



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: May 1, 2017

The minutes were approved through the following action:

Motion:	Approval (as amended)
Made by:	Cathi Collins
Seconded by:	Patrick Hayes
Vote:	9 - 2 - 0
Date:	6/28/18

Respectfully submitted,

Bruce Evans

Clerk

Natick Finance Committee

NATICK FINANCE COMMITTEE MEETING MINUTES

May 1, 2018

Natick High School Room 103

15 West Street Natick MA 01760

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
David Gallo, Member
Dirk Coburn, Member (Mr Coburn arrived late)

MEMBERS ABSENT:

Kristine Van Amsterdam, Member
Jerry Pierce, Member
Daniel Sullivan, Member

Other Attendees:

Mr James Errickson. Director, Community & Economic Development
Mr Mark Coviello –Town Engineer (Ret.), hired as project manager
Ms Amy Mistrot, Chairman, BOS
Mr Bill Chenard, Acting Town Administrator
Mr Frank Foss, Town Moderator
Mr. Josh Ostroff, Transportation Committee representative
Mr John Flynn, Town Counsel
Ms Karis North, Town Counsel
Ms Linda Walsh, MassDOT Right-of-Way Division

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.

e. Article 34 - Reconsideration of Amend Zoning By-Laws: Assisted Living Overlay Option Plan (Corrected Article #)

3. Adjourn

CALL TO ORDER

ANNOUNCEMENTS/CITIZENS CONCERNS (None)

MOTION to Open Public Hearing of Spring 2018 Annual Town Meeting Warrant Hearings

Moved/Motioned by:	Mr Linehan
Seconded by:	Mr Evans
Motions or Debates:	
Vote:	10 – 0 – 0

Article 26 -

Mr Hayes: As you recall from our last meeting, we moved reconsideration and have no recommendation for Town Meeting. We’ll pick up with questions on Article 26. My intention is to go through all questions that can be answered in public before we ask questions that require Executive Session (the appraisal document and additional information around the acquisition proposal). If we go into Executive Session (a roll call vote) Mr. Errickson will hand out a printed copy of the appraisal information. That information will be re-possessed following the close of Executive Session.

Questions:

Mr Coburn: We’ve been advised that Article 26 is time-critical, with consequences if Town Meeting does not take action. Is that also the case with Article 24?

Mr. Chenard: There is no comparable urgency on Article 24. However, the town would lose a huge amount of federal funding in the range of \$5 to 6 million+ or minus were it not to pass.

Mr Coffey: If Article 26 doesn’t pass, is it fatal to the CRT?

Ms Mistrot: We’ll have to get confirmation from Mr. Errickson but we believe it is 100% fatal.

Mr Hayes: Members should have received an email exchange between Ms. Mistrot and MassDOT representatives.

Mr Rooney: Process question: I stopped down on Mechanic Street this past Sunday and walked the property for informational purposes. There was a property owner there (Mr. Ken Mackin) and he had a list of concerns that he presented. Mr. Chenard, is there any update on the list of concerns that Mr. Mackin identified?

Mr Chenard: No update

Mr. Scurlock: Is the appropriation for Article 26 completely town-funded and reimbursable or are there other sources of funding?

Mr. Chenard: It's is town money, not reimbursed.

Mr. Scurlock: What is the total non-reimbursed amount spent by the town on this project? It may have been quite a while ago, but the initial impression I had was that it would not cost the town any money. I understand that circumstances probably have changed; I just want to get an update on where we stand today.

Mr Ostroff: It might be helpful to look at the different sources of funds. The total amount spent by the town is \$6.1 million for land acquisition; \$1.1 million for all design activities.

Mr. Hayes: I neglected to ask Mr. Errickson some background information. Mr. Errickson, can you tell us what type of easements are required for this project.

Mr. Errickson: Based on our discussion yesterday, I took out all the Executive Session information and we will pass out the document shortly. This map is color-coded to show the easements and acquisitions required for this project. From a design process, there is a there are a series of well-defined processes for all federally-funded and state-funded projects with MassDOT divisions (bridge, utility, right-of-way). Comprehensive review by MassDOT occurs at 25%, 75, 100% completion, and there are often further reviews along the way. The plans that are referenced in the motion for Article 26 are the most recent plans dated April 9, 2018. This is the seventh revision of those documents, so there has been a lot of discussion on these plans working together with MassDOT. The map that you have reflects the absolute requirements for easements for this project. The town is only looking for easements in this project; not acquisitions. Under easements, in the comments section, it specifies temporary or permanent easements. A temporary easement is required for the duration of the project only and reverts back to the owner following that project. This typically is for access and egress of equipment to the project site or we need to move utility pole away from the construction site that will be moved back prior to completion. Temporary is for term of construction and expires once it is accepted. Leave in same condition as present, no betterment. Permanent easements do not revert to their prior status. For example, that utility pole may be moved permanently or a sidewalk may be permanently located on that easement.

One thing to note about the color coding: The yellow signifies all the private property owners who the town needs to negotiate with to obtain the requested easements. The green is all town-owned properties that do not require an easement as such; the blue is all DCR property. One thing to note about the DCR properties –DCR property cannot grant easements, but they can provide “temporary access permits” that provide the equivalent of temporary easements. This is required to connect CRT to Camp Arrowhead. At 82 North Main St., there is one parcel that the town is going to acquire and the other is a town-owned parcel. The yellow stretch is a small temporary easement on the property. The town is responsible for doing all the design work and right-of-way work with MassDOT. There are approximately 7-8 private property owners that we need to work out easements with. However, some property or owners have multiple parcels where we require easements. For example, Home Depot has four easements. The color-coded maps indicate both type of easement and the location of that easement, which corresponds to the Board of Assessors’ parcel number. All of these items are land easements - there are no fee-simple land takings required. The green town-owned properties are identified so

that a record of those easements is preserved, particularly permanent easements. We do have current appraisals of the value of the yellow parcels, but are unable to disclose that information outside of Executive Session.

The second page is Framingham. In the interest of time, I'm not going to go through this in detail. I want to note that there are easements required from the town of Framingham that we have identified and discussed with the city of Framingham to secure those easements and Framingham is fully supportive.

Ms. Collins: I'm a little confused. Some of the multi-use paths seek permanent easements while others seek temporary easement. Are we improving the trails there?

Mr Coviello: DCR cannot grant easements. They are providing us with a temporary access permit to construct past connections from Camp Arrowhead to the CRT.

Mr. Errickson: They are going to be improved consistent with other areas of the project (paved and landscaped),

Ms. Collins: What is the NCR multi-use path required?

Mr. Errickson: It's required to connect their existing path to the CRT and make it safe and ADA-compliant.

Ms Collins: Why isn't it a permanent easement?

Mr. Coviello: The town has no interest in acquiring a permanent easement of this connection - it is simply to provide a temporary easement during construction.

Mr. Errickson: Right now, there is no connection to the CRT. There is a pile of dirt between the CRT and the property that we cannot leave that in an unsafe state so we are required to do this work.

Mr. Hayes: What are the steps we must go through to move forward with these easements?

Mr. Errickson: The initial owner of record comes from the Assessor records that identify all abutting properties. Before any acquisition of easement or fee-simple (in our case it's all easements), we must do a title search on all properties, including town-owned properties, including DCR properties. We're working with Town Counsel to complete this work. This information is then provided to the MassDOT right-of-way team so that they can see that the right-of-way easements are in place for the entirety of the project. The identification of the properties has been part of the process that we have undertaken to date and is part of the well-defined MassDOT right-of-way processes. Once the right-of-way plan is acceptable to MassDOT, this gives the green light to the town to work out easement agreements with the property owners and lead up to the final process and the paperwork to complete the easements. We are in the middle of that process right now and are initiating discussions with the parties. We sent out a packet of information to all the parties (private properties – identified in yellow) on this list letting them know that they are impacted by this project and identifying their rights under federal law. We didn't get MassDOT right-of-way approval until early April, so couldn't start this activity until MassDOT approved the plan (we were ready to do this process earlier).

Mr. Hayes: On NovusAgenda, I downloaded a document from the state website. The language corroborates what Mr. Errickson has said.

Mr. Erickson: Linda Walsh, our contact at MassDOT Right-of-Way division is here tonight. We coordinate with her on a daily basis and verify everything with her. It's a collaborative process that we strictly adhere to. There are nuances in the text Ms. Walsh knows how to correctly complete and advises us of these nuances. We needed to complete the square footage, location, etc. for all easements That work was just completed last week, and we have verified that they all match. Article 26 authorizes the BOS to enter into agreements with these owners. The language of Article 26 is MassDOT approved and required. Town Council has also reviewed and approved this language. Moving forward, we will continue to work with property owners. There is another required mailing to owners, a 30 day notice that we intend to acquire temporary or permanent easements of the identified property. We need to finalize the title research; the appraisals are done and need to be submitted to Right-of-Way Division for their final approval to verify legal compliance with federal rules and regulations. This must occur no later than July 17, 2018. We are working closely with these property owners and that we need to work through all the legal documents for these easements. Once we have approvals from the BOS, we can pursue the exchange of paperwork in the filing of legal agreements and copies of the checks with the Mass. Registry of Property and Deeds. There's a lot of work to do, but we are confident that we will be able to complete this work in the required timeframe. We're working to see whether it's possible to eliminate any of these easements and will know that shortly. For example, it may be we may be able to design out some of the easements on the TJX property; possibly at 84 Main St.

Ms Wollschlager: I'm trying to understand what the costs are for this activity. As far as the easements go, what are the other costs involved in this process?

Mr. Errickson: Appraisal work handled by \$220,000 approved by Fall 2017 Town Meeting. We are still getting a handle on some of the legal fees, but that will also be wrapped into the funding that was appropriated in the fall. The design work is also fully funded from the appropriation approved in the fall. A MassDOT project manager is assigned once the project commences. Once the project is approved by MassDOT, the budget is locked in. Any expenses that exceed the budget for any easements not included in the right-of-way plan is the responsibility of the MassDOT project management. We will need to confirm and retain the design team to have them available for minimal project management, such as quality control and to review the design specs as compared with the construction specs.

Ms Wollschlager: Will the town be requesting any additional funding in the future?

Mr. Errickson: The intent is for Article 26 to be the last item. You may recall that the town was responsible for acquisition of the properties for the CRT, the right-of-ways and the design. This is the final piece of securing the property. Construction is under the direction of MassDOT using federal and state funding completely.

Ms Wollschlager: Can you confirm that this is the definitive document that you've handed out tonight?

Mr. Errickson: Yes. This is the most current document concerning easements. MassDOT is still reviewing their materials on bridge designs over Route 9 and Route 30 because they are covering those costs. The last change that we implemented was concerning the Exponent property.

Mr. Hayes: Can we give the members an indication of the components of the \$200,000 funding request for Article 26?

Mr Michael Hickey: This information cannot be divulged outside of Executive Session.

Mr. Hayes: Do any members feel that they need a lump-sum breakdown of this information. Ms Collins indicated that she would need that information.

Mr. McCauley: This may be a question for Town Counsel. When the CRT line was operational, did CSX have their own set of easements to do the work on that track? Do those easements transfer to the town when the town bought the CSX property?

Mr. Ostroff: There were several easements. For example, for utilities, EverSource has an easement for their poles and wires. All other easements - whether recorded or not - became the property of the town of Natick when the property was acquired.

Mr. McCauley: Did CSX own this property in fee simple or did they own it as of right of way only?

Mr Flynn: CSX owned the property (fee simple).

Ms. Collins: If we get all the easements done in time and DCR has not granted permission for us to do this work, what happens?

Mr. Coviello: DCR has already provided us with the temporary access permits required for us to do the work on their property and are in the process of being executed on behalf of the town. For the town-owned parcels, subject to Town Meeting approval of Article 26, it will allow the BOS authority to establish the temporary and permanent easements required to complete this project.

Ms Collins: Is someone reviewing whether town-owned properties that are current easements can be used for the purposes of this project? For example, a utility easement from EverSource may/may not be used for another purpose.

Mr. Errickson: As part of their title research, Town Counsel has researched whether the existing easements that the town owns can be used for multiple purposes, i.e. right-of-way and utilities. We are reviewing the easement documents with town counsel and town counsel will ensure that the required easement types are available to us legally.

Ms Collins: What happens if MassDOT comes to us after Town Meeting and requires more easements for right-of-way?

Mr. Errickson: Article 26 is intentionally written to allow this to be accommodated because it references a set of plans as amended or revised. If there were to be in addition or revision, this would be handled within the scope of the Article.

Mr Flynn: The motion refers to the plan which shows all properties along the project. Our opinion is that the motion provides the BOS with the flexibility needed to negotiate easements for the project.

Ms Collins: I'm concerned because (the motion) doesn't reference specific streets and that an as yet unidentified required easement would be outside the scope of this Article.

Mr Flynn: I'm not sure I understand the question. The motion includes all of the properties shown on the revised plan (and any subsequent revisions). If a property were to be added by MassDOT after Town Meeting vote, it would be within scope of this Article.

Ms. Collins: My concern is that while the motion doesn't identify streets, the article language does identify streets so it is unclear to me that any action on streets other than those included in the Article would be outside the scope of the article.

Mr. Hayes: One member has expressed interest in going into Executive Session to address their questions. Are members interested in going into Executive Session?

Mr Coburn moved and Mr McCauley seconded a motion to go into Exec Session as follows:

“Move to go into Executive Session to consider the fee or acquisition of an easement and the value of, all as shown and identified on a set of plans entitled “Massachusetts Department of Transportation Highway Division, Plan and Profile of Cochituate Rail Trail, In the City/Town of Natick and Framingham, Middlesex County, Preliminary Right of Way Plan” revision #4, dated November 27, 2017, revision #7, dated April 9, 2018; and that this be done in Executive Session to protect the BOS negotiating position with these property owners.”

Roll Call Vote

Patrick Hayes	Yes
Cathleen Collins	Yes
Bruce Evans	No
David Coffey	No
Michael Linehan	No
Robert McCauley	Yes
Philip Rooney	No
Jim A. Scurlock	No
Linda Wollschlager	No
David Gallo	Yes
Dirk Coburn	Yes

The Motion to enter Executive Session is defeated 6 – 5 – 0.

Mr. Linehan: What's the readiness of Framingham on their easements?

Mr. Errickson: We're working very closely with the city of Framingham and they're quite interested in the completion of the CRT because it connects to the already-completed portion of the rail trail.

Here is the proposed motion offered by the Town for Article 26

Article 26

Move that the Town authorize the Board of Selectmen to acquire by gift, purchase, taking by eminent domain, or otherwise, fee simple, easements, or other interests in privately owned land; and to dedicate all or portions of Town owned parcels of land, necessary for the construction of the Cochituate Rail Trail, all as shown and identified on a set of plans entitled “Massachusetts Department of Transportation Highway Division, Plan and Profile of Cochituate Rail Trail, In The City/Town of Natick and Framingham, Middlesex County, Preliminary Right of Way Plan” revision #4, dated November 27, 2017, revision #7, dated April 9, 2018, as revised or amended; and that \$200,000 be raised and appropriated, or transferred from available funds, under the direction of the Board of Selectmen, to fund the acquisition and legal, appraisal, and other related costs

associated with obtaining these interests in land necessary for the construction of the Cochituate Rail Trail.

Article 26

Move that the Town authorize the Board of Selectmen to acquire by gift, purchase, taking by eminent domain, or otherwise, fee simple, easements, or other interests in privately owned land; and to dedicate all or portions of Town owned parcels of land, necessary for the construction of the Cochituate Rail Trail, all as shown and identified on a set of plans entitled “Massachusetts Department of Transportation Highway Division, Plan and Profile of Cochituate Rail Trail, In The City/Town of Natick and Framingham, Middlesex County, Preliminary Right of Way Plan” revision #4, dated November 27, 2017, revision #7, dated April 9, 2018, as revised or amended; and that \$200,000 be raised and appropriated, or transferred from available funds, under the direction of the Board of Selectmen, to fund the acquisition and legal, appraisal, and other related costs associated with obtaining these interests in land necessary for the construction of the Cochituate Rail Trail.

Ms Collins: Because we didn’t go into Executive Session, we, the Finance Committee have no idea what the individual appraisals were for each property and what level of contingency is built-in. Mr. Hayes confirmed that this is true.

Ms Collins: And we also have no way of knowing whether the Appraiser has adhered to MGL.

Mr. Hayes asked town counsel whether this question could be answered. Mr Flynn noted that he didn’t think anyone present would be able to answer this question.

Ms. Collins: I’d like to get assurance that the appraiser can certify adherence to these guidelines in their appraisals.

Mr. Errickson: We conducted a bidding process for the appraiser. During that process, we listed minimum qualifications required for the project. Appraisers had to be qualified to do appraisals consistent with MPO TIP projects and follow all the rules and regulations thereof. The appraisal firm we selected, which also was the low cost firm, is very well-versed in these types of projects. We confirmed that with the MassDOT Right-of-Way division. In addition, I’ve successfully worked with this firm in other municipalities and projects. Now that we have the appraisals in, the process is multipronged. We have to submit to MassDOT to ensure they comply with the federal and state rules. If changes are required, the appraisal company will make those changes. We also provide the appraisal firm with a copy of the plans so they know where the easements are located in relation to the overall project. If you read the appraisal documents, they map out the square footage and easement type and provide values for the square footage and type.

Two appraisal documents are coming from Framingham tomorrow, and I’ll send them to MassDOT Right-of-Way immediately to get this accomplished ASAP. Ms Walsh is much more well-versed in this area than we are. That’s why I want to get it to MassDOT Right-of-Way as soon as possible because they’re much more experienced and can identify potential problems much faster than we would be able to do ourselves. If issues are identified, we will arrange a discussion between MassDOT and the appraiser to reconcile them. The Assessment firm has already completed peer appraisals. Mr Coviello confirmed that they have both the appraisals and the completed peer review appraisal summary reports.

Ms. Collins: How long are appraisals valid?

Mr. Errickson: Appraisals are good for about six months.

Ms Collins: Does the amount included in Article 26 have a contingency for changing market conditions, i.e., increased market value?

Mr. Chenard: Yes – there is a contingency for market conditions.

Mr Hickey: I don't want to overstate the contingency. As Mr. Errickson stated, appraisals are good for six months. We are operating on a very compressed timetable (approximately six weeks), so I think the appraisals are solid.

CITIZEN COMMENTS:

Mr Rocky Melchiorre: I'm not an abutter, but I am a taxpayer. Listening to the discussions over the past couple of nights, it seems secretive and I haven't received any information out of these meetings. As taxpayer, I'm pretty disgusted with the process. Is there any additional money beyond the \$7.1 million required and is there a figure for the annual maintenance cost for the CRT? I'm in favor of the CRT – not opposed to it

MOTIONS

Favorable Action Article 26, May 1, 2018, as printed

Moved/Motioned by:	Mr Evans
Seconded by:	Mr Rooney
	<p>Mr. Evans: I feel that this is the last mile of the marathon - and that we're all fatigued and just want to complete this process. I feel that the Article is sufficiently capped and we're not going to be nicked-and-dimed in the future. Town Counsel has opined the same and I'm comfortable voting favorably and urge others to do so.</p> <p>Mr Rooney – Agree with the previous speaker</p> <p>Mr Coffey: I've been an opponent of this project, mostly due to cost concerns. Once upon a time, we were told that there would be no taxpayer expense. Then, we were told that the state won't pay for either the design or the acquisition of the right-of-way, so we had to pick up the tab for that (\$7.1 million). To me, the question is whether to spend \$200,000 to enable the project to go through or throw away the \$7 million investment, plus the \$11 million from state and federal funding for the construction of the project. Whatever problems I had with this project, I can't see doing that.</p> <p>Mr. Scurlock: I agree with many of the previous speaker's comments. We started the budget discussions with a \$3 million deficit. We have \$15 million in Parks and Fields improvements that may come before us. Schools will continue to need increased head count; DPW has no incremental maintenance resource for the two park projects that we have already approved. We have a Fire Station that is likely to be approved but then that may also require increased personnel to operate it. However, we have spent so much money of the CRT project already, that holding it up for \$200,000 is the right thing to do.</p>
Motions or Debates:	

	We have serious priorities to address in this town that we need to get our arms around.
Vote:	7 – 2 – 3

REFERRAL to BOS Article 26

Moved/Motioned by:	Ms Collins
Seconded by:	Mr McCauley
Motions or Debates:	<p>Ms. Collins: I really wanted to be able to vote in favor of this. It would be the first time that I voted in favor of the CRT, since I was not a proponent of the project. However, I recognize that the town owns this property and we risk losing state and federal funds for this project by not moving ahead. However I can not face any member in Town Meeting and say I have no idea what makes the up the \$200,000. I don't believe that we have discussed all the matters that we needed to discuss.</p> <p>Mr. McCauley: I feel that this town has much more pressing needs. Around time construction commences, we will be looking at debt exclusion for the West Natick Fire station. I think the optics of these two doesn't look good to the taxpayers.</p>
Vote:	2 – 8 – 1

Mr Hayes: We have no recommendation for Town Meeting

MOTION

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

Moved/Motioned by:	Ms Collins
Seconded by:	Mr Linehan
Motions or Debates:	
Vote:	11 – 0 – 0

ADJOURN

Motion to adjourn.

Moved/Motioned by:	Ms Collins
Seconded by:	Mr Linehan
Motions or Debates:	
Vote	11 – 0 – 0

Meeting adjourned at 7:30 p.m.