

TOWN OF NORTH BROOKFIELD ANNUAL TOWN MEETING

The 211th Annual Town Meeting was held in the North Brookfield Elementary School Auditorium on Friday, the 5th day of May, 2023 at 7:30PM according to the warrant as posted. Moderator James N Caldwell called the meeting to order with a total of 79 voters present. Tellers for the evening were Michelle Thayer and Brian Hayes.

Action was taken on the following articles:

ARTICLE 2: A motion was made by Jason Petraitis, seconded by John Tripp and voted favorably by a show of hands to hear and act upon the reports of the Selectmen and Town Officials and Boards.

ARTICLE 3: A motion was made by John Tripp, seconded by Elizabeth Brooke Canada, and voted favorably by a show of hands to print the reports of the Selectmen and Town Officials and Boards for the year 2022.

ARTICLE 4: A motion was made by Elizabeth Brooke Canada, seconded by Jason Petraitis and voted favorably by a show of hands to postpone action on this article until June 2, 2023.

ARTICLE 5: A motion was made by Jason Petraitis, seconded by John Tripp and voted favorably by a show of hands to postpone action on this article until June 2, 2023.

ARTICLE 6: A motion was made by John Tripp, seconded by Elizabeth Brooke Canada and voted favorably by a show of hands to postpone action on this article until June 2, 2023.

ARTICLE 7: A motion was made by Elizabeth Brooke Canada, seconded by Jason Petraitis and voted favorably by a show of hands, with one dissent, to authorize the Board of Selectmen to accept gifts, bequests and donations of money and real and personal property given to the town.

ARTICLE 8: A motion was made by Jason Petraitis, seconded by John Tripp and voted favorably by a show of hands to authorize the Board of Selectmen to enter into any and all necessary lease agreements and other dispositions of personal property.

ARTICLE 9: A motion was made by John Tripp, seconded by Elizabeth Brooke Canada and voted favorably by a show of hands to authorize the Board of Selectmen to apply for and expend funds that may be available from State and Federal grants.

ARTICLE 10: A motion was made by Elizabeth Brooke Canada, seconded by Jason Petraitis and voted favorably by a show of hands to authorize the Board of Water Commissioners to apply for and expend funds that may be available from State and Federal grants.

ARTICLE 11: A motion was made by Jason Petraitis, seconded by John Tripp and voted favorably by a show of hands to give the Town Treasurer the authority to invest Town funds (General Cash, Water Enterprise Funds, and Sewer Enterprise Funds) in short-term investments as the Treasurer deems prudent for income purposes.

ARTICLE 12: A motion was made by John Tripp, seconded by Elizabeth Brooke Canada and voted favorably by a show of hands to authorize the Board of Selectmen to sell and transfer titles in the name of the Town of North Brookfield to any properties or lands obtained through legally acquired tax title foreclosures.

ARTICLE 13: A motion was made by Elizabeth Brooke Canada, seconded by Jason Petraitis, and voted favorably by a show of hands to vote pursuant to MGL Chapter 44, Section 53E1/2, to establish the following FY21 spending limits for revolving funds listed in Chapter II, Section 17 of the North Brookfield Bylaws as follows:

Council on Aging - \$15,000.00

Council on Aging - Senior Wheels: \$7,000.00

Fire Training Center - \$7,500.00

Planning Board - Engineering Services: \$8,000.00
 Cemetery Department - \$15,000.00
 Board of Health - Public Health Services: \$5,000.00
 Board of Health - Vacant Properties: \$25,000.00
 Board of Health – Trash Bags: \$35,000.00
 Building Permits - \$10,000.00
 Electrical Permits - \$10,000.00
 Plumbing and Gas Permits - \$10,000.00
 Safety Inspections - \$5,000.00

ARTICLE 14: A motion was made by Jason Petraitis, seconded by John Tripp and voted favorably by a show of hands to postpone action on this article until June 2, 2023.

ARTICLE 15: A motion was made by John Tripp, seconded by Elizabeth Brooke Canada, and voted favorably by a show of hands to accept \$307,654.81 as the Town's apportionment of FY2024 Chapter 90 funds.

ARTICLE 16: A motion was made by Elizabeth Brooke Canada, seconded by Jason Petraitis, and voted favorably by a show of hands to establish, pursuant to MGL Chapter 44 §53 ½ the following FY24 spending limit for the storage unit revolving account: \$10,000.00, and further to add the following text to Chapter II, Section 17(F) of the General Bylaws, “Authorized Revolving Funds,”:

65 Donovan Road Storage Units	Board of Selectmen	Payments received for lease of storage units	Upkeep and maintenance of storage units
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ARTICLE 17: A motion was made by Jason Petraitis, seconded by John Tripp, pursuant to the provisions of G.L. c.40, §5B, to establish a new special purpose stabilization fund, to be known as the Opioid Settlement Stabilization Fund, which may be expended for all purposes allowed by law, including those outlined in applicable opioid litigation settlement document, a document prepared by the Substance Abuse Bureau of the Commonwealth’s Office of Health and Human Services Department entitled “Abatement Strategies,” and consistent with any state guidelines or regulations further clarifying allowable uses of opioid litigation settlement funds; and further, to adopt the last paragraph of said §5B and dedicate to such fund, without further appropriation, 100% of the opioid litigation settlement funds received by the Town. Lori Ryel asked why the last line of the article was struck out from the Warrant and it was explained that funds can’t be transferred until the Town Meeting in the fall. Jack McClintock asked what this legislation was about; Ethan Melad explained that it is from the many lawsuits that have been filed from the opioid crisis. Sue Lewandowski asked who will be in charge of the funds; Jason Petraitis explained the Board of Health and the Board of Selectmen. After all discussion, the motion was voted favorably.

ARTICLE 18: A motion was made by John Tripp, seconded by Elizabeth Brooke Canada, to authorize the Board of Selectmen to petition the General Court for special legislation as set forth below, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendment which shall be within the scope of the general public objectives of this petition.

AN ACT AUTHORIZING THE TOWN OF NORTH BROOKFIELD TO CONTINUE THE EMPLOYMENT OF FIRE CHIEF JOSEPH HOLWAY AND CAPTAIN DAVID MARTIN.

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 any general or special law to the contrary, Joseph Holway, Chief of the Fire Department of the Town of North Brookfield, and David Martin,

Captain of the Fire Department of the Town of North Brookfield may continue to serve in such position until the date of their retirement, or until the date they are relieved of their duties by the Board of Selectmen of the Town, whichever occurs first; provided, however, that Joseph Holway and David Martin are mentally and physically capable of performing the essential duties of the office; and provided further, that the Board of Selectmen of the Town may, at its own expense, require that Joseph Holway and David Martin be examined by an impartial physician designated by the board to determine such capability.

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

Fire Chief Joe Holway explained that this motion would allow him and Captain David Martin to continue to work for the Fire Department to age 70 under the Home Rule. Michelle Thayer made a motion to move to a ballot vote, Anne Adams seconded. That motion did not pass with the required number and failed. The original motion was voted favorably by a show of hands.

ARTICLE 19: A motion was made by Elizabeth Brooke Canada, seconded by Jason Petraitis, to amend the North Brookfield Zoning Bylaws, Section IV. by adding a new Section J. or take any action relative thereto:

IV. J. Earth Removal and Filling Bylaw

1. Purpose: This Bylaw is necessary to protect the public safety and property values, avoid the pollution of water resources by preventing the creation of a hazard due to deep holes, steep slopes and embankments, preventing land from becoming worthless due to the removal of top soil, sand, gravel or filled with untested/unnatural material. These regulations are designed to ensure that land will be usable for residential, commercial or agriculture purposes following the removal of topsoil, sand, gravel, etc. or filled with suitable material and to provide for the reestablishment and protection of the area by natural cover.
2. The special permit granting authority for an Earth Removal and Filling permit shall be the Planning Board. Within 14 days from receiving an application for earth removal and filling or accessory use(s), the Planning Board shall request comments and opinions from the Board of Selectmen, the Zoning Board of Appeals, the Conservation Commission and the Highway Superintendent. All boards will have 30 days to provide their comments to the Planning Board regarding each application for a special permit. If no correspondence is received, the Planning Board will assume agreement with the application.
3. Applicability: No person, firm, or corporation shall remove or fill in any one year more than 200 cubic yards collectively of fill, soil, sand, gravel, stones or other resource material from any land in the Town without first obtaining a special permit from the Planning Board.
4. Exemptions: Special permit shall not be required for the following types of excavation or filling operations:
 - a. Excavation incidental to the construction of all buildings for which all permits required for construction have been issued, nor to the installation of walks, driveways, septic systems, swimming pools, or other accessory uses and expansions thereto provided the quantity of materials remove shall not exceed that displaced by the portion of the building or accessory use below the finished grade;
 - b. Excavation in the course of normal and customary agricultural use of the land,
 - c. Excavation in the normal use of a cemetery,
 - d. This Bylaw shall not apply to excavation or filling operations lawfully in existence at the time of the adoption of this Bylaw to the extent that such excavations are protected by M.G.L. c. 40A, Section 6.

e. Filling of land in conjunction with a development that requires a special permit. Any such filling, however, shall be approved as part of a special permit required for the development and shall meet conditions of this Bylaw;

f. Filling of land in conjunction with a development that requires definitive subdivision plan approval. Any such filling of land, however, shall be approved as part of the subdivision plan and shall meet the conditions of this Bylaw;

g. Filling of land in conjunction with work by the Town of North Brookfield Highway Department. Such work shall be done in compliance with all Town and State regulations.

5. Application: An application for the earth removal and/or filling special permit shall be in writing and shall contain an accurate description of the portion of land in which the excavation or filling operation will take place, shall state in full the purpose of the excavation, shall include the application fee and shall include plans drawn by a registered surveyor or engineer containing the following information:

a. Property lines, names and addresses of all abutters and other interested parties in interest as defined by M.G.L. c. 40A, Section 11;

b. Existing contours at two-foot intervals in the area from which materials are to be excavated and in the surrounding areas, together with the contours at two-foot intervals below which no excavation shall take place;

c. Natural features such as wetlands, the 100-year floodplain, ground cover and any exposed groundwater. Water table elevations shall be determined by test pits and soil borings. A log of soil borings shall be included, taken to the depth of the proposed excavation, congruent with the size and geological make-up of the site. Logs shall also include dates and the range of fluctuate fluctuation as compared to the nearest USGS monitoring well;

d. A topographical map showing drainage structures, final grades, proposed vegetation and trees to be planted during restoration;

e. Erosion and sediment control plan;

f. The Planning Board shall hold a public hearing within 65 days of receipt of a completed application;

g. A peer review engineer may be retained by the Planning Board. All expenses of this peer review engineer shall be paid for by the applicant;

h. Six plan copies shall be provided with the application;

6. Decision: The Planning Board shall exercise its powers and may deny, grant, or grant with exceptions permits hereunder based upon:

a. The health safety and general welfare of the inhabitants of the Town;

b. Detriment to the neighborhood;

c. Effect on natural resources, including but not limited to the recharge of the water table or condition of the surface water;

7. Conditions: The Planning Board may impose on any permit conditions including but not limited to, conditions upon method of removal, type and location of structures, fencing, hours of operation, area, location and depth of excavation, steepness of slopes, drainage, disposition of boulders and stumps, restoration and planting. The Board may establish rules and regulations to implement this Bylaw, including the establishment and assessment of fees for the permit application.

8. General Requirements:

- a. Bond or Surety: The Planning Board shall require as a condition of granting of the permit that the applicant shall furnish a reclamation bond or other security satisfactory to the board sufficient to insure satisfactory performance of the requirements of this bylaw and of such other conditions as may be imposed in the permit. The security shall not be released until the surveyor or engineer has filed with the board an "as built" plan and has also certified that the restoration has been completed in compliance with the permit and the plans;
- b. Every permit shall contain the condition that inspection of the operation may be made at any reasonable hours by an agent of the Board to determine if conditions of the permit are being adhered to;
- c. Trucking routes and methods shall be specified by the Planning Board which shall seek the advice of the Chief of Police with regard thereto;
- d. All access roads leading to public ways shall be treated with suitable materials to reduce dust and mud for distance of 100 feet back from the public way. A suitable gate shall be provided to prevent entrance during nonbusiness hours;
- e. Access roads shall be constructed at an angle to the public way or with a curve so as to help screen the operation from public view;
- f. Standard Massachusetts accepted road signs warning of "trucks entering" shall be placed on the road at each side of the entrance;
- g. The boundaries of the area of operation must be clearly marked by the applicant and maintained at all times;
- h. Operators shall immediately clean up any spillage on public ways;
- i. If an existing operation ceases excavation and earth removal or filling for a period of two years, the operator may not resume earth removal without application for a new permit under these bylaws;
- j. If an operator sells, leases, rents or the earth removal or filling property is inherited, the new operator performing the earth removal or filling must appear before the Board and abide by all applicable rules and regulations of this Bylaw;

9. Excavation Requirements:

- a. Excavation not intended for approved building purposes or any other activity or building shall not be within 100 feet of an existing public way or adjacent property line;
- b. Excavation not intended for approved building purposes or any other activity or building shall not be within 100 feet of wetland as defined under M.G.L. c. 131, Section 40 or the 100-year flood elevation of any water body except where the appropriate regulatory agency has specifically ordered such excavation as part of a compensatory storage plan;
- c. No area shall be excavated so as to cause accumulation of free-standing water unless the Planning Board shall permit creation of a pond in the area not used for drinking water. Permanent drainage shall be provided in accordance with good conservation practices. Drainage shall not lead directly into streams or ponds;
- d. No excavation shall be made at less than five feet above the annual high-water table, as established from test pits and soil borings. Observation well(s) shall be monitored to verify this elevation. The Planning Board has the right to adjust the depth of the excavation based upon well monitoring information. The information shall be shown on the topographic plan and a permanent monument shall be erected

upon the property;

e. All topsoil and subsoil stripped from the operation areas shall be stockpiled, seeded with an erosion control seed mixture and retained for restoring the area;

f. Any shelters or buildings erected on the premises for the use by personal or storage of equipment shall be screened from public view;

g. The active excavation operation shall be determined by the Planning Board but, in no instance, shall it exceed a total of five acres at any one time and one acre if within or adjacent to an area of protected by the Natural Heritage Endangered Species Program. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction purposes;

10. Filling Requirements:

a. The filling of land that raises the existing grade by an average of two feet or more of any area of land (2500 square feet or more), or raises the existing grade by an average of five feet or more of an area of land (1000 square feet or more) shall require a special permit that is subject to at least the following conditions:

b. No slope created by the filling operation shall be finished at a grade not in excess of a 2:1 slope;

c. All filled areas shall, upon completion of the operation, be covered with not less than 4 inches of loam, brought to the finish grade and seeded in a satisfactory manner;

d. No permit for the filling of land shall be issued if such filling will: endanger public health or safety; or constitute a nuisance; or result in a detriment to normal use of adjacent property; or cause significant erosion or sedimentation due to improper drainage design or management; or result in traffic hazards in a residential area or excessive congestion or physical damage on public ways;

e. A special permit granted hereunder by the Planning Board shall impose reasonable conditions designed to safeguard the neighborhood and the Town of North Brookfield, and shall include specific conditions pertaining but not limited to any or all of the following conditions:

f. Method of filling, the hours of operation, rules for transporting the materials through the town, provision for temporary and permanent drainage, fencing and signs necessary for public safety, planting of an area to suitable cover, including trees on soil that is limed and fertilized, provisions for proper access and egress to and from site to highway or local streets, opaque fencing and or vegetated buffer strip of suitable height to collect dust and to mitigate visual impact and inspection of the premises at any time by the Earth Removal and Filling Board or its representative.

11. Excavation and Filling Requirements:

a. Restoration shall be carried on simultaneously with excavation/filling, so that when any active operation area, as determined by the submitted plan, has been excavated or filled, at least two thirds of the active excavation operation acreage shall be restored before work commences, including building haul roads, on the next contiguous active excavation or fill operation. Final restoration work shall be completed within 120 days after excavation/filling or withdrawal of a permit or upon the cessation of operations;

b. No slope shall be steeper than 2:1(4:1 is preferred) for erosion control and shall be required in sensitive areas) as designated by the Conservation Commission;

c. All debris, stumps, etc., shall be removed from the site and disposed of in an appropriate location, alternatively stumps may be ground and used onsite;

d. Retained subsoil and topsoil shall be spread over the disturbed area at a minimum of four inches in depth and seeded for a slope erosion control. Topsoil may be imported to comply with this requirement. Trees or shrubs of prescribed species shall be planted to provide screening and reduce erosion during the establishment period;

e. Unless the permit conditions expressly require alteration of drainage patterns, the land shall be left so that the natural storm drainage shall leave the property at the original natural drainage points and so that the total discharge at the peak flow and the area of drainage to any one point is not increased and so that the hydrography of any post development stream is the same as the pre-development stream;

12. Accessory Uses: Such uses as a concrete plant, asphalt plant and stump grinding plant and associated trucking, and wood chip processing and composting are considered to be accessory uses. Following application as stated in 5. above (items a. through h. may be modified by the Planning Board), an accessory use will be considered following a Planning Board public hearing. A special permit may be issued by the Planning Board for an accessory use if the proposed use is found not to be detrimental or offensive to abutters and the neighborhood. Decision conditions shall also include accessory use management of dust, odor, fumes, smoke, noise and vibrations.

13. Limit: No permit shall be issued for a period of more than one year. The Planning Board may in its discretion, grant a further permit for each additional year beyond the initial, but no such permit shall be issued unless the applicant has conformed to all the requirements of the permit.

14. Revocation: The Planning Board may revoke any permit which it has issued for good cause. Violations shall be deemed good cause to revoke. The Board shall first offer to the operator an opportunity for a hearing prior to revocation of the permit, in order to avoid violations of due process. The Board can reserve the right to suspend the permit without a hearing in the event of imminent danger to the public health or safety, prior to a hearing on whether to revoke the permit.

15. Survey: The Planning Board has the right, in its discretion, to require the applicant, at his own expense, to have the site surveyed by a registered surveyor or engineer on a periodic basis to assure compliance with any permit issued hereunder.

16. Violations: Every violation of this bylaw shall be subject to a fine of \$100 for each offense. Each day on which a violation occurs shall constitute a separate offense.

Planning Board Chair William King explained that meetings were held on this topic, an advertised public hearing was held in March as required by law and there was no opposition at that time. Patrick Kiritsy asked what this by-law was about and Bill explained that it was for earth removal for new sand pits in town. The motion, requiring a two-thirds approval was voted and passed unanimously.

ARTICLE 20: A motion was made by Doug Borowski, seconded by Patrick Kiritsy, to restore mail-in voting as an option for all future municipal elections. Moderator Jim Caldwell read a statement from Town Counsel explaining that this motion was non-binding due to state law already establishing an opt-out for municipal elections. Doug gave a presentation on allowing mail-in voting. A vote was done and determined to be too close to call so the motion was moved to a ballot vote where the motion failed.

ARTICLE 21: A motion was made by Tara Hayes, seconded by Brian Hayes, to amend the Town Bylaws, Chapter II, Section 11, to include electronic voting, by adding the text underlined and bolded as follows or take any action relative thereto: All votes on motions shall be taken in the first instance by a show of hands; if the Moderator be in doubt, he may call for a second show of hands and may appoint tellers to count the vote; if the Moderator be still in doubt, or if the vote as declared by the Moderator be questioned by seven or more voters, the vote shall be taken by a “yes” and “no” ballot **using either paper ballots or electronic voting clickers**. Any vote, however, may be taken by ballot **or electronic voting clickers** in the first instance if a motion to that effect shall have been made and carried by a majority of the voters present, and must be taken by ballot **or**

electronic voting clickers if the vote involves the appropriation of more than ten thousand dollars (\$10,000) for any purpose other than annual departmental appropriations or involves the borrowing of money for any amount.

Tara explained that the funds to purchase could come from ARPA but ARPA Chair Ethan Melad explained that the ARPA committee did not recommend this be a use for the ARPA funds. After some discussion it was agreed to move forward with the vote to change the by-law and the motion passed.

ARTICLE 22: A motion was made by Tashena Holmes, seconded by Sue Lewandowski, to adopt a resolution in support of new flag and seal for the Commonwealth, or take any action relative thereto.

Whereas the history of the Commonwealth of Massachusetts is replete with instances of conflict between the European Colonists and the Native Nations of the region, who first extended the hand of friendship to the Colonists on their shores in 1620, and helped them to survive starvation during the settler's first winters on their land; Whereas members of the Native Nation for whom the Commonwealth of Massachusetts is named were ambushed and killed by Myles Standish, first commander of the Plymouth Colony, at Wessagussett (now Weymouth) in April 1623, barely two years after the Pilgrims arrived; Whereas the Colonial broadsword held by a white hand above the head of the Indigenous person on the Massachusetts Flag and Seal is modeled after Myles Standish's broadsword, borrowed for that purpose from the Pilgrim Hall in Plymouth by the illustrator Edmund Garrett in 1884; Whereas the belt binding the Native's cloak on the Flag and Seal is modeled after a belt worn by Metacomet, known to the English as King Philip, who was among the Indigenous leaders that resorted to mutually destructive war in 1675-76 in defense of Native lands against Colonial encroachment; Whereas the proportions of the body of the Indigenous person on the Flag and Seal were taken from the skeleton of an Indigenous person unearthed in Winthrop, the bow modeled after a bow taken from an Indigenous man shot and killed by a colonist in Sudbury in 1665, and the facial features taken from a photograph of an Ojibwe chief from Great Falls, Montana, considered by the illustrator to be a "fine specimen of an Indian," though not from Massachusetts; Whereas the history of relations between Massachusetts since Colonial times and the Native Nations who continue to live within its borders includes the forced internment of thousands of so-called "praying Indians" on Deer Island, Boston Harbor, where they died by the hundreds of exposure in the winter of 1675, the enslavement of Indigenous people in Boston, Bermuda, and the Caribbean Islands, the offering of 40 pounds sterling as bounty for the scalps of Indigenous men, women and children in Massachusetts beginning in 1686, increased to 100 pounds sterling for the scalps of Indigenous adult males by 1772, half that amount for Indigenous women and children; Whereas Indigenous people were legally prohibited from even stepping foot into Boston from 1675-2004, when that Colonial law was finally repealed; Whereas the 400th anniversary of the landing of the Colonists at Plymouth Plantation, which gave rise to the long chain of genocidal wars and deliberate government policies of cultural destruction against the Native Nations of this continent, occurred in the year 2020, affording every citizen of the Commonwealth a chance to reflect upon this history and come to an appreciation of the need for better relations between the descendants of the Colonial immigrants and the Native Nations of the Commonwealth; Whereas the land area now known of the Town of North Brookfield, once part of the Quaboag Plantation, shares a long and difficult history with modern tribal Nationals such as the Nipmuc, who inhabited this area long before the first colonial settlers arrived in 1664; Now, therefore, be it resolved that the Town of North Brookfield hereby adopts this resolution in support of the work of the Special Commission on the Official Seal and Motto of the Commonwealth, established a Resolve of the General Court in 2021 and appointed by the Governor to recommend changes to the current flag and seal of Massachusetts, and in support of a new flag and seal for the Commonwealth that may better reflect our aspirations for harmonious and respectful relations between all people who now call Massachusetts home. The town clerk shall forward a copy of this resolution to Sen. Anne Gobi and Rep. Donald Berthiaume, with the request that they support the work of the aforementioned Special Commission and advocate for a new flag and seal for the Commonwealth.

Kathy Crevier asked why this motion was being presented and Tashena explained that it was about the oppression of Native Americans and symbolism. She then asked to have a

guest speaker address the audience which was allowed by Moderator Jim Caldwell. Tonya Matthews asked if there were any renderings of a proposed flag; nothing yet. Jack McClintock spoke to rejecting the statements made by the guest speaker and opposing the article. The article moved to a vote and was rejected.

A motion was made by Ron Ryel, seconded by Anne Adams and voted favorably by a show of hands to adjourn the meeting at 8:47 pm.

A true copy, attest:

Tara M Hayes, Town Clerk
Town of North Brookfield
June 19, 2023