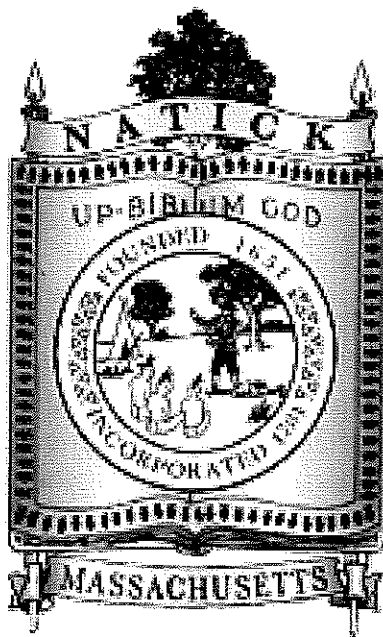


Town of Natick

2015 Special Town Meeting



Recommendations of the Natick Finance Committee

December 1, 2015 – Natick High School – Natick, MA



Finance Committee **Town of Natick, Massachusetts** **November 18, 2015**

Greetings to all Town Meeting Members and Citizens of Natick,

This report contains the Natick Finance Committee report and/or recommendations for all of the articles appearing on the 2015 Special Town Meeting Warrant.

Under the Town's Charter and By-Laws, the Finance Committee is required to "consider all matters of business included within the articles of any warrant for a Town Meeting, and shall, after due consideration, report thereon, in print, its recommendation as to each article" (Natick By-Laws, Chapter 23, Section 4). In accordance with the Town of Natick By-Laws, this report and recommendations are respectfully submitted for your consideration. This warrant contains a variety of financial and non-financial articles for consideration.

To fulfill its responsibilities under Section 23 of the By Laws, the Finance Committee met 4 times on November 10th, 12th, 14th and 17th. All of the Finance Committee recommendations were made during duly noticed open meetings with hearings on warrant articles occurring only after publication of the warrant in various precincts and the newspaper.

In reaching its recommendations the Finance Committee has considered the information and comments presented from all of the article sponsors, Town Administration, Town Boards and Commissions, and the public at large.

As in previous years, extensive and constructive discussions were held on these articles, and the narratives in this Recommendation Book strive to provide a summary of the key points from those discussions to provide information and analysis behind the recommendations to Town Meeting members for their consideration and study in preparation for Town Meeting.

The Finance Committee heard all articles on the 2015 Special Town Meeting Warrant before this recommendation book was written. Recommendations were reached on Articles 2, 3, 4 and 5. The Finance Committee has postponed further consideration of Article 1 until November 30th. Article 1 was the subject of a site visit on November 7th and was heard on November 12th and

17th with important further information expected to be provided on November 30th. The Finance Committee will consider a possible recommendation on Article 1 at that time.

This Recommendation Book is the result of a large group effort. Many volunteers, especially the fourteen members of the Finance Committee as well as members of other committees and boards and Town staff, worked diligently to help bring all this information to Town Meeting. A number of meetings lasted late into the night and included a five plus hour meeting on a Saturday. A considerable amount of effort and commitment on the part of committee members, Town officials, citizen petitioners, other volunteers, families, and friends was made that should be recognized.

We would like to express our thanks and appreciation for all of the hard work and dedication contributed by all of the Town officials, members of boards, committees and departments, as well as many concerned citizens, for their cooperation, participation, and openness during our public hearings. Natick is fortunate and well served to have the high quality of professionals and volunteers acting on our behalf.

Information relating to the Finance Committee may be found on the Town's public website. Any questions or comments about the Finance Committee may also be submitted to us via a link on that web page.

Respectfully Submitted;

Paul Griesmer
Chairperson

Jimmy Brown, Vice Chair
Bruce Evans, Secretary
Patrick Hayes
Jerry Pierce
Ed Shooshanian

Cathi Collins
David Gallo
Michael Linehan
Chris Resmini

Cathy Coughlin
Jonathan Freedman
Tony Lista
Jennifer Sack

FINANCE COMMITTEE
REPORT, RECOMMENDATIONS AND MOTIONS
2015 SPECIAL TOWN MEETING

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ARTICLE 1
Pegan Lane Conservation Restriction
(Board of Selectmen and Conservation Commission)

To see what sum of money the Town will vote to appropriate and raise, borrow, transfer from available funds, or otherwise provide, for acquisition of a conservation restriction in perpetuity (in accordance with MGL Chapter 184, sections 31-33 or other applicable law), an easement, or other interest in a parcel of land with any buildings thereon (the Property) shown on Natick Assessors' Map 79 as Lot 4D, also described as 193 Pegan Lane, said Property containing 16.3 acres more or less and being owned now or formerly by the 193 Pegan Lane Realty Trust; and further, to determine what conditions, if any, should be included in the authorization to acquire such conservation restriction, easement or other interest, including without limitation the provision of public access to the Property from Pegan Lane and the provision of adequate parking related thereto; and, further, to authorize the Town to enter into any agreements and to execute any documents necessary to accomplish the purposes of this article; and, further, to authorize the Conservation Commission, the Board of Selectmen, the Town Administrator, and any other applicable Town official to apply for and receive grants under MGL Chapter 132A, section 11, reimbursements, gifts or other contributions for the purposes of this article and to take any other action necessary to accomplish the purposes of this article; or otherwise act thereon.

PURPOSE OF ARTICLE

To appropriate funds from available sources or authorize borrowing to acquire property interests in 193 Pegan Lane, to specify the conditions, if any, for such acquisition, and to authorize town boards to execute relevant agreements.

FINANCE COMMITTEE RECOMMENDATION, DISCUSSION AND INFORMATION

Recommendation:

By a vote of 12 - 0 - 0 on November 17, 2015, the Finance Committee **Postponed Further Consideration** of Article 1 until November 30, 2015.

At the present time, the Finance Committee has no recommendation regarding Article 1 but anticipates receiving further important information on Article 1 on November 30, 2015.

The Finance Committee will consider a possible recommendation at that time.

Discussion and Information:

The Finance Committee held a public hearing for this article on November 12, 2015 and November 17, 2015. The Finance Committee heard from the Chairperson of the Conservation Commission (ConCom), a representative of The Trustees of Reservations (“TTOR”) and the Town Administrator who presented the article. In addition, the Finance Committee conducted a site visit on November 7, 2015. The Finance Committee also held a preparation meeting on November 10, 2015 to identify issues for consideration and the topics of which it would request information. The following information was noted and is provided for Town Meeting members.

Summary Findings:

Several key issues are presently unresolved regarding the subject matter of Article 1, including but not limited to, the critical issues of public access to the property, Americans with Disabilities Act (“ADA”) access, access rights through real property owned by others, additional costs to repair existing and install new trails, additional costs to create a necessary parking lot on real property owned by others, further details in and corrections to the proposed Conservation Restriction, and corrections to maps used to present the project accurately.

Since the Finance Committee began hearing this article, significant but as yet insufficient progress has been made on these issues including the initial creation and a second draft of a term sheet, confirmation of access issues, and discussions about whether borrowing or FAR Bonus Stabilization funds would be the appropriate source of money if Town Meeting were to decide to proceed.

Detailed Findings:

Background

- The project involves the acquisition of a Conservation Restriction on 16.3 acres of privately owned vacant land located at 193 Pegan Lane in South Natick on the Dover line
- Except for one private residence in Dover and one private residence in Natick, the Property is surrounded by over 100 acres of land held in varying degrees of conservation restriction, agricultural restriction or park reservation status
- A site visit revealed a spectacular property (193 Pegan Lane and certain surrounding land) with open spaces and dramatic views
- The proposed goal is to preserve land and to complete an assemblage for conservation and passive recreation purposes
- The properties that would be part of the ‘assemblage’ include
 - the Pegan Hill Reservation owned by the Trustees of Reservation (TTOR),
 - Mumford Forest owned by New England Forestry Foundation (NEFF),
 - 50 Pegan Lane owned by Dover Land Conservation Trust (DLCT) ,
 - a conservation restriction owned by DLCT on excess land of 40 Pegan Lane,
 - a Conservation Restriction held by TTOR on land in Dover
 - a Conservation Restriction on land in Dover held by Mass Audubon
 - a portion of Lookout Farm under non permanent agricultural status

- another portion of Lookout Farm under permanent agricultural protection
- The Finance Committee has requested details on the acreage of land involved in each of these parcels
- The Finance Committee has not provided a map to Town Meeting members because of various inaccuracies in the maps provided to date to the Finance Committee
- A corrected map is expected by Town Meeting
- The 193 Pegan Lane Property is located more or less in the center of these surrounding lands and could complete a large overall assemblage of open space; albeit under different control
- Possible agreements for TTOR to manage the overall assemblage are under discussion
- Neither the provisions or length of term for these agreements have been drafted or provided but non binding letters of general support from NEFF and DLCT were provided
- 193 Pegan Lane directly abuts 5 properties (Pegan Hill Reservation, 40 Pegan Lane, 50 Pegan Lane, Mumford Forest and 80 Pegan Lane)
- TTOR's currently owned land in Natick is deed restricted to be open as a public park; Dover Land Conservation Trust land was purchased recently and NEFF land is deed restricted for any corporate purpose for which NEFF exists
- Currently, NEFF's corporate purposes consist primarily of forestry but include passive recreation
- DLCT is not registered with the Corporations Division of the Secretary of State so its charter and by laws could not be obtained
- However, DLCT's tax returns on file with the Attorney General indicate their purpose is to preserve land in Dover; passive recreation is not listed as a specific purpose
- The Finance Committee has requested copies of the Conservation Restrictions held by TTOR and Mass Audubon in Dover to see if passive recreation is a permitted public use and to see if public access is allowed
- The 193 Pegan Property is adjacent to 80 Pegan Lane which is reportedly in discussions with TTOR about granting a Conservation Restriction on 80 Pegan Lane
- This proposed Conservation Restriction is would be acquired by TTOR on the excess land of 80 Pegan Lane (the private house in Natick) however there are reportedly no drafts of this agreement which, if it occurs, is not expected to include either passive recreation or public access
- Some members would like to see this Conservation Restriction documented to ensure that the excess land at 80 Pegan Lane is not instead developed into an additional home which might benefit in value from the adjacent Conservation Restriction on 193 Pegan Lane
- The agricultural land of Lookout Farm is not available for passive recreation

Proposed Transaction:

- An appropriation of \$1,400,000 is proposed for the Conservation Commission to acquire a Conservation Restriction on the 193 Pegan Lane Property
- TTOR will acquire the 193 Pegan Lane Property from the current private land owner through a wholly owned subsidiary, Massachusetts Land Conservation Trust ("MLCT")
- TTOR and MLCT have a signed purchase and sale contract with the current owner which expires on December 31, 2015

- TTOR has indicated that it needs the funds from Natick for the Conservation Restriction in order to complete the purchase from the private land owner
- Discussions are underway about a possible extension of the December 31, 2015 closing date to January 29, 2016
- The Conservation Commission would acquire the Conservation Restriction from MLCT
- The Property is assessed at \$2.2 million and valued between \$2.875 and \$3.3 million as of July 2015
- MLCT will sell the Conservation Restriction to the Conservation Commission
- The Town has applied for a State grant to reimburse \$400,000 of the \$1,400,000 price but has not yet heard whether the grant will be awarded for this project
- The Town will either get the reimbursement grant of \$400,000 from the State or the price of the conservation Restriction will be lowered to \$1,000,000
- The grant is discussed in further detail below
- The property has been under discussion and consideration by the Conservation Commission since May 2014
- The Property could be developed into a maximum of two (2) residential homes
- 80 Pegan Lane has deeded driveway access and utility rights over 193 Pegan Lane to connect into Dover
- The transaction would not eliminate these rights and the Property would continue to be burdened by easements for driveway and utility access in favor of 80 Pegan Lane (and its two lots) to access the portion of Pegan Lane in Dover

The Proposed Conservation Restriction

- The Conservation Restriction would consist of five “values”
 - Open Space Preservation
 - Furtherance of Town Policy
 - Scenic Protection
 - Provision of Public Recreation
 - Archaeological and Historical Context
- The Property would be managed by TTOR (not Natick) with decisions on maintenance, pruning trees for views, etc. all made by TTOR
- Natick would only be able to enforce violations of the proposed Conservation Restriction
- Quarterly meetings between the Conservation Commission and TTOR are proposed but ultimate decisions on management, programs, etc. would be TTOR’s purview
- The Property would not be under the policy control of the Town
- The Provision of Public Recreation would be expressly managed by TTOR
- The proposed Conservation Restriction would include passive recreation such as hunting, hiking, horseback riding, cross- country skiing and non motorized (i.e. mountain biking) recreational activities , would allow the Conservation Restriction to terminate under certain narrow circumstances and would allow TTOR to charge user fees
- On November 17, 2015, the Finance Committee reviewed the draft Conservation Restriction and requested several changes regarding commercial recreational activities, TTOR’s ability to close the Property for private events, TTOR’s ability to charge user

fees, the right of any non profit to enforce the Conservation Restriction, and the liability of TTOR as the parent entity of MCLT

- TTOR has substantial net worth in excess of \$250,000,000 but the financial condition of its MCLT subsidiary is unknown
- The Finance Committee also requested the legal description for the property and the Plan of Conservation Restriction Area which are key exhibits to the draft agreement
- The goal is to ensure that the Conservation Restriction covers the entirety and not just a portion of the Property
- The Finance Committee expects further information on November 30, 2015

Access and Parking Problems:

- The 193 Pegan Lane Property has no existing right or method of public access and has no parking
- Separate rights will need to be obtained from TTOR for the construction and expansion of parking spaces on TTOR land
- Separate rights will need to be obtained to improve existing trails and create new trails on TTOR land to access 193 Pegan Lane
- The only access to the Property is through Pegan Lane (from Main St. in Dover ; not Pegan Lane or Pleasant St in Natick)
- This sole access is for private (not public) use on a restricted private way created by certain land owners in 1914
- Pegan Lane in Natick appears to be an accepted public way for the first 2,200 feet up from Pleasant St. to the current dirt parking area on TTOR land (Town Counsel is confirming this conclusion because of the conditional nature of the 2,200 foot street acceptance voted by Town Meeting in 1997)
- Pegan Lane in Natick beyond this point appears to be private land Access to the 193 Pegan Lane property would require use of existing trails and creation of new trails on TTOR land
- The parking lot is located approximately over 1,100 feet from 193 Pegan Lane
- The current parking area accommodates 2-3 cars and would need to be expanded and paved (per the Natick Zoning By Law)
- Construction of a paved parking lot would require permission and oversight from the Massachusetts Historical Commission because of the possible presence of Native American artifacts on Pegan Hill
- A special permit of the Planning Board would very likely be required since the parking lot would serve another lot i.e. 193 Pegan Lane
- TTOR verbally promised to expand the parking lot and to create new trails to access 193 Pegan Lane
- Access to the parking lot requires use of Pegan Lane in Natick which is generally improved to 13-14 feet width and is as narrow as 10 feet in certain spots
- Question was raised as to the ability of two cars to pass safely in opposite direction while going to and from the proposed new parking lot

- At the request of the Finance Committee on November 10, 2015, TTOR and Town Counsel began the process of developing term sheets to document and to secure these rights
- Finance Committee members expressed interest in the Town getting enforceable easement rights on the TTOR property for the parking lot and trails access to 193 Pegan Lane
- Although TTOR's land is dedicated by deed to public park purposes, that deed does not appear to grant the Town of Natick rights to control or manage TTOR's land in any manner and does not appear to include the specific rights to create parking lots, to improve existing trails and to create new trails for the purpose of accessing other property such as 193 Pegan Lane
- Town Meeting members may note that the Board of Selectmen have an annual authorization (renewed at 2015 Spring Annual Town Meeting) to accept easements granted at no cost to the Town
- The Finance Committee expects further progress and information on definitive access agreements and term sheets by its November 30, 2015 meeting

ADA Accessibility:

- The Property has (and will have) no ADA access unless 1) arrangements are made a) to obtain the rights to cross 80 Pegan Lane at a level spot and b) to secure access rights to a strip of NEFF land which is necessary to access the level spot of 80 Pegan Lane or 2) to cut down portions of Pegan Hill on TTOR land or 3) some other solution is found through Mumford Forest
- Topography is believed to be a challenge for ADA access
- Finance Committee research (and each of TTOR's two appraisals) clearly indicate that the Dover portion of Pegan Lane leading to the Property is a private road
- This research corrected mistaken information presented to the Finance Committee by TTOR and the Conservation Commission who both believed that Pegan Lane way to Main St. in Dover was a public road and who had planned to create an ADA parking lot on part of the Property that is physically accessible from this road
- Research is ongoing as to whether controlled, limited access from Dover would be allowable under the 1914 agreements or whether the written and recorded consent of all Dover residents on Pegan Lane would be required
- The initial presentation by TTOR and the Conservation Commission indicated that beyond an ADA parking lot, there are no plans to create ADA accessible trails (Town Meeting members may refer to Article 4 for a request to create fully ADA accessible trails)
- The Finance Committee expects further information on possible ADA access at its November 30, 2015 meeting

Costs for Trail Improvements, New Trails and Parking Lots:

- Costs for the improvement of existing trails, creation of new trails, creation of a new parking lot all on TTOR land, creation of trails on 193 Pegan Lane and maintenance of the foregoing are verbally promised to be paid by TTOR however definitive documentation to this effect is not yet developed but has been in progress since November 10, 2015
- The Finance Committee has seen the drafts of the first two term sheets (dated 11.12.15 and 11.17.15) which show progress on the points of costs, parking and access to have TTOR be financially responsible
- Further work is needed by Town Counsel to determine the form and substance of the necessary agreements
- The Finance Committee expects further information on November 30, 2015

Grant and Chapter 30 B

- The State grant, if received by the Town, is a reimbursement grant
- The Town must appropriate the full amount of \$1,400,000 in order to qualify
- Grant reimbursements would be general fund money subject to Town Meeting appropriation
- To obtain grant money, the Town must appropriate the \$1,400,000, sign a contract with the state and later receive reimbursement which would be paid on or before June 30, 2016 if the grant is awarded
- The timing required for the grant agreement contract could require an extension of the December 31, 2015 closing
- The acquisition of the Conservation Restriction requires compliance with 30 B procurement laws which process has not yet commenced
- The Board of Selectmen are scheduled to consider a vote on Monday, November 23, 2015 to declare the unique aspects of the Property such that the acquisition does not require Requests for Proposal (“RFP’s”) and bids to be solicited and obtained
- If this vote occurs, the Town will need to publicize that determination in the Central Register of the Commonwealth for at least 30 days before any binding agreements can be signed
- The earliest signing of a term sheet or any other document is December 25, 2015
- The requirements of Chapter 30 B might also require an extension of the December 31, 2015 closing

Source of Funds for The Conservation Restriction

- The proposed appropriation might not be an eligible and or appropriate use of FAR Bonus Stabilization Funds for several reasons:
 - Public access is not assured or at least not yet assured
 - The “public” includes those who need ADA accommodations such as wheelchairs, etc.

- The draft Conservation Restriction states numerous “Conservation Values” that would be conveyed to Natick only one of which is ‘passive recreation’
- The proposed acquisition is not for ‘passive recreation’ purposes but for much broader conservation purposes
- The Conservation Restriction does not create a public park under the control of Natick’s Parks Commissioners or under the control and management of any town board
- Even with access rights through the property of others, the Property is not directly accessible to the public (direct public access is a requirement in the definition of “park” in the Zoning By Law
- Public access as defined in the Zoning By Law includes ADA access according to information provided by Town Counsel at the Finance Committee meeting of November 17, 2015
- The Property is the furthest point in Natick away from the Mall whose density created the FAR money raising question as to whether the proposed Conservation Restriction is compensation/mitigation for the Mall density
- The proposed Conservation Restriction could be funded through borrowing
- Borrowing is expressly allowed and even anticipated in the draft motions provided by the State in connection with grants
- Borrowing would not require compliance with the various provisions in the Zoning By Law for the FAR funds
- Borrowing would also preserve the FAR Stabilization Fund for future acquisition of key parcels of land which 1) could be developed into potentially large subdivisions, 2) have direct public access and are more centrally located, and 3) are more suitable for parks which could be managed and controlled by the Town

Draft Motion Considered

- The Finance was provided with a draft motion to use the FAR funds
- The Finance Committee noted several problems with the draft motion aside from questions about the appropriate funding source
- These problems included conditioning the entire appropriation on 1) certain broadly stated but somewhat vague criteria left to the judgment of the Board of Selectmen and the Conservation Commission and 2) on certain conditions – such as getting a Planning Board approval for the parking lot - which could only be fulfilled after the transaction closed
- The Finance Committee also requested a draft motion to include borrowing
- The Finance Committee will consider revised motions on November 30, 2015

Anticipated Next Steps

- At the conclusion of the November 17, 2015 meeting, the Finance Committee members expressed a unanimous sentiment that the project is worthwhile provided that 1) all key issues are resolved and 2) an appropriate funding source is used
- The Finance Committee urged the sponsors to address and to document the resolution of the outstanding issues by November 30, 2015
- The Finance Committee has scheduled a further meeting for that date and will provide an updated report and possibly a recommendation to Town Meeting after meeting on November 30, 2015

MOTIONS:

None at this time

ARTICLE 2
Committee Article
(Board of Selectmen)

To see if the Town will vote to receive the reports of town officers, boards, and committees; or otherwise act thereon.

PURPOSE OF ARTICLE

To receive reports of town officers and committees.

FINANCE COMMITTEE RECOMMENDATION, DISCUSSION AND INFORMATION

Recommendation:

By a vote of 10 - 2 - 0 on November 17, 2015, the Finance Committee recommends *Favorable Action* with regard to the subject matter of Article 2 as indicated in the motion below.

Discussion and Information:

The Finance Committee held a public hearing for this article on November 12, 2015. No one attended to present the article. The following information was noted.

- No committees, boards or town officers appeared or notified the Finance Committee that they were looking to make a report to Town Meeting
- The Town Administrator who was in attendance for other business was asked questions and reported that the Parking RFP committee might be interested in making a report
- Members questioned whether such report would intend to be the sole Parking RFP committee report required by the Board of Selectmen's charge that the Parking RFP Committee provide a report to Town Meeting
- Members noted that the scope of the article does not appear to allow Town Meeting to ask any questions about any reports

MOTIONS: (Requires majority vote)

Move that the Town hear the reports of town officers, boards, and committees.

ARTICLE 3
Structured Tax Agreement
(Town Administrator)

To see if the Town, pursuant to the provisions of Chapter 59, Section 38H of the Massachusetts General Laws, or other applicable law, will vote to authorize the Board of Selectmen to enter into an agreement with MA Highway Solar, LLC or its affiliate or assignee for payment in lieu of real and personal property taxes with respect to solar photovoltaic electric-generating facilities on land owned by the Massachusetts Department of Transportation on the Natick westbound embankment off the Massachusetts Turnpike and, further, to authorize the Board of Selectmen, the Town Administrator, and the Board of Selectmen's designee(s) to take any action necessary to accomplish the purposes of this article; or otherwise act thereon.

PURPOSE OF ARTICLE

To authorize the Board of Selectmen to enter into a structured tax agreement.

FINANCE COMMITTEE RECOMMENDATION, DISCUSSION AND INFORMATION

Recommendation:

By a vote of 9 - 0 - 0 on November 12, 2015, the Finance Committee recommends *Favorable Action* with regard to the subject matter of Article 3 as indicated in the motion below.

Discussion and Information:

The Finance Committee held a public hearing for this article on November 12, 2015. The Finance Committee heard from the Town Administrator and the Deputy Town Administrator for Finance who presented the article. The following information was noted.

- Ameresco, Inc., a publicly traded company listed on the NYSE, through their subsidiary MA Highway Solar LLC, has installed a solar array on state-owned land along the Mass Pike within the Town of Natick.
- The land is non-taxable, but the array is taxable as personal property. Ameresco's lender required that, rather than customary personal property taxation methodology, the Town and MA Highway Solar LLC agree to a 20 year Structured Tax Agreement.
- Ameresco's lender requires a tax payment agreement due to the need to establish a known level of taxes on the solar array over the life of the project.
- Ameresco's lender's tax attorney has considered possible claims for a personal property tax exemption as an out-of-state leasing company when such company pays Massachusetts Corporate Excise Tax.
- The proposed tax agreement enables the Town of Natick to receive equivalent personal property taxes through the Structured Tax Agreement, without involving potential

- disputes over such an exemption
- In calculating the Tax Agreement, the administration made conservative (i.e. favorable to the Town) assumptions regarding tax rate increases as well as possible overrides and debt exclusions over the 20 year period. (Such assumptions were made solely for the purposes of projecting potential future tax rates for the purpose of developing the tax agreement.)
 - With an initial value of \$325,819, which value depreciates over the subject 20 year period, the anticipated total taxation over the life of the agreement is \$54,363.
 - The Town used a methodology to estimate the future taxes for the solar array starting with the present value of the solar array (\$325K).
 - This value was corroborated by the cost of the solar panel installation and through research by the Town Assessor
 - The tax projection included assumptions about the 20 year estimated useful life, depreciation, future tax rates in Town etc.
 - The proposed tax agreement has been fully negotiated and consists of a 10 page, detailed written draft
 - This draft agreement was provided to the Finance Committee and is publicly available
 - Town Meeting approval is required to authorize the Board of Selectmen to enter into the agreement
 - The administration is available to answer further questions at Town Meeting

MOTIONS: (Requires majority vote)

Move that the Town, pursuant to the provisions of Chapter 59, Section 38H of the Massachusetts General Laws, or other applicable law, vote to authorize the Board of Selectmen to enter into an agreement with MA Highway Solar, LLC or its affiliate or assignee for payment of real and personal property taxes with respect to solar photovoltaic electric generating facilities on land owned by the Massachusetts Department of Transportation on the Natick westbound embankment off the Massachusetts Turnpike for a term of twenty (20) years, which agreement provides for annual tax payments to the Town in such amounts as calculated by the Town each year based on the depreciation values set forth below for the applicable year, provided that the aggregate amounts paid over the term of said agreement shall not exceed fifty-four thousand three hundred sixty-three dollars and no cents (\$54,363.00);

Fiscal Year	Depreciated Value (\$)	Estimated Annual Tax Payment (\$)
1	325,819	4,472
2	309,528	4,457
3	293,237	4,398
4	276,946	4,220

5	260,655	4,009
6	244,364	3,911
7	228,073	3,684
8	211,782	3,482
9	195,491	3,242
10	179,200	2,997
11	162,910	2,748
12	146,619	2,494
13	130,328	2,246
14	114,037	1,981
15	97,746	1,712
16	81,455	1,419
17	65,164	1,145
18	48,873	868
19	32,582	584
20	16,291	294
Max. Aggregate Term Payment		54,363

and, further, to authorize the Board of Selectmen, the Town Administrator, and the Board of Selectmen's designee(s) to take any action necessary to accomplish the purposes of this article.

ARTICLE 4
Cochituate Aqueduct Trail Development
(Board of Selectmen and Conservation Commission)

To determine what sum or sums of money the Town will appropriate and raise, or transfer from available funds, for the design and construction of a walking trail for non-motorized use along the former Cochituate Aqueduct, under license to the Conservation Commission, shown on the Town of Natick Assessors Map 14, Parcels 75A, 75B, 75C and 75D, Map 8, Parcel 1A, and on Map 15, Parcels 109A, 109B, 109C and 109D, including crossing public and/or unaccepted ways; or otherwise act thereon.

PURPOSE OF ARTICLE

To appropriate funds from available sources for improvements to a section of the former Cochituate Aqueduct for trails.

FINANCE COMMITTEE RECOMMENDATION, DISCUSSION AND INFORMATION

Recommendation:

By a vote of 9 - 0 - 0 on November 14, 2015, the Finance Committee recommends *Referral* with regard to the subject matter of Article 4 as indicated in the motion below.

Discussion and Information:

The Finance Committee held a public hearing for this article on November 14, 2015. The Finance Committee heard from the chairperson of the Conservation Commission (ConCom) who presented the article and from various members of the public.

The following information was presented.

- The ConCom holds a so called “ 8m” permit from MWRA to develop trails on a 1.25 mile section of the former Cochituate Aqueduct and is requesting a \$600,000 appropriation from the FAR Bonus stabilization fund for Phase 1 to improve this section of the trail
- 8M permits refer to permits issued under Section 8m of Chapter 372 of the Acts of 1984 (Chapter 372 created the MWRA)
- Phase 2 would connect into the Pickerel Pond area and the Wethersfield neighborhoods (Phase 2 is not part of the \$600,000 request)
- The proposed Phase 1 trail would connect from Huron Drive across Oak St. to Rathbun Road and through the East Natick neighborhoods of Peterson and Oxford Roads to the Wellesley line

- At the Wellesley line, the trail would join with the Wellesley Cochituate Aqueduct Trail on the North side of Rt. 9
- The proposed trail would be fully ADA compliant

The following information was considered by the Finance Committee in its unanimous recommendation for referral.

- Neighbors presented objections to the trail given the close proximity to houses and concerns over trash, beer cans, vandalism and possible drug use already occurring on the Aqueduct
- The professional engineering budget for the Phase 1 was recently completed and indicated a cost of \$815,000 not \$600,000
- No specifics were presented as to what parts of this budget would be cut, whether that would affect the limited screening promised to certain neighbors or whether grants could be obtained for the difference
- Members felt that the ConCom should ‘value engineer’ (i.e. reduce or confirm) the \$815,000 estimate and/or confirm the availability of additional funding from grants before asking for a Town Meeting appropriation
- The Phase 1 project is part of a larger effort involving Phase 2 and possibly 3 but no feasibility work has even been started to evaluate the possibility or the cost of Phase 2
- Wethersfield residents have apparently not been informed about plans for phase 2 to access their neighborhood
- Members felt that the Town should know if Phase 2 was even possible and how much more it would cost before funding Phase 1
- The specifics of the 8m permit revealed several concerns including
 - MWRA can cancel the permit at any time for any reason (unlike the JJ Lane National Guard site lease which can be cancelled only in a declared state of emergency)
 - The MWRA expressly disclaims any ability of Natick to use the Aqueduct for trails purposes
 - MWRA also warns that neither it nor the State may own the Property
 - MWRA expressly warns that third parties might own or have rights to use the Aqueduct parcels
- Members felt that a title examination should be performed before any money is spent in order to be sure the money is not wasted
- Examination of Chapter 372 indicates 1) that the MWRA was never given ownership of any real property rights or interests, 2) that any and all transfer of such interests to MWRA were expressly excluded from the statute and 3) that MWRA was only given management rights over real property
- There were questions raised as to whether the Aqueduct – discontinued by statute in 1951 – was subsequently transferred to another state agency before 1984 and whether MWRA had even management rights to the Aqueduct
- Further examination indicates that 8 m permits might be primarily if not exclusively for the water and sewer purposes of the Act and not for trails

- Members felt that all legal questions and issues should be resolved before any appropriation is considered
- The proposed Phase 1 trail does not access the Cochituate Aqueduct trail on the south side of Rt. 9 in Wellesley
- The north and south sides of the trail are separated by at least four lanes of Rt. 9 and a double guard rail in the middle of Rt. 9
- Access between the north and south sides requires a detour on sidewalks to a cross walk at Overbrook Drive and back again for a total detour of approximately 2,200 feet on Rt. 9
- The Finance Committee noted that the article refers to specific tax parcels, that the MWRA permit refers to specific lots from a plan from 1914 and that the professional engineers drawings indicates the place of work on Phase 1
- The engineers drawings do not indicate either the Aqueduct tax parcel numbers or the specific lots from the 1914 plan
- The Finance Committee learned that no one has yet compared all three plans of land to make sure that they are the same
- Members felt that such specific comparisons should be made to confirm the parcels in question are the same before an appropriation is voted
- The ConCom did not have a construction timetable for when the work would begin or how long it would take
- The Finance Committee was also informed that this article could wait until the Spring 2016 Town Meeting with either no delay to the trail construction or a maximum of one year delay – depending on the construction schedule to be developed
- Members included the Recreation and Parks Commission in the referral motion to involve them in a review of the proposed project and to prompt a larger process to develop a plan for the FAR Stabilization Fund money
- Although such plan is not part of the scope of Article 4, members noted that all plans for the FAR Bonus monies were made before the Town learned at Fall 2015 Annual Town Meeting that the FAR bonus money is to be used for active and passive recreation and leisure purposes only and is not conservation money
- Although previous plans for the FAR Bonus funds were developed in good faith, such plans did not identify both active and passive recreation priorities and locations in the Town
- Members felt that the Recreation and Parks Commission should be part of the planning process given their role in the Charter which includes advice “on all matters relating to recreational programsand on the maintenance of recreational facilities where those programs are conducted” and to “ assure that programs are devised and conducted to meet the leisure time needs of all segments of the population.”

MOTIONS: (Requires majority vote)

Move that the Town refer the subject matter of Article 4 to the Board of Selectmen, Recreation and Parks Commission and the Conservation Commission

ARTICLE 5

Home Rule Petition – Authorization to Issue One Off-Premises Beer & Wine License (Tom Orlando, et al)

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation, notwithstanding the provisions of Sections 11 and 17 of the Massachusetts General Laws, or any other general or special law to the contrary, authorizing the Town to issue (1) license for the sale of wines and malt beverages not to be drunk on the premises, provided that the General Court may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of the petition; or otherwise act thereon.

PURPOSE OF ARTICLE

To authorize the Board of Selectmen to petition the legislature to grant a license to sell wine and malt beverages for off premises consumption.

FINANCE COMMITTEE RECOMMENDATION, DISCUSSION AND INFORMATION

Recommendation:

By a vote of 10 - 0 - 0 on November 14, 2015, the Finance Committee recommends *Referral* with regard to the subject matter of Article 5 as indicated in the motion below.

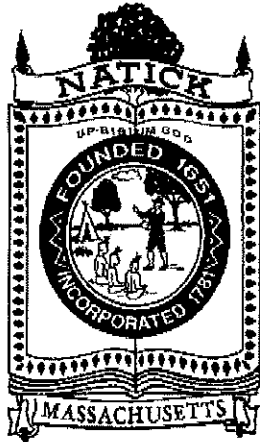
Discussion and Information:

The Finance Committee held a public hearing for this article on November 14, 2015. The Finance Committee heard, by e mail, from the citizen sponsor the article. The following information was noted.

- The citizen sponsor requested referral to the sponsor

MOTIONS: (Requires majority vote)

Move that the Town refer the subject matter of Article 5 to the sponsor.



**Town of Natick
13 E. Central Street
Natick, MA 01760**

IMPORTANT TOWN BUSINESS