of insecticides or herbicides except to control invasive species;
 - g. there shall be no grazing or keeping of cattle, sheep, horses or other livestock;
 - h. there shall be no hunting or trapping;
 - i. there shall be no utility line structures placed, including but not limited to: telephone or other communication line structures, electrical line structures, or gas, water or sewer lines;



MURPHY HESSE
TOOMEY & LEHANE LLP

Attorneys at Law

Karis L. North
knorth@mhtl.com

March 15, 2019

VIA EMAIL ONLY

kiersten.e.haugen@usace.army.mil

Kiersten Haugen, Esq.
USACE New England District
696 Virginia Road
Concord, MA 01742

Re: Town of Natick – Kennedy School

Dear Attorney Haugen:

Per our discussion last week concerning the Town of Natick's Kennedy School Building project, I am providing the following information concerning the Article 97 protection of the vernal pools, which is on two parcels adjacent to the building site, currently owned by the Town of Natick ("the vernal pool parcels").

Article 97 of the Amendments to the Massachusetts Constitution provides in part:

"The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources is hereby declared to be a public purpose...Land and easements taken or acquired for such purposes shall not be used for other purposes or otherwise disposed of except by laws enacted by a two thirds vote, taken by yeas and nays, of each branch of the general court."

Land which is subject to the protections of Article 97 is subject to an EOEA Article 97 Land Disposition Policy, dated February 19, 1998 ("the Policy"). The Policy states: "Accordingly, as a general rule, EOEA and its agencies shall not sell, transfer, lease, relinquish, release, alienate, or change the control or use of any right or interest of the Commonwealth in and to Article 97 land. The goal of this policy is to ensure no net loss of Article 97 lands under the ownership and control of the Commonwealth and its political subdivisions."

Kiersten Haugen, Esq.
March 15, 2019
Page 2

The Policy defines an Article 97 land disposition is defined as:

a) any transfer or conveyance of ownership or other interests; b) any change in physical or legal control; and c) any change in use, in and to Article 97 land or interests in Article 97 land owned or held by the Commonwealth or its political subdivisions, whether by deed, easement, lease or any other instrument effectuating such transfer, conveyance or change. A revocable permit or license is not considered a disposition as long as no interest in real property is transferred to the permittee or licensee, and no change in control or use that is in conflict with the controlling agency's mission, as determined by the controlling agency, occurs thereby.

Where municipal land subject to Article 97 is to be disposed of, in order to effectuate any disposition, the municipality must seek unanimous approval of the Conservation Commission, 2/3 approval of Town Meeting, 2/3 approval of the Legislature, and comply with the Policy, which includes notification to EOEA.

Thus, in order to subject the land to Article 97 protections, which disposition would require compliance with the Policy, "[f]or land to be subject to the two-thirds vote requirement on disposition or use for other purposes, it must be 'taken or acquired for (the) purpose' of protecting interests covered by art. 97." Mahajan v. Department of Environmental Protection, 464 Mass 604, 615, 616 (2013).

Where land is held by a town, to make it subject to the Policy and the restrictions of Article 97, a two-step process is required. First, the land must be transferred to the care, custody, and control of the Natick Conservation Commission for conservation purposes and explicitly subject to the strictures of Article 97, by a vote of the Natick Town Meeting. The vote of Town Meeting would explicitly state that the transfer to the Natick Conservation Commission was to subject the land to the restrictions of Article 97.

In addition, that restriction would have to be recorded, so that it becomes "specifically designated for conservation purposes in the first instance" and is held by the Conservation Commission for the specific purposes of coming within Article 97. Recording the Town Meeting vote with the already existing deeds is sufficient recording to meet the requirement of Article 97, as set forth by the SJC in Mahajan.

Therefore, in order to protect the two parcels, Natick recommends that the ACOE approve this above-explained approach, and as a condition of the Army Corps of Engineers ("ACOE") permit for the Kennedy School project, require that such parcels be put into conservation, at the next scheduled annual town meeting, which would be Natick's 2019 Fall Town meeting. Following an affirmative Town Meeting vote, those votes would be recorded at the Middlesex South Registry of Deeds. These two actions would meet the requirement in Mahajan, and would protect the Parcels in accord with the permitting requirements of the ACOE.

Kiersten Haugen, Esq.
March 15, 2019
Page 3

Please contact me with any questions or concerns.

Sincerely,

/s/ KLN

Karis L. North



**US Army Corps
of Engineers®**
New England District

WORK-START NOTIFICATION FORM
(Minimum Notice: Two weeks before work begins)

* EMAIL TO: cenae-r@usace.army.mil; or *
* * * * *
* MAIL TO: Tina Chaisson *
* U.S. Army Corps of Engineers, New England District *
* Permits and Enforcement Branch A *
* Regulatory Division *
* 696 Virginia Road *
* Concord, Massachusetts 01742-2751 *

Corps of Engineers Permit No. NAE-2018-01219 was issued to the Town of Natick School Department. This work authorized 9,632 square feet of permanent fill and 1,535 square feet of temporary fill in conjunction with the building of a new Kennedy Middle School on property at 165 Mill Street in Natick, MA

The people (e.g., contractor) listed below will do the work, and they understand the permit's conditions and limitations.

PLEASE PRINT OR TYPE

Name of Person/Firm: _____

Business Address: _____

Telephone Numbers: () _____ () _____

Proposed Work Dates: Start: _____ Finish: _____

Permittee/Agent Signature: _____ **Date:** _____

Printed Name: _____ **Title:** _____

Date Permit Issued: April 16, 2019 **Date Permit Expires:** April 5, 2023

FOR USE BY THE CORPS OF ENGINEERS

PM: Ruthann Brien **Submittals Required:** _____

Inspection Recommendation: _____



**US Army Corps
of Engineers®**
New England District

COMPLIANCE CERTIFICATION FORM
(Minimum Notice: Permittee must sign and return notification
within one month of the completion of work.)

Permit Number: NAE-2018-01219

Project Manager: Ruthann Brien

Name of Permittee: Town of Natick School Department

Permit Issuance Date: April 16, 2019

Please sign this certification and return it to our office upon completion of the activity and any mitigation required by the permit. You must submit this after the mitigation is complete, but not the mitigation monitoring, which requires separate submittals.

* E-MAIL TO: cenae-r@usace.army.mil; or *
* * * * *
* MAIL TO: Permits and Enforcement Branch A *
* U.S. Army Corps of Engineers, New England District *
* Regulatory Division *
* 696 Virginia Road *
* Concord, Massachusetts 01742-2751 *

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit was completed in accordance with the terms and conditions of the above referenced permit, and any required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

Printed Name

Date of Work Completion

() _____
Telephone Number

() _____
Telephone Number



526 Boston Post Rd
508.355.0750
Wayland, MA
www.ai3architects.com

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Weymouth, MA 02189
Main: 781.952.6000

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KENNEDY MIDDLE SCHOOL
165 MILL STREET
NATICK, MA 01760

KEYNOTE LEGEND:

NOT FOR CONSTRUCTION

NORTH ARROW



KEYPLAN

DRAWING NAME:

DRAWN BY: AWB

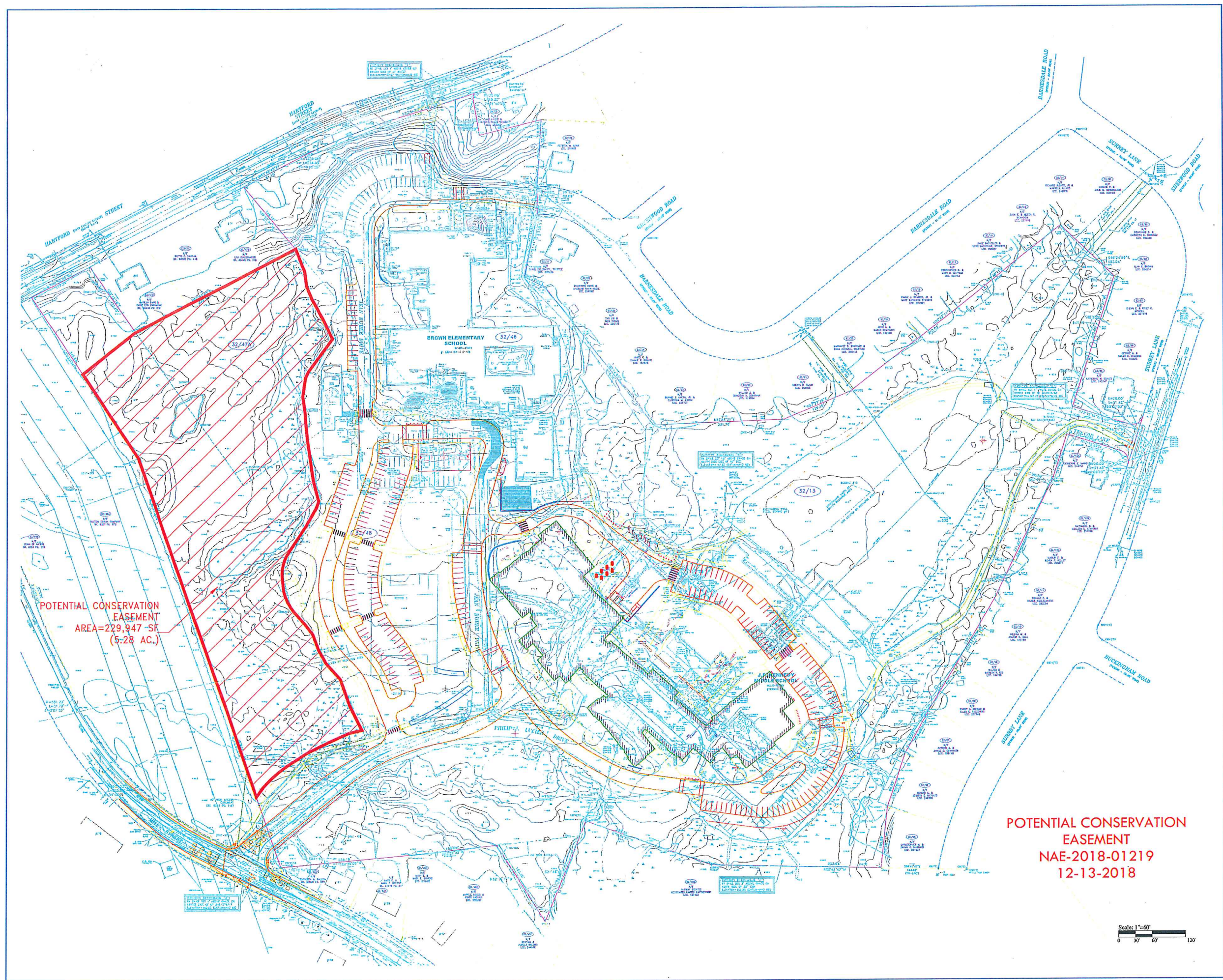
REVIEWED BY: BL

SCALE: AS NOTED

JOB NO: 1605.00

DATE: DEC. 13, 2018

FIG.1



**POTENTIAL CONSERVATION
EASEMENT
NAE-2018-01219
12-13-2018**

Scale: 1"=60'
0 30 60 120

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
EMail from Town Administration	9/17/2019	Exhibit
Town Administration Comments & Questions on Article 27	9/17/2019	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 $1/.038 = 26X$ higher, or \$64K/year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

-- end --



Patrick Hayes <phayes.fincom@natickma.org>

Article 27
1 message

Melissa Malone <mmalone@natickma.org> Tue, Sep 17, 2019 at 5:28 PM
To: Patrick Hayes <phayes.fincom@natickma.org>
Cc: Ball Jay <jayhball@gmail.com>, Randy <randyest@gmail.com>, John Townsend <jtownsend@natickma.org>, "Bill Chenard," <chenard@natickma.org>, Sue Salamoff <ssalamoff@natickma.org>, Michael Hickey <mhickey@natickma.org>

Hello Patrick,

I am writing to voice some concerns that Town Administration has with Article 27. I reached out to Randy Johnson and Jay Ball, and was able to connect with Mr. Johnson this afternoon.

Town Administration is respectfully requesting that this matter be referred to the sponsor. We believe that there are a number of outstanding issues that require attention and need to be resolved prior to petitioning the legislature. I have attached specific questions regarding the proposed warrant article and motion.

I am unable to attend this evening's meeting, but will make myself available to meet as needed. Thank you in advance for your consideration.

Melissa A. Malone
Town Administrator
13 East Central Street
Natick, MA 01760
508-647-6410



FATM 2019 - Real Estate Transfer Fee - Comments and Questions.pdf
415K

Town Administration's Comments and Questions

Article 27 – Authorize Special Legislation – Real Estate Transfer Fee

Comments

This proposal will require extensive involvement/processing by the Finance Department. The Collector/Treasurer's Office will bear the majority of the work, processing the paperwork and certifying compliance with the requirements. Unfortunately the Collector/Treasurer's Office is the busiest office in the finance department, handling hundreds of transactions a day while answering phones, preparing reports, maintaining accounts and processing bills. At times the line at the window of the Collector/Treasurer's office stretches across the lobby. Its current complement of six employees covers the current workload; the increased responsibilities will require additional staff. Specifically the following:

1. Reviewing submitted document to determine whether a document evidencing a transfer has been provided (Section 5)
2. Verifying the sale price of the home and signatures on the affidavits;
3. Verifying the fee owed and that the applicant meets the minimum qualifications for an exemption;
4. If the applicant is filing for an exemption, then they'll have to go to the Assessor's Office, have the Assessor review the application and approve the exemption;
5. Return to the Collector/Treasurer's office and offer proof of the exemption and
6. Collector Treasurer's issues the certificate indicating fee has been paid or of exemption;

Once the Assessor's Office receives the Deed (often up to a month after recording) staff have to check to see the certificate was filed. If not, the Collector's Office has to be notified so collection efforts are started.

Questions

In addition to staff time and effort processing the paper the Finance team has the following questions regarding the operation of the Process:

1. Does the Town of Natick have the authority to impose such a law or rule on the registrar?
2. Will the registrar impose such a rule with no incentive for them to do it? It adds another layer to their job with no reward or compensation.
3. Note that while Barnstable Nantucket and Dukes counties charge a fee, it is assessed on the County level, not via the individual communities.
4. The deed does not exist until it is recorded, thus the deed is not an instrument that can be used for this purpose (pre-sale). A purchase and sale agreement would exist at that point, but can and is adjusted based on findings from home inspections and Title V inspections.

5. SECTION 5 further states that it “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.
 - a. Who is verifying this information for the Town?
 - b. Who is responsible for verifying exemptions; including transfers from family members?
 - c. What is the timeframe for this affidavit? Typical closing timeframes run from 35-45 days. How is this affidavit process going to be done quickly enough to not cause delays?

ITEM TITLE: Article 12: Capital Improvements - Motion A2 Only: Hunnewell Field Improvements
ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Article 12 with Motion A2	9/30/2019	Exhibit
Proposed design for the Hunnewell fields	9/30/2019	Exhibit
Legal Opinion from Town Counsel to the 22 Pleasant St Working Group	9/30/2019	Exhibit

Article 12 - Capital Improvement - 2019 Fall Annual Town Meeting

9/26/2019

MOTION A1: (Two-thirds vote required)

Move that the Town vote to appropriate the sum of \$692,500 to be expended under the direction of the Facilities Management Department for the purpose of replacing Wilson Middle School Bathroom Partitions, Retiling Cafeteria Floor at the Johnson Elementary School, Replacing Interior Stairways at the Johnson Elementary School, painting 12 classrooms at the Wilson Middle School, adding AC in the office and support areas at the Wilson Middle School, engineering to replace the Digital Data Control System at the Bennett Hemenway Elementary School, engineering study for air conditioning the second floor at the Wilson Middle School and the Bennett Hemenway Elementary School, adding additional heat to the garage at the Police Station, under the direction of the Department of Public Works for installing or repairing guardrail, park and field renovations, tree replacement, tree inventory, under the direction of the Sustainability Coordinator for energy efficiency programs, engineering the roof replacement at the Town Hall, retiling the second floor hallway at the Johnson School, painting classroom walls and ceilings at Bennett Hemenway School, under the direction of the Police Department to renovate the firing range, and under the direction of Town Administration for clock repair and Hunnewell Field access and field improvements, individually shown as items 1 through 15 in the Table A1 below, and that to meet this appropriation the sum of \$692,500 be raised from the Capital Stabilization Fund.

TABLE A1, MOTION A1: Article 12 - Capital Improvement - 2019 Fall Annual Town Meeting

<u>Item #</u>	<u>Department</u>	<u>Item</u>	<u>Funding Source</u>	<u>Amount</u>
1	Facilities	Wilson Middle School Bathroom Partitions	Capital Stabilization	\$40,000
2	Facilities	Johnson School - Retile Cafeteria Floor	Capital Stabilization	\$15,000
3	Facilities	Johnson School - Replace Interior Stairways	Capital Stabilization	\$30,000
4	Facilities	Wilson Middle School - Paint 12 Classrooms	Capital Stabilization	\$50,000
5	Facilities	Wilson Middle School - adding AC Office and Support Area	Capital Stabilization	\$12,500
6	Facilities	Bennett Hemenway School Engineering To Replace The DDC System	Capital Stabilization	\$25,000
7	Facilities	Engineering Study For 2nd Floor AC At Wilson And Ben Hem	Capital Stabilization	\$50,000
8	Facilities	Police Station - Add Additional Heat To The Garage	Capital Stabilization	\$15,000
9	DPW - Highway, Sanitation, and Recycling	Guardrail (Various Locations)	Capital Stabilization	\$12,000
10	DPW - Land Facilities and Natural Resources	Park And Field Renovations	Capital Stabilization	\$175,000
11	DPW - Land Facilities and Natural Resources	Tree Replacement	Capital Stabilization	\$30,000
12	DPW - Land Facilities and Natural Resources	Tree Inventory	Capital Stabilization	\$10,000
13	Sustainability	Energy Efficiency Programs	Capital Stabilization	\$100,000
14	Police	Firearms Range Renovation	Capital Stabilization	\$110,000
15	Town Administration	Downtown Clock Repairs	Capital Stabilization	\$18,000

Appropriation under Article 12: MOTION A

\$ 692,500

MOTION A2: (Two-thirds vote required)

Move that the Town vote to appropriate the sum of \$600,000 to be expended under the direction of the Town Administration Hunnewell Field access and field improvements, individually shown as item 1 in the Table A2 below, and that to meet this appropriation the sum of \$600,000 be raised from the Capital Stabilization Fund.

TABLE A2, MOTION A2: Article 12 - Capital Improvement - 2019 Fall Annual Town Meeting

<u>Item #</u>	<u>Department</u>	<u>Item</u>	<u>Funding Source</u>	<u>Amount</u>
16	Town Administration	Hunnewell Field access and field improvements	Capital Stabilization	\$600,000

Appropriation under Article 12: MOTION A2**\$ 600,000****MOTION B: (Two-thirds vote required)**

Move that the Town vote to appropriate the sum of \$5,650,000 to be expended under the direction of the Department of Public Works for the purpose of roadway improvements to South Main Street, Roadway & Sidewalks Improvements, individually shown as items 1 through 2 in Table B below, and that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$5,650,000 under Massachusetts General Laws Chapter 44, Section 7, as amended, or any other enabling authority and to issue bonds or notes of the Town therefore aggregating not more than \$5,650,000 in principal amount and that the Town Administrator with the approval of the Board of Selectmen is authorized to take any action necessary to carry out this program, and further, that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount. ☐

TABLE B, MOTION B: Article 12 - Capital Improvement - 2019 Fall Annual Town Meeting

<u>Item #</u>	<u>Department</u>	<u>Item</u>	<u>Funding Source</u>	<u>Amount</u>
1	DPW - Engineering	Construction - Roadway Improvements South Main St.	Tax Levy Borrowing	\$4,650,000
2	DPW - Engineering	Construction - Roadway and Sidewalk Improvements	Tax Levy Borrowing	\$1,000,000

Appropriation under Article 12: MOTION B**\$ 5,650,000****MOTION C: (two-thirds vote required)**

Move that the Town vote to appropriate the sum of \$500,000 to be expended under the direction of the Department of Public Works for the purpose of ground water well replacement, individually shown as item 1, in Table D below, and that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$500,000 under Massachusetts General Laws Chapter 44, Section 8, as amended, or any other enabling authority and to issue bonds or notes of the Town therefore aggregating not more than \$500,000 in principal amount and that the Town Administrator with the approval of the Board of Selectmen is authorized to take any action necessary to carry out this program, and further, that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

TABLE C, MOTION C: Article 12 - Capital Improvement - 2019 Fall Annual Town Meeting

<u>Item #</u>	<u>Department</u>	<u>Item</u>	<u>Funding Source</u>	<u>Amount</u>
1	Water and Sewer Enterprise	Ground Water Well Replacement	Water Sewer Borrowing	\$ 500,000

Appropriation under Article 12: MOTION C**\$ 500,000**

MOTION D: (requires a majority vote)

Move that the Town vote to appropriate the sum of \$158,500 to be expended under the direction of the Department of Public Works for the purpose of water distribution system enhancements and water meter replacement study, individually shown as items 1 and 2, in Table E below, and that to meet this appropriation the sum of \$158,500 be raised from Water Sewer Retained Earnings.

TABLE D, MOTION D: Article 12 - Capital Improvement - 2019 Fall Annual Town Meeting

<u>Item #</u>	<u>Department</u>	<u>Item</u>	<u>Funding Source</u>	<u>Amount</u>
1	Water Sewer	Water Distribution System Enhancements	W/S Retained Earnings	\$150,000
2	Water Sewer	Water Meter Replacement Study	W/S Retained Earnings	\$8,500

Appropriation under Article 12: MOTION E **\$ 158,500**

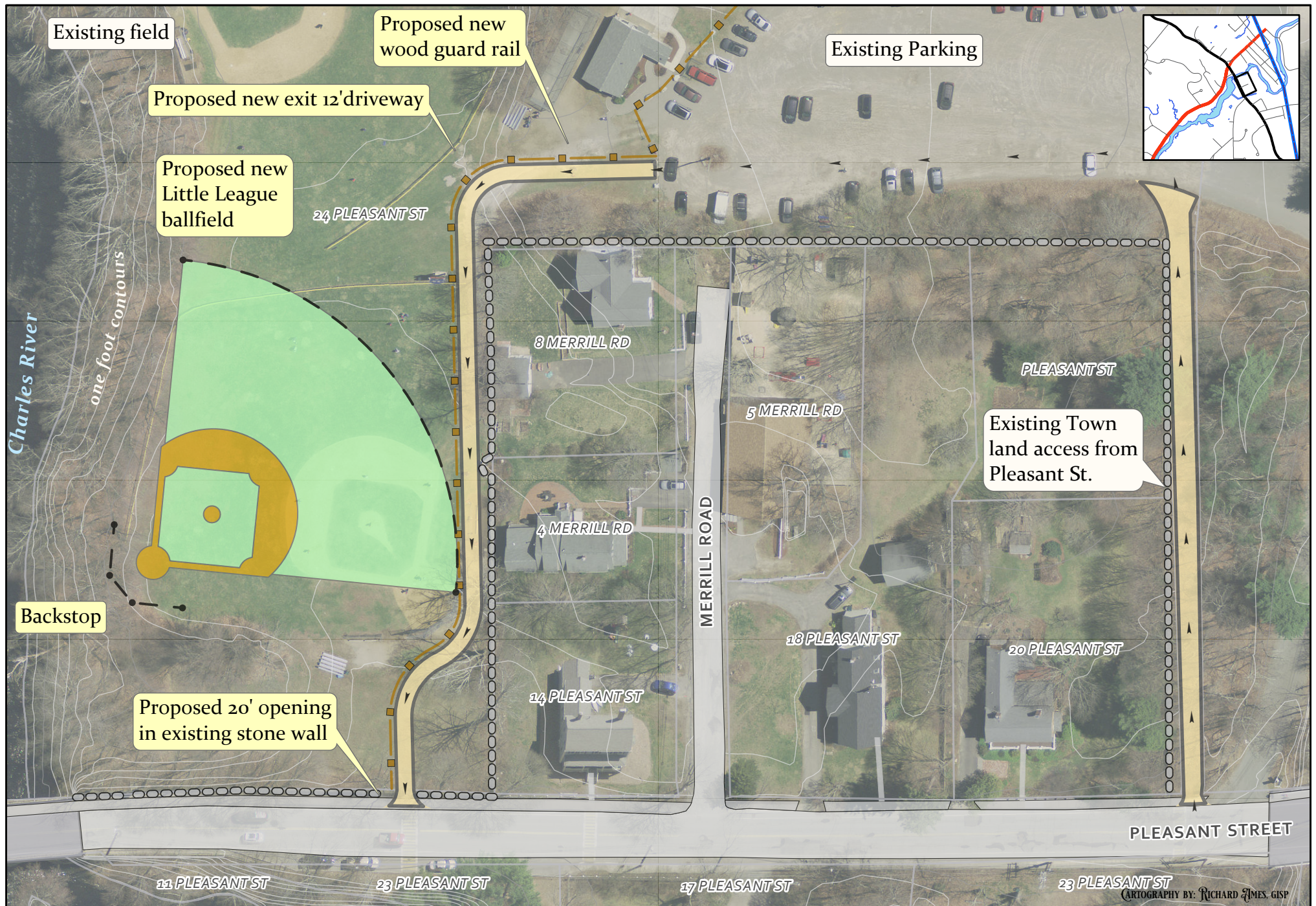
MOTION E: (two-thirds vote required)

Move that the Town vote to appropriate the sum of \$150,000 to be expended under the direction of the Department of Public Works for the purpose of sewer collection system repairs and maintenance, individually shown as items 1, in Table E below, and that to meet this appropriation the sum of \$150,000 be raised from the I & I Stabilization Fund.

TABLE E, MOTION E: Article 12 - Capital Improvement - 2019 Fall Annual Town Meeting

<u>Item #</u>	<u>Department</u>	<u>Item</u>	<u>Funding Source</u>	<u>Amount</u>
1	Water and Sewer Enterprise	Sewer Collection System Repairs & Maintenance	I & I Stabilization Fund	\$150,000

Appropriation under Article 12: MOTION F **\$ 150,000**



Natick DPW-GIS Division
 75 West Street
 Natick, Mass. 01760
 Date: 9/27/2019

Hunnewell Fields Proposed Access & Baseball Field

0 50 100 Feet



MURPHY, HESSE, TOOMEY & LEHANE, LLP
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Ann M. O'Neill, Senior Counsel

Please respond to Quincy

August 4, 2014

Paul B. Griesmer, Chairman
Article 40 Committee
Natick Town Hall
13 East Central Street
Natick, MA 02186

Re: Hunnewell Playground, 22 Pleasant Street, Etc.

Dear Mr. Griesmer:

In my opinion the answers to some of the Committee's questions are as follows:

1. The cart road is within a fifteen (15) foot wide portion of the land shown on Town of Natick Assessors' Map 64, Lot 48. This land was conveyed to the Town of Natick by a deed from Arthur Hunnewell to the Town of Natick dated April 30, 1902 and recorded with the Norfolk County Registry of Deeds at Book 2962, Page 41. That deed provides that the land "shall be used as a playground and place of recreation for all the citizens" of the Town of Natick.

A full title examination would be required to determine whether there has been any change in the status of that land. Absent such an examination, the available information indicates that the so-called cart path is owned by the Town of Natick for recreation for all the citizens of the Town of Natick.

In my opinion the so-called cart path may be used for access to and egress from the athletic fields at the back portion of that land.

MURPHY, HESSE, TOOMEY & LEHANE, LLP
Attorneys At Law

Paul B. Griesmer, Chairman
Article 40 Committee
Natick Town Hall
Natick, MA 02186
Page 2

2. The Town of Natick does not have an access easement over that land. The Town of Natick owns that land.
3. If the subject land were rezoned from IN1 to RG, the 1967 variance would not change. The landowner could use the land for any use permitted as of right in an RG district. The landowner could apply for a special permit and, if successful, could use the land for any purpose allowed by that special permit.
4. The IN1 use restrictions currently contained in the Natick Zoning By-Laws apply to that portion of the property at 22 Pleasant Street, which is located within the IN1 district, unless:
 - a. variance has been issued by the Natick Zoning Board of Appeals; or
 - b. a use of the property is a valid, preexisting nonconforming use, i.e., it was a valid use when it was commenced, and it subsequently became nonconforming due to any amendment to the Natick Zoning By-Laws.
5. The vote of the 1960 Annual Town Meeting under Article 73 struck out the entire text of the Zoning By-Laws and established a new version of the Natick Zoning By-Laws.

The Committee has submitted, through you, several requests for opinions and information. It has required and will require substantial time to review and analyze the information in order to respond to the Committee. We will continue to do so within the constraints of time, resources, and other needs of the Town of Natick.

Very truly yours,


John P. Flynn

JPF\sd
804666v1 NATI03.00001

ITEM TITLE: Article 25: Access to Hunnewell Fields

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Article 25 MOTION	9/30/2019	Exhibit
email from Town Counsel re" Article 25 motion information	9/30/2019	Exhibit
Questionnaire with Responses.	9/30/2019	Exhibit
22 Pleasant St - Termination Letter	10/1/2019	Exhibit

MOTION – Article 25

Access to Hunnewell Fields

(Board of Selectmen)

Move that the Town vote to authorize the Board of Selectmen to acquire by gift, purchase, taking by eminent domain, or otherwise, an easement for vehicular access, non-motorized conveyance, and/or pedestrian access, on the property located at 22 Pleasant Street, Natick, MA, for access to the Hunnewell Fields which abuts the property to the North, such easement being located [over the driveway to 22 Pleasant Street currently being used for this same purpose]; and further to vote to raise and appropriate, borrow, transfer from available funds or otherwise provide [\$100,000] for the purposes of this article; and to take all action necessary or appropriate to accomplish the purposes of this article.



Patrick Hayes <phayes.ficom@natickma.org>

Art 25 MOTION as approved by the BOS

1 message

Karis North <knorth@mhtl.com>

Mon, Sep 30, 2019 at 11:53 AM

To: Patrick Hayes <phayes.ficom@natickma.org>

Cc: Michael Hickey <mhickey@natickma.org>, "mmalone@natickma.org" <mmalone@natickma.org>

Patrick – please see attached Motion for Article 25, as approved by the BOS at its meeting on Wednesday night.

Please note the two bracketed items:

1. "Driveway" will be replaced with a more detailed legal description of the driveway, and perhaps a drawing.
2. "\$100,000" is a place-holder for the amount of compensation necessary for the taking. Under the takings law, the Town must offer damages sustained to the owner by reason of the taking, which is to be based on an appraisal of the interest taken. The administration and counsel are using \$100,000 as a reasonable place-holder while an appraisal of the interest to be taken (an easement over the driveway, consistent with the current use by the Town) is performed.

Please let me know if you have any questions.

Thanks,

KLN

Karis L. North

Murphy, Hesse, Toomey & Lehane, LLP

300 Crown Colony Drive

Quincy, MA 02169

Tel.: 617.479.5000

Direct Dial: 617.691.1948

Fax: 617.479.6469

knorth@mhtl.com

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**Art 25 MOTION as approved by the BOS.DOCX**

19K

MILLER & MILLER
Counsellors at Law

WARREN G. MILLER
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EDWARD MILLER (1918-1989)

FIFTEEN COURT SQUARE, BOSTON, MASSACHUSETTS 02108

(617) 227-6493 FAX (617) 227-6494
wgmlaw@aol.com

November 28, 2018

Certified Mail
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Town of Natick, Massachusetts
Board of Selectmen
Town Hall
13 E. Central Street
Natick, MA 01760

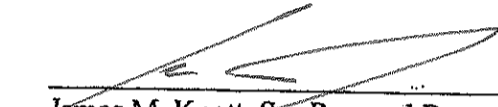
Gentlemen:

Re: Notice of Termination of Agreement dated May 30, 2015

Reference is made to the agreement dated May 30, 2015 between the Town of Natick by the Natick Board of Selectmen and James M. Knott, a/k/a James M. Knott, Sr. who died on August 16, 2018, relating to the Town's permissive vehicular access over property at 22 Pleasant Street, Natick, Massachusetts.

Pursuant to Paragraph 3 of the Agreement, you are hereby notified that effective December 1, 2019 the permissive vehicular access utilized by the Town over property at 22 Pleasant Street is hereby terminated.

As further provided in Paragraph 3 of the Agreement, if the property at 22 Pleasant Street, Natick is sold before December 1, 2019 to someone other than a relative, family member, heir, devisee or legatee of James M. Knott, Sr., the Agreement will automatically terminate as of the date of the recording of the deed documenting such sale.


James M. Knott, Sr., Personal Representative
Of the Estate of James M. Knott, Sr.

ITEM TITLE: Article 26: 22 Pleasant Street

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Article 26-MOTION	9/13/2019	Exhibit
Article 26-Questionnaire	9/13/2019	Exhibit
22 Pleasant St Acquisition Funding	10/1/2019	Exhibit
IBCC Definition of Facility	10/1/2019	Exhibit
Enlarged Section of 2007 Survey showing cart path	10/1/2019	Exhibit
Hunnewell Playground Deed	10/1/2019	Exhibit
Survey Plans for 22 Pleasant St -Registry of Deeds	10/1/2019	Exhibit
2007 Survey	10/1/2019	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?

Warrant Article Questionnaire Non-Standard Town Agency Articles

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	<p>Why is it required for the Town of Natick and for the Town Agency sponsor(s)?</p>																								
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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	<p>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.</p> <p>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 <u>further</u> 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.</p> <p>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.</p> <p>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.</p> <p style="text-align: center;"><u><i>Cart Path Cannot be Combined with 22 Pleasant Street or Used in Isolation</i></u></p> <p>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 strip is part of Hunnewell</p>
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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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Warrant Article Questionnaire Non-Standard Town Agency Articles

	<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 underground 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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Warrant Article Questionnaire Non-Standard Town Agency Articles

	<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>

Warrant Article Questionnaire Non-Standard Town Agency Articles

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)

Warrant Article Questionnaire Non-Standard Town Agency Articles

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>

22 Pleasant Street Analysis

Scenario 1: Only RG and RSB Land is FAR Fund Eligible

	Land Areas in Square Feet		
RG	47,963		\$3,200,000 Purchase Price
RSB	<u>20,875</u>		
Total RG & RSB	68,838	0.428	\$1,368,472 FAR Bonus Stabilization Eligible
I-1	<u>92,131</u>	0.572	<u>\$1,831,528</u> Other Funds
Total	160,969		\$3,200,000

Scenario 2: Any Land Not Occupied by Building is FAR Fund Eligible

RG	47,963		
RSB	20,875		\$3,200,000 Purchase Price
I-1 Not Occupied By Building	<u>47,631</u>		
Total Not Occupied by Building	116,469	0.724	\$2,315,358 FAR Bonus Stabilization Eligible
Building Footprint	<u>44,500</u>	0.276	<u>\$884,642</u> Other Funds
Total	160,969	1.000	\$3,200,000

I-1	92,131
Less: Building Foot Print	<u>(44,500)</u>
Equals: I-1 Not Occupied By Building	47,631

Scenario 3: All of 22 Pleasant St is FAR Fund Eligible

(Note: No Actual Legal Restriction Exists on FAR Stabilization Funds.

As advised with Town Counsel in 2015 by Con Com Fund Study Committee,
the entire FAR Stabilization Fund could be used to but school lap tops or DPW fuel.)

\$3,200,000 Purchase Price
\$2,500,000 FAR Bonus Stabilization Available Balance
<u>\$700,000</u> Other Funds
\$3,200,000

Note: Land Areas provided by Professional Surveyor Who Assisted the 22 Pleasant Street Study Committee
Excludes area of Chares River which is part of the 22 Pleasant Street but not land.

FACILITY. All or any portion of buildings, structures, site improvements, elements and pedestrian or vehicular routes located on a site.

☐ This term is intentionally broad and includes all portions within a site and all aspects of that site that contain features required to be accessible. This includes parking areas, exterior walkways leading to accessible features, recreational facilities such as playgrounds and picnic areas, as well as any structures on the site (see also the commentary to the definition of “Site”).

SITE. A parcel of land bounded by a lot line or a designated portion of a public right-of-way.

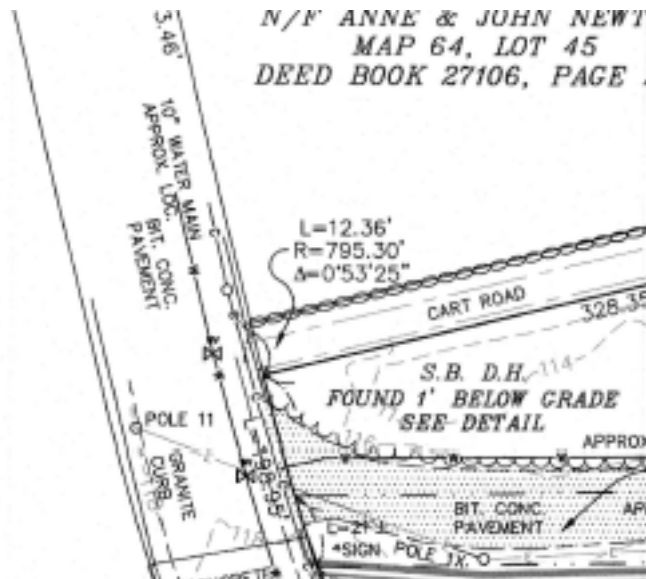
☐ A site, for purposes of accessibility requirements, is the same as that which is considered in the application of other code requirements. The property within the boundaries of the site is under the control of the owner. The owner can be held responsible for code compliance of the site and all facilities on it. Legal property lines do not always constitute site boundaries (e.g., malls, condominiums, townhouses). A site could contain multiple legal “lot” divisions.

[BS] **SITE CLASS.** A classification assigned to a

STRUCTURE. That which is built or constructed.

☐ This definition is intentionally broad so as to include within its scope, and therefore the scope of the code (see Section 101.2), everything that is built as an improvement to real property. See also the definitions for “Building” and “Area, building” for the difference between a building and structure.

N/F ANNE & JOHN NEWT
MAP 64, LOT 45
DEED BOOK 27106, PAGE 2



on said plan ninety six and $\frac{11}{100}$ (96.11) feet; and containing 4805 square feet. Being the same premises conveyed to us by Jennie S. Hall by her deed dated February 10th 1897 and recorded with Middlesex So. Dist. Deeds book 2854, page 467 and are hereby conveyed subject to the taxes assessed May 1, 1902. To Have and to hold the above granted premises with all the privileges and appurtenances thereto belonging to the said Henry Lynde and his heirs and assigns to their use and behoof forever. And we the said grantors for ourselves and our heirs executors and administrators do covenant with the said grantee, his heirs and assigns, that the granted premises are free from all incumbrances made by us, except as aforesaid. And that we will and our heirs, executors and administrators shall, warrant and defend the same to the said grantee, his heirs and assigns forever, against the lawful claims and demands of all persons claiming by incumbrances made by us except as aforesaid but against none other. In witness whereof we the Thomas S. Hiler, Dudley A. Dorr and Fred M. Lowe as joint tenants have hereto set our hands and seals this twenty fifth day of April in the year of our Lord nineteen hundred and two. Thos. S. Hiler seal Dudley A. Dorr seal Fred M. Lowe seal Commonwealth of Massachusetts Suffolk ss. April 29th 1902. Then personally appeared the above named Dudley A. Dorr and acknowledged the foregoing instrument to be his free act and deed, before me Perry E. Walbridge Notary Public.

Middlesex ss. April 30, 1902. 2 h. 15 m. P. M. Read & Recorded
No Rev. Stamp. Attest, Edwin C. Childs Reg.

Know all Men by these Presents Hunnewell
That I, Arthur Hunnewell of Wellesley in the County of Norfolk and Commonwealth of Massachusetts in consideration of one dollar and other valuable considerations to me paid by the town of Natick in said Commonwealth the receipt of which is hereby acknowledged do hereby remise, release and forever quit claim unto the said town of Natick a certain tract of land containing eleven and $\frac{21}{100}$ (11.21) acres situated in that part of Natick in the County of Middlesex and Commonwealth aforesaid known as South Natick on the eastern

ly side of Pleasant Street and bounded and described as follows: Beginning at a stone bound on said Pleasant Street at the north-westerly corner of said lot and on the bank of the Charles River, thence following the course of said Charles River in a northeasterly, easterly and southeasterly direction to a stone bound on the bank of said river and opposite an elm tree near the present electric lighting station of the Natick Gas & Electric Company; thence southwesterly in a straight line a few feet to said elm tree; thence southwesterly by other land of said Natick Gas & Electric Company five hundred and sixty-four (564) feet in a straight line to a stone bound; thence turning and still continuing southwesterly in a straight line by other land of said Natick Gas & Electric Company three hundred and twenty-eight (328) feet to a stone bound in the line of said Pleasant Street thence turning nearly at a right angle and running northwesterly fifteen (15) feet along the line of said Pleasant Street to a stone bound, a corner; thence turning and running northeasterly in a straight line by land of William J. Brown three hundred and twenty-nine (329) feet to a stone bound a corner; thence turning and running northwesterly in a straight line by land of said Brown, now or formerly him of Jones Perry and John Kelly three hundred and ninety-eight (398) feet to a stone bound, a corner; thence turning and running southwesterly in a straight line by land of said Kelly, Parmenter and J. H. Hunnewell, three hundred and thirty (330) feet to a stone bound, a corner, in the line of said Pleasant Street; thence turning and running northwesterly by the line of said Pleasant Street two hundred fifty-nine and five tenths (254.5) feet to the point of beginning; or however, otherwise the same may be bounded, measured or described, and being the larger portion of Lot 9 as shown on Plan of Bigelow Mills and land thereto belonging in South Natick surveyed September 10, 1830, by John S. Hales recorded with Middlesex South District Deeds in Plan Book 14 (Plan 47 to which plan reference is hereby made; and also being the same premises shown and described on a plan made February 7th, 1902 by W. H. Wright L. C. and conveyed to me by the Natick Gas and Electric Company by deed recorded with Middlesex South District Deeds Lib. 2948 Fol. 452. To Have and to Hold the granted premises with all the privileges and appurtenances thereto belonging to the

said town of Natick, its successors and assigns to their own use and behoof forever. The same being given to the said town by my father Jb. Hollis Hunnewell, for whom I purchased it and held the title, it being his wish and desire that the same shall be used as a play ground and place of recreation for all the citizens of the said town. In witness whereof we the said Arthur Hunnewell and Jane H. Hunnewell, his wife in token of her release of all rights of dower and homestead in the above mentioned property hereto set our hands and seals this fifteenth day of April, nineteen hundred and two. Arthur Hunnewell seal Jane H. Hunnewell seal Commonwealth of Massachusetts. Suffolk ss. Boston, April 15, 1902. Then personally appeared the above named Arthur Hunnewell and acknowledged the foregoing instrument to be his free act and deed, before me, Henry S. Ruggles, Justice of the Peace.

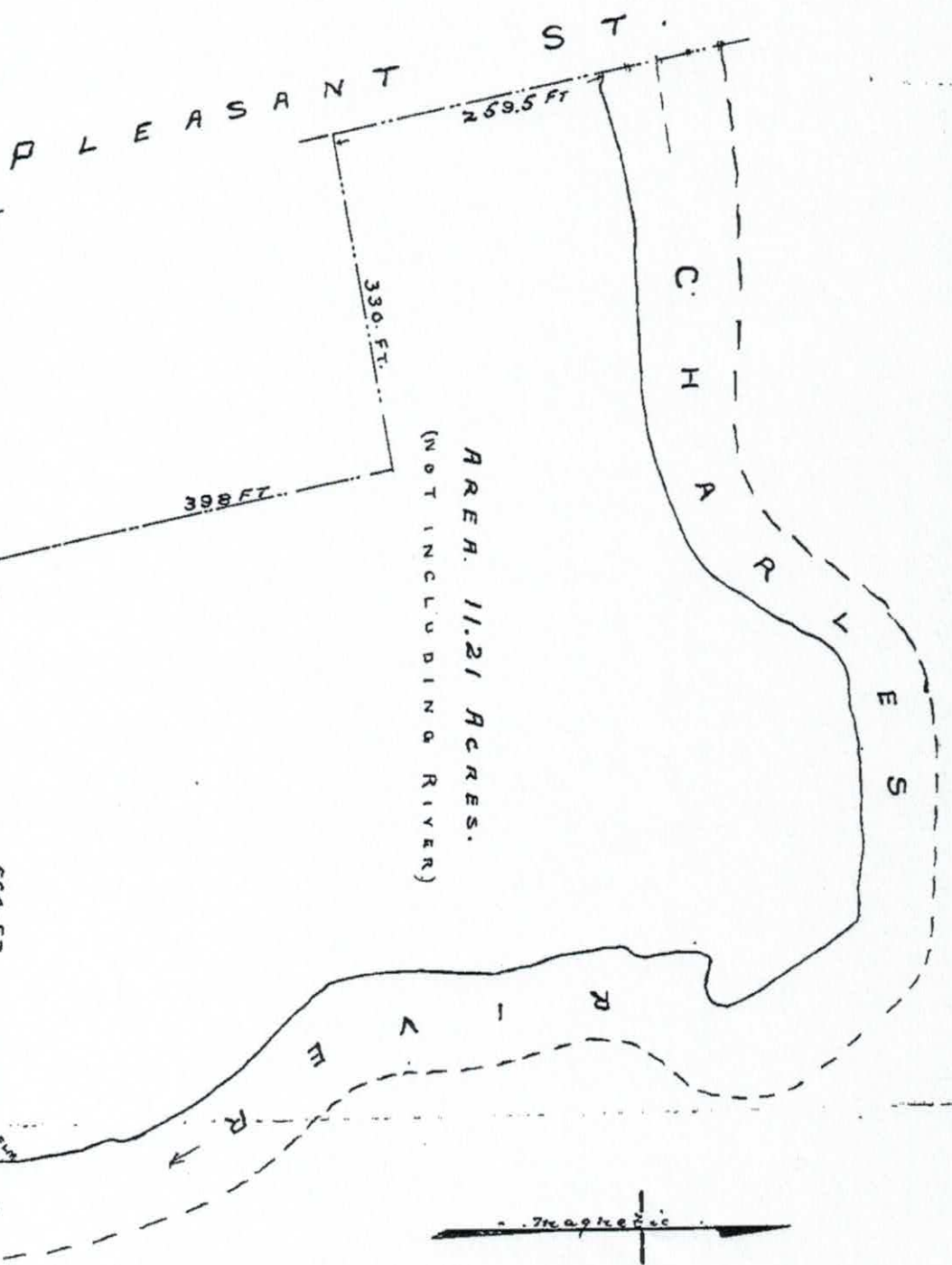
Middlesex ss. April 30, 1902. 3 hr. 25 m. P. M. Recd & Recorded
Attest, Edwin O. Childs Reg.
No Rev. Stamp.

This Indenture made this twenty sixth day of April A. D. 1902 between Ella M. Hyde of Malden in the County of Middlesex and Commonwealth of Massachusetts the holder and owner of a certain mortgage given by Julia Eva Winn of said Malden for two thousand dollars (of which principal sum the amount of one thousand dollars has this day been paid) to Caroline B. Dodge, dated April 26th A. D. 1893, and recorded in the Middlesex South Registry of Deeds libro 2188 folio 278 and said Julia Eva Winn, witnesseth That the said Ella M. Hyde for herself, her heirs, executors, administrators, and assigns hereby covenants with the said Julia Eva Winn and her heirs and assigns, that she the said Ella M. Hyde, or her executors, administrators or assigns, will not before the twenty sixth day of April in the year nineteen hundred and five demand payment of the principal sum left unpaid secured by said mortgage and that the non-payment thereof before said date shall not be deemed to constitute a breach of the condition of said mortgage, and the term of said mortgage is hereby extended three years until the said twenty sixth day of April A. D. 1905. provided however that the said Julia Eva Winn, or her heirs or assigns shall under the terms and conditions of said mortgage pay the

Hyde et al.
Extension



Page 4484

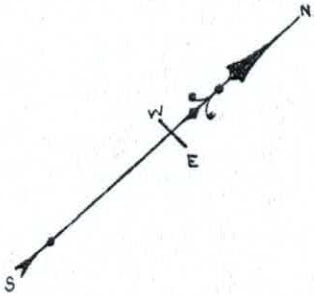


PLAN OF LAND OWNED BY
NATICK ELECTRIC CO NATICK, MASS.
SCALE 1" = 150' FEB. 7. 1902. W.W. WIGHT, C.E.

Plan of Bigelow Mills and Land thereto belonging in **SOUTH NATICK** in the County of Middlesex.

Survey'd September 10th 1830
By John G. Hales

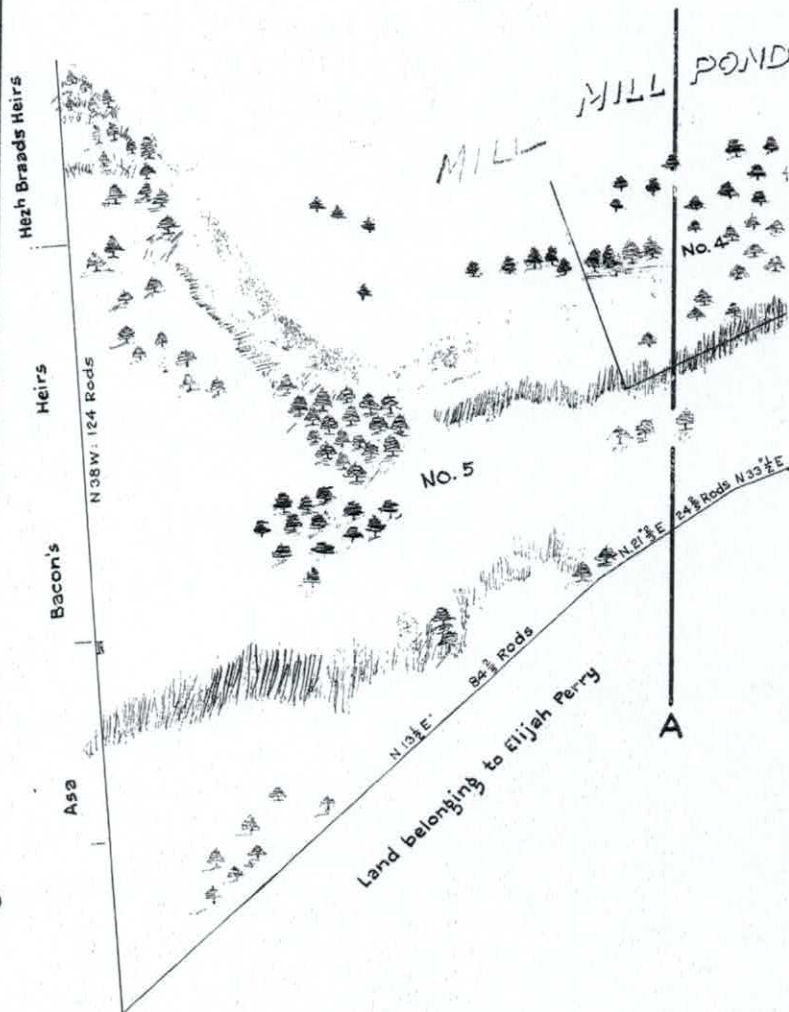
(Original on file)
(Scale of this plan: 1 inch = 16 Rods.)



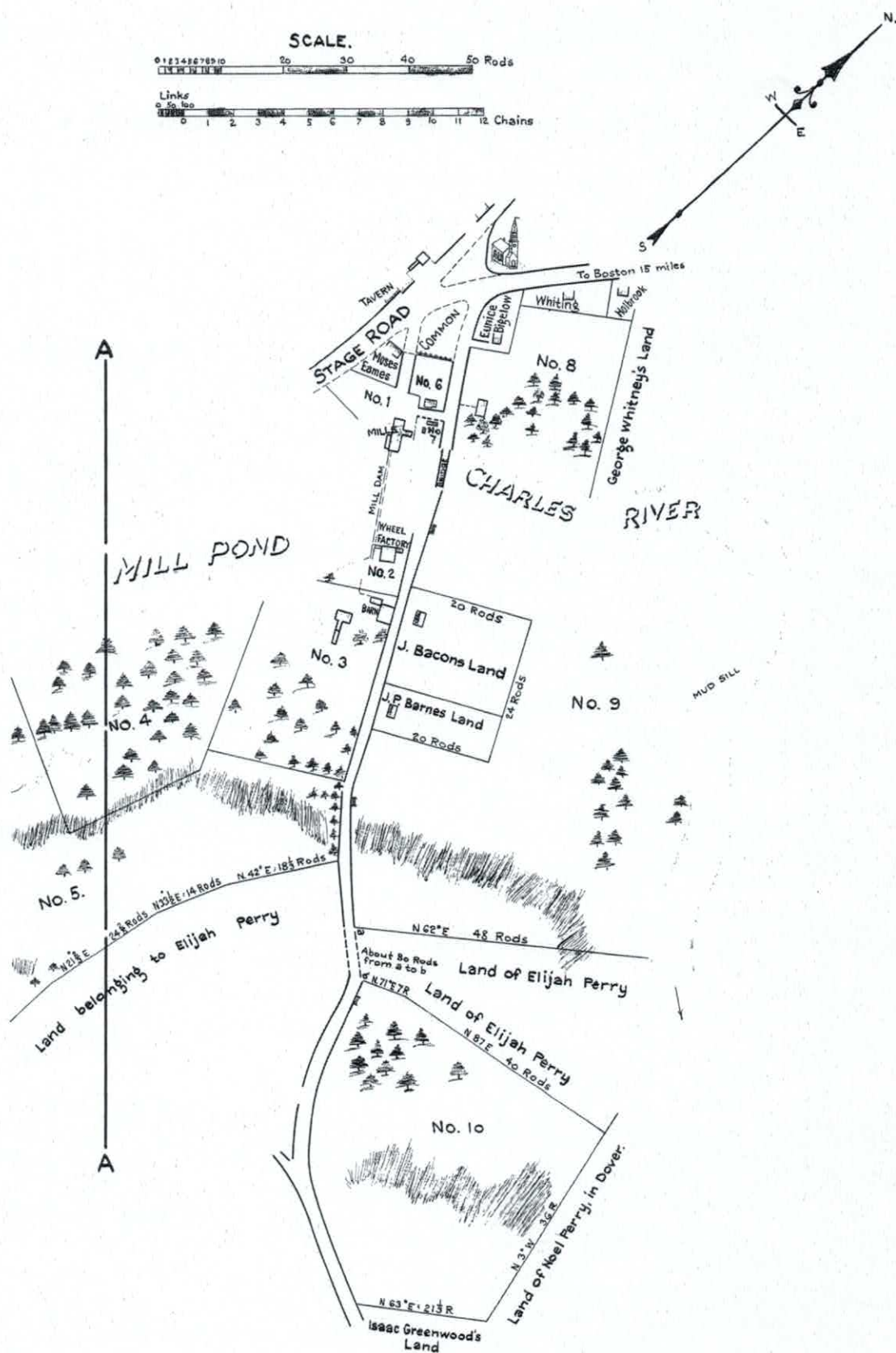
REFERENCE			
Number on Plan	Premises	Statute Measure	
No 1	A three story Building in which are Grist, Paper, saw and other Mills, with a Mill Yard and Water Privilege	0 Acres	23 Rods
	Isaac Bigelow's Lots	0	23
2	A two story Building used as a Wheel Factory, with a water privilege and Factory Yard	0	1 26
3	A two story Dwelling House, Barn, shed, Garden, Orchard & Tillage, Orchard & Do. and Pasture	3	3 36
4		6	0 21
5		39	1 3
		49	3 6
	Abraham Bigelow's Lots		
6	Two story Dwelling House and Garden	0	1 12
7	Chaise House & Barn, Orchard & Tillage & Pasture Land	3	3 2
8		19	0 23
9		10	1 8
10	Pasture Land	33	2 25

There is a piece of Meadow Land, computed to contain 3 Acres, about 2 miles distant, which is not included in this Survey.

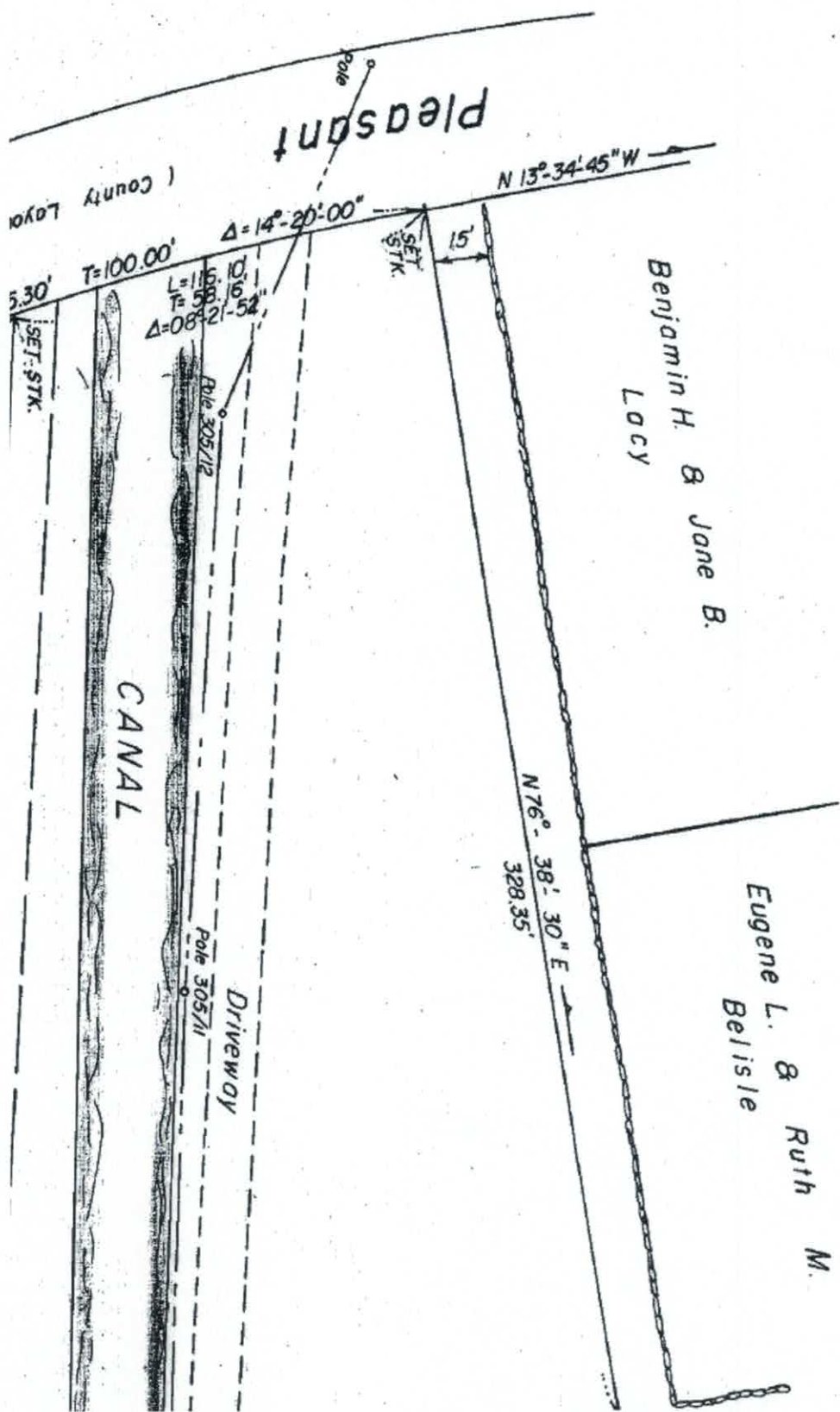
The above privilege consist of the whole of Charles River, and the water is now used from a head of 8 feet & a fall of feet below M. ... a part of this



14 P 47 (A of 2)
Albert R. Kuthheim



ENLARGED SECTION December 6, 1962 PLAN



REFERENCES

MIDDLESEX COUNTY REGISTRY OF DEEDS

DEEDS:
BOOK 10234, PAGE 225
BOOK 9870, PAGE 557
BOOK 3653, PAGE 473

BOOK 31735, PAGE 249
BOOK 31438, PAGE 519
BOOK 8543, PAGE 183
BOOK 4261, PAGE 82

PLANS:
PLAN 1129 OF 2001
PLAN 561 OF 2000
PLAN 652 OF 1992
PLAN 727 OF 1969
PLAN 340 OF 1963
PLAN 1753 OF 1955
PLAN BOOK 198, PLAN 17
PLAN BOOK 318, PLAN 43
PLAN IN RECORD BOOK 2948, PAGE 448
1899 PLEASANT STREET COUNTY LAYOUT
1942 PLEASANT STREET COUNTY LAYOUT

ENCROACHMENTS:

- A CONCRETE PAD AND DRIVEWAY EXTEND 2.5 FEET OFF LOCUS.
B BIT. CONC. DRIVE EXTENDS 12 FEET OFF LOCUS.
C WALL OF BRIDGE IS .4' ON LOCUS.

EASEMENT LEGEND:

- 2000 MWRA SEWER TAKING
--- 1955 MDC SEWER TAKING
--- BOSTON EDISON EASEMENT
..... 15 FOOT WIDE PRIVATE WAY ON PLAN BOOK 198, PLAN 17

ZONING:

INDUSTRIAL
MINIMUM AREA = 20,000 SQUARE FEET
MINIMUM FRONTAGE = 120 FEET

FRONT YARD = 40 FEET
SIDE YARD = 20 FEET
REAR YARD = 20 FEET
MAXIMUM HEIGHT (30 FEET)
MAXIMUM LOT COVERAGE = 35%

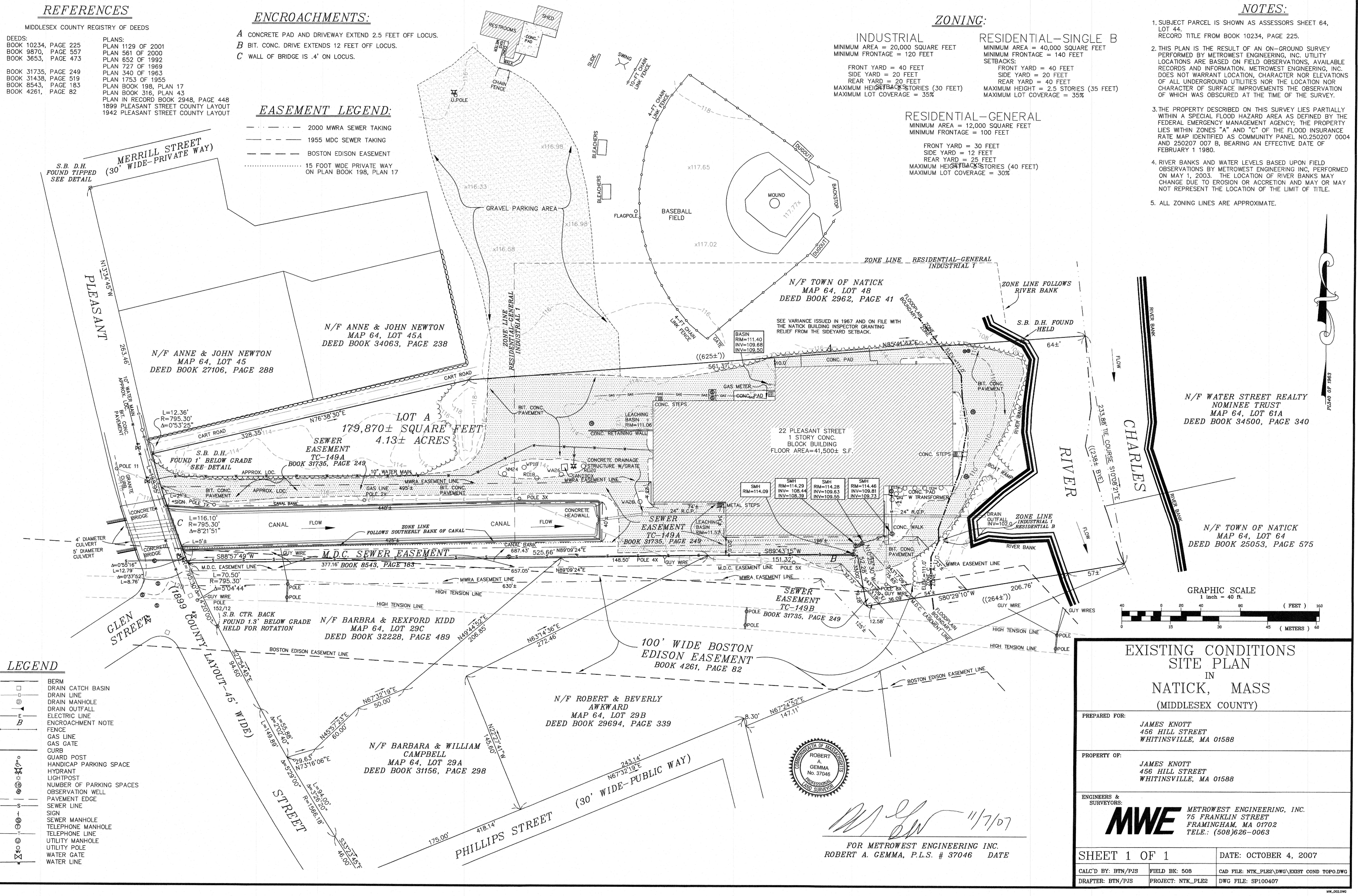
RESIDENTIAL-SINGLE B
MINIMUM AREA = 40,000 SQUARE FEET
MINIMUM FRONTAGE = 140 FEET
SETBACKS:
FRONT YARD = 40 FEET
SIDE YARD = 20 FEET
REAR YARD = 40 FEET
MAXIMUM HEIGHT = 2.5 STORIES (35 FEET)
MAXIMUM LOT COVERAGE = 35%

RESIDENTIAL-GENERAL
MINIMUM AREA = 12,000 SQUARE FEET
MINIMUM FRONTAGE = 100 FEET

FRONT YARD = 30 FEET
SIDE YARD = 12 FEET
REAR YARD = 25 FEET
MAXIMUM HEIGHT (40 FEET)
MAXIMUM LOT COVERAGE = 30%

NOTES:

- SUBJECT PARCEL IS SHOWN AS ASSESSORS SHEET 64, LOT 44. RECORD TITLE FROM BOOK 10234, PAGE 225.
- THIS PLAN IS THE RESULT OF AN ON-GROUND SURVEY PERFORMED BY METROWEST ENGINEERING, INC. UTILITY LOCATIONS ARE BASED ON FIELD OBSERVATIONS. AVAILABLE RECORDS AND INFORMATION. METROWEST ENGINEERING, INC. DOES NOT WARRANT LOCATION, CHARACTER NOR ELEVATIONS OF ALL UNDERGROUND UTILITIES NOR THE LOCATION NOR CHARACTER OF SURFACE IMPROVEMENTS THE OBSERVATION OF WHICH WAS OBTAINED AT THE TIME OF THE SURVEY.
- THE PROPERTY DESCRIBED ON THIS SURVEY LIES PARTIALLY WITHIN A SPECIAL FLOOD HAZARD AREA AS DEFINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY; THE PROPERTY LIES WITHIN ZONES "A" AND "C" OF THE FLOOD INSURANCE RATE MAP IDENTIFIED AS COMMUNITY PANEL NO.250207 0004 AND 250207 007 B, BEARING AN EFFECTIVE DATE OF FEBRUARY 1 1980.
- RIVER BANKS AND WATER LEVELS BASED UPON FIELD OBSERVATIONS BY METROWEST ENGINEERING INC, PERFORMED ON MAY 1, 2003. THE LOCATION OF RIVER BANKS MAY CHANGE DUE TO EROSION OR ACCRETION AND MAY OR MAY NOT REPRESENT THE LOCATION OF THE LIMIT OF TITLE.
- ALL ZONING LINES ARE APPROXIMATE.



LEGEND

- BERM
DRAIN CATCH BASIN
DRAIN LINE
DRAIN MANHOLE
DRAIN OUTFALL
ELECTRIC LINE
ENCROACHMENT NOTE
FENCE
GAS LINE
GAS GATE
CURB
GUARD POST
HANDICAP PARKING SPACE
HYDRANT
LIGHTPOST
NUMBER OF PARKING SPACES
OBSERVATION WELL
PAVEMENT EDGE
SEWER LINE
SIGN
SEWER MANHOLE
TELEPHONE MANHOLE
TELEPHONE LINE
UTILITY MANHOLE
UTILITY POLE
WATER GATE
WATER LINE

EXISTING CONDITIONS SITE PLAN IN NATICK, MASS (MIDDLESEX COUNTY)

PREPARED FOR:

JAMES KNOTT
456 HILL STREET
WHITINSVILLE, MA 01588

PROPERTY OF:

JAMES KNOTT
456 HILL STREET
WHITINSVILLE, MA 01588

ENGINEERS &
SURVEYORS:

MWE

METROWEST ENGINEERING, INC.
75 FRANKLIN STREET
FRAMINGHAM, MA 01702
TEL.: (508) 626-0063

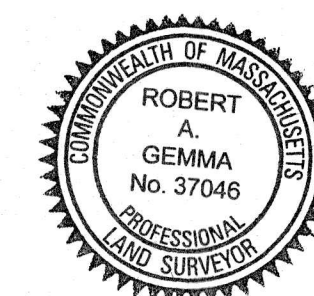
SHEET 1 OF 1

DATE: OCTOBER 4, 2007

CALC'D BY: BTN/PJS
DRAFTER: BTN/PJS

FIELD BK: 508
PROJECT: NTK_PLE2

CAD FILE: NTK_PLE2\DWG\EXIST COND TOPO.DWG
DWG FILE: SP100407



Robert A. Gemma 11/7/07
FOR METROWEST ENGINEERING INC.
ROBERT A. GEMMA, P.L.S. # 37046 DATE

ITEM TITLE: Article 9: Rescind Authorized, Unissued Debt

ITEM SUMMARY:

ITEM TITLE: Article 2: Stabilization Fund

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Article 2 - 6 MOTIONS	9/26/2019	Exhibit
Free Cash Spend Down Plan as of 9-25-19	9/26/2019	Exhibit

Article 2 Stabilization Fund (requires a majority vote)

Move that the Town vote to appropriate \$500,000 from Free Cash for the purpose of supplementing the Stabilization Fund established under Article 22 of the warrant for Annual Town Meeting of 1961, as authorized by Chapter 40, Section 5B of the General Laws, as amended.

Article 3 Operational/Rainy Day Stabilization Fund (requires a majority vote)

Move that the Town vote to appropriate \$500,000 from Free Cash for the purpose of supplementing the Stabilization Fund established under Article 4 of the warrant for 2011 Spring Annual Town Meeting, as authorized by Chapter 40, Section 5B of the General Laws, as amended.

Article 4 Capital Stabilization Fund (requires a majority vote)

Move that the Town vote to appropriate \$2,119,347 from Free Cash for the purpose of supplementing the Capital Stabilization Fund established by the vote of Article 2 of the 2010 Fall Annual Town Meeting, as authorized by chapter 40, Section 5B of the General Laws, as amended.

Article 5 OPEB Appropriation or Transfer of Funds (requires a majority vote)

Move that the Town vote to appropriate \$475,000 from Free Cash for the purpose of funding the Other Post-Employment Benefits Liability Trust Fund authorized by a vote of the 2017 Spring Annual Town Meeting under Article 15, as authorized by Chapter 32B, Section 20 of the General Laws as amended by Section 15 of Chapter 218 of the Acts of 2016.

Article 6 Collective Bargaining (requires a majority vote)

Motion A: Move that the Town vote to appropriate the total sum of \$402,767 from the Selectmen's Contract Settlement line item, as approved by vote of the 2019 Spring Annual Town Meeting under Article 8, for the implementation of the Terms of the Agreements reached between the Town and the following collective bargaining units: a) Massachusetts Laborers' District Council Public Employees Local Union 1116 of the Laborers International Union of North America – Clerical Employees; b) Massachusetts Laborers' District Council Public Employees Local Union 1116 of the Laborers International Union of North America – Public Works' Department; c) Massachusetts Laborers' District Council Public Employees Local Union 1116 of the Laborers International Union of North America – AFL CIO Library Employees; d) Massachusetts Laborers' District Council Public Employees Local Union 1116 of the Laborers International Union AFL CIO – Facility Management Employees; e) Supervisors and Administrators Association (DPW); f) The Natick Patrol Officers' Association; g) New England Police Benevolent Association, Inc. Local 182, Dispatchers; for payment of wages effective July 1, 2018 through June 30, 2019. The total sum of \$402,767 shall be transferred to the following departmental line items as indicated below to supplement appropriations that were previously appropriated at the 2019 Spring Annual Town Meeting under Article 8:

Morse Institute Library – Salaries	\$82,052
Police Department – Salaries	\$190,262
Department of Public Works – Salaries	\$54,601
Health & Community Services – Board of Health Salaries	\$3,671
Health & Community Services – Community Services – Salaries	\$2,474
Administrative Support Services – Town Clerk Salaries	\$3,187
Administrative Support Services – Community Development Salaries	\$3,138
Shared Expenses – Facilities Management Salaries	\$63,382

Motion B: Move that the Town vote to appropriate the total sum \$34,954 from Water/Sewer Fund Retained Earnings, for the implementation of the terms of the agreement reached between the Town and Massachusetts Laborers' District Council Public Employees Local Union 1116 of the Laborers International Union of North America – Clerical Employees for payment of wages effective July 1, 2018 through June 30, 2019. The total sum of \$34,954 shall be transferred to the following departmental line items as indicated below to supplement appropriations that were previously appropriated at the 2019 Spring Annual Town Meeting under Article 8 Motion H1:

Water/Sewer – Salaries	\$34,954
------------------------	----------



Town of Natick

Free Cash Appropriations - FATM 2019

<u>Item</u>		<u>Amount</u>	<u>Rationale</u>
Free Cash as of 7/1/2019		TBD	
.5% of G/F Revenue Set-Aside		TBD	Per Financial Management Policies
<u>2019 Fall Town Meeting</u>			
Article 2 - Transfer to Stabilization Fund		min (\$500,000)	Per Financial Management Policies
Article 3 - Transfer to Operational Stabilization Fund		min (\$500,000)	Per Financial Management Policies
Article 4 - Transfer to Capital Stabilization Fund (FY 2018 Local Option Taxes) + 600k		(2,119,347)	Per Financial Management Policies
Article 5 - Transfer to OPEB Stabilization Fund		(475,000)	Per Financial Management Policies
Article 1 - FY 20 Operations		(834,588)	
Article 42 - Feasibility Study Morse Institute Parkings		(15,000)	
Article 1 - LIUNA		(1,640,000)	General Fund Portion of LIUNA
<u>2020 Spring Town Meeting</u>			
FY 2021 Operating Budget		Remaining Balance	Free Cash for FY 2021 Operating Budget

Remaining Unallocated Balance

ITEM TITLE: Article 3: Operational/Rainy Day Stabilization Fund

ITEM SUMMARY:

ITEM TITLE: Article 4: Capital Stabilization Fund

ITEM SUMMARY:

ITEM TITLE: Article 5: Other Post-Employment Benefits (OPEB) Appropriation or Transfer of Funds

ITEM SUMMARY:

ITEM TITLE: Article 6: Collective Bargaining

ITEM SUMMARY:

ITEM TITLE: Article 7: Personnel Board Classification and Pay Plan

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Article 7 Motion	9/26/2019	Exhibit
Full Time Pay Plan (draft)	9/26/2019	Exhibit
PT Pay Plan (Draft)	9/26/2019	Exhibit

Article 7 Personnel Board Classification and Pay Plan (requires a majority vote)

Move that the town vote to amend the By Laws by changing in its entirety the table entitled Classification and Pay Plan that is incorporated by reference into Article 24, Section 3, Paragraph 3.10 with the new Classification and Pay plan as follows:

(INCLUDE COPY OF UPDATED PERSONNEL PLANS)

Town of Natick
Classification and Pay Plan
Effective July 1, 2019

Grade	Minimum	Point 1	Point 2	Maximum
6	\$ 125,000.00	\$ 140,000.00	\$ 155,000.00	\$ 165,000.00
5	\$ 100,000.00	\$ 120,000.00	\$ 135,000.00	\$ 145,000.00
4	\$ 75,000.00	\$ 90,000.00	\$ 105,000.00	\$ 125,000.00
3	\$ 60,000.00	\$ 72,000.00	\$ 85,000.00	\$ 105,000.00
2	\$ 48,000.00	\$ 55,000.00	\$ 62,500.00	\$ 80,000.00
1	\$ 42,000.00	\$ 48,000.00	\$ 54,000.00	\$ 60,000.00

GRADE 6

Chief of Police
Deputy Town Administrator/Director of Finance
Deputy Town Administrator/Operations
Fire Chief
Town Administrator

GRADE 5

Comptroller
Deputy Chief of Police
Director of Community & Economic Development
Director of Facilities Management
Director of Human Resources/Labor Relations
Director of Information Technology
Director of Public Works
Director of Strategic Initiatives & Partnerships

GRADE 4

Assistant Comptroller
Building Commissioner
Director of Assessing
Director of Senior Center & Community Services
Director of Public Health
Director of Recreation & Parks
Morse Library Director
Treasurer/Collector

GRADE 3

Assistant Assessor (certified)
Assistant Director Council on Aging
Assistance Director of Finance
Assistant Director Recreation & Parks
Assistant Library Director, Morse Library
Assistant Treasurer/Collector
Bacon Free Library Director
Benefits Manager
Communications/Information Officer
Director of Recreation Programs/Special Events
Environmental Health Agent
Executive Director, Farm
Facility Maintenance Manager
Golf Course Manager
Housing/General Planner

GRADE 3 Continued

Information Systems Data Base Administrator
Information Systems Network Administrator
Local Building Inspector (certified)
Planner/Conservation Agent
Prevention & Outreach Program Manager
Procurement Manager
Project Manager
Public Health Nurse
Regulatory Compliance Coordinator
Senior Environmental Health Specialist
Senior Planner
Staff Accountant
Sustainability Coordinator
Veterans Agent

GRADE 2

Assistant Assessor (non-certified)
Assistant Director, Bacon Free Library
Assistant Director, Farm
Assistant Director Internal Operations, Farm
Clinical Social Worker
Data Analyst
Executive Assistant
Facility Custodial Supervisor
Golf Course Superintendent
Human Resources Coordinator
Payroll Manager
Sanitarian
Senior Executive Assistant
Social Worker
Social Worker Coordinator
Special Assistant to Director of Community Services
Special Assistant to Director of Facilities Management
Special Needs Coordinator
System Specialist Administrative

GRADE 1

Animal Control Officer
Finance Coordinator
Golf Professional
Parking Enforcement Officer
Outreach Coordinator
Program Manager Volunteer Services
Student Officer
Teen Center Coordinator

Town of Natick
Part-Time Classification and Pay Plan
Effective July 1, 2019

Hourly Wage Scale

Grade	Minimum	Point 1	Point 2	Maximum
1	\$ 11.00	\$ 14.00	\$ 17.00	\$ 20.00
2	\$ 14.00	\$ 24.00	\$ 27.00	\$ 30.00
3	\$ 24.00	\$ 34.00	\$ 37.00	\$ 40.00

Grade 1

Assistant Leader (Rec)
Assistant Swim Coach
Attendant (Rec)
Building Monitor I (Rec)
Bus Dispatcher
Bus Driver
Cart Attendant (Golf)
Clerical Assistant
Club House Attendant (Golf)
Club House Supervisor (Golf)
Concession Manager
Custodian
Deputy Animal Control Officer
Election Clerk
Election Inspector
Equipment Operator (Golf)
Instructor
Laborer I
Leader/Counselor (Rec)
Library Page (Morse)
Lifeguard
Parking Clerk
Ranger/Starter (Golf)
Receptionist
School Crossing Guard (1st Year)
Senior Counselor (Certified-Rec)
Specialist (Rec)
Timer/Scorer

Grade 2

Administrative Support
Assistant Director (Rec)
Beach Manager
Bookkeeper
Building Monitor II (Rec)
Camp Director
Community Garden Coordinator
Conservation Agent
Election Warden
Golf Course Mechanic
Head Lifeguard
Instructor II
Intern Cooperative
Laborer II
Library Assistant (Bacon)
Parking Enforcement Officer
Plumbing and Wiring Inspector
Police Matron
Police Transcriber
Program Assistant
Program Supervisor (Rec)
Recycling Attendant
School Crossing Guard
Social Worker
Swim Coach
Transportation Coordinator
Volunteer Coordinator I

Grade 3

Adult Contractor
Building Inspector
Certified Sports Official
Instructor III
Laborer III
Nurse (RN)
Volunteer Coordinator II

Position	Annual Rate
Inspector of Animals	\$ 3,750.00
Registrar of Voters	\$ 966.00
Town Meeting Page	\$50.00 / Session

ITEM TITLE: Article 8: PEG Access and Cable Related Fund - Possible Reconsideration

ITEM SUMMARY:

ITEM TITLE: Town Meeting Recommendation Book - draft

ITEM SUMMARY:
