



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: April 26, 2017

The minutes were approved through the following action:

Motion:	Approval (as amended)
Made by:	Cathi Collins
Seconded by:	Patrick Hayes
Vote:	8 - 3 - 0
Date:	6/28/18

Respectfully submitted,

Bruce Evans

Clerk

NATICK FINANCE COMMITTEE MEETING MINUTES

April 26, 2018, 6pm

Natick High School

15 West Street Natick, MA 01760

Room 103, First Floor

This meeting has been properly posted as required by law.

MEMBERS PRESENT:

Patrick Hayes, Chairperson
Cathleen Collins, Vice-Chairman
Bruce Evans, Clerk
David Coffey, Member
Michael Linehan, Member
Robert McCauley, Member
Philip Rooney, Member
Jim A. Scurlock, Member
Linda Wollschlager, Member
Jerry Pierce, Member
Dirk Coburn, Member

MEMBERS ABSENT:

Kristine Van Amsterdam, Member
Cathy Coughlin, Member
David Gallo, Member
Daniel Sullivan, Member

BOS Members:

Amy Mistrot, Chairperson
Michael Hickey, Member
Richard Jennett, Member
Sue Salamoff, Member
Jonathan Freedman, Member

Town Representatives:

Bill Chenard, Acting Town Administrator
Jamie Errickson, Director, Community and Economic Development Office
Mark Coviello, Project Manager

Linda Walsh, Transportation Planner and Community Compliance Officer Right of Way
MassDOT - Highway Division
Josh Ostroff – CRT advocate

AGENDA:

1. Public Concerns/ Comments
2. 2018 Spring Annual Town Meeting Warrant Articles - Public Hearing
 - a. Reconsideration of Article 24 - Acquisition of Mechanic Street
 - b. Reconsideration of Article 26 - Cochituate Rail Trail Right of Way Acquisition
 - c. Executive Session for Article 24 - “Consider the acquisition of a permanent easement in and the value of that portion of Mechanic Street shown on Town of Natick Assessors’ Map 35, Parcel 43, including a portion of an existing utility easement located on the northerly boundary of said parcel.
 - d. Executive Session: Article 26 – “Consider the acquisition of a fee or easement in and the value of forty two (42) parcels of land, more or less, which abut the site of the proposed Cochituate Rail Trail and are located on Commonwealth Road (Route 30), Superior Drive, Speen Street and Worcester Street (Route 9), shown on a plan entitled “Massachusetts Department of Transportation Highway Division, Cochituate Rail Trail, in the City/Town of Natick and Framingham, Massachusetts, Middlesex County, Preliminary Right of Way” dated November 27, 2017, prepared by Beta Group, Inc., as revised or amended.

CALL TO ORDER

Meeting called to order at 6:06 p.m. by Chairman, Patrick Hayes. Note that this was a joint meeting with the Board of Selectmen (actions taken by the BOS are not included in these minutes, only comments in response to Finance Committee questions).

MOTION

Open the Natick Finance Committee 2018 Spring Annual Town Meeting Warrant Articles – Public Hearing

Moved/Motioned by:	Ms. Collins
Seconded by:	Mr. Coffey
Motions or Debates:	None.
Vote:	11-0-0

Reconsideration of Article 24 - Acquisition of Mechanic Street

Attendees are BOS, Josh Ostroff, Bill Chenard, Jamie Errickson, Mark Coviello, Linda Walsh.

Mr. Hayes: Members, I would like you to consider which questions you need answered to determine whether to reconsider Article 24.

Questions:

Mr. Rooney: Does this \$185,000 include legal fees that might be required?

Mr. Chenard: We believe that we can absorb these legal fees within our legal budget. If that's not the case, we have two options: a) make those fees part of this project, b) raise our legal budget to handle these legal fees and re-allocate money from elsewhere in the budget.

Mr. Rooney: Do you believe there are contingency funds included in the amount that we are asking Town Meeting to allocate?

Mr. Hayes indicated that this question could not be answered outside of Executive Session.

Ms. Mistrot: Relative to process, I know that you haven't had a chance to look at the PowerPoint. It does a nice job of summarizing what is happening at this point in the process.

Mr. Hayes: Members, please ask me your questions so that Mr. Ostroff can say whether his presentation will answer those questions.

Mr. Rooney: Is there anything in the process of doing a project like this that would materially change the cost of what we're looking at in Article 24?

Mr. Errickson: There is no planned future improvement of the right of way.

Mr. Hayes: Before we go into vote, do members of the public have any questions?

Mr. Coffey: What is the funding source for Article 24? Mr. Chenard stated Capital Stabilization Fund.

Ms. Collins: Why are we tying ourselves up in knots about the appraisals? As soon as we come out with a figure for this Article, the property owner(s) will know what the appraisal is. My other question is whether plans have been created for Mechanic Street and can we see that?

Mr. Hayes: I don't think that we can discuss the appraisals outside of executive session?

Ms. Collins: My follow-up question is when will we take informed public input on the projects associated with Articles 24 and 26?

Mr. Rooney: After the project plan is developed and changes are required that might require acquisition of easements, how is this handled?

Mr. Errickson: The engineering and review process is extensive up-front to reduce the possibility that an easement may be required if the design changes somewhat. That's why MassDOT goes through an extensive review process to ensure that everything is covered in the right-of-way. Once it goes into construction, it is under the purview of MassDOT so their project engineers would be responsible for any costs incurred during construction. Mr. Ostroff noted that there is a contingency built into the budget.

Ms. Collins: I'd like to know what the plans are for Mechanic Street – are we putting in curbs, sidewalks, etc.?

Mr. Chenard: The town would not expend any funds until it knows what the cost of acquiring a permanent easement on Mechanic Street.

Ms. Collins: I assume that the town will need to have access to both sides of the street to include sidewalks.

Mr. Errickson: This is a right-of-way only. There is no future improvement plan at this point.

Comments from public:

Ken Mackin, Owner, Mechanic Willow LLC (owner of the Mechanic Street property in question). We’ve had conversation with Mr. Errickson when we were looking to do a mixed-use development. I never received any notification about the proposed taking as specified in Article 24. I hired my own appraiser and my figure is just north of \$500,000. I had a pleasant conversation with Mr. Chenard and the Chairman of the BOS to walk the site this coming Sunday and consider how to make this work. I would urge you not to take any decision before this site visit occurs.

Mr. Hickey (BOS): I understand Ms. Collins’ concerns. However, this is about the town being able to assert its legal rights in a specific location (Mechanic Street). It’s not an improvement plan or a development plan. On Article 26, maps have been in the public domain for quite some time that has defined the land that the town will need to have easements on, the property owners. The only thing that isn’t in the public domain are the appraisals of the value of those easements that will require payment. One of the reasons that we’re threading the needle over what’s a number and what can be published might be an aggregate number, but no breakdown on an individual property or easement. The thinking is that you don’t want to divulge the individual values to help the negotiating position of the town.

MOTION

Move to re-consider Article 24

Moved/Motioned by:	Ms. Evans
Seconded by:	Mr. Coburn
Motions or Debates:	<p>Mr. Evans: I think there were a number of very good questions. Many of them have been addressed. If necessary, we can get appraisal information in Executive Session.</p> <p>Mr. Coburn: There are things that aren’t knowable outside of executive session that I’ll need to know before I re-affirm No Action or consider another option.</p> <p>Ms. Collins: I’m going to vote No because I don’t believe that we received the necessary information for reconsideration. In executive session, we will get an appraisal figure. Since we will have to appropriate the maximum appraisal figure when we go to Town Meeting, it won’t be a secret. The only secret will be informed public input from people who have had a chance to review this appraisal. Typically, the town does better when it discusses acquisition of an easement with a property owner, rather than a “hard taking” by eminent domain. There is no plan for what we intend to do with Mechanic Street either.</p> <p>Mr. Coffey: I’m bothered by the fact that we’re halfway through Town Meeting and the items that we need to make a decision aren’t available to us or to Town Meeting. I’m not sure whether these numbers are accurate or not. Once upon a time, we were told that there would be no cost to the taxpayers. I don’t want to put us in a situation where we have to allocate more money because we’ve underfunded this.</p> <p>Mr. Rooney: I’m uncomfortable with this. When I looked at the PowerPoint document, there’s a lot of data in it. I want to understand what the plan is for Mechanic Street and (I) feel like we’re being asked to approve something that we can’t explain to taxpayers what is going to happen on Mechanic Street. I want the rail trail, but until I understand the plan and schematics of</p>

	<p>Mechanic Street, I’m uncomfortable with this. Mr. Hayes: On the night that we first heard this, I asked the Finance Committee whether if we voted “No Action” that night, would we allow the sponsors to come back at a later date for reconsideration? If there were an objection at that time, I wouldn’t have let us take a vote for “No Action”. Subsequently, I notified the sponsors of that decision. You can vote how you want; but you gave me an indication that you would be willing to reconsider this when the sponsors had more information.</p>
Vote:	9 – 1 - 1

MOTION

Move to re-consider Article 26

Moved/Motioned by:	Mr. Evans
Seconded by:	Mr. Coburn
Motions or Debates:	<p>Mr. Evans: Nothing to add. Mr. Coburn: I agree that this is a vote to allow us to consider this Article in light of the information to be provided. Ms. Collins: I looked back at the minutes from that meeting. Nothing was said about reconsideration in executive session. Mr. Hayes: I’ve already made my points with respect to Article 24. I acknowledge that Ms. Collins makes a fair point. We will go into executive session in one or more of these articles. Ultimately, we will come out of executive session and make our recommendations in public session.</p>
Vote:	9 – 1 – 1

Discussion of whether to enter Executive Session

Ms. Collins: I received this presentation in my public Finance Committee email account. Why do we need to go into executive session to hear this presentation?

Ms. Wollschlager: Procedurally, are we planning to go into executive session for Article 24, Article 26, or both Articles?

Mr. Hayes: We’re planning to go into executive session with the BOS for both Article 24 and 26. This is a roll-call vote, and if it carries (simple majority), we go into executive session. The appraisal document will not be provided to us outside of executive session. Further, we cannot have discussion outside of executive session.

Mr. Ostroff made presentation for Article 26

The CRT design includes both temporary easements (to aid in construction) and permanent easements (typically to relocate utilities, install sidewalks, grading the soil, etc.). There are 32 parcels – many are tiny; a few are about 1/3 acre. Some of the parcels are owned by the town, others by the state Department of Conservation Resources (DCR), and others are owned by Framingham. We’re doing this because it is required for federal funding. The timing is spurred by the federal calendar. We’ve known about these easements for a year and the Finance Committee was advised last year, but we haven’t had the go-ahead to discuss these easements with the property owners until the 75% design was approved. While the 75% design was in process, we got the appraisals of these parcels started. Without these easements in place, we jeopardize about \$12 million in funding. In addition to the maximum value for the appraisals, we ask for \$16,500 for engineering services not provided in the BETA agreement, and miscellaneous filing and

legal services. Most of these parcels are commercial properties and located north of Route 9, with one exception. Many of them are on Route 30 – these were added when the Route 30 re-design and improvements were grafted onto this project. MassDOT wanted to see that completed as part of this project. With DCR, we cannot acquire an easement, just access rights. For the town-owned parcels, we just need to fill out some paperwork. There is an easement at Speen Street that is covered by a Planning Board decision made several years ago. For Cumberland Farms, we have to move utility poles. For Margaritas, Home Depot, and Omni Realty (just past Rte. 30 / Speen St. intersection) we have to do some grading, sidewalks, and utilities. At Speen Street (the former Long's Jewelers), we have to do some improvements on both sides of Speen St. (curb and ramp access to / from Natick Mall). We need to do improvements on the Wonderbread spur that we acquired last year. At AMVETS, we need to get on their property to create a proper turn lane and for safe crossing. We need access to Camp Arrowhead through DCR to construct a small path from the CRT through Camp Arrowhead and connect to the sidewalk on Route 30. At the Route 9 bridge, re-grading, sidewalk installation, and utility pole migration is needed. Overhead utilities will be put underground. We would be making some changes to the driveway at the end of Bacon Street that the town has access rights for Public Works to get to the water treatment plant. At the intersection of Lake Street and North Main St, which the town now owns, the town must fill out paperwork to show that the town has rights to this property.

Ms. Mistrot: Given that we have to be in Town Meeting at 7:20, Mr. Hayes and I agreed that it doesn't make sense to go into executive session tonight. It makes more sense to ask questions of Linda Walsh and Mark Coviello who may not be here on Tuesday.

Questions

Mr. Hickey: I apologize for being late and missing the timeline discussion. I know that we've initiated discussions with the property owners. If XYZ Corporation is not moving forward with us, at what point do we need to commence the eminent domain process in order to have concluded the taking.

Linda: You need to have all the easements in place July 17, 2018.

Mr. Hickey: So, backing up from that date, how long is the process of eminent domain?

Mr. Errickson: Some of the process work has been done. We've completed the appraisal and are doing the title research, so we're well underway.

Mr. Hickey: I'm going to go out on a limb and say that this requires 45 days. That means that we need to have concluded negotiations by June 1.

Mr. Errickson confirmed the June 1 date.

Mr. Hickey: Are we acquiring easements in the town's name, MassDOT's name, or in Utility Company's names, or all?

Linda Walsh: The town is the acquirer on behalf of MassDOT. The town will take the easements on behalf of MassDOT who is responsible for project construction. At the end of construction, the town has ownership of the permanent easements and the temporary easements go back to the owners.

Mr. Hickey: To Mr. Errickson & Mr. Coviello – I know that you have contacted the property owners. Can you tell me how things are progressing? Have you had any doors slammed in your faces?

Mr. Coviello: No – generally speaking, the property owners are receptive and in favor of the CRT.

Mr. Hickey: RE: Utilities, how is that progressing?

Mr. Coviello: At the rear of Home Depot, the poles are being re-located to enable construction of the trail.

Ms. Wollschlager: What happens if the easements aren't in place by mid-July?

Linda Walsh: I'm going to be quite frank. If this Article does not pass, you do not have the ability to acquire the easements. Without the ability to acquire the easements, MassDOT cannot advertise the project to bidders. Without being able to advertise this project, the MPO loses \$12 million on this year's TIP, and you potentially lose this project. There's no guarantee that the budget will be available in the next FY or a subsequent FY.

Ms. Wollschlager: How many agreements are in place / to go?

Mr. Errickson: We haven't been able to finalize any easements. We've had favorable conversations with all the property owners on the easements.

Ms. Wollschlager: Are you confident that you will be able to secure these easements within the available timeline?

Mr. Errickson: Assuming Town Meeting votes to approve this, I'm pretty confident that getting the easements on the properties won't be on the critical path.

Mr. Coffey: Assuming Town Meeting passes this Article, what happens if the easements aren't in place by July 17?

Linda Walsh: We have some room after July 17, but this is a project that has divisional interest, which means that multiple parts of MassDOT are involved. The drop dead date for advertising this project is September 15, which is the cut-off for the federal fiscal year. If Mr. Errickson came to me and said everything will be completed by July 22, for example, that's probably OK. The project manager at MassDOT for this project has told me that she needs to have everything to Federal Highway Administration by July 31. The two weeks from mid-July gives me time to get the authorizations to submit it to the Project Manager.

Ms. Collins: Assuming Town Meeting approval, at what point can agreements be signed.

Mr. Chenard: They can negotiate, but cannot sign agreements until 7 days after the completion of Town Meeting.

Mr. Errickson: The discussions are happening now and will continue and I optimistically said Town Meeting would end May 1. Most of the agreements would be signed in late May.

Mr. Evans: Mr. Errickson or Mr. Chenard - Noting that you have a lot of these discussions teed up, how much legal resource do we need to make this go quickly. Can we amp up the legal resources to prioritize this activity in view of the hard deadline of mid-July?

Mr. Chenard: I've had conversations with Town Counsel about this. We need to have title searches and legal work done and need to push the gas pedal really hard.

Mr. Evans: Being a thorough subscriber to Murphy's Law, suppose we get towards July and we have one or two recalcitrant people who will not sign agreements. When is our fish-or-cut-bait date for eminent domain?

Mr. Hickey: The way it works is that you are going to back up from a drop-dead date and then work backwards to the date that you need to initiate eminent domain. You can always dismiss the eminent domain if they sign the agreement two weeks later.

Mr. Chenard: I want to re-emphasize that Article 26 is more time-critical than Article 24 because Article 26 is tied to federal and state construction funds.

Question from the public

Mr. Mackin: On Article 24 (Mechanic St) – 1) I couldn't find any documentation that the town owns the first 100 feet of Mechanic St. 2) are there any rough plans for Mechanic Street?

Mr. Errickson: Regarding plans for Mechanic Street, we haven't developed plans at this point.

Mr. Mackin: Do you know whether the town is doing a title search for the first 100 feet of Mechanic Street?

Mr. Errickson: I don't think so. Mechanic Street is very much a work-in progress.

MOTION

Move to close the 2018 Spring Annual Town Meeting Warrant Articles – Public Hearing

Moved/Motioned by:	Mr. Evans
Seconded by:	Ms. Collins
Motions or Debates:	None.
Vote:	11-0-0

ADJOURN

MOTION

Motion to adjourn.

Moved/Motioned by:	Ms. Collins
Seconded by:	Mr. McCauley
Motions or Debates:	None.
Vote	11-0-0

Meeting adjourned at 7:22 p.m.