

**PROCEEDINGS
SPECIAL TOWN MEETING
JUNE 1, 2015**

On June 1, 2015, Town Clerk, Kevin Poirier, opened the Special Town Meeting at 7:15pm by announcing , “with 121 RTM members present, we have a quorum.”

Town moderator , Deborah Kohl, led the membership in the Pledge of Allegiance to our Flag.

She then called for a moment of silence for the Men and Women service in our Armed Forces.

She called for a moment of silence for Sgt William Noonan who recently passed away.

Town moderator, Deborah Kohl, read the warrant

**NORTH ATTLEBOROUGH WARRANT
FOR THE REPRESENTATIVE SPECIAL TOWN MEETING**

Monday June 1, 2015

THE COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

To either Constables of the Town 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, in said North Attleborough on:

Monday the 1st of June 2015, A.D.

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 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 March 12, 2015

NORTH ATTLEBOROUGH BOARD OF SELECTMEN

Joan Marchitto, Chairman
Mark Williamson, Vice-Chairman
John C. Rhyno
Patrick Reynolds
Anne Lonzo

Town Moderator, Deborah Kohl, then read the Return:

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 an attested copy of this warrant in each of the nine (9) precincts in said town twenty-one (21) days before the time of said meeting.

Chief John J. Reilly, Constable
Town of North Attleborough

Robert Nerz (P7) made a motion as follows:

I move that the Town Meeting Adopt the Bourne Amendment: That any motion to increase the amount of money recommended for and article must specify where the additional monies will come from.

Motion seconded

Motion carried.

Robert Nerz (P7) made a motion as follows:

I move that the Town Meeting adopt the procedural rule: That the count of a super majority vote, when declared obvious by the Moderator, shall not be taken unless requested by seven or more RTM members.

Motion seconded.

Motion carried.

ARTICLE 1 – SUPPLEMENT 2015 DEPARTMENTAL OPERATING BUDGETS BOARD OF SELECTMEN

To see if the town will vote to appropriate a sum of money to supplement various Fiscal Year 2015 departmental operating budgets. Said sum to be funded from free cash or transfer from available funds. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

This article is being submitted to facilitate the operating expenses for various departments for the fiscal year.

FINANCE COMMITTEE VOTE: 7-0

2/3 ROLL CALL VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to appropriate \$666,872.33 into the Snow & Ice Account (Dept. 423). Specifically, \$180,020.81 into Salaries (Line 423A) & \$486,851.52 into General Expenses (Line 423B). \$55,032.61 to be paid from Free Cash & \$611,839.72 from the Stabilization Account.

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

By a unanimous vote the RTM members approved the Finance Committ's Recommendation.

ARTICLE 2 – PRIOR YEAR(S) UNPAID BILLS

BOARD OF SELECTMEN

To see if the town will vote to appropriate a sum of money needed to pay prior year(s) bills. Said sum to be from free cash or transfer from available funds. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

Invoices received after the close of fiscal year are paid through this article.

FINANCE COMMITTEE VOTE: 8-0

9/10 VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to appropriate \$519.12 to pay two prior fiscal year medical bills. Said sum to be paid from Free Cash.

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

By a 9/10 vote , declared obvious by the Moderator, the RTM members approved the Finance Committee's recommendation.

ARTICLE 3 – ACCEPT INSURANCE PROCEEDS IN EXCESS OF \$20,000

BOARD OF SELECTMEN

To see if the town will vote to accept insurance proceeds in excess of \$20,000.00 for the settlement related to damaged town property in the custody of NAPD. Said amount to be transferred from the Insurance Receipts Reserved for Appropriation account to the North

Attleboro Police Department, General Expenses to be expended for the replacement of damaged town vehicle and related equipment. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

Pursuant to M.G. L., Ch. 44 §53, insurance proceeds in excess of \$20,000.00 requires town meeting appropriation.

FINANCE COMMITTEE VOTE: 8-0

MAJORITY VOTE

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

FINANCE COMMITTEE REASON: The insurance company paid the bill directly.

By a majority vote, the RTM members approved the Finance Committee's recommendation.

ARTICLE 4 – RE-APPROPRIATION OF FUNDS

TOWN ACCOUNTANT

To see if the town will vote to re-appropriate the sum of \$2,439 from the June 2012 ATM Art. #6 – 30 CIP (Bleachers HS Football Field) to the June 2013 ATM Art. 6 – 33 (Parks & Rec Mower). Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

To correct a deficit that was created by a vote of the RTM at the June ATM (Art. 6B item 1). The underlying cause of said incorrect vote was due to a clerical error. An allowable expense was made to the “Mower” article prior to the RTM vote that was taken, which had not been taken into account by the Town Accountant.

FINANCE COMMITTEE VOTE: 8-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to re-appropriate the sum of \$2,439 from the June 2012 ATM Art. #6 – 30 CIP (Bleachers HS Football Field) to the June 2013 ATM Art. 6 – 33 (Parks & Rec Mower).

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

By a majority vote, the RTM members approved the Finance Committee's recommendation.

**ARTICLE 5 – AMEND BY LAW ARTICLE XII PUBLIC SAFETY
SECTION 5 – FIRE DEPT.**

BOARD OF SELECTMEN

To see if the town will vote to amend Town By-Law Article XII Public Safety, Section 5, Fire Department, Par. a. by changing the current by law to read as follows:

The Fire Chief and Deputy Fire Chief shall be appointed by the Board of Selectmen. All permanent full-time members, lieutenants, captains and other full and part-time positions will be appointed by the Fire Chief. The Chief shall be responsible to the Board of Selectmen and shall submit an annual report and such other lawful reports as may be required or requested to the Board of Selectmen. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

The Board of Selectmen recently adopted new policies and procedures related to the appointing authority of specific departments which removes the Board of Selectmen as appointing authorities and transfers the responsibility to the department head responsible for the performance and operation of their respective departments.

FINANCE COMMITTEE VOTE: 8-0

MAJORITY VOTE

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

FINANCE COMMITTEE REASON: At the time of voting a legality issue was being reviewed.

By a majority vote, the RTM members approved the Finance Committee's recommendation.

**ARTICLE 6 – AMEND BY LAW ARTICLE XII PUBLIC SAFETY SECTION 1 –
POLICE DEPT.**

BOARD OF SELECTMEN

To see if the town will vote to amend Town By-Law Article XII Public Safety, Section 1, Police Department, Par. a. by changing the current by-law to read as follows:

The Chief of Police and the Police Captain shall be appointed by the Board of Selectmen. All permanent full-time members, permanent intermittent patrolmen, sergeants and lieutenants of the Police Department and Special Police Officers shall be appointed by the Chief of Police. The Chief shall be responsible to the Board of Selectmen and shall submit an annual report and such other lawful reports as may be required or requested to the Board of Selectmen. The Chief will operate his Department under the provisions of M.G.L. 41, Section 97A. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

The Board of Selectmen recently adopted new policies and procedures related to the appointing authority of specific departments which removes the Board of Selectmen as appointing authorities and transfers the responsibility to the department head responsible for the performance and operation of their respective departments.

FINANCE COMMITTEE VOTE: 8-0

MAJORITY VOTE

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

FINANCE COMMITTEE REASON: At the time of voting a legality issue was being reviewed.

By a majority vote, the RTM members approved the Finance Committee's recommendation.

ARTICLE 7 – AMEND BY-LAW ARTICLE IX INSPECTOR OF ELECTRICAL WIRING BOARD OF SELECTMEN

To see if the town will vote to amend Town By-Law Article IX Inspectors, Section 5. Inspector of Electrical Wiring, Par. b by changing the appointing authority from the Board of Selectmen to the Building Inspector to read as follows:

The Building Inspector may at any time appoint for such terms as the Building Inspector determines, but not to exceed one (1) year, one or more qualified electricians as Assistant Inspectors of Electrical Wiring to act on the disability or absence of the inspector of Electrical Wiring and while so acting shall have and may exercise all of the powers and duties of the Inspector of Electrical Wiring. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

The Board of Selectmen recently adopted new policies and procedures related to the appointing authority of specific departments which removes the Board of Selectmen as appointing authorities and transfers the responsibility to the department head responsible for the performance and operation of their respective departments.

FINANCE COMMITTEE VOTE: 8-0

MAJORITY VOTE

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

FINANCE COMMITTEE REASON: At the time of voting a legality issue was being reviewed.

By a majority vote, the RTM members approved the Finance Committee's recommendation

ARTICLE 8 – AMEND BY-LAW IX INSPECTORS SECTION 1 BUILDING INSPECTOR BOARD OF SELECTMEN

To see if the Town will vote to amend Town By-Laws Article IX Inspectors, Section 1. Building Inspector, Par. e by changing the appointing authority from the Board of Selectmen to the Building Inspector to read as follows:

The Building Inspector may appoint an additional person or persons as local Building Inspectors to assist the Building Inspector in enforcing the State building code and Rules and Regulations of the Architectural Access Board. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

The Board of Selectmen recently adopted new policies and procedures related to the appointing of specific departments which removes the Board of Selectmen as appointing authorities and transfers the responsibility to the department head responsible for the performance and operation of their respective departments.

FINANCE COMMITTEE VOTE: 8-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That consideration of this article be Indefinitely Postponed.
FINANCE COMMITTEE REASON: At the time of voting a legality issue was being reviewed.

By a majority vote, the RTM members approved the Finance Committee's recommendation

ARTICLE 9 – AMEND BY-LAW IX INSPECTORS-SECTION 5 ELECTRICAL WIRING BOARD OF SELECTMEN

To see if the town will vote to amend Town By-Law Article IX. Inspectors, Section 5. Inspector of Electrical Wiring, Par, a by changing the appointing authority from the Board of Selectmen to the Building Inspector to read as follows:

The Building Inspector shall appoint annually in May a qualified electrician as Inspector of electrical wiring for a one (1) year term. The qualifications shall be defined as Massachusetts General Laws. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

The Board of Selectmen recently adopted new policies and procedures related to the appointing authority of specific departments which removes the Board of Selectmen as appointing authorities and transfers the responsibility to the department head responsible for the performance and operation of their respective departments.

FINANCE COMMITTEE VOTE: 8-0 **MAJORITY VOTE**

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

FINANCE COMMITTEE REASON: At the time of voting a legality issue was being reviewed.

By a majority vote, the RTM members approved the Finance Committee's recommendation

ARTICLE 10 – AMEND TOWN BY-LAWS ARTICLE 1 “TOWN MEETING” TOWN CLERK
SECTION 2-NOTICE AND MEMBERSHIP

To see if the town will vote to Amend the Town By-Laws, Article 1 “TOWN MEETING”, Section 2 “NOTICE AND MEMBERSHIP” by deleting the second paragraph in its entirety and replacing it with the following:

The membership of the Representative Town Meeting shall consist of fifteen members in each precinct with one-third of its members elected annually at the April Town election for a term of three years; provided, however, effective at the April Town Election in 2016 and each said election thereafter, the Town shall choose by ballot four (4) Representative Town Meeting members from each precinct for a three year term such that each precinct shall have a total of fourteen (14) members after the election of 2016, thirteen (13) members after the election of 2017, and twelve (12) members after the election of 2018 and each year thereafter. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

To gradually reduce the size of the RTM membership from 15 members per precinct to 12 members per precinct over a three year period.

FINANCE COMMITTEE VOTE: 8-0 **MAJORITY VOTE**

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

FINANCE COMMITTEE REASON: The By-Law study Committee did not recommend this article.

After much discussion, A motion was made to move the question and go directly to a vote.

Motion seconded.

Motion carried.

By a majority vote, the RTM members approved the Finance Committee's recommendation

At 7:45 PM a motion was made and seconded to adjourn the meeting for the purpose of opening the Annual Town Meeting.

Motion seconded.

Motion carried.

At 7:50 PM on June 1, 2015 , the Special Town Meeting resumed. The quorum in attendance from the just adjourned Annual Town meeting continued to be present.

ARTICLE 11 – AMEND TOWN BY-LAWS ARTICLE 1 SECTION 4-RULES OF TOWN MEETING BY-LAW STUDY COMMITTEE

To see if the town will vote to Amend Town By-Laws, Article I, Section 4- Rules of Town Meeting, by deleting Subsection (g)

g. Only registered voters of the Town may be admitted to Town Meeting except by permission of the Moderator or his designee. All non-registered voters so admitted shall be assigned to a definite portion of the Town Meeting place.

And substituting the following:

g. All town meetings shall be open to the public. Persons other than RTM members shall be assigned to a separate portion of the Town Meeting place.

Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

Please see attached for purpose and justification

FINANCE COMMITTEE VOTE: 8-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to Amend Town By-Laws, Article I, Section 4- Rules of Town Meeting, by deleting Subsection (g)

g. Only registered voters of the Town may be admitted to Town Meeting except by permission of the Moderator or his designee. All non-registered voters so admitted shall be assigned to a definite portion of the Town Meeting place.

And replacing it with the following:

g. All town meetings shall be open to the public. Persons other than RTM members shall be assigned to a separate portion of the Town Meeting place.

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

By a majority vote, the RTM members approved the Finance Committee’s recommendation

Motion made to waive the reading of the Finance Committee’s recommendation for Article 12.

Motion seconded.

Motion carried

ARTICLE 12 – AMEND BY-LAWS AND APPENDIX A

TOWN CLERK

To see if the town will vote to amend its By-Laws and Appendix A to incorporate the attached changes which are mostly editorial in nature. Or to do or act in any manner relative thereto.

a) Page 4 Table of Contents: SRPEDD listing

Replace: “Southeastern Massachusetts Regional Planning and Economical Development Board.”

With: "Southeastern Regional Planning and Economic Development District Commission"

Rationale: The current listing is incorrect.

b) Page 11 Section 4a:

Replace: "To the extent that the following is applicable, reconsideration shall be conformity herewith:"

With: "The following shall govern motions to reconsider:"

Rationale: The current sentence is poorly worded and confusing.

c) Page 11 Section 4f:

Replace: "A lesser number may organize any adjourn to some further time.

With: "A lesser number may organize and adjourn to some future time."

Rationale: The current sentence has phrasing errors.

d) Page 12 Section 5f:

Replace: "No other officer of the Town or a member of any Board, Commission, or other Committee of the Town, whether elected or appointed, shall be a member of the Finance Committee, except as otherwise noted."

With: "No officer of the Town or a member of any Board, Commission, or other Committee of the Town, whether elected or appointed, shall be a member of the Finance Committee."

Rationale: Unnecessary language incorrectly implies that RTM members are town officers.

e) Page 12 Section 5g:

Replace: "It shall be the duty of the Finance Committee to consider all articles in any Warrant for a Town Meeting and to recommend appropriate action to the voters of the Town."

With: "It shall be the duty of the Finance Committee to consider all articles in any Warrant for a Town Meeting and to recommend appropriate action to Town Meeting."

Rationale: Update an apparent vestige of open town meeting.

f) Page 35 Section 1:

Replace: "Three (3) members of the Electric Commission"

With: "Three (3) members of the Electric Commission"

Rationale: Fix an error of unknown origin.

g) Page 35 Section 1:

Replace: "For terms of three (3) years-two (2) members to be elected each year and three (3) members to be elected every fourth year: Seven (7) members of the School Committee"

With: "For terms of three (3) years-two (2) members to be elected each year and three (3) members to be elected every third year: Seven (7) members of the School Committee"

Rationale: Fix an error of unknown origin.

h) Page 35 Section 1:

Replace: "For terms of five (5) years-one member to be elected each year:
Five (5) members of the Housing Authority (one member to be appointed by the
State.)"

With: "For terms of five (5) years-one member to be elected each year:
Five (5) members of the Housing Authority (except one member to be appointed by the Commonwealth every fifth year.)"

Rationale: Clarify to be more specific.

i) Page A6:

Replace: "SOUTHEASTERN MASSACHUSETTS REGIONAL PLANNING AND ECONOMICAL
DEVELOPMENT BOARD"

With: "SOUTHEASTERN REGIONAL PLANNING AND ECONOMIC DEVELOPMENT DISTRICT COMMISSION"

Rationale: The current listing is incorrect.

PURPOSE AND JUSTIFICATION

Editorial in nature.

FINANCE COMMITTEE VOTE: 8-0

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend its By-Laws and Appendix A to incorporate the following changes:

a) Page 4 Table of Contents: SRPEDD listing

Replace: "Southeastern Massachusetts Regional Planning and Economical Development Board."

With: "Southeastern Regional Planning and Economic Development District Commission"

b) Page 11 Section 4a:

Replace: "To the extent that the following is applicable, reconsideration shall be conformity herewith:"

With: "The following shall govern motions to reconsider:"

c) Page 11 Section 4f:

Replace: "A lesser number may organize any adjourn to some further time.

With: "A lesser number may organize and adjourn to some future time."

- d) Page 12 Section 5f:
- Replace: “No other officer of the Town or a member of any Board, Commission, or other Committee of the Town, whether elected or appointed, shall be a member of the Finance Committee, except as otherwise noted.”
- With: “No officer of the Town or a member of any Board, Commission, or other Committee of the Town, whether elected or appointed, shall be a member of the Finance Committee.”
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- e) Page 12 Section 5g:
- Replace: “It shall be the duty of the Finance Committee to consider all articles in any Warrant for a Town Meeting and to recommend appropriate action to the voters of the Town.”
- With: “It shall be the duty of the Finance Committee to consider all articles in any Warrant for a Town Meeting and to recommend appropriate action to Town Meeting.”
-
- f) Page 35 Section 1.a:
- Replace: “Three (3) members of the Electric Commission”
- With: “Three (3) members of the Electric Commission”
-
- g) Page 35 Section 1.a:
- Replace: “For terms of three (3) years-two (2) members to be elected each year and three (3) members to be elected every fourth year:
 Seven (7) members of the School Committee”
- With: “Seven (7) members of the School Committee elected for terms of three (3) years
 Two (2) members to be elected in each of two (2) years and three (3) members to be elected every third year:
-
- h) Page 35 Section 1.a:
- Replace: “For terms of five (5) years-one member to be elected each year:
 Five (5) members of the Housing Authority (one member to be appointed by the State.)”
- With: “Five (5) members of the Housing Authority to serve terms of five (5) years
 One member to be appointed by the Commonwealth every fifth year, one (1) member to be elected in each of the intervening four (4) years”
-
- i) Page A6:
- Replace: “SOUTHEASTERN MASSACHUSETTS REGIONAL PLANNING AND ECONOMICAL DEVELOPMENT BOARD”

With: "SOUTHEASTERN REGIONAL PLANNING AND ECONOMIC DEVELOPMENT DISTRICT COMMISSION"

FINANCE COMMITTEE REASON: The proposed changes are for clarification purposes and the By-Law Study Committee supported the recommended changes.

By a majority vote, the RTM members approved the Finance Committee's recommendation

ARTICLE 13 – AMEND BY-LAWS RELATIVE TO PROCESS OR PROCEDURE

TOWN CLERK

To see if the town will vote to amend its By-Laws to incorporate the attached changes which are related to process or procedure. Or to do or act in any manner relative thereto.

a) Page 9 Section 2 Paragraph One:

Replace: "Notice of every Town Meeting shall be given by posting copies of the Warrant calling said meeting at least twenty-one days before the day appointed for said meeting in one place in each of the voting precincts within the Town."

With: "Notice of every Town Meeting shall be given by posting copies of the Warrant calling said meeting at least twenty-one days before the day appointed for said meeting in Town Hall Lobby, Richards Memorial Library, and on the Town web site."

Rationale: Posting on the Town web site and in Town Hall Lobby will make the warrant more accessible. Posting the warrant in 9 places across town is obsolete and little used. Richards Memorial Library is currently one of the 9 places and will remain since its hours of operation are different than Town Hall.

b) Page 10 Section 3b:

Replace: "August 20 shall be the last day for filing petitions with the Board of Selectmen for the insertion of articles in the Warrant for the Semi-Annual Town Meeting; and the Warrant shall be closed no later than August 27."

With: "The third Monday in August shall be the last day for filing petitions with the Board of Selectmen for the insertion of articles in the Warrant for the Semi-Annual Town Meeting, and the Warrant shall be closed no later than ten days after the third Monday in August."

Rationale: To provide suitable timing between opening a closing of the warrant.

c) Page 13 Section 5i:

Replace: "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."

With: "Copies of all articles to be inserted in any Warrant shall be transmitted to the Finance Committee the first Monday following the Closing of that Warrant."

Rationale: This is to clarify that all Warrant articles should be sent to the Finance Committee for all Warrants.

d) Page 16 Section 1 f 3:

Replace:

“These documents shall be distributed as follows:

- 9 copies to the Finance Committee
- 3 copies to the RTM Coordinating Committee
- 1 copy to each of the Selectmen
- 1 copy to the Town Treasurer
- 1 copy to the Town Accountant
- 1 copy to Town Counsel
- 1 copy to each By-Law Study and Codification Committee Member”

With:

“These documents shall be distributed as follows:

- 9 copies to the Finance Committee
- 1 copy to the RTM Coordinating Committee
- 1 copy to each of the Selectmen
- 1 copy to the Town Treasurer
- 1 copy to the Town Accountant
- 1 copy to Town Counsel
- 1 copy to the Town Clerk
- 1 copy to each By-Law Study and Codification Committee Member
- 1 copy to be posted on the Town web site

Any on the preceding distribution list may elect to receive these documents as email attachments or as emailed links to the Town web site, instead of by paper copy."

Rationale: It is an oversight to not include the Town Clerk and the Town web site. For reduction of copying expense and file storage space, it shall be the recipient's option whether to receive by paper or email.

FINANCE COMMITTEE VOTE: 8-0

MAJORITY VOTE

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

FINANCE COMMITTEE REASON: Although the By-Law study Committee supported this article the Finance Committee felt that the logistics needed further review.

The RTM members defeated the Finance Committee's recommendation.

Bob Nerz, (P7) made a motion for affirmative action as read:

AFFIRMATIVE ACTION: I move that the town will vote to amend its By-Laws to incorporate the attached changes which are related to process or procedure. Or to do or act in any manner relative thereto.

a) Page 9 Section 2 Paragraph One:

Replace: “Notice of every Town Meeting shall be given by posting copies of the Warrant calling said meeting at least twenty-one days before the day appointed for said meeting in one place in each of the voting precincts within the Town.”

With: “Notice of every Town Meeting shall be given by posting copies of the Warrant calling said meeting at least twenty-one days before the day appointed for said meeting in Town Hall Lobby, Richards Memorial Library, and on the Town web site."

Rationale: Posting on the Town web site and in Town Hall Lobby will make the warrant more accessible. Posting the warrant in 9 places across town is obsolete and little used. Richards Memorial Library is currently one of the 9 places and will remain since its hours of operation are different than Town Hall.

b) Page 10 Section 3b:

Replace: "August 20 shall be the last day for filing petitions with the Board of Selectmen for the insertion of articles in the Warrant for the Semi-Annual Town Meeting; and the Warrant shall be closed no later than August 27."

With: "The third Monday in August shall be the last day for filing petitions with the Board of Selectmen for the insertion of articles in the Warrant for the Semi-Annual Town Meeting, and the Warrant shall be closed no later than ten days after the third Monday in August."

Rationale: To provide suitable timing between opening a closing of the warrant.

c) Page 13 Section 5i:

Replace: "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."

With: "Copies of all articles to be inserted in any Warrant shall be transmitted to the Finance Committee the first Monday following the Closing of that Warrant."

Rationale: This is to clarify that all Warrant articles should be sent to the Finance Committee for all Warrants.

d) Page 16 Section 1 f 3:

Replace:

"These documents shall be distributed as follows:

- 9 copies to the Finance Committee
- 3 copies to the RTM Coordinating Committee
- 1 copy to each of the Selectmen
- 1 copy to the Town Treasurer
- 1 copy to the Town Accountant
- 1 copy to Town Counsel
- 1 copy to each By-Law Study and Codification Committee Member"

With:

"These documents shall be distributed as follows:

- 9 copies to the Finance Committee
- 1 copy to the RTM Coordinating Committee
- 1 copy to each of the Selectmen
- 1 copy to the Town Treasurer
- 1 copy to the Town Accountant
- 1 copy to Town Counsel
- 1 copy to the Town Clerk
- 1 copy to each By-Law Study and Codification Committee Member
- 1 copy to be posted on the Town web site

Any on the preceding distribution list may elect to receive these documents as email attachments or as emailed links to the Town web site, instead of by paper copy."

Rationale: It is an oversight to not include the Town Clerk and the Town web site. For reduction of copying expense and file storage space, it shall be the recipient's option whether to receive by paper or email.

By a majority vote, the RTM members approved the Affirmative Action

ARTICLE 14 –ADOPT A WETLANDS PROTECTION BY-LAW

CONSERVATION COMMISSION

To see if the town will vote to adopt the attached non-zoning local wetlands protection By-law to be administered and enforced by the Conservation Commission. This By-Law is proposed to be a new article of the Town of North Attleborough By-laws. Or to do or act in any manner relative thereto.

**TOWN OF NORTH ATTLEBOROUGH
WETLANDS PROTECTION BYLAW**

SECTION 1. 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, and recreation 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.

SECTION 2. 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 (collectively the “resource areas protected by this bylaw”):

- any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds as defined in this bylaw, and lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone;
- lands under water bodies, intermittent streams, brooks and creeks, and lands adjoining these resource areas out to a distance of 100 feet;
- lands subject to flooding or inundation by groundwater or surface water;
- perennial rivers, streams, brooks and creeks; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area

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.

SECTION 3. 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, sewer, 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. 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.

D. The following minor activities within the buffer zone and outside any other resource area protected by this bylaw (except the 200 foot riverfront area) are exempt from the requirements of this bylaw:

- (1) Unpaved pedestrian walkways for private use;
- (2) Fencing, provided it will not constitute a barrier to wildlife movement or encroach into the 25 foot no disturbance zone (see Section 6.A); stonewalls; stacks of cordwood;
- (3) Vista pruning, provided the activity is located more than 50 feet from the mean annual high water line within a riverfront area or from a resource area protected by this bylaw, whichever is farther. (Pruning of landscaped areas is not subject to jurisdiction under this bylaw):
- (4) Plantings of native species of trees, shrubs, or groundcover, but excluding turf lawns;
- (5) The conversion of lawn to uses accessory to residential structures such as decks, sheds, patios, and above ground pools, provided the activity is located more than 50 feet from the mean annual high-water line within the riverfront area or from a resource area protected by this bylaw, whichever is farther, and erosion and sedimentation controls are implemented during construction. The conversion of such accessory uses to lawn is also allowed. (Mowing of lawns is not subject to jurisdiction under this bylaw);
- (6) The conversion of impervious to vegetated surfaces, provided erosion and sedimentation controls are implemented during construction, and;
- (7) Activities that are temporary in nature, have insignificant impacts, and are necessary for planning and design purposes (e.g. installation of monitoring wells, exploratory borings, sediment sampling and surveying).

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.

SECTION 4. APPLICATIONS AND FEES

A. 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.

B. The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so. 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. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act shall include information and plans as are deemed necessary by the Commission.

C. At the time of an application, the applicant shall pay a filing fee payable to the Town of North Attleboro. The fee is in addition to that required by the Wetlands Protection Act and regulations. No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth. The fee schedule is as follows:

| | |
|--------------------------------|----------|
| Permit Application..... | \$100.00 |
| Request for Determination..... | \$25.00 |

D. 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 proposed projects. This fee is called the “consultant fee”. The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeological and drainage analysis. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based on its reasonable finding that additional information acquirable only through outside consultants would be necessary for making an objective decision.

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 a project 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 unused portion of the consultant fee shall be returned to the applicant by a vote of the Commission after completion of the consultant review.

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 application or request 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. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment may 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 either an educational degree or three or more years of practice in the field at issue, or a related field. 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. Any applicant aggrieved by the imposition of, or the size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

SECTION 5. NOTICE AND HEARINGS

A. Any person filing a permit or other application or RDA or ANRAD or other request 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 and any property owner within 100 feet of the property line of the land where the activity is proposed at their mailing addresses shown on the most recent applicable tax list of the assessors. This requirement shall include owners of land directly opposite on any public or private street or way, in another municipality or across a body of water, not unreasonably distant from the project site. The notice shall state 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. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

B. The Commission shall conduct a public hearing on any permit application, RDA, or ANRAD with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have 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 from the applicant or others as deemed necessary by the Commission in its discretion. 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). The Commission shall issue its permit, other 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.

SECTION 6. PRESUMPTIONS

A. 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 therefore designates the inner portion of the buffer zone extending 25 feet from the resource area boundary as a No-Disturbance Zone for protection of such lands, which shall consist of a 25 foot wide strip of continuous, undisturbed vegetative cover. The 25 Foot No-Disturbance Zone shall be required for all projects unless the applicant presents credible evidence, prepared by a qualified professional, 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 this bylaw. Consideration shall be given to the characteristics of the 25 foot inner buffer, including but not limited to, vegetation type, percent slope and adjacent wetland functionality. The Commission may establish, in its regulations, further design specifications, performance standards, and other measures and safeguards for protection of said area. The requirement for a no disturbance zone shall not apply to existing and lawful lawn areas.

B. 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.

C. The Commission shall presume that all areas meeting the definition of “vernal pools” under §9 of this bylaw, including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

D. 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).

SECTION 7. PERMITS AND CONDITIONS

A. 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, and where no conditions are adequate to protect said resource area values, 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.

B. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit for: (1) failure to submit necessary information and plans requested by the Commission; (2) failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or, (3) failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw.

C. If the Conservation Commission, after a public hearing, issues a permit, it 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. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: (1) 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; (2) that

avoidance, minimization and mitigation have been employed to the maximum extent feasible; and (3) 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.

D. 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 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.

E. A permit, Determination of Applicability (DOA), or Order of Resource Area Delineation (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. A permit or ORAD (not including a DOA) may be renewed for an additional one-year period, up to three times, provided that a request for a renewal is received in writing by the Commission prior to expiration. 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.

F. The Commission in an appropriate case may combine the decision issued under this bylaw with the permit, DOA, ORAD, or Certificate of Compliance (COC) issued under the Wetlands Protection Act and regulations.

G. Amendments to permits and ORADs shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

H. No work proposed in any application shall be undertaken until the permit (not including a DOA or 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 holder of the permit certifies in writing to the Commission that the document has been recorded. 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.

I. 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 §5, and after a public hearing.

SECTION 8. REGULATIONS

After public notice and public hearing, the Conservation Commission may 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 and define additional terms not inconsistent with the bylaw.

SECTION 9. DEFINITIONS

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

AGRICULTURE: shall refer to the definition as provided by G.L. Ch. 128 §1A.

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. changes to the rate or volume of stormwater runoff into or out of any resource area.

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.

BUFFER ZONE: The area of land extending 100 feet horizontally outward from the outer boundary of a resource area as listed in Section 2 “Jurisdiction” (any freshwater wetland, marsh, wet meadow, bog, swamp, vernal pool, bank, reservoir, lake, pond, intermittent stream, or land under water bodies).

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 quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

POND: shall follow the definition of 310 CMR 10.04 except that the size threshold shall be reduced to at least 5,000 square feet.

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.

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 the mean annual high-water line defining the depression.

SECTION 10. 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 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.

SECTION 11. 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. The Commission may also issue violation notices, non-criminal citations with specific penalties as set forth under G.L. Ch. 40 §21D, which has been adopted by the Town in Article XXI § 3 of the Town By-laws, and undertake 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.

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of up to \$100 in accordance with Article VIII § 6 and Article XXI § 3 of the Town By-laws. 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. Police officers, Commission members, and its agent have authority to issue non-criminal citations for violations of this bylaw.

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.

SECTION 12. 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.

SECTION 13. APPEALS

A decision of the Conservation Commission may be appealed to the Superior Court in accordance with G.L. Ch. 249 §4.

SECTION 14. 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.

SECTION 15. 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.

PURPOSE AND JUSTIFICATION

The purpose of the bylaw is to protect wetlands, water resources, flood prone areas and adjoining upland areas in the Town of North Attleborough. The bylaw 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 Wetland Protection Act (MGL Ch. 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, erosion and sedimentation control, water quality, prevention of pollution, agriculture, recreation, fisheries, rare species habitat, and wildlife habitat. Providing greater protections for wetland resources and preventing significant and cumulative impacts on resource area values will benefit the inhabitants of North Attleborough and is consistent with the town's Open Space Plan and Master Plan goals including promoting environmentally sustainable growth.

FINANCE COMMITTEE VOTE: 3-2

MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to adopt the attached non-zoning local wetlands protection By-law to be administered and enforced by the Conservation Commission. This By-Law is proposed to be a new article of the Town of North Attleborough By-laws.

**TOWN OF NORTH ATTLEBOROUGH
WETLANDS PROTECTION BYLAW**

SECTION 1. 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, and recreation 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.

SECTION 2. 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 (collectively the “resource areas protected by this bylaw”):

- any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds as defined in this bylaw, and lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone;
- lands under water bodies, intermittent streams, brooks and creeks, and lands adjoining these resource areas out to a distance of 100 feet;
- lands subject to flooding or inundation by groundwater or surface water;
- perennial rivers, streams, brooks and creeks; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area

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.

SECTION 3. 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, sewer, 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. 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.

D. The following minor activities within the buffer zone and outside any other resource area protected by this bylaw (except the 200 foot riverfront area) are exempt from the requirements of this bylaw:

- (1) Unpaved pedestrian walkways for private use;
- (2) Fencing, provided it will not constitute a barrier to wildlife movement or encroach into the 25 foot no disturbance zone (see Section 6.A); stonewalls; stacks of cordwood;
- (3) Vista pruning, provided the activity is located more than 50 feet from the mean annual high water line within a riverfront area or from a resource area protected by this bylaw, whichever is farther. (Pruning of landscaped areas is not subject to jurisdiction under this bylaw);
- (4) Plantings of native species of trees, shrubs, or groundcover, but excluding turf lawns;
- (5) The conversion of lawn to uses accessory to residential structures such as decks, sheds, patios, and above ground pools, provided the activity is located more than 50 feet from the mean annual high-water line within the riverfront area or from a resource area protected by this bylaw, whichever is farther, and erosion and sedimentation controls are implemented during construction. The conversion of such accessory uses to lawn is also allowed. (Mowing of lawns is not subject to jurisdiction under this bylaw);
- (6) The conversion of impervious to vegetated surfaces, provided erosion and sedimentation controls are implemented during construction, and;
- (7) Activities that are temporary in nature, have insignificant impacts, and are necessary for planning and design purposes (e.g. installation of monitoring wells, exploratory borings, sediment sampling and surveying).

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.

SECTION 4. APPLICATIONS AND FEES

A. 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.

B. The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so. 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. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act shall include information and plans as are deemed necessary by the Commission.

C. At the time of an application, the applicant shall pay a filing fee payable to the Town of North Attleboro. The fee is in addition to that required by the Wetlands Protection Act and regulations. No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth. The fee schedule is as follows:

Permit Application.....\$100.00
Request for Determination.....\$25.00

D. 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 proposed projects. This fee is called the “consultant fee”. The specific

consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeological and drainage analysis. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based on its reasonable finding that additional information acquirable only through outside consultants would be necessary for making an objective decision.

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 a project 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 unused portion of the consultant fee shall be returned to the applicant by a vote of the Commission after completion of the consultant review.

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 application or request 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. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment may 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 either an educational degree or three or more years of practice in the field at issue, or a related field. 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. Any applicant aggrieved by the imposition of, or the size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

SECTION 5. NOTICE AND HEARINGS

A. Any person filing a permit or other application or RDA or ANRAD or other request 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 and any property owner within 100 feet of the property line of the land where the activity is proposed at their mailing addresses shown on the most recent applicable tax list of the assessors. This requirement shall include owners of land directly opposite on any public or private street or way, in another municipality or across a body of water, not unreasonably distant from the project site. The notice shall state 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. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

B. The Commission shall conduct a public hearing on any permit application, RDA, or ANRAD with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have 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 from the applicant or others as deemed necessary by the Commission in its discretion. 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). The Commission shall issue its permit, other 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.

SECTION 6. PRESUMPTIONS

A. 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 therefore designates the inner portion of the buffer zone extending 25 feet from the resource area boundary as a No-Disturbance Zone for protection of such lands, which shall consist of a 25 foot wide strip of continuous, undisturbed vegetative cover. The 25 Foot No-Disturbance Zone shall be required for all projects unless the applicant presents credible evidence, prepared by a qualified professional, 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 this bylaw. Consideration shall be given to the characteristics of the 25 foot inner buffer, including but not limited to, vegetation type, percent slope and adjacent wetland functionality. The Commission may establish, in its regulations, further design specifications, performance standards, and other measures and safeguards for protection of said area. The requirement for a no disturbance zone shall not apply to existing and lawful lawn areas.

B. 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.

C. The Commission shall presume that all areas meeting the definition of “vernal pools” under §9 of this bylaw, including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

D. 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).

SECTION 7. PERMITS AND CONDITIONS

A. 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, and where no conditions are adequate to protect said resource area values, 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.

B. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit for: (1) failure to submit necessary information and plans requested by the Commission; (2) failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or, (3) failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw.

C. If the Conservation Commission, after a public hearing, issues a permit, it 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. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: (1) 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; (2) that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and (3) 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.

D. 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 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.

E. A permit, Determination of Applicability (DOA), or Order of Resource Area Delineation (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. A permit or ORAD (not including a DOA) may be renewed for an additional one-year period, up to three times, provided that a request for a renewal is received in writing by the Commission prior to expiration. 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.

F. The Commission in an appropriate case may combine the decision issued under this bylaw with the permit, DOA, ORAD, or Certificate of Compliance (COC) issued under the Wetlands Protection Act and regulations.

G. Amendments to permits and ORADs shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

H. No work proposed in any application shall be undertaken until the permit (not including a DOA or 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 holder of the permit certifies in writing to the Commission that the document has been recorded. 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.

I. 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 §5, and after a public hearing.

SECTION 8. REGULATIONS

After public notice and public hearing, the Conservation Commission may 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 and define additional terms not inconsistent with the bylaw.

SECTION 9. DEFINITIONS

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

AGRICULTURE: shall refer to the definition as provided by G.L. Ch. 128 §1A.

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. changes to the rate or volume of stormwater runoff into or out of any resource area.

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.

BUFFER ZONE: The area of land extending 100 feet horizontally outward from the outer boundary of a resource area as listed in Section 2 “Jurisdiction” (any freshwater wetland, marsh, wet meadow, bog, swamp, vernal pool, bank, reservoir, lake, pond, intermittent stream, or land under water bodies).

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 quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

POND: shall follow the definition of 310 CMR 10.04 except that the size threshold shall be reduced to at least 5,000 square feet.

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.

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 the mean annual high-water line defining the depression.

SECTION 10. 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 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.

SECTION 11. 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. The Commission may also issue violation notices, non-criminal citations with specific penalties as set forth under G.L. Ch. 40 §21D, which has been adopted by the Town in Article XXI § 3 of the Town By-laws, and undertake 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.

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of up to \$100 in accordance with Article VIII § 6 and Article XXI § 3 of the Town By-laws. 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. Police officers, Commission members, and its agent have authority to issue non-criminal citations for violations of this bylaw.

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.

SECTION 12. 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.

SECTION 13. APPEALS

A decision of the Conservation Commission may be appealed to the Superior Court in accordance with G.L. Ch. 249 §4.

SECTION 14. 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.

SECTION 15. 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.

FINANCE COMMITTEE REASON: The Committee had originally recommended Indefinite Postponement on this article because we were waiting for the By-law Study's recommendation. The By-Law Study Committee met on May 26, 2015 and ultimately recommended that they did not want to see the article IP'd but preferred to have it sent to a "study committee" for further review. The Finance Committee feels that further study by committee members who are not specialists in this field and whose departments are not affected by the by-law, is unnecessary. The Committee is more comfortable with the recommendation of the Town hired Attorney who has already reviewed the by-law and found it to be in order.

At 8:45pm the Moderator gave a 10 minute recess.

John Donohue made a motion as follows:

To commit Article 14 to a study committee with 2 members of the conservation Committee, 2 members of the Planning Board, 2 members of the By-Law Study Committee and 2 members of the RTM appointed by the moderator and report back to the first Special Town Meeting after January 1, 2016.

After much discussion a motion to move the question was made.

Motion seconded

Motion Carried.

The RTM members approved the motion to commit article 14 to a study committee.

Town Moderator, Deborah Kohl, read the Planning Board recommendation into the record.

June 1, 2015

Deborah Kohl
Town Moderator
Town of North Attleborough
43 South Washington St.
North Attleboro, MA 02760

Re; Article 15 & 16 of the June 1, 2015 Special Town Meeting

Dear Ms. Kohl

At their meeting held on Monday, June 1, 2015, the Planning Board voted as follows.

Article 15: Zoning By-Law Amendment – Section II C Flood Plain District Section A

By a 3 to 0 vote – the Planning Board voted to support this article.

Article 16: Zoning By-law Amendment – Section II C Flood Plain District, Part IV, Section B.

By a 3 to 0 vote – The Planning Board voted to support this article.

On behalf of the Planning Board

Mary Burgess
Town Planner

ARTICLE 15 – AMEND ZONING BY-LAWS

PLANNING BOARD

To see if the Town will vote to amend the Zoning Bylaws, Section II,C. Flood Plain District, Part II, Section A to read as follows:

SECTION A. FLOODPLAIN DISTRICT BOUNDARIES

The Floodplain District is herein established an overlay district. The district includes all special flood hazard areas designated as Zone A and AE on the North Attleborough Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP) The map panels of the Bristol County FIRM that are wholly or partially within the Town of North Attleborough are panel numbers 25005C0018F, ~~25005C0019F~~, 25005C0084F, and 25005C0092F, ~~25005C0101F~~, ~~25005C0102F~~, ~~25005C0103F~~, ~~25005C0104F~~, ~~25005C0106F~~, ~~25005C0107F~~, ~~25005C0108F~~, ~~25005C0111F~~ and ~~25005C0112F~~ dated July 7, 2009; and panel numbers 25005C00179G, 25005C0101G, 25005C0102G, 25005C0103G, 25005C0104G, 25005C0106G, 25005C0107G, 25005C0108G,25005C0111G AND 2500C0112G dated July 16, 2015. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Bristol County Flood Insurance Study (FIS) report dated ~~July 7, 2009~~ July 16, 2015. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector, and Conservation Commission. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

The Federal Emergency Management Agency (FEMA) is updating the Flood Insurance Study and the Flood Insurance Rate Maps. This change reflects the dates of the change and the map panels that it applies to within North Attleborough. If compliance is not met, the Town will be suspended from the National Flood Insurance Program (NFIP) resulting loss of funding and insurance for residents. See Attached document for other penalties the Town will face if the Maps aren't approved.

FINANCE COMMITTEE VOTE: 8-0

2/3 MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend the Zoning Bylaws, Section II,C. Flood Plain District, Part II, Section A to read as follows:

The Floodplain District is herein established an overlay district. The district includes all special flood hazard areas designated as Zone A and AE on the North Attleborough Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP) The map panels of the Bristol County FIRM that are wholly or partially within the Town of North Attleborough are panel numbers 25005C0018F, 25005C0084F, and 25005C0092F, dated July 7, 2009; and panel numbers 25005C00179G, 25005C0101G, 25005C0102G, 25005C0103G, 25005C0104G, 25005C0106G, 25005C0107G, 25005C0108G, 25005C0111G AND 2500C0112G dated July 16, 2015. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Bristol County Flood Insurance Study (FIS) report dated July 16, 2015. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector, and Conservation Commission.

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

After some discussion, a motion was made to move the question.

Motion seconded

Motion carried.

By a 2/3 vote, declared obvious by the Moderator, the RTM Members approved the Finance committee's recommendation.

ARTICLE 16 – AMEND ZONING BY-LAWS SECTION II C. FLOOD PLAIN DISTRICT PART IV SECTION B

PLANNING BOARD

To see if the town will vote to amend the Zoning By-Laws, Section II C. Flood Plain District, Part IV, Section B. Other Use Regulations, subsection 1, to read as follows:

SECTION B. OTHER USE REGULATIONS

1. In Zone AE along with watercourses that have a regulatory floodway designated on North Attleborough ~~Flood Boundary & Floodway Map~~ Flood Insurance Rate Map, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occupancy of the base flood discharge. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

The Federal Emergency Management Agency (FEMA) is updating the Flood Insurance Study and the Flood Insurance Rate Maps. This change reflects the dates of the change and the map panels that it applies to within North Attleborough. If compliance is not met, the Town will be suspended from the National Flood Insurance Program (NFIP) resulting loss of funding and insurance for residents. See Attached document for other penalties the Town will face if the Maps aren't approved.

FINANCE COMMITTEE VOTE: 8-0

2/3 MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to amend the Zoning By-Laws, Section II C. Flood Plain District, Part IV, Section B. Other Use Regulations, subsection 1, to read as follows:

SECTION B. OTHER USE REGULATIONS

1. In Zone AE along with watercourses that have a regulatory floodway designated on North Attleborough Flood Insurance Rate Map, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occupancy of the base flood discharge.

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

After some discussion a motion was made to move the question.

Motion seconded

Motion carried

By a 2/3 vote, declared obvious by the Moderator, the RTM Members approved the Finance committee's recommendation.

ARTICLE 17 – TERMINATE RIGHTS OF AN EASEMENT

BOARD OF SELECTMEN

To see if the town will vote to Authorize the Board of Selectmen to abandon and release and terminate all rights and benefits and extinguishes all of its liabilities in that certain easement deemed no longer required for public purpose to benefit the Town of North Attleborough, Massachusetts recorded in Bristol County Registry of Deeds (Northern District) at Book 843, Page 264. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

The Department of Public Works has replaced the easement with another for the flow of storm water & drainage over and upon that portion of South Washington Street.

FINANCE COMMITTEE VOTE: 8-0

2/3 MAJORITY VOTE

FINANCE COMMITTEE RECOMMENDATION: That the Town vote to Authorize the Board of Selectmen to abandon and release and terminate all rights and benefits and extinguishes all of its liabilities in that certain easement deemed no longer required for public purpose to benefit the Town of North Attleborough, Massachusetts recorded in Bristol County Registry of Deeds (Northern District) at Book 843, Page 264.

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

By a 2/3 vote, declared obvious by the Moderator, the RTM Members approved the Finance committee's recommendation.

ARTICLE 18 – APPROPRIATE FROM FREE CASH OR OTHER AVAILABLE FUNDS TO THE STABILIZATION FUND

BOARD OF SELECTMEN

To see if the Town will vote to appropriate from free cash or other available funds the sum of \$ _____ to the stabilization fund. Or to do or act in any manner relative thereto.

PURPOSE AND JUSTIFICATION

This article was submitted to transfer funds that were used at the Annual Town Meeting for operating budgets.

FINANCE COMMITTEE VOTE: 8-0

MAJORITY VOTE

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

FINANCE COMMITTEE REASON: Currently there are no available funds.

By a majority vote, the RTM members approved the Finance Committee's recommendation

By a majority vote the RTM members approved a motion to adjourn Sine Die at 9:50pm, on June 1, 2015.