

**PROCEEDINGS
SEMI-ANNUAL TOWN MEETING
OCTOBER 20, 2008**

On Monday, October 20, 2008, Town Clerk Maxwell Gould opened the Semi-Annual Town Meeting at 7:10 P.M. "With 81 RTM members present, we have a quorum."

Town Moderator, Steve Dalrymple, read the warrant.

**NORTH ATTLEBOROUGH WARRANT
FOR THE REPRESENTATIVE SEMI-ANNUAL TOWN MEETING
MONDAY, OCTOBER 20, 2008
THE COMMONWEALTH OF MASSACHUSETTS**

Bristol, ss.

To either Constables of North Attleborough:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the legal voters of the Town of North Attleborough to meet at the North Attleborough Middle School Cafetorium, 564 Landry Avenue, in said North Attleborough on:

MONDAY, THE 20th DAY OF OCTOBER 2008

At 7:00 P.M., then and there to act upon the following articles to wit:

And you are hereby directed to serve this warrant by posting up attested copies thereof in at least nineteen public places in said Town and also in one place in each of the voting precincts within the Town at least twenty-one days before the time of said meeting. Hereof, fail not, and make due return of this warrant with your doings thereon to the Town Clerk on or before the time of said meeting.

Given our hands and seal of the Town of North Attleborough on this August 28, 2008.

John C. Rhyno, Chairman
Dale S. Langille, Vice-Chairman
Paul J. Belham
Mark Williamson
Michael S. Thompson

BRISTOL, ss.

Pursuant to this within warrant, I have notified the inhabitants of the Town of North Attleborough within described, to meet at the time and place for the purpose within mentioned by posting attested copies of this warrant in nineteen (19) public places in said town twenty-one (21) days before the time of said meeting.

Chief Michael P. Gould, Sr.
Constable
Town of North Attleborough

1. Central Fire Station
2. Town Offices
3. Nissan Village
4. Housing for the Elderly - Center
5. Housing for the Elderly - Elm Terrace
6. Boch Toyota South
7. Shaws Supermarket

8. Cumberland Farms - Kelley Boulevard
9. Allen Avenue Fire Station
10. Richards Memorial Library
11. Hockomock YMCA
12. Falls Post Office
13. Registry of Motor Vehicles
14. Housing for the Elderly - Circle Court
15. Sharon Credit Union
16. Bristol County Savings Bank
17. Cushman Union Church - 2 May Street
18. Bank of America - Center
19. Stop & Shop

The Moderator led the Pledge of Allegiance followed by the observance of a moment of silence in honor of the U.S. Troops serving here and abroad.

Richard Peterson (P2) made a motion as follows:

Mr. Moderator, I would like to make a motion to adopt the Bourne Amendment, which states that any RTM Member wishing to increase money in an article that has been recommended by the Finance Committee, must specify where the additional monies will come from.

Motion seconded.

Motion carried.

Richard Peterson, (P2) made a motion as follows:

Mr. Moderator, I would like to make a motion that the RTM adopt the procedural rule that the count of two-thirds vote, when it is obvious by the moderator, shall not be taken unless requested by seven or more RTM Members.

Motion seconded.

Motion carried.

Leonard Pierce (P5) made a motion to move Article 44 out of order to be acted upon before Article 1.

Motion seconded.

Motion Carried.

ARTICLE 44 MUNICIPAL STABILIZATION FUND

BOARD OF SELECTMEN

To see if the Town will vote to transfer a sum of money from free cash, taxation or available funds to the Municipal Stabilization Fund.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

To supplement the current Stabilization Fund balance.

FINANCE COMMITTEE VOTE: 5-0

2/3 ROLL CALL

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to transfer \$600,000.00 from Free Cash into the Municipal Stabilization Fund.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

By Roll Call Vote, the RTM members approved the Finance Committee's recommendation as read. 85 members voting, 2/3 majority required – 57. Yes – 77, No - 8.

ARTICLE 1

SALARY RESERVE FUND

BOARD OF SELECTMEN

To see if the Town will vote to appropriate the sum of _____ to supplement the Salary Reserve Account 011228 518000 for the purpose of funding union contract negotiations. Said sum to be appropriated from free cash, taxation, transfer, available funds, or otherwise.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

To take care of contractual obligations. A sum is not determined at this time because the Free Cash available has not been certified.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.

FINANCE COMMITTEE REASON: At the time of voting no dollar amount had been given to the Finance Committee.

The RTM members approved the Finance Committee's recommendation as read.

ARTICLE 2

PATROLMEN'S CONTRACT

HUMAN RESOURCES

To see if the Town will vote to appropriate a sum of money to supplement the budget of the Police Department for the purpose of financing any changes made in the Personnel By-Laws, as a result of Collective Bargaining and otherwise for salary increases for Police Officers Association Local 550 and to determine how said appropriation shall be raised, whether by taxation, transfer from available funds or otherwise.

Or to do or act in any other manner relative thereto.

Human Resources

PURPOSE AND JUSTIFICATION:

To fund contract effective 7/1/08

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.

FINANCE COMMITTEE REASON: At the time of voting contract negotiations had not been settled.

The RTM members approved the Finance Committee's recommendation as read.

ARTICLE 3

PROFESSIONAL POLICE OFFICERS CONTRACT

HUMAN RESOURCES

To see if the Town will vote to appropriate a sum of money to supplement the budget of the Police Department for the purpose of financing any changes made in the Personnel By-Laws, as a result of Collective Bargaining and otherwise for salary increases for Professional Police Officers Association Local 280 and to determine how said appropriation shall be raised, whether by taxation, transfer from available funds or otherwise.

Or to do or act in any other manner relative thereto.

Human Resources

PURPOSE AND JUSTIFICATION:

To fund contract effective 7/1/08

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.

FINANCE COMMITTEE REASON: At the time of voting contract negotiations had not been settled.

The RTM members approved the Finance Committee's recommendation as read.

ARTICLE 4

UNITED STEELWORKERS CONTRACT

HUMAN RESOURCES

To see if the Town will vote to appropriate a sum of money to supplement the budgets of various departments for the purpose of financing any changes made in the Personnel By-Laws, as a result of Collective Bargaining and otherwise for salary increases for United Steelworkers of America, and to determine how said appropriation shall be raised, whether by taxation, transfer from available funds or otherwise.

Or to do or act in any other manner relative thereto.
Human Resources

PURPOSE AND JUSTIFICATION:
To fund contract effective July 1, 2008

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.
FINANCE COMMITTEE REASON: At the time of voting contract negotiations had not been settled.

The RTM members approved the Finance Committee's recommendation as read.

ARTICLE 5 "PTS" SALARY INCREASES HUMAN RESOURCES

To see if the Town will vote to appropriate a sum of money to supplement the budgets of various departments for the salary increases for personnel under the Personnel By-Laws, "PTS" Classification, to amend the "PTS" wage and salary scale by the percentage increase approved by the Town Meeting, and to determine how said appropriation shall be raised, whether by taxation, transfer from available funds, or otherwise.

Or to do or act in any other manner relative thereto.
Human Resources.

PURPOSE AND JUSTIFICATION:

To provide funds to allow an increase for the Part-time and Seasonal Employees, effective July 1, 2008

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.
FINANCE COMMITTEE REASON: Due to the Town's current financial situation it doesn't seem prudent to be granting salary increases.

The RTM members approved the Finance Committee's recommendation as read.

ARTICLE 6 APPROPRIATE \$897,282.00 TO FUND 3.5% SALARY INCREASES FOR TEACHERS, SECRETARIES & PARA PROFESSIONALS FOR FY09 SCHOOL COMMITTEE

To see if the Town will vote to appropriate the sum of \$897,292.00 or any other sum to supplement Article 9 of the FY 2009 omnibus Budget, Department 300 School Department, Line 300A School Department General Expenses. Said sum shall be raised by taxation, transfer of available funds, or otherwise.

Or to do or act in any other manner relative thereto.
School Committee

PURPOSE AND JUSTIFICATION:

To fund 3.5% salary increases for teachers, secretaries and para-professionals for FY09. The current School Department FY09 operating budget does not include funds to support salary increases for members of those bargaining units that are presently working under expired contracts.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.
FINANCE COMMITTEE REASON: Due to the Town's current financial situation it doesn't seem prudent to be granting salary increases.

The RTM members approved the Finance Committee's recommendation as read.

ARTICLE 7 APPROPRIATE \$2,500.00 – CONTRACTUAL OBLIGATIONS

B.O.S.

To see if the Town will vote to amend Article 9 of the May 19, 2008 Annual Town Meeting, Department 122A by increasing it by the sum of \$2500.00. Said sum shall be appropriated from free cash, taxation, transfer, available funds, or otherwise.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

To take care of contractual obligations.

FINANCE COMMITTEE VOTE: 3-2

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.

FINANCE COMMITTEE REASON: Due to the Town’s current financial situation it doesn’t seem prudent to be granting salary increases.

The RTM members approved the Finance Committee’s recommendation as read.

ARTICLE 8 CIP

BOARD OF SELECTMEN

To see if the Town will vote to appropriate a sum of money to be raised by taxation, by transfer from available funds, by borrowing or otherwise, for the various capital projects of the Town, including but not limited to constructing, reconstructing, adding to, equipping and furnishing public buildings and other public facilities, purchasing equipment, constructing or reconstructing roads and other public ways, constructing improvements to the Town’s water and sewerage systems, purchasing equipment, and undertaking other capital projects, including costs incidental and related to such projects, or to take any other action relative to the foregoing matters.

PART 1: MUNICIPAL CIP PURCHASES AND ON-GOING MAINTENANCE EFFORTS FUNDED BY TAXES OR OTHER AVAILABLE FUNDS

That the sum of \$ 1,868,466.00 or any other sum, hereby is appropriated for various capital projects and equipment as shown below, to be expended under the direction of the Town Board/Official indicated, or Municipal Building Committee if applicable, said sum to be raised by General Tax or other available funds; and provided further that any funds appropriated hereunder shall remain within the capital budget under the jurisdiction of the Town Board/Official indicated, or the Municipal Building Committee if applicable, until expended or released, unless transferred by Town Meeting.

<u>ITEM</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>	<u>REQUESTED BY</u>
1.	\$22,500	Pool Diving Boards	Park & Recreation
2.	\$48,000	Safety Equipment – Breathing Apparatus & Protective Gear	Fire Department
3.	\$5,000	Pool Chemical Tanks	Park & Recreation
4.	\$25,000	Heating System – retrofit it to natural gas	DPW Highway
5.	\$11,000	AC/Heater Unit	School – Amvet
6.	\$30,000	Server Upgrade	IT Department
7.	\$48,000	PC Upgrades	IT Department
8.	\$6,000	Printer Replacement	IT Department
9.	\$8,700	Copier Replacement	Board of Selectmen
10.	\$49,000	Fire Alarm Maintenance Work	Fire Department
11.	\$55,266	Replace Pick-up Truck	Board of Health
12.	\$1,150,000	Maintenance of Roads	DPW Highway
13.	\$30,000	New Vehicle (4X4 Pick-Up Truck)	Animal Control

14.	\$18,000	Mower	Park & Recreation
15.	\$48,000	Automobiles (Replace 2)	Building Department
16.	\$38,000	F-250 Utility Truck w/Plow (Replaces M-2)	DPW Fleet
17.	\$50,000	Dump Truck Replacement	Park & Recreation
18.	\$24,000	Upgrade Fleet Services Area	DPW Fleet
19.	\$14,000	Furniture Replacement	School – HS
20.	\$33,000	New Pick-up Truck	DPW Highway
21.	\$45,000	Skid Steer/Brush Cutter	Park & Recreation
22.	\$60,000	Roadside Brush Cutter (Upgrade)	DPW Highway
23.	\$30,000	Paint Interiors	School - Dist.
24.	\$20,000	Paint Exteriors	School - Dist

FINANCE COMMITTEE VOTE: 5-0

ROLL CALL VOTE

FINANCE COMMITTEE RECOMMENDATION: That the town vote to appropriate the sum of \$142,000.00 from free cash to fund the following CIP Part 1 items:

2.	\$48,000	Safety Equipment – Breathing Apparatus & Protective Gear	Fire Department
3.	\$5,000	Pool Chemical Tanks	Park & Recreation
5.	\$11,000	AC/Heater Unit	School – Amvet
6.	\$30,000	Server Upgrade	IT Department
7.	\$48,000	PC Upgrades	IT Department

FINANCE COMMITTEE REASON: These items are necessary to the Town’s infrastructure.

After some discussion John Donohue (P7) made a motion to move the question.
 Motion seconded.
 Motion carried.

By Roll Call Vote, the RTM members approved the Finance Committee’s recommendation on Part 1 of Article 8 as presented. 85 members voting, 54-yes & 31-no.

PART 2: MUNICIPAL CIP PURCHASES AND ON-GOING MAINTENANCE EFFORTS FUNDED BY RETAINED EARNINGS/ENTERPRISE FUNDS

That the various capital projects and equipment purchases shown below and totaling \$93,000.00, or any other sum, shall be undertaken and financed by retained earnings, enterprise funds or other funds as shown below, such funds to be expended under the direction of the Town Board/Official indicated, or the Municipal Building Committee if applicable, until expended or released, unless transferred by Town Meeting.

<u>ITEM</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>	<u>REQUESTED BY</u>	<u>ANTICIPATED SOURCE OF FUNDS</u>
25.	\$50,000	Vehicle Replacement Program - Five (5) Vehicles	Police Department	Police Reserve for Appropriation Fund
26.	\$8,000	Playground/Walkway Cover-ALL	Park & Recreation	Trust Fund
29.	\$35,000	Purchase ½ of 2 vehicles (Const. Supt. & PM/PE)	DPW	DPW Water Ent

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.

FINANCE COMMITTEE REASON: Due to the Town’s current financial situation it doesn’t seem prudent to fund these projects at this time.

The RTM members approved the Finance Committee's recommendation on Part 2 of Article 8 as read.

PART 3: MUNICIPAL CIP PURCHASES AND ON-GOING MAINTENANCE EFFORTS FUNDED BY BORROWING OR OTHER AVAILABLE FUNDS

That the sum of \$2,303,545.00, or any other sum, be and hereby is appropriated for various capital projects and equipment purchases, including design, engineering, construction and installation, and for costs incidental and related thereto, as listed below.

<u>ITEM</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>	<u>REQUESTED BY</u>	<u>ANTICIPATED PROJECT STATUTORY CITATION, CHAPTER 44, SECTION () OR ANY OTHER ENABLING AUTHORITY</u>
49.	\$390,250	Whiting's Pond Dam Reconstruction II	Con. Com.	44 (7) (7)
50.	\$88,000	Barbara Road Rehab	Con. Com.	44 (7) (6)
51.	\$175,000	DPW Salt Shed	DPW Highway	44 (7) (3)
52.	\$115,000	New Sidewalks	DPW Highway	44 (7) (5)
53.	\$170,000	Arch Services and Const. for 2 DPW truck bays	DPW Highway	44 (7) (3a)
54.	\$471,295	Storage Facility	School – District	44 (7) (3)
55.	\$18,000	Remote Scale Building - Construction	Solid Waste Enterprise	44 (7) (3)
56.	\$8,000	50-Cubic-yard Roll-offs (these are the big metal containers at the landfill)	Solid Waste Enterprise	44 (7) (9)
57.	\$400,000	Infiltration/Inflow Mitigation	Sewer Enterprise	44 (7) (1)
58.	\$22,000	Boiler Replacement – Sewer	Sewer Enterprise	44 (7) (9)
59.	\$50,000	Boiler Replacement – WWTF Control Building	Sewer Enterprise	44 (7) (9)
60.	\$26,000	Sewer Collections Camera Truck Equipment Upgrade	Sewer Enterprise	44 (7) (9)
61.	\$45,000	Industrial Pretreatment Program Review Local Limits NPDES	Sewer Enterprise	44 (7) (1)
62.	\$200,000	WWTF Phase VII Upgrades (NPDES Permit)	Sewer Enterprise	44 (7) (1)
63.	\$35,000	Service Vehicle Replacement for #24	Sewer Enterprise	44 (7) (9)
64.	\$35,000	Service Vehicle Replacement for #54	Sewer Enterprise	44 (7) (9)
65.	\$35,000	½ Cost of 2 each Utility Vehicles (Const. Supt. & Project Mgr)	Sewer Enterprise	44 (7) (9)
66.	\$9,000	Retrofit Muni Building with efficient water fixtures	Sewer Enterprise	44 (7) (3a)

71. \$11,000 Water Storage Tank – Water Enterprise 44 (8) (7c)
Perform Internal Clean
1/yr

That said sum for any project listed in Part 3 be raised by General Tax, by transfer from available funds, by borrowing or otherwise; and that to meet this appropriation, the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow the sum of \$2,303,545.00 (total of projects listed in Part 3 of this article) or any other sum, under and pursuant to the statutes cited above or any other enabling authority, and to issue bonds or notes of the Town therefore; and that the requested sum of \$2,303,545.00 be expended for project costs by the Town Board/Official listed, or the Municipal Building Committee if applicable, and the sum of - 0 - be expended for issuance costs under the direction of the Town Treasurer; and that betterment assessments therefore shall be levied under the provisions of Town By-Laws where applicable.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be indefinitely postponed.

FINANCE COMMITTEE REASON: Due to the Town's current financial situation it doesn't seem prudent to fund these projects at this time.

The RTM members approved the Finance Committee's recommendation on Part 3 of Article 8 as read.

PART 4: STATE AND/OR FEDERAL GRANTS

To authorize any of the above named boards, commissions, committees or departments to apply for, accept and expend any state or federal grants that are or may become available for these purposes, under the provisions of Town By-Laws where applicable.

Or to do or act in any manner relative thereto.
Board of Selectmen

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to authorize any of the above named boards, commissions, committees or departments to apply for, accept and expend any state or federal grants that are or may become available for these purposes, under the provisions of Town By-Laws where applicable

FINANCE COMMITTEE REASON: Town meeting must authorize grant applications annually.

The RTM members approved the Finance Committee's recommendation on Part 4 of Article 8 as read.

ARTICLE 9 AMEND INDIRECT COSTS – LANDFILL ENTERPRISE BOARD OF SELECTMEN

To see if the Town will vote to amend Article 9 of the May 19, 2008 Annual Town Meeting for the Landfill Enterprise Fund, Department 430. Indirect Costs to be transferred to the General Fund should have been \$58,208.00

Or to do or act in any other manner relative thereto.
Board of Selectmen

PURPOSE AND JUSTIFICATION:

Entry error in original article

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend Article 9 – FY09 Omnibus Budget, of the May 19, 2008 Annual Town Meeting for the Landfill Enterprise Fund, Department 430. Indirect Costs to be transferred to the General Fund should have been voted at \$58,208.00.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members approved the Finance Committee's recommendation as read.

ARTICLE 10 AMEND INDIRECT COSTS – SEWER ENTERPRISE BOARD OF SELECTMEN

To see if the Town will vote to amend Article 9 of the May 19, 2008 Annual Town Meeting of the Sewer Enterprise Fund, Department 440. Indirect Costs to be transferred to the General Fund should have been \$191,462.00.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

Entry error in original article

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend Article 9 – FY09 Omnibus Budget, of the May 19, 2008 Annual Town Meeting for the Sewer Enterprise Fund, Department 440. Indirect Costs to be transferred to the General Fund should have been voted at \$191,462.00.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members approved the Finance Committee’s recommendation as read.

ARTICLE 11 AMEND INDIRECT COSTS – WATER ENTERPRISE B.O.S.

To see if the Town will vote to amend Article 9 of the May 19, 2008 Annual Town Meeting Water Enterprise Fund Department 450. Indirect Costs to be transferred to the General Fund should have been \$217,631.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

Entry error in original article

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend Article 9 – FY09 Omnibus Budget, of the May 19, 2008 Annual Town Meeting for the Water Enterprise Fund, Department 450. Indirect Costs to be transferred to the General Fund should have been voted at \$217,631.00.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members approved the Finance Committee’s recommendation as read.

ARTICLE 12 UNPAID PRIOR YEAR BILLS – SELF INSURANCE FUND HUMAN RESOURCES

To see if the Town will vote to appropriate a sum of money, under the provisions of Chapter 44, Section 64 of Mass. General Laws for unpaid injury while on duty expenses under the self-insurance line item for police officers incurred prior to June 30, 2008, and to determine whether said sum shall be raised by taxation, transfer from available funds or otherwise. (amount to be determined)

Or to do or act in any other manner relative thereto.

Human Resources

PURPOSE AND JUSTIFICATION:

To pay for bills received after July 1, 2008 related to medical expenses that were incurred by police officers injured in the line of duty, prior to July 1, 2008.

FINANCE COMMITTEE VOTE: 5-0

9/10 VOTE

FINANCE COMMITTEE RECOMMENDATION: That the town vote to appropriate the sum of \$4,454.64 from free cash for unpaid injury while on duty expenses under the self-insurance line item for police officers incurred prior to June 30, 2008.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members unanimously approved the Finance Committee’s recommendation as read.

ARTICLE 13 UNPAID PRIOR YEAR BILL – BLUE CROSS MEDICARE HUMAN RESOURCES

To see if the Town will vote to appropriate the sum of \$391.44 for unpaid bills relating to expenses incurred in the prior fiscal year, and to determine whether said sum shall be paid from free cash, transfer from available funds or otherwise.

Or to do or act in any other manner relative thereto.

Human Resources

PURPOSE AND JUSTIFICATION:

To pay for the prior year Blue Cross administration costs involved in documentation/research needed to receive reimbursement for the retiree drug benefits from January to June 2008.

FINANCE COMMITTEE VOTE: 5-0

9/10 VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to appropriate the sum of \$403.20 from free cash to pay for the prior year Blue Cross administration costs involved in documentation/research needed to receive reimbursement for the retiree drug benefits from January to June 2008.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members unanimously approved the Finance Committee’s recommendation as read.

ARTICLE 14 UNPAID PRIOR YEAR BILL – ELECTRIC BILL SOLID WASTE DEPT.

To see if the Town will vote to appropriate the sum of \$476.32 for a prior fiscal year unpaid bill. Said appropriation to be funded by landfill enterprise fund retained earnings or operating revenue.

Or to do or act in any other manner relative thereto.

Board of Selectmen

See Attached

PURPOSE AND JUSTIFICATION:

The department has consistently carried a one month balance on its electric bill for a number of years. An investigation as to when this first occurred indicated that this amount was missed in 2005.

FINANCE COMMITTEE VOTE: 3-2

9/10 VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to appropriate the sum of \$476.32 to pay a prior year unpaid electric bill. Said sum to be appropriated from Landfill Enterprise retained earnings.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members approved the Finance Committee’s recommendation as read. With 85 RTM members present and only 1 vote of no, the required 9/10 majority is obvious to the Moderator

ARTICLE 15 INCREASE BRISTOL COUNTY AGRICULTURAL H.S. EXPENSES B.O.S.

To see if the Town will vote to increase Article 9 of the May 19, 2008 Annual Town Meeting by appropriating the additional sum of \$1,117.00 to Line 300B – Bristol County Agricultural High School Expenses. Said sum shall be appropriated by free cash, taxation, transfer or available funds.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

This sum of money is necessary in order to bring this appropriation to \$14,521.00

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to appropriate the sum of \$1,117.00 to supplement Article 9 of the FY2009, Omnibus Budget, Line 300B – Bristol County Agricultural High School Expenses. Said sum to be appropriated from free cash.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members approved the Finance Committee's recommendation as read.

ARTICLE 16 SUPPLEMENT ENERGY ACCOUNTS BY \$250,000.00 B.O.S.

To see if the Town will vote to appropriate the sum of \$250,000.00 to supplement the budgets of various departments for the purpose of offsetting extraordinary increases in various energy accounts. And to determine how said appropriation shall be raised, whether by taxation, transfer of available funds, free cash, or otherwise.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

Because of the recent increase in electric rates and extraordinary fuel costs, we need to increase budgets accordingly. The detail of how the funds will be distributed will be included in the Finance Committee's recommendations.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.

FINANCE COMMITTEE REASON: The Finance Committee voted to indefinitely postpone this article at the recommendation of the Board of Selectmen.

The RTM members approved the Finance Committee's recommendation as read.

ARTICLE 17 APPROPRIATE \$7,500.00 FOR CABLE LEGAL EXPENSES B.O.S.

To see if the Town will vote to increase Article 9 of the May 19, 2008 Annual Town Meeting by appropriating the additional sum of \$7,500 to Line 122B – Board of Selectmen General Expenses for the cable legal expenses for matters relative to negotiations. Said funds to be appropriated from free cash, taxation, transfer or available funds.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

Verizon FiOS has approached the town in reference to obtaining a license for cable television. The law requires proper negotiations and subsequently it is prudent to involve our cable counsel in this process. Obviously we were not aware of this need when the budget was constructed.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to appropriate the sum of \$7,500.00 to supplement Article 9 of the FY2009, Omnibus Budget, Line 122B – Board of Selectmen General Expenses. Said money to be used for the cable legal expenses for matters relative to negotiations. Said sum to be appropriated from free cash.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members approved the Finance Committee's recommendation as read.

ARTICLE 18 APPROPRIATE \$30,000.00 TO REPAIR LADDER 2 FIRE COMMISSIONERS

To see if the Town will vote to appropriate the sum of \$30,000 or any other sum for the necessary repairs to the reserve Ladder 2. The Town shall also determine if said sum shall be appropriated by transfer of available funds, taxation, bonding, free cash or otherwise.

Or to do or act in any other manner relative thereto.

Fire Commissioners

See Attached

PURPOSE AND JUSTIFICATION:

Ladder 2 has a blown motor, plus any other needed repairs.

ARTICLE 21 APPROPRIATE \$250,000.00 FOR FILTER MEDIA & MEDIA REPLACEMENT FOR THE WHITING STREET & KELLY WATER TREATMENT PLANTS

B.P.W.

To see if the Town will vote to authorize the sum of \$250,000 for the purpose of Filter Media and Meter replacement for the Whiting Street and Kelley Water Treatment Plants. Said sum to be funded through Debt Issuance or Retained Earnings:

Or to do or act in any other manner relative thereto.
Board of Public Works

PURPOSE AND JUSTIFICATION:

This article is for the replacement of the Water Treatment Facilities Filtration Media (synthetic green sand and graded gravel), including disposal of expired media costs, at both the Whiting St. and Kelley Treatment Plants, and for the replacement of four (4) existing, 15-year-old, propeller-type “Master” meters, which totalize the flow entering the filters.

The life expectancy of this Filter Media is 5 to 6 years; the facilities are 6+ years in age. The filter media has been tested by the manufacturer and it has been determined to be at the end of its useful life. Both plants have exhibited the requirement of more frequent backwashing of the filters due to the degradation of the material. These filters are essential to the production operations of both plants.

The obsolete meter equipment will be replaced with Magnetic Flow Meters, a more reliable and accurate technology.

The Water Division intends to replace the media and meters using in-house personnel.

Filter Media/Meter Replacement:

Whiting Plant Media:	\$150,000.00
Kelley Plant Media:	\$ 75,000.00
Master Meter Replacements:	<u>\$ 25,000.00</u>
	\$250,000.00

FINANCE COMMITTEE VOTE: 5-0

2/3 ROLL CALL VOTE

FINANCE COMMITTEE RECOMMENDATION: That the sum of \$250,000 is hereby appropriated to pay costs of replacing water treatment facilities filter media at both the Whiting Street and Kelley Water Treatment Plants, and for the replacement of four existing 15 year old propeller-type “master meters,” which totalize the flows entering the filters at the Whiting Street and Kelley Water Treatment Plants, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectmen is authorized to borrow said amount under and pursuant to Chapter 44, Sections 8(4A) and (7A) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

By a Roll Call Vote the RTM members defeated the Finance Committee’s recommendation as read. Total votes cast - 85, 2/3 majority required - 57. Yes – 25 No – 60.

ARTICLE 22 HEALTH INSURANCE NEGOTIATION AGREEMENT CO-PAY REIMBURSEMENT TO EMPLOYEES

HUMAN RESOURCES

To see if the Town will vote to appropriate a sum of money in order to support expenses related to co-pay reimbursement to employees for FY09, per the negotiated terms of an Agreement between the Town and its Collective Bargaining Agents and to determine how said appropriation shall be raised, whether by taxation, transfer from available funds, or otherwise.

Or to do or act in any other manner relative thereto.
Human Resources

PURPOSE AND JUSTIFICATION:

These funds will cover the cost of potential co-pay reimbursements per the terms of an agreement negotiated with all of the Town/School/Electric Department unions in settlement of negotiations around the impact of co-pay increases. Additionally, these funds will pay for the fee charged by the company who will process the claims reimbursement on behalf of the Town.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.

FINANCE COMMITTEE REASON: At the time of voting no dollar amount had been given to the Finance Committee.

The RTM members approved the Finance Committee’s recommendation as read.

ARTICLE 23 BETTERMENT STABILIZATION

BOARD OF SELECTMEN

To see if the Town will vote to transfer a sum of money from free cash, taxation or available funds to the Betterment Stabilization Fund.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

This will transfer the excess betterment funds received in FY2007 to the Betterment Stabilization Fund to pay for future debt service.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That this article be indefinitely postponed.

FINANCE COMMITTEE REASON: At the time of voting no dollar amount had been given to the Finance Committee.

The RTM members approved the Finance Committee’s recommendation as read.

ARTICLE 24 TRENCH PERMITTING AUTHORITY

BOARD OF SELECTMEN

To see if the Town will vote, pursuant to MGL c. 82A, §2, to designate the Board of Selectmen as the means by which the Town shall designate the Board or Officer to issue permits for the purpose of creating a trench as that term is defined by MGL c. 82A, § 4 and 520 CMR 14.00.

Or to do or act in any other manner relative thereto.

Board of Selectmen

See Attached

PURPOSE AND JUSTIFICATION:

To abide by state mandates

FINANCE COMMITTEE VOTE: 4-0-1

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote pursuant to MGL c. 82A, §2, to designate the Board of Selectmen as the means by which the Town shall designate the Board or Officer to issue permits for the purpose of creating a trench as that term is defined by MGL c. 82A, § 4 and 520 CMR 14.00.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members approved the Finance Committee’s recommendation as read.

ARTICLE 25 REINSTATEMENT OF RESIDENTIAL ACCESS EXCLUDING COMMERCIAL TRUCKING TO ALLEN AVE. VIA OLD POST ROAD & SOUTH WASHINGTON STREET

B.O.S.

To see if the Town will vote to reinstate residential access, excluding access by commercial trucking, to Allen Avenue via Old Post Road and South Washington Street, and to direct the North Attleborough Highway Department to make necessary improvements to ensure Allen Avenue (from Old Post Road to South Washington Street) meets the mandated safety requirements for a public roadway, and/or rescind all prior town meeting votes of 1989/91.

Or to do or act in any other manner relative thereto.

Board of Selectmen

See Attached

PURPOSE AND JUSTIFICATION:

This petition seeks to allow an alternate access route via Allen Avenue to Old Post Road or South Washington Street, as an alternative to exclusively traveling on South Washington Street. We affirm that reinstating access to Allen Avenue will reverse the undue hardships experienced by the residents of North Attleborough who currently must travel on South Washington Street when attempting to travel to their nearby homes. This hardship is particularly exasperated during the holiday season when South Washington Street traffic is at its peak.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That this article be indefinitely postponed.

FINANCE COMMITTEE REASON: Based on the recommendation of the Traffic Study Committee.

The RTM members approved the Finance Committee's recommendation as read.

The Moderator read the following letter from the Planning Board regarding their articles into the record.

September 29, 2008

Stephen Dalrymple
Town Moderator
43 South Washington Street
North Attleborough, MA 02760

Re: Articles for the October 20, 2008 Semi-Annual Town Meeting.

Dear Mr. Dalrymple:

At their meeting held on September 25, 2008, the Planning Board voted on said articles as follows:

Article 25 is to see if the Town will vote to reinstate access through the Allen Avenue gate:

- The Board voted unanimously to recommend that this article **not** be approved.

Articles 26, 27, 28, 29, 30, 31, and 32 are to see if the Town will vote to appropriate previously deposited funds from free cash.

- **Article 26: Mitigation Money for John Rezza Drive**
The Planning Board voted to recommend approving Article 26, as amended, 5-0.

The amendment reads: "...to be used for ~~future roadway maintenance in the vicinity of the~~ installation of sidewalks on John Rezza Drive."
- **Article 27: Mitigation Money for Smith Street**
The Planning Board voted to recommend approving Article 27, as amended, 5-0.

The amendment reads: "...to be used for ~~future roadway maintenance of~~ engineering of sidewalks on Smith Street ~~south of~~ from Grant Street to Landry Avenue."

- **Article 28: Mitigation Money for Lindsay Street**

The Planning Board voted to recommend approving Article 28, as amended, 5-0.

The amendment reads: "...to be used for future roadway ~~maintenance~~ upgrades in the vicinity of Lindsay Street."

- **Article 29: Mitigation Money for Queen's Grant and Windchime**

The Planning Board voted to recommend approving Article 29, 5-0.

- **Article 30: Mitigation Money for Old Post Road sidewalk**

The Planning Board voted to recommend approving Article 30, as amended, 5-0.

The amendment reads "...to be used for ~~roadway upgrades and maintenance~~ to the installation of sidewalks on Old Post Road from the intersection of Mt. Hope Street north to Route 1."

- **Article 31: Mitigation Money for Allen Avenue sidewalk**

The Planning Board voted to recommend approving Article 31, 5-0.

- **Article 32: Mitigation Money for Carpenter's Landing**

The Planning Board voted to recommend approving Article 32, 5-0.

Articles 39, 40, 41, and 42 on the October 20, 2008 Semi-Annual Town Meeting warrant are to see if the Town will vote to amend the Zoning By-Laws.

- **Article 39:** The Planning Board voted to recommend approving Article 39 as amended, 5-0.

The amendment is to Section 15, e. "...for the purposes set forth in Section ~~14~~ 6 and ~~15~~ 7 of this Section VI.P herein."

- **Article 40:** The Board voted unanimously to recommend that this article be approved as submitted.

- **Article 41:** The Board voted unanimously to recommend that this article be approved as submitted.

- **Article 42:** The Board voted unanimously to recommend that this article be indefinitely postponed.

Article 43 on the October 20, 2008 Semi-Annual Town Meeting warrant is to see if the Town will vote to amend the Zoning Map.

- **Article 43:** The Board voted 3 members for, 2 against, to recommend that this article be indefinitely postponed.

On Behalf of the Planning Board,
Mary E. Burgess
Town Planner

**ARTICLE 26 \$25,000.00 FROM PREVIOUSLY DEPOSITED FREE CASH PLANNING BOARD
 TO DPW FOR FUTURE ROADWAY MAINTENANCE TO
 JOHN REZZA DRIVE VICINITY**

To see if the Town will vote to appropriate the amount of \$25,000.00 from funds previously deposited into free cash to the Department of Public Works to be used for future roadway maintenance in the vicinity of John Rezza Drive.

ARTICLE 33 RTM OPINION OF AFGHAN PAINTING

BOARD OF SELECTMEN

To see if the Town will vote to recommend to the Board of Selectmen the sale of the Alexander Iacovleff painting “Afghans,” upon terms and conditions established by the Board of Selectmen. The proceeds of which it is further recommended be held in accordance with the terms and provisions of a public charitable trust the purpose of which will be for programs chosen by the trustees, which will foster and encourage the appreciation of fine arts by North Attleborough students and residents. Said charitable trust shall be approved by vote of Town Meeting.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

To obtain the opinion of Representative Town Meeting members as to what action should be taken.

FINANCE COMMITTEE VOTE: 3-2

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to recommend to the Board of Selectmen the sale of the Alexander Iacovleff painting “Afghans,” upon terms and conditions established by the Board of Selectmen. The proceeds of which it is further recommended be held in accordance with the terms and provisions of a public charitable trust the purpose of which will be for programs chosen by the trustees, which will foster and encourage the appreciation of fine arts by North Attleborough students and residents. Said charitable trust shall be approved by vote of Town Meeting.

FINANCE COMMITTEE REASON: The majority of the Board members felt that the Town would be best served by selling the painting.

After some discussion, Christopher Sweet (P8) made a motion to Move The Question.

Motion seconded.

Motion carried.

The RTM members defeated the Finance Committee’s recommendation as read.

ARTICLE 34 CHANGES IN TOWN BY-LAW FOR TOWN MEETING AND RELATED BUDGET SCHEDULES

B.O.S.

To see if the Town will vote to amend Article 1 Section 1, Paragraph b.; Article 1, Section 3, Paragraph a; Article 1, Section 3, Paragraph d; Article 1, Section 5, Paragraph i; Article II, Section 1, Paragraph f, 1. a.; Article III, Section 1, Paragraph b; Article III, Section 1, Paragraph i as follows:

To see if the Town will vote to amend Article 1, Section 1, Paragraph b., by deleting “Third Monday of May”.

And to insert in its place “first Monday of June”.

Article 1, Section 1, Paragraph b. will now read “On completing the election and counting the votes and declaring the results thereof, the Meeting shall stand adjourned until the first Monday of June at half-past seven o’clock in the evening for the transaction of all other business that may properly be brought before the Meeting.”

To see if the Town will vote to amend Article 1, Section 3, Paragraph a., by deleting “February 8” and “February 15”

And to insert in its place “First Monday in March” and “ten days after the first Monday in March”

Article 1, Section 3, Paragraph a. will now read “The first Monday in March shall be the last day for filing petitions with the Board of Selectmen for the insertion of articles in the Warrant for the Annual Town Meeting; and the Warrant shall be closed no later than ten days after the first Monday in March.”

To see if the Town will vote to amend Article 1, Section 3, Paragraph d., by deleting “second Tuesday in January”

And to insert in its place “first Monday in April”

Article 1, Section 3, Paragraph d. will now read “Articles covering the annual departmental appropriations for the ordinary recurring expenses of the Town shall precede all other articles in the Warrant for Annual Town Meeting; and the proposed budgets for such ordinary recurring expenses shall have been received by the Finance Committee no later than the first Monday in April.”

To see if the Town will vote to amend Article 1, Section 5 paragraph i, by deleting “January 15” and “within seven (7) days after the filing date”

And to insert in its place “first Monday in April” and “the first Monday following Closing of the Warrant”

Article 1, Section 5, Paragraph i. will now read “On or before the first Monday in April of each year the Board of Selectmen shall present to the Committee an estimate of the expenditures of each department for the ensuing year together with the tabulated expenditures of the two (2) preceding years. Copies of all petitioned articles to be inserted in the Warrant shall be transmitted to the Finance Committee the first Monday following the Closing of the Warrant.”

To see if the Town will vote to amend Article II Section 1 Paragraph f., 1.a., by deleting “January 15”

And to insert in its place “first Monday in April”

Article II, Section 1, Paragraph f., 1.a. will now read: An estimate of the expenditures of each Department for the ensuing year together with the tabulated expenditures of the two preceding years. These documents shall be distributed on or before the first Monday in April.

To see if the Town will vote to amend Article III Section 1 Paragraph b., by deleting “October 1”

And to insert in its place “January 2”

Article III, Section 1, paragraph a. will now read: On or about January 2, the Town Administrator shall furnish to each department, board, commission and committee a uniform budget document, a budget calendar and guidelines for the preparation of budgets. The proposed budgets shall be returned on a date specified by the Town Administrator.

To see if the Town will vote to amend Article III Section 1 Paragraph i., by deleting “February 15”

And to insert in its place “the first Monday in April”

Article III, Section 1, paragraph i. will now read: The Board of Selectmen, no later than the first Monday in April, shall present to each member of the Finance Committee, the comprehensive proposed budget, supporting documents, and their recommendations relative thereto. Copies of the same shall be placed in the Town Clerk’s office, and in the Public Library and made available to the Public.

Or to do or act in any other manner relative thereto.

Board of Selectmen
See Attached

PURPOSE AND JUSTIFICATION:

The Governor has signed legislation allowing for Annual Town Meetings to be scheduled in June. See Attached Memo. The changes to the Town By-Laws allow for a Town Meeting and related budget and CIP submittals to more closely fall in line with a timing of budget information coming from the state. This also allows us to have a full six months of data on expenditures under the current budget.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend Article 1 Section 1, Paragraph b.; Article 1, Section 3, Paragraph a; Article 1, Section 3, Paragraph d; Article 1, Section 5, Paragraph i; Article II, Section 1, Paragraph f, 1. a.; Article III, Section 1, Paragraph b; Article III, Section 1, Paragraph i as proposed in the article.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members approved the Finance Committee’s recommendation as read.

ARTICLE 35 AMEND ARTICLE INVOLVING TOWN HALL HOURS

B.O.S.

To see if the Town will vote to amend Article 5, Section 5 of the Town By-Laws by deleting “except during July and August, for a minimum of two (2) consecutive hours after 5 PM.”

Article V, Section 5 will now read as follows: “The Board of Selectmen shall determine the hours when offices in Town Hall shall be open for public business.”

Or to do or act in any other manner relative thereto.

Board of Selectmen

See Attached

PURPOSE AND JUSTIFICATION:

Town Hall is open forty-three (43) hours a week from 8:00 A.M. to 4:00 P.M. on Monday, Tuesday, Wednesday, and Friday and from 8:00 A.M. to 7:00 P.M. on Thursday, except for the months of July and August when it is open forty (40) hours per week, with the hours of 8:00 A.M. to 4:00 P.M. Monday through Friday.

The AFSCME employees have a thirty-seven (37) hour work week, not including lunch time, and the USWA employees have a forty (40) hour work week, including lunch time.

During the summer months, this creates scheduling difficulties. Because each department has different staffing levels and allowing department heads to have flexibility in the hours their staff works, creates inconsistencies, confusion and questions. In order for the AFSCME employees to get thirty-seven (37) hours of work, with the Town Hall opened forty (40) hours, some employees start work at 7:30 for four days of the week, some employees take one-half (1/2) of an hour for lunch for four days of the week, and others work varying schedules, including working until after 4:00 P.M.

During the winter months, the working schedule for Thursdays is the problem area. Current Town By-Laws require that Town Hall be open one evening per week, except during July and August, for a minimum of two (2) consecutive hours after 5:00 P.M. This means that each department has to make sure that their respective office is covered for an eleven (11) hour day, with the AFSCME staff only required to work nine (9) hours, not including lunch and the USWA personnel only required to work eight (8) hours, including lunch. Subsequently, depending on the staff size of a particular office, the working schedules are all over the place. There is no consistence, which consequently raises questions.

This by-law proposal allows for the Board of Selectmen to develop a schedule that allows for more efficient use of staff, adjust to added energy costs and still maintains hours of operation that fits the needs of the citizens.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend Article 5, Section 5 of the Town By-Laws by deleting “except during July and August, for a minimum of two (2) consecutive hours after 5 PM.”

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members approved the Finance Committee’s recommendation as read.

ARTICLE 36 ADOPT NON-ZONING LOCAL WETLANDS BY-LAW CONSERVATION COMM.

To see if the Town will vote to adopt the attached non-zoning local wetlands bylaw to be administered and enforced by the Conservation Commission.

Or to do or act in any other manner relative thereto.

Conservation Commission
See Below

1

**Town of North Attleborough
Wetlands Protection Bylaw**

I. Purpose

The purpose of this bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of North Attleborough by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, fisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture values, deemed important to the community (collectively, the “resource area values protected by this bylaw”).

This bylaw is intended to utilize the Home Rule authority of this municipality so as to protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 §40; the Act) to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and regulations thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of North Attleborough.

II. Jurisdiction

Except as permitted by the Conservation Commission no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, springs, banks, ponds of any size, beaches, and lands under water bodies; intermittent streams, brooks and creeks; lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone; perennial rivers, streams, brooks and creeks, lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area; and lands subject to flooding or inundation by groundwater or surface water (collectively the “resource areas protected by this bylaw”). Said resource areas shall be protected whether or not they border surface waters.

The jurisdiction of this bylaw shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquacultural uses as defined by the Wetlands Protection Act regulations, found at 310 CMR 10.04.

III. Exemptions and Exceptions

A. The applications and permits required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural and aquacultural use as defined by the Wetlands Protection Act regulations at 310 CMR 10.04.

B. The applications and permits required by this bylaw shall not be required for maintaining,

repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

C. The applications and permits required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw, unless otherwise authorized by the Commission. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) shall not apply under this bylaw.

IV. Applications, Requests for Determinations and Fees

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. The request shall include such information and plans as are deemed necessary by the Commission.

The Commission may accept as the application or request under this bylaw any Notice of Intent application, Request for Determination (RDA) or Abbreviated Resource Area Delineation (ANRAD) and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), unless the Commission determines that a separate permit application is warranted. In lieu of an RDA an applicant may request in writing a workshop with the Commission to discuss whether the proposed activity or area is subject to this bylaw.

Filing Fees

The Commission may require the payment of reasonable filing fees at the time of submitting a permit application, Notice of Intent, RDA or ANRAD ("Filing"). The schedule of filing fees shall be specified in the regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and regulations. No filing fee shall be assessed for any Filing submitted by or on behalf of the Town of North Attleborough.

Consultant Fees

Pursuant to G.L. Ch. 44 §53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of Filings. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with review of a Filing for which a consultant fee has been collected shall be paid from this account, and expenditures may be made

at the sole discretion of the Commission. Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide applicants with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the Filing within five (5) business days of the date notice is given without incurring any costs or expenses.

The entire fee must be received before the initiation of consulting services, unless otherwise authorized by the Commission. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing.

The applicant may appeal the selection of an outside consultant to the Board of Selectmen, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of an educational degree and three or more years of practice in the field at issue, or a related field. In addition, said outside consultant shall be appropriately licensed in their field (e.g. Professional Engineer) if applicable. The applicant shall make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

V. Notice and Hearings

Any person submitting a Filing with the Conservation Commission at the same time shall give written notice thereof, by certified mail (return receipt requested), certificates of mailing, or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall include a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

The Commission shall commence a public hearing within 21 days from receipt of any completed Filing unless an extension is authorized in writing by the applicant. The hearing shall be advertised in the local newspaper at least 5 business days prior to the hearing, at the expense of the applicant. The Commission shall have the authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information.

The Commission shall issue its permit, order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and regulations (310 CMR 10.00).

VI. Coordination with Other Boards

Any person submitting a permit application or Notice of Intent with the Conservation Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the planning board, board of health, and board of public works, unless otherwise waived by the Commission upon request. A copy shall be provided in the same manner to the Commission of the adjoining municipality, if the application pertains to property within 300 feet of that municipality. An affidavit of the person providing notice shall be filed

with the Commission. The Commission shall not take final action until the above boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

VII. Presumptions, Permits and Conditions

Presumptions

In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits (including without limitation strips of continuous, undisturbed vegetative cover) for protection of such buffer zone lands, unless the applicant presents credible evidence, prepared by a qualified individual, which, in the judgment of the Commission, demonstrates that the area or part of it may be disturbed without harm to the values protected by the bylaw.

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

The Commission shall presume that all areas meeting the definition of “vernal pools” under §IX of this bylaw, including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence, by a qualified individual (see below), which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions.

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission’s estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife “corridors” in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

Permits and Conditions

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such

protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities.

If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions. To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands or other resource area as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: (1) for failure to submit necessary information and plans requested by the Commission; (2) for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or (3) for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

No work proposed in any application shall be undertaken until the permit or Order of Resource Area Delineation (ORAD) issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the Commission receives certification of such recording. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

A permit, Determination of Applicability (DOA), or ORAD shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for up to three years provided that a request for a renewal is received in writing by the Commission 30 days prior to expiration and includes sufficient information to justify the extension request. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

Amendments to permits, DOAs, or ORADs shall be handled in the manner set out in the Wetlands Protection Act regulations (310 CMR 10.00) and policies thereunder. For good cause the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §V and §VI, and after a public hearing. The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the permit, DOA or ORAD or Certificate of Compliance (COC) issued under the

Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00).

VIII. Regulations

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall reiterate the terms defined in this bylaw, define additional terms not inconsistent with the bylaw, and impose filing and consultant fees.

IX. Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw.

The term “agriculture” shall refer to the definition as provided by G.L. Ch. 128 §1A.

The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting or trimming of trees and shrubs
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw
- L. Any changes to the rate or volume of storm water runoff into or out of any resource area

The term “bank” shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher. Both intermittent and perennial streams have two banks.

The term “clearcutting” or “clearfelling” is a forestry/logging practice in which the clear majority of all trees in a forest sector are cut down.

The term “Filing” shall mean any permit application, Notice of Intent (“NOI”), Request for Determination (“RDA”), or Abbreviated Notice of Resource Area Delineation (“ANRAD”) filed under this Bylaw.

The term “land under water” shall include land beneath any creek, river, stream, pond, or lake. Said land may be composed of organic muck or peat, fine sediments, rocks, or bedrock. The boundary of land under water is the mean annual low water level. Land under water is present in both intermittent and perennial streams.

The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasipublic corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term “pond” shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

The term “rare species” shall include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

The term “workshop” refers to an informal meeting between an applicant and the Conservation Commission at a regularly scheduled public meeting to discuss a preliminary proposal or to make a determination on the applicability of this bylaw.

The term “vernal pool” shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be 100 feet outward from the mean annual high-water line defining the depression.

Except as otherwise provided in this bylaw or in associated regulations of the Conservation Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00)

X. Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

A. By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

XI. Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Conservation Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by: letters, phone calls, electronic communication and other informal methods; violation notices; non-criminal citations with specific penalties set forth under G.L. Ch. 40 §21D which has been adopted by the Town in Article XXI Section 1 of the general bylaws; and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Board of Selectmen and town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

XII. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

XIII. Appeals

A decision of the Conservation Commission shall be reviewable in the superior court in accordance with G.L. Ch. 249 §4.

XIV. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) thereunder. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

XV. Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.

XVI. Effective Date

PURPOSE AND JUSTIFICATION:

The purpose of the by-law is to protect wetlands, water resources, flood prone areas and adjoining upland areas in the Town of North Attleborough. The by-law is intended to utilize the Home Rule Authority of this municipality in order to provide greater protections to wetland resource areas and protect additional resource areas beyond those identified under the Wetlands Protection Act (MGL c. 131§ 40). The added protections are necessary to effectively prevent significant and cumulative effects on resource areas values, including public and private water supply, groundwater supply, flood control, storm damage prevention, water quality, prevention of pollution, fisheries and wildlife habitat, agriculture, etc. which is of great benefit to the inhabitants of the Town of North Attleborough.

FINANCE COMMITTEE VOTE: 4-1

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.

FINANCE COMMITTEE REASON: Based on the By-law Study Committee's recommendation that more information is needed.

The RTM members approved the Finance Committee's recommendation as read.

**ARTICLE 37 AMEND PERSONNEL BY-LAWS TO ALLOW EMPLOYEES
SERVING IN NATIONAL GUARD OR MILITARY RESERVES
34 PAID DAYS OF LEAVE PER FISCAL YR. TO ATTEND
MILITARY TRAINING OR MILITARY DUTY**

PETITION

To see if the Town will vote to amend the Personnel By-Laws: Section 11 Other Leave B2 Military Service: by deleting shall be paid his/her regular rate of compensation while on active duty for annual reserve training not to exceed two (2) weeks.

And adding: shall be permitted 34 paid days of leave per fiscal year to attend military training or perform military duty.

Or to do or act in any other manner relative thereto.

Petition

PURPOSE AND JUSTIFICATION:

To afford all town employees who serve in the National Guard or Military Reserves equal benefits, and to protect all town Employees from suffering loss of pay, or rights to leave and vacation during their service in the National Guard or Reserves.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of the article be Indefinitely Postponed.

FINANCE COMMITTEE REASON: The Finance Committee was made aware that this item is currently included in contract negotiations.

The RTM members approved the Finance Committee's recommendation as read.

**ARTICLE 38 TO AMEND PERSONNEL BY-LAWS TO ALLOW TOWN
EMPLOYEES SERVING IN NATIONAL GUARD TO BE
PAID REGULAR WEEKLY COMPENSATION FOR THE
DURATION OF ACTIVE DUTY.**

PETITION

To see if the Town will vote to amend the Personnel By-Laws: Section 11 Other Leave B2 Military Service: By deleting: who is called up to active duty during a national emergency shall for the duration of the period that he/she is activated be paid the difference between his/her regular weekly straight-time compensation and the total week compensation that he/she received for such military services.

And adding: who is activated during a national emergency or during war time shall be paid his/her regular weekly compensation for the duration of his/her active duty.

Or to do or act in any other manner relative thereto.

Petition

See Attached

PURPOSE AND JUSTIFICATION:

To afford all town employees who serve in the National Guard or Military reserves equal benefits, and to protect all town Employees from suffering loss of pay, or rights to leave and vacation during their service in the National Guard or Reserves.

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE VOTE: 5-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to appropriate the sum of \$2000.00 from free cash to the Conservation Commission to be used for future maintenance of the detention basin on Lot 5 and 6 of Pratt Lane within Carpenter's Landing.

FINANCE COMMITTEE REASON: These funds were originally collected from the developer for this purpose and the Finance Committee believes that the Town should uphold this commitment to the residents.

The RTM members approved the Finance Committee's recommendation as read.

Motion made by Christopher Sweet to reconsider Article 26.

Motion seconded.

Motion carried. With 70 members present only 1 No vote was cast.

**ARTICLE 26 \$25,000.00 FROM PREVIOUSLY DEPOSITED FREE CASH
TO DPW FOR FUTURE ROADWAY MAINTENANCE TO
JOHN REZZA DRIVE VICINITY**

PLANNING BOARD

To see if the Town will vote to appropriate the amount of \$25,000.00 from funds previously deposited into free cash to the Department of Public Works to be used for future roadway maintenance in the vicinity of John Rezza Drive.

Or to do or act in any other manner relative thereto.

Planning Board

PURPOSE AND JUSTIFICATION:

These funds are meant to be used for future upgrades to John Rezza Drive as a result of the construction of the Woodland Park.

FINANCE COMMITTEE VOTE: 4-1

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to appropriate the sum of \$25,000.00 from free cash to the Department of Public Works to be used for the installation of sidewalks on John Rezza Drive.

FINANCE COMMITTEE REASON: These funds were originally collected from the developer for this purpose and the Finance Committee believes that the Town should uphold this commitment to the residents.

After some discussion John Donohue (P7) made a motion to Move The Question.

Motion seconded.

Motion carried.

A motion was made by Charles Legg (P6) for a Roll Call Vote.

Motion seconded.

Motion defeated.

The RTM members defeated the Finance Committee's recommendation as read.

ARTICLE 39 AMEND ZONING BY-LAWS - ADULT RETIREMENT COMM.

PLANNING BOARD

To see if the Town will vote to amend the Zoning Bylaws, Section VI: Supplementary Regulations to include the following subsection P: Adult Retirement Community. To read as follows:

P. Adult Retirement Community

1. General

Adult Retirement Communities shall be allowed in the Town of North Attleborough by special permit in accordance with Chapter 40A, Section 9 of the General Laws, Section VI.P of this bylaw, (except that for this purpose the Planning Board will be the Special Permit Granting Authority), and this section, in R-10, R-10S, R-15 and R-20 Districts.

2. Special Permit Granting Authority (SPGA)

For the purpose of this section, the Planning Board shall be the Special Permit Granting Authority, pursuant to Chapter 40A, Sections 1A and 9 of the General Laws. For the purpose of this bylaw, the Special Permit Granting Authority shall be referred to as SPGA.

3. Purpose

The purposes of Adult Retirement Communities are:

- a. to promote the development of housing for persons fifty five and over.*
- b. to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use;*
- c. to protect the natural environment, including the Town's varied landscapes and water resources;*
- d. to promote more sensitive siting of buildings and better overall site planning;*
- e. to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;*
- f. to offer an alternative to standard subdivision development.*

4. Minimum Size of Development

An Adult Retirement Community shall consist of a tract of land in single or consolidated ownership of at least 5 contiguous acres in size or otherwise comply with the provisions of M.G.L. c. 151B, s.4. An exception, as defined in section 15 of this bylaw, may be granted on less than five acres by the Zoning Board of Appeals.

5. Permitted Primary Uses

Primary uses may include the following:

- a) Dwelling, Single Family*
- b) Dwelling, Two Family*
- c) Dwelling, Multi Family*
- d) Accessory uses to the above as specified in Use Schedule B for the applicable zoning district.*

*The following **restrictions** shall apply to primary uses:*

- a) A multifamily structure shall not contain more than six (6) dwelling units.*
- b) The architecture of all buildings shall blend in with the existing architecture of the surrounding neighborhood.*
- c) Residential structures shall be oriented toward the street serving the premises and not the required parking area.*
- d) No home occupations or professional uses shall be permitted.*

- e) *Motor vehicles shall be parked only in designated parking areas.*
- f) *Permanent accessory structures shall be subject to approval on the site development plan.*

6. Permitted Open Space Uses

Permitted open space uses may include the following:

- a. *Agricultural and silva cultural uses, but excluding buildings or structures associated with such uses.*
- b. *Preservation of areas subject to protection under Chapter 131, Section 40 of the General Laws, the Wetlands Protection Act.*
- c. *Preservation of steep slopes, ledges, or other areas which may be deemed unsuitable for development due to topographic conditions.*
- d. *Buffer areas as put forth in this section and as defined elsewhere in this by-law.*
- e. *On-site water runoff and retention areas, erosion control measures, and related facilities.*

To ensure the continued provision of open space, the location of all designated open spaces shall be shown on the site plan, and as a condition of the special permit, the several separate parcels shall be subject to deed restrictions for continued open space and depending on the development scheme of the approved development plan shall be owned in one or a combination of the following ways:

- 1. *As the designated open space portion of a single family building area.*
- 2. *As the designated open space portion of a two family building area.*
- 3. *As the designated open space portion of a multi-family building area.*
- 4. *As a single parcel of land conveyed to a corporation or trust of the owners of building areas or residential units.*

7. Permitted Density

Basic Maximum Number of Dwelling Units. *The Basic Maximum Number of dwelling units allowed in an ARC shall not exceed the following standards:*

<i>R-10</i>	<i>8 dwelling units or 16 bedrooms per acre of upland</i>
<i>R-10S</i>	<i>8 dwelling units or 16 bedrooms per acre of upland</i>
<i>R-15</i>	<i>6 dwelling units or 12 bedrooms per acre of upland</i>
<i>R-20</i>	<i>6 dwelling units or 12 bedrooms per acre of upland</i>

A minimum of forty percent (40%) of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

- a. *The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater*

percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in the above paragraph. In no case shall the percentage of contiguous open space which is wetlands exceed fifty (50%) of the tract.

b. The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.

8. Density Bonus

The SPGA may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The total award of a density bonus shall not exceed 25% of the Basic Maximum Number. A density bonus may be awarded in the following circumstances:

- a) Fifty percent (50%) or more of the site has been set aside as contiguous open space within an upland area; or
- b) One dwelling unit has been set aside as affordable to persons or families qualifying as low income or two dwelling units have been set aside as affordable to persons or families qualifying as moderate income.

9. Affordable Units.

Where affordable units are created, the dwelling units shall be restricted for a period not less than thirty (30) years. The thirty year restriction shall be approved as to form by legal counsel to the SPGA.

10. Dimensional Requirements

Modification of Dimensional Requirements. The SPGA encourages applicants for ARC to modify lot size, shape, and other dimensional requirements for lots within an ARC, subject to the following limitations:

- a. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the ARC Development; provided, however, that the SPGA may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.
- b. At least 50% of the required side and rear yard setbacks in the zoning district shall be maintained in the ARC.
- c. Maximum building height shall conform to the requirements for the district.

11. Design Process

Design Process. Each development plan shall follow the design process outlined below. When the development plan is submitted, the applicant shall be prepared to demonstrate to the SPGA that this Design Process was considered in determining the layout of proposed streets, house lots, and contiguous open space.

- a. Understanding the Site. The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.
- b. Evaluating Site Context. The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.
- c. Designating the Contiguous Open Space. The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site,

and, where appropriate, areas that serve to extend neighborhood open space networks.

d. *Location of Development Areas.* The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community or village.

e. *Lot Lines.* The final step is simply to draw in the lot lines (if applicable).

Drainage

Stormwater management shall be consistent with the requirements for subdivisions set forth in the Planning Board's Rules and Regulations Governing Subdivision of Land, as amended, and all state and federal requirements.

Buffers and Screening

A buffer area of fifty (50) feet shall be provided at the perimeter of the property where it abuts residentially zoned districts, except for driveways or streets necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. Buffer areas shall be continually maintained by the owners. The SPGA may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50) feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the SPGA determines that a smaller buffer will suffice to accomplish the objectives set forth herein. The 50' buffer can be included within the open space calculation.

12. Application Process

Application

Applications shall be in the form and contents as specified in the SPGA Rules and Regulations governing Subdivision of Land and shall be submitted with the specified number of site development plans prepared by a registered professional engineer or land surveyor.

The site plan shall indicate the location and extent of natural features as the SPGA may require, including soil conditions, topography, slopes, wetland, historic features, and land areas which are subject to legal restrictions or otherwise unsuitable or inappropriate for development. Areas to be retained as open land, to be the location of dwelling units, location of proposed dwelling units, roads, pathways, parking and service areas, and locations for water, sewer and other utilities shall be identified.

The Adult Retirement Community shall be consistent with the current rules and regulations of the Planning Board for a subdivision plan under the North Attleborough Planning Board's Rules and Regulations Governing Subdivision of Land.

Bonding or Other Security

In order to assure that improvements to the Adult Retirement Community are fulfilled, the SPGA shall require that all improvements as specified on the Adult Retirement Community plan are property fulfilled by securing a bond or other negotiable security in an amount satisfactory to the Board or by covenant. The Board shall release all or portions of such security as construction of improvements is approved in accordance with the Town's specifications.

If a covenant is employed as a performance guarantee, such covenant shall be in conformance with a Master Deed for the Adult Retirement Community, and shall state that no building areas with the Adult Retirement Community shall be sold and no buildings shall be erected thereon until improvements specified as a condition of the Special Permit are constructed to serve the building areas and/or buildings adequately.

13. Special Regulations

- a. *Adult Retirement Communities shall be served by both public water and sewerage systems.*
- b. *Adult Retirement Community Plans shall be submitted to other Town boards with the appropriate jurisdictions, including wetlands and public health, for approvals as required by state and local laws.*
- c. *No portion of an approved Adult Retirement Community shall be further subdivided or rezoned, and no portion of a Adult Retirement Community may be further subdivided or rezoned after the SPGA has approved the plan and recorded its decision with the Town Clerk.*
- d. *If and when a Homeowner's Association (HOA) is established for the control of the property in a Adult Retirement Community, the HOA documentation shall be reviewed by the SPGA prior to recording at the Registry of Deeds. The Town of North Attleborough shall have no responsibilities pertaining to the internal affairs of any HOA which may be established.*
- e. *A special permit granted under this section shall lapse within a two year period if construction has not commenced within this time period.*
- f. *The principal street(s) serving the site shall be designed to conform to the Planning Board's Rules and Regulations Governing Subdivision of Land, as amended, where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private streets shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners, or by the applicant until such time as the unit owners assume ownership of the private streets.*
- g. *Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of and within garages may count in this computation. One off-street visitor parking space shall be provided for every five dwelling units.*

14. Decision

The SPGA may approve, approve with conditions, or deny an application for an ARC after determining whether the ARC better promotes the purposes of Section 1A of this By-Law than would a conventional subdivision development of the same locus. In making this determination, the SPGA shall consider the following factors:

- a. *Social, economic, or community needs which are served by the proposal;*
- b. *Traffic flow and safety, including parking and loading;*
- c. *Adequacy of utilities and other public services;*
- d. *Neighborhood character;*
- e. *Impacts on the natural environment; and*
- f. *Potential fiscal impact; including impact on town services, tax base, and employment.*

15. Definitions

The following terms shall have the following definitions for the purposes of this section:

- a. "Adult Retirement Community (ARC)" shall mean a development subject to the Age Restriction and the other standards set forth in this Section, as authorized by a special permit. All of the land within an ARC shall be within one or a combination of the R-10, R-10S, R-15 or R-20 districts.
- b. "Affordable to persons or families qualifying as low income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the median income and in compliance with the standards for the Local Initiative Program 760 CMR 45.00.
- c. "Affordable to persons or families qualifying as moderate income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income and in compliance with the standards for the Local Initiative Program 760 CMR 45.00.
- d. "Age Restriction" shall mean that all of the occupied units of the Adult Retirement Community shall be occupied by at least one person who is age fifty-five (55) or older (the "Qualified Occupant"); provided, however, that in the event of the death of the Qualified Occupant(s) of a unit or other involuntary transfer of a unit, a one year exemption shall be allowed to allow for the rental of the unit to another Qualified Occupant(s) so long as the provisions of the Housing Laws (defined below) are not violated by such occupancy. The Age Restriction is intended to be consistent with, and is set forth in order to comply with the Housing Laws.
- e. "Contiguous open space" shall mean open space suitable, in the opinion of the SPGA, for the purposes set forth in Sections 6 and 7 of this Section VI.P herein. Such open space may be separated by the street(s) constructed within the Adult Retirement Community. Contiguous open space shall not include required yards.
- f. "Density bonus" shall mean additional dwelling unit(s). Computations shall be rounded to the lowest number.
- g. An "Exception" shall be in harmony with the general purpose and intent of the bylaw and may be subject to general or specific rules therein contained. Before granting such exception, the Board of Appeals shall hold a public hearing thereon, after the required public notice as further described in Section VIII.I subsection 6-9 of these Zoning Bylaws. When applying for an exception, the applicant shall provide a conceptual site plan illustrating compliance with this bylaw except for the minimum lot requirement.
- h. "Housing Laws" shall mean the Fair Housing Act, 42 USC section 3607(b), as amended, the regulations promulgated hereunder, 24 CFR Subtitle B, Ch. 1, section 100.300 et seq. and G.L. c. 151B, section 4.
- i. "Special Permit Granting Authority (or "SPGA")" shall for the purposes of an ARC mean the Planning Board, as provided in Section VIII-B. of this zoning bylaw.,m
- j. "Upland" shall mean land not designated a resource area under the Wetlands Protection Act, G.L. c. 131, s. 40 and 310 CMR 10.00.

Or to do or act in any other manner relative thereto.

Planning Board

PURPOSE AND JUSTIFICATION:

To provide an alternative housing opportunity to those members of the community 55 and over which provides an attractive and suitable residential environment amenable to these residents. This is also an opportunity to encourage

innovative site plan and design for this segment of the population while creating and preserving open and natural space.

FINANCE COMMITTEE VOTE: 5-0

2/3 VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend the Zoning Bylaws, Section VI: Supplementary Regulations to include “Subsection P: Adult Retirement Community” as proposed in the article.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The Moderator asked if everyone understood that the Finance Committee Recommendation was to amend the Zoning By-Laws as described in Warrant Article 39 as petitioned.

No questions were raised.

Wayne Patterson (P9) made a motion to amend the recommendation of the Finance Committee as follows:

Replace: 1. General in its entirety and 2. Special Permit Granting Authority (SPGA) in their entirety with:

1. General

Adult Retirement Community shall be allowed in the Town of North Attleborough by special permit in accordance with Chapter 40A, Section 9 of the General Laws, Section VI.P of this bylaw, (except for this purpose both the Planning Board and the Zoning Board of Appeals Board will jointly be the Special Permit Granting Authority and this section in R-10, R-10s, R-15 and R20 Districts.

2. Special Permit Granting Authority (SPGA)

For the purpose of this section both the Planning Board and the Zoning Board of Appeals shall be jointly the Special Permit Granting Authority, pursuant to Chapter 40A, Sections 1A and 9 of the General Laws. For the purpose of this bylaw, the Special Permit Granting Authority shall be referred to as SPGA.

Replace section 15i. with:

- i. “Special Permit Granting Authority (“SPGA” shall for the purposes of an ARC mean jointly the Planning Board and the Zoning Board of Appeals as provided in Section VIII-B of this zoning by-law,m.*

After some discussion a motion to Move the Question was made by Christopher Sweet (P8)

Motion seconded.

Motion carried.

The RTM members defeated the Amendment.

The RTM members approved the Finance Committee’s recommendation as read.

ARTICLE 40 AMEND ZONING BY-LAWS TO DELETE “HOUSING FOR THE ELDERLY & REPLACE WITH “ADULT RETIREMENT COMMUNITY” PLANNING BOARD

To see if the Town will vote to amend the Zoning Bylaws, Section V: Use Regulations, Schedule B, Principal Use, and Residential by deleting the following section:

	R-10	R-10S	R-15	R-20	R-40	C-7.5	C-30	C60	OP-60	IC-30	I-60
**12: Housing for the Elderly	P	P	S	S	S	-----	-----	---	-----	-----	-----

and replaced in its entirety to read as follows:

	R-10	R-10S	R-15	R-20	R-40	C-7.5	C-30	C60	OP-60	IC-30	I-60
**12: Adult Retirement Community:	S	S	S	S	-----	-----	-----	---	-----	-----	-----

(see section VI – P.)

Or to do or act in any other manner relative thereto.

Planning Board

PURPOSE AND JUSTIFICATION:

The purpose of this change is to indicate per Use Schedule B, the districts that the Adult Retirement Community are permitted pursuant the Adult Retirement Community bylaw

FINANCE COMMITTEE VOTE: 5-0

2/3 VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend the Zoning Bylaws, Section V: Use Regulations, Schedule B, Principal Use, Residential by deleting the following section:

	R-10	R-10S	R-15	R-20	R-40	C-7.5	C-30	C60	OP-60	IC-30	I-60
**12: Housing for the Elderly	P	P	S	S	S	-----	-----	---	-----	-----	-----

and replaced in its entirety to read as follows:

	R-10	R-10S	R-15	R-20	R-40	C-7.5	C-30	C60	OP-60	IC-30	I-60
**12: Adult Retirement Community:	S	S	S	S	----	-----	-----	---	-----	-----	-----

(see section VI – P.)

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

The RTM members unanimously approved the Finance Committee’s recommendation as read.

ARTICLE 41 AMEND ZONING BY-LAWS DEFINITIONS BY REPLACING “HOUSING FOR THE ELDERLY” WITH “ADULT RETIRMENT COMMUNITY”

PLANNING BOARD

To see if the Town will vote to amend the Zoning Bylaws, Section IX: Definitions, B. Selected Words and Terms by deleting the following section:

Housing for the Elderly. Any residential premises available for lease by elderly or disabled individuals which is financed or subsidized in whole or in part by state or federal housing programs established primarily to furnish housing rather than housing and personal services, as set forth in a listing established by the Secretary of Elder Affairs, and which was never licensed under Chapter 111 of the Massachusetts General Laws.

And replace with the following:

“**Adult Retirement Community (ARC)**” shall mean a development subject to the Age Restriction and the other standards set forth in Section P., as authorized by a special permit and the Special Permit Granting Authority. All of the land within an ARC shall be within one, or a combination of, the R-10, R-10S, R-15 or R-20 districts

Or to do or act in any other manner relative thereto.

Planning Board

PURPOSE AND JUSTIFICATION:

This definition directly refers to the proposed new Section P: Adult Retirement Community which replaces a previously deleted section and an out dated definition.

FINANCE COMMITTEE VOTE: 5-0

2/3 VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend the Zoning Bylaws, Section IX: Definitions, B. Selected Words and Terms by deleting the following section:

Housing for the Elderly. Any residential premises available for lease by elderly or disabled individuals which is financed or subsidized in whole or in part by state or federal housing programs established primarily to furnish housing rather than housing and personal services, as set forth in a listing established by the Secretary of Elder Affairs, and which was never licensed under Chapter 111 of the Massachusetts General Laws.

And replace with the following:

To see if the Town will vote to transfer a sum of money from free cash, taxation or available funds to the Municipal Stabilization Fund.

Or to do or act in any other manner relative thereto.

Board of Selectmen

PURPOSE AND JUSTIFICATION:

To supplement the current Stabilization Fund balance.

FINANCE COMMITTEE VOTE: 5-0

2/3 ROLL CALL

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to transfer \$600,000.00 from Free Cash into the Municipal Stabilization Fund.

FINANCE COMMITTEE REASON: As stated in the purpose and justification.

Consideration of this article was taken before Article 1 of the warrant.

Motion made to adjourn the Special Town Meeting Sine Die.

Motion seconded.

Motion carried at 8:48 PM.