

**Second  
Supplemental  
PACKET**

**Feb 28**

**2022**

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## Article CC. Capital Stabilization Funding

*Proposed by: Board of Selectmen*

**Article Description** (final language to be provided by Town Counsel based on description provided):

- a) To determine if the Town will vote to transfer the following funds to the Capital Stabilization Fund from cash surplus totaling \$X from the following previously Town Meeting approved Capital Projects:

Town Meeting Year	Article No.	Project Name	Original Appropriation	Cash Remaining
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- b) To determine if the Town will vote to move \$500,000 in free cash to the capital stabilization fund.

- c) Transfer \$545,000 from FY23 Debt Appropriation account to the capital stabilization fund.

**FINANCE COMMITTEE COMMENTS:** Spring 2021 Annual Town Meeting approved the establishment and initial funding of a Capital Stabilization Fund (CSF) to support the Town's Capital Improvement Plan (CIP). The CSF is a tool to help level the tax impact of fluctuating expenses to improve and maintain the town's capital assets. It will be used to help fund the cost of new equipment, building repairs/maintenance and capital improvements to town land and buildings. It can also be used to pay debt service of appropriated capital projects.

The Town's debt service within the General Fund budget can vary significantly from year to year as bonds mature and new bonds are issued. Currently, debt service is funded through the General Fund, the Water Enterprise Fund, the Community Preservation Fund and/or Revolving Funds. To the extent funded, the CSF provides another source of capital funding. In years in which capital expenditures are lighter, funds may be contributed to a stabilization fund. They will be held until voted to be used on a future capital expense. In years in which capital expense are expected to be higher, Town Meeting can vote to use funds from the stabilization fund to offset the impact of the higher expense on taxation.

Appropriations into the fund are by a simple majority vote while appropriations from the fund require a two-thirds majority vote. Expenditures exceeding the Fund's available balance may require other sources of funding. The Treasurer shall be the custodian of the fund and will invest these funds as allowable by state statute. Any interest earned on the assets of the fund shall be added to and become part of the Capital Stabilization Fund. Monies accumulated in a stabilization fund carry over from one fiscal year to another.

The funding for the Capital Stabilization fund will be from surplus capital funds that result from capital closeouts, free cash and the debt appropriation from the General Fund budget. In FY23, that amount is \$X. This fund-to-fund transfer does not require an increase in taxation.

This appropriation is consistent with the Board of Selectmen's policy passed on mm/dd/yyyy.

The Board of Selectmen recommends **Blank. Vote:**

**ARGUMENTS IN FAVOR:** Funds contributed to the CSF are invested, earning interest versus sitting in the General Fund which does not earn interest.

Funding the CSF provides a funding source that improves the Town's ability to smooth out the year to year impact on taxation from capital spending.

Borrowing charges residents tomorrow for today's projects. The CSF provides a mechanism to proactively fund for the Town's capital needs.

CSF assets require a two-thirds majority vote of Town Meeting to be spent.

**ARGUMENTS OPPOSED:** Funds in a CSF are restricted in that they can only be spent to directly fund capital projects or to fund related debt service payments.

Funding the CSF from the FY23 Debt Appropriation charges residents today for otherwise future potential capital expenses.

**RECOMMENDATION:** The Finance Committee recommends Blank. Vote:

**QUANTUM OF VOTE:** Majority.

*For more information about this article, contact Acting Town Administrator Stephen Crane at [scrane@wayland.ma.us](mailto:scrane@wayland.ma.us)*

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## Article EE. Establishment of a Capital Improvement Planning Committee

*Proposed by: Board of Selectmen*

**Article Description** (final language to be provided by Town Counsel based on description provided):

To determine whether the Town will vote to amend the Code of the Town of Wayland to add a new Chapter 8 as follows and take any other action necessary to effectuate the vote of Town Meeting and/or otherwise act thereon:

### Chapter 8 Capital Improvement Planning Committee

#### § 8.1 Establishment; purpose.

There shall be a Capital Improvement Planning Committee responsible for establishing, managing and overseeing a coordinated, town-wide comprehensive facilities planning process for the construction of new or renovated capital projects.

#### § 8.2 Composition and term.

The Committee shall be comprised of five (5) registered voters appointed by the Board of Selectmen. Each member shall be appointed for a term of at least three (3) years and the terms of no more than two members shall expire in any one year. Members shall have a background in, or strong knowledge of, at least one or more of the following disciplines: capital planning; financial modeling; financing; project management; construction. During the term of his/her appointment, no member may serve on any other board, commission, or committee, or otherwise serve as a town official, whether elected or appointed, that could propose major capital projects or on one that controls parcels of town-owned land.

#### § 8.3 Adopt regulations and guidelines

The Committee may adopt ~~regulations and~~ guidelines subject to Select Board approval to carry out its responsibilities.

#### § 8.4 Committee reports.

At least annually, the Committee shall prepare a report for the Town to be included as part of the budget recommendations and the Town's Annual Reports.

### **Background Information**

~~To assist the Town of Wayland to effectively plan for and finance future needs, this article proposes the formation of a Capital Improvement Planning Committee (CIPC). The CIPC would be charged with the responsibility of overseeing a coordinated, town-wide comprehensive planning process. By improving Wayland's long-term planning process, the Town will be better positioned to make more informed decisions and better maintain its Aaa rating.~~

~~Section 106B of Chapter 41 of the Massachusetts General Laws authorizes a town to establish a capital planning committee at Annual Town Meeting, and numerous other towns have done so. Indeed, by~~

creating a CIPC, Wayland would be changing its current practices and adopting a capital planning bylaw consistent with the majority of our peer towns<sup>1</sup>.

The objectives of the committee are to:

- Establish, maintain, and monitor a coordinated, town-wide comprehensive facilities planning and site selection process.
- Identify and apply consistent criteria that considers a project proposal's viability, needs, timing, and cost.
- Maintain a program for the construction of major new or renovated capital projects, looking forward over a 20-year period.

The CIPC would participate in the following process and support the Town Manager Act that is currently moving through the legislature:

- 1) Guide: The Town Manager and Finance Director would provide the CIPC (and Finance Committee) with:
  - a. Financial strategies regarding debt management, debt service, debt levy, fund balance, predicted tax rate and revenue
  - b. Budget guidelines and recommendations, prioritization recommendations, funding sources and status of previously approved projects
  - c. Availability of staff resources to oversee capital expenditures and manage projects.
- 2) Gather: The CIPC would compile lists of proposed projects and their suggested timing and priority for implementation as submitted by Boards, Committees, Departments, the Town Manager, and residents:
  - a. In the next Fiscal Year
  - b. During the next four years
  - c. With a six to ten-year outlook
- 3) With an eleven to twenty year outlook
- 4) Analyze: The Finance Director and Town Manager would:
  - a. Provide the CIPC with assistance and support on matters related to funding and financing projects, such that the CIPC can understand the Town's ability to afford various projects over time
- 5) Collaborate with the CIPC and staff to analyze which projects to recommend including in their operating and capital budgets, and which might come before Town Meeting in the capital budget or as a stand-alone Article; and this report (see step 5) would be presented to the Finance Committee, whose role it is to recommend the capital and operating budgets to Town Meeting

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<sup>1</sup> 71% of Wayland's peer Towns have a capital planning committee

80% of Wayland's bordering towns have a capital planning committee

61% of all the Aaa Town's in Massachusetts with Town Manager forms of government have a capital planning committee

6) ~~Analyze:~~ The CIPC would:

a. ~~Vet each project by:~~

- i. ~~Evaluating project readiness for moving forward, including causing actual bids to be obtained from those who might perform the project deliverables such that actual costs are identified prior to a Town Meeting vote on a project.~~
- ii. ~~Assessing the availability of Town resources to start and complete the project deliverables over a time horizon (e.g., feasibility studies, design, construction) including procurement and implementation~~
- iii. ~~Laying out, in a logical sequence, realistic timeframes to accomplish each deliverable and requisite Town Meeting approvals~~

7) ~~Apply the guidance from the Town Manager and Finance Director over a twenty-year period, prioritizing the project requests and proposing the project schedules~~

a. ~~Create a plan that analyzes the Town's needs, the suggested timing, cost, and steps to implement the projects and give the Town an in-depth sense of what can be accomplished within the Town's financial and administrative capacity~~

8) ~~Report:~~ The CIPC would:

a. ~~Present a prioritized order of projects with an approximate cost and timeline for feasibility, design, and construction and forward to the Finance Committee for information and future discussions. From this report, the Town Manager shall recommend a capital budget to the Finance Committee, and the Finance Committee shall present to Town Meeting each year a recommended capital plan.~~

b. ~~Annually, provide a draft five-year plan to the Town Manager and Finance Director with one year CIP and four-year outlook~~

9) ~~Maintain:~~ The CIPC would:

a. ~~Update the project list quarterly with pertinent information related to the projects~~

#### **Members**

The committee would be composed of five registered voters, each of whom would:

- ~~Be appointed by the Board of Selectmen for a term of at least three years.~~
- ~~Have a background or strong knowledge of at least one or more of the following disciplines: capital planning; financial modelling; financing; project management; and/or construction.~~
- ~~Not serve on any other board, commission, or committee, nor otherwise serve as a town official, whether elected or appointed, that could propose major capital projects or on one that controls parcels of town-owned land.~~

The Finance Director, Town Manager, School Superintendent, Town Planner, PMBC and Facilities Director would serve as ex-officio members.

**Proposer's Comments** (if needed, 150-word limit per Town Code):

None.

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**FINANCE COMMITTEE COMMENTS:**

To assist the Town of Wayland to effectively plan for and finance future needs, this article proposes the formation of a Capital Improvement Planning Committee (CIPC). The CIPC would be charged with the responsibility of overseeing a coordinated, town-wide comprehensive planning process. By improving Wayland’s long-term planning process, the Town will be better positioned to make more informed decisions and better maintain its Aaa rating.

Section 106B of Chapter 41 of the Massachusetts General Laws authorizes a town to establish a capital planning committee at Annual Town Meeting, and numerous other towns have done so. Indeed, by creating a CIPC, Wayland would be changing its current practices and adopting a capital planning bylaw consistent with the majority of our peer towns <sup>2</sup>.

The objectives of the committee will be to Establish, maintain, and monitor a coordinated, town-wide comprehensive facilities planning and site selection process. Identify and apply consistent criteria that considers a project proposal’s viability, needs, timing, and cost. Maintain a program for the construction of major new or renovated capital projects, looking forward over a 20-year period.

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The CIPC would participate in the following process and support the Town Manager Act that is currently moving through the legislature:

Guide: The Town Manager and Finance Director would provide the CIPC with long-term and short-term financial guidelines.

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Gather: The CIPC would compile lists of proposed projects as submitted by Boards, Committees, Departments, the Town Manager, and residents.

Analyze: The CIPC would vet each proposed project with consideration for timing and likely cost of each intermediate and ultimate deliverable.

Report: The CIPC would develop a prioritized order of projects, including an approximate cost and detailed timeline for completion, for use by the Town Manager and Finance Committee in both long-term planning and during preparation of the annual Omnibus Budget.

**Members**

The committee would be composed of five registered voters, each of whom would:

Be appointed by the Board of Selectmen for a term of at least three years. Have a background or strong knowledge of at least one or more of the following disciplines: capital planning; financial modelling; financing; project management; and/or construction. Not serve on any other board, commission, or committee, nor otherwise serve as a town official, whether elected or appointed, that could propose

<sup>2</sup> 71% of Wayland’s peer Towns have a capital planning committee

80% of Wayland’s bordering towns have a capital planning committee

61% of all the Aaa Town’s in Massachusetts with Town Manager forms of government have a capital planning committee

major capital projects or on one that controls parcels of town-owned land. The Finance Director, Town Manager, School Superintendent, Town Planner, PMBC and Facilities Director would serve as ex officio members.

Much of what the proposed CIPC will do is currently the responsibility of the Finance Committee. Some would argue that the Finance Committee (FinCom) has limited visibility into the longer-term needs of departments, committees, and boards, and in fact, historically, FinCom has only considered capital projects requested by departments and residents over a five (5) year period. Currently, FinCom receives an annual glimpse during the budget cycle, and it is hard to understand, prioritize and guide in a short time frame.

If we look at the five-year capital plan of the Finance Committee, it is often inconsistent from year-to-year. There is not an in-depth five-year capital plan that is consistent with actual spending over that period of time. It also does not consider significant projects that the Town is aware might need to be funded beyond the five-year plan. The CIPC would be focused on Town required capital projects over a period of ten or more years. For example, it is probable that the schools are likely to need either a new or a renovated elementary school in the next ten years, yet our current 5-year capital plan does not take that into account. That is not helpful as we try to understand our debt and debt service over the next decade and how that might impact our desire to approve other projects.

Currently, borrowing decisions can be made without consideration of future potential major capital projects. Prioritization can be inconsistent because the methodology for selection can be driven by political pressure or the needs of a particular interest group, without taking into account the broader capital priorities of the Town. Approvals for design and construction typically occur over several Town Meetings but, without the rigor of a defined schedule with assigned tasks, projects may not be performed in a timely manner or within budget. When a project goes through the CIPC process, a timeline would be established defining when each piece of the project development timeline would be proposed to Town Meeting for funding so that it does not drag on and exceed the originally projected overall project cost.

The Town might need to determine how the CIPC will integrate its work with other committees and boards in Wayland who sometimes bring their own capital projects in articles to Town Meeting, or residents who bring petitioners articles to Town Meeting. Historically, such articles may be inconsistent with the recommendations of FinCom, and there is currently not a process of determining the priority of such projects in the broader scope of Town capital projects. If we have a CIPC, it is probable that such articles could be inconsistent with the findings and recommendations of the CIPC. How the CIPC might be part of the evaluation process of such articles may be challenging in the Town's overall capital planning process.

With a long-term plan, residents would better understand that there is a workable process in place that can accommodate the wishes of residents over a defined time horizon. The CIPC would be charged with scheduling deliverables such that they fit within an established short- and long-term financial plan.

The Board of Selectmen recommends \_\_\_\_\_. Vote: \_\_-\_\_-\_\_

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**ARGUMENTS IN FAVOR:**

- Developing a CIPC that will improve sound fiscal and capital planning by providing effective leadership from individuals with knowledge of capital projects.
- The CIPC will hopefully be able to cooperate with existing boards, committees and municipal departments in the prioritization and planning of capital projects.
- The CIPC would have focus on deterring sudden changes in debt service requirements and identifying the most economical means to finance capital projects.
- Keep the public informed about future needs and projects.
- Reduce costs by identifying and consolidating duplicative expenditures and encourage careful project planning and design to avoid costly mistakes and to help Wayland reach desired goals.
- It can be argued that current practices sometimes result in insufficient rigor in the planning for the project request and its component parts. There are examples of projects that have been approved by Town Meeting before the full design was completed and construction bids were secured.

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**ARGUMENTS OPPOSED:**

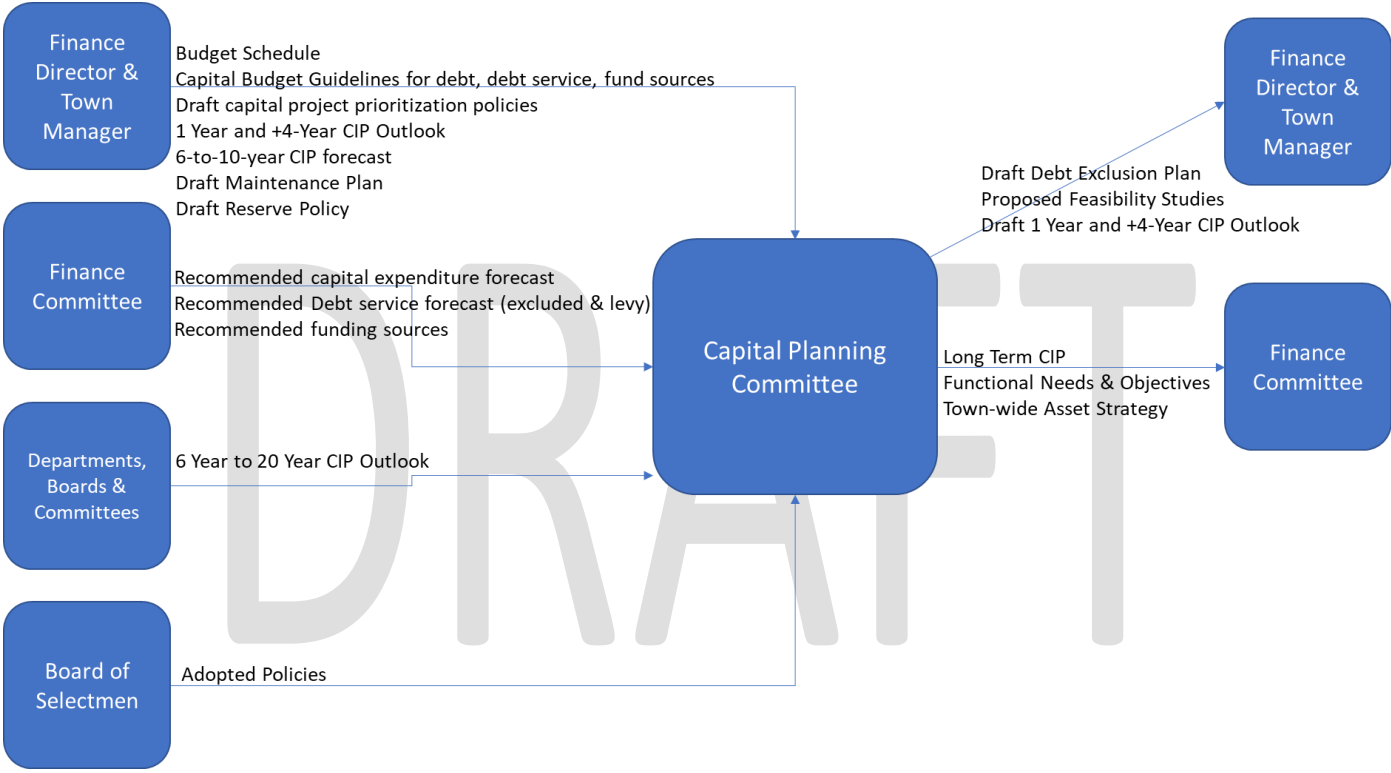
- Much of what the proposed CIPC will do is currently the responsibility of the Finance Committee; therefore, some might argue that this is overstepping the responsibilities of that committee.
- Some may argue that the Town should wait for the implementation of the Town Manager Act before implementing another structural change in Town government.
- It has been argued by some that we already have too many committees in Wayland, and that another committee will be difficult for the Town Administrator/Manager to oversee.
- It might be argued that this does not resolve the ongoing issue of good long-term oversight of capital projects as it does not resolve the question of managing requests from individual boards and committees, or from petitioners, that may be different from the planning of FinCom currently or CIPC in the future.

**RECOMMENDATION:** The Finance Committee recommends \_\_\_\_\_. Vote: \_\_-\_\_-\_\_

**QUANTUM OF VOTE:** Majority.

*For more information about this article, contact Acting Town Administrator Stephen Crane at [scrane@wayland.ma.us](mailto:scrane@wayland.ma.us)*

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## Article K. New Stonebridge Resolution Expenditure of Funds

Proposed by: Board of Selectmen

Affirm the 2020 Annual Town Meeting vote to borrow \$450,000 to finish the design work and perform the construction of the Potter/Stonebridge Road Bridge Design and Construction.

~~**Background Information:** At the 2020 Annual Town Meeting, the Town approved the FY2021 Omnibus Budget that included one line item to appropriate \$450,000 to finish the design and carry out the construction of the Potter/Stonebridge Road Bridge repairs. Previously, the 2019 Annual Town Meeting had voted to appropriate \$100,000 for the design of bridge repairs.~~

~~At the 2020 Annual Town Meeting, a question was raised whether the bridge, constructed in 1957 following diversion of the Sudbury River in the wake of devastating Hurricane Diane, is in Wayland, whether Wayland was responsible for any part of the costs and whether Wayland should pay for any of the bridge repairs. Town Meeting was informed of the existence of an October 5, 2018 Intermunicipal Agreement between Framingham and Wayland to share the repair costs of the bridge. Town Counsel stated that intermunicipal agreements are permitted by law and are binding. A motion to reduce the appropriation for the bridge repair to \$0 failed by a vote of 128-128. The FY2021 Omnibus budget, including funding of the bridge, passed 149-11.~~

~~After the 2020 Annual Town Meeting, residents raised the question with the Board of Selectmen as to whether any portion of the Potter/Stonebridge Road Bridge is in Wayland and whether Wayland should pay for any of the repairs?~~

~~Over the past several months, unavailable evidence has come to light that the bridge, for years believed to be half in Framingham and half in Wayland, in fact is entirely in Framingham. The remaining issue is not whether Wayland owns any part of the bridge, it does not, but whether Wayland should contribute \$450,000 to restore it.~~

~~After the 2020 Annual Town Meeting, residents pointed out to the Board of Selectmen that the Town likely, in their opinion, has legal grounds for invalidating the Intermunicipal Agreement because the signatories in 2018 were unaware that the bridge is not located in Wayland.~~

### **FINANCE COMMITTEE COMMENTS:**

At the 2020 Annual Town Meeting, the Town approved the FY2021 Omnibus Budget that included one line item to appropriate \$450,000 to finish the design and carry out the construction of the Potter/Stonebridge Road Bridge repairs. Previously, the 2019 Annual Town Meeting had voted to appropriate \$100,000 for the design of bridge repairs.

At the 2020 Annual Town Meeting, a question was raised whether the bridge, constructed in 1957 following diversion of the Sudbury River in the wake of devastating Hurricane Diane, is in Wayland, whether Wayland was responsible for any part of the costs and whether Wayland should pay for any of the bridge repairs. Town Meeting was informed of the existence of an October 5, 2018 Intermunicipal Agreement between Framingham and Wayland to share the repair costs of the bridge. Town Counsel stated that intermunicipal agreements are permitted by law and are binding. A motion to reduce the appropriation for the bridge repair to \$0 failed by a vote of 128-128. The FY2021 Omnibus budget, including funding of the bridge, passed 149-11.

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After the 2020 Annual Town Meeting, residents raised the question with the Board of Selectmen as to whether any portion of the Potter/Stonebridge Road Bridge is in Wayland and whether Wayland should pay for any of the repairs?

Over the past several months, unassailable evidence has come to light that the bridge, for years believed to be half in Framingham and half in Wayland, in fact is entirely in Framingham. The remaining issue is not whether Wayland owns any part of the bridge, it does not, but whether Wayland should contribute \$450,000 to restore it.

After the 2020 Annual Town Meeting, residents pointed out to the Board of Selectmen that the Town likely, in their opinion, has legal grounds for invalidating the Intermunicipal Agreement because the signatories in 2018 were unaware that the bridge is not located in Wayland.

### **Background**

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This project repairs the Potter/Stonebridge Road Bridge situated in the City of Framingham on Potter Road; from Wayland on the east, the bridge is approached via Stonebridge Road. The bridge was constructed in 1957 and is in need of repair. The previously approved structural repair work will extend the existing bridge life and avoid more significant reconstruction costs in the future.

The federal government created the National Bridge Inspection Standards (NBIS) in 1968 which established requirements for the inspection of all bridges including frequency, personnel qualifications, inspection reports, and inspection procedure. Bridge F-07-039 Potter/Stonebridge Road over Sudbury River is rated a 5/Fair on a nine-point scale for its deck condition and superstructure condition and 6 for its substructure condition. Framingham transportation measured the average weekday daily traffic to be 3,500 vehicles of which 150 are trucks on Potter Road, primarily occurring during morning and evening rush hours.

On October 5<sup>th</sup>, 2018, the City of Framingham and the Town of Wayland signed an agreement regarding equal allocation of costs for the design and repair of the bridge that expires in 2023. The agreement anticipated that there could be a change in circumstance that result from fund availability or approvals. The agreement has a cancellation provision that calls out that the offending town be responsible for all costs for termination, including, but not limited to, all costs necessary to restore the Bridge to a safe and functional condition. The construction work has not been started and no expenses have been incurred beyond the original \$100,000 appropriation.

~~The 2018 agreement specifically calls out the F 07 039 per state classification of the bridge (a Massachusetts Department of Transportation naming convention). The F signifies that the Bridge department number is Framingham. If the Bridge was in Wayland, it would have had a W department number. The longitude and latitude (42.338667, -71.39495983) for the bridge per Mass DOT are squarely in the middle of the existing bridge in the City of Framingham.~~

In 1956, Chapter 562 authorized the construction of an alternate bridge by both Wayland and Framingham. The resulting drawings directly associated with the bridge, shown in in Appendix X, were stamped on August 19, 1957, by Richard T. Mackey Chief Engineer. The drawing shows the relocation of the Sudbury River and Wayland Town line in its original location. Because the River was purposefully rerouted, the 1957 drawing of the Town line did not change. ~~The drawing, which has been available since 1957 and at the time when Wayland and Framingham signed their agreement in 2018, is the best and most~~

~~current delineation of the State's interpretation of the Wayland Town line and the bridge, as designed/proposed.~~ The stamped drawing reveals that the entire bridge and repair are within the City of Framingham. Stamped drawings also depict the drainage for the bridge and associated approach within the Wayland Town line. ~~The 1956 authorization called out that Framingham and Wayland shall retain ownership and maintenance of the Bridge and appurtenances to the limit of their respective municipal boundaries post construction. These drawings only recently came to light.~~

In 2019, Annual Town Meeting approved \$100,000 toward design of the proposed repairs, despite a question raised as to bridge ownership. In the 2019 ATM warrant, the Finance Committee requested funding the project from free cash as part of its capital budget based on information it received from the DPW that said "The DPW is seeking funding in FY2020 to design the rehabilitation of the Stonebridge Road Bridge. The responsibility for the bridge is split between the Town and City of Framingham, and the requested funding is for Wayland's portion. All project costs will be split between Wayland and Framingham."

In May 2020, Annual Town meeting approved \$450,000 towards design and construction of the repairs for the bridge. At that Town meeting, some residents asked whether the Town truly bore responsibility for the bridge costs or, rather, were they the sole responsibility for Framingham? In subsequent months they argued that the Town of Wayland and the City of Framingham had made a mutual mistake; they argued that both parties had mistakenly presumed that the town line crossed the middle of the bridge, thereby splitting the ownership and responsibilities for repair of the bridge. They further argued that because of the mutual mistake, the contract could be voided, and that the Town unknowingly approved a project it had no responsibility to pay for.

In 2020, after Annual Town Meeting approved the proposed project, the Board of Selectmen requested further investigation by Town Department of Public Work's staff and outside legal services. On June 9, 2021, the Town's surveyor produced an annotated GIS mapping ([Appendix X](#)) that showed the Town line from a 1957 highway layout. The map revealed that the bridge crossing the Sudbury River was entirely within the City of Framingham. The map also showed two stone bounds east of the bridge depicting the Wayland town line, confirming that no part of the bridge is in Wayland.

~~In February 2021 the Board of Selectmen requested that a surveyor answer the question as to the location of the Town line between the municipalities. They reported that documented legal history was poor and that the Sudbury River was re-routed to flow under the new bridge. They communicated that it was not a simple legal matter and that there was no formal evidence that the town line was adjusted.~~

~~Because the changes to the Sudbury River purposefully changed the boundary of the Sudbury River to accommodate the 1956 authorization, "under the rule or doctrine of avulsion, which is followed by the great majority of jurisdictions, when a sudden or drastic change occurs in the boundary of a navigable body of water, then the boundaries of the abutting littoral land do not change. The boundaries will remain wherever they were just prior to the avulsion<sup>1</sup>." This is different when the boundaries change because of natural processes, "where there is well settled authority for the proposition that littoral (shoreline) boundaries are not fixed, because natural processes of accretion or erosion change them."<sup>2</sup>~~

In its September 17, 2021, opinion letter requested by the Board of Selectmen, Town Counsel KP Law reviewed a town sponsored surveyor's report and concluded that the bridge "is now substantially, if not

<sup>1</sup>Troubled Waters: Coastal Avulsion, A State Survey by Ari Sillman JD 2021: Lorusso v. Acapesket Imp. Ass'n, Inc., No. 314 S., 1989 WL 1183738, at \*6 (Mass. Land Ct. Mar. 24, 1989)

<sup>2</sup>Troubled Waters: Coastal Avulsion, A State Survey by Ari Sillman JD 2021: White v. Hartigan, 982 N.E.2d 1115, 1122 (Mass. 2013)

entirely, in Framingham.” Their conclusion was based on the fact that the course of the Sudbury River was intentionally rerouted to the west and as a result the Wayland Town lines did not move with the river. They noted that the confirmed that the bridge is in Framingham, while noting in a footnote that a “bridge does not commence at the location of the abutment, and there are features of the bridge, e.g., ramp, rip rap, and other structures, that may be located in Wayland. A formal survey would be required to confirm this.” However, no such confirmation has occurred to date. Lastly, KP Law verified that the Town had a right, irrespective of the location of the Town line to appropriate funds and reconstruct the bridge because it substantially benefits the Town of Wayland. KP Law did not comment on whether Wayland had a legal basis for voiding the agreement because the parties were unaware that the bridge is in Framingham.

It should be noted that the estimated total cost of the bridge repair at \$900,000 was prepared several years ago. Those costs have undoubtedly increased.

There are potential disadvantages with not proceeding with this project:

- The Town has already spent \$100,000 on the bridge repair design. However, even if Wayland pulls out of the agreement, Framingham can still use this design.
- Of the 3,500 vehicles estimated to use this road per day, a portion originate from Wayland, and this could affect Wayland resident’s commute. Of the 400 trucks that use Potter Road per day, a portion of them destined to or from Wayland. This has environmental and cost implications because of longer commute distances.
- The Town of Framingham could decide to not proceed forward with repairs and the Department of Transportation could impose weight restrictions on the bridge. This could impair bus and truck traffic such as westbound school busses cross the bridge to turn around. Trucks may need to use Pelham Island Road as a way to bypass the use of Stonebridge bridge.
- The Town of Framingham could decide to enforce the agreement and the Town would be responsible for associated costs for defending itself.
- Wayland might need easements in the future from Framingham to support their connection to the MWRA as a resource for Town Water. Not cooperating with Framingham could jeopardize the relationship between the municipalities.
- Bridge safety issues would remain until either Wayland or Framingham took action to repair the bridge. Resident safety would be at risk.
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The potential costs associated with the risk of not completing the project are:

- Potential need to redo design
- Cost for trucks to drive more distance as a result of DOT imposed weight limits
- Risk of Framingham enforcing the agreement
- Potential assignment of at least 0% to 20% of the ownership of the bridge to Wayland
- Risk of Framingham assigning fees for MWRA access per year per year

Potential need to redo design (50%)	\$50,000
Cost for 100 trucks to drive approximately 5 miles extra per day during weekdays per year	\$58,000
Risk of Framingham enforcing the agreement	\$100,000
Assignment of at least 20% of the ownership of the bridge to Wayland	90,000
Risk of Framingham assigning fees for MWRA access per year per year	\$50,000
<b>Total Potential costs associated with risk of not proceeding (Year 1)</b>	<b>\$348,000</b>
<b>Total Potential costs associated with risk of not proceeding (Year 2-5)</b>	<b>\$592,000</b>

The Board of Selectmen recommends Blank. Vote:

**ARGUMENTS IN FAVOR:**

- The potential costs for not repairing the bridge could affect Wayland services like school bus transportation and snow removal.
- There are indirect costs associated with the rerouting of traffic that would add to commute times and have an environmental impact of increased emissions.
- Other neighborhoods could have increased traffic including Pelham Island Road.
- A 2018 Intermunicipal Agreement between the Town of Wayland and the City of Framingham to share costs to repair the bridge was signed, with the intent to make such repairs before July 1, 2022.
- Town Counsel has issued an opinion that the Town may legally expend funds even if the bridge is determined to not be in Wayland.

**ARGUMENTS OPPOSED:**

- The October 5, 2018, Intermunicipal Agreement between the City of Framingham and the Town of Wayland in which the parties agreed to share the costs of repairing the bridge but both sides were unaware that the Town line had not moved from its original location and that both sides were mutually unaware that they were not necessarily required to allocate the ownership of maintenance responsibility 50/50.
- \$450,000 (and possibly more once the true cost is known) is simply too much to buy Framingham's good will.
- The town of Wayland should not have to pay for infrastructure repairs not located within the boundaries of the Town.
- The entire bridge and repair is within the City of Framingham, therefore Framingham should bear full responsibility for all repair costs.
- Some might say it is financially irresponsible to proceed because Town Meeting does not have an up-to-date cost estimate, inasmuch as the estimate was prepared several years ago in non-inflationary times.
- Framingham will likely repair the bridge without Wayland's financial support.

**RECOMMENDATION:** The Finance Committee recommends Blank. Vote:

**QUANTUM OF VOTE:** Majority.

*For more information about this article, contact Acting Town Administrator Stephen Crane at [scrane@wayland.ma.us](mailto:scrane@wayland.ma.us)*

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Chap.561

AN ACT VALIDATING THE ACTION OF THE TOWN OF HOLLAND RELATIVE TO THE PURCHASE OF CERTAIN PROPERTY AND AUTHORIZING THE BORROWING OF MONEY THEREFOR.

Be it enacted, etc., as follows:

SECTION 1. The town of Holland is hereby authorized to purchase for a price not exceeding ten thousand dollars, all the right, title and interest of the Ames Worsted Company, now the Ames Textile Corporation, in the Hamilton Reservoir, so called, both that part within the town of Holland and that part within the town of Union, in the state of Connecticut, and in Holland pond, so called, and in all lands adjoining said reservoir and pond, and in the Quinebaug river and its tributaries and all streams and water courses flowing into said ponds, and in the lands under said ponds, river and streams, all building and structures thereon, including without limitation all dams, flumes and gateways, and all mill privileges including rights of drainage, the right to the full use and enjoyment of water and flowage rights, and the control and regulation thereof, and of the waters of the Quinebaug river and its tributaries as heretofore enjoyed and exercised by the said Ames Worsted Company, for fire protection, public health and public recreational purposes.

SECTION 2. For the purposes of this act, the town of Holland may borrow from time to time, within a period of ten years from the passage of this act, such sums as may be necessary, not exceeding, in the aggregate, ten thousand dollars, and may issue bonds or notes therefor, which shall bear on their face the words, Hamilton Reservoir Loan, Act of 1956. Each authorized issue shall constitute a separate loan, and such loans shall be paid in not more than ten years from their dates. Indebtedness incurred under this act shall be in excess of the statutory limit, but shall, except as provided herein, be subject to chapter forty-four of the General Laws, exclusive of the limitation contained in the first paragraph of section seven thereof.

SECTION 3. Any action taken by the town of Holland pursuant to sections one and two of this act at the special town meeting held on June eleventh in the current year shall be as valid and effective as though this act had been in full force and effect at the time the warrant for said meeting was posted.

SECTION 4. This act shall take effect upon its passage. Approved July 26, 1956.

Chap.562

AN ACT AUTHORIZING THE REPAIR OF STONE BRIDGE IN THE TOWNS OF WAYLAND AND FRAMINGHAM AND THE CONSTRUCTION OF AN ALTERNATE ROAD AND BRIDGE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any special or general law to the contrary, in order to make repairs

caused by flood damage and to construct an alternate road and bridge, the board created under section four of chapter six hundred and ninety-eight of the acts of nineteen hundred and fifty-five is hereby authorized to expend the sum of one hundred and eighty-seven thousand dollars for the construction of said road and bridge and to repair the historic Stone Bridge in the towns of Wayland and Framingham.

SECTION 2. The towns of Wayland and Framingham shall make any and all land takings in their respective towns necessary for the projects under section one of this act, and shall assume all liability therefor.

SECTION 3. This act shall take effect upon its passage. Approved July 26, 1956.

AN ACT PROTECTING THE RIGHTS OF CERTAIN OFFICERS AND EMPLOYEES OF THE COMMONWEALTH APPOINTED TO SERVICE WITH THE UNITED STATES OPERATIONS MISSION TO PAKISTAN. Chap.563

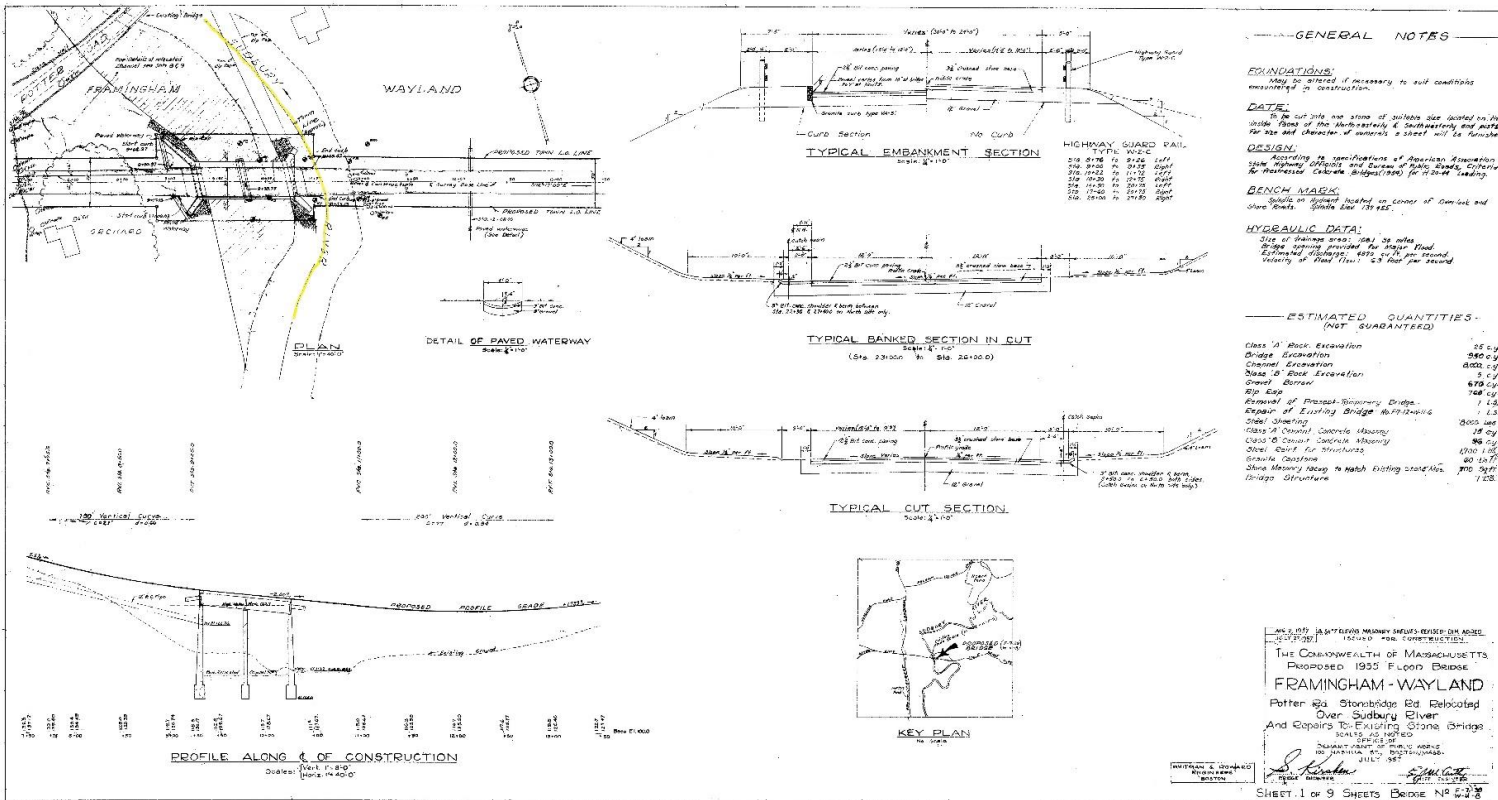
Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect the rights of certain persons employed by the commonwealth who have volunteered for service with the United States Operations Mission to Pakistan, and to facilitate reinstatement in their positions in the employ of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the preservation of the public convenience. Emergency preamble.

Be it enacted, etc., as follows:

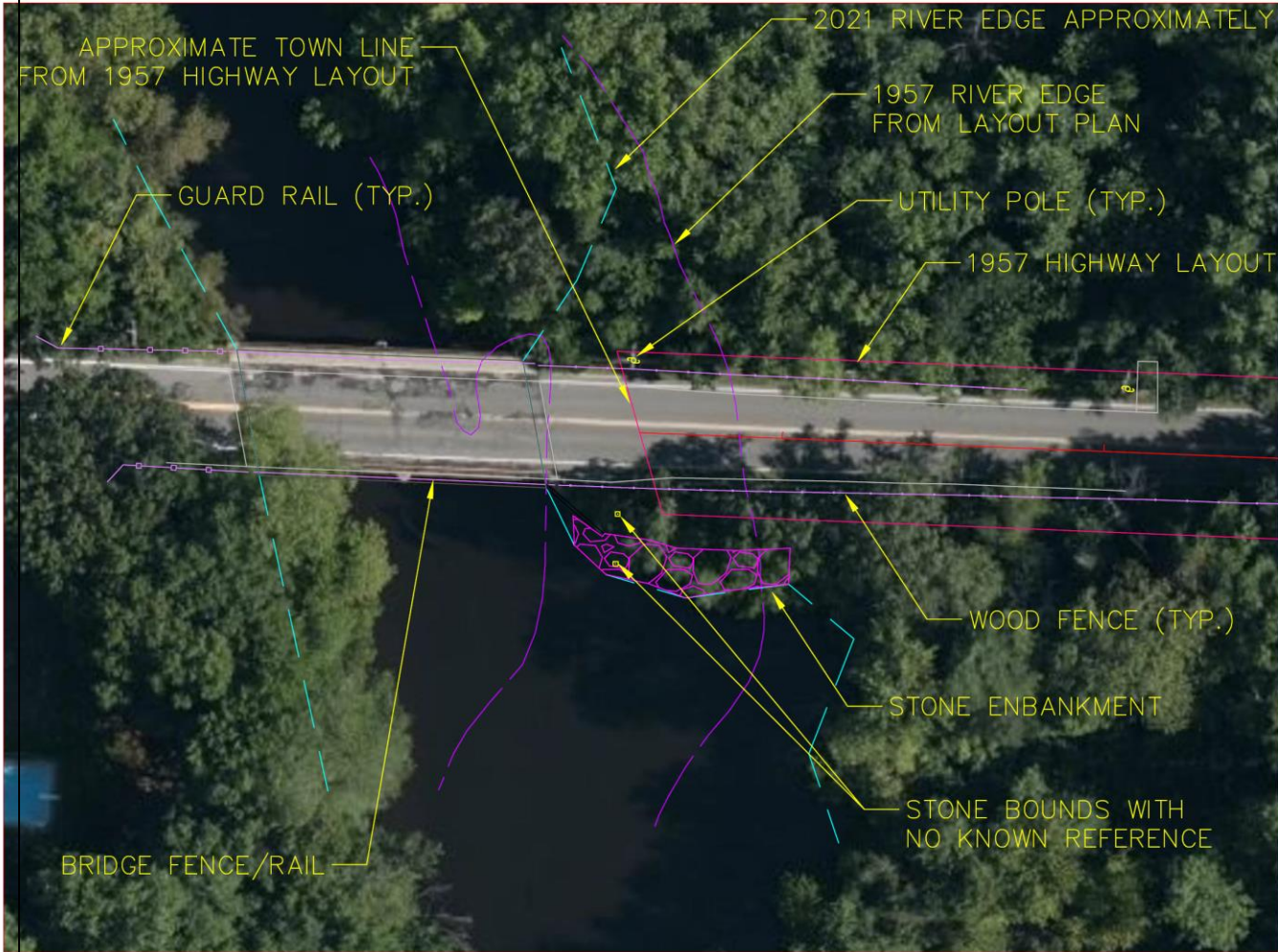
SECTION 1. All persons in the employ of the commonwealth who have been appointed on a permanent basis, including those who have not completed their probationary period, and who have been granted leave of absence without pay from their positions as a result of their appointment to service with the United States Operations Mission to Pakistan shall be reinstated in the positions or in positions similar to those held by them at the time of granting said leave. Such reinstatement shall be in accordance with the civil service laws and rules of the commonwealth and other pertinent statutes relating to non-civil service employees, and shall confer upon such persons the full promotional privileges and seniority rights which would have accrued to them under said laws and rules if they had remained in their positions. In addition thereto all rights enjoyed by such persons under section twenty-eight of chapter seven, and under chapters thirty, thirty-two, thirty-two A and one hundred and forty-nine of the General Laws shall continue just as though such persons had remained in their positions, provided no monetary payments had been paid to such persons in lieu of these rights.

SECTION 2. In the event that any person covered by this act leaves the service of the United States Operations Mis-





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General Notes

No.	Revision/Issue	Date

**Town of Wayland**  
Massachusetts

Department of Public Works

STONEBRIDGE RD.  
BRIDGE  
LOCATION  
Wayland, Massachusetts

PROJECT NAME: **1**

Date: 6/9/2021

Scale: 1" = 30'



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## **Article NN. Rescind Appropriation for Framingham Bridge**

*Proposed by: Petitioners Article*

*Estimated Cost:*

To determine whether the Town will vote to rescind the \$450,000 appropriated under the capital budget of article 9 of the 2020 Annual Town Meeting warrant for design/construction of the so-called Potter/Stonebridge Road bridge, which proponents believe lies wholly within the boundaries of the City of Framingham.

**Proposer's Comments:** This article aims to correct a mistake made by Wayland and Framingham officials in assuming that the bridge built by the state in 1957 connecting Stonebridge Road in Wayland and Potter Road in Framingham lays partially in each town, and therefore bridge repairs are a joint responsibility. Wayland Town Meeting in 2021, accordingly, appropriated \$450,000 for such repairs, after a tie vote to eliminate the measure failed. In fact, voluminous evidence has since been discovered to add to that existing in 2021, including concrete bounds showing the town line on the Wayland side of the bridge, demonstrating the bridge is entirely in Framingham and therefore Framingham's responsibility to maintain. Contract law provides that when both parties make a factual mistake the agreement is voidable. This article rescinds the appropriation to support the Intermunicipal Agreement between the municipalities to jointly fund the currently needed repairs, effectively canceling the agreement.

### **FINANCE COMMITTEE COMMENTS:**

At the 2020 Annual Town Meeting, the Town approved the FY2021 Omnibus Budget that included one line item to appropriate \$450,000 to finish the design and carry out the construction of the Potter/Stonebridge Road Bridge repairs. Previously, the 2019 Annual Town Meeting had voted to appropriate \$100,000 for the design of bridge repairs.

At the 2020 Annual Town Meeting, a question was raised whether the bridge, constructed in 1957 following diversion of the Sudbury River in the wake of devastating Hurricane Diane, is in Wayland, whether Wayland was responsible for any part of the costs and whether Wayland should pay for any of the bridge repairs. Town Meeting was informed of the existence of an October 5, 2018, Intermunicipal Agreement between Framingham and Wayland to share the repair costs of the bridge. Town Counsel stated that intermunicipal agreements are permitted by law and are binding. A motion to reduce the appropriation for the bridge repair to \$0 failed by a vote of 128-128. The FY2021 Omnibus budget, including funding of the bridge, passed 149-11.

After the 2020 Annual Town Meeting, residents raised the question with the Board of Selectmen as to whether any portion of the Potter/Stonebridge Road Bridge is in Wayland and whether Wayland should pay for any of the repairs?

Over the past several months, unassailable evidence has come to light that the bridge, for years believed to be half in Framingham and half in Wayland, in fact is entirely in Framingham. The remaining issue is not whether Wayland owns any part of the bridge, it does not, but whether Wayland should contribute \$450,000 to restore it.

After the 2020 Annual Town Meeting, residents pointed out to the Board of Selectmen that the Town likely, in their opinion, has legal grounds for invalidating the Intermunicipal Agreement because the signatories in 2018 were unaware that the bridge is not located in Wayland.

## Background

This project repairs the Potter/Stonebridge Road Bridge situated in the City of Framingham on Potter Road; from Wayland on the east, the bridge is approached via Stonebridge Road. The bridge was constructed in 1957 and is in need of repair. The previously approved structural repair work will extend the existing bridge life and avoid more significant reconstruction costs in the future.

The federal government created the National Bridge Inspection Standards (NBIS) in 1968 which established requirements for the inspection of all bridges including frequency, personnel qualifications, inspection reports, and inspection procedure. Bridge F-07-039 Potter/Stonebridge Road over Sudbury River is rated a 5/Fair on a nine-point scale for its deck condition and superstructure condition and 6 for its substructure condition. Framingham transportation measured the average weekday daily traffic to be 3,500 vehicles of which 150 are trucks on Potter Road, primarily occurring during morning and evening rush hours.

On October 5<sup>th</sup>, 2018, the City of Framingham and the Town of Wayland signed an agreement regarding equal allocation of costs for the design and repair of the bridge that expires in 2023. The agreement anticipated that there could be a change in circumstance that result from fund availability or approvals. The agreement has a cancellation provision that calls out that the offending town be responsible for all costs for termination, including, but not limited to, all costs necessary to restore the Bridge to a safe and functional condition. The construction work has not been started and no expenses have been incurred beyond the original \$100,000 appropriation.

In 1956, Chapter 562 authorized the construction of an alternate bridge by both Wayland and Framingham. The resulting drawings directly associated with the bridge, shown in in Appendix X, were stamped on August 19, 1957, by Richard T. Mackey Chief Engineer. The drawing shows the relocation of the Sudbury River and Wayland Town line in its original location. Because the River was purposefully rerouted, the 1957 drawing of the Town line did not change. The stamped drawing reveals that the entire bridge and repair are within the City of Framingham. Stamped drawings also depict the drainage for the bridge and associated approach within the Wayland Town line. These drawings only recently came to light.

In 2019, Annual Town Meeting approved \$100,000 toward design of the proposed repairs, despite a question raised as to bridge ownership. In the 2019 ATM warrant, the Finance Committee requested funding the project from free cash as part of its capital budget based on information it received from the DPW that said “The DPW is seeking funding in FY2020 to design the rehabilitation of the Stonebridge Road Bridge. The responsibility for the bridge is split between the Town and City of Framingham, and the requested funding is for Wayland’s portion. All project costs will be split between Wayland and Framingham.”

In May 2020, Annual Town meeting approved \$450,000 towards design and construction of the repairs for the bridge. At that Town meeting, some residents asked whether the Town truly bore responsibility for the bridge costs or, rather, were they the sole responsibility for Framingham? In subsequent months they argued that the Town of Wayland and the City of Framingham had made a mutual mistake; they argued that both parties had mistakenly presumed that the town line crossed the middle of the bridge, thereby splitting the ownership and responsibilities for repair of the bridge. They further argued that because of the mutual mistake, the contract could be voided, and that the Town unknowingly approved a project it had no responsibility to pay for.

In 2020, after Annual Town Meeting approved the proposed project, the Board of Selectmen requested further investigation by Town Department of Public Work’s staff and outside legal services. On June 9,

2021, the Town's surveyor produced an annotated GIS mapping (Appendix X) that showed the Town line from a 1957 highway layout. The map revealed that the bridge crossing the Sudbury River was entirely within the City of Framingham. The map also showed two stone bounds east of the bridge depicting the Wayland town line, confirming that no part of the bridge is in Wayland.

In its September 17, 2021, opinion letter requested by the Board of Selectmen, Town Counsel KP Law reviewed a town sponsored surveyor's report and concluded that the bridge "is now substantially, if not entirely, in Framingham." Their conclusion was based on the fact that the course of the Sudbury River was intentionally rerouted to the west and as a result the Wayland Town lines did not move with the river. They noted that the "bridge does not commence at the location of the abutment, and there are features of the bridge, e.g., ramp, rip rap, and other structures, that may be located in Wayland. A formal survey would be required to confirm this." KP Law verified that the Town had a right, irrespective of the location of the Town line to appropriate funds and reconstruct the bridge because it substantially benefits the Town of Wayland. KP Law did not comment on whether Wayland had a legal basis for voiding the agreement because the parties were unaware that the bridge is in Framingham.

It should be noted that the estimated total cost of the bridge repair at \$900,000 was prepared several years ago. Those costs have undoubtedly increased.

There are potential disadvantages with not proceeding with this project:

- The Town has already spent \$100,000 on the bridge repair design. However, even if Wayland pulls out of the agreement, Framingham can still use this design.
- Of the 3,500 vehicles estimated to use this road per day, a portion originate from Wayland, and this could affect Wayland resident's commute. Of the 400 trucks that use Potter Road per day, a portion of them destined to or from Wayland. This has environmental and cost implications because of longer commute distances.
- The Town of Framingham could decide to not proceed forward with repairs and the Department of Transportation could impose weight restrictions on the bridge. This could impair bus and truck traffic such as westbound school busses cross the bridge to turn around. Trucks may need to use Pelham Island Road as a way to bypass the use of Stonebridge bridge.
- The Town of Framingham could decide to enforce the agreement and the Town would be responsible for associated costs for defending itself.
- Wayland might need easements in the future from Framingham to support their connection to the MWRA as a resource for Town Water. Not cooperating with Framingham could jeopardize the relationship between the municipalities.
- Bridge safety issues would remain until either Wayland or Framingham took action to repair the bridge. Resident safety would be at risk.

The potential costs associated with the risk of not completing the project are:

- Potential need to redo design
- Cost for trucks to drive more distance as a result of DOT imposed weight limits
- Risk of Framingham enforcing the agreement
- Potential assignment of at least 0% to 20% of the ownership of the bridge to Wayland
- Risk of Framingham assigning fees for MWRA access per year per year

The Board of Selectmen recommends Blank. Vote:

**ARGUMENTS IN FAVOR:**

- The October 5, 2018, Intermunicipal Agreement between the City of Framingham and the Town of Wayland in which the parties agreed to share the costs of repairing the bridge but both sides were unaware that the Town line had not moved from its original location and that both sides were mutually unaware that they were not necessarily required to allocate the ownership of maintenance responsibility 50/50.
- \$450,000 (and possibly more once the true cost is known) is simply too much to buy Framingham's good will.
- The town of Wayland should not have to pay for infrastructure repairs not located within the boundaries of the Town.
- The entire bridge and repair is within the City of Framingham, therefore Framingham should bear full responsibility for all repair costs.
- Some might say it is financially irresponsible to proceed because Town Meeting does not have an up-to-date cost estimate, inasmuch as the estimate was prepared several years ago in non-inflationary times.
- Framingham will likely repair the bridge without Wayland's financial support.

**ARGUMENTS OPPOSED:**

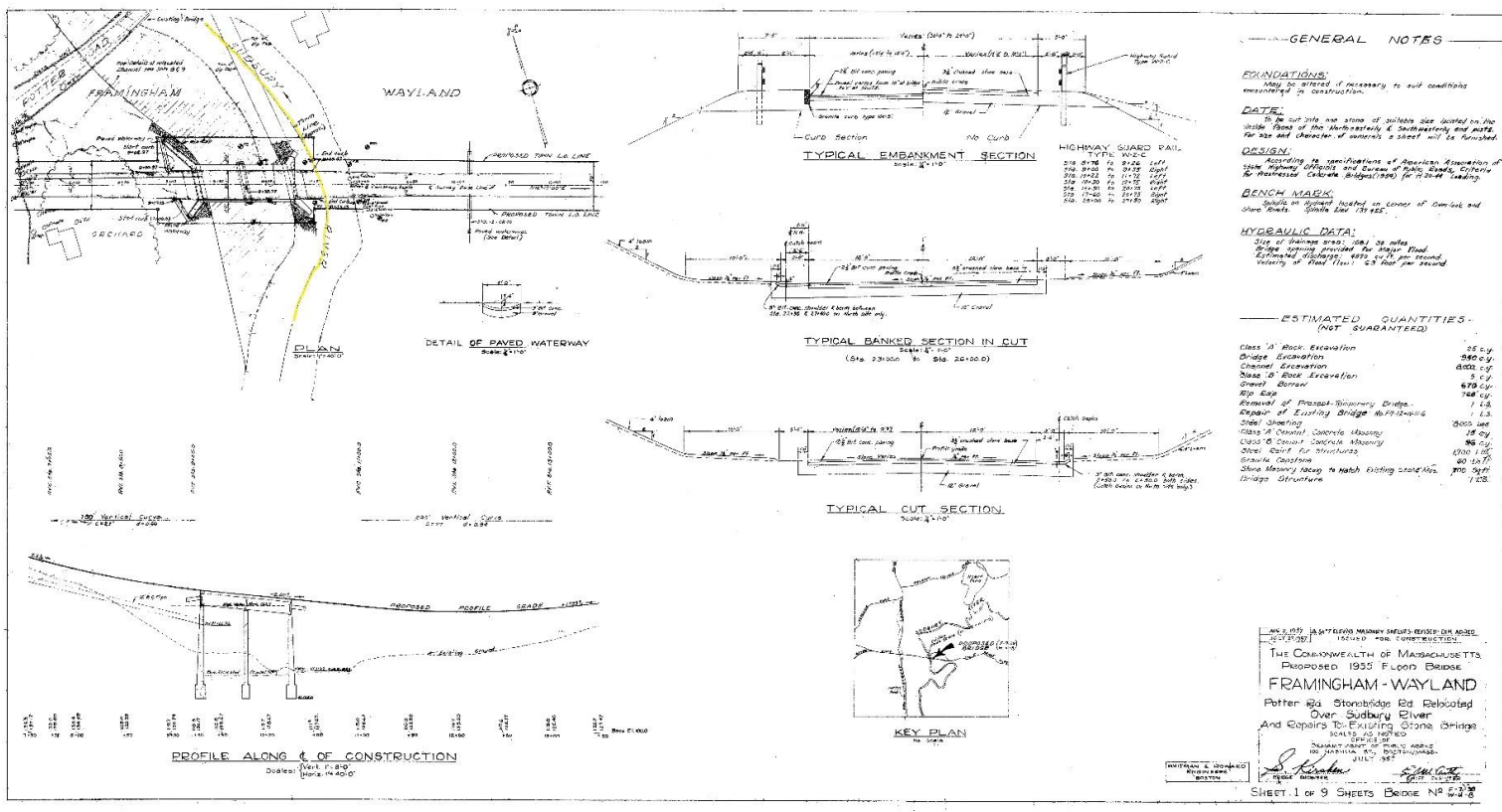
- The potential costs for not repairing the bridge could affect Wayland services like school bus transportation and snow removal.
- There are indirect costs associated with the rerouting of traffic that would add to commute times and have an environmental impact of increased emissions.
- Other neighborhoods could have increased traffic including Pelham Island Road.
- A 2018 Intermunicipal Agreement between the Town of Wayland and the City of Framingham to share costs to repair the bridge was signed, with the intent to make such repairs before July 1, 2022.
- Town Counsel has issued an opinion that the Town may legally expend funds even if the bridge is determined to not be in Wayland.

**RECOMMENDATION:** The Finance Committee recommends Blank. Vote:

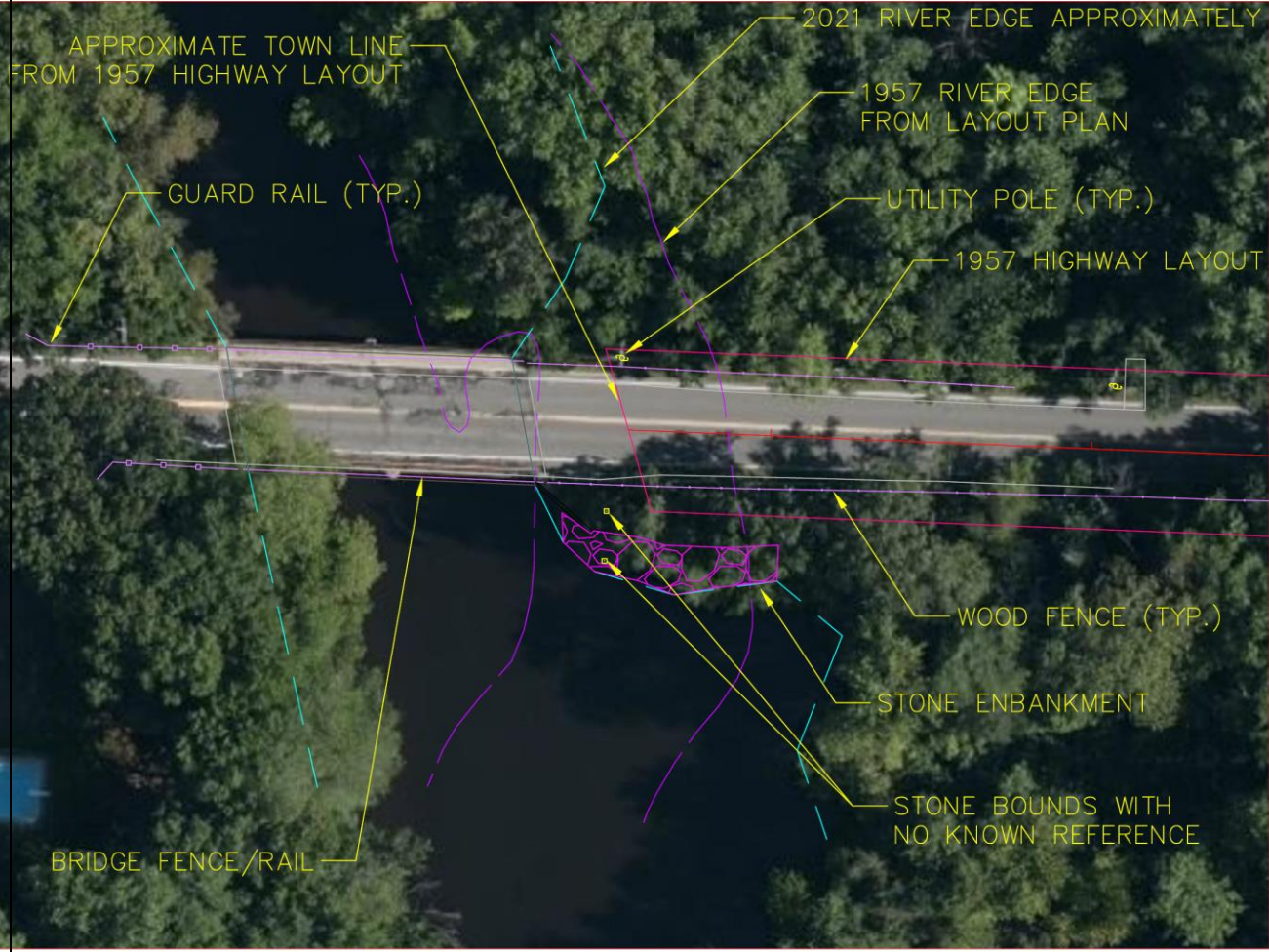
**QUANTUM OF VOTE:** Majority.

*For more information about this article, contact Tom Sciacca at [tsciacca@comcast.net](mailto:tsciacca@comcast.net)*

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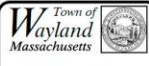




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General Notes

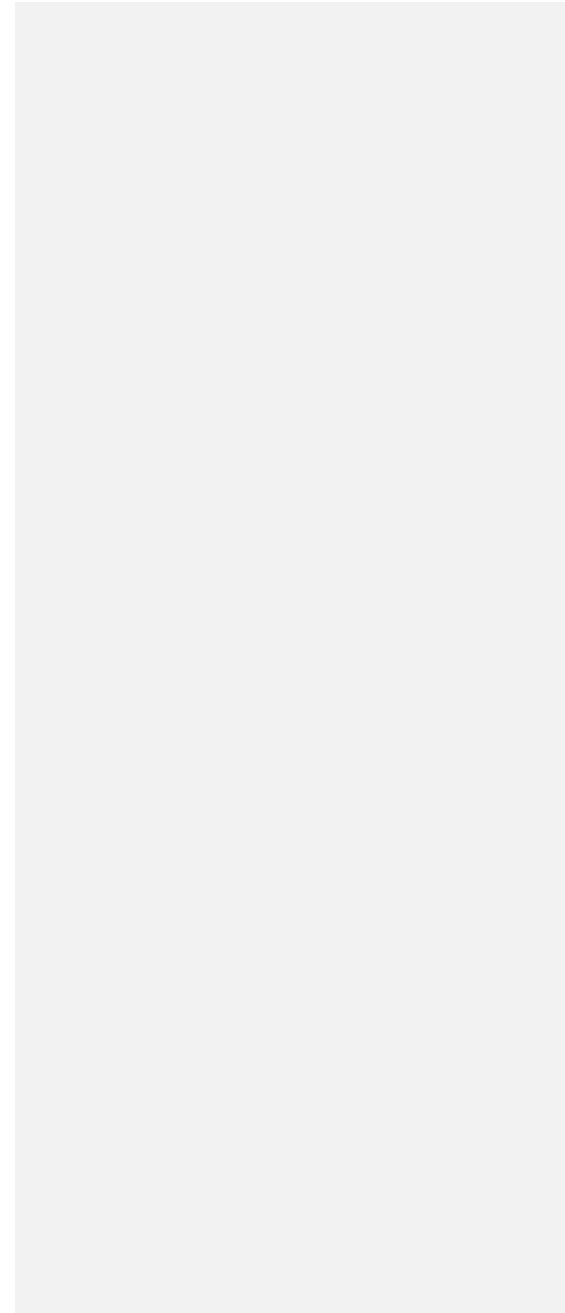
No.	Revision/Issue	Date

  
 Department of Public Works  
 2021-06-09-01

STONEBRIDGE RD.  
 BRIDGE  
 LOCATION  
 Wayland, Massachusetts

PROJECT NAME	Sheet
6/9/2021	1
1" = 30'	

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**Article O. Loker Grass Field Construction**

*Proposed by: Board of Selectmen/Recreation Commission*

*Estimated Cost: \$2,500,000*

To determine whether the Town of Wayland (“Town”) will vote to:

To determine whether the Town will vote to:

a) Appropriate a sum of money of not more than \$2,500,000 to be expended under the direction of the Permanent Municipal Building Committee for designing, permitting, engineering and constructing a multi-purpose natural grass athletic playing field at the Loker Conservation & Recreation Area including playing surfaces, lighting, drainage, landscaping, recreational amenities, access and parking areas; and any and all other costs incidental or related thereto;

b) Provide for said appropriation by borrowing, taxation, transfer from unappropriated funds, transfer from available funds appropriated for other purposes, or otherwise, provided not more than \$189,160.59 of the funds appropriated shall be transferred from the Recreation Stabilization Fund;

c) Authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow up to said sum in accordance with Massachusetts General Laws Chapter 44, section 7 and 8 and any other enabling authority, and issue bonds or notes of the Town therefor; and

d) Authorize any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved hereunder in accordance with Massachusetts General Laws Chapter 44, section 20, thereby reducing by a like amount the amount authorized to be borrowed to pay such costs

**Proposer’s Comments** (if needed, 150-word limit per Town Code):

Since 2000, Wayland has invested over \$2,000,000 in the purchase and design of the Loker site. The land is deeded specifically for recreational use and continues to lie vacant for over 20 years. Recreation studied and pursued over a dozen other suitable options to alleviate the over-usage of its grass fields and Loker was deemed most suitable for a field. The addition of this field will alleviate the overuse of fields by allowing for the rest and rehabilitation of existing recreation fields that need repair. Existing conditions of Wayland grass fields are deteriorating and deficient. Rehabilitation would ensure safer playing fields for all Town residents. The addition of a field with lighting will become increasingly more important since Wayland Public Schools shifted school start times later in the day. Access to outdoor recreation is valuable to both individuals and the Wayland community at large, now more than ever.

**FINANCE COMMITTEE COMMENTS:**

This article would authorize up to \$2.5 million for construction of a natural grass field at the Loker Conservation & Recreation area. The Loker Grass Field project includes the permitting, engineering, and construction of a multi-purpose natural grass athletic playing field at the Loker Conservation & Recreation Area (414 Commonwealth Road), at the northeast corner of the intersection of Route 30 (Commonwealth Road) and Rice Road in Wayland (map included in Appendix A). The project would include grass playing surfaces, lighting, drainage, landscaping, recreational amenities and equipment, spectator areas, access and parking areas and trailheads for use by the community. This project will provide an outdoor land-based recreation venue for passive and active recreation. It is estimated that thousands of participants and or residents would use a field at Loker each year for sports, camps,

community events and trail access. The project would provide better parking and access to the abutting conservation trails and new plantings could be used to better protect and preserve the natural, wetlands and historical features of the property.

The Recreation Commission has stated the need for additional athletic fields in Wayland for many years and several studies that have been undertaken since 2010 have documented this need. The Town cannot currently meet demand at our present field capacity, has been unable to find fields in other towns with capacity to rent, and, as a result, may need to turn kids away from youth sports. Studies have provided data regarding both the insufficiency in the number of fields and overuse of the existing fields (see the following: Wayland Town Master Plan from June 2010; report by Gale Associates, Inc., dated July 15, 2010 (the "Gale Report"); Town of Wayland Open Space & Recreation Plan from 2016; and Wayland Town wide Recreation Facilities Plan by Weston & Sampson in January 2018). All of these studies and the need for additional athletic fields were reiterated and reinforced during a public forum held on August 30, 2021, by the Board of Selectmen.

This project would serve the needs for youth athletics as well as the community at large. It is estimated that more than 6,000 children, adults, and seniors use Wayland Recreation sites annually. It is also expected that public school student enrollment and Wayland's senior population will both grow over the next decade and this additional field will help serve burgeoning needs. Reports indicate that there is currently a deficit of seven to ten-field grass fields in Town. The proposed Loker grass field could reduce the deficit and provide a field that could be used later in the day to accommodate students' later school days.

The field would be built on an area that the Town purchased for \$1.7 million in 2000. At a Special Town Meeting in November 2017, the Town approved design funds for a turf field project, of which \$154,000 was expended. At Annual Town Meeting in 2004, 8.37 acres of the vacant 28.20 acres of property was delineated for recreational use, the remainder for conservation land. This project would result in a multi-purpose natural grass athletic venue on the parcel designated for recreation.

The location of the project, the former Dow Chemical facility, was cleaned up approximately twenty years ago according to the required standards at that time. In 2019, the Board of Selectmen contracted with CMG Environmental, Inc. to conduct a third-party independent environmental review to assess any potential hazards when comparing present-day standards to those in place at the time of the cleanup. A representative of CMG Environmental, Inc. attended a Board of Selectmen meeting in February 2020 to present the findings, and stated they had no hesitation allowing his own family members to play on a turf field at this location.

On October 3, 2021, STM voted first in favor of Article 1, for a three-year moratorium on synthetic/artificial turf fields (353-77) and then (327-120) in favor of Article 2, specifically to spend up to \$125,000 to design a grass field at the Loker site. The site was previously designed as a synthetic turf field, but not approved by voters (the proposed turf field did not obtain the 2/3rd threshold needed to approve the project at 2019 or 2021 ATMs despite voter approval of the use of excluded debt for the project at the polls in the April 2019 election). Design for the natural grass field is expected to be complete and the project put out to bid to determine the costs before the 2022 Annual Town Meeting.

### **TIMELINE**

- 1) **Design & Development** - Underway, October 2021 to May 2022
- 2) **Bid & Contract** - To be completed by May 2022
- 3) **Permitting** - To be completed in 2022

- 4) **Build** - if approved at 2022 ATM, the field would be built between May and September 2022
- 5) **Grow** - Grass roots establish for minimum of 2 growing seasons until Spring 2023
- 6) **Open for Play** - Possible play in late summer/early fall 2023
- 7) **Operate and Maintain** - Loker field will allow restoration/rehabilitation of an existing field in 2023 - 2024
- 8) **+1 Additional field footprint** will be effectively added to the total field inventory by Spring 2025.

## **FUNDING**

\$118,000 Parking Area and Trail head improvements, with already approved CPA Funds

**\$189,160** possible transfer from the Recreation Stabilization Fund (requires 2/3), up to **\$200,000** possible transfer from Recreation Field Revolving Fund Total TBD: Any balance of the low bid that is otherwise not funded by CPA, Stabilization Funds, or Recreation Funds would be requested from 2022 ATM (Total less -\$507,160.59)

The Board of Selectmen recommends Blank. Vote:

### **ARGUMENTS IN FAVOR:**

- A vote in favor of this article will accelerate the addition of a new playing field in Wayland; a need that has been requested by the Recreation Commission and many residents and has been substantiated by the reports noted above.
- The Loker Recreation area has been studied and planned for many years. Moving ahead with this project would be a step in the direction of putting to use an asset on which the Town has spent significant monies over the past two decades and for a use that is consistent with its designation as a recreation area.
- Constructing a natural grass field at this location should satisfy many in Wayland who supported the development of a new athletic field but expressed concerns with artificial turf.
- A new athletic field at this location will enhance the overall Loker Recreation area; not only will it provide a much-needed athletic field, but it may also make the property more appealing and accessible to those using the Conservation trails.
- Because it is a natural grass field, the proposed project is notably less costly than recent years' proposals for synthetic turf fields.

### **ARGUMENTS OPPOSED:**

- Development of an athletic field at the Loker Recreation area is seen by some as an expensive place to develop a new athletic facility for the Town; rather, the Town should explore other areas that may be developed with similar or additional facilities before spending the funds to develop this site.
- Neighbors have stated concerns with an athletic field at this site due to increased traffic and the potential to add lights over the field for evening athletic events.
- Some people believe that the high slopes and uneven level of land is the wrong piece of land to develop a rectangular regulation size field. A better use would be a baseball diamond.
- Residents have said that the access road is too narrow and is there is no lighting at night making it difficult for emergency vehicle access.
- The Conservation Commission has said that the proposed design does not meet the DEP groundwater separation criteria.
- The removal of trees on the north side of the field will destroy a Vernal Pool on the north side of the property because the fauna that breed in the Vernal Pool live in the wooded area provided by

those trees. As proposed, the project will dramatically change the landscape of the property. To build the field, the Town will remove over 260 trees.

**RECOMMENDATION:** The Finance Committee recommends Blank. Vote:

**QUANTUM OF VOTE:** Majority.

*For more information about this article, contact Katherine Brenna at [kbrenna@wayland.ma.us](mailto:kbrenna@wayland.ma.us)*

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## **2020 Town Administrator Evaluation**

### **POLICY AND PURPOSE**

The purpose of this evaluation instrument is to formally appraise the Town Administrator's performance on an annual basis or as required by contract. The document allows the Board of Selectmen to assess the Town Administrator's performance in management practices, in job requirements as stated in the contract and/or job description, and in the accomplishment of goals. Through the evaluation procedure, Board members will recognize strengths, offer positive feedback, and suggest any areas that require corrective action.

The final overview document showing compiled scores and comments summarized by the Chair or his or her designee will be discussed and released in open session.

### **PROCEDURE**

1. The period of evaluation is September 1, 2019 through August 30, 2020.
2. The Town Administrator will submit a narrative self-evaluation including a report on goal achievement. A copy of the report and a blank evaluation form will be distributed to each Board member. *Estimated Date: November 30. Edit: Jan 4, 2021*
3. The Town Administrator makes the decision whether to waive the right to privacy as to his/her written performance evaluation of the past year. If he/she chooses to waive this right, it should be stated for the record at a Board meeting and also specifically noted in the minutes. *Estimated Date: November 30. Edit: Jan 4, 2021*
4. Board members will complete their evaluations forms and give them to the Chairman in a regular meeting by a date set by the Chairman. *Estimated Date: December 14 Edit: Jan 19, 2021*
5. The Chairman or his or her designee will compile scores from individual evaluation forms and develop a consensus overview document. *Estimated Date: December 2020. Edit: Jan 2021*
6. The Chairman will give the individually completed performance evaluation forms to the Human Resources Manager who will place them in the Town Administrator's personnel file. *Estimated Date: December 14. Edit: Jan 19, 2021*
7. Board members may meet individually with the Town Administrator to discuss aspects of the performance review document. *Estimated Date: December 2020. Edit: Jan 2021*
8. The Chairman will provide the other Board members and the Town Administrator with the consensus evaluation overview document at least one week prior to the date at which the document will be publicly released. *Estimated Date: January 4, 2021. Edit: Feb 1, 2021*
9. The overview document will be released by the Chair at a public meeting of the Board of Selectmen *Estimated Date: January 11, 2021. Edit: Feb 8, 2021*