

**TOWN OF NATICK
NATICK FINANCE COMMITTEE**

To: Town Meeting Members

From: Frank Foss, Chairman, and the Natick Finance Committee

Re: Finance Committee Recommendations for the October 19, 2004 Fall Town Meeting

Article 1	Omnibus Budget – FY05
Article 2	Stabilization
Article 3	Collective Bargaining
Article 4	Morse Institute Library – Additional Staffing
Article 5	Capital Equipment
Article 6	Capital Improvement
Article 7	Lease/Repair
Article 8	Commission on Disability: Handicapped Parking Fines
Article 9	Commission on Disability: Increase Handicapped Fines
Article 10	Dug Pond Boat Landing
Article 11	Relining of Water Mains – Speen Street: Sherborn-Framingham
Article 12	Removal of Inflow and Infiltration from Sewer System
Article 13	Clubhouse Lane and Saddlebrook Road: Sewer System
Article 14	Citizen Petition: Drainage Improvements Bennett-Hemenway School Area
Article 15	Golf Course: Rescind Borrowing Authorization
Article 16	Unpaid Bills
Article 17	Free Cash to Reduce Tax Levy
Article 18	Designation as Economic Opportunity Area: The MathWorks
Article 19	Tax Increment Finance Plan: The MathWorks
Article 20	Acquisition of National Guard Armory: East Central Street
Article 21	Home Rule Petition: National Guard Armory – Negotiated Sale
Article 22	Acceptance of Streets: Libby Road, Samuel Path, Marie Path, Katie Path, Portion of Pheasant Hollow Road
Article 23	Charter Amendment: Referendum Procedure
Article 24	Amend Town By-Laws: Use of Recreational Conveyances
Article 25	Amend Zoning By-Laws: New HOOP II District
Article 26	Citizen Petition: Town Meeting Handbook
Article 27	Referrals at Previous Town Meetings
Article 28	Conservation Commission Wetlands Revolving Fund

**ARTICLE 1
(Town Administrator)**

To determine what sum or sums of money the Town will appropriate and raise, or transfer from available funds, for the operation of the government of the Town of Natick, including debt and interest, and to provide for a reserve fund for Fiscal Year 2005 (July 1, 2004 to June 30, 2005), and to see what budgets for Fiscal 2005 will be reduced to offset said additional appropriations, or take any action relative thereto.

RECOMMENDATIONS: By the votes indicated below made on September 21, 2004 and September 28, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 1 and that the following Fiscal Year 2005 budgets be amended and/or supplemented as follows:

1) Budget: Police Department – Crime Prevention & Animal Control (PD), by a vote of 11-0-0 on September 21, 2004:

<u>Action</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
Appropriation	Tax Levy	PD - Sick Leave Buy Back (new line item)	\$ 42,860

2) Budget: Public Works Engineering Department (PWED), by a vote of 12-0-0 on September 21, 2004:

<u>Action</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
Appropriation	Tax Levy	PWED - Salaries Operational Staff	\$ 26,000
Appropriation	Tax Levy	PWED - Operational Staff Additional Comp.	\$ 4,000

3) Budget: Public Works Land Facilities and Natural Resources (LFNR), by a vote of 12-0-0 on September 21, 2004:

<u>Action</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
Transfer	Public Works Highway Maintenance/Solid Waste Collection/Recycling Center - Curbside Recycling	LFNR Salaries Temporary Operational	\$ 4,000
		LFNR Planting supplies	\$ 500

4) Budget: Community Development (CD), by a vote of 12-0-0 on September 21, 2004:

<u>Action</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
Appropriation	Tax Levy	CD – Salaries Operational Staff	\$ 18,000

5) Budget: Property Liability Insurance (PLI), by a vote of 12-0-0 on September 21, 2004:

<u>Action</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
Appropriation	Tax Levy	Package Policy Property/Liability	\$ 33,800

6) Budget: Debt Service, Lease Purchase Contract Obligation (DSLPCO), by a vote of 12-0-0 on September 28, 2004:

<u>Action</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
Appropriation	Tax Levy	[see motion]	\$1,048,542

Totals from above actions:	Total Transfers:	\$ 4,500
	Total Reduction:	\$ 327,000
	Total Tax Levy Use:	\$1,048,542

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to supplement and/or amend the various Fiscal Year 2004 (current year) Town of Natick (hereafter "Town") operating budgets and funds. Specifically, the Finance Committee recommends two (2) budget reductions, three (3) budget transfers and seven (7) budget appropriations.

Concerning Item #1, the Finance Committee recommends that Town Meeting approve the appropriation of \$42,860 from the Tax Levy for the purpose of funding the Natick Police Department's sick leave buy-back. The Police Chief and Town administration provided sufficient information to warrant the funding of this request. Consistent with various bargaining group's contractual agreements with the Town of Natick (Town), the Town is required to provide payment in lieu of accrued sick leave remaining at the time of an officer's retirement.

During the months of August and September of 2004 two officers retired. Their accrued sick leave has been paid from existing salary line items. In addition, another officer is scheduled to retire in October 2004. Upon approval, this appropriation request will fund these three sick leave buy-back obligations.

Chief Mannix informed the Finance Committee that two additional officers may retire by the end of this calendar year. Monies for sick leave buy-back obligations for these two officers have not been requested at this time; however, a separate appropriation request for these sick leave buy-back purposes may be made at 2005 Annual Town Meeting (April 2005).

Due to present request, a new line item in the Police Department budget under Personnel Services will appear in the FY05 Budget should Town Meeting approve this request. The Finance Committee provides a prospective modified budget spreadsheet (B9) for Town Meeting Members' perusal.

The Finance Committee seeks the support of Town Meeting members with regard to funding this appropriation request.

Concerning Item #2, the Finance Committee recommends that Town Meeting approve the appropriation of \$30,000 from the Tax Levy for the purpose of funding a staff position in the Public Works Engineering Service Department. Upon approval this appropriation will fund 26 weeks of this position (\$26,000) and training and educational stipends (\$4,000). Town Meeting Members may remember that in a past budget they accepted the reassignment of a CADD/GIS Technician to the GIS Division, thus decreasing staff in the Engineering Department by one. The Public Works director and town administration have now provided sufficient reason and information to warrant funding to replace this previously existing position. The current workload and foreseeable levels of services require to be provided by the Public Works Engineering Department exceeds the resources available at the current staffing levels of the department. Therefore, this position is necessary to fulfill the requisite engineering services of the Town.

The Finance Committee provides a prospective modified budget spreadsheet (B14) for Town Meeting Members' perusal. The Finance Committee seeks the support of Town Meeting members with regard to funding this appropriation request.

Concerning Item #3, the Finance Committee recommends that Town Meeting approve the transfer of funds from a previous appropriation to fund salaries and supplies for maintenance of flower and shrubbery beds on Town-owned properties. Specifically, we recommend transferring \$4,500 from the Recycling – Curbside line item of the Public Works Highway Maintenance/Solid Waste Collection/Recycling Center Budget to the Public Works Land Facilities and Natural Resources Budget in the following line items and amounts: Salaries Temporary Operational in the amount of \$4,000, and Planting Supplies (new line item) in the amount of \$500.

The Town-owned properties' flower and shrubbery beds, among other areas that are planned to be maintained include: the Town Common, 75 West Street, Lincoln Square, West Street and Route 27, Henry Wilson House, Morse Institute Library, Williams Park, Police and Fire Station, Shaw Park, Town hall, Dam Park, Farwell Street, Murphy Playground, Cole Recreation Center and Moran Park.

The Finance Committee provides prospective modified budget spreadsheets (B16 through B18) for Town Meeting Member's perusal. The Finance Committee seeks the support of Town Meeting members with regard to funding this appropriation request.

Concerning Item #4, the Finance Committee recommends that Town Meeting approve the appropriation of \$18,000 from the Tax Levy for the purpose of funding a staff position in the Community Development Department. Upon approval this appropriation will fund a temporary office staff person to provide clerical assistance, while a current member of the staff is away from her duties on maternity leave. In addition, the Community Development director and town administration provided sufficient information to warrant this new temporary staffing need citing increasing workloads of the existing department staff and the need for departmental staff to assist with duties such as providing minutes and records of meeting of the boards covered by the departments functions.

The Finance Committee provides a prospective modified budget spreadsheet (B29) for Town Meeting Member's perusal. The Finance Committee seeks the support of Town Meeting members with regard to funding this appropriation request.

Concerning Item #5, the Finance Committee recommends that Town Meeting approve the appropriation of \$33,800 from the Tax Levy for the purpose of funding insurance cost increases and new insurance costs in the Property and Liability Insurance Budget. Upon approval this appropriation will increase the FY05 appropriation of the Package Policy Property/Liability line item of the Liability Insurance Budget. Specifically, this appropriation request is due to an approximate increase of 14.3% in premium costs, such as terrorism coverage, employee bonds coverage, and a cost contingency of 4% of policy premiums.

The Finance Committee provides a prospective modified budget spreadsheet (B49) for Town Meeting Member's perusal. The Finance Committee seeks the support of Town Meeting members with regard to funding this appropriation request.

Concerning Item #6, the Finance Committee recommends that Town Meeting approve the appropriation of \$222,855.00 from the Tax Levy for the purpose of increasing the Debt Service, Lease Purchase Contract Obligations Budget (Debt Budget). The request for appropriation \$222,855.00 is a portion of the total modification to the Debt Budget. The town administration has recommended that the Wilson Middle School, Kennedy Middle School, Road/Curbing (Porter Road Project), and High School Planning line items be modified based on changes that occurred in the original debt planning, borrowing and implementation. The net effect of these changes modifies the debt exclusion for the Wilson Middle School and Kennedy Middle School projects. Contingent upon Town Meeting's and the MA DOR approval, such increases in debt exclusion equal \$701,027. The difference in the total debt line item changes (\$923,882.00) and the increase in debt exclusion (\$701,027) equals the amount necessary for appropriation (\$222,855.00) from a revenue source. The town administration should be available to provide Town Meeting Members with additional information and answer questions.

The Town administration provided sufficient information and reasons, including savings from refinancing debt that warrants approval of this request. To that end, the Finance Committee provides a prospective modified

budget spreadsheet (B46 and B47) for Town Meeting Members' perusal. The Finance Committee seeks the support of Town Meeting members with regard to funding this appropriation request.

Motion A:

Reduction:

Moved that the Town vote to reduce the following appropriation voted at the Spring Annual Town Meeting held on April 3, 2004 under Article 2 as follows:

Section G - Unclassified

PAGE B47	Debt Service	Town Administrator	(\$ 327,000)
	C. Other		

Motion B:

Transfer

Moved that the Town vote to transfer the following sums vote at the Spring Annual Town Meeting held on April 3, 2004 under Article 2 held as follows:

Section C – Public Works

PAGE B17	Public Works – Highway Maint/Sold Waste Collection/Recycling Ctr		
	Director Public Works		
	B. Operating Expense (Curbside Recycling)		(\$ 4,500)

Motion C:

Move that the Town vote to appropriate the following sums to be expended under the direction of the officials indicated (in parentheses after the budget category).

Section B – Public Safety

PAGE B10	Natick Police Department	Police Chief	
	A. Salaries (Vacation/Sick Leave Buy Back)		\$ 42,860

Section C – Public Works Divisions

PAGE B14	Engineering Division	Director Public Works	
	A. Salaries Operational Staff		\$ 26,000
	Salaries Add'l Comp Operational Staff		4,000
			<u>\$ 30,000</u>

PAGE B18	Land Facilities & Natural Resources		
	A. Salaries Temporary Operational Staff		\$ 4,000
	B. Operating Expense (Planting Supplies)		500
			<u>\$ 4,500</u>

Section F – General Government

PAGE B29	Community Development	Director Com. Development	
	A. Salaries – Temporary Operational Staff		\$ 18,000

Section G - Unclassified

PAGE B48	Debt Service	Town Administrator	
	C. Other		\$1,250,882

PAGE B49	Property & Liability Insurance	Town Administrator	
	B. Operating Expense		\$ 33,800

And that the sum of \$1,048,542 be raised from the Tax Levy of Fiscal 2005.

PROSPECTIVE BUDGET SPREADSHEETS

FOR

ARTICLE 1

ARTICLE 2
(Town Administrator)

To see if the Town will vote to appropriate a sum of money from available funds for the purpose of supplementing the stabilization fund under Article 22 of the warrant for Annual Town Meeting of 1961, as authorized by Chapter 40, Section 5B of the General Laws, as amended, or otherwise act thereon.

RECOMMENDATION: NO ACTION with regard to the subject matter of Article 2:

Positive Action Requires a 2/3 Vote.

The purpose of this article is to fund the Town's Stabilization fund from available funds. At this time, there is no request to fund the Stabilization Fund. Therefore, the Finance Committee recommends no action on the subject matter of Article 2.

Motion

Move that the Town vote to reduce the amount to be raised of \$167,424 from the Stabilization Fund at the Annual Town Meeting April 3, 2004 and increase the amount of \$167,424 to be raised from the Tax Levy of Fiscal 2005.

**ARTICLE 3
(Town Administrator)**

To see if the Town will vote to raise and appropriate, or otherwise provide, the funds necessary to implement the Terms of Agreements reached between the Town and the following collective bargaining units:

- a) SEIU Local 888 AFL-CIO (Dispatchers)
- b) Natick Patrol Officers Association
- c) International Brotherhood of Police Officers, Local 622
- d) Local 1116 Laborers' International Union, Recreation & Human Services Employee

RECOMMENDATION: By a vote of 8-0-0 on October 5, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 3 and the sum of \$9,068.48 be raised from TAX LEVY for the following bargaining unit Terms of Agreements and budget:

Positive Action Requires a MAJORITY Vote.

d) Local 1116 Laborers' International Union, Recreation and Human Services Employees

1) Budget: Parks and Recreation (PR)

Action	From	To	Amount
Appropriation	Tax Levy (Wage Settlements d) above)	Various Salary Line Items	\$ 9,068.48

The purpose of this Article is fund changes in the FY05 Park and Recreation Budget line items that are impacted by the recent mutual labor agreement between the Board of Selectmen and Local 1116 Laborers' International Union, Recreation and Human Services Employees. For Fiscal Year 2005 the financial impacts of the labor agreement are a 2.5% wage and salary increases retroactive to July 1, 2004, two position upgrades and clarification of bereavement leave rights. In addition in the later years of the three-year agreement there are additional annual salary and wage increases, and increases in educational stipends. Other significant aspects of the agreement include advance notifications of retirement and the loss of one vacation day (day after Thanksgiving).

The Finance Committee provides a prospective modified budget spreadsheet (B18) for Town Meeting Member's perusal. The Finance Committee seeks the support of Town Meeting members with regard to funding this appropriation request.

Motion:

Moved that the Town vote to appropriate the sum of \$9,068.48 to be expended under the direction of the Superintendent of Parks and Recreation to implement the Fiscal Year 2005 terms of agreement reached between the Town of Natick and Local 1116 Laborers' International Unions, Recreation & Human Services Employees.

PAGE B22	Supervisory Salaries	\$2,478.58
	Technical/Professional Salaries	\$6,589.90

And that the sum of \$9,068.48 be raised from the tax levy of Fiscal Year 2005.

PROSPECTIVE BUDGET SPREADSHEET

FOR

ARTICLE 3

ARTICLE 4
(Morse Institute Library Trustees)

To see what sums of money the Town will vote to raise and appropriate, or otherwise provide, to hire additional personnel for the operation of the Morse Institute Library, for the Fiscal Year July 1, 2004 to June 30, 2005.

RECOMMENDATION: By a vote of 12-0-0 on September 21, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 4 and that the sum of \$44,014 be appropriated from the Tax Levy.

As Follows:

Budget: Morse Institute Library – Public Library Service (MIL)

<u>Action</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
Appropriation	Tax Levy	MIL - Salaries – Part Time Operational	\$ 44,014

Positive Action Requires a MAJORITY Vote.

The purpose of this Article is to increase the funding of the operating budget for the Morse Institute Library Fiscal Year 2005 (July 1, 2004 through June 30, 2005), which was appropriated by Town Meeting during the 2004 Annual Town Meeting (April 13, 2004). Specifically, this increase will fund five part-time staff positions for the 7-month period remaining in FY05. The details of the Morse Institute Budget (B26) line item changes can be found in the modified prospective budget spreadsheet on the following pages of this report.

Town Meeting Members may remember that last fall our report stated we heard testimony from the Morse Institute Library Director, the Morse Institute Trustees, the Town Administrator and the public with regard to increased funding for staffing purposes and increased library hours. Specifically, issues were raised regarding an immediate need to increase the amount of funds available for the library personnel services portion of the budget, due to the library's need to provide additional salaries and wages for staff who substitute for other staff who are either absent or unable to work at their assigned times. In addition, issues were raised pertaining to extending library hours to fulfill the increased public need to access library services. The Finance Committee and the Town Administrator reviewed the matter thoroughly and agreed to fund a new salary and wage line-item – Salaries Substitutes. However, in light of the fiscal constraints at that time, the Finance Committee, library officials and town administrators mutually understood that fiscal limitations existed so that additional funding should not be requested to extend library hours.

At this time, such fiscal limitations have diminished to the extent that funding can be made available to extend the library's hours. To that end, the Finance Committee seeks the support of Town Meeting members with regard to funding this appropriation request.

Motion:

Move that the Town vote to appropriate the sum of \$44,104 to be expended under the direction of the Morse Institute Library Board of Trustees for the purpose of

Salaries Part time Operational Staff \$44,104.

And that the sum of \$44,104 be raised from the Tax Levy of Fiscal Year 2005.

PROSPECTIVE BUDGET SPREADSHEET

FOR

ARTICLE 4

**ARTICLE 5
(Town Administrator)**

To see if the Town will vote to appropriate and raise, or otherwise provide, a sum or sums of money as may be required for capital equipment for the various departments of the Town of Natick, or otherwise act thereon.

RECOMMENDATION: By a vote of 11-0-0 on September 21, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 5 and that the sum of \$24,000 be appropriated from the Receipts Reserved, TJX Mitigation Fund.

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to fund capital equipment purchases of the Town. Specifically, the Finance Committee is recommending that Town Meeting Members approve the appropriation request of \$24,000 for partial funding to purchase two new buses. These two new buses will replace a 1998 Ford vehicle with approximately 100,000 miles and a Dodge van with approximately 82,000 miles. If approved, the \$24,000 appropriation will supplement a matching grant of \$96,000 that will be provided by the Massachusetts Bay Transit Authority (MBTA). The MBTA grant is part of a proposal that both the Towns of Framingham and Natick proposed to the Executive Office of Transportation and Construction. The Town prevailed in securing federal funding in the amount of \$96,000, in the form of a matching grant. The total cost to purchase the two buses is \$120,000. The Town's portion of this acquisition is suggested to be funded from the Receipts Reserved for TJX Traffic Mitigation Fund.

The Finance Committee seeks the support of Town Meeting members with regard to funding this appropriation request.

Motion:

Move that the Town vote to appropriate the sum of \$24,000 (matching funds) to be expended under the direction of the Town Administrator and the Director of Community Development along with \$96,000 that will be provided by the Massachusetts Bay Transit Authority (MBTA) for the purpose of acquiring two (2) new buses.

And that the sum of \$24,000 be raised from Receipts Reserved TJX Mitigation Fund.

**ARTICLE 6
(Town Administrator)**

To see if the Town will vote to appropriate and raise, or otherwise provide, a sum or sums of money to implement a Capital Improvement Program, to protect the physical infrastructure of the Town of Natick, or otherwise act thereon.

RECOMMENDATIONS: By the votes indicated below, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 6 and that the sum of \$754,454 be appropriated from Tax Levy.

- 1) **Windsor Ave Boat Landing Improvements voted 12-0-0 on September 21, 2004 and the sum of \$9,500 from Tax Levy;**
- 2) **Westlake and Waring Roads Drainage Project voted 12-0-0 on September 21, 2004 and the sum of \$138,030 (27,606 for engineering and \$110, 424 for construction costs) from Tax Levy;**
- 3) **Willow Street and Washington Avenue Drainage Project voted 12-0-0 on September 21, 2004 and the sum of \$130,000 (engineering costs) from Tax Levy;**
- 4) **Glen Street Drainage Project voted 12-0-0 on September 21, 2004 and the sum of \$286,074 (engineering costs) from Tax Levy;**
- 5) **South Avenue Drainage Project voted September 21, 2004 and the sum of \$165,850 (\$33,170 engineering and \$132,680 construction costs) from Tax Levy;**
- 6) **Middle Street Drainage Project voted 10-0-0 voted September 28, 2004 and the sum of \$25,000 (engineering costs) from Tax Levy; and,**

Total Tax Levy Use: \$754,454

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to seek Town Meeting's appropriation of a sum of money to fund certain capital improvements, under the Capital Improvement Program. The Finance Committee heard information about the six (6) requests that are being recommended for Town Meeting's approval.

Concerning Item #1 above, the Park and Recreation director and representative of the Recreation Commission presented substantial information and acceptable reason for the Finance Committee to recommend favorable action with regard to a boat landing and adjacent areas located at Dug Pond - Windsor Ave. Boat Landing. The project includes the installation of a guardrail and double gate at this site. The installation of these improvements will prevent boaters, who haven't cleared the bottoms of their boats of non-indigenous weeds, which could spread unimpeded in Dug Pond, from placing their boats into Dug Pond. In addition, these improvements will protect an adjacent area – Jeannie Donahue Boat landing.

Park and Recreation officials should be available to discuss this capital improvement in detail and answer any question.

Concerning Item #2 above, the Public Works director and other managers presented substantial information and acceptable reason for the Finance Committee to recommend favorable action with regard to a prospective drainage project in the area of Westlake and Windsor Roads. This capital improvement project request is for funding of engineering (\$27,606.00) and construction (\$110,424.00) costs. This project is in response to the neighborhood's concerns about area flooding and maximization of the existing drainage system in the area of Bennett-Hemenway School, as indicated in Article 14. The scope of this project will also remedy drainage issues on public ways intersection in the area of both Westlake Road and Waring Road. The Finance

Committee is recommending funding of this necessary project under Article 4 rather than Article 14. Public Works officials should be available to discuss this capital improvement in detail and answer any question.

Concerning Item #3 above, the Public Works director and other managers presented substantial information and acceptable reason for the Finance Committee to recommend favorable action with regard to a prospective drainage project in the Willow Street and Washington Avenue area. This capital improvement project request is for funding of engineering costs only (\$130,000). The total cost of constructing this project is estimated to be \$520,000. Much of the need to proceed with the engineering of this project is precipitated by long-term drainage issues which are enhanced due to the topography of the area and close proximity of the area to Walnut Hill. Some of the project will be on private property or unaccepted public ways, so approval from property owners is necessary to proceed with construction. To that end, the Finance Committee is recommending funding of this necessary project engineering. Public Works officials should be available to discuss this capital improvement in detail and answer any question.

Concerning Item #4 above, the Public Works director and other managers presented substantial information and acceptable reason for the Finance Committee to recommend favorable action with regard to a prospective drainage project in Glen Street public right of way, with a small portion of construction on a few intersecting public ways and a overflow from property owned by Lookout Farm. This capital improvement project request is for funding of engineering costs only (\$286,074). The cost of construction is estimated to be \$1,144,296. The Finance Committee is recommending funding of this necessary project engineering. Public Works officials should be available to discuss this capital improvement in detail and answer any question.

Concerning Item #5 above, the Public Works director and other managers presented substantial information and acceptable reason for the Finance Committee to recommend favorable action with regard to a prospective drainage project in South Avenue public right of way. This capital improvement project request is for funding of engineering (\$33,170) and construction (\$132,680) costs. The total cost of this project is \$165,850. This project is in the area of the HOOP I Overlay District. Finance Committee members inquired whether this improvement project could be funded through mitigation under the HOOP By-law. Seeing that this project is a long standing need, the Finance Committee is recommending funding of this necessary project. Public Works officials should be available to discuss this capital improvement in detail and answer any question.

Concerning Item #6 above, the Public Works director and other managers presented substantial information and acceptable reason for the Finance Committee to recommend favorable action with regard to a prospective drainage project in the Middle Street area, with the flow exiting on the CSX and MBTA railroad easement. Much of the need to perform this project is precipitated by the runoff from the Walnut Hill area. This capital improvement project request from Public Works is for funding of engineering costs only (\$126,100). The cost of construction is estimated to be \$504,600. The Finance Committee expressed concerned that the project is contingent upon the approval of CSX. To that end, the Finance Committee, after discussions with Public Works engineers and in the interest of not expending the entire amount requested for complete project engineering plans before gaining all approvals, recommends that only \$25,000 of the requested engineering funds be appropriated by Town Meeting. This amount would allow preliminary engineering drawing and plans to be produced and provided to CSX for approval. Without such approval the project will not be able to proceed. Public Works officials should be available to discuss this capital improvement in detail and answer any question.

The Finance Committee for many years has discussed the capital improvements of the Town's public utilities and infrastructure and issues related the Capital Improvement Program. The Town has invested funds in it buildings and other real property; however, the need exists to improve our roads, sidewalks, parks and town-owned open spaces, water distribution system, sewer waste distribution system and our water drainage systems. With regard to the latter capital improvements, our ability to fund these types of projects has been made possible due to the renewed focus on and incorporation of capital improvements as regularly budgeted items. In addition, we are able to fund these capital improvement projects due to the collective fiscal prudence of Town Meeting and Town officials.

Motion:

Moved that the Town vote to appropriate the sum of \$754,454 to be expended under the direction of the Town Administrator and the various department heads for the purpose of the various infrastructure projects as part of the Town's Capital Improvement Program :

Department	Project	Amount
Parks & Recreation	Windsor Ave Boat Landing	\$ 9,500
Public Works		
– Engineering Division	Westlake & Waring Roads Drainage	\$ 138,030
	Engineering - \$ 27,606	
	Construction - \$ 110,424	
	Willow Street & Washington Avenue Drainage	\$ 130,000
	Engineering - \$ 130,000	
	Glen Street Drainage	\$ 286,074
	Engineering - \$ 286,074	
	South Avenue Drainage	\$ 165,850
	Engineering - \$ 33,170	
	Construction - \$ 132,680	
	Middle Street Drainage	\$ 25,000
	Engineering - \$ 25,000	

And that the sum of \$754,454 be raised from Tax Levy of Fiscal Year 2005.

ARTICLE 7
(Town Administrator)

To see if the Town will vote to appropriate and raise, or otherwise provide, a sum or sums of money as may be required for the lease and/or repair of equipment for various departments of the Town of Natick, or otherwise act thereon.

RECOMMENDATIONS: NO ACTION with regard to the subject matter of Article 7:

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to fund any equipment lease and/or repairs. As of the time of this writing, there are no such request(s) and thus no action is recommended by the Finance Committee.

No Action:

**ARTICLE 8
(Commission on Disability)**

To see if the Town will vote to increase from 50% to 75% the amount of monies allocated to the Commission on Disability as the result of fines generated from violations of handicapped parking laws

and further

To see if the Town will vote to appropriate and raise, or otherwise provide a sum of money not to exceed \$4,125 for the purchase and installation of audio tactile push button walk signals at various intersections in Natick, curb cuts and access route installations and repairs, and to provide for disability awareness/educational materials to be used with the public and private sector or otherwise act thereon.

RECOMMENDATIONS: By a vote of 9-0-0 on September 28, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 8 and that the sum of \$4,125 be appropriated from Tax Levy

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to seek Town Meeting's positive action with regard to two related questions. Specifically, Town Meeting is first asked to increase the allowable percentage of fines collected from violations of the handicapped parking laws to be allocated to the Commission on Disability. Next, Town Meeting is asked to appropriate an amount of money, which is 75% of the handicapped parking laws fines collected in the in the previous fiscal year.

With regard to the request to increase the percentage of handicapped parking fines allocated to this purpose, the Finance Committee recommends that Town Meeting approve the increase from fifty percent (50%) to seventy-five percent (75%). The current levels of monies allocated to this purpose from monies collected due to handicapped parking fines are 50% as indicated in the article. Since the inception of this program and the first approval by Town Meeting of such funds, 50% of the fines collected have been allocated as such. The Finance Committee heard reasonable testimony warranting increased spending for the purchase and installation of audio tactile push button walk signals, curb cuts and access route installations and repairs, and to provide for disability awareness/educational materials.

With regard to the request to appropriate an amount of money from the past fiscal year's handicapped parking fines, the Finance Committee recommends that Town Meeting approve the amount of \$4,125.00. We heard testimony regarding the past and future projects that have and/or will be provided with funding from the handicapped parking fines. Such testimony led the committee to unanimously recommend the appropriation of \$4,125.00.

Motion:

Move that the Town vote to appropriate the sum of \$4,125 to be expended under the direction of the Commission for the Disabled for the purpose of installation of audio tactile push button signals at various intersections in Natick, curb cut and access route installation and repairs and to provide for disability awareness/education materials to be used with the public and private sector.

And that the sum of \$4,125 be raised from the Tax Levy of Fiscal 2005.

ARTICLE 9
(Commission on Disability)

To see if the Town in accordance with Massachusetts General Laws, Chapter 40: Section 22A, will vote to raise the amount of fines for handicapped parking violations in the following amounts:

- 1) Handicapped Parking Violations: from \$100.00 to \$200.00
- 2) Access Aisle Violations: from \$200.00 to \$300.00

RECOMMENDATIONS: By a vote of 10-0-0 on September 30, 2004, the Finance Committee recommends REFERRAL TO THE NATICK COMMISSION ON DISABILITY with regard to the subject matter of Article 9.

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to seek Town Meeting's assent to increase fines for violations of handicapped parking within a designated handicapped parking space and handicapped access aisles. The Finance Committee heard testimony with regard to this matter, which supported both a positive and negative viewpoints with compelling facts that warrant Town Meeting's future view of this matter.

While reviewing this matter and the Town of Natick By-laws (By-laws), specifically Article 50 – Police Regulations, Section 22 – Designated Parking Spaces for Handicapped, Subsection 22, we discovered that the violations for handicapped parking laws are specifically set a one hundred dollars (\$100.00). Since the subject matter of this article does not modify the Town's By-laws, we believe that it should be returned to the sponsor – the Natick Commission on Disability – for further study and possible later return for further consideration by Town Meeting.

Motion:

Move that the Town vote to refer the subject matter of Article 9 to the Natick Commission on Disability.

ARTICLE 10
(Recreation and Parks Commission)

To see if the Town will vote to raise and appropriate, transfer from available funds or otherwise provide a sum of money for site improvements and renovations of the Dug Pond Boat Landing on Windsor Avenue for the protection of Dug Pond; and to determine whether this appropriation will be raised by borrowing or otherwise; or otherwise act thereon.

RECOMMENDATIONS: NO ACTION with regard to the subject matter of Article 10:

Positive Action Requires a MAJORITY Vote.

This article seeks funding for specific capital improvements and renovations to the Dug Pond Boat Landing located on Windsor Avenue. The sponsor, the Recreation and Park director and the town administration testified that the subject matter of this article should be considered under Article 6 of the 2004 Fall Town Meeting Warrant. Therefore, please refer to the Finance Committee's recommendation for funding this capital improvement under Article 6 above.

No Action:

ARTICLE 11
(Town Administrator)

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide, a sum of money to be expended by the Department of Public Works to implement the cleaning and relining of approximately 14,250 feet of water main along the section of Speen Street from the Sherborn town line to the Framingham town line; and to determine whether this appropriation shall be raised by borrowing or otherwise; or otherwise act thereon.

RECOMMENDATIONS: By a vote of 12-0-0 on September 28, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 11 and that the sum of \$1,700,000 be raised by borrowing.

Positive Action Requires a 2/3 Vote.

The purpose of this article is to seek funding for phase 4 of the Town's Water Main Cleaning and Relining Program. The Finance Committee recommends Town Meeting's approval to borrow \$1,700,000.00 for the purposes of this article. Should Town Meeting approve this article as recommended, it will permit the cleaning and re-lining of approximately 14,250 linear feet of water main in Speen Street, between the Sherborn and Framingham town lines. Cleaning and relining of the Town's water mains removes the iron and manganese that builds up on the inside of pipes over a number of years. The work will insure cleaner water and better water pressure in the project areas upon completion of the project. Specifically, this work consists of installing temporary water pipes on Speen Street at grade level, excavating of pits along Speen Street providing access to water mains, and cleaning and relining with cement slurry of the water mains. The project will be bid with previously approved phase 3 projects which include three locations: Union Street, Summer Street and Pond Street.

The annual impact of this project to the average resident's water rate is approximately \$6.80 per year over a twenty-year period (or a 3.25% increase on average to water rates).

Motion:

Moved that the Town vote to appropriate the sum of \$1,700,000 to be expended under the direction of the Director of Public Works and the Town Administrator to implement the cleaning and relining of approximately 14,250 linear feet of water main on Speen Street between the Sherborn and Framingham town lines and to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$1,700,000 under Mass General Laws Chapter 44 Section 8(5).

ARTICLE 12
(Town Administrator)

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide a sum of money to be expended by the Department of Public Works for the planning, study, design +and/or repair of the Town's sewer system to identify and/or prohibit extraneous flow in the form of Infiltration and Inflow into the Town sewer system; and to determine whether this appropriation shall be raised by borrowing or otherwise; or otherwise act thereon.

RECOMMENDATIONS: By a vote of 12-0-0 on September 28, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 12 and that the sum of \$615,000 be raised by borrowing in the amount of \$338,250 and a grant provided by the Massachusetts Water Resources Authority in the amount of \$276,750.

Positive Action Requires a 2/3 Vote.

The purpose of this article is to allow the Town to receive a grant and a zero percent (0%) loan from the Massachusetts Water Resources Authority (MWRA). Such funds will be used to help the Town in finding infiltration and inflow (I & I) into the Town's sewer system. Removing I & I from the Town's sewer system reduces the amount of chargeable sewage flow sent to the MWRA infrastructure and facilities. The Town has taken advantage of this MWRA funding program in the past with great success. Upon approval, the Town will be able to study I & I and will examine approximately 75 miles of the Town sewer system in various areas of the Town, which represents approximately one-half (1/2) of the total miles of the Town sewer system. The estimates cost of this project is \$615,000.00. The Town anticipates that forty-five percent (45% or \$276,750.00) of this cost will be funded by a grant from the MWRA and fifty-five percent (55% or \$338,250.00) will be funded by a interest free loan payable in five equal payments over a five year period.

The annual impact of this project to the average resident's sewer rate is approximately \$6.36 per year over a five-year period (or a 2.88% increase on average to sewer rates).

Motion:

Moved that the Town vote to appropriate the sum of \$615,000 to be expended under the direction of the Director of Public Works and the Town Administrator for the planning study, design and/or repair of the Town's sewer system to identify and/or prohibit extraneous flow in the form of Infiltration and Inflow into the sewer system; that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$615,000 under Massachusetts General Laws Chapter 44 Section 7(1); that the Treasurer with the approval of the Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Resources Authority ("MWRA") and in connection therewith to enter into a loan agreement and/or security agreement with the MWRA with respect to such loan; and that the Board of Selectmen be authorized to contract for and expend any federal state or other aid available for the project, including any grant related to such project from the MWRA.

ARTICLE 13
(Town Administrator)

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide a sum of money for the construction of a Town sewer system to service the areas of Clubhouse Lane, and Saddlebrook Road; to determine whether this appropriation shall be raised by borrowing or otherwise; such work to be performed and betterments to be assessed in accordance with applicable Massachusetts law and the Town of Natick By-Laws, Article 71; and to authorize the Board of Selectmen to acquire by purchase, eminent domain or otherwise, easements for utility purposes to permit the installation of Town sewer pipe in Saddlebrook Road, and service connections from said sewer pipe, and to allow the repair and maintenance thereof; or otherwise act thereon.

RECOMMENDATIONS: By a vote of 9-0-0 on October 5, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 13 and that the sum of \$352,000 be appropriated from borrowing. Positive Action Requires a 2/3 Vote.

The purpose of this article is to provide funding to construct a sewer system to serve the areas of Clubhouse Lane and Saddlebrook Road. If approved, this project would be done under the Town's Betterment By-law. Such By-law provides that residents pay seventy-five (75%) of the total cost of the project - \$352,000.00. The project was precipitated by previous articles before Town Meeting and the failure of cesspool and septic system Title 5 tests in the area.

The Town engineer recently met with the residents to review the design of the system and to discuss the estimates compiled by the Town. The Town developed two plans to provide sewer to all the residences on the two streets. One plan - a gravity sewer system - totaled \$965,000.00. This plan would be funded \$723,750.00 by betterment and \$241,250.00 from the Town Sewer and Water Revenues. The other plan - a low pressure sewer service - totaled \$352,000.00. This plan, which was reported to be the plan of choice by the residents and is the plan recommended by the Finance Committee, would be funded \$264,000.00 by betterment and \$88,000.00 from the Town Sewer and Water Revenues.

The residents held their own meetings to discuss whether or not they wanted to pursue project approval at Town Meeting. Residents presented the Finance Committee with a petition signed by eleven (11) of the eighteen (18) residences that would be affected. All homeowners signing live on Clubhouse Lane; none of the residents of Saddlebrook Road signed the petition. It should be noted that the residents will also be required to pay for sewage pumps and other related home located devices in addition to the betterment costs of the low pressure sewer system. Residents clearly understood this fact and testified that they were willing to move forward to seek Town Meeting's approval of this article, so that the low pressure sewer system would proceed after appropriate bidding and award processes.

The annual impact of this project to the average resident's sewer rate is approximately \$.84 per year over a twenty-year period (or a .37% increase on average to sewer rates).

Motion:

Moved that the Town vote to appropriate the sum of \$352,000 to be expended under the direction of the Director of Public Works and the Town Administrator to construct a system of sewer mains, lateral lines, trunk mains, and pump stations to service the areas of Clubhouse Lane, and Saddlebrook Road; such work to be performed and betterments assessed in accordance with the Town of Natick By-Laws Article 71 and further the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$352,000 under Massachusetts General Laws Chapter 44 Section 7(1).

ARTICLE 14
(Mark Brambilla, et al)

We the registered voters of Natick, Massachusetts request the Town of Natick to raise and/or appropriate funds for the purpose of certain storm water drain improvements in the Bennett-Hemenway school area. Said improvements are believed necessary as recent school construction failed to properly provide for the efficient drainage of rain waters from the school area into the sewer system. Presently the intersection of Westlake Road and Waring Road regularly floods during moderate to heavy rain events. This intersection is a residential neighborhood that bears much pedestrian, car and school bus traffic during the morning and mid-afternoon hours related to the school's operation. Flood levels are routinely approaching the resident's homes threatening damage to property. Water levels during said storms reach mid-wheel on a school bus. Manhole covers become displaced and uncovered manholes, not visible due to floodwaters, threaten the passing vehicles. Children often play and swim in the floodwater amongst the collected drainage debris and are too at peril of being swallowed by the open manholes to their certain demise.

We the voters and residents request the Town of Natick to address this drainage concern with due expedience and make the remedy of this safety concern of utmost priority.

RECOMMENDATIONS: NO ACTION with regard to the subject matter of Article 14:

Positive Action Requires a MAJORITY Vote.

The purpose of this article, which was proposed by a citizen petition, is to fund a certain sewer project in the area of the Bennett-Hemenway School (Westlake Road and Waring Road areas). The sponsors of this article did not appear before the Finance Committee, so the committee assumed that no action is warranted hereunder. However, Town Meeting should have heard this project's recommendation to be funded under Article 6 above, where the Finance Committee recommended favorable action with regard to this area's drainage project.

No Action

ARTICLE 15
(Town Administrator)

To see if the Town will vote to rescind the following amounts of unissued debt authorized for the following purposes;

<u>Amount Rescinded</u>	<u>Article Number</u>	<u>Date of Vote</u>	<u>Purpose</u>
\$100,000.00	Article 21	April 11, 2002	Golf Course

or take any other action relative thereto.

RECOMMENDATIONS: By a vote of 12-0-0 on September 21, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 15.

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to rescind past Town Meeting borrowing authorizations. Specifically, the amount approved by Town Meeting is an authorization which has not been enacted by the bond issuing authority (i.e., Board of Selectmen). Town Meeting's affirmative action on the recommended motion will remove the borrowing authorizations as itemized in the motion. Town administration should be available to answer questions and/or provide details about the specific recommendations. The Finance Committee seeks Town Meeting's support for the subject matter of Article 15.

Motion:

Move that the Town vote to rescind the following amounts of un-issued debt authorized for the following purposes;

<u>Amount Rescinded</u>	<u>Date of Vote</u>	<u>Article</u>	<u>Purpose</u>
\$100,000	April 11, 2002	21	Golf Course

ARTICLE 16
(Town Administrator)

To see if the Town will vote to raise and appropriate, or otherwise provide such sums of money as may be required for the payment of unpaid bills of previous years, incurred by the departments, boards and officers of the Town of Natick, or otherwise act thereon.

RECOMMENDATIONS: NO ACTION with regard to the subject matter of Article 16:

Positive Action Requires a MAJORITY Vote.

No Action

ARTICLE 17
(Town Administrator)

To see if the Town will vote to authorize and direct the Board of Assessors to take a sum of money from Surplus Revenue - Free Cash to reduce the tax levy for the current fiscal year.

RECOMMENDATIONS: NO ACTION with regard to the subject matter of Article 17:

Positive Action Requires a MAJORITY Vote.

No Action

ARTICLE 18
(Board of Selectmen)

To see if the Town will vote to authorize the Board of Selectmen to submit to the Massachusetts Economic Assistance Coordinating Council an application designating the property located at 2 and 3 Apple Hill Drive, Natick, MA, described on Assessor's Map 19, as Parcel 7, as an Economic Opportunity Area.

RECOMMENDATION: By a vote of 8-0-0 (Mr. Mattice abstaining) on October 5, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 18:

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to authorize the Selectmen to submit an application to the appropriate state agency (Massachusetts Economic Assistance Coordinating Council or MEACC). Such application is part of the Economic Development Incentive Program (EDIP). Specifically, Massachusetts General Law (M.G.L.) Chapter 40, Section 59 permits the EDIP and its three major components.

The EDIP is a program designed to encourage economic development and/or incentives for private companies that remain in the state, by providing tax benefits, exemptions and/or incentives on the local and state levels. On the local level, municipalities may enter into agreements that include property tax exemption, which provide a minimum level of relief (1% tax exemption) to businesses in an Economic Opportunity Area. On the state level the incentive is in the form of a tax credit, based on certain criteria, of five percent (5%) of such business located for a defined period of time in a specific Economic Opportunity Area.

From the Town's perspective, the EDIP process consists of three major components. First, the program permits the designation and/or extension of an Economic Target Area (ETA). Next, the program allows municipalities to form an Economic Opportunity Area (EOA) within the ETA. Finally, the program allows a municipality to enter into a Tax Increment Financing (TIF) agreement, which is negotiated between the municipality and the business (see Article 19 regarding TIF agreement action).

Contiguous to Natick, there exists an ETA that includes five municipalities - Northborough, Marlborough, Framingham, Ashland and Hudson – that is know as the Framingham-Marlborough Regional ETA. Town administration has reached out to each of the communities in this ETA to gain their assent to include Natick as a municipality in the existing ETA, so that an EOA may be designated within Natick. The Selectmen have voted to enter into this ETA. All of the municipalities have provided their assent to include Natick in the ETA.

This article takes the steps in the process in which the Town must apply to the MEACC to gain approval to extend the regional ETA to include Natick, and the EOA is designated. Approval of this article must first be achieved before the final step as depicted in Article 19 can be finalized.

The Finance Committee received information from MathWorks, Inc (MathWorks), including an Economic Impact Report, which we include in the following pages for Town Meeting Members' perusal. This information is very instructive with regard to MathWorks and their future plans to utilize the two Apple Hill Drive properties that they intend to purchase, upgrade and expand their current operations into.

Selectmen, the Town administration and representatives of MathWorks should be available for additional information and to answer questions.

Motion:

Move that the Town vote to authorize the Board of Selectmen to submit to the Massachusetts Economic Assistance Coordinating Council an application designating the property located at 2 and 3 Apple Hill Drive, Natick, Ma, described on Assessor's Map 19 as Parcel 7, as an Economic Opportunity Area.

THE MATH WORKS, INC ECONOMIC IMPACT REPORT

FOR

THE TOWN OF NATICK

ARTICLE 19
(Board of Selectmen)

To see if the Town will vote to authorize the Board of Selectmen to enter into a Tax Increment Financing Plan with The Math Works, pursuant to the provisions of Chapter 40, Section 59 of the Massachusetts General Laws, in connection with the purchase of property located at 2 and 3 Apple Hill Drive, Natick, MA , shown on Natick Assessors' Map 19 as Parcel 7, which is the subject matter of a Certified Project Application prepared by The Math Works, and to authorize the Board of Selectmen to execute such documents and to take such action as is necessary to obtain approval of the Certified Project Application and to implement said Tax Increment Financing Plan, a copy of which is on file in the office of the Natick Town Clerk.
Or otherwise act thereon.

RECOMMENDATION: By a vote of 8-0-0 (Mr. Mattice abstaining) on October 5, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 19:

Positive Action Requires a MAJORITY Vote.

This article is associated with Article 18. As indicated in Article 18, the Town may enter into a TFI agreement which, after approval of Article 19, is negotiated and executed between and by the Board of Selectmen and MathWorks. Also as indicated above and in MathWorks' Economic Impact Report is the basis of the minimal financial impact of the TIF agreement that the Town realize in any agreement that is ratified, after approval of and consistent with this article.

The Finance Committee heard testimony from the Town administration, MathWorks, board and committee members and the public regarding the subject matter of this article. In general, the testimony provided the committee with positive recommendations with regard to the Town entering into a TIF agreement with MathWorks.

The Planning Board provided testimony that it preferred that a committee consisting of a member from each of the Board of Selectmen, Finance Committee, Board of Assessors, Planning Board, and Town Moderator to review and provide its approval, before the Selectmen enter into a TIF agreement under this article. Our recommended motion take into account these comments and provides sufficient authority for the aforementioned boards, committees and/or office to make recommendations to the Board of Selectmen, before their approval and execution of a TIF agreement under this article.

During debate on this article, a number of Finance Committee members commented that they desired to make certain that any TIF agreement under this license would contain certain limitations as indicated in the motion provided by the Finance Committee. Specifically, the limitation should be included any TIF agreement under this article shall provide for no more than one percent (1%) property tax exemption.

Town Meeting Members will find a copy of a draft TIF agreement, which was provided to the Finance Committee. Selectmen, the Town administration and representatives of MathWorks should be available to provide additional information and/or answer questions.

Motion:

Moved that the town vote to provide that the Tax Increment Financing as stated in the text of Article 19 an agreement negotiated by the Board of Selectmen shall not exceed 1 % of the increment defined in 760 CMR 22.05(4) for a number of years not to exceed twenty, and further that the Board of Selectmen seek input from the Board of Assessors, Planning Board and Finance Committee regarding the form of the final agreement.

DRAFT

TAX INCREMENT FINANCING AGREEMENT

TOWN OF NATICK

AND

MATH WORKS, INC

ARTICLE 20
(Board of Selectmen)

To see if the Town will vote to authorize the Board of Selectmen to acquire a parcel of land with the buildings thereon owned now or formerly by the Commonwealth of Massachusetts and used now or formerly as a National Guard Armory; said parcel contains approximately 34,180 square feet, is located at 97 East Central Street, Natick, MA, and is shown on Town of Natick Assessors' Map 44 as Parcel 269; to see what sum of money the Town will vote to appropriate for the purposes of this article; to determine how said appropriation shall be raised, whether by transfer from available funds, borrowing or otherwise; to see if the Town will vote to authorize the Board of Selectmen to apply for and receive on behalf of the Town grants, gifts or donations for the purposes of this article from federal, state or private sources; to authorize the Board of Selectmen to execute all documents and to take any action necessary to accomplish the purposes of this article;

or otherwise act thereon.

RECOMMENDATIONS: NO ACTION with regard to the subject matter of Article 20:

Positive Action Requires a MAJORITY Vote.

No Action

ARTICLE 21
(Board of Selectmen)

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to enact legislation in substantially the following form, provided that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.

AN ACT AUTHORIZING THE
COMMONWEALTH OF MASSACHUSETTS
TO CONVEY CERTAIN PROPERTY
TO THE TOWN OF NATICK

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1: Notwithstanding sections 40E through 40J of Chapter 7 of the General Laws or any other general or special law to the contrary, the Commonwealth of Massachusetts may convey to the town of Natick, upon such terms as the commissioner of capital asset management shall determine, a parcel of land with the buildings thereon owned by the Commonwealth of Massachusetts and used now or formerly as a National Guard Armory. Said parcel contains approximately 34,180 square feet, is located at 97 East Central Street in said town, and is shown on town of Natick Assessors' Map 44 as Parcel 269.

SECTION 2: This act shall take effect upon its passage.

RECOMMENDATION: By a vote of 10-0-0 on September 30, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 21:

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to assent to providing the above text of an act that will go before the Massachusetts Senate and House of Representatives. This act will provide the Commonwealth of Massachusetts administration to convey, transfer and/or sell property located in the Town known as the Natick National Guard Armory property. As Town Meeting Members may know, the Board of Selectmen and Town Administrator have been working toward the purchase and/or conveyance of this property.

Selectmen and the Town Administrator should be available to provide additional information and answer questions with regard to this matter.

Motion:

Move that the town vote to authorize the Board of Selectmen to petition the General Court to enact legislation authorizing the Commonwealth of Massachusetts to convey certain property to the Town of Natick as stated in the text of Article 21.

ARTICLE 22
(Town Administrator)

To see if the Town will vote to accept the following streets and appurtenant easements as laid out and filed with the Town Clerk, and as shown on street acceptance plans on file with the Town Clerk:

Libby Road
Samuel Path
Marie Path
Katie Path
Pheasant Hollow Road (from the end of the current accepted portion to Theresa Lane)

or otherwise act thereon.

RECOMMENDATION: By a vote of 12-0-0 on September 28, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the following streets:

Libby Road.

Positive Action Requires a MAJORITY Vote.

This article seeks Town Meeting's approval to accept Libby Road, Samuel Path, Marie Path, Katie Path and a certain portion of Pheasant Hollow Road, including any appurtenant easements associated with these unaccepted ways. It was reported that Libby road was the only unaccepted public way listed in this article that had its performance bonds released by the Planning Board. The Planning Board and Selectmen both voted to accept Libby Road. To those ends, the Finance Committee recommends that only Libby Road and any appurtenant easements therein be accepted at this time. Town Officials should be available to answer Town Meeting Member questions with regard to the subject matter of this article.

Motion:

Move that the town vote to accept the following street and appurtenant easements as laid out and filed with the Town Clerk:

Libby Road

ARTICLE 23
Charter Amendment: Referendum Procedure
(Town Moderator)

To see if the Town will vote to approve an amendment to Section 2-13 of Chapter 2 of the Natick Home Rule Charter for submittal to the voters in order to (1) correct the procedures for calling the election so that they are in compliance with the General Laws; (2) allow the Selectmen more latitude in scheduling the election; (3) define the referendum procedure so that it is only permitted to reverse the action taken by Town Meeting on an affirmative main motion properly introduced, debated, and either approved or disapproved; (4) describe the effect of subsidiary motions applied to the main motion; (5) revise the list of cases for which referendum is not allowed; and (6) handle the issue of formulating the ballot question to insure that it is clear to the voters; or otherwise act thereon.

RECOMMENDATION: By a vote of 9-0-0 on October 5, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 23:

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to address proposed changes that are intended to correct perceived problems with the referendum procedure described in Section 2-13 of Article 2 of the Natick Home Rule Charter. The proposed changes embrace six areas: (1) correct the procedures for calling the election so that they are in compliance with the General Laws; (2) allow the Selectmen more latitude in scheduling the election; (3) define the referendum procedure so that it is only permitted to reverse the action taken by Town Meeting on an affirmative main motion properly introduced, debated, and either approved or disapproved; (4) describe the effect of subsidiary motions applied to the main motion; (5) revise the list of cases for which referendum is not allowed; and (6) handle the issue of formulating the ballot question to insure that it is clear to the voters.

The Finance Committee is in agreement with most of the sponsor's proposed changes that this article seeks to make. Specifically, we agreed with changes that would define the referendum procedures so that it is only permitted to reverse the action taken by Town Meeting after an affirmative main motion, properly dealt with by Town Meeting, is either approved or disapproved. The following represents the changes recommended by the Finance Committee:

(1) In Section 2-13 (a), in the first sentence,

(1a) Delete the beginning words of the sentence:

No final vote of the representative town meeting under any warrant article

and insert in their place the words:

No final vote of the representative town meeting to approve or reject an affirmative main motion under a warrant article

(1b) Delete the following words of the sentence:

a vote to adjourn or to dissolve a town meeting,

As amended, the first sentence would read:

No final vote of the representative town meeting to approve or reject an affirmative main motion under a warrant article, but not including a vote appropriating money for the payment of notes or bonds of the town and interest thereon coming due, a vote appropriating money in anticipation of taxes or other revenue, or a vote declared by preamble to be an emergency measure, necessary for the immediate preservation of the peace, health, safety or a convenience of the town, shall be operative until the expiration of seven days following the dissolution of the meeting.

(2) Delete Section 2-13 (b). Insert the following new text:

*(b) **Subsidiary Motions** - The affirmative main motion subject to referendum shall be the final form of the motion as modified by any amendments adopted. Whenever a subsidiary motion to lay upon the table, to refer, or to postpone indefinitely is applied to the affirmative main motion and is voted by the representative town meeting, the affirmative main motion shall be deemed to have been rejected.*

In addition to the above changes, the Finance Committee agreed with the sponsor's changes to the Natick Home Rule Charter (Charter) under this article except for one proposed change. Specifically, we disagreed with changes to the timeframes in which the Selectmen would call an election after a referendum proponent has met all requirements in the Charter. We voted that the Selectmen should call a town election within thirty-five (35) day but no more than ninety-five (95) days after the certification of referendum signatures. The following represents the change recommended by the Finance Committee:

(3) In Section 2-13 (c), in the second sentence:

(3a) Delete the word "ten" and insert in its place the word "fourteen".

(3b) Delete the words:

call a special election to be held on a date fixed by it not less than fourteen nor more than twenty-one days later for submission of such question, or questions, to the voters for a final determination

and insert in their place the words:

upon certification of the signatures, cause the question to be placed on the ballot at a town election scheduled to occur not less than thirty-five days later or more than ninety-five days later.

As amended, the second sentence would read:

The board of selectmen shall, within fourteen days following the filing of such petition, upon certification of the signatures, cause the question to be placed on the ballot at a town election scheduled to occur not less than thirty-five days later or more than ninety-five days later.

(4) In Section 2-13 (d), delete the word "Questions" and insert in its place the words "A question".

(5) In Section 2-13 (e), in the second sentence, in the phrase "at such special election", delete the word "special".

The Finance Committee seeks Town Meeting's support on the following motion that seeks to amend Section 2-13 of Article 2 of the Charter. In addition, we composed the motion so that the voters would have the ability to vote on these matters in the form of two questions. We feel providing the proposed motion to the voters in two questions would provide greater clarity regarding the subject matter and ability to choose to vote positively or negatively on each of the topic subject matters.

Motion:

Move that the Town vote to amend Section 2-13 of Article 2 of the Natick Home Rule Charter for submittal to the voters in the form of two questions. The amendments are as follows:

Amendment and Question #1:

(1) In Section 2-13 (a), in the first sentence,

(1a) Delete the beginning words of the sentence:

No final vote of the representative town meeting under any warrant article

and insert in their place the words:

No final vote of the representative town meeting to approve or reject an affirmative main motion under a warrant article

(1b) Delete the following words of the sentence:

a vote to adjourn or to dissolve a town meeting,

As amended, the first sentence would read:

No final vote of the representative town meeting to approve or reject an affirmative main motion under a warrant article, but not including a vote appropriating money for the payment of notes or bonds of the town and interest thereon coming due, a vote appropriating money in anticipation of taxes or other revenue, or a vote declared by preamble to be an emergency measure, necessary for the immediate preservation of the peace, health, safety or a convenience of the town, shall be operative until the expiration of seven days following the dissolution of the meeting.

(2) Delete Section 2-13 (b). Insert the following new text:

(b) **Subsidiary Motions** - The affirmative main motion subject to referendum shall be the final form of the motion as modified by any amendments adopted. Whenever a subsidiary motion to lay upon the table, to refer, or to postpone indefinitely is applied to the affirmative main motion and is voted by the representative town meeting, the affirmative main motion shall be deemed to have been rejected.

Amendment and Question #2:

(3) In Section 2-13 (c), in the second sentence:

(3a) Delete the word "ten" and insert in its place the word "fourteen".

(3b) Delete the words:

call a special election to be held on a date fixed by it not less than fourteen nor more than twenty-one days later for submission of such question, or questions, to the voters for a final determination

and insert in their place the words:

upon certification of the signatures, cause the question to be placed on the ballot at a town election scheduled to occur not less than thirty-five days later or more than ninety-five days later.

As amended, the second sentence would read:

The board of selectmen shall, within fourteen days following the filing of such petition, upon certification of the signatures, cause the question to be placed on the ballot at a town election not less than thirty-five days later or more than ninety-five days later.

(4) In Section 2-13 (d), delete the word "Questions" and insert in its place the words "A question".

(5) In Section 2-13 (e), in the second sentence, in the phrase "at such special election", delete the word "special".

**ARTICLE 24
(School Committee)**

To see if the Town will vote to amend the Town of Natick By-Law by amending Article 53 which reads:

**Article 53
Use of Recreational Conveyances**

Section 1 Prohibited Areas of Use

Recreational conveyances, both motorized and non-motorized, including, but not limited to, scooters, skateboards, roller skates, and roller blades may not be used or operated in, on or upon any non-school building owned by the Town of Natick or the stairs and grounds of a non-school building owned by the Town of Natick, except grounds specifically designated for recreational use or operation. Such recreational conveyances may not be used or operated upon any private building or land where the owner or other person in control of the property has posted a notice prohibiting such use or operation.

The amendment would be to remove the words “non-school” and read as follows:

Section 1. Prohibited Areas of Use

Recreational conveyances, both motorized and non-motorized, including, but not limited to, scooters, skateboards, roller skates, and roller blades may not be used or operated in, on or upon any building owned by the Town of Natick or the stairs and grounds of a building owned by the Town of Natick, except grounds specifically designated for recreational use or operation. Such recreational conveyances may not be used or operated upon any private building or land where the owner or other person in control of the property has posted a notice prohibiting such use or operation.

RECOMMENDATION: By a vote of 8-1-0 on October 5, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 24:

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to amend the Natick By-laws as indicated in the text of the article. The School Committee sponsored this article and voted 6-1-0 in favor of its affirmative passage. Town Meeting may remember that it approved Article 53 of the By-laws at a recent Town Meeting. The Finance Committee amended the initial text of the then proposed article to exclude school controlled buildings due to a perceived lack of communications between the sponsor and the School Committee and school administration. The superintendent has now reported that the School Committee and school administration preferred for school properties to be treated similarly to all other Town-owned buildings so that there will be consistency in regulations and/or local law and treatment by the regulating authority – police department.

The Finance Committee concurs with the School Committee and school administration and seeks Town Meeting’s approval on the subject matter of this article. School Committee and/or school administrators should be available to provide further information or answer any questions.

Motion:

Move that the Town vote to amend the Town Natick By-Laws by amending Article 53 as stated in the text of Article 24

**ARTICLE 25
(Planning Board)**

To see if the Town of Natick will amend its Zoning By-Laws in the following respects, or otherwise act thereon:

Insert new areas of the Housing Overlay Option Plan – II (HOOP-II) District after Area a) to read as follows:

Area b):

As shown on the Town of Natick 2004 Assessor's Map 44 Lots 269, 270, 271A and 271B.

Area c):

As shown on the Town of Natick 2004 Assessor's Map 35 Lots 39,41,41A,40,44,99,100,101,102,103,104,43,42 and Map 43 Lots 466,467,467A,468,469.

Area d):

As shown on the Town of Natick 2004 Assessor's Map 36 Lots 1A, 1B, Map 44 Lot 277, Map 37 Lots 90A, 90C, and 91.

RECOMMENDATION: By a vote of 9-0-0 on October 5, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 25:

Positive Action Requires a MAJORITY Vote.

The purpose of this article is to amend the recently enacted article which defines the Housing Overlay Option Plan – II (HOOP II) overlay district. Town Meeting may remember that it approved the HOOP I and HOOP II overlay districts at the 2004 Annual Town Meeting session. The scope of this amendment is limited to the addition of three areas to the HOOP II overlay district. The three areas being considered by Town Meeting are: 1) multiple lots known as the Natick armory property and other town-owned land where the Natick Courthouse and Senior Center are currently located; 2) multiple lots north along Route 135, which are east of Mansfield Road; and, 3) multiple lots along the east side of North Main Street, which are in the areas of Middlesex and Cochituate Roads. Acceptance of this amendment does not alter the existing zoning or current uses for any of these properties. The Finance Committee understands that the subject matter of this article was before the Planning Board at a hearing held on September 28, 2004. At such time, the Planning Board vote to recommend favorable action with regard to the subject matter of this article. Community Development and Planning Board members should be available to further discuss this article and answer questions.

Motion:

Move that the Town vote to amend its Zoning By-Laws as stated in the text of Article 25,

NATICK PLANNING BOARD RECOMMENDATIONS

REGARDING

ARTICLE 25

ARTICLE 26
(Paul Griesmer, et al)

To see what action(s) Town Meeting will take to consider, accept, reject, refer and/or modify either in whole or in part by either addition, deletion, amendment, clarification or otherwise, the so called Town Meeting Member Handbook presented and distributed by the Financial Operations Committee of the Board of Selectmen at the Spring 2004 Town Meeting or take any other action relative thereto.

RECOMMENDATION: By a vote of 8-0-0 (Mr. Greismer abstaining) on October 5, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 26:

Positive Action Requires a MAJORITY Vote.

This article is offered to see if Town Meeting will determine the status of and accept, reject or modify the Town Meeting Member Handbook (TMMH) prepared by the Financial Operations Committee (FOC) of the Board of Selectmen and presented to Spring 2004 Town Meeting.

The Finance Committee heard that the sponsors of this article feel that the TMMH should have been presented under the Committee Article of Spring 2004 Annual Town Meeting to allow Town Meeting members to hear and act upon various committee reports. We believe the TMMH fell within the scope of Article 33 of the Spring 2004 TM warrant and that as such it should been reviewed by the Finance Committee and presented at a subsequent Town Meeting.

The Committee Article normally reads as follows: To hear and act upon the reports of the several Town officers and reports of committees authorized by vote of any further Town Meeting and to authorize a sum of money for the purpose thereof.”

Members of the Board of Selectmen are Town officers. Because the FOC prepared the TMMH report under their direction, we believe that the TMMH was a report within the meaning and scope of Article 33 of the Spring 2004 Annual Town Meeting Warrant.

The Finance Committee received the following written testimony which supports our recommendation to refer the subject matter of this article.

“By its name, the Town of Natick Town Meeting Member Handbook suggests it is ... an official document of the Town. However, the TMMH was created without Town Meeting action. The TMMH was created by an ad hoc appointed committee of the Board of Selectmen. At best, the TMMH is an official document of the ad hoc committee that created it. The sponsors of this article believe that TM should determine its own handbook and that, consistent with Article 23 Section 4 of the Town’s Bylaws, the TMMH should have been submitted to the Finance Committee for review and report prior to Spring 2004 [Annual] Town Meeting and that the TMMH should have been submitted for TM’s consideration. This article ensures that the subject matter of the TMMH is ultimately treated as it would have been if it had been submitted through the committee article of TM.

In addition to issues of protocol, key sections of the TMMH are not a fair summary of the [Natick Home Rule] Charter [(Charter)] and [Natick] By Laws [(By Laws)]. These sections of the TMMH need to be changed. The TMMH has many excellent sections such as the history of Town Meeting, the procedural section of Town Meeting and the Glossary. However, other sections present both potential and actual problems. In general, these sections overstate, perhaps

significantly, the powers and duties of the Board of Selectmen, and significantly understate or omit the powers and duties of the legislative branch. To the extent these sections do not fairly reflect the Charter or By Laws, the TMMH has the potential to inhibit or prevent a clear understanding of 1) the division of powers in the Town, 2) the extent and limitations on the power of the Selectmen and 3) the extent of the powers of Town Meeting among other factors. This article is motivated by the belief that nothing should inhibit, prevent or intimidate Town Meeting, or any Town Meeting Member from a full appreciation and full exercise of their powers and duties. Similarly, nothing should inhibit or prevent the citizens of the Town from accurate understanding of the powers and duties of their elected officials and representatives.

Summarizing a document such as the Charter is a difficult task. Wording is precise and the balance of powers is at times intricate. However, the issues involve some of the most significant processes and most important functions of Town government. As such, the TMMH should be an accurate summary free from either significant error or omission. Any inaccuracies in the TMMH should be corrected to prevent innocent misunderstandings especially if they arise from the difficult and unenviable task of understanding and summarizing the Charter. However, to the extent such inaccuracies represent the deliberate beliefs, positions, or preferences of various Town officials, such inaccuracies need to be confronted and corrected.

We agree with the stated and worthwhile objective of the TMMH which is “to serve as a guide to the procedures of Town Meeting and to help members develop an understanding of the municipal budget in Natick and the Commonwealth of Massachusetts so that they can participate fully in consideration of articles involving town finance”. Reference is also made to “fostering a more informed citizenry.” The sponsors believe that the TMMH does not achieve these objectives, as discussed in more detail below. Although we believe strongly that changes to the TMMH should be made, we believe more strongly that TM should determine what, if any, corrections are required. Given the significance of the issues involved, we believe that a careful, open and deliberative review, in accordance with the Town’s By Laws, is the best approach. This analysis begins that process.”

Taking into account the above written testimony, the Finance Committee seeks Town Meeting’s assent to refer this matter to a committee of not less than five (5) or more than nine (9) Town Meeting Members appointed by the Moderator. In addition we seek Town Meeting positive action that said committee shall submit a draft of the Town Meeting Member Handbook for approval at a subsequent Town Meeting.

Motion:

Move that the Town vote to refer the subject matter of Article 26 to a committee of not less than five or more than nine Town Meeting Members appointed by the Town Moderator, and that said committee shall submit a draft of the Town Meeting Member Handbook for approval at a subsequent session of Town Meeting.

ARTICLE 27
Referrals at Previous Town Meetings
(Town Moderator)

To receive the reports of Town agencies to whom subjects were referred at previous Town Meetings and to see if the Town will vote to take additional actions to refer these subjects.

RECOMMENDATIONS: The Finance Committee has NO RECOMMENDATION with regard to the subject matter of Article 27:

Positive Action Requires a MAJORITY Vote

The purpose of this article is to provide a place and/or vehicle for boards, committees and local officers to provide reports on articles previously were before Town Meeting that were referred to such board(s), committee(s) and/or local official(s). Along with testimony provided to the Finance Committee, the sponsor of this article provided a tremendous amount of material and information supporting the intent of this article. The Finance Committee seemed to be supportive of this article; however, we did not come to a consensus as to what the best recommendation would be for Town Meeting to act.

Often referral motions in the past were provided to Town Meeting as a polite way to say “no” to the sponsor of an article. These referrals usually referred the article to the sponsor, authoritative or affected boards, commissions and/or local officials. In these instances, the parties to whom the article was referred often did not take any further action. In addition, the parties rarely, if at all, reported back to Town Meeting with reasons why no further action was sought. The only times a referral of an article made its way back to Town Meeting was when another article was placed on a subsequent warrant.

We believe the intent of this article has some merit. To that end, the Finance Committee will include reports to Town Meeting on a case-by-case basis, upon the request of a board, committee and/or local official.

Town Meeting Members will find a report following this writing, which was provided to the Finance Committee by the Town Moderator, regarding two articles that were referred at the Spring 2004 Annual Town Meeting. In the future and upon approval or consensus of the committee, the Finance Committee will review, accept or reject referred article reports for previous sessions of Town Meeting and include such reports, at its sole discretion, in the Finance Committee’s publication of its warrant article recommendations to Town Meeting.

No Action

Report on Referred Articles
From
Spring 2004 Annual Town Meeting

Town of Natick
Town Moderator
13 East Central Street
Natick, Massachusetts 01760

Paul E. Connolly

September 30, 2004

To: Natick Finance Committee

Subject: **Referrals for Articles 22, 23 at Spring 2004 Annual Town Meeting;**
Background for Article 23 at Fall 2004 Annual Town Meeting

This memorandum is a version of the report that I expect to prepare for Town Meeting members to explain to them what action was taken on subjects referred to me. Previously, I had tried to initiate a collaboration with the other Town agencies involved, namely, Town Counsel and the Board of Selectmen; but nothing has resulted from those efforts. Consequently, as Town Moderator, I have invited them to prepare their own reports to Town Meeting if they judge that to be appropriate.

Summary of the Proposed Changes

The proposed changes were intended to correct perceived problems with the referendum procedure described in Section 2-13 of Article 2 of the Natick Home Rule Charter. The proposed changes embraced six areas: (1) correct the procedures for calling the election so that they are in compliance with the General Laws; (2) allow the Selectmen more latitude in scheduling the election; (3) define the referendum procedure so that it is only permitted to reverse the action taken by Town Meeting on an affirmative main motion properly introduced, debated, and either approved or disapproved; (4) describe the effect of subsidiary motions applied to the main motion; (5) revise the list of cases for which referendum is not allowed; and (6) handle the issue of formulating the ballot question to insure that it is clear to the voters.

The first two areas were the subject of Article 22. Both the Town Moderator and the Board of Selectmen supported the positive motion as contained in the text of the article. Town Counsel assisted in drafting the motion. The last four areas were the subject of Article 23. I believe that the Board of Selectmen did not take a position on any positive motion under Article 23. A positive motion was offered at Town Meeting, and the Town Moderator did support that positive motion. Indeed, Town Meeting did adopt an amendment to the positive motion striking the added sentence relative to formulating the ballot question before voting to refer the main motion.

What Did Town Meeting Intend?

In this case, I think that Town Meeting members expect that the subject will come before them again, along with answers to concerns that some members expressed during debate. Some expressed the opinion that the charter should not be amended at all since the referendum episode of 2003 was simply an anomaly and no response is needed to prevent recurrence of something so rare. But, most seemed to believe that the referendum process was abused by those who had no respect for the Town Meeting process and such abuse should be prevented in the future.

Initiative Petition Masquerading Under Guise of Referendum

Some speakers at Town Meeting seemed to express the view that ten (or more) voters should be able to submit an initiative petition to the Board of Selectmen and require that a binding vote be held at an election on their formulation of their proposed question. This is exactly what happened in 2003, and Town Counsel has offered the opinion that the current wording of Section 2-13 (b) of the Charter allows such an action. I strongly maintain that the ten (or more) voters do not have this right and should not have this right; and, furthermore, the wording of Section 2-13 should be clarified to permit only the right of referendum to reverse the action taken by the representative Town Meeting on an affirmative main motion properly introduced, debated and either approved or disapproved.

The ten voters do have the right to place an article on the warrant and have their opportunity before Town Meeting to try to convince their fellow voters of the merits of their cause and argue for the motion that they want to be adopted. But, they cannot control the outcome. Town Meeting may decide to do something else with the motion and change it in a way the majority decides. It is what Town Meeting votes that is the question subject to referendum.

It is true that the General Laws (c.43, s.37 ff.) recognize the right of initiative petition in cities. But, there is no such need in towns. In towns, all the voters can come together in Town Meeting to make their arguments before their fellow voters. The vote on the question occurs at Town Meeting. In towns with representative town meetings, if many voters feel that Town Meeting voted the wrong way, then and only then is there recourse to a referendum vote at an election to reverse the Town Meeting vote. Also, the General Laws (c.53, s.18A) recognize the right of voters in cities **and** towns to submit a petition to place on the ballot nonbinding public opinion advisory questions. Such questions are considered at a regular election, not a special election.

Mistrust of Selectmen to Schedule the Election

One proposed change was to allow the Selectmen full authority to schedule the date of the referendum election. The Selectmen could decide the best time for the special election or could even hold the referendum at the next regular election. A number of speakers appeared to feel very uncomfortable about allowing the Selectmen the option of delaying the election up to ten months or of choosing a regular over a special election.

I believe that there is no better alternative than leaving the choice up to the Selectmen. Requiring a specific window in which to hold a special election may lead to summertime elections. More importantly, special elections are expensive. Sometimes, the most prudent choice would be the regular election.

The choice very much depends on the question subject to referendum. If the question was approved by Town Meeting, the successful action of filing signatures for the referendum suspends the approval. The Selectmen may reasonably judge that, given the cost of a special election, there is no need to attempt to sustain the approval by Town Meeting until the next regular election occurs. Conversely, if the question was disapproved by Town Meeting, the usual recourse is to file a similar article for the next Town Meeting. Only in the uncommon situation in which Town Meeting was alleged to be especially obstinate and unrepresentative of the voters at large would it seem reasonable to attempt a referendum. Perhaps, the Town will benefit by enabling the Selectmen to make a judgment on when to schedule the referendum since Town Meeting (slightly less than 1% of the voters) and the petitioners (5% of the voters) have differing opinions on the immediacy of the need for a conclusive vote on the question.

What Is Subject to Referendum?

The proposed changes in language were intended to make it clear that a referendum could only be attempted on a "final vote of the representative town meeting to approve or reject an affirmative main motion

under a warrant article." This language replaced "final vote of the representative town meeting under any warrant article." Further changes tightened the language about subsidiary motions that impacted the affirmative main motion. Therefore, if a negative main motion to postpone indefinitely or to refer was the only motion made, there could not be a referendum on such a motion.

There are numerous variations in the ways that towns implement the referendum procedure. Town Counsel conducted a survey of 14 towns (4 with town councils; 1 called a town, but with a city form of government; 9 with representative town meetings) and noted various differing methods. Some towns name the types of motions that are subject to referendum. Some towns list the types of motions that are excluded. In some towns, only votes of approval by Town Meeting are subject to referendum, not votes of rejection.

I think that the charter describes the approach chosen by Natick voters in 1980 and there is no reason to adopt the approach of another town. The only action needed is to tighten the language in order to prevent bypassing Town Meeting which is the legislative body for the Town.

Removing Exclusions for Adjourning and Dissolving

I had recommended removing these motions from the list of motions not subject to referendum simply because the tightened language about an "affirmative main motion under a warrant article" obviously excludes these two parliamentary motions. In my opinion, to retain the current language regarding these two motions is to promote misinterpretation of what the amended language means. In January 2004, Town Counsel recommended against any removal. I still recommend removal.

Adding Exclusions

I had suggested adding an exclusion for "a vote to reject when the motion requires by statute a two-thirds or greater quantum of vote for approval." In January 2004, Town Counsel pointed out that this language is referring to such issues as bond authorizations, zoning by-law amendments, and appropriations for prior-fiscal-year bills. He recommended against such a considerable limitation in the scope of the referendum process.

I do not view the change as a considerable limitation. If Town Meeting approved any of the items mentioned, that action would still be subject to the referendum process. It is only the case of a rejection by Town Meeting that is proposed for exclusion. If Town Meeting rejected a zoning by-law amendment, for example, the only recourse for proponents is to resubmit the article for a future Town Meeting. This is standard procedure for towns with open town meetings. It should be the only recourse for Natick. The Town should not try to adjust the referendum majority quantum of vote to adapt to such special statutory requirements nor invite expensive litigation by maintaining that a majority vote at an election is sufficient to approve such special issues.

This change is technically difficult to explain to Town Meeting members and to voters on the subsequent effort for voter acceptance. If you think the attempt to avoid the situation of Natick approving by majority vote on referendum what could not muster a two-thirds vote at Town Meeting is not a battle worth fighting, perhaps I could be persuaded.

Making Sure the Ballot Question Wording Is Clear

The current language is very clear. The text of the motion that was considered by Town Meeting is the text that is to be used for the ballot question. But, there are situations when the motion is a brief main motion which makes reference to the text of the warrant article or is a very lengthy motion that is impractical to print on

the ballot. What should be done in such situations? My solution was to call upon Town Counsel to oversee the wording of the ballot question in the very same way that he does now with charter change ballot questions (see MGL, c.43B, s.11; c.44B, s.3; c.54, s.58A). In January 2004, Town Counsel objected to such an approach that would use anything but the exact wording of the motion used at Town Meeting.

As mentioned above, Town Meeting did vote against an approach to handle the special situations. Although I still maintain that using careful language to address known special circumstances should be part of the amendment to the charter, I suppose I should not push this point.

Placing Time Restrictions on Gathering Signatures

Some speakers suggested that petitions to the Board of Selectmen for a referendum be on a certain prescribed form that will not be available before a certain date (perhaps the date of the dissolution of Town Meeting). Presumably, such a requirement would have prevented the episode of 2003 in which it is alleged that signatures for a referendum were gathered weeks before Town Meeting even had the opportunity to consider the subject. In April 2004, Town Counsel advised that such restrictive requirements are acceptable for the Town to adopt.

I do not support such an approach at all. The issue to be solved is the bypassing of Town Meeting, not making it more difficult to exercise the right of petition. I see nothing wrong with allowing petitioners to gather signatures for a referendum as soon as Town Meeting has taken action on the issue, even though Town Meeting has not dissolved and it is theoretically possible for some amended action to be taken in response to a vote for reconsideration. In such a case, the petitioners may have expended wasteful effort, but they took that risk upon themselves.

Conclusion

I believe that the proper course of action for Town Meeting is to approve an amendment to the referendum procedure and submit it to the voters. The first time that the referendum procedure was put to the test in Natick, the warts in the language were revealed. The solution for badly written law is to correct the legal language--not ignore the problem in the hope that next time things will work out in a better way. Accordingly, I have sponsored Article 23 on the warrant for the Fall 2003 Annual Town Meeting so that Town Meeting members can reach consensus and take action on this subject.

ARTICLE 28
(Town Administrator)

To see if the Town will vote, pursuant to Chapter 44, Section 53E1/2 of the Massachusetts General Laws, to establish a revolving fund in order to utilize fees paid to the Conservation Commission by applicants pursuant to the Natick Wetlands Protection By Law for the purpose of hiring consultants; to authorize the Conservation Commission to expend money from said revolving fund for consultant services regarding applications to the Conservation Commission under Chapter 131, Section 40 of the Massachusetts General Laws and under the Natick Wetlands Protection By Law; to establish a limit on the total amount which may be expended from such fund in the fiscal year beginning July 1, 2004;

or otherwise act thereon.

RECOMMENDATION: By a vote of 8-0-0 on October 5, 2004, the Finance Committee recommends FAVORABLE ACTION with regard to the subject matter of Article 28:

Positive Action Requires a MAJORITY Vote

The purpose of this article is to establish a revolving fund for the collection and distribution of funds. Each year Town Meeting authorizes the establishment of revolving funds. This revolving fund is a "re-authorization" of an existing fund for the use of the Natick Conservation Commission in accordance with the Natick By-Laws and the General Laws of the Commonwealth. The Finance Committee and the town administration recommend that an upper limit of \$15,000.00 be set on this fund.

Motion:

Move that the Town vote to authorize the Conservation Commission to expend up to and including \$15,000 during the fiscal year beginning July 1, 2004, in order to utilize fees paid to the Conservation Commission by applicants for the purpose of hiring consultants pursuant to Chapter 44 Section 53E1/2 of the Massachusetts General Laws, from the revolving fund established by vote of the October 2000 Fall Special Town Meeting #2 under Article 8.