

**2018 Natick Fall Annual Town Meeting
Natick High School Auditorium
Marshall Lebowitz Hall
October 30, 2018
Fifth Session**

The Fifth Session of the Natick Fall Annual Town Meeting was called to order at 7:40 PM by Town Moderator, Frank W. Foss, who declared a quorum present. The Moderator welcomed residents, taxpayers, town officials, Town Meeting members and interested parties to the Fifth Session of the Natick Fall Annual Town Meeting. The Moderator asked the audience to stand for the Pledge of Allegiance. The Moderator spoke of the importance of tolerance, and rebuked intolerance and discrimination in Natick in light of the mass shooting in Pittsburgh. The Moderator held a moment of silence for those who were injured, killed, or affected by the shooting.

The Moderator introduced the officials present on the stage and in the well of the auditorium. The following people were present: Kathy Lentini, Acting Town Clerk; Patrick Hayes, Finance Committee Chair; Bruce Evans, Finance Committee Secretary; Karis North, Town Counsel; Amy Mistrot, Chair: Board of Selectmen; Melissa Malone, Town Administrator; Tim Lathwood, a representative from Option Technologies who will be operating the electronic voting system; and Sean O'Brien who will be operating the slides.

The Moderator reviewed the general rules and procedures of Town Meeting that were accepted at a previous session of this meeting. He indicated that all residents and taxpayers of the town and town officers and employees, whether or not residents, have the same right to speak as Town Meeting Members; however they do not have the right to submit motions for consideration at Town Meeting, nor vote on any matter before Town Meeting. Non-residents may only speak at Town Meeting after approval by Town Meeting Members. The proceedings of Town Meetings shall be governed by *Town Meeting Time*, the Town of Natick Home Rule Charter, the Natick By-Laws and the General Laws of the Commonwealth of Massachusetts.

No person shall speak upon any question more than once when any other person desires to be heard, nor more than twice on the same question without permission of Town Meeting; and no person shall speak more than ten (10) minutes at one time without permission of Town Meeting. Consistent with the Natick By-Laws, any person having a monetary or equitable interest in any matter under discussion at a Town Meeting, and any person employed by another having such an interest, shall disclose the fact of his/her interest or employment before speaking thereon.

Moved by Mr. Freedman, seconded by Ms. Salamoff to reconsider Article 10 (the Committee Article). Mr. Freedman provided the following as compelling circumstances:

- The Board of Selectmen have new public information that is germane to the discussion of 22 Pleasant St. which is the subject matter of Article 17. Until very recently, this information was confined to the Board's Executive session discussions and not able to be presented to the public.
- The Board has engaged special counsel and a licensed site professional to provide advice and guidance throughout the process; both are here tonight but are not available on Thursday.

Moderator accepted the circumstances as compelling enough to reconsider. *The motion to reconsider Article 10 passed by two-thirds vote (98-2-5).*

ARTICLE 10: Committee Article (Board of Selectmen)

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

MOTION: (Requires majority vote)

Moved by Mr. Freedman, seconded by Mr. Sidney to hear and discuss a report from the Board of Selectmen regarding 22 Pleasant St.

The motion passed by majority vote (103-1-4).

Ms. Mistrot made a presentation which included a property description and its conditions, the history of the acquisition of the property, potential liability and additional testing. She also announced that Mr. Kitchen, the Licensed Site Professional from Civil and Environmental Consultants, Inc. and Mr. Mackie, special counsel from Mackie Shea PC are available to answer

any questions. There were no objections and Mr. Kitchen and Mr. Mackie were permitted to speak as non-Natick residents.

The Moderator announced that he would allow 30 minutes of discussion regarding the Board of Selectmen’s report. The Moderator also spoke regarding a letter from Ms. North, Town Counsel that informed Town Meeting that they may not remove any board’s authority to act upon an issue if that authority is granted by a general law(s).

ARTICLE 17: Change Authority for Acquisition of 22 Pleasant Street Among Other Items (Robert Awkward et al)

To see what action(s) the Town will take, under MGL Chapter 45 Section 14, or any other authority, either a) to create a committee appointed by the Moderator or b) to use one of the methods specified in MGL Chapter 45, including, without limitation, section 14 of MGL Chapter 45, and/or c) to authorize the Conservation Commission under MGL Chapter 40 including, without limitation, section 8 – c to negotiate for and to acquire the property known as 22 Pleasant Street, alternatively know as Map 64 Parcel 44, in Natick for park and playground purposes and/or conservation and/or passive recreation purposes as the case may be including without limitation:

- 1) a) to create such committee appointed by the Moderator as an action of Town Meeting and/or to amend the Town ByLaws to create and to empower such committee or commission and specify their powers and duties and or b) to create within the scope of MGL Ch 45 including, without limitation, section 14 a committee or commission and to provide for their appointment by elected officers or elected multiple member bodies, and c) to allow any committee or commission access to the services of Town counsel and town staff; and/or
- 2) to set the number, qualifications and terms of members of such committee or commission; and/or
- 3) to change the previous votes of town Meeting under Article 35 of Spring 2015 Annual Town Meeting, Article 29 of Spring 2016 Town Meeting, or any other previous warrant article and vote of Town Meeting in order, without limitation, to change the authority to negotiate from the Board of Selectmen to such new committee or commission or to elected parks commissioners or the Conservation Commission, to transfer the control over and the authority to expend funds under any and all existing appropriation authority from the Board of Selectmen to such committee of commission or the Conservation Commission, provided, however, that neither any existing appropriation nor any existing borrowing authorization nor the eminent domain authorization nor grant application nor grant application authorizations may be rescinded or reduced in any way under this warrant article; and/or
- 4) to see what additional sums of money the town may raise, transfer from available funds, appropriate and or authorize or raise from borrowing to accomplish the purposes of the acquisition of 22 Pleasant St. and /or to authorize acquisition of the fee interest in the property, a long term renewable ground lease whether rent paid over time of all up front in lump sum or an exclusive perpetual easement for the use of 22 Pleasant St. ; and/or
- 5) to change the condition or conditions of any of the previous votes of Town Meeting referenced in 3) above in order to change the purpose of those previous appropriations and votes to be consistent with this article, to remove the conditions in any of those previous votes concerning letters of intent or any other matters, and/or to modify such conditions consistent with accomplishing the purposes of this article; and/or
- 6) to provide that whatever new committee of commission or the Conservation Commission is authorized under this article will also have access to Town Counsel and Town staff for the purposes of negotiating for and acquiring 22 Pleasant St.; and/or

or otherwise act thereon.

FINANCE COMMITTEE RECOMMENDATION:

ARTICLE	DATE VOTED	MOTION	QUANTUM OF VOTE
#17	September 20, 2018	Referral to Sponsor & Board of Selectmen	14-0-0

MOTION: (Requires a majority vote)

Moved by Mr. Jennett, seconded by Mr. Awkward to create a three member citizens committee appointed by the Town Moderator, as an action of Town Meeting, to provide a 22 Pleasant Street Citizen Liaison Committee, that would provide updates to Town Meeting, as well as the citizens

of Natick, concerning the status of the on-going acquisition and environmental clean-up of the 22 Pleasant Street Parcel, fully realizing the executive status of negotiations would not be available to said committee, also move to amend 2015 SATM Article 35 (above) by adding the following conditions:

- (1) The seller must deliver the property in either Temporary Solution or Remedy Operation Status or with a Covenant Not to Sue in place, and in a condition of no significant risk for open space, park or recreational purposes, as certified by its LSP based upon the removal of the contaminated soil and other remedial measures completed before closing, the property should be considered safe for those uses.
- (2) The remaining financial risks associated with completing clean-up of the groundwater would remain with the seller.
- (3) The Town must obtain security from the seller sufficient to defray the costs of completing the clean-up/monitoring of the groundwater, to secure the seller's obligations to complete a Permanent Solution that would survive a final closing.

Mr. Sidney moved, seconded by Mr. Awkward to waive the reading of the motion. ***The motion to waive the reading of the motion passed by majority vote (by hand count).***

Mr. Jennett made a presentation on this article. Mr. Jennertt emphasized that the Article does not determine what will be done with the property, but only about the acquisition of the property, and how the acquisition cannot move forward without a permanent solution. Mr. Awkward, one of the sponsors of the article, provided Town Meeting with context for the original article and explained why it was filed as an article for this meeting. Considerable debate continued on this article.

Mr. Sidney moved, seconded by Mr. Meyer to divide the motion into two parts: The first part will be the first paragraph would end with the words "said committee". The second motion would be the remainder of the motion. Mr. Sidney spoke to the motion to divide. The motion to divide was withdrawn as the Moderator would not allow the motions to be discuss separately as the second part as a stand alone motion would be out of scope. Debate continued.

The motion under Article 17 failed (32-75-5).

Moved by Mr. Mr. Sidney, seconded by Mr. Leese to postpone consideration of Articles 27, 28, and 34 until the first order of business on November 8, 2018. ***The motion failed by majority vote (38-54-2).***

ARTICLE 27: Prohibit Dog Kennels in Single Family Residential Zones RS and/or RG (George Richards et al)

To see if the town will vote to:

- 1. Prohibit dog kennels in single family residential zones RS and/or RG.
- 2. Change Natick by-laws section III-A-2 Use Regulations, Other Uses, item 53 where a Dog Kennel may be allowed by special permit to reflect the prohibition of Dog Kennels in the RS and/or RG zones; i.e. replace "A" with an "O"

or take any other action with respect thereto.

FINANCE COMMITTEE RECOMMENDATION

ARTICLE	DATE VOTED	MOTION	QUANTUM OF VOTE
#27	September 20, 2018	Referral to the Sponsor and Planning Board	13-0-0

MOTION: (Requires majority vote)

Moved by Mr. Evans, seconded by Mr. Hayes to move referral to the sponsor and planning board on the subject matter of Article 27.

Mr. Richards, one of the sponsors spoke to this article. ***The motion to refer the subject matter of Article 27 passed by majority vote (84-4-0).***

ARTICLE 28: Amend Zoning By-Law to allow Indoor Amusement or Recreational Uses in Industrial Zoning Districts by Special Permit (George Richards et al)

To see what action(s) the town will take to amend the Zoning By Law to allow Indoor Amusement or Recreational Uses (Use # 12 in Section III-A.2 of the Zoning By-Law) by special

permit in some or all of the existing Industrial zoning districts, including but not limited to the following:

- 1) Whether to limit Use #12 by special permit to Industrial I and II zoning districts or only allow the use by special permit only in Industrial I zoning districts and/or
- 2) Whether to allow Use #12 by special permit to only one specific Industrial I zoned area, namely in the so-called “East Natick Industrial Park” on the east side of Oak Street , specifically including the following parcels (and including any further subdivision of these parcels) as identified on the Town’s Assessors Maps: Map 8, Lots 41A, 41B, 41C, 41E, 41G, 41H, 41FA, 41FB, 41FBB, 42, 42A, 42B, 42C, 42D, 42E, 42F and 43; Map 9, Lots 2A, 2B, 2C, 2D, 2E, 2EA, 2F, 2G, 2J, 2K, 2L, 2M, 2N, 28, 28A and 28B; Map 14, Lots 76, 76A, 77A and 77B; and Map 15, Lots 105A, 105B and 105C, whether by limiting the floor area ratio of the recreational use, by way of creating a new Industrial zone, creating an overlay district, by footnote in the Use Regulation Schedule, and/or allowing the use elsewhere in the Zoning By-Law

or otherwise act thereon.

FINANCE COMMITTEE RECOMMENDATION

ARTICLE 28	DATE VOTED	MOTION	QUANTUM OF VOTE
Motions A, B and C	October 9, 2018	Favorable Action	12-0-0

MOTION A (Requires a two-thirds vote):

Moved to amend the Town of Natick Zoning By Laws by inserting in SECTION II – USE DISTRICTS, II-A TYPES OF DISTRICTS a new overlay district as follows:

“Indoor Recreational Overlay District (IROD)” and

following Section III-K.2 – Adult Use Marijuana Establishments by inserting a new section, Section III-L – Indoor Recreational Overlay District, as follows:

“Section III-L – Indoor Recreational Overlay District

1. Purpose. The purpose of the District is to allow for indoor amusement and recreational uses by special permit.
2. Procedure & Standards. The SPGA may allow such uses by grant of a Special Permit and approval under Site Plan Review under the procedures and criteria established in MGL 40 A and the Special Permit and Site Plan Review sections of this by-law and provided the SPGA finds that:
 - a. The building is so insulated and maintained so as to confine noise to the premises; and
 - b. The building is located not less than one hundred feet from a residential district; and
 - c. The indoor amusement and/or recreational uses shall be limited to a FAR of .10.

Mr. Richards, one of the sponsors of Article 28, presented on the entirety of Article 28. ***Motion A under Article 28 passed by a two-thirds vote (84-2-1).***

MOTION B (Requires a two-thirds vote):

Moved by Mr. Evans seconded by Mr. Hayes to amend the Town of Natick Zoning By Laws by inserting in the list in Section VI-DD 2.A Special Permits a) after the words “Retail Marijuana Overlay (RMo)” the following words: “Indoor Recreational Overlay District (IROD)”and further

by inserting in the list in Section VI-DD-2B. Site Plan Review Applicability and SPGA Designation a) after the words “Retail Marijuana Overlay (RMo)” the following words: “Indoor Recreational Overlay District (IROD)”

Motion B under Article 28 passed by a two-thirds vote (84-1-1).

MOTION C (Requires a two-thirds vote):

Moved by Mr. Evans seconded by Mr. Hayes to amend the Town of Natick Zoning Map by including in an Indoor Recreational Overlay District the land known as East Natick Industrial Park and being the lots shown Town’s Assessors Maps: Map 8, Lots 41A, 41B, 41C, 41E, 41G, 41H, 41FA, 41FB, 41FBB, 42, 42A, 42B, 42C, 42D, 42E, 42F and 43; Map 9, Lots 2A, 2B, 2C, 2D, 2E, 2EA, 2F, 2G, 2J, 2K, 2L, 2M, 2N, 28, 28A and 28B; Map 14, Lots 76, 76A, 77A and 77B; and Map 15, Lots 105A, 105B and 105C.

Motion C under Article 28 passed by a two-thirds vote (87-1-0).

Moved by Mr. Sidney seconded by Ms. Northgraves to take Article 34 at this time. **The motion passed unanimously (80-0-0).**

ARTICLE 34: Amend Historic Preservation Zoning By-Law (Joel Valentin et al)

To see what action(s) the town will take to amend the Historic Preservation By Law (Section III-J) so as to increase the amount of new construction allowed on a parcel whether based on the size of the parcel, excessive compliance of the structure and/or lot with underlying zoning requirements, restoration of the structure to its' original state and/or other regulatory requirements,

Or otherwise act thereon.

FINANCE COMMITTEE RECOMMENDATION

ARTICLE #34	DATE VOTED	MOTION	QUANTUM OF VOTE
	September 20, 2018	Favorable Action	12-1-1

MOTION: (Requires majority vote)

Moved by Ms. Evans, seconded by Ms. Foss to refer the subject matter of Article 34 to the Sponsor.

Ms. Evans spoke to the referral matter explaining that the Planning Board had met with the Sponsor regarding some concerns. The solution which was agreed by both parties was outside of the scope of the Article and will come before Town Meeting at a future date. Mr. Richards, representative of the sponsor of the Article, agreed with the referral motion.

The referral motion under Article 34 passed by majority vote (81-1-0).

ARTICLE 29: Amend Article 2 of the Town of Natick Home Rule Charter (Board of Selectmen)

To see if the Town will vote to amend Article 2 of the Town of Natick Home Rule Charter as follows:

In Section 2-11 (b) delete item (3) which reads “any ten voters” and insert in its place “(3) any ten or more registered voters of the town for any annual town meeting and any one hundred or more registered voters for any special town meeting in accordance with Massachusetts General Laws Chapter 39, Section 10,” so that the section shall read:

“(b) Initiation of Articles - The Board of Selectmen shall receive all petitions which are addressed to it and which request the submission of particular subject matter to the representative town meeting and which are filed by: (1) any elected town officer, (2) any multiple member body, acting by a majority of its members, (3) any ten or more registered voters of the town for any annual town meeting and any one hundred or more registered voters of the town for any special town meeting as detailed in Massachusetts General Laws Chapter 39, Section 10, (4) such other persons or agencies as may be authorized by law, or by by-law. All such requests for submission of matters shall be in writing, but they shall not be required to conform to any particular style or form. The board of selectmen shall within fourteen days of receipt of a proposed zoning by-law amendment submit the same to the planning board for review.”

or otherwise act thereon

FINANCE COMMITTEE RECOMMENDATION:

The Finance Committee recommends the following action:

ARTICLE #29	DATE VOTED	MOTION	QUANTUM OF VOTE
	September 13, 2018	No Recommendation	NA

MOTION: (Requires a two-thirds vote)

Moved by Mr. Sidney, seconded by Mr. Coffey to take no action on the subject matter of Article 29. Moved by Ms. Salamoff, seconded by Mr. Freedman to amend Article 2 of the Town of Natick Home Rule Charter by deleting in Section 2-11 (b) item (3) which reads “any ten voters” and inserting in its place “(3) any ten or more registered voters of the town for any annual town meeting and any one hundred or more registered voters for any special town meeting in accordance with Massachusetts General Laws Chapter 39, Section 10,” so that the section shall read:

(b) Initiation of Articles - The Board of Selectmen shall receive all petitions which are addressed to it and which request the submission of particular subject matter to the representative town meeting and which are filed by: (1) any elected town officer, (2) any multiple member body, acting by a majority of its members, (3) any ten or more registered voters of the town for any annual town meeting and any one hundred or more registered voters of the town for any special town meeting as detailed in Massachusetts General Laws Chapter 39, Section 10, (4) such other persons or agencies as may be authorized by law, or by by-law. All such requests for submission of matters shall be in writing, but they shall not be required to conform to any particular style or form. The board of selectmen shall within fourteen days of receipt of a proposed zoning by-law amendment submit the same to the planning board for review.

Mr. Sidney requested to withdraw the motion for no action with agreement from Mr. Coffey. Town Meeting agreed as well. Moved by Mr. Sidney, seconded by Mr. Freedman to waive the reading of the motion. *Motion to waive the reading of the motion passed by majority vote (by hand count).*

Ms. Salamoff spoke to this article. Ms. Mistrot, Chair of the Board of Selectmen spoke to this article as well. Mr. Hayes, Chair of the Finance Committee spoke on this article not as the Chair but as an individual member of the Finance Committee. *The main motion under Article 29 passed by two-thirds vote (60-15-0).*

ARTICLE 30: Amend Town of Natick Zoning Map: Assisted Living Overlay Option Plan (David Presutti et al)

To see if the town will vote to amend the Town of Natick Zoning Map as follows: By including an “Assisted Living Overlay Option Plan” overlay district on the land known as 89 Union Street, also known as Assessors parcel: Map 53, Parcel 32

Or take any other action relative thereto.

FINANCE COMMITTEE RECOMMENDATION

ARTICLE #30	DATE VOTED	MOTION	QUANTUM OF VOTE
	September 13, 2018	Referral to Sponsor and Planning Board	13-0-0

MOTION: (Requires a majority vote)

Moved by Mr. Evans, seconded by Mr. Hayes to refer the subject matter of Article 30 to the Sponsor and Planning Board regarding Article 30.6

The motion to refer the subject matter of Article 30 passed by majority vote (72-1-1).

Moved by Ms. Merkwowitz, seconded by Mr. Connolly to adjourn. *The motion to adjourn passed by majority vote. The meeting adjourned at 11:00 PM until Thursday, November 1, 2018 at 7:30 PM.*

A record of the Fifth Session
of 2018 Fall Annual Town Meeting
October 30, 2018

Diane Packer, Town Clerk